

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

**AT**

**OLYMPIA, THE STATE CAPITOL**

*2010 Regular Session Convened January 11, 2010*

*Adjourned Sine Die March 11, 2010*

*2010 Special Session Convened March 15, 2010*

*Adjourned Sine Die April 12, 2010*

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

**Volume 1**



Linda Jansson,  
Minute and Journal Clerk

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

**SENATE CAUCUS OFFICERS**

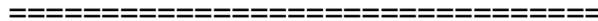
**2010**

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*Majority Caucus Chair*.....Edward B. Murray  
*Majority Floor Leader* .....Tracey J. Eide  
*Majority Whip* .....Chris Marr  
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*Secretary of the Senate* ..... Thomas Hoemann  
*Deputy Secretary* ..... Brad Hendrickson  
*Sergeant at Arms* ..... Jim Ruble  
*Minute and Journal Clerk* ..... Linda Jansson  
*Readers* ..... Joe Anderson and Kenneth Edmonds

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**FIRST DAY**

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NOON SESSION

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Senate Chamber, Olympia, Monday, January 11, 2010

At 12:00 noon, pursuant to law, the Senate of the 2010 Regular Session of the Sixty-First Legislature of the state of Washington assembled in the Senate Chamber at the State Capitol. Lieutenant Governor Brad Owen, President of the Senate, called the Senate to order. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, McCaslin and Stevens.

The Washington State Patrol Honor Guard consisting of Trooper Chad Hoff, Trooper Chris Bendiksen, Trooper Joshua J. Merritt, Trooper Matthew B. Fehler, Trooper Brian Dorsey and Mr. Mike Kildow.

The President led the Senate in the Pledge of Allegiance.

The National Anthem was sung by Sergeant Timothy D. Coley, Washington State Patrol.

Pastor Dale Oquist of Evergreen Christian Community of Olympia offered the prayer.

The Washington State Patrol Honor Guard retired from the chamber.

**REMARKS BY THE PRESIDENT**

President Owen: "Ladies and gentleman, welcome to the session. I know it's going to be a very busy and very difficult one. I know that you'll do a great job. Every year we are privileged to have the Lakefair Queen welcome us on the opening day of legislative session and this is no different. I am very pleased and honored to have Michelle Santos, this year's Lakefair Queen to say a few words. She's accompanied today by Peggy Brink, the 2010 Lakefair Royalty Scholarship Chairperson and also accompanying her today and seated in the south gallery are her father, Manuel Santos; mother, Herminia Santos; Bob and Serry Barnes, 2010 Capital Lakefair President and First Lady. So, again, it's my great privilege and honor to introduce our Lakefair Queen to you today."

**REMARKS BY MICHELLE SANTOS**

Michelle Santos: "Good afternoon and welcome. I'm honored to be here with all of you on the 2010 opening day of legislature. I would like to take this opportunity and share with you my views on an issue that I feel quite passionate about. The future of our youth is at stake. Please take a moment and think about what the foundation of their success should be. A single word should come to mind, education. We must provide a strong basic educational system that is attainable by all while not ignoring the challenges and barriers that so many face which would truly leave children behind. It is evident that we should put our current economical standing into consideration but even so, it seems the proper school funding is further swept under the rug. I believe there are two directions our state can go to increase funding for education, raise taxes or reprioritize and redirect existing funds within our state government. Between the two there's no question that the second option truly opens doors to

real solutions. If increasing taxes becomes the state's focal point as well as spending more without reform, our state will continue down the path of fiscal instability. We must strengthen our focus on education and emphasize the idea to continuously give it first priority. In 1997, forty-four percent of the state's general funds were dedicated to K-12 education and today it decreased by two percent. In order to put children first we must combine true priorities of government process with the structuring of state government. This will allow our state to truly dedicate our time to the areas that are most important to Washington families. I, myself see so much potential and not only students within my neighboring schools but for all Washington State students as a whole. I'm aware that I'm only one, one voice, but with the help from all of you we can strengthen our youth's educational foundation to ultimately increase and assure our success in the future. Today, you are here to make decisions on issues that greatly affect this state but with everyone's best interest at heart. With education being one of them, I truly believe that all of you hold the same concern and are willing to find a way to improve its funding. I wish you the best of luck in your negotiations and I am confident in your abilities to work together and do what is best for Washington State and its wonderful people. Thank you."

**LETTER OF RESIGNATION**

December 28, 2009

Honorable Governor Gregoire  
416 Sid Snyder Ave SW, Suite 200  
P. O. Box 40002  
Olympia, WA 98504-0002

Dear Governor Gregoire:

It is with regret that I announce my resignation from the Washington State Senate effective December 18, 2009. My decision to leave the Senate was a very difficult one. I have been honored to have served the constituents of the 41<sup>st</sup> Legislative District and the State of Washington in both the House and Senate for the past ten years and count my time in the legislature as a highlight of my career. Representing my community has been a rewarding and humbling experience. I am proud of the work my colleagues and I have accomplished during my tenure for our constituents and look forward to continuing to serve our region in my new role as Deputy King County Executive. I look forward to working with members of the legislature in my new position.

Fred Jarrett  
Deputy King County Executive

cc: Tom Hoemann, Secretary of the Senate

**MOTION**

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

**GOVERNOR'S MESSAGE ON PARTIAL AND FULL VETOES OF SENATE BILLS AFTER ADJOURNMENT**

FIRST DAY, JANUARY 11, 2010  
MESSAGE FROM THE GOVERNOR  
VETO ON SENATE BILL NO. 5542

2010 REGULAR SESSION

April 30, 2009

April 16, 2009

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

Ladies and Gentlemen:

I am returning, without my approval, Senate Bill 5542 entitled:

“AN ACT Relating to member of the law enforcement officers’ and firefighters’ retirement system plan 2 who were disabled in the line of duty before January 1, 2001.”

This bill is identical to House Bill 1678, which I signed into law on April 15, 2009.

For the reason I have vetoed Senate Bill 5542 in its entirety.

Respectfully submitted,  
CHRISTINE O. GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR  
VETO ON SUBSTITUTE SENATE BILL NO. 5318

April 30, 2009

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

Ladies and Gentlemen:

I am returning, without my approval as to Section 2, Substitute Senate Bill 5318 entitled:

“AN ACT Relating to adding additional appropriate locations for the transfer of newborn children.”

Section 2 of this bill requires the Department of Social and Health Services to collect and compile information, and to report annually to the Legislature beginning January 1, 2011 regarding the number and medical condition of newborns transferred at appropriate locations and newborns who are abandoned.

Legislators may well wish to request ad hoc reports from the department on this topic for the next few years to monitor the implementation of this legislation, but it is likely that, over time, the data in the report will not vary much from year to year. Legislative members and staff are likely to be uninterested in reading such a report even as the department must continue to produce it. I do not believe it is necessary to require this reporting requirement in statute.

For these reasons, I have vetoed Section 2 of Substitute Senate Bill 5318.

With the exception of Section 2, Substitute Senate Bill 5318 is approved.

Respectfully submitted,  
CHRISTINE O. GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR  
VETO ON SUBSTITUTE SENATE BILL NO. 5360

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 3, Substitute Senate Bill 5360 entitled:

“AN ACT Relating to community health care collaborative grants.”

Section 3 requires the administrator of the Health Care Authority to produce a report every two years. In difficult economic times, producing additional reports will only further strain limited funding and staff time. If legislators or governors require further information on the performance of the grant program, they can simply request such information from the Health Care Authority. For this reason, I have vetoed Section 3 of Substitute Senate Bill 5360.

With the exception of Section 3, Substitute Senate Bill No. 5360 is approved.

Respectfully submitted,  
CHRISTINE O. GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR  
VETO ON ENGROSSED SUBSTITUTE SENATE BILL NO. 5414

April 30, 2009

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

Ladies and Gentlemen:

I am returning, without my approval as to Section 4, Engrossed Substitute Senate Bill 5414 entitled:

“AN ACT Relating to statewide assessments and curricula.”

Section 4, in part, requires the Office of the Superintendent of Public Instruction, in consultation with the State Board of Education, to develop an implementation plan, including an assessment of the feasibility of implementing the current timelines for students to demonstrate that they have met state mathematics and science standards in high school assessments. These timelines are critical components of our statewide effort to ensure that our students are ready for the 21<sup>st</sup> century. Now is not the time to indicate any lack of resolve in our commitment to our students by revisiting or adjusting those standards. For these reasons, I have vetoed Section 4 of Engrossed Substitute Senate Bill 5414.

With the exception of Section 4, Engrossed Substitute Senate Bill 5414 is approved.

Respectfully submitted,  
CHRISTINE O. GREGOIRE, Governor

FIRST DAY, JANUARY 11, 2010  
 MESSAGE FROM THE GOVERNOR  
 VETO ON SUBSTITUTE SENATE BILL NO. 5608

2010 REGULAR SESSION

I have approved, except for Section 18, Engrossed Substitute Senate Bill 5288 entitled:

April 30, 2009

“AN ACT Relating to the supervision of offenders.”

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

I am vetoing the emergency clause in Section 18. I have spoken with the Department of Corrections, and have been informed that they need time to implement the changes of the bill. They have begun preparing and will be ready to implement the changes August 1, 2009, but are not able to make these changes immediately. The elimination of the emergency clause will not affect the fiscal assumptions of the bill.

Ladies and Gentlemen:

I am returning, without my approval as to Section 5, Substitute Senate Bill 5608 entitled:

“AN ACT Relating to genetic counselors; amending RCW 18.130.040.”

For this reason, I have vetoed Section 18 of Engrossed Substitute Senate Bill 5288. With the exception of Section 18, Engrossed Substitute Senate Bill 5288 is approved.

Section 5 provides for an advisory committee on genetic counseling to be established under the Secretary of Health. In difficult economic times, we need fewer not more advisory committees, boards and commissions absorbing limited funding and staff time. For this reason, I have vetoed Section 5 of Substitute Senate Bill 5608.

Respectfully submitted,  
 CHRISTINE O. GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR  
 VETO ON SUBSTITUTE SENATE BILL NO. 6162

May 6, 2009

With the exception of Section 5, Substitute Senate Bill 5608 is approved.

Respectfully submitted,  
 CHRISTINE O. GREGOIRE, Governor

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

Ladies and Gentlemen:

MESSAGE FROM THE GOVERNOR  
 VETO ON SUBSTITUTE SENATE BILL NO. 5199

May 6, 2009

I have approved, except for Section 3, Substitute Senate Bill 6162 entitled:

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

“AN ACT Relating to criminal justice: Providing for the supervision of offenders sentenced to community custody regardless of risk classification if the offender has a current conviction for a serious violent offense as defined in RCW 9.94A.030.”

Ladies and Gentlemen:

I have approved, except for Sections 1 through 7, Substitute Senate Bill 5199 entitled:

“AN ACT Relating to public water supply system operators.”

Substitute Senate Bill 6162 corrects an error in Engrossed Second Substitute Senate Bill 5288 by ensuring that all serious violent offenders are sentenced to community custody regardless of risk level. I have vetoed the emergency clause in ESSB 5288, and so I am also vetoing the emergency clause in Section 3 of SSB 6162 as it is not necessary.

Sections 1 through 7 of Substitute Senate Bill 5199 are identical to Substitute House Bill 1283 that I signed on April 25, 2009. For this reason, I have vetoed Sections 1 through 7 of Substitute Senate Bill 5199. With the exceptions of sections 1 through 7 Substitute Senate Bill 5199 is approved.

Respectfully submitted,  
 CHRISTINE O. GREGOIRE, Governor

For this reason, I have vetoed Section 3 of Substitute Senate Bill 6162. With the exception of Section 3, Substitute Senate Bill 6162 is approved.

Respectfully submitted,  
 CHRISTINE O. GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR  
 VETO ON ENGROSSED SUBSTITUTE SENATE BILL NO. 5288

May 6, 2009

MESSAGE FROM THE GOVERNOR  
 VETO ON ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5649

May 7, 2009

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

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

Ladies and Gentlemen:

Ladies and Gentlemen:

FIRST DAY, JANUARY 11, 2010

I have approved, except for Section 403, Engrossed Second Substitute Senate Bill 5649 entitled:

“AN ACT Relating to achieving greater energy efficiency in buildings.”

Section 403 of the bill requires the Governor to designate a single point of accountability for all energy and climate change initiatives within state agencies. This language duplicates the requirements contained in Substitute Senate Bill 5921, Section 4(1). I signed Substitute Senate Bill 5921 on May 4, 2009. As a result, this provision is not needed and I have vetoed Section 403 of Engrossed Second Substitute Senate Bill 5649.

Some stakeholders have expressed concerns regarding Section 202 of Engrossed Second Substitute Senate Bill 5649. Section 202 of the bill establishes new employment and reporting requirements for the state’s existing low income weatherization program. It will be important to implement these new requirements in a manner that allows the local community action agencies and their funding sponsors to comply efficiently and effectively with the new requirements. To that end, I will direct the Department of Commerce to prepare administrative rules immediately to address the interpretation of the new requirements.

With the exception of Section 403, Engrossed Second Substitute Senate Bill 5649 is approved.

Respectfully submitted,  
CHRISTINE O. GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR  
VETO ON ENGROSSED SENATE BILL NO. 6033

May 7, 2009

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

Ladies and Gentlemen:

I have approved, except for Section 4, Engrossed Senate Bill 6033 entitled:

“AN ACT Relating to creating the prevent or reduce owner-occupied foreclosure program.”

Section 4 of this bill requires the Washington State Housing Finance Commission to establish an oversight committee to prevent or reduce owner-occupied home foreclosures. The committee is tasked with developing criteria for the success of the program, periodically evaluating the effectiveness of the program, developing and maintaining an inventory of state and federal housing assistance programs directed to stabilize owner-occupied homes and coordinating all state efforts related to prevention or reduction of owner-occupied foreclosures. These tasks are all important.

The Washington State Housing Finance Commission and Department of Financial Institutions, however, already have the authority to consult with stakeholders on these topics. Therefore I am vetoing Section 4 of this bill and ask that the directors of the Washington Housing Finance Commission and the Department of Financial Institutions exercise their authority to seek input from stakeholders when establishing the program.

For this reason, I have vetoed Section 4 of Engrossed Senate Bill 6033. With the exception of Section 4, Engrossed Senate bill 6033 is approved.

Respectfully submitted,  
CHRISTINE O. GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR  
VETO ON SUBSTITUTE SENATE BILL NO. 6122

May 8, 2009

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

Ladies and Gentlemen:

I have approved, except for Section 1, Substitute Senate Bill 6122 entitled:

“AN ACT Relating to reducing costs of the elections division of the office of the secretary of state.”

Section 1 of Substitute Senate Bill 6122 exempts the Elections Division from being required to use the State Printer for printing Voter Pamphlets. The State Printer provides consolidated and centralized print services on behalf of the State. Preserving that centralized capability brings important cost savings and efficiencies to State agencies. If the State Printer is not able to meet the price available to the Office of the Secretary of State from other printers, however, I will direct the State Printer to allow the Office of the Secretary of State to print the Voter Pamphlet elsewhere.

For this reason, I have vetoed Section 1 of Substitute Senate Bill 6122. With the exception of Section 1, Substitute Senate Bill 6122 is approved.

Respectfully submitted,  
CHRISTINE O. GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR  
VETO ON ENGROSSED SENATE BILL NO. 6166

May 8, 2009

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

Ladies and Gentlemen:

I am approving, except for Section 6, Engrossed Senate Bill 6166 entitled:

“AN ACT Relating to the sale of timber from state trust lands.”

Section 6 requires the Department of Natural Resources to prepare a report for which no funding was provided in the budget. In these challenging economic times, state agencies are already struggling to meet their existing obligations. This requirement places a large, unfunded burden upon the agency. For this reason, I have vetoed Section 6 of Engrossed Senate Bill 6166.

FIRST DAY, JANUARY 11, 2010

With the exception of Section 6 of Engrossed Senate Bill 6166 is approved.

Respectfully submitted,  
CHRISTINE O. GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR  
VETO ON SENATE BILL NO. 5525

May 11, 2009

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

Ladies and Gentlemen:

I have approved, except for Section 4, Senate Bill 5525 entitled:

“AN ACT Relating to rental vouchers to allow release from state institutions.”

This section requires a report from the Department of Corrections to the Legislature on December 1, 2009 regarding the number of rental vouchers issued to offenders and any corresponding sanction history for those offenders receiving vouchers. No funding is included in the budget for this report. I am directing the Department to keep track of information related to this bill. For this reason, I have vetoed Section 4 of Senate Bill 5525. With the exception of Section 4, Senate Bill 5525 is approved.

Respectfully submitted,  
CHRISTINE O. GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR  
VETO ON ENGROSSED SUBSTITUTE SENATE BILL NO.  
5352

May 13, 2009

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

Ladies and Gentlemen:

I am returning, without my approval as to Sections 215(2), 215(4), 217(9), 602 and 715, Engrossed Substitute Senate Bill 5352 entitled:

“AN ACT Relating to transportation funding and appropriations.”

**Section 215(2), page 19, Department of Transportation**

This proviso requires the Department of Transportation (Department) to offer former property owners the “right of first repurchase” if the property was acquired through condemnation or threat of condemnation, and the property is to be sold as surplus because it is no longer needed for a public purpose. This proviso may hinder the Department’s ability to utilize property it currently owns in future acquisition negotiations. It also may have the unintended consequence of restricting the Department’s ability to get the best price for surplus property by limiting competition.

**Section 215(4), page 20, Department of Transportation**

This proviso makes an appropriation of \$2,000,000 from the Water Pollution Account-State subject to passage of Substitute House Bill 1614. Since Substitute House Bill 1614 was not enacted, the appropriation lapses and this section is no longer required.

**Section 217(9), page 22, Department of Transportation**

This proviso makes an appropriation of \$12,500,000 from the Water Pollution Account-State subject to passage of Substitute House Bill 1614. Since Substitute House Bill 1614 was not enacted, the appropriation lapses and this section is no longer required.

**Section 602, pages 71-72, Department of Transportation**

This section would have transportation agencies hire a consultant approved by the Department of Information Services to develop a “consolidated strategy and plan” to achieve cost savings resulting from holistic virtualization, wide area network optimization, transition to alternative telecommunications systems, and migration to internal voice mail systems. A similar proviso in the omnibus operating budget (Section 143) requires the Department of Information Services to implement some or all of these strategies and to report on the savings to the Office of Financial Management and the fiscal committees of the Legislature.

The transportation budget does not contain funding to hire contractors to develop the plan. Rather than hiring a contractor, the Department can work with the Department of Information Services to learn from its experience with these strategies.

**Section 715, pages 87-88, Department of Transportation**

This section would give the Legislature the ability to designate property under the jurisdiction of the Department as “unused state-owned real property,” and direct the transfer and conveyance of such unused property, provided it is consistent with public interest. The Legislature could then direct the transfer and conveyance of such property to entities listed in statute as eligible recipients such as ports, utilities, other state agencies, cities, or counties. The value of such properties would be determined by the Legislature for “adequate consideration,” and would not require fair market value.

While the Legislature may possess the authority to direct the Department in the transfer and conveyance of unused properties, such decisions must be guided by clear criteria. This section does not set forth sufficient safeguards to determine how unused properties would be determined, how properties would be conveyed and transferred, or how values would be assigned to such properties.

For these reasons, I have vetoed Sections 215(2), 215(4), 217(9), 602 and 715.

With the exception of Sections 215(2), 215(4), 217(9), 602 and 715, Engrossed Substitute Senate Bill 5352 is approved.

Respectfully submitted,  
CHRISTINE O. GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR  
VETO ON SUBSTITUTE SENATE BILL NO. 5499

May 13, 2009

FIRST DAY, JANUARY 11, 2010

2010 REGULAR SESSION

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

For these reasons, I have vetoed Section 4 of Engrossed Second Substitute Senate Bill 5850. With the exception of Section 4, Engrossed Second Substitute Senate Bill 5850 is approved.

Ladies and Gentlemen:

Respectfully submitted,  
CHRISTINE O. GREGOIRE, Governor

I am returning, without my approval as to Section 2, Substitute Senate Bill 5499 entitled:

MESSAGE FROM THE GOVERNOR  
VETO ON SUBSTITUTE SENATE BILL NO. 5286

“AN ACT Relating to bond amounts for department of transportation highway contracts.”

May 15, 2009

Section 2 of this bill requires the Governor to approve any contracts in which the Washington State Department of Transportation intends to authorize bonds in an amount less than the full contract price of the contract.

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

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Senate Bill 5286 entitled:

Section 1 of the bill requires the Office of Financial Management to approve risk guidelines developed by the Department of Transportation prior to authorizing bonds in an amount less than the full price of the contract. Section 1 also requires the Office of Financial Management to review and approve the decision of the Secretary of Transportation to authorize a bond in an amount less than the full price of the contract prior to proceeding with the contract. Approval from the Office of Financial Management of the risk guidelines, as well as review of pending contracts constitutes sufficient oversight by the Governor’s office of highway contract decisions. Requiring subsequent approval from the Governor is redundant and is not a necessary statutory requirement.

“AN ACT Relating to exemptions from the WorkFirst program.”

Under current law, the state may require a WorkFirst recipient with a child under one-year of age to get mental health treatment, alcohol or drug treatment, domestic violence services or parenting education even if the parent claims an exemption from participation in other WorkFirst activities. This bill gives the state the authority to require the parent to get help if needed, but reduces the state’s ability to require participation as a condition of keeping the grant. If a parent refuses to participate, the Department of Social and Health Services (Department) could seek a volunteer to serve as a protective payee. However, under the interpretation of RCW 74.08.280 to limit liability and as a best practice, the Department would use contracted protective payees resulting in additional cost to the state.

For these reasons, I have vetoed Section 2 of Substitute Senate Bill 5499.

I remain concerned about limiting the Department’s ability to require a parent to receive treatment during the first ninety days. When I signed Second Substitute Senate Bill 6016 in 2007 creating the infant exemption, I signed the bill to support parents. Valuable time is lost if we wait three months to get a parent help with a drug or alcohol problem or domestic violence.

With the exception of Section 2, Substitute Senate Bill 5499 is approved.

For these reasons I have vetoed Substitute Senate Bill 5286 in its entirety.

Respectfully submitted,  
CHRISTINE O. GREGOIRE, Governor

Respectfully submitted,  
CHRISTINE O. GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR  
VETO ON ENGROSSED SECOND SUBSTITUTE SENATE  
BILL NO. 5850

MESSAGE FROM THE GOVERNOR  
VETO ON ENGROSSED SECOND SUBSTITUTE SENATE  
BILL 5560

May 14, 2009

May 15, 2009

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

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

Ladies and Gentlemen:

Ladies and Gentlemen:

I have approved, except for Section 4, Engrossed Second Substitute Senate Bill 5850 entitled:

I have approved, except for Sections 3, 4 and 7, Engrossed Second Substitute Senate Bill 5560 entitled:

“AN ACT Relating to protecting workers from human trafficking violations.”

“AN ACT Relating to state agency climate leadership.”

Section 4 applies the Consumer Protection Act, chapter 19.86 RCW, to violations of this law. The Consumer Protection Act is ill suited to responding to these types of issues. Employment activities are already well regulated by the Department of Labor and Industries. Violations of this law would be better directed to the statutes administered by that agency.

FIRST DAY, JANUARY 11, 2010

2010 REGULAR SESSION

The Senate of the State of Washington

Sections 3 and 4 require agencies to use battery operated or electric small-scale powered equipment that is not yet available for commercial or heavy duty use, although it is available for home or light duty use. I am directing the Department of General Administration to examine landscaping policies on the Capitol Campus and develop and implement a plan that will reduce the carbon footprint of landscaping within the 2009-11 biennium, including a pilot project to showcase methods for "green landscaping" of the Capitol Campus.

Section 7 addresses energy audits and high performance buildings. On May 8, 2009, I signed Engrossed Second Substitute Senate Bill 5854 which directs the Department of General Administration to conduct energy audits and assign energy benchmarks of state buildings. Engrossed Second Substitute Senate Bill 5854 provides a complete and thorough process to examine state buildings and, therefore, this additional provision is not needed at this time.

For these reason, I have vetoed Sections 3, 4 and 7 of Engrossed Second Substitute Senate Bill 5560.

With the exception of Sections 3, 4 and 7, Engrossed Second Substitute Senate Bill 5560 is hereby approved.

Respectfully submitted,  
CHRISTINE O. GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR

VETO ON SECOND SUBSTITUTE SENATE BILL NO. 5945

May 18, 2009

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

I have approved, except for Section 3, Second Substitute Senate Bill 5945 entitled:

"AN ACT Relating to creating the Washington health partnership plan."

Section 3 creates the Washington health partnership advisory group and requires me to convene quarterly meetings of the group from October 2009 through June 2010. Creating in statute a new advisory group, even one of limited duration, is contrary to our recent effort to reduce the number of such groups across all of state government. I will emphasize to the relevant state agencies the importance of keeping all interested parties up to date on our state's health care reform efforts, and if appropriate will convene the type of meeting called for in this section without the need to create this group in statute.

With the exception of Section 3, Second Substitute Senate Bill 5945 is approved.

Respectfully submitted,  
CHRISTINE O. GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR

VETO ON SENATE BILL NO. 5038

May 19, 2009

To the Honorable President and Members,

Ladies and Gentlemen:

I have approved, except for Sections 2040, 4012, 4013, 4020, 4030, 4058, 4081, 4082, 4083, 4131, 5133, 5137, 5140, 7004, 7057, Senate Bill 5038 entitled:

"AN ACT Relating to making technical corrections to gender-based terms."

I am vetoing the following sections due to conflicting amendments in other bills: 2040, 4012, 4013, 4020, 4030, 4058, 4081, 4082, 4083, 4131, 5133, 5137, 5140, 7004 and 7057.

With the exception of Sections 2040, 4012, 4013, 4020, 4030, 4058, 4081, 4082, 4083, 4131, 5133, 5137, 5140, 7004, 7057, Senate Bill 5038 is approved.

Respectfully submitted,  
CHRISTINE O. GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR

VETO ON SECOND SUBSTITUTE SENATE BILL NO. 5433

May 19, 2009

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

Ladies and Gentlemen:

I have approved, except for Sections 8, 9, 10 and 11, Second Substitute Senate Bill 5433 entitled:

"AN ACT Relating to modifying provisions of local option taxes."

This bill allows local governments flexibility to better use current revenues sources and additional options for transportation funding. Sections 8 through 11 would have given transit agencies the option of asking voters for up to \$20 per vehicle per year to expand local transit capacity and fund transit-related expenses. Local entities currently have authority under a transportation benefit district to impose a vehicle fee that can be used for transportation operating, maintenance and capital investments. In addition, the 2009-11 transportation budget appropriates funds to the Joint Transportation Committee to conduct a study of alternative revenue sources of transportation funding; so dedicating a specific revenue source now is premature and impacts future decision-making flexibility.

For these reason, I have vetoed Sections 8, 9, 10 and 11 of Second Substitute Senate Bill 5433.

With the exception of Sections 8, 9, 10 and 11, Second Substitute Senate Bill 5433 is approved.

Respectfully submitted,  
CHRISTINE O. GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR

VETO ON SUBSTITUTE SENATE BILL NO. 5436

May 19, 2009

FIRST DAY, JANUARY 11, 2010  
To the Honorable President and Members,  
The Senate of the State of Washington

2010 REGULAR SESSION  
VETO ON ENGROSSED SECOND SUBSTITUTE SENATE  
BILL NO. 5809

Ladies and Gentlemen:

May 19, 2009

I have approved, except for Sections 4 and 5, Substitute Senate Bill 5436 entitled:

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

“AN ACT Relating to payment arrangements involving direct practices.”

Ladies and Gentlemen:

Section 4 would subject direct patient-provider primary care practices to the assessments used to fund the Washington State Health Insurance Pool. I am concerned that this requirement would increase the cost of such practices at the very time businesses and individuals are badly in need of more affordable health care options.

I have approved, except for Section 4, Engrossed Second Substitute Senate Bill 5809 entitled:

“AN ACT Relating to workforce employment and training.”

Section 5 would require a direct practice to submit its advertising and marketing materials to the Insurance Commissioner for approval at least thirty days prior to use. The bill fails to indicate, however, the criteria against which these materials would be reviewed. This section also duplicates protections existing in current law, imposing needless administrative expenses on both these practices and the Commissioner’s Office.

I am vetoing Section 4 of this bill. The policy intent of the bill can be accomplished without the Legislature directing how the Governor’s discretionary Workforce Investment Act 10% fund is used. Although federal law does not prohibit the state Legislature from directing the Workforce Investment Act 10% funds, the approach taken by this bill would set an undesirable precedent.

For these reasons, I have vetoed Sections 4 and 5 of Substitute Senate Bill 5436.

For these reasons, I have vetoed Section 4 of Engrossed Second Substitute Senate bill 5809.

With the exception of Sections 4 and 5, Substitute Senate Bill 5436 is approved.

With the exception of Section 4, Engrossed Second Substitute Senate Bill 5809 is approved.

Respectfully submitted,  
CHRISTINE O. GREGOIRE, Governor

Respectfully submitted,  
CHRISTINE O. GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR  
VETO ON SUBSTITUTE SENATE BILL NO. 5734

MESSAGE FROM THE GOVERNOR  
VETO ON SUBSTITUTE SENATE BILL NO. 5913

May 19, 2009

May 19, 2009

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

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

Ladies and Gentlemen:

Ladies and Gentlemen:

I have approved, except for Section 2, Substitute Senate Bill 5734 entitled:

I have approved, except for Section 1, Substitute Senate Bill 5913 entitled:

“AN ACT Relating to tuition fees.”

“AN ACT Relating to online access to the University of Washington health sciences library by certain health care providers; and amending RCW 43.70.110 and 43.70.112.”

Section 2 of Substitute Senate Bill 5734 is identical to Section 3 in Engrossed Substitute House Bill 2344 that I signed yesterday. Signing two bills with identical sections may cause confusion, so I am vetoing this iteration of the performance audit requirement.

I fully support the intent of this legislation, including its clarification that the existing surcharge to health care professionals should be assessed only once per year, regardless of the number of licenses a professional holds. Unfortunately, Section 1 also requires the Department of Health (Department) to create an ongoing, annual advisory group. Establishing new advisory groups in statute is contrary to our recent efforts to reduce the number of boards, commissions and advisory groups across all of state government. There are other, more efficient ways to keep interested parties informed and engaged on emerging issues.

For this reason, I have vetoed Section 2 of Substitute Senate Bill 5734.

With the exception of Section 2, Substitute Senate Bill 5734 is approved.

Given the importance of this to many, I ask that Department pursue all available options to address the surcharge issue administratively. I also recommend that Department convene

Respectfully submitted,  
CHRISTINE O. GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR

FIRST DAY, JANUARY 11, 2010

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stakeholders to solicit feedback about the program and provide recommendations.

For these reasons, I have vetoed Section 1 of Substitute Senate Bill 5913.

With the exception of Section 1, Substitute Senate Bill 5913 is approved.

Respectfully submitted,  
CHRISTINE O. GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR  
VETO ON SENATE BILL NO. 6168

May 19, 2009

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

Ladies and Gentlemen:

I have approved, except for Sections 3, 4 and 8, Senate Bill 6168 entitled:

“AN ACT Relating to reducing costs in state elementary and secondary education programs.”

Sections 3 and 4 refer to the availability of funds as the determinate for whether these important programs are implemented. Because all programs are dependent on legislative appropriations, the addition of this language has no substantive effect. I am concerned, however, that future budget writers might erroneously conclude that these programs are in a different status than other programs and consider not funding them solely because of the addition of this new language. As a result, I have vetoed Sections 3 and 4 of Senate Bill 6168.

Section 8 of Senate Bill 6168 amends RCW 28A.625.020, Office of Superintendent of Public Instruction annual recognition program. RCW 28A.625.020 is also repealed by Section 20(6) of Senate Bill 5889 which I signed earlier today. Therefore, I am not approving Section 8 of Senate Bill 6168 to correct a potential double amendment and conflicting policy.

For these reasons, I have vetoed Sections 3, 4 and 8 of Senate Bill 6168.

With the exception of Sections 3, 4 and 8, Senate Bill 6168 is approved.

Respectfully submitted,  
CHRISTINE O. GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR  
VETO ON SENATE BILL 6181

May 19, 2009

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

Ladies and Gentlemen:

I am returning herewith, without my approval, Senate Bill 6181 entitled:

“AN ACT Relating to the intensive resource home pilot.”

This bill would extend for budget purposes the suspension of the intensive resource home pilot program created in 2008 and suspended in December of that year. However, Senate Bill 6181 amends RCW 74.13.800 which was repealed by section 97 of Second Substitute Senate Bill 2106 which I signed into law today. Therefore, the suspension is no longer necessary.

For this reason I have vetoed Senate Bill 6181 in its entirety.

Respectfully submitted,  
CHRISTINE O. GREGOIRE, Governor

June 9, 2009

MESSAGE FROM THE GOVERNOR

June 9, 2009

To the Honorable, the Senate  
of the State of Washington

Ladies and Gentlemen:

In compliance with the provisions of Article III, Section 11, of the Constitution of the State of Washington, the Governor hereby submits her report for each case of reprieve, commutation or pardon that she has granted since her last report submitted on December 29, 2008, copies of which are attached.

Very truly yours,  
Martin C. Loesch  
Senior Advisor and General Counsel

CONDITIONAL COMMUTATION  
OF  
STEVAN ARTICE DOZIER

**To All to Whom These Presents Shall Come, Greetings:**

WHEREAS, Stevan A. Dozier was convicted on June 20, 1994, of robbery in the Second Degree under King County Superior Court Cause Number 94-1-01558-0 and sentenced to serve Life without the Possibility of Parole under Washington’s persistent offender law, the so-called “Three Strikes” law.

WHEREAS, according to the court record, the crime leading to Mr. Dozier’s third strike occurred on February 1, 1994. At the age of thirty-three, Mr. Dozier robbed sixty-nine year old Mary Bedford of her wallet. Ms. Bedford was at the door of her apartment when Mr. Dozier asked her to tell him the time. When she responded, he pushed the door open, knocked her down, punched her in the face and took her wallet. Ms. Bedford sustained swollen lips and a sore jaw that prevented her from eating solid food for several weeks.

WHEREAS, Mr. Dozier’s second strike arose from two separate incidents of Robbery in the Second Degree. In March of 1988, Mr. Dozier approached Kristin Whiteaker as she waited for an elevator. He punched her in the face, took her purse and pushed her into the elevator before fleeing the scene. He later used her credit card to buy a watch, which he indicated he wanted to sell or trade for drugs. Later in the same month, Mr. Dozier

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approached Emily Magnuson while she sat in her car in a parking garage. He grabbed her face to physically restrain her while he reached in and stole her purse. Mr. Dozier pled guilty to both counts, receiving a 70 month prison sentence.

WHEREAS, the crime that led to Mr. Dozier's first strike conviction occurred in August of 1986 when he approached Patricia Garcia while she was getting into her car. Mr. Dozier reached into the car to grab her purse. When Ms. Garcia tried to stop him he pushed and hit her in the face, grabbed hold of the purse and ran away. Mr. Dozier pled guilty to Robbery in the Second Degree later that year and was sentenced to 17 months in prison.

WHEREAS, according to Mr. Dozier, the common cause for all his crimes was a drive to support his addiction to cocaine. Since being in prison, Mr. Dozier has participated in Alcoholics and Narcotics Anonymous and has been drug free for 14 years.

WHEREAS, Mr. Dozier is now forty-seven years old. To date, Mr. Dozier has been incarcerated on Cause No. 94-1-01558-0 since March 7, 1994, for a total time served to date, including pre-sentencing custody, of 182 months as of May 7, 2009, and has remained infraction free since 1997.

WHEREAS, Mr. Dozier unequivocally accepted legal responsibility and expressed remorse for, not only his crimes against Ms. Bedford, Ms. Garcia, Ms. Whiteaker and Ms. Magnuson, but all of his past crimes and deeply apologized for his actions to his victims, his family and the state of Washington at his 2008 Clemency Board hearing.

WHEREAS, following Mr. Dozier's Clemency and Pardons Board hearing on December 11, 2008, the Board issued a unanimous recommendation in support of a commutation of Mr. Dozier's Life without the Possibility of Parole to time served.

WHEREAS, King County Prosecutor Daniel Satterberg reviewed Mr. Dozier's clemency request in the context of other early "Three Strikes" cases prosecuted by the King County Prosecutor's Office in 1994 and 1995, shortly after voters approved Initiative 593. In the course of that review, Mr. Satterberg observed that the King County Prosecutor's Office charged and prosecuted the lowest ranking strike eligible offenses differently than they do today.

WHEREAS, Mr. Satterberg indicates that today the King County Prosecutor's Office would seek a charge of Theft in the First Degree and an agreed sentence of ten years instead of Robbery in the Second Degree for an offender like Mr. Dozier facing a potential third strike to avoid what the Prosecutor's Office would view as a disproportionate life sentence.

WHEREAS, in 1994, but for the persistent offender statute, Prosecutor Satterberg's office would have sought a Robbery One charge for Mr. Dozier's actions resulting in a sentence between 129 and 171 months for an offender with Mr. Dozier's offender score.

WHEREAS, Mr. Dozier has now served more time in prison than either the agreed sentence that the Prosecutor's Office would have otherwise charged today or the offense they would have charged in 1994 but for the persistent offender statute.

WHEREAS, Initiative 593 Section 5 indicated that "[nothing in this act shall ever be interpreted or construed as to reduce or eliminate the power of the governor to grant a pardon or clemency to any offender on an individual case-by-case basis."

WHEREAS, Mr. Dozier has shown considerable rehabilitation during his period of incarceration through his employment by Earth Ray industries, completing an anger and stress management program and basic custodial services program through Walla Walla Community College, courses in computer basics, safety awareness, and job dynamics through Edmonds community College, as well as participating in Alcoholics and Narcotics Anonymous, the Concerned Lifers and Black Prisoners Caucus programs.

WHEREAS, Mr. Dozier has received extraordinary community support in his petition for clemency from numerous community leaders, including King County Councilman Larry Gossett; King County Prosecutor Dan Satterberg; John Carlson, co-author of the three strikes law; Judge Brian Gain, the trial judge for Mr. Dozier's third strike case as well as his wife and other family members.

WHEREAS, supporters for Mr. Dozier have indicated that he has an opportunity upon his release for employment at Hassie May Services.

WHEREAS, Stevan Dozier appears to have used his 15 years in prison to mature into an articulate, responsible and rehabilitated man. Moreover, his service and activities indicate that he appears to be someone who can make a positive and lasting impact on his community.

WHEREAS, I have reviewed all pertinent facts and circumstances surrounding this matter, the circumstances of the crime, comments favoring release of Mr. Dozier, comments opposing Mr. Dozier's release, and the favorable recommendations of the King County Prosecutor and the Washington State Clemency and Pardons Board and, in light of the foregoing, I have determined that the best interests of justice will be served by this action.

WHEREAS, the victim, detective and trial prosecutor who have spoken against Mr. Dozier's petition have done so based on their knowledge of Mr. Dozier in 1994. The record and testimony at the Clemency Board hearing, as well as other information received from Department of Corrections personnel who have interacted with Mr. Dozier over the last fifteen years, indicate that Mr. Dozier has dramatically changed his ways during the time of his incarceration and is by all accounts rehabilitated.

NOW, THEREFORE, I, Christine O. Gregoire, by virtue of the power vested in me as Governor of the state of Washington under Article III Section 9 of the Washington State Constitution, RCW 9.94A.885 and RCW 9.95.260, hereby grant to Stevan A. Dozier a Conditional Commutation of the remainder of his sentence *subject to his acceptance of a term of Community Custody of twenty-four months, ending May 7, 2011, and compliance with the following conditions during the term of his Community Custody*, all of which commence as of May 7, 2009:

Mr. Dozier shall:

1. Report regularly to a community corrections officer as directed by the Department of Corrections;

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2. Pay a monthly supervision fee as directed by the community corrections officer;
3. Participate in Department of Corrections approved education, employment and/or community service;
4. Receive prior approval from the Department of Corrections for living arrangements and residence location;
5. Notify the Department of Corrections prior to any changes of address or employment;
6. Remain in the geographic area as directed by the community corrections officer;
7. Not possess, receive, ship, or transport a firearm, ammunition or explosives;
8. Not possess or use any controlled substances without a prescription;
9. Submit to regular and random urinalysis and breathalyzer testing, as directed by the community corrections officer;
10. Participate in substance abuse and/or chemical dependency evaluation as directed by the community corrections officer and complete any recommendations from such evaluation;
11. Participate in chemical dependency and substance abuse support groups, as directed by the community corrections officer;
12. Not associate with any drug users or dealers;
13. Have no direct contact with any of his victims or their families;
14. Participate in electronic monitoring, if deemed appropriate by the community corrections officer;
15. Participate in any mental health evaluation as recommended by the community corrections officer and complete any recommendations from such evaluation;
16. Participate in the Youth At Risk or other similar community service program, as directed by the community corrections officer; and
17. Comply with all standard conditions, recommendations, and instructions of community placement as directed by the community corrections officer.

PROVIDED that Mr. Dozier shall remain under the supervision of the Department of Corrections and follow explicitly conditions established by that agency during the term of his Community Custody. Violation of any of the above conditions shall result in sanctions as deemed appropriate by the Department of Corrections and may result in the termination of this Conditional Commutation as provided below. The Department may require Mr. Dozier to perform affirmative acts deemed appropriate to monitor compliance with the conditions and may issue warrants and/or detain Mr. Dozier if he violates a condition.

ADDITIONALLY PROVIDED that in the event Mr. Dozier is convicted anywhere at any time of any offense the elements of which would classify the crime as a gross misdemeanor or felony in the state of Washington or any violation of the conditions of this Conditional Commutation as determined by the Governor, this Conditional Commutation is revoked without notice and the sentence of the court reinstated, whereupon Mr. Dozier will be immediately returned to the Washington Corrections Center or any such facility as the Secretary of the Department of Corrections deems appropriate. The Department of Corrections shall provide a written report to the Clemency and Pardons Board regarding any violation of this Conditional Commutation.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the State of

Washington to be affixed at Olympia on this 6<sup>th</sup> day of May, A.D., two thousand and nine.

CHRISTINE O. GREGOIRE,  
Governor of Washington

SEAL

BY THE GOVERNOR

SAM REED  
Secretary of State

**CONDITIONAL COMMUTATION  
OF  
GERALD SALVENZO HANKERSON**

**To All to Whom These Presents Shall Come, Greetings:**

WHEREAS, Gerald S. Hankerson was convicted on April 22, 1988, of First-Degree Aggravated Murder under King County Superior Court Cause No. 87-1-05055-2 and sentenced to serve Life Without the Possibility of Parole stemming from the killing of Nai Vang Saeturn, an immigrant from Laos.

WHEREAS, according to the court record on May 18, 1987, at the age of 18, Mr. Hankerson and another man, Mr. Mitchell, observed Nai Vang Saeturn depart from a supermarket in Seattle. Mr. Hankerson and Mr. Mitchell followed Mr. Saeturn from the store. After a short distance, Mr. Hankerson blocked Mr. Saeturn's path while Mr. Mitchell grabbed Mr. Saeturn from behind and slashed his throat. Mr. Saeturn began to scream and attempted to flee from his attackers, but Mr. Hankerson and Mr. Mitchell pursued him and caught Mr. Saeturn about a half block later. Mr. Hankerson held Mr. Saeturn while Mr. Mitchell beat Mr. Saeturn with brass knuckles and stabbed him in the back before emptying Mr. Saeturn's pockets.

WHEREAS, following Mr. Hankerson's Clemency and Pardons Board hearing in June 2006, the Board issued a unanimous recommendation in support of a conditional commutation of Mr. Hankerson's Life Without the Possibility of Parole sentence once he had served additional time, which they calculated to be completed December 2008.

WHEREAS, Mr. Hankerson informed members of King County Prosecutor Satterberg's staff that he unequivocally accepted legal responsibility and expressed remorse for his role in Mr. Saeturn's murder and deeply apologized for his actions to the Saeturn family at his 2006 Clemency Board hearing.

WHEREAS, based in part on Prosecutor Satterberg's opposition to Mr. Hankerson's request for clemency in 2006, I denied Mr. Hankerson's request for clemency in 2007, but invited him to repetition for clemency in 2010.

WHEREAS, Prosecutor Satterberg reconsidered his 2006 opposition and in November of 2008 recommended clemency based on Mr. Hankerson's acceptance of responsibility for his conduct, the length of time he has already served and the positive contributions he could make to society. Prosecutor Satterberg also stated in a November 2008 letter that if the case came to his office today, it is unlikely that Aggravated Murder charges would be filed against Mr. Hankerson or a life sentence sought. Under

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current standards, Prosecutor Satterberg indicated that a charge of Murder in the First Degree would be applied.

WHEREAS, had Mr. Hankerson been convicted of the charge of Murder in the First Degree in this case instead of Aggravated Murder in the First Degree, he would have faced a Standard Range Sentence of 261 to 347 months in prison based on an Offender Score of 2 under the 1988 Sentencing Reform Act with the possibility of earned early release time for good behavior as early as 2006.

WHEREAS, pursuant to former RCW 9.94A.120(8) Mr. Hankerson would have been sentenced to Community Placement upon release from prison on a Murder in the First Degree conviction. If Mr. Hankerson had earned "good time" while serving his sentence, Mr. Hankerson's Community Placement would have been ordered in the form of Community Custody. Under former RCW 9.94A.120 Mr. Hankerson's Community Custody would have allowed him to be released to a less restrictive alternative to that of incarceration including living back in the community but would have subjected him to controls placed on an inmate by the Department of Corrections and close monitoring by Department officials.

WHEREAS, Mr. Hankerson is now forty years old. To date, Mr. Hankerson has been incarcerated on Cause No. 87-1-05055-2 since December 7, 1987, for a total time served to date of 267 total months, as of April 7, 2009 and has remained infraction free since 2002, including the period following my 2007 denial of his petition for clemency.

WHEREAS, Mr. Hankerson has shown considerable rehabilitation through his service to organizations within the Department of Corrections, including Co-founder of the At Risk Youth Program; Vice-President of the Concerned Lifers Organization (which he also integrated racially); Chairman of the Black Prisoners Caucus; Class Facilitator for the Prison Awareness Project; and Class Coordinator for Seattle University's Campus Ministry. In addition, through his dedication to community service, Mr. Hankerson has positively influenced lives beyond prison walls; as a result, the Seattle/King County Branch of the NAACP awarded him its 2008 Community Service Award.

WHEREAS, Mr. Hankerson has received extraordinary community support in his petition for clemency from numerous community leaders, including King County Councilman Larry Gossett, the leadership of the local NAACP and several local churches and faith communities including Salishan/Eastside Lutheran Mission, Freedom Church of Seattle, New Hope Missionary Baptist Church, United Black Christian Clergy Association of Washington, and Buddhist Chaplaincy Services.

WHEREAS, supporters for Mr. Hankerson have indicated that he has an opportunity upon his release for employment at Puyallup Nissan.

WHEREAS, Hankerson appears to have used his 20 years in prison to mature into an articulate, responsible and rehabilitated man. Moreover, his service and activities indicate that he appears to be someone who can make a positive and lasting impact on his community.

WHEREAS, I have reviewed all pertinent facts and circumstances surrounding this matter, the circumstances of the

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crime, comments favoring release of Mr. Hankerson, comments opposing Mr. Hankerson's release, and the favorable recommendations of the King County Prosecutor and the Washington State Clemency and Pardons Board and, in light of the foregoing, I have determined that the best interests of justice will be served by this action.

NOW, THEREFORE, I, Christine O. Gregoire, by virtue of the power vested in me as Governor of the State of Washington under Article III, Section 9 of the Washington State Constitution, RCW 9.94A.885 and RCW 9.95.260, hereby grant to Gerald S. Hankerson a Conditional Commutation of the remainder of his sentence *subject to his acceptance of a term of Community Custody of eighty months, ending December 9, 2015, and compliance with the following conditions during the term of his Community Custody*, all of which commence as of April 9, 2009:

Mr. Hankerson shall:

1. Report regularly to a community corrections officer as directed by the Department of Corrections;
2. Pay a monthly supervision fee as directed by the community corrections officer;
3. Participate in Department of Corrections approved education, employment and/or community service;
4. Receive prior approval from the Department of Corrections for living arrangements and residence location;
5. Notify the Department of Corrections prior to any changes of address or employment;
6. Remain in the geographic area as directed by the community corrections officer;
7. Not possess, receive, ship, or transport a firearm, ammunition or explosives;
8. Not possess or use any controlled substances without a prescription;
9. Submit to regular and random urinalysis and breathalyzer testing, as directed by the community corrections officer;
10. Participate in substance abuse and/or chemical dependency evaluation as directed by the community corrections officer and complete any recommendations from such evaluation;
11. Participate in chemical dependency and substance abuse support groups, as directed by the community corrections officer;
12. Not associate with any drug users or dealers;
13. Have no direct contact with any members of the victim's family;
14. Participate in electronic monitoring, if deemed appropriate by the community corrections officer;
15. Participate in any mental health evaluation as recommended by the community corrections officer and complete any recommendations from such evaluation;
16. Participate in the Youth At Risk or other similar community service program, as directed by the community corrections officer;
17. Comply with all standard conditions, recommendations, and instructions of community placement as directed by the community corrections officer.

PROVIDED that Mr. Hankerson shall remain under the supervision of the Department of Corrections and follow explicitly conditions established by that agency during the term of his Community Custody. Violation of any of the above conditions shall result in sanctions as deemed appropriate by the Department of Corrections and may result in the termination of

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this Conditional Commutation as provided below. The Department may require Mr. Hankerson to perform affirmative acts deemed appropriate to monitor compliance with the conditions and may issue warrants and/or detain Mr. Hankerson if he violates a condition.

ADDITIONALLY PROVIDED that in the event Mr. Hankerson is convicted anywhere at any time of any offense the elements of which would classify the crime as a gross misdemeanor or felony in the state of Washington or any violation of the conditions of this Conditional Commutation as determined by the Governor, this Conditional Commutation is revoked without notice and the sentence of the court reinstated, whereupon Mr. Hankerson will be immediately returned to the Washington Corrections Center or any such facility as the Secretary of the Department of Corrections deems appropriate. The Department of Corrections shall provide a written report to the Clemency and Pardons Board regarding any violation of this Conditional Commutation.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the State of Washington to be affixed at Olympia on this 9<sup>th</sup> day of April, A.D., two thousand and nine.

CHRISTINE O. GREGOIRE,  
Governor of Washington

SEAL  
BY THE GOVERNOR

SAM REED  
Secretary of State

MESSAGE FROM THE SECRETARY OF STATE

**CANVASS OF THE RETURNS  
OF THE GENERAL ELECTION  
HELD ON NOVEMBER 3, 2009**

I, Sam Reed, Secretary of State of the State of Washington, do hereby certify that according to the provisions of RCW 29A.60.260, I have canvassed the returns of the 1,823,364 votes cast by the 3,583,278 registered voters of the state for and against the initiative and referendum which were submitted to the vote of the people at the state general election held on the 3<sup>rd</sup> day of November, 2009, as received from the County Auditors.

**Initiative Measure No. 1033**

“Initiative Measure No. 1033 concerns state, county and city revenue.

This measure would limit growth of certain state, county and city revenue to annual inflation and population growth, not including voter-approved revenue increases. Revenue collected above the limit would reduce property tax levies.”

Yes	729,918
No	1,003,943

**Referendum Measure No. 71**

“The legislature passed Engrossed Second Substitute Senate Bill 5688 concerning rights and responsibilities of state-registered domestic partners and voters have filed a sufficient referendum petition on this bill.

This bill would expand the rights, responsibilities, and obligations accorded state-registered same-sex and senior domestic partners to be equivalent to those of married spouses, except that a domestic partnership is not a marriage.”

Approved	951,822
Rejected	838,842

I further certify that, according to the provisions of RCW 43.07.030, I have canvassed the returns of the votes cast at the state general election held on the 3<sup>rd</sup> day of November, 2009, for all joint legislative offices, and that the votes cast for candidates for these offices are as follows:

**Legislative District 9 - State Representative Pos. 1  
(1-year unexpired term)  
(Adams, Asotin, Franklin\*, Garfield, Spokane\*,  
Whitman)**

Susan Fagan	(Prefers Republican Party)
Pat Hailey	(Prefers Republican Party)

**Legislative District 15 - State Representative Pos. 2  
(1-year unexpired term)  
(Clark\*, Klickitat, Skamania, Yakima\*)**

David Taylor	(Prefers Republican Party)
John (Jobs) Gotts	(Prefers Democratic Party)

**Legislative District 16 - State Representative Pos. 2  
(1-year unexpired term)  
(Benton\*, Columbia, Franklin\*, Walla Walla)**

Laura Grant	(Prefers Democratic Party)
Terry R. Nealey	(Prefers Republican Party)

(\*Only part of the county is included in the legislative district.)

IN WITNESS WHEREOF, I have set my hand and affixed the official Seal of the State of Washington, this 1<sup>st</sup> day of December, 2009.

SAM REED  
Secretary of State

MESSAGE FROM THE SECRETARY OF STATE

The Honorable Brad Owen  
President of the State Senate  
Legislature of the State of Washington  
Olympia, Washington 98504

Dear President Owen:

We respectfully transmit for your consideration the following bills which were partially vetoed by the Governor, together with

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the official veto message setting forth her objection to the section or items of the bill, as required by Article III, section 12, of the Washington State Constitution:

Substitute Senate Bill No. 5318  
 Substitute Senate Bill No. 5360  
 Substitute Senate Bill No. 5608  
 Engrossed Substitute Senate Bill No. 5414  
 Substitute Senate Bill No. 5199  
 Engrossed Substitute Senate Bill No. 5288  
 Substitute Senate Bill No. 6162  
 Engrossed Second Substitute Senate Bill No. 5649  
 Engrossed Senate Bill No. 6033  
 Substitute Senate Bill No. 6122  
 Engrossed Senate Bill No. 6166  
 Senate Bill No. 5525  
 Engrossed Substitute Senate Bill No. 5352  
 Substitute Senate Bill No. 5499  
 Engrossed Second Substitute Senate Bill No. 5850  
 Engrossed Second Substitute Senate Bill No. 5560  
 Second Substitute Senate Bill No. 5945  
 Senate Bill No. 5038  
 Second Substitute Senate Bill No. 5433  
 Substitute Senate Bill No. 5436  
 Substitute Senate Bill No. 5913  
 Engrossed Second Substitute Senate Bill No. 5809  
 Substitute Senate Bill No. 5734  
 Senate Bill No. 6168

IN TESTIMONY WHEREOF, I have here unto  
 set my hand and affixed the seal of the State of  
 Washington this 2<sup>nd</sup> day of June, 2009

Sam Reed  
 Secretary of State

## MOTION

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

## INTRODUCTION AND FIRST READING

SB 6190 by Senators Berkey and Shin

AN ACT Relating to requiring full payment of all moneys due under the certificate of delinquency prior to any change of ownership of real property after a certificate of delinquency is issued; and adding a new section to chapter 84.64 RCW.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 6191 by Senators Parlette, Rockefeller and Kohl-Welles

AN ACT Relating to updating and removing obsolete references from the statutes governing the joint legislative audit and review committee; amending RCW 44.28.010, 44.28.020, 44.28.083, 44.28.088, 44.28.097, and 44.28.110; and repealing RCW 44.28.030 and 44.28.161.

Referred to Committee on Government Operations & Elections.

SB 6192 by Senators Marr and Brandland

AN ACT Relating to the modification of restitution in juvenile cases; and amending RCW 13.40.190.

Referred to Committee on Human Services & Corrections.

SB 6193 by Senators Marr, Morton, Kilmer, Kauffman, Eide, Berkey, Benton, Haugen, Kline, McAuliffe and McDermott

AN ACT Relating to allowing medicare supplement insurance premiums to be deducted from the calculation of disposable income for the purpose of qualifying for senior property tax programs; and reenacting and amending RCW 84.36.383.

Referred to Committee on Ways & Means.

SB 6194 by Senators Keiser, Zarelli, Parlette and Shin

AN ACT Relating to maintaining the current medicaid nursing facility payment methodology through simplification of the nursing facility medicaid payment system statute; amending RCW 74.46.010, 74.46.020, 74.46.431, 74.46.433, 74.46.435, 74.46.437, 74.46.439, 74.46.475, 74.46.496, 74.46.501, 74.46.506, 74.46.508, 74.46.511, 74.46.515, 74.46.521, 74.46.835, and 74.46.800; creating a new section; and repealing RCW 74.46.030, 74.46.040, 74.46.050, 74.46.060, 74.46.080, 74.46.090, 74.46.100, 74.46.155, 74.46.165, 74.46.190, 74.46.200, 74.46.220, 74.46.230, 74.46.240, 74.46.250, 74.46.270, 74.46.280, 74.46.290, 74.46.300, 74.46.310, 74.46.320, 74.46.330, 74.46.340, 74.46.350, 74.46.360, 74.46.370, 74.46.380, 74.46.390, 74.46.410, 74.46.445, 74.46.533, 74.46.600, 74.46.610, 74.46.620, 74.46.625, 74.46.630, 74.46.640, 74.46.650, 74.46.660, 74.46.680, 74.46.690, 74.46.700, 74.46.711, 74.46.770, 74.46.780, 74.46.790, 74.46.820, 74.46.900, 74.46.901, 74.46.902, 74.46.905, and 74.46.906.

Referred to Committee on Health & Long-Term Care.

SB 6195 by Senator Berkey

AN ACT Relating to mailing applications for distributions of excess proceeds from county tax lien foreclosures to the record owner; and amending RCW 84.64.080.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 6196 by Senators Hobbs, Hewitt, Pridemore, Shin, Roach, Kilmer, Franklin, Swecker, Fairley, King, Benton, Keiser, Rockefeller, Tom, Kohl-Welles, Kline and Kauffman

AN ACT Relating to military leave for public employees; and amending RCW 38.40.060.

Referred to Committee on Government Operations & Elections.

SB 6197 by Senators Berkey, Parlette and Franklin

AN ACT Relating to group life insurance; and adding a new section to chapter 48.24 RCW.

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Referred to Committee on Financial Institutions, Housing & Insurance.

SB 6198 by Senators Berkey, Schoesler and Hobbs

AN ACT Relating to the exemption to the three-year active transacting requirement for foreign or alien insurer applicants; and amending RCW 48.05.105.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 6199 by Senators Franklin, Sheldon, Honeyford, Carrell, Roach, Hargrove, Regala, Pflug, Becker, Parlette, Delvin, Swecker and Shin

AN ACT Relating to the community renewal law; amending RCW 35.81.005, 35.81.015, 35.81.040, 35.81.050, 35.81.060, 35.81.070, 35.81.080, and 35.81.090; and repealing RCW 35.81.030.

Referred to Committee on Government Operations & Elections.

SB 6200 by Senators Carrell, Sheldon, Honeyford, Franklin, Pflug, Roach, Hargrove, Becker, Regala, Schoesler, Parlette, Benton, Delvin, Swecker, Holmquist, Shin, Rockefeller, Haugen, Hewitt and Stevens

AN ACT Relating to prohibiting the use of eminent domain for economic development; and adding a new chapter to Title 8 RCW.

Referred to Committee on Judiciary.

SB 6201 by Senators Kline, Hargrove, Sheldon, Brandland, Holmquist, Pflug, McCaslin, King, Becker, Regala, Keiser, Delvin, Swecker, Rockefeller, Tom, Kohl-Welles, McAuliffe, Kilmer, Hewitt, Stevens and Gordon

AN ACT Relating to protecting children from sexual exploitation and abuse; amending RCW 9.68A.110, 9.68A.011, 9.68A.050, 9.68A.060, and 9.68A.070; and creating a new section.

Referred to Committee on Judiciary.

SB 6202 by Senators Hargrove, Holmquist, Franklin, Honeyford, McCaslin, Regala, Morton, Keiser, Delvin, Swecker, Rockefeller, Tom, Kline, McAuliffe and Kilmer

AN ACT Relating to vulnerable adults; amending RCW 9.94A.533, 30.22.210, and 74.34.035; adding a new section to chapter 74.34 RCW; creating a new section; and prescribing penalties.

Referred to Committee on Human Services & Corrections.

SB 6203 by Senators Brandland, Hargrove, Sheldon, Honeyford, Hatfield, Delvin, Kauffman, King, Becker, Pflug, McCaslin, Parlette, Kohl-Welles, Holmquist, Regala, Kline, Keiser, Marr, Swecker, Rockefeller, Tom, Kilmer, Hewitt, Stevens and Roach

AN ACT Relating to punishment for domestic violence offenders; amending RCW 9.94A.030 and 9.94A.525; reenacting and amending RCW 9.94A.535; creating a new section; and providing an effective date.

Referred to Committee on Judiciary.

SB 6204 by Senators Sheldon, King, Hobbs and Rockefeller

AN ACT Relating to privatizing the sale of liquor; amending RCW 66.08.030, 66.08.070, 66.08.130, 66.08.140, 66.08.150, 66.24.010, 66.24.012, 66.24.015, 66.24.025, 66.24.120, 66.44.200, 66.44.318, 66.44.340, 66.04.010, 66.08.020, 66.08.026, 66.08.030, 66.08.050, 66.08.060, 66.08.167, 66.16.110, 66.12.110, 66.12.120, 66.12.140, 66.20.010, 66.20.160, 66.20.170, 66.20.180, 66.20.190, 66.20.200, 66.20.210, 66.24.145, 66.24.360, 66.24.371, 66.24.380, 66.24.395, 66.24.395, 66.24.540, 66.24.590, 66.28.060, 66.32.010, 66.44.150, and 66.44.160; reenacting and amending RCW 66.04.010; adding new sections to chapter 66.08 RCW; creating a new section; recodifying RCW 66.16.110; repealing RCW 66.08.070, 66.08.160, 66.08.165, 66.08.166, 66.08.220, 66.08.235, 66.16.010, 66.16.040, 66.16.041, 66.16.050, 66.16.060, 66.16.070, 66.16.090, 66.16.100, 66.16.120, and 66.28.180; and providing effective dates.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6205 by Senators Haugen and Shin

AN ACT Relating to portions of state highways better served by merged fire districts under certain circumstances; amending RCW 47.48.031 and 52.06.090; and creating a new section.

Referred to Committee on Transportation.

SB 6206 by Senators Haugen and Kilmer

AN ACT Relating to authorizing extensions of the due dates for filing tax incentive accountability reports and surveys with the department of revenue; amending RCW 82.32.590; and creating a new section.

Referred to Committee on Ways & Means.

SB 6207 by Senator Haugen

AN ACT Relating to allowing local governments to create golf cart zones; amending RCW 46.04.320, 46.04.670, 46.16.010, 46.61.687, and 46.61.688; reenacting and amending RCW 46.37.010; adding a new section to chapter 46.04 RCW; and adding a new section to chapter 46.08 RCW.

Referred to Committee on Transportation.

SB 6208 by Senators Haugen, Hatfield and Shin

AN ACT Relating to temporary agricultural directional signs on state highway rights-of-way; and amending RCW 47.42.020.

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Referred to Committee on Transportation.

SB 6209 by Senators Haugen, Berkey, Marr, Shin and Sheldon

AN ACT Relating to allowing moneys paid to county road funds to be used for park and ride lots; and amending RCW 36.82.070.

Referred to Committee on Transportation.

SB 6210 by Senators Haugen, Hatfield, Morton and Shin

AN ACT Relating to the preservation and conservation of agricultural resource lands; and adding a new section to chapter 43.21C RCW.

Referred to Committee on Agriculture & Rural Economic Development.

SB 6211 by Senators Haugen, Hatfield and Kohl-Welles

AN ACT Relating to creating an agricultural scenic corridor within the scenic and recreational highway system; and amending RCW 47.39.020.

Referred to Committee on Transportation.

SB 6212 by Senator Haugen

AN ACT Relating to permit review for small scale fish enhancement projects; and amending RCW 77.55.181.

Referred to Committee on Natural Resources, Ocean & Recreation.

SB 6213 by Senators Haugen and Swecker

AN ACT Relating to vehicles at railroad grade crossings; and amending RCW 46.61.350.

Referred to Committee on Transportation.

SB 6214 by Senators Haugen, Morton, Swecker, Shin, McCaslin, Ranker, Rockefeller, Fairley, Pridemore, Kline, Parlette, Jacobsen, Schoesler, Sheldon, McDermott and Fraser

AN ACT Relating to restructuring three growth management hearings boards into one board; amending RCW 36.70A.130, 36.70A.172, 36.70A.250, 36.70A.260, 36.70A.270, 36.70A.280, 36.70A.290, 36.70A.295, 36.70A.302, 36.70A.310, 36.70A.3201, 36.70A.345, 90.58.190, 34.05.518, and 34.12.020; reenacting and amending RCW 36.70A.110; creating a new section; and providing an effective date.

Referred to Committee on Government Operations & Elections.

SB 6215 by Senators Rockefeller, Kilmer, Sheldon, Marr, Keiser, Pridemore, Oemig, Benton, Shin, Haugen, Kohl-Welles, Kline, McAuliffe and Kauffman

AN ACT Relating to increasing property tax relief for senior citizens, persons retired by reason of disability, and veterans with certain service-connected disabilities; amending RCW 84.36.381 and 84.38.030; and creating a new section.

Referred to Committee on Ways & Means.

SB 6216 by Senators Rockefeller, Sheldon, Oemig, Kilmer, Keiser, Shin, Tom and Kline

AN ACT Relating to disclosure of existing property tax levies on ballot propositions subject to voter approval for levy lid lifts; and amending RCW 84.55.050.

Referred to Committee on Government Operations & Elections.

SB 6217 by Senator Rockefeller

AN ACT Relating to retroactively applying certain intermediate license law amendments made during the 2009 legislative session; and creating a new section.

Referred to Committee on Transportation.

SB 6218 by Senators Fraser and Brandland

AN ACT Relating to modifying the local option capital asset lending program to authorize state use of certain voter approved excess tax levies to pay financing contracts and to clarify program participants; amending RCW 39.94.020, 39.94.030, and 84.52.056; and creating a new section.

Referred to Committee on Ways & Means.

SB 6219 by Senator Berkey

AN ACT Relating to funding sources for time certificate of deposit investments; and amending RCW 43.86A.030.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 6220 by Senators Fraser and Brandland

AN ACT Relating to determination of the terms and conditions of bonds, notes, and other evidences of indebtedness of the state of Washington; and amending RCW 39.42.030 and 43.33.130.

Referred to Committee on Ways & Means.

SB 6221 by Senator Fairley

AN ACT Relating to the clarifying and expanding participation in the Washington state local government investment pool; and amending RCW 43.250.010, 43.250.020, and 43.250.040.

Referred to Committee on Ways & Means.

SB 6222 by Senator Benton

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AN ACT Relating to exempting certain nonconviction data from public inspection and copying under the public records act; and amending RCW 42.56.240.

Referred to Committee on Agriculture & Rural Economic Development.

Referred to Committee on Government Operations & Elections.

SB 6230 by Senators Kline, McCaslin, Regala, Brandland, Swecker, Tom and Gordon

AN ACT Relating to costs for the collection of DNA samples; and amending RCW 43.43.7541.

SB 6223 by Senator Benton

Referred to Committee on Judiciary.

AN ACT Relating to the deletion of nonconviction data; and amending RCW 10.97.060.

SB 6231 by Senators Marr, King, Eide, Delvin, Zarelli, Shin and Tom

Referred to Committee on Judiciary.

SB 6224 by Senators Keiser, Becker and Gordon

AN ACT Relating to approaching certain emergency, roadside assistance, or police vehicles in emergency zones; amending RCW 46.61.212, 46.63.020, 46.20.342, and 46.63.110; prescribing penalties; and providing an effective date.

AN ACT Relating to conforming the uniform controlled substances act to existing state and federal law; and amending RCW 69.50.101, 69.50.204, 69.50.206, 69.50.208, 69.50.210, 69.50.212, and 69.50.402.

Referred to Committee on Transportation.

Referred to Committee on Health & Long-Term Care.

SB 6232 by Senators Regala, McCaslin, Marr, Parlette, Carrell, Brandland, Shin, Tom, Hewitt and Roach

SB 6225 by Senators Schoesler, Fairley, McCaslin and Sheldon

AN ACT Relating to the regulation of ignition interlock devices; amending RCW 46.04.215; and adding a new section to chapter 43.43 RCW.

AN ACT Relating to population thresholds that determine the number of local councilmembers and receipt of local funds; amending RCW 35A.12.010 and 47.26.345; and creating a new section.

Referred to Committee on Judiciary.

Referred to Committee on Government Operations & Elections.

SB 6233 by Senators Kline, Parlette, Carrell, Zarelli, Tom and Hewitt

SB 6226 by Senators Stevens and Carrell

AN ACT Relating to breath test instruments approved by the state toxicologist; and amending RCW 46.61.506.

AN ACT Relating to truancy petition compliance; and amending RCW 28A.225.151.

Referred to Committee on Judiciary.

Referred to Committee on Human Services & Corrections.

SB 6234 by Senators Swecker and Hargrove

SB 6227 by Senators Becker, Marr, Parlette and Keiser

AN ACT Relating to fishery license limitation programs; and amending RCW 77.70.150, 77.70.190, 82.27.020, and 82.27.070.

AN ACT Relating to permitting regularly enrolled students in a prescribed course of opticianry to practice under supervision without registering as an apprentice with the department of health; and amending RCW 18.34.010.

Referred to Committee on Natural Resources, Ocean & Recreation.

Referred to Committee on Health & Long-Term Care.

SB 6235 by Senators Hargrove, Haugen, Shin and Hatfield

SB 6228 by Senators Haugen, Jacobsen and Shin

AN ACT Relating to the promotion of the industries that rely on the state's working land base; amending RCW 43.330.310, 43.330.370, and 28C.18.170, and 43.01.036; adding a new section to chapter 43.330 RCW; and creating a new section.

AN ACT Relating to organic products; amending RCW 15.86.010, 15.86.020, 15.86.030, 15.86.060, 15.86.065, 15.86.070, and 15.86.090; and adding new sections to chapter 15.86 RCW.

Referred to Committee on Environment, Water & Energy.

Referred to Committee on Agriculture & Rural Economic Development.

SB 6236 by Senators Hargrove, Jacobsen, Morton, Schoesler, Swecker, Marr, Fraser and Parlette

SB 6229 by Senators Schoesler and Ranker

AN ACT Relating to the department of natural resources authority to enter into forest biomass supply agreements; amending RCW 79.02.010, 43.30.020, 76.04.465, 76.06.180, 79.15.100, 79.15.220, 79.15.510, and 79.15.510; adding a

AN ACT Relating to the dairy inspection program; amending RCW 15.36.551; and providing an expiration date.

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new chapter to Title 79 RCW; providing an effective date; and providing an expiration date.	11.80.020,	11.80.030,	11.80.040,	11.80.060,	11.80.080,
	11.80.090,	11.80.100,	11.80.110,	11.84.060,	11.84.900,
	11.88.100,	11.88.150,	11.92.115,	11.98.070,	11.106.030,
Referred to Committee on Natural Resources, Ocean & Recreation.	11.110.100,	11.110.110,	11.110.120,	12.04.020,	12.04.030,
	12.04.040,	12.04.060,	12.04.070,	12.04.080,	12.04.090,
	12.04.110,	12.04.120,	12.04.160,	12.04.170,	12.04.180,
<u>SB 6237</u> by Senators Jacobsen and Swecker	12.04.190,	12.04.201,	12.04.203,	12.04.206,	12.04.207,
	12.08.040,	12.08.060,	12.08.070,	12.08.080,	12.08.090,
	12.08.100,	12.08.120,	12.12.080,	12.12.090,	12.16.020,
AN ACT Relating to implementing certain recommendations of the sustainable recreation work group; amending RCW 79.10.140 and 4.24.210; adding a new section to chapter 79.10 RCW; creating new sections; and providing an expiration date.	12.16.030,	12.16.040,	12.16.050,	12.16.060,	12.16.080,
	12.16.090,	12.20.010,	12.20.020,	12.20.040,	12.20.070,
	12.40.025,	13.04.050,	13.04.180,	13.20.020,	13.20.030,
	13.24.050,	14.08.290,	14.08.112,	14.12.030,	14.12.110,
	14.12.140,	14.16.010,	14.16.030,	14.16.040,	14.20.030,
	14.20.050,	14.20.070,	14.20.090,	14.20.100,	15.04.090,
Referred to Committee on Natural Resources, Ocean & Recreation.	15.04.110,	15.04.160,	15.08.010,	15.08.040,	15.08.080,
	15.08.090,	15.08.100,	15.08.120,	15.08.140,	15.08.150,
	15.08.160,	15.08.180,	15.08.190,	15.08.250,	15.09.040,
<u>SB 6238</u> by Senators Hobbs, Roach, Swecker, Kilmer, King, Franklin, Shin, Tom, Kauffman and McDermott	15.09.050,	15.09.080,	15.09.100,	15.24.120,	15.24.130,
	15.24.150,	15.24.210,	15.26.030,	15.26.040,	15.26.050,
	15.26.060,	15.26.080,	15.26.110,	15.26.170,	15.26.180,
AN ACT Relating to overseas and service voters; amending RCW 29A.40.150; and adding a new section to chapter 29A.40 RCW.	15.26.190,	15.26.210,	15.26.230,	15.26.240,	15.28.030,
	15.28.100,	15.28.150,	15.28.190,	15.28.210,	15.28.220,
	15.28.230,	15.28.260,	15.28.280,	15.28.310,	15.30.010,
Referred to Committee on Government Operations & Elections.	15.30.030,	15.30.070,	15.30.080,	15.37.010,	15.37.040,
	15.37.060,	15.37.070,	15.37.120,	15.44.027,	15.44.050,
	15.44.060,	15.44.090,	15.44.100,	15.49.101,	15.49.111,
<u>SB 6239</u> by Senators Kohl-Welles, Gordon and Fraser	15.49.380,	15.49.400,	15.58.100,	15.58.280,	15.64.010,
	15.65.100,	15.65.110,	15.65.130,	15.65.160,	15.65.190,
	15.65.210,	15.65.280,	15.65.290,	15.65.320,	15.65.330,
AN ACT Relating to making technical corrections to gender-based terms; amending RCW 10.01.050, 10.01.060, 10.01.120, 10.01.140, 10.01.150, 10.01.180, 10.04.110, 10.10.060, 10.16.080, 10.16.110, 10.16.145, 10.16.150, 10.19.040, 10.19.060, 10.22.010, 10.22.020, 10.25.070, 10.27.060, 10.27.070, 10.27.080, 10.27.090, 10.27.100, 10.27.120, 10.27.130, 10.27.140, 10.27.150, 10.29.050, 10.29.110, 10.31.030, 10.31.040, 10.31.050, 10.31.060, 10.34.010, 10.34.020, 10.34.030, 10.37.040, 10.37.050, 10.40.050, 10.40.060, 10.40.140, 10.40.170, 10.43.040, 10.43.050, 10.46.060, 10.46.110, 10.46.200, 10.46.220, 10.52.060, 10.52.090, 10.55.020, 10.55.060, 10.55.100, 10.58.020, 10.58.030, 10.61.006, 10.64.060, 10.64.070, 10.70.010, 10.70.020, 10.73.040, 10.79.020, 10.79.040, 10.79.050, 10.82.030, 10.82.040, 10.88.210, 10.88.220, 10.88.230, 10.88.240, 10.88.260, 10.88.270, 10.88.290, 10.88.300, 10.88.310, 10.88.320, 10.88.330, 10.88.340, 10.88.350, 10.88.360, 10.88.370, 10.88.380, 10.88.390, 10.88.400, 10.88.410, 10.88.420, 10.88.430, 10.88.450, 10.89.020, 10.91.010, 10.91.020, 10.91.030, 10.91.050, 10.97.080, 10.97.110, 10.97.120, 11.04.015, 11.04.035, 11.04.041, 11.04.085, 11.04.250, 11.08.111, 11.08.180, 11.08.200, 11.08.230, 11.08.240, 11.12.030, 11.12.060, 11.12.170, 11.12.190, 11.20.010, 11.20.020, 11.28.110, 11.28.190, 11.28.230, 11.28.250, 11.28.290, 11.28.300, 11.28.330, 11.28.340, 11.32.010, 11.32.020, 11.32.030, 11.32.040, 11.32.060, 11.48.020, 11.48.025, 11.48.030, 11.48.040, 11.48.050, 11.48.060, 11.48.070, 11.48.080, 11.48.120, 11.48.140, 11.48.160, 11.48.180, 11.48.200, 11.48.210, 11.56.040, 11.56.045, 11.56.070, 11.56.100, 11.56.110, 11.56.180, 11.56.210, 11.56.230, 11.60.040, 11.60.060, 11.64.008, 11.64.030, 11.66.010, 11.68.070, 11.68.100, 11.68.120, 11.76.002, 11.76.010, 11.76.030, 11.76.040, 11.76.050, 11.76.060, 11.76.070, 11.76.100, 11.76.110, 11.76.150, 11.76.160, 11.76.170, 11.76.190, 11.76.210, 11.76.230, 11.76.240, 11.76.243, 11.76.245,	15.65.340,	15.65.390,	15.65.400,	15.65.410,	15.65.420,
	15.65.440,	15.65.480,	15.65.490,	15.65.500,	15.65.520,
	15.65.530,	15.65.540,	15.65.550,	15.65.590,	15.66.150,
	15.66.200,	15.66.210,	15.66.230,	15.66.240,	15.70.020,
	15.70.030,	15.70.040,	15.76.170,	15.80.320,	15.80.420,
	15.80.460,	15.80.470,	15.80.480,	15.80.490,	15.80.500,
	15.80.510,	15.80.550,	15.80.590,	15.80.610,	15.80.620,
	15.80.630,	15.80.640,	15.88.070,	15.100.080,	15.115.270,
	43.21A.405,	43.21C.030,	44.39.060,	46.01.250,	46.09.080,
	46.10.120,	46.10.220,	46.12.130,	46.12.240,	46.12.280,
	46.12.300,	46.12.320,	46.16.025,	46.16.047,	46.16.210,
	46.16.230,	46.16.260,	46.16.371,	46.16.505,	46.16.595,
	46.20.017,	46.20.024,	46.20.220,	46.20.325,	46.20.327,
	46.20.332,	46.20.333,	46.20.334,	46.20.349,	46.29.040,
	46.29.050,	46.29.070,	46.29.080,	46.29.120,	46.29.140,
	46.29.160,	46.29.170,	46.29.180,	46.29.190,	46.29.230,
	46.29.290,	46.29.310,	46.29.360,	46.29.450,	46.29.470,
	46.29.490,	46.29.510,	46.29.540,	46.29.550,	46.29.560,
	46.29.570,	46.29.600,	46.32.010,	46.32.020,	46.37.380,
	46.37.423,	46.37.424,	46.37.550,	46.37.560,	46.37.590,
	46.44.047,	46.52.050,	46.52.070,	46.55.030,	46.55.085,
	46.55.200,	46.55.240,	46.61.024,	46.61.035,	46.61.202,
	46.61.255,	46.61.350,	46.61.385,	46.61.519,	46.61.600,
	46.61.613,	46.61.614,	46.61.615,	46.61.765,	46.63.020,
	46.65.020,	46.65.080,	46.65.100,	46.68.080,	46.70.075,
	46.70.102,	46.70.111,	46.70.190,	46.70.220,	46.70.230,
	46.70.250,	46.72.040,	46.72.060,	46.72.110,	46.76.010,
	46.76.060,	46.79.030,	46.79.040,	46.79.060,	46.80.010,
	46.80.030,	46.82.300,	46.85.020,	46.87.360,	46.96.150,
	47.01.070,	47.10.150,	47.12.023,	47.12.160,	47.12.230,
	47.12.283,	47.26.150,	47.26.4254,	47.28.080,	47.32.060,
	47.32.070,	47.32.090,	47.36.110,	47.36.200,	47.41.040,
	47.42.080,	47.42.103,	47.52.150,	47.52.170,	47.60.310,
	47.64.130,	47.64.250,	47.68.330,	47.68.340,	48.08.090,
	48.08.130,	48.18A.060,	48.30.120,	48.34.100,	48.56.110,

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48.64.130, 49.08.010, 49.08.020, 49.08.050, 49.12.050,  
 49.17.020, 49.17.050, 49.17.060, 49.17.080, 49.17.090,  
 49.17.100, 49.17.110, 49.17.130, 49.17.160, 49.17.170,  
 49.17.180, 49.17.190, 49.17.200, 49.17.220, 49.17.240,  
 49.17.260, 49.24.020, 49.24.040, 49.24.180, 49.24.190,  
 49.24.230, 49.24.370, 49.26.010, 49.32.020, 49.32.030,  
 49.32.080, 49.32.110, 49.36.015, 49.40.040, 49.40.050,  
 49.40.060, 49.44.020, 49.44.030, 49.44.060, 49.44.080,  
 49.46.010, 49.46.040, 49.46.070, 49.46.090, 49.46.100,  
 49.46.130, 49.46.160, 49.48.010, 49.48.030, 49.48.050,  
 49.48.060, 49.48.090, 49.48.150, 49.52.010, 49.52.020,  
 49.52.050, 49.52.070, 49.52.090, 49.56.010, 49.56.020,  
 49.56.030, 49.64.030, 49.66.030, 49.66.050, 49.66.060,  
 49.66.080, 49.66.090, 49.66.100, 49.70.170, 50.01.010,  
 50.04.040, 50.04.230, 50.04.235, 50.04.290, 50.04.320,  
 50.04.330, 50.04.340, 50.04.350, 50.06.030, 50.08.010,  
 50.08.020, 50.12.010, 50.12.060, 50.12.080, 50.12.120,  
 50.12.150, 50.12.160, 50.12.170, 50.16.050, 50.20.020,  
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 50.24.115, 50.24.140, 50.24.150, 50.29.080, 50.32.010,  
 50.32.080, 50.32.110, 50.32.150, 50.36.030, 50.40.020,  
 50.44.040, 50.44.060, 50.44.070, 50.72.060, 51.04.110,  
 51.12.080, 51.14.040, 51.14.050, 51.14.100, 51.16.150,  
 51.16.170, 51.32.025, 51.32.230, 51.44.120, 51.48.017,  
 51.48.250, 51.52.102, 51.52.106, 52.04.111, 52.12.031,  
 52.14.080, 53.08.091, 53.08.208, 53.08.390, 53.12.265,  
 53.18.030, 53.25.020, 53.25.150, 53.25.160, 53.34.020,  
 53.34.140, 53.36.010, 53.36.050, 53.36.060, 53.46.030,  
 53.46.080, 53.46.090, 53.47.030, 53.47.040, 53.49.020,  
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 54.12.100, 54.16.097, 54.16.150, 54.40.050, 58.08.035,  
 58.09.030, 58.09.040, 58.09.090, 58.17.210, 58.28.030,  
 58.28.070, 58.28.080, 58.28.090, 58.28.140, 58.28.220,  
 58.28.240, 58.28.280, 58.28.290, 58.28.300, 58.28.310,  
 58.28.350, 58.28.390, 58.28.410, 58.28.460, 58.28.470,  
 58.28.480, 58.28.500, 58.28.510, 59.04.040, 59.04.050,  
 59.08.030, 59.08.040, 59.08.070, 59.12.035, 59.12.040,  
 59.12.060, 59.12.080, 59.12.090, 59.12.100, 59.12.121,  
 59.12.140, 59.12.170, 59.12.190, 59.16.020, 59.16.030,  
 59.18.070, 59.18.080, 59.18.090, 59.18.100, 59.18.140,  
 59.18.190, 59.18.230, 59.18.240, 59.18.250, 59.18.280,  
 59.18.290, 59.18.300, 59.18.340, 59.18.350, 59.18.380,  
 59.18.410, 59.20.090, and 59.20.140; reenacting and  
 amending RCW 15.35.240; and providing an effective date.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6240 by Senators Keiser, Eide, Kauffman, Gordon and McDermott

AN ACT Relating to forming joint underwriting associations; adding a new section to chapter 48.27 RCW; adding a new chapter to Title 48 RCW; and declaring an emergency.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 6241 by Senators Kilmer and Delvin

AN ACT Relating to creating community facilities districts; amending RCW 84.52.052; adding a new section to chapter 82.02 RCW; and adding a new chapter to Title 36 RCW.

Referred to Committee on Economic Development, Trade & Innovation.

SB 6242 by Senators Pridemore, Delvin and Hatfield

AN ACT Relating to updating hazardous waste fee provisions; and amending RCW 70.95E.010, 70.95E.020, and 70.95E.040.

Referred to Committee on Environment, Water & Energy.

SB 6243 by Senators Fairley, Oemig, Swecker and McDermott

AN ACT Relating to eliminating provisions for filings at locations other than the public disclosure commission; amending RCW 42.17.040, 42.17.050, 42.17.060, 42.17.065, 42.17.067, 42.17.080, 42.17.100, 42.17.380, and 42.17.450; and repealing RCW 42.17.375 and 42.17.550.

Referred to Committee on Government Operations & Elections.

SB 6244 by Senators Fraser, Rockefeller, Marr, Ranker, Pridemore, Kohl-Welles, Shin and Kline

AN ACT Relating to defining a green home and an energy efficient home; adding new sections to chapter 19.27 RCW; adding a new section to chapter 64.06 RCW; and prescribing penalties.

Referred to Committee on Environment, Water & Energy.

SB 6245 by Senators Kline, Carrell and Rockefeller

AN ACT Relating to prohibited practices of collection agencies; and reenacting and amending RCW 19.16.250.

Referred to Committee on Judiciary.

SB 6246 by Senators Eide, McCaslin, Hargrove, Zarelli, Murray, Carrell, Kohl-Welles, Holmquist, King, Fraser, Hobbs, Shin, McAuliffe and Tom

AN ACT Relating to limitations on asbestos-related liabilities relating to certain mergers or consolidations occurring before 1972; and adding a new chapter to Title 23 RCW.

Referred to Committee on Judiciary.

SB 6247 by Senator Keiser

AN ACT Relating to penalties for violating requirements concerning reporting adverse health events; amending RCW 70.56.020; adding a new section to chapter 70.56 RCW; and prescribing penalties.

Referred to Committee on Health & Long-Term Care.

SB 6248 by Senators Keiser, Fairley, Rockefeller, Kohl-Welles, Kline and Ranker

AN ACT Relating to the use of bisphenol A; adding a new chapter to Title 70 RCW; and prescribing penalties.

Referred to Committee on Health & Long-Term Care.

**SB 6249** by Senators Franklin, Kauffman, McAuliffe, McDermott, Regala, Keiser, Kilmer, Hatfield, Fraser, Shin, Kohl-Welles and Kline

AN ACT Relating to kids at hope; amending RCW 28A.150.305, 28A.150.315, 28A.150.315, 28A.170.075, 28A.170.090, 28A.175.025, 28A.175.065, 28A.175.075, 28A.225.035, 13.32A.010, 13.32A.015, 13.32A.030, 13.32A.040, 13.32A.042, 13.32A.044, 13.32A.120, 13.32A.130, 13.32A.140, 13.32A.150, 13.32A.152, 13.32A.160, 13.32A.170, 13.32A.179, 13.32A.190, 13.32A.191, 13.32A.192, 13.32A.194, 13.32A.196, 13.32A.197, 13.32A.198, 13.32A.200, 13.32A.205, 13.32A.250, 13.40.460, 28A.225.160, 28A.235.140, 28A.235.160, 28A.245.040, 28A.245.070, 28A.300.360, 28A.300.440, 28A.305.130, 28A.325.010, 28A.400.350, 28A.655.090, 28A.700.005, 28A.700.090, 43.310.005, and 43.310.010; amending 2007 c 408 s 1 (uncodified); reenacting and amending RCW 13.32A.060; adding a new section to chapter 28A.170 RCW; adding a new section to chapter 28A.175 RCW; adding a new section to chapter 28A.245 RCW; creating new sections; providing an effective date; and providing an expiration date.

Referred to Committee on Early Learning & K-12 Education.

**SB 6250** by Senators Franklin, McDermott and Kohl-Welles

AN ACT Relating to fiscal reform; amending RCW 82.03.130, 82.03.140, 2.10.180, 2.12.090, 6.13.030, 6.15.020, 41.24.240, 41.35.100, 41.40.052, 41.44.240, 43.43.310, 82.08.020, 84.52.065, 84.52.043, 84.52.050, 36.58.150, 36.60.040, 36.69.145, 36.73.060, 36.83.030, 36.100.050, 67.38.130, 84.52.010, 84.69.020, 39.89.020, and 43.99I.040; reenacting and amending RCW 41.32.052, 41.26.053, and 43.99H.060; adding a new title to the Revised Code of Washington to be codified as Title 82A RCW; creating new sections; repealing RCW 6.15.025; prescribing penalties; and providing contingent effective dates.

Referred to Committee on Ways & Means.

**SB 6251** by Senator Benton

AN ACT Relating to nonresident surplus line brokers and insurance producers; amending RCW 48.15.070, 48.15.073, 48.17.173, and 48.17.250; adding a new section to chapter 48.02 RCW; and providing an effective date.

Referred to Committee on Financial Institutions, Housing & Insurance.

**SB 6252** by Senators Kohl-Welles, Kline and Gordon

AN ACT Relating to using credit history, education, and income for insurance purposes; amending RCW 48.18.545 and 48.19.035; adding a new section to chapter 48.18 RCW; adding a new section to chapter 48.19 RCW; and providing an effective date.

Referred to Committee on Labor, Commerce & Consumer Protection.

**SB 6253** by Senator Benton

AN ACT Relating to insurance; amending RCW 48.02.060, 48.38.010, 48.66.045, 48.155.010, 4.28.080, 48.05.200, 48.05.215, 48.10.170, 48.15.150, 48.17.380, 48.36A.350, 48.94.010, 48.102.011, 48.102.021, 48.110.030, 48.110.055, and 48.155.020; adding a new section to chapter 48.02 RCW; and repealing RCW 48.05.210.

Referred to Committee on Financial Institutions, Housing & Insurance.

**SB 6254** by Senators Kline, Holmquist, Honeyford, Rockefeller and Hewitt

AN ACT Relating to the tax payment and reporting requirements of small wineries; and amending RCW 66.24.230 and 66.24.210.

Referred to Committee on Labor, Commerce & Consumer Protection.

**SB 6255** by Senator Kilmer

AN ACT Relating to sexually altered, pinioned mute swans; and adding a new section to chapter 77.12 RCW.

Referred to Committee on Natural Resources, Ocean & Recreation.

**SB 6256** by Senators Jacobsen, Morton, Hatfield, Shin, Regala and Parlette

AN ACT Relating to maximizing the ecosystem services provided by forestry through the promotion of the economic success of the forest products industry; amending RCW 76.09.010 and 76.09.040; adding a new section to chapter 76.09 RCW; and creating a new section.

Referred to Committee on Natural Resources, Ocean & Recreation.

**SB 6257** by Senator Honeyford

AN ACT Relating to water discharge fees; and reenacting and amending RCW 90.48.465.

Referred to Committee on Environment, Water & Energy.

**SB 6258** by Senator Honeyford

AN ACT Relating to peak and off-peak electric rates; and creating a new section.

Referred to Committee on Environment, Water & Energy.

**SB 6259** by Senators Kline, Honeyford and Shin

AN ACT Relating to craft wine and wineries; and adding a new chapter to Title 66 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

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SB 6260 by Senators Kline and Honeyford

AN ACT Relating to methods of payment for purposes of the alcohol beverage control statutes; and amending RCW 66.28.270.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6261 by Senators Marr, Schoesler, Berkey, Zarelli and Hobbs

AN ACT Relating to utility services collections against rental property; and amending RCW 35.21.217 and 35.21.290.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 6262 by Senators Hobbs, Hewitt and Delvin

AN ACT Relating to public facilities districts created by at least two city or county legislative authorities; and amending RCW 35.57.010 and 35.57.020.

Referred to Committee on Government Operations & Elections.

SB 6263 by Senator Keiser

AN ACT Relating to the establishment of the Washington vaccine association; adding a new section to chapter 43.24 RCW; adding new sections to chapter 43.131 RCW; adding a new chapter to Title 70 RCW; prescribing penalties; and declaring an emergency.

Referred to Committee on Health & Long-Term Care.

SB 6264 by Senator Keiser

AN ACT Relating to licensing dentists; and repealing 2008 c 147 s 3 (uncodified).

Referred to Committee on Health & Long-Term Care.

SB 6265 by Senator Keiser

AN ACT Relating to hospital surveys or audits; and amending RCW 70.41.045.

Referred to Committee on Health & Long-Term Care.

SB 6266 by Senators Hobbs, Kilmer, Shin and McCaslin

AN ACT Relating to service members' civil relief; and amending RCW 38.42.010.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 6267 by Senators Rockefeller and Honeyford

AN ACT Relating to water right processing improvements; amending RCW 90.03.265, 90.03.255, 90.14.065, and 90.44.055; adding a new section to chapter 90.44 RCW; and adding a new section to chapter 90.03 RCW.

Referred to Committee on Environment, Water & Energy.

SB 6268 by Senators Franklin, Hargrove, Carrell and Regala

AN ACT Relating to the administrative procedure act; amending RCW 34.05.360, 34.05.534, 34.05.554, 34.05.566, 34.05.558, 34.05.570, and 34.05.010; and adding new sections to chapter 34.05 RCW.

Referred to Committee on Judiciary.

SB 6269 by Senators Keiser and Rockefeller

AN ACT Relating to conversion rights upon termination of eligibility for health plan coverage; amending RCW 48.21.260, 48.44.370, and 48.46.450; and creating a new section.

Referred to Committee on Health & Long-Term Care.

SB 6270 by Senator Keiser

AN ACT Relating to emergency health care services; and reenacting and amending RCW 48.43.005.

Referred to Committee on Health & Long-Term Care.

SB 6271 by Senators Murray and Haugen

AN ACT Relating to annexations by cities and code cities located within the boundaries of a regional transit authority; adding a new section to chapter 35.13 RCW; and adding a new section to chapter 35A.14 RCW.

Referred to Committee on Transportation.

SB 6272 by Senators Kohl-Welles, Carrell, Roach and McDermott

AN ACT Relating to the excise taxation of publicly owned facilities accredited by the association of zoos and aquariums; adding a new section to chapter 82.04 RCW; and creating a new section.

Referred to Committee on Ways & Means.

SB 6273 by Senators Swecker, Fairley, Keiser, Hatfield, Pflug, Stevens, Shin and McCaslin

AN ACT Relating to insurance coverage of the sales tax for prescribed durable medical equipment and mobility enhancing equipment; and adding a new section to chapter 48.43 RCW.

Referred to Committee on Health & Long-Term Care.

SB 6274 by Senator Jacobsen

AN ACT Relating to establishing a work group to make recommendations to improve trail interactions in Washington state; creating new sections; and providing an expiration date.

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Referred to Committee on Natural Resources, Ocean & Recreation.

SB 6275 by Senator Jacobsen

AN ACT Relating to harbor lines; and amending RCW 79.115.030.

Referred to Committee on Natural Resources, Ocean & Recreation.

SB 6276 by Senator Jacobsen

AN ACT Relating to tuition-setting authority at the University of Washington; and amending RCW 28B.15.067.

Referred to Committee on Higher Education & Workforce Development.

SB 6277 by Senators Zarelli and Regala

AN ACT Relating to disposition of human remains; and amending RCW 68.50.160.

Referred to Committee on Judiciary.

SB 6278 by Senator McDermott

AN ACT Relating to the expansion of the membership of the capital projects advisory review board; and amending RCW 39.10.220 and 43.131.408.

Referred to Committee on Ways & Means.

SB 6279 by Senators Kline, Murray and Haugen

AN ACT Relating to the clarification of regional transit authority facilities as essential public facilities; and amending RCW 36.70A.200.

Referred to Committee on Transportation.

SB 6280 by Senators Murray, Shin, Kohl-Welles, Marr, Jacobsen and Kline

AN ACT Relating to East Asian medicine practitioners; amending RCW 18.06.010, 18.06.020, 18.06.045, 18.06.050, 18.06.080, 18.06.120, 18.06.130, 18.06.140, 18.06.190, 4.24.240, 4.24.290, 7.70.020, 18.120.020, and 43.70.110; reenacting and amending RCW 18.130.040, 18.130.040, and 18.130.040; adding a new section to chapter 18.06 RCW; providing effective dates; and providing expiration dates.

Referred to Committee on Health & Long-Term Care.

SB 6281 by Senator Tom

AN ACT Relating to the dissolution of limited liability companies; amending RCW 25.15.070, 25.15.085, 25.15.293, 25.15.295, and 25.15.303; adding a new section to chapter 25.15 RCW; and declaring an emergency.

Referred to Committee on Judiciary.

SB 6282 by Senators Fairley and McDermott

AN ACT Relating to membership on the Washington citizens' commission on salaries for elected officials; and amending RCW 43.03.305.

Referred to Committee on Government Operations & Elections.

SB 6283 by Senators Rockefeller, Swecker, Fraser, Marr and Shin

AN ACT Relating to the plant operations support program; adding a new section to chapter 28B.30 RCW; and repealing RCW 43.82.160.

Referred to Committee on Environment, Water & Energy.

SB 6284 by Senators Jacobsen, Haugen and Kohl-Welles

AN ACT Relating to Leif Erickson day; reenacting and amending RCW 1.16.050; and creating a new section.

Referred to Committee on Government Operations & Elections.

SB 6285 by Senators Sheldon and McDermott

AN ACT Relating to campaign contribution limits for candidates for county office in a noncharter county; and amending RCW 42.17.640.

Referred to Committee on Government Operations & Elections.

SB 6286 by Senators Kline, Haugen, Tom, Keiser, Kauffman and McDermott

AN ACT Relating to the liability and powers of cities and flood control zone districts; and amending RCW 86.12.037 and 86.15.080.

Referred to Committee on Government Operations & Elections.

SB 6287 by Senators Fraser and Fairley

AN ACT Relating to the disposition of existing voter-approved indebtedness at the time of annexation of a city, partial city, or town to a fire protection district; amending RCW 52.04.061 and 52.04.081; and declaring an emergency.

Referred to Committee on Government Operations & Elections.

SB 6288 by Senators Pridemore, Fairley, Kohl-Welles and Kline

AN ACT Relating to the authority of counties, cities, and towns to request criminal background checks from the Washington state patrol; adding a new section to chapter 36.01 RCW; adding a new section to chapter 35.21 RCW; and adding a new section to chapter 35A.21 RCW.

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Referred to Committee on Government Operations & Elections.

SB 6289 by Senators Pridmore, Brandland, Marr, Rockefeller, Brown, Kohl-Welles and Kline

AN ACT Relating to protecting lake water quality by reducing phosphorus from lawn fertilizers; and adding a new chapter to Title 90 RCW.

Referred to Committee on Environment, Water & Energy.

SB 6290 by Senators Kohl-Welles, Keiser, McDermott and Kline

AN ACT Relating to collective bargaining for certain employees of institutions of higher education and related boards; and amending RCW 41.56.021.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6291 by Senator Brandland

AN ACT Relating to marauding dogs; and amending RCW 16.08.030.

Referred to Committee on Judiciary.

SB 6292 by Senator Brandland

AN ACT Relating to providing notice of release from involuntary treatment; and adding a new section to chapter 71.05 RCW.

Referred to Committee on Human Services & Corrections.

SB 6293 by Senators Brandland and Carrell

AN ACT Relating to rendering criminal assistance in the first degree; amending RCW 9A.76.070; and prescribing penalties.

Referred to Committee on Judiciary.

SB 6294 by Senator Benton

AN ACT Relating to authorizing the use of four-wheel, all-terrain vehicles on highways under certain conditions; adding a new section to chapter 46.61 RCW; and prescribing penalties.

Referred to Committee on Transportation.

SB 6295 by Senator Benton

AN ACT Relating to government entities photographing or recording images of citizens; adding a new section to chapter 35.21 RCW; adding a new section to chapter 36.01 RCW; adding a new section to chapter 46.63 RCW; and adding a new section to chapter 47.01 RCW.

Referred to Committee on Transportation.

SB 6296 by Senator Benton

AN ACT Relating to quick title transactions for vehicles and vessels; adding a new section to chapter 46.12 RCW; adding a new section to chapter 46.68 RCW; adding new sections to chapter 88.02 RCW; and creating a new section.

Referred to Committee on Transportation.

SB 6297 by Senator Franklin

AN ACT Relating to certification for speech-language pathology assistants; amending RCW 18.35.161; amending 2009 c 301 s 11 (uncodified); reenacting and amending RCW 18.130.040, 18.130.040, and 18.130.040; providing effective dates; and providing expiration dates.

Referred to Committee on Health & Long-Term Care.

SB 6298 by Senators Berkey, Rockefeller and Kline

AN ACT Relating to the deposit of public funds with credit unions; and amending RCW 31.12.382 and 31.12.402.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 6299 by Senators Schoesler, Hatfield and Shin

AN ACT Relating to livestock inspection; amending RCW 16.57.160 and 16.36.060; adding a new section to chapter 16.57 RCW; and adding a new section to chapter 16.36 RCW.

Referred to Committee on Agriculture & Rural Economic Development.

SJM 8017 by Senators Jacobsen, Morton, Kline and Sheldon

Requesting that the restoration of sustainable, healthy forests be a national priority.

Referred to Committee on Natural Resources, Ocean & Recreation.

SJR 8218 by Senators Carrell, Franklin, Brandland, Becker, Schoesler, Kastama, Honeyford, Delvin, Hobbs, Parlette, Zarelli, McCaslin, Holmquist, Hargrove, Regala, Rockefeller, Marr, Hatfield, Shin, Sheldon, Kilmer, Hewitt, Stevens and Roach

Amending the state Constitution so that offenses that may result in a mandatory life sentence upon conviction are not bailable by sufficient sureties.

Referred to Committee on Judiciary.

SJR 8219 by Senators Franklin, McDermott, Kohl-Welles and Kline

Amending the Constitution to allow an income tax.

Referred to Committee on Ways & Means.

SCR 8409 by Senator Keiser

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Forming a joint select committee on health reform implementation.

Referred to Committee on Health & Long-Term Care.

SCR 8410 by Senators Brown and Hewitt

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

SCR 8411 by Senators Brown and Hewitt

Establishing cutoff dates for the 2010 regular session.

#### MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exceptions of Senate Bill No. 6226 which was referred to the Committee on Human Services & Corrections; Senate Bill No. 6254 which was referred to the Committee on Labor, Commerce & Consumer Protection; Senate Concurrent Resolution No. 8410 and Senate Concurrent Resolution No. 8411 which under suspension of the rules were placed on the second reading calendar.

#### MOTION

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

#### SECOND READING

SENATE CONCURRENT RESOLUTION NO. 8411, by Senators Brown and Hewitt

Establishing cutoff dates for the 2010 regular session.

The measure was read the second time.

#### MOTION

On motion of Senator Eide, the rules were suspended, Senate Concurrent Resolution No. 8411 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Senate Concurrent Resolution No. 8411.

SENATE CONCURRENT RESOLUTION NO. 8411 was adopted by voice vote.

#### SECOND READING

SENATE CONCURRENT RESOLUTION NO. 8410, by Senators Brown and Hewitt

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

The measure was read the second time.

#### MOTION

On motion of Senator Eide, the rules were suspended, Senate Concurrent Resolution No. 8410 was advanced to third reading,

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

The President declared the question before the Senate to be the final passage of Senate Concurrent Resolution No. 8410.

SENATE CONCURRENT RESOLUTION NO. 8410 was adopted by voice vote.

#### APPOINTMENT OF SPECIAL COMMITTEE

In accordance with Senate Concurrent Resolution No. 8410, the President appointed Senators Holmquist and Ranker to notify the Governor that the Legislature was organized and ready to conduct business.

#### MOTION

On motion of Senator Eide, the appointees were confirmed.

#### MOTION

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

#### MESSAGE FROM THE HOUSE

January 11, 2010

MR. PRESIDENT

The House has adopted

HOUSE CONCURRENT RESOLUTION 4406.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MESSAGE FROM THE HOUSE

January 11, 2010

MR. PRESIDENT

The House has adopted

HOUSE CONCURRENT RESOLUTION 4407.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

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

#### SUPPLEMENTAL INTRODUCTION AND FIRST READING

HCR 4406 by Representatives Kessler, Kretz and Kirby

Providing for reintroduction of bills from last session.

HCR 4407 by Representatives Kessler, Kretz and Kirby

Calling for a joint session.

#### MOTION

On motion of Senator Eide, the rules were suspended and House Concurrent Resolution No. 4406 and House Concurrent Resolution No. 4407 were placed on the second reading calendar.

#### MOTION

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

SECOND READING

HOUSE CONCURRENT RESOLUTION NO. 4406, by Representatives Kessler and Kretz

Providing for reintroduction of bills from last session.

The measure was read the second time.

MOTION

On motion of Senator Eide, the rules were suspended, House Concurrent Resolution No. 4406 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of House Concurrent Resolution No. 4406.

HOUSE CONCURRENT RESOLUTION NO. 4406 was adopted by voice vote.

SECOND READING

HOUSE CONCURRENT RESOLUTION NO. 4407, by Representatives Kessler and Kretz

Calling for a joint session.

The measure was read the second time.

MOTION

On motion of Senator Eide, the rules were suspended, House Concurrent Resolution No. 4407 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of House Concurrent Resolution No. 4407.

HOUSE CONCURRENT RESOLUTION NO. 4407 was adopted by voice vote.

REPORT OF COMMITTEE

The Senate Committee composed of Senators Holmquist and Ranker appeared before the bar of the Senate and reported that the Governor had been notified under the provisions of Senate Concurrent Resolution No. 8410 that the Senate is organized and ready to conduct business.

The President received the report of the committee and the committee was discharged.

MOTION

On motion of Senator Eide, the rules were suspended and the following measures under consideration by the Committee on Rules: Senate Bill No. 5058, Senate Bill No. 5069, Senate Bill No. 5096, Senate Bill No. 5176, Senate Bill No. 5323, Senate Bill No. 5376, Senate Bill No. 5398, Senate Bill No. 5615, Senate Bill No. 5622, Senate Bill No. 5633, Senate Bill No. 5721, Senate Bill No. 5728, Senate Bill No. 5770, Senate Bill No. 5788, Senate Bill No. 5907, Senate Bill No. 5908, Senate Bill No. 6051, Senate Joint Memorial No. 8009, and Senate Joint Resolution No. 8212 were removed from the Committee's "X file" and placed on the Committee's White Sheet on 2nd Reading; the Committee on

Rules was relieved of further consideration of Senate Bill No. 5495 and the bill was re-referred to the Committee on Financial Institutions, Housing & Insurance; the Committee on Rules was also relieved of further consideration of Senate Bill No. 5548 and Substitute Senate Bill No. 6109 and the measures were re-referred to the Committee on Transportation; the following measures under consideration by the Committee on Rules: Senate Bill No. 5018, Senate Bill No. 5111, Senate Bill No. 5178, Substitute Senate Bill No. 5179, Senate Bill No. 5227, Substitute Senate Bill No. 5295, Senate Bill No. 5422, Senate Bill No. 5523, Senate Bill No. 5533, Senate Bill No. 5549, Senate Bill No. 5550, Senate Bill No. 5563, Senate Bill No. 5564, Senate Bill No. 5567, Senate Bill No. 5582, Senate Bill No. 5617, Senate Bill No. 5624, Senate Bill No. 5630, Senate Bill No. 5696, Senate Bill No. 5757, Engrossed Substitute Senate Bill No. 5807, Substitute Senate Bill No. 5840, Substitute Senate Bill No. 5899, Senate Bill No. 5948, Engrossed Substitute Senate Bill No. 6037, Senate Bill No. 6065, and Senate Joint Resolution No. 8209 were placed on the Senate Rules Green Sheet on 2nd Reading; and the following measures under consideration by the Committee on Rules: Senate Bill No. 5031, Substitute Senate Bill No. 5032, Senate Bill No. 5074, Senate Bill No. 5076, Senate Bill No. 5127, Senate Bill No. 5193, Substitute Senate Bill No. 5212, Substitute Senate Bill No. 5269, Substitute Senate Bill No. 5301, Senate Bill No. 5370, Senate Bill No. 5374, Senate Bill No. 5378, Substitute Senate Bill No. 5406, Senate Bill No. 5498, Senate Bill No. 5600, Senate Bill No. 5661, Second Substitute Senate Bill No. 5691, Senate Bill No. 5751, Senate Bill No. 5930, Senate Bill No. 6219, were referred to the Committee's "X file;" all other measures on 3rd Reading under consideration by the Committee on Rules not listed above were placed on the Committee's Green Sheet on 3rd Reading.

MOTION

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

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

December 4, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

SHERRY L. ARMIJO, appointed November 17, 2009, for the term ending September 30, 2014, as Member, Board of Trustees, Columbia Basin Community College District No. 19.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

August 20, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

BRUCE BECKER, appointed August 12, 2009, for the term ending September 30, 2013, as Member of the Professional Educator Standards Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

FIRST DAY, JANUARY 11, 2010

Referred to Committee on Early Learning &amp; K-12 Education.

October 14, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

MICHAEL BLAKELY, reappointed October 1, 2009, for the term ending September 30, 2014, as Member, Board of Trustees, Big Bend Community College District No. 18.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

October 20, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

JUDY BLINN, reappointed October 1, 2009, for the term ending September 30, 2014, as Member, Board of Trustees, South Puget Sound Community College District No. 24.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

December 20, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

BEN CABILDO, reappointed October 1, 2009, for the term ending September 30, 2014, as Member, Board of Trustees, Spokane and Spokane Falls Community Colleges District No. 17.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

December 21, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

JORGE CARRASCO, appointed October 12, 2009, for the term ending September 30, 2011, as Member, Board of Trustees, Seattle, So. Seattle and No. Seattle Community Colleges District No. 6.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

December 18, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

2010 REGULAR SESSION

SANG CHAE, reappointed October 1, 2009, for the term ending September 30, 2014, as Member, Board of Trustees, Technical College District #26 (Lake Washington).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

July 9 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

PAUL CHILES, reappointed June 26, 2009, for the term ending September 30, 2013, as Member, Board of Trustees, Bellevue Community College District No. 8.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

December 21, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

HAROLD COCHRAN, reappointed December 10, 2009, for the term ending September 30, 2015, as Member, Board of Regents, Washington State University.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

October 20, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

SUSAN COLE, reappointed October 1, 2009, for the term ending September 30, 2014, as Member, Board of Trustees, Community College District No. 21 (Whatcom Community College).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

August 31, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

DENISE COLLEY, reappointed July 23, 2009, for the term ending July 1, 2014, as Member, Board of Trustees, State School for the Blind.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Early Learning & K-12 Education.

January 4, 2010

FIRST DAY, JANUARY 11, 2010  
 TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON  
 Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

JAMES COOK, reappointed November 30, 2009, for the term ending October 1, 2013, as Member of the The Life Sciences Discovery Fund Authority Board of Trustees.

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Labor, Commerce & Consumer Protection.

November 5, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON  
 Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

ELLEN FAIR, reappointed October 21, 2009, for the term ending August 2, 2012, as Member of the Sentencing Guidelines Commission.

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Judiciary.

September 2, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON  
 Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

COLLEEN FAIRCHILD, appointed August 12, 2009, for the term ending September 30, 2013, as Member of the Professional Educator Standards Board.

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Early Learning & K-12 Education.

August 11, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON  
 Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

SHARON FOSTER, appointed August 15, 2009, for the term ending January 15, 2015, as Member of the Liquor Control Board.

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Labor, Commerce & Consumer Protection.

June 16, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON  
 Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

BETTI FUJIKADO, appointed May 20, 2009, for the term ending September 30, 2012, as Member, Board of Trustees, Western Washington University.

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor

2010 REGULAR SESSION

Referred to Committee on Higher Education & Workforce Development.

July 22, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON  
 Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

DIANA GALE, reappointed June 26, 2009, for the term ending June 25, 2013, as Member of the Puget Sound Partnership.

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Environment, Water & Energy.

October 28, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON  
 Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

LAWRENCE M. GLENN, appointed October 6, 2009, for the term ending September 30, 2014, as Member, Board of Trustees, Peninsula Community College District No. 1.

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

August 20, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON  
 Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

BENJAMIN GOLDEN, appointed August 3, 2009, for the term ending June 30, 2010, as Member, Board of Regents, University of Washington.

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

August 31, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON  
 Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

IRENE GONZALES, appointed August 12, 2009, for the term ending September 30, 2015, as Member, Board of Trustees, The Evergreen State College.

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

November 13, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON  
 Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

JAMES GROVES, appointed November 5, 2009, for the term ending September 30, 2014, as Member, Board of Trustees, Technical College District #25 (Bellingham).

FIRST DAY, JANUARY 11, 2010

Sincerely,  
CHRISTINE O. GREGOIRE, Governor  
Referred to Committee on Higher Education & Workforce  
Development.

November 10, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON  
Ladies and Gentlemen:

I have the honor to submit the following reappointment,  
subject to your confirmation.

MICHAEL GRUNWALD, reappointed October 1, 2009, for  
the term ending September 30, 2014, as Member, Board of  
Trustees, Bates Technical College District No. 28.

Sincerely,  
CHRISTINE O. GREGOIRE, Governor  
Referred to Committee on Higher Education & Workforce  
Development.

December 18, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON  
Ladies and Gentlemen:

I have the honor to submit the following appointment, subject  
to your confirmation.

MARIELLEN GUNN, appointed November 25, 2009, for the  
term ending September 30, 2014, as Member, Board of Trustees,  
Bellevue Community College District No. 8.

Sincerely,  
CHRISTINE O. GREGOIRE, Governor  
Referred to Committee on Higher Education & Workforce  
Development.

September 8, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON  
Ladies and Gentlemen:

I have the honor to submit the following appointment, subject  
to your confirmation.

MOLLY E. HAMAKER-TEALS, appointed August 12,  
2009, for the term ending June 30, 2013, as Member of the  
Professional Educator Standards Board.

Sincerely,  
CHRISTINE O. GREGOIRE, Governor  
Referred to Committee on Early Learning & K-12 Education.

October 21, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON  
Ladies and Gentlemen:

I have the honor to submit the following appointment, subject  
to your confirmation.

JOANNE HARRELL, appointed October 16, 2009, for the  
term ending September 30, 2015, as Member, Board of Regents,  
University of Washington.

Sincerely,  
CHRISTINE O. GREGOIRE, Governor  
Referred to Committee on Higher Education & Workforce  
Development.

August 20, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON  
Ladies and Gentlemen:

I have the honor to submit the following reappointment,  
subject to your confirmation.

2010 REGULAR SESSION

KRISTIN HAYDEN, reappointed October 1, 2009, for the  
term ending September 30, 2015, as Member, Board of Trustees,  
The Evergreen State College.

Sincerely,  
CHRISTINE O. GREGOIRE, Governor  
Referred to Committee on Higher Education & Workforce  
Development.

July 10, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON  
Ladies and Gentlemen:

I have the honor to submit the following appointment, subject  
to your confirmation.

ANDREW M. HELM, appointed July 1, 2009, for the term  
ending June 30, 2010, as Member of the Higher Education  
Coordinating Board.

Sincerely,  
CHRISTINE O. GREGOIRE, Governor  
Referred to Committee on Higher Education & Workforce  
Development.

January 4, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON  
Ladies and Gentlemen:

I have the honor to submit the following reappointment,  
subject to your confirmation.

TONY HEY, reappointed November 30, 2009, for the term  
ending October 1, 2013, as Member of the The Life Sciences  
Discovery Fund Authority Board of Trustees.

Sincerely,  
CHRISTINE O. GREGOIRE, Governor  
Referred to Committee on Labor, Commerce & Consumer  
Protection.

October 20, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON  
Ladies and Gentlemen:

I have the honor to submit the following reappointment,  
subject to your confirmation.

MIKE HUDSON, reappointed October 15, 2009, for the term  
ending June 30, 2013, as Member of the Work Force Training and  
Education Coordinating Board.

Sincerely,  
CHRISTINE O. GREGOIRE, Governor  
Referred to Committee on Higher Education & Workforce  
Development.

May 4, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON  
Ladies and Gentlemen:

I have the honor to submit the following appointment, subject  
to your confirmation.

BETTE HYDE, appointed April 15, 2009, for the term  
ending at the governor's pleasure, as Member of the Washington  
State Department of Early Learning.

Sincerely,  
CHRISTINE O. GREGOIRE, Governor  
Referred to Committee on Early Learning & K-12 Education.

September 16, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON

FIRST DAY, JANUARY 11, 2010

2010 REGULAR SESSION

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

SHAUNTA HYDE, appointed June 1, 2009, for the term ending April 3, 2013, as Member of the State Board for Community and Technical Colleges.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

September 28, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

SARAH ISHMAEL, appointed September 8, 2009, for the term ending June 30, 2010, as Member, Board of Trustees, Western Washington University.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

July 6, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

DAVID JENNINGS, appointed June 18, 2009, for the term ending December 31, 2014, as Member of the Fish and Wildlife Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Natural Resources, Ocean & Recreation.

June 25, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

STEPHEN L. JOHNSON, appointed May 1, 2009, for the term ending February 28, 2015, as Member of the Board of Tax Appeals.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Ways & Means.

November 5, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

MICHAEL R. KAWAMURA, reappointed October 21, 2009, for the term ending August 3, 2012, as Member of the Sentencing Guidelines Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Judiciary.

September 28, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

DENNIS KLOIDA, reappointed September 14, 2009, for the term ending June 30, 2013, as Member of the Housing Finance Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Financial Institutions, Housing & Insurance.

October 19, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

BRUCE L. LACHNEY, appointed October 1, 2009, for the term ending September 30, 2014, as Member, Board of Trustees, Clover Park Technical College District No. 29.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

January 20, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

LORRAINE LEE, appointed July 1, 2009, for the term ending June 30, 2010, as Member of the Office of Administrative Hearings.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Government Operations & Elections.

October 21, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

JANET LEWIS, reappointed October 15, 2009, for the term ending June 30, 2013, as Member of the Work Force Training and Education Coordinating Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

July 22, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

VALORIA LOVELAND, appointed August 3, 2009, for the term ending August 2, 2015, as Member of the Lottery Commission.

Sincerely,

FIRST DAY, JANUARY 11, 2010

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Labor, Commerce & Consumer Protection.

November 5, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

MARK MATTKE, appointed October 15, 2009, for the term ending June 30, 2013, as Member of the Work Force Training and Education Coordinating Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

November 13, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

PAUL MCDONALD, reappointed October 1, 2009, for the term ending September 30, 2014, as Member, Board of Trustees, Community College District No. 16 (Yakima Valley Community College).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

October 14, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

THOMAS W. MCLANE, reappointed September 9, 2009, for the term ending September 8, 2014, as Member of the Public Employment Relations Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Labor, Commerce & Consumer Protection.

August 11, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

DIXON MCREYNOLDS, III appointed August 3, 2009, for the term ending June 30, 2010, as Member, Board of Trustees, The Evergreen State College.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

August 31, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

2010 REGULAR SESSION

I have the honor to submit the following appointment, subject to your confirmation.

GILBERT A. MENDOZA, appointed August 12, 2009, for the term ending June 30, 2011, as Member of the Professional Educator Standards Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Early Learning & K-12 Education.

October 30, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

JOHN M. MEYER, appointed October 27, 2009, for the term ending August 2, 2012, as Member of the Sentencing Guidelines Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Judiciary.

December 23, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

JULIE P. MILLER, appointed November 25, 2009, for the term ending September 30, 2014, as Member, Board of Trustees, Cascadia Community College District No. 30.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

July 16, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

DAN O'NEAL, reappointed June 26, 2009, for the term ending June 25, 2013, as Member of the Puget Sound Partnership.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Environment, Water & Energy.

July 16, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

DANIEL O'NEAL, reappointed July 1, 2009, for the term ending June 30, 2015, as Member of the Transportation Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Transportation.

July 23, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

FIRST DAY, JANUARY 11, 2010

I have the honor to submit the following appointment, subject to your confirmation.

TYLER PAGE, appointed June 26, 2009, for the term ending September 30, 2013, as Member, Board of Trustees, Renton Technical College District No. 27.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

October 16, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

SHERRY W. PARKER, reappointed October 1, 2009, for the term ending September 30, 2014, as Member, Board of Trustees, Clark Community College District No. 14.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

November 5, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

PAUL A. PASTOR, appointed October 21, 2009, for the term ending August 2, 2012, as Member of the Sentencing Guidelines Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Judiciary.

August 31, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

DOLORITA REANDEAU, reappointed July 23, 2009, for the term ending July 1, 2014, as Member, Board of Trustees, State School for the Deaf.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Early Learning & K-12 Education.

October 20, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

MARGARET ROJAS, reappointed October 1, 2009, for the term ending September 30, 2014, as Member, Board of Trustees, Skagit Valley Community College District No. 4.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

October 28, 2009

2010 REGULAR SESSION

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

RANDY J. RUST, appointed October 1, 2009, for the term ending September 30, 2014, as Member, Board of Trustees, Community College District No. 2 (Grays Harbor College).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

July 15, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

STEVE SAKUMA, reappointed June 26, 2009, for the term ending June 25, 2013, as Member of the Puget Sound Partnership.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Environment, Water & Energy.

June 30, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

ROLAND SCHIRMAN, appointed June 22, 2009, for the term ending September 30, 2013, as Member, Board of Trustees, Walla Walla Community College District No. 20.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

July 6, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

ROLLAND A. SCHMITTEN, appointed June 18, 2009, for the term ending December 31, 2014, as Member of the Fish and Wildlife Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Natural Resources, Ocean & Recreation.

January 4, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

CHERYL SCOTT, reappointed November 30, 2009, for the term ending October 1, 2013, as Member of the The Life Sciences Discovery Fund Authority Board of Trustees.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

FIRST DAY, JANUARY 11, 2010

Referred to Committee on Labor, Commerce & Consumer Protection.

November 9, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

FAOUZI SEFRIQUI, reappointed September 14, 2009, for the term ending June 30, 2013, as Member of the Housing Finance Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Financial Institutions, Housing & Insurance.

January 6, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

DONALD B. SEHLIN, appointed November 17, 2009, for the term ending December 31, 2013, as Member of the Public Disclosure Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Government Operations & Elections.

November 17, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

KATHY L. SMALL, appointed November 5, 2009, for the term ending September 30, 2014, as Member, Board of Trustees, Walla Walla Community College District No. 20.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

July 1, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

BRADLEY F. SMITH, appointed June 18, 2009, for the term ending December 31, 2014, as Member of the Fish and Wildlife Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Natural Resources, Ocean & Recreation.

August 31, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

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NANCY SMITH, appointed August 12, 2009, for the term ending June 30, 2011, as Member of the Professional Educator Standards Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Early Learning & K-12 Education.

May 4, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

HARRIET A. SPANEL, appointed April 9, 2009, for the term ending December 31, 2011, as Member of the Recreation and Conservation Funding Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Natural Resources, Ocean & Recreation.

April 29, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

CHARLENE D. STRONG, appointed February 9, 2009, for the term ending June 17, 2012, as Member of the Human Rights Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Judiciary.

August 31, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

LARRY E. SWIFT, reappointed July 23, 2009, for the term ending July 1, 2014, as Member, Board of Trustees, State School for the Deaf.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Early Learning & K-12 Education.

October 16, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

ALICE TAWRESEY, reappointed October 1, 2009, for the term ending September 30, 2014, as Member, Board of Trustees, Olympic Community College District No. 3.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

August 20, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

FIRST DAY, JANUARY 11, 2010

I have the honor to submit the following appointment, subject to your confirmation.

BARBARA A. TAYLOR, appointed August 12, 2009, for the term ending June 30, 2011, as Member of the Professional Educator Standards Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Early Learning & K-12 Education.

July 23, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

CHERYL TERRY, reappointed July 6, 2009, for the term ending September 25, 2012, as Member of the Clemency and Pardons Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Human Services & Corrections.

September 25, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

PAMELA J. TIETZ, appointed October 1, 2009, for the term ending June 30, 2013, as Member of the Housing Finance Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Financial Institutions, Housing & Insurance.

December 18, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

JIM TIFFANY, reappointed October 1, 2009, for the term ending September 30, 2014, as Member, Board of Trustees, Wenatchee Valley Community College District No. 15.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

July 15, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

TONY TORTORICE, appointed July 1, 2009, for the term ending at the governor's pleasure, as Member of the Department of Information Services.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Government Operations & Elections.

August 11, 2009

2010 REGULAR SESSION

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

JOHN TURNER, reappointed July 6, 2009, for the term ending September 25, 2012, as Member of the Clemency and Pardons Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Human Services & Corrections.

December 23, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

BRIAN UNTI, appointed December 9, 2009, for the term ending September 30, 2012, as Member, Board of Trustees, Renton Technical College District No. 27.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

August 20, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

KASEY WEBSTER, appointed August 3, 2009, for the term ending June 30, 2010, as Member, Board of Regents, Washington State University.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

August 11, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

BRENT WEISEL, appointed August 3, 2009, for the term ending June 30, 2010, as Member, Board of Trustees, Central Washington University.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

October 16, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

CHAD R. WRIGHT, appointed October 6, 2009, for the term ending September 30, 2014, as Member, Board of Trustees, Tacoma Community College District No. 22 .

Sincerely,

CHRISTINE O. GREGOIRE, Governor

FIRST DAY, JANUARY 11, 2010

Referred to Committee on Higher Education & Workforce Development.

MOTION

On motion of Senator Eide, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated.

PERSONAL PRIVILEGE

Senator Kohl-Welles: "Thank you. I just momentarily, I would like to make sure that all of our members know that today is Human Trafficking Engagement Day and that President Obama signed executive order on January 4<sup>th</sup> recognizing that the month of January is the National Slavery and Human Trafficking prevention month. All of us will be visited in our office and materials provided on this very important issue. Thank you."

MOTION

At 12:35 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 1:09 p.m. by President Owen.

MESSAGE FROM THE HOUSE

January 11, 2010

MR. PRESIDENT

The House has adopted

SENATE CONCURRENT RESOLUTION 8410.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

January 11, 2010

MR. PRESIDENT

The House has adopted

SENATE CONCURRENT RESOLUTION 8411.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

PRESIDENT SIGNED

The President signed:

SENATE CONCURRENT RESOLUTION 8410,

SENATE CONCURRENT RESOLUTION 8411.

MOTION

At 1:10 p.m., on motion of Senator Eide, the Senate adjourned until 11:45 a.m. Tuesday, January 12, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**SECOND DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Tuesday, January 12, 2010

The Senate was called to order at 11:45 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Berkey, Brandland, Brown, Fairley, Fraser, Hargrove, Haugen, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Keiser, Kohl-Welles, McAuliffe, McCaslin, Morton, Murray, Parlette, Pflug, Prentice, Ranker, Sheldon, Stevens, Swecker, Tom and Zarelli.

MOTION

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

KING COUNTY COUNCIL, SIGNATURE REPORT  
KING COUNTY WASHINGTON

Proposed No. 2010-0025.2  
Motion 13112

A MOTION making an appointment to fill the vacancy in the 41<sup>st</sup> legislative district of the Washington State Senate.

WHEREAS, a vacancy exists in the position of state senator for the 41<sup>st</sup> legislative district due to the resignation of Senator Fred Jarrett effective December 18, 2009, as a result of his accepting the position of King County deputy executive, and

WHEREAS, the 41<sup>st</sup> legislative district Democrats have met to consider possible replacements for this position; and

WHEREAS, the King County Democratic Central Committee has submitted the names of three nominees to fill the vacancy;

NOW, THEREFORE, BE IT MOVED by the Council of King County;

Randy Gordon is hereby appointed to the position of state senator from the 41<sup>st</sup> legislative district.

Motion 13112 was introduced on 1/4/2010 and passed by the Metropolitan King County Council on 1/11/2010, by the following vote:

Yes: 9 – Ms. Drago, Mr. Phillips, Mr. Von Reichbauer, Mr. Gossett, Ms. Hague, Ms. Patterson, Ms. Lambert, Mr. Ferguson and Mr. Dunn

No: 0

Excused: 0

King County Council  
King County, Washington  
Robert W. Ferguson, Chair

Attest: Anne Noris, Clerk of the Council

MOTION

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

MESSAGE FROM THE HOUSE

January 12, 2010

MR. PRESIDENT

The Speaker has signed:

SENATE CONCURRENT RESOLUTION 8410,

SENATE CONCURRENT RESOLUTION 8411.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

January 12, 2010

MR. PRESIDENT:

The Speaker has signed:

HOUSE CONCURRENT RESOLUTION 4406,

HOUSE CONCURRENT RESOLUTION 4407.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

INTRODUCTION AND FIRST READING

SB 6300  
and Shin

by Senators Hobbs, Parlette, Schoesler, Berkey

AN ACT Relating to authorizing public hospital districts to execute commonly accepted security instruments, as required to participate in federal programs that reduce the costs of financing the construction, rehabilitation, replacing, and equipping of hospitals or other health care facilities; and amending RCW 70.44.060.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 6301

by Senator Swecker

AN ACT Relating to designation of urban growth areas outside the one hundred year floodplain by counties; and reenacting and amending RCW 36.70A.110.

Referred to Committee on Government Operations & Elections.

SB 6302

by Senators Swecker and Stevens

AN ACT Relating to prohibiting the construction or operation of a light rail or other rail system on the Interstate 90 floating bridge; and adding a new section to chapter 47.04 RCW.

Referred to Committee on Transportation.

SB 6303

by Senator Swecker

AN ACT Relating to the disposition of existing voter-approved indebtedness at the time of annexation of a city, partial city, or town to a fire protection district;

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amending RCW 52.04.061 and 52.04.081; and declaring an emergency.

Referred to Committee on Government Operations & Elections.

SB 6304 by Senator Keiser

AN ACT Relating to siting of large commercial airports; amending RCW 35.63.250, 35A.63.270, and 36.70A.510; adding a new section to chapter 36.70 RCW; creating a new section; making an appropriation; and providing an expiration date.

Referred to Committee on Transportation.

SB 6305 by Senator Keiser

AN ACT Relating to establishing the prescriber education program; adding new sections to chapter 18.71 RCW; creating a new section; and providing an effective date.

Referred to Committee on Health & Long-Term Care.

SB 6306 by Senator Schoesler

AN ACT Relating to crop adjusters; amending RCW 48.17.010, 48.17.060, 48.17.110, 48.17.150, 48.17.390, and 48.17.420; reenacting and amending RCW 48.14.010; and providing an effective date.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 6307 by Senators Rockefeller and Shin

AN ACT Relating to exempting from property taxation that is leased by certain nonprofit organizations from other nonprofit organizations; adding a new section to chapter 84.36 RCW; and providing an effective date.

Referred to Committee on Ways & Means.

SB 6308 by Senators Carrell, King, Marr, Stevens, Becker and Roach

AN ACT Relating to controlling computer access by residents of the special commitment center; and amending RCW 71.09.080.

Referred to Committee on Human Services & Corrections.

SB 6309 by Senators Carrell, King and Roach

AN ACT Relating to including persons acquitted by reason of insanity within the slayer statute; and amending RCW 11.84.010, 11.84.130, 11.84.140, and 41.04.273.

Referred to Committee on Judiciary.

SB 6310 by Senators Carrell, King, Hewitt and Roach

AN ACT Relating to criminal defendants who are guilty and mentally ill; amending RCW 10.77.040 and 9.94A.501; and adding new sections to chapter 10.77 RCW.

Referred to Committee on Human Services & Corrections.

SB 6311 by Senators Carrell, King, Marr, Hewitt, Schoesler, Becker and Roach

AN ACT Relating to body armor; amending RCW 9.94A.030 and 9.94A.533; reenacting and amending RCW 9.94A.728; adding a new section to chapter 9.94A RCW; prescribing penalties; and providing an effective date.

Referred to Committee on Judiciary.

SB 6312 by Senators Carrell, King and Hewitt

AN ACT Relating to the imposition of a minimum bail bond premium fee of ten percent; adding new sections to chapter 18.185 RCW; creating a new section; and prescribing penalties.

Referred to Committee on Judiciary.

SB 6313 by Senators Carrell and Hewitt

AN ACT Relating to enforcement of outstanding warrants from courts of limited jurisdiction; amending RCW 35.20.270, 3.62.020, and 3.62.040; and adding a new section to chapter 3.02 RCW.

Referred to Committee on Judiciary.

SB 6314 by Senators Carrell and Stevens

AN ACT Relating to special detention facilities; amending RCW 70.48.020; adding a new section to chapter 70.48 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; and providing an effective date.

Referred to Committee on Human Services & Corrections.

SB 6315 by Senators Carrell, King, Marr, Schoesler, Becker and Roach

AN ACT Relating to limiting alternatives to confinement for certain offenders who violate terms of community custody; and amending RCW 9.94A.633.

Referred to Committee on Human Services & Corrections.

SB 6316 by Senators Carrell, King, Hewitt, Stevens and Delvin

AN ACT Relating to coordination between local law enforcement and the department of corrections; amending RCW 9.94A.716 and 36.28A.040; adding a new section to chapter 72.09 RCW; and creating a new section.

Referred to Committee on Human Services & Corrections.

SB 6317 by Senators Carrell, King, Marr, Hewitt, Delvin, Schoesler, Becker and Roach

AN ACT Relating to assault of a law enforcement officer or other employee of a law enforcement agency; amending

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RCW 9A.36.011, 9A.36.021, and 9.94A.533; and prescribing penalties.

Referred to Committee on Judiciary.

SB 6318 by Senators Carrell, King, Delvin, Schoesler and Becker

AN ACT Relating to hospitals reporting violent injuries; and amending RCW 70.41.440.

Referred to Committee on Health & Long-Term Care.

SB 6319 by Senators Carrell and Roach

AN ACT Relating to a veteran's preference under the state civil service law; reenacting and amending RCW 41.06.133; and reenacting RCW 41.06.150.

Referred to Committee on Government Operations & Elections.

SB 6320 by Senators Brandland and Keiser

AN ACT Relating to access to original birth certificate information for adult adoptees; and amending RCW 26.33.330, 26.33.340, and 26.33.345.

Referred to Committee on Human Services & Corrections.

SB 6321 by Senator Jacobsen

AN ACT Relating to mitigating the impacts of the state route number 520 corridor project on the Washington park arboretum; amending RCW 47.56.820, 47.56.870, and 47.56.875; adding a new section to chapter 47.56 RCW; and creating a new section.

Referred to Committee on Transportation.

SB 6322 by Senators McDermott, Parlette and Kohl-Welles

AN ACT Relating to election notices; amending RCW 29A.08.140 and 29A.32.260; adding a new section to chapter 29A.52 RCW; and repealing RCW 29A.52.311 and 29A.52.351.

Referred to Committee on Government Operations & Elections.

SB 6323 by Senators Swecker and Stevens

AN ACT Relating to providing protection for vulnerable adults when domestic violence temporary ex parte protection orders are requested and issued; and amending RCW 26.50.070 and 74.34.020.

Referred to Committee on Human Services & Corrections.

SB 6324 by Senator Swecker

AN ACT Relating to creation of a flood district by three or more counties; amending RCW 85.38.090; and adding a new section to chapter 85.38 RCW.

Referred to Committee on Government Operations & Elections.

SB 6325 by Senator Jacobsen

AN ACT Relating to the institute of forest resources; amending RCW 76.44.030; adding a new section to chapter 76.44 RCW; and creating new sections.

Referred to Committee on Natural Resources, Ocean & Recreation.

SB 6326 by Senators Hobbs, Zarelli, Kastama and Brandland

AN ACT Relating to creating uniformity among annual tax reporting survey provisions; amending RCW 82.04.240, 82.04.2404, 82.04.250, 82.04.2909, 82.04.294, 82.04.426, 82.04.4266, 82.04.4268, 82.04.4269, 82.04.4452, 82.04.4461, 82.04.4463, 82.04.448, 82.04.4481, 82.04.4483, 82.04.4484, 82.04.449, 82.08.805, 82.08.965, 82.08.9651, 82.08.970, 82.08.980, 82.12.022, 82.12.805, 82.12.965, 82.12.9651, 82.12.970, 82.12.980, 82.16.0421, 82.29A.137, 82.32.590, 82.32.600, 82.60.020, 82.60.070, 82.63.020, 82.63.045, 82.74.040, 82.74.050, 82.75.010, 82.75.020, 82.75.040, 82.82.020, 82.82.040, 84.36.645, and 84.36.655; amending 2009 c 461 s 9 (uncodified); reenacting and amending RCW 82.04.260; adding new sections to chapter 82.32 RCW; adding a new section to chapter 82.75 RCW; creating new sections; repealing RCW 82.32.535, 82.32.5351, 82.32.545, 82.32.560, 82.32.570, 82.32.610, 82.32.620, 82.32.630, 82.32.645, 82.32.650, and 82.16.140; repealing 2005 c 301 s 5 (uncodified); providing a contingent effective date; and providing an expiration date.

Referred to Committee on Ways & Means.

SB 6327 by Senators Regala, Tom, Brandland and Pridemore

AN ACT Relating to the exemption of housing authorities from laws governing the construction, alteration, repair, or improvement of property by other public bodies; and amending RCW 35.82.070.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 6328 by Senator Marr

AN ACT Relating to billing for anatomic pathology services; and adding a new section to chapter 48.43 RCW.

Referred to Committee on Health & Long-Term Care.

SB 6329 by Senators Kohl-Welles, King, Franklin, Hewitt, Keiser, Kline and Delvin

AN ACT Relating to creating a beer and wine tasting endorsement to the grocery store liquor license; reenacting and amending RCW 66.20.310 and 66.20.300; and adding a new section to chapter 66.24 RCW.

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Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6336 by Senators Kastama, Rockefeller, Kilmer, Hargrove and Shin

SB 6330 by Senators Kohl-Welles, Delvin, Haugen, Swecker, Kline, Fraser, Shin, Fairley and Roach

AN ACT Relating to biodiesel requirements for ferry fuel; and amending RCW 43.19.642.

AN ACT Relating to permitting the placement of human trafficking informational posters in rest areas; and adding a new section to chapter 47.38 RCW.

Referred to Committee on Transportation.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6337 by Senators Regala, Carrell, Hargrove and Brandland

AN ACT Relating to inmate savings accounts; amending RCW 72.09.111; and providing an effective date.

SB 6331 by Senators Ranker, Parlette, Shin and Brandland

Referred to Committee on Human Services & Corrections.

AN ACT Relating to tax relief for aluminum smelters; amending RCW 82.04.2909, 82.04.4481, 82.08.805, 82.12.805, 82.12.022, and 82.32.570; and providing an expiration date.

SB 6338 by Senators Regala, Carrell, Hargrove, Shin and Kline

AN ACT Relating to transitional housing for persons at risk of experiencing homelessness; amending RCW 59.18.040; and adding a new chapter to Title 19 RCW.

Referred to Committee on Ways & Means.

Referred to Committee on Human Services & Corrections.

SB 6332 by Senators Kohl-Welles, Haugen, Delvin, Kline, Fraser, Stevens, Shin, Fairley and Roach

SB 6339 by Senators Hobbs and Pridemore

AN ACT Relating to human trafficking; amending RCW 19.320.010 and 19.320.020; adding new sections to chapter 19.320 RCW; and prescribing penalties.

AN ACT Relating to a sales and use tax exemption for wax and ceramic materials used to create molds for ferrous and nonferrous investment castings; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; and providing an effective date.

Referred to Committee on Labor, Commerce & Consumer Protection.

Referred to Committee on Ways & Means.

SB 6333 by Senators Kohl-Welles, King, Hatfield, Keiser, McDermott and Kline

SB 6340 by Senators Regala and Kline

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

AN ACT Relating to membership of the Washington state forensic investigations council; amending RCW 43.103.040; and creating a new section.

Referred to Committee on Labor, Commerce & Consumer Protection.

Referred to Committee on Judiciary.

SB 6334 by Senators Kohl-Welles, Keiser, Kline, McDermott and Franklin

SB 6341 by Senators Hatfield, Haugen, Schoesler, Prentice, Shin and Fairley

AN ACT Relating to unemployment benefits when a person voluntarily terminates employment; reenacting and amending RCW 50.20.050; and creating a new section.

AN ACT Relating to transferring emergency food assistance programs to the department of agriculture; amending RCW 43.330.130; adding a new section to chapter 43.23 RCW; and creating new sections.

Referred to Committee on Labor, Commerce & Consumer Protection.

Referred to Committee on Agriculture & Rural Economic Development.

SB 6335 by Senators Jacobsen, Hatfield, Shin and Kohl-Welles

SB 6342 by Senators Swecker, Hobbs, Franklin, Carrell, McDermott, Pridemore, Marr, Shin and Fairley

AN ACT Relating to a property tax exemption for church property used by a nonprofit organization conducting activities related to a farmers market; amending RCW 84.36.020; and creating a new section.

AN ACT Relating to the Washington soldiers' home; and amending RCW 72.36.010.

Referred to Committee on Agriculture & Rural Economic Development.

Referred to Committee on Government Operations & Elections.

SB 6343 by Senators Jacobsen, Kohl-Welles, Swecker, Haugen, Hatfield and Keiser

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AN ACT Relating to the establishment of the Washington food policy council; adding a new chapter to Title 15 RCW; and providing an expiration date.

Referred to Committee on Agriculture & Rural Economic Development.

SB 6344 by Senators Fairley, Prentice, Hargrove, Kauffman, Marr and McDermott

AN ACT Relating to city council campaign contribution limits; and adding a new section to chapter 42.17 RCW.

Referred to Committee on Government Operations & Elections.

SB 6345 by Senators Eide, Regala, Delvin, Haugen, Kohl-Welles, Rockefeller, Keiser, Fairley, Kline, Tom and Fraser

AN ACT Relating to the use of wireless communications devices while driving; and amending RCW 46.20.055, 46.20.075, 46.61.667, and 46.61.668.

Referred to Committee on Transportation.

SB 6346 by Senators Ranker, Haugen, Regala, Rockefeller, Pridemore, Marr, King, Fraser, Swecker, Kilmer, Shin, Tom, Kohl-Welles and Kline

AN ACT Relating to expanding the use of certain electric vehicles; and amending RCW 46.04.295, 46.61.723, and 46.61.725.

Referred to Committee on Transportation.

SB 6347 by Senators Ranker, Swecker, Haugen, Rockefeller, Pridemore, Marr, Hobbs, Fraser and Kline

AN ACT Relating to seawater desalination; and creating a new section.

Referred to Committee on Environment, Water & Energy.

SB 6348 by Senators Ranker, Swecker, Pridemore, Kohl-Welles, Regala, Berkey, Hobbs and Parlette

AN ACT Relating to prohibited communications of collection agencies and their employees; and reenacting and amending RCW 19.16.250.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6349 by Senators Ranker, Holmquist, Haugen, Hobbs, Becker, Shin and Roach

AN ACT Relating to a farm internship program; amending RCW 49.46.010 and 50.04.150; adding a new section to chapter 51.16 RCW; and adding a new chapter to Title 49 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6350 by Senators Ranker, Hargrove, Jacobsen, Rockefeller, Swecker, Marr, Fraser, Murray and Kline

AN ACT Relating to marine waters planning and management, including marine spatial planning; reenacting and amending RCW 43.84.092; adding a new section to chapter 43.21F RCW; adding a new chapter to Title 43 RCW; and providing an expiration date.

Referred to Committee on Natural Resources, Ocean & Recreation.

#### MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Senate Bill No. 6310 and Senate Bill No. 6320 which were referred to the Committee on Human Services & Corrections.

#### MOTION

Pursuant to House Concurrent Resolution No. 4407, at 11:51 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President for the purpose of receiving the State of the State message in Joint Session.

#### JOINT SESSION

The President called the Joint Session to order. The Clerk called the roll of House members. The Clerk called the roll of Senate members. A quorum of the Legislature was present.

President Owen: "This Joint Session has been convened to receive the state of the state message from Her Excellency, Governor Christine Gregoire."

The President appointed a special committee to escort the Supreme Court Justices to the House Chamber: Representatives Linville and Rodne, and Senators Delvin and Kauffman.

The President appointed a special committee to escort the statewide elected officials to the House Chamber: Representatives O'Brien and Taylor and Senators Becker and Hobbs.

The President appointed a special committee to advise Her Excellency, Governor Christine Gregoire, that the joint session had assembled and to escort her to the House Chamber: Representatives Fagan and Haigh and Senators Carrell and Gordon.

The Supreme Court Justices arrived, were escorted to the Floor of the House Chamber and were introduced: Chief Justice Barbara Madsen, and Justices Charles Johnson, Gerry Alexander, Richard Sanders, Tom Chambers, Susan Owens, Mary Fairhurst, James Johnson and Debra Stephens.

The statewide elected officials arrived, were escorted to the floor of the House and were introduced: Secretary of State Sam Reed, State Treasurer Jim McIntire, State Auditor Brian Sonntag, Superintendent of Public Instruction Randy Dorn, Insurance Commissioner Mike Kreidler, Commissioner of Public Lands Peter Goldmark.

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The President introduced the special guests present in the Chambers: King County Executive Dow Constantine; Seattle Police Chief John Diaz; Pierce County Executive Pat McCarty; Pierce County Sheriff Paul Pastor, Lakewood Police Chief Brett Farrar, Clallum County Commissioner Steve Tharinger; Carol Hatch, Chairwoman of Quileute Tribe; Charlotte Williams, Chairwoman of Muckleshoot Tribe; Mel Sheldon, Chairman of Tulalip Tribe; former Secretary of State Ralph Munro and the President of the Senate's son Adam Owen.

The President introduced the members of the Consular Corps: Helen Szablya, President, Consular Association of Washington and Consul of Hungary; Ronald Masnik, consul of Belgium; Frank Brozovich, Consul of Croatia; Enid Dwyer, Consul of Jamaica; Shinji Urabayashi, Senior Consul of Japan; Haryong Lee, Consul General of the Republic of Korea; Stephen Zirschky, Consul of Latvia; Victor Lapatinskas, Consul of Lithuania; Marisela Quijano, Deputy Consul of Mexico; Kim Nesselquist, Consul of Norway; Miguel Angel Velasquez, Consul of Peru; Yuri Gerasin, Consul General of the Russian Federation; Luis Fernando Esteban, Consul of Spain; Gary Furlong, Consul General of Uzbekistan; Daniel Liao, Director General, Taipei Economic and Cultural Office and Consul Wendy Baldwin of Canada.

Governor Christine Gregoire, her husband Mike Gregoire and their daughter Michelle Gregoire arrived, were escorted to the Rostrum, and were introduced.

The President introduced guests from Pacific Northwest Economic Region (PNWER), and Representatives of the Vancouver Organizing Committee for the Olympic and Paralympic Games: Michael Chisholm, Member of Legislative Assembly, Saskatchewan and Vice President of PNWER; Kyle Fawcett, Member of Legislative Assembly, Alberta; Senator Lesil McGuire, Alaska State Senate, PNWER President; Taleeb Noormohamed, Vice President of National and International Partnerships for the Vancouver Organizing Committee for the Olympic and Paralympic Games.

The flags were escorted to the rostrum by the Washington State Patrol Color Guard commanded by Sergeant John Sager. The National Anthem was sung by cadets from the Washington Youth Academy: Ashley Romero, Marlynn Marok and Mercy Samuel. The President led the chamber in the Pledge of Allegiance. The prayer was given by the Honorable M. Brian Cladoosby, Chair of the Swinomish Tribe.

M. Brian Cladoosby: "Good and gracious creator of all that is, today we give you thanks for this beautiful part of mother earth that we call home. We are grateful for the soaring peaks of the Cascades and Olympics, the crashing waves of the coast, the broad expanse of the Palouse and the tide flats of the Salish Sea. In all these places we see the work of your hand. We thank you for the salmon, the elk, the berries, the shellfish, and all the other things that you provide to nourish and strengthen our bodies. We thank you for the medicines that your forests and prairies produce, for the yew tree, the camas root and the nettle. We thank you for the cedar and fir trees with which we shelter and transport our families. Help us to walk humbly and gently on this land. These are hard times for our state, Lord. Many families are struggling. Some are barely hanging on, others have lost hope. Care for those who need you most, especially our children and our elders. Open our hearts to those in need. Help them to know that their leaders here come to serve, to be a light in dark times. Help those who are having a hard time to know that

they are not forgotten, that they are valued and cherished. Today we ask that you bless this place and the work that will occur here. Thank you, creator, for choosing these elected officials for your work. Bless our Governor, who carries so much on her shoulders. Bless these legislators, on whose wisdom so many depend. Bless the staff, who hold up the leaders we have called to service. Bless the families of all those who have been called here and who miss them while they are away. Bless our judges and all the other elected leaders here today, fill them with your wisdom and your mercy. Protect each and every one of them and care for them while they work through this legislative session. Help those who work in these halls to remember that they come here to represent all the people of our state, not one party or another, not one special interest group or another, but all people, your people. In a special way, we lift up our law enforcement community who have suffered so many losses in recent weeks. Put a special hedge of protection around those who give their lives to protect us. Let our military, law enforcement, fire fighters and other public safety officers know that you are with them and that we are with their families as they serve. As this Legislature begins its work, we ask your blessing upon the difficult decisions before these leaders. May the words spoken here be true. May the work done here be your work. May the product of this work be good and may the measure of its value be the impact it has on the generations to come. We ask you all these things in Jesus' name. Amen."

The President introduced Governor Christine Gregoire.

### STATE OF THE STATE

Governor Gregoire: "Thank you, Brian Cladoosby. Your words are appreciated. Thank you, Ashley Romero, Marlynn Marok and Mercy Samuel for that wonderful performance of the national anthem. I first heard these three young women a few weeks ago at graduation ceremonies for the Washington Youth Academy and I knew that their voices and spirit needed to be here today.

Mr. President, Mr. Speaker, Madam Chief Justice, distinguished justices of the court, honored officials, members of the Washington State Legislature, former governors, tribal leaders, local government officials, law enforcement officers, members of the Consular Association of Washington, my fellow citizens:

It gives me a great deal of pleasure to introduce my husband and best friend, Mike Gregoire or as he has become known, First Mike. Mike continues his work in our schools teaching kids to love reading as much as he does. And on a lot of mornings he leaves the house with one thought in mind: What he will do to assist fellow military veterans in any number of ways, from helping when they return from war to finding a job. Thank you, Mike! Mike and I are blessed with two wonderful daughters and a great son-in-law. Courtney and Scott couldn't join us today, but I'm pleased to have Michelle here. Michelle is about to decide if she will pursue a law degree which makes Mike a little nervous. Along with Courtney and Scott, that would make four lawyers at the dinner table and then there'd be Mike. Mike, we can promise that we won't make you file a motion when you want us to pass the salt and pepper. This afternoon, I welcome the 61st Washington Legislature back to Olympia. I very much appreciate the simple fact that 147 men and women are willing to interrupt their lives to spend their days, and often their nights, struggling with how best to serve the people who sent you here. It's not easy, but it is important. It's an understatement to say this year will be incredibly challenging. It will test us and the values we hold like no other year. But this year will also be long remembered. We

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have been called on to steer our state through one of the most difficult chapters in its history. Tragically, Washington has lost 21 of our heroes to terrible violence at home and abroad.

In 2009, we witnessed unspeakable tragedy. Seven law enforcement officers were killed in the line of duty from Lewis County and Pierce County, Seattle and Lakewood; and overseas, 13 of our military service members from Washington were killed in Iraq and Afghanistan. And just last week, a Grant County deputy died while on patrol when his car rolled over. It is often said that law enforcement officers and servicemen and -women make the ultimate sacrifice to protect us and our nation. Sadly, in the past year, the real human tragedy behind these words was driven home to us with numbing regularity. They are sons and daughters, brothers and sisters, husbands and wives, moms and dads, colleagues and friends, and while they are lost to us forever, they will never be forgotten. These are my heroes. They gave their lives to protect us and they come no better than that. Let us always remember the families who were left behind and their sacrifices. They too are my heroes, and my heart still breaks for them.

You have a list of these law enforcement officers and servicemen and -women. Please join me for a moment of silence for them and their families... These Washingtonians gave their lives so we could have safer communities and a secure nation. For them and their families, we have a duty this session to help build a better future for Washington.

The worst national economic collapse in 80 years has been hard on too many families across the state. In all corners of our state, families are struggling to survive the great recession. These people are good people. People who have always worked and now for the first time are filing for unemployment, parents who have sacrificed to make better lives for their kids and are now struggling just to put food on the table. For all these struggling families, we have a duty this session to rebuild the economic future of Washington. People who believe in the American dream of homeownership and now feel the fear of foreclosure. People who are used to giving a helping hand to others, and are now forced to ask for help themselves. People like the man I met at a food bank in Seattle where I was handing out food to families. He looked me in the eye and said, "I've been coming here for years, but until today, I was always on your side of the table. I never thought I would be in the receiving line." Sadly, he is not alone. In 2009, about 475,000 people in our state signed up for unemployment benefits. These aren't regulars. Most are first-time recipients.

The loss of jobs has created a ripple effect through social service agencies and the economy. Today, one in 13 of our people receives basic food assistance. More than 40 percent of them are children. During the fall of 2009, more than 26,000 homeowners watched their dream of homeownership fade as they experienced the heartbreaking process of foreclosure. More than 86,000 people are on the Basic Health Plan waiting list, and remain just one serious illness away from financial ruin. For all these struggling families, we have a duty this session to rebuild the economic future of Washington.

For all of us who are called to public service, I would suggest that now is the time for leadership, it is the most important time to serve. For as difficult and challenging as the decisions that lie ahead of us will be, now is the time to be decisive, and now is the time for compassion. It's the time to make a real difference for people. It's the time to truly shape the future of Washington. In the best of times, people forget legislative sessions. In the worst of times, history shows decisiveness is what is remembered. We must have the courage to make hard choices and to plan for tomorrow while making decisions for today. They expect us to

manage the economic crisis and focus on rebuilding our economic future. There is no question the challenges facing Washington families and businesses are great. But I also know the resiliency, the creativity and the work ethic of the people of Washington.

We will get through this historic recession, and I know as sure as I know my beloved state that Washingtonians are moving toward a better, brighter future. I know Washingtonians don't expect us to solve all their problems. I have said it before and I will say it again: The best solutions to our problems come from within our families, our communities, our service organizations and our faith-based communities. So how do we help build a bright economic future for our state? One of the things that I love about my job is that I get to talk to Washingtonians across the state. I visit schools and diners, factories and coffee shops. Here, ladies and gentlemen, is what I hear people say. They tell me they are scared but they know things will get better. That we are on the cusp of a new economy and that jobs will come from the growth industries of tomorrow in fields like clean energy, health care and technology. They definitely don't want business-as-usual from government. They want real government reform, real innovation, real service improvement and more value for their tax dollar. They expect us to manage the economic crisis and focus on rebuilding our economic future. They worry about their kids' future and they want a first-class education system that will prepare children to pursue the career of their dreams. They want the security of having health care for themselves and their families and they want to have safe communities for all of us. In short, they want us to make tough choices, both to help get families back to work today and to make wise investments that will ensure our competitiveness so they will still be working tomorrow. Jobs are the way out of this recession.

Some of our actions have been paying dividends. Our tough decisions on gas taxes, affirmed by the voters, produced the largest transportation construction program in history and supports more than 21,000 jobs annually. The goal is to attract \$2 billion in capital investments to fuel job growth. Our creation of the Life Sciences Discovery Fund in 2005 helped spark our global health initiatives and the biotechnology and medical devices industries. To our benefit we have embraced a clean energy future. We now have 400 clean technology companies in Washington State and we're still growing. These and other actions resulted in Forbes Magazine ranking Washington higher and higher until we are now the second-best state for business. We can and must do more to generate jobs.

We need to get Washington back to work. We owe it to our families to provide job opportunities. I have a plan to create as many as 40,000 new jobs this year. Here's how we can make it happen. Washington has always been a state that attracts capital, both financial and intellectual. We need to keep that tradition going, and one way to do that is to stimulate capital investment in biotechnology, software development, health care, clean technology, renewable energy, aerospace and other industries that will drive our future. The goal is to attract \$2 billion in capital investments to fuel job growth.

We all know small businesses, the backbone of our economy, are suffering the damage of this recession as much as everyone else. Many owners want to hire employees, but they need help. That's why I am proposing a new employee tax credit for each small business that hires for a new full-time position. I will direct agencies to enact a green building program that will retrofit state buildings so we put people to work immediately, reduce our carbon footprint and save \$60 million in energy costs. I will create the Clean Energy Business Development Program to

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position Washington to be a leader in the clean energy economy and keep us competitive globally. With the world moving toward a smart electrical grid, we will actively work to attract those businesses to invest in and create jobs in our state. We must make Washington attractive to business by removing barriers to investments. That's why I will propose further streamlining and simplifying permitting. Government must be smarter and more efficient as well.

Many hard-earned, time-limited development permits have sat unused while developers wait for financing in this credit-tight economy. I will direct my agencies to extend these permits for two years so hundreds of millions of dollars worth of projects can break ground as soon as possible. Our new "One Front Door" program will improve customer service and permitting. I will expand our multi-agency permitting teams to help businesses break through the red tape and to quickly move from planning to job-producing construction. Job opportunities must exist all across our state. In some areas, the unemployment rate has soared to more than 14 percent. I will encourage development in these hard-hit areas by amending the Rural County Tax Credit Program so it is easier for employers to qualify and hire more workers.

Washington families and businesses are cutting back and trying to do things smarter as they make do with less. Government must be smarter and more efficient as well. Washingtonians are our customers and they want one-stop shopping. They don't want to drive across town to brick-and-mortar government offices. They want computer kiosks that offer more convenient service at lower cost. They don't want to wonder where their tax dollars go. They want agencies to be accountable and to show value given for every dollar received. I had a guy tell me recently that he was dreading his upcoming trip to a driver's license office to renew his license. Then a letter came in the mail telling him he could renew online. What could have been a two-hour-long trip turned into a two-minute exercise. That's the kind of service government should and can provide.

We are streamlining state government. Government Management Accountability and Performance, my program to hold state agencies accountable for providing high-quality service and value for every tax dollar, has been cited for its innovation by the Kennedy School of Government at Harvard and by the Council for State Governments. By executive order I have eliminated 73 boards and commissions. Like businesses today, we are cutting costs, reducing staffing and increasing efficiency by consolidating back-office support services like the motor pool, property management and technology. Now is the time to create a lean and effective government. We are using technology to better serve the public at less cost. The Department of Licensing, in its most recent improvement, is closing or modifying 26 offices and deploying self-service terminals around the state that will make service easier and more accessible to the public and result in more than \$3.5 million in savings per biennium. Since we met a year ago, three scientists from different agencies can no longer be found standing in the same river doing research. Now state agencies can rely on one scientist to gather data and share results. These and other steps resulted in the Pew Center rating Washington one of the three best-managed states in the nation. But we must do better.

I want government reform this year. It is time to peel away the outdated and costly layers of government that we once needed but no longer do. This session, I am asking you to approve legislation that would eliminate 78 more boards and commissions. But don't stop there. I am proposing mergers or realignments that will reduce or eliminate one-third of the 64 small state agencies. Now is the time to create a lean and

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effective government. Today we have three growth management hearings boards and five environmental appeals boards, each doing business its own way. Let's reduce to one growth management board and two environmental hearings boards, with just one appeal timeline and set of procedures for environmental and land use appeals.

Now is the time to be more practical in the way we do business. Over the years, the Department of Commerce has become a hodgepodge of programs. This session I am asking you to move 25 programs out of the Department of Commerce so it can focus on its critical core mission, and programs can be better aligned to meet the needs of their customers. Now is the time to have the courage to close institutions that may be an important fixture in a community, but are no longer cost effective, or whose services are no longer needed or can more effectively be provided elsewhere. I am asking you to close all or part of 10 state institutions. But we have more work to do, and this session will test our mettle.

First, I propose to close, or partially close, five correctional facilities. By more efficiently using the beds we have, we can save \$65 million over four years, and not release a single offender prior to his or her earned release date. Further, I am requesting that we close two of our residential centers and provide the residents better care in our communities. In the 1970s, we had six state institutions serving 4,000 people. Today, with only one fewer, we serve 900. Finally, I'm asking us to reduce the size of three juvenile institutions. The last time the state closed an institution was in the 1970s. Now is the time, this session, for us to demonstrate, as difficult as it is, that Washington state government makes good business decisions, not political ones.

The road to recovery and a bright economic future also starts with us effectively managing our budget crisis. We already have good management tools in place. Our creation of a Rainy Day Fund worked exactly as it was intended and helped prepare us for this current, dreadfully rainy day. That step and others helped improve our bond rating. As a result, we are getting the best bond rates in 30 years, and that translates into getting more for every dollar we spend, and more construction projects and jobs. But we have more work to do, and this session will test our mettle.

The state, this biennium, has a budget shortfall of \$12 billion and a \$30 billion budget. In December, I presented a balanced state budget as required by state law. It is said that budgets are state policy. But they are much more than that. The budget reflects who we are as a state and the values we hold. The December budget was balanced, but it would force us to abandon the values that define this state: fairness and compassion. It would be unjust, unwise and unfair to abandon our friends and neighbors when they need us the most. The balanced budget eliminates hospice care, which allows more than 2,500 dying patients to remain in their homes, and it cuts maternity care for 50,000 at-risk moms. That's not compassionate. These are our families, friends and neighbors. We must not deny our most vulnerable citizens the dignity of living out their final days at home and we must give our newborns a healthy start at life.

Education is the single best investment for our future and the key to the success of our kids. The balanced budget takes away health care for 70,000 individuals and 16,000 children. That's not fair. We must not deny health care to families and kids and then pass the costs on to the insured. The balanced budget eliminates early learning for 1,500 kids and would eliminate state funds for all-day kindergarten. That's not wise. Education is the single best investment for our future and the key to the success of our kids. The balanced budget closes the door to college on 12,300 low-income students. That's neither just nor smart. A child born into poverty must not be told college is out of reach.

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Let me tell you a story about a young woman named Janel Brown. Janel grew up in poverty and is a survivor of domestic violence. She has seen how poverty hurts kids: teen pregnancy, drug addiction, gang killings and joblessness. Thanks to a program called Husky Promise, which provides tuition and fees to low-income students, Janel today is a 21-year-old junior at the University of Washington and the first person in her family to go to college. Janel has already made plans to give back by working with public schools to prepare kids who come from adverse backgrounds for college admittance. Without tuition assistance, Janel is emphatic: She never would have gone to college. But she hasn't left the inner city behind. She regularly returns to the community and talks to kids. She says the kids need to see someone they can relate to, like her, so they know it's possible to break through tough circumstances. Janel tells the kids this: If they do their part, somebody will meet them halfway. Ladies and gentlemen, we need to be that somebody who meets them halfway, to be there for them. I'm pleased that Janel is here today. Janel, will you please stand?

Speaking of being there for those who need it: Those three young women who sang earlier are here due to our investment in the Washington Youth Academy. We cannot just cut or just tax our way out of this immediate budget shortfall. The academy is proving second chances work, and it is turning around the lives of at-risk kids who have nowhere else to turn. There is no question we need to make dramatic cuts to the state budget. I've identified about \$1.7 billion in real cuts. But cuts at that level will end up costing us far more than we save. As we learn from people like Janel, investing in human potential today will produce a brighter future for Washington tomorrow.

We can make cuts that will write off a generation of kids, produce rising crime rates, increase public assistance costs and leave us with a legacy of squandered human potential, or we can invest in tuition aid today and produce a new crop of first-in-family college grads. We can make the cuts and wait for higher dropout rates and all the soaring social costs that will follow, or we can invest today in early learning, which is a proven tool for increasing the success of kids. We can cut costs and transfer higher medical costs to our doctors, hospitals and insured families, or we can invest in health care today and help contain costs and prevent families from facing financial ruin.

Later today I will present a budget I can support. It counts on new revenue of about \$750 million and cuts of almost \$1 billion. The revenue will come from new federal dollars, new taxes or both. Like you, I do not want taxes to harm the economic recovery of our families or our businesses, but I also cannot abandon my values, eliminate the safety net for our most needy and cripple our economic future. Let me be clear. We cannot just cut or just tax our way out of this immediate budget shortfall. We must have a responsible, balanced approach of painful cuts and new revenue. It is clear our recovery will not be complete by the end of this biennium. Our 2011-13 budget is of looming concern for us all, so let's work together and do what is right for Washington State. As we all know, building a bright economic future also starts with providing our children a first-class education. So we are making progress. But we can and must do more.

We have made progress in recent years. Our historic efforts to improve early learning are guaranteeing more kids success in school. Our K-12 student test scores continue to rank high nationally. Our innovative schools in cities around the state have been highly successful in raising vital math and science skills. Our community and technical college system is rated as one of the best in the nation. In classrooms, our hard-working, committed teachers are focused on improving student and teacher

performance. In 2009, almost 1,250 teachers received the prestigious National Board Certification, and we rank fifth in the nation in board-certified educators, in part because of the investments we put in place. So we are making progress. But we can and must do more.

We must preserve and enhance the early learning initiative we started four years ago when we created the Department of Early Learning. Despite our tough times, now is the time to build the economic future for our children and our state. I ask you to adopt legislation creating "All Start," a voluntary Washington preschool program to provide early learning opportunities to all 3- and 4-year-olds. To ensure a good start for all our children, I ask you to continue our implementation of all-day kindergarten for all kids and to assure all our children get the education they deserve wherever they live in our state, I'm asking you to lift the levy lid and fund levy equalization.

Highly effective teachers in the classroom and principals who are leaders and are key to student success. I urge you this session to approve an overhaul of the way we evaluate teachers. The new evaluation system must focus on what really counts: high-quality instruction, student achievement and growth. And for the first time, I ask you to provide a system to evaluate the performance of principals based on student achievement as well. If we have schools where dropout rates are high, student performance and achievement are low, and where no progress is being made, we need to be able to step in and turn them around. Our higher education system is a major economic engine for our recovery. We need to keep the doors to higher education open to students of all income levels by restoring funding for the State Need Grant Program. We owe it to all those, like Janel, who couldn't attend college without our help. I'm asking you to provide funding to our community and technical colleges to retrain 2,500 of our workers for the jobs of tomorrow, and I'm requesting you provide our four-year institutions with competitive tuition flexibility so we can continue to be ranked among the best in the nation in producing the most innovative workers and employers. As our nation prepares to adopt historic health care reform, let's ready ourselves to implement it the Washington Way.

Our congressional delegation is working hard to achieve fundamental fairness for our state through changes to children's health coverage and reimbursement rates for doctors and hospitals. Already, our Basic Health Plan is being touted as a model for the country. We can show the rest of the nation how to provide higher-quality, lower-cost health care to thousands more Washingtonians.

Finally, rebuilding our future means we need to make sure our families are safe. We have been making progress. Our communities are safer today because we gave members of law enforcement the help they asked for in dealing with sex offenders. They have done an admirable job. Last year, more than 28,000 address verification visits were made, resulting in more than 800 arrests for failure to register and 1,700 arrests made on other warrants. Our highways are safer. Since 2002, the number of highway deaths dropped from 659 to 481. Last year, Mothers Against Drunk Driving selected the Washington State Patrol as the outstanding law enforcement agency in the nation for its DUI enforcement. But we must do a better job protecting our law enforcement members and our families. This session, we need to strengthen our mental health laws to prevent the release of violent offenders to our streets. Our families aren't safe when a murderer is released from a mental health hospital after just two years of treatment; when a man convicted of the brutal murder of an elderly woman disappears while on a field trip to a county fair; or when a violent criminal history isn't considered when

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decisions are made to involuntarily commit individuals. Let's get to work for our fallen officers, their families and our entire law enforcement community. The rights of dangerous mentally ill offenders cannot trump the safety of our families. It is time to ensure both. I will send you a package of bills this session to hold offenders accountable, increase the sentencing tools of prosecutors, and give more weight to law enforcement and criminal histories when making commitment decisions.

Recently, we have all been shocked by the tragic loss of our law enforcement officers. Leaders of the criminal justice system have come together, and with them, I propose improvements to communications throughout the justice system, how bail is administered in our state and how the Interstate Compact system can better provide public safety to Washingtonians. We must ensure that the legacies of these fallen heroes survive by giving their families the support that they deserve. Surviving spouses must be entitled to retirement benefits regardless of the fallen officer's length of service. For their children, it is our duty to make available a college education. These proposals have been carefully crafted with the help and the expertise of the law enforcement community. They are measured, thoughtful and ensure that from tragedies we learn, we take action and we do the right thing. Let's get to work for our fallen officers, their families and our entire law enforcement community.

Someone once asked Martin Luther King Jr. when he thought the best time was to take serious action. Dr. King had an answer for him. "The time is always right to do what is right." To each of you sitting here in front of me this day, I ask you: Let us work together to do what is right for our people, all of our people. We're all good people. We all have values. Our work is complicated and sometimes values collide. What we do about that is called governing. Let's leave the partisan politics to elections. Washingtonians hate how divided things have become. They just want us to solve the problems. Let's provide the decisive, compassionate leadership Washingtonians want and deserve.

So I'll tell you right now: If you have better ideas to create jobs, reform government, balance the budget, improve our schools, provide high-quality, affordable health care or ensure public safety, I am ready and willing to listen. These are serious days ahead. Too many families today are getting layoff notices, watching unpaid bills pile up, losing health care, telling their kids they can't attend college, standing in line at the food bank, or dipping into a dwindling savings account just to get by. Let's not waste their time or the crisis. This session is our time, our time to encourage them to keep the faith in the great promise that Washington offers, our time to help provide them a bright economic future. It is not going to be easy. The decisions we have to make will not always be popular, but we have a duty to our struggling families and businesses to help build a bright future for Washington. The time is now. It is our time. Let's provide the decisive, compassionate leadership Washingtonians want and deserve. Thank you, God bless you and God bless the great State of Washington."

The President asked the special committee to escort Governor Gregoire and her family from the House Chamber.

The President asked the special committee to escort the statewide elected officials from the House Chamber.

The President asked the special committee to escort the Supreme Court Justices from the House Chamber.

On motion of Representative Kessler, the Joint Session was dissolved. The Speaker (Representative Morris presiding) assumed the chair.

The Sergeant at Arms of the House and the Sergeant at Arms of the Senate escorted President of the Senate Brad Owen, President Pro Tempore Rosa Franklin and Minority Floor Leader Mark Schoesler from the House Chamber.

The Senate was called to order at 1:25 p.m. by President Owen.

## PRESIDENT SIGNED

The President signed:

HOUSE CONCURRENT RESOLUTION 4406,  
HOUSE CONCURRENT RESOLUTION 4407.

## MOTION

At 1:26 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Wednesday, January 13, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**THIRD DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Wednesday, January 13, 2010

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Brandland, Brown, Carrell, Fairley, Hargrove, Haugen, Kline, McCaslin, Murray, Pridemore, Roach and Zarelli.

The Sergeant at Arms Color Guard consisting of Pages Madisan Nicole Bryant and Anna E. Dye, presented the Colors. Senator Morton offered the prayer.

MOTION

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

MOTION

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

INTRODUCTION AND FIRST READING

SB 6351 by Senators Jacobsen, Schoesler and Kohl-Welles

AN ACT Relating to registration of lottery tickets and shares; amending RCW 67.70.040; and creating a new section.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6352 by Senator Kline

AN ACT Relating to modifying provisions on personal property exempt from execution, attachment, and garnishment; and amending RCW 6.15.010, 6.15.020, and 48.18.430.

Referred to Committee on Judiciary.

SB 6353 by Senator Kline

AN ACT Relating to technical changes concerning receivership statutes; and amending RCW 7.60.110, 7.60.025, 7.60.055, 7.60.130, 7.60.190, 7.60.090, 7.60.230, and 7.60.200.

Referred to Committee on Judiciary.

SB 6354 by Senators Swecker, Morton and Sheldon

AN ACT Relating to the regulation of nonindustrial forests; amending RCW 76.13.130; and creating a new section.

Referred to Committee on Natural Resources, Ocean & Recreation.

SB 6355 by Senators Kilmer, Becker, Rockefeller and Shin

AN ACT Relating to expanding the higher education system upon proven demand; amending RCW 28B.50.020, 28B.50.810, 28B.76.020, 28B.76.230, 28B.120.005, 28B.120.010, and 28B.120.020; and creating a new section.

Referred to Committee on Higher Education & Workforce Development.

SB 6356 by Senators Kilmer, Swecker, Rockefeller and Kastama

AN ACT Relating to limiting access to law enforcement and emergency equipment and vehicles; amending RCW 46.37.195; and creating a new section.

Referred to Committee on Transportation.

SB 6357 by Senators Kilmer, Becker, Shin, Rockefeller, McAuliffe and Roach

AN ACT Relating to policies for the academic recognition of prior experience; and creating new sections.

Referred to Committee on Higher Education & Workforce Development.

SB 6358 by Senators Kilmer, Zarelli, Rockefeller, Becker, Shin, Tom and Parlette

AN ACT Relating to tuition surcharges for students who do not have timely completion of degrees; amending RCW 28B.10.695; and providing an effective date.

Referred to Committee on Higher Education & Workforce Development.

SB 6359 by Senators Kilmer, Becker, Shin and Tom

AN ACT Relating to promoting efficiencies including institutional coordination and partnerships in the community and technical college system; amending RCW 28B.50.020, 28B.50.040, and 28B.50.090; adding a new section to chapter 28B.50 RCW; and creating new sections.

Referred to Committee on Higher Education & Workforce Development.

SB 6360 by Senators Hargrove, Keiser, Roach and Marr

AN ACT Relating to establishing a program to verify the address of registered sex offenders and kidnapping offenders; amending RCW 9A.44.130 and 9A.44.135; and adding a new section to chapter 36.28A RCW.

Referred to Committee on Human Services & Corrections.

SB 6361 by Senators Brandland, Hargrove, Carrell, Roach and Marr

AN ACT Relating to a person's identifying information submitted in the course of using the electronic statewide unified sex offender notification and registration program for

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the purpose of receiving notification regarding registered sex offenders; and amending RCW 36.28A.040.

Referred to Committee on Human Services & Corrections.

SB 6362 by Senators Zarelli, Hewitt, Parlette and Stevens

AN ACT Relating to government accountability; amending RCW 43.09.475, 82.08.020, 82.08.020, and 82.12.0201; adding a new chapter to Title 43 RCW; providing an effective date; and providing an expiration date.

Referred to Committee on Government Operations & Elections.

SB 6363 by Senators Marr, King, Haugen, Brandland, Kauffman, Delvin, Eide, Shin and McAuliffe

AN ACT Relating to the enforcement of certain school or playground crosswalk violations; amending RCW 46.61.440; adding a new section to chapter 46.61 RCW; prescribing penalties; and providing an effective date.

Referred to Committee on Early Learning & K-12 Education.

SB 6364 by Senators Fraser, Brandland, Prentice and Zarelli

AN ACT Relating to the capital budget; making appropriations and authorizing expenditures for capital improvements; amending 2009 c 497 ss 1005, 1013, 1023, 1029, 1031, 1034, 1035, 1039, 1040, 1048, 1054, 1055, 1060, 1061, 1063, 1064, 1068, 1073, 1086, 1087, 2001, 2002, 2034, 2037, 2038, 3007, 3020, 3085, 3168, 4008, 5008, 5002, 5014, 5024, 5025, 5027, 5028, 5030, 5035, 5039, 5040, 5041, 5042, 5055, 5056, 5057, 5061, 5065, 5070, 5078, 5079, 5081, 5083, 5092, 5097, 5104, 5109, 5110, 5111, 5146, 5147, 5148, 5149, 5170, 5171, 5172, 5173, 5177, 5178, 5191, 5192, 5196, 5210, 5211, 5212, 5213, 5223, 5224, and 6009 (uncodified); adding new sections to 2009 c 497 (uncodified); creating a new section; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 6365 by Senators Swecker and Roach

AN ACT Relating to motor vehicle emission standards; and amending RCW 70.120A.010.

Referred to Committee on Environment, Water & Energy.

SB 6366 by Senators Swecker, Haugen, Jacobsen, King, Marr, Ranker, Hatfield, Berkey, Sheldon, Tom and Stevens

AN ACT Relating to permits for certain major transportation corridor projects; amending RCW 90.58.140; adding a new section to chapter 36.70A RCW; adding a new section to chapter 47.01 RCW; adding a new section to chapter 35.21 RCW; adding a new section to chapter 36.01 RCW; and adding a new section to chapter 35A.21 RCW.

Referred to Committee on Transportation.

SB 6367 by Senators Hatfield, Regala, Fairley, Fraser, Kohl-Welles and Roach

AN ACT Relating to responses to public records requests; amending RCW 42.56.520; and creating a new section.

Referred to Committee on Government Operations & Elections.

SB 6368 by Senators Hatfield and Regala

AN ACT Relating to conferences regarding public records requests violations; and reenacting and amending RCW 42.56.550.

Referred to Committee on Government Operations & Elections.

SB 6369 by Senators Berkey, Benton, Hobbs and Roach

AN ACT Relating to credit union regulatory enforcement powers; amending RCW 31.12.005, 31.12.085, 31.12.267, 31.12.516, 31.12.545, 31.12.565, 31.12.569, 31.12.575, 31.12.585, 31.12.595, 31.12.625, 31.12.651, 31.12.671, 31.12.674, and 31.12.850; adding new sections to chapter 31.12 RCW; prescribing penalties; and declaring an emergency.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 6370 by Senators Berkey, Benton, Hobbs and Shin

AN ACT Relating to state-chartered commercial banks, trust companies, savings banks, and their holding companies; amending RCW 30.04.010, 30.04.020, 30.04.030, 30.04.050, 30.04.060, 30.04.070, 30.04.075, 30.04.111, 30.04.127, 30.04.215, 30.04.217, 30.04.450, 30.04.455, 30.04.460, 30.04.470, 30.04.475, 30.12.040, 30.12.042, 30.12.044, 30.12.047, 30.12.070, 30.12.090, 30.12.100, 30.12.190, 30.12.240, 30.44.010, 30.44.020, 30.44.030, 30.44.100, 30.44.110, 30.44.160, 30.44.270, 30.46.010, 32.04.020, 32.04.070, 32.04.100, 32.04.110, 32.04.211, 32.04.220, 32.04.250, 32.04.260, 32.04.270, 32.04.290, 32.08.153, 32.16.090, 32.16.093, 32.16.095, 32.16.097, 32.16.140, 32.20.285, 32.24.040, 32.24.050, 32.24.060, 32.24.070, 32.24.080, and 32.24.090; adding a new section to chapter 23B.01 RCW; adding a new section to chapter 23B.14 RCW; adding a new section to chapter 30.12 RCW; adding a new section to chapter 32.04 RCW; adding a new section to chapter 32.08 RCW; adding a new section to chapter 32.16 RCW; adding a new section to chapter 32.24 RCW; adding a new chapter to Title 32 RCW; repealing RCW 30.04.310; prescribing penalties; and declaring an emergency.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 6371 by Senators McDermott and Berkey

AN ACT Relating to money transmitters; and amending RCW 19.230.010, 19.230.020, 19.230.050, 19.230.060, 19.230.070, 19.230.110, 19.230.170, 19.230.180, 19.230.200, 19.230.210, 19.230.320, and 19.230.330.

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Referred to Committee on Financial Institutions, Housing & Insurance.

Referred to Committee on Transportation.

SB 6372 by Senators Jacobsen and Shin

SB 6378 by Senators Haugen, Hatfield, Swecker and Shin

AN ACT Relating to creating a task force to review conservation district functions and operations for the twenty-first century; creating new sections; and providing an expiration date.

AN ACT Relating to exempting certain diversions of surface waters for agricultural purposes from the permit process; and adding a new section to chapter 90.03 RCW.

Referred to Committee on Natural Resources, Ocean & Recreation.

Referred to Committee on Environment, Water & Energy.

SB 6373 by Senators Ranker, Rockefeller, Swecker, Pridemore, Marr, Kline and Fraser

SB 6379 by Senators Swecker, Hatfield, Marr, Haugen, Berkey, Ranker, Sheldon and Kauffman

AN ACT Relating to reporting of emissions of greenhouse gases; amending RCW 70.235.010 and 70.94.151; and declaring an emergency.

AN ACT Relating to streamlining and making technical corrections to vehicle and vessel registration and title provisions; amending RCW 46.04.125, 46.04.3815, 46.04.670, 46.01.011, 46.01.110, 46.01.130, 46.01.140, 46.01.230, 46.01.235, 46.01.260, 46.01.270, 46.01.310, 46.08.066, 46.08.150, 46.09.020, 46.09.030, 46.09.040, 46.09.050, 46.09.070, 46.09.080, 46.09.115, 46.09.240, 46.09.280, 46.10.010, 46.10.020, 46.10.030, 46.10.040, 46.10.043, 46.10.050, 46.10.055, 46.10.060, 46.10.070, 46.10.220, 46.12.010, 46.12.030, 46.12.047, 46.12.050, 46.12.070, 46.12.080, 46.12.101, 46.12.102, 46.12.103, 46.12.124, 46.12.130, 46.12.151, 46.12.160, 46.12.170, 46.12.181, 46.12.190, 46.12.210, 46.12.250, 46.12.280, 46.12.290, 46.12.420, 46.12.440, 46.16.004, 46.16.006, 46.16.010, 46.16.015, 46.16.020, 46.16.022, 46.16.025, 46.16.028, 46.16.029, 46.16.030, 46.16.040, 46.16.045, 46.16.047, 46.16.048, 46.16.068, 46.16.070, 46.16.076, 46.16.086, 46.16.090, 46.16.125, 46.16.160, 46.16.162, 46.16.210, 46.16.212, 46.16.216, 46.16.225, 46.16.260, 46.16.265, 46.16.460, 46.16.500, 46.16.700, 46.16.705, 46.16.715, 46.16.725, 46.16.735, 46.16.745, 46.16.755, 46.16.765, 46.16.775, 46.16.690, 46.16.301, 46.16.324, 46.16.335, 46.16.390, 46.68.010, 46.68.020, 46.68.030, 46.68.035, 46.68.220, 46.16.685, 46.09.110, 46.10.075, 35.95A.090, 35.95A.130, 81.104.160, 82.12.045, 82.12.0254, 82.36.280, 82.44.015, 82.44.035, 82.44.060, 82.44.065, 82.44.090, 82.44.100, 82.44.120, 82.80.130, 82.80.140, 88.02.010, 88.02.035, 88.02.055, 88.02.110, 88.02.118, 88.02.200, 88.02.120, 88.02.070, 88.02.180, 88.02.075, 88.02.020, 88.02.030, 88.02.050, 88.02.050, 88.02.052, 88.02.250, 88.02.260, 88.02.040, 88.02.045, 88.02.053, 88.02.060, 88.02.230, 88.02.078, 88.02.188, 88.02.112, 88.02.115, 88.02.189, 88.02.220, 88.02.210, 88.02.023, 88.02.184, 88.02.125, 82.49.010, 82.49.030, 82.49.065, 19.116.050, 28B.10.890, 29A.04.037, 35A.46.010, 41.04.007, 43.60A.140, 46.01.030, 46.01.040, 46.01.160, 46.01.320, 46.08.010, 46.08.150, 46.20.025, 46.29.605, 46.30.020, 46.32.100, 46.44.0941, 46.44.170, 46.55.105, 46.55.140, 46.55.240, 46.61.581, 46.61.582, 46.63.020, 46.63.160, 46.63.170, 46.68.080, 46.68.250, 46.70.011, 46.70.051, 46.70.101, 46.70.122, 46.70.124, 46.70.135, 46.72.060, 46.80.010, 46.80.090, 46.87.010, 46.87.020, 46.87.030, 46.87.140, 46.87.220, 47.10.704, 47.68.255, 48.22.110, 59.21.050, 62A.9A-311, 63.14.130, 65.20.020, 65.20.040, 68.64.010, 68.64.210, 70.168.040, 73.04.115, 77.12.471, 79.100.100, 79A.05.059, 79A.05.065, 79A.05.215, 82.08.0264, 82.44.010, 84.37.070, and 84.38.100; reenacting and amending RCW 46.09.170, 82.38.100, 46.55.113, 46.70.180, 59.22.020, and 63.14.010; adding new sections to chapter 46.04 RCW; adding a new section to chapter 46.01 RCW; adding new sections to

Referred to Committee on Environment, Water & Energy.

SB 6374 by Senators Kilmer, Delvin, Swecker, Shin, Kastama, Eide, Marr, Hatfield, Sheldon, Berkey, Haugen and Ranker

AN ACT Relating to fiscal note instructions; adding a new section to chapter 43.88A RCW; and creating a new section.

Referred to Committee on Economic Development, Trade & Innovation.

SB 6375 by Senators Fraser, Brandland, Swecker, Fairley, Delvin, Kauffman, Marr, Kline, Hobbs, Murray, Shin, Keiser, Kohl-Welles and McAuliffe

AN ACT Relating to search and rescue volunteers; and adding a new section to chapter 41.04 RCW.

Referred to Committee on Government Operations & Elections.

SB 6376 by Senators Haugen, Swecker and Kohl-Welles

AN ACT Relating to contractor licensing; amending RCW 18.27.010, 18.27.020, 18.27.030, 18.27.040, 18.27.050, 18.27.060, 18.27.065, 18.27.070, 18.27.075, 18.27.080, 18.27.090, 18.27.100, 18.27.104, 18.27.110, 18.27.114, 18.27.117, 18.27.120, 18.27.130, 18.27.200, 18.27.205, 18.27.210, 18.27.215, 18.27.225, 18.27.240, 18.27.270, 18.27.310, 18.27.320, 18.27.340, 18.27.342, 18.27.360, 18.27.370, 18.27.385, and 18.27.390; adding new sections to chapter 18.27 RCW; and prescribing penalties.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6377 by Senators Haugen, Swecker, Marr, Sheldon and Shin

AN ACT Relating to electric vehicle licensing fees; adding a new section to chapter 46.16 RCW; and creating a new section.

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chapter 46.09 RCW; adding new sections to chapter 46.10 RCW; adding new sections to chapter 46.12 RCW; adding new sections to chapter 46.16 RCW; adding new sections to chapter 46.17 RCW; adding new sections to chapter 46.68 RCW; adding a new section to chapter 82.44 RCW; adding new sections to chapter 88.02 RCW; adding a new section to chapter 47.06 RCW; adding a new section to chapter 81.24 RCW; adding new chapters to Title 46 RCW; creating a new section; recodifying RCW 46.09.010, 46.09.020, 46.09.080, 46.09.140, 46.09.180, 46.09.200, 46.09.250, 46.09.280, 46.09.030, 46.09.040, 46.09.050, 46.09.070, 46.09.115, 46.09.117, 46.09.120, 46.09.130, 46.09.190, 46.09.150, 46.09.165, 46.09.170, 46.09.240, 46.10.010, 46.10.020, 46.10.140, 46.10.180, 46.10.185, 46.10.200, 46.10.210, 46.10.220, 46.10.040, 46.10.050, 46.10.060, 46.10.070, 46.10.055, 46.10.090, 46.10.100, 46.10.110, 46.10.120, 46.10.130, 46.10.190, 46.10.150, 46.10.160, 46.10.170, 46.12.010, 46.12.030, 46.12.047, 46.12.050, 46.12.070, 46.12.080, 46.12.160, 46.12.181, 46.12.190, 46.12.370, 46.12.380, 46.12.390, 46.12.101, 46.12.102, 46.12.103, 46.12.124, 46.12.130, 46.12.151, 46.12.170, 46.12.280, 46.12.290, 46.12.420, 46.12.430, 46.12.440, 46.12.300, 46.12.310, 46.12.320, 46.12.330, 46.12.340, 46.12.350, 46.12.210, 46.12.250, 46.16.004, 46.16.006, 46.16.010, 46.16.015, 46.16.020, 46.16.022, 46.16.028, 46.16.029, 46.16.030, 46.16.040, 46.16.073, 46.16.076, 46.16.210, 46.16.212, 46.16.216, 46.16.225, 46.16.260, 46.16.265, 46.16.276, 46.16.280, 46.16.295, 46.16.327, 46.16.332, 46.16.045, 46.16.047, 46.16.048, 46.16.160, 46.16.162, 46.16.460, 46.16.025, 46.16.068, 46.16.070, 46.16.086, 46.16.090, 46.16.615, 46.16.011, 46.16.012, 46.16.140, 46.16.145, 46.16.180, 46.16.500, 46.16.309, 46.16.314, 46.16.335, 46.16.390, 46.16.700, 46.16.705, 46.16.715, 46.16.725, 46.16.690, 46.16.735, 46.16.745, 46.16.755, 46.16.765, 46.16.775, 46.16.301, 46.16.319, 46.16.324, 46.09.110, 46.10.075, 46.16.685, 88.02.010, 88.02.035, 88.02.055, 88.02.110, 88.02.118, 88.02.200, 88.02.070, 88.02.075, 88.02.120, 88.02.180, 88.02.020, 88.02.030, 88.02.050, 88.02.052, 88.02.250, 88.02.260, 88.02.040, 88.02.045, 88.02.053, 88.02.023, 88.02.060, 88.02.078, 88.02.112, 88.02.115, 88.02.125, 88.02.184, 88.02.188, 88.02.189, 88.02.210, 88.02.220, 88.02.230, and 46.16.125; decodifying RCW 46.16.450; repealing RCW 46.09.085, 46.10.080, 46.12.005, 46.12.020, 46.12.040, 46.12.042, 46.12.045, 46.12.055, 46.12.060, 46.12.075, 46.12.095, 46.12.105, 46.12.200, 46.12.215, 46.12.220, 46.12.230, 46.12.240, 46.12.260, 46.12.270, 46.12.450, 46.12.500, 46.12.510, 46.16.0105, 46.16.016, 46.16.017, 46.16.023, 46.16.035, 46.16.0621, 46.16.063, 46.16.071, 46.16.079, 46.16.085, 46.16.088, 46.16.111, 46.16.121, 46.16.135, 46.16.150, 46.16.200, 46.16.220, 46.16.230, 46.16.233, 46.16.235, 46.16.237, 46.16.240, 46.16.270, 46.16.280, 46.16.290, 46.16.295, 46.16.305, 46.16.307, 46.16.30901, 46.16.30902, 46.16.30903, 46.16.30904, 46.16.30905, 46.16.30906, 46.16.30907, 46.16.30908, 46.16.30909, 46.16.30910, 46.16.30911, 46.16.30912, 46.16.30913, 46.16.30914, 46.16.30915, 46.16.30916, 46.16.30917, 46.16.30918, 46.16.30919, 46.16.30920, 46.16.30921, 46.16.30923, 46.16.30924, 46.16.30925, 46.16.30926, 46.16.30927, 46.16.30928, 46.16.30929, 46.16.313, 46.16.316, 46.16.333, 46.16.335, 46.16.340, 46.16.350, 46.16.371, 46.16.374, 46.16.376, 46.16.381, 46.16.385, 46.16.470, 46.16.480, 46.16.490, 46.16.505, 46.16.560, 46.16.565, 46.16.570, 46.16.575, 46.16.580, 46.16.585, 46.16.590, 46.16.595, 46.16.600, 46.16.601, 46.16.605,

46.16.606, 46.16.630, 46.16.640, 46.16.670, 46.16.680, 46.17.010, 46.17.020, 88.02.025, 88.02.028, 88.02.090, 88.02.100, 88.02.130, 88.02.140, 88.02.150, 88.02.160, 88.02.170, 88.02.190, 88.02.235, 88.02.270, 46.04.144, 46.32.090, 46.88.010, 59.21.055, 59.22.080, 59.22.085, 64.44.045, and 73.04.110; prescribing penalties; providing effective dates; and providing an expiration date.

Referred to Committee on Transportation.

SB 6380 by Senators Haugen, Jacobsen, Ranker and Swecker

AN ACT Relating to the purchase of wetland mitigation bank credits by the department of transportation; and amending RCW 47.01.305.

Referred to Committee on Transportation.

SB 6381 by Senators Haugen and Marr

AN ACT Relating to transportation funding and appropriations; amending RCW 46.68.290, 36.79.020, 47.12.340, 46.68.320, and 43.19.642; amending 2009 c 470 Å§ 101, 102, 103, 104, 106, 107, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 222, 223, 224, 225, 302, 303, 304, 306, 307, 308, 309, 310, 311, 401, 402, 403, 404, 405, 406, 407, 503, and 603 (uncodified); repealing 2009 c 470 Å§ 501 and 502 (uncodified); making appropriations and authorizing capital improvements; and declaring an emergency.

Referred to Committee on Transportation.

SB 6382 by Senators Prentice and Tom

AN ACT Relating to reducing the cost of state government operations by restricting compensation; amending RCW 41.06.500, 43.03.030, 43.03.040, and 41.60.150; reenacting and amending RCW 41.06.070 and 41.06.133; creating a new section; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 6383 by Senators Morton, Kastama, Oemig and Roach

AN ACT Relating to creating the office of open records; amending RCW 34.05.030; reenacting and amending RCW 42.56.550; adding new sections to chapter 42.56 RCW; repealing RCW 42.56.530; and providing an effective date.

Referred to Committee on Government Operations & Elections.

SB 6384 by Senators Berkey and Schoesler

AN ACT Relating to conforming certain manufactured/mobile home dispute resolution program definitions with certain manufactured/mobile home landlord-tenant act definitions; and amending RCW 59.30.020.

Referred to Committee on Financial Institutions, Housing & Insurance.

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SB 6385 by Senators Berkey and Schoesler  
 AN ACT Relating to developing certification for manufactured housing community managers; adding a new chapter to Title 59 RCW; prescribing penalties; and providing an effective date.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 6386 by Senators Hatfield and Parlette  
 AN ACT Relating to disposal of dredged riverbed materials from the Mount St. Helen's eruption; amending RCW 79.140.210; and creating a new section.

Referred to Committee on Natural Resources, Ocean & Recreation.

SB 6387 by Senator Kohl-Welles  
 AN ACT Relating to employees of the public employment relations commission in the classification of labor relations adjudicator- mediator; amending RCW 41.58.015; and reenacting and amending RCW 41.06.070.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6388 by Senators Regala, Delvin, Kline, Kastama, Shin and McAuliffe  
 AN ACT Relating to providing a property tax exemption for property held under lease, sublease, or lease-purchase by a nonprofit organization that provides job training, placement, or preemployment services; adding a new section to chapter 84.36 RCW; and providing an effective date.

Referred to Committee on Economic Development, Trade & Innovation.

SB 6389 by Senators Brandland, Kline, Hargrove and Regala  
 AN ACT Relating to membership and rules of procedure for the criminal justice training commission and related boards; and amending RCW 43.101.060 and 43.101.315.

Referred to Committee on Judiciary.

SB 6390 by Senators Kline, Brandland, Hargrove, Regala and Kohl-Welles  
 AN ACT Relating to background investigations for peace officers and reserve officers; and amending RCW 43.101.080, 43.101.095, and 43.101.105.

Referred to Committee on Judiciary.

SB 6391 by Senators Keiser, King, Kohl-Welles, Holmquist, Kline, Honeyford and Shin  
 AN ACT Relating to franchise agreements between new motor vehicle dealers and manufacturers; amending RCW

46.96.030, 46.96.070, 46.96.090, 46.96.105, 46.96.110, 46.96.185, and 46.96.200; and adding new sections to chapter 46.96 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6392 by Senators Tom, Swecker, Oemig, Holmquist, Jacobsen, Haugen and Marr  
 AN ACT Relating to the use of revenue generated from tolling the state route number 520 corridor; and amending RCW 47.56.870 and 47.56.875.

Referred to Committee on Transportation.

SB 6393 by Senators Hewitt, Kohl-Welles and Shin  
 AN ACT Relating to modifying distributions of funds by the horse racing commission to nonprofit race meets; and amending RCW 67.16.105.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6394 by Senator Jacobsen  
 AN ACT Relating to the right to control the disposition of human remains; and amending RCW 68.50.160.

Referred to Committee on Judiciary.

SB 6395 by Senators Kline, Kauffman and Kohl-Welles  
 AN ACT Relating to lawsuits aimed at chilling the valid exercise of the constitutional rights of speech and petition; adding a new section to chapter 4.24 RCW; creating new sections; and prescribing penalties.

Referred to Committee on Judiciary.

SB 6396 by Senators Kline, Fairley, Kohl-Welles and McDermott  
 AN ACT Relating to banning the sale of assault weapons; amending RCW 9.41.010; reenacting and amending RCW 9.94A.515; adding a new section to chapter 9.41 RCW; and prescribing penalties.

Referred to Committee on Judiciary.

SB 6397 by Senators Kline, Pflug, Oemig, McDermott, Eide, Kauffman, Shin and McAuliffe  
 AN ACT Relating to viewing sexually explicit depictions of minors on the internet; amending RCW 9.68A.011, 9.68A.110, 9.68A.070, and 9.94A.030; reenacting and amending RCW 9.94A.515; creating a new section; and prescribing penalties.

Referred to Committee on Judiciary.

SB 6398 by Senators Kline, McDermott, Keiser, Hobbs, Murray, Jacobsen and Kohl-Welles

THIRD DAY, JANUARY 13, 2010

2010 REGULAR SESSION

AN ACT Relating to the definition of threat; and amending RCW 9A.36.080.

SB 6405 by Senators Berkey, Benton and Franklin

Referred to Committee on Judiciary.

AN ACT Relating to escrow agents; amending RCW 18.44.011, 18.44.021, 18.44.031, 18.44.091, 18.44.121, 18.44.201, 18.44.301, 18.44.195, and 18.44.430; and adding new sections to chapter 18.44 RCW.

SB 6399 by Senator Regala

AN ACT Relating to the calculation of child support; amending RCW 26.19.001, 26.19.011, 26.19.020, 26.19.035, 26.19.065, 26.19.071, 26.19.075, and 26.19.080; and adding a new section to chapter 26.19 RCW.

Referred to Committee on Financial Institutions, Housing & Insurance.

Referred to Committee on Human Services & Corrections.

SB 6406 by Senators Franklin, Benton, Hobbs, McDermott and Berkey

SB 6400 by Senator Keiser

AN ACT Relating to payment for emergency services rendered by nonparticipating providers in hospitals; amending RCW 48.43.093; reenacting and amending RCW 48.43.005; adding a new section to chapter 41.05 RCW; adding a new section to chapter 74.09 RCW; and creating a new section.

AN ACT Relating to licensing residential mortgage loan servicers through the national mortgage licensing service and clarifying the existing authority of the department of financial institutions to regulate residential mortgage loan modification services under the consumer loan act and mortgage broker practices act; amending RCW 31.04.035, 31.04.045, 31.04.055, 31.04.085, 31.04.093, 31.04.165, 31.04.277, 19.144.080, 19.146.010, 19.146.210, and 19.146.310; reenacting and amending RCW 31.04.015; adding new sections to chapter 31.04 RCW; adding new sections to chapter 19.146 RCW; repealing RCW 31.04.2211; and providing an effective date.

Referred to Committee on Health & Long-Term Care.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 6401 by Senator Brandland

AN ACT Relating to an alternative process for selecting an electrical contractor or a mechanical contractor, or both, for general contractor/construction manager projects; and adding a new section to chapter 39.10 RCW.

SB 6407 by Senators Eide, Brandland, Hobbs, Kline, Shin, Kilmer, Parlette and Marr

Referred to Committee on Government Operations & Elections.

AN ACT Relating to duty-related death benefits for public safety employees; amending RCW 41.26.048, 51.32.050, 28B.15.380, 28B.15.520, and 43.43.285; reenacting and amending RCW 41.26.510 and 43.43.295; and creating new sections.

SB 6402 by Senator Sheldon

AN ACT Relating to the consolidation of permit exempt wells; and amending RCW 90.44.105.

Referred to Committee on Ways & Means.

Referred to Committee on Environment, Water & Energy.

SB 6408 by Senators Fairley, Honeyford and Haugen

SB 6403 by Senators Kauffman, McAuliffe, Hargrove, Hobbs, Regala, Oemig, McDermott and Shin

AN ACT Relating to accountability and support for vulnerable students and dropouts, including prevention, intervention, and reengagement; amending RCW 28A.175.075, 28A.290.010, and 28A.655.210; adding new sections to chapter 28A.175 RCW; and creating new sections.

AN ACT Relating to remedies for actions under the public records act; reenacting and amending RCW 42.56.550; and prescribing penalties.

Referred to Committee on Government Operations & Elections.

Referred to Committee on Early Learning & K-12 Education.

SB 6409 by Senators Kastama, Rockefeller, Shin and Kohl-Welles

SB 6404 by Senators Swecker, Hobbs, Hatfield, McCaslin, Sheldon and Schoesler

AN ACT Relating to vehicle registration fees collected by subagents under RCW 46.16.0621 and 46.16.070; amending RCW 46.16.070, 46.01.140, 46.17.010, 46.68.035, and 46.68.080; reenacting and amending RCW 46.16.0621; adding a new section to chapter 46.68 RCW; and creating new sections.

AN ACT Relating to creating the Washington investment in excellence account; reenacting and amending RCW 67.70.240; adding a new section to chapter 28B.76 RCW; and creating a new section.

Referred to Committee on Higher Education & Workforce Development.

Referred to Committee on Transportation.

SB 6410 by Senators Kastama, Oemig and Berkey

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2010 REGULAR SESSION

AN ACT Relating to the amount of a fine issued for an automated traffic safety camera infraction; and amending RCW 46.63.170.

Financial Institutions, Housing & Insurance – Senators Berkey, Hobbs, Franklin, McDermott, Benton, Parlette and Schoesler

Referred to Committee on Transportation.

Government Operations & Elections – Senators Fairley, Oemig, McDermott, Pridemore, Roach, Benton and Swecker

SB 6411 by Senators Kastama and Oemig

Health & Long-Term Care – Senators Keiser, Franklin, Fairley, Marr, Murray, Pflug, Becker and Parlette

AN ACT Relating to requiring the traffic safety commission to submit a report on certain revenues generated by public and private entities through use of automated traffic safety cameras; and amending RCW 46.63.170.

Higher Education & Workforce Development – Senators Kilmer, Kastama, Jacobsen, McAuliffe, Shin, Tom, Becker, Hewitt, Pflug and Stevens

Referred to Committee on Transportation.

Human Services & Corrections – Senators Hargrove, Regala, Kauffman, McAuliffe, Stevens, Brandland and Carrell

MOTION

Judiciary – Senators Kline, Regala, Gordon, Hargrove, Kohl-Welles, McCaslin, Carrell and Roach

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Senate Bill No. 6401 which was referred to the Committee on Government Operations & Elections.

Labor, Commerce & Consumer Protection – Senators Kohl-Welles, Keiser, Franklin, Kline, Holmquist, Honeyford and King

MOTION

Natural Resources, Ocean & Recreation – Senators Jacobsen, Ranker, Fraser, Hargrove, Hatfield, Morton, Stevens and Swecker

On motion of Senator Eide, the rules were suspended and the following measures under consideration by the Committee on Rules: Senate Bill No. 5086, Senate Bill No. 5411, Senate Bill No. 5621, and Senate Bill No. 6067 were removed from the Committee's "X file" and placed on the Committee's White Sheet on 2nd Reading; the following measures were under consideration by the Committee on Rules: Senate Bill No. 5516, Senate Bill No. 5672, and Senate Joint Resolution No. 8208 were removed from the Committee's "X file" and placed on the Committee's Green Sheet on 2nd Reading; Senate Bill No. 5297 under consideration by the Committee on Rules was moved from 3rd Reading and placed on 2nd Reading on the Committee's Green Sheet; and the following measures under consideration by the Committee on Rules: Engrossed Senate Bill No. 5200, Senate Bill No. 5218, and Substitute Senate Bill No. 5219, were removed from the Committee's Green Sheet and placed in the Committee's "X file."

Rules – Senators Franklin, Brown, Eide, Fraser, Haugen, Kauffman, Keiser, Kohl-Welles, Marr, Murray, Pridemore, Regala, Hewitt, King, Parlette, Schoesler, Stevens and Zarelli

Transportation – Senators Haugen, Marr, Berkey, Eide, Hatfield, Jacobsen, Kastama, Kauffman, Kilmer, Ranker, Swecker, Becker, Benton, Delvin, King and Sheldon

Ways & Means – Senators Prentice, Fraser, Tom, Fairley, Hobbs, Keiser, Kline, Kohl-Welles, McDermott, Murray, Oemig, Pridemore, Regala, Rockefeller, Zarelli, Brandland, Carrell, Hewitt, Honeyford, Parlette, Pflug and Schoesler

MOTION

On motion of Senator Eide, the appointments were confirmed.

STANDING COMMITTEE ASSIGNMENTS

MOTION

The President announced the following 2010 Standing Committee Assignments.

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

PROPOSED 2010 STANDING COMMITTEE ASSIGNMENTS

MESSAGE FROM THE GOVERNOR GUBERNATORIAL APPOINTMENTS

Agriculture & Rural Economic Development - Senators Hatfield, Ranker, Haugen, Jacobsen, Shin, Schoesler, Becker and Morton

December 24, 2009  
TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Early Learning & K-12 Education – Senators McAuliffe, Kauffman, Oemig, Hobbs, Gordon, McDermott, Tom, King, Brandland, Holmquist and Roach

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

Economic Development, Trade & Innovation – Senators Kastama, Shin, Eide, Kilmer, Zarelli, Delvin and McCaslin

DAN DIXON, appointed November 5, 2009, for the term ending September 30, 2012, as Member, Board of Trustees, Central Washington University.

Environment, Water & Energy – Senators Rockefeller, Pridemore, Fraser, Oemig, Marr, Ranker, Sheldon, Honeyford, Delvin, Holmquist and Morton

Sincerely,  
CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

THIRD DAY, JANUARY 13, 2010  
TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

VANESSA R. GASTON, appointed September 14, 2009, for the term ending June 17, 2014, as Member of the Human Rights Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Judiciary.

December 21, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

LYNETTE D. JONES, appointed February 27, 2009, for the term ending September 30, 2012, as Member, Board of Trustees, Technical College District #26 (Lake Washington).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

January 7, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

JEFF VINCENT, reappointed January 13, 2010, for the term ending January 12, 2014, as Member of the State Board of Education.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Early Learning & K-12 Education.

#### MOTION

On motion of Senator Eide, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Devanni Partridge, the 2009 Miss Washington, who was seated at the rostrum.

With permission of the Senate, business was suspended to allow Miss Washington to address the Senate.

#### REMARKS BY MS. DEVANNI PARTRIDGE

Devanni Partridge: "Thank you. I am so honored to be here and to have the opportunity to just express my thanks and let you all know how proud I am to be Miss Washington. I fly out next Wednesday to Las Vegas to compete in the Miss America pageant and I can't think of a better state to go and represent. I'm hoping to become the first Miss Washington in the eighty-eight year history to wear the Miss America crown. That's my dream, I would love bring that back to Washington and if you want to tune in and watch that happen, it will be on January 30<sup>th</sup>. I would love to have you tune in and watch that and be a part of this really

exciting adventure that I'm on. Thank you so much for having me and for what you do in the state of Washington."

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced John Partridge, the father of Devanni and her cousin Diane who were seated in the gallery.

#### MOTION

At 10:14 a.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Thursday, January 14, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**FOURTH DAY**

**NOON SESSION**

Senate Chamber, Olympia, Thursday, January 14, 2010

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

**MOTION**

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

**MOTION**

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

**REPORTS OF STANDING COMMITTEES**

January 13, 2010

**SB 5786** Prime Sponsor, Senator Fraser: Authorizing the creation of cultural access authorities. Reported by Committee on Ways & Means

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hobbs; Honeyford; Keiser; Kohl-Welles; McDermott; Oemig; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Labor, Commerce & Consumer Protection.

January 13, 2010

**SB 6156** Prime Sponsor, Senator Zarelli: Providing economically responsible solutions for higher education funding and access. Reported by Committee on Ways & Means

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hobbs; Honeyford; Keiser; Kohl-Welles; McDermott; Oemig; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Higher Education & Workforce Development.

**MOTION**

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

**MOTION**

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

**INTRODUCTION AND FIRST READING**

**SB 6412** by Senator Hobbs

AN ACT Relating to medical malpractice closed claim reporting; amending RCW 7.70.140, 48.140.020, 48.140.030, and 48.140.040; and repealing RCW 48.140.070.

Referred to Committee on Financial Institutions, Housing & Insurance.

**SB 6413** by Senators Fairley, Swecker, Becker, Berkey, Kohl-Welles, Kilmer, Tom and Shin

AN ACT Relating to purchasing authority of institutions of higher education with group purchasing organizations; and amending RCW 28B.10.029.

Referred to Committee on Higher Education & Workforce Development.

**SB 6414** by Senator Regala

AN ACT Relating to sex offender registration concerning consistency in registration deadlines, criteria for which a court may relieve a person of the duty to register, the class of felony for a failure to register, when a failure to register will be considered a sex offense, and community custody terms for a failure to register; amending RCW 9A.44.130, 9A.44.140, 9.94A.030, and 9.94A.701; adding new sections to chapter 9A.44 RCW; and prescribing penalties.

Referred to Committee on Human Services & Corrections.

**SB 6415** by Senators King, Honeyford, Kohl-Welles and Kline

AN ACT Relating to increasing the number of superior court judges in Yakima county; amending RCW 2.08.063; and creating a new section.

Referred to Committee on Judiciary.

**SB 6416** by Senators Roach, Hargrove and Stevens

AN ACT Relating to relatives in dependency proceedings; adding a new section to chapter 13.34 RCW; and creating a new section.

Referred to Committee on Human Services & Corrections.

**SB 6417** by Senators Roach, Hargrove and Stevens

AN ACT Relating to the placement of children with relatives; amending RCW 13.34.060; and reenacting and amending RCW 13.34.130.

Referred to Committee on Human Services & Corrections.

**SB 6418** by Senators Marr and Brown

AN ACT Relating to cities and towns annexed to fire protection districts; and amending RCW 52.02.020 and 52.04.061.

FOURTH DAY, JANUARY 14, 2010

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Referred to Committee on Government Operations & Elections.

AN ACT Relating to local excise tax authorities for counties and cities; and amending RCW 82.14.450, 82.14.450, 82.14.460, 82.14.460, and 82.14.340.

SB 6419 by Senator Kastama

AN ACT Relating to juvenile offender sentencing standards for vehicular homicide; reenacting and amending RCW 13.40.0357; and prescribing penalties.

Referred to Committee on Government Operations & Elections.

Referred to Committee on Human Services & Corrections.

SB 6425 by Senator Fairley

SB 6420 by Senators Kastama, Berkey, Brandland, Hobbs, Shin, Carrell and Regala

AN ACT Relating to authorizing various local transportation revenue options in order to cover certain transportation project cost overruns; amending RCW 82.14.430, 82.80.100, 82.80.010, and 81.100.030; reenacting and amending RCW 81.100.060; adding a new section to chapter 82.80 RCW; and adding a new section to chapter 47.01 RCW.

AN ACT Relating to transferring the board of accountancy to the department of licensing; amending RCW 18.04.015, 18.04.025, 18.04.035, 18.04.045, 18.04.055, 18.04.065, 18.04.105, 18.04.180, 18.04.183, 18.04.185, 18.04.195, 18.04.205, 18.04.215, 18.04.295, 18.04.335, 18.04.345, 18.04.350, 18.04.405, 18.04.430, and 43.03.028; reenacting and amending RCW 18.235.020; adding a new section to chapter 18.04 RCW; adding a new section to chapter 18.235 RCW; creating a new section; and providing an effective date.

Referred to Committee on Transportation.

Referred to Committee on Government Operations & Elections.

SB 6421 by Senator Rockefeller

AN ACT Relating to Washington state's energy strategy; amending RCW 43.21F.010 and 43.21F.090; adding a new section to chapter 43.21F RCW; and repealing RCW 43.21F.015 and 43.21F.055.

SB 6426 by Senators Prentice and Tom

Referred to Committee on Environment, Water & Energy.

AN ACT Relating to eliminating boards and commissions; amending RCW 28C.18.050, 28C.18.090, 43.03.027, 43.03.028, 34.12.100, 42.17.370, 43.03.040, 70.94.6528, 43.63A.760, 18.250.010, 18.250.020, 18.250.060, 70.47.040, 39.10.210, 39.10.230, 39.10.250, 39.10.270, 39.10.280, 39.10.290, 39.10.320, 39.10.350, 39.10.430, 39.10.460, 43.131.408, 39.04.350, 18.205.020, 18.205.060, 43.121.100, 43.121.175, 43.121.180, 28A.300.520, 43.215.065, 72.09.495, 74.04.800, 74.13.031, 74.13.031, 74.13.031, 74.13.031, 74.15.050, 74.15.060, 41.04.033, 41.04.0331, 41.04.0332, 72.78.030, 43.101.380, 43.105.052, 82.58.020, 46.20.100, 46.82.280, 46.82.330, 46.82.420, 72.23.025, 70.168.030, 70.168.050, 70.168.060, 70.168.130, 18.76.050, 18.73.030, 18.73.101, 41.50.088, 41.50.770, 41.50.780, 41.34.020, 41.34.040, 41.34.070, 41.34.130, 41.34.140, 43.33A.135, 36.70C.030, 18.44.011, 18.44.195, 18.44.221, 18.44.251, 15.76.110, 15.76.150, 13.40.462, 43.70.555, 74.14A.060, 74.14C.050, 70.112.010, 70.112.020, 43.43.934, 43.43.962, 38.52.530, 49.26.120, 48.62.061, 48.62.161, 28B.76.280, 18.280.010, 18.280.030, 18.280.050, 18.280.060, 18.280.070, 18.280.080, 18.280.110, 18.280.120, 18.280.130, 43.330.090, 2.56.031, 13.40.510, 43.105.041, 43.105.805, 43.105.820, 18.225.010, 18.225.040, 16.57.353, 18.50.045, 18.50.060, 18.50.105, 77.12.670, 77.12.690, 77.08.045, 19.146.225, 46.20.520, 18.36A.020, 18.36A.080, 18.36A.110, 46.09.020, 90.56.005, 90.56.060, 43.30.820, 18.210.010, 18.210.050, 18.210.060, 70.118.110, 18.200.010, 18.200.050, 18.200.070, 70.104.090, 15.92.070, 17.21.020, 80.24.060, 81.24.090, 43.20A.890, 18.140.010, 18.140.030, 18.140.160, 18.140.170, 77.95.100, 77.95.180, 77.95.190, 17.10.010, 17.10.040, 17.10.070, 17.10.074, 17.10.080, 17.10.090, 17.10.100, 17.10.130, 17.10.160, 17.10.201, 17.10.210, 17.10.235, 17.10.250, 17.10.260, 17.10.350, 17.15.020, 17.26.006, 17.26.015, 77.60.130, 79A.25.320, 79A.25.340, 70.95.030, 43.21A.520, 70.105.010, 70.105.160, 46.16.316, 46.16.715, 46.16.725, 46.16.745, 46.16.755, 46.16.775, 46.16.30901, 46.16.30903, 46.16.30905, 46.16.30907, 46.16.30909, 46.16.30911, 46.16.30913, 46.16.30914, 46.16.30916, 46.16.30918, 46.16.30920, 46.16.30922,

SB 6422 by Senators Fairley and Kline

AN ACT Relating to environmental and land use hearings boards; amending RCW 43.21B.001, 43.21B.010, 43.21B.010, 43.21B.180, 43.21B.230, 43.21B.320, 36.70A.270, 36.70A.290, 70.95.094, 76.06.180, 76.09.050, 76.09.080, 76.09.090, 76.09.170, 76.09.310, 77.55.011, 77.55.021, 77.55.141, 77.55.181, 77.55.241, 77.55.291, 78.44.270, 78.44.380, 79.100.120, 84.33.0775, 90.58.140, 90.58.180, 90.58.190, 90.58.210, and 90.58.560; reenacting and amending RCW 43.21B.005, 43.21B.005, 43.21B.110, 43.21B.110, 43.21B.300, 43.21B.310, and 76.09.020; adding a new section to chapter 43.21B RCW; adding new sections to chapter 36.70A RCW; adding a new section to chapter 76.09 RCW; creating new sections; repealing RCW 43.21B.190, 76.09.210, 76.09.220, 76.09.230, 77.55.301, and 77.55.311; providing effective dates; and providing expiration dates.

Referred to Committee on Government Operations & Elections.

SB 6423 by Senators Fairley, Hargrove and Kline

AN ACT Relating to residential habilitation services; and amending RCW 71A.20.020.

Referred to Committee on Health & Long-Term Care.

SB 6424 by Senators Regala and Fairley

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46.16.30924, 46.16.30926, 46.16.30928, 43.370.020, 43.370.030, 46.01.325, 46.01.140, 43.60A.170, 43.131.406, 43.60A.010, 70.119A.180, 90.86.030, 18.104.040, 18.104.043, 18.104.049, 18.104.100, 18.104.200, 28C.04.390, 28C.04.420, and 43.15.020; amending 2005 c 158 s 3 (uncodified); reenacting and amending RCW 74.15.030, 18.71.205, 43.21B.005, 43.105.020, and 46.16.233; adding new sections to chapter 43.215 RCW; creating a new section; recodifying RCW 43.121.170, 43.121.175, and 43.121.180; repealing RCW 28B.50.254, 18.250.030, 39.10.220, 39.10.240, 39.10.260, 43.34.080, 18.205.080, 43.121.010, 43.121.015, 43.121.020, 43.121.030, 43.121.040, 43.121.050, 43.121.060, 43.121.070, 43.121.080, 43.121.110, 43.121.120, 43.121.130, 43.121.140, 43.121.150, 43.121.160, 43.121.910, 43.63A.068, 70.96A.070, 43.101.310, 43.101.315, 43.101.320, 43.101.325, 43.101.330, 43.101.335, 43.101.340, 43.101.345, 43.105.055, 46.82.300, 70.168.020, 18.73.040, 18.73.050, 41.50.086, 43.21L.005, 43.21L.010, 43.21L.020, 43.21L.030, 43.21L.040, 43.21L.050, 43.21L.060, 43.21L.070, 43.21L.080, 43.21L.090, 43.21L.100, 43.21L.110, 43.21L.120, 43.21L.130, 43.21L.140, 43.21L.900, 43.21L.901, 18.44.500, 18.44.510, 15.76.170, 70.190.005, 70.190.010, 70.190.020, 70.190.030, 70.190.040, 70.190.050, 70.190.060, 70.190.065, 70.190.070, 70.190.075, 70.190.080, 70.190.085, 70.190.090, 70.190.100, 70.190.110, 70.190.120, 70.190.130, 70.190.150, 70.190.160, 70.190.170, 70.190.180, 70.190.190, 70.190.910, 70.190.920, 70.112.030, 70.112.040, 70.112.050, 43.43.932, 43.43.936, 79A.25.220, 70.105E.070, 70.105E.090, 48.62.051, 48.62.041, 28B.76.100, 18.280.040, 10.98.200, 10.98.210, 10.98.220, 10.98.230, 10.98.240, 43.105.800, 43.105.810, 18.225.060, 18.225.070, 16.57.015, 43.360.040, 18.50.140, 18.50.150, 77.12.680, 19.146.280, 18.36A.070, 46.09.280, 90.56.120, 90.56.130, 18.210.040, 18.210.070, 70.118.100, 18.200.060, 43.09.430, 43.09.435, 43.09.440, 43.09.445, 43.09.450, 43.09.455, 43.09.460, 17.15.040, 17.21.230, 17.21.240, 17.21.250, 17.21.260, 17.21.270, 70.104.070, 70.104.080, 81.88.140, 42.56.140, 18.140.230, 18.140.240, 18.140.250, 77.95.110, 77.95.120, 17.10.030, 70.95.040, 70.95.050, 70.95.070, 70.105.060, 46.16.705, 46.01.320, 43.60A.180, 46.38.010, 46.38.020, 46.38.030, 46.38.040, 46.38.050, 46.38.060, 46.38.070, 46.38.080, 46.38.090, 70.119A.160, 18.104.190, 46.39.010, 46.39.020, 27.34.360, 27.34.365, 27.34.370, 27.34.375, and 27.34.380; providing effective dates; and providing an expiration date.

Referred to Committee on Ways & Means.

SB 6427 by Senators Hobbs, Keiser, Pridemore and Berkey

AN ACT Relating to fees for dental services that are not covered services under dental insurance or dental health care service contracts; adding a new section to chapter 48.20 RCW; adding a new section to chapter 48.21 RCW; and adding a new section to chapter 48.44 RCW.

Referred to Committee on Health & Long-Term Care.

SB 6428 by Senators Kline, Swecker and Fairley

AN ACT Relating to personal information used to identify a person filing a complaint with an agency; and amending RCW 42.56.230.

Referred to Committee on Government Operations & Elections.

SB 6429 by Senators Brandland, Hargrove and Roach

AN ACT Relating to authorizing use of firearm noise suppression devices by on-duty law enforcement officers; and amending RCW 9.41.250.

Referred to Committee on Judiciary.

SB 6430 by Senators McDermott, Parlette and Tom

AN ACT Relating to ballot envelopes; and amending RCW 29A.40.091.

Referred to Committee on Government Operations & Elections.

SB 6431 by Senators Haugen, Swecker, Ranker, Berkey, Tom and Shin

AN ACT Relating to the use and disclosure of video camera or other recording device data on public transportation facilities; and amending RCW 47.04.240.

Referred to Committee on Transportation.

SB 6432 by Senators Kline, Regala and Kohl-Welles

AN ACT Relating to enhanced intelligence in Washington state; adding a new chapter to Title 42 RCW; and prescribing penalties.

Referred to Committee on Judiciary.

SB 6433 by Senators Honeyford, Parlette, Holmquist and Stevens

AN ACT Relating to home inspector licensing requirements; amending RCW 18.280.020; and declaring an emergency.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6434 by Senators Honeyford, Kohl-Welles and Parlette

AN ACT Relating to requiring the home inspector advisory licensing board to provide for classroom instruction in both eastern and western Washington; and amending RCW 18.280.060.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6435 by Senator Honeyford

AN ACT Relating to electric vehicle infrastructure; and amending RCW 19.27.540.

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Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6436 by Senators Honeyford and Stevens

AN ACT Relating to limitations on withdrawing various waters from additional appropriations; and reenacting and amending RCW 90.54.050.

Referred to Committee on Environment, Water & Energy.

SB 6437 by Senator Honeyford

AN ACT Relating to renewable energy; and amending RCW 19.285.030.

Referred to Committee on Environment, Water & Energy.

SB 6438 by Senator Honeyford

AN ACT Relating to the prevailing rate of wage on public works; and amending RCW 39.12.010.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6439 by Senators Honeyford and Shin

AN ACT Relating to outdoor wood-fired boilers; amending RCW 70.94.453 and 70.94.457; adding new sections to chapter 70.94 RCW; creating a new section; and prescribing penalties.

Referred to Committee on Environment, Water & Energy.

SB 6440 by Senator Honeyford

AN ACT Relating to adding fire protection services to the seller disclosure form; and reenacting and amending RCW 64.06.015 and 64.06.020.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6441 by Senator Morton

AN ACT Relating to the energy independence act; amending RCW 19.285.030 and 19.285.040; and creating a new section.

Referred to Committee on Environment, Water & Energy.

SB 6442 by Senators Berkey, Franklin and Hobbs

AN ACT Relating to eliminating the prevent or reduce owner-occupied foreclosure program account; creating a new section; repealing RCW 43.320.160, 43.320.165, and 43.320.170; and repealing 2009 c 386 s 5 (uncodified).

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 6443 by Senators Keiser, McDermott, Fairley, Kohl-Welles, Fraser and Tom

AN ACT Relating to the taxation of cigarettes and other tobacco products; amending RCW 82.24.020, 82.24.026, 82.26.010, and 82.26.020; adding a new section to chapter 82.26 RCW; creating a new section; and repealing RCW 82.24.027 and 82.24.028.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6444 by Senators Prentice and Tom

AN ACT Relating to fiscal matters; amending RCW 15.76.115, 28A.300.380, 28A.510.250, 28B.12.040, 28B.12.050, 28B.12.055, 43.20A.725, 43.60A.185, 43.131.406, 43.79.460, 43.79.465, 43.155.050, 43.320.110, 43.334.077, 67.70.044, 67.70.230, 70.93.180, 70.146.100, 74.31.060, 79.105.150, 79A.05.351, 80.01.080, 82.14.495, and 83.100.230; amending 2009 c 564 ss 101, 102, 103, 104, 105, 106, 107, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 139, 140, 141, 142, 143, 144, 145, 147, 148, 149, 150, 151, 152, 153, 154, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 401, 402, 501, 502, 503, 504, 505, 506, 507, 509, 510, 511, 512, 513, 514, 515, 516, 518, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 701, 703, 704, 708, 710, 712, 717, 801, 805, and 914 (uncodified); reenacting and amending RCW 28B.105.110 and 70.105D.070; adding new sections to 2009 c 564 (uncodified); repealing 2009 c 564 s 720 (uncodified); making appropriations; providing an expiration date; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 6445 by Senator Prentice

AN ACT Relating to allowing impact fees to be used for all fire protection facilities; and amending RCW 82.02.090.

Referred to Committee on Government Operations & Elections.

SB 6446 by Senator Kohl-Welles

AN ACT Relating to the period of time during which a licensed overnight youth shelter, or an organization whose stated mission is to provide services to homeless or runaway youth and their families, must provide notification to parents of runaway youth; amending RCW 13.32A.082; and creating a new section.

Referred to Committee on Human Services & Corrections.

SB 6447 by Senators Kohl-Welles, Delvin and McCaslin

AN ACT Relating to exempting pipe tobacco from restrictions on shipping tobacco to consumers in Washington; and amending RCW 70.155.010.

Referred to Committee on Labor, Commerce & Consumer Protection.

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SB 6448 by Senator Jacobsen

AN ACT Relating to providing the department of fish and wildlife authority to improve permitting of hydraulic projects; amending RCW 77.55.011, 77.55.021, 77.15.300, 77.55.291, 77.55.081, and 77.55.091; adding new sections to chapter 77.55 RCW; creating a new section; prescribing penalties; and providing an expiration date.

Referred to Committee on Natural Resources, Ocean & Recreation.

SB 6449 by Senators McDermott, Fairley, Keiser, Kohl-Welles and Kline

AN ACT Relating to signature gatherers; amending RCW 42.17.020, 29A.72.110, 29A.72.120, 29A.72.130, and 29A.72.170; adding new sections to chapter 42.17 RCW; adding new sections to chapter 29A.72 RCW; creating a new section; prescribing penalties; and providing an effective date.

Referred to Committee on Government Operations & Elections.

SB 6450 by Senators Eide, Kauffman and Shin

AN ACT Relating to requiring the department of licensing to establish continuing education requirements for court reporters; and amending RCW 18.145.050 and 18.145.100.

Referred to Committee on Judiciary.

SB 6451 by Senators Kauffman and Kohl-Welles

AN ACT Relating to installation of residential fire sprinkler systems; amending RCW 18.160.050, 82.02.100, and 70.119A.180; adding a new section to chapter 80.28 RCW; and creating a new section.

Referred to Committee on Government Operations & Elections.

SB 6452 by Senators Tom, Kohl-Welles, Kline, McDermott, Marr, Keiser, Prentice, Ranker, Eide and Pridemore

AN ACT Relating to limited service pregnancy centers; and adding a new chapter to Title 70 RCW.

Referred to Committee on Health & Long-Term Care.

SB 6453 by Senators Hobbs, Delvin, Shin and Roach

AN ACT Relating to shared leave for members of the law enforcement officers' and firefighters' retirement system, plan 2; and adding a new section to chapter 41.26 RCW.

Referred to Committee on Ways & Means.

SB 6454 by Senators Brandland and Stevens

AN ACT Relating to defining child advocacy centers for the multidisciplinary investigation of child abuse and

implementation of county protocols; and amending RCW 26.44.020, 26.44.180, and 26.44.185.

Referred to Committee on Human Services & Corrections.

SB 6455 by Senators Haugen and Swecker

AN ACT Relating to liability for damage to property owned by the department of transportation; and adding a new section to chapter 47.04 RCW.

Referred to Committee on Transportation.

SB 6456 by Senators Kline, Keiser, Regala, Kohl-Welles, Franklin and McDermott

AN ACT Relating to improving administration of wage complaints by defining the limitations period for administrative wage claims through the department of labor and industries, tolling the civil statute of limitations, increasing minimum penalties for violators, creating and affecting waiver of penalties for repeat violators and those with a business practice of disregard for wage law, and providing for wage law violation liability for successor businesses; amending RCW 49.48.082, 49.48.083, 49.48.084, and 49.48.086; adding a new section to chapter 49.48 RCW; and prescribing penalties.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6457 by Senators Delvin, Kastama, Honeyford, Becker, Schoesler, Parlette, Roach, Holmquist and Stevens

AN ACT Relating to excise tax relief for nuclear fuel assemblies; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; and providing an effective date.

Referred to Committee on Ways & Means.

SB 6458 by Senators Ranker, Honeyford, Rockefeller, Delvin, Marr, Hargrove, Gordon, Shin and Kline

AN ACT Relating to minimum renewable fuel content requirements; amending RCW 19.112.020, 19.112.060, 19.112.110, 19.112.160, and 19.112.900; adding a new section to chapter 19.112 RCW; adding a new section to chapter 42.56 RCW; repealing RCW 19.112.120, 19.112.130, 19.112.140, 19.112.150, 19.112.170, 19.112.180, and 43.19.643; and prescribing penalties.

Referred to Committee on Environment, Water & Energy.

SB 6459 by Senators Hobbs, Berkey, Marr and Schoesler

AN ACT Relating to the inspection of rental properties; amending RCW 59.18.030 and 59.18.150; adding a new section to chapter 59.18 RCW; and prescribing penalties.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 6460 by Senators Marr and Fraser

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AN ACT Relating to preparation charges for condominium resale certificates; and amending RCW 64.34.425.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 6461 by Senators Honeyford, Hewitt, Schoesler, Morton, Stevens, Holmquist, King, Delvin, Roach, Becker and Swecker

AN ACT Relating to immunity from liability for civil damages for firefighters; and adding a new section to chapter 4.24 RCW.

Referred to Committee on Government Operations & Elections.

SB 6462 by Senators Honeyford, Hewitt, Schoesler, Holmquist, Stevens, Morton, Delvin, King, Roach, Becker and Swecker

AN ACT Relating to firefighter duties; and adding a new section to chapter 52.12 RCW.

Referred to Committee on Government Operations & Elections.

SB 6463 by Senators Honeyford, Holmquist, Hatfield, Morton, Hewitt, Stevens, Parlette, Delvin, Schoesler, Pflug, Becker and Swecker

AN ACT Relating to property access during forest fires; amending RCW 76.04.600, 76.04.016, and 47.48.040; adding a new section to chapter 47.48 RCW; and repealing RCW 36.28A.140 and 47.48.060.

Referred to Committee on Government Operations & Elections.

SB 6464 by Senators Swecker and Holmquist

AN ACT Relating to clarifying when a water right is relinquished; amending RCW 90.14.140, 90.03.380, and 90.03.380; reenacting and amending RCW 90.14.140; adding a new section to chapter 90.03 RCW; creating a new section; providing an effective date; and providing an expiration date.

Referred to Committee on Environment, Water & Energy.

SB 6465 by Senators Shin, Delvin, Berkey, McDermott, Rockefeller and Franklin

AN ACT Relating to commercial activity at state-owned safety rest areas; and adding a new section to chapter 47.38 RCW.

Referred to Committee on Transportation.

SB 6466 by Senators Shin, McAuliffe, Kastama, Marr, Kline, McDermott and Tom

AN ACT Relating to advertising on school buses; and adding a new section to chapter 46.61 RCW.

Referred to Committee on Early Learning & K-12 Education.

SB 6467 by Senators Shin, Kastama, Delvin, Hobbs, Berkey, Rockefeller, Marr, Franklin, Kohl-Welles, Roach and Kline

AN ACT Relating to honorary degrees for students who were ordered into internment camps; and amending RCW 28B.20.130, 28B.30.150, 28B.35.205, and 28B.50.140.

Referred to Committee on Higher Education & Workforce Development.

SB 6468 by Senators Kauffman, Rockefeller, Pridemore, Berkey and Kline

AN ACT Relating to coordinating the weatherization and structural rehabilitation of residential structures; and amending RCW 70.164.010, 70.164.030, 70.164.040, and 70.164.070.

Referred to Committee on Environment, Water & Energy.

SB 6469 by Senators Kauffman, Regala, Hargrove, Hobbs, Gordon, Keiser, McAuliffe and Kline

AN ACT Relating to filling vacancies on the racial disproportionality advisory committee; amending RCW 74.13.096; and providing an expiration date.

Referred to Committee on Human Services & Corrections.

SB 6470 by Senators Kauffman, Hargrove, Prentice, Gordon, Regala, Keiser, McAuliffe, Stevens and Kline

AN ACT Relating to the burdens of proof required in dependency matters affecting Indian children; amending RCW 13.34.190; and reenacting and amending RCW 13.34.130.

Referred to Committee on Human Services & Corrections.

SB 6471 by Senators Fraser, Rockefeller, Pridemore, Marr and Kline

AN ACT Relating to the energy facility site evaluation council; and amending RCW 80.50.020, 80.50.030, 80.50.071, and 80.50.080.

Referred to Committee on Environment, Water & Energy.

SB 6472 by Senators Stevens, Carrell, Hewitt, Holmquist, Swecker, Roach, Becker, Honeyford, Parlette, Schoesler and King

AN ACT Relating to citizenship; amending RCW 29A.08.210; adding a new section to chapter 74.04 RCW; creating new sections; and prescribing penalties.

Referred to Committee on Government Operations & Elections.

SB 6473 by Senators Stevens, Morton, Holmquist, Swecker, Becker, Pflug, Delvin, Honeyford, King, Schoesler and Hewitt

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AN ACT Relating to the right to protection; adding a new section to chapter 9.41 RCW; and creating new sections.

Referred to Committee on Judiciary.

SB 6474 by Senators Stevens, Holmquist, Morton, Hewitt, Carrell, Becker, Swecker, Delvin, Honeyford, King and Pflug

AN ACT Relating to the verification that applicants for driver's licenses, permits, and identicards are lawfully within the United States; amending RCW 46.20.031, 46.20.055, 46.20.070, 46.20.117, 46.20.181, and 46.20.207; and adding new sections to chapter 46.20 RCW.

Referred to Committee on Transportation.

SB 6475 by Senators Stevens, Morton, Hewitt, Holmquist, Swecker, Carrell, Schoesler, Delvin, Honeyford, King, Pflug, Roach and Becker

AN ACT Relating to exempting a firearm, a firearm accessory, or ammunition manufactured and retained in Washington from federal regulation under the commerce clause of the Constitution of the United States; and adding a new chapter to Title 19 RCW.

Referred to Committee on Judiciary.

SB 6476 by Senators Stevens, Hargrove, Fraser, Swecker, Delvin, Brandland, Holmquist, Becker, Parlette, Carrell, Hewitt, Schoesler, King, Roach and Kohl-Welles

AN ACT Relating to sex crimes involving minors; amending RCW 13.32A.030, 7.68.070, 13.40.070, 13.40.070, 13.40.213, 9A.88.140, 9.68A.100, 9.68A.101, and 9.68A.105; reenacting and amending RCW 9.94A.515; adding a new section to chapter 13.32A RCW; adding a new section to chapter 13.40 RCW; adding a new section to chapter 74.15 RCW; prescribing penalties; providing an effective date; and providing an expiration date.

Referred to Committee on Human Services & Corrections.

SB 6477 by Senators Stevens, Holmquist, Swecker, Carrell, Becker, Delvin and Honeyford

AN ACT Relating to express legislative authorization for any greenhouse gas or motor vehicle fuel economy program; adding new sections to chapter 70.235 RCW; and creating a new section.

Referred to Committee on Environment, Water & Energy.

SJM 8018 by Senators Stevens, Swecker, Delvin, Holmquist, Carrell, Becker, Morton, Honeyford, Schoesler, Roach and Hewitt

Claiming state sovereignty under the Tenth Amendment.

Referred to Committee on Government Operations & Elections.

SJR 8220 by Senators Stevens, Holmquist, Swecker, King, Carrell and Becker

Concerning health care services.

Referred to Committee on Health & Long-Term Care.

SJR 8221 by Senators Stevens, Hewitt, Carrell, Morton, Holmquist, Swecker, Delvin, Honeyford, Becker and Roach

Providing that all new tax increases expire no later than five years after becoming effective.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Senate Bill No. 6423 which was referred to the Committee on Health & Long-Term Care and Senate Bill No. 6455 which was referred to the Committee on Transportation.

MOTION

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

MOTION

Senator Jacobsen moved adoption of the following resolution:

SENATE RESOLUTION  
8671

By Senator Jacobsen

WHEREAS, The United States is a nation built by diverse peoples from all parts of the world and brought to our country their energy, skills, and a deep desire to build a better life; and

WHEREAS, Danish immigrants and their descendants have made a profound impact by furthering the proud democratic traditions that have defined the United States and made our country a beacon of liberty and progress to the world; and

WHEREAS, The Danish Immigrant Museum has faithfully carried out its mission to recognize and share the legacy of the Danish Immigrant experience while preserving the immigration story from Denmark and Northern Europe; and

WHEREAS, The Danish Immigrant Museum, founded in 1983, continues its campaign to better preserve and share the Danish-American experience through the use of state-of-the-art technologies, displays, and exhibits; and

WHEREAS, The Danish Immigrant Museum works cooperatively with the Danish American Archive and Library at Dana College, the Danish Immigrant Archives at Grand View University, and the Danish American Heritage Society to better preserve the Danish Immigrant experience; and

WHEREAS, Several cities in the state of Washington, notably Seattle, Bellingham, and Enumclaw have long maintained their strong Danish traditions, and preserved the proud legacy of those Danish people who first came to the Pacific Northwest over 150 years ago and whose profound impact on the

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development of our economy and progress of our social values continues today;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate does hereby acknowledge and honor the Danish Immigrant Museum; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Danish Immigrant Museum.

Senator Jacobsen spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8671.

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

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the Danish Immigrant Museum, Bruce Bro, Director of Development, Danish Immigrant Museum; Dr. John Mark Neilson, Executive Director, Danish Immigrant Museum and Professor of English, Dana College; Mark Scheleck, Mary Belorm, SCAN Design; and former Senator Harriet Spanel, President, Danish Immigrant Museum Board who were seated in the gallery.

#### PERSONAL PRIVILEGE

Senator Jacobsen: "To point out, Senator Spanel never did learn to stop volunteering. She's now President of the Danish Immigrant Museum Board. I think that's quite an honor for the Pacific Northwest and I think Harriet's going to do a great job."

#### MOTION

At 12:07 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Friday, January 15, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**FIFTH DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Friday, January 15, 2010

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Brown, Fairley, Hewitt, Kauffman, McAuliffe and Rockefeller.

The Sergeant at Arms Color Guard consisting of Pages Jake Magill and David Singleton, presented the Colors. Rabbi Zalman Heber, Director of the Chabad Jewish Center Church offered the prayer.

PERSONAL PRIVILEGE

Senator Kilmer: “Thank you Mr. President. As we heard in the prayer today and as we read in the papers since Tuesday after the tragedy that struck Haiti earlier this week with a 7.0 earthquake. Unfortunately we got horrible news this morning that one of my constituents, twenty-two year old Molly Hightower of Port Orchard had died in that tragic event. Molly was one of our state’s finest. Since June she’d been working in this impoverished country as a volunteer at an orphanage and a hospital sacrificing herself to make other people’s lives better. Mr. President, I would ask that the Senate observe a moment of silence in her honor and to stand with her family and all the families who are suffering this terrible tragedy.”

MOMENT OF SILENCE

The Senate observed a moment of silence in memory of Ms. Molly Hightower, who passed away January 12, 2010.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

January 14, 2010

SB 6194 Prime Sponsor, Senator Keiser: Simplifying medicaid payment for nursing facilities. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Becker; Marr; Murray and Parlette.

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

Passed to Committee on Ways & Means.

January 13, 2010

SB 6219 Prime Sponsor, Senator Berkey: Funding sources for time certificate of deposit investments. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin; McDermott; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

January 14, 2010

SB 6234 Prime Sponsor, Senator Swecker: Regarding the sea urchin and sea cucumber license limitation programs. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: Do pass. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Fraser; Hargrove; Hatfield and Swecker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Morton and Stevens.

Passed to Committee on Rules for second reading.

January 14, 2010

SB 6275 Prime Sponsor, Senator Jacobsen: Regarding harbor lines. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: Do pass. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Fraser; Hargrove; Hatfield; Stevens and Swecker.

Passed to Committee on Rules for second reading.

January 14, 2010

SB 6286 Prime Sponsor, Senator Kline: Concerning the liability and powers of cities and flood control zone districts. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott; Pridemore and Swecker.

Passed to Committee on Judiciary.

January 14, 2010

SB 6363 Prime Sponsor, Senator Marr: Concerning the enforcement of certain school or playground crosswalk violations. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King; Brandland; Gordon; Hobbs and McDermott.

Passed to Committee on Transportation.

MOTION

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On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

## MOTION

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

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

January 11, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

RYLAND P. DAVIS, appointed October 27, 2009, for the term ending October 1, 2013, as Member of the Life Sciences Discovery Fund Authority Board of Trustees.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Labor, Commerce & Consumer Protection.

January 14, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

SHEILA L. FOX, reappointed January 13, 2010, for the term ending January 12, 2014, as Member of the State Board of Education.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Early Learning & K-12 Education.

## MOTION

On motion of Senator Eide, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated.

## MOTION

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

## INTRODUCTION AND FIRST READING

SB 6478 by Senators Regala, Kline and Delvin

AN ACT Relating to planning for the discontinuation of discharge of vulnerable populations from state institutions into homelessness; amending RCW 72.09.270, 43.63A.305, 13.40.210, 71.05.350, and 71.24.045; adding a new section to chapter 72.09 RCW; adding a new section to chapter 43.20A RCW; and creating a new section.

Referred to Committee on Human Services & Corrections.

SB 6479 by Senators Morton, Swecker, Holmquist, Hewitt, Schoesler and Delvin

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AN ACT Relating to standing when filing a petition with a growth management hearings board; and amending RCW 36.70A.280.

SB 6480 by Senators Morton, Schoesler, Holmquist, Hewitt, Parlette, Stevens, Delvin, King, Becker and Swecker

AN ACT Relating to impact payments of a municipally owned 2 hydroelectric facility; amending RCW 35.21.420 and 35.21.425; and 3 declaring an emergency.

Referred to Committee on Government Operations & Elections.

SB 6481 by Senators Morton, Schoesler, Holmquist, Hewitt, King, Delvin and Swecker

AN ACT Relating to clarifying which local governments have jurisdiction over conversion-related forest practices; and reenacting and amending RCW 76.09.240.

Referred to Committee on Natural Resources, Ocean & Recreation.

SB 6482 by Senator Hargrove

AN ACT Relating to fire protection firms; adding a new chapter to Title 19 RCW; and prescribing penalties.

Referred to Committee on Government Operations & Elections.

SB 6483 by Senators Hargrove and Hatfield

AN ACT Relating to promoting natural wildlife management planning; adding a new section to chapter 77.12 RCW; and creating a new section.

Referred to Committee on Natural Resources, Ocean & Recreation.

SB 6484 by Senators Hewitt, Carrell, Schoesler, Sheldon, Holmquist, Morton, Stevens, King, Pflug, Becker, Swecker, Honeyford, Brandland, Delvin and Roach

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

Referred to Committee on Human Services & Corrections.

SB 6485 by Senators Marr, King, Kohl-Welles, Hewitt, Hatfield, Delvin, Hobbs and Rockefeller

AN ACT Relating to craft distilleries; and amending RCW 66.24.140, 66.24.145, 66.28.310, and 66.24.520.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6486 by Senators Murray, Becker and Shin

AN ACT Relating to vaccination of health care workers; and adding a new section to chapter 70.41 RCW.

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Referred to Committee on Health & Long-Term Care.

SB 6487 by Senators Franklin, Pridemore, Keiser, Carrell, Pflug, Schoesler, Delvin and Kline

AN ACT Relating to repealing the expiration of the fair payment for chiropractic services requirement; and repealing 2008 c 304 s 4 (uncodified).

Referred to Committee on Health & Long-Term Care.

SB 6488 by Senators Oemig, Gordon, McAuliffe, Tom, Rockefeller, Kline and Ranker

AN ACT Relating to school levies; amending RCW 84.52.053, 84.52.0531, and 28A.500.020; reenacting and amending RCW 28A.500.030; amending 2006 c 119 s 3 (uncodified); amending 2009 c 4 s 909 (uncodified); and providing an expiration date.

Referred to Committee on Early Learning & K-12 Education.

SB 6489 by Senators Oemig, Hobbs, Rockefeller, Fairley, Fraser, Brown, Shin and Kline

AN ACT Relating to the energy efficiency code; amending RCW 19.260.030, 19.260.040, and 19.260.050; reenacting and amending RCW 19.260.020; and creating a new section.

Referred to Committee on Environment, Water & Energy.

SB 6490 by Senators Kline, Regala and Hargrove

AN ACT Relating to driver's and vehicle licenses; amending RCW 46.20.270, 46.20.291, 46.20.311, 46.20.342, 46.20.391, 46.63.110, and 46.16.216; creating a new section; repealing RCW 46.20.289; and providing an effective date.

Referred to Committee on Judiciary.

SB 6491 by Senators Oemig, McAuliffe, Kauffman and Shin

AN ACT Relating to transferring the state school for the blind, the Washington state center for childhood deafness and hearing loss, and the associated boards of trustees to the office of the superintendent of public instruction; amending RCW 72.40.010, 72.40.015, 72.40.019, 72.40.020, 72.40.022, 72.40.024, 72.40.028, 72.40.031, 72.40.040, 72.40.050, 72.40.070, 72.40.210, 72.40.220, 72.40.250, 72.40.280, 72.41.010, 72.41.020, 72.41.040, 72.42.010, 72.42.021, and 72.42.041; adding new sections to chapter 28A.155 RCW; creating new sections; recodifying RCW 72.40.010, 72.40.015, 72.40.019, 72.40.0191, 72.40.020, 72.40.022, 72.40.024, 72.40.028, 72.40.031, 72.40.040, 72.40.050, 72.40.060, 72.40.070, 72.40.080, 72.40.090, 72.40.100, 72.40.110, 72.40.200, 72.40.210, 72.40.220, 72.40.230, 72.40.240, 72.40.250, 72.40.260, 72.40.270, 72.40.280, 72.41.010, 72.41.020, 72.41.025, 72.41.030, 72.41.040, 72.41.060, 72.41.070, 72.42.010, 72.42.021, 72.42.031, 72.42.041, 72.42.060, and 72.42.070; repealing RCW 72.40.120, 72.41.015, 72.42.015, and 72.42.016; and providing an effective date.

Referred to Committee on Early Learning & K-12 Education.

SB 6492 by Senators Kauffman, Kohl-Welles, Kline, Keiser, Roach and Fraser

AN ACT Relating to authorizing the department of labor and industries to issue subpoenas, but only with respect to enforcement of chapter 19.28 RCW; and adding a new section to chapter 19.28 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6493 by Senators Schoesler, Hobbs and Holmquist

AN ACT Relating to a study of disability benefit options for plan 2 and plan 3 members of the public employees' retirement system, the teachers' retirement system, and the school employees' retirement system; and creating new sections.

Referred to Committee on Ways & Means.

SB 6494 by Senators Tom, McAuliffe, Rockefeller and Kline

AN ACT Relating to the state board of health rules that impact school districts; adding a new section to chapter 28A.210 RCW; and creating a new section.

Referred to Committee on Early Learning & K-12 Education.

SB 6495 by Senators Hobbs and Stevens

AN ACT Relating to supported living vendor rates; adding a new section to chapter 71A.10 RCW; creating a new section; and providing an effective date.

Referred to Committee on Ways & Means.

SB 6496 by Senator McCaslin

AN ACT Relating to estimates for health care fees and charges; and amending RCW 70.01.030.

Referred to Committee on Health & Long-Term Care.

SB 6497 by Senator Keiser

AN ACT Relating to information on direct practices that the office of the insurance commissioner must gather and report to the legislature; amending RCW 48.150.100; and repealing RCW 48.150.120.

Referred to Committee on Health & Long-Term Care.

SB 6498 by Senators Brandland, McCaslin, Carrell, Marr, Roach, Schoesler, Kline, Sheldon and Parlette

AN ACT Relating to committing a robbery within and against a pharmacy; amending RCW 9A.56.200; and prescribing penalties.

Referred to Committee on Judiciary.

SB 6499 by Senators Murray and Haugen

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AN ACT Relating to the administration, collection, use, and enforcement of tolls; amending RCW 47.56.010, 47.46.020, 47.46.105, 46.63.030, 46.63.160, 46.63.075, 10.93.020, and 47.56.167; adding new sections to chapter 47.56 RCW; adding a new section to chapter 47.46 RCW; repealing RCW 46.61.690; prescribing penalties; and providing an effective date.

Referred to Committee on Transportation.

SB 6500 by Senators Fraser, Stevens, Regala, Parlette, Franklin, Pflug, McDermott, Kohl-Welles, Kauffman, Hargrove, Shin, Keiser and Kline

AN ACT Relating to the use of restraints on pregnant women or youth; amending RCW 72.09.015, 72.05.020, and 13.40.020; reenacting and amending RCW 70.48.020; adding new sections to chapter 72.09 RCW; adding new sections to chapter 70.48 RCW; adding new sections to chapter 72.05 RCW; and adding new sections to chapter 13.40 RCW.

Referred to Committee on Human Services & Corrections.

SB 6501 by Senator Pridemore

AN ACT Relating to authorizing payment of regulated company stock in lieu of a portion of salary for educational employees; and amending RCW 28A.400.250.

Referred to Committee on Ways & Means.

SB 6502 by Senators Tom, McAuliffe, Oemig, Hobbs, Gordon, Pridemore, Shin, Rockefeller, Kline and Ranker

AN ACT Relating to restoring the school district levy base; amending RCW 84.52.0531; amending 2006 c 119 s 3 (uncodified); amending 2009 c 4 s 909 (uncodified); creating a new section; and providing an expiration date.

Referred to Committee on Early Learning & K-12 Education.

SB 6503 by Senator Prentice

AN ACT Relating to the operations of state agencies; amending RCW 42.04.060; adding a new section to chapter 41.80 RCW; creating new sections; providing an expiration date; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 6504 by Senator Hargrove

AN ACT Relating to reducing crime victims' compensation benefits and eligibility; amending RCW 7.68.060 and 7.68.070; repealing RCW 7.68.085; providing an effective date; and declaring an emergency.

Referred to Committee on Human Services & Corrections.

SB 6505 by Senator Kastama

AN ACT Relating to the authorization, administration, and collection of tolls on the state route number 99 Alaskan Way

viaduct corridor; adding a new section to chapter 47.56 RCW; and creating a new section.

Referred to Committee on Transportation.

SB 6506 by Senator Kastama

AN ACT Relating to the authorization, administration, and collection of tolls on the Interstate 90 floating bridge corridor; amending RCW 47.56.875; adding a new section to chapter 47.56 RCW; and creating a new section.

Referred to Committee on Transportation.

SB 6507 by Senators Hobbs, Holmquist, Pridemore, Hatfield, Haugen, Kilmer, Eide, Keiser, McAuliffe, Prentice, Kauffman, Berkey, Shin and Rockefeller

AN ACT Relating to transferring the Washington main street program to the department of archaeology and historic preservation; amending RCW 35.100.020, 43.360.010, and 82.73.050; reenacting and amending RCW 82.73.010; creating a new section; and providing an effective date.

Referred to Committee on Government Operations & Elections.

SB 6508 by Senators Fairley, Prentice, Pridemore, Kline, Rockefeller, Ranker, Tom, McDermott, Gordon and Keiser

AN ACT Relating to changing the class of persons entitled to 2 recoveries under a wrongful death action or survival action; amending 3 RCW 4.20.020, 4.20.046, 4.20.060, and 4.24.010; creating new sections; 4 and providing an effective date.

Referred to Committee on Judiciary.

SB 6509 by Senator Shin

AN ACT Relating to modifying the budget recommendations developed by the higher education coordinating board to include recommendations on tuition and fees; and amending RCW 28B.76.210.

Referred to Committee on Higher Education & Workforce Development.

SB 6510 by Senators Kilmer and Sheldon

AN ACT Relating to the extension of state route number 166; amending RCW 47.17.328; and creating a new section.

Referred to Committee on Transportation.

SB 6511 by Senators Hobbs, King, Marr, Shin, Rockefeller and Kline

AN ACT Relating to gang and hate group activity on school grounds and at school activities; amending RCW 28A.225.225 and 28A.600.455; and adding a new section to chapter 28A.635 RCW.

Referred to Committee on Early Learning & K-12 Education.

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SB 6512 by Senators Gordon, Hobbs, King, Marr, Rockefeller and Kline

AN ACT Relating to school safety zones; amending RCW 28A.635.030 and 9A.84.030; adding a new section to chapter 28A.635 RCW; and prescribing penalties.

Referred to Committee on Early Learning & K-12 Education.

SB 6513 by Senators Delvin, Carrell, Brandland, Marr and Roach

AN ACT Relating to intimidating a peace officer; reenacting and amending RCW 9.94A.515; adding a new section to chapter 9A.76 RCW; and prescribing penalties.

Referred to Committee on Judiciary.

SB 6514 by Senators Prentice, McCaslin, Regala and Swecker

AN ACT Relating to increasing costs for administering a deferred prosecution; and amending RCW 10.01.160.

Referred to Committee on Judiciary.

SB 6515 by Senators Kastama, Kilmer and Shin

AN ACT Relating to refocusing the mission of the department of commerce, including transferring programs; amending RCW 70.05.125, 43.270.020, 43.270.070, 43.270.080, 43.330.210, 43.330.240, 82.14.400, 43.63A.305, 43.63A.307, 43.63A.311, 43.63A.313, 9.94A.8673, 43.63A.720, 43.63A.735, 43.280.011, 43.280.020, 43.280.060, 43.280.070, 43.280.080, 43.280.090, 74.14B.060, 80.50.030, 43.190.030, 43.190.120, 19.27.070, 19.27.150, 19.27A.020, 19.27A.140, 19.27A.150, 19.27A.180, 43.21F.010, 43.21F.090, 36.27.100, 43.110.030, 43.110.060, 43.110.080, 43.15.020, 35.21.185, 35.102.040, and 36.70B.220; reenacting and amending RCW 70.125.030; adding new sections to chapter 43.70 RCW; adding new sections to chapter 43.20A RCW; adding a new section to chapter 43.21F RCW; creating new sections; recodifying RCW 43.330.195, 43.330.200, 43.330.205, 43.330.210, 43.330.220, 43.330.225, 43.330.230, 43.330.240, 43.63A.305, 43.63A.307, 43.63A.309, 43.63A.311, 43.63A.313, 43.63A.315, 43.63A.720, 43.63A.725, 43.63A.730, 43.63A.735, and 43.63A.740; decodifying RCW 43.280.081 and 43.63A.150; repealing RCW 43.21F.015, 43.21F.055, 43.110.010, 43.110.040, and 43.110.070; and providing an effective date.

Referred to Committee on Economic Development, Trade & Innovation.

SB 6516 by Senator Hobbs

AN ACT Relating to plan membership default provisions in the public employees' retirement system, the teachers' retirement system, and the school employees' retirement system; and amending RCW 41.32.835, 41.35.610, and 41.40.785.

Referred to Committee on Ways & Means.

SB 6517 by Senators McAuliffe, King and Kline

AN ACT Relating to early learning; amending RCW 43.215.005, 43.215.020, 43.215.090, 28A.215.010, and 43.215.410; adding new sections to chapter 43.215 RCW; and creating a new section.

Referred to Committee on Early Learning & K-12 Education.

SB 6518 by Senators Oemig, Gordon, Kohl-Welles, McDermott, Tom, McAuliffe, Hobbs, Kauffman, Marr and Ranker

AN ACT Relating to school levies; amending RCW 84.52.0531, 84.52.0531, 84.52.053, and 28A.500.020; amending 2009 c 4 s 909 (uncodified); amending 2006 c 119 s 3 (uncodified); reenacting and amending RCW 28A.500.030; creating a new section; providing an effective date; providing an expiration date; and declaring an emergency.

Referred to Committee on Early Learning & K-12 Education.

SB 6519 by Senators McAuliffe, King, Oemig, Kauffman and Hobbs

AN ACT Relating to streamlining the Becca bill process for middle and high school students; amending RCW 28A.225.015, 28A.225.020, 28A.225.025, 28A.225.030, and 28A.225.151; amending 2009 c 564 s 114 (uncodified); adding a new section to chapter 564, Laws of 2009 (uncodified); creating a new section; and providing an effective date.

Referred to Committee on Early Learning & K-12 Education.

SB 6520 by Senators Hatfield, Parlette, Hobbs, Ranker, Pridemore and Shin

AN ACT Relating to providing a one-year extension for completion of recommendations under RCW 36.70A.5601 conducted by the William D. Ruckelshaus Center; amending RCW 36.70A.560 and 36.70A.5601; amending 2007 c 353 s 6 (uncodified); creating a new section; and providing an expiration date.

Referred to Committee on Agriculture & Rural Economic Development.

SB 6521 by Senators Haugen and Honeyford

AN ACT Relating to retaining productive farmland; adding a new section to chapter 89.08 RCW; adding a new section to chapter 43.17 RCW; and creating a new section.

Referred to Committee on Agriculture & Rural Economic Development.

SB 6522 by Senators Pflug, Keiser, Swecker, Murray, Honeyford, Kline, Hewitt and Shin

AN ACT Relating to establishing the accountable care organization pilot projects; adding a new section to chapter 70.54 RCW; and creating a new section.

Referred to Committee on Health & Long-Term Care.

SB 6523 by Senators Pflug, Becker, Parlette, Stevens, Swecker, Schoesler and Hewitt

AN ACT Relating to the apple health community care demonstration waiver; amending RCW 74.09.5222; and creating a new section.

Referred to Committee on Health & Long-Term Care.

SB 6524 by Senators King, Kohl-Welles, Kastama, Holmquist, Keiser, Honeyford, Regala, Franklin, McDermott, Hewitt and Kline

AN ACT Relating to unemployment insurance penalties and contribution rates for employers who are not "qualified employers"; reenacting and amending RCW 50.29.025; adding a new section to chapter 50.12 RCW; creating a new section; prescribing penalties; and providing an effective date.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6525 by Senators Kohl-Welles, Kastama, Honeyford, Keiser, Hewitt, Kline, Regala, Franklin and McDermott

AN ACT Relating to correcting references in RCW 50.29.021(2)(c)(i), (c)(ii), and (3)(e), RCW 50.29.062(2)(b)(i)(B) and (2)(b)(iii), and RCW 50.29.063(1)(b) and (2)(a)(ii) to unemployment insurance statutes concerning employer experience rating accounts and contribution rates; amending RCW 50.29.062 and 50.29.063; reenacting and amending RCW 50.29.021; creating a new section; and declaring an emergency.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6526 by Senators Kohl-Welles, Franklin, Regala, Keiser, McDermott and Kline

AN ACT Relating to allowing certain individuals to seek part-time employment while maintaining eligibility for unemployment insurance in order to qualify for the unemployment insurance modernization incentive provisions of the American recovery and reinvestment act of 2009; amending RCW 50.04.310, 50.20.119, and 50.20.100; creating a new section; and providing an effective date.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6527 by Senator Roach

AN ACT Relating to notifying the secretary of state when a person summoned for jury service does not meet the qualifications of a juror; and amending RCW 2.36.072.

Referred to Committee on Government Operations & Elections.

SB 6528 by Senator Roach

AN ACT Relating to the Washington soldiers' home; adding new sections to chapter 72.36 RCW; and creating a new section.

Referred to Committee on Government Operations & Elections.

SB 6529 by Senator Roach

AN ACT Relating to increasing access to public records; amending RCW 42.56.530; reenacting and amending RCW 42.56.550; adding a new section to chapter 42.56 RCW; and creating new sections.

Referred to Committee on Government Operations & Elections.

SB 6530 by Senator Roach

AN ACT Relating to increasing access to public records; amending RCW 42.56.530; reenacting and amending RCW 42.56.550; and adding a new section to chapter 42.56 RCW.

Referred to Committee on Government Operations & Elections.

SB 6531 by Senator Roach

AN ACT Relating to kidnapping of a child; amending RCW 9A.40.030; and prescribing penalties.

Referred to Committee on Judiciary.

SB 6532 by Senators Pflug and Keiser

AN ACT Relating to holding consumers harmless for balance bills generated when emergency services are rendered by nonparticipating providers in participating hospitals; amending RCW 48.43.093; reenacting and amending RCW 48.43.005; adding a new section to chapter 41.05 RCW; adding a new section to chapter 74.09 RCW; and creating a new section.

Referred to Committee on Health & Long-Term Care.

SB 6533 by Senators Roach and Gordon

AN ACT Relating to granting high school credit for learning experiences; reenacting and amending RCW 28A.230.090; adding a new section to chapter 28A.320 RCW; and creating a new section.

Referred to Committee on Early Learning & K-12 Education.

SB 6534 by Senators Holmquist, King, Stevens, Swecker, Delvin, Hewitt and Schoesler

AN ACT Relating to the minimum hourly wage; and amending RCW 49.46.020.

Referred to Committee on Labor, Commerce & Consumer Protection.

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SB 6535 by Senators Holmquist, Carrell, Roach, Stevens, Swecker, Hewitt and Schoesler

AN ACT Relating to adopting the Washington state health care freedom act of 2010; and adding new sections to chapter 48.44 RCW.

Referred to Committee on Health & Long-Term Care.

SB 6536 by Senators Holmquist, Hatfield, Morton, Honeyford, King, Pflug, Stevens, Swecker and Delvin

AN ACT Relating to limitations on withdrawing various waters from additional appropriations; and reenacting and amending RCW 90.54.050.

Referred to Committee on Environment, Water & Energy.

SB 6537 by Senators Holmquist, Pflug, Stevens and Becker

AN ACT Relating to eligibility criteria for community economic revitalization board financial assistance; and amending RCW 43.160.060.

Referred to Committee on Economic Development, Trade & Innovation.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Senate Bill No. 6480 and Senate Bill No. 6508 which were referred to the Committee on Government Operations & Elections.

MOTION

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

MOTION

Senator Prentice moved adoption of the following resolution:

SENATE RESOLUTION  
8667

By Senators Prentice, Zarelli, Fairley, Holmquist, Kline, Kauffman, Regala, Keiser, Hargrove, Rockefeller, Delvin, Oemig, Parlette, Shin, Brandland, Sheldon, Tom, Hobbs, Franklin, Becker, Kastama, Hatfield, Eide, Marr, Kohl-Welles, McDermott, McAuliffe, Honeyford, Jacobsen, Ranker, Murray, Hewitt, Pridemore, Berkey, and Swecker

WHEREAS, Seattle Sounders FC has completed its historic inaugural season by setting an unprecedented new MLS record for average per game attendance at 30,943, and selling the most season tickets in the league; and

WHEREAS, Sounders FC has reached the top 50 in average attendance for all soccer clubs throughout the world; and

WHEREAS, The team's majority owner Joe Roth, its minority owners, Adrian Hanauer, Paul Allen, and Drew Carey, together with Gary Wright, senior vice president of business operations, and his administrative staff have assembled a talented

coaching staff led by two-time MLS Cup winner and all-time winningest coach Sigi Schmid, and assistants Brian Schmetzer, Tom Dutra, Ezra Hendrickson, Kurt Schmid, David Tenney, and technical director Chris Henderson; and

WHEREAS, Washington's very own Kasey Keller is the team captain, and team members include: Freddie Ljungberg, Chris Eyclander, Brad Evans, Patrick Ianni, Tyson Wahl, Osvaldo Alonso, James Riley, Peter Vagenas, Steve Zakuani, Nathan Sturgis, Tyrone Marshall, Stephen King, Leonardo González, Zach Scott, Sanna Nyassi, Roger Levesque, Taylor Graham, Terry Boss, Jhon Kennedy Hurtado, and leading goal scorer Fredy Montero; and

WHEREAS, Sounders FC brought pride to Washington state by finishing the 2009 season with a winning record, becoming the first team since 1998 to qualify for the MLS playoffs in its first season, and being only the second expansion team in MLS history to win the U.S. Open Cup tournament in its first season, qualifying for the 2010-11 CONCACAF Champions League; and

WHEREAS, Kasey Keller, Freddie Ljungberg, Jhon Kennedy Hurtado, and Fredy Montero represented Sounders FC on the MLS All-Star team; and

WHEREAS, Kasey Keller was named the U.S. Open Cup MVP, Fredy Montero was named MLS Newcomer of the Year, and Sounders FC won eight individual and club MLS executive awards; and

WHEREAS, The team has become a pillar of the community by setting an MLS record in raising more than 23,000 dollars for the "Nothing But Nets" program, while players, coaches, and owners made more than 80 community appearances during the season and have contributed funds to youth-oriented community projects and activities;

NOW, THEREFORE, BE IT RESOLVED, That the Washington state Senate honor Seattle Sounders FC for its triumphant and record-breaking season and for bringing exciting, world class professional soccer to all Washington state citizens; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Sounders FC ownership, coaches, and players.

Senators Prentice and Regala spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8667.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced representatives of the Seattle Sounders Football Club who were seated in the gallery.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced representatives of the Seattle Sounders Football Club Adrian Hanauer, General Manager and Kasey Keller, Sounders FC Goalkeeper, who were seated at the rostrum.

With permission of the Senate, business was suspended to allow Seattle Sounders General Manager Adrian Hanauer, and Kasey Keller, Sounders FC Goalkeeper to address the Senate.

REMARKS BY MR. ADRIAN HANAUER

Adrian Hanauer: "Thank you very much. On behalf of the owners, the managers, the coaches, the players, everyone that

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works for Seattle Sounders FC, we would just like to thank you for bestowing this honor on us. We're very proud of what we've accomplished in the city and in the State of Washington and in conversations here today I think the thing I'm most proud of is, you know, there were a lot of awards and a lot of attendance records and personal accomplishments but I think for us the biggest, the most important part as a local Washingtonian, born and raised, Kasey Keller as well, it's our impact in the community and in the state. With all of the young people, with being able to do those appearances go out and really make an impact on lives, whether their kids, young teens, even adults so that's what's really important to us as owners, managers and certainly winning soccer games is important but the bigger picture is what's most important to us. So, again, thank you for the honor, we're privileged to be here, very happy to be here and have a good day legislating."

## REMARKS BY KASEY KELLER

Kasey Keller: "Thank you. I just like to reiterate what Adrian said and for myself having grown up not only in this state but actually I think a rocks throw away from this building that to be able to spend the majority of my career in Europe and to be able to truly be able to come home and to be a part of something so special not only for myself to be able to finish my career in Seattle, in Washington State, but to see what that impact on the whole community is a huge honor for myself to be a part of that. Just thank you for I guess being able to recognize that, that a lot of hard work is been put forth, people like Adrian, people like Joe Roth, the gentleman you see up there to give myself the opportunity to come home and to be a part of something so special. So, thank you."

## PERSONAL PRIVILEGE

Senator Fraser: "Thank you Mr. President. I've been feeling a very fine sense of pride during this week because a special recognition that's been given to one of our members. On Monday, last Monday morning Valley Medical Center in Renton held a ribbon cutting for a major new facility, a new seven story one-hundred fifteen million dollar emergency services tower. They have named this new facility in honor of our very own Senator Margarita Prentice. I've been feeling very wonderful about that this week. I think it is most deserved and honored recognition. She actually worked at this hospital beginning in 1969 as a nurse, before that she worked at a predecessor hospital and we all know what a leader she's been in health care here in the state legislature in the Senate and in her prior work in the other body working to improve health care, improve opportunities for health care professionals, improve services for the people of our state, on and on and I think we can all take pride in it because since she's been such a leader here, I think we all share in it to a certain degree too. So, I would like to offer my thanks and congratulations to Senator Prentice."

## PERSONAL PRIVILEGE

Senator Prentice: "Thank you very much, thank you Senator Fraser and thanks also to my colleagues. I can't tell you how much I appreciated that event but you know you have to stay humble. What I do remember is when we moved from the old hospital which was a ninety-six bed hospital built during World War II and the plumbing was made out of pot metal and when we turned on the water the air you know would bang, bang, bang so we really did desperately need a new hospital. I remember also, and those of you who go by it as you're going up highway 167 see

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how it's built up around there and you know IKEA and other big area as well. The maintenance guy told me when he'd been there before we moved in he used to shoot skunks from the roof so there was nothing there and that's the kind of thing that builds up but I am very proud of that hospital and still have close ties. It's true, I worked many nights and I worked in every department, delivered babies and you know took care of your injuries so I was very, very grateful to be part of it. Thank you all so for this recognition."

## MOTION

At 10:28 a.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Monday, January 18, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**EIGHTH DAY**

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NOON SESSION

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Senate Chamber, Olympia, Monday, January 18, 2010

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

January 15, 2010

SB 6010 Prime Sponsor, Senator Honeyford: Concerning a state designated green source of wood fiber for state-funded construction. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Honeyford; Delvin; Fraser; Marr; Morton and Ranker.

Passed to Committee on Natural Resources, Ocean & Recreation.

January 14, 2010

SB 6211 Prime Sponsor, Senator Haugen: Creating an agricultural scenic corridor within the scenic and recreational highway system. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6211 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Berkey; Delvin; Hatfield; Kastama; Kauffman; Kilmer; King and Sheldon.

Passed to Committee on Rules for second reading.

January 14, 2010

SB 6229 Prime Sponsor, Senator Schoesler: Extending to 2015 the assessment levied under RCW 15.36.551 to support the dairy inspection program. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: Do pass. Signed by Senators Hatfield, Chair; Ranker, Vice Chair; Schoesler; Becker; Haugen; Jacobsen; Morton and Shin.

Passed to Committee on Rules for second reading.

January 14, 2010

SB 6279 Prime Sponsor, Senator Kline: Clarifying regional transit authority facilities as essential public facilities. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Berkey; Delvin; Hatfield; Kastama; Kauffman; Kilmer and Sheldon.

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

Passed to Committee on Rules for second reading.

January 15, 2010

SB 6353 Prime Sponsor, Senator Kline: Providing technical changes concerning receivership statutes. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; Gordon; Kohl-Welles and Roach.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

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

INTRODUCTION AND FIRST READING

SB 6538 by Senators Keiser and Pflug

AN ACT Relating to the definition of small groups for insurance purposes; amending RCW 48.43.035; reenacting and amending RCW 48.43.005; and providing an effective date.

Referred to Committee on Health & Long-Term Care.

SB 6539 by Senator Brandland

AN ACT Relating to treatment for behavioral health disorders; amending RCW 70.96A.020; and adding a new section to chapter 70.96A RCW.

Referred to Committee on Human Services & Corrections.

SB 6540 by Senators Fairley, Swecker, King, Parlette, Fraser, Pridemore, Shin and Roach

AN ACT Relating to the combined fund drive; amending RCW 41.04.033, 41.04.0331, 41.04.0332, and 41.04.039; and creating a new section.

Referred to Committee on Government Operations & Elections.

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SB 6541 by Senators Oemig, Fairley, Keiser, Ranker, Kohl-Welles, Pridemore, McDermott, Fraser, Kline, Hobbs, Murray and Shin

AN ACT Relating to creating the Washington voluntary retirement accounts program; amending RCW 43.33A.070; reenacting and amending RCW 43.84.092; and adding new sections to chapter 41.50 RCW.

Referred to Committee on Ways & Means.

SB 6542 by Senators Schoesler and McCaslin

AN ACT Relating to limiting changes to commissioner districts during commissioner elections and election filing periods; and amending RCW 36.32.020.

Referred to Committee on Government Operations & Elections.

SB 6543 by Senators Hatfield, Schoesler and Shin

AN ACT Relating to the Washington tree fruit research commission; and amending RCW 15.26.110.

Referred to Committee on Agriculture & Rural Economic Development.

SB 6544 by Senators Berkey, Hewitt, Brandland, Marr, Hobbs, Kilmer and Tom

AN ACT Relating to time limitation for approval of plats; amending RCW 58.17.140 and 58.17.170; and creating a new section.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 6545 by Senators Pridemore and Kline

AN ACT Relating to the international wildland urban interface code; and amending RCW 19.27.031.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6546 by Senator Pridemore

AN ACT Relating to membership in the public employees' retirement system; reenacting and amending RCW 41.40.023; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 6547 by Senators Kilmer, Ranker, Kohl-Welles, Shin, Prentice, Roach, Pridemore, McDermott, Regala, Murray, Fairley, Keiser, Kauffman, McAuliffe, Gordon and Kline

AN ACT Relating to creating jobs by funding construction of energy cost saving improvements to public facilities; adding a new chapter to Title 43 RCW; creating new sections; making an appropriation; and providing for submission of certain sections of this act to a vote of the people.

Referred to Committee on Ways & Means.

SB 6548 by Senators Hargrove, Carrell, Stevens, Kauffman and Roach

AN ACT Relating to offenders on parole or probation; amending RCW 9.94A.716; and creating a new section.

Referred to Committee on Human Services & Corrections.

SB 6549 by Senators Hargrove, Carrell and Roach

AN ACT Relating to the establishment of the psychiatric security review board to supervise persons acquitted by reason of insanity; amending RCW 10.77.110, 10.77.010, 10.77.120, 10.77.170, and 71.09.030; adding new sections to chapter 10.77 RCW; and repealing RCW 10.77.140, 10.77.150, 10.77.155, 10.77.160, 10.77.180, 10.77.190, and 10.77.200.

Referred to Committee on Human Services & Corrections.

SB 6550 by Senators Hargrove, Regala, Carrell, Marr, Shin and Roach

AN ACT Relating to imposing a sanction for offenders who violate sentence conditions by committing an assault against a law enforcement officer, employee of a law enforcement agency, or department of corrections employee; amending RCW 9.94A.633; and prescribing penalties.

Referred to Committee on Human Services & Corrections.

SB 6551 by Senator Tom

AN ACT Relating to documenting wholesale sales for excise tax purposes; amending RCW 82.32.780, 82.32.783, 82.32.785, 82.32.787, and 82.32.290; amending 2009 c 563 Â§ 101 (uncodified); reenacting and amending RCW 82.04.470, 82.08.050, 82.08.130, 82.32.087, 82.32.291, 82.32.330, 82.04.050, and 34.05.328; adding a new section to chapter 82.32 RCW; creating a new section; and providing an effective date.

Referred to Committee on Ways & Means.

SB 6552 by Senator Tom

AN ACT Relating to excise taxation of certain products and services provided or furnished electronically; amending RCW 82.04.190, 82.04.192, 82.04.257, 82.04.2907, 82.04.297, 82.32.080, 35.102.130, 82.08.02082, 82.08.02087, 82.12.02082, 82.12.02087, 82.32.532, and 82.32.533; reenacting and amending RCW 82.04.050 and 82.08.195; creating new sections; and providing an effective date.

Referred to Committee on Ways & Means.

SB 6553 by Senators McAuliffe and Shin

AN ACT Relating to high school mathematics and science graduation requirements; amending RCW 28A.655.0611, 28A.305.130, and 28A.655.061; adding a new section to chapter 28A.655 RCW; and creating new sections.

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Referred to Committee on Early Learning & K-12 Education.

AN ACT Relating to restricting access to juvenile offender records; and amending RCW 13.04.240, 13.50.050, 13.50.010, 13.04.011, and 13.40.127.

SB 6554 by Senators Jacobsen and Gordon

Referred to Committee on Human Services & Corrections.

AN ACT Relating to extending the Washington biodiversity council; adding new sections to chapter 43.131 RCW; and adding a new chapter to Title 79A RCW.

SB 6562 by Senators Kilmer, Tom, Delvin, Regala, Murray, Hargrove and King

Referred to Committee on Natural Resources, Ocean & Recreation.

AN ACT Relating to tuition-setting authority at institutions of higher education; amending RCW 28B.15.067, 28B.15.068, 28B.15.031, and 28B.15.820; and repealing RCW 28B.10.920, 28B.10.921, and 28B.10.922.

SB 6555 by Senators Tom and Haugen

AN ACT Relating to removing state route number 908 from the state highway system; and repealing RCW 47.17.855.

Referred to Committee on Higher Education & Workforce Development.

Referred to Committee on Transportation.

SB 6563 by Senator Keiser

SB 6556 by Senators Hatfield and Schoesler

AN ACT Relating to changing fees for certain types of agricultural burning; and amending RCW 70.94.6528.

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

Referred to Committee on Agriculture & Rural Economic Development.

Referred to Committee on Health & Long-Term Care.

SB 6557 by Senators Ranker, Swecker, Rockefeller, Brandland, Brown, Kohl-Welles, Shin, Fraser and Kline

SB 6564 by Senator Stevens

AN ACT Relating to limiting the use of certain substances in brake friction material; adding a new chapter to Title 70 RCW; and prescribing penalties.

AN ACT Relating to regulating arrests, searches, and seizures by federal employees; adding new sections to chapter 36.28 RCW; adding new sections to chapter 10.79 RCW; and creating a new section.

Referred to Committee on Environment, Water & Energy.

Referred to Committee on Judiciary.

SB 6558 by Senator Haugen

AN ACT Relating to timelines for the issuance of final orders applicable to railroad crossing petitions; amending RCW 34.05.461; and adding a new section to chapter 81.53 RCW.

SB 6565 by Senator Stevens

AN ACT Relating to crimes involving the identity of an entity or person; amending RCW 9.35.020; reenacting and amending RCW 9.94A.515; adding a new section to chapter 9A.40 RCW; and prescribing penalties.

Referred to Committee on Transportation.

Referred to Committee on Judiciary.

SB 6559 by Senator Haugen

AN ACT Relating to operation of anaerobic digesters under the Washington right to farm act; and amending RCW 7.48.310.

SB 6566 by Senator Stevens

AN ACT Relating to criminal offenses involving animals or natural resources; amending RCW 9A.82.010, 9A.82.090, 9A.82.100, and 9A.82.120; reenacting and amending RCW 9.94A.515 and 9.94A.535; adding a new chapter to Title 9A RCW; and prescribing penalties.

Referred to Committee on Agriculture & Rural Economic Development.

Referred to Committee on Judiciary.

SB 6560 by Senators McDermott and Keiser

AN ACT Relating to state tax incentives to encourage the redevelopment of port district property; adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.14 RCW; adding a new section to chapter 82.29A RCW; providing an effective date; and providing expiration dates.

SB 6567 by Senator Stevens

AN ACT Relating to collecting biological samples for DNA analysis from illegal aliens; and amending RCW 43.43.754.

Referred to Committee on Ways & Means.

Referred to Committee on Judiciary.

SB 6561 by Senators Hargrove, McCaslin, Regala and Stevens

SB 6568 by Senator Stevens

AN ACT Relating to minimum notification requirements for property and casualty insurance policy changes; adding a new section to chapter 48.22 RCW; adding a new section to chapter 48.27 RCW; and providing an effective date.

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Referred to Committee on Financial Institutions, Housing & Insurance.

SB 6569 by Senator Stevens

AN ACT Relating to unlawful aliens; amending RCW 46.20.031; adding a new section to chapter 9A.76 RCW; adding a new section to chapter 70.48 RCW; adding a new section to chapter 41.04 RCW; and prescribing penalties.

Referred to Committee on Judiciary.

SB 6570 by Senators Haugen, Swecker, Becker, Sheldon, Delvin and Hatfield

AN ACT Relating to accommodating certain private transportation providers at designated transit only lanes on public highways; and amending RCW 47.04.290.

Referred to Committee on Transportation.

SB 6571 by Senators Prentice and Kohl-Welles

AN ACT Relating to license fees for nursing homes, boarding homes, and adult family homes; and amending RCW 18.51.050, 18.20.050, and 70.128.060.

Referred to Committee on Ways & Means.

SB 6572 by Senator Tom

AN ACT Relating to eliminating accounts; amending RCW 43.105.805, 43.110.080, 28A.650.035, 28B.135.040, 28B.135.010, and 43.79A.040; reenacting and amending RCW 43.84.092; creating new sections; repealing RCW 28B.20.468, 28B.20.470, 28B.30.275, 28B.120.050, 36.120.200, 39.35C.100, 41.05.510, 43.72.906, 43.99I.100, 43.99I.110, 43.99J.080, 43.105.830, 43.110.090, 43.140.030, 43.140.040, 47.01.310, 47.26.325, 47.26.330, 50.65.150, and 73.40.060; and providing an effective date.

Referred to Committee on Ways & Means.

SB 6573 by Senators Oemig, Gordon, McDermott, Ranker, Jacobsen, Tom, Kohl-Welles, Prentice, Murray and Kline

AN ACT Relating to repealing the sales tax exemption for coal used at a coal-fired thermal generation facility; repealing RCW 82.08.811 and 82.12.811; and providing an effective date.

Referred to Committee on Ways & Means.

SB 6574 by Senators Kohl-Welles, Keiser, Kline, Franklin and McDermott

AN ACT Relating to authorizing issuance of subpoenas for purposes of agency investigations of underground economy activity; amending RCW 51.04.040 and 50.12.130; adding a new section to chapter 82.32 RCW; and creating a new section.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6575 by Senators Kohl-Welles, Keiser, Kline, Franklin and McDermott

AN ACT Relating to recommendations of the joint legislative task force on the underground economy; amending RCW 18.27.340 and 18.27.070; reenacting and amending RCW 60.28.040; adding new sections to chapter 18.27 RCW; prescribing penalties; and providing an effective date.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6576 by Senators Kohl-Welles, Rockefeller, Keiser, McDermott, Fairley, Regala and Kline

AN ACT Relating to limiting the business and occupation tax deduction for dues and fees to certain nonprofits exempt from federal income tax; amending RCW 82.04.4282; and providing an effective date.

Referred to Committee on Ways & Means.

SB 6577 by Senators Kastama, Berkey, Swecker, Haugen, Kilmer and Shin

AN ACT Relating to modifying the statewide transportation system policy goals; and amending RCW 47.04.280.

Referred to Committee on Transportation.

SB 6578 by Senators Swecker, Jacobsen, Kastama, Pflug, Becker and Fraser

AN ACT Relating to the creation of an optional multiagency permitting team; reenacting and amending RCW 43.84.092; adding new sections to chapter 43.42 RCW; and declaring an emergency.

Referred to Committee on Economic Development, Trade & Innovation.

SB 6579 by Senators Swecker, Haugen, Oemig, Rockefeller, Jacobsen, Marr, Hatfield, Eide and Fraser

AN ACT Relating to improving the efficiency, accountability, and quality within state information systems; creating new sections; and providing an expiration date.

Referred to Committee on Economic Development, Trade & Innovation.

SB 6580 by Senators Swecker and Haugen

AN ACT Relating to creating the local bridge restoration and replacement account; and adding a new section to chapter 47.04 RCW.

Referred to Committee on Transportation.

SB 6581 by Senators Swecker and Pridemore

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AN ACT Relating to expanding the role of water conservancy boards; adding a new section to chapter 90.80 RCW; and creating a new section.

Referred to Committee on Environment, Water & Energy.

SB 6582 by Senators Keiser, Roach, Zarelli, Prentice and Kilmer

AN ACT Relating to credentialing as a nursing assistant; amending RCW 18.88A.010, 18.88A.060, 18.88A.085, and 18.88A.140; adding a new section to chapter 18.88A RCW; creating a new section; and repealing RCW 18.88A.115.

Referred to Committee on Health & Long-Term Care.

SB 6583 by Senator Carrell

AN ACT Relating to the duties of the director of financial management with respect to certain audits and investigations; and amending RCW 43.88.160.

Referred to Committee on Government Operations & Elections.

SB 6584 by Senators Fraser, Swecker, Keiser, Schoesler, Roach, McDermott and Shin

AN ACT Relating to applying the prohibition against unfair practices by insurers and their remedies and penalties to the state health care authority; amending RCW 41.05.017, 41.05.017, and 48.43.530; providing an effective date; and providing an expiration date.

Referred to Committee on Health & Long-Term Care.

SB 6585 by Senator Holmquist

AN ACT Relating to defining individuals eligible for benefits under workers' compensation and unemployment insurance; and amending RCW 50.04.145, 51.08.181, and 51.08.195.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6586 by Senator Holmquist

AN ACT Relating to membership on the state building code council; and amending RCW 19.27.070.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6587 by Senators Holmquist, Sheldon, King, Pflug, Zarelli, Schoesler, Carrell, Parlette, Stevens, Hewitt, Brandland, Honeyford, Morton, Swecker, Becker, Delvin and Roach

AN ACT Relating to limiting employer contribution rates for unemployment insurance purposes; reenacting and amending RCW 50.29.025; creating a new section; and declaring an emergency.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6588 by Senators Fairley, Kline, Oemig, Prentice and Kohl-Welles

AN ACT Relating to limiting the holding of more than one elected position; and adding a new section to chapter 29A.20 RCW.

Referred to Committee on Government Operations & Elections.

SB 6589 by Senators Kauffman, Berkey, Hargrove, Pridemore and Kohl-Welles

AN ACT Relating to the creation of a workforce housing program; amending RCW 43.180.160, 39.86.100, 39.86.120, 39.86.130, 39.86.140, 39.86.150, 39.86.170, and 39.86.190; reenacting and amending RCW 39.86.110; adding a new section to chapter 39.86 RCW; and repealing RCW 39.86.200.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 6590 by Senators Kline, Delvin, Brandland, Hargrove and Roach

AN ACT Relating to law enforcement officer conduct; and adding new sections to chapter 43.101 RCW.

Referred to Committee on Judiciary.

SB 6591 by Senators Kline, Berkey, Gordon, Keiser and Prentice

AN ACT Relating to complaints filed with the human rights commission; and amending RCW 49.60.240.

Referred to Committee on Judiciary.

SB 6592 by Senators Prentice and Shin

AN ACT Relating to transferring the administration of the voluntary firefighters' and reserve officers' relief and pension system to the department of retirement systems; amending RCW 41.24.010, 41.24.030, 41.24.035, 41.24.070, 41.24.080, 41.24.110, 41.24.120, 41.24.150, 41.24.155, 41.24.160, 41.24.185, 41.24.190, 41.24.210, 41.24.215, 41.24.245, 41.24.290, 41.24.300, 41.24.310, 41.24.340, 41.24.410, and 41.24.460; reenacting and amending RCW 41.24.172; creating a new section; and providing an effective date.

Referred to Committee on Ways & Means.

SB 6593 by Senators Gordon, Kauffman, Prentice, Oemig, Tom, Kline and Parlette

AN ACT Relating to the transfer of the administration of the infant and toddler early intervention program from the department of social and health services to the department of early learning; amending RCW 43.215.020 and 70.198.020; creating a new section; and providing an effective date.

Referred to Committee on Early Learning & K-12 Education.

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SB 6594 by Senators Kilmer, Zarelli, Kastama, Hobbs, Delvin, Marr, Murray and Kohl-Welles

AN ACT Relating to commercializing research at state universities; and adding a new section to chapter 28B.63 RCW.

Referred to Committee on Higher Education & Workforce Development.

SB 6595 by Senators Kilmer, Rockefeller, Marr, Carrell and King

AN ACT Relating to community empowerment zone applications and requirements; and amending RCW 43.31C.020.

Referred to Committee on Economic Development, Trade & Innovation.

SB 6596 by Senator Kastama

AN ACT Relating to education; amending RCW 28A.150.010 and 41.59.080; adding a new section to chapter 41.56 RCW; adding a new section to chapter 41.59 RCW; adding a new section to chapter 41.32 RCW; adding a new section to chapter 41.35 RCW; adding a new section to chapter 41.40 RCW; adding a new chapter to Title 28A RCW; creating a new section; providing an effective date; and declaring an emergency.

Referred to Committee on Early Learning & K-12 Education.

SB 6597 by Senators Kastama and Shin

AN ACT Relating to high school graduation requirements; and reenacting and amending RCW 28A.230.090.

Referred to Committee on Early Learning & K-12 Education.

SB 6598 by Senators Kastama, Rockefeller and Ranker

AN ACT Relating to requiring leadership in energy and environmental design standards for certain excise tax credit eligibility; amending RCW 82.60.040, 82.60.030, 82.63.030, 82.74.030, 82.75.030, and 82.82.030; repealing RCW 82.60.050; and providing expiration dates.

Referred to Committee on Economic Development, Trade & Innovation.

SB 6599 by Senators Kastama, Rockefeller, Ranker and Shin

AN ACT Relating to requiring high performance building standards for eligibility for certain tax incentives; amending RCW 82.60.020, 82.60.030, 82.60.040, 82.74.010, 82.75.010, and 82.82.010; reenacting and amending RCW 82.63.010; repealing RCW 82.60.050; and providing expiration dates.

Referred to Committee on Economic Development, Trade & Innovation.

SJM 8019 by Senators Prentice, Pridemore, Honeyford, Hobbs, Zarelli, Delvin and Keiser

Petitioning the Department of Health to review cardiovascular disease prevention measures.

Referred to Committee on Health & Long-Term Care.

SJM 8020 by Senator Stevens

Requesting that Congress amend the 17th amendment of the United States Constitution.

Referred to Committee on Government Operations & Elections.

SJR 8222 by Senator Stevens

Amending the Constitution concerning parental rights.

Referred to Committee on Human Services & Corrections.

#### MOTION

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

#### MOTION

On motion of Senator Eide, the rules were suspended and the following measures under consideration by the Committee on Rules: Substitute Senate Bill No. 5007, Senate Bill No. 5316, Substitute Senate Bill No. 5317, Senate Bill No. 5320, Second Substitute Senate Bill No. 5484, Senate Bill No. 5500, Substitute Senate Bill No. 5678, Engrossed Substitute Senate Bill No. 5763, Substitute Senate Bill No. 5802, Substitute Senate Bill No. 5826, Substitute Senate Bill No. 5833, Engrossed Second Substitute Senate Bill No. 5916, Engrossed Second Substitute Senate Bill No. 5943, and Substitute Senate Bill No. 6138 were removed from the Committee's Green Sheet and placed in the Committee's "X file."

#### MOTION

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

#### MOTION

Senator Kilmer moved adoption of the following resolution:

#### SENATE RESOLUTION

8674

By Senators Kilmer, Brown, Ranker, McDermott, Prentice, Berkey, Brandland, Tom, Regala, Murray, Sheldon, Stevens, Hargrove, Shin, Hobbs, Kauffman, Kline, Rockefeller, Kohl-Welles, Marr, Zarelli, Franklin, King, Gordon, Hatfield, Keiser, Eide, and Jacobsen

WHEREAS, The people of the State of Washington celebrate children for the happiness they bring to our lives and the hopes and dreams they have for our nation; and

WHEREAS, Children are the citizens of tomorrow and it is our solemn obligation to instill in them the values, conviction,

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goodwill, and fortitude they need to continue the wonderful legacy of freedom, peace, and prosperity we have inherited from those who came before us; and

At 12:12 p.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Tuesday, January 19, 2010.

WHEREAS, The children of Washington State should be cherished and are deserving of a nurturing and protective environment where they may develop their potential and flourish into whatever they aspire to be; and

BRAD OWEN, President of the Senate

WHEREAS, The children of Washington State should always know that they are valued members of our society, and that their opinions and ideas are welcome and respected; and

THOMAS HOEMANN, Secretary of the Senate

WHEREAS, Children should be loved and treasured by their parents, and all people of the State of Washington should help them by setting examples of what it means to be an ethical, hardworking, healthy, and productive citizen; and

WHEREAS, The children of the State of Washington should have access to quality education, wholesome recreation, and a safe community; and

WHEREAS, The Washington State Senate welcomes children into the Senate Chamber on this day so they may witness the legislative process;

NOW, THEREFORE, BE IT RESOLVED, That the State Senate encourages all citizens of Washington to celebrate children on Children's Day and throughout the year by spending more quality time with children and reminding children of their special place in our lives.

Senators Kilmer, Kohl-Welles and Eide spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8674.

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

#### PERSONAL PRIVILEGE

Senator Schoesler: "Thank you Mr. President. On Martin Luther King Day I thought it was only appropriate that a few, very brief remarks come out. It's almost traditional on this day to choose some of Dr. King's words and talk about them for a few minutes and for your peers to do that here on the floor of the Senate. I'll briefly uphold that tradition. Last week, the Governor quoted Martin Luther King Jr. during the State of the State speech. 'The time is always right to do what's right.' Reflecting on this session I'd add a couple of other quotes from Dr. King. 'The ultimate measure of a man is not where he spends in moments of comfort and convenience but where he stands at the times of challenge and controversy,' which would reflect on our current session. And finally reflecting on the forty-nine of us here in the Senate, Dr. King said, 'We may have all come on different ships but we're in the same boat now.' So, again, thank you and ask you to celebrate Dr. King's day with me today."

#### PERSONAL PRIVILEGE

Senator McDermott: "With your permission I'll yield to Daniel Thomas."

Daniel Thomas: "Happy Children's Day."

EDITOR'S NOTE: Young Daniel is Senator McDermott's nephew and was present at the Senator's desk for Children's Day.

#### MOTION

## NINTH DAY

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 NOON SESSION
 

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Senate Chamber, Olympia, Tuesday, January 19, 2010

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

## MOTION

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

## MOTION

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

## REPORTS OF STANDING COMMITTEES

January 18, 2010

SB 6196 Prime Sponsor, Senator Hobbs: Concerning military leave for public employees. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; Benton; McDermott and Swecker.

Passed to Committee on Rules for second reading.

January 18, 2010

SB 6216 Prime Sponsor, Senator Rockefeller: Concerning the disclosure of existing property tax levies on ballot propositions subject to voter approval for levy lid lifts. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; Benton and McDermott.

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

Passed to Committee on Rules for second reading.

January 18, 2010

SB 6237 Prime Sponsor, Senator Jacobsen: Adopting policy recommendations developed by the sustainable recreation work group. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That Substitute Senate Bill No. 6237 be substituted therefor, and the substitute bill do pass. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Fraser; Hatfield and Swecker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Morton and Stevens.

Passed to Committee on Ways & Means.

January 18, 2010

SB 6239 Prime Sponsor, Senator Kohl-Welles: Making technical corrections to gender-based terms. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 6239 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Holmquist; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

January 18, 2010

SB 6243 Prime Sponsor, Senator Fairley: Eliminating provisions for filings at locations other than the public disclosure commission. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Benton; McDermott and Swecker.

Passed to Committee on Rules for second reading.

January 18, 2010

SB 6248 Prime Sponsor, Senator Keiser: Concerning the use of bisphenol A. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 6248 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Fairley; Marr and Murray.

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

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Becker and Parlette.

Passed to Committee on Rules for second reading.

January 18, 2010

SB 6274 Prime Sponsor, Senator Jacobsen: Establishing the Washington state trail interactions work group. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That Substitute Senate Bill No. 6274 be substituted therefor, and the substitute bill do pass. Signed by Senators Jacobsen, Chair; Morton; Fraser; Hatfield; Stevens and Swecker.

Passed to Committee on Rules for second reading.

January 18, 2010

SB 6329 Prime Sponsor, Senator Kohl-Welles: Creating a beer and wine tasting endorsement to the grocery store liquor license. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 6329 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; King and Kline.

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

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; Benton; McDermott and Swecker.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

January 18, 2010

MOTION

SB 6333 Prime Sponsor, Senator Kohl-Welles: Concerning beer and wine tasting at farmers markets. Reported by Committee on Labor, Commerce & Consumer Protection

On motion of Senator McDermott, all measures listed on the Standing Committee report were referred to the committees as designated.

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Holmquist; Franklin; Honeyford; King and Kline.

MOTION

Passed to Committee on Rules for second reading.

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

January 18, 2010

INTRODUCTION AND FIRST READING

SB 6372 Prime Sponsor, Senator Jacobsen: Creating a task force to review conservation district functions and operations. Reported by Committee on Natural Resources, Ocean & Recreation

SB 6600 by Senators Hargrove, Kohl-Welles, Hatfield and Keiser

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Jacobsen, Chair; Morton; Fraser; Hatfield; Stevens and Swecker.

AN ACT Relating to funding and providing workforce training grants; amending RCW 50.24.014; reenacting and amending RCW 50.29.025; adding a new section to chapter 50.22 RCW; and creating a new section.

Passed to Committee on Agriculture & Rural Economic Development.

Referred to Committee on Labor, Commerce & Consumer Protection.

REPORTS OF STANDING COMMITTEES  
GUBERNATORIAL APPOINTMENTS

SB 6601 by Senators Oemig and McDermott

January 18, 2010

SGA 9211 LORRAINE LEE, appointed on July 1, 2009, for the term ending June 30, 2010, as Member of the Office of Administrative Hearings. Reported by Committee on Government Operations & Elections

AN ACT Relating to adjusting local school finance related to nonresident students enrolled in online learning; amending RCW 84.52.0531 and 84.52.0531; creating a new section; providing an effective date; and providing an expiration date.

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; Benton; McDermott and Swecker.

Referred to Committee on Early Learning & K-12 Education.

Passed to Committee on Rules for second reading.

SB 6602 by Senators Kilmer, Kastama, Jacobsen, Ranker, Hobbs, McDermott, Tom, Shin and Swecker

January 18, 2010

SGA 9234 DONALD B SEHLIN, appointed on November 17, 2009, for the term ending December 31, 2013, as Member of the Public Disclosure Commission. Reported by Committee on Government Operations & Elections

AN ACT Relating to local conservation area financing; amending RCW 84.55.010 and 36.70A.080; adding a new section to chapter 82.32 RCW; and adding a new chapter to Title 39 RCW.

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; Benton; McDermott and Swecker.

Referred to Committee on Economic Development, Trade & Innovation.

Passed to Committee on Rules for second reading.

SB 6603 by Senators Marr, Haugen, Swecker, Eide and Keiser

January 18, 2010

SGA 9246 TONY TORTORICE, appointed on July 1, 2009, for the term ending at the governors pleasure, as Member of the Department of Information Services. Reported by Committee on Government Operations & Elections

AN ACT Relating to land uses adjacent to general aviation airports; amending RCW 36.70.547, 36.70.330, and 36.70A.070; and adding a new section to chapter 36.70A RCW.

Referred to Committee on Transportation.

SB 6604 by Senators Hobbs, King, McAuliffe, Oemig, Tom, Brandland, Holmquist, McDermott and Kline

AN ACT Relating to flexibility in the education system; amending RCW 28A.150.520, 28A.185.030, 28A.210.020,

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28A.210.030, 28A.210.080, 28A.210.370, 28A.210.380, 28A.215.010, 28A.220.030, 28A.300.118, 28A.300.150, 28A.300.160, 28A.300.270, 28A.300.405, 28A.300.410, 28A.300.450, 28A.300.490, 28A.300.520, 28A.320.080, 28A.320.128, 28A.320.160, 28A.345.020, 28A.345.050, 28A.640.020, 28A.655.061, and 39.35D.040; repealing RCW 28A.210.130, 28A.210.360, 28A.210.365, 28A.220.050, 28A.220.080, 28A.220.085, 28A.230.150, 28A.300.280, and 28A.320.185; providing an expiration date; and declaring an emergency.

Referred to Committee on Early Learning & K-12 Education.

**SB 6605** by Senators Hobbs, Swecker, Kauffman, Brandland, Kline, Oemig, Honeyford, Schoesler, Pflug, Hewitt, Shin, Kilmer and Roach

AN ACT Relating to the disposition of remains of persons who died while serving on active duty in any branch of the United States armed forces, United States reserve forces, or national guard; and amending RCW 68.50.160.

Referred to Committee on Government Operations & Elections.

**SB 6606** by Senators Swecker and Sheldon

AN ACT Relating to eliminating the public printer and transferring print functions to the department of information services; amending RCW 43.78.030, 43.78.070, 43.78.090, 43.78.100, 43.78.105, 43.78.110, 43.78.170, 43.105.041, 1.08.039, 15.24.085, 15.62.190, 16.67.170, 28A.300.040, 28B.10.029, 40.04.030, 40.06.030, 40.07.050, and 43.08.061; reenacting and amending RCW 43.105.020 and 41.06.070; adding new sections to chapter 43.105 RCW; creating a new section; recodifying RCW 43.78.030, 43.78.070, 43.78.090, 43.78.100, 43.78.105, 43.78.110, 43.78.130, 43.78.140, 43.78.150, 43.78.160, and 43.78.170; repealing RCW 43.78.010, 43.78.020, 43.78.040, 43.78.050, and 43.78.080; and providing effective dates.

Referred to Committee on Government Operations & Elections.

**SB 6607** by Senators Hobbs, Pflug and Keiser

AN ACT Relating to premium changes and annual deductible periods for individual health coverage; amending RCW 48.44.022, 48.46.063, and 48.20.028; reenacting and amending RCW 48.43.005; and creating new sections.

Referred to Committee on Health & Long-Term Care.

**SB 6608** by Senators Hobbs, Carrell, Schoesler and Berkey

AN ACT Relating to garnishment; amending RCW 6.27.020, 6.27.090, 6.27.100, 6.27.110, 6.27.140, 6.27.160, 6.27.190, 6.27.200, 6.27.210, 6.27.250, 6.27.330, 6.27.350, 6.27.360, and 6.27.370; adding new sections to chapter 6.27 RCW; and repealing RCW 6.27.340.

Referred to Committee on Judiciary.

**SB 6609** by Senators Kastama, Delvin, Hobbs, Kilmer, Gordon, Kauffman and Shin

AN ACT Relating to infrastructure financing for local governments; amending RCW 39.104.020, 39.104.040, 39.104.060, 39.104.100, 39.104.110, 82.14.505, 82.14.510, and 82.32.765; reenacting and amending RCW 39.102.020; and providing an expiration date.

Referred to Committee on Economic Development, Trade & Innovation.

**SB 6610** by Senators Hargrove and McAuliffe

AN ACT Relating to improving procedures for assessing and treating persons with mental illnesses served under chapter 10.77 RCW; amending RCW 10.77.150 and 10.77.200; adding new sections to chapter 10.77 RCW; creating a new section; and providing an expiration date.

Referred to Committee on Human Services & Corrections.

**SB 6611** by Senators Pridemore, Swecker and Shin

AN ACT Relating to extending the deadlines for the review and evaluation of comprehensive land use plan and development regulations for three years; and amending RCW 36.70A.130.

Referred to Committee on Government Operations & Elections.

**SB 6612** by Senators Hargrove, Regala and Stevens

AN ACT Relating to child fatality review in child welfare cases; amending RCW 74.13.640; and reenacting and amending RCW 68.50.105.

Referred to Committee on Human Services & Corrections.

**SB 6613** by Senators Kastama, Shin, Kilmer and Sheldon

AN ACT Relating to modifying the sales and use tax deferral program for investment projects in rural counties; amending RCW 82.60.010, 82.60.020, 82.60.030, 82.60.040, 82.60.049, 82.60.060, 82.60.070, 82.32.600, 82.60.100, and 82.62.010; adding new sections to chapter 82.60 RCW; decodifying RCW 82.60.900 and 82.60.901; repealing RCW 82.60.050 and 82.60.110; providing an effective date; providing expiration dates; and providing a contingent effective date.

Referred to Committee on Economic Development, Trade & Innovation.

**SB 6614** by Senators Pridemore, Zarelli, Morton, Delvin and Marr

AN ACT Relating to clarifying the applicability of business and occupation tax to conservation programs with the Bonneville power administration; and amending RCW 82.04.310.

Referred to Committee on Ways & Means.

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**SB 6615** by Senator Jacobsen

AN ACT Relating to providing support for parks and recreation; amending RCW 67.70.010, 67.70.320, and 79A.25.060; reenacting and amending RCW 67.70.240 and 67.70.340; adding a new section to chapter 67.70 RCW; and adding a new section to chapter 79A.25 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

**SB 6616** by Senators Jacobsen and Kohl-Welles

AN ACT Relating to the regulation and preservation of urban streets through a local option street maintenance utility and allowing the imposition of a charge; amending RCW 82.80.070; adding a new chapter to Title 35 RCW; repealing RCW 82.80.040, 82.80.050, and 82.80.060; and providing an effective date.

Referred to Committee on Government Operations & Elections.

**SB 6617** by Senators Regala, McDermott, Rockefeller, Berkey, Keiser, Kohl-Welles, Shin and Roach

AN ACT Relating to waiver of penalties and interest on the first half of property tax payments; and amending RCW 84.56.025.

Referred to Committee on Government Operations & Elections.

**SB 6618** by Senators Regala and Kohl-Welles

AN ACT Relating to creating the family friendly court grant program; adding new sections to chapter 2.56 RCW; and creating a new section.

Referred to Committee on Judiciary.

**SB 6619** by Senators McAuliffe and King

AN ACT Relating to record check information; and amending RCW 28A.400.305.

Referred to Committee on Early Learning & K-12 Education.

**SB 6620** by Senators McAuliffe and Kline

AN ACT Relating to recognizing successful schools and school districts by providing school district flexibility while maintaining the school district's governance authority and control of recognized schools; amending RCW 28A.305.225; adding a new section to chapter 28A.150 RCW; adding a new section to chapter 28A.155 RCW; adding a new section to chapter 28A.160 RCW; adding a new section to chapter 28A.165 RCW; adding a new section to chapter 28A.170 RCW; adding a new section to chapter 28A.175 RCW; adding a new section to chapter 28A.180 RCW; adding a new section to chapter 28A.185 RCW; adding a new section to chapter 28A.190 RCW; adding a new section to chapter 28A.193 RCW; adding a new section to chapter 28A.195 RCW; adding a new section to chapter 28A.200 RCW;

adding a new section to chapter 28A.205 RCW; adding a new section to chapter 28A.210 RCW; adding a new section to chapter 28A.215 RCW; adding a new section to chapter 28A.220 RCW; adding a new section to chapter 28A.225 RCW; adding a new section to chapter 28A.230 RCW; adding a new section to chapter 28A.235 RCW; adding a new section to chapter 28A.240 RCW; adding a new section to chapter 28A.245 RCW; adding a new section to chapter 28A.250 RCW; adding a new section to chapter 28A.290 RCW; adding a new section to chapter 28A.300 RCW; adding a new section to chapter 28A.305 RCW; adding a new section to chapter 28A.310 RCW; adding a new section to chapter 28A.315 RCW; adding a new section to chapter 28A.320 RCW; adding a new section to chapter 28A.323 RCW; adding a new section to chapter 28A.325 RCW; adding a new section to chapter 28A.330 RCW; adding a new section to chapter 28A.335 RCW; adding a new section to chapter 28A.340 RCW; adding a new section to chapter 28A.345 RCW; adding a new section to chapter 28A.400 RCW; adding a new section to chapter 28A.405 RCW; adding a new section to chapter 28A.410 RCW; adding a new section to chapter 28A.415 RCW; adding a new section to chapter 28A.500 RCW; adding a new section to chapter 28A.505 RCW; adding a new section to chapter 28A.510 RCW; adding a new section to chapter 28A.515 RCW; adding a new section to chapter 28A.520 RCW; adding a new section to chapter 28A.525 RCW; adding a new section to chapter 28A.527 RCW; adding a new section to chapter 28A.530 RCW; adding a new section to chapter 28A.535 RCW; adding a new section to chapter 28A.540 RCW; adding a new section to chapter 28A.545 RCW; adding a new section to chapter 28A.600 RCW; adding a new section to chapter 28A.605 RCW; adding a new section to chapter 28A.620 RCW; adding a new section to chapter 28A.623 RCW; adding a new section to chapter 28A.625 RCW; adding a new section to chapter 28A.630 RCW; adding a new section to chapter 28A.635 RCW; adding a new section to chapter 28A.640 RCW; adding a new section to chapter 28A.645 RCW; adding a new section to chapter 28A.650 RCW; adding a new section to chapter 28A.655 RCW; adding a new section to chapter 28A.660 RCW; adding a new section to chapter 28A.690 RCW; adding a new section to chapter 28A.700 RCW; and creating a new section.

Referred to Committee on Early Learning & K-12 Education.

**SB 6621** by Senators Delvin, Haugen, Tom, Brandland, Prentice, Marr, Shin, Hewitt and Roach

AN ACT Relating to transferring service credit and contributions into the Washington state patrol retirement system by members who served as commercial vehicle enforcement officers and who became commissioned officers in the Washington state patrol prior to July 1, 2000; and adding a new section to chapter 41.40 RCW.

Referred to Committee on Transportation.

**SB 6622** by Senators Haugen, Morton and Jacobsen

AN ACT Relating to mitigating damage to crops from migratory waterfowl; amending RCW 77.36.100; creating a new section; and providing an effective date.

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Referred to Committee on Natural Resources, Ocean & Recreation.

AN ACT Relating to highly capable students; creating a new section; and providing an expiration date.

SB 6623 by Senators Fairley, Kline and McAuliffe

Referred to Committee on Early Learning & K-12 Education.

AN ACT Relating to persons with developmental disabilities; amending RCW 71A.10.050, 71A.16.010, 71A.16.040, and 71A.20.080; adding new sections to chapter 71A.16 RCW; and creating a new section.

SB 6630 by Senators Oemig and McAuliffe

AN ACT Relating to updating references to the Washington assessment of student learning to be statewide assessments; and amending RCW 28A.175.035, 28A.305.130, 28A.305.141, 28A.320.190, 28A.600.405, 28A.655.061, 28A.655.0611, 28A.655.065, 28A.655.066, 28A.655.070, 28A.655.090, 28A.655.140, 28A.655.185, 28A.655.200, 28B.50.534, 28B.105.010, 28B.105.030, 28B.105.060, and 28B.105.080.

Referred to Committee on Health & Long-Term Care.

Referred to Committee on Early Learning & K-12 Education.

SB 6624 by Senators Berkey and Parlette

AN ACT Relating to defining normal wear and tear for a motor vehicle for the purpose of a service contract; and reenacting and amending RCW 48.110.020.

SB 6631 by Senator Shin

Referred to Committee on Financial Institutions, Housing & Insurance.

AN ACT Relating to property tax payment dates; amending RCW 84.56.020; and providing an expiration date.

SB 6625 by Senators Zarelli, Hewitt and Parlette

AN ACT Relating to tuition and financial aid at institutions of higher education; amending RCW 28B.15.067, 28B.15.100, and 28B.15.031; adding new sections to chapter 28B.15 RCW; and adding a new section to chapter 28B.92 RCW.

Referred to Committee on Government Operations & Elections.

Referred to Committee on Higher Education & Workforce Development.

SB 6632 by Senators Shin, Schoesler, Morton, Haugen, Becker and Kilmer

AN ACT Relating to providing tax incentives for manufacturers of electronic testing and measurement devices; amending RCW 82.32.620, 82.32.590, and 82.32.600; reenacting and amending RCW 82.04.440; adding new sections to chapter 82.04 RCW; providing an effective date; providing an expiration date.

SB 6626 by Senator Honeyford

AN ACT Relating to merging the department of printing into the department of general administration; amending RCW 43.19.011, 43.19.180, 43.19.190, 43.78.030, 43.78.040, 43.78.050, 43.78.070, 43.78.080, 43.78.090, 43.78.100, 43.78.105, 43.78.110, and 43.78.170; adding a new section to chapter 43.78 RCW; and repealing RCW 43.78.010, 43.78.020, 43.78.030, 43.78.040, 43.78.050, 43.78.070, 43.78.080, 43.78.090, 43.78.100, 43.78.105, and 43.78.110.

Referred to Committee on Economic Development, Trade & Innovation.

Referred to Committee on Government Operations & Elections.

SB 6633 by Senators Fairley, McDermott, Fraser, Kohl-Welles, Franklin, Hatfield, Keiser, McCaslin, Shin, Morton and Roach

AN ACT Relating to breast cancer awareness special license plates; amending RCW 46.16.725, 46.16.601, 46.16.745, and 46.16.316; reenacting and amending RCW 46.16.313; and adding new sections to chapter 46.16 RCW.

SB 6627 by Senators Marr, Pflug, Keiser, Benton, Franklin, Fairley, Schoesler, Pridemore, Roach and Parlette

AN ACT Relating to authorizing Washington pharmacies to fill prescriptions written by advanced registered nurse practitioners in other states or in certain provinces of Canada; and reenacting and amending RCW 69.41.030.

Referred to Committee on Transportation.

Referred to Committee on Health & Long-Term Care.

SB 6634 by Senators Ranker, Hatfield, Morton, Haugen, Becker, Shin and Jacobsen

AN ACT Relating to establishing civil penalties for failure to comply with dairy nutrient management recordkeeping requirements; adding a new section to chapter 90.64 RCW; and prescribing penalties.

SB 6628 by Senator Carrell

AN ACT Relating to expenditures for works of art; amending RCW 43.17.200; and creating a new section.

Referred to Committee on Agriculture & Rural Economic Development.

Referred to Committee on Human Services & Corrections.

SB 6629 by Senators Oemig and McAuliffe

SB 6635 by Senators Fraser, Berkey, Rockefeller, Kohl-Welles and Kline

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AN ACT Relating to the appraisal of green buildings; amending RCW 18.140.010; and adding a new section to chapter 18.140 RCW.

Amending the state Constitution so that the provision relating to bailable crimes by sufficient sureties is modified.

Referred to Committee on Environment, Water & Energy.

Referred to Committee on Judiciary.

SB 6636 by Senators Franklin and Kohl-Welles

MOTION

AN ACT Relating to studying Washington's fiscal resources, structure, and needs; creating new sections; and providing an expiration date.

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

Referred to Committee on Ways & Means.

MOTION

SB 6637 by Senators Franklin, Sheldon and Roach

At 12:02 p.m., on motion of Senator McDermott, the Senate adjourned until 10:00 a.m. Wednesday, January 20, 2010.

AN ACT Relating to increasing the small business credit for the business and occupation tax; amending RCW 82.04.4451 and 82.32.045; and providing an effective date.

BRAD OWEN, President of the Senate

Referred to Committee on Economic Development, Trade & Innovation.

THOMAS HOEMANN, Secretary of the Senate

SB 6638 by Senators Holmquist, Sheldon, King, Honeyford, Hewitt and Parlette

AN ACT Relating to workers' compensation reform; amending RCW 51.36.010, 51.36.080, 51.36.085, 51.08.140, and 51.32.180; adding new sections to chapter 51.04 RCW; adding a new chapter to Title 51 RCW; creating new sections; and providing an effective date.

Referred to Committee on Labor, Commerce & Consumer Protection.

SJM 8021 by Senators Swecker, Shin, Honeyford, Hobbs, Jacobsen, Oemig, Rockefeller, Regala, Hewitt, Kline, McAuliffe, Kilmer and Roach

Honoring Vietnam veterans.

Referred to Committee on Government Operations & Elections.

SJM 8022 by Senators Pflug, Stevens, Carrell, Hewitt, Swecker, Delvin, Holmquist, Honeyford, Schoesler, Parlette, King and Roach

Urging removal of the cornhusker kickback from federal health care legislation.

Referred to Committee on Health & Long-Term Care.

SJR 8223 by Senators Schoesler, Hobbs, Hewitt, Murray, Honeyford, Parlette, Shin, Berkey, Sheldon, Becker, King, Holmquist, Stevens, Pflug, McDermott, Swecker, McCaslin, Delvin and Kilmer

Determining minimum employer contribution rates for state-administered public employee retirement plans.

Referred to Committee on Ways & Means.

SJR 8224 by Senators Kline and Kilmer

TENTH DAY

MORNING SESSION

Senate Chamber, Olympia, Wednesday, January 20, 2010

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Brown, Fairley, Hargrove, Hewitt, Holmquist, Pridemore, Ranker, Rockefeller, Stevens and Zarelli.

The Sergeant at Arms Color Guard consisting of Pages Conner J. Brandland and Shana Lenee Cox, presented the Colors. Pastor Steven Mulkey of Mars Hill Church of Olympia offered the prayer.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

January 19, 2010

SB 6197 Prime Sponsor, Senator Berkey: Concerning group life insurance. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That Substitute Senate Bill No. 6197 be substituted therefor, and the substitute bill do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Benton; Franklin; McDermott; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

January 18, 2010

SB 6207 Prime Sponsor, Senator Haugen: Allowing local governments to create golf cart zones. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6207 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Benton; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kauffman; Kilmer; King; Ranker and Sheldon.

Passed to Committee on Rules for second reading.

January 18, 2010

SB 6208 Prime Sponsor, Senator Haugen: Concerning temporary agricultural directional signs on state highway rights-of-way. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6208 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Swecker; Becker; Benton; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King; Ranker and Sheldon.

Passed to Committee on Rules for second reading.

January 18, 2010

SB 6209 Prime Sponsor, Senator Haugen: Allowing moneys paid to county road funds to be used for park and ride lots. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; Swecker; Becker; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King; Ranker and Sheldon.

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

Passed to Committee on Rules for second reading.

January 18, 2010

SB 6213 Prime Sponsor, Senator Haugen: Concerning vehicles at railroad grade crossings. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6213 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Benton; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King; Ranker and Sheldon.

Passed to Committee on Rules for second reading.

January 18, 2010

SB 6217 Prime Sponsor, Senator Rockefeller: Retroactively applying certain intermediate license law amendments made during the 2009 legislative session. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6217 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Benton; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King; Ranker and Sheldon.

Passed to Committee on Rules for second reading.

January 18, 2010

SB 6271 Prime Sponsor, Senator Murray: Concerning annexations by cities and code cities located within the boundaries of a regional transit authority. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6271 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kauffman; Kilmer; King; Ranker and Sheldon.

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

Passed to Committee on Rules for second reading.

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SB 6643 Prime Sponsor, Senator Keiser: Concerning the taxation of cigarettes and other tobacco products. Reported by Committee on Labor, Commerce & Consumer Protection

SB 6643 by Senators Schoesler, Sheldon, Hewitt, Brown, Honeyford, Parlette, McAuliffe and Shin

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford; King and Kline.

AN ACT Relating to second-class school districts and compliance reports; adding new sections to chapter 28A.330 RCW; adding new sections to chapter 28A.300 RCW; adding a new section to chapter 28A.150 RCW; adding a new section to chapter 28A.155 RCW; adding a new section to chapter 28A.160 RCW; adding a new section to chapter 28A.165 RCW; adding a new section to chapter 28A.170 RCW; adding a new section to chapter 28A.175 RCW; adding a new section to chapter 28A.180 RCW; adding a new section to chapter 28A.185 RCW; adding a new section to chapter 28A.200 RCW; adding a new section to chapter 28A.210 RCW; adding a new section to chapter 28A.215 RCW; adding a new section to chapter 28A.220 RCW; adding a new section to chapter 28A.225 RCW; adding a new section to chapter 28A.230 RCW; adding a new section to chapter 28A.235 RCW; adding a new section to chapter 28A.250 RCW; adding a new section to chapter 28A.305 RCW; adding a new section to chapter 28A.310 RCW; adding a new section to chapter 28A.315 RCW; adding a new section to chapter 28A.320 RCW; adding a new section to chapter 28A.323 RCW; adding a new section to chapter 28A.325 RCW; adding a new section to chapter 28A.335 RCW; adding a new section to chapter 28A.340 RCW; adding a new section to chapter 28A.343 RCW; adding a new section to chapter 28A.400 RCW; adding a new section to chapter 28A.405 RCW; adding a new section to chapter 28A.410 RCW; adding a new section to chapter 28A.415 RCW; adding a new section to chapter 28A.500 RCW; adding a new section to chapter 28A.505 RCW; adding a new section to chapter 28A.510 RCW; adding a new section to chapter 28A.515 RCW; adding a new section to chapter 28A.520 RCW; adding a new section to chapter 28A.525 RCW; adding a new section to chapter 28A.527 RCW; adding a new section to chapter 28A.530 RCW; adding a new section to chapter 28A.535 RCW; adding a new section to chapter 28A.540 RCW; adding a new section to chapter 28A.545 RCW; adding a new section to chapter 28A.600 RCW; adding a new section to chapter 28A.620 RCW; adding a new section to chapter 28A.623 RCW; adding a new section to chapter 28A.625 RCW; adding a new section to chapter 28A.630 RCW; adding a new section to chapter 28A.655 RCW; and creating a new section.

Passed to Committee on Ways & Means.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

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

INTRODUCTION AND FIRST READING

SB 6639 by Senators Brown, Stevens, Gordon and Shin

AN ACT Relating to creating alternatives to total confinement for nonviolent offenders with minor children; amending RCW 9.94A.030, 9.94A.501, 9.94A.505, 9.94A.701, 9.94A.734, 9.94A.190, 9.94A.6332, and 9.94A.633; reenacting and amending RCW 9.94A.728; and adding a new section to chapter 9.94A RCW.

Referred to Committee on Human Services & Corrections.

SB 6640 by Senators Hargrove and Stevens

AN ACT Relating to updating provisions concerning the modification, review, and adjustment of child support orders to improve access to justice and to ensure compliance with federal requirements; and amending RCW 26.09.170 and 26.09.175.

Referred to Committee on Human Services & Corrections.

SB 6641 by Senator Jacobsen

AN ACT Relating to forest practices applications leading to conversion of land for development purposes; amending RCW 76.09.050 and 43.21C.037; and reenacting and amending RCW 76.09.240.

Referred to Committee on Natural Resources, Ocean & Recreation.

SB 6642 by Senators Delvin, Kline and Tom

AN ACT Relating to establishing a statewide electronic tracking system for the nonprescription sales of ephedrine, pseudoephedrine, and phenylpropanolamine; amending RCW 18.64.044, 18.64.047, 69.43.105, and 69.43.110; adding a new section to chapter 43.10 RCW; and repealing RCW 69.43.170.

Referred to Committee on Judiciary.

Referred to Committee on Early Learning & K-12 Education.

SB 6644 by Senator Jacobsen

AN ACT Relating to falconry; adding a new section to chapter 77.32 RCW; and adding a new section to chapter 77.15 RCW.

Referred to Committee on Natural Resources, Ocean & Recreation.

SB 6645 by Senators Zarelli, Schoesler, Holmquist and Stevens

AN ACT Relating to creating and paying for business and occupation tax exemptions for new businesses; amending RCW 43.350.070; adding a new section to chapter 82.04 RCW; providing an effective date; and providing an expiration date.

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Referred to Committee on Ways & Means.

SB 6646 by Senators Kilmer, Zarelli, Kastama, Marr, Hobbs, Tom, McAuliffe, Shin and Haugen

AN ACT Relating to business and occupation tax credits for job creation; amending RCW 82.62.010, 82.62.045, 82.62.050, and 82.32.650; adding a new section to chapter 82.04 RCW; creating a new section; and providing an effective date.

Referred to Committee on Economic Development, Trade & Innovation.

SB 6647 by Senators Honeyford, Swecker and Morton

AN ACT Relating to protecting jobs of members of the civil air patrol while acting in an emergency service operation; and adding a new chapter to Title 49 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6648 by Senators Kline, Keiser, Fairley, Kohl-Welles, Kauffman, Gordon and McDermott

AN ACT Relating to protecting and assisting consumers and homeowners from unfair lending practices and during foreclosure proceedings; reenacting and amending RCW 61.24.005; adding new sections to chapter 61.24 RCW; adding a new section to chapter 36.22 RCW; and creating new sections.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6649 by Senators King, Marr, Swecker, Haugen, Tom and Shin

AN ACT Relating to driving record abstracts; amending RCW 46.52.130; and prescribing penalties.

Referred to Committee on Transportation.

SB 6650 by Senator Murray

AN ACT Relating to financial viability and impact review of certain transportation projects; and adding new sections to chapter 47.01 RCW.

Referred to Committee on Transportation.

SB 6651 by Senator Murray

AN ACT Relating to an impact plan on the state route number 520 bridge replacement and HOV project; and adding a new section to chapter 47.01 RCW.

Referred to Committee on Transportation.

SB 6652 by Senators King and Honeyford

AN ACT Relating to establishing rules for certain railroad activities; adding a new section to chapter 81.48 RCW; and prescribing penalties.

Referred to Committee on Transportation.

SB 6653 by Senators Jacobsen and Shin

AN ACT Relating to a property tax exemption for property owned by a nonprofit organization and used for the purpose of a farmers market; amending RCW 84.36.037; and creating a new section.

Referred to Committee on Agriculture & Rural Economic Development.

SB 6654 by Senators Sheldon and Haugen

AN ACT Relating to removing and streamlining certain transportation and motor vehicle reports; amending RCW 43.43.111, 46.32.085, 46.61.6885, 46.66.030, 47.01.071, 47.04.210, and 47.04.280; and repealing RCW 47.01.141.

Referred to Committee on Transportation.

SB 6655 by Senators McDermott and Tom

AN ACT Relating to the running start program; and amending RCW 28A.600.310, 28A.600.370, and 28B.15.910.

Referred to Committee on Early Learning & K-12 Education.

SB 6656 by Senators Murray, Rockefeller, Fraser and Shin

AN ACT Relating to implementing energy conservation programs; amending RCW 35.92.360, 54.16.280, 36.94.460, 35.92.430, 36.01.250, and 80.28.260; adding a new section to chapter 35.92 RCW; and creating new sections.

Referred to Committee on Environment, Water & Energy.

SB 6657 by Senator Benton

AN ACT Relating to ethics for legislative employees; and adding a new section to chapter 42.52 RCW.

Referred to Committee on Government Operations & Elections.

SB 6658 by Senators Rockefeller, Morton and Pridemore

AN ACT Relating to modifying community solar project provisions for investment cost recovery incentives; and amending RCW 82.16.110 and 82.16.120.

Referred to Committee on Environment, Water & Energy.

SB 6659 by Senators Fraser, Morton and Rockefeller

AN ACT Relating to consolidating the state's pollution liability insurance agency within the department of ecology; amending RCW 70.148.005, 70.148.010, 70.148.020,

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70.148.025, 70.148.030, 70.148.035, 70.148.040,  
70.148.050, 70.148.060, 70.148.070, 70.148.080,  
70.148.090, 70.148.130, 70.148.140, 70.148.150,  
70.148.160, 70.148.170, 70.149.010, 70.149.030,  
70.149.040, 70.149.050, 70.149.060, 70.149.090, and  
70.149.120; reenacting and amending RCW 43.21B.110;  
adding a new section to chapter 70.149 RCW; adding a new  
section to chapter 70.148 RCW; creating a new section;  
providing an effective date; and providing expiration dates.

Referred to Committee on Environment, Water & Energy.

SB 6660 by Senator Hobbs

AN ACT Relating to license renewals; amending RCW  
18.32.180; adding a new section to chapter 18.32 RCW;  
adding a new section to chapter 48.43 RCW; and providing  
an expiration date.

Referred to Committee on Health & Long-Term Care.

SB 6661 by Senators Murray, King, Eide, Delvin and  
Hobbs

AN ACT Relating to modifying local excise taxes in counties  
that have pledged lodging tax revenues for the payment of  
bonds prior to June 26, 1975; amending RCW 67.28.180,  
82.14.0485, 82.14.049, 82.14.0494, 82.14.360, 36.38.010,  
and 36.100.220; adding a new section to chapter 67.28 RCW;  
and providing an effective date.

Referred to Committee on Economic Development, Trade &  
Innovation.

SB 6662 by Senators Kilmer, Roach, Kastama, Keiser,  
Zarelli and Shin

AN ACT Relating to developing a curriculum for a career  
track for home care aides; and creating new sections.

Referred to Committee on Higher Education & Workforce  
Development.

SB 6663 by Senators Kohl-Welles, Kilmer, Keiser and  
Kauffman

AN ACT Relating to tanning facilities; adding a new chapter  
to Title 19 RCW; prescribing penalties; and providing an  
effective date.

Referred to Committee on Labor, Commerce & Consumer  
Protection.

SB 6664 by Senators Kohl-Welles, Carrell, McCaslin,  
Roach, Kline, Gordon, Hargrove and Tom

AN ACT Relating to bail for persons in custody; and adding a  
new section to chapter 10.19 RCW.

Referred to Committee on Judiciary.

SB 6665 by Senators Kohl-Welles, McDermott, Murray,  
Keiser and Fairley

AN ACT Relating to changing the initiative filing fee;  
amending RCW 29A.72.010; and creating a new section.

Referred to Committee on Government Operations &  
Elections.

SB 6666 by Senators Pflug and McCaslin

AN ACT Relating to statutory construction; adding a new  
section to chapter 2.08 RCW; and creating a new section.

Referred to Committee on Judiciary.

SB 6667 by Senators Kauffman and Kastama

AN ACT Relating to business assistance programs; amending  
RCW 28B.30.530, 28B.20.297, 43.06.335, 43.338.020,  
43.131.409, and 43.131.410; reenacting and amending RCW  
43.84.092; adding a new section to chapter 43.330 RCW;  
adding a new section to chapter 28B.20 RCW; creating a new  
section; and making appropriations.

Referred to Committee on Economic Development, Trade &  
Innovation.

SB 6668 by Senators Kauffman and McAuliffe

AN ACT Relating to eligibility requirements for the early  
childhood education and assistance program; and amending  
RCW 43.215.405.

Referred to Committee on Early Learning & K-12 Education.

SB 6669 by Senators Kastama, Kauffman and Shin

AN ACT Relating to the small business development center;  
and amending RCW 28B.30.530 and 19.02.075.

Referred to Committee on Economic Development, Trade &  
Innovation.

SB 6670 by Senator Parlette

AN ACT Relating to group medical insurance for  
nontraditional groups; amending RCW 48.21.010, 48.21.030,  
48.44.010, and 48.46.020; adding a new section to chapter  
48.43 RCW; and creating new sections.

Referred to Committee on Health & Long-Term Care.

SB 6671 by Senators Pflug, Marr and Keiser

AN ACT Relating to emergency departments that are not  
physically connected to a hospital; amending RCW  
70.38.025; reenacting and amending RCW 70.38.105; adding  
a new section to chapter 70.38 RCW; and creating a new  
section.

Referred to Committee on Health & Long-Term Care.

MOTION

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

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## MOTION

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

## MOTION

Senator Becker moved adoption of the following resolution:

SENATE RESOLUTION  
8680

By Senators Becker, Berkey, Kauffman, Kilmer, Sheldon, Hatfield, Swecker, King, Haugen, and Ranker

WHEREAS, Families across Washington depend on the safe and nutritious dairy products provided by the dairy farmers of Washington state; and

WHEREAS, The American Academy of Pediatrics recommends that children consume three servings and teens consume four servings of dairy products a day; and

WHEREAS, The Dairy Farmers of Washington are cotitle sponsors of the Washington Interscholastic Activities Association Championship Tournaments, a program that cultivates and recognizes dedicated and talented young scholars, athletes, musicians, thespians, dancers, and their coaches; and

WHEREAS, There are approximately 465 family dairy farms in Washington state with approximately 244,000 dairy cows; and

WHEREAS, Washington state ranks tenth in total milk production in the United States with 662 million gallons annually; and

WHEREAS, Washington ranks second in milk production per cow with 2,708 gallons of milk per year; and

WHEREAS, Dairy foods constitute the second highest dollar-valued agricultural commodity produced in Washington, with a direct economic impact valued at 566 million dollars and a total value to Washington's economy of more than one billion dollars; and

WHEREAS, For every one million dollars in dairy products supports 20 local jobs in farming, processing, distributing, and marketing; and

WHEREAS, On June 19, 2009, Melissa Cook from the City of Snohomish was crowned the Washington State Dairy Ambassador, and Elizabeth Birkliid from King-Pierce counties and Shelby Hansen from Skagit-Island counties were crowned Washington State Alternate Dairy Ambassadors; and

WHEREAS, Dairy Day at the legislature is January 20, 2010, when legislators will visit with Washington dairy producers and enjoy ice cream produced in Washington provided by the Washington State Dairy Federation, Washington State Dairy Women, and the state and county Dairy Ambassadors;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate acknowledge and honor the women and men whose work on dairy farms throughout Washington has contributed much to the strength and vitality of our economy, the character of our communities, and the general well-being of our citizens; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Washington State Dairy Ambassador Melissa Cook, alternate Ambassadors Elizabeth Birkliid and Shelby Hansen, and the Washington State Dairy Federation.

Senators Becker and Honeyford spoke in favor of adoption of the resolution.

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The President declared the question before the Senate to be the adoption of Senate Resolution No. 8680.

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

## INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the Washington State Dairy Ambassadors, Judy Odermann, Washington State Ambassador Committee Chairwoman; Eileen Hartzell, Washington State Dairy Women President; Tammi Schoenbachler, Washington State Dairy Women Vice President; Washington State Dairy Women and members & staff of the Washington State Dairy Federation and Washington State Dairy Products Commission who were seated in the gallery.

## INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced alternate Dairy Ambassadors, Elizabeth Birkliid and Shelby Hanson and the Washington State Dairy Ambassador Melissa Cook who were seated at the rostrum.

With permission of the Senate, business was suspended to allow Washington State Dairy Ambassador, Melissa Cook to address the Senate.

## REMARKS BY MS. MELISSA COOK

Melissa Cook: "Honorable Lieutenant Governor, members of the Senate and guests. From left to right on the political spectrum a wide range of values and goals can be seen driving a politician's work. However, I believe that all politicians can be united in promoting economic vitality and a better future for our communities and environment. That is exactly what the dairy industry does. With four hundred and fifty-four dairy farms in the state of Washington, dairy products are the second largest agriculture commodity in the state, creating an estimated economic impact of 4.25 billion dollars each year. These farms not only produce six hundred and sixty-two million gallons of wholesome milk each year but also create thousands of jobs and support countless other local businesses including veterinarians, truck drivers, feed manufacturers and processing plants. While helping the economy to flourish, the farmers are also doing the same for their environment. Most dairy farms are passed down from generation to generation ensuring that their land will remain undeveloped and a safe haven for wildlife for many years to come. Dairy farmers are constantly trying to keep water ways protected, soil fertile and air clean because the success of their business depends upon it. Further benefitting Washington's environmental health, some dairy farmers are creating renewable energy through the construction and use of methane digesters. These digesters use manure, a plentiful resource on the farm, to create electricity which powers the farms and surrounding homes. Dairy farmers are not only concerned with preserving their natural resources and farms for future generations but their communities as well. They do this in part through sponsorship of programs like the Washington Interscholastic Activities Association and the Field to Play Sixty program with the Seattle Seahawks. These programs allow young people to build meaningful relationships and develop healthy life styles and of course dairy farmers produce a product with a nutrient package that can benefit the health of all people. So whichever way your political compass points I'm confident that they all point towards greener pastures, that is farm land which not only supports the local economy but the future of our communities and environment as well. On behalf of the Dairy Farmers of

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Washington, I would like to thank you all for your support of the dairy industry and for having us here today.”

MOTION

At 10:16 a.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Thursday, January 21, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

ELEVENTH DAY

NOON SESSION

Senate Chamber, Olympia, Thursday, January 21, 2010

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

January 20, 2010

SB 6205 Prime Sponsor, Senator Haugen: Concerning portions of state highways better served by merged districts under certain circumstances. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6205 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Berkey; Delvin; Eide; Hatfield; Kastama; Kauffman; Kilmer and King.

Passed to Committee on Rules for second reading.

January 20, 2010

SB 6218 Prime Sponsor, Senator Fraser: Authorizing use of voter approved local excess tax levies to pay financing contracts under the local option capital asset lending program and clarifying which "other agencies" may participate in the program. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Hobbs; Honeyford; Murray; Parlette; Pflug; Pridemore; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

January 20, 2010

SB 6220 Prime Sponsor, Senator Fraser: Concerning determination of the terms and conditions of bonds, notes, and other evidences of indebtedness of the state of Washington. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Hobbs; Honeyford; Murray; Parlette; Pflug; Pridemore; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

January 20, 2010

SB 6221 Prime Sponsor, Senator Fairley: Concerning clarification and expansion of eligibility to use the state's local government investment pool. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Hobbs; Honeyford; Murray; Parlette; Pflug; Pridemore; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

January 20, 2010

SB 6224 Prime Sponsor, Senator Keiser: Conforming the uniform controlled substances act to existing state and federal law. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 6224 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Marr and Parlette.

Passed to Committee on Rules for second reading.

January 20, 2010

SB 6227 Prime Sponsor, Senator Becker: Concerning the practice of opticianry. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Marr and Parlette.

Passed to Committee on Rules for second reading.

January 19, 2010

SB 6231 Prime Sponsor, Senator Marr: Implementing rules and penalties for drivers when approaching certain emergency, roadside assistance, or police vehicles in emergency zones. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6231 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Berkey; Delvin; Eide; Hatfield; Kastama; Kilmer and King.

Passed to Committee on Rules for second reading.

January 20, 2010

SB 6235 Prime Sponsor, Senator Hargrove: Promoting industries that rely on the state's working land base. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Honeyford; Delvin; Fraser; Marr; Oemig and Sheldon.

Passed to Committee on Economic Development, Trade & Innovation.

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SB 6264 Prime Sponsor, Senator Keiser: Licensing dentists. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Marr and Parlette.

Passed to Committee on Rules for second reading.

January 20, 2010

SB 6297 Prime Sponsor, Senator Franklin: Regarding certification of speech-language pathology assistants. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Marr and Parlette.

Passed to Committee on Rules for second reading.

REPORTS OF STANDING COMMITTEES  
GUBERNATORIAL APPOINTMENTS

January 20, 2010

SGA 9203 BETTE HYDE, appointed on April 15, 2009, for the term ending at the governors pleasure, as Member of the Washington State Department of Early Learning. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King; Gordon; Hobbs and McDermott.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

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

MESSAGE FROM THE HOUSE

January 20, 2010

MR. PRESIDENT  
The House has passed:

ENGROSSED HOUSE BILL 2561.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

INTRODUCTION AND FIRST READING

SB 6672 by Senator Rockefeller

AN ACT Relating to modifying the energy independence act; amending RCW 19.285.030, 19.285.040, and 19.285.070; and creating a new section.

Referred to Committee on Environment, Water & Energy.

SB 6673 by Senators Kline, McCaslin, Carrell, Kohl-Welles, Gordon, Regala, Roach, Hargrove and Tom

AN ACT Relating to bail practices and procedures; creating new sections; and providing an expiration date.

Referred to Committee on Judiciary.

SB 6674 by Senators Kline, McCaslin and Hargrove

AN ACT Relating to agreements to indemnify against liability for negligence involving motor carriers; and amending RCW 4.24.115.

Referred to Committee on Judiciary.

SB 6675 by Senators Murray, Pflug, Shin, Kastama, Kohl-Welles and Kilmer

AN ACT Relating to creating the Washington global health technologies and product development competitiveness program and allowing certain tax credits for program contributions; reenacting and amending RCW 43.84.092; adding a new section to chapter 82.04 RCW; adding a new section to chapter 48.14 RCW; adding a new chapter to Title 43 RCW; and providing expiration dates.

Referred to Committee on Economic Development, Trade & Innovation.

SB 6676 by Senator Hatfield

AN ACT Relating to changes in vessel designations on Dungeness crab-coastal fishery licenses; and amending RCW 77.70.350.

Referred to Committee on Natural Resources, Ocean & Recreation.

SB 6677 by Senators Rockefeller and Ranker

AN ACT Relating to oil spill contingency plan requirements; amending RCW 90.56.010, 90.56.280, 90.56.210, and 88.46.060; creating a new section; repealing RCW 88.46.100; and providing an effective date.

Referred to Committee on Environment, Water & Energy.

SB 6678 by Senators Hobbs, Kilmer, Marr, Berkey, Tom and Shin

AN ACT Relating to the creation of entities to address the long-range impact of opportunities and changes in the aerospace industry; reenacting and amending RCW 43.84.092; adding a new section to chapter 43.42 RCW; adding a new section to chapter 82.08 RCW; adding a new

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chapter to Title 43 RCW; adding a new chapter to Title 28B RCW; and making an appropriation.

Referred to Committee on Government Operations & Elections.

Referred to Committee on Economic Development, Trade & Innovation.

SB 6686 by Senators Gordon, McCaslin, Kline, Regala, Kohl-Welles, Delvin, Tom and Shin

SB 6679 by Senators Kauffman, Kastama and Shin

AN ACT Relating to the small business export finance assistance center; amending RCW 43.210.040 and 43.210.050; adding a new section to chapter 43.210 RCW; and making an appropriation.

AN ACT Relating to municipal court judges and commissioners; amending RCW 3.50.040, 3.50.050, 3.50.057, and 3.50.075; and repealing RCW 3.50.055 and 3.50.070.

Referred to Committee on Judiciary.

Referred to Committee on Economic Development, Trade & Innovation.

SB 6687 by Senator Benton

SB 6680 by Senator Hargrove

AN ACT Relating to authorizing local excise taxes for criminal justice purposes; amending RCW 82.14.350, 82.14.450, and 82.14.450; providing an effective date; and providing an expiration date.

AN ACT Relating to student members on the boards of trustees for community colleges and the state board for community and technical colleges; amending RCW 28B.50.100 and 28B.50.050; adding a new section to chapter 28B.50 RCW; and creating a new section.

Referred to Committee on Higher Education & Workforce Development.

Referred to Committee on Human Services & Corrections.

SB 6688 by Senators Fairley and Shin

SB 6681 by Senators Keiser and Pflug

AN ACT Relating to determining the appropriate date of a small employer group's composition for purposes of setting health benefit plan premium rates; amending RCW 48.44.010, 48.44.023, 48.46.020, 48.46.066, 48.21.045, and 48.21.047; and creating a new section.

AN ACT Relating to filling vacancies in nonpartisan local elective office; amending RCW 36.16.110; and creating a new section.

Referred to Committee on Government Operations & Elections.

Referred to Committee on Health & Long-Term Care.

SB 6689 by Senator Pridemore

SB 6682 by Senators Kastama, Sheldon and Hatfield

AN ACT Relating to a baseload renewable power facility; and amending RCW 19.285.030 and 19.285.040.

AN ACT Relating to ballot title information; and amending RCW 29A.36.071, 29A.36.210, 84.52.054, and 84.55.050.

Referred to Committee on Government Operations & Elections.

Referred to Committee on Environment, Water & Energy.

SB 6683 by Senators Tom and Oemig

AN ACT Relating to sending renewal notices for licenses, registrations, and permits via electronic means; and adding a new section to chapter 43.01 RCW.

SB 6690 by Senator Pridemore

AN ACT Relating to accessing land for outdoor recreation; amending RCW 77.32.380 and 77.12.880; and creating a new section.

Referred to Committee on Natural Resources, Ocean & Recreation.

Referred to Committee on Government Operations & Elections.

SB 6684 by Senators Murray, Kohl-Welles and Tom

AN ACT Relating to the governance and financing of the Washington state convention and trade center.

SB 6691 by Senator Pridemore

AN ACT Relating to providing forest derived biomass tax incentives; amending RCW 82.04.4494, 82.08.957, and 82.12.957; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; and providing expiration dates.

Referred to Committee on Environment, Water & Energy.

Referred to Committee on Economic Development, Trade & Innovation.

SB 6685 by Senators Roach and Fairley

AN ACT Relating to posting information on public agencies' web sites; adding a new section to chapter 42.30 RCW; and providing an effective date.

SB 6692 by Senators Pridemore, Hargrove, Ranker and Haugen

AN ACT Relating to allowing certain counties to participate and enter into ownership agreements for electric generating

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facilities powered by biomass; and amending RCW 36.140.010 and 54.44.020.

AN ACT Relating to the acquisition of nonprofit hospitals; and amending RCW 70.45.100 and 70.45.080.

Referred to Committee on Environment, Water & Energy.

Referred to Committee on Health & Long-Term Care.

SB 6693 by Senator Pridemore

SB 6699 by Senators Becker, Haugen, Holmquist, Parlette, King, Swecker, Pflug, Stevens, Delvin and Roach

AN ACT Relating to vehicle license fraud; amending RCW 46.16.010; making an appropriation; and providing an effective date.

AN ACT Relating to the rating system for workers' compensation insurance; and amending RCW 51.16.035.

Referred to Committee on Transportation.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6694 by Senators Gordon, Kline and Fairley

SB 6700 by Senators Sheldon, Swecker, Haugen, Kauffman and Tom

AN ACT Relating to the foreclosure of residential real property; amending RCW 61.24.030, 61.24.031, and 61.24.040; and repealing 2009 c 292 s 13 (uncodified).

AN ACT Relating to naming or renaming state ferry vessels; and amending RCW 47.01.420.

Referred to Committee on Financial Institutions, Housing & Insurance.

Referred to Committee on Transportation.

SB 6695 by Senators Fraser, Pridemore, Swecker and Hobbs

SJM 8023 by Senators McAuliffe, Kohl-Welles, Kauffman, Tom, Kline and Shin

AN ACT Relating to the leave sharing program; and amending RCW 41.04.665.

Petitioning Congress to fully fund forty percent of the costs of the federal Individuals with Disabilities Education Act (IDEA).

Referred to Committee on Government Operations & Elections.

Referred to Committee on Early Learning & K-12 Education.

SB 6696 by Senators McAuliffe, King, Gordon, Oemig, Hobbs, Kauffman, McDermott, Roach, Berkey, Murray, Tom, Prentice, Haugen, Fairley, Kline, Rockefeller, Keiser, Marr, Ranker, Regala, Eide, Kilmer, Hargrove, Franklin, Shin and Kohl-Welles

INTRODUCTION AND FIRST READING OF HOUSE BILLS

EHB 2561 by Representatives Dunshee, Williams, White, Seaquist, Darneille, Eddy, Dickerson, Sells, Rolfes, Chase, Green, Appleton, Sullivan, Simpson, Nelson, Hudgins, Jacks, Hunt, Hasegawa, Ormsby, Moeller and Roberts

AN ACT Relating to education reform; amending RCW 28A.305.225, 28A.150.230, 28A.405.100, 28A.405.220, 28A.400.200, 28A.660.020, 28B.76.230, and 28A.655.110; reenacting and amending RCW 28A.660.040 and 28A.660.050; adding new sections to chapter 28A.300 RCW; adding a new section to chapter 28A.305 RCW; adding a new section to chapter 28A.320 RCW; adding new sections to chapter 28A.405 RCW; adding new sections to chapter 28A.410 RCW; adding a new section to chapter 28B.76 RCW; adding new sections to chapter 28A.655 RCW; creating new sections; and repealing RCW 28A.660.010, 28A.415.100, 28A.415.105, 28A.415.130, 28A.415.135, and 28A.415.140.

AN ACT Relating to creating jobs by funding construction of energy cost saving improvements to public facilities; adding a new chapter to Title 43 RCW; creating new sections; making an appropriation; and providing for submission of certain sections of this act to a vote of the people.

Referred to Committee on Early Learning & K-12 Education.

Referred to Committee on Ways & Means.

MOTION

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

MOTION

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

MOTION

Senator McDermott moved adoption of the following resolution:

SB 6697 by Senators Haugen, Kline and Kohl-Welles

AN ACT Relating to suffocation; amending RCW 9A.36.021, 9A.04.110, and 9.94A.030; and prescribing penalties.

Referred to Committee on Judiciary.

SENATE RESOLUTION

SB 6698 by Senators Keiser, Marr, Murray, Fairley and Kohl-Welles

ELEVENTH DAY, JANUARY 21, 2010

By Senator Brown

WHEREAS, We are here today to celebrate a political life and a true Washington original; and

WHEREAS, We can see his legacy everywhere. In our state's transit system, our justice system, and in our colleges and universities; and

WHEREAS, Albert Rosellini served the people of this state with distinction, not only as a two-term governor, but as a member of the State Senate and as a lawyer who championed civil rights; and

WHEREAS, Albert Rosellini is the nation's oldest living governor and today we celebrate his 100th birthday; and

WHEREAS, Albert Dean Rosellini was born in Tacoma on January 21, 1910, the only son of poor Italian immigrants; and

WHEREAS, He worked his way through the University of Washington law school, and at age 29 was elected to the State Senate as its youngest member. He served the 33rd District in south Seattle from 1939 to 1957, rising to the rank of Majority Leader; and

WHEREAS, After winning the 1956 gubernatorial election, Governor Rosellini began a progressive agenda that saw the creation of a separate justice and prison system for juveniles, modernized mental health care, increased aid to colleges and universities, and accelerated road construction; and

WHEREAS, His establishment of the Department of Commerce and Economic Development played an integral role in bringing the World's Fair to Seattle in 1962; and

WHEREAS, His term as governor may have ended in 1965, but his dedication to the state was far from over; and

WHEREAS, Governor Rosellini continued to practice law and serve as an elder statesman to the state's Democratic Party; and

WHEREAS, He continues to donate time and money to many charities, particularly the Washington State Olympics Committee, which he chaired for many years; and

WHEREAS, He and his wife Ethel raised five children: John, Janey, Sue Ann, Lynn, and Albert Jr.;

NOW, THEREFORE, BE IT RESOLVED, That the state of Washington and the State Senate honor and celebrate the service of Governor Albert Rosellini on this the 100th anniversary of his birth; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted to Governor Rosellini in time for his 100th birthday celebration in Seattle on Sunday January 24.

Senator McDermott spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8677.

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

#### MOTION

At 12:05 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Friday, January 22, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**TWELFTH DAY**

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MORNING SESSION

---

Senate Chamber, Olympia, Friday, January 22, 2010

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

The Sergeant at Arms escorted Major General Timothy Lowenberg, Adjutant General and Commander of the Washington National Guard and First Gentleman Mike Gregoire to seats at the Rostrum.

The Color Guard consisting of Washington Army National Guard Sergeant William Graak, Staff Sergeant Corey Scott, Sergeant First Class Trish Jennings and Specialist Jacob Smalser presented the Colors.

The National Anthem was performed by the 133<sup>rd</sup> Army Band, Staff Sergeant Thomas Lee, Staff Sergeant Amy O'Shields, Sergeant Richard Little, Sergeant Brian Smith and Cadet Joshua Jorgenson.

The prayer was offered by Lieutenant Colonel Carl Steele, 81<sup>st</sup> Brigade Combat Team Chaplain..

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

January 20, 2010

SB 6195 Prime Sponsor, Senator Berkey: Mailing applications for distributions of excess proceeds from county tax lien foreclosures to the record owner. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin; McDermott; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

January 20, 2010

SB 6198 Prime Sponsor, Senator Berkey: Modifying the exemption to the three-year active transacting requirement for foreign or alien insurer applicants. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin; McDermott; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

January 20, 2010

SB 6251 Prime Sponsor, Senator Benton: Concerning nonresident surplus line brokers and insurance producers. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That Substitute Senate Bill No. 6251 be substituted therefor, and the substitute bill do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin; McDermott; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

January 20, 2010

SB 6253 Prime Sponsor, Senator Benton: Concerning insurance. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That Substitute Senate Bill No. 6253 be substituted therefor, and the substitute bill do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin; McDermott; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

January 21, 2010

SB 6265 Prime Sponsor, Senator Keiser: Concerning hospital surveys or audits. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Marr and Parlette.

Passed to Committee on Rules for second reading.

January 21, 2010

SB 6382 Prime Sponsor, Senator Prentice: Reducing the cost of state government operations by restricting compensation. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6382 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Fairley; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Oemig; Parlette; Pridemore; Regala and Rockefeller.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Pflug and Schoesler.

Passed to Committee on Rules for second reading.

January 21, 2010

SB 6503 Prime Sponsor, Senator Prentice: Closing state agencies on specified dates. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6503 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline;

TWELFTH DAY, JANUARY 22, 2010

Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Pflug and Schoesler.

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

Passed to Committee on Rules for second reading.

## MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

## MOTION

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

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

November 9, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

MICHAEL L. REICHERT, appointed July 1, 2009, for the term ending June 30, 2015, as Member of the Gambling Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Labor, Commerce & Consumer Protection.

## MOTION

On motion of Senator Eide, the appointee listed on the Gubernatorial Appointment report was referred to the committee as designated.

## MOTION

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

## INTRODUCTION AND FIRST READING

SB 6701 by Senators Kline, Kohl-Welles, Jacobsen, Keiser, Gordon, Tom, Fraser and McAuliffe

AN ACT Relating to real property warranties; and adding new sections to chapter 64.50 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6702 by Senators Kline, McAuliffe, Gordon, McDermott, Fraser, Shin and Kohl-Welles

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AN ACT Relating to providing education programs for juveniles in adult jails; and adding a new chapter to Title 28A RCW.

Referred to Committee on Early Learning & K-12 Education.

SB 6703 by Senators Franklin, King, Keiser, Shin, Kohl-Welles, Marr, Hargrove and Kilmer

AN ACT Relating to online nursing programs; and creating a new section.

Referred to Committee on Higher Education & Workforce Development.

SB 6704 by Senator Hargrove

AN ACT Relating to modifying general assistance and medical care services provisions; amending RCW 74.04.005, 74.04.230, 74.04.266, 74.04.620, 74.09.035, 74.09.010, 74.09.555, and 74.50.060; adding new sections to chapter 74.08 RCW; repealing RCW 74.04.0052; and providing an effective date.

Referred to Committee on Human Services & Corrections.

SB 6705 by Senator Kastama

AN ACT Relating to modifying business and occupation tax credits; amending RCW 82.04.4452, 82.04.448, 82.04.4483, and 82.62.030; providing an effective date; and providing an expiration date.

Referred to Committee on Economic Development, Trade & Innovation.

SB 6706 by Senators Murray, Delvin, Kastama, Shin, Marr, Kilmer and Kohl-Welles

AN ACT Relating to commercialization of research at state universities; amending RCW 42.52.160; and adding new sections to chapter 28B.63 RCW.

Referred to Committee on Economic Development, Trade & Innovation.

SB 6707 by Senators Shin and Kastama

AN ACT Relating to youth school dropout and crime prevention; amending RCW 26.09.002 and 26.09.187; reenacting and amending RCW 26.09.004; adding a new section to chapter 26.09 RCW; and creating new sections.

Referred to Committee on Human Services & Corrections.

SB 6708 by Senator Pridemore

AN ACT Relating to respiratory care practitioners; and amending RCW 18.89.020 and 18.89.040.

Referred to Committee on Health & Long-Term Care.

SB 6709 by Senator Brandland

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AN ACT Relating to legal financial obligations; amending RCW 9.94A.760 and 9.94A.753; and adding a new section to chapter 9.94A RCW.

SB 6714 by Senators Tom, Prentice, Kline, Kohl-Welles and Fraser

Referred to Committee on Human Services & Corrections.

AN ACT Relating to addressing tax avoidance; amending RCW 82.32.090, 82.32.050, 82.12.020, 82.45.033, 82.45.070, 82.45.080, 82.45.100, 82.45.220, and 43.07.390; reenacting and amending RCW 82.45.010; adding new sections to chapter 82.32 RCW; creating new sections; and providing an effective date.

SB 6710 by Senator Keiser

Referred to Committee on Ways & Means.

AN ACT Relating to administration of the medicaid program; amending RCW 74.09.010, 74.09.015, 74.09.035, 74.09.037, 74.09.050, 74.09.055, 74.09.075, 74.09.080, 74.09.085, 74.09.110, 74.09.120, 74.09.160, 74.09.180, 74.09.185, 74.09.190, 74.09.200, 74.09.210, 74.09.240, 74.09.260, 74.09.280, 74.09.290, 74.09.300, 74.09.470, 74.09.480, 74.09.490, 74.09.500, 74.09.510, 74.09.515, 74.09.520, 74.09.521, 74.09.5221, 74.09.5222, 74.09.5227, 74.09.523, 74.09.530, 74.09.540, 74.09.555, 74.09.565, 74.09.575, 74.09.585, 74.09.595, 74.09.650, 74.09.655, 74.09.658, 74.09.659, 74.09.660, 74.09.700, 74.09.710, 74.09.715, 74.09.725, 74.09.730, 74.09.755, 74.09.790, 74.09.800, 74.09.810, and 74.09.820; and reenacting and amending RCW 74.09.053 and 74.09.522.

SB 6715 by Senator Berkey

AN ACT Relating to surplus line coverage; and amending RCW 48.15.040.

Referred to Committee on Financial Institutions, Housing & Insurance.

Referred to Committee on Health & Long-Term Care.

SB 6716 by Senators McDermott, Kline, Kohl-Welles, Regala and Kauffman

AN ACT Relating to the representation of children in dependency matters; amending RCW 13.34.100, 13.34.105, and 13.34.215; and creating new sections.

Referred to Committee on Human Services & Corrections.

SB 6711 by Senators Prentice, Tom, Kline and Fraser

AN ACT Relating to limiting tax preferences that have been the subject of administrative or judicial appeals; amending RCW 82.04.423, 82.04.4292, 82.04.4266, 82.04.250, 82.04.250, 82.04.298, 82.04.334, 82.04.4463, 82.08.806, 82.32.545, 82.32.550, 82.32.630, 82.32.632, 82.45.195, 35.102.150, and 48.14.080; reenacting and amending RCW 82.04.260, 82.04.261, and 82.04.440; adding a new section to chapter 82.04 RCW; creating new sections; providing effective dates; providing an expiration date; and declaring an emergency.

SB 6717 by Senator Prentice

AN ACT Relating to administrative review of public assistance decisions; amending RCW 74.04.005 and 74.08.080; creating a new section; and declaring an emergency.

Referred to Committee on Human Services & Corrections.

Referred to Committee on Ways & Means.

SB 6718 by Senator Hobbs

AN ACT Relating to the definition of criminal act for crime victims compensation purposes; amending RCW 7.68.020; and creating a new section.

Referred to Committee on Human Services & Corrections.

SB 6712 by Senators Hobbs, Shin and Kilmer

AN ACT Relating to extending expiring tax incentives for certain clean alternative fuel vehicles, producers of certain biofuels, and federal aviation regulation part 145 certificated repair stations; amending RCW 82.04.250, 82.08.809, 82.12.809, 84.36.635, 84.36.640, and 82.29A.135; repealing 2008 c 81 s 19 (uncodified); repealing 2007 c 54 s 30 (uncodified); repealing 2006 c 177 s 14 (uncodified); repealing 2005 c 296 s 6 (uncodified); repealing 2007 c 54 s 5; and providing an expiration date.

SB 6719 by Senators Murray, King and Kohl-Welles

AN ACT Relating to special occasion licenses; and amending RCW 66.28.310.

Referred to Committee on Ways & Means.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6713 by Senators Tom, Prentice, Murray, Kline, Kohl-Welles and Fraser

SB 6720 by Senators Fraser, Delvin and Kline

AN ACT Relating to increasing revenues by eliminating and narrowing preferential tax treatment; amending RCW 82.08.890 and 82.12.890; reenacting and amending RCW 82.04.360; adding a new section to chapter 82.32 RCW; creating new sections; repealing RCW 82.04.062; providing an effective date; and providing an expiration date.

AN ACT Relating to providing an optional tool for cities to use for programmatic environmental impact review; amending RCW 82.02.020; adding a new section to chapter 43.21C RCW; and creating a new section.

Referred to Committee on Environment, Water & Energy.

Referred to Committee on Ways & Means.

SB 6721 by Senators Schoesler, Hobbs and Honeyford

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AN ACT Relating to tax statute clarifications and technical corrections; amending RCW 39.100.050, 82.04.190, 82.04.3651, 82.04.394, 82.08.0256, 82.08.02573, 82.08.0273, 82.08.700, 82.12.0257, 82.12.040, 82.16.110, 82.32.080, 82.36.440, 82.38.280, 82.62.010, 82.80.120, 83.100.040, 83.100.046, 83.100.046, 82.04.290, 29A.36.210, 36.68.525, 36.69.145, 84.36.381, 84.37.030, 84.37.902, 84.48.050, 84.52.030, 84.52.070, and 84.52.080; reenacting and amending RCW 82.04.050, 82.04.360, 82.16.010, 82.16.010, 82.32.520, 84.34.020, and 84.36.383; adding a new section to chapter 82.32 RCW; repealing RCW 84.55.080; providing effective dates; and providing an expiration date.

Referred to Committee on Ways & Means.

SB 6722 by Senators Schoesler, Carrell and McCaslin

AN ACT Relating to escape or disappearance notification requirements; and amending RCW 10.77.165.

Referred to Committee on Human Services & Corrections.

SB 6723 by Senators Schoesler, Brown and Parlette

AN ACT Relating to studying the elimination of property tax on personal property; and creating a new section.

Referred to Committee on Ways & Means.

SB 6724 by Senators Kilmer, Kauffman, Eide, Berkey, Murray, Shin and Keiser

AN ACT Relating to allowing employees of a school district or educational service district to share leave with employees in another agency; and amending RCW 41.04.665.

Referred to Committee on Government Operations & Elections.

SB 6725 by Senators Kline, Kohl-Welles and Keiser

AN ACT Relating to the protection of public policy; and adding new sections to chapter 49.60 RCW.

Referred to Committee on Judiciary.

SB 6726 by Senators Marr, Kohl-Welles, Ranker, Murray, McDermott, Keiser, Prentice, Kauffman, Kline, Kilmer, Fraser and Pridemore

AN ACT Relating to making the governor the public employer of language access providers; amending RCW 41.56.030, 41.56.113, 41.04.810, 43.01.047, and 74.04.025; adding new sections to chapter 74.04 RCW; adding a new section to chapter 41.56 RCW; and creating a new section.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6727 by Senators Marr and Brown

AN ACT Relating to health sciences and services authorities; amending RCW 35.104.060 and 42.30.110; and adding a new section to chapter 35.104 RCW.

Referred to Committee on Health & Long-Term Care.

SB 6728 by Senators Gordon, Kohl-Welles, Keiser, Murray and Fraser

AN ACT Relating to classroom training for electrical trainees; amending RCW 19.28.161; and providing an effective date.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6729 by Senator Fraser

AN ACT Relating to notices to shareholders of annual or special meetings; and amending RCW 23B.07.050.

Referred to Committee on Judiciary.

SB 6730 by Senators Becker, Hargrove, Stevens and Roach

AN ACT Relating to child welfare; amending RCW 13.34.060, 13.34.105, and 74.14B.030; reenacting and amending RCW 13.34.130; adding new sections to chapter 13.34 RCW; and creating a new section.

Referred to Committee on Human Services & Corrections.

SB 6731 by Senators Shin, Kastama, Hobbs and Berkey

AN ACT Relating to the establishment of the Washington trade corps fellowship program; adding new sections to chapter 43.31 RCW; and creating a new section.

Referred to Committee on Higher Education & Workforce Development.

SJR 8225 by Senators Fraser, Brandland and Prentice

Resolving to define "interest" in the state Constitution.

Referred to Committee on Ways & Means.

#### MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Senate Bill No. 6718 which was referred to the Committee on Human Services & Corrections and Senate Bill No. 6724 which was referred to the Committee on Government Operations & Elections.

#### MOTION

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

#### MOTION

Senator Hobbs moved adoption of the following resolution:

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SENATE RESOLUTION  
8675

By Senators Hobbs, Brandland, Parlette, Prentice, Tom, Fraser, Rockefeller, Regala, McDermott, Morton, Haugen, Stevens, Kastama, Keiser, Pflug, Schoesler, Honeyford, Hatfield, Hewitt, Eide, Kohl-Welles, Berkey, Pridemore, Becker, Oemig, Gordon, and Roach

WHEREAS, Nearly eighty-six hundred men and women of the Washington National Guard continue to serve the country as guardians of American interests at home and abroad; and

WHEREAS, These recognized leaders in state, regional, and national preparedness, who reside in every legislative district throughout Washington, volunteer their time and put personal lives aside to serve the needs of the people of Washington state; and

WHEREAS, The Guard always answers the state's call in response to all emergency efforts and to protect lives and property; and

WHEREAS, The Washington Army and Air National Guard continue to provide critical mission support in both personnel and equipment to Operation Iraqi Freedom and Operation Enduring Freedom in Iraq and Afghanistan, respectively, and Operation Noble Eagle here at home; and

WHEREAS, The Guard continues to train and prepare for both natural disasters and threats to our national security; and

WHEREAS, The Guard continues to promote positive lifestyles and activities for Washington's youth through involvement in and support of highly effective drug prevention programs with school-aged children and community-based organizations and the continued success and ongoing work of the invaluable Washington Youth Academy; and

WHEREAS, The Guard continues to actively participate in the state's counterdrug efforts by providing soldiers, airmen, and specialized equipment to local, state, and federal law enforcement agencies; and

WHEREAS, The Guard adds value to communities by opening its readiness centers for public use, food banks, and other community and youth activities. The Guard continues to build upon these readiness centers and armories throughout the state to enhance education, add to quality of life, and increase economic vitality;

NOW, THEREFORE, BE IT RESOLVED, That the Senate express its thanks and appreciation to the devoted families and dedicated employers of our Washington National Guard soldiers and airmen for their support, without whom the Guard's missions could not be successful; and

BE IT FURTHER RESOLVED, That the Senate recognize the value and dedication of a strong Washington National Guard to the viability, economy, safety, security, and well-being of this state, both through the outstanding performance of its state emergency and disaster relief mission, and through the continued benefit to local communities by the presence of productively employed, drug-free, well-equipped, and trained Guard units and the readiness centers and armories that house them; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to The Adjutant General of the Washington National Guard, the Governor of the State of Washington, the Secretaries of the United States Army and Air Force, and the President of the United States.

Senator Hobbs spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8675.

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

## INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Major General Timothy Lowenberg, Adjutant General and Commander of the Washington National Guard who was seated at the rostrum and all members of the National Guard in the Gallery.

The President thanked First Gentleman, Mike Gregoire who was also seated at the rostrum.

## PERSONAL PRIVILEGE

Senator McAuliffe: "I would like to announce that between nine and ten this evening on all channels of our TV's will be a program hosted by George Clooney and Ocean's Eleven crew to raise money to support the people of Haiti. So, I encourage all of us to tune in, all stations will air this program."

## MOTION

At 10:22 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:51 a.m. by President Owen.

## MOTION

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

## MOTION

On motion of Senator Eide, Senator Jacobsen was excused.

## MOTION

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

## SECOND READING

SENATE BILL NO. 6382, by Senators Prentice and Tom

Reducing the cost of state government operations by restricting compensation.

## MOTION

On motion of Senator Tom, Substitute Senate Bill No. 6382 was substituted for Senate Bill No. 6382 and the substitute bill was placed on the second reading and read the second time.

## MOTION

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

On page 1, after line 5, strike all material down through line 22 on page 10 and insert the following:

" **NEW SECTION. Sec. 1.** A new section is added to chapter 41.06 RCW to read as follows:

(1) From July 1, 2010 through June 30, 2011, a salary or wage increase shall not be granted to any position classified under this chapter, except that a salary increase may be granted for a position

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for which the employer has demonstrated difficulty in retaining qualified employees if the following conditions are met:

(a) The salary increase can be paid within existing resources; and

(b) The salary increase will not adversely impact the delivery of client services.

(2) From the effective date of this act through June 30, 2011, a salary or wage increase shall not be granted to any position exempt from classification under this chapter, except that a salary increase may be granted for a position for which the employer has demonstrated difficulty in retaining qualified employees if the following conditions are met:

(a) The salary increase can be paid within existing resources; and

(b) The salary increase will not adversely impact the delivery of client services.

(3) Any agency granting a salary increase from the effective date of this act through June 30, 2011, to a position classified or exempt from classification under this chapter, shall submit a report to the fiscal committees of the legislature no later than July 31, 2011, detailing the positions for which salary increases were granted, the size of the increases, and the reasons for giving the increases.

This section expires July 1, 2011."

Renumber the sections consecutively and correct any internal references accordingly.

On page 1, line 2 of the title, after "RCW", strike "41.06.500,".

On page 1, line 3 of the title, after "41.60.150;" strike "reenacting and amending RCW 41.06.070 and 41.06.133" and insert "creating a new section".

Senator Zarelli spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Zarelli on page 1, after line 5 to Substitute Senate Bill No. 6382.

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

#### MOTION

On motion of Senator Tom, the rules were suspended, Substitute Senate Bill No. 6382 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Tom and Brown spoke in favor of passage of the bill.

Senators Parlette and Zarelli spoke against passage of the bill

#### MOTION

On motion of Senator Marr, Senator McAuliffe was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6382.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6382 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 14; Absent, 1; Excused, 5.

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

Voting nay: Senators Becker, Brandland, Carrell, Delvin, Hewitt, King, McCaslin, Morton, Parlette, Pflug, Schoesler, Stevens, Swecker and Zarelli

Absent: Senator Honeyford

Excused: Senators Benton, Holmquist, Jacobsen, McAuliffe and Roach

SUBSTITUTE SENATE BILL NO. 6382, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6503, by Senator Prentice

Closing state agencies on specified dates.

#### MOTION

On motion of Senator Tom, Substitute Senate Bill No. 6503 was substituted for Senate Bill No. 6503 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

On motion of Senator Schoesler, Senator Honeyford was excused.

#### MOTION

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

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) From the effective date of this act, state agencies of the legislative, executive, and judicial branches, including institutions of higher education, shall achieve a reduction in employee compensation costs of \$69.154 million from general fund--state and education legacy trust account expenditures for the 2009-11 fiscal biennium and \$138.308 million for the 2011-13 fiscal biennium. The legislature declares that a significant revenue shortfall has occurred pursuant to RCW 41.80.010(6) and the parties to the state's collective bargaining agreements are directed to immediately enter into collective bargaining to modify the agreements and achieve the costs reductions required by this section. It is the intent of the legislature that the collective bargaining negotiations under this section be conducted on an expedited basis so that savings can implemented in a manner that reduces the impact on the delivery of essential governmental services while minimizing adverse effects on lower-wage public employees.

(2) The office of financial management shall certify to each state agency and institution of higher education that portion of the compensation reduction amount specified in subsection (1) of this section to be achieved by that agency or institution, based on the agency's proportionate share of compensation costs. By May 15, 2010, each agency and institution shall submit to the office of financial management a compensation reduction plan to achieve the cost reductions specified in this subsection. The compensation reduction plan of each agency may include, but is not limited to, employee leave without pay, including mandatory and voluntary temporary layoffs, reductions in the agency workforce, compensation reductions, and reduced work hours, as well as voluntary retirement, separation, and other incentive programs authorized by section 912, chapter 564, Laws of 2009. The amount of compensation cost reductions to be achieved by each agency or institution shall be adjusted to reflect voluntary and mandatory temporary layoffs implemented by the agency or institution during the 2009-11 fiscal biennium and prior to the effective date of this

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act. It is the legislature's intent that, in developing the compensation reduction plans, agencies shall strive to preserve family wage jobs by reducing the impact of temporary layoffs on lower-wage jobs.

(3) By June 1, 2010, the director of financial management shall review, approve, and submit to the legislative fiscal committees those agency compensation reduction plans that achieve the cost reduction required by subsection (2) of this section. It is the intent of the legislature that agencies may implement their compensation reduction plans prior to June 1, 2010, if that implementation will produce greater cost reductions or moderate the impacts on employees and agency programs. For those agencies and institutions of higher education that do not have an approved compensation reduction plan by June 1, 2010, the agency or institution shall be closed on the following dates in addition to the legal holidays specified in RCW 1.16.050:

- (a) Monday, June 14, 2010;
- (b) Tuesday, July 6, 2010;
- (c) Friday, August 6, 2010;
- (d) Tuesday, September 7, 2010;
- (e) Monday, October 11, 2010;
- (f) Friday, November 12, 2010;
- (g) Monday, December 27, 2010;
- (h) Friday, January 14, 2011;
- (i) Friday, February 18, 2011;
- (j) Friday, March 11, 2011;
- (k) Friday, April 15, 2011;
- (l) Friday, May 27, 2011;
- (m) Friday, June 10, 2011; and
- (n) The twenty-four comparable dates during the 2011-13 fiscal biennium.

(4) If the closure of an office of an agency of the state under subsection (3) of this section prevents the performance of any action, the action shall be considered timely if performed on the next business day. For any agency of the judicial branch that is closed on the dates specified in subsection (3) of this section, the dates are deemed to be nonjudicial days for the purposes of Article IV of the state Constitution.

(5) The following activities of state agencies and institutions of higher education are exempt from subsections (2) and (3) of this section:

- (a) Direct custody, supervision, and patient care in: (i) Corrections, (ii) juvenile rehabilitation, (iii) institutional care of veterans, the mentally ill, and developmentally disabled, (iv) state hospitals, the University of Washington medical center, and Harborview medical center, (v) the special commitment center, (vi) the school for the blind, (vii) the state center for childhood deafness and hearing loss, and (viii) the Washington youth academy;
- (b) Direct protective services to children and other vulnerable populations in the department of social and health services;
- (c) Washington state patrol investigative services and field enforcement;
- (d) Hazardous materials response or emergency response and cleanup;
- (e) Emergency public health and patient safety response and the public health laboratory;
- (f) Military operations and emergency management within the military department;
- (g) Firefighting;
- (h) Enforcement officers in the department of fish and wildlife, the liquor control board, the gambling commission, department of financial institutions, and the department of natural resources;
- (i) State parks operated by the parks and recreation commission;
- (j) In institutions of higher education, classroom instruction, operations not funded from state funds or tuition, campus police and

security, emergency management and response, and student health care;

(k) Operations of liquor control board business enterprises and games conducted by the state lottery;

(m) Agricultural commodity commissions and boards, and agricultural inspection programs operated by the department of agriculture;

(n) The unemployment insurance program and reemployment services of the employment security department;

(o) The workers' compensation program and workplace safety and health compliance activities of the department of labor and industries;

(p) The operation, maintenance, and construction of state ferries and state highways;

(q) The audit and compliance sections of the department of revenue;

(r) Licensing service offices in the department of licensing that are open no more than two days per week, and no licensing service office closures may occur as a result of this section on Saturdays;

(s) The governor, lieutenant governor, legislative agencies, and the office of financial management, during sessions of the legislature under Article II, section 12 of the state Constitution and the twenty-day veto period under Article IV, section 12 of the state Constitution; and

(t) The minimal use of state employees on the specified closure dates as necessary to protect public assets, information technology systems, and maintain public safety.

(6) The closure of an office of a state agency or institution of higher education under this section shall result in the temporary layoff of the employees of the agency or institution. The compensation of the employees shall be reduced proportionately to the duration of the temporary layoff. Temporary layoffs under this section shall not affect the employees' vacation leave accrual, seniority, or sick leave credits. For the purposes of chapter 430, Laws of 2009, the compensation reductions under this section are deemed to be an integral part of an employer's expenditure reduction efforts and shall not result in the loss of retirement benefits in any state defined benefit retirement plan for an employee whose period of average final compensation includes a portion of the period from the effective date of this act through June 30, 2011.

(7) Except as provided in subsection (5) of this section, for employees not scheduled to work on a day specified in subsection (3) of this section, the employing agency must designate an alternative day during that month on which the employee is scheduled to work that the employee will be temporarily laid off.

(8) To the extent that the implementation of this section is subject to collective bargaining under chapters 28B.52, 41.56, 41.76, 41.80, or 47.64 RCW, the bargaining shall be conducted pursuant to section 2 of this act.

(9) For all or a portion of the employees of an agency of the executive branch, the office of financial management may approve the substitution of temporary layoffs on an alternative date for any date specified in subsection (3) of this section as necessary for the critical work of any agency.

**NEW SECTION. Sec. 2.** A new section is added to chapter 41.80 RCW to read as follows:

(1) To the extent that the implementation of section 1 of this act is subject to collective bargaining:

(a) For institutions of higher education that have elected to have negotiations conducted by the governor or governor's designee in accordance with RCW 41.80.010(4), negotiations regarding impacts of section 1 of this act shall be conducted between the governor or governor's designee and one coalition of all of the exclusive bargaining representatives subject to chapter 41.80 RCW; and

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(b) For institutions of higher education that have not elected to have negotiations conducted by the governor or governor's designee under RCW 41.80.010(4), negotiations regarding impacts of section 1 of this act shall be conducted between each institution of higher education and the exclusive bargaining representatives.

(2) This section expires on June 30, 2013.

**Sec. 3.** RCW 42.04.060 and 2009 c 428 s 1 are each amended to read as follows:

Except as provided in section 1 of this act, all state elective and appointive officers shall keep their offices open for the transaction of business for a minimum of forty hours per week, except weeks that include state legal holidays. Customary business hours must be posted on the agency or office's web site and made known by other means designed to provide the public with notice.

((This section shall not apply to the courts of record of this state or to their officers nor to the office of the attorney general and the lieutenant governor.))

**NEW SECTION. Sec. 4.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

**NEW SECTION. Sec. 5.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 6.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

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

Senator Rockefeller spoke against adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Zarelli to Substitute Senate Bill No. 6503.

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

#### MOTION

On motion of Senator Tom, the rules were suspended, Substitute Senate Bill No. 6503 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Tom, Brown, Kohl-Welles and Pridemore spoke in favor of passage of the bill.

Senators Zarelli, Fraser, Pflug spoke against passage of the bill.

Senator Keiser spoke on passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6503.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6503 and the bill passed the Senate by the following vote: Yeas, 27; Nays, 17; Absent, 0; Excused, 5.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Kastama,

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Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

Voting nay: Senators Becker, Brandland, Carrell, Delvin, Fraser, Hewitt, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Excused: Senators Benton, Holmquist, Jacobsen, McAuliffe and Roach

SUBSTITUTE SENATE BILL NO. 6503, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 12:36 p.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Monday, January 25, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

FIFTEENTH DAY

NOON SESSION

Senate Chamber, Olympia, Monday, January 25, 2010

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

January 21, 2010

SB 6322 Prime Sponsor, Senator McDermott: Modifying election notice provisions. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott; Pridemore and Swecker.

Passed to Committee on Rules for second reading.

January 21, 2010

SB 6330 Prime Sponsor, Senator Kohl-Welles: Permitting the placement of human trafficking informational posters in rest areas. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Holmquist; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

January 21, 2010

SB 6332 Prime Sponsor, Senator Kohl-Welles: Concerning human trafficking. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 6332 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

January 22, 2010

SB 6389 Prime Sponsor, Senator Brandland: Revising membership and rules of procedure for the criminal justice training commission and related boards. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Hargrove and Kohl-Welles.

Passed to Committee on Rules for second reading.

January 21, 2010

SB 6393 Prime Sponsor, Senator Hewitt: Modifying distributions of funds by the horse racing commission to nonprofit race meets. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 6393 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Holmquist; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

January 20, 2010

SB 6395 Prime Sponsor, Senator Kline: Addressing lawsuits aimed at chilling the valid exercise of the constitutional rights of speech and petition. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 6395 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; McCaslin; Carrell; Gordon; Hargrove; Kohl-Welles and Roach.

Passed to Committee on Rules for second reading.

January 21, 2010

SB 6424 Prime Sponsor, Senator Regala: Concerning local excise tax authorities for counties and cities. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Fairley, Chair; Oemig, Vice Chair; McDermott; Pridemore and Swecker.

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

Passed to Committee on Ways & Means.

January 21, 2010

SB 6430 Prime Sponsor, Senator McDermott: Concerning ballot envelopes. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott; Pridemore and Swecker.

Passed to Committee on Rules for second reading.

January 21, 2010

SB 6616 Prime Sponsor, Senator Jacobsen: Concerning the regulation and preservation of urban streets through a local option street maintenance utility and allowing the imposition of a charge. Reported by Committee on Government Operations & Elections

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MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Fairley, Chair; Oemig, Vice Chair; McDermott; Pridemore and Swecker.

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

Passed to Committee on Transportation.

January 21, 2010

SB 6617 Prime Sponsor, Senator Regala: Concerning the waiver of penalties and interest on the first half of property tax payments. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott; Pridemore and Swecker.

Passed to Committee on Ways & Means.

REPORTS OF STANDING COMMITTEES  
GUBERNATORIAL APPOINTMENTS

January 22, 2010

SGA 9190 DIANA GALE, reappointed on June 26, 2009, for the term ending June 25, 2013, as Member of the Puget Sound Partnership. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Delvin; Fraser; Marr; Morton and Ranker.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

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

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

January 21, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

LAURA JENNINGS, reappointed December 10, 2009, for the term ending September 30, 2015, as Member, Board of Regents, Washington State University.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

January 22, 2010  
TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

TED STURDEVANT, appointed November 9, 2009, for the term ending at the governor's pleasure, as Director of the Department of Ecology.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Environment, Water & Energy.

MOTION

On motion of Senator Eide, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated.

MOTION

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

MESSAGE FROM THE HOUSE

January 22, 2010

MR. PRESIDENT

The House has passed:

SUBSTITUTE HOUSE BILL 2196,

SUBSTITUTE HOUSE BILL 2403,

HOUSE BILL 2483,

SUBSTITUTE HOUSE JOINT MEMORIAL 4004.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

January 22, 2010

MR. PRESIDENT

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL 2921.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

January 25, 2010

MR. PRESIDENT

The House has passed:

SECOND SUBSTITUTE HOUSE BILL 1180.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

INTRODUCTION AND FIRST READING

FIFTEENTH DAY, JANUARY 25, 2010

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SB 6732 by Senators Kohl-Welles, Holmquist, Keiser, Honeyford and Shin

AN ACT Relating to hit and run provisions; amending RCW 46.52.020; and reenacting and amending RCW 9.94A.515.

AN ACT Relating to claims of insolvent self-insurers under industrial insurance; and amending RCW 51.16.120 and 51.14.060.

Referred to Committee on Judiciary.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6740 by Senators Hobbs, Oemig, Gordon, McAuliffe and Shin

AN ACT Relating to a comprehensive K-12 education policy; amending 2009 c 548 s 302 (uncodified); and creating a new section.

SB 6733 by Senator King

AN ACT Relating to allocating responsibility for court-related costs of involuntary commitment proceedings; and amending RCW 71.05.100.

Referred to Committee on Early Learning & K-12 Education.

Referred to Committee on Human Services & Corrections.

SB 6741 by Senator Rockefeller

AN ACT Relating to special meetings notice under the open public meetings act; and amending RCW 42.30.080.

SB 6734 by Senator King

AN ACT Relating to modifying interest rate and penalty provisions in the current use program; amending RCW 84.34.070 and 84.34.080; reenacting and amending RCW 84.34.108; and creating a new section.

Referred to Committee on Government Operations & Elections.

Referred to Committee on Government Operations & Elections.

SB 6742 by Senator Pridemore

AN ACT Relating to calculating average final compensation under the public employees' retirement system; and reenacting and amending RCW 41.40.010.

SB 6735 by Senator Tom

AN ACT Relating to condominium association liens; and amending RCW 64.34.364.

Referred to Committee on Ways & Means.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 6743 by Senators McDermott and Kauffman

AN ACT Relating to archaeological investigations on private land; and reenacting and amending RCW 27.53.070.

SB 6736 by Senators Tom and Fraser

AN ACT Relating to modifying state expenditure limitations; amending RCW 43.135.010 and 43.135.035; and adding a new section to chapter 43.135 RCW.

Referred to Committee on Government Operations & Elections.

Referred to Committee on Ways & Means.

SB 6744 by Senator King

AN ACT Relating to prohibiting the liquor control board from increasing the markup of any liquor product; reenacting and amending RCW 66.04.010; adding a new section to chapter 66.08 RCW; and declaring an emergency.

SB 6737 by Senators Marr, Brown and McCaslin

AN ACT Relating to providing an exemption from property tax for aircraft used to provide air ambulance services for nonprofits; amending RCW 82.48.100; and adding a new section to chapter 84.36 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

Referred to Committee on Ways & Means.

SB 6745 by Senator Sheldon

AN ACT Relating to veterinary technician licenses; amending RCW 18.92.128 and 18.92.128; and providing an effective date.

SB 6738 by Senators Kilmer and Jacobsen

AN ACT Relating to the sale of surplus salmon from state hatcheries; amending RCW 77.12.451 and 77.95.070; creating a new section; and declaring an emergency.

Referred to Committee on Agriculture & Rural Economic Development.

Referred to Committee on Natural Resources, Ocean & Recreation.

SB 6746 by Senators Jacobsen, Kauffman, Kline and Keiser

AN ACT Relating to community and technical college collective bargaining for nontenured faculty; and adding a new section to chapter 28B.50 RCW.

SB 6739 by Senator Hobbs

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Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6747 by Senators Jacobsen, Fraser, Ranker, Shin and Kline

AN ACT Relating to cost recovery for the natural heritage program; amending RCW 79.71.090; and adding a new section to chapter 79.70 RCW.

Referred to Committee on Natural Resources, Ocean & Recreation.

SB 6748 by Senators Tom and Zarelli

AN ACT Relating to the business and occupation taxation of newspaper-labeled supplements; and amending RCW 82.04.214.

Referred to Committee on Ways & Means.

SB 6749 by Senators Fraser and Honeyford

AN ACT Relating to the transfer of commercial real estate; amending RCW 64.06.005, 64.06.010, 64.06.022, 64.06.050, and 64.06.070; reenacting and amending RCW 64.06.040; and adding a new section to chapter 64.06 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6750 by Senators McAuliffe and Shin

AN ACT Relating to modifying sales and use tax provisions for the local infrastructure financing tool program; amending RCW 82.14.475; and providing an expiration date.

Referred to Committee on Economic Development, Trade & Innovation.

SB 6751 by Senators Franklin, Parlette, Keiser, Delvin, Marr, Kline, King, Kohl-Welles, Schoesler, Honeyford and Shin

AN ACT Relating to establishing the medicaid nursing facility quality assurance trust fund; reenacting and amending RCW 43.84.092; adding new sections to chapter 74.46 RCW; creating a new section; prescribing penalties; providing an expiration date; and declaring an emergency.

Referred to Committee on Health & Long-Term Care.

SB 6752 by Senators Roach and Parlette

AN ACT Relating to signatures on an initiative or referendum petition; amending RCW 29A.72.170 and 29A.72.140; adding a new section to chapter 29A.72 RCW; creating new sections; and prescribing penalties.

Referred to Committee on Government Operations & Elections.

SB 6753 by Senators Roach and Stevens

AN ACT Relating to valuation of residential real property; and amending RCW 84.40.030.

Referred to Committee on Government Operations & Elections.

SB 6754 by Senators McDermott, Fairley, Kohl-Welles and Kline

AN ACT Relating to signature petitions; and amending RCW 29A.72.230 and 29A.72.140.

Referred to Committee on Government Operations & Elections.

SB 6755 by Senator Kohl-Welles

AN ACT Relating to the creation of the coordinated school health public-private partnership; and adding new sections to chapter 28A.210 RCW.

Referred to Committee on Early Learning & K-12 Education.

SB 6756 by Senators Tom and Kline

AN ACT Relating to requiring insurance benefits with wellness incentives for public employees; amending RCW 41.05.065 and 28A.400.350; and creating a new section.

Referred to Committee on Health & Long-Term Care.

SB 6757 by Senators Fraser, Kastama, Kilmer, Shin and McAuliffe

AN ACT Relating to the designation and support of projects of statewide significance; amending RCW 43.157.005, 43.157.020, 43.157.030, 82.32.600, and 82.32.650; reenacting and amending RCW 43.157.010; adding a new section to chapter 43.157 RCW; adding a new chapter to Title 82 RCW; providing an effective date; providing contingent effective dates; and declaring an emergency.

Referred to Committee on Economic Development, Trade & Innovation.

SB 6758 by Senators Keiser, Prentice and Parlette

AN ACT Relating to a hospital safety net assessment for increased hospital payments to improve health care access for the citizens of Washington; amending 2009 c 564 s 209 (uncodified); adding a new chapter to Title 74 RCW; providing an expiration date; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 6759 by Senators Kauffman, Oemig, Prentice and Kline

AN ACT Relating to a plan for a voluntary program of early learning within the overall program of basic education; amending RCW 43.215.090 and 28A.290.010; creating new sections; and declaring an emergency.

Referred to Committee on Early Learning & K-12 Education.

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SB 6760 by Senators Oemig, Gordon, McDermott, McAuliffe, Tom, Kauffman, Fairley, Ranker, Hargrove, Kline, Murray, Eide, Franklin, Hobbs and Shin

SJM 8024 by Senators Tom, Berkey and Schoesler

AN ACT Relating to the basic education instructional allocation distribution formula; amending RCW 28A.150.260 and 28A.150.390; amending 2009 c 548 s 804 (uncodified); creating new sections; and providing an effective date.

Requesting that all residential mortgages and deeds of trust become recourse loans.

Referred to Committee on Early Learning & K-12 Education.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 6761 by Senators McAuliffe, Ranker, McDermott, Oemig, Fairley, Hargrove, Kline, Murray, Hobbs and Shin

SJM 8025 by Senators Prentice, Haugen, Fraser, Shin and Roach

AN ACT Relating to the recommendations of the quality education council; amending RCW 28A.150.390, 28A.150.315, 43.41.398, 28A.160.192, 28A.290.010, and 28A.150.410; amending 2009 c 548 s 112 (uncodified); amending 2009 c 548 s 302 (uncodified); amending 2009 c 548 s 805 (uncodified); adding a new section to chapter 43.79 RCW; adding a new section to chapter 28A.160 RCW; adding a new section to chapter 28A.290 RCW; adding a new section to chapter 28A.400 RCW; creating a new section; recodifying RCW 43.41.398; providing an effective date; providing an expiration date; and declaring an emergency.

Requesting that a retired space shuttle orbiter be transferred to Washington's museum of flight.

Referred to Committee on Natural Resources, Ocean & Recreation.

Referred to Committee on Early Learning & K-12 Education.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

SB 6762 by Senators Fraser, Haugen and Kline

SHB 2196 by House Committee on Ways & Means (originally sponsored by Representatives Ericks and Ormsby)

AN ACT Relating to compliance with the state environmental policy act; amending RCW 43.21C.031; and adding a new section to chapter 43.21C RCW.

AN ACT Relating to including service credit transferred from the law enforcement officers' and firefighters' retirement system plan 1 in the determination of eligibility for military service credit; and amending RCW 41.26.195.

Referred to Committee on Ways & Means.

Referred to Committee on Environment, Water & Energy.

SHB 2403 by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Morrell, Kelley, Armstrong, Bailey, Hope, O'Brien, Klippert, Morris, Hurst, Hunt, Green, Roberts, Sells, McCune, Campbell, Nelson, Rolfes, Chase, Smith, Appleton, Maxwell, Sullivan, Dammeier, Upthegrove, Carlyle, Conway, Simpson, Orwall, Kenney, McCoy, Ormsby, Kretz and Haigh)

SB 6763 by Senators Rockefeller, Prentice, Tom and Kline

AN ACT Relating to military leave for public employees; and amending RCW 38.40.060.

AN ACT Relating to restricting the sales and use tax exemptions for machinery and equipment used in the generation of renewable energy to local electric utilities or persons contracting with local electric utilities; amending RCW 82.08.962 and 82.12.962; and providing an effective date.

Referred to Committee on Government Operations & Elections.

Referred to Committee on Ways & Means.

HB 2483 by Representatives Hurst, O'Brien, Armstrong, Hunt, Rodne, Morrell, Appleton, Alexander, Eddy, Kelley, Sullivan, Carlyle, Rolfes, Roach, Green and Kirby

SB 6764 by Senators Gordon, Pflug, Oemig, McCaslin, Kline and Hargrove

AN ACT Relating to overseas and service voters; amending RCW 29A.40.150; and adding a new section to chapter 29A.40 RCW.

AN ACT Relating to accrual of interest on judgments founded on tortious conduct; amending RCW 4.56.110; and creating a new section.

Referred to Committee on Government Operations & Elections.

Referred to Committee on Judiciary.

ESHB 2921 by House Committee on Ways & Means (originally sponsored by Representatives Linville, Darneille, Ericks, Pettigrew, Probst, Haigh, Sullivan, Kelley and Wallace)

SB 6765 by Senators Swecker and McCaslin

AN ACT Relating to vehicle combinations that may be operated on public highways; and amending RCW 46.44.036.

AN ACT Relating to fiscal matters; amending 2009 c 564 ss 120, 125, 126, 127, 128, 129, 130, 137, 139, 143, 151, 153, 154, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 215, 219, 222, 223, 225, 302, 303, 306, 307, 309, 311, 401, 402, and 513 (uncodified); adding new sections to 2009 c 564 (uncodified); and declaring an emergency.

Referred to Committee on Transportation.

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Referred to Committee on Ways &amp; Means.

SHJM 4004 by House Committee on Transportation (originally sponsored by Representatives Van De Wege, Kessler, Rodne, Liiias, Takko, Hurst, Jacks, Hasegawa, Kelley, Eddy, Seaquist, McCoy, Appleton, Hudgins, Morrell, Hope, Sullivan and Nelson)

Naming a certain portion of state route number 110 the "Operations Desert Shield and Desert Storm Memorial Highway."

Referred to Committee on Transportation.

## MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report be referred to the committees as designated with the exception of Senate Bill No. 6758 which should be referred to the Committee on Ways & Means.

## POINT OF ORDER

Senator Schoesler: "Well, while I won't be making a motion I would like to comment that historically these measures have been and should continue to go first to the policy committee which in this case is Health Care and should not do this in the future."

Without further objection, the motion by Senator Edie carried and the measures were referred to the committees as designated with the exception of Senate Bill No. 6758 which was referred to the Committee on Ways & Means.

## MOTION

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

## MOTION

Senator McAuliffe moved adoption of the following resolution:

SENATE RESOLUTION  
8681

By Senators McAuliffe, Oemig, Kauffman, Hobbs, Pridemore, Pflug, King, Murray, and Brandland

WHEREAS, Civic education is the foundation for an educated citizenry and a representative democracy; and

WHEREAS, In order to adequately prepare our state's youth for meaningful participation in our democratic institutions and processes, it is important to have strong educational resources aimed at teaching students and the public about the fragile nature of our Constitution; and

WHEREAS, Civic education is part of the fabric of our country and for all students in our public schools; and

WHEREAS, Civic education is a vital tool to promote greater understanding of the role of legislators in a representative democracy and the legislative process; and

WHEREAS, By gathering educators in the state capitol, we recognize the value of civic education in Washington state; and

WHEREAS, By so doing, a forum is established for civic educators across the state to collaborate with legislators and other supporters; and

WHEREAS, Many organizations such as the Legislative Youth Advisory Council, We the People Foundation, Washington Media Association, Washington State Council of Social Studies, 4-H, YMCA Youth & Government, Washington State Bar Association, Office of the Secretary of State, Service Learning of Washington, Washington State Historical Society, Legislative Scholars Program, and Project Citizen are dedicated to making civic education a priority for Washington state and its citizens; and

WHEREAS, The contributions of committed teachers, principals, community leaders, parents, state employees, and volunteers contribute to the goals of these laudable organizations to create an engaged citizenry; and

WHEREAS, On January 25, 2010, the Washington State Senate honors Civic Education;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize the responsibility of civic educators across the state to serve and inform all Washingtonians and honor civic educators across the state; and

BE IT FURTHER RESOLVED, That the Washington State Senate hereby honor, thank, and celebrate the civic educators of the state.

Senators McAuliffe and Eide spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8681.

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

## MOTION

At 12:09 p.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Tuesday, January 26, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**SIXTEENTH DAY**

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NOON SESSION

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Senate Chamber, Olympia, Tuesday, January 26, 2010

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

MOTION

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

MOTION

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

January 25, 2010

SB 6325 Prime Sponsor, Senator Jacobsen: Regarding the institute of forest resources. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That Substitute Senate Bill No. 6325 be substituted therefor, and the substitute bill do pass. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Fraser; Hatfield; Stevens and Swecker.

Passed to Committee on Ways & Means.

January 25, 2010

SB 6403 Prime Sponsor, Senator Kauffman: Regarding accountability and support for vulnerable students and dropouts. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 6403 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Oemig, Vice Chair, K-12; King; Brandland; Gordon and Hobbs.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Holmquist and Roach.

Passed to Committee on Rules for second reading.

January 25, 2010

SB 6488 Prime Sponsor, Senator Oemig: Regarding school levies. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 6488 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Oemig, Vice Chair, K-12; Gordon; Hobbs; McDermott and Tom.

MINORITY recommendation: Do not pass. Signed by Senators King; Brandland; Holmquist and Roach.

Passed to Committee on Ways & Means.

January 25, 2010

SB 6502 Prime Sponsor, Senator Tom: Restoring the school district levy base. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; Oemig, Vice Chair, K-12; King; Brandland; Gordon; Hobbs; Holmquist; McDermott; Roach and Tom.

Passed to Committee on Ways & Means.

January 25, 2010

SB 6518 Prime Sponsor, Senator Oemig: Changing school levy provisions. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 6518 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Oemig, Vice Chair, K-12; King; Brandland; Gordon; Hobbs; McDermott and Tom.

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

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

Passed to Committee on Ways & Means.

January 25, 2010

SB 6601 Prime Sponsor, Senator Oemig: Adjusting local school finance related to nonresident students enrolled in online learning. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; Oemig, Vice Chair, K-12; King; Brandland; Gordon; Hobbs; Holmquist and Tom.

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

Passed to Committee on Rules for second reading.

January 25, 2010

SJM 8017 Prime Sponsor, Senator Jacobsen: Requesting that the restoration of sustainable, healthy forests be a national priority. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: Do pass. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Fraser; Hatfield; Stevens and Swecker.

Passed to Committee on Rules for second reading.

REPORTS OF STANDING COMMITTEES  
GUBERNATORIAL APPOINTMENTS

January 25, 2010

SGA 9207 STEPHEN L JOHNSON, appointed on May 1, 2009, for the term ending February 28, 2015, as Member of the

SIXTEENTH DAY, JANUARY 26, 2010

Board of Tax Appeals. Reported by Committee on Ways &amp; Means

2010 REGULAR SESSION

INTRODUCTION AND FIRST READING

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Hewitt; Hobbs; Keiser; Kohl-Welles; McDermott; Parlette; Pflug; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

## MOTION

On motion of McDermott, all measures listed on the Standing Committee report were referred to the committees as designated with the exception of Senate Bill No. 6601 which was referred to the Committee on Rules.

## MOTION

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

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

January 19, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

LYNNE DELANO, appointed January 1, 2009, for the term ending April 15, 2014, as a Chair of the Indeterminate Sentence Review Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Human Services & Corrections.

January 25, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

GAYATRI J. EASSEY, appointed October 12, 2009, for the term ending September 30, 2014, as Member, Board of Trustees, Seattle, So. Seattle and No. Seattle Community Colleges District No. 6.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

## MOTION

On motion of Senator McDermott, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated.

## MOTION

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

SB 6766 by Senators Hargrove, Swecker, Hatfield, Prentice and Brown

AN ACT Relating to forest fire prevention and suppression; amending RCW 76.04.005, 76.04.165, 76.04.167, 76.04.016, and 76.04.610; and providing an effective date.

Referred to Committee on Natural Resources, Ocean & Recreation.

SB 6767 by Senators Berkey, Parlette, Shin and Tom

AN ACT Relating to residential mortgage loan modification disclosure; amending RCW 19.144.010; and adding a new section to chapter 19.144 RCW.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 6768 by Senators Pridemore, Delvin, Fairley and Hewitt

AN ACT Relating to allowing county treasurers to use electronic bill presentment and payment that includes an automatic electronic payment option for property taxes; amending RCW 84.56.020; reenacting and amending RCW 43.84.092; and adding a new section to chapter 84.56 RCW.

Referred to Committee on Government Operations & Elections.

SB 6769 by Senator Stevens

AN ACT Relating to highway emergency projects; and adding a new section to chapter 47.20 RCW.

Referred to Committee on Transportation.

SB 6770 by Senator Stevens

AN ACT Relating to prioritizing existing funding for special safety corridor projects; amending RCW 46.68.041; adding a new section to chapter 46.68 RCW; and declaring an emergency.

Referred to Committee on Transportation.

SB 6771 by Senator Stevens

AN ACT Relating to prioritizing existing funding for special safety corridor projects; amending RCW 46.16.270; adding a new section to chapter 46.68 RCW; and declaring an emergency.

Referred to Committee on Transportation.

SB 6772 by Senator Benton

AN ACT Relating to service of notice requirements under the residential landlord-tenant act; and amending RCW 59.12.040.

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Referred to Committee on Financial Institutions, Housing & Insurance.

SB 6773 by Senator Keiser

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

Referred to Committee on Health & Long-Term Care.

SB 6774 by Senator Marr

AN ACT Relating to transportation benefit district governance; and amending RCW 36.73.020.

Referred to Committee on Transportation.

SB 6775 by Senators Kohl-Welles and Keiser

AN ACT Relating to creating a task force to study and report on the state's workers' compensation system; adding a new section to chapter 51.04 RCW; and providing an expiration date.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6776 by Senators Jacobsen, Swecker, Fraser, Morton, Zarelli, Schoesler, Hargrove, Ranker, Hatfield and McCaslin

AN ACT Relating to creating the joint work group on small forest landowner sustainability; and creating new sections.

Referred to Committee on Natural Resources, Ocean & Recreation.

SB 6777 by Senators Fairley and Parlette

AN ACT Relating to modifying state payments for in-home care; amending RCW 74.39A.326; creating new sections; and declaring an emergency.

Referred to Committee on Health & Long-Term Care.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

2SHB 1180 by House Committee on General Government Appropriations (originally sponsored by Representatives Dickerson, Hudgins, Campbell, Dunshee, Pedersen, Hunt, Rolfes, Appleton, Moeller, Kagi, Van De Wege, Hunter, Cody, Chase, Green, Morrell, Pettigrew, White, Williams, Simpson and Kenney)

AN ACT Relating to the use of bisphenol A; adding a new chapter to Title 70 RCW; and prescribing penalties.

Referred to Committee on Health & Long-Term Care.

MOTION

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

MOTION

On motion of Senator McDermott, the rules were suspended and the following measures under consideration by the Committee on Rules: Senate Bill No. 5002, Substitute Senate Bill No. 5005, Engrossed Senate Bill No. 5014, Senate Bill No. 5018, Senate Bill No. 5027, Substitute Senate Bill No. 5048, Senate Bill No. 5058, Substitute Senate Bill No. 5115, Engrossed Second Substitute Senate Bill No. 5138, Senate Bill No. 5178, Substitute Senate Bill No. 5179, Senate Bill No. 5205, Senate Bill No. 5211, Senate Bill No. 5223, Engrossed Substitute Senate Bill No. 5225, Senate Bill No. 5282, Senate Bill No. 5323, Substitute Senate Bill No. 5332, Engrossed Substitute Senate Bill No. 5400, Engrossed Substitute Senate Bill No. 5403, Senate Bill No. 5407, Senate Bill No. 5412, Senate Bill No. 5419, Substitute Senate Bill No. 5440, Engrossed Substitute Senate Bill No. 5449, Substitute Senate Bill No. 5451, Engrossed Substitute Senate Bill No. 5485, Engrossed Substitute Senate Bill No. 5502, Senate Bill No. 5533, Substitute Senate Bill No. 5553, Substitute Senate Bill No. 5555, Engrossed Substitute Senate Bill No. 5557, Senate Bill No. 5589, Senate Bill No. 5630, Substitute Senate Bill No. 5638, Substitute Senate Bill No. 5659, Engrossed Substitute Senate Bill No. 5682, Substitute Senate Bill No. 5698, Substitute Senate Bill No. 5708, Engrossed Senate Bill No. 5714, Engrossed Substitute Senate Bill No. 5716, Senate Bill No. 5717, Senate Bill No. 5721, Engrossed Second Substitute Senate Bill No. 5735, Substitute Senate Bill No. 5779, Engrossed Substitute Senate Bill No. 5807, Engrossed Substitute Senate Bill No. 5828, Senate Bill No. 5869, Substitute Senate Bill No. 5879, Engrossed Substitute Senate Bill No. 5880, Engrossed Substitute Senate Bill No. 5890, Substitute Senate Bill No. 5893, Engrossed Second Substitute Senate Bill No. 5895, Senate Bill No. 5907, Senate Bill No. 5933, Senate Bill No. 5940, Engrossed Second Substitute Senate Bill No. 5941, Substitute Senate Bill No. 5957, Senate Bill No. 5986, Senate Bill No. 5994, Engrossed Substitute Senate Bill No. 6032, Engrossed Substitute Senate Bill No. 6035, Senate Bill No. 6038, Engrossed Senate Bill No. 6048, Substitute Senate Bill No. 6052, Senate Bill No. 6053, Senate Bill No. 6082, Senate Bill No. 6083, Substitute Senate Bill No. 6160, Senate Bill No. 6163, and Engrossed Senate Bill No. 6183 were place in the Committee's "X file"; Senate Bill No. 5668 was removed from the Committee's "X file" and placed on the Committee's White Sheet and Senate Bill No. 5798 was removed from the Committee's "X file" and placed on the Committee's Green Sheet.

MOTION

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

MOTION

Senator McDermott moved adoption of the following resolution:

SENATE RESOLUTION  
8682

By Senators McAuliffe, Delvin, King, Morton, McCaslin, Pflug, Shin, Tom, Fraser, Parlette, Kilmer, Zarelli, and Prentice

WHEREAS, A quality education is the foundation of a child's future and Catholic schools are one of the many types of education choices available to our children; and

WHEREAS, Catholic schools provide a quality education with emphasis on moral values, academic excellence, leadership, and community service resulting in high school graduation rates of 99 percent; and

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WHEREAS, Catholic schools are committed to educating students of diverse religious, national, and ethnic backgrounds; and

WHEREAS, Catholic schools provide an excellent alternative for 30,000 students in over 90 Catholic schools throughout Washington State; and

WHEREAS, Providing a Catholic education is an integral part of the mission of the Catholic Church which saves Washington State citizens the cost of educating these students in public schools; and

WHEREAS, The Catholic schools' emphasis on religious, academic, and cocurricular programs has produced many of our nation's and state's finest leaders including members of this legislature; and

WHEREAS, The nationwide celebration of Catholic Schools Week for 2010 emphasizes "Dividends for Life--Morals, Discipline, Knowledge, and Faith";

NOW, THEREFORE, BE IT RESOLVED, That the Senate recognize the Catholic schools of Washington State and honor their academic excellence and faith-based instruction during this celebration of Catholic Schools Week, January 31, 2010, through February 6, 2010; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the school departments at the Archdiocese of Seattle, the Diocese of Spokane, the Diocese of Yakima, and the Washington State Catholic Conference.

Senator McDermott spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8682.

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

#### MOTION

At 12:09 p.m., on motion of Senator McDermott, the Senate adjourned until 10:00 a.m. Wednesday, January 27, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**SEVENTEENTH DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Wednesday, January 27, 2010

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Brown, Fairley, Hargrove, Hobbs, Kauffman, Keiser, Parlette, Pridemore, Ranker, Sheldon and Tom.

The Sergeant at Arms Color Guard consisting of Pages Darcy Stamper and Lester Guske III, presented the Colors. Senator Shin offered the prayer.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

January 25, 2010

SB 5046 Prime Sponsor, Senator Kohl-Welles: Placing symphony orchestras, operas, and performing arts theaters under the jurisdiction of the public employment relations commission for purposes of collective bargaining. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5046 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin and Kline.

MINORITY recommendation: Do not pass. Signed by Senators Holmquist and King.

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

Passed to Committee on Rules for second reading.

January 25, 2010

SB 6263 Prime Sponsor, Senator Keiser: Establishing the Washington vaccine association. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 6263 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Marr and Murray.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Becker and Parlette.

Passed to Committee on Ways & Means.

January 25, 2010

SB 6269 Prime Sponsor, Senator Keiser: Addressing conversion rights upon termination of eligibility for health plan

coverage. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Marr; Murray and Parlette.

Passed to Committee on Rules for second reading.

January 25, 2010

SB 6273 Prime Sponsor, Senator Swecker: Concerning insurance coverage of the sales tax for prescribed durable medical equipment and mobility enhancing equipment. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 6273 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Murray and Parlette.

Passed to Committee on Rules for second reading.

January 26, 2010

SB 6293 Prime Sponsor, Senator Brandland: Changing provisions relating to rendering criminal assistance in the first degree. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 6293 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; McCaslin; Carrell; Gordon; Hargrove and Roach.

Passed to Committee on Rules for second reading.

January 26, 2010

SB 6340 Prime Sponsor, Senator Regala: Changing the membership of the Washington state forensic investigations council. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 6340 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; McCaslin; Carrell; Gordon; Hargrove and Roach.

Passed to Committee on Rules for second reading.

January 25, 2010

SB 6345 Prime Sponsor, Senator Eide: Addressing the use of wireless communications devices while driving. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6345 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Becker; Berkey; Delvin; Eide; Jacobsen; Kastama; Kauffman; Kilmer; King and Ranker.

MINORITY recommendation: Do not pass. Signed by Senators Hatfield and Sheldon.

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

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Passed to Committee on Rules for second reading.

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

January 25, 2010

SB 6346 Prime Sponsor, Senator Ranker: Expanding the use of certain electric vehicles. Reported by Committee on Transportation

Passed to Committee on Rules for second reading.

MAJORITY recommendation: That Substitute Senate Bill No. 6346 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King; Ranker and Sheldon.

January 26, 2010

SB 6521 Prime Sponsor, Senator Haugen: Requiring state agencies to use an agriculture impact statement. Reported by Committee on Agriculture & Rural Economic Development

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

MAJORITY recommendation: That Substitute Senate Bill No. 6521 be substituted therefor, and the substitute bill do pass. Signed by Senators Hatfield, Chair; Schoesler; Becker; Haugen; Morton and Shin.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

January 25, 2010

SB 6348 Prime Sponsor, Senator Ranker: Prohibiting certain communications of collection agencies and their employees. Reported by Committee on Labor, Commerce & Consumer Protection

January 26, 2010

SB 6556 Prime Sponsor, Senator Hatfield: Changing the fees for certain types of agricultural burning. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: That Substitute Senate Bill No. 6348 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; King and Kline.

MAJORITY recommendation: That Substitute Senate Bill No. 6556 be substituted therefor, and the substitute bill do pass. Signed by Senators Hatfield, Chair; Ranker, Vice Chair; Schoesler; Becker; Haugen; Morton and Shin.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Holmquist and Honeyford.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

January 25, 2010

SB 6377 Prime Sponsor, Senator Haugen: Imposing an additional licensing fee on electric vehicles. Reported by Committee on Transportation

January 26, 2010

SB 6559 Prime Sponsor, Senator Haugen: Protecting operation of anaerobic digesters under the Washington right to farm act. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Berkey; Delvin; Eide; Hatfield; Jacobsen; Ranker and Sheldon.

MAJORITY recommendation: Do pass. Signed by Senators Hatfield, Chair; Ranker, Vice Chair; Schoesler; Becker; Haugen; Morton and Shin.

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

Passed to Committee on Rules for second reading.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Benton and King.

January 25, 2010

SB 6727 Prime Sponsor, Senator Marr: Concerning health sciences and services authorities. Reported by Committee on Health & Long-Term Care

Passed to Committee on Rules for second reading.

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Marr; Murray and Parlette.

Passed to Committee on Ways &amp; Means.

January 25, 2010

SB 6392 Prime Sponsor, Senator Tom: Clarifying the use of revenue generated from tolling the state route number 520 corridor. Reported by Committee on Transportation

#### REPORTS OF STANDING COMMITTEES GUBERNATORIAL APPOINTMENTS

MAJORITY recommendation: That Substitute Senate Bill No. 6392 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King; Ranker and Sheldon.

January 26, 2010

SGA 9221 DAN O'NEAL, reappointed on June 26, 2009, for the term ending June 25, 2013, as Member of the Puget Sound Partnership. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Rockefeller, Chair;

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Pridemore, Vice Chair; Honeyford; Delvin; Fraser; Holmquist; Marr; Morton and Sheldon.

adding a new section to chapter 28A.230 RCW; creating a new section; and providing an effective date.

Passed to Committee on Rules for second reading.

Referred to Committee on Early Learning & K-12 Education.

January 26, 2010

SGA 9229 STEVE SAKUMA, reappointed on June 26, 2009, for the term ending June 25, 2013, as Member of the Puget Sound Partnership. Reported by Committee on Environment, Water & Energy

SB 6779 by Senators Kline, Carrell, Delvin and Roach

AN ACT Relating to pretrial release or detention; adding a new chapter to Title 10 RCW; and providing a contingent effective date.

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Honeyford; Delvin; Fraser; Holmquist; Marr; Morton and Sheldon.

Referred to Committee on Judiciary.

Passed to Committee on Rules for second reading.

SB 6780 by Senators Keiser, Ranker, Kline, Delvin and Fairley

AN ACT Relating to community living for persons with developmental disabilities; amending RCW 71A.16.010 and 71A.16.040; adding new sections to chapter 71A.16 RCW; creating a new section; repealing RCW 71A.20.020 and 71A.20.080; and providing an effective date.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

Referred to Committee on Health & Long-Term Care.

MOTION

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

SB 6781 by Senators Keiser and Parlette

AN ACT Relating to establishing an interstate compact for the sale and issue of health benefit plans; adding a new chapter to Title 48 RCW; and providing an expiration date.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

Referred to Committee on Health & Long-Term Care.

January 19, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

SB 6782 by Senators King and Honeyford

Ladies and Gentlemen:

AN ACT Relating to abatement of nuisances involving criminal street gang activity; adding a new chapter to Title 9 RCW; and prescribing penalties.

I have the honor to submit the following appointment, subject to your confirmation.

Referred to Committee on Judiciary.

ORIN SMITH, appointed December 10, 2009, for the term ending September 30, 2015, as Member, Board of Regents, University of Washington.

SB 6783 by Senators King and Honeyford

AN ACT Relating to criminal street gangs; amending RCW 9A.46.120, 9A.48.105, and 9.94A.533; reenacting and amending RCW 9.94A.515, 9.94A.411, and 13.40.0357; adding a new section to chapter 9A.46 RCW; adding a new section to chapter 9.94A RCW; and prescribing penalties.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

MOTION

On motion of Senator Eide, the appointee listed on the Gubernatorial Appointment report was referred to the committee as designated.

Referred to Committee on Judiciary.

MOTION

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

SB 6784 by Senators King, Honeyford and Schoesler

AN ACT Relating to property used to facilitate a criminal street gang-related offense; and adding a new chapter to Title 7 RCW.

INTRODUCTION AND FIRST READING

Referred to Committee on Judiciary.

SB 6778 by Senators McAuliffe, Shin, Kauffman and Kline

SB 6785 by Senators King, Honeyford and Schoesler

AN ACT Relating to abatement of nuisances involving criminal street gang activity; and adding a new chapter to Title 7 RCW.

AN ACT Relating to establishing an alternative route to a high school diploma; amending RCW 28A.150.220, 28A.230.120, 28A.655.061, 28A.655.0611, and 28A.155.045; reenacting and amending RCW 28A.230.090;

Referred to Committee on Judiciary.

SB 6786 by Senators Kastama, Swecker, Eide, Delvin, Hobbs, King, Murray, Hatfield, Berkey, Marr, Tom, Oemig, Haugen and Keiser

AN ACT Relating to restructuring state government; amending RCW 42.30.110; adding a new section to chapter 44.04 RCW; making an appropriation; and providing an expiration date.

Referred to Committee on Government Operations & Elections.

SB 6787 by Senators Carrell, Delvin and Roach

AN ACT Relating to the pretrial detention of the accused who may receive a life sentence or face a charge of a capital offense; adding a new chapter to Title 10 RCW; and providing a contingent effective date.

Referred to Committee on Judiciary.

SB 6788 by Senators Brown, Morton, Delvin and Marr

AN ACT Relating to dissolving the assets and affairs of a nonprofit corporation; amending RCW 24.03.265, 24.03.270, and 24.03.290; and declaring an emergency.

Referred to Committee on Judiciary.

SB 6789 by Senators Prentice, Zarelli, Murray, Hewitt, Holmquist and Parlette

AN ACT Relating to sales and use tax exemptions for certain equipment and infrastructure contained in data centers; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; creating a new section; providing an effective date; providing expiration dates; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 6790 by Senator Kastama

AN ACT Relating to providing regional economic development services; amending RCW 43.330.070 and 43.330.090; repealing RCW 43.330.080, 43.330.082, 43.330.084, and 43.330.086; and making appropriations.

Referred to Committee on Economic Development, Trade & Innovation.

#### MOTION

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

#### MOTION

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

#### MOTION

Senator Holmquist moved adoption of the following resolution:

#### SENATE RESOLUTION 8685

By Senators Holmquist, Morton, McCaslin, Honeyford, Rockefeller, Kohl-Welles, Prentice, Hewitt, King, and Franklin

WHEREAS, On April 26, 2008, the Central Washington University Wildcats' women's softball team played the Western Oregon University Wolves; and

WHEREAS, The Wildcats needed to win the game in order to keep their Great Northwest Athletic Conference championship hopes alive; and

WHEREAS, When the score was zero-zero, a Western Oregon player hit a home run, scoring the two runners on base; and

WHEREAS, While the batter failed to tag first base, she suddenly stopped and turned towards first to tag the base and while doing so suffered a crippling knee injury; and

WHEREAS, The rules of NCAA Division II Softball clearly stated that no Western Oregon player could help the injured runner touch the remaining bases; and

WHEREAS, Central Washington University first baseman Mallory Holtman and shortstop Liz Wallace exemplified outstanding sportsmanship by carrying the injured opponent around to touch the bases and score; and

WHEREAS, When asked why they did this, these inspirational women replied that it was "just the right thing to do"; and

WHEREAS, Even though Central Washington ultimately lost the game, these two players won our hearts; and

WHEREAS, Since their heartwarming display of selflessness during a 2008 game, Mallory Holtman and Liz Wallace have been honored and recognized with numerous awards; and

WHEREAS, One such award given was the 2008 ESPY "Best Moment" award for great sportsmanship; and

WHEREAS, Central Washington University was also recognized for its culture of sportsmanship with the 2008 America's Team Award from America's Team Charitable Foundation; and

WHEREAS, Mallory Holtman and Liz Wallace touched the life of another softball player by helping her achieve her first career home run; and

WHEREAS, In doing so they inspired citizens across the country during hard economic times and reminded us all that goodness, decency, and honor still prevail in collegiate sports;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize and honor Mallory Holtman and Liz Wallace for their act of true sportsmanship; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Secretary of the Senate to Mallory Holtman, Liz Wallace, and Central Washington University.

Senators Holmquist, Shin and Honeyford spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8685.

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

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the Central Washington University Wildcats softball team & coaches, Mallory Holtman, current assistant coach; Gary Frederick, CWU head softball coach; Jack Bishop, CWU Athletics Director; Director; Jim Gaudino, CWU President;

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Former State Senator Ann Anderson, CWU Director of Governmental Relations; and Steve DuPont, CWU Government Relations Specialist who were seated in the gallery.

MOTION

At 10:20 a.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Thursday, January 28, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**EIGHTEENTH DAY**

**NOON SESSION**

Senate Chamber, Olympia, Thursday, January 28, 2010

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

**MOTION**

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

**MOTION**

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

**REPORTS OF STANDING COMMITTEES**

January 26, 2010

**SB 5041** Prime Sponsor, Senator Kilmer: Increasing state contracts with veteran-owned businesses. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5041 be substituted therefor, and the substitute bill do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott and Swecker.

Passed to Committee on Rules for second reading.

January 26, 2010

**SB 6191** Prime Sponsor, Senator Parlette: Concerning the joint legislative audit and review committee. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott; Pridemore and Swecker.

Passed to Committee on Rules for second reading.

January 26, 2010

**SB 6199** Prime Sponsor, Senator Franklin: Modifying the community renewal law. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott; Pridemore and Swecker.

Passed to Committee on Judiciary.

January 27, 2010

**SB 6240** Prime Sponsor, Senator Keiser: Regulating joint underwriting associations. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That Substitute Senate Bill No. 6240 be substituted therefor, and the substitute bill do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin and McDermott.

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

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

Passed to Committee on Rules for second reading.

January 27, 2010

**SB 6258** Prime Sponsor, Senator Honeyford: Directing the utilities and transportation commission to study peak and off-peak electric rates. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 6258 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Honeyford; Delvin; Fraser; Holmquist; Marr; Morton; Oemig and Ranker.

Passed to Committee on Rules for second reading.

January 27, 2010

**SB 6280** Prime Sponsor, Senator Murray: Concerning East Asian medicine practitioners. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 6280 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Marr; Murray and Parlette.

Passed to Committee on Rules for second reading.

January 27, 2010

**SB 6283** Prime Sponsor, Senator Rockefeller: Regarding the Washington State University extension energy program's plant operations support program. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 6283 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Honeyford; Delvin; Fraser; Holmquist; Marr; Morton; Oemig and Ranker.

Passed to Committee on Rules for second reading.

January 27, 2010

**SB 6286** Prime Sponsor, Senator Kline: Concerning the liability and powers of cities and flood control zone districts. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 6286 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon; Kohl-Welles and Roach.

Passed to Committee on Rules for second reading.

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SB 6288 Prime Sponsor, Senator Pridemore: Authorizing counties, cities, and towns to request background checks for certain license applicants and licensees. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott; Pridemore and Swecker.

Passed to Committee on Rules for second reading.

January 27, 2010

SB 6298 Prime Sponsor, Senator Berkey: Authorizing limited deposits of public funds with credit unions. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That Substitute Senate Bill No. 6298 be substituted therefor, and the substitute bill do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin and McDermott.

Passed to Committee on Rules for second reading.

January 26, 2010

SB 6306 Prime Sponsor, Senator Schoesler: Regulating crop adjusters. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That Substitute Senate Bill No. 6306 be substituted therefor, and the substitute bill do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin; McDermott; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

January 26, 2010

SB 6344 Prime Sponsor, Senator Fairley: Establishing contribution limits for city council campaigns. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 6344 be substituted therefor, and the substitute bill do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; McDermott; Pridemore and Swecker.

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

Passed to Committee on Rules for second reading.

January 27, 2010

SB 6347 Prime Sponsor, Senator Ranker: Studying seawater desalination. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass. Signed by Senators Rockefeller, Chair; Delvin; Fraser; Marr; Morton; Oemig and Ranker.

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

Passed to Committee on Rules for second reading.

January 27, 2010

SB 6356 Prime Sponsor, Senator Kilmer: Limiting access to law enforcement and emergency equipment and vehicles. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6356 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King and Ranker.

Passed to Committee on Rules for second reading.

January 26, 2010

SB 6360 Prime Sponsor, Senator Hargrove: Establishing a program to verify the address of registered sex offenders and kidnapping offenders. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 6360 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell and Kauffman.

Passed to Committee on Rules for second reading.

January 26, 2010

SB 6361 Prime Sponsor, Senator Brandland: Exempting a person's identifying information from public disclosure when submitted in the course of using the sex offender notification and registration program for the purpose of receiving notification regarding registered sex offenders. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 6361 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell and Kauffman.

Passed to Committee on Rules for second reading.

January 27, 2010

SB 6365 Prime Sponsor, Senator Swecker: Exempting the motor vehicles of certain residents who are members of the armed services from the provisions of chapter 70.120A RCW. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass. Signed by Senators Rockefeller, Chair; Honeyford; Delvin; Fraser; Holmquist; Marr; Morton; Oemig and Ranker.

Passed to Committee on Rules for second reading.

January 26, 2010

SB 6369 Prime Sponsor, Senator Berkey: Addressing credit union regulatory enforcement powers. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin; McDermott; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

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SB 6370 Prime Sponsor, Senator Berkey: Regulating state-chartered commercial banks, trust companies, savings banks, and their holding companies. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin; McDermott; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

January 26, 2010

SB 6371 Prime Sponsor, Senator McDermott: Concerning money transmitters. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That Substitute Senate Bill No. 6371 be substituted therefor, and the substitute bill do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin; McDermott and Parlette.

Passed to Committee on Rules for second reading.

January 27, 2010

SB 6380 Prime Sponsor, Senator Haugen: Concerning the purchase of wetland mitigation bank credits by the department of transportation. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6380 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Becker; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kilmer; King and Ranker.

Passed to Committee on Rules for second reading.

January 26, 2010

SB 6405 Prime Sponsor, Senator Berkey: Regarding escrow agents. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That Substitute Senate Bill No. 6405 be substituted therefor, and the substitute bill do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin; McDermott; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

January 26, 2010

SB 6418 Prime Sponsor, Senator Marr: Regarding cities and towns annexed to fire protection districts. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott; Pridemore and Swecker.

Passed to Committee on Rules for second reading.

January 22, 2010

SB 6450 Prime Sponsor, Senator Eide: Requiring the department of licensing to establish continuing education requirements for court reporters. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon and Hargrove.

Passed to Committee on Rules for second reading.

January 27, 2010

SB 6466 Prime Sponsor, Senator Shin: Authorizing advertising on school buses. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 6466 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Gordon; Hobbs; Holmquist; McDermott and Tom.

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

Passed to Committee on Rules for second reading.

January 27, 2010

SB 6497 Prime Sponsor, Senator Keiser: Concerning direct practices. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Marr; Murray and Parlette.

Passed to Committee on Rules for second reading.

January 26, 2010

SB 6524 Prime Sponsor, Senator King: Addressing unemployment insurance penalties and contribution rates for employers who are not "qualified employers." Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 6524 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Vice Chair; Holmquist; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

January 26, 2010

SB 6525 Prime Sponsor, Senator Kohl-Welles: Correcting references in RCW 50.29.021(2)(c)(i), (c)(ii), and (3)(e), RCW 50.29.062(2)(b)(i)(B) and (2)(b)(iii), and RCW 50.29.063(1)(b) and (2)(a)(ii) to unemployment insurance statutes concerning employer experience rating accounts and contribution rates. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 6525 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Vice Chair; Holmquist; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

January 26, 2010

SB 6540 Prime Sponsor, Senator Fairley: Transferring the combined fund drive from the department of personnel to the

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secretary of state. Reported by Committee on Government Operations & Elections

pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin; Parlette and Schoesler.

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott; Pridemore and Swecker.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

January 27, 2010

SB 6555 Prime Sponsor, Senator Tom: Removing state route number 908 from the state highway system. Reported by Committee on Transportation

SJR 8218 Prime Sponsor, Senator Carrell: Amending the state Constitution so that offenses that may result in a mandatory life sentence upon conviction are not bailable by sufficient sureties. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King and Ranker.

MAJORITY recommendation: That Substitute Senate Joint Resolution No. 8218 be substituted therefor, and the substitute joint resolution do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon; Kohl-Welles and Roach.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

REPORTS OF STANDING COMMITTEES  
GUBERNATORIAL APPOINTMENTS

January 27, 2010

SB 6577 Prime Sponsor, Senator Kastama: Modifying the statewide transportation system policy goals. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6577 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King and Ranker.

Passed to Committee on Rules for second reading.

January 26, 2010  
SGA 9222 DANIEL O'NEAL, reappointed on July 1, 2009, for the term ending June 30, 2015, as Member of the Transportation Commission. Reported by Committee on Transportation

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Haugen, Chair; Marr, Vice Chair; Becker; Berkey; Delvin; Eide; Hatfield; Kastama; Kauffman; Kilmer; King; Ranker and Sheldon.

Passed to Committee on Rules for second reading.

January 27, 2010

SB 6609 Prime Sponsor, Senator Kastama: Concerning infrastructure financing for local governments. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That Substitute Senate Bill No. 6609 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli; Delvin; Eide and Kilmer.

Passed to Committee on Ways & Means.

MOTION

On motion of McDermott, all measures listed on the Standing Committee report were referred to the committees as designated with the exception of Senate Bill No. 6405 which was referred to the Committee on Rules.

MOTION

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

January 27, 2010

SB 6637 Prime Sponsor, Senator Franklin: Increasing the small business credit for the business and occupation tax. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: Do pass. Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli; Delvin; Eide and Kilmer.

Passed to Committee on Ways & Means.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

January 27, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON  
Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

SUSAN DREYFUS, appointed May 18, 2009, for the term ending at the governor's pleasure, as a Director of the Department of Social and Health Services.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Human Services & Corrections.

January 27, 2010

SB 6715 Prime Sponsor, Senator Berkey: Modifying surplus line coverage provisions. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That Substitute Senate Bill No. 6715 be substituted therefor, and the substitute bill do

MOTION

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On motion of Senator McDermott, the appointee listed on the Gubernatorial Appointment report was referred to the committee as designated.

AN ACT Relating to electronic timekeeping for home care agencies; adding a new section to chapter 74.39A RCW; and creating a new section.

## MOTION

Referred to Committee on Health & Long-Term Care.

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

SB 6796 by Senators Gordon, Prentice, Hargrove, Oemig, Kline, Eide, Jacobsen, Shin and Keiser

## MESSAGE FROM THE HOUSE

AN ACT Relating to assessing a business and occupation tax surcharge on automatic teller fees in excess of one dollar and fifty cents; adding a new section to chapter 82.04 RCW; creating a new section; and providing an effective date.

January 27, 2010

MR. PRESIDENT

The House has passed:

SUBSTITUTE HOUSE BILL 1329,

SUBSTITUTE HOUSE BILL 2998.

and the same are herewith transmitted.

Referred to Committee on Financial Institutions, Housing & Insurance.

BARBARA BAKER, Chief Clerk

SB 6797 by Senators Tom, Gordon and Fairley

## MOTION

AN ACT Relating to voters' pamphlets; and amending RCW 29A.32.220.

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

Referred to Committee on Government Operations & Elections.

## INTRODUCTION AND FIRST READING

SB 6798 by Senators Kauffman, Franklin, McAuliffe, Hobbs, Marr, Prentice, Eide, Shin and Kline

SB 6791 by Senators Hargrove and McAuliffe

AN ACT Relating to evaluations of persons under the involuntary treatment act; reenacting and amending RCW 71.05.020; creating a new section; and providing an expiration date.

AN ACT Relating to implementing recommendations of the achievement gap oversight and accountability committee; adding a new section to chapter 28A.300 RCW; and creating a new section.

Referred to Committee on Human Services & Corrections.

Referred to Committee on Early Learning & K-12 Education.

SB 6792 by Senators Hatfield, King, Marr and Shin

AN ACT Relating to extending the agribusiness purposes exemption for certain commercial driver's license applicants; amending RCW 46.25.060; and providing an expiration date.

SB 6799 by Senators Honeyford, King, Schoesler, Delvin, McCaslin and Becker

Referred to Committee on Agriculture & Rural Economic Development.

AN ACT Relating to introducing private competition in industrial insurance coverage; amending RCW 51.16.140, 51.32.073, 51.44.010, 51.44.020, and 51.44.030; adding new sections to chapter 51.08 RCW; adding a new section to chapter 48.19 RCW; adding new sections to chapter 51.44 RCW; adding a new section to chapter 51.16 RCW; adding a new chapter to Title 51 RCW; creating new sections; and providing an effective date.

SB 6793 by Senator Kohl-Welles

AN ACT Relating to unemployment benefits and taxes.

Referred to Committee on Labor, Commerce & Consumer Protection.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6800 by Senators Kline, McAuliffe, Jacobsen and Gordon

SB 6794 by Senators Haugen and Shin

AN ACT Relating to coordination of natural resource landowner incentive programs by the conservation commission; and adding a new section to chapter 89.08 RCW.

AN ACT Relating to discrimination in public schools; and adding a new section to chapter 28A.640 RCW.

Referred to Committee on Agriculture & Rural Economic Development.

Referred to Committee on Early Learning & K-12 Education.

SB 6795 by Senators McAuliffe, Regala, Berkey and Shin

SJM 8026 by Senators Regala, Hargrove, Brandland, Kohl-Welles, Stevens, Shin, Carrell, Hatfield, Jacobsen, Ranker, Oemig, Eide, Marr, McDermott, Haugen, Hobbs, Kilmer, Kline, Berkey, Kauffman, Prentice, Tom, Gordon, Fraser, McAuliffe, Franklin and Keiser

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Requesting the Interstate Commission for Adult Offender Supervision immediately initiate its emergency rule-making process.

Referred to Committee on Human Services & Corrections.

#### INTRODUCTION AND FIRST READING OF HOUSE BILLS

SHB 1329 by House Committee on Ways & Means (originally sponsored by Representatives Pettigrew, Conway, Kagi, Hunt, Seaquist, Sells, Priest, Kenney, Ormsby, Wood, Haigh, White, Chase, Herrera, Morrell, Lias, Green, Cody, Appleton, Hasegawa, Carlyle, Simpson, McCoy, Sullivan, Orwall, Goodman, Campbell, Hudgins, Moeller, Nelson and Santos)

AN ACT Relating to improving quality, access, and stability of child care through providing collective bargaining for child care center directors and workers; amending RCW 41.56.028, 41.56.030, 41.56.113, 41.56.465, 41.04.810, 43.01.047, 43.215.350, and 74.15.020; reenacting and amending RCW 43.215.010; adding a new section to chapter 43.215 RCW; adding a new section to chapter 74.08A RCW; adding a new section to chapter 74.12 RCW; and creating new sections.

Referred to Committee on Labor, Commerce & Consumer Protection.

SHB 2998 by House Committee on Ways & Means (originally sponsored by Representatives Seaquist, Armstrong, Hunt, Kessler, Wallace, Conway and Darneille)

AN ACT Relating to suspension of certain monetary awards and salary increases; amending RCW 41.06.500 and 43.180.080; reenacting and amending RCW 41.06.133; creating a new section; and declaring an emergency.

Referred to Committee on Ways & Means.

#### MOTION

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

#### MOTION

At 12:03 p.m., on motion of Senator McDermott, the Senate adjourned until 10:00 a.m. Friday, January 29, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

## NINETEENTH DAY

## MORNING SESSION

Senate Chamber, Olympia, Friday, January 29, 2010

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

The Sergeant at Arms Color Guard consisting of Pages Jullian Lamanai Haley and Hannah Emily Johnsrud, presented the Colors. Chaplain Lew Cox of the Des Moines Police Department offered the prayer.

## MOTION

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

## MOTION

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

## REPORTS OF STANDING COMMITTEES

January 28, 2010

SB 5279 Prime Sponsor, Senator Kline: Providing for the safe collection and disposal of unwanted drugs from residential sources through a producer provided and funded product stewardship program. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 5279 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Fairley and Murray.

MINORITY recommendation: Do not pass. Signed by Senators Becker and Marr.

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

Passed to Committee on Ways & Means.

January 28, 2010

SB 6210 Prime Sponsor, Senator Haugen: Regarding the preservation and conservation of agricultural resource lands. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: That Substitute Senate Bill No. 6210 be substituted therefor, and the substitute bill do pass. Signed by Senators Hatfield, Chair; Ranker, Vice Chair; Schoesler; Becker; Haugen; Jacobsen; Morton and Shin.

Passed to Committee on Rules for second reading.

January 28, 2010

SB 6328 Prime Sponsor, Senator Marr: Concerning billing for anatomic pathology services. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Fairley; Marr and Murray.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Becker and Parlette.

Passed to Committee on Rules for second reading.

January 28, 2010

SB 6341 Prime Sponsor, Senator Hatfield: Transferring emergency food assistance programs to the department of agriculture. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: That Substitute Senate Bill No. 6341 be substituted therefor, and the substitute bill do pass. Signed by Senators Hatfield, Chair; Ranker, Vice Chair; Schoesler; Becker; Haugen; Jacobsen; Morton and Shin.

Passed to Committee on Rules for second reading.

January 27, 2010

SB 6355 Prime Sponsor, Senator Kilmer: Expanding the higher education system upon proven demand. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That Substitute Senate Bill No. 6355 be substituted therefor, and the substitute bill do pass. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Hewitt; Jacobsen; McAuliffe; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 27, 2010

SB 6357 Prime Sponsor, Senator Kilmer: Requiring policies for academic recognition of certain life and learning experiences. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That Substitute Senate Bill No. 6357 be substituted therefor, and the substitute bill do pass. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Hewitt; Jacobsen; McAuliffe; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 27, 2010

SB 6359 Prime Sponsor, Senator Kilmer: Promoting efficiencies including institutional coordination and partnerships in the community and technical college system. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That Substitute Senate Bill No. 6359 be substituted therefor, and the substitute bill do pass. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Hewitt; Jacobsen; McAuliffe; Pflug; Shin; Stevens and Tom.

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Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

January 28, 2010

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SB 6386 Prime Sponsor, Senator Hatfield: Concerning the disposal of dredged riverbed materials from the Mount St. Helen's eruption. Reported by Committee on Natural Resources, Ocean & Recreation

SB 6543 Prime Sponsor, Senator Hatfield: Modifying the powers of the Washington tree fruit research commission. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: Do pass. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Hargrove; Hatfield; Stevens and Swecker.

MAJORITY recommendation: Do pass. Signed by Senators Hatfield, Chair; Ranker, Vice Chair; Schoesler; Becker; Haugen; Jacobsen; Morton and Shin.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

January 27, 2010

January 28, 2010

SB 6413 Prime Sponsor, Senator Fairley: Regarding the purchasing authority of institutions of higher education. Reported by Committee on Higher Education & Workforce Development

SB 6627 Prime Sponsor, Senator Marr: Authorizing Washington pharmacies to fill prescriptions written by advanced registered nurse practitioners in other states or in certain provinces of Canada. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Hewitt; Jacobsen; McAuliffe; Pflug; Shin; Stevens and Tom.

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Fairley; Marr; Murray and Parlette.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

January 28, 2010

January 28, 2010

SB 6481 Prime Sponsor, Senator Morton: Clarifying which local governments have jurisdiction over conversion-related forest practices. Reported by Committee on Natural Resources, Ocean & Recreation

SB 6630 Prime Sponsor, Senator Oemig: Updating references to the Washington assessment of student learning. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Hargrove; Hatfield; Stevens and Swecker.

MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King; Brandland; Gordon; Hobbs; McDermott and Tom.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

January 28, 2010

January 28, 2010

SB 6487 Prime Sponsor, Senator Franklin: Repealing the expiration of the fair payment for chiropractic services requirement. Reported by Committee on Health & Long-Term Care

SB 6634 Prime Sponsor, Senator Ranker: Establishing civil penalties for failure to comply with dairy nutrient management recordkeeping requirements. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Fairley; Marr and Murray.

MAJORITY recommendation: That Substitute Senate Bill No. 6634 be substituted therefor, and the substitute bill do pass. Signed by Senators Hatfield, Chair; Ranker, Vice Chair; Schoesler; Becker; Haugen; Jacobsen; Morton and Shin.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Becker and Parlette.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

January 28, 2010

January 28, 2010

SB 6520 Prime Sponsor, Senator Hatfield: Extending time to complete recommendations under RCW 36.70A.5601 conducted by the William D. Ruckelshaus Center. Reported by Committee on Agriculture & Rural Economic Development

SB 6751 Prime Sponsor, Senator Franklin: Establishing the medicaid nursing facility quality assurance trust fund. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 6520 be substituted therefor, and the substitute bill do pass. Signed by Senators Hatfield, Chair; Ranker, Vice Chair; Schoesler; Becker; Haugen; Jacobsen; Morton and Shin.

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Marr; Murray and Parlette.

Passed to Committee on Ways & Means.

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SB 6777 Prime Sponsor, Senator Fairley: Modifying state payments for in-home care. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Fairley; Marr; Murray and Parlette.

Passed to Committee on Ways & Means.

January 28, 2010

SJM 8019 Prime Sponsor, Senator Prentice: Petitioning the Department of Health to review cardiovascular disease prevention measures. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Fairley; Marr; Murray and Parlette.

Passed to Committee on Rules for second reading.

January 28, 2010

SCR 8409 Prime Sponsor, Senator Keiser: Forming a joint select committee on health reform implementation. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Concurrent Resolution No. 8409 be substituted therefor, and the substitute concurrent resolution do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Fairley; Marr; Murray and Parlette.

Passed to Committee on Rules for second reading.

#### REPORTS OF STANDING COMMITTEES GUBERNATORIAL APPOINTMENTS

January 28, 2010

SGA 9017 WILLIAM H CHAPMAN, reappointed on January 7, 2008, for the term ending December 31, 2010, as Member of the Recreation and Conservation Funding Board. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Hargrove; Hatfield; Stevens and Swecker.

Passed to Committee on Rules for second reading.

January 28, 2010

SGA 9025 KAREN DAUBERT, reappointed on January 7, 2008, for the term ending December 31, 2010, as Member of the Recreation and Conservation Funding Board. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Hargrove; Hatfield; Stevens and Swecker.

Passed to Committee on Rules for second reading.

January 28, 2010

SGA 9080 TOM P MAY, appointed on January 2, 2005, for the term ending January 1, 2011, as Member of the Forest Practices Appeals Board. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Hargrove; Hatfield; Stevens and Swecker.

Passed to Committee on Rules for second reading.

January 28, 2010

SGA 9091 JEFF PARSONS, reappointed on January 7, 2008, for the term ending December 31, 2010, as Member of the Recreation and Conservation Funding Board. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Hargrove; Hatfield; Stevens and Swecker.

Passed to Committee on Rules for second reading.

January 28, 2010

SGA 9155 BRIAN BLAKE, appointed on September 12, 2008, for the term ending June 30, 2011, as Member of the Pacific Marine Fishery Commission. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Hargrove; Hatfield; Stevens and Swecker.

Passed to Committee on Rules for second reading.

January 28, 2010

SGA 9159 STEVEN DREW, reappointed on January 13, 2009, for the term ending December 31, 2011, as Member of the Recreation and Conservation Funding Board. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Hargrove; Hatfield; Stevens and Swecker.

Passed to Committee on Rules for second reading.

January 28, 2010

SGA 9164 RODGER E SCHMITT, appointed on March 6, 2009, for the term ending December 31, 2014, as Member of the Parks and Recreation Commission. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Hargrove; Hatfield; Stevens and Swecker.

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Passed to Committee on Rules for second reading.

January 27, 2010

SGA 9167 TOM A JOHNSON, appointed on March 30, 2009, for the term ending March 26, 2013, as Member of the Higher Education Facilities Authority. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 28, 2010

SGA 9168 CINDY WHALEY, appointed on March 18, 2009, for the term ending December 31, 2014, as Member of the Parks and Recreation Commission. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Hargrove; Hatfield; Stevens and Swecker.

Passed to Committee on Rules for second reading.

January 28, 2010

SGA 9171 DAVID TROUTT, reappointed on July 16, 2006, for the term ending July 15, 2010, as Member of the Salmon Recovery Funding Board. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Hargrove; Hatfield; Stevens and Swecker.

Passed to Committee on Rules for second reading.

January 27, 2010

SGA 9174 SHERRY L ARMIJO, appointed on November 17, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, Columbia Basin Community College District No. 19. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 27, 2010

SGA 9176 MICHAEL BLAKELY, reappointed on October 1, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, Big Bend Community College District No. 18. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 27, 2010

SGA 9177 JUDY BLINN, reappointed on October 1, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, South Puget Sound Community College District No. 24. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 27, 2010

SGA 9178 BEN CABILDO, reappointed on October 1, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, Spokane and Spokane Falls Community Colleges District No. 17. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 27, 2010

SGA 9179 JORGE CARRASCO, appointed on October 12, 2009, for the term ending September 30, 2011, as Member of the Board of Trustees, Seattle, So. Seattle and No. Seattle Community Colleges District No. 6. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 27, 2010

SGA 9180 SANG CHAE, reappointed on October 1, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, Technical College District #26 (Lake Washington). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 27, 2010

SGA 9181 PAUL CHILES, reappointed on June 26, 2009, for the term ending September 30, 2013, as Member of the Board of Trustees, Bellevue Community College District No. 8. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

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January 27, 2010  
SGA 9182 HAROLD COCHRAN, reappointed on December 10, 2009, for the term ending September 30, 2015, as Member of the Board of Regents, Washington State University. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 27, 2010  
SGA 9183 SUSAN COLE, reappointed on October 1, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, Community College District No. 21 (Whatcom Community College). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 27, 2010  
SGA 9189 BETTI FUJIKADO, appointed on May 20, 2009, for the term ending September 30, 2012, as Member of the Board of Trustees, Western Washington University. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 27, 2010  
SGA 9191 LAWRENCE M GLENN, appointed on October 6, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, Peninsula Community College District No. 1. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 27, 2010  
SGA 9192 BENJAMIN GOLDEN, appointed on August 3, 2009, for the term ending June 30, 2010, as Member of the Board of Regents, University of Washington. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 27, 2010

SGA 9193 IRENE GONZALES, appointed on August 12, 2009, for the term ending September 30, 2015, as Member of the Board of Trustees, The Evergreen State College. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 27, 2010  
SGA 9194 JAMES GROVES, appointed on November 5, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, Technical College District #25 (Bellingham). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 27, 2010  
SGA 9195 MICHAEL GRUNWALD, reappointed on October 1, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, Bates Technical College District No. 28. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 27, 2010  
SGA 9196 MARIELLEN GUNN, appointed on November 25, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, Bellevue Community College District No. 8. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 27, 2010  
SGA 9198 JOANNE HARRELL, appointed on October 16, 2009, for the term ending September 30, 2015, as Member of the Board of Regents, University of Washington. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 27, 2010  
SGA 9199 KRISTIN HAYDEN, reappointed on October 1, 2009, for the term ending September 30, 2015, as Member of the

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Board of Trustees, The Evergreen State College. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

January 27, 2010

SGA 9200 ANDREW M HELM, appointed on July 1, 2009, for the term ending June 30, 2010, as Member of the Higher Education Coordinating Board. Reported by Committee on Higher Education & Workforce Development

SGA 9212 JANET LEWIS, reappointed on October 15, 2009, for the term ending June 30, 2013, as Member of the Work Force Training and Education Coordinating Board. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

January 27, 2010

SGA 9202 MIKE HUDSON, reappointed on October 15, 2009, for the term ending June 30, 2013, as Member of the Work Force Training and Education Coordinating Board. Reported by Committee on Higher Education & Workforce Development

SGA 9214 MARK MATTKE, appointed on October 15, 2009, for the term ending June 30, 2013, as Member of the Work Force Training and Education Coordinating Board. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

January 27, 2010

SGA 9204 SHAUNTA HYDE, appointed on June 1, 2009, for the term ending April 3, 2013, as Member of the State Board for Community and Technical Colleges. Reported by Committee on Higher Education & Workforce Development

SGA 9215 PAUL MCDONALD, reappointed on October 1, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, Community College District No. 16 (Yakima Valley Community College). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

January 27, 2010

SGA 9205 SARAH ISHMAEL, appointed on September 8, 2009, for the term ending June 30, 2010, as Member of the Board of Trustees, Western Washington University. Reported by Committee on Higher Education & Workforce Development

SGA 9217 DIXON MCREYNOLDS, appointed on August 3, 2009, for the term ending June 30, 2010, as Member of the Board of Trustees, The Evergreen State College. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

January 27, 2010

SGA 9210 BRUCE L LACHNEY, appointed on October 1, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, Clover Park Technical College District No. 29. Reported by Committee on Higher Education & Workforce Development

SGA 9220 JULIE P MILLER, appointed on November 25, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, Cascadia Community College District No. 30. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 27, 2010

SGA 9223 TYLER PAGE, appointed on June 26, 2009, for the term ending September 30, 2013, as Member of the Board of Trustees, Renton Technical College District No. 27. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 27, 2010

SGA 9224 SHERRY W PARKER, reappointed on October 1, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, Clark Community College District No. 14. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 27, 2010

SGA 9227 MARGARET ROJAS, reappointed on October 1, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, Skagit Valley Community College District No. 4. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 27, 2010

SGA 9228 RANDY J RUST, appointed on October 1, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, Community College District No. 2 (Grays Harbor College). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 27, 2010

SGA 9230 ROLAND SCHIRMAN, appointed on June 22, 2009, for the term ending September 30, 2013, as Member of the Board of Trustees, Walla Walla Community College District No. 20. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 28, 2010

SGA 9231 ROLLAND A SCHMITTEN, appointed on June 18, 2009, for the term ending December 31, 2014, as Member of the Fish and Wildlife Commission. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Hargrove; Hatfield; Stevens and Swecker.

Passed to Committee on Rules for second reading.

January 27, 2010

SGA 9235 KATHY L SMALL, appointed on November 5, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, Walla Walla Community College District No. 20. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 28, 2010

SGA 9236 BRADLEY F SMITH, appointed on June 18, 2009, for the term ending December 31, 2014, as Member of the Fish and Wildlife Commission. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Hargrove; Hatfield; Stevens and Swecker.

Passed to Committee on Rules for second reading.

January 28, 2010

SGA 9238 HARRIET A SPANEL, appointed on April 9, 2009, for the term ending December 31, 2011, as Member of the Recreation and Conservation Funding Board. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Hargrove; Hatfield; Stevens and Swecker.

Passed to Committee on Rules for second reading.

January 27, 2010

SGA 9241 ALICE TAWRESEY, reappointed on October 1, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, Olympic Community College District No. 3. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

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Passed to Committee on Rules for second reading.

January 27, 2010

SGA 9245 JIM TIFFANY, reappointed on October 1, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, Wenatchee Valley Community College District No. 15. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 27, 2010

SGA 9248 BRIAN UNTI, appointed on December 9, 2009, for the term ending September 30, 2012, as Member of the Board of Trustees, Renton Technical College District No. 27. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 27, 2010

SGA 9249 KASEY WEBSTER, appointed on August 3, 2009, for the term ending June 30, 2010, as Member of the Board of Regents, Washington State University. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 27, 2010

SGA 9250 BRENT WEISEL, appointed on August 3, 2009, for the term ending June 30, 2010, as Member of the Board of Trustees, Central Washington University. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 27, 2010

SGA 9251 CHAD R WRIGHT, appointed on October 6, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, Tacoma Community College District No. 22. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

SGA 9252 DAN DIXON, appointed on November 5, 2009, for the term ending September 30, 2012, as Member of the Board of Trustees, Central Washington University. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

January 27, 2010

SGA 9254 LYNETTE D JONES, appointed on February 27, 2009, for the term ending September 30, 2012, as Member of the Board of Trustees, Technical College District #26 (Lake Washington). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

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

MESSAGE FROM THE HOUSE

January 28, 2010

MR. PRESIDENT

The House has passed:

- SECOND SUBSTITUTE HOUSE BILL 1761,
- SUBSTITUTE HOUSE BILL 2226,
- HOUSE BILL 2406,
- HOUSE BILL 2419,
- SUBSTITUTE HOUSE BILL 2430,
- HOUSE BILL 2435,
- SUBSTITUTE HOUSE BILL 2443,
- HOUSE BILL 2462,
- HOUSE BILL 2465,
- SUBSTITUTE HOUSE BILL 2466,
- SUBSTITUTE HOUSE BILL 2512,
- HOUSE BILL 2521,
- HOUSE BILL 2540,
- HOUSE BILL 2611,
- SUBSTITUTE HOUSE BILL 2627,
- SUBSTITUTE HOUSE BILL 2649,
- SUBSTITUTE HOUSE BILL 2722,
- HOUSE BILL 2740.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

AN ACT Relating to protecting the rights of individuals with mental disorders; amending RCW 43.190.030, 71.05.360, and 71.34.355; and repealing RCW 71.24.350.

## INTRODUCTION AND FIRST READING

SB 6801 by Senators Hobbs, Shin and Berkey

AN ACT Relating to a bachelor of science in nursing program at the University Center; adding a new section to chapter 28B.50 RCW; creating a new section; and providing an effective date.

Referred to Committee on Higher Education & Workforce Development.

SB 6802 by Senator Rockefeller

AN ACT Relating to adopting a sustainability groundwater policy; and amending RCW 90.54.020.

Referred to Committee on Environment, Water & Energy.

SB 6803 by Senator Rockefeller

AN ACT Relating to clarifying withdrawal of groundwater for stock watering purposes; amending RCW 90.44.035 and 90.44.050; adding new sections to chapter 90.44 RCW; and creating a new section.

Referred to Committee on Environment, Water & Energy.

SB 6804 by Senator Kohl-Welles

AN ACT Relating to allowing the department of social and health services to adopt rules establishing standards for the review and certification of treatment facilities under the problem and pathological gambling treatment program; and amending RCW 43.20A.890.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 6805 by Senators Kastama, Zarelli, Shin and Delvin

AN ACT Relating to the Washington state economic development commission; amending RCW 43.79A.040; and adding a new section to chapter 43.162 RCW.

Referred to Committee on Economic Development, Trade & Innovation.

SB 6806 by Senators Fraser and Brandland

AN ACT Relating to the use of building fees and net proceeds of the university tract for university building purposes; amending RCW 28B.20.382, 28B.20.720, 28B.20.721, 28B.20.725, 28B.20.800, 28B.20.810, and 43.79.080; and reenacting and amending RCW 28B.15.210.

Referred to Committee on Ways & Means.

SB 6807 by Senators Fraser, Oemig, Kline and Regala

Referred to Committee on Human Services & Corrections.

SB 6808 by Senators Kilmer, Shin, Delvin and Kastama

AN ACT Relating to private infrastructure development; amending RCW 80.04.010, 90.46.030, 90.46.040, and 36.94.110; and creating a new section.

Referred to Committee on Economic Development, Trade & Innovation.

SB 6809 by Senator Jacobsen

AN ACT Relating to creating a pilot program to investigate the benefits of service dogs in the treatment or rehabilitation of veterans with physical or mental injuries or disabilities and for other purposes; and adding new sections to chapter 43.60A RCW.

Referred to Committee on Government Operations & Elections.

SB 6810 by Senator Holmquist

AN ACT Relating to municipal water supply purposes; and amending RCW 90.03.015.

Referred to Committee on Environment, Water & Energy.

## MOTION

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

## MOTION

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

## MOTION

Senator Marr moved adoption of the following resolution:

SENATE RESOLUTION  
8669

By Senators Marr, Delvin, Schoesler, Becker, Brown, Ranker, Hobbs, Honeyford, Rockefeller, Morton, Pridemore, Shin, and Hatfield

WHEREAS, It is the tradition of the Washington State Senate to honor the vital services provided by trade associations who together with individual association members have uniquely shaped and developed the full agricultural productivity in the Northwest; and

WHEREAS, Far West Agribusiness Association is celebrating its golden anniversary this year; and

WHEREAS, Far West's regional footprint spans the states of Washington, Idaho, Oregon, Utah, and Nevada, maintaining its primary office in Spokane, Washington; and

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APPOINTMENT OF EDWIN SNOOK

WHEREAS, Far West is made up of over 150 agriculture businesses that provide products and services to farmers in all crop areas and commodities employing approximately 2,400 people in the region; and

WHEREAS, Far West provides industry knowledge and training to its members and to the public that protects and ensures a vital, abundant, safe, and affordable food supply, while making a meaningful and steadfast contribution to the economy of Washington State and others; and

WHEREAS, Far West provides in-house specialized training to its members in the safe handling of fertilizer and pesticide products, protecting its members' employees and members of the public; and

WHEREAS, Far West assists legislators at both the state and federal levels when requested on matters of general and specific interest; and

WHEREAS, Far West acts as a liaison among various organizations, helping to develop a consensus enabling agriculture to speak with one voice when possible;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate hereby acknowledge and honor Far West Agribusiness Association of Spokane, Washington, in celebration of its 50th year in operation; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Far West members through its executive director, Jim Fitzgerald.

Senators Marr and Schoesler spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8669.

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

INTRODUCTION OF SPECIAL GUESTS

The President introduced Mr. Jim Fitzgerald, Executive Director of Far West Agribusiness Association and Far West members who were seated in the gallery.

MOTION

At 10:17 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 10:51 a.m. by President Owen.

MOTION

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

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Pridemore moved that Gubernatorial Appointment No. 9144, Edwin Snook, as a member of the Board of Trustees, State School for the Blind, be confirmed.

Senator Pridemore spoke in favor of the motion.

MOTION

On motion of Senator Brandland, Senators Benton, Hewitt, Holmquist, Roach and Zarelli were excused.

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9144, Edwin Snook as a member of the Board of Trustees, State School for the Blind.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9144, Edwin Snook as a member of the Board of Trustees, State School for the Blind and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Benton, Hewitt, Holmquist and Zarelli

Gubernatorial Appointment No. 9144, Edwin Snook, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, State School for the Blind.

SECOND READING

SENATE BILL NO. 6218, by Senators Fraser and Brandland

Authorizing use of voter approved local excess tax levies to pay financing contracts under the local option capital asset lending program and clarifying which "other agencies" may participate in the program.

The measure was read the second time.

MOTION

On motion of Senator Fraser, the rules were suspended, Senate Bill No. 6218 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fraser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6218.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6218 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Benton, Hewitt, Holmquist and Zarelli

SENATE BILL NO. 6218, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

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SECOND READING

SENATE BILL NO. 6219, by Senator Berkey

Funding sources for time certificate of deposit investments.

The measure was read the second time.

#### MOTION

On motion of Senator Berkey, the rules were suspended, Senate Bill No. 6219 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Berkey spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6219.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6219 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Benton, Hewitt, Holmquist and Zarelli

SENATE BILL NO. 6219, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6248, by Senators Keiser, Fairley, Rockefeller, Kohl-Welles, Kline and Ranker

Concerning the use of bisphenol A.

#### MOTIONS

On motion of Senator Keiser, Substitute Senate Bill No. 6248 was substituted for Senate Bill No. 6248 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Keiser, the rules were suspended, Substitute Senate Bill No. 6248 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

Senators Pflug and Delvin spoke against passage of the bill. Senator Roach spoke on final passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6248.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6248 and the bill passed the Senate by the following vote: Yeas, 36; Nays, 9; Absent, 0; Excused, 4.

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

Voting nay: Senators Becker, Delvin, Honeyford, McCaslin, Morton, Pflug, Roach, Schoesler and Stevens

Excused: Senators Benton, Hewitt, Holmquist and Zarelli

SUBSTITUTE SENATE BILL NO. 6248, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6220, by Senators Fraser and Brandland

Concerning determination of the terms and conditions of bonds, notes, and other evidences of indebtedness of the state of Washington.

The measure was read the second time.

#### MOTION

On motion of Senator Fraser, the rules were suspended, Senate Bill No. 6220 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fraser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6220.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6220 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

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

Absent: Senator Hargrove

Excused: Senators Benton, Hewitt, Holmquist and Zarelli

SENATE BILL NO. 6220, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Marr, Senator Hargrove was excused.

#### SECOND READING

SENATE BILL NO. 5582, by Senators Parlette and Becker

Concerning the chief for a day program.

The measure was read the second time.

#### MOTION

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On motion of Senator Haugen, the rules were suspended, Senate Bill No. 5582 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Parlette spoke in favor of passage of the bill.

The Presiding declared the question before the Senate to be the final passage of Senate Bill No. 5582.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5582 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

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

Excused: Senators Benton, Hargrove, Hewitt, Holmquist and Zarelli

SENATE BILL NO. 5582, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 11:27 a.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Monday, February 1, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

## TWENTY SECOND DAY

## NOON SESSION

Senate Chamber, Olympia, Monday, February 1, 2010

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

## MOTION

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

## MOTION

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

## REPORTS OF STANDING COMMITTEES

January 28, 2010

SB 5208 Prime Sponsor, Senator Brandland: Ensuring punishment for domestic violence offenders. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 5208 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Oemig; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

January 28, 2010

SB 6192 Prime Sponsor, Senator Marr: Providing for modification of the disposition concerning restitution in juvenile cases. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 6192 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell and Kauffman.

Passed to Committee on Rules for second reading.

January 28, 2010

SB 6194 Prime Sponsor, Senator Keiser: Simplifying medicaid payment for nursing facilities. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Oemig; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

January 28, 2010

SB 6214 Prime Sponsor, Senator Haugen: Restructuring three growth management hearings boards into one board. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 6214 be substituted therefor, and the substitute bill do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott; Pridemore and Swecker.

Passed to Committee on Rules for second reading.

January 28, 2010

SB 6238 Prime Sponsor, Senator Hobbs: Concerning overseas and service voters. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Roach; McDermott; Pridemore and Swecker.

MINORITY recommendation: Do not pass. Signed by Senator Oemig, Vice Chair.

Passed to Committee on Rules for second reading.

January 29, 2010

SB 6244 Prime Sponsor, Senator Fraser: Defining a green home and an energy efficient home. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 6244 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Honeyford; Fraser; Marr; Morton; Oemig and Ranker.

Passed to Committee on Rules for second reading.

January 28, 2010

SB 6287 Prime Sponsor, Senator Fraser: Concerning annexation of a city, partial city, or town to a fire protection district. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott; Pridemore and Swecker.

Passed to Committee on Rules for second reading.

January 29, 2010

SB 6289 Prime Sponsor, Senator Pridemore: Protecting lake water quality by reducing phosphorus from lawn fertilizers. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 6289 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Fraser; Marr; Oemig and Ranker.

MINORITY recommendation: Do not pass. Signed by Senators Delvin and Morton.

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

Passed to Committee on Rules for second reading.

January 28, 2010

SB 6342 Prime Sponsor, Senator Swecker: Concerning the Washington soldiers' home. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 6342 be substituted therefor, and the substitute bill do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; McDermott; Pridemore and Swecker.

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

Passed to Committee on Rules for second reading.

January 28, 2010

SB 6367 Prime Sponsor, Senator Hatfield: Allowing agencies to direct requesters to their web site for public records. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 6367 be substituted therefor, and the substitute bill do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott; Pridemore and Swecker.

Passed to Committee on Rules for second reading.

January 29, 2010

SB 6373 Prime Sponsor, Senator Ranker: Directing the department of ecology to adopt rules requiring entities to report the emissions of greenhouse gases. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 6373 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Marr; Oemig; Ranker and Sheldon.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford; Delvin and Morton.

Passed to Committee on Ways & Means.

January 28, 2010

SB 6401 Prime Sponsor, Senator Brandland: Concerning an alternative process for selecting an electrical contractor or a mechanical contractor, or both, for general contractor/construction manager projects. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; McDermott and Pridemore.

Passed to Committee on Rules for second reading.

January 28, 2010

SB 6408 Prime Sponsor, Senator Fairley: Changing remedies for actions under the public records act. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 6408 be substituted therefor, and the substitute bill do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; McDermott; Pridemore and Swecker.

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

Passed to Committee on Rules for second reading.

January 29, 2010

SB 6421 Prime Sponsor, Senator Rockefeller: Modifying the department of commerce's duties with respect to the state's energy strategy. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 6421 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Fraser; Marr; Oemig and Ranker.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and Morton.

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

Passed to Committee on Ways & Means.

January 28, 2010

SB 6435 Prime Sponsor, Senator Honeyford: Requiring the building code council to adopt rules for installing outlets to charge vehicles. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Holmquist; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

January 28, 2010

SB 6440 Prime Sponsor, Senator Honeyford: Adding fire protection services to the seller disclosure form. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Holmquist; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

January 28, 2010

SB 6451 Prime Sponsor, Senator Kauffman: Concerning the installation of residential fire sprinkler systems. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 6451 be substituted therefor, and the substitute bill do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott and Pridemore.

Passed to Committee on Rules for second reading.

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January 28, 2010

SB 6461 Prime Sponsor, Senator Honeyford: Providing limited immunity for firefighters providing emergency services. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; McDermott and Pridemore.

Passed to Committee on Rules for second reading.

January 28, 2010

SB 6462 Prime Sponsor, Senator Honeyford: Addressing the duties of a firefighter at the scene of a wildfire beyond the boundaries of the firefighter's district. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; McDermott and Pridemore.

Passed to Committee on Rules for second reading.

January 29, 2010

SB 6467 Prime Sponsor, Senator Shin: Authorizing honorary degrees for students who were ordered into internment camps. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: Do pass. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Pflug; Shin and Tom.

Passed to Committee on Rules for second reading.

January 28, 2010

SB 6528 Prime Sponsor, Senator Roach: Concerning the Washington soldiers' home. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott; Pridemore and Swecker.

Passed to Committee on Rules for second reading.

January 28, 2010

SB 6580 Prime Sponsor, Senator Swecker: Creating the local bridge restoration and replacement account. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6580 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Becker; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama and Kilmer.

Passed to Committee on Rules for second reading.

January 28, 2010

SB 6586 Prime Sponsor, Senator Holmquist: Regarding membership on the state building code council. Reported by Committee on Labor, Commerce & Consumer Protection

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MAJORITY recommendation: That Substitute Senate Bill No. 6586 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Holmquist; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

January 28, 2010

SB 6612 Prime Sponsor, Senator Hargrove: Concerning child fatality reviews in child welfare cases. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 6612 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell and Kauffman.

Passed to Committee on Rules for second reading.

January 28, 2010

SB 6649 Prime Sponsor, Senator King: Streamlining the content and release requirements of driving record abstracts. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6649 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kilmer and King.

Passed to Committee on Rules for second reading.

January 21, 2010

SB 6665 Prime Sponsor, Senator Kohl-Welles: Changing the initiative filing fee. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 6665 be substituted therefor, and the substitute bill do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; McDermott and Pridemore.

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

Passed to Committee on Rules for second reading.

January 28, 2010

SB 6685 Prime Sponsor, Senator Roach: Requiring public agencies, special purpose districts, and municipalities to post certain information on their web sites. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 6685 be substituted therefor, and the substitute bill do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott and Pridemore.

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

Passed to Committee on Rules for second reading.

January 29, 2010

TWENTY SECOND DAY, FEBRUARY 1, 2010

2010 REGULAR SESSION

SB 6692 Prime Sponsor, Senator Pridemore: Allowing certain counties to participate and enter into ownership agreements for electric generating facilities powered by biomass. Reported by Committee on Environment, Water & Energy

Zarelli; Brandland; Carrell; Fairley; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

MAJORITY recommendation: That Substitute Senate Bill No. 6692 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Honeyford; Delvin; Marr; Morton; Oemig; Ranker and Sheldon.

Passed to Committee on Rules for second reading.

MOTION

On motion of Eide, all measures listed on the Standing Committee report were referred to the committees as designated with the exception of Senate Bill No. 6244 which was referred to the Committee on Rules.

Passed to Committee on Rules for second reading.

January 28, 2010

MOTION

SB 6701 Prime Sponsor, Senator Kline: Addressing real property warranties. Reported by Committee on Labor, Commerce & Consumer Protection

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

MAJORITY recommendation: That Substitute Senate Bill No. 6701 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin and Kline.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

MINORITY recommendation: Do not pass. Signed by Senators Holmquist; Honeyford and King.

January 25, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Passed to Committee on Rules for second reading.

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

TOM KARIER, reappointed January 16, 2010, for the term ending January 15, 2013, as Member of the Northwest Power and Conservation Council.

January 28, 2010

SB 6734 Prime Sponsor, Senator King: Modifying interest rate and penalty provisions in the current use program. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott; Pridemore and Swecker.

Sincerely,  
CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Environment, Water & Energy.

Passed to Committee on Ways & Means.

January 27, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

THOMAS C. MOSER, reappointed October 1, 2005, for the term ending September 30, 2010, as Member, Board of Trustees, Skagit Valley Community College District No. 4.

January 28, 2010

SJR 8225 Prime Sponsor, Senator Fraser: Resolving to define "interest" in the state Constitution. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Oemig; Pridemore; Regala; Rockefeller and Schoesler.

Sincerely,  
CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Parlette and Pflug.

January 7, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

MARY JEAN RYAN, reappointed January 13, 2010, for the term ending January 12, 2014, as Member of the State Board of Education.

Passed to Committee on Rules for second reading.

January 28, 2010

ESHB 2921 Prime Sponsor, Committee on Ways & Means: Making 2010 supplemental operating appropriations. Reported by Committee on Ways & Means

Sincerely,  
CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Early Learning & K-12 Education.

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget;

MOTION

On motion of Senator Eide, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated.

## MOTION

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

## MESSAGE FROM THE HOUSE

January 29, 2010

## MR. PRESIDENT

The House has passed:

HOUSE BILL 1576,

ENGROSSED SUBSTITUTE HOUSE BILL 1885,

SUBSTITUTE HOUSE BILL 2179.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

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

## INTRODUCTION AND FIRST READING

SB 6811 by Senators Keiser and Pflug

AN ACT Relating to creating the Washington state board of naturopathy; amending RCW 18.36A.020, 18.36A.060, 18.36A.080, 18.36A.090, 18.36A.100, 18.36A.110, and 18.36A.120; reenacting and amending RCW 18.130.040; adding new sections to chapter 18.36A RCW; repealing RCW 18.36A.070; and providing an effective date.

Referred to Committee on Health & Long-Term Care.

SB 6812 by Senators Pflug and Parlette

AN ACT Relating to authorizing health carriers to offer plans equivalent to the basic health plan; adding a new section to chapter 48.43 RCW; and declaring an emergency.

Referred to Committee on Health & Long-Term Care.

SB 6813 by Senators Tom, Rockefeller and Shin

AN ACT Relating to the department of natural resources; amending RCW 43.30.010, 43.30.030, 77.08.010, 79A.05.010, 43.17.010, 43.17.020, and 77.04.055; reenacting and amending RCW 79A.05.030; adding new sections to chapter 43.330 RCW; adding a new section to chapter 77.04 RCW; adding a new section to chapter 79A.05 RCW; creating new sections; and providing an effective date.

Referred to Committee on Natural Resources, Ocean & Recreation.

SB 6814 by Senators Pridemore, Murray, Fairley and Shin

AN ACT Relating to anatomical gifts made by driver's license and idencard applicants; and amending RCW 46.20.113, 46.20.1131, and 68.64.040.

Referred to Committee on Transportation.

SB 6815 by Senator Haugen

AN ACT Relating to health care benefits for marine employees of the department of transportation; and amending RCW 47.64.120, 47.64.270, 47.64.320, and 41.80.020.

Referred to Committee on Transportation.

SB 6816 by Senator Schoesler

AN ACT Relating to special permitting for certain farm implements; and amending RCW 46.44.140.

Referred to Committee on Agriculture & Rural Economic Development.

SB 6817 by Senators McDermott, Kline, Kohl-Welles and Fairley

AN ACT Relating to a new surcharge on certain recorded documents for affordable housing purposes; amending RCW 43.185B.040; adding a new section to chapter 36.22 RCW; adding a new chapter to Title 43 RCW; and making an appropriation.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 6818 by Senators Prentice and Kline

AN ACT Relating to the state business and occupation tax; amending RCW 82.04.220, 82.04.2907, and 82.04.460; adding new sections to chapter 82.04 RCW; creating new sections; and providing an effective date.

Referred to Committee on Ways & Means.

SB 6819 by Senators Kilmer, Becker, Hobbs, Delvin and Shin

AN ACT Relating to creating an estate tax exemption for certain property held by qualified family-owned businesses; and adding a new section to chapter 83.100 RCW.

Referred to Committee on Ways & Means.

SB 6820 by Senators Holmquist and Sheldon

AN ACT Relating to motorcycle helmet use; and amending RCW 46.37.530 and 46.37.535.

Referred to Committee on Transportation.

SB 6821 by Senators Holmquist, McCaslin, Stevens, Delvin, Becker, Honeyford, Parlette, Hewitt, Swecker and Morton

AN ACT Relating to tax increases imposed by state government; amending RCW 43.135.035; creating a new section; and providing for submission of this act to a vote of the people.

Referred to Committee on Ways & Means.

TWENTY SECOND DAY, FEBRUARY 1, 2010

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SB 6822 by Senator Holmquist

AN ACT Relating to energy efficiency requirements for residential structures; amending RCW 19.27A.020; adding a new section to chapter 19.27A RCW; and creating a new section.

Referred to Committee on Environment, Water & Energy.

SB 6823 by Senators Fraser, Parlette and Prentice

AN ACT Relating to naming credits against the state sales tax; amending RCW 82.14.370, 82.14.0485, 82.14.390, 82.14.0494, 82.14.415, 82.14.465, 67.28.180, 82.14.480, and 82.14.475; and providing an expiration date.

Referred to Committee on Ways & Means.

SB 6824 by Senators Parlette and Becker

AN ACT Relating to authorizing health carriers to offer plans equivalent to the basic health plan; adding a new section to chapter 48.43 RCW; and declaring an emergency.

Referred to Committee on Health & Long-Term Care.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

HB 1576 by Representatives Clibborn, Liias, Roach and Rodne

AN ACT Relating to determining the amount of motor vehicle fuel tax moneys derived from tax on marine fuel; and amending RCW 79A.25.030, 79A.25.040, and 79A.25.070.

Referred to Committee on Transportation.

2SHB 1761 by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Hasegawa, Appleton and Hurst)

AN ACT Relating to the ethical use of legislative web sites; and amending RCW 42.52.180.

Referred to Committee on Government Operations & Elections.

ESHB 1885 by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Van De Wege, Blake, Warnick, Takko, Ormsby and Liias)

AN ACT Relating to feeding wildlife; amending RCW 77.08.010 and 77.15.160; adding a new section to chapter 77.15 RCW; and creating a new section.

Referred to Committee on Natural Resources, Ocean & Recreation.

SHB 2179 by House Committee on Transportation (originally sponsored by Representative Eddy)

AN ACT Relating to authorizing cities to provide and contract for supplemental transportation improvements; amending RCW 36.73.015; adding a new section to chapter 35.21 RCW; adding a new section to chapter 36.73 RCW;

adding a new section to chapter 35.58 RCW; adding a new section to chapter 36.57A RCW; and adding a new section to chapter 81.112 RCW.

Referred to Committee on Transportation.

SHB 2226 by House Committee on Judiciary (originally sponsored by Representatives Orcutt, Blake, Maxwell, Williams and Hope)

AN ACT Relating to issuing firearms certificates to retired law enforcement officers; and amending RCW 36.28A.090.

Referred to Committee on Judiciary.

HB 2406 by Representatives Kelley, Alexander, Miloscia and Haigh

AN ACT Relating to updating and removing obsolete references from the statutes governing the joint legislative audit and review committee; amending RCW 44.28.010, 44.28.020, 44.28.083, 44.28.088, 44.28.097, and 44.28.110; and repealing RCW 44.28.030 and 44.28.161.

Referred to Committee on Government Operations & Elections.

HB 2419 by Representatives Bailey, Nelson and Kirby

AN ACT Relating to the exemption to the three-year active transacting requirement for foreign or alien insurer applicants; and amending RCW 48.05.105.

Referred to Committee on Financial Institutions, Housing & Insurance.

SHB 2430 by House Committee on Health Care & Wellness (originally sponsored by Representatives Morrell, Driscoll, Hinkle, Blake, Walsh, Green, Roberts, Goodman, Clibborn, Carlyle, Moeller, Kelley and Hurst)

AN ACT Relating to cardiovascular invasive specialists; amending RCW 18.84.020 and 18.84.080; adding new sections to chapter 18.84 RCW; and creating a new section.

Referred to Committee on Health & Long-Term Care.

HB 2435 by Representatives Green, Kelley, Roberts, Nelson, Goodman, Hudgins and Hunt

AN ACT Relating to providing licensed midwives online access to the University of Washington health sciences library; and amending RCW 43.70.110.

Referred to Committee on Health & Long-Term Care.

SHB 2443 by House Committee on Health Care & Wellness (originally sponsored by Representatives Ericksen, Cody and Morrell)

AN ACT Relating to conforming the uniform controlled substances act to existing state and federal law; and amending RCW 69.50.101, 69.50.204, 69.50.206, 69.50.208, 69.50.210, 69.50.212, and 69.50.402.

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Referred to Committee on Health & Long-Term Care.

HB 2462 by Representatives Green, Campbell, Ericksen, Bailey, Cody, Simpson and Goodman

AN ACT Relating to permitting regularly enrolled students in a prescribed course of opticianry to practice under supervision without registering as an apprentice with the department of health; and amending RCW 18.34.010.

Referred to Committee on Health & Long-Term Care.

HB 2465 by Representatives Hurst, Rodne, Kelley, Roberts and Ericks

AN ACT Relating to breath test instruments approved by the state toxicologist; and amending RCW 46.61.506.

Referred to Committee on Judiciary.

SHB 2466 by House Committee on Judiciary (originally sponsored by Representatives Goodman, Rodne, Kelley, Roberts, Johnson, Ericks, Hudgins and Hurst)

AN ACT Relating to the regulation of ignition interlock devices; amending RCW 46.04.215; and adding new sections to chapter 43.43 RCW.

Referred to Committee on Judiciary.

SHB 2512 by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Bailey, Kirby and Morrell)

AN ACT Relating to nonresident surplus line brokers and insurance producers; amending RCW 48.15.070, 48.15.073, 48.17.173, and 48.17.250; adding a new section to chapter 48.02 RCW; and providing an effective date.

Referred to Committee on Financial Institutions, Housing & Insurance.

HB 2521 by Representatives Driscoll, Williams, Cody, Morrell, Ormsby and Moeller

AN ACT Relating to conversion rights upon termination of eligibility for health plan coverage; amending RCW 48.21.260, 48.44.370, and 48.46.450; and creating a new section.

Referred to Committee on Health & Long-Term Care.

HB 2540 by Representatives Cody, Pedersen, Nelson, Kenney and Morrell

AN ACT Relating to repealing the expiration date for provisions relating to the licensure of dentists from other states; and repealing 2008 c 147 s 3 (uncodified).

Referred to Committee on Health & Long-Term Care.

HB 2611 by Representatives Williams and Hunt

AN ACT Relating to the disposition of existing voter-approved indebtedness at the time of annexation of a

city, partial city, or town to a fire protection district; amending RCW 52.04.061 and 52.04.081; and declaring an emergency.

Referred to Committee on Government Operations & Elections.

SHB 2627 by House Committee on Judiciary (originally sponsored by Representatives Kelley, Green, Miloscia and Kenney)

AN ACT Relating to child support order summary report forms; amending RCW 26.18.210 and 26.19.025; and repealing RCW 26.09.173 and 26.10.195.

Referred to Committee on Human Services & Corrections.

SHB 2649 by House Committee on Commerce & Labor (originally sponsored by Representatives Green, Conway, Moeller and Williams)

AN ACT Relating to correcting references in RCW 50.29.021(2)(c)(i), (c)(ii), and (3)(e), RCW 50.29.062(2)(b)(i)(B) and (2)(b)(iii), and RCW 50.29.063(1)(b) and (2)(a)(ii) to unemployment insurance statutes concerning employer experience rating accounts and contribution rates; amending RCW 50.29.062 and 50.29.063; reenacting and amending RCW 50.29.021; creating a new section; and declaring an emergency.

Referred to Committee on Labor, Commerce & Consumer Protection.

SHB 2722 by House Committee on Judiciary (originally sponsored by Representatives Goodman, Pedersen, Moeller and Kenney)

AN ACT Relating to persons appointed by the court to provide information in family law and adoption cases; amending RCW 26.33.070, 26.09.220, 26.12.175, and 26.12.177; and adding a new section to chapter 26.12 RCW.

Referred to Committee on Human Services & Corrections.

HB 2740 by Representatives Seaquist and Angel

AN ACT Relating to the definition of land use decision in the land use petition act; and amending RCW 36.70C.020.

Referred to Committee on Government Operations & Elections.

#### MOTION

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

#### MOTION

At 12:04 p.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Tuesday, February 2, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**TWENTY THIRD DAY**

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NOON SESSION

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Senate Chamber, Olympia, Tuesday, February 2, 2010

The Senate was called to order at 12:00 noon by the President Pro Tempore. No roll call was taken.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

January 29, 2010

SB 6352 Prime Sponsor, Senator Kline: Modifying provisions on personal property exempt from execution, attachment, and garnishment. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 6352 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon; Hargrove; Kohl-Welles and Roach.

Passed to Committee on Rules for second reading.

January 29, 2010

SB 6398 Prime Sponsor, Senator Kline: Adding the definition of threat to malicious harassment provisions. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 6398 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon; Hargrove; Kohl-Welles and Roach.

Passed to Committee on Rules for second reading.

February 1, 2010

SB 6653 Prime Sponsor, Senator Jacobsen: Concerning a property tax exemption for property owned by a nonprofit organization and used for the purpose of a farmers market. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: Do pass. Signed by Senators Hatfield, Chair; Ranker, Vice Chair; Schoesler; Becker; Haugen; Jacobsen; Morton and Shin.

Passed to Committee on Ways & Means.

February 1, 2010

SB 6745 Prime Sponsor, Senator Sheldon: Concerning veterinary technician licenses. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: Do pass. Signed by Senators Hatfield, Chair; Ranker, Vice Chair; Schoesler; Becker; Haugen; Jacobsen; Morton and Shin.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator McDermott, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

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

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

January 21, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

JENNIFER JOLY, appointed January 15, 2010, for the term ending December 31, 2014, as Member of the Public Disclosure Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Government Operations & Elections.

February 2, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

EDMUND I. KILEY, appointed January 14, 2010, for the term ending December 26, 2013, as Member of the Board of Pilotage Commissioners.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Transportation.

MOTION

On motion of Senator McDermott, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated.

MOTION

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

INTRODUCTION AND FIRST READING

SB 6825 by Senators Fairley and Murray

TWENTY THIRD DAY, FEBRUARY 2, 2010

AN ACT Relating to allowing federally qualified nonprofit community health organizations to buy surplus real property from the department of transportation; and amending RCW 47.12.063.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

Referred to Committee on Transportation.

SB 6826 by Senator Swecker

AN ACT Relating to subagent service fees; and amending RCW 46.01.140.

Referred to Committee on Transportation.

SB 6827 by Senator Morton

AN ACT Relating to vehicle dealers in counties with a population of ten thousand or less; amending RCW 46.70.021 and 46.70.115; and prescribing penalties.

Referred to Committee on Transportation.

SB 6828 by Senator McAuliffe

AN ACT Relating to the taxation of lodging; and amending RCW 67.28.181.

Referred to Committee on Government Operations &amp; Elections.

SB 6829 by Senators Fraser, Tom and Rockefeller

AN ACT Relating to the forestry riparian easement program; amending RCW 76.13.120 and 76.13.140; creating a new section; and prescribing penalties.

Referred to Committee on Natural Resources, Ocean &amp; Recreation.

SB 6830 by Senator Shin

AN ACT Relating to penalties for retail liquor licensees; adding a new section to chapter 66.44 RCW; and prescribing penalties.

Referred to Committee on Labor, Commerce &amp; Consumer Protection.

SB 6831 by Senator Parlette

AN ACT Relating to estates and trusts; adding new sections to chapter 11.108 RCW; creating new sections; and declaring an emergency.

Referred to Committee on Judiciary.

## MOTION

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

## MOTION

At 12:04 p.m., on motion of Senator McDermott, the Senate adjourned until 10:00 a.m. Wednesday, February 3, 2010.

TWENTY FOURTH DAY

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MORNING SESSION

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Senate Chamber, Olympia, Wednesday, February 3, 2010

The Senate was called to order at 10:00 a.m. by the President Pro Tempore. The Secretary called the roll and announced to the President Pro Tempore that all Senators were present with the exception of Senator Holmquist.

The Honor Guard consisting of representatives from the Lakewood Police Department; the Seattle Police Department; the Pierce County Sheriff's Office; the Grant County Sheriff's Office; and the Lewis County Sheriff's Office presented the Colors. Chaplain Alvin Robbins of Lakewood Police Department offered the prayer.

INTRODUCTION OF SPECIAL GUESTS

The President Pro Tempore welcomed and introduced Detective Ed Troyer of the Pierce County Sheriff's Office, Lakewood Police Chief Brett Farrar, Sergeant Rich O'Neill, President of the Seattle Police Officers Guild and Chaplain Alvin Robbins of the Lakewood Police Department who were seated at the rostrum.

MOTION

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

MOTION

Senator Carrell moved adoption of the following resolution:

SENATE RESOLUTION  
8687

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

WHEREAS, Officer Timothy Brenton with the Seattle Police Department was gunned down in the line of duty on Halloween night, 2009, while training a student officer; and

WHEREAS, Officer Timothy Brenton nobly served 12 years in law enforcement in Seattle, Hoquiam, and La Connor; and

WHEREAS, Officer Timothy Brenton was a loving husband and father of two children, had a great sense of humor, and was regarded as an outstanding law enforcement officer by his peers and superiors; and

WHEREAS, Sergeant Mark Renninger, Officer Tina Griswold, Officer Ronald Owens, and Officer Greg Richards - four police officers with the Lakewood Police Department - were ambushed and murdered as they sipped coffee and caught up on paperwork before their shifts began November 29, 2009; and

WHEREAS, All four officers were original members of Lakewood's five-year-old police department; and

WHEREAS, Sergeant Mark Renninger was a 13-year law enforcement veteran with both the Tukwila and Lakewood Police Departments; and

WHEREAS, Sergeant Mark Renninger was a loving husband and father of three children; and

WHEREAS, Sergeant Mark Renninger served as the Chief Financial Officer and member of the Board of Directors of the Washington State Tactical Officers Association, as well as teaching within that organization; and

WHEREAS, Sergeant Mark Renninger is described by his peers as an exceptionally competent and tactically proficient officer, a savvy negotiator, and a highly respected man who could be counted on for anything; and

WHEREAS, Sergeant Mark Renninger is described by his family as a professional, dedicated police officer who made the ultimate sacrifice; and

WHEREAS, Officer Tina Griswold was a 13-year law enforcement veteran with both the Lacey and Lakewood Police Departments; and

WHEREAS, Officer Tina Griswold was a loving wife and mother of two children; and

WHEREAS, Officer Tina Griswold served as a member of the Lacey Police Department's high-risk tactical team; and

WHEREAS, Officer Tina Griswold was awarded a Lifesaving Award by Lakewood Police Chief Brett Farrar earlier this year; and

WHEREAS, Officer Tina Griswold is described by those who worked with her as having a passion for politics and as being an outstanding advocate for taxpayers; and

WHEREAS, Officer Ronald Owens was a 12-year law enforcement veteran with both the Washington State Patrol and the Lakewood Police Department; and

WHEREAS, Officer Ronald Owens was a loving father of one child; and

WHEREAS, Officer Ronald Owens is said to have felt a personal connection with members of the community in which he worked and lived; and

WHEREAS, Officer Ronald Owens - known as "Ronnie" to his fellow officers - is described as sharp and extremely dedicated, and a hard worker who enjoyed dirt bike riding and kept a positive attitude; and

WHEREAS, Officer Greg Richards was an 8-year law enforcement veteran with both the Kent and Lakewood Police Departments; and

WHEREAS, Officer Greg Richards was a loving husband and father of three children; and

WHEREAS, Officer Greg Richards is described by his peers as a great cop and a proud family man who enjoyed playing the drums and raising money for charity; and

WHEREAS, Deputy Kent Mundell Jr. was shot while responding to a domestic violence call December 21, 2009, and died a week later as a result of his injuries; and

WHEREAS, Deputy Kent Mundell Jr. heard the call of duty and left a manufacturing career to work in law enforcement, serving ten years with the Pierce County Sheriff's Department; and

WHEREAS, Deputy Kent Mundell Jr. was a father of two children and a loving husband to his wife; and

WHEREAS, Deputy Kent Mundell Jr. had a passion for fun and adventure, was known to be a thrill-seeker and is described by his peers as being a great cop with a great sense of humor; and

WHEREAS, All of these brave officers are shining examples of the exemplary character and steadfast dedication which can be found in all of Washington's law enforcement officers. Their loyalty and sacrifice is something that most will never know or

TWENTY FOURTH DAY, FEBRUARY 3, 2010

understand, and that sense of duty and selflessness elevates them to a level reserved only for the truly honorable - a place for heroes;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor the lives, service, and sacrifice of six of its fallen heroes - Officer Timothy Brenton, Sergeant Mark Renninger, Officer Tina Griswold, Officer Ronald Owens, Officer Greg Richards, and Deputy Kent Mundell Jr., and let it be known that the Washington State Senate stands with the people of Seattle, Lakewood, and Pierce County, and every member of the state's law enforcement community; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the families and law enforcement agencies of these six fallen officers.

Senators Carrell, Delvin, Becker, Brandland, Roach, Eide, Hobbs, Sheldon and Franklin spoke in favor of adoption of the resolution.

The President Pro Tempore declared the question before the Senate to be the adoption of Senate Resolution No. 8687.

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

#### MOMENT OF SILENCE

The Senate observed a moment of silence in honor of the local law enforcement officers slain while in the performance of their duties.

#### INTRODUCTION OF SPECIAL GUESTS

The President Pro Tempore welcomed and introduced Acting Governor, Brad Owen, who was seated at the rostrum and the families of the fallen officers who were present in the gallery.

#### INTRODUCTION OF SPECIAL GUESTS

The President Pro Tempore welcomed and introduced Detective Ed Troyer.

With permission of the Senate, business was suspended to allow Detective Ed Troyer to address the Senate.

#### REMARKS BY DETECTIVE ED TROYER

Ed Troyer: "On behalf of Law Enforcement throughout the state it's my honor to be here today to represent the officers who recently lost their lives in the line of duty and to represent their families. What brought us here today started on Halloween night, October 31<sup>st</sup>, when Seattle Police Officer Timothy Brenton was executed and Officer Brett Sweeney was shot by gun fire from another vehicle. A month later on November 29<sup>th</sup>, Lakewood Police Officer Greg Richards, Officer Tina Griswold, Officer Ronald Owens and Sergeant Mark Renninger were executed in a coffee shop while writing reports and preparing for patrol that day. A month after that, on December 28<sup>th</sup> Pierce County Deputy Kent Mundell died from gunshot wounds he received days earlier in domestic situation and Sergeant Nick Hausner was shot at the same time is recovering from a serious almost fatal wound. That's eight police officers and deputies shot in a two month period with six of them being killed. The deaths of these officers have left four widows, a widower, along with thirteen children who've lost a parent. A loss that's felt deeply by the community. We see how bad it hurts them and we in Law Enforcement have heavy hearts and miss them daily. We in Law Enforcement also know that's there's no way to guarantee our safety. By the very nature of policing itself places us at risk. We know and accept that. In fact we've taken oath to do so but there are ways to reduce risks. While politicians do the work that voters have elected them to do

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we need to avoid the illusion that laws enforce themselves. Often legislation is well motivated but there are no resources to carry out the mandates. Let's not be the cop killing capital of the USA here in the state of Washington, it's unacceptable. It hurts the hearts of our citizens and it will hurt our economy, businesses will think twice about expanding or relocating a business to an area with horrendous crime. In Pierce County we were once known as the meth capital of United States with over three hundred fifty meth labs in a one year period. New laws were put into place, and this is very important, the resources to back the laws up were also put into place. One and a half years we were able to cut meth by ninety percent in Pierce County down to one of the lowest in the nation. This proves that with resources we in law enforcement will take care of business and get the job done. Currently we're not supervising felons, contemplating closing jails, contemplating closing prisons and law enforcement agencies are losing positions. My department alone has lost fifteen positions have been cut here in the latest round of budget issues. We're already one of the lowest staffed agencies in the state. This is a bad mix and maybe creating what can only be called the perfect storm. Having any legislation without funding for resources pushing the mandates down to local agencies who are already under staffed throughout the state - the rest of the law enforcements agencies in here are all facing the same problem will only provide shoddy for any enforcement behind the laws. So, we in law enforcement are calling on you to make long-lasting, positive change for our citizens, our law enforcement agencies and to protect our future generations. Thank you."

#### REMARKS BY THE PRESIDENT PRO TEMPORE

President Pro Tempore: "The President Pro Tempore announced a reception for the honored families of the law enforcement officers and guests in the State Reception Room following the ceremony in the House of Representatives."

The Sergeant at Arms escorted the honored guests from the rostrum to the House of Representatives.

#### MOTION

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

#### MOTION

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

February 2, 2010

SB 5237 Prime Sponsor, Senator Shin: Requiring the development of three-year baccalaureate programs. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That Substitute Senate Bill No. 5237 be substituted therefor, and the substitute bill do pass. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Jacobsen; McAuliffe; Shin and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Becker and Stevens.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Hewitt and Pflug.

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Passed to Committee on Rules for second reading.

February 1, 2010

SB 5548 Prime Sponsor, Senator Haugen: Requiring project improvements, including public transportation infrastructure improvements, to be credited against the imposition of impact fees. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5548 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Benton; Berkey; Delvin; Eide; Jacobsen; Kastama; Kauffman; Kilmer; King; Ranker and Sheldon.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6299 Prime Sponsor, Senator Schoesler: Regarding livestock inspection. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: That Substitute Senate Bill No. 6299 be substituted therefor, and the substitute bill do pass. Signed by Senators Hatfield, Chair; Ranker, Vice Chair; Schoesler; Becker; Haugen; Jacobsen; Morton and Shin.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6343 Prime Sponsor, Senator Jacobsen: Establishing the Washington food policy council. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: That Substitute Senate Bill No. 6343 be substituted therefor, and the substitute bill do pass. Signed by Senators Hatfield, Chair; Ranker, Vice Chair; Schoesler; Becker; Haugen; Jacobsen; Morton and Shin.

Passed to Committee on Rules for second reading.

February 1, 2010

SB 6363 Prime Sponsor, Senator Marr: Concerning the enforcement of certain school or playground crosswalk violations. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6363 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Benton; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King; Ranker and Sheldon.

Passed to Committee on Rules for second reading.

February 1, 2010

SB 6366 Prime Sponsor, Senator Swecker: Concerning permits for certain major transportation corridor projects. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6366 be substituted therefor, and the substitute bill do

pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Benton; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; King; Ranker and Sheldon.

Passed to Committee on Rules for second reading.

February 1, 2010

SB 6374 Prime Sponsor, Senator Kilmer: Regarding fiscal note instructions. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: Do pass. Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli; Delvin; Eide; Kilmer and McCaslin.

Passed to Committee on Ways & Means.

February 1, 2010

SB 6379 Prime Sponsor, Senator Swecker: Streamlining and making technical corrections to vehicle and vessel registration and title provisions. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Benton; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King; Ranker and Sheldon.

Passed to Committee on Rules for second reading.

February 1, 2010

SB 6388 Prime Sponsor, Senator Regala: Providing a property tax exemption for property held under lease, sublease, or lease-purchase by a nonprofit organization that provides job training, placement, or preemployment services. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: Do pass. Signed by Senators Kastama, Chair; Shin, Vice Chair; Delvin; Eide and Kilmer.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli and McCaslin.

Passed to Committee on Ways & Means.

February 2, 2010

SB 6402 Prime Sponsor, Senator Sheldon: Concerning the consolidation of permit exempt wells. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 6402 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Honeyford; Delvin; Fraser; Marr; Morton; Oemig; Ranker and Sheldon.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6409 Prime Sponsor, Senator Kastama: Creating the Washington investment in excellence account. Reported by Committee on Higher Education & Workforce Development

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MAJORITY recommendation: That Substitute Senate Bill No. 6409 be substituted therefor, and the substitute bill do pass. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Jacobsen; McAuliffe; Shin and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Pflug and Stevens.

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

Passed to Committee on Ways & Means.

February 1, 2010

SB 6431 Prime Sponsor, Senator Haugen: Regulating the use and disclosure of video camera or other recording device data on public transportation facilities. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6431 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King; Ranker and Sheldon.

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

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6471 Prime Sponsor, Senator Fraser: Regarding the energy facility site evaluation council. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 6471 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Honeyford; Delvin; Fraser; Marr; Morton; Ranker and Sheldon.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6498 Prime Sponsor, Senator Brandland: Modifying robbery in the first degree provisions to include committing a robbery within and against a pharmacy. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 6498 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; McCaslin; Carrell; Gordon; Hargrove; Kohl-Welles and Roach.

Passed to Committee on Rules for second reading.

February 1, 2010

SB 6522 Prime Sponsor, Senator Pflug: Establishing the accountable care organization pilot projects. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 6522 be substituted therefor, and the substitute bill do

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pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Fairley; Marr and Murray.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Becker and Parlette.

Passed to Committee on Rules for second reading.

February 1, 2010

SB 6532 Prime Sponsor, Senator Pflug: Concerning payment for emergency services. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 6532 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Fairley and Murray.

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

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Becker and Parlette.

Passed to Committee on Ways & Means.

February 1, 2010

SB 6554 Prime Sponsor, Senator Jacobsen: Extending the Washington biodiversity council. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That Substitute Senate Bill No. 6554 be substituted therefor, and the substitute bill do pass. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Fraser; Hargrove; Hatfield; Stevens and Swecker.

Passed to Committee on Ways & Means.

February 1, 2010

SB 6558 Prime Sponsor, Senator Haugen: Addressing timelines for the issuance of final orders applicable to railroad crossing petitions. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6558 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Benton; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King; Ranker and Sheldon.

Passed to Committee on Rules for second reading.

February 1, 2010

SB 6579 Prime Sponsor, Senator Swecker: Improving the efficiency, accountability, and quality within state information systems. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That Substitute Senate Bill No. 6579 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli; Delvin; Kilmer and McCaslin.

Passed to Committee on Ways & Means.

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SB 6584 Prime Sponsor, Senator Fraser: Applying the prohibition against unfair practices by insurers and their remedies and penalties to the state health care authority. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 6584 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Fairley; Marr; Murray and Parlette.

Passed to Committee on Rules for second reading.

February 1, 2010  
SB 6595 Prime Sponsor, Senator Kilmer: Regarding applications and requirements for community empowerment zones. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: Do pass. Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli; Delvin; Eide; Kilmer and McCaslin.

Passed to Committee on Ways & Means.

February 1, 2010  
SB 6622 Prime Sponsor, Senator Haugen: Mitigating damage to crops caused by migrating waterfowl. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That Substitute Senate Bill No. 6622 be substituted therefor, and the substitute bill do pass. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Fraser; Hargrove; Hatfield; Stevens and Swecker.

Passed to Committee Ways & Means.

February 1, 2010  
SB 6632 Prime Sponsor, Senator Shin: Providing tax incentives for manufacturers of electronic testing and measurement devices. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: Do pass. Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli; Delvin; Eide; Kilmer and McCaslin.

Passed to Committee on Ways & Means.

February 1, 2010  
SB 6641 Prime Sponsor, Senator Jacobsen: Concerning forest practices applications leading to conversion of land for development purposes. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That Substitute Senate Bill No. 6641 be substituted therefor, and the substitute bill do pass. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Fraser; Hargrove; Hatfield; Stevens and Swecker.

Passed to Committee on Rules for second reading.

SB 6644 Prime Sponsor, Senator Jacobsen: Concerning the possession and capture of birds of prey. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That Substitute Senate Bill No. 6644 be substituted therefor, and the substitute bill do pass. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Fraser; Hargrove and Swecker.

MINORITY recommendation: Do not pass. Signed by Senators Morton and Stevens.

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

Passed to Committee on Rules for second reading.

February 1, 2010  
SB 6654 Prime Sponsor, Senator Sheldon: Removing and streamlining certain transportation and motor vehicle reports. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6654 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Benton; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King; Ranker and Sheldon.

Passed to Committee on Rules for second reading.

February 1, 2010  
SB 6667 Prime Sponsor, Senator Kauffman: Concerning business assistance programs. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That Substitute Senate Bill No. 6667 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Shin, Vice Chair; Eide and Kilmer.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Delvin and McCaslin.

Passed to Committee on Ways & Means.

February 2, 2010  
SB 6674 Prime Sponsor, Senator Kline: Regulating indemnification agreements involving motor carrier transportation contracts. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 6674 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; McCaslin; Carrell; Gordon; Hargrove; Kohl-Welles and Roach.

Passed to Committee on Rules for second reading.

February 1, 2010  
SB 6676 Prime Sponsor, Senator Hatfield: Concerning changes in vessel designations on Dungeness crab-coastal fishery

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licenses. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That Substitute Senate Bill No. 6676 be substituted therefor, and the substitute bill do pass. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Fraser; Hargrove; Hatfield; Stevens and Swecker.

Passed to Committee on Rules for second reading.

February 1, 2010

SB 6678 Prime Sponsor, Senator Hobbs: Concerning the creation of entities to address the long-range impact of opportunities and changes in the aerospace industry. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That Substitute Senate Bill No. 6678 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli; Delvin; Eide; Kilmer and McCaslin.

Passed to Committee on Ways & Means.

February 1, 2010

SB 6679 Prime Sponsor, Senator Kauffman: Concerning the small business export finance assistance center. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That Substitute Senate Bill No. 6679 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli; Delvin; Eide; Kilmer and McCaslin.

Passed to Committee Ways & Means.

February 1, 2010

SB 6684 Prime Sponsor, Senator Murray: Regarding the governance and financing of the Washington state convention and trade center. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli; Delvin; Eide; Kilmer and McCaslin.

Passed to Committee Ways & Means.

February 1, 2010

SB 6706 Prime Sponsor, Senator Murray: Concerning the commercialization of research at state universities. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That Substitute Senate Bill No. 6706 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli; Delvin; Eide; Kilmer and McCaslin.

Passed to Committee on Rules for second reading.

February 1, 2010

SB 6747 Prime Sponsor, Senator Jacobsen: Authorizing the department of natural resources to recover costs for data delivery services provided under the natural heritage program.

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MAJORITY recommendation: Do pass. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Fraser; Hargrove and Swecker.

MINORITY recommendation: Do not pass. Signed by Senators Morton and Stevens.

Passed to Committee on Ways & Means.

February 1, 2010

SB 6757 Prime Sponsor, Senator Fraser: Concerning the designation and support of projects of statewide significance. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That Substitute Senate Bill No. 6757 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Shin, Vice Chair; Eide and Kilmer.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Delvin and McCaslin.

Passed to Committee on Ways & Means.

## MOTION

On motion of Eide, all measures listed on the Standing Committee report were referred to the committees as designated with the exception of Senate Bill No. 6595, Senate Bill No. 6622, Senate Bill No. 6679 and Senate Bill No. 6684 which were referred to the Committee on Ways & Means.

## MOTION

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

## INTRODUCTION AND FIRST READING

SB 6832 by Senator Hargrove

AN ACT Relating to the implementation of delivery of child welfare services through performance-based contracts by adding a foster youth representative to the child welfare transformation design committee; by requiring the child welfare transformation design committee to develop recommendations for a competitive contract bidding process to allow state employees to bid for performance-based contracts for provision of case management and child welfare services if the demonstration sites are continued beyond the pilot period or further expanded; by clarifying the definition of supervising agency in relation to Indian tribes located in this state; by extending for six months the date by which the department must complete its contract conversion to performance-based contracts; by requiring that the performance contract conversion be accomplished in a manner that does not affect the department's ability to collect federal funding; by extending by six months the date by which supervising agencies must provide case management services in the demonstration sites; by clarifying that the primary preference for contracts if the demonstration sites are

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extended is with nonprofits, Indian tribes, and state employees; by clarifying that the department may provide child welfare services in the demonstration sites but only for the purpose of establishing a control or comparison group; amending RCW 74.13.368, 74.13.360, 74.13.364, and 74.13.366; reenacting and amending RCW 74.13.020; and creating a new section.

Referred to Committee on Human Services & Corrections.

SB 6833 by Senator Tom

AN ACT Relating to management of funds and accounts by the state treasurer; amending RCW 43.08.190 and 43.79A.040; reenacting and amending RCW 43.84.092; adding a new section to chapter 43.79 RCW; and creating new sections.

Referred to Committee on Ways & Means.

SB 6834 by Senators Swecker and Haugen

AN ACT Relating to declaratory orders entered by agencies; and amending RCW 34.05.240.

Referred to Committee on Judiciary.

SB 6835 by Senator Fairley

AN ACT Relating to clarifying that private nonprofit membership organizations are not defined as agencies for purposes of the open public meetings act and the public records act; and amending RCW 42.30.020 and 42.56.010.

Referred to Committee on Government Operations & Elections.

SB 6836 by Senator Honeyford

AN ACT Relating to postretirement employment at institutions of higher education; amending RCW 41.32.570; and declaring an emergency.

Referred to Committee on Higher Education & Workforce Development.

MOTION

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

MOTION

At 10:51 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:52 a.m. by the President Pro Tempore.

MOTION

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

SECOND READING

SUBSTITUTE SENATE BILL NO. 5295, by Senate Committee on Government Operations & Elections (originally sponsored by Senators Kline, Oemig, Rockefeller, Holmquist, King, Hatfield and Hobbs)

Implementing unanimous recommendations of the public records exemptions accountability committee.

The measure was read the second time.

MOTION

On motion of Senator Kline, the rules were suspended, Substitute Senate Bill No. 5295 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kline and Roach spoke in favor of the passage of the bill.

MOTION

On motion of Senator Delvin, Senator Carrell was excused.

MOTION

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

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5295.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5295 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Holmquist and Zarelli

SUBSTITUTE SENATE BILL NO. 5295, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6196, by Senators Hobbs, Hewitt, Pridemore, Shin, Roach, Kilmer, Franklin, Swecker, Fairley, King, Benton, Keiser, Rockefeller, Tom, Kohl-Welles, Kline and Kauffman

Concerning military leave for public employees.

The measure was read the second time.

MOTION

On motion of Senator Hobbs, the rules were suspended, Senate Bill No. 6196 was advanced to third reading, the second

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

Senators Hobbs and Roach spoke in favor of the passage of the bill.

#### MOTION

On motion of Senator Delvin, Senator Carrell was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 6196.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6196 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Carrell, Holmquist and Zarelli

SENATE BILL NO. 6196, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 12:08 p.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Thursday, February 4, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**TWENTY FIFTH DAY**

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NOON SESSION

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Senate Chamber, Olympia, Thursday, February 4, 2010

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

February 3, 2010

SB 6185 Prime Sponsor, Senator Hatfield: Preserving the maritime heritage of the state of Washington. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: Do pass. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Hargrove; Hatfield; Stevens and Swecker.

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

Passed to Committee on Ways & Means.

February 3, 2010

SB 6235 Prime Sponsor, Senator Hargrove: Promoting industries that rely on the state's working land base. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That Substitute Senate Bill No. 6235 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli; Delvin; Eide and McCaslin.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6252 Prime Sponsor, Senator Kohl-Welles: Using credit history, education, and income for insurance purposes. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 6252 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin and Kline.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and King.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6263 Prime Sponsor, Senator Keiser: Establishing the Washington vaccine association. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6263 as recommended by Committee on Health & Long-Term Care be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Brandland; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Parlette; Pridemore; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6308 Prime Sponsor, Senator Carrell: Controlling computer access by residents of the special commitment center. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6309 Prime Sponsor, Senator Carrell: Including persons acquitted by reason of insanity within the slayer statute. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 6309 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon; Hargrove and Roach.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6326 Prime Sponsor, Senator Hobbs: Creating uniformity among annual tax reporting survey provisions. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6326 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Oemig; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6334 Prime Sponsor, Senator Kohl-Welles: Addressing unemployment benefits when a person voluntarily terminates employment. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 6334 be substituted therefor, and the substitute bill do

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pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin and Kline.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and King.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6337 Prime Sponsor, Senator Regala: Concerning inmate savings accounts. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 6337 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6349 Prime Sponsor, Senator Ranker: Establishing a farm internship program. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 6349 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6350 Prime Sponsor, Senator Ranker: Concerning marine waters management that includes marine spatial planning. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That Substitute Senate Bill No. 6350 be substituted therefor, and the substitute bill do pass. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Fraser; Hargrove; Hatfield and Swecker.

MINORITY recommendation: Do not pass. Signed by Senators Morton and Stevens.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6414 Prime Sponsor, Senator Regala: Modifying sex offender registration provisions. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 6414 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

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SB 6416 Prime Sponsor, Senator Roach: Concerning relatives in dependency proceedings. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 6416 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6422 Prime Sponsor, Senator Fairley: Regarding environmental and land use hearings boards and making more uniform the timelines for filing appeals with those boards. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 6422 be substituted therefor, and the substitute bill do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; McDermott; Pridemore and Swecker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Roach and Benton.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6428 Prime Sponsor, Senator Kline: Exempting from disclosure personal information used to identify a person filing a complaint with an agency. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 6428 be substituted therefor, and the substitute bill do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; McDermott; Pridemore and Swecker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Roach and Benton.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6448 Prime Sponsor, Senator Jacobsen: Concerning permitting of hydraulic projects. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That Substitute Senate Bill No. 6448 be substituted therefor, and the substitute bill do pass. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Fraser; Hargrove and Hatfield.

MINORITY recommendation: Do not pass. Signed by Senators Morton and Stevens.

Passed to Committee on Ways & Means.

February 2, 2010

SB 6449 Prime Sponsor, Senator McDermott: Regarding signature gatherers for petitions. Reported by Committee on Government Operations & Elections

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MAJORITY recommendation: That Substitute Senate Bill No. 6449 be substituted therefor, and the substitute bill do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; McDermott and Pridemore.

MINORITY recommendation: Do not pass. Signed by Senators Roach; Benton and Swecker.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6454 Prime Sponsor, Senator Brandland: Defining child advocacy centers for the multidisciplinary investigation of child abuse and implementation of county protocols. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 6454 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6456 Prime Sponsor, Senator Kline: Improving administration of wage complaints. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 6456 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6468 Prime Sponsor, Senator Kauffman: Coordinating the weatherization and structural rehabilitation of residential structures. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 6468 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Fraser; Marr; Morton; Oemig; Ranker and Sheldon.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and Delvin.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6469 Prime Sponsor, Senator Kauffman: Filling vacancies on the racial disproportionality advisory committee. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 6469 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6470 Prime Sponsor, Senator Kauffman: Addressing the burdens of proof required in dependency matters affecting Indian children. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 6470 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6485 Prime Sponsor, Senator Marr: Modifying craft distillery provisions. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 6485 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6492 Prime Sponsor, Senator Kauffman: Authorizing the department of labor and industries to issue subpoenas to enforce production of information related to electricians and electrical installations. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 6492 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; King and Kline.

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

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6502 Prime Sponsor, Senator Tom: Restoring the school district levy base. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6502 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Oemig; Pflug; Pridemore; Regala and Rockefeller.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Brandland; Honeyford; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

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SB 6508 Prime Sponsor, Senator Fairley: Changing the class of persons entitled to recoveries under a wrongful death action or survival action. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 6508 be substituted therefor, and the substitute bill do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; Benton; McDermott and Pridemore.

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

Passed to Committee on Ways & Means.

February 2, 2010

SB 6526 Prime Sponsor, Senator Kohl-Welles: Allowing certain individuals to seek part-time employment while maintaining eligibility for unemployment insurance in order to qualify for the unemployment insurance modernization incentive provisions of the American recovery and reinvestment act of 2009. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin and Kline.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and King.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6539 Prime Sponsor, Senator Brandland: Facilitating treatment for behavioral health disorders. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 6539 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6545 Prime Sponsor, Senator Pridemore: Adopting the international wildland urban interface code. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin and Kline.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and King.

Passed to Committee on Rules for second reading.

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SB 6551 Prime Sponsor, Senator Tom: Documenting wholesale sales for excise tax purposes. Reported by Committee on Ways & Means

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MAJORITY recommendation: That Substitute Senate Bill No. 6551 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Oemig; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6552 Prime Sponsor, Senator Tom: Concerning excise taxation of certain products and services provided or furnished electronically. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6552 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Oemig; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6557 Prime Sponsor, Senator Ranker: Limiting the use of copper and other substances in vehicle brake pads. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 6557 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Fraser; Marr; Oemig; Ranker and Sheldon.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford; Delvin and Morton.

Passed to Committee Ways & Means.

February 2, 2010

SB 6572 Prime Sponsor, Senator Tom: Eliminating certain accounts. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6572 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Oemig; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6575 Prime Sponsor, Senator Kohl-Welles: Concerning the recommendations of the joint legislative task force on the underground economy. Reported by Committee on Labor, Commerce & Consumer Protection

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MAJORITY recommendation: That Substitute Senate Bill No. 6575 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford; King and Kline.

Passed to Committee on Ways & Means.

February 2, 2010

SB 6591 Prime Sponsor, Senator Kline: Revising the procedure for complaints filed with the human rights commission. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 6591 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon; Hargrove and Roach.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6621 Prime Sponsor, Senator Delvin: Transferring service credit and contributions into the Washington state patrol retirement system by members who served as commercial vehicle enforcement officers and who became commissioned officers in the Washington state patrol prior to July 1, 2000. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6621 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Benton; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kauffman; Kilmer; King and Sheldon.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6629 Prime Sponsor, Senator Oemig: Convening a working group to make recommendations defining a basic education program for highly capable students. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 6629 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King; Gordon; Hobbs; McDermott and Roach.

Passed to Committee on Ways & Means.

February 2, 2010

SB 6647 Prime Sponsor, Senator Honeyford: Addressing the employment status of members of the civil air patrol while acting in an emergency service operation. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 6647 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6656 Prime Sponsor, Senator Murray: Authorizing a local financing tool to fund energy efficiency upgrades and

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removing financial barriers to implementing energy conservation programs. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 6656 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Fraser; Marr; Oemig and Ranker.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford; Delvin; Morton and Sheldon.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6658 Prime Sponsor, Senator Rockefeller: Modifying community solar project provisions for investment cost recovery incentives. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 6658 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Honeyford; Delvin; Fraser; Marr; Morton; Ranker and Sheldon.

Passed to Committee on Rules for second reading.

February 1, 2010

SB 6675 Prime Sponsor, Senator Murray: Creating the Washington global health technologies and product development competitiveness program and allowing certain tax credits for program contributions. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That Substitute Senate Bill No. 6675 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli; Delvin; Eide; Kilmer and McCaslin.

Passed to Committee on Ways & Means.

February 2, 2010

SB 6688 Prime Sponsor, Senator Fairley: Concerning filling vacancies in nonpartisan elective office. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 6688 be substituted therefor, and the substitute bill do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott; Pridemore and Swecker.

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

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6689 Prime Sponsor, Senator Pridemore: Concerning ballot title information. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; Benton; McDermott; Pridemore and Swecker.

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Passed to Committee on Rules for second reading.

February 2, 2010

SB 6695 Prime Sponsor, Senator Fraser: Establishing the number of days of shared leave an employee is eligible to receive. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; Benton; McDermott; Pridemore and Swecker.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6719 Prime Sponsor, Senator Murray: Concerning special occasion licenses. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6720 Prime Sponsor, Senator Fraser: Providing an optional tool for cities to use for programmatic environmental impact review. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Honeyford; Delvin; Fraser; Marr; Morton; Oemig; Ranker and Sheldon.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6724 Prime Sponsor, Senator Kilmer: Allowing employees of a school district or educational service district to share leave with employees in another agency. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 6724 be substituted therefor, and the substitute bill do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; Benton; McDermott and Swecker.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6732 Prime Sponsor, Senator Kohl-Welles: Addressing claims of insolvent self-insurers under industrial insurance. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6738 Prime Sponsor, Senator Kilmer: Concerning the sale of surplus salmon from state hatcheries. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That Substitute Senate Bill No. 6738 be substituted therefor, and the substitute bill do pass. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Fraser; Hatfield; Stevens and Swecker.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6749 Prime Sponsor, Senator Fraser: Concerning the transfer of commercial real estate. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 6749 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6754 Prime Sponsor, Senator McDermott: Making the names and addresses of persons signing initiative or referendum petitions public records. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; McDermott and Pridemore.

MINORITY recommendation: Do not pass. Signed by Senators Roach; Benton and Swecker.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6759 Prime Sponsor, Senator Kauffman: Requiring a plan for a voluntary program of early learning as a part of basic education. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 6759 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King; Gordon; Hobbs and McDermott.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Brandland and Roach.

Passed to Committee on Ways & Means.

February 3, 2010

SB 6760 Prime Sponsor, Senator Oemig: Regarding the basic education instructional allocation distribution formula. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 6760 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Kauffman, Vice

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Chair, Early Learning; Oemig, Vice Chair, K-12; Gordon; Hobbs and McDermott.

MINORITY recommendation: Do not pass. Signed by Senators King and Brandland.

Passed to Committee on Ways & Means.

February 3, 2010

SB 6761 Prime Sponsor, Senator McAuliffe: Regarding the recommendations of the quality education council. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 6761 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; Gordon; Hobbs; McDermott and Tom.

MINORITY recommendation: Do not pass. Signed by Senators King and Brandland.

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

Passed to Committee on Ways & Means.

February 3, 2010

SB 6762 Prime Sponsor, Senator Fraser: Regarding compliance with the state environmental policy act in the consideration of cumulative impacts and the assumption of lead agency status when the same agency is the sponsor of the project. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Fraser; Marr; Oemig and Ranker.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford; Delvin and Morton.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6766 Prime Sponsor, Senator Hargrove: Concerning forest fire prevention and suppression. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That Substitute Senate Bill No. 6766 be substituted therefor, and the substitute bill do pass. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Fraser; Hargrove; Hatfield and Swecker.

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

Passed to Committee on Ways & Means.

February 3, 2010

SB 6774 Prime Sponsor, Senator Marr: Addressing transportation benefit district governance. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6774 be substituted therefor, and the substitute bill do

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pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kauffman; Kilmer; King and Sheldon.

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

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6776 Prime Sponsor, Senator Jacobsen: Creating the joint work group on small forest landowner sustainability. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: Do pass. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Fraser; Hatfield and Swecker.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6790 Prime Sponsor, Senator Kastama: Providing regional economic development services. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That Substitute Senate Bill No. 6790 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli; Delvin; Eide and McCaslin.

Passed to Committee on Ways & Means.

February 3, 2010

SB 6802 Prime Sponsor, Senator Rockefeller: Adopting a sustainability groundwater policy. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Fraser; Marr; Oemig and Ranker.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford; Delvin and Morton.

Passed to Committee on Rules for second reading.

February 2, 2010

SB 6804 Prime Sponsor, Senator Kohl-Welles: Allowing the department of social and health services to adopt rules establishing standards for the review and certification of treatment facilities under the problem and pathological gambling treatment program. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

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SB 6805 Prime Sponsor, Senator Kastama: Concerning the Washington state economic development commission.

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Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That Substitute Senate Bill No. 6805 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli; Delvin; Eide; Kilmer and McCaslin.

Passed to Committee on Rules for second reading.

February 3, 2010

SJM 8025 Prime Sponsor, Senator Prentice: Requesting that a retired space shuttle orbiter be transferred to Washington's museum of flight. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: Do pass. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Fraser; Hargrove; Hatfield; Stevens and Swecker.

Passed to Committee on Rules for second reading.

#### MOTION

On motion of McDermott, all measures listed on the Standing Committee report were referred to the committees as designated with the exception of Senate Bill No. 6557 which was referred to the Committee on Ways & Means.

#### MOTION

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

#### MESSAGE FROM THE GOVERNOR GUBERNATORIAL APPOINTMENTS

October 19, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

JAQUELINE B. ROSENBLATT, appointed October 6, 2009, for the term ending September 30, 2014, as Member, Board of Trustees, Pierce Community College District No. 11.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

#### MOTION

On motion of Senator McDermott, the appointee listed on the Gubernatorial Appointment report was referred to the committee as designated.

#### MOTION

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

#### MESSAGE FROM THE HOUSE

February 3, 2010

MR. PRESIDENT

The House has passed:

SUBSTITUTE HOUSE BILL 1203,  
SUBSTITUTE HOUSE BILL 1679,  
SUBSTITUTE HOUSE BILL 2422,  
HOUSE BILL 2625.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MESSAGE FROM THE HOUSE

February 3, 2010

MR. PRESIDENT

The House has passed:

SUBSTITUTE HOUSE BILL 1838,  
HOUSE BILL 1880,  
SUBSTITUTE HOUSE BILL 1900.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MESSAGE FROM THE HOUSE

February 3, 2010

MR. PRESIDENT

The House has passed:

ENGROSSED HOUSE BILL NO. 2519.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

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

#### INTRODUCTION AND FIRST READING

SB 6837 by Senator Tom

AN ACT Relating to forest fire protection and suppression; amending RCW 76.04.005, 76.04.167, 76.04.610, 76.04.620, 76.04.660, and 79.13.030; adding a new section to chapter 76.04 RCW; and providing an effective date.

Referred to Committee on Ways & Means.

SB 6838 by Senators McAuliffe, Fraser, Tom and Prentice

AN ACT Relating to condemnation and compensation for state-owned lands and other property; amending RCW 8.08.010, 8.12.030, 8.16.010, 8.20.010, 8.24.010, 8.28.050, 14.07.020, 17.28.160, 22.16.010, 28A.335.220, 43.52.300, 53.08.010, 53.08.020, 53.34.170, 54.16.020, 57.08.005, 81.36.010, 85.06.070, 86.09.202, 87.03.018, and 89.30.130; and creating a new section.

Referred to Committee on Ways & Means.

SB 6839 by Senator Tom

AN ACT Relating to state liquor stores; and amending RCW 66.08.050.

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Referred to Committee on Ways & Means.

eliminating obsolete provisions; amending RCW 67.70.044, 67.70.230, 67.70.260, and 67.70.190; and creating a new section.

SB 6840 by Senator Tom

Referred to Committee on Ways & Means.

AN ACT Relating to privatizing the sale of liquor; amending RCW 66.08.020, 66.08.026, 66.08.030, 66.08.050, 66.08.060, 66.12.110, 66.12.120, 66.12.140, 66.20.010, 66.20.160, 66.20.170, 66.20.180, 66.20.190, 66.20.200, 66.20.210, 66.24.160, 66.24.360, 66.24.360, 66.24.371, 66.24.380, 66.40.140, 66.44.120, 66.44.150, and 66.44.160; reenacting and amending RCW 66.04.010 and 66.24.371; adding new sections to chapter 66.24 RCW; adding a new section to chapter 66.08 RCW; creating a new section; repealing RCW 66.08.070, 66.08.075, 66.08.160, 66.08.165, 66.08.166, 66.08.167, 66.08.220, 66.08.235, 66.16.010, 66.16.040, 66.16.041, 66.16.050, 66.16.060, 66.16.070, 66.16.090, 66.16.100, 66.16.110, 66.16.120, and 66.28.180; providing effective dates; providing an expiration date; and declaring an emergency.

SB 6845 by Senators Fraser and Swecker

AN ACT Relating to information technology projects; amending RCW 43.88.560, 43.105.041, 43.105.180, and 43.105.190; and adding a new section to chapter 43.88 RCW.

Referred to Committee on Ways & Means.

Referred to Committee on Ways & Means.

SB 6841 by Senators Keiser, Rockefeller, Fairley, Fraser, McDermott, Kohl-Welles and Kline

SB 6846 by Senators Brandland, Regala and Fraser

AN ACT Relating to enhanced 911 emergency communications services; amending RCW 82.14B.010, 82.14B.040, 82.14B.042, 82.14B.060, 82.14B.061, 82.14B.150, 82.14B.160, 82.14B.200, 38.52.510, 38.52.520, 38.52.530, 38.52.532, 38.52.545, 38.52.550, 38.52.561, and 43.79A.040; reenacting and amending RCW 82.14B.020, 82.14B.030, and 38.52.540; adding new sections to chapter 82.14B RCW; creating a new section; repealing RCW 82.14B.070, 82.14B.090, and 82.14B.100; prescribing penalties; and providing effective dates.

AN ACT Relating to tax preferences; amending RCW 84.36.040, 82.38.180, 82.16.020, 82.16.020, 82.16.050, 82.04.280, 82.04.280, and 48.14.020; amending 2009 c 461 s 9 (uncodified); reenacting and amending RCW 82.04.260; repealing RCW 82.04.350, 82.36.280, 82.04.4282, 82.04.330, 82.04.410, 82.08.0261, 84.36.635, 82.29A.135, 84.36.640, 82.08.0257, 82.12.0258, 84.36.130, 48.36A.240, 82.04.4289, 82.16.0491, 82.04.4483, 82.04.4484, 82.08.841, 82.12.841, 82.04.4485, 82.08.0253, and 82.12.0345; providing effective dates; providing a contingent effective date; providing an expiration date; and providing a contingent expiration date.

Referred to Committee on Ways & Means.

Referred to Committee on Ways & Means.

SJM 8027 by Senators Jacobsen, Oemig and Franklin

Preventing "Freedom of Speech" from being interpreted to permit corporations to use corporation funds without restriction to influence national and state elections.

SB 6842 by Senator Hobbs

Referred to Committee on Government Operations & Elections.

AN ACT Relating to the state route number 9/state route number 204 intersection project; adding a new section to chapter 47.01 RCW; creating a new section; and making an appropriation.

MOTION

On motion of Senator McDermott, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Senate Bill No. 6846 which was referred to the Committee on Ways & Means.

Referred to Committee on Transportation.

MOTION

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

2ESB 6843 by Senators Prentice, Murray, Kohl-Welles, Regala, Fairley, Ranker, McDermott, Kline and Keiser

MOTION

AN ACT Relating to preserving essential public services by temporarily suspending the two-thirds vote requirement for tax increases; amending RCW 43.135.035; and declaring an emergency.

Senator Schoesler moved adoption of the following resolution:

SENATE RESOLUTION  
8672

Referred to Committee on Finance.

By Senator Schoesler

SB 6844 by Senator Prentice

AN ACT Relating to streamlining lottery accounts by transferring local accounts into the treasury custodial accounts, directing transfers of unclaimed prize money, and

WHEREAS, The Connell High School football team made school history on December 5, 2009, by capping a perfect season with the 1-A state championship; and  
WHEREAS, Connell qualified for state with a 51-7 victory in the South Central Athletic Conference playoff; and

TWENTY FIFTH DAY, FEBRUARY 4, 2010

WHEREAS, The Eagles remained unbeaten and won their gridiron crown by defeating opponents from Cascade (Leavenworth), River View (Kennewick), Chelan, and Cascade Christian (Puyallup) by an average margin of 26 points per game; and

WHEREAS, Connell took a 21-0 lead in the first half of the state championship game, held the previously undefeated Cascade Christian Cougars to one touchdown and added another for a final score of 28-7; and

WHEREAS, It was the school-record sixth consecutive state-level appearance for the Eagles football program, which reached the championship games in 2006 and 2007; and

WHEREAS, Connell's football program has qualified for postseason play 19 times in 36 years and has a record of 24-17 during that span; and

WHEREAS, The 2009 Eagles collected a passel of all-conference honors, with players named most valuable on offense and defense, five players on first-team offense, six players named to first-team defense, and were led by the SCAC-East coach of the year, Wayne Riner;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor the 2009 Connell High School Eagles football team and coaches Wayne Riner, Clint Didier, Doug Edmonds, Zak Fife, Zeek Fife, Scott Forsyth, and Kyle Berry, on the occasion of capturing the school's second state football title.

Senator Schoesler spoke in favor of the adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8672.

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

#### MOTION

Senator McDermott moved adoption of the following resolution:

#### SENATE RESOLUTION 8688

By Senators McAuliffe, Kauffman, Oemig, Shin, Eide, Kilmer, Stevens, Pflug, Becker, Jacobsen, and Gordon

WHEREAS, Science, Technology, Engineering, and Math education, or STEM, is vital to the public schools in Washington State, to raising academic achievement in math and science, and to increasing career and college readiness among students of all backgrounds, regardless of gender, ethnic, or socioeconomic status; and

WHEREAS, Profound economic and technological changes in our society have rapidly changed the structure and nature of work, placing new and additional responsibilities on our educational system; and

WHEREAS, STEM education provides students with a connection between school and careers and creates seamless secondary and postsecondary education pathways for middle school and high school students, fostering productivity in business and industry and contributing to America's leadership in the international marketplace; and

WHEREAS, STEM education gives Washington State students the experience to discover firsthand how their participation in certain coursework can lead directly to exciting and rewarding careers, giving all students access to hands-on learning; and

WHEREAS, STEM education students who choose to pursue STEM career fields will have the skills and knowledge to enter

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STEM career fields and the ability to move to the next level of education or employment, making our students globally competitive.

WHEREAS, The cooperative efforts of career and technical educators, business, and industry stimulate the growth and vitality of our local and national economy by preparing graduates for career fields expected to experience the largest and fastest growth in the next decade;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize and honor STEM education on this day, February 4, 2010; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Washington Association for Career and Technical Education.

Senator McDermott spoke in favor of the adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8688.

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

#### MOTION

At 12:08 p.m., on motion of Senator McDermott, the Senate adjourned until 10:00 a.m. Friday, February 5, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

TWENTY SIXTH DAY

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MORNING SESSION

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Senate Chamber, Olympia, Friday, February 5, 2010

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

The Sergeant at Arms Color Guard consisting of Pages Harrison Scott and Kathryn Carlson, presented the Colors. Pastor Dan Sailer of Stanwood United Methodist Church offered the prayer.

POINT OF ORDER

Senator Honeyford: "Just a few minutes ago in the Environment, Energy & Water Committee we had a bill that came up about, it was a motion to approve the bill about one minute to ten and with discussion and things afterwards we went beyond the ten am deadline. As I understand the Senate Rules prohibit the body, or the committee from considering legislation or business after ten am. This was on Senate Bill No. 6489, the vote was concluded about three or four minutes after ten. I believe that it's improper and ask for an opinion thereon."

REMARKS BY SENATOR MARR

Senator Marr: "In the absence of the Chair or Vice Chair, I'd like to point out that as a member of the committee the Chair ruled that the motion was properly before the committee prior to ten o'clock and did rule that it was in order and could be considered expeditiously which it was prior to adjournment."

POINT OF ORDER

Senator Honeyford: "Thank you Mr. President. I would like to correct the statement of the previous speaker. The ruling by the Chair occurred after ten am because we raised the question that it was past ten am. Thank you."

RULING BY THE PRESIDENT

President Owen: "First off, your point of order is not necessarily in order at this time because the bill is not before us and that would be the appropriate time for us to consider that. However, saying so, the President would remind the members that often times when you are going to go over, you have come to leadership and ask us to suspend that rule so that you can continue your business beyond the ten o'clock period or a few minutes beyond that. So, the President would suggest that as an advisement to the Chair before that bill comes before the Senate and he has to rule on it."

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

February 3, 2010

SB 6202 Prime Sponsor, Senator Hargrove: Expanding provisions relating to vulnerable adults. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 6202 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

February 4, 2010

SB 6228 Prime Sponsor, Senator Haugen: Regarding organic products. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: Do pass. Signed by Senators Hatfield, Chair; Ranker, Vice Chair; Schoesler; Becker; Haugen; Morton and Shin.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6261 Prime Sponsor, Senator Marr: Addressing utility services collections against rental property. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That Substitute Senate Bill No. 6261 be substituted therefor, and the substitute bill do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Benton and Schoesler.

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

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6266 Prime Sponsor, Senator Hobbs: Concerning service members' civil relief. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That Substitute Senate Bill No. 6266 be substituted therefor, and the substitute bill do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Benton; Franklin; McDermott; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6277 Prime Sponsor, Senator Zarelli: Revising the order of vesting for the right to control disposition of human remains. Reported by Committee on Judiciary

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MAJORITY recommendation: That Substitute Senate Bill No. 6277 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; McCaslin; Carrell; Gordon; Hargrove and Roach.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6292 Prime Sponsor, Senator Brandland: Providing notice of release from involuntary treatment. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 6292 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6300 Prime Sponsor, Senator Hobbs: Authorizing public hospital districts to execute security instruments. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Benton; Franklin; McDermott; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6323 Prime Sponsor, Senator Swecker: Providing protection for vulnerable adults when domestic violence temporary ex parte protection orders are requested and issued. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 6323 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6327 Prime Sponsor, Senator Regala: Exempting housing authorities from laws governing the construction, alteration, repair, or improvement of property by other public bodies. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That Substitute Senate Bill No. 6327 be substituted therefor, and the substitute bill do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Benton; Franklin; McDermott; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6338 Prime Sponsor, Senator Regala: Providing transitional housing for persons at risk of experiencing homelessness. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 6338 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6384 Prime Sponsor, Senator Berkey: Conforming certain manufactured/mobile home dispute resolution program definitions with certain manufactured/mobile home landlord-tenant act definitions. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Benton; Franklin; McDermott; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6406 Prime Sponsor, Senator Franklin: Concerning regulation and licensing of residential mortgage loan servicers and services. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Benton; Franklin and McDermott.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Parlette and Schoesler.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6412 Prime Sponsor, Senator Hobbs: Concerning medical malpractice closed claim reporting. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That Substitute Senate Bill No. 6412 be substituted therefor, and the substitute bill do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin and McDermott.

MINORITY recommendation: Do not pass. Signed by Senators Parlette and Schoesler.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6442 Prime Sponsor, Senator Berkey: Eliminating the prevent or reduce owner-occupied foreclosure program account. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Benton; Franklin; McDermott; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

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SB 6459 Prime Sponsor, Senator Hobbs: Concerning the inspection of rental properties. Reported by Committee on Financial Institutions, Housing & Insurance

SB 6512 Prime Sponsor, Senator Gordon: Increasing school safety. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 6459 be substituted therefor, and the substitute bill do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin and Schoesler.

MAJORITY recommendation: That Substitute Senate Bill No. 6512 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; King; Brandland; Gordon; Hobbs and Roach.

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

MINORITY recommendation: Do not pass. Signed by Senator Kauffman, Vice Chair, Early Learning.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Benton and Parlette.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

February 4, 2010

SB 6538 Prime Sponsor, Senator Keiser: Defining small groups for insurance purposes. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 6538 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Fairley; Marr; Murray and Parlette.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6460 Prime Sponsor, Senator Marr: Increasing the charge limit for the preparation of condominium resale certificates. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin and McDermott.

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

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Parlette and Schoesler.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6544 Prime Sponsor, Senator Berkey: Extending the time limitations for approval of plats. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That Substitute Senate Bill No. 6544 be substituted therefor, and the substitute bill do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Benton; Franklin; McDermott; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6490 Prime Sponsor, Senator Kline: Changing provisions regulating driver's and vehicle licenses. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 6490 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; McCaslin; Carrell; Gordon; Hargrove; Kohl-Welles and Roach.

Passed to Committee on Transportation.

February 3, 2010

SB 6548 Prime Sponsor, Senator Hargrove: Suspending the parole or probation of an offender who is charged with a new felony offense in certain conditions. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 6548 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

February 4, 2010

SB 6511 Prime Sponsor, Senator Hobbs: Regarding gang and hate group activity at schools and school activities. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 6511 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; King; Brandland; Gordon; Hobbs and Roach.

MINORITY recommendation: Do not pass. Signed by Senator Kauffman, Vice Chair, Early Learning.

Passed to Committee on Ways & Means.

February 4, 2010

SB 6553 Prime Sponsor, Senator McAuliffe: Regarding mathematics and science high school graduation requirements. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 6553 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King; Brandland; Gordon; Hobbs; McDermott and Roach.

Passed to Committee on Ways & Means.

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Passed to Committee on Rules for second reading.

February 3, 2010

SB 6562 Prime Sponsor, Senator Kilmer: Regarding tuition-setting authority at institutions of higher education. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That Substitute Senate Bill No. 6562 be substituted therefor, and the substitute bill do pass. Signed by Senators Kilmer, Chair; Becker; Hewitt; Jacobsen; McAuliffe; Pflug; Shin; Stevens and Tom.

Passed to Committee on Ways &amp; Means.

February 4, 2010

SB 6582 Prime Sponsor, Senator Keiser: Concerning nursing assistant credentialing. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 6582 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Fairley; Marr; Murray and Parlette.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6589 Prime Sponsor, Senator Kauffman: Creating a workforce housing program. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin and McDermott.

MINORITY recommendation: Do not pass. Signed by Senators Benton; Parlette and Schoesler.

Passed to Committee on Ways &amp; Means.

February 4, 2010

SB 6593 Prime Sponsor, Senator Gordon: Transferring the administration of the infant and toddler early intervention program from the department of social and health services to the department of early learning. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King; Brandland; Gordon; Hobbs; McDermott and Roach.

Passed to Committee on Rules for second reading.

February 4, 2010

SB 6604 Prime Sponsor, Senator Hobbs: Providing flexibility in the education system. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 6604 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King; Brandland; Gordon; Hobbs; McDermott and Roach.

February 4, 2010

SB 6607 Prime Sponsor, Senator Hobbs: Concerning premiums for individual health coverage. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 6607 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Fairley; Marr and Murray.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Becker and Parlette.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6610 Prime Sponsor, Senator Hargrove: Concerning the assessment and treatment of certain persons with mental illnesses. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 6610 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Kauffman and McAuliffe.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Brandland and Carrell.

Passed to Committee on Ways &amp; Means.

February 4, 2010

SB 6619 Prime Sponsor, Senator McAuliffe: Including approved private schools in the superintendent of public instruction's record check information rules. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King; Brandland; Gordon; Hobbs; McDermott; Roach and Tom.

Passed to Committee on Rules for second reading.

February 4, 2010

SB 6620 Prime Sponsor, Senator McAuliffe: Recognizing successful schools and school districts by providing flexibility for schools. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 6620 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Oemig, Vice Chair, K-12; King; Brandland; Gordon; Hobbs and McDermott.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6624 Prime Sponsor, Senator Berkey: Defining normal wear and tear for a motor vehicle for the purpose of a

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service contract. Reported by Committee on Financial Institutions, Housing & Insurance

pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Fairley; Marr; Murray and Parlette.

MAJORITY recommendation: That Substitute Senate Bill No. 6624 be substituted therefor, and the substitute bill do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin; McDermott and Parlette.

Passed to Committee on Rules for second reading.

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

February 4, 2010

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

SB 6671 Prime Sponsor, Senator Pflug: Concerning emergency departments that are not physically connected to a hospital. Reported by Committee on Health & Long-Term Care

Passed to Committee on Rules for second reading.

MAJORITY recommendation: That Substitute Senate Bill No. 6671 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Pflug; Becker; Fairley and Parlette.

February 4, 2010

SB 6643 Prime Sponsor, Senator Schoesler: Regarding compliance reports for second-class school districts. Reported by Committee on Early Learning & K-12 Education

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

MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King; Brandland; Gordon; Hobbs; McDermott and Roach.

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

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6662 Prime Sponsor, Senator Kilmer: Regarding developing a curriculum for a career track for home care aides. Reported by Committee on Higher Education & Workforce Development

SB 6673 Prime Sponsor, Senator Kline: Appointing a task force to study bail practices and procedures. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 6662 be substituted therefor, and the substitute bill do pass. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Hewitt; Jacobsen; McAuliffe; Shin and Tom.

MAJORITY recommendation: That Substitute Senate Bill No. 6673 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; McCaslin; Carrell; Gordon; Hargrove; Kohl-Welles and Roach.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Becker; Pflug and Stevens.

Passed to Committee on Rules for second reading.

January 28, 2010

Passed to Committee on Rules for second reading.

SB 6683 Prime Sponsor, Senator Tom: Concerning the transmittal of renewal notices for licenses, registrations, and permits via electronic means. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; McDermott and Pridemore.

February 4, 2010

SB 6668 Prime Sponsor, Senator Kauffman: Regarding eligibility requirements for the early childhood education and assistance program. Reported by Committee on Early Learning & K-12 Education

Passed to Committee on Ways & Means.

MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King; Brandland; Gordon; Hobbs; McDermott; Roach and Tom.

February 3, 2010

Passed to Committee on Rules for second reading.

SB 6696 Prime Sponsor, Senator McAuliffe: Regarding education reform. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 6696 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; Gordon; Hobbs; McDermott; Roach and Tom.

February 4, 2010

SB 6670 Prime Sponsor, Senator Parlette: Regarding group medical insurance for nontraditional groups. Reported by Committee on Health & Long-Term Care

MINORITY recommendation: Do not pass. Signed by Senators King and Brandland.

MAJORITY recommendation: That Substitute Senate Bill No. 6670 be substituted therefor, and the substitute bill do

Passed to Committee on Ways & Means.

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SB 6698 Prime Sponsor, Senator Keiser: Concerning the acquisition of nonprofit hospitals. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 6698 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Fairley and Murray.

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

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Becker and Parlette.

Passed to Committee on Rules for second reading.

February 4, 2010

SB 6702 Prime Sponsor, Senator Kline: Providing education programs for juveniles in adult jails. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 6702 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; Gordon; Hobbs; McDermott and Roach.

MINORITY recommendation: Do not pass. Signed by Senators King and Brandland.

Passed to Committee on Ways & Means.

February 3, 2010

SB 6703 Prime Sponsor, Senator Franklin: Regarding online nursing programs. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: Do pass. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Hewitt; Jacobsen; McAuliffe; Shin; Stevens and Tom.

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

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6772 Prime Sponsor, Senator Benton: Modifying service of notice requirements under the residential landlord-tenant act. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Benton; Franklin; McDermott; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

February 4, 2010

SB 6780 Prime Sponsor, Senator Keiser: Concerning community living for persons with developmental disabilities. Reported by Committee on Health & Long-Term Care

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MAJORITY recommendation: That Substitute Senate Bill No. 6780 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Fairley; Marr and Murray.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Becker and Parlette.

Passed to Committee on Ways & Means.

February 4, 2010

SB 6792 Prime Sponsor, Senator Hatfield: Extending the agribusiness purposes exemption for certain commercial driver's license applicants. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: That Substitute Senate Bill No. 6792 be substituted therefor, and the substitute bill do pass. Signed by Senators Hatfield, Chair; Ranker, Vice Chair; Schoesler; Becker; Haugen; Morton and Shin.

Passed to Committee on Rules for second reading.

February 4, 2010

SB 6794 Prime Sponsor, Senator Haugen: Directing the state conservation commission to work with other agencies for implementation of agricultural landowner incentive programs. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: That Substitute Senate Bill No. 6794 be substituted therefor, and the substitute bill do pass. Signed by Senators Hatfield, Chair; Ranker, Vice Chair; Schoesler; Becker; Haugen; Morton and Shin.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6796 Prime Sponsor, Senator Gordon: Assessing a business and occupation tax surcharge on automatic teller fees in excess of one dollar and fifty cents. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin and McDermott.

MINORITY recommendation: Do not pass. Signed by Senators Benton and Schoesler.

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

Passed to Committee on Ways & Means.

February 4, 2010

SB 6798 Prime Sponsor, Senator Kauffman: Implementing the recommendations of the achievement gap oversight and accountability committee. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 6798 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Kauffman, Vice

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Chair, Early Learning; Oemig, Vice Chair, K-12; King; Gordon; Hobbs and McDermott.

SJM 8026 Prime Sponsor, Senator Regala: Requesting the Interstate Commission for Adult Offender Supervision immediately initiate its emergency rule-making process. Reported by Committee on Human Services & Corrections

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Brandland and Roach.

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Ways & Means.

Passed to Committee on Rules for second reading.

February 4, 2010

SB 6811 Prime Sponsor, Senator Keiser: Concerning naturopathy. Reported by Committee on Health & Long-Term Care

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GUBERNATORIAL APPOINTMENTS

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Fairley; Marr; Murray and Parlette.

February 4, 2010

SGA 9184 DENISE COLLEY, reappointed on July 23, 2009, for the term ending July 1, 2014, as Member of the Board of Trustees, State School for the Blind. Reported by Committee on Early Learning & K-12 Education

Passed to Committee on Rules for second reading.

February 4, 2010

SB 6816 Prime Sponsor, Senator Schoesler: Concerning special permitting for certain farm implements. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King; Brandland; Gordon; Hobbs; McDermott and Roach.

Passed to Committee on Rules for second reading.

MAJORITY recommendation: That Substitute Senate Bill No. 6816 be substituted therefor, and the substitute bill do pass. Signed by Senators Hatfield, Chair; Schoesler; Becker; Haugen; Morton and Shin.

February 4, 2010

Passed to Committee on Rules for second reading.

SGA 9226 DOLORITA REANDEAU, reappointed on July 23, 2009, for the term ending July 1, 2014, as Member of the Board of Trustees, State School for the Deaf. Reported by Committee on Early Learning & K-12 Education

February 3, 2010

SB 6817 Prime Sponsor, Senator McDermott: Concerning funds for certain affordable housing purposes. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King; Brandland; Gordon; Hobbs; McDermott and Roach.

Passed to Committee on Rules for second reading.

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin and McDermott.

February 4, 2010

MINORITY recommendation: Do not pass. Signed by Senators Benton and Schoesler.

SGA 9240 LARRY E SWIFT, reappointed on July 23, 2009, for the term ending July 1, 2014, as Member of the Board of Trustees, State School for the Deaf. Reported by Committee on Early Learning & K-12 Education

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

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King; Brandland; Gordon; Hobbs; McDermott and Roach.

Passed to Committee on Rules for second reading.

Passed to Committee on Ways & Means.

February 4, 2010

SJM 8023 Prime Sponsor, Senator McAuliffe: Petitioning Congress to fully fund forty percent of the costs of the federal Individuals with Disabilities Education Act (IDEA). Reported by Committee on Early Learning & K-12 Education

February 4, 2010

SGA 9255 JEFF VINCENT, reappointed on January 13, 2010, for the term ending January 12, 2014, as Member of the State Board of Education. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King; Brandland; Gordon; Hobbs and Roach.

Passed to Committee on Rules for second reading.

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair,

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K-12; King; Brandland; Gordon; Hobbs; McDermott and Roach.

Passed to Committee on Rules for second reading.

February 4, 2010

SGA 9257 SHEILA L. FOX, reappointed on January 13, 2010, for the term ending January 12, 2014, as Member of the State Board of Education. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King; Brandland; Gordon; Hobbs; McDermott and Roach.

Passed to Committee on Rules for second reading.

February 4, 2010

SGA 9267 MARY JEAN RYAN, reappointed on January 13, 2010, for the term ending January 12, 2014, as Member of the State Board of Education. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King; Brandland; Gordon; Hobbs; McDermott and Roach.

Passed to Committee on Rules for second reading.

#### MOTION

On motion of Eide, all measures listed on the Standing Committee report were referred to the committees as designated with the exception of Senate Bill No. 6490 which was referred to the Committee on Transportation and Senate Bill No. 6610 which was referred to the Committee on Ways & Means.

#### MOTION

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

#### INTRODUCTION AND FIRST READING

SB 6847 by Senators Pridemore, Prentice, Regala, Keiser, Kline, Fraser, Berkey, Murray, Shin and Kohl-Welles

AN ACT Relating to the use taxation of natural and manufactured gas; and amending RCW 82.12.010.

Referred to Committee on Ways & Means.

SB 6848 by Senator Tom

AN ACT Relating to forest practices applications; amending RCW 76.09.065; and providing an effective date.

Referred to Committee on Natural Resources, Ocean & Recreation.

SB 6849 by Senators Pridemore and Zarelli

AN ACT Relating to consolidating forecast functions; amending RCW 9.94A.480, 9.94A.850, 10.98.140, 41.06.087, 41.45.030, 41.45.120, 43.88.020, 43.88.030, 43.88.120, 46.01.325, 50.38.050, 70.94.431, 70.94.483, 70.94.6528, 74.09.470, 82.33.010, 82.33.020, 82.33.040, 82.33.050, 90.90.070, and 74.09.470; adding new sections to chapter 82.33 RCW; creating a new section; repealing RCW 9.94A.855, 9.94A.863, 43.88C.010, 43.88C.020, and 43.88C.030; and providing an effective date.

Referred to Committee on Ways & Means.

SB 6850 by Senators Becker, Pflug and Roach

AN ACT Relating to investigations of child abuse or neglect; and amending RCW 26.44.030.

Referred to Committee on Human Services & Corrections.

SHB 1203 by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives O'Brien and Chase)

AN ACT Relating to the definition of relative for purposes of the crime of rendering criminal assistance; amending RCW 9A.76.060; and creating a new section.

Referred to Committee on Judiciary.

SHB 1679 by House Committee on Ways & Means (originally sponsored by Representatives Simpson, Van De Wege, Ericks, Williams, White, Kelley, Sells, Ross, Hope and Conway)

AN ACT Relating to access to catastrophic disability medical insurance under plan 2 of the law enforcement officers' and firefighters' retirement system; amending RCW 43.43.040; reenacting and amending RCW 41.26.470; and creating a new section.

Referred to Committee on Ways & Means.

SHB 1838 by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Orcutt and Blake)

AN ACT Relating to the creation of a raffle-only limited recreational rainbow trout fishery in Spirit Lake; amending RCW 77.32.050, 77.08.010, 9.46.400, and 9.46.010; and adding a new section to chapter 77.32 RCW.

Referred to Committee on Natural Resources, Ocean & Recreation.

HB 1880 by Representatives Armstrong, Hunt, Appleton, Alexander and Nelson

AN ACT Relating to ballot envelopes; and amending RCW 29A.40.091.

Referred to Committee on Government Operations & Elections.

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SHB 1900 by House Committee on Judiciary (originally sponsored by Representatives Kelley and Hurst)

AN ACT Relating to the disclosure of vehicle owner information; and reenacting and amending RCW 46.12.380.

Referred to Committee on Transportation.

SHB 2422 by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Parker, Hurst, Driscoll, Kelley, Dammeier, Schmick and Ormsby)

AN ACT Relating to escape or disappearance notification requirements; and amending RCW 10.77.165.

Referred to Committee on Human Services & Corrections.

EHB 2519 by Representatives Green, Hope, Ericks, Maxwell, Sullivan, Upthegrove, Carlyle, Conway, Simpson, Van De Wege, Kenney, Morrell, Hurst, Campbell and Kelley

AN ACT Relating to duty-related death benefits for public safety employees; amending RCW 41.26.048, 51.32.050, 28B.15.380, 28B.15.520, and 43.43.285; reenacting and amending RCW 41.26.510 and 43.43.295; and creating new sections.

Referred to Committee on Ways & Means.

HB 2625 by Representatives Kelley, Ericks, Conway, Driscoll, O'Brien, Lias, Blake, Finn, Simpson, Orwall, Morrell and Campbell

AN ACT Relating to bail for felony offenses; adding a new section to chapter 10.19 RCW; and creating a new section.

Referred to Committee on Judiciary.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Senate Bill No. 6848 which was referred to the Committee on Natural Resources, Ocean & Recreation.

MOTION

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

MOTION

Senator Hewitt moved adoption of the following resolution:

SENATE RESOLUTION  
8676

By Senators Hewitt, Gordon, Parlette, Kastama, Sheldon, Honeyford, Delvin, Holmquist, Stevens, Morton, Kohl-Welles, Schoesler, Kilmer, Marr, Brown, Tom, McCaslin, and Fraser

WHEREAS, William E. Boeing was born in 1881 in Detroit, Michigan; and

WHEREAS, William Boeing left Yale Engineering College for the West Coast in 1903, the same year the Wright Brothers made their first flight at Kitty Hawk, North Carolina; and

WHEREAS, William Boeing began construction of a twin-float seaplane in his boathouse in 1915; and

WHEREAS, On July 15, 1916, Boeing incorporated his business and one year later changed the name to the Boeing Airplane Company; and

WHEREAS, That company has grown over the past century to become the world's leading aerospace manufacturer and the largest manufacturer of commercial jetliners and military aircraft combined; and

WHEREAS, Boeing also designs and manufactures rotorcraft, missiles, satellites, electronic and defense systems, launch vehicles, and advanced information and communications systems; and

WHEREAS, Boeing has customers in more than 90 countries around the world and is one of the largest importers in the United States; and

WHEREAS, Late last year the Boeing Company reached a major milestone with the first flight of its 787 "Dreamliner"; and

WHEREAS, That tremendous achievement would not have been possible without the skill and dedication of Boeing's talented and hard-working employees; and

WHEREAS, Each Boeing job supports two and a half additional jobs across our state; and

WHEREAS, The aerospace industry accounts for 15 percent of Washington state's economy and one-sixth of our gross state product; and

WHEREAS, There are more than 250 aerospace-related companies in Washington; and

WHEREAS, there are more than 200,000 aerospace-related jobs in Washington, with direct wages totaling 5.4 billion dollars and an economic impact of 36 billion dollars; and

WHEREAS, A new study shows the aerospace industry accounted for 28 percent of our state's job growth from 2004 to 2008; and

WHEREAS, The Senate values these jobs and the people who hold them, and will make it a priority to ensure Washington remains the best place to design, build, and market commercial airplanes;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate acknowledge and honor the Boeing Company for its tremendous contributions to Washington's economy, the families of our state, and the vitality of our citizens; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Boeing Corporate Offices in Chicago, Boeing Commercial Airplanes in Seattle, the International Association of Machinists and Aerospace Workers, and the Society of Professional Engineering Employees in Aerospace.

Senators Hewitt, Kastama and Shin spoke in favor of the adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8676.

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

INTRODUCTION OF SPECIAL GUEST

The President welcomed and introduced David Schumacher, the Boeing Company's NW State & Local Governmental Relations Director who was seated in the gallery.

PERSONAL PRIVILEGE

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Senator Keiser: "Thank you Mr. President. If you look around the chamber today you'll see a lot of ladies wearing red hats. This is Go Red For Women day, sponsored by the American Heart Association and I just wanted to make a note that we're wearing red today to draw attention to the fact that cardiovascular disease is the number one killer of women in our country. That in fact while we had over, nearly four hundred fifty thousand women die from various kinds of cardiovascular disease in a year. That compares to less than fifty thousand women who die from breast cancer. Of course those numbers are appalling and it is our job who are working on health care issues to try and bring all those numbers below where there at now. I think there's a lack of consciousness currently about the tremendous toll heart disease takes on women in their diagnosis, with their doctors so, I'd just ask all women to pay attention to those symptom's that can come on and be aware that heart disease including stroke is the number one killer of all women in our country. Thank you."

#### MOTION

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

#### MOTION

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

#### SECOND READING

SENATE BILL NO. 6213, by Senators Haugen and Swecker

Concerning vehicles at railroad grade crossings.

#### MOTIONS

On motion of Senator Haugen, Substitute Senate Bill No. 6213 was substituted for Senate Bill No. 6213 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Haugen, the rules were suspended, Substitute Senate Bill No. 6213 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and Swecker spoke in favor of the passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6213.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6213 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

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

Absent: Senator Brown

Excused: Senator Holmquist

SUBSTITUTE SENATE BILL NO. 6213, having received the constitutional majority, was declared passed. There being no

objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5516, by Senators Franklin, Kline, Kohl-Welles, Regala, Fraser, Kauffman and Shin

Addressing drug overdose prevention.

The measure was read the second time.

#### MOTION

Senator Franklin moved that the following striking amendment by Senator Franklin be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature intends to save lives by increasing timely medical attention to drug overdose victims through the establishment of limited immunity from prosecution for people who seek medical assistance in a drug overdose situation. Drug overdose is the leading cause of unintentional injury death in Washington state, ahead of motor vehicle related deaths. Washington state is one of sixteen states in which drug overdoses cause more deaths than traffic accidents. Drug overdose mortality rates have increased significantly since the 1990s, according to the centers for disease control and prevention, and illegal and prescription drug overdoses killed more than thirty-eight thousand people nationwide in 2006, the last year for which firm data is available. The Washington state department of health reports that in 1999, unintentional drug poisoning was responsible for four hundred three deaths in this state; in 2007, the number had increased to seven hundred sixty-one, compared with six hundred ten motor vehicle related deaths that same year. Many drug overdose fatalities occur because peers delay or forego calling 911 for fear of arrest or police involvement, which researchers continually identify as the most significant barrier to the ideal first response of calling emergency services.

**NEW SECTION. Sec. 2.** A new section is added to chapter 69.50 RCW to read as follows:

(1)(a) A person acting in good faith who seeks medical assistance for someone experiencing a drug-related overdose shall not be charged or prosecuted for possession of a controlled substance pursuant to RCW 69.50.4013, or penalized under RCW 69.50.4014, if the evidence for the charge of possession of a controlled substance was obtained as a result of the person seeking medical assistance.

(b) A person acting in good faith may receive a naloxone prescription, possess naloxone, and administer naloxone to an individual suffering from an apparent opiate-related overdose.

(2) A person who experiences a drug-related overdose and is in need of medical assistance shall not be charged or prosecuted for possession of a controlled substance pursuant to RCW 69.50.4013, or penalized under RCW 69.50.4014, if the evidence for the charge of possession of a controlled substance was obtained as a result of the overdose and the need for medical assistance.

(3) The protection in this section from prosecution for possession crimes under RCW 69.50.4013 shall not be grounds for suppression of evidence in other criminal charges.

**NEW SECTION. Sec. 3.** A new section is added to chapter 18.130 RCW to read as follows:

The administering, dispensing, prescribing, purchasing, acquisition, possession, or use of naloxone shall not constitute

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unprofessional conduct under chapter 18.130 RCW, or be in violation of any provisions under this chapter, by any practitioner or person, if the unprofessional conduct or violation results from a good faith effort to assist:

(1) A person experiencing, or likely to experience, an opiate-related overdose; or

(2) A family member, friend, or other person in a position to assist a person experiencing, or likely to experience, an opiate-related overdose.

**Sec. 4.** RCW 9.94A.535 and 2008 c 276 s 303 and 2008 c 233 s 9 are each reenacted and amended to read as follows:

The court may impose a sentence outside the standard sentence range for an offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence. Facts supporting aggravated sentences, other than the fact of a prior conviction, shall be determined pursuant to the provisions of RCW 9.94A.537.

Whenever a sentence outside the standard sentence range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard sentence range shall be a determinate sentence.

If the sentencing court finds that an exceptional sentence outside the standard sentence range should be imposed, the sentence is subject to review only as provided for in RCW 9.94A.585(4).

A departure from the standards in RCW 9.94A.589 (1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in this section, and may be appealed by the offender or the state as set forth in RCW 9.94A.585 (2) through (6).

(1) Mitigating Circumstances - Court to Consider

The court may impose an exceptional sentence below the standard range if it finds that mitigating circumstances are established by a preponderance of the evidence. The following are illustrative only and are not intended to be exclusive reasons for exceptional sentences.

(a) To a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident.

(b) Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

(c) The defendant committed the crime under duress, coercion, threat, or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

(d) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(e) The defendant's capacity to appreciate the wrongfulness of his or her conduct, or to conform his or her conduct to the requirements of the law, was significantly impaired. Voluntary use of drugs or alcohol is excluded.

(f) The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

(g) The operation of the multiple offense policy of RCW 9.94A.589 results in a presumptive sentence that is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(h) The defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(i) The defendant was making a good faith effort to obtain or provide medical assistance for someone who is experiencing a drug-related overdose.

(2) Aggravating Circumstances - Considered and Imposed by the Court

The trial court may impose an aggravated exceptional sentence without a finding of fact by a jury under the following circumstances:

(a) The defendant and the state both stipulate that justice is best served by the imposition of an exceptional sentence outside the standard range, and the court finds the exceptional sentence to be consistent with and in furtherance of the interests of justice and the purposes of the sentencing reform act.

(b) The defendant's prior unscored misdemeanor or prior unscored foreign criminal history results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(c) The defendant has committed multiple current offenses and the defendant's high offender score results in some of the current offenses going unpunished.

(d) The failure to consider the defendant's prior criminal history which was omitted from the offender score calculation pursuant to RCW 9.94A.525 results in a presumptive sentence that is clearly too lenient.

(3) Aggravating Circumstances - Considered by a Jury -Imposed by the Court

Except for circumstances listed in subsection (2) of this section, the following circumstances are an exclusive list of factors that can support a sentence above the standard range. Such facts should be determined by procedures specified in RCW 9.94A.537.

(a) The defendant's conduct during the commission of the current offense manifested deliberate cruelty to the victim.

(b) The defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance.

(c) The current offense was a violent offense, and the defendant knew that the victim of the current offense was pregnant.

(d) The current offense was a major economic offense or series of offenses, so identified by a consideration of any of the following factors:

(i) The current offense involved multiple victims or multiple incidents per victim;

(ii) The current offense involved attempted or actual monetary loss substantially greater than typical for the offense;

(iii) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time; or

(iv) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(e) The current offense was a major violation of the Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to trafficking in controlled substances, which was more onerous than the typical offense of its statutory definition: The presence of ANY of the following may identify a current offense as a major VUCSA:

(i) The current offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to do so;

(ii) The current offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use;

(iii) The current offense involved the manufacture of controlled substances for use by other parties;

(iv) The circumstances of the current offense reveal the offender to have occupied a high position in the drug distribution hierarchy;

(v) The current offense involved a high degree of sophistication or planning, occurred over a lengthy period of time, or involved a broad geographic area of disbursement; or

(vi) The offender used his or her position or status to facilitate the commission of the current offense, including positions of trust,

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confidence or fiduciary responsibility (e.g., pharmacist, physician, or other medical professional).

(f) The current offense included a finding of sexual motivation pursuant to RCW 9.94A.835.

(g) The offense was part of an ongoing pattern of sexual abuse of the same victim under the age of eighteen years manifested by multiple incidents over a prolonged period of time.

(h) The current offense involved domestic violence, as defined in RCW 10.99.020, and one or more of the following was present:

(i) The offense was part of an ongoing pattern of psychological, physical, or sexual abuse of the victim manifested by multiple incidents over a prolonged period of time;

(ii) The offense occurred within sight or sound of the victim's or the offender's minor children under the age of eighteen years; or

(iii) The offender's conduct during the commission of the current offense manifested deliberate cruelty or intimidation of the victim.

(i) The offense resulted in the pregnancy of a child victim of rape.

(j) The defendant knew that the victim of the current offense was a youth who was not residing with a legal custodian and the defendant established or promoted the relationship for the primary purpose of victimization.

(k) The offense was committed with the intent to obstruct or impair human or animal health care or agricultural or forestry research or commercial production.

(l) The current offense is trafficking in the first degree or trafficking in the second degree and any victim was a minor at the time of the offense.

(m) The offense involved a high degree of sophistication or planning.

(n) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(o) The defendant committed a current sex offense, has a history of sex offenses, and is not amenable to treatment.

(p) The offense involved an invasion of the victim's privacy.

(q) The defendant demonstrated or displayed an egregious lack of remorse.

(r) The offense involved a destructive and foreseeable impact on persons other than the victim.

(s) The defendant committed the offense to obtain or maintain his or her membership or to advance his or her position in the hierarchy of an organization, association, or identifiable group.

(t) The defendant committed the current offense shortly after being released from incarceration.

(u) The current offense is a burglary and the victim of the burglary was present in the building or residence when the crime was committed.

(v) The offense was committed against a law enforcement officer who was performing his or her official duties at the time of the offense, the offender knew that the victim was a law enforcement officer, and the victim's status as a law enforcement officer is not an element of the offense.

(w) The defendant committed the offense against a victim who was acting as a good Samaritan.

(x) The defendant committed the offense against a public official or officer of the court in retaliation of the public official's performance of his or her duty to the criminal justice system.

(y) The victim's injuries substantially exceed the level of bodily harm necessary to satisfy the elements of the offense. This aggravator is not an exception to RCW 9.94A.530(2).

(z)(i)(A) The current offense is theft in the first degree, theft in the second degree, possession of stolen property in the first degree, or possession of stolen property in the second degree; (B) the stolen

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property involved is metal property; and (C) the property damage to the victim caused in the course of the theft of metal property is more than three times the value of the stolen metal property, or the theft of the metal property creates a public hazard.

(ii) For purposes of this subsection, "metal property" means commercial metal property, private metal property, or nonferrous metal property, as defined in RCW 19.290.010.

(aa) The defendant committed the offense with the intent to directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage to or for a criminal street gang as defined in RCW 9.94A.030, its reputation, influence, or membership.

**Sec. 5.** RCW 18.130.180 and 2008 c 134 s 25 are each amended to read as follows:

The following conduct, acts, or conditions constitute unprofessional conduct for any license holder under the jurisdiction of this chapter:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(2) Misrepresentation or concealment of a material fact in obtaining a license or in reinstatement thereof;

(3) All advertising which is false, fraudulent, or misleading;

(4) Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed. The use of a nontraditional treatment by itself shall not constitute unprofessional conduct, provided that it does not result in injury to a patient or create an unreasonable risk that a patient may be harmed;

(5) Suspension, revocation, or restriction of the individual's license to practice any health care profession by competent authority in any state, federal, or foreign jurisdiction, a certified copy of the order, stipulation, or agreement being conclusive evidence of the revocation, suspension, or restriction;

(6) Except when authorized by section 3 of this act, the possession, use, prescription for use, or distribution of controlled substances or legend drugs in any way other than for legitimate or therapeutic purposes, diversion of controlled substances or legend drugs, the violation of any drug law, or prescribing controlled substances for oneself;

(7) Violation of any state or federal statute or administrative rule regulating the profession in question, including any statute or rule defining or establishing standards of patient care or professional conduct or practice;

(8) Failure to cooperate with the disciplining authority by:

(a) Not furnishing any papers, documents, records, or other items;

(b) Not furnishing in writing a full and complete explanation covering the matter contained in the complaint filed with the disciplining authority;

(c) Not responding to subpoenas issued by the disciplining authority, whether or not the recipient of the subpoena is the accused in the proceeding; or

(d) Not providing reasonable and timely access for authorized representatives of the disciplining authority seeking to perform practice reviews at facilities utilized by the license holder;

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(9) Failure to comply with an order issued by the disciplining authority or a stipulation for informal disposition entered into with the disciplining authority;

(10) Aiding or abetting an unlicensed person to practice when a license is required;

(11) Violations of rules established by any health agency;

(12) Practice beyond the scope of practice as defined by law or rule;

(13) Misrepresentation or fraud in any aspect of the conduct of the business or profession;

(14) Failure to adequately supervise auxiliary staff to the extent that the consumer's health or safety is at risk;

(15) Engaging in a profession involving contact with the public while suffering from a contagious or infectious disease involving serious risk to public health;

(16) Promotion for personal gain of any unnecessary or inefficacious drug, device, treatment, procedure, or service;

(17) Conviction of any gross misdemeanor or felony relating to the practice of the person's profession. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(18) The procuring, or aiding or abetting in procuring, a criminal abortion;

(19) The offering, undertaking, or agreeing to cure or treat disease by a secret method, procedure, treatment, or medicine, or the treating, operating, or prescribing for any health condition by a method, means, or procedure which the licensee refuses to divulge upon demand of the disciplining authority;

(20) The willful betrayal of a practitioner-patient privilege as recognized by law;

(21) Violation of chapter 19.68 RCW;

(22) Interference with an investigation or disciplinary proceeding by willful misrepresentation of facts before the disciplining authority or its authorized representative, or by the use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action, or by the use of financial inducements to any patient or witness to prevent or attempt to prevent him or her from providing evidence in a disciplinary proceeding;

(23) Current misuse of:

(a) Alcohol;

(b) Controlled substances; or

(c) Legend drugs;

(24) Abuse of a client or patient or sexual contact with a client or patient;

(25) Acceptance of more than a nominal gratuity, hospitality, or subsidy offered by a representative or vendor of medical or health-related products or services intended for patients, in contemplation of a sale or for use in research publishable in professional journals, where a conflict of interest is presented, as defined by rules of the disciplining authority, in consultation with the department, based on recognized professional ethical standards."

Senators Franklin and McCaslin spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Franklin to Senate Bill No. 5516.

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

MOTION

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

On page 1, line 1 of the title, after "prevention;" strike the remainder of the title and insert "amending RCW 18.130.180; reenacting and amending RCW 9.94A.535; adding a new section to chapter 69.50 RCW; adding a new section to chapter 18.130 RCW; and creating a new section."

MOTION

On motion of Senator Franklin, the rules were suspended, Engrossed Senate Bill No. 5516 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

MOTION

On motion of Senator Kauffman, Senator Brown was excused.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5516.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5516 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

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

Voting nay: Senator Carrell

Excused: Senator Holmquist

ENGROSSED SENATE BILL NO. 5516, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6229, by Senators Schoesler and Ranker

Extending to 2015 the assessment levied under RCW 15.36.551 to support the dairy inspection program.

The measure was read the second time.

MOTION

On motion of Senator Schoesler, the rules were suspended, Senate Bill No. 6229 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Schoesler spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6229.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6229 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

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

Voting nay: Senator Oemig

Excused: Senator Holmquist

SENATE BILL NO. 6229, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6221, by Senator Fairley

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

The measure was read the second time.

#### MOTION

Senator Tom moved that the following amendment by Senators Tom and King be adopted:

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

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

The President declared the question before the Senate to be the adoption of the amendment by Senators Tom and King on page 4, line 6 to Senate Bill No. 6621.

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

#### MOTION

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

Senator Tom spoke in favor of passage of the bill.

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

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6221 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

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

#### SECOND READING

SENATE BILL NO. 5798, by Senators Kohl-Welles, McCaslin, Keiser, Pflug and Kline

Concerning medical marijuana.

#### MOTIONS

On motion of Senator Kohl-Welles, Substitute Senate Bill No. 5798 was substituted for Senate Bill No. 5798 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kohl-Welles, the rules were suspended, Substitute Senate Bill No. 5798 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and Pflug spoke in favor of the passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5798.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5798 and the bill passed the Senate by the following vote: Yeas, 37; Nays, 11; Absent, 0; Excused, 1.

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

Voting nay: Senators Benton, Hargrove, Haugen, Honeyford, Morton, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Excused: Senator Holmquist

SUBSTITUTE SENATE BILL NO. 5798, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

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

#### THIRD READING

SENATE BILL NO. 6103, by Senator Prentice.

Modifying the definition of gambling.

The bill was read on Third Reading.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6103.

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## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6103 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 13; Absent, 0; Excused, 1.

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

Voting nay: Senators Becker, Brandland, Carrell, Hewitt, Honeyford, Kastama, King, McCaslin, Parlette, Pflug, Schoesler, Stevens and Zarelli

Excused: Senator Holmquist

SENATE BILL NO. 6103, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

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

## SECOND READING

SENATE BILL NO. 6273, by Senators Swecker, Fairley, Keiser, Hatfield, Pflug, Stevens, Shin and McCaslin

Concerning insurance coverage of the sales tax for prescribed durable medical equipment and mobility enhancing equipment. Revised for 1st Substitute: Regarding insurance coverage of the sales tax for prescribed durable medical equipment and mobility enhancing equipment.

## MOTIONS

On motion of Senator Swecker, Substitute Senate Bill No. 6273 was substituted for Senate Bill No. 6273 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Swecker, the rules were suspended, Substitute Senate Bill No. 6273 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6273.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6273 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Holmquist

SUBSTITUTE SENATE BILL NO. 6273, having received the constitutional majority, was declared passed. There being no

objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5621, by Senators Kline and Marr

Regarding hearing examiner fees.

The measure was read the second time.

## MOTION

On motion of Senator Kline, the rules were suspended, Senate Bill No. 5621 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5621.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5621 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 13; Absent, 0; Excused, 1.

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

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Honeyford, Parlette, Pflug, Roach, Schoesler, Stevens and Zarelli

Excused: Senator Holmquist

SENATE BILL NO. 5621, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6243, by Senators Fairley, Oemig, Swecker and McDermott

Eliminating provisions for filings at locations other than the public disclosure commission.

The measure was read the second time.

## MOTION

On motion of Senator Fairley, the rules were suspended, Senate Bill No. 6243 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fairley spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6243.

## ROLL CALL

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The Secretary called the roll on the final passage of Senate Bill No. 6243 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

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

Absent: Senator Brown

Excused: Senator Holmquist

SENATE BILL NO. 6243, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

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

#### THIRD READING

SUBSTITUTE SENATE BILL NO. 5424, by Senate Committee on Ways & Means (originally sponsored by Senators Parlette and Sheldon).

Concerning interest rate and penalty provisions in the current use program.

The bill was read on Third Reading.

#### MOTION

On motion of Senator Parlette, the rules were suspended and Substitute Senate Bill No. 5424 was returned to second reading for the purpose of amendment.

#### SECOND READING

SUBSTITUTE SENATE BILL NO. 5424, by Senate Committee on Ways & Means (originally sponsored by Senators Parlette and Sheldon)

Concerning interest rate and penalty provisions in the current use program.

The measure was read the second time.

#### MOTION

Senator Parlette moved that the following striking amendment by Senators Parlette and Sheldon be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 84.34.108 and 2009 c 513 s 2, 2009 c 354 s 3, 2009 c 255 s 2, and 2009 c 246 s 3 are each reenacted and amended to read as follows:

(1) When land has once been classified under this chapter, a notation of the classification ~~((shall))~~ must be made each year upon the assessment and tax rolls and the land ~~((shall))~~ must be valued pursuant to RCW 84.34.060 or 84.34.065 until removal of all or a portion of the classification by the assessor upon occurrence of any of the following:

(a) Receipt of notice from the owner to remove all or a portion of the classification;

(b) Sale or transfer to an ownership, except a transfer that resulted from a default in loan payments made to or secured by a governmental agency that intends to or is required by law or regulation to resell the property for the same use as before, making all or a portion of the land exempt from ad valorem taxation;

(c) Sale or transfer of all or a portion of the land to a new owner, unless the new owner has signed a notice of classification continuance, except transfer to an owner who is an heir or devisee of a deceased owner ~~((shall))~~ does not, by itself, result in removal of classification. The notice of continuance shall be on a form prepared by the department. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all additional taxes calculated pursuant to subsection (4) of this section ~~((shall become))~~ are due and payable by the seller or transferor at time of sale. The auditor ~~((shall))~~ may not accept an instrument of conveyance regarding classified land for filing or recording unless the new owner has signed the notice of continuance or the additional tax has been paid, as evidenced by the real estate excise tax stamp affixed thereto by the treasurer. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (4) of this section to the county board of equalization in accordance with the provisions of RCW 84.40.038. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals;

(d) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that all or a portion of the land no longer meets the criteria for classification under this chapter. The criteria for classification pursuant to this chapter continue to apply after classification has been granted.

The granting authority, upon request of an assessor, ~~((shall))~~ must provide reasonable assistance to the assessor in making a determination whether the land continues to meet the qualifications of RCW 84.34.020 (1) or (3). The assistance ~~((shall))~~ must be provided within thirty days of receipt of the request.

(2) Land may not be removed from classification because of:

(a) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120; or

(b) The creation, sale, or transfer of a fee interest or a conservation easement for the riparian open space program under RCW 76.09.040.

(3) Within thirty days after the removal of all or a portion of the land from current use classification under subsection (1) of this section, the assessor shall notify the owner in writing, setting forth the reasons for the removal. The seller, transferor, or owner may appeal the removal to the county board of equalization in accordance with the provisions of RCW 84.40.038. The removal notice must explain the steps needed to appeal the removal decision, including when a notice of appeal must be filed, where the forms may be obtained, and how to contact the county board of equalization.

(4) Unless the removal is reversed on appeal, the assessor ~~((shall))~~ must revalue the affected land with reference to its true and fair value on January 1st of the year of removal from classification. Both the assessed valuation before and after the removal of classification shall be listed and taxes shall be allocated according to that part of the year to which each assessed valuation applies. Except as provided in subsection (6) of this section, an additional tax, applicable interest, and penalty ~~((shall be))~~ is imposed which ~~((shall be))~~ is due and payable to the treasurer thirty days after the owner is notified of the amount of the additional tax. As soon as possible, the assessor ~~((shall))~~ must compute the amount of additional tax, applicable interest, and penalty and the treasurer shall mail notice to the owner of the amount thereof and the date on which

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payment is due. The amount of the additional tax, applicable interest, and penalty ~~((shall))~~ must be determined as follows:

(a) The amount of additional tax ~~((shall be))~~ is equal to the difference between the property tax paid as "open space land," "farm and agricultural land," or "timber land" and the amount of property tax otherwise due and payable for the seven years last past had the land not been so classified;

(b) ~~((The amount of applicable interest shall be equal to the interest upon the amounts of the additional tax paid at the same statutory rate charged on delinquent property taxes from the dates on which the additional tax could have been paid without penalty if the land had been assessed at a value without regard to this chapter;))~~ The interest rate provided in RCW 84.69.100 must be charged on the amount of additional tax imposed under (a) of this subsection. The annual rate of interest in effect at the time of removal must be applied to the total amount of additional tax due;

(c) The amount of the penalty ~~((shall be))~~ is as provided in RCW 84.34.080. The penalty ~~((shall))~~ may not be imposed if the removal satisfies the conditions of RCW 84.34.070.

(5) Additional tax, applicable interest, and penalty, ~~((shall))~~ must become a lien on the land which ~~((shall))~~ attaches at the time the land is removed from classification under this chapter and ~~((shall have))~~ has priority to and shall be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation or responsibility to or with which the land may become charged or liable. This lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes as provided in RCW 84.64.050. Any additional tax unpaid on its due date ~~((shall))~~ becomes thereupon ~~((become))~~ delinquent. From the date of delinquency until paid, interest ~~((shall))~~ must be charged at the same rate applied by law to delinquent ad valorem property taxes.

(6) The additional tax, applicable interest, and penalty specified in subsection (4) of this section ~~((shall))~~ may not be imposed if the removal of classification pursuant to subsection (1) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other land located within the state of Washington;

(b)(i) A taking through the exercise of the power of eminent domain, or (ii) sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power, said entity having manifested its intent in writing or by other official action;

(c) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the landowner changing the use of the property;

(d) Official action by an agency of the state of Washington or by the county or city within which the land is located which disallows the present use of the land;

(e) Transfer of land to a church when the land would qualify for exemption pursuant to RCW 84.36.020;

(f) Acquisition of property interests by state agencies or agencies or organizations qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections. At such time as these property interests are not used for the purposes enumerated in RCW 84.34.210 and 64.04.130 the additional tax specified in subsection (4) of this section ~~((shall be))~~ is imposed;

(g) Removal of land classified as farm and agricultural land under RCW 84.34.020(2)(f);

(h) Removal of land from classification after enactment of a statutory exemption that qualifies the land for exemption and receipt of notice from the owner to remove the land from classification;

(i) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120;

(j) The creation, sale, or transfer of a conservation easement of private forest lands within unconfined channel migration zones or containing critical habitat for threatened or endangered species under RCW 76.09.040;

(k) The sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in the land if the land has been assessed and valued as classified forest land, designated as forest land under chapter 84.33 RCW, or classified under this chapter continuously since 1993. The date of death shown on a death certificate is the date used for the purposes of this subsection (6)(k); or

(l)(i) The discovery that the land was classified under this chapter in error through no fault of the owner. For purposes of this subsection (6)(l), "fault" means a knowingly false or misleading statement, or other act or omission not in good faith, that contributed to the approval of classification under this chapter or the failure of the assessor to remove the land from classification under this chapter.

(ii) For purposes of this subsection (6), the discovery that land was classified under this chapter in error through no fault of the owner is not the sole reason for removal of classification pursuant to subsection (1) of this section if an independent basis for removal exists. Examples of an independent basis for removal include the owner changing the use of the land or failing to meet any applicable income criteria required for classification under this chapter.

**Sec. 2.** RCW 84.34.070 and 1992 c 69 s 10 are each amended to read as follows:

(1) When land has once been classified under this chapter, it shall remain under such classification and shall not be applied to other use except as provided by subsection (2) of this section for at least ten years from the date of classification and shall continue under such classification until and unless withdrawn from classification after notice of request for withdrawal shall be made by the owner. ~~((During any year))~~ After ~~((eight years of))~~ the initial ten-year classification period ~~((have))~~ has elapsed, notice of request for withdrawal of all or a portion of the land may be given by the owner to the assessor or assessors of the county or counties in which such land is situated. In the event that a portion of a parcel is removed from classification, the remaining portion must meet the same requirements as did the entire parcel when such land was originally granted classification pursuant to this chapter unless the remaining parcel has different income criteria. Within seven days the assessor shall transmit one copy of such notice to the legislative body which originally approved the application. The assessor or assessors, as the case may be, shall ~~((when two assessment years have elapsed following the date of receipt of such notice.))~~ withdraw such land from such classification and the land shall be subject to the additional tax and applicable interest due under RCW 84.34.108. Agreement to tax according to use shall not be considered to be a contract and can be abrogated at any time by the legislature in which event no additional tax or penalty shall be imposed.

(2) The following reclassifications are not considered withdrawals or removals and are not subject to additional tax under RCW 84.34.108:

(a) Reclassification between lands under RCW 84.34.020 (2) and (3);

(b) Reclassification of land classified under RCW 84.34.020 (2) or (3) or chapter 84.33 RCW to open space land under RCW 84.34.020(1);

(c) Reclassification of land classified under RCW 84.34.020 (2) or (3) to forest land classified under chapter 84.33 RCW; and

(d) Reclassification of land classified as open space land under RCW 84.34.020(1)(c) and reclassified to farm and agricultural land under RCW 84.34.020(2) if the land had been previously classified as farm and agricultural land under RCW 84.34.020(2).

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(3) Applications for reclassification shall be subject to applicable provisions of RCW 84.34.037, 84.34.035, 84.34.041, and chapter 84.33 RCW.

(4) The income criteria for land classified under RCW 84.34.020(2) (b) and (c) may be deferred for land being reclassified from land classified under RCW 84.34.020 (1)(c) or (3), or chapter 84.33 RCW into RCW 84.34.020(2) (b) or (c) for a period of up to five years from the date of reclassification.

NEW SECTION. Sec. 3. This act applies to taxes levied for collection in 2011 and thereafter."

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

The President declared the question before the Senate to be the adoption of the amendment by Senators Parlette and Sheldon to Substitute Senate Bill No. 5424.

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

#### MOTION

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

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "interest rate and penalty provisions in the current use program; amending RCW 84.34.070; reenacting and amending RCW 84.34.108; and creating a new section."

#### MOTION

On motion of Senator Parlette, the rules were suspended, Engrossed Substitute Senate Bill No. 5424 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Parlette spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5424.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5424 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 5; Absent, 0; Excused, 1.

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

Voting nay: Senators Fairley, Fraser, Ranker, Regala and Tom

Excused: Senator Holmquist

ENGROSSED SUBSTITUTE SENATE BILL NO. 5424, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

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

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SECOND READING

SENATE BILL NO. 6211, by Senators Haugen, Hatfield and Kohl-Welles

Creating an agricultural scenic corridor within the scenic and recreational highway system.

#### MOTIONS

On motion of Senator Haugen, Substitute Senate Bill No. 6211 was substituted for Senate Bill No. 6211 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Haugen, the rules were suspended, Substitute Senate Bill No. 6211 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Haugen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6211.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6211 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

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

Absent: Senator Hargrove

Excused: Senator Holmquist

SUBSTITUTE SENATE BILL NO. 6211, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6345, by Senators Eide, Regala, Delvin, Haugen, Kohl-Welles, Rockefeller, Keiser, Fairley, Kline, Tom and Fraser

Addressing the use of wireless communications devices while driving.

#### MOTIONS

On motion of Senator Eide, Substitute Senate Bill No. 6345 was substituted for Senate Bill No. 6345 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Eide, the rules were suspended, Substitute Senate Bill No. 6345 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Eide, Benton and Regala spoke in favor of the passage of the bill.

Senators Sheldon and Pflug spoke against passage of the bill.

#### MOTION

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On motion of Senator Marr, Senator Oemig was excused.

substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin and Kline.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6345.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and King.

ROLL CALL

Passed to Committee on Ways & Means.

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6345 and the bill passed the Senate by the following vote: Yeas, 33; Nays, 15; Absent, 0; Excused, 1.

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Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McCaslin, McDermott, Morton, Murray, Parlette, Prentice, Ranker, Regala, Rockefeller, Shin and Tom

SB 5838 Prime Sponsor, Senator McDermott: Concerning traffic infractions where the conduct is a proximate cause of death, great bodily harm, or substantial bodily injury. Reported by Committee on Judiciary

Voting nay: Senators Carrell, Hargrove, Hatfield, Hewitt, Honeyford, McAuliffe, Oemig, Pflug, Pridemore, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

MAJORITY recommendation: That Substitute Senate Bill No. 5838 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; Gordon; Kohl-Welles and Roach.

Excused: Senator Holmquist

Passed to Committee on Rules for second reading.

SUBSTITUTE SENATE BILL NO. 6345, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

February 4, 2010

MOTION

SB 5912 Prime Sponsor, Senator Oemig: Providing public funding for supreme court campaigns. Reported by Committee on Government Operations & Elections

At 11:51 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

MAJORITY recommendation: That Substitute Senate Bill No. 5912 be substituted therefor, and the substitute bill do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; McDermott and Pridemore.

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MINORITY recommendation: Do not pass. Signed by Senators Benton and Swecker.

The Senate was called to order at 5:09 p.m. by Senator Fraser.

MOTION

Passed to Committee on Ways & Means.

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

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SUPPLEMENTAL REPORTS OF STANDING COMMITTEES

SB 6204 Prime Sponsor, Senator Sheldon: Privatizing the sale of liquor. Reported by Committee on Labor, Commerce & Consumer Protection

February 5, 2010  
SB 5543 Prime Sponsor, Senator Pridemore: Establishing the product stewardship recycling act for mercury-containing lights. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 6204 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Honeyford and King.

MAJORITY recommendation: That Substitute Senate Bill No. 5543 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Fraser; Marr; Oemig and Ranker.

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

MINORITY recommendation: Do not pass. Signed by Senators Honeyford; Delvin and Morton.

Passed to Committee on Rules for second reading.

Passed to Committee on Ways & Means.

February 4, 2010

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SB 5786 Prime Sponsor, Senator Fraser: Authorizing the creation of cultural access authorities. Reported by Committee on Labor, Commerce & Consumer Protection

SB 6225 Prime Sponsor, Senator Schoesler: Concerning population thresholds that determine the number of local councilmembers and receipt of local funds. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Roach; Benton; McDermott; Pridemore and Swecker.

MAJORITY recommendation: That Second Substitute Senate Bill No. 5786 be substituted therefor, and the second

Passed to Committee on Rules for second reading.

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SB 6241 Prime Sponsor, Senator Kilmer: Creating community facilities districts. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That Substitute Senate Bill No. 6241 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli; Delvin and Kilmer.

Passed to Committee on Rules for second reading.

February 5, 2010

SB 6242 Prime Sponsor, Senator Pridemore: Updating hazardous waste fee provisions. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 6242 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Honeyford; Delvin; Fraser; Marr; Ranker and Sheldon.

MINORITY recommendation: Do not pass. Signed by Senators Morton and Oemig.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6245 Prime Sponsor, Senator Kline: Concerning prohibited practices of collection agencies. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 6245 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; Gordon; Hargrove and Kohl-Welles.

Passed to Committee on Rules for second reading.

February 5, 2010

SB 6267 Prime Sponsor, Senator Rockefeller: Regarding water right processing improvements. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 6267 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Fraser; Marr; Oemig and Ranker.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford; Delvin and Morton.

Passed to Committee on Ways & Means.

February 4, 2010

SB 6301 Prime Sponsor, Senator Swecker: Concerning the designation of urban growth areas outside the hundred year floodplain by counties. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 6301 be substituted therefor, and the substitute bill do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; Benton; McDermott; Pridemore and Swecker.

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Passed to Committee on Rules for second reading.

February 4, 2010

SB 6316 Prime Sponsor, Senator Carrell: Addressing the coordination between local law enforcement and the department of corrections. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 6316 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Ways & Means.

February 4, 2010

SB 6362 Prime Sponsor, Senator Zarelli: Concerning government accountability. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 6362 be substituted therefor, and the substitute bill do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; Benton; Pridemore and Swecker.

Passed to Committee on Ways & Means.

February 5, 2010

SB 6397 Prime Sponsor, Senator Kline: Addressing the viewing of sexually explicit depictions of minors on the internet. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 6397 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon; Hargrove; Kohl-Welles and Roach.

Passed to Committee on Rules for second reading.

February 4, 2010

SB 6433 Prime Sponsor, Senator Honeyford: Extending the time in which certain experienced home inspectors can apply for licensure without meeting instruction and training requirements. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 6433 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6476 Prime Sponsor, Senator Stevens: Revising provisions relating to sex crimes involving minors. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 6476 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

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Passed to Committee on Rules for second reading.

Reported by Committee on Economic Development, Trade & Innovation

February 5, 2010

SB 6489 Prime Sponsor, Senator Oemig: Adding products to the energy efficiency code. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 6515 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli; Delvin; Eide; Kilmer and McCaslin.

MAJORITY recommendation: That Substitute Senate Bill No. 6489 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Fraser; Marr; Oemig and Ranker.

Passed to Committee on Ways & Means.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and Morton.

February 4, 2010

Passed to Committee on Rules for second reading.

SB 6533 Prime Sponsor, Senator Roach: Granting high school credit for learning experiences. Reported by Committee on Early Learning & K-12 Education

February 4, 2010

SB 6494 Prime Sponsor, Senator Tom: Regarding state board of health rules that impact school districts. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 6533 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King; Brandland; Gordon; Hobbs and Roach.

MAJORITY recommendation: That Substitute Senate Bill No. 6494 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; King; Brandland; Gordon; Hobbs; McDermott and Tom.

Passed to Committee on Rules for second reading.

MINORITY recommendation: Do not pass. Signed by Senators Oemig, Vice Chair, K-12 and Roach.

February 4, 2010

Passed to Committee on Rules for second reading.

SB 6550 Prime Sponsor, Senator Hargrove: Imposing a sanction for offenders who violate sentence conditions by committing an assault against a law enforcement officer, employee of a law enforcement agency, or department of corrections employee. Reported by Committee on Human Services & Corrections

February 3, 2010

SB 6500 Prime Sponsor, Senator Fraser: Limiting the use of restraints on pregnant women or youth. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 6550 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

MAJORITY recommendation: That Substitute Senate Bill No. 6500 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Carrell; Kauffman and McAuliffe.

Passed to Committee on Ways & Means.

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

February 4, 2010

Passed to Committee on Rules for second reading.

SB 6561 Prime Sponsor, Senator Hargrove: Restricting access to juvenile offender records. Reported by Committee on Human Services & Corrections

February 4, 2010

SB 6504 Prime Sponsor, Senator Hargrove: Reducing crime victims' compensation benefits and eligibility. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 6561 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

MAJORITY recommendation: That Substitute Senate Bill No. 6504 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee Ways & Means.

Passed to Committee on Ways & Means.

February 4, 2010

SB 6515 Prime Sponsor, Senator Kastama: Refocusing the department of commerce, including transferring programs.

SB 6570 Prime Sponsor, Senator Haugen: Accommodating certain private transportation providers at designated transit only lanes on public highways. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6570 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Benton; Berkey; Delvin; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King and Ranker.

Passed to Committee on Rules for second reading.

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Passed to Committee on Ways &amp; Means.

February 4, 2010

SB 6578 Prime Sponsor, Senator Swecker: Creating an optional multiagency permitting team. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That Substitute Senate Bill No. 6578 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli; Delvin; Eide and Kilmer.

Passed to Committee on Ways &amp; Means.

February 5, 2010

SB 6590 Prime Sponsor, Senator Kline: Requiring law enforcement officers to be honest and truthful. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 6590 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon; Hargrove; Kohl-Welles and Roach.

Passed to Committee on Rules for second reading.

February 4, 2010

SB 6603 Prime Sponsor, Senator Marr: Concerning land uses adjacent to general aviation airports. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6603 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Benton; Berkey; Delvin; Hatfield; Jacobsen; Kastama and King.

Passed to Committee on Rules for second reading.

February 4, 2010

SB 6611 Prime Sponsor, Senator Pridemore: Extending the deadlines for the review and evaluation of comprehensive land use plan and development regulations for three years. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 6611 be substituted therefor, and the substitute bill do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott; Pridemore and Swecker.

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

Passed to Committee on Rules for second reading.

February 4, 2010

SB 6613 Prime Sponsor, Senator Kastama: Modifying the sales and use tax deferral program for investment projects in rural counties. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That Substitute Senate Bill No. 6613 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli; Delvin; Eide and Kilmer.

February 4, 2010  
SB 6639 Prime Sponsor, Senator Brown: Creating alternatives to total confinement for nonviolent offenders with minor children. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 6639 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

February 4, 2010

SB 6646 Prime Sponsor, Senator Kilmer: Concerning business and occupation tax credits for job creation. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That Substitute Senate Bill No. 6646 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli; Delvin; Eide and Kilmer.

Passed to Committee on Ways &amp; Means.

February 4, 2010

SB 6648 Prime Sponsor, Senator Kline: Protecting and assisting consumers and homeowners from unfair lending practices and during foreclosure proceedings. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 6648 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin and Kline.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and King.

Passed to Committee on Ways &amp; Means.

February 4, 2010

SB 6663 Prime Sponsor, Senator Kohl-Welles: Regulating tanning facilities. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 6663 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin and Kline.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and King.

Passed to Committee on Rules for second reading.

February 5, 2010

SB 6666 Prime Sponsor, Senator Pflug: Addressing statutory construction. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 6666 be substituted therefor, and the substitute bill do

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pass. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Hargrove and Kohl-Welles.

MINORITY recommendation: Do not pass. Signed by Senators Carrell and Roach.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

February 5, 2010

February 4, 2010

SB 6669 Prime Sponsor, Senator Kastama: Concerning the small business development center. Reported by Committee on Economic Development, Trade & Innovation

SB 6693 Prime Sponsor, Senator Pridemore: Concerning vehicle license fraud. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6669 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Shin, Vice Chair; Delvin and Eide.

MAJORITY recommendation: That Substitute Senate Bill No. 6693 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Benton; Berkey; Delvin; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King and Ranker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli and McCaslin.

Passed to Committee on Rules for second reading.

Passed to Committee on Ways & Means.

February 5, 2010

February 5, 2010

SB 6672 Prime Sponsor, Senator Rockefeller: Modifying the energy independence act. Reported by Committee on Environment, Water & Energy

SB 6697 Prime Sponsor, Senator Haugen: Concerning suffocation. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 6672 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Fraser; Marr; Oemig; Ranker and Sheldon.

MAJORITY recommendation: That Substitute Senate Bill No. 6697 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; Gordon; Hargrove and Kohl-Welles.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford; Delvin and Morton.

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

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

February 3, 2010

February 4, 2010

SB 6680 Prime Sponsor, Senator Hargrove: Authorizing counties to impose local sales and use taxes for criminal justice purposes. Reported by Committee on Human Services & Corrections

SB 6700 Prime Sponsor, Senator Sheldon: Authorizing the naming or renaming of state ferry vessels. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6680 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Kauffman and McAuliffe.

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Benton; Berkey; Delvin; Hatfield; Jacobsen; Kauffman; Kilmer; King and Ranker.

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

Passed to Committee on Rules for second reading.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Stevens and Brandland.

SB 6709 Prime Sponsor, Senator Brandland: Waiving the imposition of legal financial obligations in certain circumstances. Reported by Committee on Human Services & Corrections

Passed to Committee on Ways & Means.

Passed to Committee on Rules for second reading.

February 2, 2010

February 4, 2010

SB 6686 Prime Sponsor, Senator Gordon: Changing the election and appointment provisions for municipal court judges. Reported by Committee on Judiciary

SB 6726 Prime Sponsor, Senator Marr: Making the governor the public employer of language access providers. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 6686 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; McCaslin; Gordon and Kohl-Welles.

MAJORITY recommendation: That Substitute Senate Bill No. 6726 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin and Kline.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and King.

Passed to Committee on Ways & Means.

February 5, 2010

SB 6729 Prime Sponsor, Senator Fraser: Addressing the contents of notices to shareholders of annual or special meetings. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 6729 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon; Hargrove; Kohl-Welles and Roach.

Passed to Committee on Rules for second reading.

February 3, 2010

SB 6730 Prime Sponsor, Senator Becker: Concerning child welfare. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 6730 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

February 4, 2010

SB 6733 Prime Sponsor, Senator King: Allocating responsibility for court-related costs of involuntary commitment proceedings. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 6733 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

February 4, 2010

SB 6740 Prime Sponsor, Senator Hobbs: Concerning a comprehensive K-12 education policy. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 6740 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King; Brandland; Gordon; Hobbs and McDermott.

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

Passed to Committee on Ways & Means.

February 4, 2010

SB 6743 Prime Sponsor, Senator McDermott: Regarding field investigations on privately owned lands. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 6743 be substituted therefor, and the substitute bill do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; Benton; McDermott; Pridemore and Swecker.

Passed to Committee on Rules for second reading.

February 5, 2010

SB 6764 Prime Sponsor, Senator Gordon: Regarding accrual of interest on judgments founded on tortious conduct. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; Gordon; Hargrove and Kohl-Welles.

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

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

Passed to Committee on Rules for second reading.

February 4, 2010

SB 6768 Prime Sponsor, Senator Pridemore: Allowing county treasurers to use electronic bill presentment and payment that includes an automatic electronic payment option for property taxes. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 6768 be substituted therefor, and the substitute bill do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; Benton; McDermott; Pridemore and Swecker.

Passed to Committee on Rules for second reading.

February 4, 2010

SB 6775 Prime Sponsor, Senator Kohl-Welles: Creating a task force to study and report on the state's workers' compensation system. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 6775 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; King and Kline.

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

Passed to Committee on Rules for second reading.

February 4, 2010

SB 6778 Prime Sponsor, Senator McAuliffe: Establishing an alternative route to a high school diploma. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 6778 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King; Gordon and Roach.

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

Passed to Committee on Rules for second reading.

February 5, 2010

SB 6788 Prime Sponsor, Senator Brown: Addressing the dissolution of the assets and affairs of a nonprofit corporation. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 6788 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon; Hargrove; Kohl-Welles and Roach.

Passed to Committee on Rules for second reading.

February 4, 2010

SB 6791 Prime Sponsor, Senator Hargrove: Concerning the involuntary treatment act. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 6791 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

February 4, 2010

SB 6793 Prime Sponsor, Senator Kohl-Welles: Relating to unemployment benefits and taxes. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin and Kline.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and King.

Passed to Committee on Rules for second reading.

February 4, 2010

SB 6797 Prime Sponsor, Senator Tom: Concerning voters' pamphlets. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 6797 be substituted therefor, and the substitute bill do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; Benton; McDermott; Pridemore and Swecker.

Passed to Committee on Ways & Means.

February 4, 2010

SB 6800 Prime Sponsor, Senator Kline: Regarding discrimination in public schools. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 6800 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Oemig, Vice

Chair, K-12; King; Brandland; Gordon; Hobbs; McDermott; Roach and Tom.

MINORITY recommendation: Do not pass. Signed by Senator Kauffman, Vice Chair, Early Learning.

Passed to Committee on Rules for second reading.

February 5, 2010

SB 6803 Prime Sponsor, Senator Rockefeller: Concerning the withdrawal of groundwater for stock watering purposes. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 6803 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Marr; Oemig; Ranker and Sheldon.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford; Delvin and Morton.

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

Passed to Committee on Ways & Means.

February 4, 2010

SB 6808 Prime Sponsor, Senator Kilmer: Concerning private infrastructure development. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That Substitute Senate Bill No. 6808 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli; Delvin; Eide and Kilmer.

Passed to Committee Ways & Means.

February 4, 2010

SB 6815 Prime Sponsor, Senator Haugen: Concerning health care benefits for marine employees of the department of transportation. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Benton; Berkey; Delvin; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King and Ranker.

Passed to Committee on Rules for second reading.

February 4, 2010

SB 6828 Prime Sponsor, Senator McAuliffe: Concerning the taxation of lodging. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott; Pridemore and Swecker.

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

Passed to Committee on Ways & Means.

February 5, 2010

SB 6831 Prime Sponsor, Senator Parlette: Concerning estates and trusts. Reported by Committee on Judiciary

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon; Hargrove; Kohl-Welles and Roach.

Passed to Committee on Ways & Means.

February 4, 2010

SB 6832 Prime Sponsor, Senator Hargrove: Concerning child welfare services. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 6832 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

February 4, 2010

SHJM 4004 Prime Sponsor, Committee on Transportation: Naming a certain portion of state route number 110 the "Operations Desert Shield and Desert Storm Memorial Highway." Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Benton; Berkey; Delvin; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King and Ranker.

Passed to Committee on Rules for second reading.

#### REPORTS OF STANDING COMMITTEES GUBERNATORIAL APPOINTMENTS

February 4, 2010

SGA 9188 SHARON FOSTER, appointed on August 15, 2009, for the term ending January 15, 2015, as Member of the Liquor Control Board. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

February 4, 2010

SGA 9213 VALORIA LOVELAND, appointed on August 3, 2009, for the term ending August 2, 2015, as Member of the Lottery Commission. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

MOTION

On motion of McDermott, all measures listed on the Supplemental Standing Committee report were referred to the committees as designated with the exceptions of Senate Bill No. 6504, Senate Bill No. 6561 and Senate Bill No. 6808 which were referred to the Committee on Ways & Means.

MOTION

At 5:12 p.m., on motion of Senator McDermott, the Senate adjourned until 10:00 a.m. Monday, February 8, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

TWENTY NINTH DAY

MORNING SESSION

February 5, 2010

Senate Chamber, Olympia, Monday, February 8, 2010

The Senate was called to order at 10:00 a.m. by the President Pro Tempore. The Secretary called the roll and announced to the President Pro Tempore that all Senators were present with the exception of Senators Holmquist, McCaslin and Shin.

The Sergeant at Arms Color Guard consisting of Pages Peter Biethan and Benjamin Baxter, presented the Colors. Senator Hargrove offered the prayer.

MOTION

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

MOTION

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

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

February 4, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

KATE REARDON, appointed June 1, 2009, for the term ending September 30, 2011, as Member, Board of Trustees, Central Washington University.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

MOTION

On motion of Senator Eide, the appointee listed on the Gubernatorial Appointments report was referred to the committee as designated.

The President assumed the chair.

MOTION

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

MESSAGE FROM THE HOUSE

February 5, 2010

MR. PRESIDENT

The House has passed:

ENGROSSED HOUSE BILL NO. 1139.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

MR. PRESIDENT

The House has passed:

HOUSE BILL NO. 1541,  
HOUSE BILL NO. 1690,  
HOUSE BILL NO. 1785,  
HOUSE BILL NO. 2398,  
HOUSE BILL NO. 2456,  
HOUSE BILL NO. 2490,  
HOUSE BILL NO. 2510.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

February 5, 2010

MR. PRESIDENT

The House has passed:

ENGROSSED HOUSE BILL NO. 2360,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2464,  
HOUSE BILL NO. 3056,  
ENGROSSED SUBSTITUTE HOUSE JOINT  
RESOLUTION NO. 4220.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

At 10:08 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:40 a.m. by President Owen.

MOTION

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

REPORTS OF STANDING COMMITTEES

February 4, 2010

SB 6373 Prime Sponsor, Senator Ranker: Directing the department of ecology to adopt rules requiring entities to report the emissions of greenhouse gases. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6373 as recommended by Committee on Environment, Water & Energy be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Honeyford; Parlette; Pflug and Schoesler.

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

Passed to Committee on Rules for second reading.

February 4, 2010

SB 6579 Prime Sponsor, Senator Swecker: Improving the efficiency, accountability, and quality within state information systems. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 6579 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Oemig; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

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

Passed to Committee on Rules for second reading.

February 4, 2010

SHB 2998 Prime Sponsor, Committee on Ways & Means: Suspending certain monetary awards and salary increases. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pflug; Pridemore; Regala and Schoesler.

Passed to Committee on Rules for second reading.

#### MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

#### MOTION

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

#### THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5742, by Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, McCaslin, Hobbs, Schoesler and Hatfield).

Concerning local government crime-free rental housing programs. Revised for 1st Substitute: Concerning crime-free rental housing.

The bill was read on Third Reading.

#### MOTION

On motion of Senator Hargrove, the rules were suspended and Engrossed Substitute Senate Bill No. 5742 was returned to second reading for the purpose of amendment.

#### SECOND READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5742, by Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, McCaslin, Hobbs, Schoesler and Hatfield)

Concerning local government crime-free rental housing programs. Revised for 1st Substitute: Concerning crime-free rental housing.

The measure was read the second time.

#### MOTION

Senator Hargrove moved that the following striking amendment by Senators Hargrove and Stevens be adopted:

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. The legislature finds that local governments, landlords, and tenants working together to provide crime-free rental housing is beneficial to the public health, safety, and welfare. The legislature is also concerned about activities and provisions that serve to bar a person with a criminal background from obtaining viable housing regardless of other factors that may indicate rental stability, such as employment, rental references, or time in the community with no further criminal activity. It is therefore the intent of this act to provide certain requirements that a local government must follow in adopting a crime-free rental housing program.

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

(1) "Crime-free rental housing program" means a crime prevention program designed to reduce crime, drugs, and gangs on rental housing premises under the supervision of the local police department or a crime prevention officer. The program may include, but is not limited to: Property management and crime prevention training classes; crime prevention through environmental design surveys; and community awareness training.

(2) "Criminal activity" means a criminal act defined by statute or ordinance that threatens the health, safety, or welfare of the tenants, owner, guests, occupants, or property manager.

(3) "Premises" has the same meaning as in RCW 59.18.030.

(4) "Rental housing" means any tenancy subject to chapter 59.12, 59.18, or 59.20 RCW.

NEW SECTION. Sec. 3. (1) A city, town, or county may adopt and implement a local government crime-free rental housing program in accordance with this section.

(2) Except as provided in subsection (3) of this section, a crime-free rental housing program must be voluntary.

(3)(a) Individual local jurisdictions may require a landlord to participate in a crime-free rental housing program upon exceeding a reasonable threshold of instances of criminal activity on the premises if the landlord has not made a good faith effort to deter the criminal activity.

(b) A good faith effort may include, but is not limited to:

(i) Service of notice on the tenant to comply or quit as allowed by law or the commencement of an unlawful detainer action against the tenant; and

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(ii) Attendance and completion of a landlord training program approved by the local jurisdiction.

(4)(a) As a prerequisite to subsection (3) of this section, upon the occurrence of criminal activity on the premises, the local police department must send a notice to the landlord setting forth the date of the occurrence, the location of the occurrence, the nature of the occurrence, and the name of the person who engaged in the occurrence.

(b) Notice must be deemed properly delivered when it is either served upon the landlord or a property manager of the rental property, or is delivered by first-class mail to the last known address of the landlord.

(5) This section does not prevent a city, town, or county from charging a fee for participation in a crime-free rental housing program.

(6) This section does not affect a city, town, or county's authority to enforce existing law in regard to rental housing, except in regard to a crime-free rental housing program.

**NEW SECTION. Sec. 4.** A crime-free rental housing program may not prohibit a landlord from hiring or renting to a person solely because of the person's criminal background.

**NEW SECTION. Sec. 5.** (1) Except as provided in subsection (2) of this section, sections 2 through 4 of this act supersede and preempt all rules, regulations, codes, statutes, or ordinances of all cities, counties, municipalities, and local agencies regarding the same subject matter. The state preemption created in this section applies to all rules, regulations, codes, statutes, and ordinances pertaining to crime-free rental housing programs at any time.

(2) Section 3 of this act does not apply to rules, regulations, codes, statutes, or ordinances adopted by cities, counties, municipalities, or local agencies prior to July 1, 2010, except as required by an order issued by a court of competent jurisdiction pursuant to litigation regarding the rules, regulations, codes, statutes, or ordinances.

**NEW SECTION. Sec. 6.** Sections 1 through 5 of this act constitute a new chapter in Title 35 RCW."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove and Stevens to Substitute Senate Bill No. 5742.

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

MOTION

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

On page 1, line 1 of the title, after "housing;" strike the remainder of the title and insert "and adding a new chapter to Title 35 RCW."

MOTION

On motion of Senator Hargrove, the rules were suspended, Second Engrossed Substitute Senate Bill No. 5742 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

MOTION

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

POINT OF INQUIRY

Senator Swecker: "Is there anything in this bill that would make it easier to site sex offenders in housing complexes that are open to families?"

Senator Hargrove: "There is nothing in our, in this bill that affects our state requirements for sex offenders at all. This has to do with city ordinances and it does not require landlords to do anything that makes these programs voluntary."

The President declared the question before the Senate to be the final passage of Second Engrossed Substitute Senate Bill No. 5742.

ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Substitute Senate Bill No. 5742 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

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

Absent: Senator Shin

Excused: Senators Holmquist, McCaslin and Zarelli

SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 5742, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

MOTION

On motion of Senator Marr, Senator Shin was excused.

SECOND READING

SENATE BILL NO. 6231, by Senators Marr, King, Eide, Delvin, Zarelli, Shin and Tom

Implementing rules and penalties for drivers when approaching certain emergency, roadside assistance, or police vehicles in emergency zones.

MOTIONS

On motion of Senator Marr, Substitute Senate Bill No. 6231 was substituted for Senate Bill No. 6231 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Marr, the rules were suspended, Substitute Senate Bill No. 6231 was advanced to third reading,

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

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

#### MOTION

On motion of Senator Pridemore, Senator Shin was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6231.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6231 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Holmquist, McCaslin, Shin and Zarelli  
SUBSTITUTE SENATE BILL NO. 6231, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5668, by Senators Berkey, Schoesler, McCaslin, Benton and Marr

Restricting the use of consignment contracts in the sale of used manufactured/mobile homes.

#### MOTIONS

On motion of Senator Berkey, Substitute Senate Bill No. 5668 was substituted for Senate Bill No. 5668 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Berkey, the rules were suspended, Substitute Senate Bill No. 5668 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Berkey spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Delvin, Senator Hewitt was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5668.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5668 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline,

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Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom and Zarelli

Excused: Senators Holmquist, McCaslin and Shin

SUBSTITUTE SENATE BILL NO. 5668, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Honeyford: "Well, thank you Mr. President. I wanted to thank you for passing out this report to Washington State on the Boy Scouts and I'm sorry we don't have a resolution to honor them but today is February 8<sup>th</sup>, the 100<sup>th</sup> anniversary, the founding of Boy Scouts. Many of us remember the scout oath that we took, it'; On my honor, I'll do my best to do my duty for God and my country and obey the scout law. I think it's interesting to report, this report includes some of the work that they've done, this report that you gave us. They work on hunger, homelessness, and poor health and they have worked with Habitat for Humanity, the American Red Cross, The Salvation Army and this report points out that they've donated four hundred eighty-one thousand hours to volunteer work and that is valued at eight million dollars. Their programs reach seventeen percent of our youth, one of the largest programs in our state. So, thank you Mr. President, again like I said, I'm sorry we don't have a resolution in honor of them but at least we can recognize their contribution to our society."

#### SECOND READING

ENGROSSED SENATE BILL NO. 5617, by Senators Kauffman and McAuliffe

Changing early learning advisory council provisions.

The measure was read the second time.

#### MOTION

Senator Kauffman moved that the following striking amendment by Senator Kauffman be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.215.090 and 2007 c 394 s 3 are each amended to read as follows:

(1) The early learning advisory council is established to advise the department on statewide early learning (~~((community needs and progress))~~) issues that would build a comprehensive system of quality early learning programs and services for Washington's children and families by assessing needs and the availability of services, aligning resources, developing plans for data collection and professional development of early childhood educators, and establishing key performance measures.

(2) The council shall work in conjunction with the department to develop a statewide early learning plan that (~~((crosses systems and sectors to promote))~~) guides the department in promoting alignment of private and public sector actions, objectives, and resources, and ((to ensure)) ensuring school readiness.

(3) The council shall include diverse, statewide representation from public, nonprofit, and for-profit entities. Its membership shall reflect regional, racial, and cultural diversity to adequately represent the needs of all children and families in the state.

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(4) Councilmembers shall serve two-year terms. However, to stagger the terms of the council, the initial appointments for twelve of the members shall be for one year. Once the initial one-year to two-year terms expire, all subsequent terms shall be for two years, with the terms expiring on June 30th of the applicable year. The terms shall be staggered in such a way that, where possible, the terms of members representing a specific group do not expire simultaneously.

(5) The council shall consist of not more than ~~((twenty-five))~~ twenty-three members, as follows:

(a) The governor shall appoint at least one representative from each of the following: The department, the office of financial management, the department of social and health services, the department of health, the higher education coordinating board, and the state board for community and technical colleges;

(b) One representative from the office of the superintendent of public instruction, to be appointed by the superintendent of public instruction;

(c) The governor shall appoint ~~((at least))~~ seven leaders in early childhood education, with at least one representative with experience or expertise in each of the areas such as the following ~~((areas))~~: Children with disabilities, the K-12 system, family day care providers, and child care centers;

(d) Two members of the house of representatives, one from each caucus, and two members of the senate, one from each caucus, to be appointed by the speaker of the house of representatives and the president of the senate, respectively;

(e) Two parents, one of whom serves on the department's parent advisory council, to be appointed by the governor;

(f) ~~((Two))~~ One representative~~((s))~~ of the private-public partnership created in RCW 43.215.070, to be appointed by the partnership board;

(g) One representative designated by sovereign tribal governments; and

(h) One representative from the Washington federation of independent schools.

(6) The council shall be cochaired by one representative of a state agency and one nongovernmental member, to be elected by the council for two-year terms.

(7) Each member of the board shall be compensated in accordance with RCW 43.03.240 and reimbursed for travel expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060.

(8) The department shall provide staff support to the council."

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

#### MOTION

On motion of Senator Brandland, Senator Hewitt was excused.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Kauffman to Engrossed Senate Bill No. 5617.

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

#### MOTION

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

On page 1, line 1 of the title, after "council;" strike the remainder of the title and insert "and amending RCW 43.215.090."

#### MOTION

On motion of Senator Kauffman, the rules were suspended, Second Engrossed Senate Bill No. 5617 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Second Engrossed Senate Bill No. 5617.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Senate Bill No. 5617 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Hewitt, Holmquist, McCaslin and Shin

SECOND ENGROSSED SENATE BILL NO. 5617, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

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

#### THIRD READING

SUBSTITUTE SENATE BILL NO. 5383, by Senate Committee on Natural Resources, Ocean & Recreation (originally sponsored by Senators Morton, Jacobsen, Swecker, Stevens, Hargrove, Schoesler, Pflug and King).

Including a wolf-hybrid in the definition of a "potentially dangerous wild animal." Revised for 1st Substitute: Regarding wolf-hybrids.

The bill was read on Third Reading.

Senator Morton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5383.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5383 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 1; Absent, 0; Excused, 4.

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

Voting nay: Senator Prentice

Excused: Senators Hewitt, Holmquist, McCaslin and Shin

SUBSTITUTE SENATE BILL NO. 5383, having received the constitutional majority, was declared passed. There being no

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objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 12:11 p.m., on motion of Senator Eide, the Senate adjourned until 9:00 a.m. Tuesday, February 9, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**THIRTIETH DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Tuesday, February 9, 2010

The Senate was called to order at 9:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senator McCaslin.

The Sergeant at Arms Color Guard consisting of Pages Julia Brown and Jack Makin, presented the Colors. Pastor Brad Carlson of Yelm Prairie Christian Center offered the prayer.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

February 8, 2010

SB 6843 Prime Sponsor, Senator Prentice: Preserving essential public services by temporarily suspending the two-thirds vote requirement for tax increases and permanently modifying provisions of Initiative Measure No. 960 for improved efficiency and consistency with state budgeting. Reported by Committee on Ways & Means

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

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

Passed to Committee on Rules for second reading.

MOTION

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

MOTION

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

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

February 4, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON  
Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

PATRICIA T. LANTZ, appointed January 15, 2010, for the term ending December 31, 2014, as Member of the Parks and Recreation Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Natural Resources, Ocean & Recreation.

February 5, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

IRA SENGUPTA, reappointed December 9, 2009, for the term ending September 30, 2014, as Member, Board of Trustees, Renton Technical College District No. 27.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

MOTION

On motion of Senator Eide, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated.

MOTION

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

INTRODUCTION AND FIRST READING

SB 6851 by Senators Murray, Brown, Tom, Pridemore, Rockefeller, Kline, Oemig, Kauffman, McDermott, Gordon, Jacobsen, Keiser, Franklin, Fairley, McAuliffe, Eide, Fraser, Berkey, Shin, Kastama, Hargrove, Kohl-Welles, Regala and Prentice

AN ACT Relating to the clean water act of 2010 funding cleanup of water pollution and other programs necessary for the health and well- being of Washington citizens through an increase in the tax on hazardous substances; amending RCW 82.21.030; adding new sections to chapter 90.48 RCW; adding a new section to chapter 46.68 RCW; adding a new section to chapter 90.71 RCW; creating new sections; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 6852 by Senator Roach

AN ACT Relating to child protective services workers; and adding a new section to chapter 26.44 RCW.

Referred to Committee on Human Services & Corrections.

SB 6853 by Senators Rockefeller, Kastama, Tom, Regala, Gordon, Ranker, Prentice, Oemig, Keiser and Kline

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AN ACT Relating to creating the legislative review of tax preferences act of 2010.

Referred to Committee on Ways & Means.

SB 6854 by Senators Honeyford, Hewitt, King and Parlette

AN ACT Relating to modifying the sales and use tax exemptions for machinery and equipment; amending RCW 82.08.02565 and 82.12.02565; adding new sections to chapter 82.08 RCW; adding new sections to chapter 82.12 RCW; adding a new section to chapter 82.16 RCW; adding a new section to chapter 82.63 RCW; creating new sections; and providing expiration dates.

Referred to Committee on Ways & Means.

#### INTRODUCTION AND FIRST READING OF HOUSE BILLS

EHB 1139 by Representative Liias

AN ACT Relating to increasing the membership of public transportation benefit area authorities; and amending RCW 36.57A.050.

Referred to Committee on Transportation.

HB 1541 by Representatives Seaquist, Conway, Crouse and Simpson

AN ACT Relating to granting half-time service credit for half-time educational employment prior to January 1, 1987, in plans 2 and 3 of the school employees' retirement system and the public employees' retirement system; adding a new section to chapter 41.35 RCW; and adding a new section to chapter 41.40 RCW.

Referred to Committee on Ways & Means.

HB 1690 by Representatives Hasegawa, Hunt, Hudgins, Anderson and Kenney

AN ACT Relating to authorizing alternative public works contracting procedures; amending RCW 28B.20.140, 39.10.200, 39.10.230, 39.10.210, and 43.131.408; and creating a new section.

Referred to Committee on Government Operations & Elections.

HB 1785 by Representatives Armstrong, O'Brien, Condotta and Kelley

AN ACT Relating to the Washington state patrol chief for a day program; adding a new section to chapter 43.43 RCW; and creating a new section.

Referred to Committee on Transportation.

EHB 2360 by Representative Darneille

AN ACT Relating to consolidation of administrative services for AIDS grants in the department of health; amending RCW 70.24.400; and providing an effective date.

Referred to Committee on Ways & Means.

HB 2398 by Representatives Hunt and Armstrong

AN ACT Relating to election notices; amending RCW 29A.08.140 and 29A.32.260; adding a new section to chapter 29A.52 RCW; and repealing RCW 29A.52.311 and 29A.52.351.

Referred to Committee on Government Operations & Elections.

HB 2456 by Representatives Schmick, Springer, Short and Fagan

AN ACT Relating to population thresholds that determine the number of local councilmembers and receipt of local funds; amending RCW 35A.12.010 and 47.26.345; and creating a new section.

Referred to Committee on Government Operations & Elections.

ESHB 2464 by House Committee on Transportation (originally sponsored by Representatives Liias, Johnson, O'Brien, Morrell, Maxwell, Sullivan, Simpson, Van De Wege, Kenney, Ericks and Sells)

AN ACT Relating to approaching certain emergency, roadside assistance, or police vehicles in emergency zones; amending RCW 46.61.212, 46.63.020, 46.20.342, and 46.63.110; creating a new section; prescribing penalties; providing an effective date; and providing an expiration date.

Referred to Committee on Transportation.

HB 2490 by Representative Angel

AN ACT Relating to persons with intellectual disabilities; amending RCW 44.04.280, 10.95.030, 10.95.070, 10.95.130, 26.26.220, 28B.20.410, 28B.20.414, 39.32.010, 41.05.095, 43.20B.080, 43.190.020, 48.01.035, 70.10.010, 70.10.030, 70.41.020, 70.83.020, 70.83.040, 71.34.020, 71A.10.020, 74.09.035, 74.09.120, 74.09.510, 74.09.700, 74.29.010, 74.42.010, 74.42.490, 74.46.020, 82.65A.020, 82.65A.030, and 72.29.010; amending 1965 c 11 s 1 (uncodified); reenacting and amending RCW 13.34.030; and creating a new section.

Referred to Committee on Government Operations & Elections.

HB 2510 by Representatives Kelley, Rodne, Hurst, Bailey, Kirby, Simpson and Morrell

AN ACT Relating to authorizing public hospital districts to execute commonly accepted security instruments, as required to participate in federal programs that reduce the costs of financing the construction, rehabilitation, replacing, and equipping of hospitals or other health care facilities; and amending RCW 70.44.060.

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Referred to Committee on Financial Institutions, Housing & Insurance.

HB 3056 by Representatives Pearson, Hurst, Kessler, Klippert, Kirby, Kenney and Kelley

AN ACT Relating to pretrial release or detention; adding a new chapter to Title 10 RCW; and providing a contingent effective date.

Referred to Committee on Judiciary.

ESHJR 4220 by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Hope, Kelley, Green, Conway, Parker, Hurst, Campbell, Wallace, Orcutt, Simpson, Ericks, Ericksen, Van De Wege, Morrell, Takko, Appleton, Maxwell, Orwall, Pearson, Kirby, Sells, Kenney, Johnson, Dammeier, Roberts and McCune)

Amending the state Constitution so that the provision relating to bailable crimes by sufficient sureties is modified.

Referred to Committee on Judiciary.

MOTION

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

MOTION

At 9:08 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 10:40 a.m. by President Owen.

MOTION

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

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Pridemore moved that Gubernatorial Appointment No. 9020, Yang-Su Cho, as a member of the Board of Trustees, State School for the Blind, be confirmed.

Senator Pridemore spoke in favor of the motion.

MOTION

On motion of Senator Brandland, Senator McCaslin was excused.

MOTION

On motion of Senator Marr, Senator Brown was excused.

APPOINTMENT OF YANG-SU CHO

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9020, Yang-Su Cho as a member of the Board of Trustees, State School for the Blind.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9020, Yang-Su Cho as a member of the Board of Trustees, State School for the Blind and the appointment was confirmed by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator McCaslin

Gubernatorial Appointment No. 9020, Yang-Su Cho, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, State School for the Blind.

MOTION

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

THIRD READING

SUBSTITUTE SENATE BILL NO. 5704, by Senate Committee on Government Operations & Elections (originally sponsored by Senators Swecker, Becker, Stevens and Roach).

Concerning creation of a flood district by three or more counties.

The bill was read on Third Reading.

MOTION

On motion of Senator Swecker, the rules were suspended and Substitute Senate Bill No. 5704 was returned to second reading for the purpose of amendment.

SECOND READING

SUBSTITUTE SENATE BILL NO. 5704, by Senate Committee on Government Operations & Elections (originally sponsored by Senators Swecker, Becker, Stevens and Roach)

Concerning creation of a flood district by three or more counties.

The measure was read the second time.

MOTION

Senator Swecker moved that the following striking amendment by Senator Swecker be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 85.38.090 and 1991 c 349 s 12 are each amended to read as follows:

(1) Whenever the governing body of a special district has more than three members, the governing body shall be reduced to three

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members as of January 1, 1986, by eliminating the positions of those district governing body members with the shortest remaining terms of office. The remaining three governing body members shall have staggered terms with the one having the shortest remaining term having his or her position filled at the 1987 special district general election, the one with the next shortest remaining term having his or her position filled at the 1989 special district general election, and the one with the longest remaining term having his or her position filled at the 1992 special district general election. If any of these remaining three governing body members have identical remaining terms of office, the newly calculated remaining terms of these persons shall be determined by lot with the county auditor who assists the special district in its elections managing such lot procedure. The newly established terms shall be recorded by the county auditor.

(2) However, whenever five or more special districts have consolidated under chapter 85.36 RCW and the consolidated district has five members in its governing body on July 28, 1985, the consolidated district may adopt a resolution retaining a five-member governing body. At any time thereafter, such a district may adopt a resolution and reduce the size of the governing body to three members with the reduction occurring as provided in subsection (1) of this section, but the years of the effective dates shall be extended so that the reduction occurs at the next January 1st occurring after the date of the adoption of the resolution. Whenever a special district is so governed by a five-member governing body, two members shall be elected at each of two consecutive special district general elections, and one member shall be elected at the following special district general election, each to serve a six-year staggered term.

(3) Subsections (1) and (2) of this section do not apply to flood districts that contain three or more counties.

**NEW SECTION. Sec. 2.** A new section is added to chapter 85.38 RCW to read as follows:

The following applies to flood districts that contain three or more counties:

(1) The governing body shall include one member from each county and two additional governing members. No more than two governing members may be from one county.

(2) The initial members of the governing body must be chosen by each county legislative authority, with each county choosing one member, and the counties with the two largest populations within the special flood district choosing one member each. These initial governing body members shall serve until their successors are elected and qualified at the next special district general election.

(3) At this first election, the members receiving the two greatest number of votes shall serve six-year terms, the members receiving the third and fourth greatest number of votes shall serve four-year terms, and the remaining members shall serve two-year terms of office.

(4) The requirements for the filing period and method for filing declarations of candidacy for the governing body of the district and the arrangement of candidate names on the ballot for all special district elections conducted after the initial election in the district shall be the same as the requirements for the initial election in the district. No primary elections may be held for the governing body of a special district.

(5)(a) Whenever a vacancy occurs in the governing body, the legislative authority of the county within which the largest portion of the special flood district is located shall appoint a district voter to serve until a person is elected, at the next special district general election occurring sixty or more days after the vacancy has occurred, to serve the remainder of the unexpired term. The person so elected shall take office immediately when qualified as defined in RCW 29A.04.133.

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(b) If an election for the position which became vacant would otherwise have been held at this special district election, only one election shall be held and the person elected to fill the succeeding term for that position shall take office immediately when qualified as defined in RCW 29A.04.133 and shall serve both the remainder of the unexpired term and the succeeding term. A vacancy occurs upon the death, resignation, or incapacity of a governing body member or whenever the governing body member ceases being a qualified voter of the special district.

(6) An elected or appointed member of a special district governing body, or a candidate for a special district governing body, must be a qualified voter of the special district: PROVIDED, That the state, its agencies and political subdivisions, or their designees under RCW 85.38.010(3) shall not be eligible for election or appointment."

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

The President declared the question before the Senate to be the adoption of the amendment by Senator Swecker to Substitute Senate Bill No. 5704.

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

## MOTION

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

On page 1, line 2 of the title, after "counties;" strike the remainder of the title and insert "amending RCW 85.38.090; and adding a new section to chapter 85.38 RCW."

## MOTION

On motion of Senator Swecker, the rules were suspended, Engrossed Substitute Senate Bill No. 5704 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Swecker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5704.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5704 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 5704, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

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

MOTION

On motion of Senator Eide, Substitute Senate Bill No. 6240 was not substituted for Senate Bill No. 6240 and the substitute bill was not adopted.

SECOND READING

SENATE BILL NO. 6240, by Senators Keiser, Eide, Kauffman, Gordon and McDermott

Regulating joint underwriting associations.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** Availability of insurance for loss arising from flooding in the geographical area protected by any dam on the Green river is vital to the economy of the state of Washington. If adequate property insurance for loss arising from this flood is not available, the security of citizens' property and the viability of business operations and services are threatened. This chapter gives the commissioner authority to ensure continued availability of excess insurance to insure property at risk from, and business that is interrupted by, flood arising from the failure of a dam on the Green river or from efforts to prevent the failure of a dam on the Green river. The commissioner may establish a temporary joint underwriting association for excess flood insurance to insure property at risk from, and business that is interrupted by, flood arising from the failure of a dam on the Green river or from efforts to prevent the failure of a dam on the Green river if:

- (1) Excess flood insurance of a particular class or type is not available from the voluntary market; or
- (2) There are so few insurers selling excess flood insurance that a competitive market does not exist.

The commissioner may use appropriated funds as needed to establish and supervise the association.

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

(1) "Association" means a nonprofit underwriting association established under this chapter.

(2) "Board" means the governing board of the association.

(3) "Casualty insurance" has the same meaning as "general casualty insurance" in RCW 48.11.070. "Casualty insurance" does not include any type of:

- (a) Workers' compensation insurance;
- (b) Employers' liability insurance;
- (c) Nuclear liability insurance; or
- (d) Surety insurance.

(4) "Excess flood insurance" means insurance against loss, including business interruption, arising from flood that is in excess of the limit of liability insurance offered by the national flood insurance program.

(5) "Person" means a natural person, association, partnership, or corporation.

(6) "Property insurance" has the same meaning as in RCW 48.11.040 and does not include surety insurance.

**NEW SECTION. Sec. 3.** (1) The commissioner may create an association to provide excess flood insurance to insure property at risk from, and business that is interrupted by, flood arising from the failure of a dam on the Green river or from efforts to prevent the failure of a dam on the Green river if the requirements of this section are met.

(2) The commissioner must hold a hearing under chapters 48.04 and 34.05 RCW before forming an association.

(3) An association may not begin underwriting operations for excess flood or business interruption insurance until the commissioner finds that:

(a) If a market assistance plan formed under section 15 of this act finds that there are fewer than four admitted or surplus lines insurers offering excess flood insurance, exclusive of personal insurance, then the market assistance plan is inadequate to insure property at risk from, and business that is interrupted by, flood arising from the failure of a dam on the Green river or from efforts to prevent the failure of a dam on the Green river;

(b) Persons cannot buy excess flood insurance through the voluntary market; or

(c) There are so few insurers selling excess flood insurance that a competitive market does not exist.

(4) At a hearing to appeal the commissioner's finding that excess flood insurance is unavailable through the voluntary market or that a competitive market does not exist, the finding that four or more admitted or surplus lines insurers are offering excess flood insurance, exclusive of personal insurance, is prima facie evidence that a competitive market does exist. A decision of the commissioner, finding that excess flood insurance is unavailable through the market assistance plan, voluntary market, or that a competitive market does not exist, may be appealed under chapters 48.04 and 34.05 RCW.

**NEW SECTION. Sec. 4.** (1) The association may offer policies only as follows:

(a) The coverage of any one policy may not exceed five million dollars; and

(b) The total amount of all coverage offered by the association may never exceed two hundred fifty million dollars.

(2) The board, jointly with the commissioner, shall apportion policies within these limitations on an equitable basis.

**NEW SECTION. Sec. 5.** (1) If an association is formed, a person that is unable to obtain excess flood or business interruption insurance because it is unavailable in the voluntary market or because the market is not competitive is eligible to apply to an association for insurance.

(2) The association may decline to insure particular persons that present an extraordinary risk because of the nature of their operations, property condition, past claims experience, or inadequate risk management. However, the location of a property for which insurance is sought from the association must not, in and of itself, constitute an extraordinary risk.

(3) Any decision to decline coverage must be sent to the applicant and include:

(a) A statement of the actual reason for declination; and

(b) A statement that the applicant may appeal the decision to the commissioner.

(4) If the commissioner finds that the decision to decline coverage is not supported by the criteria in this section, the commissioner may require the association to provide coverage.

(5) A decision of the commissioner to provide or to decline to provide coverage under this may be appealed under chapters 48.04 and 34.05 RCW.

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**NEW SECTION. Sec. 6.** (1) The association is composed of all insurers that have a certificate of authority to write either casualty or property insurance, or both, in this state. Every property or casualty insurer, or both, must be a member of the association as a condition of its authority to continue to transact business in this state.

(2) The association has the general powers and limitations of a nonprofit corporation under chapter 24.03 RCW and of an insurance company under Title 48 RCW, as needed to transact its business.

(3) To the extent consistent with this chapter, the association and its member insurers are "persons" under chapter 48.30 RCW.

**NEW SECTION. Sec. 7.** (1) A governing board shall administer the association.

(2) The board and the commissioner shall work cooperatively to achieve the objectives of this chapter.

(3) The board may select and employ one or more persons to manage the operations of an association. Every managing person must be authorized to transact insurance in the state of Washington and have demonstrated expertise in excess flood insurance. The board may employ any advisors that the board deems necessary.

(4) The board must consist of seven persons appointed as set forth in this subsection.

(a) Three board members must be member insurers appointed by each of the following three trade associations: Property casualty insurers association of America, American insurance association, and national association of mutual insurance companies. At least one of the three insurers on the board must be a domestic insurer.

(b) Four board members must be residents of the state. One is appointed by the insurance commissioner. One is appointed by the King county council. One is appointed by the association of Washington cities, to represent one or more of the following municipal governments: Auburn, Kent, Renton, or Tukwila. One is appointed by the board of directors of the center for advanced manufacturing Puget Sound. None of the resident-appointees may be employed by, serve on the board of directors of, or have a substantial ownership interest in any insurer.

(c) Original board members must be appointed to serve an initial term of three years and may be appointed for a second term. Board members may serve consecutive terms. Successor board members must be appointed as soon as possible subject to (a) and (b) of this subsection.

(5) The commissioner shall notify the members of the board if he or she has information that any board member is dishonest, reckless, or incompetent or is failing to perform any duty of his or her office, and the board shall meet immediately to consider the matter. The commissioner must receive notice of the time and place of this meeting. If the board finds by a majority of the board members, with the accused board member not voting on this matter, that the commissioner's objection is well-founded, the accused board member shall be removed immediately. The successor of a board member removed under this section must be appointed as soon as possible subject to subsection (4) of this section.

(6) All members of the board shall conduct the business of the association in a manner that is in the interest of all policyholders of the association. Board members stand in a fiduciary relationship to the association and must discharge their duties in good faith and with that diligence, care, and skill that ordinary, prudent persons would exercise under similar circumstances in a like position.

(7) Each person serving on the board or any subcommittee thereof, each member insurer of the association, and each officer and employee of the association must be indemnified by the association against all costs and expenses actually and necessarily incurred by him, her, or it in connection with the defense of any action, suit, or proceeding in which he, she, or it is made a party by reason of his, her, or its being or having been a member of the board,

or a member or officer or employee of the association, except in relation to matters as to which he, she, or it has been judged in such action, suit, or proceeding to be liable by reason of willful misconduct in the performance of his, her, or its duties as a member of the board, or member, officer, or employee of the association. This indemnification is not exclusive of other rights as to which the member, officer, or employee may be entitled as a matter of law.

(8) Members of the board may be reimbursed by the association for actual and necessary expenses incurred to attend meetings.

**NEW SECTION. Sec. 8.** (1) The board must adopt a plan of operation within thirty days of its appointment.

(2) The plan of operation may take effect only after it has been reviewed by the commissioner. Any changes recommended by the commissioner must be either approved by a majority of the members of the board or a written statement of the board's reasons for rejection of any provision provided to the commissioner. The commissioner may continue to consult with the board to arrive at a plan of operation that is approved by both the commissioner and the board, or the commissioner may accept the plan of operation of the board. This process must conclude with a plan of operation accepted by the board within thirty days of the first board appointed under this act.

(a) The plan of operation may be amended by agreement of a majority of the members of the board and the commissioner.

(b) The association must use rates that are demonstrably sound as compared to accepted actuarial standards. At the time of filing with the commissioner, the rates must be accompanied by an actuarial analysis. The rates must comply with chapter 48.19 RCW and be approved by the commissioner.

**NEW SECTION. Sec. 9.** The association must file a statement annually with the commissioner that contains information about the association's transactions, financial condition, and operations during the preceding year. The statement must be in the form and in a manner approved by the commissioner. The association must maintain its records according to the accounting practices and procedures manual adopted by the national association of insurance commissioners. The commissioner may require the association to furnish additional information if the commissioner considers it necessary to evaluate the scope, operation, and experience of the association.

**NEW SECTION. Sec. 10.** (1) The commissioner may examine the transactions, financial condition, and operations of the association when the commissioner finds it necessary in order to carry out the purposes of this chapter. Except as set forth in subsections (2) and (3) of this section, each examination must be conducted in the manner prescribed for domestic insurance companies in chapter 48.03 or 48.37 RCW.

(2) The commissioner is not required to examine any association on a prescribed cycle or schedule.

(3) An association created under this chapter is responsible for the total costs of its financial and market conduct examinations. RCW 48.03.060 (1) and (2) and 48.37.060(14) (a) and (b) are not applicable to the examination of an association created under this chapter.

**NEW SECTION. Sec. 11.** (1) The association is not a member of the guaranty fund created under chapter 48.32 RCW. The guaranty fund, this state, and any political subdivisions are not responsible for losses sustained by the association.

(2) The association is exempt from payment of all fees and all taxes levied by the state or any of its subdivisions, except taxes levied on real or personal property.

**NEW SECTION. Sec. 12.** (1) The association is funded by premiums paid by persons insured by the association.

(a) All premiums for the association must be deposited into a fund or funds under management of the board.

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(b) Premiums must be used to pay claims, administrative costs, and other expenses of the association.

(2) The association may assess its members to pay past and future financial obligations of the association, not funded by premiums.

(3) If the association makes an assessment, an assessed insurer must pay the association within thirty days after it receives notice of the assessment. If an insurer does not pay an assessment within thirty days after it receives notice of the assessment:

(a) The assessment accrues interest at the maximum legal rate until it is paid in full. The interest is paid to the association;

(b) The association may collect the assessment in a civil action and must be awarded its attorneys' fees if it prevails;

(c) The commissioner may suspend, revoke, or refuse to renew an insurer's certificate of authority; and

(d) The commissioner may fine the insurer up to ten thousand dollars.

(4) This section may be enforced under RCW 48.02.080.

**NEW SECTION. Sec. 13.** (1) The association may operate for a period of five years. At the end of the five-year period, the association must be dissolved unless the legislature authorizes its continued operation.

(2) If, at any time, the commissioner or the board of directors holds a hearing under chapters 48.04 and 34.05 RCW and determines that excess flood and business interruption insurance is available through a market assistance plan, in the voluntary market, or that a competitive market exists, the commissioner must order the association to end its underwriting operations.

(3) If the commissioner or the board of directors orders the association to end all underwriting operations, the commissioner must supervise the dissolution of the association, including settlement of all financial and legal obligations and distribution of any remaining assets as follows:

(a) If there has been an assessment on the members of the association, and after all creditors of the association are paid in full, then to the member insurers in a proportional manner and as determined by rule by the commissioner; or

(b) If there has not been an assessment on the members of the association, or if there are funds remaining after distribution under (a) of this subsection and after all creditors of the association are paid in full, then to the policyholders in a proportional manner and as determined by rule by the commissioner.

**NEW SECTION. Sec. 14.** The commissioner may adopt all rules needed to implement and administer this chapter and to ensure the efficient operation of the association, including but not limited to rules:

(1) Creating sample plans of operation for the assistance of the board;

(2) Requiring or limiting certain policy provisions;

(3) Containing the basis and method for assessing members for operation of the association; and

(4) Establishing the order in which the assets of the association that is dissolved by the commissioner must be distributed.

**NEW SECTION. Sec. 15.** (1) The commissioner must by rule require insurers authorized to write property insurance in this state to form a market assistance plan to assist persons located in the geographical area protected by any dam on the Green river that are unable to purchase excess flood or business interruption insurance in an adequate amount from either the admitted or nonadmitted market.

(2) For the purpose of this section, a market assistance plan means a voluntary mechanism by insurers writing property insurance in this state in either the admitted or nonadmitted market to provide excess flood or business interruption insurance for a class

of insurance as designated in writing to the plan by the commissioner.

(3) The bylaws and method of operation of any market assistance plan must be approved by the commissioner prior to its operation.

(4) A market assistance plan must have a minimum of twenty-five insurers willing to insure risks within the class designated by the commissioner. If twenty-five insurers do not voluntarily agree to participate, the commissioner may require either property or property and casualty, or both, insurers to participate in a market assistance plan as a condition of continuing to do business in this state. The commissioner must make this requirement to fulfill the quota of at least twenty-five insurers. The commissioner must make his or her designation on the basis of the insurer's premium volume of property insurance in this state.

**NEW SECTION. Sec. 16.** The board and the commissioner shall report to the respective committees of the house of representatives and senate having jurisdiction over the insurance code by January 31, 2011, and each subsequent January 31st of each year that the association remains in existence.

**Sec. 17.** RCW 48.15.040 and 1983 1st ex.s. c 32 s 4 are each amended to read as follows:

If certain insurance coverages cannot be procured from authorized insurers, such coverages, hereinafter designated as "surplus lines," may be procured from unauthorized insurers subject to the following conditions:

(1) The insurance must be procured through a licensed surplus line broker.

(2) The insurance must not be procurable, after diligent effort has been made to do so from among a majority of the insurers authorized to transact that kind of insurance in this state.

(3) Coverage shall not be procured from an unauthorized insurer for the purpose of securing a lower premium rate than would be accepted by any authorized insurer nor to secure any other competitive advantage.

(4) The commissioner may by regulation establish the degree of effort required to comply with subsections (2) and (3) of this section.

(5) At the time of the procuring of any such insurance an affidavit setting forth the facts referred to in subsections (2) and (3) of this section must be executed by the surplus line broker. Such affidavit shall be filed with the commissioner within thirty days after the insurance is procured.

(6) For purposes of chapter 48.-- RCW (the new chapter created in section 18 of this act), a joint underwriting association established or authorized by the legislature is not an authorized insurer.

**NEW SECTION. Sec. 18.** Sections 1 through 16 of this act constitute a new chapter in Title 48 RCW.

**NEW SECTION. Sec. 19.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

**NEW SECTION. Sec. 20.** This act expires December 31, 2016."

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

Senator Schoesler spoke against adoption of the striking amendment.

MOTION

Senator Pflug, moved that further consideration of Senate Bill No. 6240 be deferred and the bill hold its place on the second reading calendar.

Senators Eide and Keiser spoke against the motion to defer. Senator Roach spoke in favor of the motion to defer.

The President declared the question before the Senate to be the motion by Senator Pflug that further consideration of Senate Bill No. 6240 be deferred.

The motion by Senator Pflug did not carry by voice vote.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Eide and others to Senate Bill No. 6240.

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

#### MOTION

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

On page 1, line 1 of the title, after "associations;" strike the remainder of the title and insert "amending RCW 48.15.040; adding a new chapter to Title 48 RCW; providing an expiration date; and declaring an emergency."

#### MOTION

On motion of Senator Eide, the rules were suspended, Engrossed Senate Bill No. 6240 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

Senators Schoesler and Pflug spoke against passage of the bill.

#### POINT OF INQUIRY

Senator Benton: "Would the lady from the Thirty-Fifth yield to a question? I'm sorry, Thirty-Third, Mr. President. Senator, can I clarify in your statement and I was trying to listen very closely but I wanted to make sure. I thought I heard you say that it no longer spreads the risk across the entire state. Is that correct? That it's limited now in the bill?"

Senator Keiser: "The joint underwriting association is limited to the Green River Valley. That's where the market assistance plant will be limited to, as well as, if there needs to be a JUA, the businesses that could be part of the JUA and pay premiums to the JUA would be only in the Kent Valley. But the risk, I am saying, is spread across all of us. We all share the risk. Our economy shares the risk. We all share the risk if there is catastrophic flooding. Hopefully there won't be."

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6240.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6240 and the bill passed the Senate by the following vote: Yeas, 30; Nays, 18; Absent, 0; Excused, 1.

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

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, Marr, Morton, Parlette, Pflug, Schoesler, Sheldon, Stevens, Swecker and Zarelli  
Excused: Senator McCaslin

ENGROSSED SENATE BILL NO. 6240, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION TO LIMIT DEBATE

Senator Eide: "Mr. President, I move that the members of the Senate be allowed to speak but once on each question before the Senate, that such speech be limited to three minutes and that members be prohibited from yielding their time, however, the maker of a motion shall be allowed to open and close debate. This motion shall be in effect through February 9, 2010."

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

The motion by Senator Eide carried and debate was limited through February 9, 2010 by voice vote.

#### REMARKS BY THE PRESIDENT

President Owen: "The President would note that he has acquired a new timer to make sure that we're accurate in our debates. ... Oh yeah, it's perfectly within time. Yeah, Mine."

#### PERSONAL PRIVILEGE

Senator Hewitt: "So, I'm wondering, do you have two of those so if we stop debate half way do we have to tip it upside down and wait for the, this high tech thing to end up so we can then go on with debate. How does this work?"

#### REPLY BY THE PRESIDENT

President Owen: "We'll cross that bridge when we get to it Senator."

#### SECOND READING

SENATE BILL NO. 6286, by Senators Kline, Haugen, Tom, Keiser, Kauffman and McDermott

Concerning the liability and powers of cities and flood control zone districts.

#### MOTION

On motion of Senator Kline, Substitute Senate Bill No. 6286 was substituted for Senate Bill No. 6286 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

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

On page 1, line 6, after "city," insert "diking district,"

On page 1, line 11, after "cities," insert "diking district or districts,"

Senator Haugen spoke in favor of adoption of the amendment.

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The President declared the question before the Senate to be the adoption of the amendment by Senator Haugen on page 1, line 6 to Substitute Senate Bill No. 6286.

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

#### MOTION

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

On page 1, line 1 of the title, after "cities" insert ", diking districts,"

#### MOTION

On motion of Senator Kline, the rules were suspended, Engrossed Substitute Senate Bill No. 6286 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kline and Swecker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6286.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6286 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6286, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2998, by House Committee on Ways & Means (originally sponsored by Representatives Seaquist, Armstrong, Hunt, Kessler, Wallace, Conway and Darneille)

Suspending certain monetary awards and salary increases.

The measure was read the second time.

#### MOTION

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

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** The legislature finds that the current economic crisis is requiring sacrifices by citizens and businesses all across the state. The legislature acknowledges the

sacrifices also being made by the many state employees who have volunteered for unpaid furlough days including those, such as our ferry workers, who volunteered for pay freezes. The recession requires us to continue to find every possible cost savings while striving to continue to deliver key services to our citizens. Therefore, the legislature finds it necessary to immediately suspend recognition awards given to state employees. Until the economic climate permits the resumption of appropriate cash awards, the legislature encourages supervisors throughout state agencies to look for nonmonetary ways to acknowledge outstanding contributions to Washington's citizens by our state's civil servants.

**Sec. 2.** RCW 41.06.070 and 2009 c 33 s 36 and 2009 c 5 s 1 are each reenacted and amended to read as follows:

(1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;

(m) The public printer or to any employees of or positions in the state printing plant;

(n) Officers and employees of the Washington state fruit commission;

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(o) Officers and employees of the Washington apple commission;

(p) Officers and employees of the Washington state dairy products commission;

(q) Officers and employees of the Washington tree fruit research commission;

(r) Officers and employees of the Washington state beef commission;

(s) Officers and employees of the Washington grain commission;

(t) Officers and employees of any commission formed under chapter 15.66 RCW;

(u) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

(v) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

(w) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(x) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

(y) All employees of the marine employees' commission;

(z) Staff employed by the department of (~~community, trade, and economic development~~) commerce to administer energy policy functions and manage energy site evaluation council activities under RCW 43.21F.045(2)(m);

(aa) Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(c) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the director of personnel may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the director of personnel stating the reasons for requesting such exemptions. The director of personnel shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the director determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the director of personnel shall grant the request and such determination shall be final as to any decision made before July 1, 1993. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through (v) and (y) and (2) of this section, shall be determined by the director of personnel. Changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

For the twelve months following February 18, 2009, a salary or wage increase shall not be granted to any position exempt from classification under this chapter.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

From the effective date of this section until June 30, 2011, no monetary performance-based awards or incentives may be granted by the director or employers to employees covered by rules adopted under this section. This subsection does not prohibit the payment of awards provided for in chapter 41.60 RCW.

**Sec. 3.** RCW 41.06.133 and 2009 c 534 s 2 and 2009 c 5 s 2 are each reenacted and amended to read as follows:

(1) The director shall adopt rules, consistent with the purposes and provisions of this chapter and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

(a) The reduction, dismissal, suspension, or demotion of an employee;

(b) Training and career development;

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(c) Probationary periods of six to twelve months and rejections of probationary employees, depending on the job requirements of the class, except that entry level state park rangers shall serve a probationary period of twelve months;

(d) Transfers;

(e) Promotional preferences;

(f) Sick leaves and vacations;

(g) Hours of work;

(h) Layoffs when necessary and subsequent reemployment, except for the financial basis for layoffs;

(i) The number of names to be certified for vacancies;

(j) Adoption and revision of a state salary schedule to reflect the prevailing rates in Washington state private industries and other governmental units. The rates in the salary schedules or plans shall be increased if necessary to attain comparable worth under an implementation plan under RCW 41.06.155 and, for institutions of higher education and related boards, shall be competitive for positions of a similar nature in the state or the locality in which an institution of higher education or related board is located. Such adoption and revision is subject to approval by the director of financial management in accordance with chapter 43.88 RCW;

(k) Increment increases within the series of steps for each pay grade based on length of service for all employees whose standards of performance are such as to permit them to retain job status in the classified service. For the twelve months following February 18, 2009, a salary or wage increase shall not be granted to any exempt position under this chapter;

(l) Optional lump sum relocation compensation approved by the agency director, whenever it is reasonably necessary that a person make a domiciliary move in accepting a transfer or other employment with the state. An agency must provide lump sum compensation within existing resources. If the person receiving the relocation payment terminates or causes termination with the state, for reasons other than layoff, disability separation, or other good cause as determined by an agency director, within one year of the date of the employment, the state is entitled to reimbursement of the lump sum compensation from the person;

(m) Providing for veteran's preference as required by existing statutes, with recognition of preference in regard to layoffs and subsequent reemployment for veterans and their surviving spouses by giving such eligible veterans and their surviving spouses additional credit in computing their seniority by adding to their unbroken state service, as defined by the director, the veteran's service in the military not to exceed five years. For the purposes of this section, "veteran" means any person who has one or more years of active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who, upon termination of such service, has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge shall be given. However, the surviving spouse of a veteran is entitled to the benefits of this section regardless of the veteran's length of active military service. For the purposes of this section, "veteran" does not include any person who has voluntarily retired with twenty or more years of active military service and whose military retirement pay is in excess of five hundred dollars per month.

(2) Rules adopted under this section by the director shall provide for local administration and management by the institutions of higher education and related boards, subject to periodic audit and review by the director.

(3) Rules adopted by the director under this section may be superseded by the provisions of a collective bargaining agreement negotiated under RCW 41.80.001 and 41.80.010 through 41.80.130. The supersession of such rules shall only affect employees in the respective collective bargaining units.

(4)(a) The director shall require that each state agency report annually the following data:

(i) The number of classified, Washington management service, and exempt employees in the agency and the change compared to the previous report;

(ii) The number of bonuses and performance-based incentives awarded to agency staff and the base wages of such employees; and

(iii) The cost of each bonus or incentive awarded.

(b) A report that compiles the data in (a) of this subsection for all agencies will be provided annually to the governor and the appropriate committees of the legislature and must be posted for the public on the department of personnel's agency web site.

(5) From the effective date of this section until June 30, 2011, no monetary performance-based awards or incentives may be granted by the director or employers to employees covered by rules adopted under this section. This subsection does not prohibit the payment of awards provided for in chapter 41.60 RCW.

**Sec. 4.** RCW 41.06.500 and 2009 c 5 s 3 are each amended to read as follows:

(1) Except as provided in RCW 41.06.070, notwithstanding any other provisions of this chapter, the director is authorized to adopt, after consultation with state agencies and employee organizations, rules for managers as defined in RCW 41.06.022. These rules shall not apply to managers employed by institutions of higher education or related boards or whose positions are exempt. The rules shall govern recruitment, appointment, classification and allocation of positions, examination, training and career development, hours of work, probation, certification, compensation, transfer, affirmative action, promotion, layoff, reemployment, performance appraisals, discipline, and any and all other personnel practices for managers. These rules shall be separate from rules adopted for other employees, and to the extent that the rules adopted under this section apply only to managers shall take precedence over rules adopted for other employees, and are not subject to review by the board.

(2) In establishing rules for managers, the director shall adhere to the following goals:

(a) Development of a simplified classification system that facilitates movement of managers between agencies and promotes upward mobility;

(b) Creation of a compensation system that provides flexibility in setting and changing salaries, and shall require review and approval by the director in the case of any salary changes greater than five percent proposed for any group of employees;

(c) Establishment of a performance appraisal system that emphasizes individual accountability for program results and efficient management of resources; effective planning, organization, and communication skills; valuing and managing workplace diversity; development of leadership and interpersonal abilities; and employee development;

(d) Strengthening management training and career development programs that build critical management knowledge, skills, and abilities; focusing on managing and valuing workplace diversity; empowering employees by enabling them to share in workplace decision making and to be innovative, willing to take risks, and able to accept and deal with change; promoting a workplace where the overall focus is on the recipient of the government services and how these services can be improved; and enhancing mobility and career advancement opportunities;

(e) Permitting flexible recruitment and hiring procedures that enable agencies to compete effectively with other employers, both

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public and private, for managers with appropriate skills and training; allowing consideration of all qualified candidates for positions as managers; and achieving affirmative action goals and diversity in the workplace;

(f) Providing that managers may only be reduced, dismissed, suspended, or demoted for cause; and

(g) Facilitating decentralized and regional administration.

(3) For the twelve months following February 18, 2009, a salary or wage increase shall not be granted to any position under this section.

(4) From the effective date of this section until June 30, 2011, no monetary performance-based awards or growth and development progression adjustments may be granted by the director or employers to the Washington management service employees covered by the rules adopted under this section. This subsection does not prohibit the payment of awards provided for in chapter 41.60 RCW.

**Sec. 5.** RCW 43.180.080 and 1997 c 163 s 1 are each amended to read as follows:

In addition to other powers and duties specified in this chapter, the commission may:

(1) Establish in resolutions relating to any issuance of bonds, or in any financing documents relating to such issuance, such standards and requirements applicable to the purchase of mortgages and mortgage loans or the making of loans to mortgage lenders as the commission deems necessary or desirable, including but not limited to: (a) The time within which mortgage lenders must make commitments and disbursements for mortgages or mortgage loans; (b) the location and other characteristics of single-family housing or multifamily housing to be financed by mortgages and mortgage loans; (c) the terms and conditions of mortgages and mortgage loans to be acquired; (d) the amounts and types of insurance coverage required on mortgages, mortgage loans, and bonds; (e) the representations and warranties of mortgage lenders confirming compliance with such standards and requirements; (f) restrictions as to interest rate and other terms of mortgages or mortgage loans or the return realized therefrom by mortgage lenders; (g) the type and amount of collateral security to be provided to assure repayment of any loans from the commission and to assure repayment of bonds; and (h) any other matters related to the purchase of mortgages or mortgage loans or the making of loans to lending institutions as shall be deemed relevant by the commission;

(2) Sue and be sued in its own name;

(3) Make and execute contracts and all other instruments necessary or convenient for the exercise of its purposes or powers, including but not limited to contracts or agreements for the origination, servicing, and administration of mortgages or mortgage loans, and the borrowing of money;

(4) Procure such insurance, including but not limited to insurance: (a) Against any loss in connection with its property and other assets, including but not limited to mortgages or mortgage loans, in such amounts and from such insurers as the commission deems desirable, and (b) to indemnify members of the commission for acts done in the course of their duties;

(5) Provide for the investment of any funds, including funds held in reserve, not required for immediate disbursement, and provide for the selection of investments;

(6) Fix, revise, and collect fees and charges in connection with the investigation and financing of housing or in connection with assignments, contracts, purchases of mortgages or mortgage loans, or any other actions permitted under this chapter or by the commission; and receive grants and contributions;

(7) Make such expenditures as are appropriate for paying the administrative costs of the commission and for carrying out the provisions of this chapter. These expenditures may be made only

from funds consisting of the commission's receipts from fees and charges, grants and contributions, the proceeds of bonds issued by the commission, and other revenues; these expenditures shall not be made from funds of the state of Washington;

(8) Establish such special funds, and controls on deposits to and disbursements from them, as it finds convenient for the implementation of this chapter;

(9) Conduct such investigations and feasibility studies as it deems appropriate;

(10) Proceed with foreclosure actions or accept deeds in lieu of foreclosure together with the assignments of leases and rentals incidental thereto. Any properties acquired by the commission through such actions shall be sold as soon as practicable through persons licensed under chapter 18.85 RCW or at public auction, or by transfer to a public agency. In preparation for the disposition of the properties, the commission may own, lease, clear, construct, reconstruct, rehabilitate, repair, maintain, manage, operate, assign, or encumber the properties;

(11) Take assignments of leases and rentals;

(12) Subject to any provisions of the commission's contracts with the holders of obligations of the commission, consent to any modification with respect to rate of interest, time, and payment of any installment of principal or interest or any other term of any contract, mortgage, mortgage loan, mortgage loan commitment, contract, or agreement of any kind;

(13) Subject to provisions of the commission's contracts with the holders of bonds, permit the reduction of rental or carrying charges to persons unable to pay the regular rent or schedule of charges if, by reason of other income of the commission or by reason of payment by any department, agency, or instrumentality of the United States or of this state, the reduction can be made without jeopardizing the economic stability of the housing being financed;

(14) Sell, at public or private sale, with or without public bidding, any mortgage, mortgage loan, or other instrument or asset held by the commission;

(15) Employ, contract with, or engage engineers, architects, attorneys, financial advisors, bond underwriters, mortgage lenders, mortgage administrators, housing construction or financing experts, other technical or professional assistants, and such other personnel as are necessary. The commission may delegate to the appropriate persons the power to execute legal instruments on its behalf;

(16) Receive contributions or grants from any source unless otherwise prohibited;

(17) Impose covenants running with the land in order to satisfy and enforce the requirements of applicable state and federal law and commission policy with respect to housing or other facilities financed by the commission or assisted by federal, state, or local programs administered by the commission, by executing and recording regulatory agreements or other covenants between the commission and the person or entity to be bound. These regulatory agreements and covenants shall run with the land and be enforceable by the commission or its successors or assigns against the person or entity making the regulatory agreement or covenants or its successors or assigns, even though there may be no privity of estate or privity of contract between the commission or its successors or assigns and the person or entity against whom enforcement is sought. The term of any such covenant shall be set forth in the recorded agreement containing the covenant. This subsection shall apply to regulatory agreements and covenants previously entered into by the commission as well as regulatory agreements and covenants entered into by the commission on or after July 27, 1997;

(18) Delegate any of its powers and duties if consistent with the purposes of this chapter;

(19) Exercise any other power reasonably required to implement the purposes of this chapter.

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From the effective date of this section through June 30, 2011, neither the commission nor its designees may grant any monetary performance-based awards or incentives to any employee. This subsection does not prohibit the payment of awards provided for in chapter 41.60 RCW.

**NEW SECTION. Sec. 6.** A new section is added to chapter 41.06 RCW to read as follows:

From the effective date of this section until June 30, 2011, no monetary performance-based awards or incentives may be granted by the director or employers to employees covered by rules adopted under this section. This section does not prohibit the payment of awards provided for in chapter 41.60 RCW.

**NEW SECTION. Sec. 7.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Substitute House Bill No. 2998.

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

#### MOTION

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

On page 1, line 2 of the title, after "increases;" strike the remainder of the title and insert "amending RCW 41.06.500 and 43.180.080; reenacting and amending RCW 41.06.070 and 41.06.133; adding a new section to chapter 41.06 RCW; creating a new section; and declaring an emergency."

#### MOTION

On motion of Senator Tom, the rules were suspended, Substitute House Bill No. 2998 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2998 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2998 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 2998 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2921, by House Committee on Ways & Means (originally sponsored by Representatives Linville, Darneille, Ericks, Pettigrew, Probst, Haigh, Sullivan, Kelley and Wallace)

Capturing additional savings. Revised for 1st Substitute: Making 2010 supplemental operating appropriations.

The measure was read the second time.

#### MOTION

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

On page 96, line 34, after "activities," insert "where the costs are for the review and research conducted by the joint transportation committee pursuant to RCW 44.04.300,"

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 2921.

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

#### MOTION

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

On page 98, line 28, after "director of financial management" and before the period, insert "or the director's designee"

The President declared the question before the Senate to be the adoption of the amendment by Senator Tom on page 98, line 28 to Engrossed Substitute House Bill No. 2921.

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

#### MOTION

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

On page 99, after 14, insert the following:

"(5) Sections 601 through 604 of this act do not apply to agricultural commodity commissions and boards, and agricultural inspection programs operated by the department of agriculture."

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 2921.

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

#### MOTION

On motion of Senator Tom, the rules were suspended, Engrossed Substitute House Bill No. 2921 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

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Senator King spoke on final passage.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2921 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2921 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

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

Voting nay: Senators Honeyford, King and Roach

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2921 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

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

#### MESSAGE FROM THE HOUSE

January 28, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6382 with the following amendment(s): 6382-S AMH ENGR H4808.E Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 41.06.070 and 2009 c 33 s 36 and 2009 c 5 s 1 are each reenacted and amended to read as follows:

(1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by

the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;

(m) The public printer or to any employees of or positions in the state printing plant;

(n) Officers and employees of the Washington state fruit commission;

(o) Officers and employees of the Washington apple commission;

(p) Officers and employees of the Washington state dairy products commission;

(q) Officers and employees of the Washington tree fruit research commission;

(r) Officers and employees of the Washington state beef commission;

(s) Officers and employees of the Washington grain commission;

(t) Officers and employees of any commission formed under chapter 15.66 RCW;

(u) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

(v) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

(w) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(x) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

(y) All employees of the marine employees' commission;

(z) Staff employed by the department of ~~((community, trade, and economic development))~~ commerce to administer energy policy functions and manage energy site evaluation council activities under RCW 43.21F.045(2)(m);

(aa) Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

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(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(c) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the director of personnel may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the director of personnel stating the reasons for requesting such exemptions. The director of personnel shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the director determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the director of personnel shall grant the request and such determination shall be final as to any decision made before July 1, 1993. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through (v) and (y) and (2) of this section, shall be determined by the director of personnel. Changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

~~((For the twelve months following))~~ From February 18, 2009, through June 30, 2011, a salary or wage increase shall not be granted

to any position exempt from classification under this chapter, except that a salary or wage increase may be granted to employees pursuant to collective bargaining agreements negotiated under chapters 28B.52, 41.56, 47.64, or 41.76 RCW, or negotiated by the nonprofit corporation formed under chapter 67.40 RCW, and except that increases may be granted for positions for which the employer has demonstrated difficulty retaining qualified employees if the following conditions are met:

(a) The salary increase can be paid within existing resources; and

(b) The salary increase will not adversely impact the provision of client services.

Any agency granting a salary increase from the effective date of this section through June 30, 2011, to a position exempt from classification under this chapter shall submit a report to the fiscal committees of the legislature no later than July 31, 2011, detailing the positions for which salary increases were granted, the size of the increases, and the reasons for giving the increases.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

**Sec. 2.** RCW 41.06.133 and 2009 c 534 s 2 and 2009 c 5 s 2 are each reenacted and amended to read as follows:

(1) The director shall adopt rules, consistent with the purposes and provisions of this chapter and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

(a) The reduction, dismissal, suspension, or demotion of an employee;

(b) Training and career development;

(c) Probationary periods of six to twelve months and rejections of probationary employees, depending on the job requirements of the class, except that entry level state park rangers shall serve a probationary period of twelve months;

(d) Transfers;

(e) Promotional preferences;

(f) Sick leaves and vacations;

(g) Hours of work;

(h) Layoffs when necessary and subsequent reemployment, except for the financial basis for layoffs;

(i) The number of names to be certified for vacancies;

(j) Adoption and revision of a state salary schedule to reflect the prevailing rates in Washington state private industries and other governmental units. The rates in the salary schedules or plans shall be increased if necessary to attain comparable worth under an implementation plan under RCW 41.06.155 and, for institutions of higher education and related boards, shall be competitive for positions of a similar nature in the state or the locality in which an institution of higher education or related board is located. Such adoption and revision is subject to approval by the director of financial management in accordance with chapter 43.88 RCW;

(k) Increment increases within the series of steps for each pay grade based on length of service for all employees whose standards

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of performance are such as to permit them to retain job status in the classified service. ~~((For the twelve months following))~~ From February 18, 2009, through June 30, 2011, a salary or wage increase shall not be granted to any exempt position under this chapter, except that a salary or wage increase may be granted to employees pursuant to collective bargaining agreements negotiated under chapters 28B.52, 41.56, 47.64, or 41.76 RCW, or negotiated by the nonprofit corporation formed under chapter 67.40 RCW, and except that increases may be granted for positions for which the employer has demonstrated difficulty retaining qualified employees if the following conditions are met:

(i) The salary increase can be paid within existing resources; and

(ii) The salary increase will not adversely impact the provision of client services;

Any agency granting a salary increase from the effective date of this section through June 30, 2011, to a position exempt under this chapter shall submit a report to the fiscal committees of the legislature no later than July 31, 2011, detailing the positions for which salary increases were granted, the size of the increases, and the reasons for giving the increases.

(l) Optional lump sum relocation compensation approved by the agency director, whenever it is reasonably necessary that a person make a domiciliary move in accepting a transfer or other employment with the state. An agency must provide lump sum compensation within existing resources. If the person receiving the relocation payment terminates or causes termination with the state, for reasons other than layoff, disability separation, or other good cause as determined by an agency director, within one year of the date of the employment, the state is entitled to reimbursement of the lump sum compensation from the person;

(m) Providing for veteran's preference as required by existing statutes, with recognition of preference in regard to layoffs and subsequent reemployment for veterans and their surviving spouses by giving such eligible veterans and their surviving spouses additional credit in computing their seniority by adding to their unbroken state service, as defined by the director, the veteran's service in the military not to exceed five years. For the purposes of this section, "veteran" means any person who has one or more years of active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who, upon termination of such service, has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge shall be given. However, the surviving spouse of a veteran is entitled to the benefits of this section regardless of the veteran's length of active military service. For the purposes of this section, "veteran" does not include any person who has voluntarily retired with twenty or more years of active military service and whose military retirement pay is in excess of five hundred dollars per month.

(2) Rules adopted under this section by the director shall provide for local administration and management by the institutions of higher education and related boards, subject to periodic audit and review by the director.

(3) Rules adopted by the director under this section may be superseded by the provisions of a collective bargaining agreement negotiated under RCW 41.80.001 and 41.80.010 through 41.80.130. The supersession of such rules shall only affect employees in the respective collective bargaining units.

(4)(a) The director shall require that each state agency report annually the following data:

(i) The number of classified, Washington management service, and exempt employees in the agency and the change compared to the previous report;

(ii) The number of bonuses and performance-based incentives awarded to agency staff and the base wages of such employees; and

(iii) The cost of each bonus or incentive awarded.

(b) A report that compiles the data in (a) of this subsection for all agencies will be provided annually to the governor and the appropriate committees of the legislature and must be posted for the public on the department of personnel's agency web site.

**Sec. 3.** RCW 41.06.500 and 2009 c 5 s 3 are each amended to read as follows:

(1) Except as provided in RCW 41.06.070, notwithstanding any other provisions of this chapter, the director is authorized to adopt, after consultation with state agencies and employee organizations, rules for managers as defined in RCW 41.06.022. These rules shall not apply to managers employed by institutions of higher education or related boards or whose positions are exempt. The rules shall govern recruitment, appointment, classification and allocation of positions, examination, training and career development, hours of work, probation, certification, compensation, transfer, affirmative action, promotion, layoff, reemployment, performance appraisals, discipline, and any and all other personnel practices for managers. These rules shall be separate from rules adopted for other employees, and to the extent that the rules adopted under this section apply only to managers shall take precedence over rules adopted for other employees, and are not subject to review by the board.

(2) In establishing rules for managers, the director shall adhere to the following goals:

(a) Development of a simplified classification system that facilitates movement of managers between agencies and promotes upward mobility;

(b) Creation of a compensation system that provides flexibility in setting and changing salaries, and shall require review and approval by the director in the case of any salary changes greater than five percent proposed for any group of employees;

(c) Establishment of a performance appraisal system that emphasizes individual accountability for program results and efficient management of resources; effective planning, organization, and communication skills; valuing and managing workplace diversity; development of leadership and interpersonal abilities; and employee development;

(d) Strengthening management training and career development programs that build critical management knowledge, skills, and abilities; focusing on managing and valuing workplace diversity; empowering employees by enabling them to share in workplace decision making and to be innovative, willing to take risks, and able to accept and deal with change; promoting a workplace where the overall focus is on the recipient of the government services and how these services can be improved; and enhancing mobility and career advancement opportunities;

(e) Permitting flexible recruitment and hiring procedures that enable agencies to compete effectively with other employers, both public and private, for managers with appropriate skills and training; allowing consideration of all qualified candidates for positions as managers; and achieving affirmative action goals and diversity in the workplace;

(f) Providing that managers may only be reduced, dismissed, suspended, or demoted for cause; and

(g) Facilitating decentralized and regional administration.

(3) ~~((For the twelve months following))~~ From February 18, 2009, through June 30, 2011, a salary or wage increase shall not be granted to any position under this section, except that increases may be granted for positions for which the employer has demonstrated difficulty retaining qualified employees if the following conditions

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are met;

(a) The salary increase can be paid within existing resources; and

(b) The salary increase will not adversely impact the provision of client services.

Any agency granting a salary increase from the effective date of this section through June 30, 2011, to a position under this section shall submit a report to the fiscal committees of the legislature no later than July 31, 2011, detailing the positions for which salary increases were granted, the size of the increases, and the reasons for giving the increases.

**Sec. 4.** RCW 43.03.030 and 2009 c 549 s 5007 are each amended to read as follows:

(1) Wherever the compensation of any appointive state officer or employee is fixed by statute, it may be hereafter increased or decreased in the manner provided by law for the fixing of compensation of other appointive state officers or employees; but this subsection shall not apply to the heads of state departments.

(2) Wherever the compensation of any state officer appointed by the governor, or of any employee in any office or department under the control of any such officer, is fixed by statute, such compensation may hereafter, from time to time, be changed by the governor, and he or she shall have power to fix such compensation at any amount not to exceed the amount fixed by statute.

(3) ~~((For the twelve months following))~~ From February 18, 2009, through June 30, 2011, a salary or wage increase shall not be granted to any position under this section, except that increases may be granted for positions for which the employer has demonstrated difficulty retaining qualified employees if the following conditions are met;

(a) The salary increase can be paid within existing resources; and

(b) The salary increase will not adversely impact the provision of client services.

Any agency granting a salary increase from the effective date of this section through June 30, 2011, to a position exempt under this section shall submit a report to the fiscal committees of the legislature no later than July 31, 2011, detailing the positions for which salary increases were granted, the size of the increases, and the reasons for giving the increases.

**Sec. 5.** RCW 43.03.040 and 2009 c 5 s 5 are each amended to read as follows:

The directors of the several departments and members of the several boards and commissions, whose salaries are fixed by the governor and the chief executive officers of the agencies named in RCW 43.03.028(2) as now or hereafter amended shall each severally receive such salaries, payable in monthly installments, as shall be fixed by the governor or the appropriate salary fixing authority, in an amount not to exceed the recommendations of the committee on agency officials' salaries. ~~((For the twelve months following))~~ From February 18, 2009, through June 30, 2011, a salary or wage increase shall not be granted to any position under this section, except that increases may be granted for positions for which the employer has demonstrated difficulty retaining qualified employees if the following conditions are met;

(1) The salary increase can be paid within existing resources; and

(2) The salary increase will not adversely impact the provision of client services.

Any agency granting a salary increase from the effective date of this section through June 30, 2011, to a position under this section shall submit a report to the fiscal committees of the legislature no later than July 31, 2011, detailing the positions for which salary increases were granted, the size of the increases, and the reasons for giving the increases.

**Sec. 6.** RCW 41.60.150 and 2000 c 139 s 2 are each amended to read as follows:

Other than suggestion awards and incentive pay unit awards, agencies shall have the authority to recognize employees, either individually or as a class, for accomplishments including outstanding achievements, safety performance, longevity, outstanding public service, or service as employee suggestion evaluators and implementors. Recognition awards may not exceed two hundred dollars in value per award. Such awards may include, but not be limited to, cash or such items as pen and desk sets, plaques, pins, framed certificates, clocks, and calculators. Award costs shall be paid by the agency giving the award. From the effective date of this section through June 30, 2011, recognition awards may not be given in the form of cash or cash equivalents such as gift certificates or gift cards.

**NEW SECTION. Sec. 7.** This act does not apply to a salary or wage increase that may be granted to employees whose salary or wage is paid predominately through agriculture commodity assessments under Title 15 RCW.

**NEW SECTION. Sec. 8.** (1) Notwithstanding sections 1 through 5 of this act, institutions of higher education may grant a wage or salary increase for additional academic responsibilities during the summer quarter if the following conditions are met:

(a) The salary increase can be paid within existing resources; and

(b) The salary increase will not adversely impact the provision of client services.

(2) Any institution granting a wage or salary increase under this section from the effective date of this section through June 30, 2011, shall submit a report to the fiscal committees of the legislature no later than July 31, 2011, detailing the positions for which salary increases were granted, the size of the increases, and the reasons for giving the increases.

**NEW SECTION. Sec. 9.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Prentice moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6382.

Senator Prentice spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Prentice that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6382.

The motion by Senator Prentice carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6382 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6382, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6382, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 33; Nays, 15; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen,

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Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Swecker and Tom

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

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6382, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 11:42 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

#### AFTERNOON SESSION

The Senate was called to order at 12:07 p.m. by President Owen.

#### MOTION

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

#### SECOND READING

SENATE BILL NO. 6843, by Senators Prentice, Murray, Kohl-Welles, Regala, Fairley, Ranker, McDermott, Kline and Keiser

Preserving essential public services by temporarily suspending the two-thirds vote requirement for tax increases and permanently modifying provisions of Initiative Measure No. 960 for improved efficiency and consistency with state budgeting.

The measure was read the second time.

#### MOTION

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

On page 1, line 11, after "bill" strike "~~(introduced in either the house of representatives or the senate)~~ scheduled for public hearing" and insert "introduced in either the house of representatives or the senate"

Renumber the sections consecutively and correct any internal references accordingly.

#### MOTION

On motion of Senator Eide and without objection, the following amendments: by Senator Honeyford on page 6, line 21; by Senator Honeyford on page 10, after line 19; by Senator Schoesler on page 6, line 21; by Senator Schoesler on page 6, line 21; by Senator Carrell on page 4, line 2; by Senator King on page 6, line 21; by Senator King on page 6, line 21; by Senator Roach on page 1, line 15; by Senator Roach on page 6, line 22; by Senator Benton on page 8, line 13; by Senator Benton on page 6, beginning on line 19; by Senator Benton on page 1, line 11; by Senator Becker on page 6, line 18; and by Senator Delvin on page 3, beginning on line 19 to Senate Bill No. 6843 were withdrawn by voice vote.

#### MOTION

Senator Hargrove moved that the following striking amendment by Senators Hargrove and Hatfield be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.135.035 and 2009 c 479 s 36 are each amended to read as follows:

(1)(a) After July 1, 1995, any action or combination of actions by the legislature that raises taxes may be taken only if approved by a two-thirds vote of each house of the legislature, and then only if state expenditures in any fiscal year, including the new revenue, will not exceed the state expenditure limits established under this chapter. Pursuant to the referendum power set forth in Article II, section 1(b) of the state Constitution, tax increases may be referred to the voters for their approval or rejection at an election. The requirements of this subsection (1)(a) do not apply to any action or combination of actions described in (b) of this subsection.

(b)(i) In order to preserve funding for education, public safety, health care, and safety net services for elderly, disabled, and vulnerable people during the unprecedented economic crisis in the 2009- 2011 fiscal biennium, it is the intent of the legislature to provide a temporary means to stabilize revenue collections.

(ii) For legislation enacted between the effective date of this section and July 1, 2011, any action or combination of actions by the legislature that raises taxes may be taken with the approval of a majority of members elected to each house of the legislature.

(2)(a) If the legislative action under subsection (1) of this section will result in expenditures in excess of the state expenditure limit, then the action of the legislature shall not take effect until approved by a vote of the people at a November general election. The state expenditure limit committee shall adjust the state expenditure limit by the amount of additional revenue approved by the voters under this section. This adjustment shall not exceed the amount of revenue generated by the legislative action during the first full fiscal year in which it is in effect. The state expenditure limit shall be adjusted downward upon expiration or repeal of the legislative action.

(b) The ballot title for any vote of the people required under this section shall be substantially as follows:

"Shall taxes be imposed on . . . . . in order to allow a spending increase above last year's authorized spending adjusted for personal income growth?"

(3)(a) The state expenditure limit may be exceeded upon declaration of an emergency for a period not to exceed twenty-four months by a law approved by a two-thirds vote of each house of the legislature and signed by the governor. The law shall set forth the nature of the emergency, which is limited to natural disasters that require immediate government action to alleviate human suffering and provide humanitarian assistance. The state expenditure limit may be exceeded for no more than twenty-four months following the declaration of the emergency and only for the purposes contained in the emergency declaration.

(b) Additional taxes required for an emergency under this section may be imposed only until thirty days following the next general election, unless an extension is approved at that general election. The additional taxes shall expire upon expiration of the declaration of emergency. The legislature shall not impose additional taxes for emergency purposes under this subsection unless funds in the education construction fund have been exhausted.

(c) The state or any political subdivision of the state shall not impose any tax on intangible property listed in RCW 84.36.070 as that statute exists on January 1, 1993.

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(4) If the cost of any state program or function is shifted from the state general fund to another source of funding, or if moneys are transferred from the state general fund to another fund or account, the state expenditure limit committee, acting pursuant to RCW 43.135.025(5), shall lower the state expenditure limit to reflect the shift. For the purposes of this section, a transfer of money from the state general fund to another fund or account includes any state legislative action taken that has the effect of reducing revenues from a particular source, where such revenues would otherwise be deposited into the state general fund, while increasing the revenues from that particular source to another state or local government account. This subsection does not apply to: (a) The dedication or use of lottery revenues under RCW 67.70.240(3), in support of education or education expenditures; or (b) a transfer of moneys to, or an expenditure from, the budget stabilization account.

(5) If the cost of any state program or function and the ongoing revenue necessary to fund the program or function are shifted to the state general fund on or after January 1, 2007, the state expenditure limit committee, acting pursuant to RCW 43.135.025(5), shall increase the state expenditure limit to reflect the shift unless the shifted revenue had previously been shifted from the general fund.

(6) For the purposes of chapter 1, Laws of 2008, "raises taxes" means any action or combination of actions by the legislature that increases state tax revenue deposited in any fund, budget, or account, regardless of whether the revenues are deposited into the general fund.

**NEW SECTION. Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

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

MOTION

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

On page 1, line 21, after "section and" strike "July" and insert "January"

Renummer the sections consecutively and correct any internal references accordingly.

MOTION

Senator Schoesler moved to rescind Senate Rule 29 for the remainder of the day.

REMARKS BY THE PRESIDENT

President Owen: "Senator Schoesler, I believe that the motion that we're going to have to have is a reconsideration of the motion by which the three minute rule was placed, put in place."

REMARKS BY SENATOR SCHOESLER

Senator Schoesler: "We can't move to rescind the actions of suspending a rule for the day?"

REMARKS BY THE PRESIDENT

President Owen: "The President is struggling to find that motion anywhere in the history of mankind and I...so the President believes that the easiest way to dispose of this is to move for reconsideration by which that Senator Eide's, motion passed."

MOTION

Senator Schoesler moved for the immediate reconsideration of the vote by which the motion by Senator Eide limiting debate pursuant to Rule 29 had carried earlier in the day.

Senator Eide spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Schoesler to immediately reconsider the vote by which the motion by Senator Eide limiting debate pursuant to Rule 29 had carried.

POINT OF ORDER

Senator Rockefeller: "Do you have to be on the prevailing side to make that motion?"

REMARKS BY THE PRESIDENT

President Owen: "That's a good point. Your point is well taken. You can sit down now, Senator Schoesler."

POINT OF ORDER

Senator Schoesler: "Mr. President, on a voice vote there was no recorded vote of who voted yes or no."

REPLY BY THE PRESIDENT

President Owen: "The President believes that the motion was...The President did call yeas and nays. There were no nays in that vote, Senator Schoesler. Did you have another point of order?"

POINT OF ORDER

Senator Benton: "Mr. President, if there were no nays then obviously Senator Schoesler voted on the prevailing side and his motion is in order."

REPLY BY THE PRESIDENT

President Owen: "That would be correct."

The President declared the question before the Senate to be the motion by Senator Schoesler to immediately reconsider the vote by which the motion by Senator Eide limiting debate pursuant to Rule 29 had carried.

Senator Schoesler spoke in favor of the motion.

Senator Brown spoke against the motion.

MOTION

Senator Schoesler demanded a roll call vote.

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

ROLL CALL

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

The Secretary called the roll on the motion by Senator Schoesler and the motion failed by the following vote: Yeas, 18; Nays, 30; Absent, 0; Excused, 1.

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

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

Excused: Senator McCaslin

Senators Carrell, Roach, Stevens and Sheldon spoke in favor of adoption of the amendment to the striking amendment.

Senator Hargrove spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Carrell and others on page 1, line 21 to the striking amendment to Senate Bill No. 6843.

The motion by Senator Carrell failed and the amendment to the striking amendment was not adopted by a rising vote.

## MOTION

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

On page 3, beginning on line 15, strike all of section 2.

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

On page 19, line 20 of the title amendment, after "insert", strike the remainder of the title and insert "and amending RCW 43.135.035."

Senators Honeyford, Roach, Benton and Pflug spoke in favor of adoption of the amendment to the striking amendment.

Senator Hargrove spoke against adoption of the amendment to the striking amendment.

Senator Roach demanded a roll call.

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

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 3, line 15 to the striking amendment to Senate Bill No. 6843.

## ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Honeyford and the amendment to the striking amendment was not adopted by the following vote: Yeas, 22; Nays, 26; Absent, 0; Excused, 1.

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

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

Excused: Senator McCaslin

## MOTION

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

On page 3, beginning on line 15, strike section 2 and insert the following:

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**"NEW SECTION. Sec. 2.** The secretary of state shall submit this act to the people for their adoption and ratification, or rejection, at the next general election to be held in this state, in accordance with Article II, section 1 of the state Constitution and the laws adopted to facilitate its operation."

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

On page 1, line 20 of the title amendment, after "insert", strike the remainder of the title amendment and insert "amending RCW 43.135.035; and providing for submission of this act to a vote of the people."

Senators Benton, Holmquist and Stevens spoke in favor of adoption of the amendment to the striking amendment.

Senator Hargrove spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Benton and others on page 3, line 15 to the striking amendment to Senate Bill No. 6843.

The motion by Senator Benton failed and the amendment to the striking amendment was not adopted by voice vote.

## MOTION

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

On page 3, line 19, strike the title amendment.

On page 1, line 3 of the title, after "increases" strike the remainder of the title and insert "; amending RCW 43.135.035; and declaring an emergency."

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

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

Senator Tom spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Zarelli on page 3, line 19 to the striking amendment to Senate Bill No. 6843.

The motion by Senator Zarelli failed and the amendment to the striking amendment was not adopted by rising vote.

Senator Zarelli spoke against the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove and Hatfield to Senate Bill No. 6843.

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

## MOTION

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

On page 1, line 4 of the title, after "budgeting;" strike the remainder of the title and insert "amending RCW 43.135.035; and declaring an emergency."

## MOTION

Senator Hargrove moved that the rules be suspended, and Engrossed Senate Bill No. 6843 be advanced to third reading, the second reading considered the third and the bill be placed on final passage.

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Senators Schoesler and Benton spoke against the motion to advance the bill to third reading.

The President declared the question before the Senate to be the motion by Senator Hargrove that the rules be suspended and Engrossed Senate Bill No. 6843 be advanced to third reading, the second reading considered the third and the bill be placed on final passage.

The motion by Senator Hargrove carried and Engrossed Senate Bill No. 6843 was advanced to third reading and final passage by voice vote.

Senators Hargrove, Murray, Franklin, Kohl-Welles, Shin, Eide, McDermott and Kastama spoke in favor of passage of the bill.

Senators Delvin, Carrell, Roach, Pflug, Benton, King, Parlette and Becker spoke against passage of the bill.

#### MOTION

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

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

Senators Haugen, Tom and Brown spoke in favor of passage of the bill.

Senator Holmquist, Zarelli and Hewitt spoke against passage of the bill.

#### POINT OF ORDER

Senator Schoesler: "Thank you Mr. President. Senate Rule 25 requires that the titles of bill's fit their subject matter. An amendment was offered earlier to conform the bills title to the body of the bill as ultimately amended but, unfortunately, was rejected. As a result the title of the bill no longer fits the subject matter. At the very least this is confusing to the body and more importantly to the public at large. For those reasons I believe the title is under Senate Rule 25 and respectfully request a ruling thereon."

#### PARLIAMENTARY INQUIRY

Senator Eide: "Can I respond to this now?"

#### REPLY BY THE PRESIDENT

President Owen: "You may respond, yes."

#### REMARKS BY SENATOR EIDE

Senator Eide: "We believe the language in the bill conforms to the title."

#### RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Schoesler—and the President, in order to expedite this process, will do this without having the attorneys write it up so please bear with me—the President looks at a previous ruling that he has had also, brought by Senator Zarelli in the past, and I'm going to read what he said, 'It is not required that the title be

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perfectly precise, but it should adequately describe the scope and purpose of the law being changed so as to cause a reader following a particular issue to determine if further inquiry into the text of the bill is necessary.'

"If for one, one small part of that title, this would, the title, the President believes the title would conform but in the majority's own words, in their own words, they over and over again emphasized that nothing in this legislation was permanent. The title says differently so it would be impossible for any person inquiring into the content of this bill through the title to find that part which is permanent. Therefore, Senator Schoesler's point is well taken and the bill does not comply with the rule."

#### MOTION

On motion of Senator Eide, the rules were suspended and Engrossed Senate Bill No. 6843 was returned to second reading for the purpose of amendment.

#### MOTION FOR IMMEDIATE RECONSIDERATION

Senator Hargrove moved to immediately reconsider the vote by which amendment number 52 to Senate Bill No. 6843 failed to pass the Senate earlier in the day.

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

Strike the title in its entirety and replace it with the following:

"AN ACT Relating to preserving essential public services by temporarily suspending the two-thirds vote requirement for tax increases; amending 43.135.035; and declaring an emergency."

The President declared the question before the Senate to be the adoption of the title amendment by Senators Hargrove and Zarelli to Engrossed Senate Bill No. 6843.

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

#### MOTION

On motion of Senator Hargrove, the rules be suspended, Second Engrossed Senate Bill No. 6843 be advanced to third reading, the second reading considered the third and the bill be placed on final passage.

The President declared the question before the Senate to be the final passage of Second Engrossed Senate Bill No. 6843.

#### MOTION

On motion of Senator Brandland, Senator Morton was excused.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Senate Bill No. 6843 and the bill passed the Senate by the following vote: Yeas, 26; Nays, 23; Absent, 0; Excused, 0.

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

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Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Hobbs, Holmquist, Honeyford, Kauffman, Kilmer, King, Marr, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

SECOND ENGROSSED SENATE BILL NO. 6843, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Eide, Second Engrossed Senate Bill No. 6843 was immediately transmitted to the House of Representatives.

## MOTION

At 2:35 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

EVENING SESSION

The Senate was called to order at 10:41 p.m. by President Owen.

## MOTION

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

## SUPPLEMENTAL REPORTS OF STANDING COMMITTEES

February 9, 2010

SB 5279 Prime Sponsor, Senator Kline: Providing for the safe collection and disposal of unwanted drugs from residential sources through a producer provided and funded product stewardship program. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 5279 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Fairley; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pflug; Pridemore and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and Schoesler.

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

Passed to Committee on Rules for second reading.

February 8, 2010

SB 5302 Prime Sponsor, Senator Kilmer: Granting half-time service credit for half-time educational employment prior to January 1, 1987, in plans 2 and 3 of the school employees' retirement system and the public employees' retirement system. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli;

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Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

February 9, 2010

SB 5543 Prime Sponsor, Senator Pridemore: Establishing the product stewardship recycling act for mercury-containing lights. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5543 as recommended by Committee on Environment, Water & Energy be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Fairley; Hewitt; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pflug; Pridemore; Regala and Rockefeller.

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

Passed to Committee on Rules for second reading.

February 9, 2010

SB 5912 Prime Sponsor, Senator Oemig: Providing public funding for supreme court campaigns. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 5912 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Brandland; Carrell; Hewitt; Honeyford; Parlette; Pflug and Schoesler.

Passed to Committee on Rules for second reading.

February 8, 2010

SSB 6109 Prime Sponsor, Committee on Transportation: Concerning ferries. Reported by Committee on Transportation

MAJORITY recommendation: That Second Substitute Senate Bill No. 6109 be substituted therefor, and the second substitute bill do pass. Signed by Senators Haugen, Chair; Swecker; Berkey; Delvin; Eide; Jacobsen; Kastama; King and Sheldon.

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

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Becker and Ranker.

Passed to Committee on Rules for second reading.

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SB 6130 Prime Sponsor, Senator Prentice: Relating to fiscal matters. Reported by Committee on Ways & Means

Murray; Oemig; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

MAJORITY recommendation: That Substitute Senate Bill No. 6130 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

Passed to Committee on Rules for second reading.

February 9, 2010

SB 6362 Prime Sponsor, Senator Zarelli: Concerning government accountability. Reported by Committee on Ways & Means

MINORITY recommendation: Do not pass. Signed by Senators Brandland; Hewitt; Honeyford; Parlette; Pflug and Schoesler.

MAJORITY recommendation: That Substitute Senate Bill No. 6362 as recommended by Committee on Government Operations & Elections be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pflug; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

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SB 6206 Prime Sponsor, Senator Haugen: Authorizing extensions of the due dates for filing tax incentive accountability reports and surveys with the department of revenue. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pflug; Pridemore; Regala and Rockefeller.

February 9, 2010  
SB 6374 Prime Sponsor, Senator Kilmer: Regarding fiscal note instructions. Reported by Committee on Ways & Means

Passed to Committee on Rules for second reading.

MAJORITY recommendation: That Substitute Senate Bill No. 6374 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Honeyford; Kline; Murray; Oemig; Parlette; Pridemore; Rockefeller and Schoesler.

February 9, 2010

SB 6267 Prime Sponsor, Senator Rockefeller: Regarding water right processing improvements. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 6267 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Pridemore; Regala and Rockefeller.

Passed to Committee on Rules for second reading.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and Schoesler.

February 9, 2010  
SB 6424 Prime Sponsor, Senator Regala: Concerning local excise tax authorities for counties and cities. Reported by Committee on Ways & Means

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

MAJORITY recommendation: That Substitute Senate Bill No. 6424 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

Passed to Committee on Rules for second reading.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Carrell and Pflug.

February 9, 2010

SB 6316 Prime Sponsor, Senator Carrell: Addressing the coordination between local law enforcement and the department of corrections. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 6316 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; McDermott;

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

Passed to Committee on Rules for second reading.

February 9, 2010

SB 6426 Prime Sponsor, Senator Prentice: Eliminating certain boards and commissions. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6426 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice

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Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Honeyford; Kline; Murray; Parlette; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

February 9, 2010

SB 6448 Prime Sponsor, Senator Jacobsen: Concerning permitting of hydraulic projects. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6448 as recommended by Committee on Natural Resources, Ocean & Recreation be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and Schoesler.

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

Passed to Committee on Rules for second reading.

February 8, 2010

SB 6453 Prime Sponsor, Senator Hobbs: Addressing shared leave for members of the law enforcement officers' and firefighters' retirement system, plan 2. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

February 8, 2010

SB 6490 Prime Sponsor, Senator Kline: Changing provisions regulating driver's and vehicle licenses. Reported by Committee on Transportation

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Haugen, Chair; Swecker; Berkey; Eide; Jacobsen; Kastama; Kauffman; King; Ranker and Sheldon.

MINORITY recommendation: Do not pass. Signed by Senators Becker; Benton and Delvin.

Passed to Committee on Rules for second reading.

February 8, 2010

SB 6499 Prime Sponsor, Senator Murray: Concerning the administration, collection, use, and enforcement of tolls. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6499 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Benton; Berkey; Delvin; Hatfield; Jacobsen; Kilmer; King; Ranker and Sheldon.

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

Passed to Committee on Rules for second reading.

February 8, 2010

SB 6501 Prime Sponsor, Senator Pridemore: Authorizing payment of regulated company stock in lieu of a portion of salary for educational employees. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

February 9, 2010

SB 6504 Prime Sponsor, Senator Hargrove: Reducing crime victims' compensation benefits and eligibility. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 6504 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Keiser; Kline; Kohl-Welles; McDermott; Murray; Pridemore; Regala and Rockefeller.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Brandland; Carrell; Hewitt; Honeyford; Parlette; Pflug and Schoesler.

Passed to Committee on Rules for second reading.

February 9, 2010

SB 6508 Prime Sponsor, Senator Fairley: Changing the class of persons entitled to recoveries under a wrongful death action or survival action. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6508 as recommended by Committee on Government Operations & Elections be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Brandland; Carrell; Honeyford; Pflug and Schoesler.

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

do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; McDermott; Murray; Oemig; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

February 8, 2010

SB 6510 Prime Sponsor, Senator Kilmer: Extending state route number 166. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6510 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Benton; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King; Ranker and Sheldon.

February 9, 2010  
SB 6557 Prime Sponsor, Senator Ranker: Limiting the use of copper and other substances in vehicle brake pads. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6557 as recommended by Committee on Environment, Water & Energy be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Brandland; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

Passed to Committee on Rules for second reading.

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

February 9, 2010

SB 6515 Prime Sponsor, Senator Kastama: Refocusing the department of commerce, including transferring programs. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 6515 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Hewitt; Hobbs; Honeyford; Kline; McDermott; Murray; Oemig; Parlette; Pflug and Schoesler.

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

MINORITY recommendation: Do not pass. Signed by Senator Kohl-Welles.

Passed to Committee on Rules for second reading.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Fairley and Regala.

February 9, 2010  
SB 6561 Prime Sponsor, Senator Hargrove: Restricting access to juvenile offender records. Reported by Committee on Ways & Means

Passed to Committee on Rules for second reading.

MAJORITY recommendation: That Second Substitute Senate Bill No. 6561 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

February 8, 2010

SB 6546 Prime Sponsor, Senator Pridemore: Allowing the state director of fire protection to refuse membership in the public employees' retirement system. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Parlette; Pflug; Regala; Rockefeller and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Brandland; Carrell; Hewitt; Honeyford; Parlette; Pflug and Schoesler.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

February 9, 2010

SB 6550 Prime Sponsor, Senator Hargrove: Imposing a sanction for offenders who violate sentence conditions by committing an assault against a law enforcement officer, employee of a law enforcement agency, or department of corrections employee. Reported by Committee on Ways & Means

February 9, 2010  
SB 6562 Prime Sponsor, Senator Kilmer: Regarding tuition-setting authority at institutions of higher education. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6550 as recommended by Committee on Human Services & Corrections be substituted therefor, and the substitute bill

MAJORITY recommendation: That Second Substitute Senate Bill No. 6562 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Fairley; Hewitt; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray and Regala.

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MINORITY recommendation: That it be referred without recommendation. Signed by Senators Carrell; Parlette and Pflug.

Passed to Committee on Rules for second reading.

February 8, 2010

SB 6575 Prime Sponsor, Senator Kohl-Welles: Concerning the recommendations of the joint legislative task force on the underground economy. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 6575 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pflug; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

February 8, 2010

SB 6610 Prime Sponsor, Senator Hargrove: Concerning the assessment and treatment of certain persons with mental illnesses. (REVISED FOR ENGROSSED: Improving procedures relating to the commitment of persons found not guilty by reason of insanity. ) Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6610 as recommended by Committee on Human Services & Corrections be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pflug; Pridemore; Regala and Rockefeller.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Brandland; Carrell; Hewitt; Honeyford; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

February 9, 2010

SB 6629 Prime Sponsor, Senator Oemig: Convening a working group to make recommendations defining a basic education program for highly capable students. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6629 as recommended by Committee on Early Learning & K-12 Education be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Pflug; Pridemore and Rockefeller.

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

Passed to Committee on Rules for second reading.

February 8, 2010

SB 6667 Prime Sponsor, Senator Kauffman: Concerning business assistance programs. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 6667 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Pridemore; Regala and Rockefeller.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Brandland; Carrell; Hewitt; Honeyford; Parlette; Pflug and Schoesler.

Passed to Committee on Rules for second reading.

February 9, 2010

SB 6669 Prime Sponsor, Senator Kastama: Concerning the small business development center. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 6669 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pridemore; Regala and Rockefeller.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Honeyford; Pflug and Schoesler.

Passed to Committee on Rules for second reading.

February 9, 2010

SB 6678 Prime Sponsor, Senator Hobbs: Concerning the creation of entities to address the long-range impact of opportunities and changes in the aerospace industry. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 6678 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pflug; Pridemore and Regala.

Passed to Committee on Rules for second reading.

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SB 6679 Prime Sponsor, Senator Kauffman: Concerning the small business export finance assistance center. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 6679 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley;

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Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

MAJORITY recommendation: That Substitute Senate Bill No. 6721 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

February 9, 2010

SB 6683 Prime Sponsor, Senator Tom: Concerning the transmittal of renewal notices for licenses, registrations, and permits via electronic means. Reported by Committee on Ways & Means

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SB 6726 Prime Sponsor, Senator Marr: Making the governor the public employer of language access providers. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

MAJORITY recommendation: That Second Substitute Senate Bill No. 6726 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Pridemore; Regala and Rockefeller.

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

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

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

February 8, 2010

SB 6696 Prime Sponsor, Senator McAuliffe: Regarding education reform. Reported by Committee on Ways & Means

Passed to Committee on Rules for second reading.

MAJORITY recommendation: That Second Substitute Senate Bill No. 6696 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

February 8, 2010

SB 6727 Prime Sponsor, Senator Marr: Concerning health sciences and services authorities. Reported by Committee on Ways & Means

Passed to Committee on Rules for second reading.

MAJORITY recommendation: That Substitute Senate Bill No. 6727 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala; Rockefeller and Schoesler.

February 9, 2010

SB 6702 Prime Sponsor, Senator Kline: Providing education programs for juveniles in adult jails. Reported by Committee on Ways & Means

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Carrell; Parlette and Pflug.

MAJORITY recommendation: That Second Substitute Senate Bill No. 6702 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Pridemore; Regala and Rockefeller.

Passed to Committee on Rules for second reading.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Parlette; Pflug and Schoesler.

February 9, 2010

SB 6737 Prime Sponsor, Senator Marr: Providing an exemption from property tax for aircraft used to provide air ambulance services for nonprofits. Reported by Committee on Ways & Means

Passed to Committee on Rules for second reading.

MAJORITY recommendation: That Substitute Senate Bill No. 6737 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs;

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SB 6721 Prime Sponsor, Senator Schoesler: Concerning tax statute clarifications and technical corrections. Reported by Committee on Ways & Means

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Kline; McDermott; Murray; Oemig; Parlette; Pridemore; Regala and Rockefeller.

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

Passed to Committee on Rules for second reading.

February 9, 2010

SB 6742 Prime Sponsor, Senator Pridemore: Calculating average final compensation under the public employees' retirement system. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pflug; Pridemore; Regala and Rockefeller.

Passed to Committee on Rules for second reading.

February 8, 2010

SB 6747 Prime Sponsor, Senator Jacobsen: Authorizing the department of natural resources to recover costs for data delivery services provided under the natural heritage program. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6747 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

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

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

Passed to Committee on Rules for second reading.

February 9, 2010

SB 6759 Prime Sponsor, Senator Kauffman: Requiring a plan for a voluntary program of early learning as a part of basic education. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6759 as recommended by Committee on Early Learning & K-12 Education be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore and Rockefeller.

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

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

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Passed to Committee on Rules for second reading.

February 9, 2010

SB 6760 Prime Sponsor, Senator Oemig: Regarding the basic education instructional allocation distribution formula. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 6760 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Pridemore; Regala and Rockefeller.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Brandland; Honeyford; Parlette; Pflug and Schoesler.

Passed to Committee on Rules for second reading.

February 9, 2010

SB 6790 Prime Sponsor, Senator Kastama: Providing regional economic development services. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 6790 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Hewitt; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pflug; Pridemore; Regala and Rockefeller.

Passed to Committee on Rules for second reading.

February 9, 2010

SB 6797 Prime Sponsor, Senator Tom: Concerning voters' pamphlets. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6797 as recommended by Committee on Government Operations & Elections be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pflug; Pridemore; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

February 9, 2010

SB 6798 Prime Sponsor, Senator Kauffman: Implementing the recommendations of the achievement gap oversight and accountability committee. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 6798 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

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

Passed to Committee on Rules for second reading.

February 9, 2010

SB 6803 Prime Sponsor, Senator Rockefeller: Concerning the withdrawal of groundwater for stock watering purposes. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 6803 be substituted therefor, and the second substitute bill do pass. Signed by Senators Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

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

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

Passed to Committee on Rules for second reading.

February 9, 2010

SB 6823 Prime Sponsor, Senator Fraser: Naming credits against the state sales tax. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pflug; Pridemore and Regala.

Passed to Committee on Rules for second reading.

February 8, 2010

SB 6825 Prime Sponsor, Senator Fairley: Allowing federally qualified nonprofit community health organizations to buy surplus real property from the department of transportation. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Berkey; Eide; Hatfield; Jacobsen; Kauffman; Kilmer and Ranker.

MINORITY recommendation: Do not pass. Signed by Senators Swecker; Becker; Benton; Delvin and King.

Passed to Committee on Rules for second reading.

February 8, 2010

SB 6826 Prime Sponsor, Senator Swecker: Increasing certain fees of licensing subagents. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Benton; Berkey; Delvin; Eide; Jacobsen; Kilmer; King; Ranker and Sheldon.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Becker; Hatfield and Kastama.

Passed to Committee on Rules for second reading.

February 8, 2010

SB 6827 Prime Sponsor, Senator Morton: Regulating vehicle dealers in counties with a population of ten thousand or less. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6827 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Swecker; Becker; Benton; Berkey; Delvin; Hatfield; Jacobsen; King and Sheldon.

MINORITY recommendation: Do not pass. Signed by Senators Marr, Vice Chair and Ranker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Kastama and Kilmer.

Passed to Committee on Rules for second reading.

February 9, 2010

SB 6831 Prime Sponsor, Senator Parlette: Concerning estates and trusts. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6831 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pflug; Pridemore and Regala.

Passed to Committee on Rules for second reading.

February 8, 2010

SB 6833 Prime Sponsor, Senator Tom: Addressing the management of funds and accounts by the state treasurer. Reported by Committee on Ways & Means

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

MINORITY recommendation: Do not pass. Signed by Senators Carrell and Hewitt.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Brandland; Honeyford; Parlette; Pflug and Schoesler.

Passed to Committee on Rules for second reading.

February 8, 2010

SB 6845 Prime Sponsor, Senator Fraser: Requiring the collection and use of additional information regarding information technology projects. Reported by Committee on Ways & Means

## MOTION

MAJORITY recommendation: That Substitute Senate Bill No. 6845 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

At 10:43 p.m., on motion of Senator McDermott, the Senate adjourned until 9:00 a.m. Wednesday, February 10, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

Passed to Committee on Rules for second reading.

February 9, 2010

SB 6853 Prime Sponsor, Senator Rockefeller: Relating to creating the legislative review of tax preferences act of 2010. Reported by Committee on Ways & Means

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

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

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

Passed to Committee on Rules for second reading.

February 8, 2010

HB 1576 Prime Sponsor, Representative Clibborn: Determining the amount of motor vehicle fuel tax moneys derived from tax on marine fuel. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Benton; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King; Ranker and Sheldon.

Passed to Committee on Rules for second reading.

February 9, 2010

EHB 2519 Prime Sponsor, Representative Green: Addressing duty-related death benefits for public safety employees. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pflug; Pridemore; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

## MOTION

On motion of Senator McDermott, all measures listed on the Supplemental Committee report were referred to the committees as designated.

**THIRTY FIRST DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Wednesday, February 10, 2010

The Senate was called to order at 9:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Fairley, Holmquist, Kline, Oemig and Prentice.

The Sergeant at Arms Color Guard consisting of Pages Kaden Sanne and Allison Steele, presented the Colors. Pastor Jonathan Cross of Center Point of Eatonville offered the prayer.

MOTION

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

MOTION

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

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Kohl-Welles moved that Gubernatorial Appointment No. 9052, Elsie Hulsizer, as a member of the Board of Pilotage Commissioners, be confirmed.

Senator Kohl-Welles spoke in favor of the motion.

MOTION

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

MOTION

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

APPOINTMENT OF ELSIE HULSIZER

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9052, Elsie Hulsizer as a member of the Board of Pilotage Commissioners.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9052, Elsie Hulsizer as a member of the Board of Pilotage Commissioners and the appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 2; Excused, 3.

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

Absent: Senators Kline and Oemig

Excused: Senators Fairley, Holmquist and Prentice

Gubernatorial Appointment No. 9052, Elsie Hulsizer, having received the constitutional majority was declared confirmed as a member of the Board of Pilotage Commissioners.

MOTION

On motion of Senator Brandland, Senator Parlette was excused.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Hatfield moved that Gubernatorial Appointment No. 9228, Randy J. Rust, as a member of the Board of Trustees, Grays Harbor Community College District No. 2, be confirmed.

Senator Hatfield spoke in favor of the motion.

MOTION

On motion of Senator Marr, Senators Kline and Oemig were excused.

APPOINTMENT OF RANDY J. RUST

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9228, Randy J. Rust as a member of the Board of Trustees, Grays Harbor Community College District No. 2.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9228, Randy J. Rust as a member of the Board of Trustees, Grays Harbor Community College District No. 2 and the appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

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

Excused: Senators Fairley, Holmquist, Oemig, Parlette and Prentice

Gubernatorial Appointment No. 9228, Randy J. Rust, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Grays Harbor Community College District No. 2.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Marr moved that Gubernatorial Appointment No. 9178, Ben Cabildo, as a member of the Board of Trustees, Spokane and Spokane Falls Community Colleges District No. 17, be confirmed.

Senator Marr spoke in favor of the motion.

APPOINTMENT OF BEN CABILDO

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The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9178, Ben Cabildo as a member of the Board of Trustees, Spokane and Spokane Falls Community Colleges District No. 17.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9178, Ben Cabildo as a member of the Board of Trustees, Spokane and Spokane Falls Community Colleges District No. 17 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Fairley, Holmquist, Parlette and Prentice  
Gubernatorial Appointment No. 9178, Ben Cabildo, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Spokane and Spokane Falls Community Colleges District No. 17.

#### INTRODUCTION OF SPECIAL GUESTS

The President introduced Mr. Peter Joers, President of Bank of America for Washington State, who was seated at the rostrum.

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

##### MOTION

Senator Regala moved that Gubernatorial Appointment No. 9217, Dixon McReynolds, as a member of the Board of Trustees, The Evergreen State College, be confirmed.

Senators Regala and Kline spoke in favor of passage of the motion.

#### APPOINTMENT OF DIXON MCREYNOLDS

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9217, Dixon McReynolds as a member of the Board of Trustees, The Evergreen State College.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9217, Dixon McReynolds as a member of the Board of Trustees, The Evergreen State College and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Fairley, Parlette and Prentice  
Gubernatorial Appointment No. 9217, Dixon McReynolds, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, The Evergreen State College.

#### 2010 REGULAR SESSION SIGNED BY THE PRESIDENT

The President signed:  
SUBSTITUTE SENATE BILL 6382.

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

##### MOTION

Senator Rockefeller moved that Gubernatorial Appointment No. 9190, Diana Gale, as a member of the Puget Sound Partnership, be confirmed.

Senator Rockefeller spoke in favor of the motion.

#### APPOINTMENT OF DIANA GALE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9190, Diana Gale as a member of the Puget Sound Partnership.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9190, Diana Gale as a member of the Puget Sound Partnership and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Fairley, Parlette and Prentice  
Gubernatorial Appointment No. 9190, Diana Gale, having received the constitutional majority was declared confirmed as a member of the Puget Sound Partnership.

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

##### MOTION

Senator Rockefeller moved that Gubernatorial Appointment No. 9221, Dan O'Neal, as a member of the Puget Sound Partnership, be confirmed.

Senator Rockefeller spoke in favor of the motion.

#### APPOINTMENT OF DAN O'NEAL

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9221, Dan O'Neal as a member of the Puget Sound Partnership.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9221, Dan O'Neal as a member of the Puget Sound Partnership and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Pflug, Prentice, Pridemore, Ranker,

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Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley and Parlette

Gubernatorial Appointment No. 9221, Dan O'Neal, having received the constitutional majority was declared confirmed as a member of the Puget Sound Partnership.

#### SECOND READING

#### CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Haugen moved that Gubernatorial Appointment No. 9229, Steve Sakuma, as a member of the Puget Sound Partnership, be confirmed.

Senator Haugen spoke in favor of the motion.

#### APPOINTMENT OF STEVE SAKUMA

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9229, Steve Sakuma as a member of the Puget Sound Partnership.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9229, Steve Sakuma as a member of the Puget Sound Partnership and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Fairley and Parlette

Gubernatorial Appointment No. 9229, Steve Sakuma, having received the constitutional majority was declared confirmed as a member of the Puget Sound Partnership.

#### SECOND READING

SENATE BILL NO. 6487, by Senators Franklin, Pridemore, Keiser, Carrell, Pflug, Schoesler, Delvin and Kline

Repealing the expiration of the fair payment for chiropractic services requirement.

The measure was read the second time.

#### MOTION

On motion of Senator Franklin, the rules were suspended, Senate Bill No. 6487 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Franklin and Pflug spoke in favor of the passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6487.

#### ROLL CALL

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The Secretary called the roll on the final passage of Senate Bill No. 6487 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Fairley

SENATE BILL NO. 6487, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6330, by Senators Kohl-Welles, Delvin, Haugen, Swecker, Kline, Fraser, Shin, Fairley and Roach

Permitting the placement of human trafficking informational posters in rest areas.

The measure was read the second time.

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Senate Bill No. 6330 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and Swecker spoke in favor of the passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6330.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6330 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

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

Absent: Senator Zarelli

Excused: Senator Fairley

SENATE BILL NO. 6330, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5297, by Senators Kline and Delvin

Concerning the procedure for filing a declaration of completion of probate.

The measure was read the second time.

MOTION

CAPTION  
OF  
CASE DECLARATION OF COMPLETION  
OF PROBATE

Senator Kline moved that the following striking amendment by Senator Kline be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 11.68.110 and 1998 c 292 s 202 are each amended to read as follows:

(1) If a personal representative who has acquired nonintervention powers does not apply to the court for either of the final decrees provided for in RCW 11.68.100 as now or hereafter amended, the personal representative shall, when the administration of the estate has been completed, file a declaration of completion of probate that must state as follows:

(a) The date of the decedent's death and the decedent's residence at the time of death;

(b) Whether or not the decedent died testate or intestate;

(c) If the decedent died testate, the date of the decedent's last will and testament and the date of the order probating the will;

(d) That each creditor's claim which was justly due and properly presented as required by law has been paid or otherwise disposed of by agreement with the creditor, and that the amount of estate taxes due as the result of the decedent's death has been determined, settled, and paid;

(e) That the personal representative has completed the administration of the decedent's estate without court intervention, and the estate is ready to be closed;

(f) ~~((If the decedent died intestate,))~~ The names((;)) and addresses (if known)((, and relationship)) of each heir, legatee, and devisee of the decedent to whom the personal representative is required to give notice as provided in this section and, if the decedent died intestate, the relationship of each heir to the decedent, together with the distributive share of each heir; and

(g) The amount of fees paid or to be paid to each of the following: (i) Personal representative or representatives; (ii) lawyer or lawyers; (iii) appraiser or appraisers; and (iv) accountant or accountants; and that the personal representative believes the fees to be reasonable and does not intend to obtain court approval of the amount of the fees or to submit an estate accounting to the court for approval.

(2) ~~((Subject to the requirement of notice as provided in this section, unless an heir, devisee, or legatee of a decedent petitions the court either for an order requiring the personal representative to obtain court approval of the amount of fees paid or to be paid to the personal representative, lawyers, appraisers, or accountants, or for an order requiring an accounting, or both, within thirty days from the date of filing a declaration of completion of probate, the personal representative will be automatically discharged without further order of the court and the representative's powers will cease thirty days after the filing of the declaration of completion of probate, and the declaration of completion of probate shall, at that time, be the equivalent of the entry of a decree of distribution in accordance with chapter 11.76 RCW for all legal intents and purposes.~~

(3)) Within five days of the date of the filing of the declaration of completion, the personal representative or the personal representative's lawyer shall mail a copy of the declaration of completion to each heir, legatee, or devisee of the decedent, who: (a) Has not waived notice of the filing, in writing, filed in the cause; and (b) either has not received the full amount of the distribution to which the heir, legatee, or devisee is entitled or has a property right that might be affected adversely by the discharge of the personal representative under this section, together with a notice which shall be substantially as follows:

NOTICE IS GIVEN that the attached Declaration of Completion of Probate was filed by the undersigned in the above-entitled court on the . . . . day of . . . . ., ~~((19.))~~ 20 . . . . ~~((unless you shall file a petition in the above entitled court requesting the court to approve the reasonableness of the fees, or for an accounting, or both, and serve a copy thereof upon the personal representative or the personal representative's lawyer, within thirty days after the date of the filing,))~~ the amount of fees paid or to be paid will be deemed reasonable, the acts of the personal representative will be deemed approved, the personal representative's powers will cease, the personal representative will be automatically discharged without further order of the court, and the Declaration of Completion of Probate will be final and deemed the equivalent of a Decree of Distribution entered under chapter 11.76 RCW unless you file a petition in the above-entitled court requesting the court to approve the reasonableness of the fees, or for an accounting, or both, and to set a time and date for a hearing on the petition, and serve a copy thereof on the personal representative or the personal representative's lawyer, and on each heir, legatee, and devisee to whom the personal representative sent a copy of this Declaration of Completion of Probate, within thirty days after the date of the filing.

If you file and serve a petition within the period specified, ~~((the undersigned will))~~ then within such period you must also request the court to fix a time and place for the hearing of your petition, and ((you will be notified)) must provide notice of the time and place thereof to the personal representative or the personal representative's lawyer and to each heir, legatee, and devisee to whom the personal representative sent a copy of this Declaration of Completion of Probate, by mail((;)) or personal service, not less than ten days before the hearing on the petition.

If you file a petition, but do not serve a copy of such petition, and provide notice of the hearing and time and place within the prescribed time period, the amount of fees paid or to be paid will be deemed reasonable, the acts of the personal representative will be deemed approved, the personal representative's powers will cease, the personal representative will be automatically discharged as provided in RCW 11.68.110 and the Declaration of Completion of Probate will be final and deemed the equivalent of a Decree of Distribution entered under chapter 11.76 RCW.

Dated this . . . . day of . . . . ., ~~((19.))~~ 20 . . . .

.....  
Personal Representative

~~((4))~~ (3) If all heirs, devisees, and legatees of the decedent entitled to notice under this section waive, in writing, the notice required by this section and such waivers are filed with the court, whether before or after the filing of the declaration of completion of probate, then upon the date of the filing of the declaration of completion of probate, the amount of fees paid or to be paid will be deemed reasonable, the acts of the personal representative will be deemed approved, the personal representative's powers will cease, the personal representative will be automatically discharged without further order of the court, and the declaration of completion of probate will become effective as a decree of distribution ~~((upon the date of filing thereof))~~ in accordance with chapter 11.76 RCW for all legal intents and purposes.

(4) Provided that the personal representative has complied with



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On motion of Senator Kline, the rules were suspended, Engrossed Senate Bill No. 5297 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5297.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5297 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Fairley

ENGROSSED SENATE BILL NO. 5297, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, Senator Oemig was excused.

#### MOTION

On motion of Senator Hobbs, Substitute Senate Bill No. 5523 was not substituted for Senate Bill No. 5523 and the substitute bill was not adopted.

#### SECOND READING

SENATE BILL NO. 5523, by Senators Hobbs, Pridemore and Tom

Including court commissioners employed by the supreme court, court of appeals, superior courts, district courts, and municipal courts in the judicial benefit multiplier program of the public employees' retirement system.

The measure was read the second time.

#### MOTION

Senator Hobbs moved that the following striking amendment by Senator Brown be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 41.40 RCW under the subchapter heading "plan 1" to read as follows:

(1) Any member, employed as a court commissioner on September 1, 2010, in the supreme court, court of appeals, or superior, district, or municipal court, may make a one-time irrevocable election, filed in writing with the member's employer, the department, and the administrative office of the courts, to accrue an additional benefit equal to one and one-half percent of average

final compensation for each year of future service credit as a court commissioner from the date of the election. The court commissioner shall have from September 1, 2010, through January 31, 2011, to make this election. Any court commissioner who has not previously elected to accrue an additional benefit under this section may make this election during any subsequent month of January until the irrevocable election is made.

(2) Any member hired after September 1, 2010, as a court commissioner in the supreme court, court of appeals, or superior, district, or municipal court, who has not previously elected to accrue an additional benefit under the provisions of this section, shall have ninety days from the date of hire to make a one-time irrevocable election, filed in writing with the member's employer, the department, and the administrative office of the courts, to accrue an additional benefit equal to one and one-half percent of average final compensation for each year of future service credit as a court commissioner from the date of the election. A court commissioner who does not elect to accrue an additional benefit under this section may make this election during any subsequent month of January until the irrevocable election is made.

(3)(a) A member who made the election under subsection (1) or (2) of this section may apply to the department to increase the member's benefit multiplier by an additional one and one-half percent per year of service for the period in which the member served as a court commissioner prior to the election. The member shall pay, for the applicable period of service, the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier as determined by the director. This payment must be made prior to retirement.

(b) Subject to rules adopted by the department, a member applying to increase the member's benefit multiplier under this section may pay all or part of the cost with a lump sum payment, eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan. The department shall adopt rules to ensure that all lump sum payments, rollovers, and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

(4) In lieu of the retirement allowance provided under RCW 41.40.185, the retirement allowance payable for service as a court commissioner in the supreme court, court of appeals, or superior, district, or municipal court, for those members who elected to accrue an additional benefit under this section, shall be equal to three and one-half percent of average final compensation for each year of service after the election. The total retirement allowance under this system for members who elected to accrue an additional benefit while a court commissioner shall not exceed seventy-five percent of average final compensation.

**NEW SECTION. Sec. 2.** A new section is added to chapter 41.40 RCW under the subchapter heading "plan 2" to read as follows:

(1) Any member, employed as a court commissioner on September 1, 2010, in the supreme court, court of appeals, or superior, district, or municipal court, may make a one-time irrevocable election, filed in writing with the member's employer, the department, and the administrative office of the courts, to accrue an additional benefit equal to one and one-half percent of average final compensation for each year of future service credit as a court commissioner from the date of the election. The court commissioner shall have from September 1, 2010, through January 31, 2011, to make this election. Any court commissioner who has

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not previously elected to accrue an additional benefit under this section may make this election during any subsequent month of January until the irrevocable election is made.

(2) Any member hired after September 1, 2010, as a court commissioner in the supreme court, court of appeals, or superior, district, or municipal court, who has not previously elected to accrue an additional benefit under the provisions of this section, shall have ninety days from the date of hire to make a one-time irrevocable election, filed in writing with the member's employer, the department, and the administrative office of the courts, to accrue an additional benefit equal to one and one-half percent of average final compensation for each year of future service credit as a court commissioner from the date of the election. A court commissioner who does not elect to accrue an additional benefit under this section may make this election during any subsequent month of January until the irrevocable election is made.

(3) Any employee hired after September 1, 2010, as a court commissioner in the supreme court, court of appeals, or superior, district, or municipal court, who has not previously established membership in this system, and who establishes membership in plan 2 under the provisions of RCW 41.40.785, shall have ninety days from the date of hire to make a one-time irrevocable election filed in writing with the member's employer, the department, and the administrative office of the courts, to accrue an additional benefit equal to one and one-half percent of average final compensation for each year of future service credit as a court commissioner from the date of the election. Any employee hired after September 1, 2010, as a court commissioner, who establishes membership in plan 2 under the provisions of RCW 41.40.785 and does not elect to accrue an additional benefit under this section may make this election during any subsequent month of January until the irrevocable election is made.

(4)(a) A member who made the election under subsection (1), (2), or (3) of this section may apply to the department to increase the member's benefit multiplier by an additional one and one-half percent per year of service for the period in which the member served as a court commissioner prior to the election. The member shall pay, for the applicable period of service, the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier as determined by the director. This payment must be made prior to retirement.

(b) Subject to rules adopted by the department, a member applying to increase the member's benefit multiplier under this section may pay all or part of the cost with a lump sum payment, eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan. The department shall adopt rules to ensure that all lump sum payments, rollovers, and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

(5) In lieu of the retirement allowance provided under RCW 41.40.620, the retirement allowance payable for service as a court commissioner in the supreme court, court of appeals, or superior, district, or municipal court, for those members who elected to accrue an additional benefit under the provisions of this section shall be equal to three and one-half percent of average final compensation for each year of such service after the election. The total retirement allowance under this system for those members who elected to accrue an additional benefit as a court commissioner shall not exceed seventy-five percent of average final compensation.

NEW SECTION. **Sec. 3.** A new section is added to chapter 41.40 RCW under the subchapter heading "plan 3" to read as follows:

(1) Any member, employed as a court commissioner on September 1, 2010, in the supreme court, court of appeals, or superior, district, or municipal court, may make a one-time irrevocable election, filed in writing with the member's employer, the department, and the administrative office of the courts, to accrue an additional plan 3 defined benefit equal to six-tenths percent of average final compensation for each year of future service credit as a court commissioner from the date of the election. The court commissioner shall have from September 1, 2010, through January 31, 2011, to make this election. Any court commissioner who has not elected to accrue an additional benefit under this section may make this election during any subsequent month of January until the irrevocable election is made.

(2) Any member hired after September 1, 2010, as a court commissioner in the supreme court, court of appeals, or superior, district, or municipal court, who has not previously elected to accrue an additional benefit under the provisions of this section, shall have ninety days from the date of hire to make a one-time irrevocable election, filed in writing with the member's employer, the department, and the administrative office of the courts, to accrue an additional benefit equal to six-tenths percent of average final compensation for each year of future service credit as a court commissioner from the date of the election. A court commissioner who does not elect to accrue an additional benefit under this section may make this election during any subsequent month of January until the irrevocable election is made.

(3) A court commissioner who made the election under subsection (1) or (2) of this section shall contribute a minimum of seven and one-half percent of pay to the member's defined contribution account.

(4)(a) A member who made the election under subsection (1) or (2) of this section may apply to the department to increase the member's benefit multiplier by an additional six-tenths percent per year of service for the period in which the member served as a court commissioner prior to the election. The member shall pay, for the applicable period of service, the actuarially equivalent value of the increase in the member's benefit resulting from the increase in the benefit multiplier as determined by the director. This payment must be made prior to retirement.

(b) Subject to rules adopted by the department, a member applying to increase the member's benefit multiplier under this section may pay all or part of the cost with a lump sum payment, eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan. The department shall adopt rules to ensure that all lump sum payments, rollovers, and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

(5) In lieu of the retirement allowance provided under RCW 41.40.790, the retirement allowance payable for service as a court commissioner in the supreme court, court of appeals, or superior, district, or municipal court, for those members who elected to accrue an additional benefit under the provisions of this section shall be equal to one and six-tenths percent of average final compensation for each year of such service after the election. The total retirement allowance under this system for those members who elected to accrue an additional benefit while a court commissioner shall not

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exceed thirty- seven and one-half percent of average final compensation.

**NEW SECTION. Sec. 4.** A new section is added to chapter 41.45 RCW to read as follows:

(1) The required employer contribution rate in support of public employees' retirement system plan 1 or plan 2 members employed as a court commissioner in the supreme court, court of appeals, or superior, district, or municipal court, who have elected to accrue an additional benefit under the provisions of section 1 or 2 of this act, shall equal the public employees' retirement system employer contribution rate established under this chapter.

(2) The required employer contribution rate in support of public employees' retirement system plan 3 members employed as a court commissioner in the supreme court, court of appeals, or superior, district, or municipal court, who have elected to accrue an additional benefit under the provisions of section 3 of this act, shall equal the public employees' retirement system employer contribution rate established under this chapter plus two and one-half percent of pay.

(3) The required contribution rate for members of the public employees' retirement system plan 2 employed as a court commissioner in the supreme court, court of appeals, or superior, district, or municipal court, who have elected to accrue an additional benefit under the provisions of section 2 of this act, shall be two hundred fifty percent of the member contribution rate for the public employees' retirement system plan 2 established under this chapter.

(4) The required contribution rate for members of the public employees' retirement system plan 1 employed as a court commissioner in the supreme court, court of appeals, or superior, district, or municipal court, who have elected to accrue an additional benefit under the provisions of section 1 of this act, shall be the contribution rate established under RCW 41.40.330 plus six and twenty-six one-hundredths percent of pay.

**Sec. 5.** RCW 41.45.207 and 2006 c 189 s 19 are each amended to read as follows:

(1) The required employer contribution rate in support of public employees' retirement system plan 1 or plan 2 members employed as district court judges and municipal court judges who elect to participate under RCW 41.40.127(1) (~~or 41.40.873(1)~~), or who are newly elected or appointed after January 1, 2007, shall equal the public employees' retirement system employer contribution rate established under this chapter.

(2) The required employer contribution rate in support of public employees' retirement system plan 3 members employed as district court judges and municipal court judges who elect to participate under RCW 41.40.873(1), or who are newly elected or appointed after January 1, 2007, for service beginning September 1, 2010, shall equal the public employees' retirement system employer contribution rate established under this chapter plus two and one-half percent of pay.

(3) The required contribution rate for members of the public employees' retirement system plan 2 employed as district court judges or municipal court judges who elect to participate under RCW 41.40.127(1) or 41.40.873(1), or who are newly elected or appointed after January 1, 2007, shall be two hundred fifty percent of the member contribution rate for the public employees' retirement system plan 2 established under this chapter.

~~((3))~~ (4) The required contribution rate for members of the public employees' retirement system plan 1 employed as district court judges or municipal court judges who elect to participate under RCW 41.40.124(1), or who are newly elected or appointed after January 1, 2007, shall be the contribution rate established under RCW 41.40.330 plus six and twenty-six one-hundredths percent of pay.

**NEW SECTION. Sec. 6.** This act takes effect September 1, 2010."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Brown to Senate Bill No. 5523.

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

#### MOTION

On motion of Senator Hobbs, the rules were suspended, Engrossed Senate Bill No. 5523 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

Senators Zarelli and Schoesler spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5523.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5523 and the bill passed the Senate by the following vote: Yeas, 27; Nays, 20; Absent, 0; Excused, 2.

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

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Fraser, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Regala, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Excused: Senators Fairley and Oemig

ENGROSSED SENATE BILL NO. 5523, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

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

#### MOTION

Senator Pflug moved adoption of the following resolution:

#### SENATE RESOLUTION

8684

By Senators Pflug, Delvin, Pridemore, McDermott, Tom, Kastama, Hobbs, Kauffman, Oemig, Hewitt, Zarelli, McAuliffe, Gordon, Schoesler, Swecker, Honeyford, Morton, Carrell, King, Becker, and Parlette

WHEREAS, The students of Tahoma Senior High School in Maple Valley, Washington; River's Edge High School in Richland, Washington; and Evergreen High School in Vancouver, Washington enrolled in the program known as "We The People, The Citizen and Constitution," have exhibited that they have learned

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very well the lessons of our forefathers who wrote the Constitution of the United States; and

WHEREAS, The students of Tahoma Senior High School won first place in state competition and will be representing all of Washington State in national championship competitions in April; and the students of River's Edge and Evergreen High Schools won second and third place respectively; and

WHEREAS, This constitutional knowledge will enhance their lives and direct their paths as they walk through life, proud in the knowledge that Americans have long stood for justice and liberty for all Americans; and

WHEREAS, Being armed with this knowledge is to the benefit of all citizens of this great country and state and will prepare the students to participate in the democracy men and women have fought so gallantly to preserve; and

WHEREAS, These energetic, knowledgeable young people will one day lead this state and country, and there may very well be in their midst a legislator, governor, senator, member of Congress, or perhaps a future President; and

WHEREAS, Their dedicated and talented teachers, including Gretchen Wulfing of Tahoma Senior High School, can take pride in knowing that the students enrolled in this program have the knowledge to outperform university students in every topic; and

WHEREAS, Studies have shown that eighty percent of seniors in high school participating in this program have registered to vote compared to an average of thirty-seven percent among other high school seniors, thereby proving that this program has increased the interest in politics and in participation in government; and

WHEREAS, For the fourteenth time, Tahoma Senior High School has won the first place title at the state championship by answering questions using only their knowledge, memory, and reasoning, enabling its team to represent the whole State of Washington when they compete at the national competition in Washington, D.C. in April; and

WHEREAS, In 2000, Tahoma Senior High School was fourth in the nation, in 2002 and 2008 they won the Western Regional Award, and in 2003 the We The People Team won the top Unit Two in the Nation Award;

NOW, THEREFORE, BE IT RESOLVED, That the Senate honor all the participants in this program from Tahoma Senior High School, River's Edge High School, and Evergreen High School. Tahoma Senior High School's first place team: Mariah Anderson, Austin Arnold, Krzysztof Bieniek, McKenna Blenz, Chad Burgess, Casey Campbell, Matthew Cunningham, Wiley Duerson, Robin Hanson, Matthew Herman, John Iatesta, David Mahoney, Savannah Marstall, Melissa Moorehead, Tucker Murrey, Eric Nucci, Shelby Pelon, Chanse Pierson, Talitha Shiroma, Jordyn Sifferman, Karissa Smith, Carolyn Stevens, Jonelle Thorsheim, Emily Wittman.

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the members of Tahoma Senior High School's We The People Team, the school's teacher Gretchen Wulfing, and the principal of Tahoma Senior High School, Terry Duty, to further show the respect of this body for a job well done and wish them success in their endeavors.

Senators Pflug, Delvin, Pridemore and Kauffman spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8684.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the Tahoma We The People Team who were seated in the gallery.

MOTION

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

SECOND READING

SENATE BILL NO. 6207, by Senator Haugen

Allowing local governments to create golf cart zones.

MOTIONS

On motion of Senator Haugen, Substitute Senate Bill No. 6207 was substituted for Senate Bill No. 6207 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Haugen, the rules were suspended, Substitute Senate Bill No. 6207 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Haugen spoke in favor of passage of the bill.

MOTION

On motion of Senator Delvin, Senator McCaslin was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6207.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6207 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

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

Absent: Senator McDermott

Excused: Senators Fairley, McCaslin and Oemig

SUBSTITUTE SENATE BILL NO. 6207, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Marr, Senator McDermott was excused.

SECOND READING

SENATE BILL NO. 6288, by Senators Pridemore, Fairley, Kohl-Welles and Kline

Authorizing counties, cities, and towns to request background checks for certain license applicants and licensees.

The measure was read the second time.

MOTION

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On motion of Senator Pridemore, the rules were suspended, Senate Bill No. 6288 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6288.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6288 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Fairley and Oemig

SENATE BILL NO. 6288, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Brandland, Senator Hewitt was excused.

#### SECOND READING

SENATE BILL NO. 5902, by Senators Pridemore, Fraser, McAuliffe, Kline, Kohl-Welles and McDermott

Promoting accessible communities for persons with disabilities.

#### MOTION

On motion of Senator Pridemore, Substitute Senate Bill No. 5902 was substituted for Senate Bill No. 5902 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Pridemore moved that the following striking amendment by Senator Pridemore be adopted:

Strike everything after the enacting clause and insert the following:

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

**NEW SECTION. Sec. 2.** (1) The accessible communities account is created in the custody of the state treasurer. Two

hundred dollars from each full penalty imposed under RCW 46.16.381 (7), (8), and (9) must be deposited into the account. When a reduced penalty is imposed under RCW 46.16.381 (7), (8) and (9), the amount deposited in the accessible communities account shall be reduced proportionally.

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

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

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

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

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

(d) A grant program for funding proposals developed and submitted by county accessible community advisory committees to promote greater awareness of disability issues and acceptance, inclusion, and access for persons with disabilities within the community;

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The county auditor supports expanding the scope of the committee established and maintained under RCW 29A.46.260 to that of an accessible community advisory committee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Uses portable oxygen;

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

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

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

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

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

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

(3) Persons who qualify for special parking privileges are entitled to receive from the department of licensing a removable windshield placard bearing the international symbol of access and

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an individual serial number, along with a special identification card bearing the name and date of birth of the person to whom the placard is issued, and the placard's serial number. The special identification card shall be issued to all persons who are issued parking placards, including those issued for temporary disabilities, and special parking license plates for persons with disabilities. The department shall design the placard to be displayed when the vehicle is parked by suspending it from the rearview mirror, or in the absence of a rearview mirror the card may be displayed on the dashboard of any vehicle used to transport the person with disabilities. Instead of regular motor vehicle license plates, persons with disabilities are entitled to receive special license plates under this section or RCW 46.16.385 bearing the international symbol of access for one vehicle registered in the name of the person with disabilities. Persons with disabilities who are not issued the special license plates are entitled to receive a second special placard upon submitting a written request to the department. Persons who have been issued the parking privileges and who are using a vehicle or are riding in a vehicle displaying the placard or special license plates issued under this section or RCW 46.16.385 may park in places reserved for persons with physical disabilities. The director shall adopt rules providing for the issuance of special placards and license plates to public transportation authorities, nursing homes licensed under chapter 18.51 RCW, boarding homes licensed under chapter 18.20 RCW, senior citizen centers, private nonprofit agencies as defined in chapter 24.03 RCW, and vehicles registered with the department as cabulances that regularly transport persons with disabilities who have been determined eligible for special parking privileges provided under this section. The director may issue special license plates for a vehicle registered in the name of the public transportation authority, nursing home, boarding home, senior citizen center, private nonprofit agency, or cabulance service if the vehicle is primarily used to transport persons with disabilities described in this section. Public transportation authorities, nursing homes, boarding homes, senior citizen centers, private nonprofit agencies, and cabulance services are responsible for insuring that the special placards and license plates are not used improperly and are responsible for all fines and penalties for improper use.

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

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

(6) Additional fees shall not be charged for the issuance of the special placards or the identification cards. No additional fee may

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be charged for the issuance of the special license plates except the regular motor vehicle registration fee and any other fees and taxes required to be paid upon registration of a motor vehicle.

(7) Any unauthorized use of the special placard, special license plate issued under this section or RCW 46.16.385, or identification card is a (~~traffic~~) parking infraction with a monetary penalty of (~~two~~) four hundred fifty dollars.

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

(9) It is a parking infraction, with a monetary penalty of (~~two~~) four hundred fifty dollars for any person to park a vehicle in a parking place provided on private property without charge or on public property reserved for persons with physical disabilities without a placard or special license plate issued under this section or RCW 46.16.385. If a person is charged with a violation, the person shall not be determined to have committed an infraction if the person produces in court or before the court appearance the placard or special license plate issued under this section or RCW 46.16.385 required under this section. A local jurisdiction providing nonmetered, on-street parking places reserved for persons with physical disabilities may impose by ordinance time restrictions of no less than four hours on the use of these parking places. A local jurisdiction may impose by ordinance time restrictions of no less than four hours on the use of nonreserved, on-street parking spaces by vehicles displaying the special parking placards or special license plates issued under this section or RCW 46.16.385. All time restrictions must be clearly posted.

(10) (~~The penalties~~) Two hundred dollars from each full penalty imposed under subsections (7), (8), and (9) of this section shall be deposited in the accessible communities account created in section 2 of this act. When a reduced penalty is imposed under subsections (7), (8), and (9) of this section, the amount deposited in the accessible communities account shall be reduced proportionally. The remaining penalty amounts shall be used by that local jurisdiction exclusively for law enforcement. The court may also impose an additional penalty sufficient to reimburse the local jurisdiction for any costs it may have incurred in removal and storage of the improperly parked vehicle.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

class C purse fund account, the individual development account program account, the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account), the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, and the reading achievement account. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

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

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

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Pridemore to Substitute Senate Bill No. 5902.

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

#### MOTION

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

On page 1, line 2 of the title, after "disabilities;" strike the remainder of the title and insert "amending RCW 29A.46.260 and 43.79A.040; reenacting and amending RCW 46.16.381; adding a new section to chapter 50.40 RCW; adding a new section to chapter 36.01 RCW; creating new sections; and prescribing penalties."

#### MOTION

On motion of Senator Pridemore, the rules were suspended, Engrossed Substitute Senate Bill No. 5902 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pridemore, Kauffman and Eide spoke in favor of passage of the bill.

Senators Pflug and Roach spoke against passage of the bill.

#### MOTION

On motion of Senator Marr, Senator Kline was excused.

#### POINT OF ORDER

Senator Benton: "I question Mr. President whether Engrossed Substitute Senate Bill No. 5902 is properly before the body and perhaps that's not the correct point of order. The point of order I'm asking about is the fee in this, referred to as a fee. This bill requires a special fund to be set up in the Treasures Office. That fund is then used to promote things that are not directly related to the actual fine itself. So, fine, fee or tax I'm trying to understand the Nexus and whether or not this bill should be called a tax rather than a fee and, if so, are there different provisions

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under Initiative 960 that would pertain to the passage of this bill and whether 5902 is properly before us?"

## MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute Senate Bill No. 5902 was deferred and the bill held its place on the third reading calendar.

## SECOND READING

SENATE BILL NO. 6197, by Senators Berkey, Parlette and Franklin

Concerning group life insurance.

## MOTIONS

On motion of Senator Berkey, Substitute Senate Bill No. 6197 was substituted for Senate Bill No. 6197 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Berkey, the rules were suspended, Substitute Senate Bill No. 6197 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Berkey spoke in favor of passage of the bill.

## MOTION

On motion of Senator Brandland, Senator Parlette was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6197.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6197 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Hewitt, Kline and Oemig

SUBSTITUTE SENATE BILL NO. 6197, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6227, by Senators Becker, Marr, Parlette and Keiser

Concerning the practice of opticianry.

The measure was read the second time.

## MOTION

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On motion of Senator Becker, the rules were suspended, Senate Bill No. 6227 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Senate Bill No. 6227.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6227 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

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

Absent: Senator Gordon

Excused: Senators Hewitt, Kline and Oemig

SENATE BILL NO. 6227, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## PERSONAL PRIVILEGE

Senator Keiser: "Thank you Mr. President. I'd like to point out that the bill we just passed, Senate Bill No. 6227 is a very important bill to at least the fine Senator from the Second District. Now, in past session, I believe we have pointed out the fact that when a relatively new member has their first bill on the floor. It's a moment to note. We didn't note that during the process I should note it now. Congratulations."

## PERSONAL PRIVILEGE

Senator Becker: "I want to thank you my kind Senator friend of the Thirty-Third District. It is my first bill to make it out onto the floor so I'm proud of that. I thank you for it being one-hundred percent yea. Thank you."

## MOTION

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

## THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5529, by Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Jarrett and King).

Regarding architects.

The bill was read on Third Reading.

Senators King and Kohl-Welles spoke in favor of the passage of the bill.

Senators Holmquist and Honeyford spoke against passage of the bill.

## MOTION

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On motion of Senator Marr, Senator Regala was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5529.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5529 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 8; Absent, 0; Excused, 2.

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

Voting nay: Senators Becker, Benton, Carrell, Holmquist, Honeyford, McCaslin, Roach and Stevens

Excused: Senators Oemig and Regala

ENGROSSED SUBSTITUTE SENATE BILL NO. 5529, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Roach: "I was wondering, the last bill that we just voted out 5529 has a..."

#### POINT OF ORDER

Senator Eide: "I believe a point of personal privilege is something directly related to the individual not regarding a piece of legislation that we just passed."

#### REPLY BY THE PRESIDENT

President Owen: "That is correct."

#### PERSONAL PRIVILEGE

Senator Roach: "This does Mr. President regard the individual. Thank you Mr. President. This individual would like to know before she votes if there's a tax or fee increase. This particular bill I understand from grabbing a book really fast did have it but this particular Senator thinks it's a personal thing here to make sure that those that are putting together the bill reports put in here that there's a fee increase. It's not even in the book and that's I personally wanted the privilege of asking that we put those in. Thank you."

#### RULING BY THE PRESIDENT

President Owen: "In ruling on the inquiry raised by Senator Benton as to the application of Initiative Number 960 to Engrossed Substitute Senate Bill 5902, the President finds and rules as follows.

The President has previously stated that the term used to describe a particular activity – describing an act of collection as a fee or a tax, for example – is not controlling. Instead, he examines the act of collection, and the manner in which the funds are used. In this matter, the bill increases a fine for violating parking privileges reserved for those with certain disabilities.

The funds are then used to educate and inform others regarding governmental policies and actions regarding those same persons. As a consequence, there is a strong nexus between the funds collected and their subsequent use.

For these reasons, Senator Benton's point is not well-taken, and this measure will need only a simple majority vote of this body for final passage."

The Senate resumed consideration of Engrossed Substitute Senate Bill No. 5902.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5902.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5902 and the bill passed the Senate by the following vote: Yeas, 37; Nays, 11; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Murray, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Tom and Zarelli

Voting nay: Senators Becker, Brandland, Delvin, Haugen, Morton, Parlette, Pflug, Roach, Schoesler, Stevens and Swecker

Excused: Senator Oemig

ENGROSSED SUBSTITUTE SENATE BILL NO. 5902, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 11:13 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

#### AFTERNOON SESSION

The Senate was called to order at 1:43 p.m. by President Owen.

#### MOTION

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

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Marr moved that Gubernatorial Appointment No. 9193, Irene Gonzales, as a member of the Board of Trustees, The Evergreen State College, be confirmed.

Senator Marr spoke in favor of the motion.

#### MOTION

On motion of Senator Brandland, Senator Benton was excused.

#### MOTION

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

PERSONAL PRIVILEGE

## APPOINTMENT OF IRENE GONZALES

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9193, Irene Gonzales as a member of the Board of Trustees, The Evergreen State College.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9193, Irene Gonzales as a member of the Board of Trustees, The Evergreen State College and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Benton and Prentice

Gubernatorial Appointment No. 9193, Irene Gonzales, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, The Evergreen State College.

## SECOND READING

## CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Pridemore moved that Gubernatorial Appointment No. 9224, Sherry W. Parker, as a member of the Board of Trustees, Clark Community College District No. 14, be confirmed.

Senator Pridemore spoke in favor of the motion.

## APPOINTMENT OF SHERRY W. PARKER

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9224, Sherry W. Parker as a member of the Board of Trustees, Clark Community College District No. 14.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9224, Sherry W. Parker as a member of the Board of Trustees, Clark Community College District No. 14 and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Benton and Prentice

Gubernatorial Appointment No. 9224, Sherry W. Parker, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Clark Community College District No. 14.

Senator Delvin: "Thank you Mr. President. I would just like to recognize and I really appreciate you recognizing the visitors from the Tri Cities but just a little bit about the ARC. It provides services for the developmentally disabled community and their families. It's a great organization. I've had a pleasure and really a lot of gratitude being involved with this group for many years. We're building a new building in the Tri-Cities. It will be a better place for them to re service than there, I think it's about a thirty year old building, and I'm just thankful they came over here from the Tri Cities to Olympia. The People First is an advocate group. They self-advocate for their needs and their services and they do a great job. Teresa is one of those persons who serves on the Governor's Council on the Developmentally Disabled community. So thank you, Mr. President."

PERSONAL PRIVILEGE

Senator McAuliffe: "Thank you Mr. President. I have some great news to announce. We had over one hundred and sixty-eight levies that were brought before the people yesterday to support our schools. They were maintenance and operation levies. Out of that number only two are still counting. The vast majority of them have been supported. I think it sends a strong message to the legislature that our people want to support our public schools so I want to express that to you today and I want to congratulate the public for really stepping and supporting our schools. Thank you Mr. President."

## SECOND READING

## CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator McDermott moved that Gubernatorial Appointment No. 9151, Patrick M. Hannigan, as a member of the Board of Pilotage Commissioners, be confirmed.

Senator McDermott spoke in favor of the motion.

## APPOINTMENT OF PATRICK M. HANNIGAN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9151, Patrick M. Hannigan as a member of the Board of Pilotage Commissioners.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9151, Patrick M. Hannigan as a member of the Board of Pilotage Commissioners and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Benton and Prentice

Gubernatorial Appointment No. 9151, Patrick M. Hannigan, having received the constitutional majority was declared confirmed as a member of the Board of Pilotage Commissioners.

SECOND READING

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SENATE BILL NO. 6340, by Senators Regala and Kline

Changing the membership of the Washington state forensic investigations council.

## MOTIONS

On motion of Senator Regala, Substitute Senate Bill No. 6340 was substituted for Senate Bill No. 6340 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Regala, the rules were suspended, Substitute Senate Bill No. 6340 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Regala spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6340.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6340 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Benton

SUBSTITUTE SENATE BILL NO. 6340, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6401, by Senator Brandland

Concerning an alternative process for selecting an electrical contractor or a mechanical contractor, or both, for general contractor/construction manager projects.

The measure was read the second time.

## MOTION

On motion of Senator Brandland, the rules were suspended, Senate Bill No. 6401 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Brandland spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6401.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6401 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Benton

SENATE BILL NO. 6401, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6591, by Senators Kline, Berkey, Gordon, Keiser and Prentice

Revising the procedure for complaints filed with the human rights commission.

## MOTIONS

On motion of Senator Kline, Substitute Senate Bill No. 6591 was substituted for Senate Bill No. 6591 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kline, the rules were suspended, Substitute Senate Bill No. 6591 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6591.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6591 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Benton

SUBSTITUTE SENATE BILL NO. 6591, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6263, by Senator Keiser

Establishing the Washington vaccine association.

The measure was read the second time.

## MOTION

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On motion of Senator Keiser, Substitute Senate Bill No. 6263 was not substituted for Senate Bill No. 6263 and the substitute bill was not adopted.

### MOTION

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

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Association" means the Washington vaccine association.

(2) "Covered lives" means all persons under the age of nineteen in Washington state who are:

(a) Covered under an individual or group health benefit plan issued or delivered in Washington state or an individual or group health benefit plan that otherwise provides benefits to Washington residents; or

(b) Enrolled in a group health benefit plan administered by a third-party administrator. Persons under the age of nineteen for whom federal funding is used to purchase vaccines or who are enrolled in state purchased health care programs covering low-income children including, but not limited to, apple health for kids under RCW 74.09.470 and the basic health plan under chapter 70.47 RCW are not considered "covered lives" under this chapter.

(3) "Estimated vaccine cost" means the estimated cost to the state over the course of a state fiscal year for the purchase and distribution of vaccines purchased at the federal discount rate by the department of health.

(4) "Health benefit plan" has the same meaning as defined in RCW 48.43.005.

(5) "Health carrier" has the same meaning as defined in RCW 48.43.005.

(6) "Secretary" means the secretary of the department of health.

(7) "State supplied vaccine" means vaccine purchased by the state department of health for covered lives for whom the state is purchasing vaccine using state funds raised via assessments on health carriers and third-party administrators as provided in this chapter.

(8) "Third-party administrator" means any person or entity who, on behalf of a health insurer or health care purchaser, receives or collects charges, contributions, or premiums for, or adjusts or settles claims on or for, residents of Washington state or Washington health care providers and facilities.

(9) "Total nonfederal program cost" means the estimated vaccine cost less the amount of federal revenue available to the state for the purchase and distribution of vaccines.

(10) "Vaccine" means a preparation of killed or attenuated living microorganisms, or fraction thereof, that upon administration stimulates immunity that protects against disease and is approved by the federal food and drug administration as safe and effective and recommended by the advisory committee on immunization practices of the centers for disease control and prevention for administration to children under the age of nineteen years.

**NEW SECTION. Sec. 2.** There is created a nonprofit corporation to be known as the Washington vaccine association. The association is formed for the primary purpose of collecting and remitting adequate funds from health carriers and third-party administrators for the cost of vaccines provided to certain children in Washington state. The association may also undertake other activities in support of a broader private/public initiative to protect Washington's children from the effects of

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preventable infectious diseases through increasing immunization rates.

**NEW SECTION. Sec. 3.** (1) The association is comprised of all health carriers issuing or renewing health benefit plans in Washington state and all third-party administrators conducting business on behalf of residents of Washington state or Washington health care providers and facilities. Third-party administrators are subject to registration under section 9 of this act.

(2) The association is a nonprofit corporation under chapter 24.03 RCW and has the powers granted under that chapter.

(3) The board of directors includes the following voting members:

(a) Four members, selected from health carriers or third-party administrators, excluding health maintenance organizations, that have the most fully insured and self-funded covered lives in Washington state. The count of total covered lives includes enrollment in all companies included in their holding company system. Each health carrier or third-party administrator is entitled to no more than a single position on the board to represent all entities under common ownership or control.

(b) One member selected from the health maintenance organization having the most fully insured and self-insured covered lives in Washington state. The count of total lives includes enrollment in all companies included in its holding company system. Each health maintenance organization is entitled to no more than a single position on the board to represent all entities under common ownership or control.

(c) One member, representing health carriers not otherwise represented on the board under (a) or (b) of this subsection, who is elected from among the health carrier members not designated under (a) or (b) of this subsection.

(d) One member, representing Taft Hartley plans, and one member representing Washington state employers offering self-funded health coverage, appointed by the secretary from a list of nominees submitted by the Puget Sound health alliance.

(e) Two physician members appointed by the secretary, including at least one board certified pediatrician.

(f) The secretary, or a designee of the secretary with expertise in childhood immunization purchasing and distribution.

(4) The directors' terms and appointments must be specified in the plan of operation adopted by the association.

(5) The board of directors of the association shall:

(a) Prepare and adopt articles of association and bylaws;

(b) Prepare and adopt a plan of operation;

(c) Submit the plan of operation to the secretary for approval;

(d) Conduct all activities in accordance with the approved plan of operation;

(e) Enter into contracts as necessary or proper to collect and disburse the assessment;

(f) Enter into contracts as necessary or proper to administer the plan of operation;

(g) Sue or be sued, including taking any legal action necessary or proper for the recovery of any assessment for, on behalf of, or against members of the association or other participating person;

(h) Appoint, from among its directors, committees as necessary to provide technical assistance in the operation of the association, including the hiring of independent consultants as necessary;

(i) Obtain such liability and other insurance coverage for the benefit of the association, its directors, officers, employees, and agents as may in the judgment of the board of directors be helpful or necessary for the operation of the association;

(j) By May 1, 2010, establish the estimated amount of the assessment needed for the period of May 1, 2010, through December 31, 2010, based upon the estimate provided to the

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association under section 4(1) of this act; and notify, in writing, each health carrier and third-party administrator of the health carrier's or third-party administrator's total assessment for this period by May 15, 2010;

(k) On an annual basis, beginning no later than November 1, 2010, and by November 1st of each year thereafter, establish the estimated amount of the assessment;

(l) Notify, in writing, each health carrier and third-party administrator of the health carrier's or third-party administrator's estimated total assessment by November 15th of each year;

(m) Submit a periodic report to the secretary listing those health carriers or third-party administrators that failed to remit their assessments and audit health carrier and third-party administrator books and records for accuracy of assessment payment submission;

(n) Allow each health carrier or third-party administrator no more than ninety days after the notification required by (l) of this subsection to remit any amounts in arrears or submit a payment plan, subject to approval by the association and initial payment under an approved payment plan;

(o) Deposit annual assessments collected by the association, less the association's administrative costs, with the state treasurer to the credit of the universal vaccine purchase account established in RCW 43.70.720;

(p) Borrow and repay such working capital, reserve, or other funds as, in the judgment of the board of directors, may be helpful or necessary for the operation of the association; and

(q) Perform any other functions as may be necessary or proper to carry out the plan of operation and to affect any or all of the purposes for which the association is organized.

(6) The secretary shall convene the initial meeting of the association board of directors.

**NEW SECTION. Sec. 4.** (1) The secretary shall estimate the total nonfederal program cost for the upcoming calendar year by October 1, 2010, and October 1st of each year thereafter. Additionally, the secretary shall subtract any amounts needed to serve children enrolled in state purchased health care programs covering low-income children for whom federal vaccine funding is not available, and report the final amount to the association. In addition, the secretary shall perform such calculation for the period of May 1st through December 31st, 2010, as soon as feasible but in no event later than April 1, 2010. The estimates shall be timely communicated to the association.

(2) The board of directors of the association shall determine the method and timing of assessment collection in consultation with the department of health. The board shall use a formula designed by the board to ensure the total anticipated nonfederal program cost, minus costs for other children served through state-purchased health care programs covering low-income children, calculated under subsection (1) of this section, is collected and transmitted to the universal vaccine purchase account created in RCW 43.70.720 in order to ensure adequacy of state funds to order state-supplied vaccine from federal centers for disease control and prevention.

(3) Each licensed health carrier and third-party administrator must be assessed and is required to timely remit payment for its share of the total amount needed to fund nonfederal program costs calculated by the department of health. Such an assessment includes additional funds as determined necessary by the board to cover the reasonable costs for the association's administration. The board shall determine the assessment methodology, with the intent of ensuring that the nonfederal costs are based on actual usage of vaccine for a health carrier or third-party administrator's covered lives. The board may in addition provide financial or other incentives for achievement of higher vaccination rates. State and local governments and school districts must pay their portion of vaccine expense for covered lives under this chapter.

(4) The board of the association shall develop a mechanism through which the number and cost of doses of vaccine purchased under this chapter that have been administered to children covered by each health carrier and third-party administrator are attributed to each such health carrier and third-party administrator. Except as otherwise permitted by the board, this mechanism must include at least the following: Date of service; patient name; vaccine received; and health benefit plan eligibility. The data must be collected and maintained in a manner consistent with applicable state and federal health information privacy laws. Beginning November 1, 2011, and each November 1st thereafter, the board shall factor the results of this mechanism for the previous year into the determination of the appropriate assessment amount for each health carrier and third-party administrator for the upcoming year.

(5) For any year in which the total calculated cost to be received from association members through assessments is less than the total nonfederal program cost, the association must pay the difference to the state for deposit into the universal vaccine purchase account established in RCW 43.70.720. The board may assess, and the health carrier and third-party administrators are obligated to pay, their proportionate share of such costs and appropriate reserves as determined by the board.

(6) The aggregate amount to be raised by the association in any year may be reduced by any surpluses remaining from prior years.

(7) In order to generate sufficient start-up funding, the association may accept prepayment from member health carriers and third-party administrators, subject to offset of future amounts otherwise owing or other repayment method as determined by the board. The initial deposit of start-up funding must be deposited into the universal vaccine purchase account on or before April 30, 2010.

**NEW SECTION. Sec. 5.** (1) The board of the association shall establish a committee for the purposes of developing recommendations to the board regarding selection of vaccines to be purchased in each upcoming year by the department. The committee must be composed of at least five voting board members, including at least three health carrier or third-party administrator members, one physician, and the secretary or the secretary's designee. The committee must also include a representative of vaccine manufacturers, who is a nonvoting member of the committee. The representative of vaccine manufacturers must be chosen by the secretary from a list of three nominees submitted collectively by vaccine manufacturers on an annual basis.

(2) In selecting vaccines to purchase, the following factors should be strongly considered by the committee: Patient safety and clinical efficacy, public health and purchaser value, patient and provider choice, and stability of vaccine supply.

**NEW SECTION. Sec. 6.** In addition to the duties and powers enumerated elsewhere in this chapter:

(1) The association may, pursuant to either vote of its board of directors or request of the secretary, audit compliance by any health carrier or third-party administrator of any reporting obligations established under the association's plan of operation. Upon failure of any health carrier or third-party administrator to reimburse the costs of such audit as certified by vote of the association's board of directors within forty-five days of notice of such vote, the secretary shall assess a civil penalty of one hundred fifty percent of the amount of such costs.

(2) The association may establish an interest charge for late payment of any assessment under this chapter. The secretary shall assess a civil penalty against any health carrier or third-party administrator that fails to pay an assessment within three months of notification under section 3 of this act. The civil penalty under this subsection is one hundred fifty percent of such assessment.

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(3) The secretary and the association are authorized to file liens and seek judgment to recover amounts in arrears and civil penalties, and recover reasonable collection costs, including reasonable attorneys' fees and costs. Civil penalties so levied must be deposited in the universal vaccine purchase account created in RCW 43.70.720.

(4) The secretary may adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this section.

**NEW SECTION. Sec. 7.** The board of directors of the association shall submit to the secretary, no later than one hundred twenty days after the close of the association's fiscal year, a financial report in a form approved by the secretary.

**NEW SECTION. Sec. 8.** No liability on the part of, and no cause of action of any nature, shall arise against any member of the board of the association, against an employee or agent of the association, or against any health care provider for any lawful action taken by them in the performance of their duties or required activities under this chapter.

**NEW SECTION. Sec. 9.** A new section is added to chapter 43.24 RCW to read as follows:

(1)(a) Beginning September 1, 2010, a third-party administrator must register with the department of licensing and renew its registration on an annual basis thereafter prior to December 31st of each year, or within ten days after the registrant changes its name, business name, business address, or business telephone number, whichever occurs sooner.

(b) The registrant shall pay the registration or renewal fee established by the department of licensing as provided in RCW 43.24.086.

(c) Any person or entity that is acting as or holding itself out to be a third-party administrator while failing to have registered under this section is subject to a civil penalty of not less than one thousand dollars nor more than ten thousand dollars for each violation. The civil penalty is in addition to any other penalties that may be imposed for violations of other laws of this state.

(2) For the purposes of this section, "third-party administrator" has the same meaning as defined in section 1 of this act.

(3) The department of licensing may adopt rules under chapter 34.05 RCW as necessary to implement this section.

**Sec. 10.** RCW 43.70.720 and 2009 c 564 s 934 are each amended to read as follows:

The universal vaccine purchase account is created in the custody of the state treasurer. Receipts from public and private sources for the purpose of increasing access to vaccines for children may be deposited into the account. Expenditures from the account must be used exclusively for the purchase of vaccines, at no cost to health care providers in Washington, to administer to children under nineteen years old who are not eligible to receive vaccines at no cost through federal programs. Only the secretary or the secretary's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**NEW SECTION. Sec. 11.** Sections 1 through 8 and 12 through 14 of this act constitute a new chapter in Title 70 RCW.

**NEW SECTION. Sec. 12.** (1) The association board may, on or after June 30, 2015, vote to recommend termination of the association if it finds that the original intent of its formation and operation, which is to ensure more cost-effective purchase and distribution of vaccine than if provided through uncoordinated purchase by health care providers, has not been achieved. The association board shall provide notice of the recommendation to the relevant policy and fiscal committees of the legislature within thirty days of the vote being taken by the association board. If the legislature has not acted by the last day of the next regular

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legislative session to reject the board's recommendation, the board may vote to permanently dissolve the association.

(2) In the event of a voluntary or involuntary dissolution of the association, funds remaining in the universal purchase vaccine account created in RCW 43.70.720 that were collected under this chapter must be returned to the member health carrier and third-party administrators in proportion to their previous year's contribution, from any balance remaining following the repayment of any prepayments for start-up funding not previously recouped by such member.

**NEW SECTION. Sec. 13.** Physicians and clinics ordering state supplied vaccine must ensure they have billing mechanisms and practices in place that enable the association to accurately track vaccine delivered to association members' covered lives and must submit documentation in such a form as may be prescribed by the board in consultation with state physician organizations. Physicians and other persons providing childhood immunization are strongly encouraged to use state supplied vaccine whenever possible. Nothing in this chapter prohibits health carriers and third-party administrators from denying claims for vaccine serum costs when the serum or serums providing similar protection are provided or available via state supplied vaccine.

**NEW SECTION. Sec. 14.** If the requirement that any segment of health carriers, third-party administrators, or state or local governmental entities provide funding for the program established in this chapter is invalidated by a court of competent jurisdiction, the board of the association may terminate the program one hundred twenty days following a final judicial determination on the matter.

**NEW SECTION. Sec. 15.** A new section is added to chapter 48.43 RCW to read as follows:

Assessments paid by carriers under section 4 of this act may be considered medical expenses for purposes of rate setting and regulatory filings.

**NEW SECTION. Sec. 16.** A new section is added to chapter 82.04 RCW to read as follows:

This chapter does not apply to assessments described in sections 3 and 4 of this act received by a nonprofit corporation established under section 2 of this act.

**NEW SECTION. Sec. 17.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Senators Keiser and Pflug spoke in favor of adoption of the striking amendment.

## MOTION

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

On page 7, line 9, after "(2)" insert "Vaccines manufactured with added mercury may not be purchased unless the mercury-free orders cannot be filled and the secretary declares a temporary emergency shortage.

(3)"

Senators Oemig, Keiser and Roach spoke in favor of adoption of the amendment to the striking amendment.

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

## MOTION

On motion of Senator Regala, Senator Murray was excused.

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The President declared the question before the Senate to be the adoption of the amendment by Senator Oemig on page 7, line 9 to the striking amendment to Senate Bill No. 6263.

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Keiser and others as amended to Senate Bill No. 6263.

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

MOTION

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

On page 1, line 2 of the title, after "association;" strike the remainder of the title and insert "amending RCW 43.70.720; adding a new section to chapter 43.24 RCW; adding a new section to chapter 48.43 RCW; adding a new section to chapter 82.04 RCW; adding a new chapter to Title 70 RCW; prescribing penalties; and declaring an emergency."

MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Senate Bill No. 6263 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pflug spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6263.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6263 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 0; Excused, 2.

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

Voting nay: Senators Holmquist and Stevens

Excused: Senators Benton and Murray

ENGROSSED SENATE BILL NO. 6263, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION TO LIMIT DEBATE

Senator Eide: "Mr. President, I move that the members of the Senate be allowed to speak but once on each question before the Senate, that such speech be limited to three minutes and that members be prohibited from yielding their time, however, the maker of a motion shall be allowed to open and close debate. This motion shall be in effect through February 10, 2010."

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

The motion by Senator Eide carried and debate was limited through February 10, 2010 by voice vote.

SECOND READING

SENATE BILL NO. 6214, by Senators Haugen, Morton, Swecker, Shin, McCaslin, Ranker, Rockefeller, Fairley, Pridemore, Kline, Parlette, Jacobsen, Schoesler, Sheldon, McDermott and Fraser

Restructuring three growth management hearings boards into one board.

MOTIONS

On motion of Senator Haugen, Substitute Senate Bill No. 6214 was substituted for Senate Bill No. 6214 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Haugen, the rules were suspended, Substitute Senate Bill No. 6214 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and Roach spoke in favor of the passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6214.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6214 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Benton and Murray

SUBSTITUTE SENATE BILL NO. 6214, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6374, by Senators Kilmer, Delvin, Swecker, Shin, Kastama, Eide, Marr, Hatfield, Sheldon, Berkey, Haugen and Ranker

Regarding fiscal note instructions.

MOTIONS

On motion of Senator Kilmer, Substitute Senate Bill No. 6374 was substituted for Senate Bill No. 6374 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kilmer, the rules were suspended, Substitute Senate Bill No. 6374 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kilmer spoke in favor of passage of the bill.

MOTION

On motion of Senator Marr, Senator Rockefeller was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6374.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6374 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Benton, Murray and Rockefeller

SUBSTITUTE SENATE BILL NO. 6374, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6341, by Senators Hatfield, Haugen, Schoesler, Prentice, Shin and Fairley

Transferring emergency food assistance programs to the department of agriculture. Revised for 1st Substitute: Transferring food assistance programs to the department of agriculture.

MOTIONS

On motion of Senator Hatfield, Substitute Senate Bill No. 6341 was substituted for Senate Bill No. 6341 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hatfield, the rules were suspended, Substitute Senate Bill No. 6341 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hatfield spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6341.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6341 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Murray

SUBSTITUTE SENATE BILL NO. 6341, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6306, by Senator Schoesler

Regulating crop adjusters.

MOTION

On motion of Senator Schoesler, Substitute Senate Bill No. 6306 was substituted for Senate Bill No. 6306 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Schoesler moved that the following striking amendment by Senator Schoesler be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 48.14.010 and 2009 c 162 s 2 and 2009 c 119 s 10 are each reenacted and amended to read as follows:

(1) The commissioner shall collect in advance the following fees:

(a) For filing charter documents:

- (i) Original charter documents, bylaws or record of organization of insurers, or certified copies thereof, required to be filed ..... \$250.00
- (ii) Amended charter documents, or certified copy thereof, other than amendments of bylaws..... \$ 10.00
- (iii) No additional charge or fee shall be required for filing any of such documents in the office of the secretary of state.

(b) Certificate of authority:

- (i) Issuance ..... \$ 25.00
- (ii) Renewal..... \$ 25.00

(c) Annual statement of insurer, filing .....

\$ 20.00

(d) Organization or financing of domestic insurers and affiliated corporations:

- (i) Application for solicitation permit, filing ..... \$100.00
- (ii) Issuance of solicitation permit..... \$ 25.00

(e) Insurance producer licenses:

- (i) License application..... \$ 55.00
- (ii) License renewal, every two years ..... \$ 55.00
- (iii) Initial appointment and renewal of appointment of each insurance producer, every two years ..... \$ 20.00

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(iv)	Limited line insurance producer license application and renewal, every two years .....	\$ 20.00
<b>(f) Title insurance agent licenses:</b>		
(i)	License application.....	\$ 50.00
(ii)	License renewal, every two years .....	\$ 50.00
<b>(g) Reinsurance intermediary licenses:</b>		
(i)	Reinsurance intermediary-broker, each year.....	\$ 50.00
(ii)	Reinsurance intermediary-manager, each year.....	\$100.00
<b>(h) Surplus line broker license application and renewal, every two years .....</b>		
<b>(i) Adjusters' licenses:</b>		
(i)	Independent adjuster(☹): <u>(A) License application.....</u>	\$ 50.00
	<u>(B) License renewal, every two years .....</u>	\$ 50.00
(ii)	Public adjuster(☹): <u>(A) License application.....</u>	\$ 50.00
	<u>(B) License renewal, every two years .....</u>	\$ 50.00
(iii)	Crop adjuster: <u>(A) License application.....</u>	\$ 50.00
	<u>(B) License renewal, every two years .....</u>	\$50.00
<b>(j) Managing general agent appointment, every two years .....</b>		
<b>(k) Examination for license, each examination:</b>		
	All examinations, except examinations administered by an independent testing service, the fees for which are to be approved by the commissioner and collected directly by and retained by such independent testing service .....	\$ 20.00
<b>(l) Miscellaneous services:</b>		
(i)	Filing other documents.....	\$ 5.00
(ii)	Commissioner's certificate under seal.....	\$ 5.00
(iii)	Copy of documents filed in the commissioner's office, reasonable charge therefor as determined by the commissioner.	
<b>(m) Self-service storage specialty insurance producer license application and renewal:</b>		
	Every two years, \$130.00 for an owner with under fifty employees or \$375.00 for an owner with fifty or more employees; plus a location fee of \$35.00 for each additional location of an owner.	

subsection (1)(k) of this section shall be collected directly by the independent testing service and retained by it.

(b) Fees for copies of documents filed in the commissioner's office shall be remitted by the commissioner to the state treasurer not later than the first business day following, and shall be placed to the credit of the insurance commissioner's regulatory account.

**Sec. 2.** RCW 48.17.010 and 2009 c 162 s 13 are each amended to read as follows:

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

(1) "Adjuster" means any person who, for compensation as an independent contractor or as an employee of an independent contractor, or for fee or commission, investigates or reports to the adjuster's principal relative to claims arising under insurance contracts, on behalf solely of either the insurer or the insured. An attorney-at-law who adjusts insurance losses from time to time incidental to the practice of his or her profession(☹) or an adjuster of marine losses(~~(☹) or a salaried employee of an insurer or of a managing general agent~~) is not deemed to be an "adjuster" for the purpose of this chapter. A salaried employee of an insurer or of a managing general agent is not deemed to be an "adjuster" for the purpose of this chapter, except when acting as a crop adjuster.

(a) "Independent adjuster" means an adjuster representing the interests of the insurer.

(b) "Public adjuster" means an adjuster employed by and representing solely the financial interests of the insured named in the policy.

(c) "Crop adjuster" means an adjuster, including (i) an independent adjuster, (ii) a public adjuster, and (iii) an employee of an insurer or managing general agent, who acts as an adjuster for claims arising under crop insurance. A salaried employee of an insurer or of a managing general agent who is certified by a crop adjuster program approved by the risk management agency of the United States department of agriculture is not a "crop adjuster" for the purposes of this chapter. Proof of certification must be provided to the commissioner upon request.

(2) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

(3) "Crop insurance" means insurance coverage for damage to crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation, disease, or other yield-reducing conditions or perils provided by the private insurance market, or multiple peril crop insurance reinsured by the federal crop insurance corporation, including but not limited to revenue insurance.

(4) "Home state" means the District of Columbia and any state or territory of the United States or province of Canada in which an insurance producer maintains the insurance producer's principal place of residence or principal place of business, and is licensed to act as an insurance producer.

~~((4))~~ (5) "Insurance education provider" means any insurer, health care service contractor, health maintenance organization, professional association, educational institution created by Washington statutes, or vocational school licensed under Title 28C RCW, or independent contractor to which the commissioner has granted authority to conduct and certify completion of a course satisfying the insurance education requirements of RCW 48.17.150.

~~((5))~~ (6) "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance. "Insurance producer" does not include title insurance agents as defined in subsection ~~((45))~~ (16) of this section or surplus line brokers licensed under chapter 48.15 RCW.

~~((6))~~ (7) "Insurer" has the same meaning as in RCW 48.01.050, and includes a health care service contractor as defined in

(2) All fees so collected shall be remitted by the commissioner to the state treasurer not later than the first business day following, and shall be placed to the credit of the general fund.

(a) Fees for examinations administered by an independent testing service that are approved by the commissioner under

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RCW 48.44.010 and a health maintenance organization as defined in RCW 48.46.020.

~~((7))~~ (8) "License" means a document issued by the commissioner authorizing a person to act as an insurance producer or title insurance agent for the lines of authority specified in the document. The license itself does not create any authority, actual, apparent, or inherent, in the holder to represent or commit to an insurer.

~~((8))~~ (9) "Limited line credit insurance" includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, automobile dealer gap insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing the credit obligation that the commissioner determines should be designated a form of limited line credit insurance.

~~((9))~~ (10) "NAIC" means national association of insurance commissioners.

~~((10))~~ (11) "Negotiate" means the act of conferring directly with, or offering advice directly to, a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

~~((11))~~ (12) "Person" means an individual or a business entity.

~~((12))~~ (13) "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurer.

~~((13))~~ (14) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular insurer.

~~((14))~~ (15) "Terminate" means the cancellation of the relationship between an insurance producer and the insurer or the termination of an insurance producer's authority to transact insurance.

~~((15))~~ (16) "Title insurance agent" means a business entity licensed under the laws of this state and appointed by an authorized title insurance company to sell, solicit, or negotiate insurance on behalf of the title insurance company.

~~((16))~~ (17) "Uniform application" means the current version of the NAIC uniform application for individual insurance producers for resident and nonresident insurance producer licensing.

~~((17))~~ (18) "Uniform business entity application" means the current version of the NAIC uniform application for business entity insurance license or registration for resident and nonresident business entities.

**Sec. 3.** RCW 48.17.060 and 2009 c 162 s 14 are each amended to read as follows:

(1) A person shall not sell, solicit, or negotiate insurance in this state for any line or lines of insurance unless the person is licensed for that line of authority in accordance with this chapter.

(2) A person may not act as or hold himself or herself out to be an adjuster in this state unless licensed by the commissioner or otherwise authorized to act as an adjuster under this chapter.

(3) A person may not act as or hold himself or herself out to be a crop adjuster in this state unless licensed by the commissioner or otherwise authorized to act as a crop adjuster under this chapter.

**Sec. 4.** RCW 48.17.110 and 2009 c 162 s 16 are each amended to read as follows:

(1) A resident individual applying for an insurance producer license or an individual applying for an adjuster, including crop adjuster, license shall pass a written examination unless exempt under this section or RCW 48.17.175. The examination shall test the knowledge of the individual concerning the lines of authority for which application is made, the duties and responsibilities of an insurance producer or adjuster, and the insurance laws and rules of

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this state. Examinations required by this section shall be developed and conducted under the rules prescribed by the commissioner. ~~((The commissioner shall prepare, or approve, and make available a manual specifying in general terms the subjects which may be covered in any examination for a particular license.))~~

(2) The following are exempt from the examination requirement:

(a) Applicants for licenses under RCW 48.17.170(1) (g), (h), and (i), at the discretion of the commissioner;

(b) With the exception of crop adjusters, applicants for an adjuster's license who for a period of one year, a portion of which was in the year next preceding the date of application, have been a full-time salaried employee of an insurer or of a managing general agent to adjust, investigate, or report claims arising under insurance contracts;

(c) With the exception of crop adjusters, applicants for a license as a nonresident adjuster who are duly licensed in another state and who are deemed by the commissioner to be fully qualified and competent for a similar license in this state; and

(d) Applicants for a license as a nonresident crop adjuster, who must:

(i) Be duly licensed as a crop adjuster, or hold a valid substantially similar license in another state; and

(ii) Have completed preclicensing education and passed an examination substantially similar to the preclicensing education and examination required for licensure as a resident crop adjuster in this state; or

(iii) If their state of residence does not license crop adjusters, complete preclicensing education and pass an examination that are substantially similar to the preclicensing education and examination required to be licensed as a resident crop adjuster in this state.

(3) The commissioner may make arrangements, including contracting with an outside testing service, for administering examinations.

(4) The commissioner may, at any time, require any licensed insurance producer, adjuster or crop adjuster to take and successfully pass an examination testing the licensee's competence and qualifications as a condition to the continuance or renewal of a license, if the licensee has been guilty of violating this title, or has so conducted affairs under an insurance license as to cause the commissioner to reasonably desire further evidence of the licensee's qualifications.

(5) The commissioner may by rule establish requirements for crop adjusters to:

- (a) Successfully complete preclicensing education;
- (b) Pass a written examination to obtain a license; and
- (c) Renew their license.

**Sec. 5.** RCW 48.17.150 and 2009 c 162 s 17 are each amended to read as follows:

(1) The commissioner shall by rule establish minimum continuing education requirements for the renewal or reissuance of a license to an insurance producer.

(2) The commissioner may by rule establish minimum continuing education requirements for the renewal or reissuance of a license to a crop adjuster.

(3) The commissioner shall require that continuing education courses will be made available on a statewide basis in order to ensure that persons residing in all geographical areas of this state will have a reasonable opportunity to attend such courses.

~~((3))~~ (4) The continuing education requirements must be appropriate to the license for the lines of authority specified in RCW 48.17.170 or by rule.

**Sec. 6.** RCW 48.17.390 and 2007 c 117 s 19 are each amended to read as follows:

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(1)(a) The commissioner may license:

(i) ~~An individual or business entity as an independent adjuster or as a public adjuster~~;

(ii) An individual as a crop adjuster; and

(b) Separate licenses shall be required for each type of adjuster.

(2) An individual or business entity may be concurrently licensed under separate licenses as an independent adjuster and as a public adjuster.

(3) An individual may be concurrently licensed under separate licenses as an independent adjuster, a public adjuster, or a crop adjuster.

(4) The full license fee shall be paid for each such license.

**Sec. 7.** RCW 48.17.420 and 2007 c 117 s 21 are each amended to read as follows:

(1) ((On behalf of and as authorized by an insurer for which an insurance producer or title insurance agent has been appointed as an agent.)) An insurance producer or title insurance agent may from time to time act as an adjuster on behalf of and as authorized by an insurer for which an insurance producer or title insurance agent has been appointed as an agent and investigate and report upon claims without being required to be licensed as an adjuster. An insurance producer or title insurance agent must not act as a crop adjuster or investigate or report upon claims arising under crop insurance without first obtaining a crop adjuster license or, if a salaried employee of an insurer or of a managing general agent, without first being certified by a crop adjuster proficiency program approved by the risk management agency of the United States department of agriculture.

(2) ~~((N))~~ Except for losses arising under crop insurance, a license by this state ((shall be)) is not required of a nonresident independent adjuster, for the adjustment in this state of a single loss, or of losses arising out of a catastrophe common to all such losses.

(3) For losses arising under crop insurance, a license by this state is not required of a nonresident crop adjuster, for the adjustment in this state of a single loss, or of losses arising out of a catastrophe common to all such losses, if the nonresident crop adjuster is:

(a) Licensed as a crop adjuster in another state;

(b) Certified by the risk management agency of the United States department of agriculture; or

(c) A salaried employee of an insurer or of a managing general agent who is certified by a crop adjuster proficiency program approved by the risk management agency of the United States department of agriculture.

**NEW SECTION. Sec. 8.** This act takes effect June 27, 2011."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Schoesler to Substitute Senate Bill No. 6306.

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

MOTION

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

On page 1, line 1 of the title, after "adjusters;" strike the remainder of the title and insert "amending RCW 48.17.010, 48.17.060, 48.17.110, 48.17.150, 48.17.390, and 48.17.420; reenacting and amending RCW 48.14.010; and providing an effective date."

MOTION

On motion of Senator Schoesler, the rules were suspended, Engrossed Substitute Senate Bill No. 6306 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Schoesler and Berkey spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6306.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6306 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

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

Voting nay: Senators Holmquist and Stevens

ENGROSSED SUBSTITUTE SENATE BILL NO. 6306, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6688, by Senators Fairley and Shin

Concerning filling vacancies in nonpartisan elective office.

MOTIONS

On motion of Senator Fairley, Substitute Senate Bill No. 6688 was substituted for Senate Bill No. 6688 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Fairley, the rules were suspended, Substitute Senate Bill No. 6688 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fairley and Roach spoke in favor of the passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6688.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6688 and the bill passed the Senate by the following vote: Yeas, 37; Nays, 12; Absent, 0; Excused, 0.

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

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Voting nay: Senators Becker, Brandland, Carrell, Hewitt, Holmquist, Honeyford, King, Parlette, Pflug, Schoesler, Stevens and Zarelli

SUBSTITUTE SENATE BILL NO. 6688, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6418, by Senators Marr and Brown

Regarding cities and towns annexed to fire protection districts.

The measure was read the second time.

## MOTION

On motion of Senator Marr, the rules were suspended, Senate Bill No. 6418 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

## POINT OF INQUIRY

Senator Pflug: "Thank you. Senator, so will, who is the governing authority then if this legislation is adopted?"

Senator Marr: "Well, if the city chooses the municipal fire district, excuse me, municipal fire department option obviously it becomes a unit of city government. If they choose to annex into an existing fire district it becomes the board of the existing fire district. We set up a new fire district board and it's governed by all the rules and terms of election of those fire districts."

Senator Pflug: "And that board is still elected by the entire...ok, thank you."

Senator Marr: "Right."

The President declared the question before the Senate to be the final passage of Senate Bill No. 6418.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6418 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

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

SENATE BILL NO. 6418, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6805, by Senators Kastama, Zarelli, Shin and Delvin

Concerning the Washington state economic development commission.

## MOTION

On motion of Senator Kastama, Substitute Senate Bill No. 6805 was substituted for Senate Bill No. 6805 and the substitute bill was placed on the second reading and read the second time.

## MOTION

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

On page 1, line 12, after "commission," strike "state agencies other than the commission" and insert "the state agency serving as the commission's fiscal agent"

Senator Kastama spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Kastama and Delvin on page 1, line 12 to Substitute Senate Bill No. 6805.

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

## MOTION

On motion of Senator Kastama, the rules were suspended, Engrossed Substitute Senate Bill No. 6805 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6805.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6805 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

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

Absent: Senator Hargrove

ENGROSSED SUBSTITUTE SENATE BILL NO. 6805, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5041, by Senators Kilmer, Swecker, Hobbs, Shin, Kauffman, Franklin, Marr, Rockefeller, Haugen, Eide, Kastama and McAuliffe

Increasing state contracts with veteran-owned businesses. Revised for 1st Substitute: Concerning contracts with veteran-owned businesses.

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The measure was read the second time.

MOTION

On motion of Senator Kilmer, Substitute Senate Bill No. 5041 was not substituted for Senate Bill No. 5041 and the substitute bill was not adopted.

MOTION

Senator Kilmer moved that the following striking amendment by Senators Kilmer, Fairley and Swecker be adopted:

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** The legislature recognizes the unique sacrifices made by veterans and the substantial challenges that returning veterans face after a period of military duty away from home. The legislature further recognizes that veterans who own private businesses may face particular hardships as a direct result of their military service. The purpose of this act is to mitigate economic damage to veteran-owned businesses as a result of military service, and to provide opportunities to them in recognition of the outstanding service they have given to their country.

**Sec. 2.** RCW 43.60A.010 and 2006 c 343 s 2 are each amended to read as follows:

As used in this chapter the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

- (1) "Department" means the department of veterans affairs.
- (2) "Director" means the director of the department of veterans affairs.
- (3) "Committee" means the veterans affairs advisory committee.
- (4) "Board" means the veterans innovations program board.
- (5) "Goods and services" includes professional services and all other goods and services.
- (6) "Procurement" means the purchase, lease, or rental of any goods or services.
- (7) "State agency" includes the state of Washington and all agencies, departments, offices, divisions, boards, commissions, and correctional and other types of institutions.
- (8) "Veteran-owned business" means a business that is certified by the department to be at least fifty-one percent owned and controlled by:
  - (a) A veteran as defined in RCW 41.04.007; or
  - (b) An active or reserve member in any branch of the armed forces of the United States, including the national guard, coast guard, and armed forces reserves.

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.60A RCW to read as follows:

(1) The department shall develop a procedure for certifying veteran-owned businesses and maintain a list of veteran-owned businesses on the department's public web site.

(2) The department shall adopt rules necessary to implement this act. The department shall consult agencies to determine what specific information they must report to the department.

(3) The department shall collaborate with and may assist agencies in implementing outreach to veteran-owned businesses.

**NEW SECTION. Sec. 4.** A new section is added to chapter 43.60A RCW to read as follows:

(1) State agencies are encouraged to award three percent of all procurement contracts that are exempt from competitive bidding requirements under RCW 43.19.1906(2) to veteran-owned businesses certified by the department under section 3 of this act.

(2) State agencies shall:

(a) Perform outreach to veteran-owned businesses in collaboration with the department to increase opportunities for veteran-owned businesses to sell goods and services to the state; and

(b) Work to match agency procurement records with the department's database of certified veteran-owned businesses to establish how many procurement contracts are being awarded to those businesses.

**NEW SECTION. Sec. 5.** A new section is added to chapter 43.19 RCW to read as follows:

The department of general administration shall identify in the department's vendor registry all vendors that are veteran-owned businesses as certified by the department of veterans affairs under section 3 of this act.

**Sec. 6.** RCW 43.19.536 and 1983 c 120 s 13 are each amended to read as follows:

(1) All contracts entered into and purchases made, including leasing or renting, under this chapter on or after September 1, 1983, are subject to the requirements established under chapter 39.19 RCW.

(2) All procurement contracts entered into under this chapter on or after the effective date of this act are subject to the requirements established under section 4 of this act.

**NEW SECTION. Sec. 7.** A new section is added to chapter 28B.10 RCW to read as follows:

All procurement contracts entered into under this chapter on or after the effective date of this act are subject to the requirements established under section 4 of this act.

**NEW SECTION. Sec. 8.** A new section is added to chapter 39.04 RCW to read as follows:

All procurement contracts entered into under this chapter on or after the effective date of this act are subject to the requirements established under section 4 of this act.

**NEW SECTION. Sec. 9.** A new section is added to chapter 39.29 RCW to read as follows:

All procurement contracts entered into under this chapter on or after the effective date of this act are subject to the requirements established under section 4 of this act.

**Sec. 10.** RCW 39.80.040 and 1981 c 61 s 4 are each amended to read as follows:

In the procurement of architectural and engineering services, the agency shall encourage firms engaged in the lawful practice of their profession to submit annually a statement of qualifications and performance data. The agency shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with one or more firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services and then shall select therefrom, based upon criteria established by the agency, the firm deemed to be the most highly qualified to provide the services required for the proposed project. Such agency procedures and guidelines shall include a plan to insure that minority and women-owned firms and veteran-owned firms are afforded the maximum practicable opportunity to compete for and obtain public contracts for services. The level of participation by minority and women-owned firms and veteran-owned firms shall be consistent with their general availability within the professional communities involved.

**Sec. 11.** RCW 47.28.030 and 2007 c 218 s 90 are each amended to read as follows:

A state highway shall be constructed, altered, repaired, or improved, and improvements located on property acquired for right-of-way purposes may be repaired or renovated pending the use of such right-of-way for highway purposes, by contract or state forces. The work or portions thereof may be done by state forces.

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when the estimated costs thereof are less than fifty thousand dollars and effective July 1, 2005, sixty thousand dollars: PROVIDED, That when delay of performance of such work would jeopardize a state highway or constitute a danger to the traveling public, the work may be done by state forces when the estimated cost thereof is less than eighty thousand dollars and effective July 1, 2005, one hundred thousand dollars. When the department of transportation determines to do the work by state forces, it shall enter a statement upon its records to that effect, stating the reasons therefor. To enable a larger number of small businesses((s)) and veteran, minority, and women contractors to effectively compete for department of transportation contracts, the department may adopt rules providing for bids and award of contracts for the performance of work, or furnishing equipment, materials, supplies, or operating services whenever any work is to be performed and the engineer's estimate indicates the cost of the work would not exceed eighty thousand dollars and effective July 1, 2005, one hundred thousand dollars. The rules adopted under this section:

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

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

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

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

**NEW SECTION. Sec. 12.** This act is not intended to create a cause of action or entitlement in an individual or class of individuals."

Senators Kilmer and Roach spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kilmer, Fairley and Swecker to Senate Bill No. 5041.

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

#### MOTION

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

On page 1, line 1 of the title, after "businesses;" strike the remainder of the title and insert "amending RCW 43.60A.010, 43.19.536, 39.80.040, and 47.28.030; adding new sections to chapter 43.60A RCW; adding a new section to chapter 43.19 RCW; adding a new section to chapter 28B.10 RCW; adding a new section to chapter 39.04 RCW; adding a new section to chapter 39.29 RCW; and creating new sections."

#### MOTION

On motion of Senator Kilmer, the rules were suspended, Engrossed Senate Bill No. 5041 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kilmer spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5041.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5041 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

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

Absent: Senator Brandland

ENGROSSED SENATE BILL NO. 5041, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6426, by Senators Prentice and Tom

Eliminating certain boards and commissions.

#### MOTION

On motion of Senator Tom, Substitute Senate Bill No. 6426 was substituted for Senate Bill No. 6426 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

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

On page 23, after line 26, strike all material down through and including line 7 on page 25.

Remember the sections consecutively and correct any internal references accordingly.

The President declared the question before the Senate to be the adoption of the amendment by Senator Fraser and others on page 23, after line 26 to Substitute Senate Bill No. 6426.

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

#### MOTION

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

On page 1, line 5 of the title, strike "41.04.033, 41.04.0331, 41.04.0332,"

#### MOTION

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

On page 91, beginning on line 1, strike all material down through and including line 5.

Renumber the sections consecutively and correct any internal references accordingly.

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

The President declared the question before the Senate to be the adoption of the amendment by Senator Rockefeller and others on page 91, line 1 to Substitute Senate Bill No. 6426.

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

#### MOTION

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

On page 2, beginning on line 9 of the title, strike "adding a new section to chapter 43.147 RCW;"

#### MOTION

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

On page 97, after line 30, insert the following:

" Title and Registration Advisory Committee

**NEW SECTION. Sec. 156.** RCW 46.01.320 (Title and registration advisory committee) and 2005 c 319 s 115, 1996 c 315 s 2, & 1992 c 216 s 3 are each repealed.

**Sec. 157.** RCW 46.01.325 and 2005 c 319 s 116 are each amended to read as follows:

(1) The director shall prepare(~~(, with the advice of the title and registration advisory committee,)~~) an annual comprehensive analysis and evaluation of agent and subagent fees. The director shall make recommendations for agent and subagent fee revisions (~~(approved by the title and registration advisory committee)~~) to the senate and house transportation committees by January 1st of every third year starting with 1996. Fee revision recommendations may be made more frequently when justified by the annual analysis and evaluation(~~(, and requested by the title and registration advisory committee)~~).

(2) The annual comprehensive analysis and evaluation must consider, but is not limited to:

(a) Unique and significant financial, legislative, or other relevant developments that may impact fees;

(b) Current funding for ongoing operating and maintenance automation project costs affecting revenue collection and service delivery;

(c) Future system requirements including an appropriate sharing of costs between the department, agents, and subagents;

(d) Beneficial mix of customer service delivery options based on a fee structure commensurate with quality performance standards;

(e) Appropriate indices projecting state and national growth in business and economic conditions prepared by the United States department of commerce, the department of revenue, and the revenue forecast council for the state of Washington.

**Sec. 158.** RCW 46.01.140 and 2005 c 343 s 1 are each amended to read as follows:

(1) The county auditor, if appointed by the director of licensing shall carry out the provisions of this title relating to the licensing of vehicles and the issuance of vehicle license number plates under the direction and supervision of the director and may with the approval

of the director appoint assistants as special deputies and recommend subagents to accept applications and collect fees for vehicle licenses and transfers and to deliver vehicle license number plates.

(2) A county auditor appointed by the director may request that the director appoint subagencies within the county.

(a) Upon authorization of the director, the auditor shall use an open competitive process including, but not limited to, a written business proposal and oral interview to determine the qualifications of all interested applicants.

(b) A subagent may recommend a successor who is either the subagent's sibling, spouse, or child, or a subagency employee, as long as the recommended successor participates in the open, competitive process used to select an applicant. In making successor recommendation and appointment determinations, the following provisions apply:

(i) If a subagency is held by a partnership or corporate entity, the nomination must be submitted on behalf of, and agreed to by, all partners or corporate officers.

(ii) No subagent may receive any direct or indirect compensation or remuneration from any party or entity in recognition of a successor nomination. A subagent may not receive any financial benefit from the transfer or termination of an appointment.

(iii) (a) and (b) of this subsection are intended to assist in the efficient transfer of appointments in order to minimize public inconvenience. They do not create a proprietary or property interest in the appointment.

(c) The auditor shall submit all proposals to the director, and shall recommend the appointment of one or more subagents who have applied through the open competitive process. The auditor shall include in his or her recommendation to the director, not only the name of the successor who is a relative or employee, if applicable and if otherwise qualified, but also the name of one other applicant who is qualified and was chosen through the open competitive process. The director has final appointment authority.

(3)(a) A county auditor who is appointed as an agent by the department shall enter into a standard contract provided by the director(~~(, developed with the advice of the title and registration advisory committee)~~).

(b) A subagent appointed under subsection (2) of this section shall enter into a standard contract with the county auditor(~~(, developed with the advice of the title and registration advisory committee)~~). The director shall provide the standard contract to county auditors.

(c) The contracts provided for in (a) and (b) of this subsection must contain at a minimum provisions that:

(i) Describe the responsibilities, and where applicable, the liability, of each party relating to the service expectations and levels, equipment to be supplied by the department, and equipment maintenance;

(ii) Require the specific type of insurance or bonds so that the state is protected against any loss of collected motor vehicle tax revenues or loss of equipment;

(iii) Specify the amount of training that will be provided by the state, the county auditor, or subagents;

(iv) Describe allowable costs that may be charged to vehicle licensing activities as provided for in (d) of this subsection;

(v) Describe the causes and procedures for termination of the contract, which may include mediation and binding arbitration.

(d) The department shall develop procedures that will standardize and prescribe allowable costs that may be assigned to vehicle licensing and vessel registration and title activities performed by county auditors.

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(e) The contracts may include any provision that the director deems necessary to ensure acceptable service and the full collection of vehicle and vessel tax revenues.

(f) The director may waive any provisions of the contract deemed necessary in order to ensure that readily accessible service is provided to the citizens of the state.

(4)(a) At any time any application is made to the director, the county auditor, or other agent pursuant to any law dealing with licenses, registration, or the right to operate any vehicle or vessel upon the public highways or waters of this state, excluding applicants already paying such fee under RCW 46.16.070 or 46.16.085, the applicant shall pay to the director, county auditor, or other agent a fee of three dollars for each application in addition to any other fees required by law.

(b) Counties that do not cover the expenses of vehicle licensing and vessel registration and title activities may submit to the department a request for cost-coverage moneys. The request must be submitted on a form developed by the department. The department shall develop procedures to verify whether a request is reasonable. Payment shall be made on requests found to be allowable from the licensing services account.

(c) Applicants for certificates of ownership, including applicants paying fees under RCW 46.16.070 or 46.16.085, shall pay to the director, county auditor, or other agent a fee of four dollars in addition to any other fees required by law.

(d) The fees under (a) and (c) of this subsection, if paid to the county auditor as agent of the director, or if paid to a subagent of the county auditor, shall be paid to the county treasurer in the same manner as other fees collected by the county auditor and credited to the county current expense fund. If the fee is paid to another agent of the director, the fee shall be used by the agent to defray his or her expenses in handling the application.

(e) Applicants required to pay the three-dollar fee established under (a) of this subsection, must pay an additional seventy-five cents, which must be collected and remitted to the state treasurer and distributed as follows:

(i) Fifty cents must be deposited into the department of licensing services account of the motor vehicle fund and must be used for agent and subagent support, which is to include but not be limited to the replacement of department-owned equipment in the possession of agents and subagents.

(ii) Twenty-five cents must be deposited into the license plate technology account created under RCW 46.16.685.

(5) A subagent shall collect a service fee of (a) ten dollars for changes in a certificate of ownership, with or without registration renewal, or verification of record and preparation of an affidavit of lost title other than at the time of the title application or transfer and (b) four dollars for registration renewal only, issuing a transit permit, or any other service under this section.

(6) If the fee is collected by the state patrol as agent for the director, the fee so collected shall be certified to the state treasurer and deposited to the credit of the state patrol highway account. If the fee is collected by the department of transportation as agent for the director, the fee shall be certified to the state treasurer and deposited to the credit of the motor vehicle fund. All such fees collected by the director or branches of his office shall be certified to the state treasurer and deposited to the credit of the highway safety fund.

(7) Any county revenues that exceed the cost of providing vehicle licensing and vessel registration and title activities in a county, calculated in accordance with the procedures in subsection (3)(d) of this section, shall be expended as determined by the county legislative authority during the process established by law for adoption of county budgets.

(8) The director may adopt rules to implement this section."

Renumber the sections consecutively and correct any internal references accordingly.

Senator Haugen spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Haugen and others on page 97, after line 30 to Engrossed Substitute Senate Bill No. 6426.

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

#### MOTION

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

On page 1, line 13 of the title, after "43.60A.010," insert "46.01.325, 46.01.140,"

On page 2, line 28 of the title, after "43.131.405," insert "46.01.320,"

#### MOTION

On motion of Senator Fraser, the rules were suspended, Engrossed Substitute Senate Bill No. 6426 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6426.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6426 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 3; Absent, 0; Excused, 0.

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

Voting nay: Senators Hatfield, Jacobsen and Pridemore

ENGROSSED SUBSTITUTE SENATE BILL NO. 6426, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6774, by Senator Marr

Addressing transportation benefit district governance. Revised for 1st Substitute: Concerning transportation benefit districts.

#### MOTION

On motion of Senator Marr, Substitute Senate Bill No. 6774 was substituted for Senate Bill No. 6774 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

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Senator King moved that the following amendment by Senators King and Marr be adopted:

On page 1, line 12, after "plans" strike all material through "levels))" on line 13, and insert "and necessitated by existing or reasonably foreseeable congestion levels"

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

The President declared the question before the Senate to be the adoption of the amendment by Senators King and Marr on page 1, line 12 to Substitute Senate Bill No. 6774.

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

MOTION

On motion of Senator Marr, the rules were suspended, Engrossed Substitute Senate Bill No. 6774 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6774.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6774 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

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

ENGROSSED SUBSTITUTE SENATE BILL NO. 6774, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 3:59 p.m., on motion of Senator Eide, the Senate was recessed until 7:00 p.m.

EVENING SESSION

The Senate was called to order at 7:00 p.m. by President Owen.

MOTION

At 7:01 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 8:18 p.m. by President Owen.

MOTION

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

MESSAGE FROM THE HOUSE

February 10, 2010

MR. PRESIDENT

The House has passed:

SECOND SUBSTITUTE HOUSE BILL 1357,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1560,

SECOND ENGROSSED HOUSE BILL 1876,  
HOUSE BILL 1966,

SUBSTITUTE HOUSE BILL 2224,  
SUBSTITUTE HOUSE BILL 2404,

HOUSE BILL 2428,  
HOUSE BILL 2437,

HOUSE BILL 2461,  
HOUSE BILL 2470,

SUBSTITUTE HOUSE BILL 2497,  
SUBSTITUTE HOUSE BILL 2514,

SUBSTITUTE HOUSE BILL 2515,  
SUBSTITUTE HOUSE BILL 2516,

SUBSTITUTE HOUSE BILL 2524,  
SUBSTITUTE HOUSE BILL 2533,

HOUSE BILL 2575,  
HOUSE BILL 2592,

SUBSTITUTE HOUSE BILL 2661,  
HOUSE BILL 2707,

SUBSTITUTE HOUSE BILL 2717,  
ENGROSSED SUBSTITUTE HOUSE BILL 2753,

HOUSE BILL 2848,  
SUBSTITUTE HOUSE BILL 3001,

SUBSTITUTE HOUSE BILL 3039,  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

February 10, 2010

MR. PRESIDENT

The House has passed:

HOUSE BILL 1830,  
SUBSTITUTE HOUSE BILL 1831,  
ENGROSSED SUBSTITUTE HOUSE BILL 1956,

HOUSE BILL 2271,  
SUBSTITUTE HOUSE BILL 2457,

SUBSTITUTE HOUSE BILL 2636,  
SUBSTITUTE HOUSE BILL 2651,

SUBSTITUTE HOUSE BILL 2684,  
SUBSTITUTE HOUSE BILL 2686,

SUBSTITUTE HOUSE BILL 2775,  
SUBSTITUTE HOUSE BILL 3003,

SUBSTITUTE HOUSE BILL 3046,  
SUBSTITUTE HOUSE BILL 3066.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

February 10, 2010

MR. PRESIDENT

The House has passed:

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SUBSTITUTE HOUSE BILL 1913,  
 SUBSTITUTE HOUSE BILL 2429,  
 SUBSTITUTE HOUSE BILL 2555,  
 SUBSTITUTE HOUSE BILL 2556,  
 HOUSE BILL 2598,  
 SUBSTITUTE HOUSE BILL 2657,  
 HOUSE BILL 2817,  
 SUBSTITUTE HOUSE BILL 2841,  
 HOUSE BILL 2861,  
 HOUSE BILL 2888,  
 HOUSE BILL 2904,  
 HOUSE BILL 2942,  
 HOUSE BILL 2947,  
 HOUSE BILL 2996,  
 SUBSTITUTE HOUSE BILL 2997,  
 SUBSTITUTE HOUSE BILL 3016,  
 SUBSTITUTE HOUSE BILL 3036,  
 HOUSE BILL 3061,  
 HOUSE BILL 3095,  
 SUBSTITUTE HOUSE BILL 3105,  
 SUBSTITUTE HOUSE BILL 3145.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

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

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Brandland moved that Gubernatorial Appointment No. 9069, Craig Lee, as a member of the Board of Pilotage Commissioners, be confirmed.

Senator Brandland spoke in favor of the motion.

#### MOTION

On motion of Senator Brandland, Senator McCaslin was excused.

#### APPOINTMENT OF CRAIG LEE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9069, Craig Lee as a member of the Board of Pilotage Commissioners.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9069, Craig Lee as a member of the Board of Pilotage Commissioners and the appointment was confirmed by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator McCaslin

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Gubernatorial Appointment No. 9069, Craig Lee, having received the constitutional majority was declared confirmed as a member of the Board of Pilotage Commissioners.

#### MOTION

On motion of Senator Marr, Senator Brown was excused.

#### MOTION

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

#### SECOND READING

SENATE BILL NO. 6346, by Senators Ranker, Haugen, Regala, Rockefeller, Pridemore, Marr, King, Fraser, Swecker, Kilmer, Shin, Tom, Kohl-Welles and Kline

Expanding the use of certain electric vehicles.

#### MOTIONS

On motion of Senator Ranker, Substitute Senate Bill No. 6346 was substituted for Senate Bill No. 6346 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Ranker, the rules were suspended, Substitute Senate Bill No. 6346 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Ranker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6346.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6346 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Brown and McCaslin

SUBSTITUTE SENATE BILL NO. 6346, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6356, by Senators Kilmer, Swecker, Rockefeller and Kastama

Limiting access to law enforcement and emergency equipment and vehicles.

#### MOTIONS

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On motion of Senator Kilmer, Substitute Senate Bill No. 6356 was substituted for Senate Bill No. 6356 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kilmer, the rules were suspended, Substitute Senate Bill No. 6356 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kilmer spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6356.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6356 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Brown and McCaslin

SUBSTITUTE SENATE BILL NO. 6356, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6342, by Senators Swecker, Hobbs, Franklin, Carrell, McDermott, Pridemore, Marr, Shin and Fairley

Concerning the Washington soldiers' home.

MOTION

On motion of Senator Swecker, Substitute Senate Bill No. 6342 was substituted for Senate Bill No. 6342 and the substitute bill was placed on the second reading and read the second time.

MOTION

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

On page 1, beginning on line 13, strike all material through "plans." on line 19 and insert the following:

"(3) All long-term leases of the soldiers' home property shall be subject to the requirements of RCW 43.82.010, except that the duration of such leases shall not exceed twenty years unless authorized through the approval process under subsection (4) of this section. However, no long-term lease shall exceed a maximum of seventy-five years.

(4) Before the commencement of any project authorized under this section, the Orting city council and joint committee on veterans' and military affairs must independently approve a final proposal, specifying (a) the lease terms, if applicable, and (b) the development plans."

Senator Roach spoke in favor of adoption of the amendment.

Senators Hobbs, Becker and Fairley spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Roach on page 1, line 13 to Substitute Senate Bill No. 6342.

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

MOTION

On motion of Senator Swecker, the rules were suspended, Substitute Senate Bill No. 6342 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Swecker and Becker spoke in favor of passage of the bill.

MOTION

On motion of Senator Benton, Senator Roach was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6342.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6342 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators McCaslin and Roach

SUBSTITUTE SENATE BILL NO. 6342, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6344, by Senators Fairley, Prentice, Hargrove, Kauffman, Marr and McDermott

Establishing contribution limits for city council campaigns. Revised for 1st Substitute: Concerning campaign contribution limits.

MOTIONS

On motion of Senator Fairley, Substitute Senate Bill No. 6344 was substituted for Senate Bill No. 6344 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Fairley, the rules were suspended, Substitute Senate Bill No. 6344 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fairley spoke in favor of passage of the bill.

Senators Brandland and Honeyford spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6344.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6344 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 9; Absent, 0; Excused, 1.

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

Voting nay: Senators Becker, Brandland, Carrell, Holmquist, Honeyford, King, Morton, Roach and Stevens

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6344, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6515, by Senators Kastama, Kilmer and Shin

Refocusing the department of commerce, including transferring programs.

## MOTIONS

On motion of Senator Kastama, Second Substitute Senate Bill No. 6515 was substituted for Senate Bill No. 6515 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator Kastama, the rules were suspended, Second Substitute Senate Bill No. 6515 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.  
Senator Kohl-Welles spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6515.

## ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6515 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

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

Voting nay: Senators Kauffman, Keiser and Kohl-Welles

Excused: Senator McCaslin

SECOND SUBSTITUTE SENATE BILL NO. 6515, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6629, by Senators Oemig and McAuliffe

Convening a working group to make recommendations defining a basic education program for highly capable students.

## MOTIONS

On motion of Senator McAuliffe, Substitute Senate Bill No. 6629 was substituted for Senate Bill No. 6629 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator McAuliffe, the rules were suspended, Substitute Senate Bill No. 6629 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe and King spoke in favor of the passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6629.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6629 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6629, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6604, by Senators Hobbs, King, McAuliffe, Oemig, Tom, Brandland, Holmquist, McDermott and Kline

Providing flexibility in the education system.

## MOTION

On motion of Senator McAuliffe, Substitute Senate Bill No. 6604 was substituted for Senate Bill No. 6604 and the substitute bill was placed on the second reading and read the second time.

## MOTION

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

Beginning on page 3, after line 19, strike all of section 3.

Renumber the sections consecutively and correct any internal references accordingly.

Senators Kauffman and Hobbs spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Kauffman and others on page 3, after line 19 to Substitute Senate Bill No. 6604.

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

checked. Looking at the content of this bill do we still have a requirement that school districts checks for eyes, vision?"

MOTION

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

On page 1, line 2 of the title, after "28A.210.080", strike "28A.215.010"

Senator Hobbs: "Yes Senator, as I recall from, yeah, I know the committee is laughing at this particular moment, but anyway, yes, we did have an amendment to remove that portion from the bill."

Senator Roach: "Ok, so we're good on that?"

MOTION

Senator McAuliffe moved that the following amendment by Senators McAuliffe and Haugen be adopted:

Beginning on page 14, after line 22, strike all of sections 15 and 16

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

On page 1, beginning on line 4 of the title, after "28A.320.160," strike "28A.345.020, 28A.345.050,"

Senators McAuliffe and Haugen spoke in favor of adoption of the amendment.

Senators Tom and Honeyford spoke against adoption of the amendment.

Senator McDermott spoke on adoption of the amendment.

Senator Hobbs: "We are. We are good, we're good."

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6604.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6604 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6604, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

The President declared the question before the Senate to be the adoption of the amendment by Senator McAuliffe and others on page 14, after line 22 to Substitute Senate Bill No. 6604.

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

MOTION

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

On page 24, beginning on line 12, after "(1)", strike all material through "(2)" on line 15.

Renumber the sections consecutively and correct any internal references accordingly.

On page 1, line 6 of the title, strike "28A.210.130"

Senator Franklin spoke in favor of adoption of the amendment.

Senators Hobbs and Honeyford spoke against adoption of the amendment.

SECOND READING

SENATE BILL NO. 6643, by Senators Schoesler, Sheldon, Hewitt, Brown, Honeyford, Parlette, McAuliffe and Shin

Regarding compliance reports for second-class school districts.

The measure was read the second time.

The President declared the question before the Senate to be the adoption of the amendment by Senator Franklin on page 24, line 12 to Substitute Senate Bill No. 6604.

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

MOTION

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

On page 2, at the beginning of line 17, insert "(1)"

On page 2, after line 30, insert the following:

"(4) For the purposes of this section, compliance requests do not include data requests required to be submitted in accordance with federal or state law, including data for a comprehensive K-12 education data improvement system."

Senator Oemig spoke in favor of adoption of the amendment.

On motion of Senator McAuliffe, the rules were suspended, Engrossed Substitute Senate Bill No. 6604 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hobbs and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the adoption of the amendment by Senator Oemig and King on page 2, line 17 to Senate Bill No. 6643.

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

POINT OF INQUIRY

Senator Roach: "So, I want to know, we had a lot of discussion in the Senate Education Committee and one of the discussions we had was removing the requirement to have eyes

MOTION

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On motion of Senator Schoesler, the rules were suspended, Engrossed Senate Bill No. 6643 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Schoesler spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Marr, Senator Kline was excused.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6643.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6643 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Kline and McCaslin

ENGROSSED SENATE BILL NO. 6643, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6130, by Senator Prentice

Relating to fiscal matters. Revised for 1st Substitute: Amending provisions related to Initiative Measure No. 960.

#### MOTION

On motion of Senator Prentice, Substitute Senate Bill No. 6130 was substituted for Senate Bill No. 6130 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

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

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 43.135 RCW to read as follows:

In order to preserve funding for education, public safety, health care, and safety net services for elderly, disabled, and vulnerable people, it is the intent of the legislature to provide a means to stabilize revenue collections.

**Sec. 2.** RCW 43.135.031 and 2008 c 1 s 2 are each amended to read as follows:

(1) After July 1, 2011, for any bill introduced in either the house of representatives or the senate that raises taxes as defined by RCW 43.135.035 or increases fees, the office of financial management must expeditiously determine its cost to the taxpayers in its first ten years of imposition, must promptly and without delay report the results of its analysis by public press release via e-mail to each

member of the house of representatives, each member of the senate, the news media, and the public, and must post and maintain these releases on its web site. Any ten-year cost projection must include a year-by-year breakdown. For any bill containing more than one revenue source, a ten-year cost projection for each revenue source will be included along with the bill's total ten-year cost projection. The press release shall include the names of the legislators, and their contact information, who are sponsors and cosponsors of the bill so they can provide information to, and answer questions from, the public.

(2) After July 1, 2011, any time any legislative committee schedules a public hearing on a bill that raises taxes as defined by RCW 43.135.035 or increases fees, the office of financial management must promptly and without delay report the results of its most up-to-date analysis of the bill required by subsection (1) of this section and the date, time, and location of the hearing by public press release via e-mail to each member of the house of representatives, each member of the senate, the news media, and the public, and must post and maintain these releases on its web site. The press release required by this subsection must include all the information required by subsection (1) of this section and the names of the legislators, and their contact information, who are members of the legislative committee conducting the hearing so they can provide information to, and answer questions from, the public.

(3) After July 1, 2011, each time a bill that raises taxes as defined by RCW 43.135.035 or increases fees is approved by any legislative committee or by at least a simple majority in either the house of representatives or the senate, the office of financial management must expeditiously reexamine and redetermine its ten-year cost projection due to amendment or other changes during the legislative process, must promptly and without delay report the results of its most up-to-date analysis by public press release via e-mail to each member of the house of representatives, each member of the senate, the news media, and the public, and must post and maintain these releases on its web site. Any ten-year cost projection must include a year-by-year breakdown. For any bill containing more than one revenue source, a ten-year cost projection for each revenue source will be included along with the bill's total ten-year cost projection. The press release shall include the names of the legislators, and their contact information, and how they voted on the bill so they can provide information to, and answer questions from, the public.

(4) For the purposes of this section, "names of legislators, and their contact information" includes each legislator's position (senator or representative), first name, last name, party affiliation (for example, Democrat or Republican), city or town they live in, office phone number, and office e-mail address.

(5) For the purposes of this section, "news media" means any member of the press or media organization, including newspapers, radio, and television, that signs up with the office of financial management to receive the public press releases by e-mail.

(6) For the purposes of this section, "the public" means any person, group, or organization that signs up with the office of financial management to receive the public press releases by e-mail.

**Sec. 3.** RCW 43.135.035 and 2009 c 479 s 36 are each amended to read as follows:

(1) After July 1, (~~(1995)~~) 2011, any action or combination of actions by the legislature that raises taxes may be taken only if approved by a two-thirds vote of each house of the legislature, and then only if state expenditures in any fiscal year, including the new revenue, will not exceed the state expenditure limits established under this chapter. Pursuant to the referendum power set forth in Article II, section 1(b) of the state Constitution, tax increases may be referred to the voters for their approval or rejection at an election.

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(2)(a) If the legislative action under subsection (1) of this section will result in expenditures in excess of the state expenditure limit, then the action of the legislature shall not take effect until approved by a vote of the people at a November general election. The state expenditure limit committee shall adjust the state expenditure limit by the amount of additional revenue approved by the voters under this section. This adjustment shall not exceed the amount of revenue generated by the legislative action during the first full fiscal year in which it is in effect. The state expenditure limit shall be adjusted downward upon expiration or repeal of the legislative action.

(b) The ballot title for any vote of the people required under this section shall be substantially as follows:

"Shall taxes be imposed on . . . . . in order to allow a spending increase above last year's authorized spending adjusted for personal income growth?"

(3)(a) The state expenditure limit may be exceeded upon declaration of an emergency for a period not to exceed twenty-four months by a law approved by a two-thirds vote of each house of the legislature and signed by the governor. The law shall set forth the nature of the emergency, which is limited to natural disasters that require immediate government action to alleviate human suffering and provide humanitarian assistance. The state expenditure limit may be exceeded for no more than twenty-four months following the declaration of the emergency and only for the purposes contained in the emergency declaration.

(b) Additional taxes required for an emergency under this section may be imposed only until thirty days following the next general election, unless an extension is approved at that general election. The additional taxes shall expire upon expiration of the declaration of emergency. The legislature shall not impose additional taxes for emergency purposes under this subsection unless funds in the education construction fund have been exhausted.

(c) The state or any political subdivision of the state shall not impose any tax on intangible property listed in RCW 84.36.070 as that statute exists on January 1, 1993.

(4) If the cost of any state program or function is shifted from the state general fund to another source of funding, or if moneys are transferred from the state general fund to another fund or account, the state expenditure limit committee, acting pursuant to RCW 43.135.025(5), shall lower the state expenditure limit to reflect the shift. For the purposes of this section, a transfer of money from the state general fund to another fund or account includes any state legislative action taken that has the effect of reducing revenues from a particular source, where such revenues would otherwise be deposited into the state general fund, while increasing the revenues from that particular source to another state or local government account. This subsection does not apply to: (a) The dedication or use of lottery revenues under RCW 67.70.240(3), in support of education or education expenditures; or (b) a transfer of moneys to, or an expenditure from, the budget stabilization account.

(5) If the cost of any state program or function and the ongoing revenue necessary to fund the program or function are shifted to the state general fund on or after January 1, 2007, the state expenditure limit committee, acting pursuant to RCW 43.135.025(5), shall increase the state expenditure limit to reflect the shift unless the shifted revenue had previously been shifted from the general fund.

(6) For the purposes of chapter 1, Laws of 2008, "raises taxes" means any action or combination of actions by the legislature that increases state tax revenue deposited in any fund, budget, or account, regardless of whether the revenues are deposited into the general fund.

**Sec. 4.** RCW 43.135.041 and 2008 c 1 s 6 are each amended to read as follows:

(1)(a) After July 1, 2011, if legislative action raising taxes as defined by RCW 43.135.035 is blocked from a public vote or is not referred to the people by a referendum petition found to be sufficient under RCW 29A.72.250, a measure for an advisory vote of the people is required and shall be placed on the next general election ballot under chapter 1, Laws of 2008.

~~((a))~~ (b) If legislative action raising taxes enacted after July 1, 2011, involves more than one revenue source, each tax being increased shall be subject to a separate measure for an advisory vote of the people under the requirements of chapter 1, Laws of 2008.

(2) No later than the first of August, the attorney general will send written notice to the secretary of state of any tax increase that is subject to an advisory vote of the people, under the provisions and exceptions provided by chapter 1, Laws of 2008. Within five days of receiving such written notice from the attorney general, the secretary of state will assign a serial number for a measure for an advisory vote of the people and transmit one copy of the measure bearing its serial number to the attorney general as required by RCW 29A.72.040, for any tax increase identified by the attorney general as needing an advisory vote of the people for that year's general election ballot. Saturdays, Sundays, and legal holidays are not counted in calculating the time limits in this subsection.

(3) For the purposes of this section, "blocked from a public vote" includes adding an emergency clause to a bill increasing taxes, bonding or contractually obligating taxes, or otherwise preventing a referendum on a bill increasing taxes.

(4) If legislative action raising taxes is referred to the people by the legislature or is included in an initiative to the people found to be sufficient under RCW 29A.72.250, then the tax increase is exempt from an advisory vote of the people under chapter 1, Laws of 2008.

**NEW SECTION. Sec. 5.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

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

MOTION

Senator Zarelli moved that the following amendment by Senator Hewitt and others to the striking amendment be adopted: On page 1, beginning on line 9, strike all of section 2.

Renumber the sections consecutively and correct any internal references accordingly.

On page 6, line 3 of the title amendment, after "RCW" strike "43.135.031,"

Senators Zarelli, Pflug, Roach, Benton and Schoesler spoke in favor of adoption of the amendment to the striking amendment.

Senator Tom spoke against adoption of the amendment to the striking amendment.

Senator Schoesler demanded a roll call.

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

The President declared the question before the Senate to be the adoption of the amendment by Senator Hewitt and others on page 1, line 9 to the striking amendment to Substitute Senate Bill No. 6130.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Hewitt and others to the striking amendment and the amendment was not adopted by the following vote: Yeas, 22; Nays, 26; Absent, 0; Excused, 1.

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

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

Excused: Senator McCaslin

#### MOTION

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

On page 4, beginning on line 36, strike all of section 4.

Renumber the sections consecutively and correct any internal references accordingly.

On page 6, line 3 of the title amendment, after "43.135.031," strike "43.135.035, and 43.135.041" and insert "and 43.135.035"

Senators Carrell, Roach, Delvin, Benton and Pflug spoke in favor of adoption of the amendment to the striking amendment.

Senator Tom spoke against adoption of the amendment to the striking amendment.

Senator Carrell spoke again on adoption of the amendment to the striking amendment.

#### REMARKS BY THE PRESIDENT

President Owen: "Senator Carrell, the President, your time is not up but the President is going to remind you and other members that you're walking very, very tightly, close to impugning and questioning the motivation of the members of this body and, as your own rules require, they're to speak to the merits of the bill not the motivations or the intent of the members. Senator Carrell, we will deduct my comments not from your time but we will add that back."

The President declared the question before the Senate to be the adoption of the amendment by Senator Carrell and others on page 4, line 36 to the striking amendment to Substitute Senate Bill No. 6130.

The motion by Senator Carrell failed and the amendment to the striking amendment was not adopted by voice vote.

#### MOTION

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

On page 5, after line 30, insert the following:

"**Sec. 5.** RCW 29A.32.070 and 2009 c 415 s 5 are each amended to read as follows:

The secretary of state shall determine the format and layout of the voters' pamphlet published under RCW 29A.32.010. The secretary of state shall print the pamphlet in clear, readable type on a size, quality, and weight of paper that in the judgment of the secretary of state best serves the voters. The pamphlet must contain a table of contents. Measures and arguments must be printed in the order specified by RCW 29A.72.290.

The voters' pamphlet must provide the following information for each statewide issue on the ballot except measures for an advisory vote of the people whose requirements are provided in subsection (11) of this section:

(1) The legal identification of the measure by serial designation or number;

(2) The official ballot title of the measure;

(3) A statement prepared by the attorney general explaining the law as it presently exists;

(4) A statement prepared by the attorney general explaining the effect of the proposed measure if it becomes law;

(5) The fiscal impact statement prepared under RCW 29A.72.025;

(6) The total number of votes cast for and against the measure in the senate and house of representatives, if the measure has been passed by the legislature;

(7) An argument advocating the voters' approval of the measure together with any statement in rebuttal of the opposing argument;

(8) An argument advocating the voters' rejection of the measure together with any statement in rebuttal of the opposing argument;

(9) Each argument or rebuttal statement must be followed by the names of the committee members who submitted them, and may be followed by a telephone number that citizens may call to obtain information on the ballot measure;

(10) The full text of \*the measure;

(11) Two pages shall be provided in the general election voters' pamphlet for each (~~measure for an advisory vote of the people under RCW 43.135.041~~) legislative action raising taxes as defined by RCW 43.135.035 and shall consist of (~~the serial number assigned by the secretary of state under RCW 29A.72.040, the~~) a short description formulated by the attorney general (under RCW 29A.72.283), the tax increase's most up-to-date ten-year cost projection, including a year-by-year breakdown, by the office of financial management under RCW 43.135.031, and the names of the legislators, and their contact information, and how they voted on the increase upon final passage so they can provide information to, and answer questions from, the public. For the purposes of this subsection, "names of legislators, and their contact information" includes each legislator's position (senator or representative), first name, last name, party affiliation (for example, Democrat or Republican), city or town they live in, office phone number, and office e-mail address."

Renumber the sections consecutively and correct any internal references accordingly.

**NEW SECTION. Sec. 6.** Section 5 of this act expires July 1, 2011.

On page 6, line 3 of the title amendment, after "amending RCW", insert "29A.32.070"

Senators Benton, Pflug, Roach and Holmquist spoke in favor of adoption of the amendment to the striking amendment.

Senator Hargrove spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Benton and others on page 5, after line 30 to the striking amendment to Substitute Senate Bill No. 6130.

The motion by Senator Benton failed and the amendment to the striking amendment was not adopted by voice vote.

#### MOTION

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

On page 5, after line 30, strike all of section 5.

Renumber the sections consecutively and correct any internal references accordingly.

On page 6, line 4 of the title amendment, after "43.135.041;" strike the remainder of the title amendment and insert "and declaring an emergency."

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Senator Brandland spoke in favor of adoption of the amendment to the striking amendment.

On motion of Senator Eide, Engrossed Substitute Senate Bill No. 6130 was immediately transmitted to the House of Representatives.

The President declared the question before the Senate to be the adoption of the amendment by Senator Brandland and others on page 5, after line 30 to the striking amendment to Substitute Senate Bill No. 6130.

MOTION

The motion by Senator Brandland failed and the amendment to the striking amendment was not adopted by voice vote.

At 11:13 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Thursday, February 11, 2010.

BRAD OWEN, President of the Senate

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Hargrove and others to Substitute Senate Bill No. 6130.

THOMAS HOEMANN, Secretary of the Senate

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

MOTION

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

On page 1, line 1 of the title, after "ACT" strike the remainder of the title and insert "Relating to amending provisions related to Initiative No. 960; amending RCW 43.135.031, 43.135.035, and 43.135.041; adding a new section to chapter 43.135 RCW; and declaring an emergency."

MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Substitute Senate Bill No. 6130 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove, Brown, Shin, Franklin and Gordon spoke in favor of passage of the bill.

Senators Zarelli, Sheldon, Schoesler, Delvin, Holmquist, Pflug, King, Honeyford, Stevens, Brandland, Roach and Benton spoke against passage of the bill.

Senators Jacobsen and Swecker spoke on final passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6130.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6130 and the bill passed the Senate by the following vote: Yeas, 26; Nays, 22; Absent, 0; Excused, 1.

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

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Hobbs, Holmquist, Honeyford, Kauffman, Kilmer, King, Marr, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6130, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

## THIRTY SECOND DAY

## MORNING SESSION

Senate Chamber, Olympia, Thursday, February 11, 2010

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Fairley, Hargrove, Holmquist and Pflug.

The Sergeant at Arms Color Guard consisting of Pages Josiah Malychewski and Colton Ruegsegger, presented the Colors. Retired Pastor Sandra Kreis of St Christopher's Community Church of Olympia offered the prayer.

## MOTION

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

## MOTION

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

REPORTS OF STANDING COMMITTEES  
GUBERNATORIAL APPOINTMENTS

February 10, 2010

SGA 9166 LARRY DITTMAN, appointed on April 2, 2009, for the term ending June 17, 2011, as Member of the Board of Industrial Insurance Appeals. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford and Kline.

Passed to Committee on Rules for second reading.

February 10, 2010

SGA 9185 JAMES COOK, reappointed on November 30, 2009, for the term ending October 1, 2013, as Member of The Life Sciences Discovery Fund Authority Board of Trustees. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford and Kline.

Passed to Committee on Rules for second reading.

February 10, 2010

SGA 9201 TONY HEY, reappointed on November 30, 2009, for the term ending October 1, 2013, as Member of The Life Sciences Discovery Fund Authority Board of Trustees. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford and Kline.

Passed to Committee on Rules for second reading.

February 10, 2010

SGA 9216 THOMAS W MCLANE, reappointed on September 9, 2009, for the term ending September 8, 2014, as Member of the Public Employment Relations Commission. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford and Kline.

Passed to Committee on Rules for second reading.

February 10, 2010

SGA 9232 CHERYL SCOTT, reappointed on November 30, 2009, for the term ending October 1, 2013, as Member of The Life Sciences Discovery Fund Authority Board of Trustees. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford and Kline.

Passed to Committee on Rules for second reading.

February 10, 2010

SGA 9256 RYLAND P DAVIS, appointed on October 27, 2009, for the term ending October 1, 2013, as Member of The Life Sciences Discovery Fund Authority Board of Trustees. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford and Kline.

Passed to Committee on Rules for second reading.

February 10, 2010

SGA 9258 MICHAEL L REICHERT, appointed on July 1, 2009, for the term ending June 30, 2015, as Member of the Gambling Commission. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford and Kline.

Passed to Committee on Rules for second reading.

## MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

## MOTION

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

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MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

February 10, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

PATRICK MCELLIGOT, reappointed January 1, 2010, for the term ending December 31, 2012, as Member of the Investment Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Financial Institutions, Housing & Insurance.

MOTION

On motion of Senator Eide, the appointee listed on the Gubernatorial Appointment report was referred to the committee as designated.

MOTION

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

MESSAGE FROM THE HOUSE

February 10, 2010

MR. PRESIDENT

The House has passed:

- ENGROSSED SUBSTITUTE HOUSE BILL 1714,
- ENGROSSED SUBSTITUTE HOUSE BILL 2518,
- ENGROSSED HOUSE BILL 2667,
- ENGROSSED SUBSTITUTE HOUSE BILL 2876.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

MOTION

Senator King moved adoption of the following resolution:

SENATE RESOLUTION  
8690

By Senators King, Honeyford, Holmquist, Kilmer, Kastama, Berkey, Eide, Franklin, Fraser, Hewitt, Parlette, Haugen, Brown, Schoesler, Prentice, and Marr

WHEREAS, On October 11, 2009, a quarter-mile wide, 80 acre mass of earth some 200 plus feet deep gave way, sliding into the Naches River and destroying a section of state route 410 in the Nile Valley; and

WHEREAS, The Nile Valley landslide cut off power to hundreds of people and businesses, forced the evacuation of the area, and rerouted the Naches River into neighborhoods, damaging dozens of homes; and

WHEREAS, Federal, state, and local agencies, businesses, and resilient residents immediately came together to assist with the emergency in any way they could; and

WHEREAS, Governor Christine Gregoire declared an emergency because of the damage to state route 410 and the surrounding area, allowing the state to construct a temporary route around the landslide and build a new channel for the Naches River; and

WHEREAS, Yakima County Emergency Management, Yakima County Sheriff's Office, Washington State Patrol, Washington State Department of Transportation, Yakima County Search and Rescue, and local fire districts responded to assist residents and businesses; and

WHEREAS, Washington State Department of Transportation employees worked tirelessly with Selland Construction, Inc. for many weeks to open a temporary road, construct a new road, and reroute the Naches River; and

WHEREAS, In order to construct the new road and river channel, Yakima County Public Services purchased more than 60 acres of property on behalf of the public; and

WHEREAS, Yakima County Flood Control District designed and provided daily oversight for a new river channel to redirect it away from homes and the toe of the landslide for protection of downstream infrastructure; and

WHEREAS, The Army Corp of Engineers under direction from Yakima County assisted the Washington State Department of Transportation in constructing the new river channel; and

WHEREAS, The U.S. Forest Service, U.S. Fish and Wildlife Service, Yakama Nation, and the state Departments of Ecology, Natural Resources, and Fish and Wildlife all contributed their efforts and resources to the cleanup and recovery after the October 11th natural disaster;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor the aforementioned agencies and individuals for their steadfast dedication, rapid response, and spirit of cooperation in returning a sense of normalcy to the residents and businesses of the Nile Valley.

Senator King spoke in favor of the adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8690.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced representatives of the Nile Valley Community and agencies that assisted during the closure of State Route 410; Yakima County Commissioner Mike Leita; Yakima County Commissioner Kevin Bouchey; Yakima County Public Services Director Vern Redifer; Yakima County Construction Engineer Rick Gregory; Yakima County Utility Coordinator Russ Kelly; Yakima County Natural Resource Specialist Joel Freudenthal; WA State Dept. of Transportation South Central Region Administrator Don Whitehouse; WA State Dept. of Transportation Field Engineer Corie Henke and WA State Dept. of Transportation Regional Environmental Manager Jason Smith who were seated in the gallery.

MOTION

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

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

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## MOTION

Senator McDermott moved that Gubernatorial Appointment No. 9142, Pamela Bradburn, as a member of the Public Employment Relations Commission, be confirmed.

Senator McDermott spoke in favor of the motion.

## MOTION

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

## MOTION

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

## APPOINTMENT OF PAMELA BRADBURN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9142, Pamela Bradburn as a member of the Public Employment Relations Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9142, Pamela Bradburn as a member of the Public Employment Relations Commission and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Fairley, Hargrove, Holmquist and Pflug

Gubernatorial Appointment No. 9142, Pamela Bradburn, having received the constitutional majority was declared confirmed as a member of the Public Employment Relations Commission.

## PERSONAL PRIVILEGE

Senator Pridemore: "Mr. President, I think it's important for this body to talk about what happened last night. What happened last night went beyond the ebb and flour of political party dynamics or ebb and flour of competing ideological beliefs. Everyone in this room knew when I walked in here I was a 'no' on the affected legislation but when the Senator from the Forty-first got up and talked about mangled claws coming down, covered in barnacles from heaven to smite state Senators, Mr. President, I got to tell you, I was scared. I looked around for Security and there were only seven of them. I thought maybe some members on the floor could help and so I looked, you know, there was Senator Kilmer. A lot of help he is, you know. Maybe before the diet but not now. And I looked and I saw Senator Brandland and I thought boy, that's a guy who's let himself go since he was a county sheriff. So, Mr. President, as we debate budget cuts in this body and we know we must. We've got to remember the people who are going to be impacted by some of the programs areas that we're going to cut. Quite frankly Senator Gordon doesn't need our political rhetoric, Senator Gordon needs our help. So, Mr. President, I'm going to be starting a collection today. I'm going to be passing a hat around and I would ask you

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all to please be as generous as possible. Write a really big check and put in that. There's going to be a sign in sheet going around so please record your name and the amount that you're giving and write as clearly as possible. It's possible the names will show up on the Federal Elections commissions report. Thank you very much."

## PERSONAL PRIVILEGE

Senator Hobbs: "Mr. President, last night I was moved by Senator Gordon. What a fantastic speaker you are. I have to use a dictionary every time you speak, in fact, I was amazed, Senator Rockefeller even had to use a dictionary when you were speaking. I was so impressed. I was so impressed. I had to ask other people if you were by far the best speaker in the Senate. So, I went up to the gallery and I talked to the thirteen people up there. Oh, I'm sorry, the lobbyists, the thirteen lobbyists that were up there. I asked them 'What did you think of Senator Gordon's speech?' And six told me, they asked me, 'Why is the internet connection so spotty up there in the gallery?' Four asked, 'Is this the real 960 vote or is this another dress rehearsal?' And the other three, which were actually the guards that protect us here said 'You know this place was fun when they used to have liquor.' So, I just want you to know doesn't matter what they think. It matters what you think, and I think, I think you're a fabulous Senator. I'm glad you're in this chamber. Thank you for everything you do and I tell you my vocabulary is going to increase because you're here so thank you."

## PERSONAL PRIVILEGE

Senator Hatfield: "And if I may read from Webster's New Universal Unabridged Dictionary. I actually brought it here for Senator Hobbs and myself. Encrinites, encroach, encroachment, encruit, encrust, encrustation, now is that with an 'e' or an 'i' because I, Senator. I think I'll keep this here now that we have Senator Gordon among us and anyone can use it if they want to try and decipher his speeches from now on."

## PERSONAL PRIVILEGE

Senator Brown: "Well, I also want to add because that was just, that was... I guess I'm still in awe of what I heard last night and I just want tell you what it meant to me. May I read Mr. President? Thank you Mr. President. Well, members I think you know what I mean. The articulation, the eloquence, the metaphysical significance, the patrician idealism, the proletarian populism, the platonic ideal, the Bentonesque zeal, our new colleague is a councilor of Klineian decision, 'Rockefellerian precision. Ladies and gentleman of the Senate, he's a constitutional freak. He's an east side geek. He's far from meek. He's the nicest, he's got a nice physique. He's a senator of merit but folks, he's no Fred Jarrett."

## PERSONAL PRIVILEGE

Senator Schoesler: "Well, thank you Mr. President. I don't have a eloquent set of remarks prepared like the Majority Leader but I listened last night and I figured out between the remarks about 960 and revenue that one way or another we have to figure out how to fund the water polo team on Mercer Island and I understand that deep commitment to basic education."

## PERSONAL PRIVILEGE

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Senator McDermott: "Mr. President, you've heard a number of senators on this floor this morning express their surprise and shock at the new Senator from Forty-first District eloquence last night. I want to assure you it was no surprise to me because I serve on the Education Committee with the new Senator from the Forty-First and I assure you he does not follow the mode of most new senators. Most senators Mr. President as you will remember, wait, listen, maybe for their first session, maybe a session or two, certainly their first week. That has not been the case with the new Senator from the Forty-First, he's questioned, he's answered, he is pontificated on repeated occasions. Not only do I have the pleasure of sitting in the Education Committee with him but I have the displeasure of spending far, far too much in that room over there. Thirty of us know on this floor he talks a lot in there too Mr. President. So, while his eloquence, his passion and his zeal did not surprise me at all and I'm surprised it surprised you, you listen to him all the time in there. What surprised me was the fact he could actually contain himself, with hold his first floor speech for thirty full days on this floor and did not give his first floor speech until the thirty-first day. That Mr. President was the key achievement yesterday alone. Thank you."

PERSONAL PRIVILEGE

Senator Delvin: "Thank you Mr. President. I just want to thank the good Senator from the Forty-ninth not pointing out the obvious what three years of retirement have done for me. I was in the wings when the member from the Forty-first started talking and I looked at some colleagues and I said 'Does he have an accent of some sort?' You know, has anyone checked his passport or his green card? You know, really is the Forty-first in the United States of America?' There's an accent there and I think we ought to check that out Mr. President, just make sure that the security is good here in the Senate."

PERSONAL PRIVILEGE

Senator Shin: "Remarks in Korean. If you cannot understand me, you cannot understand him. I've been a teacher for thirty-one years but it's all geek to me. Welcome aboard Senator Gordon."

PERSONAL PRIVILEGE

Senator Kline: "I don't know about ya'll but I had nightmares last night. That this dead hand of ancient encrustations of privilege was chasing me around in my dreams. I hope I'm, I guess it falls to me as the other lawyer around, one of the other lawyers, to demand some kind of compensation for this. You know, we're talking about it but we got to act. This guy owes us. And I suggest Mr. President that among the possibilities is a dictionary. We need to be able to understand our new colleague and I think it would only be fit our colleague to maybe supply us with the means there by. So, with that I suggest compensation is due. Thank you."

PERSONAL PRIVILEGE

Senator Hargrove: "Or is point of order. Well, we don't want to teach him those pieces yet. We'll be in real trouble. What I noticed is that he has a real potential for being a one-man filibuster. You know that talent is much better in the minority which I hope is not where we end up after this session."

PERSONAL PRIVILEGE

Senator Oemig: "Thank you Mr. President. You know I welcome the new Senator from the Forty-first. I do want to suggest however that he did mess up a couple of the lines. The encrusted hand of, actually that line, that speech was born in my office and the correct line was 'encrusted fist of doom' but Senator Brandland who shares a seat next to him said that lucky he was looking over his shoulder because we actually had crusty underwear. By the way Hargrove, the new Senator reminds me a bit of his two predecessors. He's like a Fred Jarrett and a Brian Weinstein put together in a very vituperative, angry, debater with long, flowery words. Anyway, welcome."

PERSONAL PRIVILEGE

Senator Rockefeller: "Thank you Mr. President. Well, you know, until recently Senator Kline and I were the only two attorneys in this august body and I use to lament to him that there weren't enough attorneys here. But after last night, I must tell you, I've changed my mind. Now, he did treat us to some Dirksanian oratory last night. He has great promise. He's bold and brash but it's clear that he can also be obscure and obfuscating and you might want to look that up in your dictionary. But, Mr. President, I wonder maybe we should bring out that obscure rule that says 'no speech include a word that is greater than thirty seconds to pronounce'."

PERSONAL PRIVILEGE

Senator McAuliffe: "As Chair of Senate Education, I am pleased and proud to have the Senator from the Forty-first District on our committee. Many of my members are like gathering frogs in a wheelbarrow. They kind of go off in all directions. You know who you are. But the new Senator elegantly speaks for education and stands up for all that's right for our schools, our teachers and our children and he's got my back."

PERSONAL PRIVILEGE

Senator Marr: "During that eloquent speech that came last night in the middle of a long-winded night, you probably know that Senator Oemig and Senator Hobbs and myself standing in the back, well, just take my word for it, we are standing. We were listening to the good new freshman senator and just marveling how a man of his stature could represent us so well. I just want to say on behalf of Senator Oemig, Senator Hobbs and myself; we felt five foot tall last night."

PERSONAL PRIVILEGE

Senator Ranker: "I don't have too much to say about the new senator but I figure this may be our last chance to do a good Fred Jarrett impersonation. So, I think we need to suspend rule 15 so that we can go past ten pm to do a proper Fred Jarrett impersonation. In all seriousness last night I was moved and impressed by the eloquent, passionate speech of the new senator. I had no idea what he really said. We're very pleased to have you here."

PERSONAL PRIVILEGE

Senator Gordon: "I am honored to be here. I understand that I need recompense for my brashness last night and I think this is appropriate that I at this point distribute my gifts to my colleagues who have without exception been so helpful and supportive to me and I speak of all you. All of you. I'm so honored to be here. You may be used to being in this beautiful structure but I'm not. Every

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time I look up I'm uplifted and I know maybe you are as well. So, I just thank you so much. Can we, there's a system here that's suppose to and again I apologize, last night it seemed a little late to go and do the proper gift giving. While the gifts are going out I should note since I have another negative three seconds I should note that um there is a precedence for the experience that I am having. It goes back into ancient times."

## REPLY BY THE PRESIDENT

President Owen: "We're you there?"

## PERSONAL PRIVILEGE

Senator Gordon: "When King Phillip of Macedon, the father of Alexander the Great, first sent an emissary Cineas to the Roman Senate. He asked for a report back and he said 'What did you think of the Roman Senate?', and he returned and he said 'It is an assembly of kings.' Let me say that we only have one king and this assembly but truthfully everyone of you is to be honored. I am so privileged to be amongst a group of people who without exception, have committed themselves to this kind of public service. I have just received my first pay check so I know it's got to be public service. I was kind of shocked I had to pay for my parking spot but, you know, you live and learn. Every one of us speaks for over a hundred thousand of our fellow citizens and no one can ever be working hard enough to do that job. So, thank you all. Thank you all for your kind remarks and your ribbing. I look forward to working with all of you and please distribute the gifts because I am going to keep on talking until you do. Now, these are chocolates from Amore Main Street, Bellevue. I'll conclude with this: The nuts are equally distributed evenly across both aisles and each box is half nuts. Thank you."

## PERSONAL PRIVILEGE

Senator Eide: "Thank you Mr. President. Just for the students up in the gallery. We do a roasting for a brand new Senator. We always have done it, it is a tradition here. We always play, have fun with them. But it's a very serious business being here on the Senate floor but you got to participate in a fun morning."

## SECOND READING

## CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Marr moved that Gubernatorial Appointment No. 9168, Cindy Whaley, as a member of the Parks and Recreation Commission, be confirmed.

Senator Marr spoke in favor of the motion.

## MOTION

On motion of Senator Schoesler, Senators Hewitt and Parlette were excused.

## APPOINTMENT OF CINDY WHALEY

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9168, Cindy Whaley as a member of the Parks and Recreation Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9168, Cindy Whaley as a

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member of the Parks and Recreation Commission and the appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

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

Excused: Senators Fairley, Hewitt, Holmquist, Parlette and Pflug

Gubernatorial Appointment No. 9168, Cindy Whaley, having received the constitutional majority was declared confirmed as a member of the Parks and Recreation Commission.

## SECOND READING

SENATE BILL NO. 6403, by Senators Kauffman, McAuliffe, Hargrove, Hobbs, Regala, Oemig, McDermott and Shin

Regarding accountability and support for vulnerable students and dropouts.

## MOTION

On motion of Senator Kauffman, Substitute Senate Bill No. 6403 was substituted for Senate Bill No. 6403 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Kauffman moved that the following amendment by Senators Kauffman and McAuliffe be adopted:

On page 2, line 12, after "organizations," insert "parents and families,"

On page 4, line 18, after "associations;" strike "~~((department of health;))~~" and insert "~~((department of health))~~ achievement gap oversight and accountability committee; office of the education ombudsman;"

Senator Kauffman spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Kauffman and McAuliffe on page 2, line 12 to Substitute Senate Bill No. 6403.

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

## MOTION

On motion of Senator Kauffman, the rules were suspended, Engrossed Substitute Senate Bill No. 6403 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kauffman and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6403.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6403 and the bill passed the

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Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

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

Excused: Senators Fairley, Hewitt, Holmquist, Parlette and Pflug

ENGRROSSED SUBSTITUTE SENATE BILL NO. 6403, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 10:59 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 12:01 p.m. by President Pro Tempore.

MOTION

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

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

SECOND READING

SENATE BILL NO. 6696, by Senators McAuliffe, King, Gordon, Oemig, Hobbs, Kauffman, McDermott, Roach, Berkey, Murray, Tom, Prentice, Haugen, Fairley, Kline, Rockefeller, Keiser, Marr, Ranker, Regala, Eide, Kilmer, Hargrove, Franklin, Shin and Kohl-Welles

Regarding education reform.

MOTION

On motion of Senator McAuliffe, Second Substitute Senate Bill No. 6696 was substituted for Senate Bill No. 6696 and the second substitute bill was placed on the second reading and read the second time.

MOTION

Senator McAuliffe moved that the following striking amendment by Senators McAuliffe and Oemig be adopted:

Strike everything after the enacting clause and insert the following:

**"PART I  
ACCOUNTABILITY FRAMEWORK**

NEW SECTION. Sec. 101. The legislature finds that it is the state's responsibility to create a coherent and effective accountability framework for the continuous improvement for all

schools and districts. This system must provide an excellent and equitable education for all students; an aligned federal/state accountability system; and the tools necessary for schools and districts to be accountable. These tools include the necessary accounting and data reporting systems, assessment systems to monitor student achievement, and a system of general support, targeted assistance, and if necessary, intervention.

The office of the superintendent of public instruction is responsible for developing and implementing the accountability tools to build district capacity and working within federal and state guidelines. The legislature assigned the state board of education responsibility and oversight for creating an accountability framework. This framework provides a unified system of support for challenged schools that aligns with basic education, increases the level of support based upon the magnitude of need, and uses data for decisions. Such a system will identify schools and their districts for recognition as well as for additional state support. For a specific group of challenged schools, defined as persistently lowest-achieving schools, and their districts, it is necessary to provide a required action process that creates a partnership between the state and local district to target funds and assistance to turn around the identified lowest-achieving schools.

Phase I of this accountability system will recognize schools that have done an exemplary job of raising student achievement and closing the achievement gaps using the state board of education's accountability index. The state board of education shall have ongoing collaboration with the achievement gap oversight and accountability committee regarding the measures used to measure the closing of the achievement gaps and the recognition provided to the school districts for closing the achievement gaps. Phase I will also target the lowest five percent of persistently lowest-achieving schools defined under federal guidelines to provide federal funds and federal intervention models through a voluntary option in 2010, and for those who do not volunteer and have not improved student achievement, a required action process beginning in 2011.

Phase II of this accountability system will work toward implementing the state board of education's accountability index for identification of schools in need of improvement, including those that are not Title I schools, and the use of state and local intervention models and state funds through a required action process beginning in 2013, in addition to the federal program. Federal approval of the state board of education's accountability index must be obtained or else the federal guidelines for persistently lowest-achieving schools will continue to be used.

The expectation from implementation of this accountability system is the improvement of student achievement for all students to prepare them for postsecondary education, work, and global citizenship in the twenty-first century.

NEW SECTION. Sec. 102. (1) Beginning in 2010, and each year thereafter, by December 1st, the superintendent of public instruction shall annually identify schools as one of the state's persistently lowest-achieving schools if the school is a Title I school, or a school that is eligible for, but does not receive Title I funds, that is among the lowest-achieving five percent of schools in the state.

(2) The criteria for determining whether a school is among the persistently lowest-achieving five percent of Title I schools, or Title I eligible schools, under subsection (1) of this section shall be established by the superintendent of public instruction. The criteria must meet all applicable requirements for the receipt of a federal school improvement grant under the American recovery and reinvestment act of 2009 and Title I of the elementary and secondary education act of 1965, and take into account both:

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(a) The academic achievement of the "all students" group in a school in terms of proficiency on the state's assessment, and any alternative assessments, in reading and mathematics combined; and

(b) The school's lack of progress on the mathematics and reading assessments over a number of years in the "all students" group.

**NEW SECTION. Sec. 103.** (1) Beginning in January 2011, the superintendent of public instruction shall annually recommend to the state board of education school districts for designation as required action districts. A district with at least one school identified as a persistently lowest-achieving school shall be designated as a required action district if it meets the criteria developed by the superintendent of public instruction. However, a school district shall not be recommended for designation as a required action district if the district was awarded a federal school improvement grant by the superintendent in 2010 and for three consecutive years following receipt of the grant implemented a federal school intervention model at each school identified for improvement. The state board of education may designate a district that received a school improvement grant in 2010 as a required action district if after three years of voluntarily implementing a plan the district continues to have a school identified as persistently lowest-achieving and meets the criteria for designation established by the superintendent of public instruction.

(2) The superintendent of public instruction shall provide a school district superintendent with written notice of the recommendation for designation as a required action district by certified mail or personal service. A school district superintendent may request reconsideration of the superintendent of public instruction's recommendation. The reconsideration shall be limited to a determination of whether the school district met the criteria for being recommended as a required action district. A request for reconsideration must be in writing and served on the superintendent of public instruction within ten days of service of the notice of the superintendent's recommendation.

(3) The state board of education shall annually designate those districts recommended by the superintendent in subsection (1) of this section as required action districts. A district designated as a required action district shall be required to notify all parents of students attending a school identified as a persistently lowest-achieving school in the district of the state board of education's designation of the district as a required action district and the process for complying with the requirements set forth in sections 104 through 109 of this act.

**NEW SECTION. Sec. 104.** (1) The superintendent of public instruction shall contract with an external review team to conduct an academic performance audit of the district and each persistently lowest-achieving school in a required action district to identify the potential reasons for the school's low performance and lack of progress. The review team must consist of persons under contract with the superintendent who have expertise in comprehensive school and district reform and may not include staff from the agency, the school district that is the subject of the audit, or members or staff of the state board of education.

(2) The audit must be conducted based on criteria developed by the superintendent of public instruction and must include but not be limited to an examination of the following:

- (a) Student demographics;
- (b) Mobility patterns;
- (c) School feeder patterns;
- (d) The performance of different student groups on assessments;
- (e) Effective school leadership;
- (f) Strategic allocation of resources;
- (g) Clear and shared focus on student learning;

- (h) High standards and expectations for all students;
- (i) High level of collaboration and communication;
- (j) Aligned curriculum, instruction, and assessment to state standards;

(k) Frequency of monitoring of learning and teaching;

(l) Focused professional development;

(m) Supportive learning environment;

(n) High level of family and community involvement; and

(o) Alternative secondary schools best practices.

(3) Audit findings must be made available to the local school district, its staff, the community, and the state board of education.

**NEW SECTION. Sec. 105.** (1) The local district superintendent and local school board of a school district designated as a required action district must submit a required action plan to the state board of education for approval. Unless otherwise required by subsection (3) of this section, the plan must be submitted under a schedule as required by the state board. A required action plan must be developed in collaboration with administrators, teachers, and other staff, parents, unions representing any employees within the district, students, and other representatives of the local community. The superintendent of public instruction shall provide a district with assistance in developing its plan if requested. The school board must conduct a public hearing to allow for comment on a proposed required action plan. The local school district shall submit the plan first to the office of the superintendent of public instruction to review and approve that the plan is consistent with federal guidelines. After the office of the superintendent of public instruction has approved that the plan is consistent with federal guidelines, the local school district must submit its required action plan to the state board of education for approval.

(2) A required action plan must include all of the following:

(a) Implementation of one of the four federal intervention models required for the receipt of a federal school improvement grant, for those persistently lowest-achieving schools that the district will be focusing on for required action. However, a district may not establish a charter school under a federal intervention model without express legislative authority. The intervention models are the turnaround, restart, school closure, and transformation models. The intervention model selected must address the concerns raised in the academic performance audit and be intended to improve student performance to allow a school district to be removed from the list of districts designated as a required action district by the state board of education within three years of implementation of the plan;

(b) Submission of an application for a federal school improvement grant to the superintendent of public instruction;

(c) A budget that provides for adequate resources to implement the federal model selected and any other requirements of the plan;

(d) A description of the changes in the district's or school's existing policies, structures, agreements, processes, and practices that are intended to attain significant achievement gains for all students enrolled in the school;

(e) Identification of the measures that the school district will use in assessing student achievement at a school identified as a persistently lowest-achieving school, which include improving mathematics and reading student achievement and graduation rates as defined by the office of the superintendent of public instruction that enable the school to no longer be identified as a persistently lowest-achieving school.

(3)(a) For any district designated for required action, the parties to any collective bargaining agreement negotiated, renewed, or extended under chapter 41.59 or 41.56 RCW after the effective date of this section must reopen the agreement, or negotiate an addendum, if needed, to make changes to terms and conditions of employment that are necessary to implement a required action plan.

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(b) If the school district and the employee organizations are unable to agree on the terms of an addendum or modification to an existing collective bargaining agreement, the parties, including all labor organizations affected under the required action plan, shall request the public employment relations commission to, and the commission shall, appoint an employee of the commission to act as a mediator to assist in the resolution of a dispute between the school district and the employee organizations. Beginning in 2011, and each year thereafter, mediation shall commence no later than April 15th. All mediations held under this section shall include the employer and representatives of all affected bargaining units.

(c) If the executive director of the public employment relations commission, upon the recommendation of the assigned mediator, finds that the employer and any affected bargaining unit are unable to reach agreement following a reasonable period of negotiations and mediation, but by no later than May 15th of the year in which mediation occurred, the executive director shall certify any disputed issues for a decision by the superior court in the county where the school district is located. The issues for determination by the superior court must be limited to the issues certified by the executive director.

(d) The process for filing with the court in this subsection (3)(d) must be used in the case where the executive director certifies issues for a decision by the superior court.

(i) The school district shall file a petition with the superior court, by no later than May 20th of the same year in which the issues were certified, setting forth the following:

(A) The name, address, and telephone number of the school district and its principal representative;

(B) The name, address, and telephone number of the employee organizations and their principal representatives;

(C) A description of the bargaining units involved;

(D) A copy of the unresolved issues certified by the executive director for a final and binding decision by the court; and

(E) The academic performance audit that the office of the superintendent of public instruction completed for the school district.

(ii) Within seven days after the filing of the petition, each party shall file with the court the proposal it is asking the court to order be implemented in a required action plan for the district for each issue certified by the executive director. Contemporaneously with the filing of the proposal, a party must file a brief with the court setting forth the reasons why the court should order implementation of its proposal in the final plan.

(iii) Following receipt of the proposals and briefs of the parties, the court must schedule a date and time for a hearing on the petition. The hearing must be limited to argument of the parties or their counsel regarding the proposals submitted for the court's consideration. The parties may waive a hearing by written agreement.

(iv) The court must enter an order selecting the proposal for inclusion in a required action plan that best responds to the issues raised in the school district's academic performance audit, and allows for the award of a federal school improvement grant to the district from the office of the superintendent of public instruction to implement one of the four federal intervention models. The court's decision must be issued no later than June 15th of the year in which the petition is filed and is final and binding on the parties; however the court's decision is subject to appeal only in the case where it does not allow the school district to implement a required action plan consistent with the requirements for the award of a federal school improvement grant by the superintendent of public instruction.

(e) Each party shall bear its own costs and attorneys' fees incurred under this statute.

(f) Any party that proceeds with the process in this section after knowledge that any provision of this section has not been complied with and who fails to state its objection in writing is deemed to have waived its right to object.

(4) All contracts entered into between a school district and an employee must be consistent with this section and allow school districts designated as required action districts to implement one of the four federal models in a required action plan.

**NEW SECTION. Sec. 106.** A required action plan developed by a district's school board and superintendent must be submitted to the state board of education for approval. The state board must accept for inclusion in any required action plan the final decision by the superior court on any issue certified by the executive director of the public employment relations commission under the process in section 105 of this act. The state board of education shall approve a plan proposed by a school district only if it meets the requirements set forth in section 105 of this act. Any addendum or modification to an existing collective bargaining agreement, negotiated under section 105 of this act or by agreement of the district and the exclusive bargaining unit, related to student achievement or school improvement shall not go into effect until approval of a required action plan by the state board of education. If the state board does not approve a proposed plan, it must notify the local school board and local district's superintendent in writing with an explicit rationale for why the plan was not approved. Nonapproval by the state board of education of the local school district's initial required action plan submitted is not intended to trigger any actions under section 107 of this act. With the assistance of the office of the superintendent of public instruction, the superintendent and school board of the required action district shall submit a new plan to the state board of education for approval within forty days of notification that its plan was rejected. If federal funds are not available, the plan is not required to be implemented until such funding becomes available. If federal funds for this purpose are available, a required action plan must be implemented in the immediate school year following the district's designation as a required action district.

**NEW SECTION. Sec. 107.** The state board of education may direct the superintendent of public instruction to require a school district that has not submitted a final required action plan for approval, or has submitted but not received state board of education approval of a required action plan by the beginning of the school year in which the plan is intended to be implemented, to redirect the district's Title I funds based on the academic performance audit findings.

**NEW SECTION. Sec. 108.** A school district must implement a required action plan upon approval by the state board of education. The office of superintendent of public instruction must provide the required action district with technical assistance and federal school improvement grant funds, if available, to implement an approved plan. The district must submit a report to the superintendent of public instruction that provides the progress the district is making in meeting the student achievement goals based on the state's assessments, identifying strategies and assets used to solve audit findings, and establishing evidence of meeting plan implementation benchmarks as set forth in the required action plan.

**NEW SECTION. Sec. 109.** (1) The superintendent of public instruction must provide a report twice per year to the state board of education regarding the progress made by all school districts designated as required action districts.

(2) The superintendent of public instruction must recommend to the state board of education that a school district be released from the designation as a required action district after the district implements a required action plan for a period of three years; has

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made progress, as defined by the superintendent of public instruction, in reading and mathematics on the state's assessment over the past three consecutive years; and no longer has a school within the district identified as persistently lowest achieving. The state board shall release a school district from the designation as a required action district upon confirmation that the district has met the requirements for a release.

(3) If the state board of education determines that the required action district has not met the requirements for release, the district remains in required action and must submit a new or revised plan under the process in section 105 of this act.

**Sec. 110.** RCW 28A.305.225 and 2009 c 548 s 503 are each amended to read as follows:

(1) The state board of education shall continue to refine the development of an accountability framework that creates a unified system of support for challenged schools, that aligns with basic education, increases the level of support based upon the magnitude of need, and uses data for decisions.

(2) The state board of education shall develop an accountability index to identify schools and districts for recognition, for continuous improvement, and for additional state support. The index shall be based on criteria that are fair, consistent, and transparent. Performance shall be measured using multiple outcomes and indicators including, but not limited to, graduation rates and results from statewide assessments. The index shall be developed in such a way as to be easily understood by both employees within the schools and districts, as well as parents and community members. It is the legislature's intent that the index provide feedback to schools and districts to self-assess their progress, and enable the identification of schools with exemplary student performance and those that need assistance to overcome challenges in order to achieve exemplary student performance. ~~((Once the accountability index has identified schools that need additional help, a more thorough analysis will be done to analyze specific conditions in the district including but not limited to the level of state resources a school or school district receives in support of the basic education system, achievement gaps for different groups of students, and community support.~~

~~—(3) Based on the accountability index and in consultation with the superintendent of public instruction, the state board of education shall develop a proposal and timeline for implementation of a comprehensive system of voluntary support and assistance for schools and districts. The timeline must take into account and accommodate capacity limitations of the K-12 educational system. Changes that have a fiscal impact on school districts, as identified by a fiscal analysis prepared by the office of the superintendent of public instruction, shall take effect only if formally authorized by the legislature through the omnibus appropriations act or other enacted legislation.~~

~~—(4)(a) The state board of education shall develop a proposal and implementation timeline for a more formalized comprehensive system improvement targeted to challenged schools and districts that have not demonstrated sufficient improvement through the voluntary system. The timeline must take into account and accommodate capacity limitations of the K-12 educational system. The proposal and timeline shall be submitted to the education committees of the legislature by December 1, 2009, and shall include recommended legislation and recommended resources to implement the system according to the timeline developed.~~

~~—(b) The proposal shall outline a process for addressing performance challenges that will include the following features: (i) An academic performance audit using peer review teams of educators that considers school and community factors in addition to other factors in developing recommended specific corrective actions that should be undertaken to improve student learning; (ii) a~~

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~~requirement for the local school board plan to develop and be responsible for implementation of corrective action plan taking into account the audit findings, which plan must be approved by the state board of education at which time the plan becomes binding upon the school district to implement; and (iii) monitoring of local district progress by the office of the superintendent of public instruction. The proposal shall take effect only if formally authorized by the legislature through the omnibus appropriations act or other enacted legislation.~~

~~—(5)) (3) The state board of education, in cooperation with the office of the superintendent of public instruction, shall annually recognize schools for exemplary performance as measured on the state board of education accountability index. The state board of education shall have ongoing collaboration with the achievement gap oversight and accountability committee regarding the measures used to measure the closing of the achievement gaps and the recognition provided to the school districts for closing the achievement gaps.~~

~~—(4) In coordination with the superintendent of public instruction, the state board of education shall seek approval from the United States department of education for use of the accountability index and the state system of support, assistance, and intervention, to replace the federal accountability system under P.L. 107-110, the no child left behind act of 2001.~~

~~((6)) (5) The state board of education shall work with the education data center established within the office of financial management and the technical working group established in section 112, chapter 548, Laws of 2009 to determine the feasibility of using the prototypical funding allocation model as not only a tool for allocating resources to schools and districts but also as a tool for schools and districts to report to the state legislature and the state board of education on how the state resources received are being used.~~

**NEW SECTION. Sec. 111.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "All students group" means those students in grades three through eight and high school who take the state's assessment in reading and mathematics required under 20 U.S.C. Sec. 6311(b)(3).

(2) "Title I" means Title I, part A of the federal elementary and secondary education act of 1965 (ESEA) (20 U.S.C. Secs. 6311-6322).

**NEW SECTION. Sec. 112.** The superintendent of public instruction may adopt rules in accordance with chapter 34.05 RCW as necessary to implement this chapter.

## PART II EVALUATIONS

**Sec. 201.** RCW 28A.150.230 and 2006 c 263 s 201 are each amended to read as follows:

(1) It is the intent and purpose of this section to guarantee that each common school district board of directors, whether or not acting through its respective administrative staff, be held accountable for the proper operation of their district to the local community and its electorate. In accordance with the provisions of Title 28A RCW, as now or hereafter amended, each common school district board of directors shall be vested with the final responsibility for the setting of policies ensuring quality in the content and extent of its educational program and that such program provide students with the opportunity to achieve those skills which are generally recognized as requisite to learning.

(2) In conformance with the provisions of Title 28A RCW, as now or hereafter amended, it shall be the responsibility of each common school district board of directors to adopt policies to:

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(a) Establish performance criteria and an evaluation process for its superintendent, classified staff, certificated personnel, including administrative staff, and for all programs constituting a part of such district's curriculum. Each district shall report annually to the superintendent of public instruction the following for each employee group listed in this subsection (2)(a): (i) Evaluation criteria and rubrics; (ii) a description of each rating; and (iii) the number of staff in each rating;

(b) Determine the final assignment of staff, certificated or classified, according to board enumerated classroom and program needs and data, based upon a plan to ensure that the assignment policy: (i) Supports the learning needs of all the students in the district; and (ii) gives specific attention to high-need schools and classrooms;

(c) Provide information to the local community and its electorate describing the school district's policies concerning hiring, assigning, terminating, and evaluating staff, including the criteria for evaluating teachers and principals;

(d) Determine the amount of instructional hours necessary for any student to acquire a quality education in such district, in not less than an amount otherwise required in RCW 28A.150.220, or rules of the state board of education;

~~((#))~~ (e) Determine the allocation of staff time, whether certificated or classified;

~~((#))~~ (f) Establish final curriculum standards consistent with law and rules of the superintendent of public instruction, relevant to the particular needs of district students or the unusual characteristics of the district, and ensuring a quality education for each student in the district; and

~~((#))~~ (g) Evaluate teaching materials, including text books, teaching aids, handouts, or other printed material, in public hearing upon complaint by parents, guardians or custodians of students who consider dissemination of such material to students objectionable.

**Sec. 202.** RCW 28A.405.100 and 1997 c 278 s 1 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, the superintendent of public instruction shall establish and may amend from time to time minimum criteria for the evaluation of the professional performance capabilities and development of certificated classroom teachers and certificated support personnel. For classroom teachers the criteria shall be developed in the following categories: Instructional skill; classroom management, professional preparation and scholarship; effort toward improvement when needed; the handling of student discipline and attendant problems; and interest in teaching pupils and knowledge of subject matter.

(b) Every board of directors shall, in accordance with procedure provided in RCW 41.59.010 through 41.59.170, 41.59.910 and 41.59.920, establish evaluative criteria and procedures for all certificated classroom teachers and certificated support personnel. The evaluative criteria must contain as a minimum the criteria established by the superintendent of public instruction pursuant to this section and must be prepared within six months following adoption of the superintendent of public instruction's minimum criteria. The district must certify to the superintendent of public instruction that evaluative criteria have been so prepared by the district.

(2)(a) Pursuant to the implementation schedule established in subsection (7)(b) of this section, every board of directors shall, in accordance with procedures provided in RCW 41.59.010 through 41.59.170, 41.59.910, and 41.59.920, establish revised evaluative criteria and a four-level rating system for all certificated classroom teachers.

(b) The minimum criteria shall include: (i) Centering instruction on high expectations for student achievement; (ii)

demonstrating effective teaching practices; (iii) recognizing individual student learning needs and developing strategies to address those needs; (iv) providing clear and intentional focus on subject matter content and curriculum; (v) fostering and managing a safe, positive learning environment; (vi) using multiple student data elements to modify instruction and improve student learning; (vii) communicating and collaborating with parents and school community; and (viii) exhibiting collaborative and collegial practices focused on improving instructional practice and student learning.

(c) The four-level rating system used to evaluate the certificated classroom teacher must describe performance along a continuum that indicates the extent to which the criteria have been met or exceeded. When student growth data, if available and relevant to the teacher and subject matter, is referenced in the evaluation process it must be based on multiple measures that can include classroom-based, school-based, district-based, and state-based tools. As used in this subsection, "student growth" means the change in student achievement between two points in time.

(3)(a) Except as provided in subsection ~~((#))~~ (10) of this section, it shall be the responsibility of a principal or his or her designee to evaluate all certificated personnel in his or her school. During each school year all classroom teachers and certificated support personnel ~~(, hereinafter referred to as "employees" in this section.)~~ shall be observed for the purposes of evaluation at least twice in the performance of their assigned duties. Total observation time for each employee for each school year shall be not less than sixty minutes. An employee in the third year of provisional status as defined in RCW 28A.405.220 shall be observed at least three times in the performance of his or her duties and the total observation time for the school year shall not be less than ninety minutes. Following each observation, or series of observations, the principal or other evaluator shall promptly document the results of the observation in writing, and shall provide the employee with a copy thereof within three days after such report is prepared. New employees shall be observed at least once for a total observation time of thirty minutes during the first ninety calendar days of their employment period.

(b) As used in this subsection and subsection (4) of this section, "employees" means classroom teachers and certificated support personnel.

(4)(a) At any time after October 15th, an employee whose work is not judged ~~((unsatisfactory))~~ satisfactory based on district evaluation criteria shall be notified in writing of the specific areas of deficiencies along with a reasonable program for improvement. During the period of probation, the employee may not be transferred from the supervision of the original evaluator. Improvement of performance or probable cause for nonrenewal must occur and be documented by the original evaluator before any consideration of a request for transfer or reassignment as contemplated by either the individual or the school district. A probationary period of sixty school days shall be established. The establishment of a probationary period does not adversely affect the contract status of an employee within the meaning of RCW 28A.405.300. The purpose of the probationary period is to give the employee opportunity to demonstrate improvements in his or her areas of deficiency. The establishment of the probationary period and the giving of the notice to the employee of deficiency shall be by the school district superintendent and need not be submitted to the board of directors for approval. During the probationary period the evaluator shall meet with the employee at least twice monthly to supervise and make a written evaluation of the progress, if any, made by the employee. The evaluator may authorize one additional certificated employee to evaluate the probationer and to aid the employee in improving his or her areas of deficiency; such

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additional certificated employee shall be immune from any civil liability that might otherwise be incurred or imposed with regard to the good faith performance of such evaluation. The probationer may be removed from probation if he or she has demonstrated improvement to the satisfaction of the principal in those areas specifically detailed in his or her initial notice of deficiency and subsequently detailed in his or her improvement program. Lack of necessary improvement during the established probationary period, as specifically documented in writing with notification to the probationer and shall constitute grounds for a finding of probable cause under RCW 28A.405.300 or 28A.405.210.

(b) Immediately following the completion of a probationary period that does not produce performance changes detailed in the initial notice of deficiencies and improvement program, the employee may be removed from his or her assignment and placed into an alternative assignment for the remainder of the school year. This reassignment may not displace another employee nor may it adversely affect the probationary employee's compensation or benefits for the remainder of the employee's contract year. If such reassignment is not possible, the district may, at its option, place the employee on paid leave for the balance of the contract term.

((2)) (5) Every board of directors shall establish evaluative criteria and procedures for all superintendents, principals, and other administrators. It shall be the responsibility of the district superintendent or his or her designee to evaluate all administrators. Except as provided in subsection (6) of this section, such evaluation shall be based on the administrative position job description. Such criteria, when applicable, shall include at least the following categories: Knowledge of, experience in, and training in recognizing good professional performance, capabilities and development; school administration and management; school finance; professional preparation and scholarship; effort toward improvement when needed; interest in pupils, employees, patrons and subjects taught in school; leadership; and ability and performance of evaluation of school personnel.

((3)) (6)(a) Pursuant to the implementation schedule established by subsection (7)(b) of this section, every board of directors shall establish revised evaluative criteria and a four-level rating system for principals.

(b) The minimum criteria shall include: (i) Creating a school culture that promotes the ongoing improvement of learning and teaching for students and staff; (ii) demonstrable commitment to closing the achievement gap; (iii) providing for school safety; (iv) leading the development, implementation, and evaluation of a data-driven plan for increasing student achievement, including the use of multiple student data elements; (v) assisting instructional staff with alignment of curriculum, instruction, and assessment with state and local district learning goals; (vi) monitoring, assisting, and evaluating effective instruction and assessment practices; (vii) managing both staff and fiscal resources to support student achievement and legal responsibilities; and (viii) partnering with the school community to promote student learning.

(c) The four-level rating system used to evaluate the principal must describe performance along a continuum that indicates the extent to which the criteria have been met or exceeded. When available, student growth data that is referenced in the evaluation process must be based on multiple measures that can include classroom-based, school-based, district-based, and state-based tools. As used in this subsection, "student growth" means the change in student achievement between two points in time.

(7)(a) The superintendent of public instruction, in collaboration with state professional associations representing teachers, principals, administrators, and at least one parent who is not a teacher, principal, administrator, or employee of a school district, educational service district, or state educational agency, association,

or organization shall create models for implementing the evaluation system criteria, student growth tools, professional development programs, and evaluator training for certificated classroom teachers and principals. The statewide parent-teacher organization shall select one representative. Individuals who apply must have demonstrated an interest in public schools, be supportive of educational improvement, and be willing to devote sufficient time to create the models, programs, and tools. Human resources specialists, professional development experts, and assessment experts must also be consulted. Due to the diversity of teaching assignments and the many developmental levels of students, classroom teachers and principals must be prominently represented in this work. The models must be available for use in the 2011-12 school year.

(b) A new certificated classroom teacher evaluation system that implements the provisions of subsection (2) of this section and a new principal evaluation system that implements the provisions of subsection (6) of this section shall be phased-in beginning with the 2010-11 school year by districts identified in (c) of this subsection and implemented in all school districts beginning with the 2013-14 school year.

(c) A set of school districts shall be selected by the superintendent of public instruction to participate in a collaborative process resulting in the development and piloting of new certificated classroom teacher and principal evaluation systems during the 2010-11 and 2011-12 school years. These school districts must be selected based on: (i) The agreement of the local associations representing classroom teachers and principals to collaborate with the district in this developmental work and (ii) the agreement to participate in the full range of development and implementation activities, including: Development of rubrics for the evaluation criteria and ratings in subsections (2) and (6) of this section; identification of or development of appropriate multiple measures of student growth in subsections (2) and (6) of this section; development of appropriate evaluation system forms; participation in professional development for principals and classroom teachers regarding the content of the new evaluation system; participation in evaluator training; and participation in activities to evaluate the effectiveness of the new systems and support programs. The school districts must submit all student data available to the office of the superintendent of public instruction, preferably in electronic form. The superintendent of public instruction must analyze the districts' evaluative data, including data that is not used or is underutilized in the evaluations, consult with participating districts and stakeholders, recommend appropriate changes, and address statewide implementation issues. The superintendent of public instruction shall report evaluation system implementation status, evaluation data, and recommendations to appropriate committees of the legislature and governor by July 1, 2011, and at the conclusion of the development phase by July 1, 2012.

(8) Each certificated (~~employee~~) classroom teacher and certificated support personnel shall have the opportunity for confidential conferences with his or her immediate supervisor on no less than two occasions in each school year. Such confidential conference shall have as its sole purpose the aiding of the administrator in his or her assessment of the employee's professional performance.

((4)) (9) The failure of any evaluator to evaluate or supervise or cause the evaluation or supervision of certificated (~~employees~~) classroom teachers and certificated support personnel or administrators in accordance with this section, as now or hereafter amended, when it is his or her specific assigned or delegated responsibility to do so, shall be sufficient cause for the nonrenewal of any such evaluator's contract under RCW 28A.405.210, or the discharge of such evaluator under RCW 28A.405.300.

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~~((5))~~ (10) After ~~((an employee))~~ a certificated classroom teacher or certificated support personnel has four years of satisfactory evaluations under subsection (1) of this section or has received one of the two top ratings for four years under subsection (2) of this section, a school district may use a short form of evaluation, a locally bargained evaluation emphasizing professional growth, an evaluation under subsection (1) or (2) of this section, or any combination thereof. The short form of evaluation shall include either a thirty minute observation during the school year with a written summary or a final annual written evaluation based on the criteria in subsection (1) or (2) of this section and based on at least two observation periods during the school year totaling at least sixty minutes without a written summary of such observations being prepared. A locally bargained short-form evaluation emphasizing professional growth must provide that the professional growth activity conducted by the certificated classroom teacher be specifically linked to one or more of the certificated classroom teacher evaluation criteria. However, the evaluation process set forth in subsection (1) or (2) of this section shall be followed at least once every three years unless this time is extended by a local school district under the bargaining process set forth in chapter 41.59 RCW. The employee or evaluator may require that the evaluation process set forth in subsection (1) or (2) of this section be conducted in any given school year. No evaluation other than the evaluation authorized under subsection (1) or (2) of this section may be used as a basis for determining that an employee's work is ~~((unsatisfactory))~~ not satisfactory under subsection (1) or (2) of this section or as probable cause for the nonrenewal of an employee's contract under RCW 28A.405.210 unless an evaluation process developed under chapter 41.59 RCW determines otherwise.

**Sec. 203.** RCW 28A.405.220 and 2009 c 57 s 2 are each amended to read as follows:

(1) Notwithstanding the provisions of RCW 28A.405.210, every person employed by a school district in a teaching or other nonsupervisory certificated position shall be subject to nonrenewal of employment contract as provided in this section during the first ~~((two))~~ three years of employment by such district, unless: (a) The employee has previously completed at least two years of certificated employment in another school district in the state of Washington, in which case the employee shall be subject to nonrenewal of employment contract pursuant to this section during the first year of employment with the new district; or (b) the school district superintendent may make a determination to remove an employee from provisional status if the employee has received one of the top two evaluation ratings during the second year of employment by the district. Employees as defined in this section shall hereinafter be referred to as "provisional employees((-))."

(2) In the event the superintendent of the school district determines that the employment contract of any provisional employee should not be renewed by the district for the next ensuing term such provisional employee shall be notified thereof in writing on or before May 15th preceding the commencement of such school term, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 15th, which notification shall state the reason or reasons for such determination. Such notice shall be served upon the provisional employee personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein. The determination of the superintendent shall be subject to the evaluation requirements of RCW 28A.405.100.

(3) Every such provisional employee so notified, at his or her request made in writing and filed with the superintendent of the district within ten days after receiving such notice, shall be given the opportunity to meet informally with the superintendent for the

purpose of requesting the superintendent to reconsider his or her decision. Such meeting shall be held no later than ten days following the receipt of such request, and the provisional employee shall be given written notice of the date, time and place of meeting at least three days prior thereto. At such meeting the provisional employee shall be given the opportunity to refute any facts upon which the superintendent's determination was based and to make any argument in support of his or her request for reconsideration.

(4) Within ten days following the meeting with the provisional employee, the superintendent shall either reinstate the provisional employee or shall submit to the school district board of directors for consideration at its next regular meeting a written report recommending that the employment contract of the provisional employee be nonrenewed and stating the reason or reasons therefor. A copy of such report shall be delivered to the provisional employee at least three days prior to the scheduled meeting of the board of directors. In taking action upon the recommendation of the superintendent, the board of directors shall consider any written communication which the provisional employee may file with the secretary of the board at any time prior to that meeting.

(5) The board of directors shall notify the provisional employee in writing of its final decision within ten days following the meeting at which the superintendent's recommendation was considered. The decision of the board of directors to nonrenew the contract of a provisional employee shall be final and not subject to appeal.

(6) This section applies to any person employed by a school district in a teaching or other nonsupervisory certificated position after June 25, 1976. This section provides the exclusive means for nonrenewing the employment contract of a provisional employee and no other provision of law shall be applicable thereto, including, without limitation, RCW 28A.405.210 and chapter 28A.645 RCW.

NEW SECTION. Sec. 204. A new section is added to chapter 28A.405 RCW to read as follows:

(1) Representatives of the office of the superintendent of public instruction and statewide associations representing administrators, principals, human resources specialists, and certificated classroom teachers shall analyze how the evaluation systems in RCW 28A.405.100 (2) and (6) affect issues related to a change in contract status.

(2) The analysis shall be conducted during each of the phase-in years of the certificated classroom teacher and principal evaluation systems. The analysis shall include: Procedures, timelines, probationary periods, appeal procedures, and other items related to the timely exercise of employment decisions and due process provisions for certificated classroom teachers and principals.

NEW SECTION. Sec. 205. A new section is added to chapter 28A.405 RCW to read as follows:

If funds are provided for professional development activities designed specifically for first through third-year teachers, the funds shall be allocated first to districts participating in the evaluation systems in RCW 28A.405.100 (2) and (6) before the required implementation date under that section.

**PART III  
ENCOURAGING INNOVATIONS AND PERFORMANCE  
BY ADDRESSING THE ACHIEVEMENT GAP AND  
SCIENCE TECHNOLOGY, ENGINEERING, AND  
MATHEMATICS**

**Sec. 301.** RCW 28A.400.200 and 2002 c 353 s 2 are each amended to read as follows:

(1) Every school district board of directors shall fix, alter, allow, and order paid salaries and compensation for all district employees in conformance with this section.

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(2)(a) Salaries for certificated instructional staff shall not be less than the salary provided in the appropriations act in the statewide salary allocation schedule for an employee with a baccalaureate degree and zero years of service; and

(b) Salaries for certificated instructional staff with a master's degree shall not be less than the salary provided in the appropriations act in the statewide salary allocation schedule for an employee with a master's degree and zero years of service;

(3)(a) The actual average salary paid to certificated instructional staff shall not exceed the district's average certificated instructional staff salary used for the state basic education allocations for that school year as determined pursuant to RCW 28A.150.410.

(b) Fringe benefit contributions for certificated instructional staff shall be included as salary under (a) of this subsection only to the extent that the district's actual average benefit contribution exceeds the amount of the insurance benefits allocation provided per certificated instructional staff unit in the state operating appropriations act in effect at the time the compensation is payable. For purposes of this section, fringe benefits shall not include payment for unused leave for illness or injury under RCW 28A.400.210; employer contributions for old age survivors insurance, workers' compensation, unemployment compensation, and retirement benefits under the Washington state retirement system; or employer contributions for health benefits in excess of the insurance benefits allocation provided per certificated instructional staff unit in the state operating appropriations act in effect at the time the compensation is payable. A school district may not use state funds to provide employer contributions for such excess health benefits.

(c) Salary and benefits for certificated instructional staff in programs other than basic education shall be consistent with the salary and benefits paid to certificated instructional staff in the basic education program.

(4) Salaries and benefits for certificated instructional staff may exceed the limitations in subsection (3) of this section only by separate contract for additional time, for additional responsibilities, ~~((or))~~ for incentives, or for implementing specific measurable innovative activities, including professional development, specified by the school district to: (a) Close one or more achievement gaps, (b) focus on development of science, technology, engineering, and mathematics (STEM) learning opportunities, or (c) provide arts education. Beginning September 1, 2011, school districts shall annually provide a brief description of the innovative activities included in any supplemental contract to the office of the superintendent of public instruction. The superintendent of public instruction shall annually summarize the district information and submit a report to the education committees of the house of representatives and the senate. Supplemental contracts shall not cause the state to incur any present or future funding obligation. Supplemental contracts shall be subject to the collective bargaining provisions of chapter 41.59 RCW and the provisions of RCW 28A.405.240, shall not exceed one year, and if not renewed shall not constitute adverse change in accordance with RCW 28A.405.300 through 28A.405.380. No district may enter into a supplemental contract under this subsection for the provision of services which are a part of the basic education program required by Article IX, section 3 of the state Constitution.

(5) Employee benefit plans offered by any district shall comply with RCW 28A.400.350 and 28A.400.275 and 28A.400.280.

#### PART IV EXPANDING PROFESSIONAL PREPARATION OPTIONS AND WORKFORCE INFORMATION

**NEW SECTION. Sec. 401.** A new section is added to chapter 28A.410 RCW to read as follows:

Beginning with the 2011-12 school year, all professional educator standards board-approved teacher preparation programs must administer to all preservice candidates the evidence-based assessment of teaching effectiveness adopted by the professional educator standards board. Candidates completing teacher preparation programs in the 2012-13 school year and thereafter must successfully pass this assessment. Assessment results from persons completing each preparation program must be reported annually by the professional educator standards board to the governor and the education and fiscal committees of the legislature by December 1st.

**NEW SECTION. Sec. 402.** A new section is added to chapter 28A.410 RCW to read as follows:

By September 30, 2010, the professional educator standards board shall review and revise teacher and administrator preparation program approval standards and proposal review procedures at the residency certificate level to ensure they are rigorous and appropriate standards for an expanded range of potential providers, including community college and nonhigher education providers.

Beginning September 30, 2010, the professional educator standards board must accept proposals for community college and nonhigher education providers of educator preparation programs. Proposals must be processed and considered by the board as expeditiously as possible.

By September 1, 2011, all professional educator standards board-approved residency teacher preparation programs at institutions of higher education as defined in RCW 28B.10.016 not currently a partner in an alternative route program approved by the professional educator standards board must submit to the board a proposal to offer one or more of the alternative route programs that meet the requirements of RCW 28A.660.020 and 28A.660.040.

**Sec. 403.** RCW 28A.660.020 and 2006 c 263 s 816 are each amended to read as follows:

(1) ~~((Each))~~ The professional educator standards board shall transition the alternative route partnership grant program from a separate competitive grant program to a preparation program model to be expanded among approved preparation program providers. Alternative routes are partnerships between professional educator standards board-approved preparation programs, Washington school districts, and other partners as appropriate.

(2) Each prospective teacher preparation program provider, in cooperation with a Washington school district or consortia of school districts applying ~~((for the))~~ to operate alternative route certification program shall ~~((submit a))~~ include in its proposal to the Washington professional educator standards board ~~((specifying))~~:

(a) The route or routes the partnership program intends to offer and a detailed description of how the routes will be structured and operated by the partnership;

(b) The estimated number of candidates that will be enrolled per route;

(c) An identification, indication of commitment, and description of the role of approved teacher preparation programs ~~((that are))~~ and partnering ~~((with the))~~ district or consortia of districts;

(d) An assurance ~~((of))~~ that the district ~~((provision of))~~ or approved preparation program provider will provide adequate training for mentor teachers ~~((either through participation in a state mentor training academy or district provided training that meets state established mentor training standards))~~ specific to the mentoring of alternative route candidates;

(e) An assurance that significant time will be provided for mentor teachers to spend with the alternative route teacher candidates throughout the internship. Partnerships must provide each candidate with intensive classroom mentoring until such time as the candidate demonstrates the competency necessary to manage

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the classroom with less intensive supervision and guidance from a mentor;

(f) A description of the rigorous screening process for applicants to alternative route programs, including entry requirements specific to each route, as provided in RCW 28A.660.040; ~~((and))~~

(g) A summary of procedures that provide flexible completion opportunities for candidates to achieve a residency certificate; and

(h) The design and use of a teacher development plan for each candidate. The plan shall specify the alternative route coursework and training required of each candidate and shall be developed by comparing the candidate's prior experience and coursework with the state's new performance-based standards for residency certification and adjusting any requirements accordingly. The plan may include the following components:

(i) A minimum of one-half of a school year, and an additional significant amount of time if necessary, of intensive mentorship during field experience, starting with full-time mentoring and progressing to increasingly less intensive monitoring and assistance as the intern demonstrates the skills necessary to take over the classroom with less intensive support. For route one and two candidates, before the supervision is diminished, the mentor of the teacher candidate at the school and the supervisor of the teacher candidate from the ~~((higher education))~~ teacher preparation program must both agree that the teacher candidate is ready to manage the classroom with less intensive supervision. For route three and four candidates, the mentor of the teacher candidate shall make the decision;

(ii) Identification of performance indicators based on the knowledge and skills standards required for residency certification by the Washington professional educator standards board;

(iii) Identification of benchmarks that will indicate when the standard is met for all performance indicators;

(iv) A description of strategies for assessing candidate performance on the benchmarks;

(v) Identification of one or more tools to be used to assess a candidate's performance once the candidate has been in the classroom for about one-half of a school year; ~~((and))~~

(vi) A description of the criteria that would result in residency certification after about one-half of a school year but before the end of the program; and

(vii) A description of how the district intends for the alternative route program to support its workforce development plan and how the presence of alternative route interns will advance its school improvement plans.

~~((2))~~ (3) To the extent funds are appropriated for this purpose, ~~((districts))~~ alternative route programs may apply for program funds to pay stipends to trained mentor teachers of interns during the mentored internship. The per intern amount of mentor stipend provided by state funds shall not exceed five hundred dollars.

**Sec. 404.** RCW 28A.660.040 and 2009 c 192 s 1 and 2009 c 166 s 1 are each reenacted and amended to read as follows:

~~((Partnership grants funded))~~ Alternative route programs under this chapter shall operate one to four specific route programs. Successful completion of the program shall make a candidate eligible for residency teacher certification. ~~((For route one and two candidates;))~~ The mentor of the teacher candidate at the school and the supervisor of the teacher candidate from the ((higher education)) teacher preparation program must both agree that the teacher candidate has successfully completed the program. ((For route three and four candidates, the mentor of the teacher candidate shall make the determination that the candidate has successfully completed the program.))

(1) ~~((Partnership grant programs seeking funds to operate))~~ Alternative route programs operating route one programs shall enroll currently employed classified instructional employees with

transferable associate degrees seeking residency teacher certification with endorsements in special education, bilingual education, or English as a second language. It is anticipated that candidates enrolled in this route will complete both their baccalaureate degree and requirements for residency certification in two years or less, including a mentored internship to be completed in the final year. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) District or building validation of qualifications, including one year of successful student interaction and leadership as a classified instructional employee;

(b) Successful passage of the statewide basic skills exam ~~((when available))~~; and

(c) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers.

~~((2))~~ ~~((Partnership grant programs seeking funds to operate))~~ Alternative route programs operating route two programs shall enroll currently employed classified staff with baccalaureate degrees seeking residency teacher certification in subject matter shortage areas and areas with shortages due to geographic location. Candidates enrolled in this route must complete a mentored internship complemented by flexibly scheduled training and coursework offered at a local site, such as a school or educational service district, or online or via video-conference over the K-20 network, in collaboration with the partnership program's higher education partner. In addition, partnership grant programs shall uphold entry requirements for candidates that include:

(a) District or building validation of qualifications, including one year of successful student interaction and leadership as classified staff;

(b) A baccalaureate degree from a regionally accredited institution of higher education. The individual's college or university grade point average may be considered as a selection factor;

(c) Successful completion of the ~~((content test, once the state content test is available))~~ subject matter assessment required by RCW 28A.410.220(3);

(d) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(e) Successful passage of the statewide basic skills exam ~~((when available))~~.

(3) ~~((Partnership grant))~~ Alternative route programs seeking funds to operate route three programs shall enroll individuals with baccalaureate degrees, who are not employed in the district at the time of application. When selecting candidates for certification through route three, districts and approved preparation program providers shall give priority to individuals who are seeking residency teacher certification in subject matter shortage areas or shortages due to geographic locations. ~~((For route three only, the districts may include additional candidates in nonshortage subject areas if the candidates are seeking endorsements with a secondary grade level designation as defined by rule by the professional educator standards board. The districts shall disclose to candidates in nonshortage subject areas available information on the demand in those subject areas.))~~ Cohorts of candidates for this route shall attend an intensive summer teaching academy, followed by a full year employed by a district in a mentored internship, followed, if necessary, by a second summer teaching academy. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) A baccalaureate degree from a regionally accredited institution of higher education. The individual's grade point average may be considered as a selection factor;

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(b) Successful completion of the ~~((content test, once the state content test is available))~~ subject matter assessment required by RCW 28A.410.220(3);

(c) External validation of qualifications, including demonstrated successful experience with students or children, such as reference letters and letters of support from previous employers;

(d) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(e) Successful passage of statewide basic skills exam ~~((s, when available))~~.

(4) ~~((Partnership grant programs seeking funds to operate))~~ Alternative route programs operating route four programs shall enroll individuals with baccalaureate degrees, who are employed in the district at the time of application, or who hold conditional teaching certificates or emergency substitute certificates. Cohorts of candidates for this route shall attend an intensive summer teaching academy, followed by a full year employed by a district in a mentored internship. If employed on a conditional certificate, the intern may serve as the teacher of record, supported by a well-trained mentor. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) A baccalaureate degree from a regionally accredited institution of higher education. The individual's grade point average may be considered as a selection factor;

(b) Successful completion of the ~~((content test, once the state content test is available))~~ subject matter assessment required by RCW 28A.410.220(3);

(c) External validation of qualifications, including demonstrated successful experience with students or children, such as reference letters and letters of support from previous employers;

(d) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(e) Successful passage of statewide basic skills exam ~~((s, when available))~~.

(5) Applicants for alternative route programs who are eligible veterans or national guard members and who meet the entry requirements for the alternative route program for which application is made shall be given preference in admission.

**Sec. 405.** RCW 28A.660.050 and 2009 c 539 s 3 and 2009 c 192 s 2 are each reenacted and amended to read as follows:

Subject to the availability of amounts appropriated for these purposes, the conditional scholarship programs in this chapter are created under the following guidelines:

(1) The programs shall be administered by the higher education coordinating board. In administering the programs, the higher education coordinating board has the following powers and duties:

(a) To adopt necessary rules and develop guidelines to administer the programs;

(b) To collect and manage repayments from participants who do not meet their service obligations; and

(c) To accept grants and donations from public and private sources for the programs.

(2) Requirements for participation in the conditional scholarship programs are as provided in this subsection (2).

(a) The alternative route conditional scholarship program is limited to interns of ~~((the partnership grant))~~ professional educator standards board-approved alternative routes to teaching programs under RCW 28A.660.040. For fiscal year 2011, priority must be given to fiscal year 2010 participants in the alternative route partnership program. In order to receive conditional scholarship awards, recipients shall:

(i) Be accepted and maintain enrollment in alternative certification routes through ~~((the partnership grant))~~ a professional educator standards board-approved program;

(ii) Continue to make satisfactory progress toward completion of the alternative route certification program and receipt of a residency teaching certificate; and

(iii) Receive no more than the annual amount of the scholarship, not to exceed eight thousand dollars, for the cost of tuition, fees, and educational expenses, including books, supplies, and transportation for the alternative route certification program in which the recipient is enrolled. The board may adjust the annual award by the average rate of resident undergraduate tuition and fee increases at the state universities as defined in RCW 28B.10.016.

(b) The pipeline for paraeducators conditional scholarship program is limited to qualified paraeducators as provided by RCW 28A.660.042. In order to receive conditional scholarship awards, recipients shall:

(i) Be accepted and maintain enrollment at a community and technical college for no more than two years and attain an associate of arts degree;

(ii) Continue to make satisfactory progress toward completion of an associate of arts degree. This progress requirement is a condition for eligibility into a route one program of the alternative routes to teacher certification program for a mathematics, special education, or English as a second language endorsement; and

(iii) Receive no more than the annual amount of the scholarship, not to exceed four thousand dollars, for the cost of tuition, fees, and educational expenses, including books, supplies, and transportation for the alternative route certification program in which the recipient is enrolled. The board may adjust the annual award by the average rate of tuition and fee increases at the state community and technical colleges.

(c) The retooling to teach mathematics and science conditional scholarship program is limited to current K-12 teachers ~~((and individuals having an elementary education certificate but who are not employed in positions requiring an elementary education certificate as provided by RCW 28A.660.045))~~. In order to receive conditional scholarship awards:

(i) Individuals currently employed as teachers shall pursue a middle level mathematics or science, or secondary mathematics or science endorsement; or

(ii) Individuals who are certificated with an elementary education endorsement ~~((, but not employed in positions requiring an elementary education certificate.))~~ shall pursue an endorsement in middle level mathematics or science, or both; and

(iii) Individuals shall use one of the pathways to endorsement processes to receive a mathematics or science endorsement, or both, which shall include passing a mathematics or science endorsement test, or both tests, plus observation and completing applicable coursework to attain the proper endorsement; and

(iv) Individuals shall receive no more than the annual amount of the scholarship, not to exceed three thousand dollars, for the cost of tuition, test fees, and educational expenses, including books, supplies, and transportation for the endorsement pathway being pursued.

(3) The Washington professional educator standards board shall select individuals to receive conditional scholarships. In selecting recipients, preference shall be given to eligible veterans or national guard members.

(4) For the purpose of this chapter, a conditional scholarship is a loan that is forgiven in whole or in part in exchange for service as a certificated teacher employed in a Washington state K-12 public school. The state shall forgive one year of loan obligation for every two years a recipient teaches in a public school. Recipients who fail to continue a course of study leading to residency teacher certification or cease to teach in a public school in the state of Washington in their endorsement area are required to repay the remaining loan principal with interest.

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(5) Recipients who fail to fulfill the required teaching obligation are required to repay the remaining loan principal with interest and any other applicable fees. The higher education coordinating board shall adopt rules to define the terms for repayment, including applicable interest rates, fees, and deferments.

(6) The higher education coordinating board may deposit all appropriations, collections, and any other funds received for the program in this chapter in the future teachers conditional scholarship account authorized in RCW 28B.102.080.

**NEW SECTION. Sec. 406.** A new section is added to chapter 28A.410 RCW to read as follows:

Beginning with the 2010 school year and annually thereafter, each educational service district, in cooperation with the professional educator standards board, must convene representatives from school districts within that region and professional educator standards board-approved educator preparation programs to review district and regional educator workforce data, make biennial projections of certificate staffing needs, and identify how recruitment and enrollment plans in educator preparation programs reflect projected need.

**Sec. 407.** RCW 28B.76.335 and 2007 c 396 s 17 are each amended to read as follows:

As part of the state needs assessment process conducted by the board in accordance with RCW 28B.76.230, the board shall, in collaboration with the professional educator standards board, assess the need for additional (~~baccalaureate~~) degree and certificate programs in Washington that specialize in teacher preparation (~~in mathematics, science, and technology~~) to meet regional or subject area shortages. If the board determines that there is a need for additional programs, then the board shall encourage the appropriate institutions of higher education or institutional sectors to create such a program.

**Sec. 408.** RCW 28B.76.230 and 2005 c 258 s 11 are each amended to read as follows:

(1) The board shall develop a comprehensive and ongoing assessment process to analyze the need for additional degrees and programs, additional off-campus centers and locations for degree programs, and consolidation or elimination of programs by the four-year institutions.

(2) As part of the needs assessment process, the board shall examine:

(a) Projections of student, employer, and community demand for education and degrees, including liberal arts degrees, on a regional and statewide basis;

(b) Current and projected degree programs and enrollment at public and private institutions of higher education, by location and mode of service delivery; (~~and~~)

(c) Data from the workforce training and education coordinating board and the state board for community and technical colleges on the supply and demand for workforce education and certificates and associate degrees; and

(d) Data from the professional educator standards board.

(3) Every two years the board shall produce, jointly with the state board for community and technical colleges, the professional educator standards board, and the workforce training and education coordinating board, an assessment of the number and type of higher education and training credentials required to match employer demand for a skilled and educated workforce. The assessment shall include the number of forecasted net job openings at each level of higher education and training and the number of credentials needed to match the forecast of net job openings.

(4) The board shall determine whether certain major lines of study or types of degrees, including applied degrees or research-oriented degrees, shall be assigned uniquely to some

institutions or institutional sectors in order to create centers of excellence that focus resources and expertise.

(5) The following activities are subject to approval by the board:

(a) New degree programs by a four-year institution;

(b) Creation of any off-campus program by a four-year institution;

(c) Purchase or lease of major off-campus facilities by a four-year institution or a community or technical college;

(d) Creation of higher education centers and consortia;

(e) New degree programs and creation of off-campus programs by an independent college or university in collaboration with a community or technical college; and

(f) Applied baccalaureate degree programs developed by colleges under RCW 28B.50.810.

(6) Institutions seeking board approval under this section must demonstrate that the proposal is justified by the needs assessment developed under this section. Institutions must also demonstrate how the proposals align with or implement the statewide strategic master plan for higher education under RCW 28B.76.200.

(7) The board shall develop clear guidelines and objective decision-making criteria regarding approval of proposals under this section, which must include review and consultation with the institution and other interested agencies and individuals.

(8) The board shall periodically recommend consolidation or elimination of programs at the four-year institutions, based on the needs assessment analysis.

**NEW SECTION. Sec. 409.** A new section is added to chapter 28B.76 RCW to read as follows:

(1) The board must establish boundaries for service regions for institutions of higher education as defined in RCW 28B.10.016 implementing professional educator standards board-approved educator preparation programs. Regions shall be established to encourage and support, not exclude, the reach of public institutions of higher education across the state.

(2) Based on the data in the assessment in RCW 28B.76.230 and 28B.76.335, the board shall determine whether reasonable teacher preparation program access for prospective teachers is available in each region. If access is determined to be inadequate in a region, the institution of higher education responsible for the region shall submit a plan for meeting the access need to the board.

(3) Partnerships with other teacher preparation program providers and the use of appropriate technology shall be considered. The board shall review the plan and, as appropriate, assist the institution in developing support and resources for implementing the plan.

**NEW SECTION. Sec. 410.** The following acts or parts of acts are each repealed:

(1) RCW 28A.660.010 (Partnership grant program) and 2004 c 23 s 1 & 2001 c 158 s 2;

(2) RCW 28A.415.100 (Student teaching centers--Legislative recognition--Intent) and 1991 c 258 s 1;

(3) RCW 28A.415.105 (Definitions) and 2006 c 263 s 811, 1995 c 335 s 403, & 1991 c 258 s 2;

(4) RCW 28A.415.130 (Allocation of funds for student teaching centers) and 2006 c 263 s 813 & 1991 c 258 s 7;

(5) RCW 28A.415.135 (Alternative means of teacher placement) and 1991 c 258 s 8; and

(6) RCW 28A.415.140 (Field experiences) and 1991 c 258 s 9.

## PART V COMMON CORE ADOPTION

**NEW SECTION. Sec. 501.** A new section is added to chapter 28A.655 RCW to read as follows:

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(1) The superintendent of public instruction shall submit to the education committees of the house of representatives and the senate a detailed comparison of the learning standards authorized under RCW 28A.655.070 and the standards being developed by a multistate consortium in which Washington is a participant. The analysis shall include the comparative level of rigor and specificity of both sets of standards, and the implications of any identified differences.

(2) The analysis and information in subsection (1) of this section shall be submitted to the education committees, the governor, educators, and the public by April 15, or thirty days after the multistate standards are finalized, whichever occurs later. The superintendent shall request comments on the analysis, including whether the superintendent should adopt the standards with, or without, the addition of current Washington standards not included in the multistate standards, the additional current standards not to exceed fifteen percent of the standards for each content area.

(3) After considering the comments received from legislators, educators, and the public, but no later than August 2, 2010, the superintendent of public instruction shall adopt the multistate standards, or adopt the multistate standards with additional standards, however, the additional current standards are not to exceed fifteen percent of the standards for each content area.

## PART VI PARENTS AND COMMUNITY

NEW SECTION. Sec. 601. A new section is added to chapter 28A.605 RCW to read as follows:

School districts are encouraged to strengthen family, school, and community partnerships by creating spaces in school buildings, if space is available, where students and families can access the services they need, such as after-school tutoring, dental and health services, counseling, or clothing and food banks.

NEW SECTION. Sec. 602. A new section is added to chapter 28A.655 RCW to read as follows:

(1) Beginning with the 2010-11 school year, each school shall annually invite parents and community members to provide feedback regarding their experiences with the school. The school shall summarize the responses in its annual report under RCW 28A.655.110.

(2) The office of the superintendent of public instruction shall create a working group with at least one representative from the statewide parent-teacher organization, and each of the state-level associations representing teachers and principals. By September 1, 2010, the working group shall develop a model feedback tool that school districts may use to facilitate the feedback process required in subsection (1) of this section.

**Sec. 603.** RCW 28A.655.110 and 1999 c 388 s 303 are each amended to read as follows:

(1) Beginning with the 1994-95 school year, to provide the local community and electorate with access to information on the educational programs in the schools in the district, each school shall publish annually a school performance report and deliver the report to each parent with children enrolled in the school and make the report available to the community served by the school. The annual performance report shall be in a form that can be easily understood and be used by parents, guardians, and other members of the community who are not professional educators to make informed educational decisions. As data from the assessments in RCW 28A.655.060 becomes available, the annual performance report should enable parents, educators, and school board members to determine whether students in the district's schools are attaining mastery of the student learning goals under RCW 28A.150.210, and other important facts about the schools' performance in assisting

students to learn. The annual report shall make comparisons to a school's performance in preceding years (~~and shall include school level goals under RCW 28A.655.050~~), student performance relative to the goals and the percentage of students performing at each level of the assessment, a comparison of student performance at each level of the assessment to the previous year's performance, and information regarding school-level plans to achieve the goals.

(2) The annual performance report shall include, but not be limited to: (a) A brief statement of the mission of the school and the school district; (b) enrollment statistics including student demographics; (c) expenditures per pupil for the school year; (d) a summary of student scores on all mandated tests; (e) a concise annual budget report; (f) student attendance, graduation, and dropout rates; (g) information regarding the use and condition of the school building or buildings; (h) a brief description of the learning improvement plans for the school; (i) a summary of the feedback from parents and community members obtained under section 602 of this act; and ~~((h))~~ (j) an invitation to all parents and citizens to participate in school activities.

(3) The superintendent of public instruction shall develop by June 30, 1994, and update periodically, a model report form, which shall also be adapted for computers, that schools may use to meet the requirements of subsections (1) and (2) of this section. In order to make school performance reports broadly accessible to the public, the superintendent of public instruction, to the extent feasible, shall make information on each school's report available on or through the superintendent's internet web site.

NEW SECTION. Sec. 604. A new section is added to chapter 28A.300 RCW to read as follows:

There is a sizeable body of research positively supporting the involvement of parents taking an engaged and active role in their child's education. Therefore, the legislature intends to provide state recognition by the center for the improvement of student learning within the office of the superintendent of public instruction for schools that increase the level of direct parental involvement with their child's education. By September 1, 2010, the center for the improvement of student learning shall determine the measures to be used to evaluate the level of parental involvement in a school, including the number and hours of parents and community members who volunteer, and the recognition to be provided to schools that are successfully involving parents in their child's education. The center for the improvement of student learning shall begin recognizing school districts using the measures beginning in the 2010-11 school year.

## PART VII COLLECTIVE BARGAINING

**Sec. 701.** RCW 41.56.100 and 1989 c 45 s 1 are each amended to read as follows:

(1) A public employer shall have the authority to engage in collective bargaining with the exclusive bargaining representative and no public employer shall refuse to engage in collective bargaining with the exclusive bargaining representative (~~= PROVIDED, That nothing contained herein shall require any~~), However, a public employer is not required to bargain collectively with any bargaining representative concerning any matter which by ordinance, resolution, or charter of said public employer has been delegated to any civil service commission or personnel board similar in scope, structure, and authority to the board created by chapter 41.06 RCW.

(2) Upon the failure of the public employer and the exclusive bargaining representative to conclude a collective bargaining agreement, any matter in dispute may be submitted by either party to the commission. This subsection does not apply to negotiations

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and mediations conducted between a school district employer and an exclusive bargaining representative under section 105 of this act.

(3) If a public employer implements its last and best offer where there is no contract settlement, allegations that either party is violating the terms of the implemented offer shall be subject to grievance arbitration procedures if and as such procedures are set forth in the implemented offer, or, if not in the implemented offer, if and as such procedures are set forth in the parties' last contract.

**NEW SECTION. Sec. 702.** A new section is added to chapter 41.56 RCW to read as follows:

All collective bargaining agreements entered into between a school district employer and school district employees under this chapter after the effective date of this section, as well as bargaining agreements existing on the effective date of this section but renewed or extended after the effective date of this section, shall be consistent with section 105 of this act.

**NEW SECTION. Sec. 703.** A new section is added to chapter 41.59 RCW to read as follows:

All collective bargaining agreements entered into between a school district employer and school district employees under this chapter after the effective date of this section, as well as bargaining agreements existing on the effective date of this section but renewed or extended after the effective date of this section, shall be consistent with section 105 of this act.

**Sec. 704.** RCW 41.59.120 and 1975 1st ex.s. c 288 s 13 are each amended to read as follows:

(1) Either an employer or an exclusive bargaining representative may declare that an impasse has been reached between them in collective bargaining and may request the commission to appoint a mediator for the purpose of assisting them in reconciling their differences and resolving the controversy on terms which are mutually acceptable. If the commission determines that its assistance is needed, not later than five days after the receipt of a request therefor, it shall appoint a mediator in accordance with rules and regulations for such appointment prescribed by the commission. The mediator shall meet with the parties or their representatives, or both, forthwith, either jointly or separately, and shall take such other steps as he may deem appropriate in order to persuade the parties to resolve their differences and effect a mutually acceptable agreement. The mediator, without the consent of both parties, shall not make findings of fact or recommend terms of settlement. The services of the mediator, including, if any, per diem expenses, shall be provided by the commission without cost to the parties. Nothing in this subsection (1) shall be construed to prevent the parties from mutually agreeing upon their own mediation procedure, and in the event of such agreement, the commission shall not appoint its own mediator unless failure to do so would be inconsistent with the effectuation of the purposes and policy of this chapter.

(2) If the mediator is unable to effect settlement of the controversy within ten days after his or her appointment, either party, by written notification to the other, may request that their differences be submitted to fact-finding with recommendations, except that the time for mediation may be extended by mutual agreement between the parties. Within five days after receipt of the aforesaid written request for fact-finding, the parties shall select a person to serve as fact finder and obtain a commitment from that person to serve. If they are unable to agree upon a fact finder or to obtain such a commitment within that time, either party may request the commission to designate a fact finder. The commission, within five days after receipt of such request, shall designate a fact finder in accordance with rules and regulations for such designation prescribed by the commission. The fact finder so designated shall not be the same person who was appointed mediator pursuant to subsection (1) of this section without the consent of both parties.

The fact finder, within five days after his appointment, shall meet with the parties or their representatives, or both, either jointly or separately, and make inquiries and investigations, hold hearings, and take such other steps as he may deem appropriate. For the purpose of such hearings, investigations and inquiries, the fact finder shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence. If the dispute is not settled within ten days after his appointment, the fact finder shall make findings of fact and recommend terms of settlement within thirty days after his appointment, which recommendations shall be advisory only.

(3) Such recommendations, together with the findings of fact, shall be submitted in writing to the parties and the commission privately before they are made public. Either the commission, the fact finder, the employer, or the exclusive bargaining representative may make such findings and recommendations public if the dispute is not settled within five days after their receipt from the fact finder.

(4) The costs for the services of the fact finder, including, if any, per diem expenses and actual and necessary travel and subsistence expenses, and any other incurred costs, shall be borne by the commission without cost to the parties.

(5) Nothing in this section shall be construed to prohibit an employer and an exclusive bargaining representative from agreeing to substitute, at their own expense, their own procedure for resolving impasses in collective bargaining for that provided in this section or from agreeing to utilize for the purposes of this section any other governmental or other agency or person in lieu of the commission.

(6) Any fact finder designated by an employer and an exclusive representative or the commission for the purposes of this section shall be deemed an agent of the state.

(7) This section does not apply to negotiations and mediations conducted under section 105 of this act.

## PART VIII CLOSING THE ACHIEVEMENT GAP

**Sec. 801.** RCW 28A.300.136 and 2009 c 468 s 2 are each amended to read as follows:

(1) An achievement gap oversight and accountability committee is created to synthesize the findings and recommendations from the 2008 achievement gap studies into an implementation plan, and to recommend policies and strategies to the superintendent of public instruction, the professional educator standards board, and the state board of education to close the achievement gap.

(2) The committee shall recommend specific policies and strategies in at least the following areas:

(a) Supporting and facilitating parent and community involvement and outreach;

(b) Enhancing the cultural competency of current and future educators and the cultural relevance of curriculum and instruction;

(c) Expanding pathways and strategies to prepare and recruit diverse teachers and administrators;

(d) Recommending current programs and resources that should be redirected to narrow the gap;

(e) Identifying data elements and systems needed to monitor progress in closing the gap;

(f) Making closing the achievement gap part of the school and school district improvement process; and

(g) Exploring innovative school models that have shown success in closing the achievement gap.

(3) Taking a multidisciplinary approach, the committee may seek input and advice from other state and local agencies and organizations with expertise in health, social services, gang and violence prevention, substance abuse prevention, and other issues

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that disproportionately affect student achievement and student success.

(4) The achievement gap oversight and accountability committee shall be composed of the following members:

(a) The chairs and ranking minority members of the house and senate education committees, or their designees;

(b) One additional member of the house of representatives appointed by the speaker of the house and one additional member of the senate appointed by the president of the senate;

(c) A representative of the office of the education ombudsman;

(d) A representative of the center for the improvement of student learning in the office of the superintendent of public instruction;

(e) A representative of federally recognized Indian tribes whose traditional lands and territories lie within the borders of Washington state, designated by the federally recognized tribes; and

(f) Four members appointed by the governor in consultation with the state ethnic commissions, who represent the following populations: African-Americans, Hispanic Americans, Asian Americans, and Pacific Islander Americans.

(5) The governor and the tribes are encouraged to designate members who have experience working in and with schools.

(6) The committee may convene ad hoc working groups to obtain additional input and participation from community members. Members of ad hoc working groups shall serve without compensation and shall not be reimbursed for travel or other expenses.

(7) The chair or cochairs of the committee shall be selected by the members of the committee. Staff support for the committee shall be provided by the center for the improvement of student learning. Members of the committee shall serve without compensation but must be reimbursed as provided in RCW 43.03.050 and 43.03.060. Legislative members of the committee shall be reimbursed for travel expenses in accordance with RCW 44.04.120.

(8) The superintendent of public instruction, the state board of education, the professional educator standards board, and the quality education council shall work collaboratively with the achievement gap oversight and accountability committee to close the achievement gap.

### PART IX MISCELLANEOUS PROVISIONS

NEW SECTION. Sec. 901. RCW 28A.305.225 is recodified as a section in the chapter created in section 902 of this act.

NEW SECTION. Sec. 902. Sections 101 through 109 and 111 and 112 of this act constitute a new chapter in Title 28A RCW."

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

Senator Zarelli spoke against adoption of the striking amendment.

#### PARLIAMENTARY INQUIRY

Senator Eide: "I just want to make it perfectly clear that everyone understands on the floor that we are voting on the striking amendment, is that correct? Yes?"

#### REPLY BY THE PRESIDENT PRO TEMPORE

President Pro Tempore: "Senator Eide, your question is well taken. We are discussing a couple of things that we were ahead of ourselves. We got a little bit ahead of ourselves. We are speaking

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to the striker, should not have and now we do an amendment to the striker. So, what we will do is go back. Senator Zarelli."

#### PARLIAMENTARY INQUIRY

Senator Zarelli: "Thank you, so I understand, so we have adopted the committee substitute so that's what's properly before us and now we're addressing the striker and then we're going to take up amendments to the striker before the question of adopting the striking amendment?"

#### REPLY BY THE PRESIDENT PRO TEMPORE

President Pro Tempore: "There has not been any adoption of any bills at this time. We have put the substitute, Second Substitute Senate Bill No. 6696, before us. Now we will take up amendment to the Second Substitute Senate Bill No. 6696."

#### PARLIAMENTARY INQUIRY

Senator Zarelli: "Madam President, but we did adopt the committee substitute? I remember clearly a motion to adopt the committee substitute."

#### REPLY BY THE PRESIDENT PRO TEMPORE

President Pro Tempore: "Senator Zarelli, we are on Second Substitute Senate Bill No. 6696. Now, and that was adopted, was not adopted. Now we will be taking up the amendment."

#### MOTION

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

On page 14, line 23 of the amendment, after "schedule" insert "and procedure"

On page 14, beginning on line 24 of the amendment, after "shall" strike all material through "establish" on line 10, and insert "adopt"

On page 17, line 11 of the amendment, after "schedule" insert "and procedure"

On page 17, at the beginning of line 13 of the amendment, strike "establish" and insert "adopt"

On page 18, line 3 of the amendment, after "create" strike "models for implementing" and insert "common statewide models for"

On page 18, line 4 of the amendment, after "criteria" strike "," and insert "and the four-level rating systems described under subsections (2) and (6) of this section. Models for"

On page 18, line 5 of the amendment, after "principals" insert "shall be developed"

On page 18, beginning on line 14 of the amendment, after "work," strike "The models must be available for use in the 2011-12 school year."

Beginning on page 18, line 20 of the amendment, after "year" strike all material through "2012." on page 19, line 12, and insert "as provided in this subsection.

(i) A set of school districts shall be selected by the superintendent of public instruction to participate in a collaborative process resulting in the development and piloting of the new evaluation systems for certificated classroom teachers and principals during the 2010-11 and 2011-12 school years. These school districts must be selected based on: (A) The agreement of the local associations representing classroom teachers and principals to collaborate with the district and with the superintendent of public

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instruction in this developmental work; and (B) the agreement of the district and the associations to participate in the full range of development and implementation activities, including development of rubrics for the evaluation criteria and rating systems, identification or development of appropriate multiple measures of student growth and student learning, development of evaluation system forms, participation in professional development for principals and classroom teachers, participation in evaluator training, and participation in activities to evaluate the effectiveness of the new systems and support programs.

(ii) Based on the results of the developmental work in 2010-11, the superintendent of public instruction shall adopt common statewide model evaluation criteria and four-level rating systems, one set each for classroom teachers and for principals, for use in 2011-12 by the school districts under (b)(i) of this subsection. The superintendent may modify the statewide models based on the experience of these school districts in the 2011-12 school year. During the 2012-13 school year, the common statewide model evaluation criteria and four-level rating systems must be pilot-tested with at least some employees in each school district in the state.

(iii) Beginning with the 2013-14 school year, each school district in the state must either:

(A) Implement the common statewide model evaluation criteria and four-level rating systems for all classroom teachers and principals; or

(B) Submit to the superintendent of public instruction a set of evaluation criteria and a four-level rating system that meets the requirements of subsection (2) or (6) of this section as applicable, but has been modified by the district. Any modifications to the criteria and rating system for classroom teachers must be made in accordance with procedures provided in chapter 41.59 RCW. If the superintendent of public instruction determines that the evaluation criteria and four-level rating system proposed by the district are substantially equivalent to or an improvement on the common statewide models, the district may use the modified criteria and rating system. Any further modifications must be submitted to the superintendent of public instruction for review.

(c) The superintendent of public instruction shall report on the status of the evaluation system development and implementation to the governor and the education committees of the legislature by July 1, 2011, and at the conclusion of the development phase by July 1, 2012."

Senator King spoke in favor of adoption of the amendment to the striking amendment.

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

#### MOTION

On motion of Senator Marr, Senator Tom was excused.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator King on page 14, line 24 to the striking amendment to Second Substitute Senate Bill No. 6696.

The motion by Senator King failed and the amendment to the striking amendment was not adopted by voice vote.

#### MOTION

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

On page 14, line 30 of the amendment, after "practices" insert "as measured by objective and comparable measures of student growth data"

Senator King spoke in favor of adoption of the amendment to the striking amendment.

Senator McAuliffe spoke against adoption of the amendment to the striking amendment.

#### MOTION

On motion of Senator Brandland, Senator McCaslin was excused.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator King on page 14, line 30 to the striking amendment to Second Substitute Senate Bill No. 6696.

The motion by Senator King failed and the amendment to the striking amendment was not adopted by voice vote.

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senators McAuliffe and Oemig to Second Substitute Senate Bill No. 6696.

Senators Zarelli and Becker spoke against the adoption of the striking amendment.

Senators McAuliffe and Kohl-Welles spoke in favor of adoption of the striking amendment.

Senator Schoesler demanded a roll call.

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

#### ROLL CALL

The Secretary called the roll on the adoption of the striking amendment by Senators McAuliffe and Oemig and the amendment was adopted by the following vote: Yeas, 27; Nays, 19; Absent, 0; Excused, 3.

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

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Kastama, King, Morton, Parlette, Roach, Schoesler, Stevens, Swecker and Zarelli

Excused: Senators McCaslin, Pflug and Tom

#### MOTION

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

On page 1, line 1 of the title, after "reform;" strike the remainder of the title and insert "amending RCW 28A.305.225, 28A.150.230, 28A.405.100, 28A.405.220, 28A.400.200, 28A.660.020, 28B.76.335, 28B.76.230, 28A.655.110, 41.56.100, 41.59.120, and 28A.300.136; reenacting and amending RCW 28A.660.040 and 28A.660.050; adding new sections to chapter 28A.405 RCW; adding new sections to chapter 28A.410 RCW; adding a new section to chapter 28B.76 RCW; adding a new section to chapter 28A.605 RCW; adding new sections to chapter 28A.655 RCW; adding a new section to chapter 28A.300 RCW; adding a new section to chapter 41.56 RCW; adding a new section to chapter 41.59 RCW; adding a new chapter to Title 28A RCW; creating new sections; recodifying RCW 28A.305.225; and repealing RCW 28A.660.010, 28A.415.100, 28A.415.105, 28A.415.130, 28A.415.135, and 28A.415.140."

On motion of Senator McAuliffe, the rules were suspended, Engrossed Second Substitute Senate Bill No. 6696 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe, King, Rockefeller, Hobbs and Shin spoke in favor of passage of the bill.

Senator Kastama spoke against passage of the bill.

Senator Sheldon spoke on final passage of the bill.

## MOTION

Senator Brandland demanded that the previous question be put.

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

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

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

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6696.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6696 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 5; Absent, 0; Excused, 3.

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

Voting nay: Senators Holmquist, Kastama, Stevens, Swecker and Zarelli

Excused: Senators McCaslin, Pflug and Tom

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6696, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Eide, Engrossed Second Substitute Senate Bill No. 6696 was immediately transmitted to the House of Representatives.

## MOTION

At 1:02 p.m., on motion of Senator Eide, the Senate was recessed until 2:00 pm.

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

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

Senator Rockefeller moved that Gubernatorial Appointment No. 9114, William Snyder, as a member of the Board of Pilotage Commissioners, be confirmed.

Senator Rockefeller spoke in favor of the motion.

## MOTION

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

## APPOINTMENT OF WILLIAM SNYDER

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9114, William Snyder as a member of the Board of Pilotage Commissioners.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9114, William Snyder as a member of the Board of Pilotage Commissioners and the appointment was confirmed by the following vote: Yeas, 40; Nays, 0; Absent, 6; Excused, 3.

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

Absent: Senators Brandland, Delvin, Haugen, Hewitt, Jacobsen and Oemig

Excused: Senators Brown, Fairley and McCaslin

Gubernatorial Appointment No. 9114, William Snyder, having received the constitutional majority was declared confirmed as a member of the Board of Pilotage Commissioners.

## MOTION

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

## MOTION

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

## PERSONAL PRIVILEGE

Senator Murray: "Thank you Mr. President. Well today on February 11, twenty years ago, Nelson Mandela walked out of Robben Island after twenty-seven years where no one had seen or heard his voice and proceeded to put together a government that was multi-racial, multi-ethnic and was able to reunite his country. I had an opportunity to visit Robben Island this summer and it was quite impressive. Literally, the space that President Mandela lived in for twenty-seven years, was barely bigger than the area around our desks. It was a great moment for democracy and I just wanted to make that point. Thank you Mr. President."

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

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Senator Shin moved that Gubernatorial Appointment No. 9141, Jeffrey L. Thompson, as a member of the Board of Pilotage Commissioners, be confirmed.

Senator Shin spoke in favor of the motion.

APPOINTMENT OF JEFFREY L. THOMPSON

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9141, Jeffrey L. Thompson as a member of the Board of Pilotage Commissioners.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9141, Jeffrey L. Thompson as a member of the Board of Pilotage Commissioners and the appointment was confirmed by the following vote: Yeas, 41; Nays, 0; Absent, 2; Excused, 6.

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

Absent: Senators Benton and Jacobsen

Excused: Senators Brandland, Brown, Haugen, Hewitt, Kohl-Welles and McCaslin

Gubernatorial Appointment No. 9141, Jeffrey L. Thompson, having received the constitutional majority was declared confirmed as a member of the Board of Pilotage Commissioners.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Fraser moved that Gubernatorial Appointment No. 9091, Jeff Parsons, as a member of the Recreation and Conservation Funding Board, be confirmed.

Senator Fraser spoke in favor of the motion.

APPOINTMENT OF JEFF PARSONS

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9091, Jeff Parsons as a member of the Recreation and Conservation Funding Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9091, Jeff Parsons as a member of the Recreation and Conservation Funding Board and the appointment was confirmed by the following vote: Yeas, 38; Nays, 5; Absent, 2; Excused, 4.

Voting yea: Senators Becker, Berkey, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Stevens, Tom and Zarelli

Voting nay: Senators Hewitt, Honeyford, Morton, Schoesler and Swecker

Absent: Senators Benton and Jacobsen

Excused: Senators Brandland, Brown, Kohl-Welles and McCaslin

Gubernatorial Appointment No. 9091, Jeff Parsons, having received the constitutional majority was declared confirmed as a member of the Recreation and Conservation Funding Board.

SECOND READING

SENATE BILL NO. 6760, by Senators Oemig, Gordon, McDermott, McAuliffe, Tom, Kauffman, Fairley, Ranker, Hargrove, Kline, Murray, Eide, Franklin, Hobbs and Shin

Regarding the basic education instructional allocation distribution formula.

MOTIONS

On motion of Senator McAuliffe, Second Substitute Senate Bill No. 6760 was substituted for Senate Bill No. 6760 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator McAuliffe, the rules were suspended, Second Substitute Senate Bill No. 6760 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe and King spoke in favor of the passage of the bill.

MOTION

On motion of Senator Delvin, Senator Benton was excused.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6760.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6760 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Benton, Brandland and McCaslin

SECOND SUBSTITUTE SENATE BILL NO. 6760, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6239, by Senators Kohl-Welles, Gordon and Fraser

Making technical corrections to gender-based terms.

MOTIONS

On motion of Senator Kohl-Welles, Substitute Senate Bill No. 6239 was substituted for Senate Bill No. 6239 and the substitute bill was placed on the second reading and read the second time.

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On motion of Senator Kohl-Welles, the rules were suspended, Substitute Senate Bill No. 6239 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6239.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6239 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Benton, Brandland and McCaslin

SUBSTITUTE SENATE BILL NO. 6239, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6265, by Senator Keiser

Concerning hospital surveys or audits.

The measure was read the second time.

## MOTION

On motion of Senator Keiser, the rules were suspended, Senate Bill No. 6265 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Senate Bill No. 6265.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6265 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Brandland and McCaslin

SENATE BILL NO. 6265, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Marr, Senator Kline was excused.

## SECOND READING

SENATE BILL NO. 6209, by Senators Haugen, Berkey, Marr, Shin and Sheldon

Allowing moneys paid to county road funds to be used for park and ride lots.

The measure was read the second time.

## MOTION

On motion of Senator Haugen, the rules were suspended, Senate Bill No. 6209 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Haugen spoke in favor of passage of the bill.

Senator Roach spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6209.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6209 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 12; Absent, 0; Excused, 3.

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

Voting nay: Senators Becker, Benton, Delvin, Hewitt, Holmquist, Honeyford, Morton, Parlette, Roach, Schoesler, Stevens and Zarelli

Excused: Senators Brandland, Kline and McCaslin

SENATE BILL NO. 6209, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6393, by Senators Hewitt, Kohl-Welles and Shin

Modifying distributions of funds by the horse racing commission to nonprofit race meets.

## MOTIONS

On motion of Senator Kohl-Welles, Substitute Senate Bill No. 6393 was substituted for Senate Bill No. 6393 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kohl-Welles, the rules were suspended, Substitute Senate Bill No. 6393 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.

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The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6393.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6393 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 0; Excused, 3.

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

Voting nay: Senator Swecker

Excused: Senators Brandland, Kline and McCaslin

SUBSTITUTE SENATE BILL NO. 6393, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6627, by Senators Marr, Pflug, Keiser, Benton, Franklin, Fairley, Schoesler, Pridemore, Roach and Parlette

Authorizing Washington pharmacies to fill prescriptions written by advanced registered nurse practitioners in other states or in certain provinces of Canada.

The measure was read the second time.

#### MOTION

On motion of Senator Marr, the rules were suspended, Senate Bill No. 6627 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Senate Bill No. 6627.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6627 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brandland, Kline and McCaslin

SENATE BILL NO. 6627, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5376, by Senators Kauffman, Delvin, Shin, Haugen, Kohl-Welles, McAuliffe and Kline

Requiring the higher education coordinating board to develop a grant program to encourage training for students studying in the medical field to work with individuals with disabilities.

#### MOTIONS

On motion of Senator Kauffman, Substitute Senate Bill No. 5376 was substituted for Senate Bill No. 5376 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kauffman, the rules were suspended, Substitute Senate Bill No. 5376 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kauffman and Becker spoke in favor of the passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5376.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5376 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Brandland and McCaslin

SUBSTITUTE SENATE BILL NO. 5376, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE CONCURRENT RESOLUTION NO. 8409, by Senator Keiser

Forming a joint select committee on health reform implementation.

#### MOTIONS

On motion of Senator Keiser, Substitute Senate Concurrent Resolution No. 8409 was substituted for Senate Concurrent Resolution No. 8409 and the substitute resolution was placed on the second reading and read the second time.

On motion of Senator Keiser, the rules were suspended, Substitute Senate Concurrent Resolution No. 8409 was advanced to third reading, the second reading considered the third and the resolution was placed on final passage.

Senators Keiser and Pflug spoke in favor of the passage of the resolution.

The President declared the question before the Senate to be the final passage of Substitute Senate Concurrent Resolution No. 8409.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Concurrent Resolution No. 8409 and the resolution passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Brandland and McCaslin

SUBSTITUTE SENATE CONCURRENT RESOLUTION NO. 8409, having received the constitutional majority, was declared passed.

## MOTION

On motion of Senator Becker, Senator Hewitt was excused.

## SECOND READING

SENATE BILL NO. 6380, by Senators Haugen, Jacobsen, Ranker and Swecker

Concerning the purchase of wetland mitigation bank credits by the department of transportation.

## MOTIONS

On motion of Senator Haugen, Substitute Senate Bill No. 6380 was substituted for Senate Bill No. 6380 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Haugen, the rules were suspended, Substitute Senate Bill No. 6380 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and Swecker spoke in favor of the passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6380.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6380 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brandland, Hewitt and McCaslin

SUBSTITUTE SENATE BILL NO. 6380, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SENATE BILL NO. 6360, by Senators Hargrove, Keiser, Roach and Marr

Establishing a program to verify the address of registered sex offenders and kidnapping offenders.

## MOTIONS

On motion of Senator Hargrove, Substitute Senate Bill No. 6360 was substituted for Senate Bill No. 6360 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hargrove, the rules were suspended, Substitute Senate Bill No. 6360 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove and Stevens spoke in favor of the passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6360.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6360 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Hewitt and McCaslin

SUBSTITUTE SENATE BILL NO. 6360, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6224, by Senators Keiser, Becker and Gordon

Conforming the uniform controlled substances act to existing state and federal law.

## MOTIONS

On motion of Senator Keiser, Substitute Senate Bill No. 6224 was substituted for Senate Bill No. 6224 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kilmer, the rules were suspended, Substitute Senate Bill No. 6224 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6224.

## ROLL CALL

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The Secretary called the roll on the final passage of Substitute Senate Bill No. 6224 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Hewitt and McCaslin

SUBSTITUTE SENATE BILL NO. 6224, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6543, by Senators Hatfield, Schoesler and Shin

Modifying the powers of the Washington tree fruit research commission.

The measure was read the second time.

MOTION

On motion of Senator Hatfield, the rules were suspended, Senate Bill No. 6543 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hatfield spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6543.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6543 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator McCaslin

SENATE BILL NO. 6543, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, Senator Murray was excused.

SECOND READING

SENATE BILL NO. 6730, by Senators Becker, Hargrove, Stevens and Roach

Concerning child welfare.

MOTIONS

On motion of Senator Regala, Substitute Senate Bill No. 6730 was substituted for Senate Bill No. 6730 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Regala, the rules were suspended, Substitute Senate Bill No. 6730 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Regala and Becker spoke in favor of the passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6730.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6730 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

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

Absent: Senator Oemig

Excused: Senators McCaslin and Murray

SUBSTITUTE SENATE BILL NO. 6730, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Brandland: "Well, can I get your attention please because I have something king of important to say? I just was notified that Senator McCaslin has been checked into St. Peter's Hospital. I don't really know what's going on right now but I will do my best to find out but I think it might not be a bad idea for us to have our thoughts be with him right now. Thank you."

SECOND READING

SENATE BILL NO. 6357, by Senators Kilmer, Becker, Shin, Rockefeller, McAuliffe and Roach

Requiring policies for academic recognition of certain life and learning experiences. Revised for 1st Substitute: Requiring policies for academic recognition of certain formal and informal learning experiences.

MOTIONS

On motion of Senator Kilmer, Substitute Senate Bill No. 6357 was substituted for Senate Bill No. 6357 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kilmer, the rules were suspended, Substitute Senate Bill No. 6357 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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Senators Kilmer and Becker spoke in favor of the passage of the bill.

## MOTION

On motion of Senator Hatfield, Senator Prentice was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6357.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6357 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators McCaslin, Murray and Prentice

SUBSTITUTE SENATE BILL NO. 6357, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE JOINT MEMORIAL NO. 8025, by Senators Prentice, Haugen, Fraser, Shin and Roach

Requesting that a retired space shuttle orbiter be transferred to Washington's museum of flight.

The measure was read the second time.

## MOTION

On motion of Senator Jacobsen, the rules were suspended, Senate Joint Memorial No. 8025 was advanced to third reading, the second reading considered the third and the memorial was placed on final passage.

Senators Jacobsen and Morton spoke in favor of the passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Joint Memorial No. 8025.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Joint Memorial No. 8025 and the memorial passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brown, McCaslin and Prentice

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SENATE JOINT MEMORIAL NO. 8025, having received the constitutional majority, was declared passed.

## SECOND READING

SENATE BILL NO. 6365, by Senators Swecker and Roach

Exempting the motor vehicles of certain residents who are members of the armed services from the provisions of chapter 70.120A RCW.

The measure was read the second time.

## MOTION

On motion of Senator Swecker, the rules were suspended, Senate Bill No. 6365 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Swecker and Rockefeller spoke in favor of the passage of the bill.

## MOTION

On motion of Senator Marr, Senator Kline was excused.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6365.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6365 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brown, McCaslin and Prentice

SENATE BILL NO. 6365, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6217, by Senator Rockefeller

Retroactively applying certain intermediate license law amendments made during the 2009 legislative session.

## MOTIONS

On motion of Senator Rockefeller, Substitute Senate Bill No. 6217 was substituted for Senate Bill No. 6217 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Rockefeller, the rules were suspended, Substitute Senate Bill No. 6217 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller, Swecker and Eide spoke in favor of the passage of the bill.

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The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6217.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6217 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators McCaslin and Prentice

SUBSTITUTE SENATE BILL NO. 6217, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 4:02 p.m., on motion of Senator Eide, the Senate recessed until 6:00 pm.

EVENING SESSION

The Senate was called to order at 6:00 p.m. by President Owen.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Fraser moved that Gubernatorial Appointment No. 9159, Steven Drew, as a member of the Recreation and Conservation Funding Board, be confirmed.

Senator Fraser spoke in favor of the motion.

MOTION

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

MOTION

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

APPOINTMENT OF STEVEN DREW

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9159, Steven Drew as a member of the Recreation and Conservation Funding Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9159, Steven Drew as a member of the Recreation and Conservation Funding Board and the appointment was confirmed by the following vote: Yeas, 40; Nays, 0; Absent, 4; Excused, 5.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove,

Hatfield, Haugen, Hewitt, Honeyford, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senators Hobbs, Jacobsen, Kline and Oemig

Excused: Senators Brown, Fairley, Holmquist, McCaslin and Pflug

Gubernatorial Appointment No. 9159, Steven Drew, having received the constitutional majority was declared confirmed as a member of the Recreation and Conservation Funding Board.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator McAuliffe moved that Gubernatorial Appointment No. 9220, Julie P. Miller, as a member of the Board of Trustees, Cascadia Community College District No. 30, be confirmed.

Senator McAuliffe spoke in favor of the motion.

MOTION

On motion of Senator Marr, Senators Hobbs, Jacobsen and Oemig were excused.

APPOINTMENT OF JULIE P. MILLER

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9220, Julie P. Miller as a member of the Board of Trustees, Cascadia Community College District No. 30.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9220, Julie P. Miller as a member of the Board of Trustees, Cascadia Community College District No. 30 and the appointment was confirmed by the following vote: Yeas, 42; Nays, 0; Absent, 1; Excused, 6.

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

Absent: Senator Kline

Excused: Senators Brown, Fairley, Hobbs, Jacobsen, McCaslin and Oemig

Gubernatorial Appointment No. 9220, Julie P. Miller, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Cascadia Community College District No. 30.

PERSONAL PRIVILEGE

Senator Pflug: "Thank you. Just for the information of the body, I just returned from visiting Senator McCaslin at St. Peters and he is resting very comfortably and on his way to his private room and waiting to hear a report from the cardiologist but he's pretty chipper, he said 'You know, hospitals are kind of fun once you're feeling better.' So, he's in his usual good spirits and we'll find out whether he's going to be able to transfer back to Spokane for some surgery or if they want to do it here. So, we're waiting for some news."

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## MOTION

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

## THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5555, by Senate Committee on Higher Education & Workforce Development (originally sponsored by Senators Kilmer, Shin, King, Marr, Jarrett, McAuliffe, Hobbs, Tom and Kohl-Welles).

Establishing a lifelong learning account steering committee. Revised for 1st Substitute: Regarding lifelong learning accounts.

The bill was read on Third Reading.

Senator Kilmer spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5555.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5555 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Fairley, Jacobsen, McCaslin and Oemig

ENGROSSED SUBSTITUTE SENATE BILL NO. 5555, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## PERSONAL PRIVILEGE

Senator Sheldon: "Mr. President, before we go too far past the number, Senate Bill No. 5555, a little trivia question for you. In 1992 who was the sponsor of Senate Bill No. 5555 and what was it commonly known as?"

## REPLY BY THE PRESIDENT

President Owen: "Gee, let me think. That was the 'boot strap' bill sponsored by Senator Brad Owen."

## MOTION

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

## SECOND READING

SENATE BILL NO. 6361, by Senators Brandland, Hargrove, Carrell, Roach and Marr

Exempting a person's identifying information from public disclosure when submitted in the course of using the sex offender

notification and registration program for the purpose of receiving notification regarding registered sex offenders.

## MOTIONS

On motion of Senator Brandland, Substitute Senate Bill No. 6361 was substituted for Senate Bill No. 6361 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Brandland, the rules were suspended, Substitute Senate Bill No. 6361 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Brandland spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6361.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6361 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Fairley and McCaslin

SUBSTITUTE SENATE BILL NO. 6361, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6279, by Senators Kline, Murray and Haugen

Clarifying regional transit authority facilities as essential public facilities.

The measure was read the second time.

## MOTION

On motion of Senator Kline, the rules were suspended, Senate Bill No. 6279 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6279.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6279 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist,

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

The Speaker has signed:  
 ENGROSSED SUBSTITUTE HOUSE BILL 2921,  
 SUBSTITUTE HOUSE BILL 2998.  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

Excused: Senators Fairley and McCaslin  
 SENATE BILL NO. 6279, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

SECOND READING

SENATE BILL NO. 5411, by Senators Kline, Franklin and Carrell

The President signed:  
 ENGROSSED SUBSTITUTE HOUSE BILL 2921,  
 SUBSTITUTE HOUSE BILL 2998.

MESSAGE FROM THE HOUSE

Concerning requests for driving record abstracts.

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The measure was read the second time.

MR. PRESIDENT  
 The Speaker signed:  
 SUBSTITUTE SENATE BILL NO. 6382.  
 and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Kline, the rules were suspended, Senate Bill No. 5411 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

MOTION

Senator Kline spoke in favor of passage of the bill.

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

The President declared the question before the Senate to be the final passage of Senate Bill No. 5411.

SECOND READING

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5411 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

SENATE BILL NO. 6316, by Senators Carrell, King, Hewitt, Stevens and Delvin

Addressing the coordination between local law enforcement and the department of corrections.

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

MOTIONS

On motion of Senator Carrell, Second Substitute Senate Bill No. 6316 was substituted for Senate Bill No. 6316 and the second substitute bill was placed on the second reading and read the second time.

Excused: Senators Fairley and McCaslin  
 SENATE BILL NO. 5411, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

On motion of Senator Carrell, the rules were suspended, Second Substitute Senate Bill No. 6316 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Carrell spoke in favor of passage of the bill.

MOTION

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6316.

At 6:35 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

ROLL CALL

The Senate was called to order at 7:21 p.m. by President Owen.

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6316 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

MOTION

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

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

MESSAGE FROM THE HOUSE

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Absent: Senator Benton

MR. PRESIDENT

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Excused: Senators Fairley and McCaslin

SECOND SUBSTITUTE SENATE BILL NO. 6316, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6548, by Senators Hargrove, Carrell, Stevens, Kauffman and Roach

Suspending the parole or probation of an offender who is charged with a new felony offense in certain conditions.

## MOTIONS

On motion of Senator Hargrove, Substitute Senate Bill No. 6548 was substituted for Senate Bill No. 6548 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hargrove, the rules were suspended, Substitute Senate Bill No. 6548 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6548.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6548 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Fairley and McCaslin

SUBSTITUTE SENATE BILL NO. 6548, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6550, by Senators Hargrove, Regala, Carrell, Marr, Shin and Roach

Imposing a sanction for offenders who violate sentence conditions by committing an assault against a law enforcement officer, employee of a law enforcement agency, or department of corrections employee.

## MOTIONS

On motion of Senator Hargrove, Substitute Senate Bill No. 6550 was substituted for Senate Bill No. 6550 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hargrove, the rules were suspended, Substitute Senate Bill No. 6550 was advanced to third reading,

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

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6550.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6550 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Fairley and McCaslin

SUBSTITUTE SENATE BILL NO. 6550, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE JOINT MEMORIAL NO. 8026, by Senators Regala, Hargrove, Brandland, Kohl-Welles, Stevens, Shin, Carrell, Hatfield, Jacobsen, Ranker, Oemig, Eide, Marr, McDermott, Haugen, Hobbs, Kilmer, Kline, Berkey, Kauffman, Prentice, Tom, Gordon, Fraser, McAuliffe, Franklin and Keiser

Requesting the Interstate Commission for Adult Offender Supervision immediately initiate its emergency rule-making process.

The measure was read the second time.

## MOTION

On motion of Senator Regala, the rules were suspended, Senate Joint Memorial No. 8026 was advanced to third reading, the second reading considered the third and the memorial was placed on final passage.

Senator Regala spoke in favor of passage of the memorial.

The President declared the question before the Senate to be the final passage of Senate Joint Memorial No. 8026.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Joint Memorial No. 8026 and the memorial passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Fairley and McCaslin

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SENATE JOINT MEMORIAL NO. 8026, having received the constitutional majority, was declared passed.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6673.

SECOND READING

ROLL CALL

SENATE BILL NO. 6293, by Senators Brandland and Carrell

Changing provisions relating to rendering criminal assistance in the first degree.

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6673 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

MOTIONS

On motion of Senator Kline, Substitute Senate Bill No. 6293 was substituted for Senate Bill No. 6293 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kline, the rules were suspended, Substitute Senate Bill No. 6293 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Excused: Senators Fairley and McCaslin

SUBSTITUTE SENATE BILL NO. 6673, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

Senators Kline and Brandland spoke in favor of the passage of the bill.

SECOND READING

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6293.

SENATE JOINT RESOLUTION NO. 8218, by Senators Carrell, Franklin, Brandland, Becker, Schoesler, Kastama, Honeyford, Delvin, Hobbs, Parlette, Zarelli, McCaslin, Holmquist, Hargrove, Regala, Rockefeller, Marr, Hatfield, Shin, Sheldon, Kilmer, Hewitt, Stevens and Roach

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6293 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Amending the state Constitution so that offenses that may result in a mandatory life sentence upon conviction are not bailable by sufficient sureties.

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

MOTION

On motion of Senator Kline, Substitute Senate Joint Resolution No. 8218 was substituted for Senate Joint Resolution No. 8218 and the substitute resolution was placed on the second reading and read the second time.

Excused: Senators Fairley and McCaslin

SUBSTITUTE SENATE BILL NO. 6293, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

Senator Carrell moved that the following amendment by Senators Carrell, Hargrove and Kline be adopted.

On page 1, line 10, after "that" insert "may"

Senator Carrell spoke in favor of adoption of the amendment.

SECOND READING

SENATE BILL NO. 6673, by Senators Kline, McCaslin, Carrell, Kohl-Welles, Gordon, Regala, Roach, Hargrove and Tom

The President declared the question before the Senate to be the adoption of the amendment by Senators Carrell, Hargrove and Kline on page 1, line 10 to Substitute Senate Joint Resolution No. 8218.

Appointing a task force to study bail practices and procedures.

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

MOTIONS

MOTION

On motion of Senator Kline, Substitute Senate Bill No. 6673 was substituted for Senate Bill No. 6673 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kline, the rules were suspended, Engrossed Substitute Senate Joint Resolution No. 8218 was advanced to third reading, the second reading considered the third and the resolution was placed on final passage.

On motion of Senator Kline, the rules were suspended, Substitute Senate Bill No. 6673 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kline and Carrell spoke in favor of passage of the resolution.

Senator Kline spoke in favor of passage of the bill.

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The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Joint Resolution No. 8218.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Joint Resolution No. 8218 and the resolution passed the Senate by the following vote: Yeas, 43; Nays, 4; Absent, 0; Excused, 2.

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

Voting nay: Senators Kohl-Welles, McDermott, Murray and Prentice

Excused: Senators Fairley and McCaslin

ENGROSSED SUBSTITUTE SENATE JOINT RESOLUTION NO. 8218, having received the constitutional majority, was declared passed.

#### MOTION

At 8:03 p.m., on motion of Senator Eide, the Senate adjourned until 9:30 a.m. Friday, February 12, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**THIRTY THIRD DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Friday, February 12, 2010

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

The Sergeant at Arms Color Guard consisting of Pages Jessica Dillon and Jacquelyn Wolfe, presented the Colors. Reverend Jimmie James of Greater Things Ministries offered the prayer.

MOTION

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

MOTION

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

MESSAGE FROM THE HOUSE

February 11, 2010

MR. PRESIDENT

The House has passed:

- HOUSE BILL 1080,
- HOUSE BILL 2528,
- SUBSTITUTE HOUSE BILL 2546,
- HOUSE BILL 2638,
- HOUSE BILL 2720,
- HOUSE BILL 2748,
- SUBSTITUTE HOUSE BILL 2768,
- SUBSTITUTE HOUSE BILL 2801,
- SUBSTITUTE HOUSE BILL 2804,
- HOUSE BILL 2858,
- HOUSE BILL 2918,
- HOUSE BILL 2973.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

February 11, 2010

MR. PRESIDENT

The House has passed:

- SUBSTITUTE HOUSE BILL 2409,
- HOUSE BILL 2460,
- SUBSTITUTE HOUSE BILL 2486,
- SUBSTITUTE HOUSE BILL 2534,
- SUBSTITUTE HOUSE BILL 2589,
- SUBSTITUTE HOUSE BILL 2593,
- SUBSTITUTE HOUSE BILL 2596,
- SUBSTITUTE HOUSE BILL 2620,
- HOUSE BILL 2629,
- HOUSE BILL 2681.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

February 11, 2010

MR. PRESIDENT

The House has passed:

- ENGROSSED SUBSTITUTE HOUSE BILL 2499,
- SUBSTITUTE HOUSE BILL 2517,
- ENGROSSED SUBSTITUTE HOUSE BILL 2564,
- SUBSTITUTE HOUSE BILL 2706,
- ENGROSSED SUBSTITUTE HOUSE BILL 2875,
- ENGROSSED SUBSTITUTE HOUSE BILL 3072.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

INTRODUCTION AND FIRST READING

SB 6855

by Senators McDermott and Kohl-Welles

AN ACT Relating to exempting community centers from property taxation and imposing leasehold excise taxes on such property; amending RCW 84.36.010, 82.29A.010, and 82.29A.030; and creating a new section.

Referred to Committee on Ways & Means.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

2SHB 1357

by House Committee on Health Care & Wellness (originally sponsored by Representatives Pettigrew, Dickerson, Orwall, Walsh, Moeller, Kenney and Wood)

AN ACT Relating to protecting consumers by assuring persons using the title of social worker have graduated with a degree in social work from an educational program accredited by the council on social work education; amending RCW 10.77.010, 13.34.260, 26.09.191, 26.10.160, 28A.170.080, 70.96A.037, 70.96B.010, 70.97.010, 70.126.020, 70.127.010, 71.32.020, 71.34.020, 74.34.020, and 74.42.010; reenacting and amending RCW 71.05.020; adding a new chapter to Title 18 RCW; and providing an effective date.

Referred to Committee on Human Services & Corrections.

E2SHB 1560

by House Committee on Ways & Means (originally sponsored by Representatives Conway, Wood and Simpson)

AN ACT Relating to collective bargaining for employees of institutions of higher education; and amending RCW 41.80.010.

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Referred to Committee on Labor, Commerce & Consumer Protection.

ESHB 1714 by House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Morrell, Green and Moeller)

AN ACT Relating to association health plans; amending RCW 42.56.400; creating a new section; and providing an expiration date.

Referred to Committee on Health & Long-Term Care.

HB 1830 by Representative Santos

AN ACT Relating to business definitions for public contracting; and amending RCW 39.04.010, 39.04.155, and 39.29.006.

Referred to Committee on Economic Development, Trade & Innovation.

SHB 1831 by House Committee on Local Government & Housing (originally sponsored by Representatives Short, Williams, Johnson, Campbell, Blake, Warnick, McCune, Kretz and Kristiansen)

AN ACT Relating to the rights of pet and livestock owners residing in unincorporated areas subject to annexation by a city or town; adding a new section to chapter 35.10 RCW; and adding a new section to chapter 35A.14 RCW.

Referred to Committee on Government Operations & Elections.

2EHB 1876 by Representatives McCune, Miloscia, Haler, Klippert, Campbell, Rodne, Schmick, O'Brien, Roach, Warnick, Short, Conway, Cox and Orcutt

AN ACT Relating to providing funds for disabled veterans through voluntary donations; adding a new section to chapter 46.16 RCW; and adding new sections to chapter 43.60A RCW.

Referred to Committee on Government Operations & Elections.

SHB 1913 by House Committee on Judiciary (originally sponsored by Representatives Warnick, Flannigan and Simpson)

AN ACT Relating to process servers; and amending RCW 18.180.010.

Referred to Committee on Judiciary.

ESHB 1956 by House Committee on Local Government & Housing (originally sponsored by Representatives Williams, Chase, Ormsby, Darneille, Van De Wege, Dickerson and Simpson)

AN ACT Relating to the housing of homeless persons on property owned or controlled by a church; adding a new section to chapter 36.01 RCW; adding a new section to

chapter 35.21 RCW; adding a new section to chapter 35A.21 RCW; and creating new sections.

Referred to Committee on Human Services & Corrections.

HB 1966 by Representatives McCoy, Ormsby and Simpson

AN ACT Relating to adding wheelchair users to the types of individuals for whom drivers must take additional precautions; amending RCW 70.84.040; and providing an effective date.

Referred to Committee on Transportation.

SHB 2224 by House Committee on Local Government & Housing (originally sponsored by Representative Simpson)

AN ACT Relating to installation of residential fire sprinkler systems; amending RCW 18.160.050, 82.02.100, and 70.119A.180; adding a new section to chapter 70.119A RCW; and creating a new section.

Referred to Committee on Government Operations & Elections.

HB 2271 by Representatives Liias, Rodne, Sells, Clibborn, Johnson, Takko, Van De Wege, Springer, Williams, Finn, Nelson, Seaquist and Simpson

AN ACT Relating to work performed by state forces on ferry vessels or terminals; and amending RCW 47.28.030.

Referred to Committee on Transportation.

SHB 2404 by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Santos, Bailey and Kirby)

AN ACT Relating to group life insurance; amending RCW 48.24.030 and 48.21.010; and adding a new section to chapter 48.24 RCW.

Referred to Committee on Financial Institutions, Housing & Insurance.

HB 2428 by Representatives Takko, Warnick, Springer, Parker, Eddy, Morrell, Kelley, O'Brien, Bailey and Ormsby

AN ACT Relating to fees for locating surplus funds from county governments, real estate property taxes, assessments, and other government lien foreclosures or charges; amending RCW 63.29.350; and reenacting and amending RCW 63.29.020.

Referred to Committee on Government Operations & Elections.

SHB 2429 by House Committee on Commerce & Labor (originally sponsored by Representatives Wood, Condotta, Williams, Takko, Eddy, Morrell, O'Brien, Conway and Ormsby)

AN ACT Relating to the resale of motor vehicles previously determined as having nonconformities; and amending RCW 19.118.061.

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Referred to Committee on Labor, Commerce & Consumer Protection.

HB 2437 by Representatives Moeller, Hudgins and Ormsby

AN ACT Relating to the authority of counties, cities, and towns to request criminal background checks from the Washington state patrol; adding a new section to chapter 36.01 RCW; adding a new section to chapter 35.21 RCW; and adding a new section to chapter 35A.21 RCW.

Referred to Committee on Government Operations & Elections.

SHB 2457 by House Committee on Judiciary (originally sponsored by Representatives Williams, Campbell, Chase, Simpson, Ormsby and Moeller)

AN ACT Relating to pro se defendants in criminal cases questioning victims of sex offenses; adding new sections to chapter 9A.44 RCW; and creating a new section.

Referred to Committee on Judiciary.

HB 2461 by Representatives Blake, Chandler, Van De Wege and Moeller

AN ACT Relating to the dairy inspection program; amending RCW 15.36.551; and providing an expiration date.

Referred to Committee on Agriculture & Rural Economic Development.

HB 2470 by Representative Haigh

AN ACT Relating to veterinary technician licenses; amending RCW 18.92.128 and 18.92.128; and providing an effective date.

Referred to Committee on Agriculture & Rural Economic Development.

SHB 2497 by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives White, Orwall, Goodman, Kenney, Kessler and Darneille)

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

Referred to Committee on Human Services & Corrections.

SHB 2514 by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Bailey, Kirby and Chandler)

AN ACT Relating to crop adjusters; amending RCW 48.17.010, 48.17.060, 48.17.110, 48.17.150, 48.17.390, and 48.17.420; reenacting and amending RCW 48.14.010; and providing an effective date.

Referred to Committee on Financial Institutions, Housing & Insurance.

SHB 2515 by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Morris, Chase, Kenney and Hudgins)

AN ACT Relating to biodiesel fuel labeling requirements; and amending RCW 19.112.020.

Referred to Committee on Environment, Water & Energy.

SHB 2516 by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Morris, Chase, Hudgins and Morrell)

AN ACT Relating to small facility siting; amending RCW 80.50.020, 80.50.040, 80.50.060, 80.50.071, and 80.50.100; reenacting and amending RCW 80.50.090; adding new sections to chapter 80.50 RCW; and providing an effective date.

Referred to Committee on Environment, Water & Energy.

ESHB 2518 by House Committee on Judiciary (originally sponsored by Representatives Goodman, Rodne and Kelley)

AN ACT Relating to oath requirements for interpreters; and amending RCW 2.43.050 and 2.43.020.

Referred to Committee on Judiciary.

SHB 2524 by House Committee on Commerce & Labor (originally sponsored by Representatives O'Brien and Angel)

AN ACT Relating to prohibited practices of collection agencies; and reenacting and amending RCW 19.16.250.

Referred to Committee on Judiciary.

SHB 2533 by House Committee on Human Services (originally sponsored by Representatives Pearson, Hurst, Kelley and Morrell)

AN ACT Relating to adopting the interstate compact on mental health; adding a new chapter to Title 7 RCW; and declaring an emergency.

Referred to Committee on Human Services & Corrections.

SHB 2555 by House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Simpson, Ormsby and Moeller)

AN ACT Relating to authorizing the department of labor and industries to issue subpoenas, but only with respect to enforcement of chapter 19.28 RCW; and adding a new section to chapter 19.28 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

SHB 2556 by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Fagan and Chandler)

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AN ACT Relating to financial security requirements under chapter 22.09 RCW; and amending RCW 22.09.060 and 22.09.090.

Referred to Committee on Agriculture & Rural Economic Development.

HB 2575 by Representative Upthegrove

AN ACT Relating to the expansion of the membership of the capital projects advisory review board; and amending RCW 39.10.220 and 43.131.408.

Referred to Committee on Government Operations & Elections.

HB 2592 by Representatives Hunt and Hasegawa

AN ACT Relating to prohibiting incentive towing programs for private property impounds; and amending RCW 46.55.035.

Referred to Committee on Transportation.

HB 2598 by Representatives Takko, Blake and Herrera

AN ACT Relating to disposal of dredged riverbed materials from the Mount St. Helen's eruption; amending RCW 79.140.210; and creating a new section.

Referred to Committee on Natural Resources, Ocean & Recreation.

SHB 2636 by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Santos, Kirby, Nelson and Kenney)

AN ACT Relating to money transmitters; and amending RCW 19.230.010, 19.230.020, 19.230.050, 19.230.060, 19.230.070, 19.230.110, 19.230.170, 19.230.180, 19.230.200, 19.230.210, 19.230.320, and 19.230.330.

Referred to Committee on Financial Institutions, Housing & Insurance.

SHB 2651 by House Committee on Community & Economic Development & Trade (originally sponsored by Representatives Upthegrove, Orwall, Simpson, Nelson, Hudgins and Hasegawa)

AN ACT Relating to the authority of port districts to participate in activities related to job training and placement; and amending RCW 53.08.245.

Referred to Committee on Economic Development, Trade & Innovation.

SHB 2657 by House Committee on Judiciary (originally sponsored by Representative Pedersen)

AN ACT Relating to the dissolution of limited liability companies; amending RCW 25.15.070, 25.15.085, 25.15.095, 25.15.270, 25.15.290, 25.15.293, 25.15.295,

25.15.303, 25.15.340, and 25.15.805; adding new sections to chapter 25.15 RCW; and repealing RCW 25.15.080.

Referred to Committee on Judiciary.

SHB 2661 by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Hudgins, Hunt, Kenney and Morrell)

AN ACT Relating to the plant operations support program; adding a new section to chapter 28B.30 RCW; and repealing RCW 43.82.160.

Referred to Committee on Environment, Water & Energy.

EHB 2667 by Representatives Chandler, Simpson, Kelley and Warnick

AN ACT Relating to communications during a forest fire response; and amending RCW 76.04.015 and 43.43.963.

Referred to Committee on Natural Resources, Ocean & Recreation.

SHB 2684 by House Committee on Higher Education (originally sponsored by Representatives Kenney, Sullivan, Liias, Hasegawa, Simpson, Nelson, Goodman and Chase)

AN ACT Relating to establishing opportunity centers at community colleges; and adding a new section to chapter 28B.50 RCW.

Referred to Committee on Higher Education & Workforce Development.

SHB 2686 by House Committee on Health Care & Wellness (originally sponsored by Representatives Driscoll, Hinkle, Condotta, Moeller and Goodman)

AN ACT Relating to fees for dental services that are not covered services under dental insurance or dental health care service contracts; adding a new section to chapter 48.20 RCW; adding a new section to chapter 48.21 RCW; and adding a new section to chapter 48.44 RCW.

Referred to Committee on Health & Long-Term Care.

HB 2707 by Representatives Simpson, Angel, Finn and Kretz

AN ACT Relating to the method of calculating public utility district commissioner compensation; and amending RCW 54.12.080.

Referred to Committee on Government Operations & Elections.

SHB 2717 by House Committee on Human Services (originally sponsored by Representatives Shea, Parker, Ross, Haler, Klippert, Taylor, McCune, Short, Kristiansen, Kretz, Crouse, Hinkle, Johnson, Rodne, Bailey, Orcutt, Angel, Fagan, Smith, Condotta, Pearson and Warnick)

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AN ACT Relating to restricting outings from state facilities; amending RCW 10.77.010; and adding a new section to chapter 10.77 RCW.

Referred to Committee on Judiciary.

Referred to Committee on Human Services & Corrections.

ESHB 2753 by House Committee on Capital Budget (originally sponsored by Representatives Orwall, Springer, Maxwell, Jacks, Nelson, Simpson, Conway, Ormsby, Chase and Santos)

ESHB 2876 by House Committee on Health Care & Wellness (originally sponsored by Representatives Moeller, Green and Morrell)

AN ACT Relating to the creation of a workforce housing program; amending RCW 43.180.160, 39.86.100, 39.86.120, 39.86.130, 39.86.140, 39.86.150, 39.86.170, and 39.86.190; reenacting and amending RCW 39.86.110; adding a new section to chapter 39.86 RCW; creating a new section; and repealing RCW 39.86.200.

AN ACT Relating to pain management; adding a new section to chapter 18.22 RCW; adding a new section to chapter 18.32 RCW; adding a new section to chapter 18.57 RCW; adding a new section to chapter 18.57A RCW; adding a new section to chapter 18.71A RCW; adding a new section to chapter 18.79 RCW; and creating a new section.

Referred to Committee on Ways & Means.

Referred to Committee on Health & Long-Term Care.

SHB 2775 by House Committee on Local Government & Housing (originally sponsored by Representatives Dammeier, Hasegawa, Hunt, Armstrong, Short, Kristiansen, Springer, Kelley, Morrell, Pearson, Chase and Kretz)

HB 2888 by Representatives Herrera, Cody, Orcutt, Wallace and Conway

AN ACT Relating to membership on the state building code council; and amending RCW 19.27.070.

AN ACT Relating to requiring continuing education for pharmacy technicians; and amending RCW 18.64A.020.

Referred to Committee on Government Operations & Elections.

Referred to Committee on Health & Long-Term Care.

HB 2817 by Representatives O'Brien, Pearson and Kelley

HB 2904 by Representatives Kagi, Santos and Kenney

AN ACT Relating to a person's identifying information submitted in the course of using the electronic statewide unified sex offender notification and registration program for the purpose of receiving notification regarding registered sex offenders; and amending RCW 36.28A.040.

AN ACT Relating to powers and duties of the office of the education ombudsman; and amending RCW 43.06B.020.

Referred to Committee on Human Services & Corrections.

Referred to Committee on Early Learning & K-12 Education.

SHB 2841 by House Committee on Health Care & Wellness (originally sponsored by Representatives Hinkle, Cody, Kristiansen, Morrell and Pearson)

HB 2942 by Representatives O'Brien, Pearson, Dickerson, Goodman, Ericks, Roberts, Kelley, Finn, Appleton, McCoy, Springer, Darnelle, Hurst, Priest, Hinkle, Clibborn, Liias, Hope, Klippert, Herrera, Ormsby, Morrell, Conway, Santos, Johnson, Kenney, Hasegawa and McCune

AN ACT Relating to the standard health questionnaire; and amending RCW 48.43.018.

AN ACT Relating to human trafficking training for criminal justice and correctional personnel, and other public safety employees; and adding a new section to chapter 43.101 RCW.

Referred to Committee on Health & Long-Term Care.

Referred to Committee on Labor, Commerce & Consumer Protection.

HB 2848 by Representative Alexander

HB 2947 by Representatives Wood, Conway, Condotta and Ormsby

AN ACT Relating to repealing RCW 36.32.210; and repealing RCW 36.32.210.

AN ACT Relating to special occasion licenses; and amending RCW 66.28.310.

Referred to Committee on Government Operations & Elections.

Referred to Committee on Labor, Commerce & Consumer Protection.

HB 2861 by Representatives Rodne, Pedersen and Wallace

HB 2996 by Representatives Quall and Priest

AN ACT Relating to state certified court reporters; and amending RCW 5.28.010.

AN ACT Relating to record check information; and amending RCW 28A.400.305.

Referred to Committee on Early Learning & K-12 Education.

SHB 2997 by House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Ericksen, Morrell and Wallace)

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AN ACT Relating to determining the appropriate date of a small employer group's composition for purposes of setting health benefit plan premium rates; amending RCW 48.44.010, 48.44.023, 48.46.020, 48.46.066, 48.21.045, and 48.21.047; and creating a new section.

Referred to Committee on Health & Long-Term Care.

SHB 3001 by House Committee on Transportation (originally sponsored by Representatives Klippert, Lias, Wallace, Campbell and Simpson)

AN ACT Relating to bicycle and pedestrian safety education in traffic schools; adding a new section to chapter 46.83 RCW; and creating a new section.

Referred to Committee on Transportation.

SHB 3003 by House Committee on Commerce & Labor (originally sponsored by Representatives Hunter, Conway, Wood, Carlyle, Williams, Morrell, Moeller, Ormsby, Van De Wege, Kenney, Simpson and Santos)

AN ACT Relating to placing symphony musicians under the jurisdiction of the public employment relations commission for purposes of collective bargaining; and adding a new chapter to Title 49 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

SHB 3016 by House Committee on Judiciary (originally sponsored by Representative Pedersen)

AN ACT Relating to updating provisions concerning the modification, review, and adjustment of child support orders to improve access to justice and to ensure compliance with federal requirements; and amending RCW 26.09.170 and 26.09.175.

Referred to Committee on Human Services & Corrections.

SHB 3036 by House Committee on Education (originally sponsored by Representatives Quall, Kenney and Santos)

AN ACT Relating to nonvoter-approved school district debt; amending RCW 28A.530.080; and creating a new section.

Referred to Committee on Early Learning & K-12 Education.

SHB 3039 by House Committee on Judiciary (originally sponsored by Representatives Pedersen, Ross, Darneille, Rodne and Johnson)

AN ACT Relating to streamlining the truancy process to reduce the costs to courts and school districts; amending RCW 28A.225.015, 28A.225.020, 28A.225.025, 28A.225.030, and 28A.225.151; creating a new section; and providing an effective date.

Referred to Committee on Human Services & Corrections.

SHB 3046 by House Committee on Judiciary (originally sponsored by Representatives Driscoll, Rodne, Kretz, Ormsby, Wood, Johnson and Parker)

AN ACT Relating to dissolving the assets and affairs of a nonprofit corporation; amending RCW 24.03.265, 24.03.270, and 24.03.290; and creating a new section.

Referred to Committee on Judiciary.

HB 3061 by Representative Condotta

AN ACT Relating to claims of insolvent self-insurers under industrial insurance; and amending RCW 51.16.120 and 51.14.060.

Referred to Committee on Labor, Commerce & Consumer Protection.

SHB 3066 by House Committee on Finance (originally sponsored by Representatives Parker, Springer, Eddy, Condotta and Wallace)

AN ACT Relating to creating uniformity among annual tax reporting survey provisions; amending RCW 82.04.240, 82.04.2404, 82.04.250, 82.04.2909, 82.04.294, 82.04.426, 82.04.4266, 82.04.4268, 82.04.4269, 82.04.4452, 82.04.4461, 82.04.4463, 82.04.448, 82.04.4481, 82.04.4483, 82.04.4484, 82.04.449, 82.08.805, 82.08.965, 82.08.9651, 82.08.970, 82.08.980, 82.12.022, 82.12.805, 82.12.965, 82.12.9651, 82.12.970, 82.12.980, 82.16.0421, 82.29A.137, 82.32.590, 82.32.600, 82.32.710, 82.60.020, 82.60.070, 82.63.020, 82.63.045, 82.74.040, 82.74.050, 82.75.010, 82.75.020, 82.75.040, 82.82.020, 82.82.040, 84.36.645, and 84.36.655; amending 2009 c 461 s 9 (uncodified); reenacting and amending RCW 82.04.260; adding new sections to chapter 82.32 RCW; adding a new section to chapter 82.75 RCW; creating new sections; repealing RCW 82.32.535, 82.32.5351, 82.32.545, 82.32.560, 82.32.570, 82.32.610, 82.32.620, 82.32.630, 82.32.632, 82.32.645, 82.32.650, and 82.16.140; repealing 2005 c 301 s 5 (uncodified); providing a contingent effective date; and providing an expiration date.

Referred to Committee on Ways & Means.

HB 3095 by Representatives Blake, Chandler and Wallace

AN ACT Relating to the Washington tree fruit research commission; and amending RCW 15.26.110.

Referred to Committee on Agriculture & Rural Economic Development.

SHB 3105 by House Committee on Ecology & Parks (originally sponsored by Representatives Rolfes, Wallace, Kenney and Ormsby)

AN ACT Relating to including alternative fuel vehicles in a strategy to reduce fuel consumption and emissions from state agency fleets; and amending RCW 43.41.130.

Referred to Committee on Environment, Water & Energy.

SHB 3145 by House Committee on Commerce & Labor (originally sponsored by Representatives McCoy, Roberts, Simpson, Goodman, Kenney, Conway and Ormsby)

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AN ACT Relating to improving administration of wage complaints by defining the limitations period for administrative wage claims through the department of labor and industries, clarifying the requirements for the department to extend the time period for wage complaint investigations, revising the department's bond authority, tolling the civil statute of limitations, increasing minimum penalties for violators, creating and affecting waiver of penalties for repeat willful violators, and providing for wage law violation liability for successor businesses; amending RCW 49.48.082, 49.48.083, 49.48.084, 49.48.086, and 49.48.060; adding a new section to chapter 49.48 RCW; and prescribing penalties.

Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom and Zarelli

Absent: Senator Holmquist

Excused: Senators Fairley, McCaslin, Oemig, Parlette and Swecker

Gubernatorial Appointment No. 9267, Mary Jean Ryan, having received the constitutional majority was declared confirmed as a member of the State Board of Education.

Referred to Committee on Labor, Commerce & Consumer Protection.

MOTION

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

MOTION

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

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator McDermott moved that Gubernatorial Appointment No. 9267, Mary Jean Ryan, as a member of the State Board of Education, be confirmed.

Senators McDermott and McAuliffe spoke in favor of passage of the motion.

MOTION

On motion of Senator Brandland, Senators Benton, McCaslin, Parlette and Swecker were excused.

MOTION

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

APPOINTMENT OF MARY JEAN RYAN

The President Pro Tempore declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9267, Mary Jean Ryan as a member of the State Board of Education.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9267, Mary Jean Ryan as a member of the State Board of Education and the appointment was confirmed by the following vote: Yeas, 43; Nays, 0; Absent, 1; Excused, 5.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray,

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Kauffman moved that Gubernatorial Appointment No. 9203, Bette Hyde, as a member of the Washington State Department of Early Learning, be confirmed.

Senator Kauffman spoke in favor of the motion.

APPOINTMENT OF BETTE HYDE

The President Pro Tempore declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9203, Bette Hyde as a member of the Washington State Department of Early Learning.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9203, Bette Hyde as a member of the Washington State Department of Early Learning and the appointment was confirmed by the following vote: Yeas, 42; Nays, 0; Absent, 2; Excused, 5.

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

Absent: Senators Hargrove and Holmquist

Excused: Senators Fairley, McCaslin, Oemig, Parlette and Swecker

Gubernatorial Appointment No. 9203, Bette Hyde, having received the constitutional majority was declared confirmed as a member of the Washington State Department of Early Learning.

MOTION

At 9:51 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 10:30 a.m. by the President Pro Tempore.

MOTION

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

MOTION

Senator Shin moved adoption of the following resolution:

SENATE RESOLUTION

8670

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By Senators Shin, Roach, Delvin, Schoesler, Kline, Eide, McDermott, Hobbs, Kastama, Berkey, Franklin, Hatfield, Holmquist, King, Pridemore, Rockefeller, Marr, McAuliffe, Sheldon, and Carrell

WHEREAS, The United States holds as its highest ideals freedom, democracy, and self-determination and strives to spread these ideals to every man, woman, and child on earth; and

WHEREAS, The United States entered the Vietnam War to prevent a Communist takeover of our friends in South Vietnam and more than three million American troops fought bravely in the cause of freedom and democracy; and

WHEREAS, 58,193 American soldiers were killed, more than 300,000 were wounded, and 2,000 American troops are missing in action; and

WHEREAS, Vietnam veterans faced a harsh, unwelcoming, and angry public when they returned to American soil despite their valiant and heroic service; and

WHEREAS, The American soldier strives to be a symbol of freedom, democracy, and kindness around the world; and

WHEREAS, Korean soldiers were sent to the Vietnam War to support American troops and the cause of freedom at the request of the United States; and

WHEREAS, 325,517 Korean soldiers were in Vietnam from 1964 until the last soldier left Saigon on March 23, 1973; and

WHEREAS, 5,099 Korean soldiers were killed and 10,962 Korean soldiers were injured; and

WHEREAS, Korean troops were known throughout the conflict for their effectiveness and fought alongside American troops in all areas of the theater; and

WHEREAS, It is estimated that 20 percent of Korean veterans of the Vietnam War suffer significant injuries including PTSD, total disability, and effects of Agent Orange; and

WHEREAS, 98 Korean Vietnam veterans currently live in Washington and 1,300 are estimated to live in the United States; and

WHEREAS, Approximately 95 percent of Korean Vietnam veterans in the United States are American citizens; and

WHEREAS, The citizens of Washington owe their appreciation to all veterans who have fought for our liberty, many paying the ultimate sacrifice; and

WHEREAS, Korean veterans of the Vietnam War are especially dedicated to the ideals of freedom and democracy;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor the Korean veterans of the Vietnam War for their service to the American people and the citizens of Washington; and

BE IT FURTHER RESOLVED, That the Washington State Senate honor American veterans who fought in the Vietnam War; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Northwest Korean Vietnam Veterans Group and the Korean Consulate in Seattle.

Senators Shin and Swecker spoke in favor of the adoption of the resolution.

The President Pro Tempore declared the question before the Senate to be the adoption of Senate Resolution No. 8670.

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

#### INTRODUCTION OF SPECIAL GUESTS

The President Pro Tempore welcomed and introduced members of the Northwest Korean Vietnam Veterans Group who were seated in the gallery.

#### PERSONAL PRIVILEGE

Senator Hewitt: "Thank you Madam President. I just had the opportunity to go up and visit with Senator McCaslin a few minutes ago and I'm here to report to you that he's firing on all eight cylinders. All eight, well it'll be twelve if you like but his color is back. The doctors, his specialist here is talking with the specialist in Spokane where he wanted to go and they're trying to decide whether to do the operation here or send him back to Spokane. So, we'll keep you updated but, I'm telling you, a young lady walked into the room and I'm not going to repeat what he said but, trust me, he's firing on all twelve cylinders."

#### MOTION

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

#### SECOND READING

SENATE BILL NO. 6205, by Senators Haugen and Shin

Concerning portions of state highways better served by merged districts under certain circumstances.

#### MOTIONS

On motion of Senator Haugen, Substitute Senate Bill No. 6205 was substituted for Senate Bill No. 6205 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Haugen, the rules were suspended, Substitute Senate Bill No. 6205 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and Swecker spoke in favor of the passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6205.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6205 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6205, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6208, by Senators Haugen, Hatfield and Shin

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Concerning temporary agricultural directional signs on state highway rights-of-way. Revised for 1st Substitute: Concerning temporary agricultural directional signs.

MOTION

On motion of Senator Kastama, Substitute Senate Bill No. 6577 was substituted for Senate Bill No. 6577 and the substitute bill was placed on the second reading and read the second time.

MOTIONS

On motion of Senator Haugen, Substitute Senate Bill No. 6208 was substituted for Senate Bill No. 6208 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Haugen, the rules were suspended, Substitute Senate Bill No. 6208 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and Honeyford spoke in favor of the passage of the bill.

MOTION

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

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 47.04.280 and 2007 c 516 s 3 are each amended to read as follows:

(1) It is the intent of the legislature to establish policy goals for the planning, operation, performance of, and investment in, the state's transportation system. The policy goals established under this section are deemed consistent with the benchmark categories adopted by the state's blue ribbon commission on transportation on November 30, 2000. Public investments in transportation should support achievement of these policy goals:

(a) Economic vitality: To promote and develop transportation systems that stimulate, support, and enhance the movement of people and goods to ensure a prosperous economy;

(b) Congestion: To reduce congestion and thereby improve the predictable movement of goods and people throughout Washington state;

(c) Preservation: To maintain, preserve, and extend the life and utility of prior investments in transportation systems and services;

~~((b))~~ (d) Safety: To provide for and improve the safety and security of transportation customers and the transportation system;

~~((c))~~ ~~Mobility: To improve the predictable movement of goods and people throughout Washington state;~~

~~((d))~~ (e) Environment: To enhance Washington's quality of life through transportation investments that promote energy conservation, enhance healthy communities, and protect the environment; and

~~((e))~~ (f) Stewardship: To continuously improve the quality, effectiveness, and efficiency of the transportation system.

(2) The powers, duties, and functions of state transportation agencies must be performed in a manner consistent with the policy goals set forth in subsection (1) of this section.

(3) These policy goals are intended to be the basis for establishing detailed and measurable objectives and related performance measures.

(4) It is the intent of the legislature that the office of financial management establish objectives and performance measures for the department of transportation and other state agencies with transportation-related responsibilities to ensure transportation system performance at local, regional, and state government levels progresses toward the attainment of the policy goals set forth in subsection (1) of this section. The office of financial management shall submit initial objectives and performance measures to the legislature for its review and shall provide copies of the same to the commission during the 2008 legislative session. The office of financial management shall submit objectives and performance measures to the legislature for its review and shall provide copies of the same to the commission during each regular session of the legislature during an even-numbered year thereafter.

(5) This section does not create a private right of action."

On page 1, line 2 of the title, after "goals;" strike the remainder of the title and insert "and amending RCW 47.04.280."

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

MOTION

On motion of Senator Marr, Senator Shin was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6208.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6208 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

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

Absent: Senator Murray

Excused: Senators McCaslin and Shin

SUBSTITUTE SENATE BILL NO. 6208, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

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

MOTION

On motion of Senator Marr, Senator Murray was excused.

SECOND READING

SENATE BILL NO. 6577, by Senators Kastama, Berkey, Swecker, Haugen, Kilmer and Shin

Modifying the statewide transportation system policy goals. Revised for 1st Substitute: Modifying the transportation system policy goals.

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Senators Kastama and Haugen spoke against adoption of the striking amendment.

Senator Schoesler demanded a roll call.

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

## MOTION

On motion of Senator Marr, Senator Brown was excused.

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senator Pflug to Substitute Senate Bill No. 6577.

## ROLL CALL

The Secretary called the roll on the adoption of the striking amendment by Senator Pflug and the striking amendment was not adopted by the following vote: Yeas, 18; Nays, 27; Absent, 0; Excused, 4.

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

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

Excused: Senators Brown, McCaslin, Murray and Shin

## MOTION

On motion of Senator Kastama, the rules were suspended, Substitute Senate Bill No. 6577 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kastama and Swecker spoke in favor of passage of the bill.

## MOTION

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

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6577.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6577 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

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

Excused: Senators Brandland, Brown, Carrell, McCaslin, Murray and Shin

SUBSTITUTE SENATE BILL NO. 6577, having received the constitutional majority, was declared passed. There being no

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objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 12:03 p.m., on motion of Senator Eide, the Senate was recessed until 1:00 pm.

AFTERNOON SESSION

The Senate was called to order at 1:00 p.m. by President Pro Tempore.

## SECOND READING

SENATE BILL NO. 5548, by Senators Haugen, Jarrett, Fraser and Shin

Requiring project improvements, including public transportation infrastructure improvements, to be credited against the imposition of impact fees. Revised for 1st Substitute: Expanding certain public facilities eligible to be credited against the imposition of impact fees.

## MOTIONS

On motion of Senator Haugen, Substitute Senate Bill No. 5548 was substituted for Senate Bill No. 5548 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Haugen, the rules were suspended, Substitute Senate Bill No. 5548 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and Swecker spoke in favor of passage of the bill.

## MOTION

On motion of Senator Fraser, Senator Murray was excused.

## MOTION

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

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5548.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5548 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 1; Excused, 6.

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

Absent: Senator Kline

Excused: Senators Brandland, Carrell, Fairley, McAuliffe, McCaslin and Murray

SUBSTITUTE SENATE BILL NO. 5548, having received the constitutional majority, was declared passed. There being no

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objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6826, by Senator Swecker

Increasing certain fees of licensing subagents.

The measure was read the second time.

#### MOTION

On motion of Senator Swecker, the rules were suspended, Senate Bill No. 6826 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

#### MOTION

On motion of Senator Marr, Senators Kline and Oemig were excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 6826.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6826 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 3; Absent, 0; Excused, 7.

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

Voting nay: Senators Hatfield, Kauffman and Keiser

Excused: Senators Brandland, Carrell, Fairley, Kline, McAuliffe, McCaslin and Murray

SENATE BILL NO. 6826, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6363, by Senators Marr, King, Haugen, Brandland, Kauffman, Delvin, Eide, Shin and McAuliffe

Concerning the enforcement of certain school or playground crosswalk violations.

#### MOTIONS

On motion of Senator Marr, Substitute Senate Bill No. 6363 was substituted for Senate Bill No. 6363 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Marr, the rules were suspended, Substitute Senate Bill No. 6363 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Marr, King and Kauffman spoke in favor of the passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6363.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6363 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brandland, Carrell and McCaslin

SUBSTITUTE SENATE BILL NO. 6363, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6379, by Senators Swecker, Hatfield, Marr, Haugen, Berkey, Ranker, Sheldon and Kauffman

Streamlining and making technical corrections to vehicle and vessel registration and title provisions.

The measure was read the second time.

#### MOTION

On motion of Senator Swecker, the rules were suspended, Senate Bill No. 6379 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Swecker spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 6379.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6379 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brandland, Carrell and McCaslin

SENATE BILL NO. 6379, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Marr, Senator Keiser was excused.

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## MOTION

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

## THIRD READING

SUBSTITUTE SENATE BILL NO. 5780, by Senate Committee on Transportation (originally sponsored by Senators Tom and Brandland).

Establishing chapter 46.55 RCW as the exclusive remedy for any claims resulting from the impoundment of a motor vehicle. Revised for 1st Substitute: Establishing chapter 46.55 RCW as the exclusive remedy for certain claims resulting from the impoundment of a motor vehicle.

The bill was read on Third Reading.

Senator Haugen spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5780.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5780 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Brandland, Carrell, Keiser and McCaslin

SUBSTITUTE SENATE BILL NO. 5780, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

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

## SECOND READING

SENATE BILL NO. 6603, by Senators Marr, Haugen, Swecker, Eide and Keiser

Concerning land uses adjacent to general aviation airports.

## MOTION

On motion of Senator Marr, Substitute Senate Bill No. 6603 was substituted for Senate Bill No. 6603 and the substitute bill was placed on the second reading and read the second time.

## MOTION

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

On page 17, after line 35, strike all material through "activities" on page 18, line 2, and insert the following:

"(23) "General aviation airport" means any public use airport with general aviation facilities and where general aviation activities exceed five percent of the total annual operations"

Senators Marr and Keiser spoke in favor of adoption of the amendment.

## POINT OF INQUIRY

Senator Sheldon: "Would Senator Keiser yield to a question? Thank you Senator Keiser. By annual operations does this mean flights in and out? Are operations synonymous with flights?"

Senator Keiser: "I cannot say for certainty that it means flights because it could mean other events as well."

Senator Sheldon: "I was just trying to get an idea of the scope of your amendment."

Senator Keiser: "The scope of the amendment as I understand it and intended to me is limited to the airport that I represent which is known as Sea Tac International Airport."

Senator Sheldon: "Well, thank you, I was just wondering how it might effect a small airport in rural areas, do you have any idea about that or the..."

Senator Keiser: "As it was explained to me Senator it will not affect small airports in rural areas."

## POINT OF INQUIRY

Senator Honeyford: "Would Senator Marr yield to a question? You said that commercial operations, does that include crop dusting?"

Senator Marr: "My understanding is that whatever would be qualified as a for hire commercial for takeoff or landing although I'm not aware that Sea Tac Airport has much in the way of crop duster takeoff and landings. My understanding is that that is a definition of commercial takeoff and landings is the definition that's specific to each airport."

Senator Benton spoke against adoption of the amendment.

## MOTION

On motion of Senator Eide, further consideration of Substitute Senate Bill No. 6603 was deferred and the bill held its place on the second reading calendar.

## SECOND READING

SENATE BILL NO. 6558, by Senator Haugen

Addressing timelines for the issuance of final orders applicable to railroad crossing petitions. Revised for 1st Substitute: Concerning petitions for administrative review of railroad crossing closures.

## MOTIONS

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On motion of Senator Haugen, Substitute Senate Bill No. 6558 was substituted for Senate Bill No. 6558 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Haugen, the rules were suspended, Substitute Senate Bill No. 6558 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and Swecker spoke in favor of the passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6558.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6558 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Brandland and McCaslin

SUBSTITUTE SENATE BILL NO. 6558, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6580, by Senators Swecker and Haugen

Creating the local bridge restoration and replacement account.

#### MOTIONS

On motion of Senator Swecker, Substitute Senate Bill No. 6580 was substituted for Senate Bill No. 6580 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Swecker, the rules were suspended, Substitute Senate Bill No. 6580 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Swecker spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Marr, Senator Prentice was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6580.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6580 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon,

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

Excused: Senators Brandland, McCaslin and Prentice

SUBSTITUTE SENATE BILL NO. 6580, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6815, by Senator Haugen

Concerning health care benefits for marine employees of the department of transportation.

The measure was read the second time.

#### MOTION

On motion of Senator Haugen, the rules were suspended, Senate Bill No. 6815 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Haugen spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 6815.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6815 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brandland, McCaslin and Prentice

SENATE BILL NO. 6815, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6649, by Senators King, Marr, Swecker, Haugen, Tom and Shin

Streamlining the content and release requirements of driving record abstracts.

#### MOTIONS

On motion of Senator King, Substitute Senate Bill No. 6649 was substituted for Senate Bill No. 6649 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator King, the rules were suspended, Substitute Senate Bill No. 6649 was advanced to third reading,

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

Senator King spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Kauffman, Senator Keiser was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6649.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6649 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Brandland, Keiser, McCaslin and Prentice  
SUBSTITUTE SENATE BILL NO. 6649, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6271, by Senators Murray and Haugen

Concerning annexations by cities and code cities located within the boundaries of a regional transit authority.

#### MOTIONS

On motion of Senator Murray, Substitute Senate Bill No. 6271 was substituted for Senate Bill No. 6271 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Murray, the rules were suspended, Substitute Senate Bill No. 6271 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6271.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6271 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

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Excused: Senators Brandland, Keiser, McCaslin and Prentice  
SUBSTITUTE SENATE BILL NO. 6271, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6555, by Senators Tom and Haugen

Removing state route number 908 from the state highway system.

The measure was read the second time.

#### MOTION

On motion of Senator Haugen, the rules were suspended, Senate Bill No. 6555 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Haugen spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 6555.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6555 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Brandland, Keiser, McCaslin and Prentice  
SENATE BILL NO. 6555, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6570, by Senators Haugen, Swecker, Becker, Sheldon, Delvin and Hatfield

Accommodating certain private transportation providers at designated transit only lanes on public highways. Revised for 1st Substitute: Allowing certain private transportation providers to use certain public transportation facilities.

#### MOTIONS

On motion of Senator Haugen, Substitute Senate Bill No. 6570 was substituted for Senate Bill No. 6570 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Haugen, the rules were suspended, Substitute Senate Bill No. 6570 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and Swecker spoke in favor of passage of the bill.

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The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6570.

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

ROLL CALL

SECOND READING

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6570 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

SENATE BILL NO. 6355, by Senators Kilmer, Becker, Rockefeller and Shin

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

Expanding the higher education system upon proven demand.

Voting nay: Senator Murray

Excused: Senators Brandland and McCaslin

MOTIONS

SUBSTITUTE SENATE BILL NO. 6570, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

On motion of Senator Kilmer, Substitute Senate Bill No. 6355 was substituted for Senate Bill No. 6355 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kilmer, the rules were suspended, Substitute Senate Bill No. 6355 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kilmer and Becker spoke in favor of the passage of the bill.

The Senate resumed consideration of Substitute Senate Bill No. 6603 which had been deferred earlier in the day.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6355.

ROLL CALL

Senators Marr and Honeyford spoke in favor of adoption of the amendment.

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6355 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator Keiser and others on page 17, after line 35 to Substitute Senate Bill No. 6603.

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

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

MOTION

On motion of Senator Marr, the rules were suspended, Engrossed Substitute Senate Bill No. 6603 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Excused: Senators Brandland and McCaslin

SUBSTITUTE SENATE BILL NO. 6355, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

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

SECOND READING

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6603.

SENATE BILL NO. 6269, by Senators Keiser and Rockefeller

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6603 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Addressing conversion rights upon termination of eligibility for health plan coverage.

The measure was read the second time.

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

MOTION

Excused: Senators Brandland and McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6603, having received the constitutional majority, was declared passed.

On motion of Senator Keiser, the rules were suspended, Senate Bill No. 6269 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 6269.

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## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6269 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Brandland and McCaslin

SENATE BILL NO. 6269, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6647, by Senators Honeyford, Swecker and Morton

Addressing the employment status of members of the civil air patrol while acting in an emergency service operation. Revised for 1st Substitute: Protecting jobs of members of the civil air patrol while acting in an emergency service operation.

## MOTIONS

On motion of Senator Honeyford, Substitute Senate Bill No. 6647 was substituted for Senate Bill No. 6647 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Honeyford, the rules were suspended, Substitute Senate Bill No. 6647 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Honeyford and Kohl-Welles spoke in favor of the passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6647.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6647 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Brandland and McCaslin

SUBSTITUTE SENATE BILL NO. 6647, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

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At 3:01 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

EVENING SESSION

The Senate was called to order at 5:08 p.m. by the President Pro Tempore.

## SECOND READING

SENATE BILL NO. 6350, by Senators Ranker, Hargrove, Jacobsen, Rockefeller, Swecker, Marr, Fraser, Murray and Kline

Concerning marine waters management that includes marine spatial planning.

## MOTIONS

On motion of Senator Ranker, Substitute Senate Bill No. 6350 was substituted for Senate Bill No. 6350 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Ranker, the rules were suspended, Substitute Senate Bill No. 6350 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Ranker and Morton spoke in favor of the passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6350.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6350 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 2; Absent, 1; Excused, 2.

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

Voting nay: Senators Honeyford and Stevens

Absent: Senator Jacobsen

Excused: Senators Brandland and McCaslin

SUBSTITUTE SENATE BILL NO. 6350, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Marr, Senator Jacobsen was excused.

## SECOND READING

SENATE BILL NO. 6289, by Senators Pridemore, Brandland, Marr, Rockefeller, Brown, Kohl-Welles and Kline

Protecting lake water quality by reducing phosphorus from lawn fertilizers.

The measure was read the second time.

## PARLIAMENTARY INQUIRY

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Senator Pridemore: “We had a striking amendment that was just put on the bar. I just wanted... we may want to delay consideration.”

SENATE BILL NO. 6468, by Senators Kauffman, Rockefeller, Pridemore, Berkey and Kline

Coordinating the weatherization and structural rehabilitation of residential structures.

MOTION

MOTION

On motion of Senator Eide, further consideration of Senate Bill No. 6289 was deferred and the bill held its place on the second reading calendar.

On motion of Senator Rockefeller, Substitute Senate Bill No. 6468 was substituted for Senate Bill No. 6468 and the substitute bill was placed on the second reading and read the second time.

PERSONAL PRIVILEGE

MOTION

Senator Hewitt: “Thank you Madam President. I want to thank the Majority Floor Leader for allowing us to look at strikers. Strikers are very important. They come out sometimes very, very large. We don’t often have time to look at them, so, thank you again for doing that Senator.”

Senator Kauffman moved that the following amendment by Senators Kauffman and Rockefeller be adopted:

SECOND READING

On page 2, on line 18 after "projects.", insert "The legislature further intends to allocate future distributions of energy-related federal jobs stimulus funding to strengthen these programs, and to coordinate energy retrofit and rehabilitation improvements as authorized by this act to increase the number of structures qualifying for assistance under these multiple state and federal energy efficiency programs."

SENATE BILL NO. 6373, by Senators Ranker, Rockefeller, Swecker, Pridemore, Marr, Kline and Fraser

Senator Kauffman spoke in favor of adoption of the amendment.

Directing the department of ecology to adopt rules requiring entities to report the emissions of greenhouse gases.

MOTION

MOTIONS

On motion of Senator McDermott, Senator Brown was excused.

On motion of Senator Ranker, Substitute Senate Bill No. 6373 was substituted for Senate Bill No. 6373 and the substitute bill was placed on the second reading and read the second time.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators Kauffman and Rockefeller on page 2, line 18 to Substitute Senate Bill No. 6468.

On motion of Senator Ranker, the rules were suspended, Substitute Senate Bill No. 6373 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

Senators Ranker and Honeyford spoke in favor of the passage of the bill.

MOTION

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6373.

On motion of Senator Kauffman, the rules were suspended, Engrossed Substitute Senate Bill No. 6468 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

ROLL CALL

Senators Kauffman and Honeyford spoke in favor of the passage of the bill.

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6373 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 0; Excused, 3.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6468.

ROLL CALL

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

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6468 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting nay: Senator Morton

Excused: Senators Brandland, Jacobsen and McCaslin

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

SUBSTITUTE SENATE BILL NO. 6373, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

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Excused: Senators Brandland and McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6468, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

The Senate resumed consideration of Senate Bill No. 6289 which had been deferred earlier in the day.

#### MOTION

On motion of Senator Pridemore, Substitute Senate Bill No. 6289 was substituted for Senate Bill No. 6289 and the substitute bill was placed on the second reading and read the second time.

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Pridemore, the amendment by Senators Pridemore and Marr on page 2, line 14 to Substitute Senate Bill No. 6289 was withdrawn.

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Pridemore, the amendment by Senator Pridemore on page 3, line 12 to Substitute Senate Bill No. 6289 was withdrawn.

#### MOTION

Senator Pridemore moved that the following striking amendment by Senator Pridemore be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that:

(a) Phosphorus loading of surface waters can stimulate the growth of weeds and algae and that this growth can have adverse environmental, health, and aesthetic effects;

(b) Lawn fertilizers contribute to phosphorus loading. Limits on turf fertilizer containing phosphorus can significantly reduce the discharge of phosphorus into the state's ground and surface waters;

(c) Turf fertilizers containing no or very low amounts of phosphorus are readily available and maintaining established turf in a healthy and green condition is not dependent upon the addition of phosphorus fertilizers; and

(d) While significant reductions of phosphorus from laundry detergent and dishwashing detergent have been achieved, similar progress in reducing phosphorus contributions from turf fertilizer has not been accomplished.

(2) It is the intent of the legislature that this chapter significantly limit the use of fertilizers containing the plant nutrient phosphorus.

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

(1) "Department" means the department of ecology.

(2) "Director" means the director of the department of ecology.

(3)(a) "Fertilizer" includes any substance containing one or more recognized plant nutrients, and that is either used for its plant nutrient content or is designated for use or claimed to have value in promoting plant growth, or both. "Fertilizer" includes gypsum and manipulated animal and vegetable manures.

(b) "Fertilizer" does not include:

(i) Unmanipulated animal and vegetable material, organic waste- derived materials, and other products exempted by the department by rule;

(ii) Calcium carbonate (lime) and anhydrous ammonia;

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(iii) Materials including, but not limited to, compost biosolids, municipal sewage sludge, or slow release fertilizer used in compliance with best practices developed by the Washington State University extension service, or products derived therefrom, that are regulated under chapter 70.95 or 70.95J RCW or rules adopted under those chapters; and

(iv) Materials using waste manure from confined animal feeding operations as the primary feedstock and manufactured as a biotic fertilizer in a manner that balances the pH of the material and reduces the leaching of phosphorus.

(4) "Impervious surface" means a highway, street, sidewalk, parking lot, driveway, or other artificial surface that prevents infiltration of water into the soil.

(5) "Turf" means noncrop land planted in closely mowed, managed grasses on residential property. Turf does not include managed pasture, hayland, hay, turf grown on turf farms, home or commercial vegetable production, horticultural beds, flower beds, general landscaping, or any other form of agricultural production.

**NEW SECTION. Sec. 3.** (1) Except as provided in subsection (2) of this section, after January 1, 2012, a person may not apply to turf a fertilizer containing the plant nutrient phosphorus.

(2) Subsection (1) of this section does not apply when:

(a) Applying a solid fertilizer containing less than 0.67 percent phosphate by weight or a liquid fertilizer applied at a rate not greater than 0.3 pounds of phosphate per one thousand square feet of turf;

(b) Laboratory test results or other certifications by a turf specialist performed within the three years previous to the application indicates that the level of available phosphorus in the soils is insufficient to support healthy turf growth. The level of phosphorous needed to support healthy turf and the agronomic application rate must be determined by Washington State University; or

(c) The property owner or an agent of the property owner is first establishing turf via seed or sod procedures and only during the first growing season.

(3)(a) This section does not apply to the application of turf fertilizer for agricultural uses.

(b) This section does not apply to the application of turf fertilizer for golf courses.

**NEW SECTION. Sec. 4.** A person may not apply a fertilizer to an impervious surface. Fertilizer released on an impervious surface must be immediately contained and either legally applied to turf or another legal site or returned to the original container or another appropriate container.

**NEW SECTION. Sec. 5.** (1) The department may issue a notice of corrective action to a person in violation of section 3 or 4 of this act.

(2) A city or county may adopt an ordinance providing for enforcement of the requirements of sections 3 and 4 of this act. A city or county adopting an ordinance has jurisdiction concurrent with the department to enforce this section.

**NEW SECTION. Sec. 6.** The department may produce consumer information on the application restrictions under section 3 of this act and on recommended best practices for turf fertilizer and other residential landscaping uses. The consumer information must be produced in consultation with the Washington State University extension service, fertilizer industry representatives, lakes health organizations, and other interested parties. The consumer information must be in a format and of a content suitable for posting and distribution at retail points of sale of fertilizer that contains phosphorus for use on turf.

**NEW SECTION. Sec. 7.** Sections 1 through 6 of this act constitute a new chapter in Title 90 RCW."

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

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The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senator Pridemore to Substitute Senate Bill No. 6289.

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

MOTION

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

On page 1, line 2 of the title, after "fertilizers;" strike the remainder of the title and insert "and adding a new chapter to Title 90 RCW."

MOTION

On motion of Senator Pridemore, the rules were suspended, Engrossed Substitute Senate Bill No. 6289 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pridemore, Marr, Rockefeller and Jacobsen spoke in favor of passage of the bill.

Senators Schoesler, Carrell and Honeyford spoke against passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6289.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6289 and the bill passed the Senate by the following vote: Yeas, 36; Nays, 11; Absent, 0; Excused, 2.

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

Voting nay: Senators Becker, Carrell, Delvin, Hatfield, Holmquist, Honeyford, King, Morton, Roach, Schoesler and Stevens

Excused: Senators Brandland and McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6289, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6611, by Senators Pridemore, Swecker and Shin

Extending the deadlines for the review and evaluation of comprehensive land use plan and development regulations for three years. Revised for 1st Substitute: Extending the deadlines for the review and evaluation of comprehensive land use plan and development regulations for three years and addressing the timing for adopting certain subarea plans.

MOTIONS

On motion of Senator Regala, Substitute Senate Bill No. 6611 was substituted for Senate Bill No. 6611 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Pridemore, the rules were suspended, Substitute Senate Bill No. 6611 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

MOTION

On motion of Senator Hatfield, Senator Murray was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6611.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6611 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Brandland and McCaslin

SUBSTITUTE SENATE BILL NO. 6611, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6557, by Senators Ranker, Swecker, Rockefeller, Brandland, Brown, Kohl-Welles, Shin, Fraser and Kline

Limiting the use of copper and other substances in vehicle brake pads. Revised for 1st Substitute: Limiting the use of certain substances in brake friction material.

MOTIONS

On motion of Senator Ranker, Substitute Senate Bill No. 6557 was substituted for Senate Bill No. 6557 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Ranker, the rules were suspended, Substitute Senate Bill No. 6557 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Ranker and Swecker spoke in favor of the passage of the bill.

Senator Honeyford spoke against passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6557.

ROLL CALL

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The Secretary called the roll on the final passage of Substitute Senate Bill No. 6557 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 8; Absent, 0; Excused, 2.

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

Voting nay: Senators Carrell, Delvin, Hatfield, Holmquist, Honeyford, Morton, Schoesler and Stevens

Excused: Senators Brandland and McCaslin

SUBSTITUTE SENATE BILL NO. 6557, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6762, by Senators Fraser, Haugen and Kline

Regarding compliance with the state environmental policy act in the consideration of cumulative impacts and the assumption of lead agency status when the same agency is the sponsor of the project.

The measure was read the second time.

## MOTION

Senator Fraser moved that the following striking amendment by Senators Fraser, Haugen and Honeyford be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.21C.031 and 1995 c 347 s 203 are each amended to read as follows:

(1)(a) An environmental impact statement (the detailed statement required by RCW 43.21C.030(2)(c)) shall be prepared on proposals for legislation and other major actions having a probable significant, adverse environmental impact. The environmental impact statement may be combined with the recommendation or report on the proposal or issued as a separate document. The substantive decisions or recommendations shall be clearly identifiable in the combined document. Actions categorically exempt under RCW 43.21C.110(1)(a) do not require environmental review or the preparation of an environmental impact statement under this chapter. This subsection does not impose the requirements of RCW 43.21C.030 or this section upon actions that are statutorily exempt from this chapter's environmental review requirements. Proposals, or parts of proposals, that are so closely related as to be in effect a single course of action must be evaluated in the same environmental document if the:

(i) Proposal, or parts of the proposal, cannot or will not proceed unless implemented simultaneously; or

(ii) Larger proposal is necessary for justification or implementation of parts of the proposal. In a county, city, or town planning under RCW 36.70A.040, a planned action, as provided for in subsection (2) of this section, does not require a threshold determination or the preparation of an environmental impact statement under this chapter, but is subject to environmental review and mitigation as provided in this chapter.

(b) An environmental impact statement is required to analyze only those probable adverse environmental impacts which are significant. Beneficial environmental impacts may be discussed.

The responsible official shall consult with agencies and the public to identify such impacts and limit the scope of an environmental impact statement. The subjects listed in RCW 43.21C.030(2)(c) need not be treated as separate sections of an environmental impact statement. Discussions of significant short-term and long-term environmental impacts, including cumulative impacts, significant irrevocable commitments of natural resources, significant alternatives including mitigation measures, and significant environmental impacts which cannot be mitigated should be consolidated or included, as applicable, in those sections of an environmental impact statement where the responsible official decides they logically belong.

(2)(a) For purposes of this section, a planned action means one or more types of project action that:

(i) Are designated planned actions by an ordinance or resolution adopted by a county, city, or town planning under RCW 36.70A.040;

(ii) Have had the significant impacts adequately addressed in an environmental impact statement prepared in conjunction with (A) a comprehensive plan or subarea plan adopted under chapter 36.70A RCW, or (B) a fully contained community, a master planned resort, a master planned development, or a phased project;

(iii) Are subsequent or implementing projects for the proposals listed in (a)(ii) of this subsection;

(iv) Are located within an urban growth area, as defined in RCW 36.70A.030;

(v) Are not essential public facilities, as defined in RCW 36.70A.200; and

(vi) Are consistent with a comprehensive plan adopted under chapter 36.70A RCW.

(b) A county, city, or town shall limit planned actions to certain types of development or to specific geographical areas that are less extensive than the jurisdictional boundaries of the county, city, or town and may limit a planned action to a time period identified in the environmental impact statement or the ordinance or resolution adopted under this subsection.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.21C RCW to read as follows:

(1) When an agency initiates a proposal, that agency is the lead agency for that proposal for purposes of compliance with the environmental review requirements of RCW 43.21C.030 and 43.21C.031. If two or more agencies share in the implementation of a proposal, the agencies shall by agreement determine which agency will be the lead agency. For the purposes of this section, a proposal by an agency does not include proposals to license private activity.

(2) Whenever possible, the agency staff carrying out the environmental review procedures of RCW 43.21C.030 and 43.21C.031 must be different from the agency staff developing the proposal."

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

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senators Fraser, Haugen and Honeyford to Senate Bill No. 6762.

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

## MOTION

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

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On page 1, line 2 of the title, after "act;" strike the remainder of the title and insert "amending RCW 43.21C.031; and adding a new section to chapter 43.21C RCW."

MOTION

On motion of Senator Fraser, the rules were suspended, Engrossed Senate Bill No. 6762 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fraser and Honeyford spoke in favor of the passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6762.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6762 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Brandland and McCaslin

ENGROSSED SENATE BILL NO. 6762, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6747, by Senators Jacobsen, Fraser, Ranker, Shin and Kline

Authorizing the department of natural resources to recover costs for data delivery services provided under the natural heritage program.

MOTIONS

On motion of Senator Jacobsen, Substitute Senate Bill No. 6747 was substituted for Senate Bill No. 6747 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Jacobsen, the rules were suspended, Substitute Senate Bill No. 6747 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Jacobsen spoke in favor of passage of the bill.

Senator Morton spoke against passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6747.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6747 and the bill passed the Senate by the following vote: Yeas, 32; Nays, 15; Absent, 0; Excused, 2.

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

Voting nay: Senators Becker, Benton, Carrell, Delvin, Hatfield, Holmquist, Honeyford, King, Morton, Parlette, Pflug, Roach, Schoesler, Stevens and Zarelli

Excused: Senators Brandland and McCaslin

SUBSTITUTE SENATE BILL NO. 6747, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Marr, Senator Ranker was excused.

SECOND READING

SENATE BILL NO. 6720, by Senators Fraser, Delvin and Kline

Providing an optional tool for cities to use for programmatic environmental impact review.

The measure was read the second time.

MOTION

On motion of Senator Fraser, the rules were suspended, Senate Bill No. 6720 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fraser and Honeyford spoke in favor of the passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 6720.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6720 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 3; Absent, 0; Excused, 3.

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

Voting nay: Senators Holmquist, Roach and Stevens

Excused: Senators Brandland, McCaslin and Ranker

SENATE BILL NO. 6720, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6692, by Senators Pridemore, Hargrove, Ranker and Haugen

Allowing certain counties to participate and enter into ownership agreements for electric generating facilities powered by biomass.

## MOTIONS

On motion of Senator Pridemore, Substitute Senate Bill No. 6692 was substituted for Senate Bill No. 6692 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Pridemore, the rules were suspended, Substitute Senate Bill No. 6692 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pridemore and Honeyford spoke in favor of the passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6692.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6692 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brandland, McCaslin and Ranker

SUBSTITUTE SENATE BILL NO. 6692, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Eide and without objection, the rules were suspended and the Senate immediately reconsidered the vote by which Engrossed Substitute Senate Bill No. 6603 passed the Senate.

## MOTION

On motion of Senator Eide, the rules were suspended and that Engrossed Substitute Senate Bill No. 6603 was returned to second reading for the purpose of an amendment.

## SECOND READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 6603, by Senate Committee on Transportation (originally sponsored by Senators Marr, Haugen, Swecker, Eide and Keiser)

Concerning land uses adjacent to general aviation airports.

The measure was read the second time.

## MOTION

On motion of Senator Eide and without objections, the rules were suspended and immediately reconsider the vote by which the amendment by Senator Keiser and others on page 17, after line 35 was adopted.

## MOTION

Senator Eide spoke against the adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator Keiser and others 94 to Engrossed Substitute Senate Bill No. 6603.

The motion by Senator Eide carried and the amendment was not adopted by voice vote.

## MOTION

Senator Eide moved that the following amendment by Senators Keiser and Honeyford be adopted.

On page 13, after line 27, strike all material through "activities" on line 31, and insert the following:

"(16) "General aviation airport" means any public use airport with general aviation facilities and where general aviation activities occur. However, a general aviation airport does not include an airport in a county with a population of greater than one million five hundred thousand persons where general aviation activity is less than five percent of the total annual operations"

On page 17, after line 35, strike all material through "activities" on page 18, line 2, and insert the following:

"(23) "General aviation airport" means any public use airport with general aviation facilities and where general aviation activities occur. However, a general aviation airport does not include an airport in a county with a population of greater than one million five hundred thousand persons where general aviation activity is less than five percent of the total annual operations"

Senator Keiser spoke in favor of adoption of the amendment.

## POINT OF INQUIRY

Senator Morton: "Senator Morton: "Madam President, I'm not sure who to direct this to. I'd like to ask a question. Who would yield to a question on this?"

Senator Franklin: "Senator Keiser."

Senator Morton: "I note the phrase here on description of the 'general aviation airport.' I'm wondering if, in the determination of the five percent, is that five percent the amount for the aviation activity of the airport? Of the fix-based operator? Of both? A definition of what the activity is would help me. Thank you."

Senator Keiser: "Thank you Senator. My understanding is that the five percent activity is in regard to general aviation activity at an individual airport."

Senator Morton: "And therefore the five percent is the accumulation of the annual operations? I'm not clear yet what that is against. Is that the ... landing fees? Is that counted? How is it determined? The gross revenue of the fixed-based operator or all of them combined? What's the five percent against? Thank you."

Senator Keiser: "Number of landings is the understanding. Operations are not, it is not about landing fees."

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators Keiser and Honeyford on page 13, after line 27 to Engrossed Substitute Senate Bill No. 6603.

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

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## MOTION

On motion of Senator Eide, the rules were suspended, Engrossed Substitute Senate Bill No. 6603 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Marr spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6603.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6603 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Brandland and McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6603, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 6:56 p.m., on motion of Senator Eide, the Senate adjourned until 9:00 a.m. Saturday, February 13, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**THIRTY FOURTH DAY****MORNING SESSION**

Senate Chamber, Olympia, Saturday, February 13, 2010

The Senate was called to order at 9:00 a.m. by the President Pro Tempore. The Secretary called the roll and announced to the President Pro Tempore that all Senators were present with the exception of Senators Brandland, Carrell, Fairley, Fraser, Haugen, Kline, McCaslin, McDermott and Oemig.

The Sergeant at Arms Color Guard consisting of Senate Interns, Ann Larson and Eli Bailey, presented the Colors. Senator Morton offered the prayer.

**MOTION**

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

**MOTION**

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

**INTRODUCTION AND FIRST READING**

**SB 6856** by Senators Marr, Delvin, Jacobsen and Zarelli

AN ACT Relating to maintaining hospital privileges; and reenacting and amending RCW 48.44.020.

Referred to Committee on Health & Long-Term Care.

**INTRODUCTION AND FIRST READING OF HOUSE BILLS**

**HB 1080** by Representatives Simpson and Williams

AN ACT Relating to allowing impact fees to be used for all fire protection facilities; and amending RCW 82.02.090.

Referred to Committee on Government Operations & Elections.

**SHB 2409** by House Committee on Local Government & Housing (originally sponsored by Representatives Simpson, Angel, Upthegrove and Moeller)

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

Referred to Committee on Government Operations & Elections.

**HB 2460** by Representatives Smith, Nelson, Liias, Van De Wege, Blake, Bailey, Upthegrove, Kenney and Moeller

AN ACT Relating to organic products; amending RCW 15.86.010, 15.86.020, 15.86.030, 15.86.060, 15.86.065, 15.86.070, and 15.86.090; and adding new sections to chapter 15.86 RCW.

Referred to Committee on Agriculture & Rural Economic Development.

**SHB 2486** by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Goodman, Klippert, Rodne, Green, Kessler and Kelley)

AN ACT Relating to costs for the collection of DNA samples; and amending RCW 43.43.7541.

Referred to Committee on Human Services & Corrections.

**ESHB 2499** by House Committee on Commerce & Labor (originally sponsored by Representatives Bailey, Chandler, Roach, Schmick and Kretz)

AN ACT Relating to the regulation of black powder; and amending RCW 70.74.340.

Referred to Committee on Labor, Commerce & Consumer Protection.

**SHB 2517** by House Committee on Local Government & Housing (originally sponsored by Representatives Dammeier and Haigh)

AN ACT Relating to the exemption of housing authorities from laws governing the construction, alteration, repair, or improvement of property by other public bodies; and amending RCW 35.82.200.

Referred to Committee on Financial Institutions, Housing & Insurance.

**HB 2528** by Representatives Appleton and Eddy

AN ACT Relating to retroactively applying certain intermediate license law amendments made during the 2009 legislative session; and creating a new section.

Referred to Committee on Transportation.

**SHB 2534** by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Hurst, Pearson, O'Brien, Chase, Kelley, Conway, Van De Wege, Sells, Ericks, Morrell, Kirby, Campbell, Haigh and Smith)

AN ACT Relating to establishing a program to verify the address of registered sex offenders and kidnapping offenders; amending RCW 9A.44.130 and 9A.44.135; and adding a new section to chapter 36.28A RCW.

Referred to Committee on Human Services & Corrections.

**SHB 2546** by House Committee on Commerce & Labor (originally sponsored by Representatives Van De Wege, Conway, Morrell, Angel, Dunshee and Santos)

AN ACT Relating to classroom training for electrical trainees; amending RCW 19.28.161; and providing an effective date.

Referred to Committee on Labor, Commerce & Consumer Protection.

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ESHB 2564 by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Nelson, Chase and Kirby)

AN ACT Relating to escrow agents; amending RCW 18.44.011, 18.44.021, 18.44.031, 18.44.091, 18.44.121, 18.44.201, 18.44.301, 18.44.195, and 18.44.430; and adding new sections to chapter 18.44 RCW.

Referred to Committee on Financial Institutions, Housing & Insurance.

SHB 2589 by House Committee on Commerce & Labor (originally sponsored by Representative Green)

AN ACT Relating to on-site wastewater treatment systems designer licensing; amending RCW 18.210.010, 18.210.020, 18.210.030, 18.210.040, 18.210.050, 18.210.080, 18.210.100, 18.210.120, 18.210.140, 18.210.160, 18.210.170, 18.210.180, and 18.210.190; and repealing RCW 18.210.090 and 18.210.210.

Referred to Committee on Labor, Commerce & Consumer Protection.

SHB 2593 by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Rolfes, Morris, Upthegrove, Williams, Liias, White and Nelson)

AN ACT Relating to creating tools to enhance the department of fish and wildlife's ability to manage shellfish resources; amending RCW 77.70.500, 77.15.520, 77.15.380, 63.21.080, 77.12.865, 77.12.870, 77.15.750, 77.55.041, and 77.32.430; adding new sections to chapter 77.15 RCW; prescribing penalties; and providing an expiration date.

Referred to Committee on Natural Resources, Ocean & Recreation.

SHB 2596 by House Committee on Early Learning & Children's Services (originally sponsored by Representatives Williams, Chase, Upthegrove and Simpson)

AN ACT Relating to defining child advocacy centers for the multidisciplinary investigation of child abuse and implementation of county protocols; and amending RCW 26.44.020, 26.44.180, and 26.44.185.

Referred to Committee on Human Services & Corrections.

SHB 2620 by House Committee on Finance (originally sponsored by Representatives Hunter and Moeller)

AN ACT Relating to excise taxation of certain products and services provided or furnished electronically; amending RCW 82.04.190, 82.04.192, 82.04.257, 82.04.2907, 82.04.297, 82.32.080, 35.102.130, 82.08.02082, 82.08.02087, 82.12.02082, 82.12.02087, 82.32.532, and 82.32.533; reenacting and amending RCW 82.04.050 and 82.08.195; creating new sections; and providing an effective date.

Referred to Committee on Ways & Means.

HB 2629 by Representatives Kelley, Seaquist, Green, Kenney and Morrell

AN ACT Relating to making corrections to update the law regarding adoption petitions; and amending RCW 26.33.040.

Referred to Committee on Human Services & Corrections.

HB 2638 by Representatives McCoy, Quall, Eddy, Liias, Moeller, Dickerson, Wallace and Sells

AN ACT Relating to instructional materials provided in a specialized format version; amending RCW 28B.10.916; and creating a new section.

Referred to Committee on Higher Education & Workforce Development.

HB 2681 by Representatives Goodman, Rodne and Kelley

AN ACT Relating to allowing compensation for part-time judges' judicial services; and amending RCW 3.34.140.

Referred to Committee on Judiciary.

SHB 2706 by House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Bailey, Driscoll, Johnson, Morrell, Hinkle, Green and Kenney)

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

Referred to Committee on Health & Long-Term Care.

HB 2720 by Representatives Armstrong, Morrell, McCune, Miloscia, Finn, Appleton, Hunt, Alexander, O'Brien, Kelley, Conway and Campbell

AN ACT Relating to the Washington soldiers' home; and amending RCW 72.36.010.

Referred to Committee on Government Operations & Elections.

HB 2748 by Representatives Simpson, Jacks and Chase

AN ACT Relating to dues for an association established under RCW 53.06.030; and amending RCW 53.06.040.

Referred to Committee on Government Operations & Elections.

SHB 2768 by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Ross, O'Brien, Hurst, Ericks, Wallace, Kelley, Upthegrove and Simpson)

AN ACT Relating to background investigations for peace officers and reserve officers; and amending RCW 43.101.080, 43.101.095, and 43.101.105.

Referred to Committee on Judiciary.

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SHB 2801 by House Committee on Education (originally sponsored by Representatives Liias, Johnson, Pedersen, Hunt, Orwall, Maxwell, Quall, Moeller, Chase, Williams, Nelson and Simpson)

AN ACT Relating to antiharassment strategies in public schools; amending RCW 28A.300.285; adding a new section to chapter 43.06B RCW; and creating a new section.

Referred to Committee on Early Learning & K-12 Education.

SHB 2804 by House Committee on Commerce & Labor (originally sponsored by Representatives Green, Hudgins, Goodman, Conway, Chandler, Crouse, Condotta, Moeller, Miloscia, Darneille, Hunt, Kagi and McCune)

AN ACT Relating to beer and caffeinated or stimulant-enhanced malt beverages; reenacting and amending RCW 66.04.010; and adding a new section to chapter 66.28 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

HB 2858 by Representatives Appleton, Anderson, Sells, White and Wallace

AN ACT Relating to purchasing authority of institutions of higher education with group purchasing organizations; and amending RCW 28B.10.029.

Referred to Committee on Higher Education & Workforce Development.

ESHB 2875 by House Committee on Health Care & Wellness (originally sponsored by Representatives Ericksen, Cody, Condotta, Hinkle, Herrera, Driscoll, Parker, Bailey, Green, Morrell, Kelley, Wallace, Kessler and Moeller)

AN ACT Relating to health savings accounts; amending RCW 41.05.065; and creating a new section.

Referred to Committee on Health & Long-Term Care.

HB 2918 by Representatives Eddy, Clibborn, Hunter and Maxwell

AN ACT Relating to removing state route number 908 from the state highway system; and repealing RCW 47.17.855.

Referred to Committee on Transportation.

HB 2973 by Representatives Orcutt, Wallace, Herrera, Probst, McCune, Klippert, Kelley, Hunter, Kretz, Campbell and Johnson

AN ACT Relating to resident student classification for certain members of the military and their spouses and dependents; and amending RCW 28B.15.012.

Referred to Committee on Higher Education & Workforce Development.

ESHB 3072 by House Committee on Health Care & Wellness (originally sponsored by Representatives Morrell, Driscoll, Crouse, Wallace and Parker)

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

Referred to Committee on Health & Long-Term Care.

#### MOTION

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

#### MOTION

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

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Murray moved that Gubernatorial Appointment No. 9192, Benjamin Golden, as a member of the Board of Regents, University of Washington, be confirmed.

Senator Murray spoke in favor of the motion.

#### MOTION

On motion of Senator Marr, Senators Fairley, Gordon, Haugen, Kline, McAuliffe, McDermott and Prentice were excused.

#### MOTION

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

#### APPOINTMENT OF BENJAMIN GOLDEN

The President Pro Tempore declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9192, Benjamin Golden as a member of the Board of Regents, University of Washington.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9192, Benjamin Golden as a member of the Board of Regents, University of Washington and the appointment was confirmed by the following vote: Yeas, 40; Nays, 0; Absent, 2; Excused, 7.

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

Absent: Senators Fraser and Oemig

Excused: Senators Brandland, Carrell, Fairley, Haugen, Kline, McCaslin and McDermott

Gubernatorial Appointment No. 9192, Benjamin Golden, having received the constitutional majority was declared

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confirmed as a member of the Board of Regents, University of Washington.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Rockefeller moved that Gubernatorial Appointment No. 9255, Jeff Vincent, as a member of the State Board of Education, be confirmed.

Senator Rockefeller spoke in favor of the motion.

MOTION

On motion of Senator Marr, Senators Fraser and Oemig were excused.

APPOINTMENT OF JEFF VINCENT

The President Pro Tempore declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9255, Jeff Vincent as a member of the State Board of Education.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9255, Jeff Vincent as a member of the State Board of Education and the appointment was confirmed by the following vote: Yeas, 40; Nays, 0; Absent, 0; Excused, 9.

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

Excused: Senators Brandland, Carrell, Fairley, Fraser, Haugen, Kline, McCaslin, McDermott and Oemig

Gubernatorial Appointment No. 9255, Jeff Vincent, having received the constitutional majority was declared confirmed as a member of the State Board of Education.

MOTION

At 9:25 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:31 a.m. by the President Pro Tempore.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Kline moved that Gubernatorial Appointment No. 9198, Joanne Harrell, as a member of the Board of Regents, University of Washington, be confirmed.

Senator Kline spoke in favor of the motion.

APPOINTMENT OF JOANNE HARRELL

The President Pro Tempore declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9198, Joanne Harrell as a member of the Board of Regents, University of Washington.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9198, Joanne Harrell as a member of the Board of Regents, University of Washington and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Brandland, Fairley, Haugen and McCaslin

Gubernatorial Appointment No. 9198, Joanne Harrell, having received the constitutional majority was declared confirmed as a member of the Board of Regents, University of Washington.

SECOND READING

SENATE BILL NO. 6610, by Senators Hargrove and McAuliffe

Concerning the assessment and treatment of certain persons with mental illnesses. Revised for 1st Substitute: Improving procedures relating to the commitment of persons found not guilty by reason of insanity.

MOTION

On motion of Senator Hargrove, Substitute Senate Bill No. 6610 was substituted for Senate Bill No. 6610 and the substitute bill was placed on the second reading and read the second time.

MOTION FOR IMMEDIATE RECONSIDERATION

Having voted on the prevailing side, Senator Hargrove moved to immediately reconsider the vote by which Substitute Senate Bill No. 6610 was substituted.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Hargrove to immediately reconsider the vote by which Substitute Senate Bill No. 6610 was substituted..

The motion Hargrove carried by voice vote.

MOTION

On motion of Senator Hargrove, Substitute Senate Bill No. 6610 was not substituted for Senate Bill No. 6610 and the substitute bill was not adopted.

MOTION

Senator Hargrove moved that the following striking amendment by Senators Hargrove, Carrell and Regala be adopted:

Strike everything after the enacting clause and insert the following:

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

(1) The secretary shall establish an independent public safety review panel for the purpose of advising the secretary and the courts with respect to persons who have been found not guilty by reason of insanity. The panel shall provide advice regarding all recommendations: (a) For a change in commitment status; (b) to

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allow furloughs or temporary leaves accompanied by staff; or (c) to permit movement about the grounds of the treatment facility, with or without the accompaniment of staff.

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

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

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

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

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

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

- (a) Whether the public safety review panel has observed a change in statewide consistency of evaluations and decisions concerning changes in the commitment status of persons found not guilty by reason of insanity;
- (b) Whether the public safety review panel should be given the authority to make release decisions and monitor release conditions;
- (c) Any other issues the public safety review panel deems relevant.

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

If the secretary determines that a person committed to the custody of the secretary for treatment as criminally insane presents an unreasonable safety risk which, based on behavior and clinical history, is not manageable in a state hospital setting, the secretary may place the person in any secure facility operated by the secretary or the secretary of the department of corrections, provided that appropriate mental health treatment is provided to the person and the person is afforded his or her rights under RCW 10.77.140, 10.77.150, and 10.77.200. The secretary of the department of

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social and health services shall retain legal custody of any person placed under this section.

**Sec. 3.** RCW 10.77.120 and 2000 c 94 s 15 are each amended to read as follows:

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

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

**Sec. 4.** RCW 10.77.150 and 1998 c 297 s 41 are each amended to read as follows:

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

(2) In an instance in which a person examined pursuant to RCW 10.77.140 has not made application to the secretary for conditional release, but the secretary, after considering the reports of experts or professional persons conducting the examination pursuant to RCW 10.77.140, reasonably believes the person may be conditionally released, the secretary may submit a recommendation for release to the court of the county that ordered the person's commitment. The attorney general shall represent the secretary in this proceeding. The secretary's recommendation must include any proposed terms and conditions upon which the secretary reasonably believes the

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person may be conditionally released. Conditional release may also include partial release for work, training, or educational purposes.

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

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

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

(d) The court, after the hearing, shall rule on the secretary's recommendations, and if it disapproves of conditional release, may do so only on the basis of substantial evidence. The court may modify the suggested terms and conditions on which the person is to be conditionally released. Pursuant to the determination of the court after hearing, the committed person shall thereupon be released on such conditions as the court determines to be necessary, or shall be remitted to the custody of the secretary. If the order of conditional release includes a requirement for the committed person to report to a community corrections officer, the order shall also specify that the conditionally released person shall be under the supervision of the secretary of corrections or such person as the secretary of corrections may designate and shall follow explicitly the instructions of the secretary of corrections including reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, and notifying the community corrections officer prior to making any change in the offender's address or employment.

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

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

**Sec. 5.** RCW 10.77.160 and 1993 c 31 s 7 are each amended to read as follows:

When a conditionally released person is required by the terms of his or her conditional release to report to a physician, department of corrections community corrections officer, or medical or mental health practitioner on a regular or periodic basis, the physician, department of corrections community corrections officer, medical or mental health practitioner, or other such person shall monthly, for the first six months after release and semiannually thereafter, or as otherwise directed by the court, submit to the court, the secretary, the institution from which released, and to the prosecuting attorney of the county in which the person was committed, a report stating

whether the person is adhering to the terms and conditions of his or her conditional release, and detailing any arrests or criminal charges filed and any significant change in the person's mental condition or other circumstances.

**Sec. 6.** RCW 10.77.190 and 1998 c 297 s 43 are each amended to read as follows:

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

(2) If the prosecuting attorney, the secretary of social and health services, the secretary of corrections, or the court, after examining the report filed with them pursuant to RCW 10.77.160, or based on other information received by them, reasonably believes that a conditionally released person is failing to adhere to the terms and conditions of his or her conditional release the court or secretary of social and health services or the secretary of corrections may order that the conditionally released person be apprehended and taken into custody ~~((until such time as a hearing can be scheduled to determine the facts and whether or not the person's conditional release should be revoked or modified))~~. The court shall be notified of the apprehension before the close of the next judicial day ~~((of the apprehension))~~. The court shall schedule a hearing within thirty days to determine whether or not the person's conditional release should be modified or revoked. Both the prosecuting attorney and the conditionally released person shall have the right to request an immediate mental examination of the conditionally released person. If the conditionally released person is indigent, the court or secretary of social and health services or the secretary of corrections or their designees shall, upon request, assist him or her in obtaining a qualified expert or professional person to conduct the examination.

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

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

**Sec. 7.** RCW 10.77.200 and 2000 c 94 s 16 are each amended to read as follows:

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

(2) In an instance in which a person has not made an application for release, but the secretary believes, after consideration of the reports filed under RCW 10.77.060, 10.77.110, 10.77.140, and 10.77.160, and other reports and evaluations provided by professionals familiar with the case, that reasonable grounds exist

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for release, the secretary may petition the court. The attorney general shall represent the secretary in this proceeding.

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

~~((3))~~ (4) For purposes of this section, a person affected by a mental disease or defect in a state of remission is considered to have a mental disease or defect requiring supervision when the disease may, with reasonable medical probability, occasionally become active and, when active, render the person a danger to others. The court may continue such a person on conditional release.

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

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

**Sec. 8.** RCW 10.77.220 and 1982 c 112 s 3 are each amended to read as follows:

No person confined pursuant to this chapter shall be incarcerated in a state correctional institution or facility(~~;~~ ~~PROVIDED, That nothing herein shall prohibit~~), except as provided in section 2 of this act. This section does not apply to confinement in a mental health facility located wholly within a correctional institution. Confinement in a county jail or other local facility while awaiting either placement in a treatment program or a court hearing pursuant to this chapter is permitted for no more than seven days.

**NEW SECTION. Sec. 9.** (1) The institute for public policy shall, in collaboration with the department of social and health services and other applicable entities, undertake a search for validated mental health assessment tools in each of the following areas:

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

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

(2) This section expires June 30, 2011."

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The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove, Carrell and Regala to Senate Bill No. 6610.

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

## MOTION

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

On page 1, line 2 of the title, after "Relating to" strike the remainder of the title and insert "improving procedures relating to the commitment of persons found not guilty by reason of insanity; amending RCW 10.77.120, 10.77.150, 10.77.160, 10.77.190, 10.77.200, and 10.77.220; adding new sections to chapter 10.77 RCW; creating a new section; and providing an expiration date."

## MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Senate Bill No. 6610 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove and Carrell spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6610.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6610 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brandland, Fairley, Haugen and McCaslin  
ENGROSSED SENATE BILL NO. 6610, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6593, by Senators Gordon, Kauffman, Prentice, Oemig, Tom, Kline and Parlette

Transferring the administration of the infant and toddler early intervention program from the department of social and health services to the department of early learning.

The measure was read the second time.

## MOTION

On motion of Senator Gordon, the rules were suspended, Senate Bill No. 6593 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Gordon spoke in favor of passage of the bill.

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The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 6593.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6593 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 1; Absent, 0; Excused, 4.

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

Voting nay: Senator McDermott

Excused: Senators Brandland, Fairley, Haugen and McCaslin

SENATE BILL NO. 6593, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Murray: "Thank you Madam President. For those who might be watching and wondering what is going on on the Senate floor. This is Senator Gordon's first bill and with new members we have a little fun with them. So, congratulations Senator."

MOTION

At 12:04 p.m., on motion of Senator Eide, the Senate was recessed until 1:30 pm.

AFTERNOON SESSION

The Senate was called to order at 1:30 p.m. by President Pro Tempore.

MOTION

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

MESSAGE FROM THE HOUSE

February 12, 2010

MR. PRESIDENT

The House has passed:

SECOND ENGROSSED HOUSE BILL 1547,  
ENGROSSED SUBSTITUTE HOUSE BILL 2427,  
SECOND SUBSTITUTE HOUSE BILL 2436,  
HOUSE BILL 2694,  
ENGROSSED SUBSTITUTE HOUSE BILL 2716,  
ENGROSSED SUBSTITUTE HOUSE BILL 2777,  
SECOND SUBSTITUTE HOUSE BILL 2782.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

February 12, 2010

MR. PRESIDENT

The House has passed:

SUBSTITUTE HOUSE BILL 2402,  
SUBSTITUTE HOUSE BILL 2439,  
SUBSTITUTE HOUSE BILL 2525,  
SECOND SUBSTITUTE HOUSE BILL 2551,  
HOUSE BILL 2595,  
HOUSE BILL 2605,  
HOUSE BILL 2608,  
SECOND SUBSTITUTE HOUSE BILL 2623,  
SUBSTITUTE HOUSE BILL 2624,  
SECOND SUBSTITUTE HOUSE BILL 2742,  
ENGROSSED SUBSTITUTE HOUSE BILL 2842,  
SUBSTITUTE HOUSE BILL 2852,  
SUBSTITUTE HOUSE BILL 2930.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

February 12, 2010

MR. PRESIDENT

The House has passed:

SUBSTITUTE HOUSE BILL 2683,  
SUBSTITUTE HOUSE BILL 2721,  
SUBSTITUTE HOUSE BILL 2745,  
SUBSTITUTE HOUSE BILL 2758,  
SUBSTITUTE HOUSE BILL 2828,  
SUBSTITUTE HOUSE BILL 2863,  
SUBSTITUTE HOUSE BILL 2865,  
HOUSE BILL 2937,  
SUBSTITUTE HOUSE BILL 2939,  
HOUSE BILL 3068,  
HOUSE JOINT MEMORIAL 4025,  
HOUSE JOINT MEMORIAL 4027.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

February 12, 2010

MR. PRESIDENT

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL 2414,  
ENGROSSED SUBSTITUTE HOUSE BILL 2560.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

SECOND READING

SENATE BILL NO. 6804, by Senator Kohl-Welles

Allowing the department of social and health services to adopt rules establishing standards for the review and certification of treatment facilities under the problem and pathological gambling treatment program.

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The measure was read the second time.

## MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Senate Bill No. 6804 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and Holmquist spoke in favor of the passage of the bill.

## MOTION

On motion of Senator Marr, Senator Brown was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 6804.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6804 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

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

Absent: Senator Ranker

Excused: Senators Brandland, Brown, Haugen and McCaslin

SENATE BILL NO. 6804, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Eide, Senator Ranker was excused.

## SECOND READING

SENATE BILL NO. 6476, by Senators Stevens, Hargrove, Fraser, Swecker, Delvin, Brandland, Holmquist, Becker, Parlette, Carrell, Hewitt, Schoesler, King, Roach and Kohl-Welles

Revising provisions relating to sex crimes involving minors.

## MOTION

On motion of Senator Stevens, Substitute Senate Bill No. 6476 was substituted for Senate Bill No. 6476 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Stevens moved that the following amendment by Senators Stevens and Hargrove be adopted:

On page 31, after line 4, insert the following:

"Sec. 16. RCW 9.68A.110 and 2007 c 368 s 3 are each amended to read as follows:

(1) In a prosecution under RCW 9.68A.040, it is not a defense that the defendant was involved in activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses. Law enforcement and prosecution agencies shall not employ minors to aid in the investigation of a violation of

RCW 9.68A.090 or 9.68A.100. This chapter does not apply to lawful conduct between spouses.

(2) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or 9.68A.080, it is not a defense that the defendant did not know the age of the child depicted in the visual or printed matter(~~(--PROVIDED, That))~~. It is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense the defendant was not in possession of any facts on the basis of which he or she should reasonably have known that the person depicted was a minor.

(3) In a prosecution under RCW 9.68A.040, 9.68A.090, ~~9.68A.100~~, 9.68A.101, or 9.68A.102, it is not a defense that the defendant did not know the alleged victim's age(~~(--PROVIDED, That))~~. It is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense, the defendant made a reasonable bona fide attempt to ascertain the true age of the minor by requiring production of a driver's license, marriage license, birth certificate, or other governmental or educational identification card or paper and did not rely solely on the oral allegations or apparent age of the minor.

(4) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070, it shall be an affirmative defense that the defendant was a law enforcement officer in the process of conducting an official investigation of a sex-related crime against a minor, or that the defendant was providing individual case treatment as a recognized medical facility or as a psychiatrist or psychologist licensed under Title 18 RCW.

(5) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070, the state is not required to establish the identity of the alleged victim."

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

Senator Stevens spoke in favor of adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators Stevens and Hargrove on page 31, after line 4 to Substitute Senate Bill No. 6476.

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

## MOTION

On motion of Senator Stevens, the rules were suspended, Engrossed Substitute Senate Bill No. 6476 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Stevens and Kohl-Welles spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6476.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6476 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette,

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Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brandland, Brown, Haugen and McCaslin  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6476, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6520, by Senators Hatfield, Parlette, Hobbs, Ranker, Pridemore and Shin

Extending time to complete recommendations under RCW 36.70A.5601 conducted by the William D. Ruckelshaus Center.

#### MOTIONS

On motion of Senator Hatfield, Substitute Senate Bill No. 6520 was substituted for Senate Bill No. 6520 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hatfield, the rules were suspended, Substitute Senate Bill No. 6520 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hatfield spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6520.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6520 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Brandland, Brown, Haugen and McCaslin  
SUBSTITUTE SENATE BILL NO. 6520, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6702, by Senators Kline, McAuliffe, Gordon, McDermott, Fraser, Shin and Kohl-Welles

Providing education programs for juveniles in adult jails.

#### MOTIONS

On motion of Senator Kline, Second Substitute Senate Bill No. 6702 was substituted for Senate Bill No. 6702 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator Kline, the rules were suspended, Second Substitute Senate Bill No. 6702 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6702.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6702 and the bill passed the Senate by the following vote: Yeas, 38; Nays, 8; Absent, 0; Excused, 3.

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

Voting nay: Senators Becker, Holmquist, Honeyford, Parlette, Schoesler, Stevens, Swecker and Zarelli

Excused: Senators Brandland, Haugen and McCaslin

SECOND SUBSTITUTE SENATE BILL NO. 6702, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6561, by Senators Hargrove, McCaslin, Regala and Stevens

Restricting access to juvenile offender records.

#### MOTION

On motion of Senator Hargrove, Second Substitute Senate Bill No. 6561 was substituted for Senate Bill No. 6561 and the second substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Hargrove moved that the following amendment by Senators Hargrove and Stevens be adopted:

On page 1, after line 4, insert the following:

"**NEW SECTION. Sec. 1.** It is the legislature's intent to eventually automatically restrict access to juvenile offender records at age eighteen provided the offender meets certain requirements. The legislature recognizes that because of information technology differences in the computer systems used by the various agencies that would be involved in automatically restricting access to juvenile offender records, this goal cannot be currently accomplished without a significant fiscal impact. Nevertheless, the legislature intends that the agencies involved begin to work together to achieve the goal of automatically restricting juvenile offender records within the near future."

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

On page 7, line 38, after "company." insert "This subsection does not apply to those records maintained or disseminated under chapter 36.28A RCW."

Correct the title.

Senator Hargrove spoke in favor of adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators

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Hargrove and Stevens on page 1, after line 4 to Second Substitute Senate Bill No. 6561.

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

## MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Second Substitute Senate Bill No. 6561 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove, Stevens and Honeyford spoke in favor of passage of the bill.

## MOTION

On motion of Senator Regala, Senator Oemig was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6561.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6561 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 4; Absent, 0; Excused, 4.

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

Voting nay: Senators Benton, Carrell, Roach and Zarelli

Excused: Senators Brandland, Haugen, McCaslin and Oemig

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6561, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION TO LIMIT DEBATE

Senator Eide: "Madam President, I move that the members of the Senate be allowed to speak but once on each question before the Senate, that such speech be limited to three minutes and that members be prohibited from yielding their time, however, the maker of a motion shall be allowed to open and close debate. This motion shall be in effect through February 13, 2010."

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

The motion by Senator Eide carried and debate was limited through February 13, 2010 by voice vote.

## PERSONAL PRIVILEGE

Senator Hatfield: "Thank you Madam President. I think many of you are aware of the shooting of Washington State Patrol Trooper Scott Johnson early this morning. Some of you may have seen the press release. There's actually good news. I just wanted to share an email from Chief Batiste to Marty Brown in the Governor's Office. Very quickly, I think that will make us all feel better. The Chief said, 'I left Scott in good spirits at the hospital surrounded by his family and several of our troopers. It could

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have been very bad but fortunately for him and us the doc says he's going to be ok."

## PERSONAL PRIVILEGE

Senator Roach: "I hope I've asked for the right motion. I wanted to let the body know what a special, a very special man that Chief Batiste is because, wherever he was he went down to that hospital and on to Portland to follow his Trooper. A year and half ago very close member of my family was killed in a car accident, young man eighteen years old ran off the road and hit a tree. It was late at night. No drinking involved. He was the twice the student body president at Antioch High School. He was a wonderful, wonderful grandson. At that time, at the funeral Chief Batiste, because my son-in-law is a State Patrol Trooper, took the time to go out to Antioch High School and be there with the family. This is a man who cares about all of his troopers, all the family that the troopers become when they become members and I wanted to let you know what a special man that is, to be there for whatever emergency happens in a family of our troopers of the State of Washington."

## SECOND READING

SENATE BILL NO. 6674, by Senators Kline, McCaslin and Hargrove

Regulating indemnification agreements involving motor carrier transportation contracts.

## MOTIONS

On motion of Senator Kline, Substitute Senate Bill No. 6674 was substituted for Senate Bill No. 6674 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kline, the rules were suspended, Substitute Senate Bill No. 6674 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6674.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6674 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brandland, Haugen and McCaslin

SUBSTITUTE SENATE BILL NO. 6674, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

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SENATE BILL NO. 6678, by Senators Hobbs, Kilmer, Marr, Berkey, Tom and Shin

The President Pro Tempore declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6679.

Concerning the creation of entities to address the long-range impact of opportunities and changes in the aerospace industry.

ROLL CALL

MOTIONS

On motion of Senator Hobbs, Second Substitute Senate Bill No. 6678 was substituted for Senate Bill No. 6678 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator Hobbs, the rules were suspended, Second Substitute Senate Bill No. 6678 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6679 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brandland, Haugen and McCaslin

SECOND SUBSTITUTE SENATE BILL NO. 6679, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Hewitt, Senator Delvin was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6678.

SECOND READING

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6678 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brandland, Haugen and McCaslin

SECOND SUBSTITUTE SENATE BILL NO. 6678, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SENATE BILL NO. 6485, by Senators Marr, King, Kohl-Welles, Hewitt, Hatfield, Delvin, Hobbs and Rockefeller

Modifying craft distillery provisions.

MOTIONS

On motion of Senator Marr, Substitute Senate Bill No. 6485 was substituted for Senate Bill No. 6485 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Marr, the rules were suspended, Substitute Senate Bill No. 6485 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6485.

SECOND READING

ROLL CALL

SENATE BILL NO. 6679, by Senators Kauffman, Kastama and Shin

Concerning the small business export finance assistance center.

MOTIONS

On motion of Senator Kastama, Second Substitute Senate Bill No. 6679 was substituted for Senate Bill No. 6679 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator Kastama, the rules were suspended, Second Substitute Senate Bill No. 6679 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6485 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 3; Absent, 0; Excused, 3.

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

Voting nay: Senators Hargrove, Kauffman and Morton

Excused: Senators Brandland, Haugen and McCaslin

SUBSTITUTE SENATE BILL NO. 6485, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

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SENATE BILL NO. 6706, by Senators Murray, Delvin, Kastama, Shin, Marr, Kilmer and Kohl-Welles

## ROLL CALL

Concerning the commercialization of research at state universities.

## MOTIONS

On motion of Senator Kastama, Substitute Senate Bill No. 6706 was substituted for Senate Bill No. 6706 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kastama, the rules were suspended, Substitute Senate Bill No. 6706 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

## MOTION

On motion of Senator Eide, Senator Prentice was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6706.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6706 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Brandland, Haugen, McCaslin and Prentice

SUBSTITUTE SENATE BILL NO. 6706, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6667, by Senators Kauffman and Kastama

Concerning business assistance programs.

## MOTIONS

On motion of Senator Kauffman, Second Substitute Senate Bill No. 6667 was substituted for Senate Bill No. 6667 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator Kauffman, the rules were suspended, Second Substitute Senate Bill No. 6667 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kauffman spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6667.

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6667 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 0; Excused, 3.

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

Voting nay: Senator Holmquist

Excused: Senators Brandland, Haugen and McCaslin

SECOND SUBSTITUTE SENATE BILL NO. 6667, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6450, by Senators Eide, Kauffman and Shin

Requiring the department of licensing to establish continuing education requirements for court reporters.

The measure was read the second time.

## MOTION

On motion of Senator Eide, the rules were suspended, Senate Bill No. 6450 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Eide spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 6450.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6450 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 4; Absent, 0; Excused, 3.

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

Voting nay: Senators Hewitt, Holmquist, Honeyford and Stevens

Excused: Senators Brandland, Haugen and McCaslin

SENATE BILL NO. 6450, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6206, by Senators Haugen and Kilmer

Authorizing extensions of the due dates for filing tax incentive accountability reports and surveys with the department of revenue.

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The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, Senate Bill No. 6206 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 6206.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6206 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brandland, Haugen and McCaslin

SENATE BILL NO. 6206, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6414, by Senator Regala

Modifying sex offender registration provisions. Revised for 1st Substitute: Improving the administration and efficiency of sex and kidnapping offender registration.

MOTIONS

On motion of Senator Regala, Substitute Senate Bill No. 6414 was substituted for Senate Bill No. 6414 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Regala, the rules were suspended, Substitute Senate Bill No. 6414 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Regala and Stevens spoke in favor of the passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6414.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6414 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray,

Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brandland, Haugen and McCaslin

SUBSTITUTE SENATE BILL NO. 6414, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6504, by Senator Hargrove

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

MOTION

On motion of Senator Hargrove, Second Substitute Senate Bill No. 6504 was substituted for Senate Bill No. 6504 and the second substitute bill was placed on the second reading and read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 7.68.070 and 2009 c 38 s 1 are each amended to read as follows:

The right to benefits under this chapter and the amount thereof will be governed insofar as is applicable by the provisions contained in chapter 51.32 RCW except as provided in this section, provided that no more than fifty thousand dollars shall be paid per claim:

(1) The provisions contained in RCW 51.32.015, 51.32.030, 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not applicable to this chapter.

(2) Each victim injured as a result of a criminal act, including criminal acts committed between July 1, 1981, and January 1, 1983, or the victim's family or dependents in case of death of the victim, are entitled to benefits in accordance with this chapter, subject to the limitations under RCW 7.68.015. The rights, duties, responsibilities, limitations, and procedures applicable to a worker as contained in RCW 51.32.010 are applicable to this chapter.

(3) The limitations contained in RCW 51.32.020 are applicable to claims under this chapter. In addition thereto, no person or spouse, child, or dependent of such person is entitled to benefits under this chapter when the injury for which benefits are sought, was:

(a) The result of consent, provocation, or incitement by the victim, unless an injury resulting from a criminal act caused the death of the victim;

(b) Sustained while the crime victim was engaged in the attempt to commit, or the commission of, a felony; or

(c) Sustained while the victim was confined in any county or city jail, federal jail or prison or in any other federal institution, or any state correctional institution maintained and operated by the department of social and health services or the department of corrections, prior to release from lawful custody; or confined or living in any other institution maintained and operated by the department of social and health services or the department of corrections.

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(4) The benefits established upon the death of a worker and contained in RCW 51.32.050 shall be the benefits obtainable under this chapter and provisions relating to payment contained in that section shall equally apply under this chapter(~~(=PROVIDED)~~), except that benefits for burial expenses shall not exceed ((the amount paid by the department in case of the death of a worker as provided in chapter 51.32 RCW in any claim: PROVIDED FURTHER, That if the criminal act results in the death of a victim who was not gainfully employed at the time of the criminal act, and who was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act;

~~—(a) Benefits payable to an eligible surviving spouse, where there are no children of the victim at the time of the criminal act who have survived the victim or where such spouse has legal custody of all of his or her children, shall be limited to burial expenses and a lump sum payment of seven thousand five hundred dollars without reference to number of children, if any;~~

~~—(b) Where any such spouse has legal custody of one or more but not all of such children, then such burial expenses shall be paid, and such spouse shall receive a lump sum payment of three thousand seven hundred fifty dollars and any such child or children not in the legal custody of such spouse shall receive a lump sum of three thousand seven hundred fifty dollars to be divided equally among such child or children;~~

~~—(c) If any such spouse does not have legal custody of any of the children, the burial expenses shall be paid and the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars and any such child or children not in the legal custody of the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars to be divided equally among the child or children;~~

~~—(d) If no such spouse survives, then such burial expenses shall be paid, and each surviving child of the victim at the time of the criminal act shall receive a lump sum payment of three thousand seven hundred fifty dollars up to a total of two such children and where there are more than two such children the sum of seven thousand five hundred dollars shall be divided equally among such children.~~

~~—No other benefits may be paid or payable under these circumstances)) six thousand five hundred dollars per claim.~~

(5) The benefits established in RCW 51.32.060 for permanent total disability proximately caused by the criminal act shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter(~~(=PROVIDED)~~), except that if a victim becomes permanently and totally disabled as a proximate result of the criminal act ((and was not gainfully employed at the time of the criminal act)), the victim shall receive monthly during the period of the disability the following percentages, where applicable, of the average monthly wage determined as of the date of the criminal act pursuant to RCW 51.08.018:

(a) If married at the time of the criminal act, twenty-nine percent of the average monthly wage.

(b) If married with one child at the time of the criminal act, thirty-four percent of the average monthly wage.

(c) If married with two children at the time of the criminal act, thirty-eight percent of the average monthly wage.

(d) If married with three children at the time of the criminal act, forty-one percent of the average monthly wage.

(e) If married with four children at the time of the criminal act, forty-four percent of the average monthly wage.

(f) If married with five or more children at the time of the criminal act, forty-seven percent of the average monthly wage.

(g) If unmarried at the time of the criminal act, twenty-five percent of the average monthly wage.

(h) If unmarried with one child at the time of the criminal act, thirty percent of the average monthly wage.

(i) If unmarried with two children at the time of the criminal act, thirty-four percent of the average monthly wage.

(j) If unmarried with three children at the time of the criminal act, thirty-seven percent of the average monthly wage.

(k) If unmarried with four children at the time of the criminal act, forty percent of the average monthly wage.

(l) If unmarried with five or more children at the time of the criminal act, forty-three percent of the average monthly wage.

(6) The benefits established in RCW 51.32.080 for permanent partial disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section equally apply under this chapter, but shall not exceed seven thousand dollars per claim.

(7) The benefits established in RCW 51.32.090 for temporary total disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter(~~(=PROVIDED)~~), except that no person is eligible for temporary total disability benefits under this chapter if such person was not gainfully employed at the time of the criminal act ((and was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act)).

(8) The benefits established in RCW 51.32.095 for continuation of benefits during vocational rehabilitation shall be benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter(~~(=PROVIDED)~~), except that benefits shall not exceed five thousand dollars for any single injury.

(9) The provisions for lump sum payment of benefits upon death or permanent total disability as contained in RCW 51.32.130 apply under this chapter.

(10) The provisions relating to payment of benefits to, for or on behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100, 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and 51.32.210 are applicable to payment of benefits to, for or on behalf of victims under this chapter.

(11) No person or spouse, child, or dependent of such person is entitled to benefits under this chapter where the person making a claim for such benefits has refused to give reasonable cooperation to state or local law enforcement agencies in their efforts to apprehend and convict the perpetrator(s) of the criminal act which gave rise to the claim.

(12) In addition to other benefits provided under this chapter, victims of sexual assault are entitled to receive appropriate counseling. Fees for such counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080. Counseling services may include, if determined appropriate by the department, counseling of members of the victim's immediate family, other than the perpetrator of the assault.

(13) ((Except for medical benefits authorized under RCW 7.68.080, no more than thirty thousand dollars shall be granted as a result of a single injury or death, except that benefits granted as the result of total permanent disability or death shall not exceed forty thousand dollars.

(14)) Notwithstanding other provisions of this chapter and Title 51 RCW, benefits payable for total temporary disability under subsection (7) of this section, shall be limited to fifteen thousand dollars.

((~~(15))~~) (14) Any person who is responsible for the victim's injuries, or who would otherwise be unjustly enriched as a result of the victim's injuries, shall not be a beneficiary under this chapter.

((~~(16))~~) (15) Crime victims' compensation is not available to pay for services covered under chapter 74.09 RCW or Title XIX of

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the federal social security act, except to the extent that the costs for such services exceed service limits established by the department of social and health services or, during the 1993-95 fiscal biennium, to the extent necessary to provide matching funds for federal medicaid reimbursement.

~~((17))~~ (16) In addition to other benefits provided under this chapter, immediate family members of a homicide victim may receive appropriate counseling to assist in dealing with the immediate, near-term consequences of the related effects of the homicide. Fees for counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080. Payment of counseling benefits under this section may not be provided to the perpetrator of the homicide. The benefits under this subsection may be provided only with respect to homicides committed on or after July 1, 1992.

~~((18))~~ (17) A dependent mother, father, stepmother, or stepfather, as defined in RCW 51.08.050, who is a survivor of her or his child's homicide, who has been requested by a law enforcement agency or a prosecutor to assist in the judicial proceedings related to the death of the victim, and who is not domiciled in Washington state at the time of the request, may receive a lump-sum payment upon arrival in this state. Total benefits under this subsection may not exceed seven thousand five hundred dollars. If more than one dependent parent is eligible for this benefit, the lump-sum payment of seven thousand five hundred dollars shall be divided equally among the dependent parents.

~~((19))~~ (18) A victim whose crime occurred in another state who qualifies for benefits under RCW 7.68.060(4) may receive appropriate mental health counseling to address distress arising from participation in the civil commitment proceedings. Fees for counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080.

(19) A victim who has been convicted of a felony within five years preceding the criminal act for which they are applying which is a violent offense under RCW 9.94A.030 or a crime against persons under RCW 9.94A.411, or who is convicted of such a felony after applying, is not eligible for benefits under this act.

**Sec. 2.** RCW 7.68.085 and 2009 c 479 s 9 are each amended to read as follows:

(1) This section has no force or effect from the effective date of this section until July 1, 2013.

(2) The director of labor and industries shall institute a cap on medical benefits of one hundred fifty thousand dollars per injury or death. Payment for medical services in excess of the cap shall be made available to any innocent victim under the same conditions as other medical services and if the medical services are:

~~((a))~~ (a) Necessary for a previously accepted condition;

~~((b))~~ (b) Necessary to protect the victim's life or prevent deterioration of the victim's previously accepted condition; and

~~((c))~~ (c) Not available from an alternative source.

For the purposes of this section, an individual will not be required to use his or her assets other than funds recovered as a result of a civil action or criminal restitution, for medical expenses or pain and suffering, in order to qualify for an alternative source of payment.

The director shall, in cooperation with the department of social and health services, establish by October 1, 1989, a process to aid crime victims in identifying and applying for appropriate alternative benefit programs, if any, administered by the department of social and health services.

**NEW SECTION. Sec. 3.** A new section is added to chapter 7.68 RCW to read as follows:

The crime victims' compensation account is created in the custody of the state treasurer. Expenditures from the account may be used only for the crime victims' compensation program under this

chapter. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**Sec. 4.** RCW 9A.82.110 and 2009 c 479 s 11 are each amended to read as follows:

(1) In an action brought by the attorney general on behalf of the state under RCW 9A.82.100(1)(b)(i) in which the state prevails, any payments ordered in excess of the actual damages sustained shall be deposited in the ~~((state general fund))~~ crime victims' compensation account provided in section 3 of this act.

(2)(a) The county legislative authority may establish an antiprofitereing revolving fund to be administered by the county prosecuting attorney under the conditions and for the purposes provided by this subsection. Disbursements from the fund shall be on authorization of the county prosecuting attorney. No appropriation is required for disbursements.

(b) Any prosecution and investigation costs, including attorney's fees, recovered for the state by the county prosecuting attorney as a result of enforcement of civil and criminal statutes pertaining to any offense included in the definition of criminal profiteering, whether by final judgment, settlement, or otherwise, shall be deposited, as directed by a court of competent jurisdiction, in the fund established by this subsection. In an action brought by a prosecuting attorney on behalf of the county under RCW 9A.82.100(1)(b)(i) in which the county prevails, any payments ordered in excess of the actual damages sustained shall be deposited in the ~~((state general fund))~~ crime victims' compensation account provided in section 3 of this act.

(c) The county legislative authority may prescribe a maximum level of moneys in the antiprofitereing revolving fund. Moneys exceeding the prescribed maximum shall be transferred to the county current expense fund.

(d) The moneys in the fund shall be used by the county prosecuting attorney for the investigation and prosecution of any offense, within the jurisdiction of the county prosecuting attorney, included in the definition of criminal profiteering, including civil enforcement.

(e) If a county has not established an antiprofitereing revolving fund, any payments or forfeitures ordered to the county under this chapter shall be deposited to the county current expense fund.

**Sec. 5.** RCW 72.09.111 and 2009 c 479 s 60 are each amended to read as follows:

(1) The secretary shall deduct taxes and legal financial obligations from the gross wages, gratuities, or workers' compensation benefits payable directly to the inmate under chapter 51.32 RCW, of each inmate working in correctional industries work programs, or otherwise receiving such wages, gratuities, or benefits. The secretary shall also deduct child support payments from the gratuities of each inmate working in class II through class IV correctional industries work programs. The secretary shall develop a formula for the distribution of offender wages, gratuities, and benefits. The formula shall not reduce the inmate account below the indigency level, as defined in RCW 72.09.015.

(a) The formula shall include the following minimum deductions from class I gross wages and from all others earning at least minimum wage:

(i) Five percent to the ~~((state general fund))~~ crime victims' compensation account provided in section 3 of this act;

(ii) Ten percent to a department personal inmate savings account;

(iii) Twenty percent to the department to contribute to the cost of incarceration; and

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(iv) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court.

(b) The formula shall include the following minimum deductions from class II gross gratuities:

(i) Five percent to the ~~((state general fund))~~ crime victims' compensation account provided in section 3 of this act;

(ii) Ten percent to a department personal inmate savings account;

(iii) Fifteen percent to the department to contribute to the cost of incarceration;

(iv) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court; and

(v) Fifteen percent for any child support owed under a support order.

(c) The formula shall include the following minimum deductions from any workers' compensation benefits paid pursuant to RCW 51.32.080:

(i) Five percent to the ~~((state general fund))~~ crime victims' compensation account provided in section 3 of this act;

(ii) Ten percent to a department personal inmate savings account;

(iii) Twenty percent to the department to contribute to the cost of incarceration; and

(iv) An amount equal to any legal financial obligations owed by the inmate established by an order of any Washington state superior court up to the total amount of the award.

(d) The formula shall include the following minimum deductions from class III gratuities:

(i) Five percent for the ~~((state general fund))~~ crime victims' compensation account provided in section 3 of this act; and

(ii) Fifteen percent for any child support owed under a support order.

(e) The formula shall include the following minimum deduction from class IV gross gratuities:

(i) Five percent to the department to contribute to the cost of incarceration; and

(ii) Fifteen percent for any child support owed under a support order.

(2) Any person sentenced to life imprisonment without possibility of release or parole under chapter 10.95 RCW or sentenced to death shall be exempt from the requirement under subsection (1)(a)(ii), (b)(ii), or (c)(ii).

(3)(a) The department personal inmate savings account, together with any accrued interest, shall only be available to an inmate at the following times:

(i) The time of his or her release from confinement;

(ii) Prior to his or her release from confinement in order to secure approved housing; or

(iii) When the secretary determines that an emergency exists for the inmate.

(b) If funds are made available pursuant to (a)(ii) or (iii) of this subsection, the funds shall be made available to the inmate in an amount determined by the secretary.

(c) The management of classes I, II, and IV correctional industries may establish an incentive payment for offender workers based on productivity criteria. This incentive shall be paid separately from the hourly wage/gratuity rate and shall not be subject to the specified deduction for cost of incarceration.

(4)(a) Subject to availability of funds for the correctional industries program, the expansion of inmate employment in class I and class II correctional industries shall be implemented according to the following schedule:

(i) Not later than June 30, 2005, the secretary shall achieve a net increase of at least two hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(ii) Not later than June 30, 2006, the secretary shall achieve a net increase of at least four hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(iii) Not later than June 30, 2007, the secretary shall achieve a net increase of at least six hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(iv) Not later than June 30, 2008, the secretary shall achieve a net increase of at least nine hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(v) Not later than June 30, 2009, the secretary shall achieve a net increase of at least one thousand two hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(vi) Not later than June 30, 2010, the secretary shall achieve a net increase of at least one thousand five hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003.

(b) Failure to comply with the schedule in this subsection does not create a private right of action.

(5) In the event that the offender worker's wages, gratuity, or workers' compensation benefit is subject to garnishment for support enforcement, the ~~((state general fund))~~ crime victims' compensation account, savings, and cost of incarceration deductions shall be calculated on the net wages after taxes, legal financial obligations, and garnishment.

(6) The department shall explore other methods of recovering a portion of the cost of the inmate's incarceration and for encouraging participation in work programs, including development of incentive programs that offer inmates benefits and amenities paid for only from wages earned while working in a correctional industries work program.

(7) The department shall develop the necessary administrative structure to recover inmates' wages and keep records of the amount inmates pay for the costs of incarceration and amenities. All funds deducted from inmate wages under subsection (1) of this section for the purpose of contributions to the cost of incarceration shall be deposited in a dedicated fund with the department and shall be used only for the purpose of enhancing and maintaining correctional industries work programs.

(8) It shall be in the discretion of the secretary to apportion the inmates between class I and class II depending on available contracts and resources.

(9) Nothing in this section shall limit the authority of the department of social and health services division of child support from taking collection action against an inmate's moneys, assets, or property pursuant to chapter 26.23, 74.20, or 74.20A RCW.

**Sec. 6.** RCW 72.09.480 and 2009 c 479 s 61 are each amended to read as follows:

(1) Unless the context clearly requires otherwise, the definitions in this section apply to this section.

(a) "Cost of incarceration" means the cost of providing an inmate with shelter, food, clothing, transportation, supervision, and other services and supplies as may be necessary for the maintenance and support of the inmate while in the custody of the department, based on the average per inmate costs established by the department and the office of financial management.

(b) "Minimum term of confinement" means the minimum amount of time an inmate will be confined in the custody of the

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department, considering the sentence imposed and adjusted for the total potential earned early release time available to the inmate.

(c) "Program" means any series of courses or classes necessary to achieve a proficiency standard, certificate, or postsecondary degree.

(2) When an inmate, except as provided in subsections (4) and (8) of this section, receives any funds in addition to his or her wages or gratuities, except settlements or awards resulting from legal action, the additional funds shall be subject to the following deductions and the priorities established in chapter 72.11 RCW:

(a) Five percent to the ~~((state general fund))~~ crime victims' compensation account provided in section 3 of this act;

(b) Ten percent to a department personal inmate savings account;

(c) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court;

(d) Twenty percent for any child support owed under a support order; and

(e) Twenty percent to the department to contribute to the cost of incarceration.

(3) When an inmate, except as provided in subsection (8) of this section, receives any funds from a settlement or award resulting from a legal action, the additional funds shall be subject to the deductions in RCW 72.09.111(1)(a) and the priorities established in chapter 72.11 RCW.

(4) When an inmate who is subject to a child support order receives funds from an inheritance, the deduction required under subsection (2)(e) of this section shall only apply after the child support obligation has been paid in full.

(5) The amount deducted from an inmate's funds under subsection (2) of this section shall not exceed the department's total cost of incarceration for the inmate incurred during the inmate's minimum or actual term of confinement, whichever is longer.

(6)(a) The deductions required under subsection (2) of this section shall not apply to funds received by the department from an offender or from a third party on behalf of an offender for payment of education or vocational programs or postsecondary education degree programs as provided in RCW 72.09.460 and 72.09.465.

(b) The deductions required under subsection (2) of this section shall not apply to funds received by the department from a third party, including but not limited to a nonprofit entity on behalf of the department's education, vocation, or postsecondary education degree programs.

(7) The deductions required under subsection (2) of this section shall not apply to any money received by the department, on behalf of an inmate, from family or other outside sources for the payment of postage expenses. Money received under this subsection may only be used for the payment of postage expenses and may not be transferred to any other account or purpose. Money that remains unused in the inmate's postage fund at the time of release shall be subject to the deductions outlined in subsection (2) of this section.

(8) When an inmate sentenced to life imprisonment without possibility of release or sentenced to death under chapter 10.95 RCW receives funds, deductions are required under subsection (2) of this section, with the exception of a personal inmate savings account under subsection (2)(b) of this section.

(9) The secretary of the department of corrections, or his or her designee, may exempt an inmate from a personal inmate savings account under subsection (2)(b) of this section if the inmate's earliest release date is beyond the inmate's life expectancy.

(10) The interest earned on an inmate savings account created as a result of the plan in section 4, chapter 325, Laws of 1999 shall be exempt from the mandatory deductions under this section and RCW 72.09.111.

(11) Nothing in this section shall limit the authority of the department of social and health services division of child support, the county clerk, or a restitution recipient from taking collection action against an inmate's moneys, assets, or property pursuant to chapter 9.94A, 26.23, 74.20, or 74.20A RCW including, but not limited to, the collection of moneys received by the inmate from settlements or awards resulting from legal action.

NEW SECTION. Sec. 7. Sections 1 and 2 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect April 1, 2010, for all claims of victims of criminal acts occurring after July 1, 1981.

NEW SECTION. Sec. 8. Sections 1 and 2 of this act expire July 1, 2013."

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

Senators Zarelli and Parlette spoke against adoption of the striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senator Hargrove and others to Second Substitute Senate Bill No. 6504.

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

#### MOTION

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

On page 1, line 1 of the title, after "program;" strike the remainder of the title and insert "amending RCW 7.68.070, 7.68.085, 9A.82.110, 72.09.111, and 72.09.480; adding a new section to chapter 7.68 RCW; providing an effective date; providing an expiration date; and declaring an emergency."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Second Substitute Senate Bill No. 6504 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6504.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6504 and the bill passed the Senate by the following vote: Yeas, 31; Nays, 15; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Jacobsen, Kastama, Keiser, King, Kline, Kohl-Welles, McAuliffe, McDermott, Murray, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Shin, Stevens, Swecker and Tom

Voting nay: Senators Becker, Hewitt, Hobbs, Holmquist, Honeyford, Kauffman, Kilmer, Marr, Morton, Oemig, Parlette, Pflug, Schoesler, Sheldon and Zarelli

Excused: Senators Brandland, Haugen and McCaslin

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6504, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6832, by Senator Hargrove

Concerning child welfare services.

## MOTIONS

On motion of Senator Hargrove, Substitute Senate Bill No. 6832 was substituted for Senate Bill No. 6832 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hargrove, the rules were suspended, Substitute Senate Bill No. 6832 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6832.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6832 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brandland, Haugen and McCaslin

SUBSTITUTE SENATE BILL NO. 6832, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 3:27 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 3:53 p.m. by the President Pro Tempore.

## SECOND READING

SENATE BILL NO. 6721, by Senators Schoesler, Hobbs and Honeyford

Concerning tax statute clarifications and technical corrections.

## MOTIONS

On motion of Senator Schoesler, Substitute Senate Bill No. 6721 was substituted for Senate Bill No. 6721 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Schoesler, the rules were suspended, Substitute Senate Bill No. 6721 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Schoesler spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6721.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6721 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brandland, Haugen and McCaslin

SUBSTITUTE SENATE BILL NO. 6721, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6329, by Senators Kohl-Welles, King, Franklin, Hewitt, Keiser, Kline and Delvin

Creating a beer and wine tasting endorsement to the grocery store liquor license.

## MOTIONS

On motion of Senator Kohl-Welles, Substitute Senate Bill No. 6329 was substituted for Senate Bill No. 6329 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kohl-Welles, the rules were suspended, Substitute Senate Bill No. 6329 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles, King and Honeyford spoke in favor of the passage of the bill.

Senators Hargrove, Parlette, Swecker and Roach spoke against passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6329.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6329 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 17; Absent, 0; Excused, 3.

Voting yea: Senators Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Hatfield, Hewitt, Hobbs, Honeyford, Jacobsen, Keiser, Kilmer, King, Kline, Kohl-Welles, McAuliffe, McDermott, Morton, Murray, Pflug, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Tom and Zarelli

Voting nay: Senators Becker, Benton, Fraser, Gordon, Hargrove, Holmquist, Kastama, Kauffman, Marr, Oemig, Parlette, Prentice, Pridemore, Roach, Shin, Stevens and Swecker

Excused: Senators Brandland, Haugen and McCaslin

SUBSTITUTE SENATE BILL NO. 6329, having received the constitutional majority, was declared passed. There being no

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objection, the title of the bill was ordered to stand as the title of the act.

STATEMENT FOR THE JOURNAL

On February 13, 2010, given the enormous volume of bills, amendments, and motions before the Senate, I inadvertently voted "yes" on the final passage of Substitute Senate Bill 6329, which would allow samples of wine and beer to be given out at grocery stores. I have long been against making alcohol available in such situations where families and children are commonly found. I regret this mistake, and should have voted "no" against this measure.

SENATOR BOB MORTON, 7th LEGISLATIVE DISTRICT

SECOND READING

SENATE BILL NO. 6508, by Senators Fairley, Prentice, Pridemore, Kline, Rockefeller, Ranker, Tom, McDermott, Gordon and Keiser

Changing the class of persons entitled to recoveries under a wrongful death action or survival action.

MOTION

On motion of Senator Gordon, Substitute Senate Bill No. 6508 was substituted for Senate Bill No. 6508 and the substitute bill was placed on the second reading and read the second time.

WITHDRAWAL OF AMENDMENT

On motion of Senator Hargrove and without objection, the amendment by Senators Brandland and Hargrove on page 2, after line 21 and the amendment by Senators Haugen, Hargrove, Shin, Sheldon and Berkey on page 2, line 20 to Substitute Senate Bill No. 6508 were withdrawn

MOTION

Senator Gordon moved that the following striking amendment by Senator Gordon be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 4.20.020 and 2007 c 156 s 29 are each amended to read as follows:

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

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

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

In every such action the jury may ~~((give such))~~ award economic and noneconomic damages as ~~((;))~~ under all circumstances of the case ~~((;))~~ may to them seem just.

(2) For the purposes of this section:

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

(b) "Significant involvement" means demonstrated support of an emotional, psychological, or financial nature within the relationship, at or reasonably near the time of death, or at or reasonably near the time of the incident causing death.

Sec. 2. RCW 4.20.046 and 2008 c 6 s 409 are each amended to read as follows:

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

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

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

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

Sec. 3. RCW 4.20.060 and 2007 c 156 s 30 are each amended to read as follows:

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

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

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

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

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

(4) For the purposes of this section:

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

(b) "Significant involvement" means demonstrated support of an emotional, psychological, or financial nature within the relationship, at or reasonably near the time of death, or at or reasonably near the time of the incident causing death.

**Sec. 4.** RCW 4.24.010 and 1998 c 237 s 2 are each amended to read as follows:

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

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

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

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

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

(5) For the purposes of this section:

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

(b) "Significant involvement" means demonstrated support of an emotional, psychological, or financial nature within the relationship, at or reasonably near the time of death, or at or reasonably near the time of the incident causing death.

NEW SECTION. Sec. 5. This act applies to all causes of action filed on or after the effective date of this act.

NEW SECTION. Sec. 6. (1) On December 1, 2010, and every December 1st thereafter, the risk management division within the office of financial management shall report to the house appropriations committee, the house state government and tribal affairs committee, the senate ways and means committee, and the senate government operations and elections committee, or successor committees, on the incidents covered by this act that involve state agencies.

(2) On December 1, 2010, and every December 1st thereafter, each local government risk pool or local government risk management division, or the equivalent in local governments, shall report to the legislative body of the local government on the incidents covered by this act that involve the local Government.

(3) This section expires December 2, 2015.

NEW SECTION. Sec. 7. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

On page 1, line 3 of the title, after "sections;" insert "adding a severability clause;"

#### MOTION

Senator Berkey moved that the following amendment by Senators Berkey and Shin to the striking amendment be adopted:

On page 2, line 9, "death" insert "of an adult child under the age of twenty-six"

On Page 2, line 8, after "or at" strike "or reasonably near"

On page 4, line 23, after "death", insert "of an adult child under the age of twenty-six"

On page 4, line 22, after "or at", strike "or reasonably near"

Renumber the sections consecutively and correct any internal references accordingly.

Senators Berkey and Carrell spoke in favor of adoption of the amendment to the striking amendment.

#### MOTION

Senator Berkey moved that the following oral amendment to the amendment by Senators Berkey and Shin be adopted:

On line 9 of the amendment, after "or at", strike "insert" and insert "strike"

The President Pro Tempore declared the question before the Senate to be the oral amendment by Senators Berkey and Shin.

The oral amendment by Senator Berkey was adopted by a voice vote.

Senator Gordon spoke against adoption of the amendment to the striking amendment.

Senator Hargrove spoke in favor of adoption of the amendment to the striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators Berkey and Shin on page 2, line 9 to the striking amendment to Substitute Senate Bill No. 6508.

The motion by Senator Berkey carried and the amendment to the striking amendment was adopted by a rising vote.

#### POINT OF ORDER

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Senator Brown: "If there are three members excused why were there forty-seven votes? The counting must obviously have not been correct because there are only forty-six members on the floor of the senate. Madam President, I demand a roll call vote."

#### MOTION FOR IMMEDIATE RECONSIDERATION

Having voted on the prevailing side, Senator Hargrove moved to immediately reconsider the vote by which the amendment by Senators Berkey and Shin on page 2, line 9, as amended, to the striking amendment to Substitute Senate Bill No. 6508 was adopted.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Hargrove to immediately reconsider the vote by which the amendment by Senators Berkey and Shin on page 2, line 9, as amended, to the striking amendment to Substitute Senate Bill No. 6508 was adopted.

The motion by Senator Hargrove carried and the Senate immediately reconsidered the vote by which the amendment by Senators Berkey and Shin on page 2, line 9, as amended, was adopted.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators Berkey and Shin on page 2, line 9, as amended, to the striking amendment to Substitute Senate Bill No. 6508 on reconsideration.

The motion by Senator Berkey failed and the amendment by Senators Berkey and Shin, as amended, to the striking amendment was not adopted by a rising vote on reconsideration.

#### MOTION

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

On page 2, after line 9, insert the following:

"(4) In any action under subsection (1)(a) of this section against the state or a political subdivision thereof that is based on a parent's significant involvement in an adult child's life, the liability of the state or political subdivision shall be several and not joint."

On page 4, after line 23, insert the following:

"(5) In any action under subsection (1)(a) of this section against the state or a political subdivision thereof that is based on a parent's significant involvement in an adult child's life, the liability of the state or political subdivision shall be several and not joint."

On page 5, after line 32, insert the following:

"(6) In any action under subsection (1) of this section against the state or a political subdivision thereof that is based on a parent's significant involvement in an adult child's life, the liability of the state or political subdivision shall be several and not joint."

On page 6, beginning on line 1, insert the following:

"Sec. 5. RCW 4.22.030 and 1986 c 305 s 402 are each amended to read as follows:

Except as otherwise provided in RCW 4.22.070, 4.20.020, 4.20.060, and 4.24.010, if more than one person is liable to a claimant on an indivisible claim for the same injury, death or harm, the liability of such person shall be joint and several."

Renumber the sections consecutively and correct any internal references accordingly.

Renumber the sections consecutively and correct any internal references accordingly.

Correct the title.

Senators Hargrove and Carrell spoke in favor of adoption of the amendment to the striking amendment.

#### POINT OF INQUIRY

Senator Swecker: "Would Senator Hargrove yield to a question? Senator, I'm always nervous when we start granting exemptions for public entities that don't also accrue to private entities. So, my question is; if there were two private entities involved would they be subject to 'joint and several' or would it just be when there's a public entity involved?"

Senator Hargrove: "For this particular amendment no, it just deals with public entities. If you don't like the expansion for privates, you should vote against the bill and not against this amendment."

Senators Kline and Gordon spoke against adoption of the amendment to the striking amendment.

Senator Fraser spoke in favor of adoption of the amendment to the striking amendment.

#### POINT OF INQUIRY

Senator Pflug: "Would Senator Kline yield to a question? Senator, from your remarks earlier it sounded to me like you were talking about two tiers so the previous speaker suggested that sometimes the municipalities are held liable and I thought from your remarks you were suggesting that were exempting the municipalities and the state here from something for which an individual citizen might be held liable. Is that correct? For example, if it is my driveway that has the water on it and the person slips out into the street, or maybe I should say my eighty year old mother's driveway and is hit by a car, is the owner of the driveway not exempted where the state would have been?"

Senator Kline: "The question is whether the party committed an act of negligence that makes it liable at all. Without referring to people in a way that makes them sympathetic nor on the other side, unsympathetic. Simply saying the party a wrong doer or not, contributing to the injury of another person, person who is innocent of all wrong doing. So, we have one person who's injured zero percent negligent, we have two other parties some percent negligent each that adds up to one hundred percent who injured the first person. In both cases we have a person who deserves one hundred percent return. Deserves to be made whole, that's all, not to make money but to simply to be compensated. In the first situation we have less than one hundred percent compensation and the second we have one hundred percent compensation. There's a difference, that difference makes no sense."

Senator Pflug: "I'm not entirely clear. Is there any difference between the private individual's liability or the public individual's liability in this situation?"

Senator Kline: "Yes, there is. The private person is several, is jointly liable, that is, is liable for the unpaid part of the other. The public entity is not. It is severally only. Its liable only for its share. Now, that may sound just but remember when your limiting the injured person who is innocent, it's not just."

Senator Plug: "So, to be clear, if the amendment passes what you consider an unjust situation in which a private citizen might be responsible for the injury but the municipality would not be if this amendment is passed. That's what creates the two tiers."

Senator Kline: "Responsible over its percentage share, that's the difference, yes."

Senator Pflug spoke against adoption of the amendment.

MOTION

Senator Hargrove demanded that the previous question be put.

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

The President Pro Tempore declared the question before the Senate to be the motion by Senator Hargrove, "Shall the main question be now put?"

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

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator Hargrove on page 2, after line 9 to the striking amendment to Substitute Senate Bill No. 6508.

MOTION

Senator Schoesler demanded a roll call.

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

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Hargrove to the striking amendment and the amendment was not adopted by the following vote: Yeas, 23; Nays, 23; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Carrell, Delvin, Fraser, Hargrove, Hatfield, Hewitt, Holmquist, Honeyford, Kastama, King, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

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

Excused: Senators Brandland, Haugen and McCaslin

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senator Gordon to Substitute Senate Bill No. 6508.

Senator Gordon spoke in favor of the striking amendment.

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

MOTION

Senator Gordon moved that the rules be suspended and Engrossed Substitute Senate Bill No. 6508 be advanced to third reading, the second reading considered the third and the bill be placed on final passage.

Senator Schoesler objected to the suspension of the rules to allow the bill to advance to third reading and final passage.

MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute Senate Bill No. 6508 was deferred and the bill held its place on the calendar.

MOTION

At 5:07 p.m., on motion of Senator Eide, the Senate adjourned until 9:30 a.m. Monday, February 15, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**THIRTY SIXTH DAY**

**MORNING SESSION**

Senate Chamber, Olympia, Monday, February 15, 2010

The Senate was called to order at 9:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Brown Carrell, Fairley, Holmquist, Kilmer, McCaslin and Prentice.

The Sergeant at Arms Color Guard consisting of Pages Bailey Weatherby and Conner Tripp, presented the Colors. Pastor Leon Meyer of Calvary Baptist Church offered the prayer.

**MOTION**

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

**MOTION**

On motion of Senator Fairley, the Senate advanced to the fourth order of business.

**MESSAGE FROM THE HOUSE**

February 13, 2010

MR. PRESIDENT

The House has passed:

- SECOND SUBSTITUTE HOUSE BILL 1162,
- HOUSE BILL 2621,
- SECOND SUBSTITUTE HOUSE BILL 2731,
- SECOND SUBSTITUTE HOUSE BILL 2854.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

**MESSAGE FROM THE HOUSE**

February 13, 2010

MR. PRESIDENT

The House has passed:

- SECOND SUBSTITUTE HOUSE BILL 1591,
- HOUSE BILL 1697,
- SUBSTITUTE HOUSE BILL 2138,
- SUBSTITUTE HOUSE BILL 2397,
- SUBSTITUTE HOUSE BILL 2580,
- SUBSTITUTE HOUSE BILL 2680,
- SUBSTITUTE HOUSE BILL 2688,
- HOUSE BILL 2750,
- SUBSTITUTE HOUSE BILL 2933,
- HOUSE BILL 2984,
- HOUSE BILL 2987,
- HOUSE BILL 3030.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

**MESSAGE FROM THE HOUSE**

February 13, 2010

MR. PRESIDENT

The House has passed:

- HOUSE BILL 1757,
  - SUBSTITUTE HOUSE BILL 1949,
  - SUBSTITUTE HOUSE BILL 2420,
  - SECOND SUBSTITUTE HOUSE BILL 2481,
  - HOUSE BILL 2676,
  - HOUSE BILL 2677,
  - SUBSTITUTE HOUSE BILL 2739,
  - HOUSE BILL 2751,
  - HOUSE BILL 2877,
  - ENGROSSED SUBSTITUTE HOUSE BILL 2913,
  - ENGROSSED SECOND SUBSTITUTE HOUSE BILL 3026,
  - SUBSTITUTE HOUSE BILL 3124.
- and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

**MESSAGE FROM THE HOUSE**

February 13, 2010

MR. PRESIDENT

The House has passed:

- SECOND SUBSTITUTE HOUSE BILL 2396,
- SUBSTITUTE HOUSE BILL 2487,
- HOUSE BILL 2492,
- SUBSTITUTE HOUSE BILL 2503,
- SUBSTITUTE HOUSE BILL 2566,
- SUBSTITUTE HOUSE BILL 2585,
- HOUSE BILL 2659,
- SUBSTITUTE HOUSE BILL 2678,
- HOUSE BILL 2735,
- HOUSE BILL 2898,
- HOUSE BILL 3007,
- SUBSTITUTE HOUSE BILL 3060,
- HOUSE JOINT MEMORIAL 4024.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

**MESSAGE FROM THE HOUSE**

February 13, 2010

MR. PRESIDENT

The House has passed:

- SECOND SUBSTITUTE HOUSE BILL 2670,
- SUBSTITUTE HOUSE BILL 2776,
- SUBSTITUTE HOUSE BILL 2893.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

**MOTION**

On motion of Senator Eide, the Senate advanced to the fifth order of business.

**INTRODUCTION AND FIRST READING**

SB 6857 by Senator Jacobsen

THIRTY SIXTH DAY, FEBRUARY 15, 2010

AN ACT Relating to establishing the student financial assistance board by eliminating the higher education coordinating board and transferring its functions to various entities; amending RCW 28B.76.010, 28B.76.020, 28B.76.030, 28B.76.090, 28B.76.110, 28B.76.505, 28B.76.525, 28B.76.560, 28B.76.565, 28B.76.570, 28B.76.575, 28B.76.605, 28B.76.610, 28B.76.615, 28B.76.620, 28B.76.645, 28B.76.660, 28B.76.670, 28B.76.690, 28A.600.120, 28A.600.130, 28A.600.140, 28A.600.150, 28A.230.125, 28A.600.285, 28A.630.400, 28A.650.015, 28B.04.080, 28B.07.020, 28B.07.030, 28B.10.786, 28B.10.790, 28B.10.792, 28B.10.840, 28B.12.030, 28B.12.040, 28B.12.050, 28B.12.055, 28B.12.060, 28B.12.070, 28B.15.012, 28B.15.013, 28B.15.015, 28B.15.100, 28B.15.543, 28B.15.732, 28B.15.736, 28B.15.752, 28B.15.760, 28B.15.762, 28B.50.272, 28B.92.020, 28B.95.020, 28B.95.025, 28B.95.040, 28B.95.060, 28B.95.160, 28B.97.020, 28B.101.010, 28B.101.030, 28B.101.040, 28B.101.050, 28B.102.020, 28B.102.030, 28B.105.020, 28B.106.010, 28B.108.010, 28B.108.020, 28B.108.030, 28B.108.060, 28B.109.010, 28B.115.020, 28B.115.030, 28B.115.130, 28B.115.140, 28B.116.010, 28B.116.020, 28B.116.030, 28B.116.050, 28B.116.060, 28B.116.070, 28B.117.020, 28B.117.030, 28B.117.040, 28B.117.050, 28B.117.060, 28B.117.070, 28B.118.010, 28B.118.020, 28B.118.040, 28B.118.050, 28B.118.060, 28B.119.010, 28B.119.020, 28B.119.030, 28B.119.050, 28B.120.010, 28B.120.020, 28B.120.025, 28B.120.030, 28B.120.040, 28B.133.030, 28B.133.040, 28B.133.050, 28B.135.010, 28B.135.030, 28B.135.040, 28C.18.166, 39.86.130, 42.17.2401, 43.41.400, 43.105.800, 43.105.810, 43.105.825, 74.13.570, 28B.76.230, 28B.76.290, 28B.76.310, 28B.10.020, 28B.10.922, 28B.15.460, 28B.15.465, 28B.20.130, 28B.20.280, 28B.30.150, 28B.30.500, 28B.35.120, 28B.35.205, 28B.35.215, 28B.38.010, 28B.40.120, 28B.40.206, 28B.45.014, 28B.45.020, 28B.45.030, 28B.45.040, 28B.45.060, 28B.50.140, 28B.50.810, 28B.65.050, 28B.110.030, 28B.110.040, 28B.85.010, 28B.85.100, 28B.90.010, 35.104.020, 35.104.040, 43.06.115, 9A.60.070, 18.260.110, 28A.230.125, 28A.600.280, 28A.600.290, 28A.600.310, 28A.600.390, 28A.630.400, 28A.650.015, 28A.700.020, 28A.700.060, 28B.07.040, 28B.10.056, 28B.10.125, 28B.10.5691, 28B.10.682, 28B.10.784, 28B.15.068, 28B.15.069, 28B.15.730, 28B.15.734, 28B.15.750, 28B.15.754, 28B.15.756, 28B.15.758, 28B.15.796, 28B.20.308, 28B.20.478, 28B.30.530, 28B.45.080, 28B.65.040, 28B.67.010, 28B.103.030, 28B.76.200, 28C.10.030, 28C.10.040, 28C.18.030, 28C.18.060, 28C.18.132, 28C.18.134, 43.09.440, 43.43.934, 43.43.938, 43.60A.151, 43.88.090, 43.88D.010, 43.105.400, 43.215.090, 43.330.310, 43.330.375, 47.80.090, and 70.180.110; reenacting and amending RCW 28A.660.050, 28B.50.030, 28B.92.030, 28A.230.100, and 43.330.280; adding new sections to chapter 43.41 RCW; adding new sections to chapter 28B.10 RCW; creating new sections; recodifying RCW 28B.76.290, 28B.76.310, 28B.76.200, and 28B.76.230; repealing RCW 28B.76.040, 28B.76.050, 28B.76.060, 28B.76.100, 28B.76.210, 28B.76.240, 28B.76.2401, 28B.76.250, 28B.76.260, 28B.76.270, 28B.76.280, 28B.76.300, and 28B.76.335; providing an effective date; and providing expiration dates.

Referred to Committee on Higher Education & Workforce Development.

## INTRODUCTION AND FIRST READING OF HOUSE BILLS

2EHB 1547 by Representatives Bailey, Conway, Seaquist, Crouse, Kenney, Simpson and Ormsby

AN ACT Relating to increasing the duty-related death benefit for public employees; amending RCW 41.04.017, 41.24.160, 41.32.053, 41.35.115, 41.37.110, 41.40.0931, and 41.40.0932; and creating a new section.

Referred to Committee on Ways & Means.

SHB 2402 by House Committee on Finance (originally sponsored by Representatives White, Rolfes, Armstrong, Haler, Nelson, Roberts, Maxwell, Dickerson, Crouse, Jacks, Walsh, Wallace, Sells, Ormsby, Kenney, Williams, Blake, Chase, Morris, Campbell, Appleton, Carlyle, Conway, Bailey, Hope and Haigh)

AN ACT Relating to a property tax exemption for property owned by a nonprofit organization and used for the purpose of a farmers market; amending RCW 84.36.037; creating a new section; and providing an expiration date.

Referred to Committee on Agriculture & Rural Economic Development.

ESHB 2414 by House Committee on Judiciary (originally sponsored by Representatives Johnson, O'Brien, Ross, Finn, Haler, Klippert, Taylor, Crouse, Angel, Ericksen, Roach, Kristiansen, Hinkle, Chandler, Seaquist, Walsh, Warnick, Rodne, Smith, Nealey, Short, Hope, Ericks, Lias, Campbell, Morrell, Kelley, Maxwell, Sullivan, Conway, Bailey, Schmick and Hurst)

AN ACT Relating to abatement of nuisances involving criminal street gang activity; amending RCW 59.18.075; adding a new chapter to Title 9 RCW; and prescribing penalties.

Referred to Committee on Government Operations & Elections.

ESHB 2427 by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Pearson, Hurst, Bailey, Goodman, Kirby, Chandler, Herrera, O'Brien, Warnick, Ross, Condotta, Dammeier, Shea, Klippert, Smith, Walsh, Parker, Jacks, Blake, Rodne, Williams, McCune, Campbell, Johnson, Eddy, Morrell, Kelley, Short, Maxwell, Sullivan, Conway, Roach, Kristiansen, Haler, Sells, Schmick, Ericks, Ormsby, Kretz, Moeller and Hope)

AN ACT Relating to punishment for domestic violence offenders; amending RCW 9.94A.030 and 9.94A.525; reenacting and amending RCW 9.94A.535; creating a new section; and providing an effective date.

Referred to Committee on Judiciary.

2SHB 2436 by House Committee on General Government Appropriations (originally sponsored by Representatives Moeller, Green, Clibborn, Pedersen, Carlyle, Morrell and Jacks)

AN ACT Relating to vehicle license fraud; amending RCW 46.16.010 and 46.68.250; and providing an effective date.

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Referred to Committee on Transportation.

SHB 2439 by House Committee on Finance (originally sponsored by Representatives Short, Ericks, Crouse, Orcutt, Johnson, Taylor, Ormsby, Angel, Chandler, Shea, Kretz, Chase, Williams, McCune, Smith and Bailey)

AN ACT Relating to exempting church property used by a nonprofit organization conducting activities related to a farmers market from property taxation; amending RCW 84.36.020; creating a new section; and providing an expiration date.

Referred to Committee on Agriculture & Rural Economic Development.

SHB 2525 by House Committee on Community & Economic Development & Trade (originally sponsored by Representatives Nealey, Klippert, Chandler and Haler)

AN ACT Relating to public facilities districts created by at least two city or county legislative authorities; and amending RCW 35.57.010.

Referred to Committee on Economic Development, Trade & Innovation.

2SHB 2551 by House Committee on Ways & Means (originally sponsored by Representatives Cody, Green, Sullivan, Pedersen, Darneille and Moeller)

AN ACT Relating to the establishment of the Washington vaccine association; amending RCW 43.70.720; adding a new section to chapter 43.24 RCW; adding a new section to chapter 48.43 RCW; adding a new section to chapter 82.04 RCW; adding a new chapter to Title 70 RCW; prescribing penalties; and declaring an emergency.

Referred to Committee on Health & Long-Term Care.

ESHB 2560 by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Orwall, Upthegrove, Quall, Simpson, Nelson and Morrell)

AN ACT Relating to forming joint underwriting associations; amending RCW 48.15.040; adding a new chapter to Title 48 RCW; providing an expiration date; and declaring an emergency.

Referred to Committee on Financial Institutions, Housing & Insurance.

HB 2595 by Representatives Rolfes, Kelley, Ericks, Kirby and Hurst

AN ACT Relating to imposing a sentence outside the standard sentence range for defendants who intercept police communication as a means to facilitate the crime; and reenacting and amending RCW 9.94A.535.

Referred to Committee on Judiciary.

HB 2605 by Representatives Driscoll, Kelley, Chase, Ormsby and Moeller

AN ACT Relating to billing for anatomic pathology services; and adding a new section to chapter 48.43 RCW.

Referred to Committee on Health & Long-Term Care.

HB 2608 by Representatives Nelson, Kirby, Chase, Simpson, Morrell, Maxwell and Moeller

AN ACT Relating to licensing residential mortgage loan servicers through the national mortgage licensing service and clarifying the existing authority of the department of financial institutions to regulate residential mortgage loan modification services under the consumer loan act and mortgage broker practices act; amending RCW 31.04.035, 31.04.045, 31.04.055, 31.04.085, 31.04.093, 31.04.165, 31.04.277, 19.144.080, 19.146.010, 19.146.210, and 19.146.310; reenacting and amending RCW 31.04.015; adding new sections to chapter 31.04 RCW; adding new sections to chapter 19.146 RCW; repealing RCW 31.04.2211; and providing an effective date.

Referred to Committee on Financial Institutions, Housing & Insurance.

2SHB 2623 by House Committee on General Government Appropriations (originally sponsored by Representatives Orwall, Miloscia, Darneille, Kirby, Sullivan, Pettigrew, Simpson, Rolfes and Hasegawa)

AN ACT Relating to the foreclosure of residential real property; creating a new section; and providing an expiration date.

Referred to Committee on Financial Institutions, Housing & Insurance.

SHB 2624 by House Committee on Human Services (originally sponsored by Representatives Kelley, Ericks, Driscoll, Lias, Blake, Finn, O'Brien, Simpson, Orwall, Hurst and Darneille)

AN ACT Relating to the interstate compact for adult offender supervision; adding a new section to chapter 9.94A RCW; creating a new section; providing an effective date; and declaring an emergency.

Referred to Committee on Human Services & Corrections.

SHB 2683 by House Committee on Community & Economic Development & Trade (originally sponsored by Representatives Kenney, Smith, Probst, Maxwell, Ericks, Sullivan, Pettigrew, Kelley, White, Johnson, Hasegawa, Lias, Sells, Nelson and Anderson)

AN ACT Relating to the economic development commission; amending RCW 43.162.005, 43.162.010, 43.162.015, 43.162.020, 43.162.025, and 43.162.030; and adding a new section to chapter 43.162 RCW.

Referred to Committee on Economic Development, Trade & Innovation.

HB 2694 by Representatives Sells, White, McCoy, Kenney, Ericks, O'Brien, Roberts and Chase

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AN ACT Relating to a bachelor of science in nursing program at the University Center; adding a new section to chapter 28B.50 RCW; creating a new section; and providing an effective date.

Referred to Committee on Higher Education & Workforce Development.

ESHB 2716 by House Committee on Transportation (originally sponsored by Representatives Shea, Condotta, Orcutt, Klippert, Johnson, McCune, Angel, Rodne, Kristiansen, Roach, Schmick, Fagan, Hasegawa, Pearson, Campbell and Warnick)

AN ACT Relating to providing a right of first repurchase for surplus transportation property; amending RCW 47.12.063; and providing an effective date.

Referred to Committee on Transportation.

SHB 2721 by House Committee on Transportation (originally sponsored by Representatives Upthegrove, Orwall, Kenney, Lias, Nelson and Chase)

AN ACT Relating to commute trip reduction programs; and amending RCW 70.94.531.

Referred to Committee on Transportation.

2SHB 2742 by House Committee on Transportation (originally sponsored by Representatives Goodman, Lias, Sells, Hasegawa, Maxwell, Roberts, Jacks, Carlyle, Rolfes, Simpson, O'Brien and Morrell)

AN ACT Relating to accountability for persons driving under the influence of intoxicating liquor or drugs; amending RCW 46.20.385, 46.20.391, 46.20.720, 46.61.5055, 46.20.410, 46.20.342, 46.20.740, 10.05.020, 10.05.090, and 10.05.160; adding a new section to chapter 46.61 RCW; prescribing penalties; and providing an effective date.

Referred to Committee on Judiciary.

SHB 2745 by House Committee on Environmental Health (originally sponsored by Representatives Hudgins, Campbell and Upthegrove)

AN ACT Relating to including renovation activities as defined in the environmental protection agency's renovation, repair, and painting rule in the lead-based paint program; and amending RCW 70.103.010, 70.103.020, 70.103.030, 70.103.040, 70.103.050, 70.103.080, and 70.103.090.

Referred to Committee on Environment, Water & Energy.

SHB 2758 by House Committee on Finance (originally sponsored by Representatives Hunter, Condotta, Kessler and Orcutt)

AN ACT Relating to documenting wholesale sales for excise tax purposes; amending RCW 82.32.780, 82.32.783, 82.32.785, 82.32.787, and 82.32.290; amending 2009 c 563 Â§ 101 (uncodified); reenacting and amending RCW 82.04.470, 82.08.050, 82.08.130, 82.32.087, 82.32.291, 82.32.330, 82.04.050, and 34.05.328; adding a new section to

chapter 82.32 RCW; creating a new section; and providing an effective date.

Referred to Committee on Ways & Means.

ESHB 2777 by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Goodman, O'Brien, Driscoll, Kessler, Maxwell, Finn, Hurst, Williams, Appleton, Hudgins, Kelley, Ericks, Morrell, McCoy, Seaquist, Green, Carlyle, Conway, Pearson and Simpson)

AN ACT Relating to modifying domestic violence provisions; amending RCW 10.31.100, 10.99.045, 26.50.020, 26.50.060, 26.50.070, 10.99.040, 9.94A.030, 9.94A.525, 3.66.068, 3.50.330, 35.20.255, 26.50.150, and 68.50.160; reenacting and amending RCW 9.94A.535; adding a new section to chapter 36.28A RCW; adding a new section to chapter 26.50 RCW; adding a new section to chapter 7.90 RCW; adding a new section to chapter 10.14 RCW; adding new sections to chapter 2.56 RCW; adding a new section to chapter 10.99 RCW; and creating a new section.

Referred to Committee on Judiciary.

2SHB 2782 by House Committee on Ways & Means (originally sponsored by Representatives Dickerson, Appleton, McCoy, Carlyle, Morrell, Kagi, Kessler, Green, Ericks, Moeller, Roberts, Nelson and Orwall)

AN ACT Relating to establishing the security lifeline act; amending RCW 74.04.005, 10.101.010, 26.19.071, 31.04.540, 70.123.110, 73.08.005, 74.04.0052, 74.04.120, 74.04.230, 74.04.266, 74.04.620, 74.04.770, 74.08.043, 74.08.278, 74.08.335, 74.08A.210, 74.09.010, 74.09.035, 74.09.555, and 74.50.060; reenacting and amending RCW 13.34.030; adding new sections to chapter 74.04 RCW; adding a new section to chapter 70.47 RCW; adding a new section to chapter 70.96A RCW; adding a new section to chapter 74.08A RCW; creating new sections; providing an effective date; providing an expiration date; and declaring an emergency.

Referred to Committee on Human Services & Corrections.

SHB 2828 by House Committee on Health Care & Wellness (originally sponsored by Representatives Campbell and Morrell)

AN ACT Relating to requiring hospitals to report certain health care-associated infections to the Washington state hospital association's quality benchmarking system until the national health care safety network is able to accept aggregate denominator data; amending RCW 43.70.056; and declaring an emergency.

Referred to Committee on Health & Long-Term Care.

ESHB 2842 by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Parker, Kirby and Kenney)

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AN ACT Relating to insurer receiverships; amending RCW 42.56.400; adding a new section to chapter 48.31 RCW; and adding a new section to chapter 48.99 RCW.

Referred to Committee on Financial Institutions, Housing & Insurance.

SHB 2852 by House Committee on Education (originally sponsored by Representatives Parker, Wallace and Schmick)

AN ACT Relating to college-level online learning by high school students; and amending RCW 28A.250.010 and 28A.250.060.

Referred to Committee on Early Learning & K-12 Education.

SHB 2863 by House Committee on General Government Appropriations (originally sponsored by Representatives Blake, Chandler, Liias, Van De Wege, Jacks and Wallace)

AN ACT Relating to transferring food assistance programs to the department of agriculture; amending RCW 43.330.130; adding a new section to chapter 43.23 RCW; creating new sections; and providing an effective date.

Referred to Committee on Agriculture & Rural Economic Development.

SHB 2865 by House Committee on Human Services (originally sponsored by Representatives Roberts, Dickerson, Walsh, O'Brien, White, Seaquist, Green, Williams, Moeller, Appleton and Orwall)

AN ACT Relating to offenders with developmental disabilities or traumatic brain injuries; amending RCW 2.28.180 and 74.09.555; and adding a new section to chapter 70.48 RCW.

Referred to Committee on Human Services & Corrections.

SHB 2930 by House Committee on Higher Education (originally sponsored by Representatives Wallace, Sells, Carlyle, Anderson and Haler)

AN ACT Relating to expanding the pool of qualified teachers; amending RCW 28B.102.040, 28B.102.050, and 28B.102.055; reenacting and amending RCW 28A.660.050; and creating a new section.

Referred to Committee on Higher Education & Workforce Development.

HB 2937 by Representatives Clibborn, Roach, Takko, Rodne, Finn, Klippert, Seaquist, Ericksen, Kessler, Simpson and Smith

AN ACT Relating to modifying the transportation system policy goals to include economic vitality; and amending RCW 47.04.280.

Referred to Committee on Transportation.

SHB 2939 by House Committee on Transportation (originally sponsored by Representatives Dammeier, Orwall, Parker, Probst, Morrell, Kessler, Smith and Kenney)

AN ACT Relating to notations on driver abstracts that a person was not at fault in a motor vehicle accident; amending RCW 46.52.130; and creating a new section.

Referred to Committee on Transportation.

HB 3068 by Representatives Santos, Priest, Sullivan, Upthegrove, Maxwell, Morrell, Wallace, Ormsby, Kenney and Simpson

AN ACT Relating to providing access to alternative routes to certification for the recruiting Washington teachers program; amending RCW 28A.660.042; and reenacting and amending RCW 28A.660.050 and 28A.660.040.

Referred to Committee on Early Learning & K-12 Education.

HJM 4025 by Representatives O'Brien, Campbell, Seaquist, Appleton, McCune, Kelley, Warnick, Armstrong, Sells, Morrell, Maxwell, Van De Wege, Simpson, Conway, Smith, Shea, Pearson, Johnson, Hurst and Kenney

Honoring Vietnam veterans.

Referred to Committee on Government Operations & Elections.

HJM 4027 by Representatives Hasegawa, Hudgins, Maxwell, Wallace, Simpson and Kenney

Requesting that a retired space shuttle orbiter be transferred to Washington's museum of flight.

Referred to Committee on Natural Resources, Ocean & Recreation.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Substitute House Bill No. 2930 which was referred to the Committee on Higher Education & Workforce Development.

MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

MOTION

Senator Stevens moved adoption of the following resolution:

SENATE RESOLUTION  
8683

By Senators Stevens, Delvin, Becker, Swecker, Honeyford, Morton, McCaslin, Brandland, Parlette, Schoesler, Zarelli, Carrell, Ranker, and Kohl-Welles

WHEREAS, Jessica Munoz, a senior at Mt. Vernon Christian is a racquetball player possessing great skill who has developed her craft in the city of Burlington under the guidance of her father, Alan

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Lawson and amassed over 28 national and international racquetball medals; and

WHEREAS, Jessica Munoz uses her racquetball skill to instruct others, officiate racquetball matches, and is the top racquetball player for her age group in her home country of Columbia; and

WHEREAS, Jessica Munoz has recently become a citizen of the United States and won the 36th annual 16 and younger junior racquetball championship and has earned a one-year appointment to the U.S. Junior National Team and is the fourth ranked racquetball player in the United States for her age group and in 2008 Jessica captured the gold medal in the U.S. Nationals Doubles Competition; and

WHEREAS, Jessica Munoz competed in the 2009 International Racquetball Federation Championships and defeated the Dominican Republic in the doubles gold medal match, and Jessica collected a silver medal and gold medal at the Junior World Tournament, competing against the top two competitors from each county;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate congratulate and celebrate the domestic and international competitive racquetball achievements of Jessica Munoz; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Secretary of the Senate to Jessica Munoz and Alan Lawson.

Senator Stevens spoke in favor of the adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8683.

The motion by Senator Stevens carried and the resolution was adopted by voice vote.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Miss Jessica Munoz, 2009 International Racquetball Federation Champion who was seated in the gallery.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Alan & Idali Lawson, parents of Jessica; Jim and Maudie Lawson, grandparents of Jessica and Lendell Meyer, family friend who were seated in the gallery.

#### MOTION

On motion of Senator Eide, the Senate reverted to the sixth order of business.

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Jacobsen moved that Gubernatorial Appointment No. 9164, Roger E. Schmitt, as a member of the Parks and Recreation Commission, be confirmed.

Senator Jacobsen spoke in favor of the motion.

#### MOTION

On motion of Senator Marr, Senators Brown, Fairley, Fraser, Kastama, Kilmer, Oemig, Prentice, Ranker and Rockefeller were excused.

#### MOTION

On motion of Senator Brandland, Senators Benton, Carrell, Holmquist and McCaslin were excused.

#### APPOINTMENT OF ROGER E. SCHMITT

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9164, Roger E. Schmitt as a member of the Parks and Recreation Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9164, Roger E. Schmitt as a member of the Parks and Recreation Commission and the appointment was confirmed by the following vote: Yeas, 40; Nays, 0; Absent, 0; Excused, 9.

Voting yea: Senators Becker, Berkey, Brandland, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Benton, Brown, Carrell, Fairley, Holmquist, Kilmer, McCaslin, Prentice and Ranker

Gubernatorial Appointment No. 9164, Roger E. Schmitt, having received the constitutional majority was declared confirmed as a member of the Parks and Recreation Commission.

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator McDermott moved that Gubernatorial Appointment No. 9257, Shelia L. Fox, as a member of the State Board of Education, be confirmed.

Senator McDermott spoke in favor of the motion.

#### APPOINTMENT OF SHELIA L. FOX

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9257, Shelia L. Fox as a member of the State Board of Education.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9257, Shelia L. Fox as a member of the State Board of Education and the appointment was confirmed by the following vote: Yeas, 42; Nays, 0; Absent, 1; Excused, 6.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Delvin, Eide, Franklin, Fraser, Gordon, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Hargrove

Excused: Senators Benton, Carrell, Fairley, Holmquist, McCaslin and Prentice

Gubernatorial Appointment No. 9257, Shelia L. Fox, having received the constitutional majority was declared confirmed as a member of the State Board of Education.

#### SECOND READING

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SENATE BILL NO. 5543, by Senators Pridemore, Oemig, Rockefeller, Fairley, Murray, Kline, Keiser, Shin, Regala, Franklin, McAuliffe, Fraser, Ranker and Kohl-Welles

Establishing the product stewardship recycling act for mercury-containing lights. Revised for 1st Substitute: Reducing the release of mercury into the environment.

MOTION

On motion of Senator Pridemore, Substitute Senate Bill No. 5543 was substituted for Senate Bill No. 5543 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Pridemore moved that the following striking amendment by Senators Pridemore and Hargrove be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that:

(1) Mercury is an essential component of many energy efficient lights. Improper disposal methods will lead to mercury releases that threaten the environment and harm human health. Spent mercury lighting is a hard to collect waste product that is appropriate for product stewardship;

(2) Convenient and environmentally sound product stewardship programs for mercury-containing lights that include collecting, transporting, and recycling mercury-containing lights will help protect Washington's environment and the health of state residents;

(3) The purpose of this act is to achieve a statewide goal of recycling all end-of-life mercury-containing lights by 2020 through expanded public education, a uniform statewide requirement to recycle all mercury-containing lights, and the development of a comprehensive, safe, and convenient collection system that includes use of residential curbside collection programs, mail-back containers, increased support for household hazardous waste facilities, and a network of additional collection locations;

(4) Product producers must play a significant role in financing no- cost collection and processing programs for mercury-containing lights; and

(5) Providers of premium collection services such as residential curbside and mail-back programs may charge a fee to cover the collection costs for these more convenient forms of collection.

**NEW SECTION. Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Brand" means a name, symbol, word, or mark that identifies a product, rather than its components, and attributes the product to the owner of the brand as the producer.

(2) "Covered entities" means:

(a) A single-family or a multifamily household generator and persons that deliver no more than fifteen mercury-containing lights to registered collectors for a product stewardship program during a ninety-day period; and

(b) A single-family or a multifamily household generator and persons that utilize a registered residential curbside collection program or a mail-back program for collection of mercury-containing lights and that discards no more than fifteen mercury-containing lights into those programs during a ninety-day period.

(3) "Collection" or "collect" means, except for persons involved in mail-back programs:

(a) The activity of accumulating any amount of mercury-containing lights at a location other than the location where

the lights are used by covered entities, and includes curbside collection activities, household hazardous waste facilities, and other registered drop-off locations; and

(b) The activity of transporting mercury-containing lights in the state, where the transporter is not a generator of unwanted mercury-containing lights, to a location for purposes of accumulation.

(4) "Department" means the department of ecology.

(5) "Final disposition" means the point beyond which no further processing takes place and materials from mercury-containing lights have been transformed for direct use as a feedstock in producing new products, or disposed of or managed in permitted facilities.

(6) "Hazardous substances" or "hazardous materials" means those substances or materials identified by rules adopted under chapter 70.105 RCW.

(7) "Mail-back program" means the use of a prepaid postage container with mercury vapor barrier packaging that is used for the collection and recycling of mercury-containing lights from covered entities as part of a product stewardship program and is transported by the United States postal service or a common carrier.

(8) "Mercury vapor barrier packaging" means sealable containers that are specifically designed for the storage, handling, and transport of mercury-containing lights in order to prevent the escape of mercury into the environment by volatilization or any other means, and that meet the requirements for transporting by the United States postal service or a common carrier.

(9) "Mercury-containing lights" means lamps, bulbs, tubes, or other devices that contain mercury and provide functional illumination in homes, businesses, and outdoor stationary fixtures.

(10) "Orphan product" means a mercury-containing light that lacks a producer's brand, or for which the producer is no longer in business and has no successor in interest, or that bears a brand for which the department cannot identify an owner.

(11) "Person" means a sole proprietorship, partnership, corporation, nonprofit corporation or organization, limited liability company, firm, association, cooperative, or other legal entity located within or outside Washington state.

(12) "Processing" means recovering materials from unwanted products for use as feedstock in new products. Processing must occur at permitted facilities.

(13) "Producer" means a person that:

(a) Has or had legal ownership of the brand, brand name, or cobrand of a mercury-containing light sold in or into Washington state, except for persons whose primary business is retail sales;

(b) Imports or has imported mercury-containing lights branded by a producer that meets the requirements of (a) of this subsection and where that producer has no physical presence in the United States;

(c) If (a) and (b) of this subsection do not apply, makes or made an unbranded mercury-containing light that is sold or has been sold in or into Washington state; or

(d)(i) Sells or sold at wholesale or retail a mercury-containing light; (ii) does not have legal ownership of the brand; and (iii) elects to fulfill the responsibilities of the producer for that product.

(14) "Product stewardship" means a requirement for a producer of mercury-containing lights to manage and reduce adverse safety, health, and environmental impacts of the product throughout its life cycle, including financing and providing for the collection, transporting, reusing, recycling, processing, and final disposition of their products.

(15) "Product stewardship plan" or "plan" means a detailed plan describing the manner in which a product stewardship program will be implemented.

(16) "Product stewardship program" or "program" means the methods, systems, and services financed and provided by producers of mercury-containing lights generated by covered entities that

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addresses product stewardship and includes collecting, transporting, reusing, recycling, processing, and final disposition of unwanted mercury-containing lights, including a fair share of orphan products.

(17) "Recovery" means the collection and transportation of unwanted mercury-containing lights under this chapter.

(18)(a) "Recycling" means transforming or remanufacturing unwanted products into usable or marketable materials for use other than landfill disposal or incineration.

(b) "Recycling" does not include energy recovery or energy generation by means of combusting unwanted products with or without other waste.

(19) "Reporting period" means the period commencing January 1st and ending December 31st in the same calendar year.

(20) "Residuals" means nonrecyclable materials left over from processing an unwanted product.

(21) "Retailer" means a person who offers mercury-containing lights for sale at retail through any means including, but not limited to, remote offerings such as sales outlets, catalogs, or the internet, but does not include a sale that is a wholesale transaction with a distributor or a retailer.

(22)(a) "Reuse" means a change in ownership of a mercury-containing light or its components, parts, packaging, or shipping materials for use in the same manner and purpose for which it was originally purchased, or for use again, as in shipping materials, by the generator of the shipping materials.

(b) "Reuse" does not include dismantling of products for the purpose of recycling.

(23) "Stakeholder" means a person who may have an interest in or be affected by a product stewardship program.

(24) "Stewardship organization" means an organization designated by a producer or group of producers to act as an agent on behalf of each producer to operate a product stewardship program.

(25) "Unwanted product" means a mercury-containing light no longer wanted by its owner or that has been abandoned, discarded, or is intended to be discarded by its owner.

**NEW SECTION. Sec. 3.** (1) Every producer of mercury-containing lights sold in or into Washington state for residential use must fully finance and participate in a product stewardship program for that product, including the department's costs for administering and enforcing this chapter.

(2) Every producer must:

(a) Participate in a product stewardship program approved by the department and operated by a product stewardship organization contracted by the department. All producers must finance and participate in the plan operated by the stewardship organization, unless the producer obtains department approval for an independent plan as described in (b) of this subsection; or

(b) Finance and operate, either individually or jointly with other producers, a product stewardship program approved by the department.

(3) A producer, group of producers, or product stewardship organization funded by producers must pay all administrative and operational costs associated with their program or programs, except for the collection costs associated with curbside and mail-back collection programs. For curbside and mail-back programs, a producer, group of producers, or product stewardship organization shall finance the costs of transporting mercury-containing lights from accumulation points and for processing mercury-containing lights collected by curbside and mail-back programs. For collection locations, including household hazardous waste facilities, charities, retailers, government recycling sites, or other suitable locations, a producer, group of producers, or product stewardship organization shall finance the costs of collection, transportation, and processing of mercury-containing lights collected at the collection locations.

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(4) Product stewardship programs shall collect unwanted mercury-containing lights delivered from covered entities for reuse, recycling, processing, or final disposition, and not charge a fee when lights are dropped off or delivered into the program.

(5) Product stewardship programs shall provide, at a minimum, no cost services in all cities in the state with populations greater than ten thousand and all counties of the state on an ongoing, year-round basis.

(6) All product stewardship programs operated under approved plans must recover their fair share of unwanted covered products as determined by the department.

(7) The department or its designee may inspect, audit, or review audits of processing and disposal facilities used to fulfill the requirements of a product stewardship program.

(8) No product stewardship program required under this chapter may use federal or state prison labor for processing unwanted products.

(9) Product stewardship programs for mercury-containing lights must be fully implemented by January 1, 2013.

**NEW SECTION. Sec. 4.** (1) A producer, group of producers, or product stewardship program submitting a proposed product stewardship plan under section 3(2)(b) of this act must submit that plan by January 1st of the year prior to the planned implementation.

(2) The department shall establish rules for plan content. Plans must include but are not limited to:

(a) All necessary information to inform the department about the plan operator and participating producers and their brands;

(b) The management and organization of the product stewardship program that will oversee the collection, transportation, and processing services;

(c) The identity of collection, transportation, and processing service providers, including a description of the consideration given to existing residential curbside collection infrastructure and mail-back systems as an appropriate collection mechanism;

(d) How the product stewardship program will seek to use businesses within the state, including transportation services, retailers, collection sites and services, existing curbside collection services, existing mail-back services, and processing facilities;

(e) A description of how the public will be informed about the recycling program;

(f) A description of the financing system required under section 5 of this act;

(g) How mercury and other hazardous substances will be handled for collection through final disposition;

(h) A public review and comment process; and

(i) Any other information deemed necessary by the department to ensure an effective mercury light product stewardship program that is in compliance with all applicable laws and rules.

(3) All plans submitted to the department must be made available for public review on the department's web site and at the department's headquarters.

(4) At least two years from the start of the product stewardship program and once every four years thereafter, a producer, group of producers, or product stewardship organization operating a product stewardship program must update its product stewardship plan and submit the updated plan to the department for review and approval according to rules adopted by the department.

(5) Each product stewardship program shall submit an annual report to the department describing the results of implementing their plan for the prior year. The department may adopt rules for reporting requirements. All reports submitted to the department must be made available for public review on the department's web site and at the department's headquarters.

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**NEW SECTION. Sec. 5.** (1) All producers that sell mercury- containing lights in or into the state of Washington are responsible for financing the mercury-containing light recycling program described in the plans required by section 4 of this act.

(2) Producers participating in the stewardship program required under section 3(2)(a) of this act must be assessed a fee by the stewardship organization to cover the cost of implementing the plan. Each producer shall pay fifteen thousand dollars to the department to contract for a product stewardship program to be operated by a product stewardship organization. The department shall retain five thousand dollars of the fifteen thousand dollars for administration and enforcement costs. Each producer participating in an approved independent plan shall pay an annual fee of five thousand dollars to the department for administration and enforcement costs.

(3) A producer or producers participating in an independent plan, as permitted under section 3(2)(b) of this act, must pay the full cost of operation.

(4) The department shall adopt rules regarding how the product stewardship organization may adjust the fee above or below the limits provided in subsection (2) of this section should product stewardship program costs exceed available revenues.

**NEW SECTION. Sec. 6.** (1) All mercury-containing lights collected in the state by product stewardship programs or other collection programs must be recycled and any process residuals must be managed in compliance with applicable laws.

(2) Mercury recovered from retorting must be recycled or placed in a properly permitted hazardous waste landfill, or placed in a properly permitted mercury repository.

**NEW SECTION. Sec. 7.** (1) Except for persons involved in registered mail-back programs, a person who collects unwanted mercury- containing lights in the state, receives funding through a product stewardship program for mercury-containing lights, and who is not a generator of unwanted mercury-containing lights must:

(a) Register with the department as a collector of unwanted mercury-containing lights. Until the department adopts rules for collectors, the collector must provide to the department the legal name of the person or entity owning and operating the collection location, the address and phone number of the collection location, and the name, address, and phone number of the individual responsible for operating the collection location and update any changes in this information within thirty days of the change;

(b) Maintain a spill and release response plan at the collection location that describes the materials, equipment, and procedures that will be used to respond to any mercury release from an unwanted mercury-containing light;

(c) Maintain a worker safety plan at the collection location that describes the handling of the unwanted mercury-containing lights at the collection location and measures that will be taken to protect worker health and safety; and

(d) Use packaging and shipping material that will minimize the release of mercury into the environment and minimize breakage and use mercury vapor barrier packaging if mercury-containing lights are transported by the United States postal service or a common carrier.

(2) A person who operates a curbside collection program or owns or operates a mail-back business participating in a product stewardship program for mercury-containing lights and uses the United States postal service or a common carrier for transport must register with the department and use mercury vapor barrier packaging for curbside collection and mail-back containers.

**NEW SECTION. Sec. 8.** As of January 1, 2013, no producer, wholesaler, retailer, electric utility, or other person may distribute, sell, or offer for sale mercury-containing lights for residential use to any person in this state unless the producer is

participating in a product stewardship program under a plan approved by the department.

**NEW SECTION. Sec. 9.** (1) The department shall send a written warning and a copy of this chapter and any rules adopted to implement this chapter to a producer who is not participating in a product stewardship program approved by the department and whose mercury- containing lights are being sold in or into the state.

(2) A producer not participating in a product stewardship program approved by the department whose mercury-containing lights continue to be sold in or into the state sixty days after receiving a written warning from the department shall be assessed a penalty of up to one thousand dollars for each violation. A violation is one day of sales.

(3) If any producer fails to implement its approved plan, the department shall assess a penalty of up to five thousand dollars for the first violation along with notification that the producer must implement its plan within thirty days of the violation. After thirty days, any producer failing to implement their approved plan must be assessed a penalty of up to ten thousand dollars for the second and each subsequent violation. A subsequent violation occurs each thirty- day period that the producer fails to implement the approved plan.

(4) The department shall send a written warning to a producer that fails to submit a product stewardship plan, update or change the plan when required, or submit an annual report as required under this chapter. The written warning must include compliance requirements and notification that the requirements must be met within sixty days. If requirements are not met within sixty days, the producer will be assessed a ten thousand dollar penalty per day of noncompliance starting with the first day of notice of noncompliance.

(5) Penalties prescribed under this section must be reduced by fifty percent if the producer complies within thirty days of the second violation notice.

(6) A producer may appeal penalties prescribed under this section to the pollution control hearings board created under chapter 43.21B RCW.

**NEW SECTION. Sec. 10.** (1) The department shall provide on its web site a list of all producers participating in a product stewardship plan that the department has approved and a list of all producers the department has identified as noncompliant with this chapter and any rules adopted to implement this chapter.

(2) Product wholesalers, retailers, distributors, and electric utilities must check the department's web site or producer-provided written verification to determine if producers of products they are selling in or into the state are in compliance with this chapter.

(3) No one may distribute or sell mercury-containing lights in or into the state from producers who are not participating in a product stewardship program or who are not in compliance with this chapter and rules adopted under this chapter.

(4) The department shall serve, or send with delivery confirmation, a written warning explaining the violation to any person known to be distributing or selling mercury-containing lights in or into the state from producers who are not participating in a product stewardship program or who are not in compliance with this chapter and rules adopted under this chapter.

(5) Any person who continues to distribute or sell mercury-containing lights from a producer that is not participating in an approved product stewardship program sixty days after receiving a written warning from the department may be assessed a penalty two times the value of the products sold in violation of this chapter or five hundred dollars, whichever is greater. The penalty must be waived if the person verifies that the person has discontinued distribution or sales of mercury-containing lights within thirty days

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of the date the penalty is assessed. A retailer may appeal penalties to the pollution control hearings board.

(6) The department shall adopt rules to implement this section.

(7) A sale or purchase of mercury-containing lights as a casual or isolated sale as defined in RCW 82.04.040 is not subject to the provisions of this section.

(8) A person primarily engaged in the business of reuse and resale of a used mercury-containing light is not subject to the provisions of this section when selling used working mercury-containing lights, for use in the same manner and purpose for which it was originally purchased.

(9) In-state distributors, wholesalers, and retailers in possession of mercury-containing lights on the date that restrictions on the sale of the product become effective may exhaust their existing stock through sales to the public.

**NEW SECTION. Sec. 11.** All producers shall pay the department annual fees to cover the cost of administering and enforcing this chapter. The department may prioritize the work to implement this chapter if fees are not adequate to fund all costs of the program.

**NEW SECTION. Sec. 12.** The product stewardship programs account is created in the custody of the state treasurer. All funds received from producers under section 11 of this act and penalties collected under this chapter must be deposited in the account. Expenditures from the account may be used only for administering this chapter. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**NEW SECTION. Sec. 13.** (1) The department may adopt rules necessary to implement, administer, and enforce this chapter.

(2) The department may adopt rules to establish performance standards for product stewardship programs and may establish administrative penalties for failure to meet the standards.

(3) By December 31, 2010, and annually thereafter until December 31, 2014, the department shall report to the appropriate committees of the legislature concerning the status of the product stewardship program and recommendations for changes to the provisions of this chapter.

(4) Beginning October 1, 2014, the department shall annually invite comments from local governments, communities, and citizens to report their satisfaction with services provided by product stewardship programs. This information must be used by the department to determine if the plan operator is meeting convenience requirements and in reviewing proposed updates or changes to product stewardship plans.

(5) Beginning October 1, 2014, the department shall annually invite comments from retailers, consumer groups, electric utilities, the Northwest power and conservation council, and other interested parties regarding the impacts of the requirements of this chapter on the availability or purchase of energy efficient lighting within the state. If the department determines that evidence shows the requirements of this chapter have resulted in negative impacts on the availability or purchase of energy efficient lighting in the state, the department shall report this information by December 31st of each year to the appropriate committees of the legislature with recommendations for changes to the provisions of this chapter.

(6) Beginning October 1, 2014, the department shall annually invite comments from retailers, consumer groups, electric utilities, the Northwest power and conservation council, and other interested parties regarding the availability of energy efficient nonmercury lighting to replace mercury-containing lighting within the state. If the department determines that evidence shows that energy efficient nonmercury-containing lighting is available and achieves similar

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energy savings as mercury lighting at similar cost, the department shall report this information by December 31st of each year to the appropriate committees of the legislature with recommendations for legislative changes to reduce mercury use in lighting.

(7) Beginning October 1, 2013, the department shall annually estimate the overall statewide recycling rate for mercury-containing lights and calculate that portion of the recycling rate attributable to the product stewardship program.

(8) The department may require submission of independent performance evaluations and report evaluations documenting the effectiveness of mercury vapor barrier packaging in preventing the escape of mercury into the environment. The department may restrict the use of packaging for which adequate documentation has not been provided. Restricted packaging may not be used in any product stewardship program required under this chapter.

**NEW SECTION. Sec. 14.** Nothing in this chapter changes or limits the authority of the Washington utilities and transportation commission to regulate collection of solid waste, including curbside collection of residential recyclable materials, nor does this chapter change or limit the authority of a city or town to provide such service itself or by contract under RCW 81.77.020.

**NEW SECTION. Sec. 15.** Nothing in this chapter changes the requirements of any entity regulated under chapter 70.105 RCW to comply with the requirements under that chapter.

**NEW SECTION. Sec. 16.** This chapter must be liberally construed to carry out its purposes and objectives.

**Sec. 17.** RCW 70.95M.010 and 2003 c 260 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) ("Automotive mercury switch" includes a convenience switch, such as a switch for a trunk or hood light, and a mercury switch in antilock brake systems.) "Bulk mercury" includes any elemental, nonamalgamated mercury, regardless of volume quantity or weight and does not include products containing mercury collected for recycling or disposal at a permitted disposal facility.

(2) "Department" means the department of ecology.

(3) "Director" means the director of the department of ecology.

(4) "Health care facility" includes a hospital, nursing home, extended care facility, long-term care facility, clinical or medical laboratory, state or private health or mental institution, clinic, physician's office, or health maintenance organization.

(5) "Manufacturer" includes any person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that produces a mercury-added product or an importer or domestic distributor of a mercury-added product produced in a foreign country. In the case of a multicomponent product containing mercury, the manufacturer is the last manufacturer to produce or assemble the product. If the multicomponent product or mercury-added product is produced in a foreign country, the manufacturer is the first importer or domestic distributor.

(6) "Mercury-added button-cell battery" means a button-cell battery to which the manufacturer intentionally introduces mercury for the operation of the battery.

(7) "Mercury-added novelty" means a mercury-added product intended mainly for personal or household enjoyment or adornment. Mercury-added novelties include, but are not limited to, items intended for use as practical jokes, figurines, adornments, toys, games, cards, ornaments, yard statues and figures, candles, jewelry, holiday decorations, items of apparel, and other similar products. Mercury-added novelty does not include games, toys, or products that require a button-cell or lithium battery, liquid crystal display screens, or a lamp that contains mercury.

(8) "Mercury-added product" means a product, commodity, or chemical, or a product with a component that contains mercury or a

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mercury compound intentionally added to the product, commodity, or chemical in order to provide a specific characteristic, appearance, or quality, or to perform a specific function, or for any other reason. Mercury-added products include those products listed in the interstate mercury education and reduction clearinghouse mercury-added products database, but are not limited to, mercury thermometers, mercury thermostats, mercury barometers, lamps, and mercury switches (~~in motor vehicles~~) or relays.

(9) "Mercury manometer" means a mercury-added product that is used for measuring blood pressure.

(10) "Mercury thermometer" means a mercury-added product that is used for measuring temperature.

(11) "Retailer" means a retailer of a mercury-added product.

(12) "Switch" means any device, which may be referred to as a switch, sensor, valve, probe, control, transponder, or any other apparatus, that directly regulates or controls the flow of electricity, gas, or other compounds, such as relays or transponders. "Switch" includes all components of the unit necessary to perform its flow control function. "Automotive mercury switch" includes a convenience switch, such as a switch for a trunk or hood light, and a mercury switch in antilock brake systems. "Utility switch" includes, but is not limited to, all devices that open or close an electrical circuit, or a liquid or gas valve. "Utility relay" includes, but is not limited to, all products or devices that open or close electrical contacts to control the operation of other devices in the same or other electrical circuit.

(13) "Wholesaler" means a wholesaler of a mercury-added product.

**Sec. 18.** RCW 70.95M.050 and 2003 c 260 s 6 are each amended to read as follows:

(1) Effective January 1, 2006, no person may sell, offer for sale, or distribute for sale or use in this state a mercury-added novelty. A manufacturer of mercury-added novelties must notify all retailers that sell the product about the provisions of this section and how to properly dispose of any remaining mercury-added novelty inventory.

(2)(a) Effective January 1, 2006, no person may sell, offer for sale, or distribute for sale or use in this state a manometer used to measure blood pressure or a thermometer that contains mercury. This subsection (2)(a) does not apply to:

(i) An electronic thermometer with a button-cell battery containing mercury;

(ii) A thermometer that contains mercury and that is used for food research and development or food processing, including meat, dairy products, and pet food processing;

(iii) A thermometer that contains mercury and that is a component of an animal agriculture climate control system or industrial measurement system or for veterinary medicine until such a time as the system is replaced or a nonmercury component for the system or application is available;

(iv) A thermometer or manometer that contains mercury that is used for calibration of other thermometers, manometers, apparatus, or equipment, unless a nonmercury calibration standard is approved for the application by the national institute of standards and technology;

(v) A thermometer that is provided by prescription. A manufacturer of a mercury thermometer shall supply clear instructions on the careful handling of the thermometer to avoid breakage and proper cleanup should a breakage occur; or

(vi) A manometer or thermometer sold or distributed to a hospital, or a health care facility controlled by a hospital, if the hospital has adopted a plan for mercury reduction consistent with the goals of the mercury chemical action plan developed by the department under section 302, chapter 371, Laws of 2002.

(b) A manufacturer of thermometers that contain mercury must notify all retailers that sell the product about the provisions of this section and how to properly dispose of any remaining thermometer inventory.

(3) Effective January 1, 2006, no person may sell, install, or reinstall a commercial or residential thermostat that contains mercury unless the manufacturer of the thermostat conducts or participates in a thermostat recovery or recycling program designed to assist contractors in the proper disposal of thermostats that contain mercury in accordance with 42 U.S.C. Sec. 6901, et seq., the federal resource conservation and recovery act.

(4) No person may sell, offer for sale, or distribute for sale or use in this state a motor vehicle manufactured after January 1, 2006, if the motor vehicle contains an automotive mercury switch.

(5) Nothing in this section restricts the ability of a manufacturer, importer, or domestic distributor from transporting products through the state, or storing products in the state for later distribution outside the state.

(6) Effective June 30, 2012, the sale or purchase and delivery of bulk mercury is prohibited, including sales through the internet or sales by private parties. However, the prohibition in this subsection does not apply to immediate dangerous waste recycling facilities or treatment, storage, and disposal facilities as approved by the department and sales to research facilities, or industrial facilities that provide products or services to entities exempted from this chapter. The facilities described in this subsection must submit an inventory of their purchase and use of bulk mercury to the department on an annual basis, as well as any mercury waste generated from such actions.

NEW SECTION. **Sec. 19.** Sections 1 through 16 and 20 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. **Sec. 20.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Senator Pridemore spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Pridemore and Hargrove to Substitute Senate Bill No. 5543.

The motion by Senator Pridemore carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "reduction;" strike the remainder of the title and insert "amending RCW 70.95M.010 and 70.95M.050; adding a new chapter to Title 70 RCW; and prescribing penalties."

#### MOTION

On motion of Senator Pridemore, the rules were suspended, Engrossed Substitute Senate Bill No. 5543 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

Senator Honeyford spoke against passage of the bill.

#### POINT OF INQUIRY

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## SECOND READING

Senator Sheldon: "Would Senator Pridemore yield to a question? Thank you Mr. President, if I might read from the bill? Senator Pridemore, I'm concerned about the cost of disposal of mercury contained in fluorescent light bulbs especially by all counties and municipal landfills but I see in the bill on page 5, sub 5, bottom of line 36. Products stewardship programs shall provide, at a minimum, no cost services in all counties in the state with populations greater than ten thousand and all counties of the state on an ongoing, year-round basis.' So, Senator Pridemore, my question; Can I read that, do I read that to say that the recycling and disposal of these mercury containing bulbs will be accomplished at no cost to the counties?"

Senator Pridemore: "That is correct Senator. As we understand the bill there is no requirement that local government actually perform any function in this, it would simply be a program that the producers of the bulbs would have to manage and run."

Senator Sheldon: "So, the producers, the manufacturers, the retailers will pay for all the cost of disposing of these products?"

Senator Pridemore: "That is our understanding Senator."

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5543.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5543 and the bill passed the Senate by the following vote: Yeas, 37; Nays, 9; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brown, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Becker, Brandland, Delvin, Holmquist, Honeyford, King, Morton, Schoesler and Stevens

Excused: Senators Carrell, Fairley and McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 5543, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6244, by Senators Fraser, Rockefeller, Marr, Ranker, Pridemore, Kohl-Welles, Shin and Kline

Defining a green home and an energy efficient home.

## MOTION

On motion of Senator Fraser, Substitute Senate Bill No. 6244 was substituted for Senate Bill No. 6244 and the substitute bill was placed on the second reading and read the second time.

## MOTION

On motion of Senator Eide, further consideration of Substitute Senate Bill No. 6244 was deferred and the bill held its place on the second reading calendar.

SENATE BILL NO. 6759, by Senators Kauffman, Oemig, Prentice and Kline

Requiring a plan for a voluntary program of early learning as a part of basic education. Revised for 1st Substitute: Requiring a plan for a voluntary program of early learning.

## MOTIONS

On motion of Senator Kauffman, Substitute Senate Bill No. 6759 was substituted for Senate Bill No. 6759 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kauffman, the rules were suspended, Substitute Senate Bill No. 6759 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kauffman, King and McAuliffe spoke in favor of the passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6759.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6759 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley and McCaslin

SUBSTITUTE SENATE BILL NO. 6759, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## PERSONAL PRIVILEGE

Senator Honeyford: "Thank you Mr. President. I would like to thank your lovely and talented wife for the cookies on our desk. She is very considerate and so thank you."

## REPLY BY THE PRESIDENT

President Owen: "You're quite welcome. She worked very hard all day yesterday of which I had to stand in that house and smell that all day long. So, I can assure each and every one of you that they are very, very good as I sampled them all day long."

## POINT OF ORDER

Senator McDermott: "Do you we have our annual exemption for the Senate Rules allowing us to eat the cookies on the floor today?"

## REPLY BY THE PRESIDENT

President Owen: "If I want to maintain domestic tranquility back home, the answer would be yes."

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SECOND READING

SENATE BILL NO. 6733, by Senator King

Allocating responsibility for court-related costs of involuntary commitment proceedings. Revised for 1st Substitute: Creating a task force to review allocation of court-related involuntary commitment costs.

MOTION

On motion of Senator King, Substitute Senate Bill No. 6733 was substituted for Senate Bill No. 6733 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Hargrove moved that the following striking amendment by Senators Hargrove and King be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1)(a) A legislature shall convene a work group on the subject of costs related to court hearings under the involuntary treatment act, with members as provided in this subsection.

(i) Members shall be invited to participate who represent the diversity of opinions and practices around the state. Invited members must include, but need not be limited to, members representing a regional support network east of the Cascade mountains, a regional support network west of the Cascade mountains, a predominantly urban county, a predominantly rural county, a court administrator, a prosecutor or representative of a prosecutor's association, a defense attorney or representative of a defense association, and a consumer or family representative.

(ii) The department of social and health services shall cooperate with the work group and maintain a liaison representative, who shall be a nonvoting member.

(b) The work group shall choose its chair from among its membership. The legislature shall convene the initial meeting of the work group.

(2) The work group shall review the following issues:

(a) Appropriate allocation of responsibility for court-related costs and fees associated with involuntary commitment hearings; and

(b) Appropriate allocation of responsibility for court-related costs and fees associated with involuntary commitment hearings when the commitment hearing takes place in a different locality than the locality in which the respondent was originally detained.

(3) Staff support for the work group must be provided by the senate committee services and the house of representatives office of program research.

(4) The expenses of the work group must be paid jointly by the senate and house of representatives. Work group expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees.

(5) The work group shall report its findings and recommendations to the governor and the appropriate committees of the legislature by December 1, 2010.

(6) This section expires June 1, 2011."

Senator Hargrove spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove and King to Substitute Senate Bill No. 6733.

The motion by Senator Hargrove carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "proceedings;" strike the remainder of the title and insert "creating a new section; and providing an expiration date."

MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Substitute Senate Bill No. 6733 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6733.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6733 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley and McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6733, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

The Senate resumed consideration of Substitute Senate Bill No. 6244 which had been deferred earlier in the day.

MOTION

Senator Fraser moved that the following striking amendment by Senators Fraser, Honeyford and Rockefeller be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The state building code council shall:

(a) Review local and nationally recognized green building and energy efficiency programs, standards, and codes currently in use or being developed for use by 2012 that: (i) Establish criteria for energy efficiency, indoor air quality, environmental responsibility, and resource efficiency, including a life cycle assessment of building products; (ii) provides for varying levels of certified green homes; and (iii) establishes energy efficiency levels;

(b) Review local or national green building and energy efficiency programs, standards, and codes establishing national accreditation or certification criteria for third-party inspection

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agencies and firms conducting plan review and inspection services as a method to verify compliance with the green building or energy efficiency program, standard, or code;

(c) Evaluate the feasibility of creating a residential energy code appendix that is consistent with the state energy code adopted under chapter 19.27A RCW and RCW 19.27A.015 for local jurisdictions to adopt by reference; and

(d) Identify and evaluate the impacts to local jurisdictions required to implement this act.

(2)(a) The state building code council shall conduct the study required under subsection (1) of this section in collaboration with interested stakeholders including representatives of the department of commerce, the Washington State University extension energy office, the Washington association of realtors, the Washington association of building officials, the building industry association of Washington, local master builder association green programs, the appraiser coalition of Washington, and the American institute of architects, Washington council.

(b) The state building code council shall provide a report of its findings to the legislature by December 1, 2011. The report must include recommendations for the expected percent of energy efficiency gains that may be achieved above national model energy codes; provide recommendations to facilitate implementation by local jurisdictions of the definitions for energy efficient home and green home; recommendations for consideration of the embodied energy consumption in differing types of construction materials; and identify impacts to the housing market.

**NEW SECTION. Sec. 2.** A new section is added to chapter 19.27 RCW to read as follows:

(1) By December 1, 2012, the state building code council shall adopt rules, in conformity with chapter 34.05 RCW, to define: (a) Green home; and (b) energy efficient home for: (i) A group R-3 single- family dwelling unit; and (ii) a duplex residential dwelling unit or a townhouse residential dwelling unit constructed under the provisions of the international residential code or group R-2 apartment houses with residential dwelling units, as defined in section 310 of the 2009 international building code. The rules must be developed in consideration of the information and recommendations developed from the review of local and national energy efficient and green home criteria as required under section 1 of this act and in collaboration with interested stakeholders identified in section 1(2)(a) of this act.

(2) The state building code council must:

(a) Review the rules every three years coinciding with the reviews and updates to the Washington state energy code as required in chapter 423, Laws of 2009. The review of the definitions of green home and energy efficient home must be included as an element of the Washington state energy code progress report as required in chapter 423, Laws of 2009;

(b) Review the definitions of green home and energy efficient home in 2030. The definitions developed under subsection (1) of this section expire July 1, 2031, unless extended by the legislature; and

(c) Provide energy efficient home compliance methods that are consistent with the mandatory sections of the Washington state energy code, including a method to show compliance using the prescriptive, the component performance, or the systems analysis approaches, and prescribe labels for an energy efficient home that are consistent with energy efficiency labeling required by the energy code.

(3) The state building code council, after considering the feasibility of creating a residential energy code appendix, may publish an appendix of the requirements for an energy efficient home for each revised edition of the Washington state energy code.

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(4) A local building department or a third-party inspector approved by a local building department may provide plan review and inspections for energy efficient homes."

Senators Fraser and Honeyford spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Fraser, Honeyford and Rockefeller to Substitute Senate Bill No. 6244.

The motion by Senator Fraser carried and the striking amendment was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "home;" strike the remainder of the title and insert "adding a new section to chapter 19.27 RCW; and creating a new section."

## MOTION

On motion of Senator Fraser, the rules were suspended, Engrossed Substitute Senate Bill No. 6244 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

## MOTION

On motion of Senator Marr, Senator Haugen was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6244.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6244 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 3; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Delvin, Holmquist and Morton

Excused: Senators Fairley and McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6244, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6367, by Senators Hatfield, Regala, Fairley, Fraser, Kohl-Welles and Roach

Allowing agencies to direct requesters to their web site for public records.

## MOTIONS

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On motion of Senator Hatfield, Substitute Senate Bill No. 6367 was substituted for Senate Bill No. 6367 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hatfield, the rules were suspended, Substitute Senate Bill No. 6367 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hatfield spoke in favor of passage of the bill.

MOTION

On motion of Senator Marr, Senators Haugen and Prentice were excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6367.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6367 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, McCaslin and Prentice

SUBSTITUTE SENATE BILL NO. 6367, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6467, by Senators Shin, Kastama, Delvin, Hobbs, Berkey, Rockefeller, Marr, Franklin, Kohl-Welles, Roach and Kline

Authorizing honorary degrees for students who were ordered into internment camps.

The measure was read the second time.

MOTION

On motion of Senator Shin, the rules were suspended, Senate Bill No. 6467 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Shin and Kilmer spoke in favor of the passage of the bill.

MOTION

On motion of Senator Marr, Senator Haugen was excused.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6467.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6467 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 2; Excused, 4.

Voting yea: Senators Becker, Berkey, Brandland, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senators Benton and Brown

Excused: Senators Fairley, Haugen, McCaslin and Prentice

SENATE BILL NO. 6467, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6430, by Senators McDermott, Parlette and Tom

Concerning ballot envelopes.

The measure was read the second time.

MOTION

Senator McDermott moved that the following amendment by Senator Fairley be adopted:

On page 2, after line 30, insert the following:

"NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Senator McDermott spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Fairley on page 2, after line 30 to Senate Bill No. 6430.

The motion by Senator McDermott carried and the amendment was adopted by voice vote.

MOTION

On motion of Senator Brandland, Senator Benton was excused.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "envelopes;" strike the remainder of the title and insert "amending RCW 29A.40.091; and declaring an emergency."

MOTION

On motion of Senator McDermott, the rules were suspended, Engrossed Senate Bill No. 6430 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McDermott spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6430.

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## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6430 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 2; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Gordon and Holmquist

Excused: Senators Benton, Fairley, Haugen and McCaslin

ENGROSSED SENATE BILL NO. 6430, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6241, by Senators Kilmer and Delvin

Creating community facilities districts.

## MOTION

On motion of Senator Kilmer, Substitute Senate Bill No. 6241 was substituted for Senate Bill No. 6241 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Kilmer moved that the following striking amendment by Senators Kilmer and Zarelli be adopted:

Strike everything after the enacting clause and insert the following:

**"PART I  
GENERAL PROVISIONS**

NEW SECTION. Sec. 101. The legislature finds that:

(1) The state is projected to experience substantial population growth in the next two decades and this growth will require substantial new housing, places of employment, community facilities, and supporting local, subregional, and regional infrastructure;

(2) In most areas of the state projected to accommodate substantial growth, there are inadequate community facilities and infrastructure to facilitate and support such growth. In addition, current public financing options and resources are not adequate to provide the needed community facilities and local, subregional, and regional infrastructure;

(3) A more flexible type of financing mechanism known as a community facilities district should be available to counties, cities, and towns so that needed community facilities and local, subregional, and regional infrastructure can be provided;

(4) This chapter is intended to facilitate voluntary landowner financing of community facilities and local, subregional, and regional infrastructure by authorizing the creation of community facilities districts, while creating jobs and facilitating economic development; and

(5) It is in the interest of the people of the state of Washington to authorize the establishment of community facility districts as

independently governed, special purpose districts, vested with the corporate authority included under Article VII, section 9 of the state Constitution to make local improvements in accordance with this chapter and to carry out the purposes specifically authorized under this chapter.

NEW SECTION. **Sec. 102.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board of supervisors" or "board" means the governing body of a community facilities district.

(2) "Community facilities district" or "district" means a district created under this chapter.

(3) "Facility" or "facilities" means the local improvements included under section 501 of this act.

(4) "Legislative authority" means the governing body of a county, city, or town to which a petition or amended petition is submitted.

(a) If the proposed district is located entirely within unincorporated land, then the county is the exclusive "legislative authority" for purposes of approving formation of the district under sections 201 through 206 of this act, inclusive, and section 301 of this act.

(b) If all or a portion of the proposed district is located within unincorporated land that is entirely surrounded by an incorporated city or town, then the "legislative authority" for purposes of approving formation of the district under sections 201 through 206 of this act, inclusive, and section 301 of this act includes the governing bodies of the county and the city or town surrounding the unincorporated land.

(c) If the proposed district is located entirely within incorporated land, then the city or town is the exclusive "legislative authority" for purposes of this chapter, and all powers and responsibilities of a county under this chapter must be exercised by that city or town.

(5) "Petition" means a request, meeting the requirements of section 201 of this act, made by landowners to form a community facilities district and to voluntarily submit their land to the assessments authorized under this chapter and includes an amended petition meeting the requirements of section 201(3) of this act.

(6) "Special assessment" means an assessment imposed in accordance with the requirements of this chapter.

**PART II**

**COMMUNITY FACILITIES DISTRICT FORMATION**

NEW SECTION. **Sec. 201.** Community facilities districts are authorized to be formed for the purposes authorized under this chapter. Community facilities districts may only include land within urban growth areas designated under the state growth management act, located in portions of one or more cities, towns, or counties when created in accordance with this chapter. A district may include one or more noncontiguous tracts, lots, parcels, or other properties meeting the requirements of this chapter.

(1) To form a community facilities district, a petition must be presented to the applicable legislative authorities. The petition must:

(a) Designate and describe the boundaries of the district by metes and bounds or reference to United States townships, ranges, and legal subdivisions;

(b) Be executed by one hundred percent of all owners of private property located within the boundaries of the proposed district. The property owners must include a request to subject their property to the assessments, up to the amount included in the petition and authorized under this chapter;

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(c) Include a certification by the petitioners that they want to voluntarily submit their property to the authority of the district under this chapter to approve the petitioner's request to submit their property to the assessments, up to the amount included in the petition and authorized under this chapter;

(d) Include a general explanation of the objective and plan of the district and describe the specific facilities that the district anticipates financing;

(e) Declare the district will be conducive to public health, safety, and welfare;

(f) Assert that the purpose for forming the district will be a benefit to the land located in the district;

(g) Be accompanied by an "obligation" signed by at least two petitioners who agree to pay the costs of the formation process;

(h) Include a list of petitioners or representatives thereof who are willing and able to serve on the board of supervisors. All petitioners within a proposed district who are natural persons, or natural persons who are designated representatives of petitioners, are eligible to include their name on the list of eligible supervisors. The petitioners may nominate qualified professions to serve on the board of supervisors in lieu of the petitioners or representatives of the petitioners;

(i) If it proposes a special assessment, include: (i) A diagram showing each separate lot, tract, parcel of land, or other property in the district; (ii) the acreage of the property; (iii) the name and address of the owner or reputed owner of each lot, tract, parcel of land, or other property as shown on the tax rolls of the county assessor; (iv) a preliminary assessment roll showing the special assessment proposed to be imposed on each lot, tract, parcel of land, or other property; and (v) a proposed method or combination of methods for computing special assessments, determining the benefit to assessed property or use from facilities or improvements funded directly or indirectly by special assessments under this chapter; and

(j) Include an explanation of what security will be provided to ensure the timely payment of assessments and the timely payment of bonds issued by the district.

(2) The petition must be filed with the auditor of each county in which property included within the proposed district is located. The auditor for the county in which the largest geographic portion of the proposed district is located must be the lead auditor for the purposes of this section. Within thirty days of the lead auditor's receipt of the petition, the lead auditor must confirm that the petition has been validly executed by one hundred percent of all owners of the property located within the proposed district, including confirmation by the auditors of all other counties with whom the petition was filed. Within ten days of the lead auditor's finding that the petition either does or does not contain the required signatures, the lead auditor must either (a) transmit the petition, together with a certificate of sufficiency attached thereto, to each legislative authority petitioned for formation of the district; or (b) return the petition to the petitioners with a list of property owners who must sign the petition in order to comply with this section. There are no restrictions on the number of petitions that may be submitted by one or more property owners.

(3) A petition may be amended for any reason if the amendment is signed by one hundred percent of the owners of property located within the district proposed in the amended petition.

**NEW SECTION. Sec. 202.** A public hearing on the petition for formation of a district must be held by each applicable legislative authority, not less than thirty, but not more than sixty days, from the date that the lead county auditor issues the certificate of sufficiency required under section 201 of this act.

**NEW SECTION. Sec. 203.** Notice of all public hearings must include a description of the proposal, be mailed to all petitioners, and must be published once a week for three consecutive

weeks in the official paper for each applicable legislative authority, prior to the date set for the hearing. The notice must be posted for not less than fifteen days prior to the date of the hearing in each of three public places within the boundaries of the proposed district and in three public places for each applicable legislative authority. Each notice must contain the time, date, and place of the public hearing.

**NEW SECTION. Sec. 204.** At the time and place of the public hearing, the legislative authority must consider the petition. The legislative authority may receive any evidence it deems material that supports or opposes the formation of the district, including the inclusion or exclusion of land. Unless an amended petition satisfying the requirements of section 201 of this act is approved in accordance with the requirements of this chapter, no land outside the boundaries described in the petition may be included within the proposed district. No land inside the boundaries of an approved petition may be removed from the district unless an amended petition satisfying the requirements of section 201 of this act is approved in accordance with the requirements of this chapter.

**NEW SECTION. Sec. 205.** (1) The legislative authority may act on the petition to form a community facilities district at the public hearing held under section 204 of this act and in no event may the legislative authority's decision be issued later than thirty days after the day of the public hearing. The applicable legislative authority may approve the petition by resolution if the applicable legislative authority determines, in its sole discretion, that the petitioners will benefit from the proposed district and that the formation of the district will be in the best interest of the county, city or town, as applicable, and that formation of the district is consistent with the requirements of Washington's growth management act.

(2) A community facilities district may not be formed unless each applicable legislative authority makes the finding required under subsection (1) of this section.

(3) All resolutions approving a petition must conform to the terms and conditions contained in the petition, including the maximum amounts of special assessments set forth in the petition, and must designate the name and number of the community facilities district being formed.

**NEW SECTION. Sec. 206.** (1) Any person who objects to formation of the district may appeal the final decision of a legislative authority to approve a petition for formation of a community facilities district by filing an appeal with the superior court of the county in which any part of the district is located within thirty days of the effective date of the resolution approving formation of the district.

(2) If no appeal is timely filed, then the legislative authority's decision is deemed valid, complete, and final, and neither the legal existence of the district, nor the terms and conditions of an approved petition can thereafter be challenged or questioned by any person on the grounds of procedural defect or otherwise. Certified copies of each resolution approving a district must be filed with the auditor of the county or counties in which the community facilities district is located.

**PART III  
COMMUNITY FACILITIES DISTRICT BOARD OF  
SUPERVISORS**

**NEW SECTION. Sec. 301.** (1) A community facilities district must be governed by a board of supervisors possessing the powers set forth under section 401 of this act. The board of supervisors must be appointed by each applicable legislative authority within sixty days of the formation of the district. Except as expressly provided under this section, each applicable legislative

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authority is authorized to appoint members to the board of supervisors only from among the members of its own governing body. Each applicable legislative authority must appoint the petitioner members or nominees required under subsection (2) or (3) of this section. The term of office of each supervisor is three years and until a successor is appointed, except that the supervisors first appointed serve for one and two years respectively from the date of their appointments, as designated in their appointments.

(2) Except as provided in subsection (3) of this section, if the proposed district is located entirely within a single jurisdiction, then the board of supervisors consists of: (a) Three members of the legislative authority of the jurisdiction; and (b) two members appointed from among the list of eligible supervisors included in the petition as provided in section 201(1)(h) of this act. All members of the board of supervisors must be natural persons.

(3) If all or a portion of the proposed district is located within unincorporated land that is entirely surrounded by an incorporated city or town, then the board of supervisors consists of: (a) Two members appointed from the county legislative authority; (b) two members appointed from the legislative authority of the city or town that is the additional legislative authority under section 102(4) of this act; and (c) one member appointed from the list of eligible petitioners included in the petition as provided in section 201(1)(h) of this act, depending on the number of additional members that are required to result in an overall odd number of supervisors.

(4) If the county, city, or town is the exclusive legislative authority pursuant to section 102 of this act, then the board of supervisors consists of: (a) Three members appointed from such county, city, or town; and (b) two members from the list of eligible petitioners or nominees included in the petition, as provided in section 201(1)(h) of this act, to result in an overall odd number of supervisors.

(5) The legislative authorities may appoint qualified professionals with expertise in municipal finance in lieu of one or more appointments authorized in this section. A jurisdiction's appointments to the board of supervisors may consist of a combination of qualified professionals authorized under this section and one or more members from the applicable legislative authority. Nothing contained in this section authorizes a legislative authority to exceed the maximum number of appointments set forth under subsection (2) or (3) of this section.

(6) A vacancy on the board must be filled by the legislative authority authorized to make the appointment to the applicable supervisor position under this section. Vacancies must be filled by a person in the same position vacating the board, which for initial petitioner members or nominees includes successor owners of property located within the boundaries of an approved district. If the approved district was originally located entirely on unincorporated land and the unincorporated land has been annexed into a city or town, then, as of the effective date of annexation, the city or town is deemed the exclusive legislative authority for the purposes of this chapter and the composition of the board must be structured accordingly, as provided in this section. Supervisors must serve without compensation, but they are entitled to expenses, including traveling expenses, necessarily incurred in discharge of their duties. The board must designate a chair from time to time.

#### PART IV

##### COMMUNITY FACILITIES DISTRICT POWERS

**NEW SECTION. Sec. 401.** (1) A community facilities district created in accordance with this chapter is an independently governed, special purpose district, vested with the corporate authority included under Article VII, section 9 of the state Constitution to make local improvements by special assessment in

accordance with this chapter. Nothing in this chapter exempts the public improvements and facilities provided by a district from the regulatory and land use permitting requirements of the county, city, or town in which the improvements are to be located.

(2) Subject to the terms and conditions of an approved petition, a community facilities district has the powers necessary to carry out the specific purposes authorized under this chapter in order to carry out the specific objectives, plan, and facilities identified in the approved petition including, but not limited to, the authority to:

(a) Acquire, purchase, hold, lease, finance, manage, occupy, construct, and sell real and personal property, facilities, or any interest therein, either inside or outside of the boundaries of the district, except that any such property, facilities, or interests outside the boundaries of the district must directly serve facilities or benefit properties within the district;

(b) Finance and construct facilities authorized under this chapter;

(c) Enter into and perform any and all contracts;

(d) Levy and enforce the collection of special assessments against the property included within a district;

(e) Enter into lease-purchase agreements with or without an option to purchase;

(f) Enter into executory conditional sales contracts, leases, and installment promissory notes;

(g) Borrow money to the extent and in the manner authorized by this chapter;

(h) Hold in trust property useful to accomplishment of the authority granted under this chapter;

(i) Issue revenue bonds in accordance with chapter 39.46 RCW and assessment bonds in accordance with chapter 35.45 RCW, and the requirements of this chapter, payable from revenue or assessments, respectively, of the district that is legally available to be pledged to secure the bonds;

(j) Contract with any municipal corporation, governmental, or private agencies to carry out the purposes authorized by this chapter;

(k) Sue and be sued;

(l) Accept and receive on behalf of the district any money or property donated, devised, or bequeathed to the district and carry out the terms of the donation, devise, or bequest, if it is within the powers granted by law to community facilities districts or, in the absence of such terms, expend or use the money or property for district purposes as determined by the board of supervisors;

(m) Transfer to any county, city, or other municipal corporation, without compensation, any property or other assets of the district; and

(n) Do any and all lawful acts required and expedient to carry out the express authority provided in this chapter.

#### PART V

##### COMMUNITY FACILITIES DISTRICT FINANCES

**NEW SECTION. Sec. 501.** (1) Through the use of district revenue derived through special assessments and bonds authorized under this chapter and, consistent with the terms and conditions of a petition approved in accordance with this chapter, a community facilities district may finance all or a portion of the following costs, expenses, and facilities whether located inside or outside the boundaries of an approved district:

(a) The cost, or any portion thereof, of the purchase, finance, lease, sublease, construction, expansion, improvement, or rehabilitation of any facility with an estimated life of five years or longer;

(b) The planning and design work that is directly related to the purchase, construction, expansion, improvement, or rehabilitation

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of a facility, including engineering, architectural, planning, and inspection costs;

(c) Facilities listed in RCW 35.43.040 to the extent not specified in this section;

(d) Sanitary sewage systems, including collection, transport, storage, treatment, dispersal, effluent use, and discharge;

(e) Drainage and flood control systems, including collection, transport, diversion, storage, detention, retention, dispersal, use, and discharge;

(f) Water systems for domestic, industrial, irrigation, municipal, or community facilities purposes, including production, collection, storage, treatment, transport, delivery, connection, and dispersal;

(g) Highways, streets, roadways, and parking facilities, including all areas for vehicular use for travel, ingress, egress, and parking;

(h) Areas for pedestrian, equestrian, bicycle, or other nonmotor vehicle use for travel, ingress, egress, and parking;

(i) Pedestrian malls, parks, recreational facilities, and open-space facilities for the use of members of the public for entertainment, assembly, and recreation;

(j) Landscaping, including earthworks, structures, lakes, and other water features, plants, trees, and related water delivery systems;

(k) Public buildings, public safety facilities, and community facilities;

(l) Publicly owned natural gas transmission and distribution facilities, facilities for the transmission or distribution of electrical energy, and limited communications facilities, specifically poles, trenches, and conduits, for use of any communications provider;

(m) Street lighting;

(n) Traffic control systems and devices, including signals, controls, markings, and signage;

(o) Systems of surface, underground, or overhead railways, tramways, buses, or any other means of mass transportation facilities, including passenger, terminal, station parking, and related facilities and areas for passenger and vehicular use for travel, ingress, egress, and parking;

(p) Library, educational, and cultural facilities; and

(q) Facilities similar to those listed in this section.

(2) The district may not finance public or private residential dwellings, nonprofit facilities as defined in RCW 43.180.300, health care facilities as defined in RCW 70.37.020, higher education institutions as defined in RCW 28B.07.020, or economic development activities as defined in RCW 43.163.010.

**NEW SECTION. Sec. 502.** (1) The board of supervisors of a community facilities district may impose special assessments on property located inside the district and benefited by the facilities and improvements provided, or to be provided, by a district, whether the facilities and improvements are located inside or outside of the boundaries of the proposed district. The requirements and powers of a district relating to the formation, assessment, collection, foreclosure, and other powers of a special assessment district are as set forth in chapters 35.43, 35.44, 35.49, and 35.50 RCW, except where otherwise addressed under this chapter. In any case where the provisions of this chapter conflict with the requirements under any other chapter that applies to the formation, assessment, collection, foreclosure, or other powers of a special assessment district, the provisions of this chapter control.

(2) Except as otherwise expressly provided under this chapter, the special assessments imposed and collected on property within a district may not exceed the amount set forth in a petition or amended petition approved in accordance with this chapter.

(3) The term of the special assessment is limited to the lesser of (a) twenty-eight years or (b) two years less than the term of any bonds issued by or on behalf of the district to which the assessments

or other revenue of the district is specifically dedicated, pledged, or obligated.

(4) The computation of special assessments must follow the requirements of chapter 35.44 RCW, including the authority to use any method or combination of methods to compute assessments which may be deemed by the board of supervisors to fairly reflect the benefit to the properties being assessed. The method of assessment may utilize the supplemental authority granted under chapter 35.51 RCW. A petition meeting the requirements of section 201 of this act may provide for the reduction or waiver of special assessments for low-income households as that term is defined in RCW 36.130.010.

(5) The board must set a date, time, and place for hearing any objections to the assessment roll, which hearing must occur no later than one hundred twenty days from final approval of formation of the district. Petitioners or representatives thereof serving on the board of supervisors must not participate in the determination of the special assessment roll or vote on the confirmation of that assessment roll. The restriction in this subsection does not apply to members of the board of supervisors appointed from among the qualified professionals that petitioners may nominate under section 201(1)(h) of this act.

(6) The procedures and requirements for assessments, hearings on the assessment roll, filing of objections to the assessment roll, and appeals from the decision of the board approving or rejecting the assessment roll, must be as set forth in RCW 35.44.010 through 35.44.020, 35.44.080 through 35.44.110, and 35.44.190 through 35.44.270.

(7) At the hearing on the assessment roll and, in no event later than thirty days after the day of the hearing, the board may adopt a resolution approving the assessment roll or may correct, revise, raise, lower, change, or modify the assessment roll or any part thereof, and provide the petitioner with a detailed explanation of the changes made by the board.

(8) If the assessment roll is revised by the board in any way, then, within thirty days of the board's decision, the petitioner(s) must unanimously make one of the following elections: (a) Rescind the petition; or (b) accept the changes made by the board, upon which occurrence the board must adopt a resolution approving the assessment roll as modified by the board.

(9) Reassessments, assessments on omitted property, and supplemental assessments are governed by the provisions set forth under chapter 35.44 RCW.

(10) Any assessment approved under the provisions of this chapter may be segregated upon a petition of one hundred percent of the owners of the property subject to the assessment to be segregated. The segregation must be made as nearly as possible on the same basis as the original assessment was levied and approved by the board. The board, in approving a petition for segregation and amendment of the assessment roll, must do so in a fashion such that the total of the segregated parts of the assessment equal the assessment before segregation. As to any property originally entered upon the roll the assessment upon which has not been raised, no objections to the approval of the petition for segregation, the resulting assessment, or the amended assessment roll may be considered by the jurisdiction in which the district is located, the board, or by any court on appeal. Assessments must be collected in districts pursuant to the district's previous assessment roll until the amendment to the assessment roll is finalized under this section.

(11) Except as provided under chapter 35.44 RCW, assessments may not be increased without the approval of one hundred percent of the property owners subject to the proposed increase.

(12) Special assessments must be collected by the district treasurer determined in accordance with section 505 of this act.

(13) A notice of any special assessment imposed under this chapter must be provided to the owner of the assessed property, not less than once per year, with the following appearing at the top of the page in at least fourteen point, bold font:

\*\*\*NOTICE\*\*\*

THIS PROPERTY IS SUBJECT TO THE ASSESSMENTS ITEMIZED BELOW AND APPROVED BY COMMUNITY FACILITIES DISTRICT # . . . . . AS THE OWNER OR POTENTIAL BUYER OF THIS PROPERTY, YOU ARE, OR WOULD BE, RESPONSIBLE FOR PAYMENT OF THE AMOUNTS ITEMIZED BELOW.

PLEASE REFER TO RCW 36.--.-- (section 502, chapter . . . , Laws of 2010 (section 502 of this act)) OR CONTACT YOUR COUNTY AUDITOR FOR ADDITIONAL INFORMATION.

(14) The district treasurer responsible for collecting special assessments may account for the costs of handling the assessments and may collect a fee not to exceed the measurable costs incurred by the treasurer.

**NEW SECTION. Sec. 503.** (1) The district may utilize the special assessments and revenue derived in accordance with this chapter for the payment of principal and interest on bonds issued pursuant to the authority granted under this chapter to fund or reimburse the costs of facilities authorized under this chapter and prior to the issuance of bonds, may utilize the revenue to directly fund the costs of providing the facilities authorized under this chapter on a pay-as-you-go basis.

(2) The board of supervisors may establish, administer, and pay or otherwise dedicate, pledge, or obligate the assessments and revenue generated in accordance with this chapter into a specific fund created by or on behalf of the district, in order to guarantee payment of obligations incurred in connection with facilities provided under this chapter, including the payment of principal and interest on any bonds issued by or on behalf of the district.

(3) The proceeds of any bond issued pursuant to this chapter may be used to pay any and all costs related to providing the facilities authorized under this chapter, including expenses incurred in connection with issuance of the bonds.

(4) The reporting requirements of RCW 39.44.210 apply to any bond issuance under this chapter.

**NEW SECTION. Sec. 504.** No bonds issued by or on behalf of a community facilities district are obligations of any city, town, county, or the state of Washington or any political subdivision thereof other than the district and the bonds must so state.

**NEW SECTION. Sec. 505.** (1) If a district includes land that is entirely within a county and the land is not surrounded entirely by a city or town, then the treasurer of that county is the treasurer of the district. If a district includes land that is entirely within a county and the land is entirely surrounded by a city or town, or, if parts of the district include land within or surrounded by more than one jurisdiction, then the board of supervisors may, with the concurrence of the treasurers of all jurisdictions within which the district lies, appoint the treasurer of any of those jurisdictions to serve as the district treasurer. Except as specifically provided under this chapter, the duties of a district treasurer are as provided under applicable law.

(2) The district treasurer must establish a community facilities district fund, into which must be paid all district revenues. The district treasurer must also maintain any special funds created by the board of supervisors of the community facilities district, into which the district treasurer must place all money as the board of supervisors may, by resolution, direct. The treasurer may create

such subfunds, accounts, and subaccounts as he or she deems necessary, consistent with applicable law.

(3) The district treasurer must pay assessment bonds and revenue bonds and the accrued interest thereon in accordance with their terms from the appropriate fund when interest or principal payments become due.

(4) All interest collected on community facilities district funds belongs to the district and must be deposited to its credit in the proper district funds.

**PART VI  
MISCELLANEOUS PROVISIONS**

**NEW SECTION. Sec. 601.** All assessments imposed on the respective lots, tracts, parcels of land, and other property included within the boundaries of an approved district in accordance with this chapter, are a lien upon the property from the date of final approval and are paramount and superior to any other lien or encumbrance whatsoever, theretofore or thereafter created, except a lien for general taxes.

**NEW SECTION. Sec. 602.** Sections 101 through 601 of this act constitute a new chapter in Title 36 RCW.

**NEW SECTION. Sec. 603.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Senator Kilmer spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kilmer and Zarelli to Substitute Senate Bill No. 6241.

The motion by Senator Kilmer carried and the striking amendment was adopted by voice vote.

**MOTION**

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "districts;" strike the remainder of the title and insert "and adding a new chapter to Title 36 RCW."

**MOTION**

On motion of Senator Kilmer, the rules were suspended, Engrossed Substitute Senate Bill No. 6241 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kilmer and Zarelli spoke in favor of the passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6241.

**ROLL CALL**

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6241 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 2; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette,

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Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

conservation programs. Revised for 1st Substitute: Implementing a pilot program for energy conservation services.

Voting nay: Senators Pflug and Roach

Excused: Senators Benton, Fairley, Haugen and McCaslin

MOTION

ENGROSED SUBSTITUTE SENATE BILL NO. 6241, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

On motion of Senator Rockefeller, Substitute Senate Bill No. 6656 was substituted for Senate Bill No. 6656 and the substitute bill was placed on the second reading and read the second time.

MOTION

MOTION

On motion of Senator Brandland, Senator Carrell was excused.

Senator Rockefeller moved that the following striking amendment by Senator Rockefeller be adopted:

SECOND READING

Strike everything after the enacting clause and insert the following:

SENATE BILL NO. 6332, by Senators Kohl-Welles, Haugen, Delvin, Kline, Fraser, Stevens, Shin, Fairley and Roach

"NEW SECTION. Sec. 1. (1) The legislature finds that Washington state has the opportunity to realize a prosperous, affordable, and clean energy future through energy efficiency.

Concerning human trafficking.

(2) The pilot financing mechanism established in this chapter may enable local governments to expand and improve existing energy conservation and energy efficiency loan programs to aid the private and nonprofit sectors in undertaking residential, commercial, and industrial energy efficiency upgrades.

MOTIONS

On motion of Senator Kohl-Welles, Substitute Senate Bill No. 6332 was substituted for Senate Bill No. 6332 and the substitute bill was placed on the second reading and read the second time.

(3) The legislature finds that this financing tool may lead to reductions in household energy bills, provide incentives for the creation of new family-wage jobs in construction, manufacturing, and installation of energy-saving products, encourage investments by the utility sector in a cleaner environment, decrease the need for new power plant construction, and increase energy security.

On motion of Senator Kohl-Welles, the rules were suspended, Substitute Senate Bill No. 6332 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

NEW SECTION. Sec. 2. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

Senator Kohl-Welles spoke in favor of passage of the bill.

(1) "Energy conservation equipment" means equipment for the conservation or more efficient use of energy, regardless of source, installed at or near the intended place of use. However, the equipment may not include any individual equipment or co-owned and controlled cluster of equipment with a generating capacity that exceeds the net metering system electrical generating capacity threshold established in RCW 80.60.010(10)(a). Energy conservation equipment includes, but is not limited to: Weatherizing equipment; energy-conserving lighting systems, heating and cooling systems, equipment to replace inefficient wood burning heating devices, and appliances; and equipment or systems that permit owners or substantial users of property or equipment to generate all or a portion of their own electricity through the on-site installation of distributed electricity generation systems that use as fuel solar, wind, geothermal, or hydropower, or other renewable resources available on-site and not from a commercial source.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6332.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6332 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

(2) "Energy conservation services" means the provision of services to assist owners or substantial users of structures or energy conservation equipment in the acquisition, installation, and operation of energy conservation equipment, fixtures, or improvements. Energy conservation services include, but are not limited to: Energy audit services; weatherization services; energy conservation equipment financing, acquisition, and installation services; services to replace inefficient wood burning heating devices; and other measures to reduce energy on-site consumption regardless of source. Energy conservation services may not be considered "a conversion from one energy source to another" that is limited to the change or substitution of one commercial energy supplier for another commercial energy supplier.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Benton, Carrell, Fairley, Haugen and McCaslin

(3) "Municipality" means a city or town.  
NEW SECTION. Sec. 3. The provision of energy conservation services under this chapter is declared to be a public use and a public and municipal purpose, which may be conducted

SUBSTITUTE SENATE BILL NO. 6332, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Delvin, Senator Carrell was excused.

SECOND READING

SENATE BILL NO. 6656, by Senators Murray, Rockefeller, Fraser and Shin

Authorizing a local financing tool to fund energy efficiency upgrades and removing financial barriers to implementing energy

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through a public utility operated by a municipality. Energy conservation services may be provided through an existing utility system already operated by the municipality. A municipality that provides energy conservation services under this chapter is declared to be engaged in the sale or distribution of energy services under Article VIII, section 10 of the state Constitution.

**NEW SECTION. Sec. 4.** (1)(a) The authority provided under this chapter applies to municipalities wholly located within the electric service territories of Tacoma public utilities, Seattle city light, and Puget Sound energy as of the effective date of this section.

(b) The authorization in (a) of this subsection is limited to the municipality's boundaries and do not extend to any unincorporated areas in an electric utility's service area.

(2)(a) By ordinance, a municipality may create an energy conservation services utility for the purpose of providing to its inhabitants and property owners energy conservation services that lead to the more efficient consumption of energy resources, from whatever source generated, and may construct, purchase, acquire, lease, add to, extend, maintain, and operate a system or program of energy conservation services.

(b) Prior to creating an energy conservation services utility, the legislative authority of the municipality must hold a public hearing and make a legislative determination, based on presentations at the hearing, that the energy conservation services proposed to be provided by the municipality will make available additional or complementary services, target underserved areas or populations, or otherwise add incremental value to the preexisting programs and services provided by an electric or natural gas energy distribution utility servicing the municipality.

(c) Energy conservation services are only authorized under this chapter if the cost per unit of energy saved or produced by the use of such materials and equipment is less than the cost per unit of energy produced by the next least costly new energy resource that could be acquired to meet future demand.

(3) For the purpose of providing energy conservation services, the municipality has the full power to operate and regulate such systems and programs; to enter into agreements for the maintenance and operation of any facilities, equipment, or systems, under such terms and conditions as may be determined by the legislative authority of the municipality to be in the municipality's interest; and other powers as may be necessary for the provision and financing of energy conservation services. Nothing in this chapter authorizes any municipality to generate, transmit, distribute, or sell electricity. Nothing in this chapter may be construed to restrain or limit the authority of any individual, partnership, corporation, private utility, or public utility from establishing and providing energy conservation services.

(4) The legislative authority of the municipality has full authority to set rates or charges for energy conservation services provided to customers of the energy conservation service utility if the rates charged are uniform for the same class of customer or service. In classifying customers served or services furnished, the legislative authority may consider: The difference in cost of services to the various customers; the location of the various customers within the municipality; the difference in cost of maintenance, operation, repair, and replacement of the various parts of the system; the different character of the services furnished various customers; the quantity and quality of the services furnished; and any other matters that present a reasonable difference as a ground for distinction. The legislative authority of the municipality has the full authority to regulate and control the energy conservation services so delivered, together with the right to handle and sell or lease any energy conservation equipment, fixtures, or accessories of any kind, necessary and convenient for the provision of energy conservation services.

(5) A qualifying utility under RCW 19.280.030 that serves a municipality providing energy conservation services under this chapter may exclusively claim the energy savings achieved by the energy conservation services for purposes of complying with RCW 19.280.040. At the request of the qualifying utility, municipalities must provide the qualifying utility, the department of commerce, and the Washington utilities and transportation commission with any relevant data to effectuate this purpose.

(6) A municipality may issue general obligation or revenue bonds, notes, warrants, or other evidences of indebtedness for the purposes of providing all or part of the costs of providing energy conservation services, which shall be issued and sold in accordance with chapters 39.44, 39.46, 39.50, and 39.53 RCW. No municipality may enter into a contract to sell loans financed by an energy services conservation utility to a third party for the purpose of securitizing those loans without approval by the legislative authority of the municipality. Any contract that requires a municipality to service loans that it originated must limit the liability of the municipality by prohibiting the commingling of its loans in a securities instrument with loans issued by other parties. No indebtedness may be issued after June 30, 2015. However, indebtedness previously issued may continue to be serviced.

(7) Municipalities providing energy conservation services under this chapter must establish quality assurance programs that must include the following: (a) A requirement that contractors be prequalified; (b) the maintenance of a list of prequalified contractors; (c) the creation of minimum standards for prequalified contractors that include: (i) Legal compliance procedures; (ii) proper classification of employees; (iii) use of a qualified energy efficiency workforce if such workers are available; and (iv) maintenance of records needed to verify compliance; and (d) a third-party, independent verification process.

(8) The authority granted in this chapter must be consistent with, and not limit, supplant, replace, or conflict with, any authority to provide energy conservation services through an existing municipal utility.

(9) Energy conservation service utilities formed under this chapter must file annual reports stating the number of customers served, the amount of assistance per customer, the estimated energy savings per customer, and the effectiveness of their quality assurance programs. Municipalities must submit their reports to the respective electric utilities serving their residents, which must consolidate the reports and submit them electronically to the appropriate legislative committees by December 1st each year until the expiration of the pilot program.

**NEW SECTION. Sec. 5.** (1) Any municipality engaged in the provision of energy conservation services under this chapter is authorized, within limits established by the Constitution of the state of Washington, to assist the owners of structures or equipment in financing the acquisition and installation of materials and equipment, for compensation or otherwise, for the conservation or more efficient use of energy in such structures or equipment pursuant to an energy conservation plan adopted by the municipality if the cost per unit of energy saved or produced by the use of such materials and equipment is less than the cost per unit of energy produced by the next least costly new energy resource that could be acquired to meet future demand. Any financing authorized under this chapter may only be used for energy conservation services in existing structures.

(2) Except where otherwise authorized, such assistance is limited to:

(a) Providing an inspection of the structure or equipment, either directly or through one or more inspectors under contract, to determine and inform the owner of the estimated cost of purchasing and installing conservation materials and equipment for which

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financial assistance will be approved and the estimated life cycle savings in energy costs that are likely to result from the installation of the materials or equipment;

(b) Providing a list of businesses that sell and install the materials and equipment within or in close proximity to the service area of the municipality, each of which businesses must have requested to be included and must have the ability to provide the products in a workmanlike manner and to utilize the materials in accordance with the prevailing national standards;

(c) Arranging to have approved conservation materials and equipment installed by a private contractor whose bid is acceptable to the owner of the residential structure and verifying the installation; and

(d) Arranging or providing financing for the purchase and installation of approved conservation materials and equipment. The materials and equipment must be purchased from a private business and be installed by a private business or the owner.

(3)(a) Pay back must be in the form of incremental additions to an existing local government utility or tax bill, billed either together with use charge or separately. Loans may not exceed two hundred forty months in length. The municipality may make assistance available in the form of grants made under this chapter for energy conservation improvements to existing structures owned or occupied by persons qualifying as poor or infirm consistent with the state Constitution.

(b) If pay back is in the form of incremental additions to a property tax bill, and if a servicer maintains an escrow account for a borrower of the energy conservation services related to the property, then the municipality shall contact the servicer of the existing escrow within thirty days to communicate the incremental increase in monthly payments required to make the energy conservation services payment when due.

(4) The municipal legislative authority shall approve the aggregate amount of such loans and the repayment terms by ordinance and may, by ordinance, delegate to staff the approval of individual loans consistent with loan program guidelines approved in the ordinance. The municipality and the property owner shall enter into a loan agreement setting forth the terms of the loan, which agreement may provide for acceleration in the event a loan installment is delinquent. In order to secure loans, the municipality shall have a statutory lien on the property, not exceeding five percent of the assessed value of the property as of the last assessment preceding the loan funding date, on which energy conservation improvements so financed are installed or constructed. The statutory lien shall be paramount and superior to any other lien or encumbrance thereafter created except a lien for general taxes, special assessment district assessments, and liens filed under RCW 35.92.360, 54.16.280, or 36.94.460. Any lien for any amount in excess of five percent of the assessed value of the property may be obtained and perfected in accordance with applicable law. The loan shall be a lien upon property from the time the loan agreement is executed. If the municipal legislative authority in granting loans has acted in good faith and without fraud, the loan shall be valid and enforceable as such and the lien thereof upon the property shall be valid.

(5) The municipality may foreclose a lien in an action in the superior court. All or any of the tracts subject to such a lien may be proceeded against in a single action, and all parties appearing of record as owning or claiming to own or having an interest in or lien upon the tracts involved shall be impleaded in the action as parties defendant. An action to foreclose a lien must be commenced within two years after the date that the loan first becomes subject to acceleration under the loan documents. Liens to secure loans may be foreclosed in the manner provided by RCW 35.67.250 through 35.67.270.

(6) The municipality may pledge revenues from loan payments to secure and repay general obligation or revenue bonds, notes, or other forms of indebtedness issued by or on behalf of the municipality, which indebtedness shall be issued in accordance with this chapter and chapters 39.44, 39.46, 39.50, and 39.53 RCW. For the purpose of securing the payment of the principal of and interest on any bonds or notes, the municipality may create a reserve fund. The principal amount of any loan may include a proportionate share of the costs of issuing the bonds, notes, or other indebtedness, and may include up to an additional amount to fund a reserve fund, consistent with RCW 39.44.140. The bonds, warrants, or other evidences of indebtedness shall be deemed to be for capital purposes within the meaning of the uniform system of accounts for municipal corporations.

**Sec. 6.** RCW 35.92.070 and 1987 c 145 s 1 are each amended to read as follows:

When the governing body of a city or town deems it advisable that the city or town purchase, acquire, or construct any such public utility, or make any additions and betterments thereto or extensions thereof, it shall provide therefor by ordinance, which shall specify and adopt the system or plan proposed, and declare the estimated cost thereof, as near as may be, and the ordinance shall be submitted for ratification or rejection by majority vote of the voters of the city or town at a general or special election.

(1) No submission shall be necessary:

(a) When the work proposed is an addition to, or betterment of, extension of, or an increased water supply for existing waterworks, or an addition, betterment, or extension of an existing system or plant of any other public utility;

(b) When in the charter of a city a provision has been adopted authorizing the corporate authorities thereof to provide by ordinance for acquiring, opening, or operating any of such public utilities; ~~(or)~~

(c) When in the judgment of the corporate authority, the public health is being endangered by the discharge of raw or untreated sewage into any body of water and the danger to the public health may be abated by the construction and maintenance of a sewage disposal plant; or

(d) When the governing body of a city or town deems it advisable to form an energy conservation services utility under chapter 35.-- RCW (the new chapter created in section 7 of this act).

(2) Notwithstanding subsection (1) of this section, submission to the voters shall be necessary if:

(a) The project or work may produce electricity for sale in excess of present or future needs of the water system;

(b) The city or town does not own or operate an electric utility system;

(c) The work involves an ownership greater than twenty-five percent in a new water supply project combined with an electric generation facility; and

(d) The combined facility has an installed capacity in excess of five megawatts.

(3) Notwithstanding subsection (1) of this section, submission to the voters shall be necessary to make extensions to a public utility which would expand the previous service capacity by fifty percent or more, where such increased service capacity is financed by the issuance of general obligation bonds.

(4) Thirty days' notice of the election shall be given in the official newspaper of the city or town, by publication at least once each week in the paper during such time.

(5) When a proposition has been adopted, or in the cases where no submission is necessary, the corporate authorities of the city or town may proceed forthwith to purchase, construct, and acquire the public utility or make additions, betterments, and extensions thereto and to make payment therefor.

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NEW SECTION. **Sec. 7.** Sections 1 through 5 of this act constitute a new chapter in Title 35 RCW.

NEW SECTION. **Sec. 8.** Sections 1 through 6 of this act expire June 30, 2015."

Senator Rockefeller spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Rockefeller to Substitute Senate Bill No. 6656.

The motion by Senator Rockefeller carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 4 of the title, after "energy;" strike the remainder of the title and insert "amending RCW 35.92.070; adding a new chapter to Title 35 RCW; and providing an expiration date."

#### MOTION

On motion of Senator Rockefeller, the rules were suspended, Engrossed Substitute Senate Bill No. 6656 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller, Honeyford and Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6656.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6656 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 2; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Holmquist and Stevens

Excused: Senators Fairley, Haugen and McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6656, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, Rule 15 was suspended for the remainder of the day for the purpose of allowing continued floor action.

EDITOR'S NOTE: Senate Rule 15 establishes the floor schedule and calls for a lunch and dinner break of 90 minutes each per day during regular daily sessions.

#### MOTION TO LIMIT DEBATE

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Senator Eide: "Mr. President, I move that the members of the Senate be allowed to speak but once on each question before the Senate, that such speech be limited to three minutes and that members be prohibited from yielding their time, however, the maker of a motion shall be allowed to open and close debate. This motion shall be in effect through February 16, 2010."

The President declared the question before the Senate to be the motion by Senator Eide to limit debate.

The motion by Senator Eide carried and debate was limited through February 16, 2010 by voice vote.

#### POINT OF ORDER

Senator Schoesler: "May Rule 29 be suspended for more than one day at a time?"

#### REPLY BY THE PRESIDENT

President Owen: "Senator Schoesler, there's no time frame established within the rule and the practice of the Senate has been to allow it to go as long as the motion is made for it to go."

#### MOTION

At 11:17 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

#### AFTERNOON SESSION

The Senate was called to order at 1:00 p.m. by President Owen.

#### MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

#### MESSAGE FROM THE HOUSE

February 13, 2010

#### MR. PRESIDENT

The House has passed:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1096,

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1149,

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1317,

ENGROSSED HOUSE BILL 2444,

ENGROSSED SUBSTITUTE HOUSE BILL 2504,

ENGROSSED SUBSTITUTE HOUSE BILL 2538,

ENGROSSED SUBSTITUTE HOUSE BILL 2547,

ENGROSSED SUBSTITUTE HOUSE BILL 2565,

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2658,

ENGROSSED SUBSTITUTE HOUSE BILL 2747,

SUBSTITUTE HOUSE BILL 2790,

ENGROSSED SUBSTITUTE HOUSE BILL 2886,

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2961,

ENGROSSED SUBSTITUTE HOUSE BILL 2986,

ENGROSSED SUBSTITUTE HOUSE BILL 3032,

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 3141.

and the same are herewith transmitted.

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BARBARA BAKER, Chief Clerk

## MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

## SECOND READING

SENATE BILL NO. 6297, by Senator Franklin

Regarding certification of speech-language pathology assistants.

The measure was read the second time.

## MOTION

On motion of Senator Franklin, the rules were suspended, Senate Bill No. 6297 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Franklin spoke in favor of passage of the bill.

## MOTION

On motion of Senator Marr, Senators Brown, Kauffman and Kohl-Welles were excused.

## MOTION

On motion of Senator Brandland, Senators Benton, Hewitt, Holmquist, King and McCaslin were excused.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6297.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6297 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Keiser, Kilmer, King, Kline, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Absent: Senator Tom

Excused: Senators Holmquist, Kauffman, Kohl-Welles and McCaslin

SENATE BILL NO. 6297, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6481, by Senators Morton, Schoesler, Holmquist, Hewitt, King, Delvin and Swecker

Clarifying which local governments have jurisdiction over conversion-related forest practices.

The measure was read the second time.

## MOTION

On motion of Senator Jacobsen, the rules were suspended, Senate Bill No. 6481 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Morton spoke in favor of passage of the bill.

## MOTION

On motion of Senator Marr, Senator Tom was excused.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6481.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6481 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Excused: Senators Holmquist, McCaslin and Tom

SENATE BILL NO. 6481, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6338, by Senators Regala, Carrell, Hargrove, Shin and Kline

Providing transitional housing for persons at risk of experiencing homelessness. Revised for 1st Substitute: Concerning intermediate tenancies for persons with criminal backgrounds or substance abuse issues.

## MOTIONS

On motion of Senator Regala, Substitute Senate Bill No. 6338 was substituted for Senate Bill No. 6338 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Regala, the rules were suspended, Substitute Senate Bill No. 6338 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Regala and Carrell spoke in favor of the passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6338.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6338 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6338, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6343, by Senators Jacobsen, Kohl-Welles, Swecker, Haugen, Hatfield and Keiser

Establishing the Washington food policy council. Revised for 1st Substitute: Establishing the Washington food policy forum.

## MOTIONS

On motion of Senator Jacobsen, Substitute Senate Bill No. 6343 was substituted for Senate Bill No. 6343 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Jacobsen, the rules were suspended, Substitute Senate Bill No. 6343 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Jacobsen spoke in favor of passage of the bill.

## MOTION

On motion of Senator Kauffman, Senator Marr was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6343.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6343 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom and Zarelli

Voting nay: Senators Holmquist, Roach and Swecker

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6343, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6459, by Senators Hobbs, Berkey, Marr and Schoesler

Concerning the inspection of rental properties.

MOTIONS

On motion of Senator Hobbs, Substitute Senate Bill No. 6459 was substituted for Senate Bill No. 6459 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hobbs, the rules were suspended, Substitute Senate Bill No. 6459 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6459.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6459 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 7; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Marr, McAuliffe, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom and Zarelli

Voting nay: Senators Franklin, Kohl-Welles, McDermott, Morton, Murray, Regala and Swecker

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6459, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6298, by Senators Berkey, Rockefeller and Kline

Authorizing limited deposits of public funds with credit unions.

## MOTIONS

On motion of Senator Berkey, Substitute Senate Bill No. 6298 was substituted for Senate Bill No. 6298 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Berkey, the rules were suspended, Substitute Senate Bill No. 6298 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Berkey spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6298.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6298 and the bill passed the Senate by the following vote: Yeas, 38; Nays, 9; Absent, 1; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Hewitt, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe,

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McDermott, Morton, Murray, Oemig, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Becker, Haugen, Hobbs, Holmquist, Honeyford, Parlette, Roach, Schoesler and Stevens

Absent: Senator Kline

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6298, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6788, by Senators Brown, Morton, Delvin and Marr

Addressing the dissolution of the assets and affairs of a nonprofit corporation.

MOTIONS

On motion of Senator Kline, Substitute Senate Bill No. 6788 was substituted for Senate Bill No. 6788 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kline, the rules were suspended, Substitute Senate Bill No. 6788 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6788.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6788 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Hewitt and Holmquist

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6788, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6280, by Senators Murray, Shin, Kohl-Welles, Marr, Jacobsen and Kline

Concerning East Asian medicine practitioners.

MOTIONS

On motion of Senator Murray, Substitute Senate Bill No. 6280 was substituted for Senate Bill No. 6280 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Murray, the rules were suspended, Substitute Senate Bill No. 6280 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Murray and Shin spoke in favor of the passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6280.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6280 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6280, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6778, by Senators McAuliffe, Shin, Kauffman and Kline

Establishing an alternative route to a high school diploma.

MOTION

On motion of Senator McAuliffe, Substitute Senate Bill No. 6778 was substituted for Senate Bill No. 6778 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator McAuliffe moved that the following amendment by Senators McAuliffe and Hobbs be adopted:

On page 2, after line 9, insert the following:

"(2) Successfully complete one occupational credit as defined in WAC 180-51-060;"

Renumber the remaining subsections consecutively and correct any internal references accordingly.

Senator McAuliffe spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators McAuliffe and Hobbs on page 2, after line 9 to Substitute Senate Bill No. 6778.

The motion by Senator McAuliffe carried and the amendment was adopted by voice vote.

MOTION

On motion of Senator McAuliffe, the rules were suspended, Engrossed Substitute Senate Bill No. 6778 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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Senators McAuliffe, Pridemore, Swecker, Kauffman, Parlette, King spoke in favor of passage of the bill.

Senators Tom, Murray and Pflug spoke against passage of the bill.

## MOTION

On motion of Senator Marr, Senator Brown was excused.

## MOTION

Senator Eide demanded that the previous question be put.

The President declared that at least two additional senators joined the demand and the demand was sustained.

The President declared the question before the Senate to be the motion of Senator Eide, "Shall the main question be now put?"

The motion by Senator Eide that the previous question be put carried by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6778.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6778 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 12; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, King, Kline, Kohl-Welles, Marr, McAuliffe, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Shel Shin, Swecker and Zarelli

Voting nay: Senators Becker, Brandland, Carrell, Delvin, Kilmer, McDermott, Morton, Murray, Pflug, Rockefeller, Stevens and Tom

Excused: Senators Brown and McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6778, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 2:11 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 3:54 p.m. by President Owen.

## SECOND READING

SENATE BILL NO. 6287, by Senators Fraser and Fairley

Concerning annexation of a city, partial city, or town to a fire protection district.

The measure was read the second time.

## MOTION

Senator Fraser moved that the following striking amendment by Senators Fraser, Fairley and Swecker be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 52.04 RCW to read as follows:

All property located within the boundaries of a city, partial city as set forth in RCW 52.04.061(2), or town annexing into a fire protection district, which property is subject to an excess levy by the city or town for the repayment of voter-approved indebtedness for fire protection related capital improvements incurred prior to the effective date of the annexation is exempt from voter-approved excess property taxes levied by the annexing fire protection district for the repayment of indebtedness issued prior to the effective date of the annexation.

NEW SECTION. **Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Senators Fraser and Swecker spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Fraser, Swecker and Fairley to Senate Bill No. 6287.

The motion by Senator Fraser carried and the striking amendment was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 3 of the title, after "district;" strike the remainder of the title and insert "adding a new section to chapter 52.04 RCW; and declaring an emergency."

## MOTION

On motion of Senator Fraser, the rules were suspended, Engrossed Senate Bill No. 6287 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6287.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6287 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

ENGROSSED SENATE BILL NO. 6287, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

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SENATE BILL NO. 6556, by Senators Hatfield and Schoesler

Changing the fees for certain types of agricultural burning.

#### MOTIONS

On motion of Senator Hatfield, Substitute Senate Bill No. 6556 was substituted for Senate Bill No. 6556 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hatfield, the rules were suspended, Substitute Senate Bill No. 6556 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hatfield and Schoesler spoke in favor of the passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6556.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6556 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 5; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Carrell, Holmquist, Marr, Morton and Stevens

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6556, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6816, by Senator Schoesler

Concerning special permitting for certain farm implements.

#### MOTIONS

On motion of Senator Schoesler, Substitute Senate Bill No. 6816 was substituted for Senate Bill No. 6816 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Schoesler, the rules were suspended, Substitute Senate Bill No. 6816 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Schoesler spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6816.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6816 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6816, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, the Senate advanced to the seventh order of business.

#### THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 6508, by Senate Committee on Government Operations & Elections (originally sponsored by Senators Fairley, Prentice, Pridemore, Kline, Rockefeller, Ranker, Tom, McDermott, Gordon and Keiser).

Changing the class of persons entitled to recoveries under a wrongful death action or survival action.

The bill was read on Third Reading.

#### MOTION

On motion of Senator Hargrove, the rules were suspended and Engrossed Substitute Senate Bill No. 6508 was returned to second reading for the purpose of amendment.

#### SECOND READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 6508, by Senate Committee on Government Operations & Elections (originally sponsored by Senators Fairley, Prentice, Pridemore, Kline, Rockefeller, Ranker, Tom, McDermott, Gordon and Keiser)

Changing the class of persons entitled to recoveries under a wrongful death action or survival action.

The measure was read the second time.

#### MOTION

Senator Hargrove moved that the following amendment by Senators Hargrove and Brandland be adopted:

In section 1 of the bill insert the following new subsection (3):

"(3) In any action under subsection (1)(a) of this section against the state or a political subdivision thereof that is based on a parent's significant involvement in an adult child's life, the liability of the state or political subdivision shall be several and not joint."

In section 3 of the bill insert the following new subsection (5):

"(5) In any action under subsection (2)(a) of this section against the state or a political subdivision thereof that is based on a parent's significant involvement in an adult child's life, the liability of the state or political subdivision shall be several and not joint."

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In section 4 of the bill insert the following new subsection (6):

"(6) In any action under subsection (1) of this section against the state or a political subdivision thereof that is based on a parent's significant involvement in a child's life, the liability of the state or political subdivision shall be several and not joint."

After section 7 of the bill, insert a new section 8 as follows:

"Sec. 8. RCW 4.22.030 and 1986 c 305 s 402 are each amended to read as follows:

Except as otherwise provided in RCW 4.22.070, 4.20.020, 4.20.060, and 4.24.010, if more than one person is liable to a claimant on an indivisible claim for the same injury, death or harm, the liability of such person shall be joint and several."

Renumber the sections consecutively and correct any internal references accordingly.

The President declared the question before the Senate to be the adoption of the amendment by Senators Hargrove and Brandland in section 1 to Engrossed Substitute Senate Bill No. 6508.

Senators Hargrove and Brandland spoke in favor of adoption of the amendment.

The motion by Senator Hargrove carried and the amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

Strike the title and insert the following:

"AN ACT relating to wrongful death or survival actions by changing the class of persons entitled to recoveries and by limiting the liability of state and local agencies or political subdivisions in those recoveries; amending 4.20.020, 4.20.046, 4.20.060, 4.22.030, and 4.24.010; creating new sections; and providing effective date."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Second Engrossed Substitute Senate Bill No. 6508 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove, Fairley, Gordon and Rockefeller spoke in favor of the passage of the bill.

Senator Sheldon spoke on final passage of the bill.

Senators Carrell and Pflug spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Second Engrossed Substitute Senate Bill No. 6508.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Substitute Senate Bill No. 6508 and the bill passed the Senate by the following vote: Yeas, 30; Nays, 18; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

Voting nay: Senators Becker, Brandland, Carrell, Delvin, Haugen, Hewitt, Holmquist, Honeyford, King, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Excused: Senator McCaslin

SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 6508, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, the Senate reverted to the sixth order of business.

#### SECOND READING

SENATE BILL NO. 6202, by Senators Hargrove, Holmquist, Franklin, Honeyford, McCaslin, Regala, Morton, Keiser, Delvin, Swecker, Rockefeller, Tom, Kline, McAuliffe and Kilmer

Expanding provisions relating to vulnerable adults.

#### MOTIONS

On motion of Senator Hargrove, Substitute Senate Bill No. 6202 was substituted for Senate Bill No. 6202 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hargrove, the rules were suspended, Substitute Senate Bill No. 6202 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Marr, Senator Brown was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6202.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6202 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brown and McCaslin

SUBSTITUTE SENATE BILL NO. 6202, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6051, by Senators Murray, Pflug, Kohl-Welles, McAuliffe, Jarrett, Eide, Kline, Fairley, Jacobsen and McDermott

Removing an expiration date applicable to heritage and arts program funding.

#### MOTION

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On motion of Senator Murray, Substitute Senate Bill No. 6051 was substituted for Senate Bill No. 6051 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Murray moved that the following striking amendment by Senators Murray and King be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 67.28.180 and 2007 c 189 s 1 are each amended to read as follows:

(1) Subject to the conditions set forth in subsections (2) and (3) of this section, the legislative body of any county or any city, is authorized to levy and collect a special excise tax of not to exceed two percent on the sale of or charge made for the furnishing of lodging that is subject to tax under chapter 82.08 RCW.

(2) Any levy authorized by this section ~~((shall be))~~ is subject to the following:

(a) Any county ordinance or resolution adopted pursuant to this section ~~((shall))~~ must contain, in addition to all other provisions required to conform to this chapter, a provision allowing a credit against the county tax for the full amount of any city tax imposed pursuant to this section upon the same taxable event.

(b)(i) In the event that any county has levied the tax authorized by this section and has, prior to June 26, 1975, either pledged the tax revenues for payment of principal and interest on city revenue or general obligation bonds authorized and issued pursuant to RCW 67.28.150 through 67.28.160 or has authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 through 67.28.160, such county ~~((shall be))~~ is exempt from the provisions of (a) of this subsection, to the extent that the tax revenues are pledged for payment of principal and interest on bonds issued at any time pursuant to the provisions of RCW 67.28.150 through 67.28.160 ~~((-- PROVIDED, That))~~. However, so much of such pledged tax revenues, together with any investment earnings thereon, not immediately necessary for actual payment of principal and interest on such bonds may be used: ~~((#))~~ (A) In any county with a population of one million five hundred thousand or more, for repayment either of limited tax levy general obligation bonds or of any county fund or account from which a loan was made, the proceeds from the bonds or loan being used to pay for constructing, installing, improving, and equipping stadium capital improvement projects, and to pay for any engineering, planning, financial, legal and professional services incident to the development of such stadium capital improvement projects, regardless of the date the debt for such capital improvement projects was or may be incurred; ~~((#))~~ (B) in any county with a population of one million five hundred thousand or more, for repayment or refinancing of bonded indebtedness incurred prior to January 1, 1997, for any purpose authorized by this section or relating to stadium repairs or rehabilitation, including but not limited to the cost of settling legal claims, reimbursing operating funds, interest payments on short-term loans, and any other purpose for which such debt has been incurred if the county has created a public stadium authority to develop a stadium and exhibition center under RCW 36.102.030; or ~~((#))~~ (C) in other counties, for county-owned facilities for agricultural promotion until January 1, 2009, and thereafter for any purpose authorized in this chapter.

(ii) A county is exempt under this subsection with respect to city revenue or general obligation bonds issued after April 1, 1991, only if such bonds mature before January 1, 2013. If any county located east of the crest of the Cascade mountains has levied the tax authorized by this section and has, prior to June 26, 1975, pledged the tax revenue for payment of principal and interest on city revenue

or general obligation bonds, the county is exempt under this subsection with respect to revenue or general obligation bonds issued after January 1, 2007, only if the bonds mature before January 1, 2021. Such a county may only use funds under this subsection (2)(b) for constructing or improving facilities authorized under this chapter, including county- owned facilities for agricultural promotion, and must perform an annual financial audit of organizations receiving funding on the use of the funds.

(iii) As used in this subsection (2)(b), "capital improvement projects" may include, but not be limited to a stadium restaurant facility, restroom facilities, artificial turf system, seating facilities, parking facilities and scoreboard and information system adjacent to or within a county owned stadium, together with equipment, utilities, accessories and appurtenances necessary thereto. The stadium restaurant authorized by this subsection (2)(b) ~~((shall))~~ must be operated by a private concessionaire under a contract with the county.

(c)(i) No city within a county exempt under subsection (2)(b) of this section may levy the tax authorized by this section so long as said county is so exempt.

(ii) ~~((If bonds have been issued under RCW 43.99N.020 and any necessary property transfers have been made under RCW 36.102.100,))~~ No city within a county with a population of one million five hundred thousand or more may levy the tax authorized by this section ~~((before January 1, 2021))~~.

(iii) However, in the event that any city in a county described in (i) or (ii) of this subsection (2)(c) has levied the tax authorized by this section and has, prior to June 26, 1975, authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 through 67.28.160, such city may levy the tax so long as the tax revenues are pledged for payment of principal and interest on bonds issued at any time pursuant to the provisions of RCW 67.28.150 through 67.28.160.

(3) Any levy authorized by this section by a county that has levied the tax authorized by this section and has, prior to June 26, 1975, either pledged the tax revenues for payment of principal and interest on city revenue or general obligation bonds authorized and issued pursuant to RCW 67.28.150 through 67.28.160 or has authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 through 67.28.160 ~~((shall be))~~ is subject to the following:

(a) Taxes collected under this section in any calendar year before 2013 in excess of five million three hundred thousand dollars ~~((shall))~~ may only be used as follows:

(i) Seventy-five percent from January 1, 1992, through December 31, 2000, and seventy percent from January 1, 2001, through December 31, 2012, for art museums, cultural museums, heritage museums, a performing arts center in a city with a population greater than eighty-five thousand persons but less than one hundred thousand persons, heritage and preservation programs, the arts, and the performing arts. Moneys spent under this subsection (3)(a)(i) ~~((shall))~~ must be used for the purposes of this subsection (3)(a)(i) in all parts of the county.

(ii) Twenty-five percent from January 1, 1992, through December 31, 2000, and thirty percent from January 1, 2001, through December 31, 2012, for the following purposes and in a manner reflecting the following order of priority: Stadium purposes as authorized under subsection (2)(b) of this section; acquisition of open space lands; youth sports activities; and tourism promotion. If all or part of the debt on the stadium is refinanced, all revenues under this subsection (3)(a)(ii) ~~((shall))~~ must be used to retire the debt.

(b) From January 1, 2013, through December 31, 2015, in a county with a population of one million five hundred thousand or more, all revenues under this section ~~((shall))~~ must be used to retire

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the debt on the stadium, ~~((or deposited in the stadium and exhibition center account under RCW 43.99N.060 after))~~ until the debt on the stadium is retired. On and after the date the debt on the stadium is retired, and through December 31, 2015, all revenues under this section in a county of one million five hundred thousand or more must be deposited in the special account under (f) of this subsection.

(c) From January 1, 2016, through December 31, 2020, in a county with a population of one million ~~five hundred thousand~~ or more, all revenues under this section ~~((shall))~~ must be deposited in the stadium and exhibition center account under RCW 43.99N.060.

(d) On and after January 1, 2021, at least thirty-seven and one-half percent of revenues under this section in a county of one million five hundred thousand or more must be deposited in the special account under (f) of this subsection.

(e) At least seventy percent of moneys spent under (a)(i) of this subsection for the period January 1, 1992, through December 31, 2000, ~~((shall))~~ must be used only for the purchase, design, construction, and remodeling of performing arts, visual arts, heritage, and cultural facilities, and for the purchase of fixed assets that will benefit art, heritage, and cultural organizations. For purposes of this subsection, fixed assets are tangible objects such as machinery and other equipment intended to be held or used for ten years or more. Moneys received under this subsection ~~(3)((4))~~ (e) may be used for payment of principal and interest on bonds issued for capital projects. Qualifying organizations receiving moneys under this subsection ~~(3)((4))~~ (e) must be financially stable and have at least the following:

- (i) A legally constituted and working board of directors;
- (ii) A record of artistic, heritage, or cultural accomplishments;
- (iii) Been in existence and operating for at least two years;
- (iv) Demonstrated ability to maintain net current liabilities at less than thirty percent of general operating expenses;

(v) Demonstrated ability to sustain operational capacity subsequent to completion of projects or purchase of machinery and equipment; and

(vi) Evidence that there has been independent financial review of the organization.

~~((e))~~ (f) At least forty percent of the revenues distributed pursuant to (a)(i) of this subsection for the period January 1, 2001, through ~~((December 31, 2012, shall))~~ the effective date of this section must be deposited in ((aa)) a special account ((and shall be used to establish an endowment. Principal in the account shall remain permanent and irreducible)). The ~~((earnings from investments of balances in the))~~ account may only be used for the purposes of (a)(i) of this subsection.

~~((f))~~ (g) School districts and schools ~~((shall))~~ may not receive revenues distributed pursuant to (a)(i) of this subsection.

~~((g))~~ (h) Moneys distributed to art museums, cultural museums, heritage museums, heritage and preservation programs, the arts, and the performing arts, and moneys distributed for tourism promotion ~~((shall))~~ must be in addition to and may not be used to replace or supplant any other funding by the legislative body of the county.

~~((h))~~ (i) As used in this section, "tourism promotion" includes activities intended to attract visitors for overnight stays, arts, heritage, and cultural events, and recreational, professional, and amateur sports events. Moneys allocated to tourism promotion in a class AA county ~~((shall))~~ must be allocated to nonprofit organizations formed for the express purpose of tourism promotion in the county. Such organizations ~~((shall))~~ must use moneys from the taxes to promote events in all parts of the class AA county.

~~((i))~~ (j) No taxes collected under this section may be used for the operation or maintenance of a public stadium that is financed directly or indirectly by bonds to which the tax is pledged. Expenditures for operation or maintenance include all expenditures

other than expenditures that directly result in new fixed assets or that directly increase the capacity, life span, or operating economy of existing fixed assets.

~~((j))~~ (k) No ad valorem property taxes may be used for debt service on bonds issued for a public stadium that is financed by bonds to which the tax is pledged, unless the taxes collected under this section are or are projected to be insufficient to meet debt service requirements on such bonds.

~~((k))~~ (l) If a substantial part of the operation and management of a public stadium that is financed directly or indirectly by bonds to which the tax is pledged is performed by a nonpublic entity or if a public stadium is sold that is financed directly or indirectly by bonds to which the tax is pledged, any bonds to which the tax is pledged ~~((shall))~~ must be retired. This subsection ~~(3)((4))~~ (l) does not apply in respect to a public stadium under chapter 36.102 RCW transferred to, owned by, or constructed by a public facilities district under chapter 36.100 RCW or a stadium and exhibition center.

~~((l))~~ (m) The county ~~((shall))~~ may not lease a public stadium that is financed directly or indirectly by bonds to which the tax is pledged to, or authorize the use of the public stadium by, a professional major league sports franchise unless the sports franchise gives the right of first refusal to purchase the sports franchise, upon its sale, to local government. This subsection ~~(3)((4))~~ (m) does not apply to contracts in existence on April 1, 1986.

~~(4)~~ If a court of competent jurisdiction declares any provision of ~~((this))~~ subsection (3) invalid, then that invalid provision ~~((shall be))~~ is null and void and the remainder of this section is not affected."

Senator Murray spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Murray and King to Substitute Senate Bill No. 6051.

The motion by Senator Murray carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "lodging taxes; and amending RCW 67.28.180."

#### MOTION

On motion of Senator Murray, the rules were suspended, Engrossed Substitute Senate Bill No. 6051 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6051.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6051 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 19; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles,

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McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala and Shin

Voting nay: Senators Becker, Brandland, Carrell, Hewitt, Holmquist, Honeyford, Kastama, Marr, Morton, Parlette, Pflug, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brown and McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6051, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6433, by Senators Honeyford, Parlette, Holmquist and Stevens

Extending the time in which certain experienced home inspectors can apply for licensure without meeting instruction and training requirements. Revised for 1st Substitute: Modifying home inspector licensing requirements.

MOTIONS

On motion of Senator Honeyford, Substitute Senate Bill No. 6433 was substituted for Senate Bill No. 6433 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Honeyford, the rules were suspended, Substitute Senate Bill No. 6433 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Honeyford and Kohl-Welles spoke in favor of the passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6433.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6433 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Voting nay: Senators Marr and Tom

Excused: Senators Brown and McCaslin

SUBSTITUTE SENATE BILL NO. 6433, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6359, by Senators Kilmer, Becker, Shin and Tom

Promoting efficiencies including institutional coordination and partnerships in the community and technical college system.

MOTION

On motion of Senator Kilmer, Substitute Senate Bill No. 6359 was substituted for Senate Bill No. 6359 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Kilmer moved that the following striking amendment by Senator Kilmer be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that Washington's community and technical college system consists of thirty-four two-year institutions geographically dispersed across the state to encourage and enable student access and participation. The legislature also finds that, compared with other states, Washington's two-year public participation rate is ranked as high as fifth in the nation. The legislature further finds that Washington's community and technical colleges have been making and are continuing to make great progress towards system efficiencies and coordination of their efforts through such things as common course numbering, the student achievement initiative, associate transfer degrees, eLearning and integrated basic education, skills training, and some common administrative systems. To encourage further efficiencies while maintaining Washington's recognized leadership in community and technical college education, enhance student access and success, strengthen academic programs, and develop and retain high quality faculty, the legislature intends to provide mechanisms for cost-effective partnerships and coordination between institutions, including shared services, and increased complementary programming, as well as structural administrative efficiencies.

**Sec. 2.** RCW 28B.50.020 and 2009 c 64 s 2 are each amended to read as follows:

The purpose of this chapter is to provide for the dramatically increasing number of students requiring high standards of education either as a part of the continuing higher education program or for occupational education and training, or for adult basic skills and literacy education, by creating a new, independent system of community and technical colleges which will:

(1) Offer an open door to every citizen, regardless of his or her academic background or experience, at a cost normally within his or her economic means;

(2) Ensure that each college district, in coordination with adjacent college districts, shall offer thoroughly comprehensive educational, training, and service programs to meet the needs of both the communities and students served by combining high standards of excellence in academic transfer courses; realistic and practical courses in occupational education, both graded and ungraded; community services of an educational, cultural, and recreational nature; and adult education, including basic skills and general, family, and workforce literacy programs and services;

(3) Provide for basic skills and literacy education, and occupational education and technical training (~~at technical colleges~~) in order to prepare students for careers in a competitive workforce;

(4) Provide or coordinate related and supplemental instruction for apprentices at community and technical colleges;

(5) Provide administration by state and local boards which will avoid unnecessary duplication of facilities (~~(or)~~), programs, student services, or administrative functions; and which will encourage efficiency in operation and creativity and imagination in education, training, and service to meet the needs of the community and students;

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(6) Allow for the growth, improvement, flexibility and modification of the community colleges and their education, training, and service programs as future needs occur; and

(7) Establish firmly that, except on a pilot basis as provided under RCW 28B.50.810, community colleges are, for purposes of academic training, two year institutions, and are an independent, unique, and vital section of our state's higher education system, separate from both the common school system and other institutions of higher learning, and never to be considered for conversion into four-year liberal arts colleges.

**Sec. 3.** RCW 28B.50.090 and 2009 c 64 s 4 are each amended to read as follows:

The college board shall have general supervision and control over the state system of community and technical colleges. In addition to the other powers and duties imposed upon the college board by this chapter, the college board shall be charged with the following powers, duties and responsibilities:

(1) Review the budgets prepared by the boards of trustees, prepare a single budget for the support of the state system of community and technical colleges and adult education, and submit this budget to the governor as provided in RCW 43.88.090;

(2) Establish guidelines for the disbursement of funds; and receive and disburse such funds for adult education and maintenance and operation and capital support of the college districts in conformance with the state and district budgets, and in conformance with chapter 43.88 RCW;

(3) Ensure, through the full use of its authority:

(a) That each college district, in coordination with colleges, within a regional area, shall offer thoroughly comprehensive educational, training, and service programs to meet the needs of both the communities and students served by combining high standards of excellence in academic transfer courses; realistic and practical courses in occupational education, both graded and ungraded; and community services of an educational, cultural, and recreational nature; and adult education, including basic skills and general, family, and workforce literacy programs and services;

(b) That each college district shall maintain an open-door policy, to the end that no student will be denied admission because of the location of the student's residence or because of the student's educational background or ability; that, insofar as is practical in the judgment of the college board, curriculum offerings will be provided to meet the educational and training needs of the community generally and the students thereof; and that all students, regardless of their differing courses of study, will be considered, known and recognized equally as members of the student body: PROVIDED, That the administrative officers of a community or technical college may deny admission to a prospective student or attendance to an enrolled student if, in their judgment, the student would not be competent to profit from the curriculum offerings of the college, or would, by his or her presence or conduct, create a disruptive atmosphere within the college not consistent with the purposes of the institution. This subsection (3)(b) shall not apply to competency, conduct, or presence associated with a disability in a person twenty-one years of age or younger attending a technical college;

(4) Prepare a comprehensive master plan for the development of community and technical college education and training in the state; and assist the office of financial management in the preparation of enrollment projections to support plans for providing adequate college facilities in all areas of the state. The master plan shall include implementation of the vision, goals, priorities, and strategies in the statewide strategic master plan for higher education under RCW 28B.76.200 based on the community and technical college system's role and mission. The master plan shall also contain

measurable performance indicators and benchmarks for gauging progress toward achieving the goals and priorities;

(5) Define and administer criteria and guidelines for the establishment of new community and technical colleges or campuses within the existing districts;

(6) Establish criteria and procedures for modifying district boundary lines and consolidating district structures to form multiple campus districts consistent with the purposes set forth in RCW 28B.50.020 as now or hereafter amended and in accordance therewith make such changes as it deems advisable;

(7) Establish minimum standards to govern the operation of the community and technical colleges with respect to:

(a) Qualifications and credentials of instructional and key administrative personnel, except as otherwise provided in the state plan for vocational education,

(b) Internal budgeting, accounting, auditing, and financial procedures as necessary to supplement the general requirements prescribed pursuant to chapter 43.88 RCW,

(c) The content of the curriculums and other educational and training programs, and the requirement for degrees and certificates awarded by the colleges,

(d) Standard admission policies,

(e) Eligibility of courses to receive state fund support;

(8) Establish and administer criteria and procedures for all capital construction including the establishment, installation, and expansion of facilities within the various college districts;

(9) Encourage innovation in the development of new educational and training programs and instructional methods; coordinate research efforts to this end; and disseminate the findings thereof;

(10) Exercise any other powers, duties and responsibilities necessary to carry out the purposes of this chapter;

(11) Authorize the various community and technical colleges to offer programs and courses in other districts when it determines that such action is consistent with the purposes set forth in RCW 28B.50.020 as now or hereafter amended;

(12) Notwithstanding any other law or statute regarding the sale of state property, sell or exchange and convey any or all interest in any community and technical college real and personal property, except such property as is received by a college district in accordance with RCW 28B.50.140(8), when it determines that such property is surplus or that such a sale or exchange is in the best interests of the community and technical college system;

(13) In order that the treasurer for the state board for community and technical colleges appointed in accordance with RCW 28B.50.085 may make vendor payments, the state treasurer will honor warrants drawn by the state board providing for an initial advance on July 1, 1982, of the current biennium and on July 1 of each succeeding biennium from the state general fund in an amount equal to twenty-four percent of the average monthly allotment for such budgeted biennium expenditures for the state board for community and technical colleges as certified by the office of financial management; and at the conclusion of such initial month and for each succeeding month of any biennium, the state treasurer will reimburse expenditures incurred and reported monthly by the state board treasurer in accordance with chapter 43.88 RCW: PROVIDED, That the reimbursement to the state board for actual expenditures incurred in the final month of each biennium shall be less the initial advance made in such biennium;

(14) Notwithstanding the provisions of subsection (12) of this section, may receive such gifts, grants, conveyances, devises, and bequests of real or personal property from private sources as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the community and technical college programs and may sell, lease or exchange, invest

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or expend the same or the proceeds, rents, profits and income thereof according to the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits and income thereof; and

(15) The college board shall have the power of eminent domain.

**NEW SECTION. Sec. 4.** (1) The state board for community and technical colleges, in collaboration with the boards of trustees for the community and technical colleges, shall identify potential administrative efficiencies, complementary administrative functions, and complementary academic programs based upon consultation with colleges within a regional area. To identify administrative efficiencies and complementary administrative functions and programs, colleges within the regional area shall work in coordination with an equal number of stakeholders from their boards of trustees, administration, faculty, employee union representatives, student representatives, and community representatives. Factors to be considered include, but are not limited to:

(a) The economic feasibility and cost savings anticipated from the proposed changes;

(b) The extent to which the changes will contribute to student access to academic programs and services, including greater flexibility for students to transfer credits and obtain degrees and certificates from other colleges within the regional area;

(c) The extent to which the changes contribute to the vision, goals, priorities, and statewide strategies in the comprehensive master plan and the statewide strategic master plan for higher education; and

(d) The extent to which the changes will contribute to strengthening the retention and recruitment of high quality faculty, including, but not limited to, full-time faculty, faculty development, and academic programs.

(2) The state board for community and technical colleges shall develop and adopt a detailed plan for the implementation of any identified changes that would result in cost savings while maintaining or enhancing student access and achievement. The plan must establish a time frame within which any proposed changes must be accomplished and must include any agreements, approved by the state board for community and technical colleges, between colleges within a regional area to provide complementary academic programs or coordinate administrative functions. The implementation plan shall take effect upon approval by the state board for community and technical colleges. The state board shall submit a preliminary report on the plan to the appropriate legislative committees and the governor December 1, 2010, and shall submit a final report December 1, 2011.

(3) Any cost savings realized as a result of the implementation of administrative efficiencies, complementary administrative functions, and complementary academic programming under the plan shall be retained by the respective districts to be used for enhancing student access and success.

**NEW SECTION. Sec. 5.** A new section is added to chapter 28B.50 RCW to read as follows:

(1) The college board, using the criteria established under RCW 28B.50.090(6) and in consultation with the boards of trustees for the community and technical colleges, shall identify adjacent college districts that can feasibly be consolidated or whose boundaries can feasibly be modified to form a multiple campus district. The primary considerations shall be the extent to which the changes will:

(a) Affect student access to academic programs and services, (b) affect the retention and recruitment of high quality faculty, and (c) result in financial efficiencies.

(2) By December 1, 2012, the college board, in consultation with local boards of trustees, shall evaluate any proposed district consolidations or boundary changes identified in subsection (1) of

this section as it deems advisable and shall submit any required supporting legislative changes to the governor and appropriate committees of the legislature."

Senators Kilmer and Becker spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Kilmer and others to Substitute Senate Bill No. 6359.

The motion by Senator Kilmer carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 3 of the title, after "system;" strike the remainder of the title and insert "amending RCW 28B.50.020 and 28B.50.090; adding a new section to chapter 28B.50 RCW; and creating new sections."

#### MOTION

On motion of Senator Kilmer, the rules were suspended, Engrossed Substitute Senate Bill No. 6359 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kilmer spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6359.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6359 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Carrell

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6359, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6639, by Senators Brown, Stevens, Gordon and Shin

Creating alternatives to total confinement for nonviolent offenders with minor children.

#### MOTIONS

On motion of Senator Hargrove, Substitute Senate Bill No. 6639 was substituted for Senate Bill No. 6639 and the substitute bill was placed on the second reading and read the second time.

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On motion of Senator Hargrove, the rules were suspended, Substitute Senate Bill No. 6639 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove and Stevens spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6639.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6639 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Benton and Roach

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6639, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 5:02 p.m., on motion of Senator Eide, the Senate was recessed until 6:30 p.m.

EVENING SESSION

The Senate was called to order at 6:30 p.m. by President Owen.

## SECOND READING

## CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Kohl-Welles moved that Gubernatorial Appointment No. 9179, Jorge Carrasco, as a member of the Board of Trustees, Seattle, South Seattle and North Seattle Community College District No. 6, be confirmed.

Senator Kohl-Welles spoke in favor of the motion.

## MOTION

On motion of Senator Brandland, Senators Delvin, Holmquist, McCaslin, Parlette and Pflug were excused.

## MOTION

On motion of Senator Hatfield, Senators Hobbs and Pridemore were excused.

## APPOINTMENT OF JORGE CARRASCO

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9179, Jorge

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Carrasco as a member of the Board of Trustees, Seattle, South Seattle and North Seattle Community College District No. 6.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9179, Jorge Carrasco as a member of the Board of Trustees, Seattle, South Seattle and North Seattle Community College District No. 6 and the appointment was confirmed by the following vote: Yeas, 42; Nays, 0; Absent, 2; Excused, 5.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senators Kline and McAuliffe

Excused: Senators Delvin, Hobbs, Holmquist, McCaslin and Pridemore

Gubernatorial Appointment No. 9179, Jorge Carrasco, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Seattle, South Seattle and North Seattle Community College District No. 6.

## MOTION

On motion of Senator Marr, Senators Kline and McAuliffe were excused.

## SECOND READING

SENATE BILL NO. 6462, by Senators Honeyford, Hewitt, Schoesler, Holmquist, Stevens, Morton, Delvin, King, Roach, Becker and Swecker

Addressing the duties of a firefighter at the scene of a wildfire beyond the boundaries of the firefighter's district.

The measure was read the second time.

## MOTION

Senator Honeyford moved that the following striking amendment by Senators Honeyford and Fairley be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 52.12 RCW to read as follows:

(1) Any firefighter that is present at the scene of a wildfire, regardless of whether it is beyond the boundaries of his or her district, has a duty to undertake firefighting efforts to suppress the fire if the fire poses a danger to human life or structures. However, the firefighter is under no duty to undertake firefighting efforts if he or she does not have the equipment or manpower at the scene to fight the fire in a safe and reasonable manner.

(2)(a) The priorities and methods under this section are determined by the chain of command of the pertinent agency.

(b) If an official chain of command has not been established, the firefighting priorities and methods shall be determined by the most senior firefighter on the engine.

**NEW SECTION. Sec. 2.** A new section is added to chapter 4.24 RCW to read as follows:

Any state or municipal firefighter, whether volunteer or paid, who takes part in firefighting efforts outside his or her jurisdiction or provides emergency care, rescue, assistance, or recovery services at the scene of an emergency is not liable for civil damages resulting

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from any act or omission in the rendering of such services, other than acts or omissions constituting gross negligence or willful or wanton misconduct."

Senator Honeyford spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Honeyford and Fairley to Senate Bill No. 6462.

The motion by Senator Honeyford carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "duties;" strike the remainder of the title and insert "adding a new section to chapter 52.12 RCW; and adding a new section to chapter 4.24 RCW."

MOTION

On motion of Senator Honeyford, the rules were suspended, Engrossed Senate Bill No. 6462 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Honeyford spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6462.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6462 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators McCaslin and Pridemore

ENGROSSED SENATE BILL NO. 6462, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6521, by Senators Haugen and Honeyford

Requiring state agencies to use an agriculture impact statement.

MOTIONS

On motion of Senator Hatfield, Substitute Senate Bill No. 6521 was substituted for Senate Bill No. 6521 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hatfield, the rules were suspended, Substitute Senate Bill No. 6521 was advanced to third reading,

the second reading considered the third and the bill was placed on final passage.

Senator Hatfield spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6521.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6521 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators McCaslin and Pridemore

SUBSTITUTE SENATE BILL NO. 6521, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5046, by Senators Kohl-Welles, Keiser, Kline and Franklin

Placing symphony orchestras, operas, and performing arts theaters under the jurisdiction of the public employment relations commission for purposes of collective bargaining. Revised for 1st Substitute: Placing symphony musicians under the jurisdiction of the public employment relations commission for purposes of collective bargaining.

MOTIONS

On motion of Senator Kohl-Welles, Substitute Senate Bill No. 5046 was substituted for Senate Bill No. 5046 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kohl-Welles, the rules were suspended, Substitute Senate Bill No. 5046 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles, Gordon and Prentice spoke in favor of the passage of the bill.

Senators Holmquist, Honeyford and King spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5046.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5046 and the bill passed the Senate by the following vote: Yeas, 30; Nays, 17; Absent, 0; Excused, 2.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe,

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McDermott, Murray, Oemig, Prentice, Ranker, Regala, Rockefeller, Sheldon, Shin, Swecker and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Haugen, Hewitt, Holmquist, Honeyford, King, Morton, Parlette, Pflug, Roach, Schoesler, Stevens and Zarelli

Excused: Senators McCaslin and Pridemore

SUBSTITUTE SENATE BILL NO. 5046, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6621, by Senators Delvin, Haugen, Tom, Brandland, Prentice, Marr, Shin, Hewitt and Roach

Transferring service credit and contributions into the Washington state patrol retirement system by members who served as commercial vehicle enforcement officers and who became commissioned officers in the Washington state patrol prior to July 1, 2000. Revised for 1st Substitute: Transferring service credit and contributions into the Washington state patrol retirement system by members who served as communication officers or commercial vehicle enforcement officers who became commissioned officers in the Washington state patrol prior to July 1, 2000.

#### MOTION

On motion of Senator Delvin, Substitute Senate Bill No. 6621 was substituted for Senate Bill No. 6621 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Delvin moved that the following amendment by Senator Delvin be adopted:

On page 2, line 10, after "a", insert "communications officer or"

On page 3, line 1 after "a", insert "communications officer or"  
Senator Delvin spoke in favor of adoption of the amendment.

#### MOTION

On motion of Senator Marr, Senator Brown was excused.

The President declared the question before the Senate to be the adoption of the amendment by Senator Delvin on page 2, line 10 to Substitute Senate Bill No. 6621.

The motion by Senator Delvin carried and the amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 3 of the title, after "as", insert "communications officers or"

#### MOTION

On motion of Senator Delvin, the rules were suspended, Engrossed Substitute Senate Bill No. 6621 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Delvin spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6621.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6621 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Regala

Excused: Senators Brown, McCaslin and Pridemore

ENGROSSED SUBSTITUTE SENATE BILL NO. 6621, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6724, by Senators Kilmer, Kauffman, Eide, Berkey, Murray, Shin and Keiser

Allowing employees of a school district or educational service district to share leave with employees in another agency.

#### MOTION

On motion of Senator Fairley, Substitute Senate Bill No. 6724 was substituted for Senate Bill No. 6724 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Fairley moved that the following striking amendment by Senator Fairley be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 41.04.665 and 2008 c 36 s 3 are each amended to read as follows:

(1) An agency head may permit an employee to receive leave under this section if:

(a)(i) The employee suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature;

(ii) The employee has been called to service in the uniformed services;

(iii) A state of emergency has been declared anywhere within the United States by the federal or any state government and the employee has needed skills to assist in responding to the emergency or its aftermath and volunteers his or her services to either a governmental agency or to a nonprofit organization engaged in humanitarian relief in the devastated area, and the governmental agency or nonprofit organization accepts the employee's offer of volunteer services; or

(iv) The employee is a victim of domestic violence, sexual assault, or stalking;

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(b) The illness, injury, impairment, condition, call to service, emergency volunteer service, or consequence of domestic violence, sexual assault, or stalking has caused, or is likely to cause, the employee to:

- (i) Go on leave without pay status; or
- (ii) Terminate state employment;
- (c) The employee's absence and the use of shared leave are justified;
- (d) The employee has depleted or will shortly deplete his or her:
  - (i) Annual leave and sick leave reserves if he or she qualifies under (a)(i) of this subsection;
  - (ii) Annual leave and paid military leave allowed under RCW 38.40.060 if he or she qualifies under (a)(ii) of this subsection; or
  - (iii) Annual leave if he or she qualifies under (a)(iii) or (iv) of this subsection;
- (e) The employee has abided by agency rules regarding:
  - (i) Sick leave use if he or she qualifies under (a)(i) or (iv) of this subsection; or
  - (ii) Military leave if he or she qualifies under (a)(ii) of this subsection; and
- (f) The employee has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW if he or she qualifies under (a)(i) of this subsection.

(2) The agency head shall determine the amount of leave, if any, which an employee may receive under this section. However, an employee shall not receive a total of more than ~~((two hundred sixty one))~~ the following number of days of leave((-except that)): (a) For an employee with fewer than ten years of service, two hundred sixty-one days; (b) for an employee with at least ten but fewer than twenty years of service, five hundred twenty-two days; and (c) for an employee with twenty or more years of service, seven hundred eighty-three days. Shared leave received under the uniformed service shared leave pool in RCW 41.04.685 is not ~~((included in this total))~~ subject to the limitations under (a) through (c) of this subsection.

(3) An employee may transfer annual leave, sick leave, and his or her personal holiday, as follows:

(a) An employee who has an accrued annual leave balance of more than ten days may request that the head of the agency for which the employee works transfer a specified amount of annual leave to another employee authorized to receive leave under subsection (1) of this section. In no event may the employee request a transfer of an amount of leave that would result in his or her annual leave account going below ten days. For purposes of this subsection (3)(a), annual leave does not accrue if the employee receives compensation in lieu of accumulating a balance of annual leave.

(b) An employee may transfer a specified amount of sick leave to an employee requesting shared leave only when the donating employee retains a minimum of one hundred seventy-six hours of sick leave after the transfer.

(c) An employee may transfer, under the provisions of this section relating to the transfer of leave, all or part of his or her personal holiday, as that term is defined under RCW 1.16.050, or as such holidays are provided to employees by agreement with a school district's board of directors if the leave transferred under this subsection does not exceed the amount of time provided for personal holidays under RCW 1.16.050.

(4) An employee of an institution of higher education under RCW 28B.10.016, school district, or educational service district who does not accrue annual leave but does accrue sick leave and who has an accrued sick leave balance of more than twenty-two days may request that the head of the agency for which the employee works transfer a specified amount of sick leave to another employee authorized to receive leave under subsection (1) of this

section. In no event may such an employee request a transfer that would result in his or her sick leave account going below twenty-two days. Transfers of sick leave under this subsection are limited to transfers from employees who do not accrue annual leave. Under this subsection, "sick leave" also includes leave accrued pursuant to RCW 28A.400.300(2) or 28A.310.240(1) with compensation for illness, injury, and emergencies.

(5) Transfers of leave made by an agency head under subsections (3) and (4) of this section shall not exceed the requested amount.

(6) Leave transferred under this section may be transferred from employees of one agency to an employee of the same agency or, with the approval of the heads of both agencies, to an employee of another state agency. ~~((However, leave transferred to or from employees of school districts or educational service districts is limited to transfers to or from employees within the same employing district.))~~

(7) While an employee is on leave transferred under this section, he or she shall continue to be classified as a state employee and shall receive the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued annual leave or sick leave.

(a) All salary and wage payments made to employees while on leave transferred under this section shall be made by the agency employing the person receiving the leave. The value of leave transferred shall be based upon the leave value of the person receiving the leave.

(b) In the case of leave transferred by an employee of one agency to an employee of another agency, the agencies involved shall arrange for the transfer of funds and credit for the appropriate value of leave.

(i) Pursuant to rules adopted by the office of financial management, funds shall not be transferred under this section if the transfer would violate any constitutional or statutory restrictions on the funds being transferred.

(ii) The office of financial management may adjust the appropriation authority of an agency receiving funds under this section only if and to the extent that the agency's existing appropriation authority would prevent it from expending the funds received.

(iii) Where any questions arise in the transfer of funds or the adjustment of appropriation authority, the director of financial management shall determine the appropriate transfer or adjustment.

(8) Leave transferred under this section shall not be used in any calculation to determine an agency's allocation of full time equivalent staff positions.

(9) The value of any leave transferred under this section which remains unused shall be returned at its original value to the employee or employees who transferred the leave when the agency head finds that the leave is no longer needed or will not be needed at a future time in connection with the illness or injury for which the leave was transferred or for any other qualifying condition. Before the agency head makes a determination to return unused leave in connection with an illness or injury, or any other qualifying condition, he or she must receive from the affected employee a statement from the employee's doctor verifying that the illness or injury is resolved. To the extent administratively feasible, the value of unused leave which was transferred by more than one employee shall be returned on a pro rata basis.

(10) An employee who uses leave that is transferred to him or her under this section may not be required to repay the value of the leave that he or she used.

(11) The director of personnel may adopt rules as necessary to implement subsection (2)(a) through (c) of this section.

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MOTION

**NEW SECTION. Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Senator Fairley spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Fairley to Substitute Senate Bill No. 6724.

The motion by Senator Fairley carried and the striking amendment was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "the leave sharing program; amending RCW 41.04.665; and declaring an emergency."

## MOTION

On motion of Senator Fairley, the rules were suspended, Engrossed Substitute Senate Bill No. 6724 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fairley spoke in favor of passage of the bill.

## MOTION

On motion of Senator Marr, Senator Regala was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6724.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6724 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brown, McCaslin, Pridemore and Regala

ENGROSSED SUBSTITUTE SENATE BILL NO. 6724, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6754, by Senators McDermott, Fairley, Kohl-Welles and Kline

Making the names and addresses of persons signing initiative or referendum petitions public records.

The measure was read the second time.

Senator McDermott moved that the following striking amendment by Senator McDermott be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 29A.72.230 and 2003 c 111 s 1823 are each amended to read as follows:

Upon the filing of an initiative or referendum petition, the secretary of state shall proceed to verify and canvass the names of the legal voters on the petition. The verification and canvass of signatures on the petition may be observed by persons representing the advocates and opponents of the proposed measure so long as they make no record of the names, addresses, or other information on the petitions or related records during the verification process except upon the order of the superior court of Thurston county. The secretary of state may limit the number of observers to not less than two on each side, if in his or her opinion, a greater number would cause undue delay or disruption of the verification process. Any such limitation shall apply equally to both sides. The secretary of state may use any statistical sampling techniques for this verification and canvass which have been adopted by rule as provided by chapter 34.05 RCW. No petition will be rejected on the basis of any statistical method employed, and no petition will be accepted on the basis of any statistical method employed if such method indicates that the petition contains fewer than the requisite number of signatures of legal voters. If the secretary of state finds the same name signed to more than one petition, he or she shall reject all but the first such valid signature. For an initiative to the legislature, the secretary of state shall transmit a certified copy of the proposed measure to the legislature at the opening of its session and, as soon as the signatures on the petition have been verified and canvassed, the secretary of state shall send to the legislature a certificate of the facts relating to the filing, verification, and canvass of the petition.

The names, addresses, and signatures of persons who signed the petition are public records under chapter 42.56 RCW and may be made available for public inspection and copying.

**Sec. 2.** RCW 29A.72.140 and 2003 c 111 s 1815 are each amended to read as follows:

(1) The word "warning" and the following warning statement regarding signing petitions must appear on petitions as prescribed by this title and must be printed on each petition sheet such that they occupy not less than four square inches of the front of the petition sheet.

## WARNING

Every person who signs this petition with any other than his or her true name, knowingly signs more than one of these petitions, signs this petition when he or she is not a legal voter, or makes any false statement on this petition may be punished by fine or imprisonment or both.

(2) The following statement must appear on petitions as prescribed by this title and must be printed on each petition sheet.

Signature petitions are public documents. By signing this document, your name, address, and signature may be released as part of a public records request."

Senator McDermott spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator McDermott to Senate Bill No. 6754.

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The motion by Senator McDermott carried and the striking amendment was adopted by voice vote.

to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "petitions;" strike the remainder of the title and insert "and amending RCW 29A.72.230 and 29A.72.140."

MOTION

On motion of Senator McDermott, the rules were suspended, Engrossed Senate Bill No. 6754 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McDermott, Jacobsen, Fairley, Kline and Kastama spoke in favor of the passage of the bill.

Senators Roach, Schoesler, Benton, Sheldon, Stevens, Becker, Swecker and Holmquist spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6754.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6754 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 20; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hargrove, Hatfield, Hewitt, Holmquist, Honeyford, King, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Excused: Senator McCaslin

ENGROSSED SENATE BILL NO. 6754, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Marr, Senator Brown was excused.

SECOND READING

SENATE BILL NO. 6575, by Senators Kohl-Welles, Keiser, Kline, Franklin and McDermott

Concerning the recommendations of the joint legislative task force on the underground economy.

MOTIONS

On motion of Senator Kohl-Welles, Second Substitute Senate Bill No. 6575 was substituted for Senate Bill No. 6575 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator Kohl-Welles, the rules were suspended, Second Substitute Senate Bill No. 6575 was advanced

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6575.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6575 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 13; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Tom and Zarelli

Voting nay: Senators Becker, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, Morton, Parlette, Schoesler, Stevens and Swecker

Excused: Senators Brown and McCaslin

SECOND SUBSTITUTE SENATE BILL NO. 6575, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6579, by Senators Swecker, Haugen, Oemig, Rockefeller, Jacobsen, Marr, Hatfield, Eide and Fraser

Improving the efficiency, accountability, and quality within state information systems.

MOTION

On motion of Senator Swecker, Second Substitute Senate Bill No. 6579 was substituted for Senate Bill No. 6579 and the second substitute bill was placed on the second reading and read the second time.

MOTION

Senator Swecker moved that the following amendment by Senators Swecker and Fraser be adopted:

On page 3, line 12 after "counties." Insert "(t) one representative from the department of revenue"

WITHDRAWAL OF AMENDMENT

On motion of Senator Swecker, the amendment by Senators Swecker and Fraser on page 3, line 12 to Second Substitute Senate Bill No. 6579 was withdrawn.

MOTION

Senator Swecker moved that the following amendment by Senator Swecker be adopted:

On page 3, line 15 after "employees." Insert "(u) one representative from the department of revenue" Correct any internal references accordingly

Senator Swecker spoke in favor of adoption of the amendment.

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The President declared the question before the Senate to be the adoption of the amendment by Senator Swecker on page 3, line 15 to Second Substitute Senate Bill No. 6579.

The motion by Senator Swecker carried and the amendment was adopted by voice vote.

#### MOTION

Senator Fraser moved that the following amendment by Senators Fraser, Prentice and Swecker be adopted:

On page 4, line 28, strike all of section 4 and insert the following:

" **NEW SECTION. Sec. 4.** A new section is added to chapter 43.88 RCW to read as follows:

(1) The office of financial management's operating budget instructions to agencies must include collecting additional information for proposed information technology projects. Agencies must submit the following information about specific projects:

(a) Estimated project implementation costs by staffing, contracted services, hardware purchase and maintenance, software license purchase and maintenance, hardware lease or finance, maintenance and operations, training, and travel;

(b) Estimated project maintenance costs by staffing, contracted services, hardware purchase and maintenance, software license purchase and maintenance, hardware lease or finance, maintenance and operations, training, and travel;

(c) All project expenditures in previous biennia;

(d) Oversight level as determined by the information services board, if available;

(e) Estimated project duration and start date;

(f) Estimated ongoing operating savings or other benefits resulting from the project;

(g) An explanation of the purpose and benefits of the project; and

(h) An explanation of reengineering and streamlining of the underlying business process, if pursuing the development or purchase of new software. An explanation of efforts to gather business and technical requirements must also be provided.

(2) The governor's budget must include an information technology plan which will include a list of all the proposed projects, their next biennium costs by funding source, projected costs over the two biennia succeeding the next biennium by funding source, and a statement of the purpose of the project. This information must also be submitted electronically, in a format to be determined by the office of financial management and the legislative evaluation and accountability program committee.

(3) The office of financial management shall also institute a method of accounting for information technology-related expenditures, including creating common definitions for what constitutes an information technology investment. The director of financial management shall report total state expenditures on information technology by funding source and by object of expenditure to the chairs, ranking minority members, and staff coordinators of the appropriations committees of the senate and house of representatives for each biennium. The first report is due by January 15, 2013.

**Sec. 5.** RCW 43.88.560 and 1992 c 20 s 7 are each amended to read as follows:

The director of financial management shall establish policies and standards governing the funding of major information technology projects as required under RCW 43.105.190(2). The director of financial management shall also direct the collection of additional information on information technology projects and

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submit an information technology plan as required under section 1 of this act.

**Sec. 6.** RCW 43.105.041 and 2009 c 486 s 13 are each amended to read as follows:

(1) The board shall have the following powers and duties related to information services:

(a) To develop standards and procedures governing the acquisition and disposition of equipment, proprietary software and purchased services, licensing of the radio spectrum by or on behalf of state agencies, and confidentiality of computerized data. The board shall coordinate with the office of financial management to develop contracting standards for information technology acquisition and purchased services and will work with state agencies to ensure deployment of standardized contracts;

(b) To purchase, lease, rent, or otherwise acquire, dispose of, and maintain equipment, proprietary software, and purchased services, or to delegate to other agencies and institutions of state government, under appropriate standards, the authority to purchase, lease, rent, or otherwise acquire, dispose of, and maintain equipment, proprietary software, and purchased services: PROVIDED, That, agencies and institutions of state government are expressly prohibited from acquiring or disposing of equipment, proprietary software, and purchased services without such delegation of authority. The acquisition and disposition of equipment, proprietary software, and purchased services is exempt from RCW 43.19.1919 and, as provided in RCW 43.19.1901, from the provisions of RCW 43.19.190 through 43.19.200, except that the board, the department, and state agencies, as delegated, must post notices of technology procurement bids on the state's common vendor registration and bid notification system. This subsection (1)(b) does not apply to the legislative branch;

(c) To develop statewide or interagency technical policies, standards, and procedures;

(d) To review and approve standards and common specifications for new or expanded telecommunications networks proposed by agencies, public postsecondary education institutions, educational service districts, or statewide or regional providers of K-12 information technology services, and to assure the cost-effective development and incremental implementation of a statewide video telecommunications system to serve: Public schools; educational service districts; vocational-technical institutes; community colleges; colleges and universities; state and local government; and the general public through public affairs programming;

(e) To provide direction concerning strategic planning goals and objectives for the state. The board shall seek input from the legislature and the judiciary;

(f) To develop and implement a process for the resolution of appeals by:

(i) Vendors concerning the conduct of an acquisition process by an agency or the department; or

(ii) A customer agency concerning the provision of services by the department or by other state agency providers;

(g) To establish policies for the periodic review by the department of agency performance which may include but are not limited to analysis of:

(i) Planning, management, control, and use of information services;

(ii) Training and education; and

(iii) Project management;

(h) To set its meeting schedules and convene at scheduled times, or meet at the request of a majority of its members, the chair, or the director;

(i) To review and approve that portion of the department's budget requests that provides for support to the board; and

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(j) To develop procurement policies and procedures, such as unbundled contracting and subcontracting, that encourage and facilitate the purchase of products and services by state agencies and institutions from Washington small businesses to the maximum extent practicable and consistent with international trade agreement commitments.

(2) Statewide technical standards to promote and facilitate electronic information sharing and access are an essential component of acceptable and reliable public access service and complement content-related standards designed to meet those goals. The board shall:

(a) Establish technical standards to facilitate electronic access to government information and interoperability of information systems, including wireless communications systems. Local governments are strongly encouraged to follow the standards established by the board; and

(b) Require agencies to consider electronic public access needs when planning new information systems or major upgrades of systems.

In developing these standards, the board is encouraged to include the state library, state archives, and appropriate representatives of state and local government.

(3)(a) The board, in consultation with the K-20 board, has the duty to govern, operate, and oversee the technical design, implementation, and operation of the K-20 network including, but not limited to, the following duties: Establishment and implementation of K-20 network technical policy, including technical standards and conditions of use; review and approval of network design; procurement of shared network services and equipment; and resolving user/provider disputes concerning technical matters. The board shall delegate general operational and technical oversight to the K-20 network technical steering committee as appropriate.

(b) The board has the authority to adopt rules under chapter 34.05 RCW to implement the provisions regarding the technical operations and conditions of use of the K-20 network.

**Sec. 7.** RCW 43.105.180 and 1999 c 80 s 11 are each amended to read as follows:

~~((Upon request of the office of financial management.))~~ The department, in coordination with the information services board and the office of financial management, shall evaluate agency budget requests for major information technology projects identified under RCW 43.105.190, including those proposed by the superintendent of public instruction, in conjunction with educational service districts, or statewide or regional providers of K-12 education information technology services. The department shall submit recommendations for funding all or part of such requests to the office of financial management and to the chairs, ranking minority members, and staff coordinators of the appropriations committees of the senate and house of representatives. The department shall also submit recommendations regarding consolidation of similar proposals or other efficiencies it finds in reviewing proposals.

The department, with the advice and approval of the office of financial management and the information services board, shall establish criteria, consistent with portfolio-based information technology management, for the evaluation of agency budget requests under this section. These budget requests shall be made in the context of an agency's information technology portfolio; technology initiatives underlying budget requests are subject to board review. Criteria shall include, but not be limited to: Feasibility of the proposed projects, consistency with the state strategic information technology plan, consistency with information technology portfolios, appropriate provision for public electronic access to information, evidence of business process streamlining

and gathering of business and technical requirements, and services, costs, and benefits.

**Sec. 8.** RCW 43.105.160 and 2005 c 319 s 110 are each amended to read as follows:

(1) The department shall prepare a state strategic information technology plan which shall establish a statewide mission, goals, and objectives for the use of information technology, including goals for electronic access to government records, information, and services. The plan shall be developed in accordance with the standards and policies established by the board and shall be submitted to the board for review, modification as necessary, and approval. The department shall seek the advice of the board in the development of this plan.

The plan approved under this section shall be updated as necessary and submitted to the governor and the chairs and ranking minority members of the appropriations committees of the senate and the house of representatives.

(2) The department shall prepare a biennial state performance report on information technology based on agency performance reports required under RCW 43.105.170 and other information deemed appropriate by the department. The report shall include, but not be limited to:

(a) An analysis, based upon agency portfolios, of the state's information technology infrastructure, including its value, condition, and capacity;

(b) An evaluation of performance relating to information technology;

(c) An assessment of progress made toward implementing the state strategic information technology plan, including progress toward electronic access to public information and enabling citizens to have two-way access to public records, information, and services;

(d) An analysis of the success or failure, feasibility, progress, costs, and timeliness of implementation of major information technology projects under RCW 43.105.190((;

~~(e)).~~ At a minimum, the portion of the report regarding major technology projects must include:

(i) Final budget broken down by staffing costs, contracted service, hardware purchase or lease, software purchase or lease, travel, and training. The original budget must also be shown for comparison;

(ii) The original proposed project schedule and the final actual project schedule;

(iii) Data regarding progress towards meeting the original goals and performance measures of the project, particularly as it relates to operating budget savings;

(iv) Discussion of lessons learned on the project, performance of any contractors used, and reasons for project delays or cost increases; and

(v) Identification of benefits, cost avoidance, and cost savings generated by major information technology projects developed under RCW 43.105.190; and

~~((§))~~ (e) An inventory of state information services, equipment, and proprietary software.

Copies of the report shall be distributed biennially to the governor and the chairs and ranking minority members of the appropriations committees of the senate and the house of representatives. The major technology section of the report must examine major information technology projects completed in the previous biennium. The report must also examine projects two years after completion for progress toward meeting performance goals and operating budget savings. The first report is due December 15, 2011, and every two years thereafter.

**NEW SECTION. Sec. 9.** Sections 1 through 3 of this act expire March 31, 2012."

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Renumber the sections consecutively and correct any internal references accordingly and correct the title.

Senators Fraser and Swecker spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Fraser, Prentice and Swecker on page 4, line 28 to Second Substitute Senate Bill No. 6579.

The motion by Senator Fraser carried and the amendment was adopted by voice vote.

#### MOTION

On motion of Senator Swecker, the rules were suspended, Engrossed Second Substitute Senate Bill No. 6579 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Swecker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6579.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6579 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6579, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6686, by Senators Gordon, McCaslin, Kline, Regala, Kohl-Welles, Delvin, Tom and Shin

Changing the election and appointment provisions for municipal court judges.

#### MOTIONS

On motion of Senator Gordon, Substitute Senate Bill No. 6686 was substituted for Senate Bill No. 6686 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Gordon, the rules were suspended, Substitute Senate Bill No. 6686 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Gordon and Sheldon spoke in favor of the passage of the bill.

Senators Carrell, Honeyford and Roach spoke against passage of the bill.

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The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6686.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6686 and the bill passed the Senate by the following vote: Yeas, 37; Nays, 11; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Haugen, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom and Zarelli

Voting nay: Senators Benton, Carrell, Hargrove, Hatfield, Hewitt, Honeyford, King, Parlette, Pflug, Roach and Swecker

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6686, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6727, by Senators Marr and Brown

Concerning health sciences and services authorities.

#### MOTIONS

On motion of Senator Marr, Substitute Senate Bill No. 6727 was substituted for Senate Bill No. 6727 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Marr, the rules were suspended, Substitute Senate Bill No. 6727 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Marr and King spoke in favor of the passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6727.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6727 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 2; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senators Brandland and Brown

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6727, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Marr, Senator Brown was excused.

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SECOND READING

SENATE BILL NO. 6698, by Senators Keiser, Marr, Murray, Fairley and Kohl-Welles

Concerning the acquisition of nonprofit hospitals.

MOTIONS

On motion of Senator Keiser, Substitute Senate Bill No. 6698 was substituted for Senate Bill No. 6698 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Keiser, the rules were suspended, Substitute Senate Bill No. 6698 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Pflug spoke in favor of the passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6698.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6698 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 7; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Hatfield, Haugen, Holmquist, Marr, Morton, Schoesler and Stevens

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6698, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6546, by Senator Pridemore

Allowing the state director of fire protection to refuse membership in the public employees' retirement system.

The measure was read the second time.

MOTION

On motion of Senator Pridemore, the rules were suspended, Senate Bill No. 6546 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6546.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6546 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SENATE BILL NO. 6546, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6726, by Senators Marr, Kohl-Welles, Ranker, Murray, McDermott, Keiser, Prentice, Kauffman, Kline, Kilmer, Fraser and Pridemore

Making the governor the public employer of language access providers. Revised for 2nd Substitute: Establishing a work group on language access services.

MOTION

On motion of Senator Kohl-Welles, Second Substitute Senate Bill No. 6726 was substituted for Senate Bill No. 6726 and the second substitute bill was placed on the second reading and read the second time.

MOTION

Senator Keiser moved that the following striking amendment by Senators Keiser and Marr be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) No later than thirty days after the effective date of this section, the office of financial management shall establish a working group on language access services.

(2) The working group shall include members that have experience and knowledge of language access services in Washington state, including representatives of a statewide association representing hospitals, community health centers and providers for underserved and immigrant populations, statewide associations representing physicians, other health care providers who serve medicaid patients, a statewide labor union currently working with language access providers, statewide professional interpreter associations, community-based organizations that advocate for persons with limited English proficiency, language access providers, brokers, and representatives of the department of social and health services.

(3) A representative of the office of financial management shall chair the working group, and the department shall provide staff to support the working group's activities.

(4) The working group shall develop a plan to improve the efficiency and effectiveness of language access services. The plan shall describe the best possible means by which the following criteria are achieved: Administrative and overhead costs, including brokers and language access agencies, are reduced; timeliness and flexibility for medical providers is improved; the pool of qualified interpreters is stabilized; and fraud and abuse are prevented.

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(5) The office of financial management shall report the findings of the working group to the legislature no later than September 30, 2010.

**NEW SECTION. Sec. 2.** A new section is added to chapter 41.56 RCW to read as follows:

(1) In addition to the entities listed in RCW 41.56.020, this chapter applies to the governor with respect to language access providers. Solely for the purposes of collective bargaining and as expressly limited under subsections (2) and (3) of this section, the governor is the public employer of language access providers who, solely for the purposes of collective bargaining, are public employees. The governor or the governor's designee shall represent the public employer for bargaining purposes.

(2) There shall be collective bargaining, as defined in RCW 41.56.030, between the governor and language access providers, except as follows:

(a) A statewide unit of all language access providers is the only unit appropriate for purposes of collective bargaining under RCW 41.56.060;

(b) The exclusive bargaining representative of language access providers in the unit specified in (a) of this subsection shall be the representative chosen in an election conducted pursuant to RCW 41.56.070.

Bargaining authorization cards furnished as the showing of interest in support of any representation petition or motion for intervention filed under this section are exempt from disclosure under chapter 42.56 RCW;

(c) Notwithstanding the definition of "collective bargaining" in RCW 41.56.030(4), the scope of collective bargaining for language access providers under this section is limited solely to: (i) Economic compensation; (ii) rules and procedures regarding payments, work rules, and reimbursements; (iii) certification procedures, professional development, and training; (iv) labor-management committees; and (v) grievance procedures. Retirement benefits are not subject to collective bargaining. By such obligation neither party may be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter;

(d) In addition to the entities listed in the mediation and interest arbitration provisions of RCW 41.56.430 through 41.56.470 and 41.56.480, the provisions apply to the governor or the governor's designee and the exclusive bargaining representative of language access providers, except that:

(i) In addition to the factors to be taken into consideration by an interest arbitration panel under RCW 41.56.465, the panel shall consider the financial ability of the state to pay for the compensation and benefit provisions of a collective bargaining agreement;

(ii) The decision of the arbitration panel is not binding on the legislature and, if the legislature does not approve the request for funds necessary to implement the compensation and benefit provisions of the arbitrated collective bargaining agreement, the decision is not binding on the state;

(e) Language access providers do not have the right to strike.

(3) Language access providers who are public employees solely for the purposes of collective bargaining under subsection (1) of this section are not, for that reason, employees of the state for any other purpose. This section applies only to the governance of the collective bargaining relationship between the employer and language access providers as provided in subsections (1) and (2) of this section.

(4) Each party with whom the department of social and health services contracts for language access services and each of their subcontractors shall provide to the department an accurate list of language access providers, as defined in RCW 41.56.030, including their names, addresses, and other contact information, annually by

January 30th, except that initially the lists must be provided within thirty days of the effective date of this section. The department shall, upon request, provide a list of all language access providers, including their names, addresses, and other contact information, to a labor union seeking to represent language access providers.

(5) This section does not create or modify:

(a) The department's obligation to comply with the federal statute and regulations; and

(b) The legislature's right to make programmatic modifications to the delivery of state services under chapter 74.04 RCW. The governor may not enter into, extend, or renew any agreement under this chapter that does not expressly reserve the legislative rights described in this subsection.

(6) Upon meeting the requirements of subsection (7) of this section, the governor must submit, as a part of the proposed biennial or supplemental operating budget submitted to the legislature under RCW 43.88.030, a request for funds necessary to implement the compensation and benefit provisions of a collective bargaining agreement entered into under this section or for legislation necessary to implement the agreement.

(7) A request for funds necessary to implement the compensation and benefit provisions of a collective bargaining agreement entered into under this section may not be submitted by the governor to the legislature unless the request has been:

(a) Submitted to the director of financial management by October 1st prior to the legislative session at which the requests are to be considered, except that, for initial negotiations under this section, the request may not be submitted before July 1, 2011; and

(b) Certified by the director of financial management as financially feasible for the state or reflective of a binding decision of an arbitration panel reached under subsection (2)(d) of this section.

(8) The legislature must approve or reject the submission of the request for funds as a whole. If the legislature rejects or fails to act on the submission, any collective bargaining agreement must be reopened for the sole purpose of renegotiating the funds necessary to implement the agreement.

(9) If, after the compensation and benefit provisions of an agreement are approved by the legislature, a significant revenue shortfall occurs resulting in reduced appropriations, as declared by proclamation of the governor or by resolution of the legislature, both parties shall immediately enter into collective bargaining for a mutually agreed upon modification of the agreement.

(10) After the expiration date of any collective bargaining agreement entered into under this section, all of the terms and conditions specified in the agreement remain in effect until the effective date of a subsequent agreement, not to exceed one year from the expiration date stated in the agreement.

(11) In enacting this section, the legislature intends to provide state action immunity under federal and state antitrust laws for the joint activities of language access providers and their exclusive bargaining representative to the extent the activities are authorized by this chapter.

**Sec. 3.** RCW 41.56.030 and 2007 c 184 s 2 are each amended to read as follows:

As used in this chapter:

(1) "Public employer" means any officer, board, commission, council, or other person or body acting on behalf of any public body governed by this chapter, or any subdivision of such public body. For the purposes of this section, the public employer of district court or superior court employees for wage-related matters is the respective county legislative authority, or person or body acting on behalf of the legislative authority, and the public employer for nonwage-related matters is the judge or judge's designee of the respective district court or superior court.

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(2) "Public employee" means any employee of a public employer except any person (a) elected by popular vote, or (b) appointed to office pursuant to statute, ordinance or resolution for a specified term of office as a member of a multimember board, commission, or committee, whether appointed by the executive head or body of the public employer, or (c) whose duties as deputy, administrative assistant or secretary necessarily imply a confidential relationship to (i) the executive head or body of the applicable bargaining unit, or (ii) any person elected by popular vote, or (iii) any person appointed to office pursuant to statute, ordinance or resolution for a specified term of office as a member of a multimember board, commission, or committee, whether appointed by the executive head or body of the public employer, or (d) who is a court commissioner or a court magistrate of superior court, district court, or a department of a district court organized under chapter 3.46 RCW, or (e) who is a personal assistant to a district court judge, superior court judge, or court commissioner. For the purpose of (e) of this subsection, no more than one assistant for each judge or commissioner may be excluded from a bargaining unit.

(3) "Bargaining representative" means any lawful organization which has as one of its primary purposes the representation of employees in their employment relations with employers.

(4) "Collective bargaining" means the performance of the mutual obligations of the public employer and the exclusive bargaining representative to meet at reasonable times, to confer and negotiate in good faith, and to execute a written agreement with respect to grievance procedures and collective negotiations on personnel matters, including wages, hours and working conditions, which may be peculiar to an appropriate bargaining unit of such public employer, except that by such obligation neither party shall be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter.

(5) "Commission" means the public employment relations commission.

(6) "Executive director" means the executive director of the commission.

(7) "Uniformed personnel" means: (a) Law enforcement officers as defined in RCW 41.26.030 employed by the governing body of any city or town with a population of two thousand five hundred or more and law enforcement officers employed by the governing body of any county with a population of ten thousand or more; (b) correctional employees who are uniformed and nonuniformed, commissioned and noncommissioned security personnel employed in a jail as defined in RCW 70.48.020((~~5~~)) (9), by a county with a population of seventy thousand or more, and who are trained for and charged with the responsibility of controlling and maintaining custody of inmates in the jail and safeguarding inmates from other inmates; (c) general authority Washington peace officers as defined in RCW 10.93.020 employed by a port district in a county with a population of one million or more; (d) security forces established under RCW 43.52.520; (e) firefighters as that term is defined in RCW 41.26.030; (f) employees of a port district in a county with a population of one million or more whose duties include crash fire rescue or other firefighting duties; (g) employees of fire departments of public employers who dispatch exclusively either fire or emergency medical services, or both; or (h) employees in the several classes of advanced life support technicians, as defined in RCW 18.71.200, who are employed by a public employer.

(8) "Institution of higher education" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges.

(9) "Home care quality authority" means the authority under chapter 74.39A RCW.

(10) "Individual provider" means an individual provider as defined in RCW 74.39A.240(4) who, solely for the purposes of collective bargaining, is a public employee as provided in RCW 74.39A.270.

(11) "Child care subsidy" means a payment from the state through a child care subsidy program established pursuant to RCW 74.12.340 or 74.08A.340, 45 C.F.R. Sec. 98.1 through 98.17, or any successor program.

(12) "Family child care provider" means a person who: (a) Provides regularly scheduled care for a child or children in the home of the provider or in the home of the child or children for periods of less than twenty-four hours or, if necessary due to the nature of the parent's work, for periods equal to or greater than twenty-four hours; (b) receives child care subsidies; and (c) is either licensed by the state under RCW 74.15.030 or is exempt from licensing under chapter 74.15 RCW.

(13) "Adult family home provider" means a provider as defined in RCW 70.128.010 who receives payments from the medicaid and state-funded long-term care programs.

(14)(a) "Language access provider" means any independent contractor who provides spoken language interpreter services for department of social and health services appointments or medicaid enrollee appointments, or provided these services on or after January 1, 2009, and before the effective date of this section, whether paid by a broker, foreign language agency, or the department.

(b) "Language access provider" does not mean an owner, manager, or employee of a broker or a language access agency.

**Sec. 4.** RCW 41.56.113 and 2007 c 184 s 3 are each amended to read as follows:

(1) Upon the written authorization of an individual provider, a family child care provider, ~~((~~¶~~))~~ an adult family home provider, or a language access provider within the bargaining unit and after the certification or recognition of the bargaining unit's exclusive bargaining representative, the state as payor, but not as the employer, shall, subject to subsection (3) of this section, deduct from the payments to an individual provider, a family child care provider, ~~((~~¶~~))~~ an adult family home provider, or a language access provider the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and shall transmit the same to the treasurer of the exclusive bargaining representative.

(2) If the governor and the exclusive bargaining representative of a bargaining unit of individual providers, family child care providers, ~~((~~¶~~))~~ adult family home providers, or language access providers enter into a collective bargaining agreement that:

(a) Includes a union security provision authorized in RCW 41.56.122, the state as payor, but not as the employer, shall, subject to subsection (3) of this section, enforce the agreement by deducting from the payments to bargaining unit members the dues required for membership in the exclusive bargaining representative, or, for nonmembers thereof, a fee equivalent to the dues; or

(b) Includes requirements for deductions of payments other than the deduction under (a) of this subsection, the state, as payor, but not as the employer, shall, subject to subsection (3) of this section, make such deductions upon written authorization of the individual provider, family child care provider, ~~((~~¶~~))~~ adult family home provider, or language access provider.

(3)(a) The initial additional costs to the state in making deductions from the payments to individual providers, family child care providers, ~~((~~and~~))~~ adult family home providers, and language access providers under this section shall be negotiated, agreed upon in advance, and reimbursed to the state by the exclusive bargaining representative.

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(b) The allocation of ongoing additional costs to the state in making deductions from the payments to individual providers, family child care providers, ~~((or))~~ adult family home providers, or language access providers under this section shall be an appropriate subject of collective bargaining between the exclusive bargaining representative and the governor unless prohibited by another statute. If no collective bargaining agreement containing a provision allocating the ongoing additional cost is entered into between the exclusive bargaining representative and the governor, or if the legislature does not approve funding for the collective bargaining agreement as provided in RCW 74.39A.300, 41.56.028, or 41.56.029, as applicable, the ongoing additional costs to the state in making deductions from the payments to individual providers, family child care providers, ~~((or))~~ adult family home providers, or language access providers under this section shall be negotiated, agreed upon in advance, and reimbursed to the state by the exclusive bargaining representative.

(4) The governor and the exclusive bargaining representative of a bargaining unit of family child care providers may not enter into a collective bargaining agreement that contains a union security provision unless the agreement contains a process, to be administered by the exclusive bargaining representative of a bargaining unit of family child care providers, for hardship dispensation for license-exempt family child care providers who are also temporary assistance for needy families recipients or WorkFirst participants.

**Sec. 5.** RCW 41.04.810 and 2007 c 184 s 4 are each amended to read as follows:

Individual providers, as defined in RCW 74.39A.240, and family child care providers, ~~((as defined in RCW 41.56.030, and))~~ adult family home providers, and language access providers, all as defined in RCW 41.56.030, are not employees of the state or any of its political subdivisions and are specifically and entirely excluded from all provisions of this title, except as provided in RCW 74.39A.270, 41.56.028, and 41.56.029.

**Sec. 6.** RCW 43.01.047 and 2007 c 184 s 5 are each amended to read as follows:

RCW 43.01.040 through 43.01.044 do not apply to individual providers under RCW 74.39A.220 through 74.39A.300, family child care providers under RCW 41.56.028, or adult family home providers under RCW 41.56.029, or language access providers under section 3 of this act.

**Sec. 7.** RCW 74.04.025 and 1998 c 245 s 143 are each amended to read as follows:

(1) The department and the office of administrative hearings shall ensure that bilingual services are provided to non-English speaking applicants and recipients. The services shall be provided to the extent necessary to assure that non-English speaking persons are not denied, or unable to obtain or maintain, services or benefits because of their inability to speak English.

(2) If the number of non-English speaking applicants or recipients sharing the same language served by any community service office client contact job classification equals or exceeds fifty percent of the average caseload of a full-time position in such classification, the department shall, through attrition, employ bilingual personnel to serve such applicants or recipients.

(3) Regardless of the applicant or recipient caseload of any community service office, each community service office shall ensure that bilingual services required to supplement the community service office staff are provided through contracts with ~~((interpreters, local agencies, or other community resources))~~ language access providers.

(4) The department shall certify, authorize, and qualify language access providers in a manner consistent with any collective bargaining agreement entered into pursuant to section 3 of

this act as needed to maintain a pool of certified, authorized, and qualified providers.

(5) Initial client contact materials shall inform clients in all primary languages of the availability of interpretation services for non-English speaking persons. Basic informational pamphlets shall be translated into all primary languages.

~~((5))~~ (6) To the extent all written communications directed to applicants or recipients are not in the primary language of the applicant or recipient, the department and the office of administrative hearings shall include with the written communication a notice in all primary languages of applicants or recipients describing the significance of the communication and specifically how the applicants or recipients may receive assistance in understanding, and responding to if necessary, the written communication. The department shall assure that sufficient resources are available to assist applicants and recipients in a timely fashion with understanding, responding to, and complying with the requirements of all such written communications.

~~((6))~~ (7) As used in this section~~((;))~~:

(a) "Language access provider" means any independent contractor who provides spoken language interpreter services for department appointments or medicaid enrollee appointments, or provided these services on or after January 1, 2009, and before the effective date of this section, whether paid by a broker, foreign language agency, or the department. "Language access provider" does not mean an owner, manager, or employee of a broker or a language access agency.

(b) "Primary languages" includes but is not limited to Spanish, Vietnamese, Cambodian, Laotian, and Chinese.

**NEW SECTION. Sec. 8.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 9.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state."

On page 1, line 1 of the title, after "providers;" strike the remainder of the title and insert "amending RCW 41.56.030, 41.56.113, 41.04.810, 43.01.047, and 74.04.025; adding a new section to chapter 41.56 RCW; and creating new sections."

Senators Keiser and Marr spoke in favor of adoption of the striking amendment.

Senator Zarelli spoke against adoption of the striking amendment.

#### POINT OF ORDER

Senator Holmquist: "Thank you Mr. President. I believe that the striking amendment offered is beyond the scope and object of the current version of the bill and I have some arguments to offer on this Mr. President. This body just adopted the second substitute as reported by the Ways & Means Committee. That bill is a one section bill that does only one thing; it establishes a work group to develop a plan to improve the efficiency and effectiveness of language access services. By contrast the striking amendment adds eight more sections and authorizes language access providers to collectively bargain with the governor. The amendment establishes a procedure for the selection of exclusive bargaining representative defines its scope

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of bargaining and establishes dispute resolution procedures. The bill is focused on developing a plan of efficiency and the provision of language access services while the amendment is focused on the expansion of collective bargaining rights. For these reasons, I believe the amendment offered is outside the scope and object of this bill and is in violation of Senate Rule 66 and I respectfully request a ruling on this matter. Thank you Mr. President."

Senator Marr spoke against the point of order.

## MOTION

On motion of Senator Eide, further consideration of the striking amendment to Second Substitute Senate Bill No. 6726 was deferred and the measure held its place on the calendar.

## SECOND READING

SENATE BILL NO. 6424, by Senators Regala and Fairley

Concerning local excise tax authorities for counties and cities.

## MOTION

On motion of Senator Regala, Substitute Senate Bill No. 6424 was substituted for Senate Bill No. 6424 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford be adopted. On page 4, beginning on line 11, strike all material through line 3 on page 9.

Re-number the sections consecutively and correct any internal references accordingly.

Senator Honeyford spoke in favor of adoption of the amendment.

Senator Regala spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 4, line 11 to Substitute Senate Bill No. 6424.

The motion by Senator Honeyford carried and the amendment was adopted by a rising vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "82.14.340," strike "9.46.113, 82.46.010, and 82.46.035" and insert "and 9.46.113"

## MOTION

On motion of Senator Regala, the rules were suspended, Engrossed Substitute Senate Bill No. 6424 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Regala spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6424.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6424 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 9; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, McAuliffe, McDermott, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Benton, Carrell, Holmquist, Marr, Morton, Pflug, Roach, Schoesler and Sheldon

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6424, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## STATEMENT FOR THE JOURNAL

On February 15, 2010, given the enormous volume of bills, amendments, and motions before the Senate, I inadvertently voted "nay" on the final passage of Engrossed Substitute Senate Bill No. 6424, relating to local excise tax authority for cities and counties. Local governments, especially counties, are struggling to provide resources for public safety, and it is important to provide local governments with revenue flexibility during these challenging economic times. This bill provides some of that needed flexibility, and I support this policy. I regret this mistake, and I meant to vote "yes" in support of this measure.

SENATOR BOB MORTON, 7th Legislative District

## SECOND READING

SENATE BILL NO. 6737, by Senators Marr, Brown and McCaslin

Providing an exemption from property tax for aircraft used to provide air ambulance services for nonprofits.

## MOTION

On motion of Senator Marr, Substitute Senate Bill No. 6737 was substituted for Senate Bill No. 6737 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Ranker moved that the following amendment by Senator Ranker be adopted:

On page 1, line 7, after "is", insert "either"

On page 1, line 8, after "(a)", insert "(i)"

On page 1, line 9, after "501(c)(3);", strike "and"

On page 1, line 10, strike "(b)", insert "(ii)"

On page 1, line 10, after "services", strike "." insert "; and"

On page 1, line 11, beginning with "(2)" strike everything through "if the" and insert "(iii) The"

On page 1, line 13, strike "." and insert "; or

(b) a private aircraft exclusively used for medivac flights from islands in Washington state."

On page 2, line 26, after "(a)", insert "(i)"

On page 2, line 28, strike "(b)", insert "(ii)"

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On page 2, line 29, after "service", insert "; or (b) private aircraft exclusively used for medivac flights from islands in Washington state"

Senators Ranker and Marr spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Ranker on page 1, line 7 to Substitute Senate Bill No. 6737.

The motion by Senator Ranker carried and the amendment was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "services", strike "for nonprofits"

## MOTION

On motion of Senator Marr the rules were suspended, Engrossed Substitute Senate Bill No. 6737 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Marr spoke in favor of passage of the bill.  
Senator Pflug spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6737.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6737 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 2; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Pflug

Absent: Senators Brown and Murray

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6737, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6449, by Senators McDermott, Fairley, Keiser, Kohl-Welles and Kline

Regarding signature gatherers for petitions.

## MOTION

On motion of Senator McDermott, Substitute Senate Bill No. 6449 was substituted for Senate Bill No. 6449 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator McDermott moved that the following amendment by Senator McDermott be adopted:

On page 12, line 31, after "who" strike "directly"

On page 12, line 32, after "person" strike everything through "person" on line 34

On page 12, line 34, after "who" insert "only"

On page 18, line 2, after "who" strike "directly"

On page 18, line 3, after "person" strike everything through "person" on line 5

On page 18, line 5, after "who" insert "only"

Renumber the sections consecutively and correct any internal references accordingly.

Senators McDermott and Hargrove spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator McDermott on page 12, line 31 to Substitute Senate Bill No. 6449.

The motion by Senator McDermott carried and the amendment was adopted by voice vote.

## MOTION

Senator Stevens moved that the following amendment by Senator Stevens be adopted:

On page 13, after line 6, insert the following:

"(c) All persons who are at any time engaged in the registration of voters, unless through a state or local government agency."

On page 13, after line 16, insert the following:

"(b) Only one calendar year in the case of persons who register voters. The commission shall provide each registered person with an individual registration number."

On page 14, after line 18, insert the following:

"(3) To register with the commission, a paid signature gatherer must provide:

(a) His or her full name and assumed name, if any;

(b) The street address of his or her permanent residence;

(c) His or her signature;

(d) A signed statement attesting that the paid signature gatherer:

(i) Has not been convicted of a criminal offense involving fraud, forgery, or identification theft within the past five years;

(ii) has not been convicted of a crime under chapter 29A.84 RCW, or its equivalent in another jurisdiction, in the past five years;

(iii) has not been found in violation of elections law under chapter 29A.84 RCW,

or its equivalent in another jurisdiction, in the past five years; and

(iv) is not a convicted sex offender;

(f) A signed statement acknowledging that the person has read and understands Washington law applicable to voter registration;

(g) Evidence indicating that the person has completed the training required under section 7 of this act; and

(h) A conventional photograph showing the person's head, neck, and shoulders, and is appropriate for copying and processing by the commission."

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 15, line 33, after "signatures", insert " or registering voters".

On page 15, line 33, after "gatherer ", insert "or persons registering voters".

On page 15, line 36, after "gatherer " or person registering voters ".

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On page 16, line 1, after "act", strike all material through "petitions" on line 5.

On page 17, line 28, after "gatherers", insert ", persons registering voters,".

On page 1, line 1 of the title, after "gatherers", insert " and persons registering voters"

Senators Stevens and Benton spoke in favor of adoption of the amendment.

#### POINT OF ORDER

Senator Rockefeller: "Mr. President, I object to characterizing an effort to amend the statute as an attack on the state's constitution. The gentleman is a scribing motivation and I don't believe it's warranted or appropriate here."

#### REPLY BY THE PRESIDENT

President Owen: "The President believes that at times we walk very closely to impugning members motives. I did not hear it, direct impugning, at that point but it is close. Senator Benton."

#### RULING BY THE PRESIDENT

President Owen: "Senator Benton, that is impugning, please talk to the merits of the or the demerits of the amendment."

Senator Fraser spoke against adoption of the amendment.

#### POINT OF ORDER

Senator McDermott: "I request a ruling on scope and object on this amendment. The bill itself addresses the initiative and referendum signature gathering process. At no point, in anywhere in the bill does it address voter registration. I believe that to be attempting to affect voter registration by amendment, is well beyond the scope of this bill."

#### RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order by Senator McDermott, the original bill registered signature gatherers. The amendment expands the provisions to include persons registering voters. The President believes that is an expansion of the scope and object of the bill and the amendment is beyond the scope and object of the bill. Therefore, Senator McDermott's point is well taken."

#### MOTION

Senator Pflug moved that the following amendment by Senator Pflug be adopted:

On page 13, after line 6, insert the following:

"(c) All businesses or organizations operating in this state engaged in the activity of registering voters."

Re-number the remaining sections consecutively and correct any internal references accordingly.

On page 15, after line 23, insert the following:

"(5) To register with the commission, a business or organization operating in this state engaged in the activity of registering voters, must provide:

(a) The name of the business or organization as registered with the applicable state agency depending on the business or organization structure, which may include the department of revenue, the secretary of state, or the department of licensing, as

well as any other names under which the business or organization is doing business or any trade names;

(b) The street address of the main office in the state, the mailing address, if different, the office phone number, and the business or organization e-mail address, if any. If the business or organization is operated out of a residence, the residence shall be considered the main office for the purposes of this subsection;

(c) The full name of the business owner or owners or the members of the governing body of an organization and any assumed names;

(d) A signature of the business owner or owners or the members of the governing body of the organization;

(e) A signed statement attesting that the business owner or owners or members of the governing body of the organization:

(i) Have not been convicted of a criminal offense involving fraud, forgery, or identification theft within the past five years; (ii) have not been convicted of a crime under chapter 29A.84 RCW, or its equivalent in another jurisdiction, in the past five years; (iii) have not been found in violation of elections law under chapter 29A.84 RCW, or its equivalent in another jurisdiction, in the past five years; and

(iv) are not convicted sex offenders;

(f) A signed statement acknowledging the business owner or owners or members of the governing body of the organization have read and understand Washington law applicable to voter registration;

(g) Evidence indicating that the business owner or owners or members of the governing body of the organization completed the training required under section 7 of this act; and

(j) A conventional photograph showing the paid signature gatherer's head, neck, and shoulders, and is appropriate for copying and processing by the commission."

Re-number the remaining sections consecutively and correct any internal references accordingly.

On page 17, line 28, after "businesses", insert " or organizations".

On page 17, line 30, starting with "for", delete all material through "gatherers" and insert "and registering voters".

Senator Pflug spoke in favor of adoption of the amendment.

#### POINT OF ORDER

Senator McDermott: "Mr. President, I request a ruling on scope and object on this amendment. Only to reassert the arguments I made earlier Mr. President. That the bill itself addresses signature gathering for initiatives and referendums and no way addresses registration of voters which this amendment again addresses."

#### RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order by Senator McDermott, the President believes for the same reasons that the previous amendment was beyond the scope and object of which the bill is relative to registering signature gatherers. The amendment is relative to persons who register voters the amendment is beyond the scope and object of the bill. Senator McDermott's point is well taken."

#### MOTION

Senator Swecker moved that the following amendment by Senator Swecker be adopted:

On page 15, after line 36, insert the following:

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"(7) for the purposes of this section, "business" includes any non-profit organization."

Senators Swecker, Roach and Pflug spoke in favor of adoption of the amendment.

Senator McDermott spoke against adoption of the amendment.

Senator Schoesler demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Swecker on page 15, after line 36 to Substitute Senate Bill No. 6449.

#### ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Swecker and the amendment was not adopted by the following vote: Yeas, 24; Nays, 25; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Brandland, Carrell, Delvin, Hatfield, Hewitt, Holmquist, Honeyford, Jacobsen, Kastama, Kilmer, King, Marr, Morton, Parlette, Pflug, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Haugen, Hobbs, Kauffman, Keiser, Kline, Kohl-Welles, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Shin and Tom

Excused: Senator McCaslin

The President voting "nay"

#### MOTION

Senator King moved that the following amendment by Senator King be adopted:

On page 24, after line 9, insert the following:

"**Sec. 15.** RCW 29A.84.220 and 2003 c 111 s 2110 are each amended to read as follows:

Every person is guilty of a gross misdemeanor, who:

(1) For any consideration, compensation, gratuity, reward, or thing of value or promise thereof, signs or declines to sign any recall petition; or

(2) Advertises in any newspaper, magazine or other periodical publication, or in any book, pamphlet, circular, or letter, or by means of any sign, signboard, bill, poster, handbill, or card, or in any manner whatsoever, that he or she will either for or without compensation or consideration circulate, solicit, procure, or obtain signatures upon, or influence or induce or attempt to influence or induce persons to sign or not to sign any recall petition or vote for or against any recall; or

(3) For pay or any consideration, compensation, gratuity, reward, or thing of value or promise thereof, circulates, or solicits, procures, or obtains or attempts to procure or obtain signatures upon any recall petition; or

(4) Pays or offers or promises to pay, or gives or offers or promises to give any consideration, compensation, gratuity, reward, or thing of value to any person to induce him or her to sign or not to sign, or to circulate or solicit, procure, or attempt to procure or obtain signatures upon any recall petition, or to vote for or against any recall; or

(5) By any other corrupt means or practice or by threats or intimidation interferes with or attempts to interfere with the right of any legal voter to sign or not to sign any recall petition or to vote for or against any recall; ((✕))

(6) Knowingly provide false or misleading information to any state or local governmental agency about the individuals, groups, organizations, or businesses, engaged in signature gathering for initiative, referenda, or recall petitions;

(7) By any other corrupt means or practice or by threats or intimidation interferes with or attempts to interfere with the operations of any individual, group, organization, or business, engaged in signature gathering for initiative, referenda, or recall petitions; or

(8) Receives, accepts, handles, distributes, pays out, or gives away, directly or indirectly, any money, consideration, compensation, gratuity, reward, or thing of value contributed by or received from any person, firm, association, or corporation whose residence or principal office is, or the majority of whose stockholders are nonresidents of the state of Washington, for any service, work, or assistance of any kind done or rendered for the purpose of aiding in procuring signatures upon any recall petition or the adoption or rejection of any recall."

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senator King spoke in favor of adoption of the amendment.

Senator McDermott spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator King on page 24, after line 9 to Substitute Senate Bill No. 6449.

The motion by Senator King failed and the amendment was not adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 3 of the title, after " 29A.72 RCW;", insert " amending RCW 29A.84.220;"

#### MOTION

On motion of Senator McDermott, the rules were suspended, Engrossed Substitute Senate Bill No. 6449 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McDermott, Franklin, Hargrove spoke in favor of passage of the bill.

Senators Swecker, Roach, Pflug, Sheldon, Carrell and Benton spoke against passage of the bill.

#### POINT OF ORDER

Senator Kline: "I believe that comment about destroying the democracy and the constitution of the State of Washington is out of order."

#### RULING BY THE PRESIDENT

President Owen: "The President believes that it is an opinion. He is not directing his remarks at any individual. Senator Benton."

Senators Kline and Jacobsen spoke in favor of passage of the bill.

Senator King spoke against passage of the bill.

#### MOTION

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On motion of Senator Eide, Rule 15 was suspended for the remainder of the day for the purpose of allowing continued floor action.

The President declared that one-sixth of the members supported the demand. The demand is sustained.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6449.

The President declared the question before the Senate to be the motion by Senator Holmquist that Second Substitute Senate Bill No. 6726 be substituted for Senate Bill No. 6726 and the second substitute bill be placed on the second reading calendar.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6449 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 19; Absent, 0; Excused, 1.

Senator Zarelli spoke in favor of the motion.  
Senator Keiser spoke against the motion.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

The President declared the question before the Senate to be the motion by Senator Holmquist that Second Substitute Senate Bill No. 6726 be substituted for Senate Bill No. 6726 and the second substitute bill be placed on the second reading calendar.

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hatfield, Hewitt, Holmquist, Honeyford, King, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

The Secretary called the roll on the motion by Senator Holmquist and the motion failed by the following vote: Yeas, 17; Nays, 31; Absent, 0; Excused, 1.

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6449, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

Voting yea: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, Morton, Parlette, Pflug, Roach, Schoesler, Stevens, Swecker and Zarelli

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin and Tom

Excused: Senator McCaslin

The Senate resumed consideration of Second Substitute Senate Bill No. 6726 which had been deferred earlier in the day.

MOTION

MOTION

On motion of Senator Kohl-Welles, the motion to adopt the striking amendment by Senators Keiser and Marr to Second Substitute Senate Bill No. 6726 was withdrawn.

On motion of Senator Kohl-Welles, Substitute Senate Bill No. 6726 was substituted for Senate Bill No. 6726 and the substitute bill was placed on the second reading and read the second time.

MOTION FOR IMMEDIATE RECONSIDERATION

MOTION

Senator Kohl-Welles moved to immediately reconsider the vote by which Second Substitute Senate Bill No. 6726 was substituted for Senate Bill No. 6726 by the Senate earlier in the day.

Senator Keiser moved that the following striking amendment by Senators Keiser and Marr be adopted:

The President declared the question before the senate to be the motion by Senator Kohl-Welles to immediately reconsider the vote by which Second Substitute Senate Bill No. 6726 was substituted for Senate Bill No. 6726 by the Senate earlier in the day.

Strike everything after the enacting clause and insert the following:

The motion by Senator Kohl-Welles carried by voice vote.

MOTION

Senator Kohl-Welles moved that Second Substitute Senate Bill No. 6726 not be substituted for Senate Bill No. 6726 and the second substitute bill be not adopted.

**"NEW SECTION. Sec. 1.** (1) No later than thirty days after the effective date of this section, the office of financial management shall establish a working group on language access services.

(2) The working group shall include members that have experience and knowledge of language access services in Washington state, including representatives of a statewide association representing hospitals, community health centers and providers for underserved and immigrant populations, statewide associations representing physicians, other health care providers who serve medicaid patients, a statewide labor union currently working with language access providers, statewide professional interpreter associations, community-based organizations that advocate for persons with limited English proficiency, language access providers, brokers, and representatives of the department of social and health services.

MOTION

Senator Holmquist moved that Second Substitute Senate Bill No. 6726 be substituted for Senate Bill No. 6726 and the substitute bill be placed on the second reading and read the second time.

(3) A representative of the office of financial management shall chair the working group, and the department shall provide staff to support the working group's activities.

(4) The working group shall develop a plan to improve the efficiency and effectiveness of language access services. The plan shall describe the best possible means by which the following criteria are achieved: Administrative and overhead costs, including

Senator Kohl-Welles spoke against the motion.  
Senator Schoesler demanded a roll call.

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brokers and language access agencies, are reduced; timeliness and flexibility for medical providers is improved; the pool of qualified interpreters is stabilized; and fraud and abuse are prevented.

(5) The office of financial management shall report the findings of the working group to the legislature no later than September 30, 2010.

**NEW SECTION. Sec. 2.** A new section is added to chapter 41.56 RCW to read as follows:

(1) In addition to the entities listed in RCW 41.56.020, this chapter applies to the governor with respect to language access providers. Solely for the purposes of collective bargaining and as expressly limited under subsections (2) and (3) of this section, the governor is the public employer of language access providers who, solely for the purposes of collective bargaining, are public employees. The governor or the governor's designee shall represent the public employer for bargaining purposes.

(2) There shall be collective bargaining, as defined in RCW 41.56.030, between the governor and language access providers, except as follows:

(a) A statewide unit of all language access providers is the only unit appropriate for purposes of collective bargaining under RCW 41.56.060;

(b) The exclusive bargaining representative of language access providers in the unit specified in (a) of this subsection shall be the representative chosen in an election conducted pursuant to RCW 41.56.070.

Bargaining authorization cards furnished as the showing of interest in support of any representation petition or motion for intervention filed under this section are exempt from disclosure under chapter 42.56 RCW;

(c) Notwithstanding the definition of "collective bargaining" in RCW 41.56.030(4), the scope of collective bargaining for language access providers under this section is limited solely to: (i) Economic compensation; (ii) rules and procedures regarding payments, work rules, and reimbursements; (iii) certification procedures, professional development, and training; (iv) labor-management committees; and (v) grievance procedures. Retirement benefits are not subject to collective bargaining. By such obligation neither party may be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter;

(d) In addition to the entities listed in the mediation and interest arbitration provisions of RCW 41.56.430 through 41.56.470 and 41.56.480, the provisions apply to the governor or the governor's designee and the exclusive bargaining representative of language access providers, except that:

(i) In addition to the factors to be taken into consideration by an interest arbitration panel under RCW 41.56.465, the panel shall consider the financial ability of the state to pay for the compensation and benefit provisions of a collective bargaining agreement;

(ii) The decision of the arbitration panel is not binding on the legislature and, if the legislature does not approve the request for funds necessary to implement the compensation and benefit provisions of the arbitrated collective bargaining agreement, the decision is not binding on the state;

(e) Language access providers do not have the right to strike.

(3) Language access providers who are public employees solely for the purposes of collective bargaining under subsection (1) of this section are not, for that reason, employees of the state for any other purpose. This section applies only to the governance of the collective bargaining relationship between the employer and language access providers as provided in subsections (1) and (2) of this section.

(4) Each party with whom the department of social and health services contracts for language access services and each of their

subcontractors shall provide to the department an accurate list of language access providers, as defined in RCW 41.56.030, including their names, addresses, and other contact information, annually by January 30th, except that initially the lists must be provided within thirty days of the effective date of this section. The department shall, upon request, provide a list of all language access providers, including their names, addresses, and other contact information, to a labor union seeking to represent language access providers.

(5) This section does not create or modify:

(a) The department's obligation to comply with the federal statute and regulations; and

(b) The legislature's right to make programmatic modifications to the delivery of state services under chapter 74.04 RCW. The governor may not enter into, extend, or renew any agreement under this chapter that does not expressly reserve the legislative rights described in this subsection.

(6) Upon meeting the requirements of subsection (7) of this section, the governor must submit, as a part of the proposed biennial or supplemental operating budget submitted to the legislature under RCW 43.88.030, a request for funds necessary to implement the compensation and benefit provisions of a collective bargaining agreement entered into under this section or for legislation necessary to implement the agreement.

(7) A request for funds necessary to implement the compensation and benefit provisions of a collective bargaining agreement entered into under this section may not be submitted by the governor to the legislature unless the request has been:

(a) Submitted to the director of financial management by October 1st prior to the legislative session at which the requests are to be considered, except that, for initial negotiations under this section, the request may not be submitted before July 1, 2011; and

(b) Certified by the director of financial management as financially feasible for the state or reflective of a binding decision of an arbitration panel reached under subsection (2)(d) of this section.

(8) The legislature must approve or reject the submission of the request for funds as a whole. If the legislature rejects or fails to act on the submission, any collective bargaining agreement must be reopened for the sole purpose of renegotiating the funds necessary to implement the agreement.

(9) If, after the compensation and benefit provisions of an agreement are approved by the legislature, a significant revenue shortfall occurs resulting in reduced appropriations, as declared by proclamation of the governor or by resolution of the legislature, both parties shall immediately enter into collective bargaining for a mutually agreed upon modification of the agreement.

(10) After the expiration date of any collective bargaining agreement entered into under this section, all of the terms and conditions specified in the agreement remain in effect until the effective date of a subsequent agreement, not to exceed one year from the expiration date stated in the agreement.

(11) In enacting this section, the legislature intends to provide state action immunity under federal and state antitrust laws for the joint activities of language access providers and their exclusive bargaining representative to the extent the activities are authorized by this chapter.

**Sec. 3.** RCW 41.56.030 and 2007 c 184 s 2 are each amended to read as follows:

As used in this chapter:

(1) "Public employer" means any officer, board, commission, council, or other person or body acting on behalf of any public body governed by this chapter, or any subdivision of such public body. For the purposes of this section, the public employer of district court or superior court employees for wage-related matters is the respective county legislative authority, or person or body acting on behalf of the legislative authority, and the public employer for

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nonwage-related matters is the judge or judge's designee of the respective district court or superior court.

(2) "Public employee" means any employee of a public employer except any person (a) elected by popular vote, or (b) appointed to office pursuant to statute, ordinance or resolution for a specified term of office as a member of a multimember board, commission, or committee, whether appointed by the executive head or body of the public employer, or (c) whose duties as deputy, administrative assistant or secretary necessarily imply a confidential relationship to (i) the executive head or body of the applicable bargaining unit, or (ii) any person elected by popular vote, or (iii) any person appointed to office pursuant to statute, ordinance or resolution for a specified term of office as a member of a multimember board, commission, or committee, whether appointed by the executive head or body of the public employer, or (d) who is a court commissioner or a court magistrate of superior court, district court, or a department of a district court organized under chapter 3.46 RCW, or (e) who is a personal assistant to a district court judge, superior court judge, or court commissioner. For the purpose of (e) of this subsection, no more than one assistant for each judge or commissioner may be excluded from a bargaining unit.

(3) "Bargaining representative" means any lawful organization which has as one of its primary purposes the representation of employees in their employment relations with employers.

(4) "Collective bargaining" means the performance of the mutual obligations of the public employer and the exclusive bargaining representative to meet at reasonable times, to confer and negotiate in good faith, and to execute a written agreement with respect to grievance procedures and collective negotiations on personnel matters, including wages, hours and working conditions, which may be peculiar to an appropriate bargaining unit of such public employer, except that by such obligation neither party shall be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter.

(5) "Commission" means the public employment relations commission.

(6) "Executive director" means the executive director of the commission.

(7) "Uniformed personnel" means: (a) Law enforcement officers as defined in RCW 41.26.030 employed by the governing body of any city or town with a population of two thousand five hundred or more and law enforcement officers employed by the governing body of any county with a population of ten thousand or more; (b) correctional employees who are uniformed and nonuniformed, commissioned and noncommissioned security personnel employed in a jail as defined in RCW 70.48.020~~((5))~~ (9), by a county with a population of seventy thousand or more, and who are trained for and charged with the responsibility of controlling and maintaining custody of inmates in the jail and safeguarding inmates from other inmates; (c) general authority Washington peace officers as defined in RCW 10.93.020 employed by a port district in a county with a population of one million or more; (d) security forces established under RCW 43.52.520; (e) firefighters as that term is defined in RCW 41.26.030; (f) employees of a port district in a county with a population of one million or more whose duties include crash fire rescue or other firefighting duties; (g) employees of fire departments of public employers who dispatch exclusively either fire or emergency medical services, or both; or (h) employees in the several classes of advanced life support technicians, as defined in RCW 18.71.200, who are employed by a public employer.

(8) "Institution of higher education" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington

University, The Evergreen State College, and the various state community colleges.

(9) "Home care quality authority" means the authority under chapter 74.39A RCW.

(10) "Individual provider" means an individual provider as defined in RCW 74.39A.240(4) who, solely for the purposes of collective bargaining, is a public employee as provided in RCW 74.39A.270.

(11) "Child care subsidy" means a payment from the state through a child care subsidy program established pursuant to RCW 74.12.340 or 74.08A.340, 45 C.F.R. Sec. 98.1 through 98.17, or any successor program.

(12) "Family child care provider" means a person who: (a) Provides regularly scheduled care for a child or children in the home of the provider or in the home of the child or children for periods of less than twenty-four hours or, if necessary due to the nature of the parent's work, for periods equal to or greater than twenty-four hours; (b) receives child care subsidies; and (c) is either licensed by the state under RCW 74.15.030 or is exempt from licensing under chapter 74.15 RCW.

(13) "Adult family home provider" means a provider as defined in RCW 70.128.010 who receives payments from the medicaid and state-funded long-term care programs.

(14)(a) "Language access provider" means any independent contractor who provides spoken language interpreter services for department of social and health services appointments or medicaid enrollee appointments, or provided these services on or after January 1, 2009, and before the effective date of this section, whether paid by a broker, foreign language agency, or the department.

(b) "Language access provider" does not mean an owner, manager, or employee of a broker or a language access agency.

**Sec. 4.** RCW 41.56.113 and 2007 c 184 s 3 are each amended to read as follows:

(1) Upon the written authorization of an individual provider, a family child care provider, ~~((or))~~ an adult family home provider, or a language access provider within the bargaining unit and after the certification or recognition of the bargaining unit's exclusive bargaining representative, the state as payor, but not as the employer, shall, subject to subsection (3) of this section, deduct from the payments to an individual provider, a family child care provider, ~~((or))~~ an adult family home provider, or a language access provider the monthly amount of dues as certified by the secretary of the exclusive bargaining representative and shall transmit the same to the treasurer of the exclusive bargaining representative.

(2) If the governor and the exclusive bargaining representative of a bargaining unit of individual providers, family child care providers, ~~((or))~~ adult family home providers, or language access providers enter into a collective bargaining agreement that:

(a) Includes a union security provision authorized in RCW 41.56.122, the state as payor, but not as the employer, shall, subject to subsection (3) of this section, enforce the agreement by deducting from the payments to bargaining unit members the dues required for membership in the exclusive bargaining representative, or, for nonmembers thereof, a fee equivalent to the dues; or

(b) Includes requirements for deductions of payments other than the deduction under (a) of this subsection, the state, as payor, but not as the employer, shall, subject to subsection (3) of this section, make such deductions upon written authorization of the individual provider, family child care provider, ~~((or))~~ adult family home provider, or language access provider.

(3)(a) The initial additional costs to the state in making deductions from the payments to individual providers, family child care providers, ~~((and))~~ adult family home providers, and language access providers under this section shall be negotiated, agreed upon

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in advance, and reimbursed to the state by the exclusive bargaining representative.

(b) The allocation of ongoing additional costs to the state in making deductions from the payments to individual providers, family child care providers, ~~((or))~~ adult family home providers, or language access providers under this section shall be an appropriate subject of collective bargaining between the exclusive bargaining representative and the governor unless prohibited by another statute. If no collective bargaining agreement containing a provision allocating the ongoing additional cost is entered into between the exclusive bargaining representative and the governor, or if the legislature does not approve funding for the collective bargaining agreement as provided in RCW 74.39A.300, 41.56.028, or 41.56.029, as applicable, the ongoing additional costs to the state in making deductions from the payments to individual providers, family child care providers, ~~((or))~~ adult family home providers, or language access providers under this section shall be negotiated, agreed upon in advance, and reimbursed to the state by the exclusive bargaining representative.

(4) The governor and the exclusive bargaining representative of a bargaining unit of family child care providers may not enter into a collective bargaining agreement that contains a union security provision unless the agreement contains a process, to be administered by the exclusive bargaining representative of a bargaining unit of family child care providers, for hardship dispensation for license-exempt family child care providers who are also temporary assistance for needy families recipients or WorkFirst participants.

**Sec. 5.** RCW 41.04.810 and 2007 c 184 s 4 are each amended to read as follows:

Individual providers, as defined in RCW 74.39A.240, and family child care providers, ~~((as defined in RCW 41.56.030, and))~~ adult family home providers, and language access providers, all as defined in RCW 41.56.030, are not employees of the state or any of its political subdivisions and are specifically and entirely excluded from all provisions of this title, except as provided in RCW 74.39A.270, 41.56.028, and 41.56.029.

**Sec. 6.** RCW 43.01.047 and 2007 c 184 s 5 are each amended to read as follows:

RCW 43.01.040 through 43.01.044 do not apply to individual providers under RCW 74.39A.220 through 74.39A.300, family child care providers under RCW 41.56.028, or adult family home providers under RCW 41.56.029, or language access providers under section 3 of this act.

**Sec. 7.** RCW 74.04.025 and 1998 c 245 s 143 are each amended to read as follows:

(1) The department and the office of administrative hearings shall ensure that bilingual services are provided to non-English speaking applicants and recipients. The services shall be provided to the extent necessary to assure that non-English speaking persons are not denied, or unable to obtain or maintain, services or benefits because of their inability to speak English.

(2) If the number of non-English speaking applicants or recipients sharing the same language served by any community service office client contact job classification equals or exceeds fifty percent of the average caseload of a full-time position in such classification, the department shall, through attrition, employ bilingual personnel to serve such applicants or recipients.

(3) Regardless of the applicant or recipient caseload of any community service office, each community service office shall ensure that bilingual services required to supplement the community service office staff are provided through contracts with ~~((interpreters, local agencies, or other community resources))~~ language access providers.

(4) The department shall certify, authorize, and qualify language access providers in a manner consistent with any collective bargaining agreement entered into pursuant to section 3 of this act as needed to maintain a pool of certified, authorized, and qualified providers.

(5) Initial client contact materials shall inform clients in all primary languages of the availability of interpretation services for non-English speaking persons. Basic informational pamphlets shall be translated into all primary languages.

~~((5))~~ (6) To the extent all written communications directed to applicants or recipients are not in the primary language of the applicant or recipient, the department and the office of administrative hearings shall include with the written communication a notice in all primary languages of applicants or recipients describing the significance of the communication and specifically how the applicants or recipients may receive assistance in understanding, and responding to if necessary, the written communication. The department shall assure that sufficient resources are available to assist applicants and recipients in a timely fashion with understanding, responding to, and complying with the requirements of all such written communications.

~~((6))~~ (7) As used in this section~~((:))~~:

(a) "Language access provider" means any independent contractor who provides spoken language interpreter services for department appointments or medicaid enrollee appointments, or provided these services on or after January 1, 2009, and before the effective date of this section, whether paid by a broker, foreign language agency, or the department. "Language access provider" does not mean an owner, manager, or employee of a broker or a language access agency.

(b) "Primary languages" includes but is not limited to Spanish, Vietnamese, Cambodian, Laotian, and Chinese.

**NEW SECTION. Sec. 8.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 9.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state."

Renumber the sections consecutively and correct any internal references accordingly.

Senators Keiser and Marr spoke in favor of adoption of the striking amendment.

Senators Pflug and Zarelli spoke against adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Keiser and Marr to Substitute Senate Bill No. 6726.

The motion by Senator Keiser carried and the striking amendment was adopted by a rising vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "providers;" strike the remainder of the title and insert "amending RCW 41.56.030,

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41.56.113, 41.04.810, 43.01.047, and 74.04.025; adding a new section to chapter 41.56 RCW; and creating new sections."

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Substitute Senate Bill No. 6726 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Marr spoke in favor of passage of the bill.

Senators King, Holmquist and Pflug spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6726.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6726 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 19; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Hobbs, Jacobsen, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Roach, Rockefeller, Sheldon, Shin and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Haugen, Hewitt, Holmquist, Honeyford, Kastama, King, Morton, Parlette, Pflug, Regala, Schoesler, Stevens, Swecker and Zarelli

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6726, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6562, by Senators Kilmer, Tom, Delvin, Regala, Murray, Hargrove and King

Regarding tuition-setting authority at institutions of higher education. Revised for 2nd Substitute: Regarding higher education accountability and access.

#### MOTION

On motion of Senator Kilmer, Second Substitute Senate Bill No. 6562 was substituted for Senate Bill No. 6562 and the second substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Kilmer moved that the following amendment by Senator Kohl-Welles be adopted:

On page 4, line 13, after "undergraduate", insert "and graduate".

Senator Kohl-Welles spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Kohl-Welles on page 4, line 13 to Second Substitute Senate Bill No. 6562.

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The motion by Senator Kilmer carried and the amendment was adopted by voice vote.

#### MOTION

Senator Pflug moved that the following amendment by Senators Pflug and Schoesler be adopted:

On page 14, on line 27, after "which", insert ": (1)

On page 14, on line 31, after "2009-10", insert the following: "; and (2) the state work study program in chapter 28B.12 RCW provides the same percentage of overall students with the same proportion of work study, as compared to tuition, as was actually covered by the program in academic year 2009-2010 academic year."

Senator Pflug spoke in favor of adoption of the amendment.

Senators Kilmer and Pridemore spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Pflug and Schoesler on page 14, line 27 to Second Substitute Senate Bill No. 6562.

The motion by Senator Pflug failed and the amendment was not adopted by voice vote.

#### MOTION

On motion of Senator Kilmer, the rules were suspended, Engrossed Second Substitute Senate Bill No. 6562 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kilmer, Murray, Shin, Kastama, Jacobsen, Brown and Becker spoke in favor of passage of the bill.

Senators Schoesler, Benton, Roach, Sheldon, Zarelli, Pridemore and Pflug spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6562.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6562 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 19; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Fairley, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Keiser, Kilmer, King, Kline, Marr, McAuliffe, McDermott, Murray, Parlette, Prentice, Regala, Rockefeller, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Benton, Carrell, Delvin, Eide, Franklin, Holmquist, Honeyford, Kastama, Kauffman, Kohl-Welles, Morton, Oemig, Pflug, Pridemore, Ranker, Roach, Schoesler, Sheldon and Stevens

Excused: Senator McCaslin

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6562, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 11:38 p.m., on motion of Senator Eide, the Senate adjourned until 9:30 a.m. Tuesday, February 16, 2010.

THIRTY SIXTH DAY, FEBRUARY 15, 2010

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**THIRTY SEVENTH DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Tuesday, February 16, 2010

The Senate was called to order at 9:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Fairley, Hargrove, Haugen, McCaslin and Pflug.

The Sergeant at Arms Color Guard consisting of Pages Keegan Monson and Gillian Bishop, presented the Colors Reverend, Mike Neil, Washington State Department of Fish & Wildlife Chaplain offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

February 15, 2010

MR. PRESIDENT

The House has passed:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1418,

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2539,

ENGROSSED SUBSTITUTE HOUSE BILL 2571,

ENGROSSED HOUSE BILL 2830,

ENGROSSED HOUSE BILL 2831,

SUBSTITUTE HOUSE BILL 2962,

SUBSTITUTE HOUSE BILL 2990,

SECOND SUBSTITUTE HOUSE BILL 3076.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

February 15, 2010

MR. PRESIDENT

The House has passed:

SUBSTITUTE HOUSE BILL 1545,

SECOND SUBSTITUTE HOUSE BILL 1572,

SECOND SUBSTITUTE HOUSE BILL 2016,

SUBSTITUTE HOUSE BILL 2408,

SUBSTITUTE HOUSE BILL 2416,

SUBSTITUTE HOUSE BILL 2471,

HOUSE BILL 2495,

HOUSE BILL 2511,

SUBSTITUTE HOUSE BILL 2527,

HOUSE BILL 2567,

SECOND SUBSTITUTE HOUSE BILL 2603,

HOUSE BILL 2642,

THIRD SUBSTITUTE HOUSE BILL 2687,

SUBSTITUTE HOUSE BILL 2704,

HOUSE BILL 2734,  
SECOND SUBSTITUTE HOUSE BILL 2759,  
SUBSTITUTE HOUSE BILL 2789,  
SUBSTITUTE HOUSE BILL 2818,  
SECOND SUBSTITUTE HOUSE BILL 2867,  
SUBSTITUTE HOUSE BILL 2884.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

February 15, 2010

MR. PRESIDENT

The House has passed:

ENGROSSED HOUSE BILL 1653,

ENGROSSED SUBSTITUTE HOUSE BILL 2496,

ENGROSSED SUBSTITUTE HOUSE BILL 2541,

ENGROSSED SUBSTITUTE HOUSE BILL 2756,

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2793,

ENGROSSED SUBSTITUTE HOUSE BILL 3048.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

E2SHB 1096 by House Committee on General Government Appropriations (originally sponsored by Representatives Hasegawa, Green, Kenney, Chase, Hudgins and Moeller)

AN ACT Relating to enhancing small business participation in state purchasing; amending RCW 39.29.050 and 43.19.1901; adding new sections to chapter 43.19 RCW; creating a new section; prescribing penalties; and providing expiration dates.

Referred to Committee on Economic Development, Trade & Innovation.

E2SHB 1149 by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Williams, Roach, Simpson, Kirby, Dunshee, Nelson and Ormsby)

AN ACT Relating to protecting consumers from breaches of security; adding a new section to chapter 19.255 RCW; creating new sections; and providing an effective date.

Referred to Committee on Labor, Commerce & Consumer Protection.

2SHB 1162 by House Committee on Education Appropriations (originally sponsored by Representatives Dickerson, Quall, Sullivan, Haigh, Orwall, Liias, Takko, Kagi, Green, Simpson, Kenney and Nelson)

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AN ACT Relating to social emotional learning in public schools; adding new sections to chapter 28A.300 RCW; and creating a new section.

43.19.19201, 79A.05.170, 79A.05.175, 36.34.137, 35.21.687, 79.11.005, and 79.22.060.

Referred to Committee on Early Learning & K-12 Education.

Referred to Committee on Financial Institutions, Housing & Insurance.

E2SHB 1317 by House Committee on Ways & Means (originally sponsored by Representatives Kessler, Rodne, Simpson, O'Brien, Hunt, Hurst, Ormsby, Moeller, Chase, Sullivan and Kelley)

2SHB 2396 by House Committee on Health & Human Services Appropriations (originally sponsored by Representatives Morrell, Hinkle, Driscoll, Campbell, Cody, Van De Wege, Carlyle, Johnson, Simpson, Hurst, O'Brien, Clibborn, Nelson, Maxwell, Conway, McCoy and Moeller)

AN ACT Relating to disclosure of public records containing information used to locate or identify employees of criminal justice agencies; and amending RCW 42.56.250.

AN ACT Relating to emergency cardiac and stroke care; amending RCW 70.168.015 and 70.168.090; reenacting and amending RCW 42.56.360; adding new sections to chapter 70.168 RCW; and creating a new section.

Referred to Committee on Government Operations & Elections.

Referred to Committee on Health & Long-Term Care.

2SHB 1591 by House Committee on Transportation (originally sponsored by Representatives Uptegrove, Clibborn, Simpson and Liias)

SHB 2397 by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Moeller, Kretz, Dickerson, Schmick, Blake, Kristiansen, Driscoll, Armstrong, Liias, Dunshee, Hudgins, Eddy, Morris, Chase, Simpson, Kenney, Warnick, Ormsby and Hope)

AN ACT Relating to the use of certain transportation benefit district funds; and amending RCW 36.73.015, 36.73.120, and 82.14.0455.

AN ACT Relating to gathering signatures for an initiative or referendum at stand alone stores and retail stores that are located in commercial retail complexes; and adding a new section to chapter 29A.72 RCW.

Referred to Committee on Transportation.

Referred to Committee on Government Operations & Elections.

HB 1697 by Representatives Liias, Priest, Sullivan, Quall, Uptegrove, Santos, Kenney and Ormsby

AN ACT Relating to career and technical student organizations; and amending RCW 28A.300.380.

SHB 2420 by House Committee on Community & Economic Development & Trade (originally sponsored by Representatives Kenney, Orcutt, Van De Wege, Conway, Kessler, Blake, Hope, Herrera, Liias, Sullivan, Campbell, Schmick, Quall, Dammeier, Chase, Takko, Morrell and Smith)

Referred to Committee on Early Learning & K-12 Education.

HB 1757 by Representatives Haigh, Haler, Kessler, Takko, Hinkle, Sullivan, McCune, Hunter, Cox, Finn, Priest and Van De Wege

AN ACT Relating to the promotion of the industries that rely on the state's working land base; amending RCW 43.330.310 and 43.330.375; and creating a new section.

AN ACT Relating to establishing a small school district contingency fund; and adding new sections to chapter 28A.300 RCW.

Referred to Committee on Economic Development, Trade & Innovation.

Referred to Committee on Ways & Means.

SHB 1949 by House Committee on Higher Education (originally sponsored by Representatives Liias, Sells, Hasegawa, Uptegrove, Quall, Conway, Simpson and Ormsby)

EHB 2444 by Representatives Williams, Campbell, Liias, Chase, Sells, Rolfes, Nelson, Simpson, Goodman, Ormsby, Miloscia, Kagi, Roberts, White, Conway, Kenney, Hasegawa and Haigh

AN ACT Relating to appointing student members on the board of trustees for community colleges; amending RCW 28B.50.100; adding a new section to chapter 28B.50 RCW; and creating a new section.

AN ACT Relating to providing leave from employment for participating in a child's educational activities; amending RCW 49.78.010; adding a new section to chapter 49.78 RCW; and providing an effective date.

Referred to Committee on Higher Education & Workforce Development.

Referred to Committee on Labor, Commerce & Consumer Protection.

SHB 2138 by House Committee on Local Government & Housing (originally sponsored by Representatives Simpson and Chase)

2SHB 2481 by House Committee on General Government Appropriations (originally sponsored by Representatives Van De Wege, Kretz, Blake, Hinkle, Ormsby, Dunshee, McCoy, Eddy, Uptegrove, Carlyle, Haler, Morrell, Warnick and Kessler)

AN ACT Relating to the use of surplus property for the development of affordable housing; and amending RCW 43.63A.510, 47.12.063, 47.12.064, 43.20A.037, 72.09.055,

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AN ACT Relating to the department of natural resources authority to enter into forest biomass supply agreements; amending RCW 79.02.010, 43.30.020, 76.06.180, 79.15.100, 79.15.220, 79.15.510, and 79.15.510; adding a new chapter to Title 79 RCW; providing an effective date; and providing an expiration date.

Referred to Committee on Natural Resources, Ocean & Recreation.

SHB 2487 by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Goodman, Rodne, Klippert, Green, Santos, Kessler, Liias and Kelley)

AN ACT Relating to increasing costs for administering a deferred prosecution; and amending RCW 10.01.160.

Referred to Committee on Judiciary.

HB 2492 by Representatives Simpson, Green, White, Conway, Ericks and Morrell

AN ACT Relating to shared leave for members of the law enforcement officers' and firefighters' retirement system, plan 2; and adding a new section to chapter 41.26 RCW.

Referred to Committee on Ways & Means.

SHB 2503 by House Committee on Agriculture & Natural Resources (originally sponsored by Representative Blake)

AN ACT Relating to modernizing the criteria for membership on the board of natural resources without altering the number of members; and amending RCW 43.30.205.

Referred to Committee on Natural Resources, Ocean & Recreation.

ESHB 2504 by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Eddy, Morris, Van De Wege, McCoy, Haler, Chase, Armstrong, Schmick, Walsh, Hunt, Kessler, Ormsby and Short)

AN ACT Relating to minimum renewable fuel content requirements; amending RCW 19.112.020, 19.112.060, 19.112.110, 19.112.160, 19.112.900, 43.19.642, 42.56.270, and 43.19.646; adding a new section to chapter 19.112 RCW; creating new sections; repealing RCW 19.112.120, 19.112.130, 19.112.140, 19.112.150, 19.112.170, 19.112.180, and 43.19.643; and prescribing penalties.

Referred to Committee on Environment, Water & Energy.

ESHB 2538 by House Committee on Ecology & Parks (originally sponsored by Representatives Upthegrove, Taylor, Eddy, Pedersen, Clibborn, Chase and Springer)

AN ACT Relating to high-density urban development; amending RCW 82.02.020; adding a new section to chapter 43.21C RCW; and creating a new section.

Referred to Committee on Environment, Water & Energy.

ESHB 2547 by House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Condotta, Maxwell, Sullivan, Roach, Kessler, Sells, Kenney, Appleton, Hunter, Pedersen, Upthegrove, Hinkle, Ormsby, Herrera, Kretz, Hasegawa, Campbell, Takko, Springer, Dammeier and Haler)

AN ACT Relating to franchise agreements between new motor vehicle dealers and manufacturers; amending RCW 46.96.030, 46.96.070, 46.96.090, 46.96.105, 46.96.110, 46.96.185, and 46.96.200; and adding new sections to chapter 46.96 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

ESHB 2565 by House Committee on Judiciary (originally sponsored by Representatives Ericksen, Simpson, Smith, Van De Wege, Sells, Orwall, Goodman, Morrell and Moeller)

AN ACT Relating to mandating a twelve-hour impound hold on motor vehicles used by persons arrested for driving under the influence of alcohol or drugs or being in physical control of a vehicle while under the influence of alcohol or drugs; reenacting and amending RCW 46.55.113; adding new sections to chapter 46.55 RCW; and creating a new section.

Referred to Committee on Judiciary.

SHB 2566 by House Committee on Local Government & Housing (originally sponsored by Representatives Simpson, Chase and Ormsby)

AN ACT Relating to exempting low-income housing from impact fees; and amending RCW 82.02.060 and 43.21C.065.

Referred to Committee on Financial Institutions, Housing & Insurance.

SHB 2580 by House Committee on Education (originally sponsored by Representatives Liias, Simpson and Sullivan)

AN ACT Relating to secondary career and technical courses; amending RCW 28B.50.531; and creating a new section.

Referred to Committee on Higher Education & Workforce Development.

SHB 2585 by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Kelley, Kirby and Moeller)

AN ACT Relating to insurance; and amending RCW 48.02.060, 48.38.010, 48.66.045, 48.155.010, 48.102.011, and 48.155.020.

Referred to Committee on Financial Institutions, Housing & Insurance.

HB 2621 by Representatives Orwall, Maxwell, Darneille, Morrell and Haigh

AN ACT Relating to designating resource programs for science, technology, engineering, and mathematics instruction in K-12 schools; adding a new section to chapter 28A.630 RCW; and creating a new section.

Referred to Committee on Early Learning & K-12 Education.

E2SHB 2658 by House Committee on Ways & Means (originally sponsored by Representatives Kenney, Maxwell, McCoy and Morrell)

AN ACT Relating to refocusing the mission of the department of commerce, including transferring programs; amending RCW 70.05.125, 43.330.210, 43.330.240, 19.27.070, 19.27.097, 19.27.150, 19.27A.020, 19.27A.140, 19.27A.150, 19.27A.180, 43.21F.010, 43.21F.090, 36.27.100, 80.50.030, 43.110.030, 43.110.060, 43.110.080, 43.15.020, 35.21.185, 35.102.040, and 36.70B.220; reenacting and amending RCW 43.21F.025; adding a new section to chapter 43.330 RCW; adding new sections to chapter 43.70 RCW; adding a new section to chapter 43.21F RCW; creating new sections; recodifying RCW 43.330.195, 43.330.200, 43.330.205, 43.330.210, 43.330.220, 43.330.225, 43.330.230, and 43.330.240; decodifying RCW 43.63A.150; repealing RCW 43.21F.015, 43.110.010, 43.110.040, and 43.110.070; and providing an effective date.

Referred to Committee on Economic Development, Trade & Innovation.

HB 2659 by Representatives Ormsby, Orcutt, Blake, Smith, Sullivan and Van De Wege

AN ACT Relating to modifying reporting requirements for timber purchases; amending RCW 84.33.088; and providing an expiration date.

Referred to Committee on Natural Resources, Ocean & Recreation.

2SHB 2670 by House Committee on Ways & Means (originally sponsored by Representatives Haigh, Ericks, Quall, Sullivan, Kenney, Maxwell, Simpson, Priest, Dammeier and Kagi)

AN ACT Relating to restoring the school district levy base; amending RCW 84.52.0531; amending 2006 c 119 s 3 (uncodified); amending 2009 c 4 s 909 (uncodified); creating a new section; and providing an expiration date.

Referred to Committee on Ways & Means.

HB 2676 by Representatives Chase and Simpson

AN ACT Relating to energy conservation loans; and amending RCW 54.16.280 and 87.03.017.

Referred to Committee on Environment, Water & Energy.

HB 2677 by Representatives Chase and Simpson

AN ACT Relating to water conservation loans; and amending RCW 35.92.017, 36.94.460, and 57.08.160.

Referred to Committee on Environment, Water & Energy.

SHB 2678 by House Committee on Commerce & Labor (originally sponsored by Representatives Quall, Priest, Simpson, Sullivan and Conway)

AN ACT Relating to modifying distributions of funds by the horse racing commission to nonprofit race meets; and amending RCW 67.16.105.

Referred to Committee on Labor, Commerce & Consumer Protection.

SHB 2680 by House Committee on Early Learning & Children's Services (originally sponsored by Representatives Roberts, Kagi, Angel, Seaquist, Walsh, Maxwell and Kenney)

AN ACT Relating to implementing a guardianship program; amending RCW 13.34.232 and 13.34.234; reenacting and amending RCW 13.34.030 and 13.34.210; adding a new section to chapter 13.34 RCW; adding a new section to chapter 74.13 RCW; adding a new chapter to Title 13 RCW; creating a new section; and repealing RCW 13.34.230, 13.34.231, 13.34.236, and 13.34.238.

Referred to Committee on Human Services & Corrections.

SHB 2688 by House Committee on Commerce & Labor (originally sponsored by Representatives Hunter, Condotta, Chandler, Green, Moeller, Williams, Carlyle, Springer and Conway)

AN ACT Relating to creating a beer and wine tasting endorsement to the grocery store liquor license; reenacting and amending RCW 66.20.310, 66.20.300, and 66.28.310; and adding a new section to chapter 66.24 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

2SHB 2731 by House Committee on Ways & Means (originally sponsored by Representatives Goodman, Haler, Maxwell, Priest, Kagi, Sullivan, Seaquist, Quall, O'Brien, Jacks, Haigh, Pedersen, Darneille, Kenney, Rolfes, Hunter, Williams, Orwall, Liias, Carlyle, Roberts, Simpson, Walsh, Nelson, Kelley, Dickerson, Appleton, Eddy, Sells and Morrell)

AN ACT Relating to implementing a program of early learning for educationally at-risk children; amending RCW 28A.150.200 and 43.215.020; adding a new section to chapter 28A.320 RCW; adding a new section to chapter 43.215 RCW; adding a new chapter to Title 28A RCW; creating new sections; repealing RCW 43.215.410 and 43.215.415; and providing effective dates.

Referred to Committee on Early Learning & K-12 Education.

HB 2735 by Representatives Goodman, Appleton, Rolfes, Seaquist, Finn, Rodne, Williams, Haigh, Pettigrew, Nelson, Darneille, Hasegawa and Ormsby

AN ACT Relating to the representation of children in dependency matters; amending RCW 13.34.100, 13.34.105, and 13.34.215; and creating new sections.

Referred to Committee on Human Services & Corrections.

SHB 2739 by House Committee on Transportation (originally sponsored by Representatives Simpson, Pearson,

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Liias, Rodne, Hope, Sullivan, Priest, Wallace, Dammeier, Kristiansen and Chase)

AN ACT Relating to the enforcement of certain school or playground crosswalk violations; amending RCW 46.61.235, 46.61.245, 46.61.261, and 46.61.440; adding a new section to chapter 46.61 RCW; prescribing penalties; and providing an effective date.

Referred to Committee on Transportation.

ESHB 2747 by House Committee on Human Services (originally sponsored by Representatives Darneille, Cody, Williams, Kagi, Pedersen, Nelson, Dickerson, Hasegawa and Chase)

AN ACT Relating to the use of restraints on pregnant women or youth; amending RCW 72.09.015 and 13.40.020; reenacting and amending RCW 70.48.020; adding new sections to chapter 72.09 RCW; adding new sections to chapter 70.48 RCW; and adding new sections to chapter 13.40 RCW.

Referred to Committee on Human Services & Corrections.

HB 2750 by Representatives Sells, Crouse, Dunshee and Simpson

AN ACT Relating to public utility districts and deferred compensation and supplemental savings plans; amending RCW 54.04.050; and creating a new section.

Referred to Committee on Government Operations & Elections.

HB 2751 by Representatives Sells, Kenney, Nelson, Green, Ormsby, Conway, Campbell, Hasegawa, Seaquist, Simpson, Williams, Cody, Hudgins, Sullivan, Carlyle, Miloscia, Morrell, Hunt, Morris and Chase

AN ACT Relating to including a member from labor on community college boards of trustees; and amending RCW 28B.50.100.

Referred to Committee on Higher Education & Workforce Development.

SHB 2776 by House Committee on Education Appropriations (originally sponsored by Representatives Sullivan, Priest, Maxwell, Dammeier, Carlyle, Finn, Anderson, Eddy, Nelson, Goodman, Orwall, Hunter, Simpson, Jacks, Kagi, Ormsby, Morrell, Probst and Santos)

AN ACT Relating to funding distribution formulas for K-12 education; amending RCW 28A.150.260, 28A.150.390, 28A.150.315, 43.41.398, 28A.160.192, 28A.150.410, and 28A.175.010; amending 2009 c 548 s 112 (uncodified); amending 2009 c 548 s 302 (uncodified); amending 2009 c 548 s 805 (uncodified); adding a new section to chapter 28A.160 RCW; adding a new section to chapter 28A.290 RCW; adding a new section to chapter 28A.400 RCW; adding a new section to chapter 28A.300 RCW; creating a new section; recodifying RCW 43.41.398; providing an effective date; providing an expiration date; and declaring an emergency.

Referred to Committee on Early Learning & K-12 Education.

ESHB 2790 by House Committee on Commerce & Labor (originally sponsored by Representative Conway)

AN ACT Relating to making technical and clarifying changes to the liquor laws; amending RCW 66.28.290, 66.24.360, 66.24.360, 66.24.371, 66.24.570, 66.24.580, 66.24.580, 66.28.040, 66.28.042, 66.28.043, 66.28.155, 66.28.190, 66.24.240, and 66.20.010; reenacting and amending RCW 66.24.371; repealing RCW 66.28.010; providing an effective date; and providing an expiration date.

Referred to Committee on Labor, Commerce & Consumer Protection.

2SHB 2854 by House Committee on Ways & Means (originally sponsored by Representatives Kenney, Maxwell, Sells, Probst, Hasegawa, Pettigrew, Conway, Ericks, Sullivan, Hunt, Nelson, Quall, Chase, Ormsby, Liias, Upthegrove, Goodman, Pedersen, Santos, Morrell, Hudgins, Orwall, Cody, Eddy, Dickerson, Wallace, Kessler, Anderson and Simpson)

AN ACT Relating to making changes to the state higher education loan program; amending RCW 28B.97.010, 28B.97.020, and 43.79A.040; adding a new section to chapter 28B.97 RCW; creating a new section; and repealing RCW 28B.07.300, 28B.07.310, 28B.07.320, 28B.07.330, 28B.07.340, 28B.07.350, 28B.07.360, 28B.07.370, and 28B.07.380.

Referred to Committee on Higher Education & Workforce Development.

HB 2877 by Representative Moeller

AN ACT Relating to authorizing payment of regulated company stock in lieu of a portion of salary for educational employees; and amending RCW 28A.400.250.

Referred to Committee on Ways & Means.

ESHB 2886 by House Committee on Local Government & Housing (originally sponsored by Representatives Angel, Simpson and Wallace)

AN ACT Relating to the adoption of rules by the building code council regarding carbon monoxide alarm installation; amending RCW 19.27.530; and reenacting and amending RCW 64.06.020.

Referred to Committee on Labor, Commerce & Consumer Protection.

SHB 2893 by House Committee on Education Appropriations (originally sponsored by Representatives Sullivan, Carlyle, Hunter, Maxwell, Nelson, Hunt, Appleton, Simpson, Dickerson, White, Pedersen, Green, Sells, Eddy, Springer, Williams, Orwall, Goodman, Conway, Kenney, Rolfes, Ericks, Ormsby, Kagi, Roberts and Jacks)

AN ACT Relating to school levies; amending RCW 84.52.0531, 84.52.0531, 84.52.053, and 28A.500.020; amending 2009 c 4 s 909 (uncodified); amending 2006 c 119

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s 3 (uncodified); reenacting and amending RCW 28A.500.030; creating new sections; providing an effective date; providing an expiration date; and declaring an emergency.

Referred to Committee on Ways & Means.

HB 2898 by Representatives Morrell, Pettigrew, Cody, Bailey, Kenney and Johnson

AN ACT Relating to maintaining the current medicaid nursing facility payment methodology through simplification of the nursing facility medicaid payment system statute; amending RCW 74.46.010, 74.46.020, 74.46.431, 74.46.433, 74.46.435, 74.46.437, 74.46.439, 74.46.475, 74.46.496, 74.46.501, 74.46.506, 74.46.508, 74.46.511, 74.46.515, 74.46.521, 74.46.835, and 74.46.800; creating a new section; and repealing RCW 74.46.030, 74.46.040, 74.46.050, 74.46.060, 74.46.080, 74.46.090, 74.46.100, 74.46.155, 74.46.165, 74.46.190, 74.46.200, 74.46.220, 74.46.230, 74.46.240, 74.46.250, 74.46.270, 74.46.280, 74.46.290, 74.46.300, 74.46.310, 74.46.320, 74.46.330, 74.46.340, 74.46.350, 74.46.360, 74.46.370, 74.46.380, 74.46.390, 74.46.410, 74.46.445, 74.46.533, 74.46.600, 74.46.610, 74.46.620, 74.46.625, 74.46.630, 74.46.640, 74.46.650, 74.46.660, 74.46.680, 74.46.690, 74.46.700, 74.46.711, 74.46.770, 74.46.780, 74.46.790, 74.46.820, 74.46.900, 74.46.901, 74.46.902, 74.46.905, and 74.46.906.

Referred to Committee on Ways & Means.

ESHB 2913 by House Committee on Education Appropriations (originally sponsored by Representatives Haigh, Priest, Quall, Haler, Kessler, Kagi, Nealey, Finn, Maxwell, Sullivan and Kenney)

AN ACT Relating to authorizing innovative interdistrict cooperative high school programs; amending RCW 28A.225.200, 28A.225.200, 28A.545.040, 28A.545.120, 84.52.0531, and 84.52.0531; adding new sections to chapter 28A.340 RCW; creating new sections; providing effective dates; and providing expiration dates.

Referred to Committee on Early Learning & K-12 Education.

SHB 2933 by House Committee on Finance (originally sponsored by Representatives Ericks, Morrell and Dammeier)

AN ACT Relating to modifying sales and use tax provisions for the local infrastructure financing tool program; amending RCW 82.14.475; reenacting and amending RCW 39.102.020; and providing an expiration date.

Referred to Committee on Ways & Means.

E2SHB 2961 by House Committee on Health & Human Services Appropriations (originally sponsored by Representatives Campbell, Hurst, Morrell, Kelley and Ormsby)

AN ACT Relating to establishing a statewide electronic tracking system for the nonprescription sales of ephedrine, pseudoephedrine, and phenylpropanolamine; amending RCW 69.43.105, 69.43.110, and 42.56.240; adding new sections to chapter 69.43 RCW; and repealing RCW 69.43.170.

Referred to Committee on Health & Long-Term Care.

HB 2984 by Representatives Maxwell, Clibborn, Eddy, Goodman and Hunter

AN ACT Relating to a sales and use tax deferral for performing arts centers; and adding a new section to chapter 82.32 RCW.

Referred to Committee on Ways & Means.

ESHB 2986 by House Committee on Local Government & Housing (originally sponsored by Representatives Simpson, Upthegrove, Campbell, Carlyle, Liias, Driscoll, Williams, Ormsby, Sullivan, Nelson, Sells, Appleton, Chase, Seaquist, Ericks, Goodman, Morrell, Green, Dickerson, Hudgins, Van De Wege, White, Maxwell, Miloscia, Conway, Moeller, Jacks, Hurst, Kenney and Hasegawa)

AN ACT Relating to requiring the appointment of nonvoting labor members to public transportation governing bodies; and amending RCW 35.58.270, 36.57.030, and 36.57A.050.

Referred to Committee on Government Operations & Elections.

HB 2987 by Representatives Simpson and Williams

AN ACT Relating to the firefighters' pension fund; and amending RCW 41.16.050.

Referred to Committee on Ways & Means.

HB 3007 by Representatives Upthegrove, Orwall, Williams and Wallace

AN ACT Relating to authorizing airport operators to make airport property available at less than fair market rental value for public recreational or other community uses; and amending RCW 14.08.120.

Referred to Committee on Transportation.

E2SHB 3026 by House Committee on Ways & Means (originally sponsored by Representatives Santos, Quall, Chase, Upthegrove, Kenney, Hunt, Nelson, Liias, McCoy, Hudgins, Simpson and Darneille)

AN ACT Relating to school districts' compliance with state and federal civil rights laws; adding a new chapter to Title 28A RCW; and creating a new section.

Referred to Committee on Early Learning & K-12 Education.

HB 3030 by Representatives Fagan and Hinkle

AN ACT Relating to the administration of irrigation districts; amending RCW 87.03.001, 87.03.140, 87.03.436, and 87.03.443; and adding new sections to chapter 87.03 RCW.

Referred to Committee on Agriculture & Rural Economic Development.

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ESHB 3032 by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Simpson and Bailey)

On motion of Senator Eide, the Senate advanced to the sixth order of business.

AN ACT Relating to defining normal wear and tear for a motor vehicle for the purpose of a service contract; and reenacting and amending RCW 48.110.020.

Referred to Committee on Financial Institutions, Housing & Insurance.

SHB 3060 by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Simpson and Kirby)

AN ACT Relating to surplus line coverage; and amending RCW 48.15.040 and 48.19.410.

Referred to Committee on Financial Institutions, Housing & Insurance.

SHB 3124 by House Committee on Early Learning & Children's Services (originally sponsored by Representatives Roberts, Kagi, Simpson and Kenney)

AN ACT Relating to requiring a report to child protective services when a child is present in the vehicle of a person arrested for driving or being in control of a vehicle while under the influence of alcohol or drugs; adding a new section to chapter 46.61 RCW; and adding a new section to chapter 26.44 RCW.

Referred to Committee on Human Services & Corrections.

E2SHB 3141 by House Committee on Ways & Means (originally sponsored by Representatives Kagi, Pettigrew, Seaquist, Kenney and Ormsby)

AN ACT Relating to redesigning the delivery of temporary assistance for needy families; amending RCW 74.08A.285 and 74.08A.320; adding new sections to chapter 74.08A RCW; adding a new section to chapter 43.215 RCW; creating a new section; and repealing RCW 74.08A.200.

Referred to Committee on Human Services & Corrections.

HJM 4024 by Representatives Angel, Wallace, Haler and Moeller

Concerning a memorial petitioning for the elimination of the term "mentally retarded" in federal law.

Referred to Committee on Health & Long-Term Care.

#### MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of House Joint Memorial No. 4024 which was referred to the Committee on Health & Long-Term Care.

#### MOTION

#### SECOND READING

SENATE BILL NO. 6776, by Senators Jacobsen, Swecker, Fraser, Morton, Zarelli, Schoesler, Hargrove, Ranker, Hatfield and McCaslin

Creating the joint work group on small forest landowner sustainability.

The measure was read the second time.

#### MOTION

Senator Jacobsen moved that the following amendment by Senators Jacobsen and Swecker be adopted:

On page 2, line 16, after "come" insert "without reducing protection to public resources"

On page 2, line 21, after "in the" strike "field of forestry" and insert "fields of forestry, tax policy, transfer of development rights, fish, and ecosystem service payments"

On page 2, line 24, after "wildlife," insert "federal experts on the state habitat conservation plan,"

On page 3, after line 22, insert the following:  
"(g) Ways to address conversion pressures, global competition, and the gap between appraised values of forest land and the value for the same land for development.

(h) The possibility of a pilot program for ecosystem service payments and technical funding assistance for small forest landowners."

Senator Jacobsen spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Jacobsen and Swecker on page 2, line 16 to Senate Bill No. 6776.

The motion by Senator Jacobsen carried and the amendment was adopted by voice vote.

#### PARLIAMENTARY INQUIRY

Senator Jacobsen: "After it was amended on the floor and we change our script here, is it engrossed second substitute bill or is it second substitute senate bill?"

#### REPLY BY THE PRESIDENT

President Owen: "Engrossed."

#### MOTION

On motion of Senator Jacobsen, the rules were suspended, Engrossed Senate Bill No. 6776 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Jacobsen and Morton spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Marr, Senators Brown, Fairley and Haugen were excused.

#### MOTION

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On motion of Senator Brandland, Senators Benton, McCaslin, Pflug and Stevens were excused.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6776.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6776 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Hargrove

Excused: Senators Fairley, Haugen, McCaslin and Pflug

ENGROSSED SENATE BILL NO. 6776, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6644, by Senator Jacobsen

Concerning the possession and capture of birds of prey. Revised for 1st Substitute: Regarding falconry.

## MOTIONS

On motion of Senator Jacobsen, Substitute Senate Bill No. 6644 was substituted for Senate Bill No. 6644 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Jacobsen, the rules were suspended, Substitute Senate Bill No. 6644 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Jacobsen and Morton spoke in favor of the passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6644.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6644 and the bill passed the Senate by the following vote: Yeas, 38; Nays, 8; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Carrell, Hatfield, Holmquist, Honeyford, Parlette, Roach, Schoesler and Stevens

Excused: Senators Fairley, McCaslin and Pflug

SUBSTITUTE SENATE BILL NO. 6644, having received the constitutional majority, was declared passed. There being no

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objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6309, by Senators Carrell, King and Roach

Including persons acquitted by reason of insanity within the slayer statute.

## MOTIONS

On motion of Senator Carrell, Substitute Senate Bill No. 6309 was substituted for Senate Bill No. 6309 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Carrell, the rules were suspended, Substitute Senate Bill No. 6309 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Carrell spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6309.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6309 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, McCaslin and Pflug

SUBSTITUTE SENATE BILL NO. 6309, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6349, by Senators Ranker, Holmquist, Haugen, Hobbs, Becker, Shin and Roach

Establishing a farm internship program.

## MOTIONS

On motion of Senator Ranker, Substitute Senate Bill No. 6349 was substituted for Senate Bill No. 6349 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Ranker, the rules were suspended, Substitute Senate Bill No. 6349 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Ranker and Holmquist spoke in favor of the passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6349.

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ROLL CALL

MOTION

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6349 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, McCaslin and Pflug

SUBSTITUTE SENATE BILL NO. 6349, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6398, by Senators Kline, McDermott, Keiser, Hobbs, Murray, Jacobsen, Kohl-Welles and Gordon

Adding the definition of threat to malicious harassment provisions.

MOTIONS

On motion of Senator Kline, Substitute Senate Bill No. 6398 was substituted for Senate Bill No. 6398 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kline, the rules were suspended, Substitute Senate Bill No. 6398 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6398.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6398 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, McCaslin and Pflug

SUBSTITUTE SENATE BILL NO. 6398, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6538, by Senators Keiser and Pflug

Defining small groups for insurance purposes.

On motion of Senator Keiser, Substitute Senate Bill No. 6538 was substituted for Senate Bill No. 6538 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Keiser moved that the following amendment by Senators Keiser and Pflug be adopted:

On page 6, line 16 after "(b)" strike "have the department of revenue" and "for the carrier"

Senator Keiser spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Keiser and Pflug on page 6, line 16 to Substitute Senate Bill No. 6538.

The motion by Senator Keiser carried and the amendment was adopted by voice vote.

MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute Senate Bill No. 6538 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser, Parlette and Pflug spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6538.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6538 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Becker and Hewitt

Excused: Senators Fairley and McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6538, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6453, by Senators Hobbs, Delvin, Shin and Roach

Addressing shared leave for members of the law enforcement officers' and firefighters' retirement system, plan 2.

The measure was read the second time.

PARLIAMENTARY INQUIRY

Senator Honeyford: "Some of us in this row did not get the pink order of consideration. Could we receive that?"

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## REPLY BY THE PRESIDENT

President Owen: "You will receive it directly. Are there any members that did not get the pink order of consideration?"

## MOTION

On motion of Senator Hobbs, the rules were suspended, Senate Bill No. 6453 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6453.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6453 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley and McCaslin

SENATE BILL NO. 6453, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6470, by Senators Kauffman, Hargrove, Prentice, Gordon, Regala, Keiser, McAuliffe, Stevens and Kline

Addressing the burdens of proof required in dependency matters affecting Indian children.

## MOTIONS

On motion of Senator Kauffman, Substitute Senate Bill No. 6470 was substituted for Senate Bill No. 6470 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kauffman, the rules were suspended, Substitute Senate Bill No. 6470 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kauffman spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6470.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6470 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist,

Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley and McCaslin

SUBSTITUTE SENATE BILL NO. 6470, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6634, by Senators Ranker, Hatfield, Morton, Haugen, Becker, Shin and Jacobsen

Establishing civil penalties for failure to comply with dairy nutrient management recordkeeping requirements.

## MOTIONS

On motion of Senator Ranker, Substitute Senate Bill No. 6634 was substituted for Senate Bill No. 6634 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Ranker, the rules were suspended, Substitute Senate Bill No. 6634 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Ranker and Honeyford spoke in favor of the passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6634.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6634 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 4; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Benton, Holmquist, Morton and Stevens

Excused: Senators Fairley and McCaslin

SUBSTITUTE SENATE BILL NO. 6634, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6590, by Senators Kline, Delvin, Brandland and Hargrove

Requiring law enforcement officers to be honest and truthful. Revised for 1st Substitute: Stating the policy that law enforcement personnel be truthful and honest in the conduct of official business.

## MOTIONS

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On motion of Senator Kline, Substitute Senate Bill No. 6590 was substituted for Senate Bill No. 6590 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kline, the rules were suspended, Substitute Senate Bill No. 6590 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6590.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6590 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Brown

Excused: Senators Fairley and McCaslin

SUBSTITUTE SENATE BILL NO. 6590, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6544, by Senators Berkey, Marr, Hobbs, Kilmer and Tom

Extending the time limitations for approval of plats.

MOTIONS

On motion of Senator Berkey, Substitute Senate Bill No. 6544 was substituted for Senate Bill No. 6544 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Berkey, the rules were suspended, Substitute Senate Bill No. 6544 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Berkey spoke in favor of passage of the bill.

MOTION

On motion of Senator Marr, Senator Brown was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6544.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6544 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 2; Excused, 3.

Voting yea: Senators Becker, Berkey, Brandland, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield,

Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senators Benton and Kline

Excused: Senators Brown, Fairley and McCaslin

SUBSTITUTE SENATE BILL NO. 6544, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6337, by Senators Regala, Carrell, Hargrove and Brandland

Concerning inmate savings accounts.

MOTIONS

On motion of Senator Regala, Substitute Senate Bill No. 6337 was substituted for Senate Bill No. 6337 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Regala, the rules were suspended, Substitute Senate Bill No. 6337 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Regala and Stevens spoke in favor of the passage of the bill.

MOTION

On motion of Senator Eide, Senator Kline was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6337.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6337 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley and McCaslin

SUBSTITUTE SENATE BILL NO. 6337, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6251, by Senator Benton

Concerning nonresident surplus line brokers and insurance producers.

MOTIONS

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On motion of Senator Benton, Substitute Senate Bill No. 6251 was substituted for Senate Bill No. 6251 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Benton, the rules were suspended, Substitute Senate Bill No. 6251 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Benton spoke in favor of passage of the bill.

## MOTION

On motion of Senator Brandland, Senator Hewitt was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6251.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6251 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, Hewitt and McCaslin

SUBSTITUTE SENATE BILL NO. 6251, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5237, by Senators Shin, Kilmer, Berkey, Kastama, Sheldon, Hobbs, Kauffman, Schoesler, Franklin and Fraser

Requiring the development of three-year baccalaureate programs.

## MOTIONS

On motion of Senator Shin, Substitute Senate Bill No. 5237 was substituted for Senate Bill No. 5237 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Shin, the rules were suspended, Substitute Senate Bill No. 5237 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Shin, Swecker and Franklin spoke in favor of the passage of the bill.

Senators Pflug, Parlette and Becker spoke against passage of the bill.

## MOTION

Senator Eide demanded that the previous question be put.

The President declared that at least two additional senators joined the demand and the demand was sustained.

The President declared the question before the Senate to be the motion of Senator Eide, "Shall the main question be now put?"

The motion by Senator Eide that the previous question be put carried by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5237.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5237 and the bill passed the Senate by the following vote: Yeas, 36; Nays, 11; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Oemig, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Swecker and Tom

Voting nay: Senators Becker, Carrell, Hewitt, Holmquist, King, Murray, Parlette, Pflug, Schoesler, Stevens and Zarelli

Excused: Senators Fairley and McCaslin

SUBSTITUTE SENATE BILL NO. 5237, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6658, by Senators Rockefeller, Morton and Pridemore

Modifying community solar project provisions for investment cost recovery incentives.

## MOTION

On motion of Senator Rockefeller, Substitute Senate Bill No. 6658 was substituted for Senate Bill No. 6658 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Rockefeller moved that the following amendment by Senator Rockefeller be adopted:

On page 2, line 10, after "(iii)" strike "A solar energy system" and insert "(A) Except as provided in (B) of this subsection (2)(a)(iii), a solar energy system, placed on the property owned by a cooperating local governmental entity that is not in the light and power business or in the gas distribution business,"

On page 2, line 11, after "electricity" strike "and" and insert ", and that"

On page 2, after line 14, insert the following: "(B) The one hundred kilowatt limitation in (A) of this subsection (2)(a)(iii) does not apply to any community solar system owned by a limited liability company that has received all required government permits and approvals and begins construction by December 31, 2010."

Senator Rockefeller spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Rockefeller on page 2, line 10 to Substitute Senate Bill No. 6658.

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The motion by Senator Rockefeller carried and the amendment was adopted by voice vote.

#### MOTION

On motion of Senator Rockefeller, the rules were suspended, Engrossed Substitute Senate Bill No. 6658 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller and Honeyford spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6658.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6658 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6658, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6395, by Senators Kline, Kauffman and Kohl-Welles

Addressing lawsuits aimed at chilling the valid exercise of the constitutional rights of speech and petition.

#### MOTIONS

On motion of Senator Kline, Substitute Senate Bill No. 6395 was substituted for Senate Bill No. 6395 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kline, the rules were suspended, Substitute Senate Bill No. 6395 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kline and Carrell spoke in favor of the passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6395.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6395 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 2; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senators Brandland and Ranker

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6395, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6749, by Senators Fraser and Honeyford

Concerning the transfer of commercial real estate.

#### MOTIONS

On motion of Senator Fraser, Substitute Senate Bill No. 6749 was substituted for Senate Bill No. 6749 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Fraser, the rules were suspended, Substitute Senate Bill No. 6749 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fraser and Honeyford spoke in favor of the passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6749.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6749 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6749, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

#### MOTION

Senator Hatfield moved adoption of the following resolution:

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## SENATE RESOLUTION

8686

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The Senate was called to order at 1:30 p.m. by President Owen.

By Senators Hatfield, Schoesler, Jacobsen, Ranker, Shin, Morton, Haugen, and Becker

WHEREAS, The 4-H Youth Development Program of Washington State University Extension has assisted the young people in Washington to develop essential "life skills" since it was established in 1902; and

WHEREAS, The program centers on teaching young people to become productive members of society by fostering citizenship, science, math and technology literacy, health and wellness, communication, and decision-making skills; and

WHEREAS, Over 85,000 young people and 9,000 adult volunteers throughout Washington participated in 4-H Youth Development Programs in 2009; and

WHEREAS, These programs helped participants learn about a wide variety of subjects including science, family living, applied arts, and government activism; and

WHEREAS, These programs work with traditional community clubs and reach youth through urban groups, special interest groups, nutrition programs, after-school programs, camping, and interagency learning experiences; and

WHEREAS, More than 300 4-H members from around the state are currently visiting the state capitol as part of an annual statewide educational program titled "4-H Know Your Government"; and

WHEREAS, The 4-H Know Your Government program focused this year on the judicial system, including how a citizen functions within the judicial system, and how the process affects our views of democracy; and

WHEREAS, 4-H will continue its dedication to empower young people to become active global citizens and realize the value, significance, and responsibility of taking part in local, regional, state, national, and international community issues;

NOW, THEREFORE, BE IT RESOLVED, That the members of the Washington State Senate recognize the 4-H Youth Development Program for its many contributions to the youth of Washington and the betterment of our communities; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Pat BoyEs, State 4-H Director for the Washington State University Extension 4-H Youth Development Program.

Senators Hatfield and Honeyford spoke in favor of the adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8686.

The motion by Senator Hatfield carried and the resolution was adopted by voice vote.

## INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the 4-H Youth Development Program Group who were seated in the gallery.

## MOTION

At 11:38 a.m., on motion of Senator Eide, the Senate was recessed until 1:30 p.m.

AFTERNOON SESSION

## MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

## MESSAGE FROM THE HOUSE

February 15, 2010

## MR. PRESIDENT

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL 2399,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2480,

ENGROSSED HOUSE BILL 2805,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 3024,

ENGROSSED SUBSTITUTE HOUSE BILL 3067.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

## SECOND READING

SENATE BILL NO. 6582, by Senators Keiser, Roach, Zarelli, Prentice and Kilmer

Concerning nursing assistant credentialing.

## MOTION

On motion of Senator Keiser, Substitute Senate Bill No. 6582 was substituted for Senate Bill No. 6582 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Keiser moved that the following striking amendment by Senators Keiser and Pflug be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 18.88A.010 and 1991 c 16 s 1 are each amended to read as follows:

(1) The legislature takes special note of the contributions made by nursing assistants in health care facilities whose tasks are arduous and whose working conditions may be contributing to the high and often critical turnover among the principal cadre of health care workers who provide for the basic needs of patients. The legislature also recognizes the growing shortage of nurses as the proportion of the elderly population grows and as the acuity of patients in hospitals and nursing homes becomes generally more severe.

(2) The legislature finds and declares that:

(a) Occupational nursing assistants should have a formal system of educational and experiential qualifications leading to career mobility and advancement. The establishment of such a system should bring about a more stabilized workforce in health care

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facilities, as well as provide a valuable resource for recruitment into licensing nursing practice.

~~((The legislature finds that))~~ (b) The quality of patient care in health care facilities is dependent upon the competence of the personnel who staff their facilities. To assure the availability of trained personnel in health care facilities the legislature recognizes the need for training programs for nursing assistants.

~~((The legislature declares that))~~ (c) Certified home care aides are a valuable potential source of nursing assistants who will be needed to meet the care needs of the state's growing aging population. To assure continued opportunity for recruitment into nursing practice and career advancement for certified home care aides, nursing assistant training programs should recognize the relevant training and experience obtained by these credentialed professionals.

(d) The registration of nursing assistants and providing for voluntary certification of those who wish to seek higher levels of qualification is in the interest of the public health, safety, and welfare.

**Sec. 2.** RCW 18.88A.020 and 1994 sp.s. c 9 s 708 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of health.

(2) "Secretary" means the secretary of health.

(3) "Commission" means the Washington nursing care quality assurance commission.

(4) "Nursing assistant" means an individual, regardless of title, who, under the direction and supervision of a registered nurse or licensed practical nurse, assists in the delivery of nursing and nursing-related activities to patients in a health care facility. The two levels of nursing assistants are (a) "nursing assistant-certified," an individual certified under this chapter, (b) "nursing assistant-registered," an individual registered under this chapter.

(5) "Approved training program" means a nursing assistant-certified training program approved by the commission to meet the training requirements of a state-approved nurse aide training and competency evaluation program within the meaning of 42 U.S.C. Sec. 1395i-3(e). For community college, vocational-technical institutes, skill centers, and secondary school as defined in chapter 28B.50 RCW, nursing assistant-certified training programs shall be approved by the commission in cooperation with the board for community and technical colleges or the superintendent of public instruction.

(6) "Health care facility" means a nursing home, hospital, hospice care facility, home health care agency, hospice agency, or other entity for delivery of health care services as defined by the commission.

(7) "Competency evaluation" means the measurement of an individual's knowledge and skills as related to safe, competent performance as a nursing assistant.

(8) "Alternative training" means a nursing assistant-certified program meeting criteria adopted by the commission under section 3 of this act to meet the requirements of a state-approved nurse aide competency evaluation program within the meaning of 42 U.S.C. Sec. 1395i-3(e).

**NEW SECTION. Sec. 3.** A new section is added to chapter 18.88A RCW to read as follows:

(1) The commission shall adopt criteria for evaluating an applicant's alternative training to determine the applicant's eligibility to take a qualifying examination for nursing assistant certification. At least one option adopted by the commission must allow an applicant to take the examination if he or she:

(a) Is a certified home care aide pursuant to chapter 18.88B RCW; and

(b) Has successfully completed twenty-four hours of training that the commission determines is necessary to provide training equivalent to approved training on topics not addressed in the training specified for certification as a home care aide. In the commission's discretion, a portion of these hours may include clinical training.

(2) By January 1, 2011, the commission, in consultation with the secretary and representatives of consumers, workers, and employers, shall adopt rules to implement this section and to provide for credentialing reciprocity to the extent required by this section between home care aide certification and nursing assistant certification. The secretary shall also adopt such rules as may be necessary to implement this section and the credentialing reciprocity program by January 1, 2011.

(3) Beginning December 1, 2011, the secretary, in consultation with the commission, shall report annually by December 1st to the governor and the legislature on the progress made in achieving career advancement for certified home care aides into nursing practice.

**Sec. 4.** RCW 18.88A.030 and 1995 1st sp.s. c 18 s 52 are each amended to read as follows:

(1)(a) A nursing assistant may assist in the care of individuals as delegated by and under the direction and supervision of a licensed (registered) nurse or licensed practical nurse.

~~((2))~~ (b) A health care facility ~~((shall))~~ may not assign a nursing assistant-registered to provide care until the nursing assistant-registered has demonstrated skills necessary to perform competently all assigned duties and responsibilities.

~~((3))~~ (c) Nothing in this chapter shall be construed to confer on a nursing assistant the authority to administer medication unless delegated as a specific nursing task pursuant to this chapter or to practice as a licensed (registered) nurse or licensed practical nurse as defined in chapter 18.79 RCW.

~~((4))~~ (2)(a) A nursing assistant employed in a nursing home must have successfully obtained certification through: (i) An approved training program and the competency evaluation within four months after the date of employment; or (ii) alternative training and the competency evaluation prior to employment.

(b) Certification is voluntary for nursing assistants working in health care facilities other than nursing homes unless otherwise required by state or federal law or regulation.

~~((5))~~ (3) The commission may adopt rules to implement the provisions of this chapter.

**Sec. 5.** RCW 18.88A.050 and 1991 c 16 s 6 are each amended to read as follows:

In addition to any other authority provided by law, the secretary has the authority to:

(1) Set all certification, registration, and renewal fees in accordance with RCW 43.70.250 and to collect and deposit all such fees in the health professions account established under RCW 43.70.320;

(2) Establish forms, procedures, and examinations necessary to administer this chapter;

(3) Hire clerical, administrative, and investigative staff as needed to implement this chapter;

(4) Issue a registration to any applicant who has met the requirements for registration;

(5) After January 1, 1990, issue a certificate to any applicant who has met the education, training, competency evaluation, and conduct requirements for certification;

(6) Maintain the official record for the department of all applicants and persons with registrations and certificates;

(7) Exercise disciplinary authority as authorized in chapter 18.130 RCW;

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(8) Deny registration to any applicant who fails to meet requirement for registration;

(9) Deny certification to applicants who do not meet the education, training, competency evaluation, and conduct requirements for certification.

**Sec. 6.** RCW 18.88A.060 and 1994 sp.s. c 9 s 710 are each amended to read as follows:

In addition to any other authority provided by law, the commission may:

(1) Determine minimum nursing assistant education requirements and approve training programs;

(2) Prepare, grade, and administer, or determine the nature of, and supervise the grading and administration of, examinations of training and competency for applicants for nursing assistant certification;

(3) ((Determine whether alternative methods of training are equivalent to approved training programs, and)) Establish forms(,) and procedures(, and criteria)) for evaluation of an applicant's alternative training ((to determine the applicant's eligibility to take any qualifying examination for certification)) under criteria adopted pursuant to section 3 of this act;

(4) Define and approve any experience requirement for nursing assistant certification;

(5) Adopt rules implementing a continuing competency education program for nursing assistants; and

(6) Adopt rules to enable it to carry into effect the provisions of this chapter.

**Sec. 7.** RCW 18.88A.085 and 2007 c 361 s 9 are each amended to read as follows:

(1) After January 1, 1990, the secretary shall issue a nursing assistant certificate to any applicant who demonstrates to the secretary's satisfaction that the following requirements have been met:

(a) Successful completion of an approved training program or successful completion of ((alternate)) alternative training meeting established criteria ((approved)) adopted by the commission under section 3 of this act; and

(b) Successful completion of a competency evaluation.

(2) ((The secretary may permit all or a portion of the training hours earned under chapter 74.39A RCW to be applied toward certification under this section.

(3))) In addition, applicants shall be subject to the grounds for denial of certification under chapter 18.130 RCW.

**Sec. 8.** RCW 18.88A.140 and 2003 c 140 s 3 are each amended to read as follows:

Nothing in this chapter may be construed to prohibit or restrict:

(1) The practice by an individual licensed, certified, or registered under the laws of this state and performing services within their authorized scope of practice;

(2) The practice by an individual employed by the government of the United States while engaged in the performance of duties prescribed by the laws of the United States;

(3) The practice by a person who is a regular student in an educational program approved by the secretary, and whose performance of services is pursuant to a regular course of instruction or assignments from an instructor and under the general supervision of the instructor;

(4) A nursing assistant, while employed as a personal aide as defined in RCW 74.39.007 or a long-term care worker as defined in chapter 74.39A RCW, from accepting direction from an individual who is self-directing ((their)) his or her care.

**NEW SECTION. Sec. 9.** RCW 18.88A.115 (Home care aide certification reciprocity) and 2009 c 580 s 16 & 2009 c 2 s 11 (Initiative Measure No. 1029) are each repealed.

**NEW SECTION. Sec. 10.** If any part of this act is found by an agency of the federal government to be in conflict with federal requirements, including requirements related to the medicare and medicaid programs under the federal social security act, that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements, including requirements related to the medicare and medicaid programs under the federal social security act, that are a necessary condition to the receipt of federal funds by the state."

Senator Keiser spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Keiser and Pflug to Substitute Senate Bill No. 6582.

The motion by Senator Keiser carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "assistant;" strike the remainder of the title and insert "amending RCW 18.88A.010, 18.88A.020, 18.88A.030, 18.88A.050, 18.88A.060, 18.88A.085, and 18.88A.140; adding a new section to chapter 18.88A RCW; creating a new section; and repealing RCW 18.88A.115."

#### MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute Senate Bill No. 6582 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Pflug spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Brandland, Senator Stevens was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6582.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6582 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 2; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senators Hargrove and Jacobsen

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6582, having received the constitutional majority, was declared passed.

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There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Marr, Senators Hargrove and Jacobsen were excused.

SECOND READING

SENATE BILL NO. 6402, by Senator Sheldon

Concerning the consolidation of permit exempt wells.

MOTION

On motion of Senator Sheldon, Substitute Senate Bill No. 6402 was substituted for Senate Bill No. 6402 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Rockefeller moved that the following striking amendment by Senator Rockefeller be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 90.44.105 and 1997 c 446 s 1 are each amended to read as follows:

(1)(a) Upon the issuance by the department of an amendment to the appropriate permit or certificate of groundwater right, the holder of a valid right to withdraw public groundwaters may consolidate that right with a groundwater right exempt from the permit requirement under RCW 90.44.050, without affecting the priority of either of the water rights being consolidated.

(b) Such a consolidation amendment shall be issued only after publication of a notice of the application, a comment period, and a determination made by the department, in lieu of meeting the conditions required for an amendment under RCW 90.44.100, that: ~~((4))~~ (i) The exempt well either taps or is in connection with the same body of public groundwater ~~((as the well to))~~ in which the holder has a water right ~~((of the exempt well is to be consolidated))~~ to withdraw groundwater; ~~((2))~~ (ii) use of the exempt well shall be discontinued upon approval of the consolidation amendment to the permit or certificate; ~~((3))~~ (iii) legally enforceable agreements have been entered to prohibit the construction of another exempt well to serve the area previously served by the exempt well to be discontinued, and such agreements are binding upon subsequent owners of the land through appropriate binding limitations on the title to the land; ~~((4))~~ (iv) the exempt well or wells the use of which is to be discontinued will be properly decommissioned in accordance with chapter 18.104 RCW and the rules of the department unless the department authorizes that the well may continue to be used for groundwater monitoring purposes; and ~~((5))~~ (v) other existing rights, including ground and surface water rights and minimum stream flows adopted by rule, shall not be impaired.

(c) The notice shall be published by the applicant in a newspaper of general circulation in the county or counties in which the wells for the rights to be consolidated are located once a week for two consecutive weeks. The applicant shall provide evidence of the publication of the notice to the department. The comment period shall be for thirty days beginning on the date the second notice is published.

(2) The amount of the water to be added to the holder's permit or certificate upon discontinuance of the exempt well shall be the

average withdrawal from the well, in gallons per day, for the most recent five-year period preceding the date of the application, except that the amount shall not be less than eight hundred gallons per day for each residential connection or such alternative minimum amount as may be established by the department in consultation with the department of health, and shall not exceed five thousand gallons per day. The department shall presume that an amount identified by the applicant as being the average withdrawal from the well during the most recent five-year period is accurate if the applicant establishes that the amount identified for the use or uses of water from the exempt well is consistent with the average amount of water used for similar use or uses in the general area in which the exempt well is located. The department shall develop, in consultation with the department of health, a schedule of average household and small-area landscaping water usages in various regions of the state to aid the department and applicants in identifying average amounts used for these purposes. The presumption does not apply if the department finds credible evidence of nonuse of the well during the required period or credible evidence that the use of water from the exempt well or the intensity of the use of the land supported by water from the exempt well is substantially different than such uses in the general area in which the exempt well is located. The department shall also accord a presumption in favor of approval of such consolidation if the requirements of this subsection are met and the discontinuance of the exempt well is consistent with an adopted coordinated water system plan under chapter 70.116 RCW, an adopted comprehensive land use plan under chapter 36.70A RCW, or other comprehensive watershed management plan applicable to the area containing an objective of decreasing the number of existing and newly developed small groundwater withdrawal wells. The department shall provide a priority to reviewing and deciding upon applications subject to this subsection, and shall make its decision within sixty days of the end of the comment period following publication of the notice by the applicant or within sixty days of the date on which compliance with the state environmental policy act, chapter 43.21C RCW, is completed, whichever is later. The applicant and the department may by prior mutual agreement extend the time for making a decision.

(3) Outside the Yakima basin and until December 31, 2015, if an existing, publicly owned and operated group A or group B water system, as those terms are defined in RCW 70.119A.020, that holds a permitted or certificated right to withdraw public groundwaters is unable to serve proposed new development within or adjacent to the approved service area of the water system because it does not have adequate water rights or a sufficient number of connections, and the proposed new development would then seek to obtain water supply under the groundwater permit exemption in RCW 90.44.050, the water system may consolidate with its water right an additional quantity of water authorized to be withdrawn under the permit exemption in RCW 90.44.050 and necessary to serve the proposed new development subject to the following requirements:

(a) The water system shall publish public notice of the intent to consolidate an exempt withdrawal in a newspaper of general circulation in the county or counties in which the water system and the proposed new development are located once a week for two consecutive weeks;

(b) The water system shall provide evidence of publication of the notice to the department, the department of health, and the local government with land use authority over the proposed new development;

(c) Upon the date of receipt by the department of evidence of the notice of publication from the water system, a thirty-day review and comment period shall exist during which the department shall: (i) Review public comments; (ii) determine whether water is legally available for purposes of the consolidation; and (iii) determine

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whether the proposed consolidation would impair existing rights including instream flows;

(d) The local government with land use authority over the proposed new development shall ensure that the proposed consolidation is consistent with an adopted coordinated water system plan under chapter 70.116 RCW, an adopted comprehensive land use plan under chapter 36.70A RCW, or other comprehensive watershed management plan applicable to the area containing an objective of decreasing the number of existing and newly developed small groundwater withdrawal wells;

(e) The water system must make any necessary amendments to its water system plan and receive approval from the department of health to authorize the addition of new connections, new uses, or revise or modify the retail service area boundary;

(f) Legally enforceable agreements have been entered to prohibit the construction of an exempt well to serve the area of the proposed new development, and such agreements are binding upon subsequent owners of the land through appropriate binding limitations on the title to the land;

(g) The department shall consult with the department of health and the local government with land use authority over the proposed new development to ensure compliance with this subsection prior to deciding upon applications subject to this subsection;

(h) The department shall provide a priority to reviewing and deciding upon applications subject to this subsection, and shall make its decision within sixty days of the end of the comment period following publication of the notice by the applicant or within sixty days of the date on which compliance with the state environmental policy act, chapter 43.21C RCW, is completed, whichever is later, except that the department may extend the sixty-day time period by forty-five days for good cause or for any period of time at the request of the applicant;

(i) In no case may the quantity of water consolidated with the water system's water rights exceed five thousand gallons per day or the number of new connections exceed fourteen, and the quantity of water withdrawn must also comply with rules adopted by the department and ordinances adopted by the local government with land use authority over the proposed new development;

(j) The water system must separately meter both existing connections and new connections to be added under this section;

(k) Any letter, certificate, or other statement that water is available to serve the proposed new development utilizing the procedure in this subsection to satisfy the water availability requirement of RCW 19.27.097 or 58.17.110 must be provided to the department, the department of health, and the local government with land use authority upon issuance by the water system;

(l) A water system may exercise the authority in this section on multiple occasions, but only until a total of fourteen residential connections or five thousand gallons per day of water has been consolidated with the water rights of the water system; and

(m) After beneficial use has occurred, the water system shall submit a proof of appropriation demonstrating the actual quantity of water beneficially used in order to obtain a consolidation amendment from the department.

(4) Any determination by the department under this section is appealable to the pollution control hearings board under chapter 43.21B RCW."

Senator Rockefeller spoke in favor of adoption of the striking amendment.

#### MOTION

Senator Honeyford moved that the following amendment by Senators Honeyford and Sheldon to the striking amendment be adopted:

On page 3, line 8, after "(3)" strike "Outside the Yakima basin and until" and insert "Until"

Senators Honeyford and Sheldon spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Honeyford and Sheldon on page 3, line 8 to the striking amendment to Substitute Senate Bill No. 6402.

The motion by Senator Honeyford carried and the amendment to the striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Rockefeller as amended to Substitute Senate Bill No. 6402.

The motion by Senator Rockefeller carried and the striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "wells;" strike the remainder of the title and insert "and amending RCW 90.44.105."

#### MOTION

On motion of Senator Sheldon, the rules were suspended, Engrossed Substitute Senate Bill No. 6402 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Sheldon and Honeyford spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6402.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6402 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridmore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Fairley and Regala

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6402, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6764, by Senators Gordon, Pflug, Oemig, McCaslin, Kline and Hargrove

Regarding accrual of interest on judgments founded on tortious conduct.

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The measure was read the second time.

SENATE BILL NO. 5912, by Senators Oemig, McDermott, Kline, Kastama, Pridemore, Kilmer, Jarrett, Kohl-Welles and Haugen

WITHDRAWAL OF AMENDMENTS

On motion of Senator Carrell, the following amendments by Senator Carrell: amendment on page 1, line 16; amendment on page 1, line 16; amendment on page 1, line 14; amendment on page 1, line 16; and amendment on page 1, line 14 were withdrawn.

Providing public funding for supreme court campaigns. Revised for 2nd Substitute: Concerning public funding for supreme court campaigns.

MOTION

MOTION

Senator Carrell moved that the following amendment by Senator Carrell and others be adopted:

On motion of Senator Oemig, Second Substitute Senate Bill No. 5912 was substituted for Senate Bill No. 5912 and the second substitute bill was placed on the second reading and read the second time.

On page 1, line 16, after "a" insert "nonprofit or charitable organization employing fewer than fifty people, a business employing fewer than fifty people, or a"

MOTION

Renumber the sections consecutively and correct any internal references accordingly.

Senator Oemig moved that the following striking amendment by Senator Oemig and others be adopted:

Senators Carrell and Hargrove spoke in favor of adoption of the amendment.

Strike everything after the enacting clause and insert the following:

The President declared the question before the Senate to be the adoption of the amendment by Senator Carrell and others on page 1, line 16 to Senate Bill No. 6764.

"NEW SECTION. Sec. 1. INTENT. (1) The intent of this act is to protect the fairness of elections for the highest court in Washington state - the supreme court. Doing so will foster the public's trust in the integrity and independence of the court in the face of increasingly large sums of money raised and spent by special interest groups. That flood of money threatens the impartiality, independence, and credibility of our judiciary. To maintain public confidence in the judiciary, we must prevent not only corruption, but the appearance of corruption, for the judiciary is the one branch of government that must be uniquely impartial, independent, and unbiased in order to best serve the residents of Washington. It is destructive for our democracy to allow the court to become influenced by large amounts of money, and for our citizens to think that judicial decisions are influenced by those large amounts of money. This act is necessary to ensure that our highest courts continue to be unbiased and insulated from special interests.

The motion by Senator Carrell carried and the amendment was adopted by voice vote.

MOTION

On motion of Senator Gordon, the rules were suspended, Engrossed Senate Bill No. 6764 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

(2) Therefore, this act, the judicial election reform act, introduces a voluntary pilot project to provide an alternative source of financing candidates for the Washington supreme court who demonstrate public support and voluntarily accept strict fundraising and spending limits.

Senators Gordon, Hargrove, Pflug and Jacobsen spoke in favor of passage of the bill.

(3) The provisions of this act must be broadly interpreted to carry out the purpose and intent of this act.

Senators Carrell, Kastama and Parlette spoke against passage of the bill.

NEW SECTION. Sec. 2. DEFINITIONS. In addition to the definitions in RCW 42.17.020, the definitions in this section apply throughout sections 1 through 21 of this act unless the context clearly requires otherwise.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6764.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6764 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 19; Absent, 0; Excused, 1.

(1) "Contested election" means an election in which there are two or more candidates running for the same office whose names will appear on the ballot.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Hobbs, Jacobsen, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

(2) "Nonparticipating candidate" means a candidate for supreme court justice who is on the ballot but has chosen not to apply for public funds from the judicial election reform act fund or a candidate who is on the ballot and has applied but has not been certified to receive public funds from the judicial election reform act fund.

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Haugen, Hewitt, Holmquist, Honeyford, Kastama, King, Morton, Parlette, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

(3) "Publicly financed candidate" means a candidate who becomes certified to receive public campaign funds under section 6 of this act.

Excused: Senator McCaslin

ENGROSSED SENATE BILL NO. 6764, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

(4) "Qualifying contribution" means a contribution in an amount of at least ten dollars, but no more than twenty-five percent of the maximum contribution limit allowed under RCW 42.17.645, made by a registered voter of the state, and is received during the qualifying period.

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(5) "Qualifying period" means the period beginning February 1st of the election year and ending one week after the close of the regular filing period for the office.

(6) "Uncontested election" means an election in which a candidate running for a specified office has no opponent on the ballot.

**NEW SECTION. Sec. 3. JUDICIAL ELECTION REFORM ACT FUND.** (1) The judicial election reform act fund is created in the custody of the state treasurer. All receipts under sections 4 through 17 of this act required to be deposited into the fund must be deposited into the fund. Expenditures from the fund may be used only for the purposes of the judicial election reform act, sections 1 through 21 of this act. Only the commission may authorize expenditures from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) When the funds in the account have been fully distributed, the commission must stop authorizing public fund disbursements under sections 12 and 13 of this act. No candidate may receive any disbursement of funds beyond those authorized under sections 12 and 13 of this act, nor may any candidate receive any further disbursements of funds under sections 12 and 13 of this act when the appropriation has been exhausted. The commission may adopt rules to address distribution of remaining funds in the account for pending requests.

(3) The public disclosure commission and the administrative office of the courts may each recover costs for implementing sections 1 through 21 of this act, up to a combined total of ten percent of the receipts collected under sections 4 through 17 of this act.

**NEW SECTION. Sec. 4. VOLUNTARY LIMITATIONS ON CONTRIBUTIONS FOR JUDICIAL CAMPAIGNS.** A publicly financed candidate and a publicly financed candidate's authorized committee shall:

(1) Only accept contributions from individuals, and only as qualifying contributions under section 5 of this act;

(2) During the qualifying period and solely for the purpose of raising qualifying contributions, accept no more than two times the contribution limit under RCW 42.17.645 of the candidate's personal funds;

(3) Collect at least five hundred qualifying contributions that, in the aggregate total at least twenty-five times the filing fee for the office of supreme court justice in accordance with section 5 of this act;

(4) File the required reports regarding qualifying and expenditures to the commission;

(5) Expend only self-contributed funds or funds received from the judicial election reform act fund after being certified as a publicly funded candidate;

(6) Sign a joint statement with the treasurer of the publicly financed candidate's authorized committee, under oath, promising to comply with the provisions of this chapter; and

(7) Comply with the provisions of this chapter to the extent required for publicly funded candidates as prescribed by the commission.

**NEW SECTION. Sec. 5. APPLICATION FOR CERTIFICATION.** A candidate who wishes to receive public campaign funds must:

(1) File an application with the commission declaring his or her intent to participate in the program as a candidate for the supreme court. The application must be filed before or during the qualifying period. In the application, the candidate must affirm that only one political committee, identified with its treasurer, must handle all contributions, expenditures, and obligations for the publicly financed candidate and that the candidate will comply with the

provisions set forth in sections 1 through 21 of this act and rules adopted by the commission; and

(2) Obtain at least five hundred qualifying contributions not including self-contributed funds that, in the aggregate total at least twenty-five times the filing fee for the office by the end of the qualifying period. No payment, gift, or anything of value may be given in exchange for a qualifying contribution. A qualifying contribution must be:

(a) Made by a registered voter of the state;

(b) Made by a person who is not given anything of value in exchange for the qualifying contribution;

(c) In an amount of at least ten dollars but not more than twenty-five percent of the contribution limit allowed under RCW 42.17.645;

(d) Received during the qualifying period by the candidate or on behalf of the candidate; and

(e) Made by check, money order, or credit card.

**NEW SECTION. Sec. 6. CERTIFICATION AS A PUBLICLY FINANCED CANDIDATE.** (1) Upon receipt of an application, the commission must determine whether or not the candidate has complied with the following requirements:

(a) Signed and filed an application to participate;

(b) Submitted a report itemizing the qualifying contributions received. The report must include the name, home address, telephone number, and county of residence for each person who made a contribution and the date the contribution was received, and any other information required by the commission;

(c) Submitted a check or money order equal to the total qualifying contributions, less money expended for the purpose of raising qualifying contributions received by the candidate in accordance with section 7 of this act, made out to the judicial election reform act fund; and

(d) Submitted affidavits signed by persons collecting qualifying contributions stating that, to the best of his or her knowledge, the contribution was made by a registered voter of the state.

(2) Once the requirements in subsection (1) of this section are met, the commission must verify that pursuant to section 5 of this act, a sufficient number of qualifying contributions were made by registered voters of the state at the time the contribution was made.

(3) The commission must determine if a candidate meets the requirements for public financing within seven calendar days of the filing of an application. If the requirements of subsection (2) of this section are met, the commission must certify the candidate for public financing. If the commission denies certification, it must provide written reasons why certification is denied. Any candidate who is denied certification may reapply one time by submitting the required information or the number of qualifying contributions needed to complete the certification within fourteen calendar days of the date of the commission's decision.

(4) A candidate who is certified as a publicly financed candidate may use that designation in campaign materials and will be so designated in the state voters' pamphlet.

**NEW SECTION. Sec. 7. QUALIFYING CONTRIBUTIONS.** A publicly financed candidate may expend money received as qualifying contributions, as well as the candidate's personal funds, to pay for expenses related to raising qualifying contributions. The amount of qualifying contributions used for this purpose may not exceed twenty-five percent of the minimum dollar amount of qualifying contributions required under section 5 of this act. Expenditures made for the purpose of this section must be reported as required under RCW 42.17.080 and 42.17.090 or as determined by the commission by rule.

**NEW SECTION. Sec. 8. CONTROLS ON A PUBLICLY FINANCED CANDIDATE'S AUTHORIZED COMMITTEE.** A publicly financed candidate and the publicly financed candidate's

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authorized committee must file the reports required pursuant to this chapter as determined by the commission.

**NEW SECTION. Sec. 9. USES OF PUBLIC FUNDS.** (1) Money in the account of a publicly financed candidate's authorized committee may only be used for purposes directly related to the candidate's campaign.

(2) Money in the account of a publicly financed candidate's authorized committee may not be used to pay fines or civil penalties, for costs or legal fees related to representation before the commission, or for defense of an enforcement action under this chapter. Nothing in this chapter prevents a publicly financed candidate from having a legal defense fund.

**NEW SECTION. Sec. 10. RETURN OF FUNDS.** (1) If a candidate attempts to qualify for public funding but does not meet the threshold for qualification, withdraws from the program before certification, is denied certification under section 6 of this act, or revokes participation under section 11 of this act, the candidate must pay to the fund the total dollar amount of qualifying contributions received during the qualifying period, less money expended for the purpose of raising qualifying contributions and the candidate's own self-contributed funds in accordance with section 7 of this act.

(2) Publicly financed candidates must return all unused funds, less the candidate's own self-contributed funds, to the judicial election reform act fund within thirty calendar days of the date they are no longer a candidate.

**NEW SECTION. Sec. 11. REVOCATION.** (1) A publicly financed candidate may revoke in writing to the commission a decision to participate in the public financing program no later than June 30th in the year of the election. After a timely revocation, that candidate may accept and expend money outside the provisions of this act. Within thirty days after revocation, a candidate must return to the commission all money received from the judicial election reform act fund.

(2) A publicly financed candidate who revokes a decision to participate in the public financing program after the time period established in subsection (1) of this section must return all money received from the judicial election reform act fund and pay a fine of one thousand dollars per day for each day beyond the allowed revocation period and the day the candidate revokes.

**NEW SECTION. Sec. 12. CAMPAIGN FUNDING.** (1)(a) Within five business days after a publicly financed candidate's name is approved to appear on the primary ballot by the appropriate elections officer, the commission must authorize the state treasurer to distribute to the account of the authorized committee of each certified publicly financed candidate an amount set, by rule, based on the number of participating candidates filing for office. No candidate may receive an amount greater than one hundred times the filing fee as established in RCW 29A.24.091 for the primary.

(b) Within five business days after a publicly financed candidate's name is approved to appear on the general election ballot, the commission must authorize the state treasurer to distribute funds to the account of the authorized committee of each certified publicly financed candidate in an amount equal to one hundred twenty-five times the filing fee for the office as established in RCW 29A.24.091.

(c) Participating candidates in uncontested elections must receive four times the filing fee as established in RCW 29A.24.091, plus the net amount of qualifying contributions previously remitted to the commission pursuant to section 6(1)(c) of this act.

(2) A publicly financed candidate must return within ten calendar days to the judicial election reform act fund any amount distributed, less the candidate's own self-contributed funds, for an election that is unspent and uncommitted as of the date the candidate ceases to be a candidate or as of the date of the election, whichever occurs first.

(3) The commission must authorize and the state treasurer must distribute funds to publicly financed candidates in a manner that ensures accountability and safeguards the integrity of the fund.

**NEW SECTION. Sec. 13. RESCUE FUNDS.** (1) When a report is filed under this chapter or other evidence comes to the attention of the commission indicating that a nonparticipating candidate has raised more money than his or her publicly financed opponent has received in public funding, the commission must notify the publicly financed candidate of his or her eligibility for rescue funds.

(a) A publicly financed candidate may receive rescue funds equal to the difference between the total amount received by the nonparticipating candidate, less the nonparticipating candidate's own self-contributed funds, for each election and the amount received by the publicly financed candidate for each election. If there are multiple nonparticipating candidates who have raised more money than the publicly financed candidate has received, the publicly financed candidate is eligible for rescue funds based on the difference between the total amount raised by the nonparticipating candidate who has received the most money, less that nonparticipating candidate's own self-contributed funds, and the amount received by the publicly financed candidate.

(b) The total amount a publicly financed candidate may receive in rescue funds is five hundred times the filing fee for the office. If rescue funds are triggered under this section, up to seventy-five percent of the funds are available to a publicly financed candidate for the primary election. If a publicly financed candidate is opposed by only one candidate, all of the authorized rescue funds may be used for the primary. A publicly financed candidate may determine when to access available rescue funds.

(2)(a) Independent expenditures and electioneering communications opposing a publicly financed candidate or supporting one or more nonparticipating opponents of a publicly financed candidate must be considered as contributions to each opposing candidate and the commission must authorize rescue funds pursuant to subsection (1) of this section to the publicly financed candidate.

(b) Independent expenditures and electioneering communications supporting a publicly financed candidate must be considered, for every opposing publicly financed candidate, as though the independent expenditures or electioneering communications were a contribution to a nonparticipating opponent and the commission must authorize rescue funds pursuant to subsection (1) of this section to each opposing publicly financed candidate.

(c) For purposes of this section, expenditures made by a nonparticipating candidate and independent expenditures and electioneering communications are deemed to have been made the day the independent expenditure or electioneering communication is contracted for, agreed to, or otherwise obligated.

(3) For purposes of this section, a candidate's own self-contributed funds do not trigger rescue funds and may not be considered in the calculation for rescue funds.

(4) If adequate funding is not available to fully equalize funding for publicly financed candidates under this section, the commission may authorize a lesser amount.

**NEW SECTION. Sec. 14. REPORTS.** (1)(a) Any nonparticipating candidate who has a publicly financed opponent must report total contributions received, including self-contributed funds, to the commission electronically within twenty-four hours after the total amount of contributions received exceeds eighty percent of the amount authorized for publicly financed candidates under section 12 of this act, and must make subsequent reports as required by the commission to monitor contributions.

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(b) Any person making independent expenditures or electioneering communications in excess of three thousand dollars in support of or opposition to a publicly financed candidate, or in support of a candidate opposing a publicly financed candidate, must file a report with the commission within twenty-four hours of the date the independent expenditure or electioneering communication is contracted for, agreed to, or otherwise obligated. The report must include the following information:

- (i) The name and address of the sponsor;
- (ii) The source of funds for the independent expenditure or electioneering communication;
- (iii) Any other source information required by the commission by rule;
- (iv) The name and address of the person to whom the independent expenditure or electioneering communication expenditure was made;
- (v) A detailed description of the expenditure;
- (vi) The date the expenditure was contracted for, agreed to, or otherwise obligated;
- (vii) The amount of the expenditure; and
- (viii) Any other information the commission may require.

(c) The commission may adopt rules implementing the provisions of this section, including rules that determine (i) whether filing under this section satisfies the filing requirements under other provisions of this chapter, and (ii) when the reporting requirements of this section are no longer warranted because a publicly financed candidate has received the maximum amount of rescue funds permitted by this section.

(2) Publicly financed candidates must report in accordance with rules adopted by the commission. A publicly financed candidate who revokes his or her participation in the program, who ceases to be a candidate, or who loses an election must file a final report with the commission and return any unspent disbursements received from the judicial election reform act fund, less self-contributed funds. In developing reporting requirements for publicly financed candidates, the commission must use existing campaign reporting procedures when determined practicable by the commission.

(3) Any person who fails to report a contribution or expenditure as required by this section is subject to a civil penalty equal to the contribution or expenditure not reported.

(4) The commission must ensure prompt public access to the reports received under this section.

**NEW SECTION. Sec. 15. DISQUALIFICATION FROM PROGRAM.** If the commission finds that a publicly financed candidate or the publicly financed candidate's committee is accepting or expending money outside the provisions of section 4 of this act, the candidate is disqualified from the program, is subject to a civil penalty under RCW 42.17.390, and must return all money received from the judicial election reform act fund, less self-contributed funds.

**NEW SECTION. Sec. 16. IMPLEMENTATION AND ENFORCEMENT DUTIES.** In implementing the provisions of the judicial election reform act, the commission shall:

- (1) Prescribe forms for reports, statements, notices, and other documents as required by sections 1 through 21 of this act;
- (2) Prepare and publish instructions to facilitate compliance with sections 1 through 21 of this act and explaining the duties of persons and committees under sections 1 through 21 of this act;
- (3) Adopt rules to carry out the policies of sections 1 through 21 of this act. These rules are not subject to the time restrictions of RCW 42.17.370(1); and
- (4) Enforce the provisions of sections 1 through 21 of this act, ensure that money transferred from the judicial election reform act fund into the account of an authorized committee of a publicly financed candidate is spent as specified, and monitor reports filed

and financial records of candidates as needed to ensure that rescue funds are promptly authorized to opposing qualified candidates under section 13 of this act.

**NEW SECTION. Sec. 17. EXPEDITED ADMINISTRATIVE REVIEW.** (1) The commission shall develop an expedited administrative review process that is not subject to the adjudicative proceedings of chapter 34.05 RCW. However, commission findings are subject to judicial review under RCW 34.05.570(4).

(2) The following individuals may seek expedited administrative review of commission decisions:

- (a) Candidates and potential candidates whom the commission finds ineligible to participate in the program;
- (b) Publicly financed candidates who are denied rescue funds; and

(c) Opponents of a publicly financed candidate who disagree with a decision by the commission to grant rescue funds to a publicly financed candidate.

(3) In an expedited administrative review process, the commission shall issue a final decision no more than five calendar days after review is requested.

(4) The commission may adopt rules to implement this section.

(5) Any petition for judicial review of a final decision in an expedited administrative review must be filed within five calendar days of the final decision. In any judicial review, the court may not grant a stay or temporary relief unless it finds the conditions specified in RCW 34.05.550(3) (a), (b), and (c).

**NEW SECTION. Sec. 18.** The commission may not offer the program in sections 1 through 17 of this act until one million dollars is in the judicial election reform act fund.

**NEW SECTION. Sec. 19.** For the purpose of calculations required by this act, personal funds contributed by a candidate to his or her own campaign must be treated as having been expended prior to the expenditure of any other funds.

**NEW SECTION. Sec. 20.** The commission may solicit and accept gifts, grants, conveyances, bequests, and devises of real or personal property, or both, in trust or otherwise, and sell, lease, exchange, invest, or expend these donations or the proceeds, rents, profits, and income from the donations except as limited by the donor's terms. Moneys received under this section must be deposited into the judicial election reform act fund established in section 3 of this act and may only be used for the purposes of sections 1 through 18 of this act.

**NEW SECTION. Sec. 21.** The public disclosure commission must report to the governor and to the appropriate committees of the legislature in January of even-numbered years on the effectiveness of the judicial election reform act once the program is offered.

**Sec. 22.** RCW 42.17.390 and 2006 c 315 s 2 are each amended to read as follows:

One or more of the following civil remedies and sanctions may be imposed by court order in addition to any other remedies provided by law:

(1) If the court finds that the violation of any provision of this chapter by any candidate or political committee probably affected the outcome of any election, the result of said election may be held void and a special election held within sixty days of such finding. Any action to void an election shall be commenced within one year of the date of the election in question. It is intended that this remedy be imposed freely in all appropriate cases to protect the right of the electorate to an informed and knowledgeable vote.

(2) If any lobbyist or sponsor of any grass roots lobbying campaign violates any of the provisions of this chapter, his or her registration may be revoked or suspended and he or she may be enjoined from receiving compensation or making expenditures for

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lobbying(~~(: PROVIDED, HOWEVER, That)~~). However, imposition of such sanction shall not excuse said lobbyist from filing statements and reports required by this chapter.

(3) Any person who violates any of the provisions of this chapter may be subject to a civil penalty of not more than ten thousand dollars for each such violation. However, a person or entity who violates RCW 42.17.640 and 42.17.645 may be subject to a civil penalty of ten thousand dollars or three times the amount of the contribution illegally made or accepted, whichever is greater.

(4) Any person who fails to file a properly completed statement or report within the time required by this chapter may be subject to a civil penalty of ten dollars per day for each day each such delinquency continues.

(5) Any person who fails to report a contribution or expenditure as required by this chapter may be subject to a civil penalty equivalent to the amount not reported as required.

(6) The court may enjoin any person to prevent the doing of any act herein prohibited, or to compel the performance of any act required herein.

(7)(a) The civil penalty for a violation of a contribution or expenditure limit established under section 4 of this act by or on behalf of a publicly financed candidate is ten times the amount by which the expenditures or contributions exceed the applicable limit. If the violation occurs within five days of an election, the civil penalty is twenty times the amount by which the expenditures or contributions exceed the applicable limit. A publicly financed candidate found to have knowingly committed a violation of the expenditure or contribution limits under section 4 of this act must pay the applicable fines, surrender all money in the candidate's authorized committee account, less self-contributed funds, to the judicial election reform act fund, and will cease to be a publicly financed candidate.

(b) In addition to any other penalties imposed by law, the civil penalty for a violation by or on behalf of a publicly financed candidate of a reporting requirement imposed by this chapter is one hundred dollars per day. A civil penalty imposed under this subsection (7)(b) may not exceed twice the amount of expenditures or contributions not reported in a timely manner. The candidate and the candidate's authorized committee are jointly and severally responsible for a civil penalty imposed under this subsection.

(c) The civil penalty for a violation of the revocation requirement imposed by section 11 of this act is one thousand dollars per day for each day past the period allowed for a timely revocation.

(d) The civil penalty for a violation of the reporting provisions in section 14 of this act is equal to the amount not reported, less self-contributed funds.

(e) All civil penalties collected under this subsection must be deposited into the judicial election reform act fund.

**Sec. 23.** RCW 3.62.060 and 2009 c 572 s 1 and 2009 c 372 s 1 are each reenacted and amended to read as follows:

Clerks of the district courts shall collect the following fees for their official services:

(1) In any civil action commenced before or transferred to a district court, the plaintiff shall, at the time of such commencement or transfer, pay to such court a filing fee of forty-three dollars plus any surcharge authorized by RCW 7.75.035. Any party filing a counterclaim, cross-claim, or third-party claim in such action shall pay to the court a filing fee of forty-three dollars plus any surcharge authorized by RCW 7.75.035. No party shall be compelled to pay to the court any other fees or charges up to and including the rendition of judgment in the action other than those listed.

(2) For issuing a writ of garnishment or other writ, or for filing an attorney issued writ of garnishment, a fee of twelve dollars.

(3) For filing a supplemental proceeding a fee of twenty dollars.

(4) For demanding a jury in a civil case a fee of one hundred twenty-five dollars to be paid by the person demanding a jury.

(5) For preparing a transcript of a judgment a fee of twenty dollars.

(6) For certifying any document on file or of record in the clerk's office a fee of five dollars.

(7) At the option of the district court:

(a) For preparing a certified copy of an instrument on file or of record in the clerk's office, for the first page or portion of the first page, a fee of five dollars, and for each additional page or portion of a page, a fee of one dollar;

(b) For authenticating or exemplifying an instrument, a fee of two dollars for each additional seal affixed;

(c) For preparing a copy of an instrument on file or of record in the clerk's office without a seal, a fee of fifty cents per page;

(d) When copying a document without a seal or file that is in an electronic format, a fee of twenty-five cents per page;

(e) For copies made on a compact disc, an additional fee of twenty dollars for each compact disc.

(8) For preparing the record of a case for appeal to superior court a fee of forty dollars including any costs of tape duplication as governed by the rules of appeal for courts of limited jurisdiction (RALJ).

(9) At the option of the district court, for clerk's services such as processing ex parte orders, performing historical searches, compiling statistical reports, and conducting exceptional record searches, a fee not to exceed twenty dollars per hour or portion of an hour.

(10) For duplication of part or all of the electronic recording of a proceeding ten dollars per tape or other electronic storage medium.

(11) For filing any abstract of judgment or transcript of judgment from a municipal court or municipal department of a district court organized under the laws of this state a fee of forty-three dollars.

(12) At the option of the district court, a service fee of up to three dollars for the first page and one dollar for each additional page for receiving faxed documents, pursuant to Washington state rules of court, general rule 17.

(13) Until July 1, 2011, in addition to the fees required by subsection (1) of this section, clerks of the district courts shall collect a surcharge of twenty dollars on all fees required by subsection (1) of this section, which shall be remitted to the state treasurer for deposit in the judicial stabilization trust account. This surcharge is not subject to the division and remittance requirements of RCW 3.62.020.

(14) Effective July 1, 2010, in addition to the fees required by subsection (1) of this section, clerks of the district courts shall collect a judicial integrity surcharge of three dollars on all fees required by subsection (1) of this section, which must be remitted to the state treasurer for deposit in the judicial election reform act fund. This surcharge is not subject to the division and remittance requirements of RCW 3.62.020.

The fees or charges imposed under this section (~~(shall be)~~) are allowed as court costs whenever a judgment for costs is awarded.

**NEW SECTION. Sec. 24.** A new section is added to chapter 36.18 RCW to read as follows:

Effective July 1, 2010, a three-dollar judicial integrity surcharge must be added to each of the fees in RCW 36.18.016 that exceeds one hundred dollars, and to each of the fees in RCW 36.18.020. All judicial integrity surcharges must be remitted to the state treasurer for deposit in the judicial election reform act fund. Surcharges collected under this section are not subject to the division and remittance requirements of RCW 36.18.025 or 27.24.070 and no surcharge under this section may be applied to any fee which

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individually, and before applying other surcharges, is less than twenty dollars.

NEW SECTION. Sec. 25. Sections 1 through 21 of this act may be known and cited as the judicial election reform act.

NEW SECTION. Sec. 26. Sections 1 through 21 of this act are each added to chapter 42.17 RCW.

NEW SECTION. Sec. 27. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Senator Oemig spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Oemig and others to Second Substitute Senate Bill No. 5912.

The motion by Senator Oemig carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "campaigns;" strike the remainder of the title and insert "amending RCW 42.17.390; reenacting and amending RCW 3.62.060; adding new sections to chapter 42.17 RCW; adding a new section to chapter 36.18 RCW; creating new sections; and prescribing penalties."

#### MOTION

On motion of Senator Oemig, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5912 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Oemig spoke in favor of passage of the bill.

Senators Delvin and Honeyford spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5912.

#### POINT OF ORDER

Senator Benton: "Thank you Mr. President. In Engrossed Second Substitute Senate Bill No. 5912 there is a three dollar fee that is imposed and I'd like to inquire under the provisions of Initiative 960 whether or not that fee is in fact a tax or a fee because the money is being spent on something other than is directly related? I just believe there's not nexus that we need for a fee as defined under Initiative 960. I do believe that this is a tax, not a fee, and therefore should require a two-thirds vote of this chamber to pass and ask that you rule thereon."

Senator Eide spoke against the point of order.

#### MOTION

On motion of Senator Eide, further consideration of Engrossed Second Substitute Senate Bill No. 5912 was deferred and the bill held its place on the third reading calendar.

#### SECOND READING

SENATE BILL NO. 6510, by Senators Kilmer and Sheldon

Extending state route number 166.

#### MOTIONS

On motion of Senator Kilmer, Substitute Senate Bill No. 6510 was substituted for Senate Bill No. 6510 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kilmer, the rules were suspended, Substitute Senate Bill No. 6510 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kilmer spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6510.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6510 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6510, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6416, by Senators Roach, Hargrove and Stevens

Concerning relatives in dependency proceedings.

#### MOTIONS

On motion of Senator Roach, Substitute Senate Bill No. 6416 was substituted for Senate Bill No. 6416 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Roach, the rules were suspended, Substitute Senate Bill No. 6416 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Roach spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6416.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6416 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King,

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Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6416, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Marr, Senator Regala was excused.

#### SECOND READING

SENATE BILL NO. 6392, by Senators Tom, Swecker, Oemig, Holmquist, Jacobsen, Haugen and Marr

Clarifying the use of revenue generated from tolling the state route number 520 corridor.

#### MOTION

On motion of Senator Haugen, Substitute Senate Bill No. 6392 was substituted for Senate Bill No. 6392 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Haugen moved that the following striking amendment by Senator Haugen be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature recognizes that during the 2009 legislative session tolling was authorized on the state route number 520 corridor. As such, it is the intent of the legislature that tolling commences in the spring of 2011 on the existing state route number 520 bridge.

The legislature further recognizes that tolling of the state route number 520 corridor is integrally related to the issuance of a final project design resulting from the supplemental draft environmental impact statement for the state route number 520 bridge replacement and HOV program released in January 2010. It is the intent of the legislature that the department of transportation work with affected neighborhoods and local governments, including the mayor of the city of Seattle and the Seattle city council, to refine the preferred alternative design in the supplemental draft environmental impact statement so that the final design of the state route number 520 bridge replacement and HOV program will, to the extent required by state and federal law, include reasonable assurance that project impacts will be mitigated as much as practicable to protect against further adverse impacts on neighborhood environmental quality. Within the cost constraints identified in section 1, chapter 472, Laws of 2009, and consistent with an opening date to vehicular traffic of 2014, it is further the intent of the legislature that any final design of the state route number 520 bridge replacement and HOV program accommodate effective connections for transit, including high capacity transit, to the light rail station at the University of Washington, consistent with the requirements of RCW 47.01.408, and ensure the effective, efficient, and feasible coordination of bus services and light rail services throughout the state route number 520 corridor, consistent with the requirements of RCW 47.01.410. The legislature further intends that any cost savings applicable to the

state route number 520 bridge replacement and HOV program stay within the program.

**Sec. 2.** RCW 47.56.870 and 2009 c 472 s 2 are each amended to read as follows:

(1) The initial imposition of tolls on the state route number 520 corridor is authorized, the state route number 520 corridor is designated an eligible toll facility, and toll revenue generated in the corridor must only be expended as allowed under RCW 47.56.820.

(2) The state route number 520 corridor consists of that portion of state route number 520 between the junctions of Interstate 5 and state route number 202. The toll imposed by this section shall be charged only for travel on the floating bridge portion of the state route number 520 corridor.

(3)(a) In setting the toll rates for the corridor pursuant to RCW 47.56.850, the tolling authority shall set a variable schedule of toll rates to maintain travel time, speed, and reliability on the corridor and generate the necessary revenue as required under (b) of this subsection.

(b) The tolling authority shall initially set the variable schedule of toll rates, which the tolling authority may adjust at least annually to reflect inflation as measured by the consumer price index or as necessary to meet the redemption of bonds and interest payments on the bonds, to generate revenue sufficient to provide for:

(i) The issuance of general obligation bonds first payable from toll revenue and then excise taxes on motor vehicle and special fuels pledged for the payment of those bonds in the amount necessary to fund the ~~((replacement state route number 520 floating bridge and necessary landings))~~ state route number 520 bridge replacement and HOV program, subject to subsection (4) of this section; and

(ii) Costs associated with the project designated in subsection (4) of this section that are eligible under RCW 47.56.820.

(4)(a) The proceeds of the bonds designated in subsection (3)(b)(i) of this section(, which together with other appropriated and identified state and federal funds is sufficient to pay for the replacement of the floating bridge segment and necessary landings of state route number 520,) must be used only to fund the ~~((construction of the replacement state route number 520 floating bridge and necessary landings))~~ state route number 520 bridge replacement and HOV program; however, two hundred million dollars of bond proceeds, in excess of the proceeds necessary to complete the floating bridge segment and necessary landings, must be used only to fund the state route number 520, Interstate 5 to Medina bridge replacement and HOV project segment of the program, as identified in applicable environmental impact statements.

(b) The program must include the following elements within the cost constraints identified in section 1, chapter 472, Laws of 2009, consistent with the legislature's intent that cost savings applicable to the program stay within the program:

(i) A project design, consistent with RCW 47.01.408, that includes high occupancy vehicle lanes with a minimum carpool occupancy requirement of three-plus persons on state route number 520;

(ii) High occupancy vehicle lane performance standards for the state route number 520 corridor established by the department. The department shall report to the transportation committees of the legislature when average transit speeds in the two lanes that are for high occupancy vehicle travel fall below forty-five miles per hour at least ninety percent of the time during peak hours;

(iii) A work group convened by the department to include sound transit, King county metro, the Seattle department of transportation, and the University of Washington to study and make recommendations of alternative connections for transit, including high capacity transit, to the light rail station at the University of Washington. The recommendations must be alternatives to the

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transit connections identified in the supplemental draft environmental impact statement for the state route number 520 bridge replacement and HOV program released in January 2010, and must meet the requirements under RCW 47.01.408, including accommodating effective connections for transit. For the purposes of this subsection, "effective connections for transit" means a connection that connects transit stops, including high capacity transit stops, that serve the state route number 520/Montlake interchange vicinity to the light rail station at the University of Washington, with a connection distance of less than one thousand two hundred feet between the stops and the light rail station. The department shall submit the recommendations by July 5, 2010, to the governor and the transportation committees of the legislature:

(iv) A work group convened by the department to include sound transit and King county metro to study and make recommendations regarding options for financing high capacity transit through the state route number 520 corridor. The department shall submit the recommendations by January 1, 2011, to the governor and the transportation committees of the legislature;

(v) A plan to address mitigation as a result of the state route number 520 bridge replacement and HOV program at the Washington park arboretum. As part of its process, the department shall consult with the governing board of the Washington park arboretum, the Seattle city council and mayor, and the University of Washington to identify all mitigation required by state and federal law resulting from the state route number 520 bridge replacement and HOV program's impact on the arboretum, and to develop a project mitigation plan to address these impacts. The department shall submit the mitigation plan by December 31, 2010, to the governor and the transportation committees of the legislature. Wetland mitigation required by state and federal law as a result of the state route number 520 bridge replacement and HOV program's impacts on the arboretum must, to the greatest extent practicable, include on-site wetland mitigation at the Washington park arboretum, and must enhance the Washington park arboretum. This subsection (4)(b)(v) does not preclude any other mitigation planned for the Washington park arboretum as a result of the state route number 520 bridge replacement and HOV program;

(vi) A work group convened by the department to include the mayor of the city of Seattle, the Seattle city council, the Seattle department of transportation, and other persons or organizations as designated by the Seattle city council and mayor to study and make recommendations regarding design refinements to the preferred alternative selected by the department in the supplemental draft environmental impact statement process for the state route number 520 bridge replacement and HOV program. To accommodate a timely progression of the state route number 520 bridge replacement and HOV program, the design refinements recommended by the work group must be consistent with the current environmental documents prepared by the department for the supplemental draft environmental impact statement. The department shall submit the recommendations to the legislature and governor by July 5, 2010, and the recommendations must inform the final environmental impact statement prepared by the department; and

(vii) An account, created in section 4 of this act, into which civil penalties generated from the nonpayment of tolls on the state route number 520 corridor are deposited to be used to fund any project within the program, including mitigation. However, this subsection (4)(b)(vii) is contingent on the enactment by June 30, 2010, of either chapter . . . (Engrossed Substitute Senate Bill No. 6499), Laws of 2010 or chapter . . . (Substitute House Bill No. 2897), Laws of 2010, but if the enacted bill does not designate the department as the toll penalty adjudicating agency, this subsection (4)(b)(vii) is null and void.

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(5) The department may carry out the ~~((construction and))~~ improvements designated in subsection (4) of this section and administer the tolling program on the state route number 520 corridor.

**Sec. 3.** RCW 47.56.875 and 2009 c 472 s 4 are each amended to read as follows:

A special account to be known as the state route number 520 corridor account is created in the state treasury.

(1) Deposits to the account must include:

(a) All proceeds of bonds issued for ~~((construction of the replacement state route number 520 floating bridge and necessary landings))~~ the state route number 520 bridge replacement and HOV program, including any capitalized interest;

(b) Except as provided in RCW 47.56.870(4)(b)(vii), all of the tolls and other revenues received from the operation of the state route number 520 corridor as a toll facility, to be deposited at least monthly;

(c) Any interest that may be earned from the deposit or investment of those revenues;

(d) Notwithstanding RCW 47.12.063, proceeds from the sale of any surplus real property acquired for the ~~((purpose of building the replacement state route number 520 floating bridge and necessary landings))~~ state route number 520 bridge replacement and HOV program; and

(e) All damages, liquidated or otherwise, collected under any contract involving the ~~((construction of the replacement state route number 520 floating bridge and necessary landings))~~ state route number 520 bridge replacement and HOV program.

(2) Subject to the covenants made by the state in the bond proceedings authorizing the issuance and sale of bonds for the ~~((replacement state route number 520 floating bridge and necessary landings))~~ state route number 520 bridge replacement and HOV program, toll charges, other revenues, and interest received from the operation of the state route number 520 corridor as a toll facility may be used to:

(a) Pay any required costs allowed under RCW 47.56.820; and

(b) Repay amounts to the motor vehicle fund as required.

(3) When repaying the motor vehicle fund, the state treasurer shall transfer funds from the state route number 520 corridor account to the motor vehicle fund on or before each debt service date for bonds issued for the ~~((replacement state route number 520 floating bridge project and necessary landings))~~ state route number 520 bridge replacement and HOV program in an amount sufficient to repay the motor vehicle fund for amounts transferred from that fund to the highway bond retirement fund to provide for any bond principal and interest due on that date. The state treasurer may establish subaccounts for the purpose of segregating toll charges, bond sale proceeds, and other revenues.

**NEW SECTION. Sec. 4.** A new section is added to chapter 47.56 RCW to read as follows:

(1) A special account to be known as the state route number 520 civil penalties account is created in the state treasury. All state route number 520 bridge replacement and HOV program civil penalties generated from the nonpayment of tolls on the state route number 520 corridor must be deposited into the account, as provided under RCW 47.56.870(4)(b)(vii). Moneys in the account may be spent only after appropriation. Expenditures from the account may be used to fund any project within the state route number 520 bridge replacement and HOV program, including mitigation.

(2) This section is contingent on the enactment by June 30, 2010, of either chapter . . . (Engrossed Substitute Senate Bill No. 6499), Laws of 2010 or chapter . . . (Substitute House Bill No. 2897), Laws of 2010, but if the enacted bill does not designate the department as the toll penalty adjudicating agency, this section is null and void."

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Senators Haugen and Swecker spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Haugen to Substitute Senate Bill No. 6392.

The motion by Senator Haugen carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "corridor;" strike the remainder of the title and insert "amending RCW 47.56.870 and 47.56.875; adding a new section to chapter 47.56 RCW; and creating a new section."

MOTION

On motion of Senator Haugen, the rules were suspended, Engrossed Substitute Senate Bill No. 6392 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6392.

Senator Haugen spoke in favor of passage of the bill.

Senator Murray spoke on final passage of the bill.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6392 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 3; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Marr, McAuliffe, Morton, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Kohl-Welles, McDermott and Murray

Excused: Senators McCaslin and Regala

ENGROSSED SUBSTITUTE SENATE BILL NO. 6392, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6499, by Senators Murray and Haugen

Concerning the administration, collection, use, and enforcement of tolls.

MOTION

On motion of Senator Haugen, Substitute Senate Bill No. 6499 was substituted for Senate Bill No. 6499 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Haugen moved that the following amendment by Senator Murray be adopted:

On page 3, beginning on line 31, after "videotape," strike "or other recorded images prepared under this section" and insert "other recorded images, or other records identifying a specific instance of travel prepared under this chapter"

On page 3, line 37, strike "or other recorded image" and insert "other recorded image, or other record identifying a specific instance of travel"

On page 4, line 8, strike "calculation" and insert "collection"

On page 5, beginning on line 26, after "videotape," strike "or other recorded images prepared under this section" and insert "other recorded images, or other records identifying a specific instance of travel prepared under this chapter"

On page 5, line 32, strike "or other recorded image" and insert "other recorded image, or other record identifying a specific instance of travel"

On page 6, line 2, strike "calculation" and insert "collection"

On page 9, line 29, after "videotape," strike "or" and insert "((or))"

On page 9, line 30, after "images" insert ", or other records identifying a specific instance of travel"

On page 9, line 30, after "this" strike "((chapter)) section" and insert "chapter"

On page 9, line 36, after "videotape," strike "or" and insert "((or))"

On page 9, line 37, after "image" insert ", or other record identifying a specific instance of travel"

Senator Haugen spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Murray on page 3, line 31 to Substitute Senate Bill No. 6499.

The motion by Senator Haugen carried and the amendment was adopted by voice vote.

MOTION

Senator Haugen moved that the following amendment by Senator Haugen be adopted:

On page 11, line 4, after "(9)", strike "All" and insert "Except as provided otherwise in this subsection, all"

On page 11, line 11, after "2007," insert the following:

"Additionally, all civil penalties, resulting from nonpayment of tolls on the state route number 520 corridor, shall be deposited into the state route number 520 civil penalties account created under section 4 of Engrossed Substitute Senate Bill No. 6392, but only if Engrossed Substitute Senate Bill No. 6392 is enacted by June 30, 2010."

Senator Haugen spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Haugen on page 11, line 4 to Substitute Senate Bill No. 6499.

The motion by Senator Haugen carried and the amendment was adopted by voice vote.

MOTION

On motion of Senator Haugen, the rules were suspended, Engrossed Substitute Senate Bill No. 6499 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Haugen spoke in favor of passage of the bill.

On motion of Senator McDermott, Senator Eide was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6499.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6499 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Murray

Excused: Senators Eide, McCaslin and Regala

ENGROSSED SUBSTITUTE SENATE BILL NO. 6499, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6745, by Senator Sheldon

Concerning veterinary technician licenses.

The measure was read the second time.

#### MOTION

On motion of Senator Sheldon, the rules were suspended, Senate Bill No. 6745 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Sheldon spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6745.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6745 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SENATE BILL NO. 6745, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SENATE BILL NO. 6790, by Senator Kastama

Providing regional economic development services. Revised for 2nd Substitute: Concerning cluster and innovation partnership zone grants.

#### MOTIONS

On motion of Senator Kastama, Second Substitute Senate Bill No. 6790 was substituted for Senate Bill No. 6790 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator Kastama, the rules were suspended, Second Substitute Senate Bill No. 6790 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6790.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6790 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SECOND SUBSTITUTE SENATE BILL NO. 6790, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

Senator Franklin assumed the chair.

#### SECOND READING

SENATE BILL NO. 6831, by Senator Parlette

Concerning estates and trusts.

#### MOTIONS

On motion of Senator Parlette, Substitute Senate Bill No. 6831 was substituted for Senate Bill No. 6831 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Parlette, the rules were suspended, Substitute Senate Bill No. 6831 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Parlette and Gordon spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6831.

#### ROLL CALL

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## MOTION

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6831 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6831, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5908, by Senators Kohl-Welles, Roach and Keiser

Providing interest arbitration for employees of juvenile court services administered under RCW 13.20.060.

The measure was read the second time.

## MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Senate Bill No. 5908 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5908.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5908 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SENATE BILL NO. 5908, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6275, by Senator Jacobsen

Regarding harbor lines.

The measure was read the second time.

On motion of Senator Jacobsen, the rules were suspended, Senate Bill No. 6275 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Jacobsen and Morton spoke in favor of the passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 6275.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6275 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SENATE BILL NO. 6275, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6277, by Senators Zarelli and Regala

Revising the order of vesting for the right to control disposition of human remains.

The measure was read the second time.

## MOTION

On motion of Senator Zarelli, Substitute Senate Bill No. 6277 was not substituted for Senate Bill No. 6277 and the substitute bill was not adopted.

## MOTION

On motion of Senator Zarelli, the rules were suspended, Senate Bill No. 6277 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Zarelli spoke in favor of passage of the bill.

Senator Hargrove spoke on final passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 6277.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6277 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist,

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Honeyford, Jacobsen, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Kauffman

Excused: Senator McCaslin

SENATE BILL NO. 6277, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6267, by Senators Rockefeller and Honeyford

Regarding water right processing improvements.

### MOTION

On motion of Senator Rockefeller, Second Substitute Senate Bill No. 6267 was substituted for Senate Bill No. 6267 and the second substitute bill was placed on the second reading and read the second time.

### MOTION

Senator Rockefeller moved that the following striking amendment by Senator Rockefeller be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** Water is an essential element for economic prosperity and it generates new, family-wage jobs and state revenues. It is the intent of the legislature to provide both the water right applicants and the department of ecology with the necessary tools to expedite the processing of water right applications depending on the needs of the project and agency workload.

**NEW SECTION. Sec. 2.** Sufficient resources to support the department of ecology's water resource program are essential for effective and sustainable water management that provides certainty to processed applications. The department of ecology shall review current water resource functions and report to the legislature and the governor by September 1, 2010, on improvements to make the program more self-sustaining and efficient.

**Sec. 3.** RCW 90.03.265 and 2003 c 70 s 6 are each amended to read as follows:

(1)(a) Any applicant for a new withdrawal or a change, transfer, or amendment of a water right pending before the department((;)) may initiate a cost-reimbursement agreement with the department to provide expedited review of the application. A cost-reimbursement agreement may ((only)) be initiated under this section if the applicant agrees to pay for, or as part of a cooperative effort agrees to pay for, the cost of processing his or her application and all other applications from the same source of supply which must be acted upon before the applicant's request because they were filed prior to the date of when the applicant filed.

(b) The requirement to pay for the cost of other applications under (a) of this subsection does not apply to an application for a new appropriation that would not diminish the water available to earlier pending applicants for new appropriations from the same source of supply.

(c) The requirement to pay for the cost of processing other applications under (a) of this subsection does not apply to an application for a change, transfer, or other amendment that would not diminish the water available to earlier pending applicants for

changes or transfers from the same source of supply.

(d) In determining whether an application would not diminish the water available to earlier pending applicants, the department shall consider any water impoundment or other water resource management mitigation technique proposed by the applicant under RCW 90.03.255 or 90.44.055.

(e) The department may enter into cost-reimbursement agreements provided resources are available and shall use the process established under RCW 43.21A.690 for entering into cost-reimbursement agreements. The department's share of work related to a cost-reimbursement application, such as final certificate approval, must be prioritized within the framework of other water right processing needs and as determined by agency rule.

(f) Each individual applicant is responsible for his or her own appeal costs that may result from a water right decision made by the department. In the event that the department's approval of an application is appealed under chapter 43.21B RCW by a third party, the applicant for the water right in question must reimburse the department for the cost of defending the decision before the pollution control hearings board unless otherwise agreed to by the applicant and the department. If an applicant appeals either an approval or a denial by the department, the applicant is responsible only for its own appeal costs.

(2) In pursuing a cost-reimbursement project, the department must determine the source of water proposed to be diverted or withdrawn from, including the boundaries of the area that delimits the source. The department must determine if any other water right permit applications are pending from the same source. A water source may include surface water only, groundwater only, or surface and groundwater together if the department finds they are hydraulically connected. The department shall consider technical information submitted by the applicant in making its determinations under this subsection. The department may recover from a cost-reimbursement applicant its own costs in making the same source determination under this subsection.

(3) Upon request of the applicant seeking cost-reimbursement processing, the department may elect to initiate a coordinated cost-reimbursement process. To initiate this process, the department must notify in writing all persons who have pending applications on file for a new appropriation, change, transfer, or amendment of a water right from that water source. A water source may include surface water only, groundwater only, or surface and groundwater together if the department determines that they are hydraulically connected. The notice must be made by way of mail and by publication in a newspaper of general circulation in the area where affected properties are located. The notice must:

(a) Inform those applicants that cost-reimbursement processing of applications within the described water source is being initiated;

(b) Provide to individual applicants the criteria under which the applications will be examined and determined;

(c) Provide to individual applicants the estimated cost for having an application processed;

(d) Provide an estimate of how long the cost-reimbursement process will take before an application is approved or denied; and

(e) Provide at least sixty days for the applicants to respond in writing regarding the applicant's decision to participate in the cost-reimbursement process.

(4) The applicant initiating cost-reimbursement request must pay for the cost of the determination under subsections (2) and (3) of this section and other costs necessary for the initial phase of cost-reimbursement processing. The cost for each applicant for conducting processing under a coordinated cost-reimbursement agreement must be based on the proportionate quantity of water requested by each applicant.

(5) For any cost-reimbursement process under this section, the

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applicant may select the consultant from the department's prequalified consultant's list or may be assigned a prequalified consultant by the department. The applicant may also use its own consultant at the discretion of the department if the consultant meets the requirements in subsection (6) of this section.

(6)(a) If the applicant proposes to use its own consultant for one or more of the work products or reports associated with the work generally performed under a cost-reimbursement agreement, and the department agrees to such use, all investigations, work products, technical reports and analysis, findings, and documentation undertaken by the consultant relating to the application, including preparation of a draft report of examination, is subject to the review, comment, modification, refusal, or approval of the department before being used in the department's decision-making process. At any point during the cost-reimbursement process, the department may request or accept technical information, data, and analysis from the applicant or the applicant's consultant to support the cost-reimbursement process or the department's decision on the application.

(b) The department is authorized to adopt rules or guidance providing: (i) Minimum qualifications and standards for the submission of such technical information; and (ii) technical information, scientific analysis, work product documentation, and report presentation standards that an applicant's consultant must meet.

(7) The department must provide notice to potential consultants of the opportunity to be considered for inclusion on the list of cost-reimbursement consultants to whom work assignments will be made. The department must competitively select an appropriate number of consultants who are qualified by training and experience to investigate and make recommendations on the disposition of water right applications. The consultant list must be renewed at least every six years, though the department may add qualified cost-reimbursement consultants to the list at any time. The department must enter a master contract with each consultant selected and thereafter make work assignments based on availability and qualifications.

(8) The department may remove any consultant from the consultant list for poor performance, malfeasance, or excessive complaints from cost-reimbursement participants. The department may interview any cost-reimbursement consultant to determine whether the person is qualified for this work, and must spot-check the work of consultants to ensure that the public is being competently served.

(9) When assigned or selected for an application or set of applications to investigate, the consultant must document its findings and recommended disposition in the form of written draft reports of examination. Within two weeks of the department receiving the draft reports of examination, an applicant may provide comments to the department on the contents of the report. The department may modify the reports of examination submitted by the consultant. The department's decision on a permit application is final unless it is appealed to the pollution control hearings board under chapter 43.21B RCW.

(10) The department must provide the applicant the opportunity to review and comment on the consultant's findings, technical reports, and preliminary draft reports of examination prior to the completion of final documents by the consultant. The department must consider such comments by the applicant prior to the department's issuance of a draft report of examination.

(11) If an applicant elects not to participate in a cost-reimbursement process, the application remains on file with the department, retains its priority date, and may be processed in the future under regular processing, expedited processing, or through cost-reimbursement.

**NEW SECTION. Sec. 4.** A new section is added to chapter 90.03 RCW to read as follows:

The water rights processing account is created in the state treasury. All receipts from the fees collected under sections 5 and 12 of this act must be deposited into the account. Money in the account may be spent only after appropriation. Expenditures from the account may only be used to support the processing of water right applications for a new appropriation, change, transfer, or amendment of a water right or for the examination, certification, and renewal of certification of water right examiners as provided in this chapter and chapters 90.42 and 90.44 RCW.

**NEW SECTION. Sec. 5.** A new section is added to chapter 90.03 RCW to read as follows:

(1) The department may expedite processing of applications within the same source of water on its own volition when there is interest from a sufficient number of applicants or upon receipt of written requests from at least ten percent of the applicants within the same source of water.

(2) If the conditions of subsection (1) of this section have been met and the department determines that the public interest is best served by expediting applications within a water source, the department must notify in writing all persons who have pending applications on file for a new appropriation, change, transfer, or amendment of a water right from that water source. A water source may include surface water only, groundwater only, or surface and groundwater together if the department determines that they are hydraulically connected. The notice must be made by way of mail and by publication in a newspaper of general circulation in the area where affected properties are located. The notice must:

(a) Inform those applicants that expedited processing of applications with the described water source is being initiated;

(b) Provide to individual applicants the criteria under which the applications will be examined and determined;

(c) Provide to individual applicants the estimated cost for having an application processed on an expedited basis;

(d) Provide an estimate of how long the expedited process will take before an application is approved or denied; and

(e) Provide at least sixty days for the applicants to respond in writing regarding the applicant's decision to participate in the expedited processing of their applications.

(3) In addition to the application fees provided in RCW 90.03.470, the department must recover the full cost of processing all the applications from applicants who elect to participate within the water source through expedited processing fees. The department must calculate an expedited processing fee based primarily on the proportionate quantity of water requested by each applicant and may adjust the fee if it appears that the application will require a disproportionately greater amount of time and effort to process due to its complexity. Any application fees that were paid by the applicant under RCW 90.03.470 must be credited against the applicant's share of the cost of processing applications under the provisions of this section.

(4) The expedited processing fee must be collected by the department prior to the expedited processing of an application. An applicant who has stated in writing that he or she wants his or her application processed using the expedited procedures in this section must transmit the processing fee within sixty days of the written request. Failure to do so will result in the applicant not being included in expedited processing for that water source.

(5) If an applicant elects not to participate in expedited processing, the application remains on file with the department, the applicant retains his or her priority date, and the application may be processed in the future through regular processing, expedited processing, coordinated cost-reimbursement processing, or cost-reimbursement. Such an application may not be processed

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through expedited processing within twelve months after the department's issuance of decisions on participating applications at the conclusion of expedited processing unless the applicant agrees to pay the full proportionate share that would otherwise have been paid during such processing. Any proceeds collected from an applicant under this delayed entry into expedited processing may be used to reimburse the other applicants who participated in the previous expedited processing of applications.

**NEW SECTION. Sec. 6.** A new section is added to chapter 90.03 RCW to read as follows:

The department must provide electronic notice and opportunity for comment to affected federally recognized tribal governments concurrently when providing notice to applicants under RCW 90.03.265 and sections 5 and 12 of this act.

**NEW SECTION. Sec. 7.** A new section is added to chapter 90.03 RCW to read as follows:

(1) The department shall establish and maintain a list of certified water right examiners. Certified water right examiners on the list are eligible to perform final proof examinations of permitted water uses leading to the issuance of a water right certificate under RCW 90.03.330. The list must be updated annually and must be made available to the public through written and electronic media.

(2) In order to qualify, an individual must be registered in Washington as a professional engineer, professional land surveyor, or registered hydrogeologist, or an individual must demonstrate at least five years of applicable experience to the department, or be a board member of a water conservancy board. Qualified individuals must also pass a written examination prior to being certified by the department. Such an examination must be administered by either the department or an entity formally approved by the department. Each certified water right examiner must demonstrate knowledge and competency regarding:

- (a) Water law in the state of Washington;
- (b) Measurement of the flow of water through open channels and enclosed pipes;
- (c) Water use and water level reporting;
- (d) Estimation of the capacity of reservoirs and ponds;
- (e) Irrigation crop water requirements;
- (f) Aerial photo interpretation;
- (g) Legal descriptions of land parcels;
- (h) Location of land and water infrastructure through the use of maps and global positioning;
- (i) Proper construction and sealing of well bores; and
- (j) Other topics related to the preparation and certification of water rights in Washington state.

(3) Except as provided in subsection (9) of this section, upon completion of a water appropriation and putting water to beneficial use, in order to receive a final water right certificate, the permit holder must secure the services of a certified water right examiner who has been tested and certified by the department. The examiner shall carry out a final examination of the project to verify its completion and to determine and document for the permit holder and the department the amount of water that has been appropriated for beneficial use, the location of diversion or withdrawal and conveyance facilities, and the actual place of use. The examiner shall take measurements or make estimates of the maximum diversion or withdrawal, the capacity of water storage facilities, the acreage irrigated, the type and number of residences served, the type and number of stock watered, and other information relevant to making a final determination of the amount of water beneficially used. The examiner shall make photographs of the facilities to document the use or uses of water and the photographs must be submitted with the examiner's report to the department. The department shall specify the format and required content of the reports and may provide a form for that purpose.

(4) The department may suspend or revoke a certification based on poor performance, malfeasance, failure to acquire continuing education credits, or excessive complaints from the examiner's customers. The department may require the retesting of an examiner. The department may interview any examiner to determine whether the person is qualified for this work. The department shall spot-check the work of examiners to ensure that the public is being competently served. Any person aggrieved by an order of the department including the granting, denial, revocation, or suspension of a certificate issued by the department under this chapter may appeal pursuant to chapter 43.21B RCW.

(5) The decision regarding whether to issue a final water right certificate is solely the responsibility and function of the department.

(6) The department shall make its final decision under RCW 90.03.330 within sixty days of the date of receipt of the proof of examination from the certified water right examiner, unless otherwise requested by the applicant.

(7) Each certified water right examiner must complete eight hours annually of qualifying continuing education in the water resources field. The department shall determine and specify the qualifying continuing education and shall inform examiners of the opportunities. The department shall track whether examiners are current in their continuing education and may suspend the certification of an examiner who has not complied with the continuing education requirement.

(8) Each certified water right examiner must be bonded for at least fifty thousand dollars.

(9) The department may waive the requirement to secure the services of a certified water right examiner in situations in which the department deems it unnecessary for purposes of issuing a certificate of water right.

(10) The department shall establish and collect fees for the examination, certification, and renewal of certification of water right examiners. Revenue collected from these fees must be deposited into the water rights processing account created in section 4 of this act. Pursuant to RCW 43.135.055, the department is authorized to set fees for examination, certification, and renewal of certification for water right examiners.

(11) The department may adopt rules appropriate to carry out the purposes of this section.

**Sec. 8.** RCW 90.14.065 and 1987 c 93 s 1 are each amended to read as follows:

(1)(a) Any person or entity, or successor to such person or entity, having a statement of claim on file with the water rights claims registry ~~((on April 20, 1987,))~~ may submit to the department of ecology for filing ~~((;))~~ an amendment to such a statement of claim if the submitted amendment is based on:

~~((4))~~ (i) An error in estimation of the quantity of the applicant's water claim prescribed in RCW 90.14.051 if the applicant provides reasons for the failure to claim such right in the original claim;

~~((2))~~ (ii) A change in circumstances not foreseeable at the time the original claim was filed, if such change in circumstances relates only to the manner of transportation or diversion of the water and not to the use or quantity of such water; or

~~((3))~~ (iii) The amendment is ministerial in nature.

(b) The department shall accept any such submission and file the same in the registry unless the department by written determination concludes that the requirements of (a)(i), (ii), or (iii) of this subsection ~~((4), (2), or (3) of this section))~~ have not been satisfied.

(2) In addition to subsection (1) of this section, a surface water right claim may be changed or transferred in the same manner as a permit or certificate under RCW 90.03.380, and a water right claim for groundwater may be changed or transferred as provided under RCW 90.03.380 and 90.44.100.

(3) Any person aggrieved by a determination of the department

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may obtain a review thereof by filing a petition for review with the pollution control hearings board within thirty days of the date of the determination by the department. The provisions of RCW 90.14.081 shall apply to any amendment filed or approved under this section.

**Sec. 9.** RCW 90.44.100 and 2009 c 183 s 16 are each amended to read as follows:

(1) After an application to, and upon the issuance by the department of an amendment to the appropriate permit or certificate of groundwater right, the holder of a valid right to withdraw public groundwaters may, without losing the holder's priority of right, construct wells or other means of withdrawal at a new location in substitution for or in addition to those at the original location, or the holder may change the manner or the place of use of the water.

(2) An amendment to construct replacement or a new additional well or wells at a location outside of the location of the original well or wells or to change the manner or place of use of the water shall be issued only after publication of notice of the application and findings as prescribed in the case of an original application. Such amendment shall be issued by the department only on the conditions that: (a) The additional or replacement well or wells shall tap the same body of public groundwater as the original well or wells; (b) where a replacement well or wells is approved, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) where an additional well or wells is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original permit or certificate; and (d) other existing rights shall not be impaired. The department may specify an approved manner of construction and shall require a showing of compliance with the terms of the amendment, as provided in RCW 90.44.080 in the case of an original permit.

(3) The construction of a replacement or new additional well or wells at the location of the original well or wells shall be allowed without application to the department for an amendment. However, the following apply to such a replacement or new additional well: (a) The well shall tap the same body of public groundwater as the original well or wells; (b) if a replacement well is constructed, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) if a new additional well is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original water use permit or certificate; (d) the construction and use of the well shall not interfere with or impair water rights with an earlier date of priority than the water right or rights for the original well or wells; (e) the replacement or additional well shall be located no closer than the original well to a well it might interfere with; (f) the department may specify an approved manner of construction of the well; and (g) the department shall require a showing of compliance with the conditions of this subsection (3).

(4) As used in this section, the "location of the original well or wells" of a water right permit or certificate is the area described as the point of withdrawal in the original public notice published for the application for the water right for the well. The location of the original well or wells of a water right claim filed under chapter 90.14 RCW is the area located within a one-quarter mile radius of the current well or wells.

(5) The development and use of a small irrigation impoundment, as defined in RCW 90.03.370(8), does not constitute a change or amendment for the purposes of this section. The exemption expressly provided by this subsection shall not be

construed as requiring an amendment of any existing water right to enable the holder of the right to store water governed by the right.

(6) This section does not apply to a water right involved in an approved local water plan created under RCW 90.92.090 or a banked water right under RCW 90.92.070.

**Sec. 10.** RCW 90.44.100 and 2003 c 329 s 3 are each amended to read as follows:

(1) After an application to, and upon the issuance by the department of an amendment to the appropriate permit or certificate of groundwater right, the holder of a valid right to withdraw public groundwaters may, without losing the holder's priority of right, construct wells or other means of withdrawal at a new location in substitution for or in addition to those at the original location, or the holder may change the manner or the place of use of the water.

(2) An amendment to construct replacement or a new additional well or wells at a location outside of the location of the original well or wells or to change the manner or place of use of the water shall be issued only after publication of notice of the application and findings as prescribed in the case of an original application. Such amendment shall be issued by the department only on the conditions that: (a) The additional or replacement well or wells shall tap the same body of public groundwater as the original well or wells; (b) where a replacement well or wells is approved, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) where an additional well or wells is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original permit or certificate; and (d) other existing rights shall not be impaired. The department may specify an approved manner of construction and shall require a showing of compliance with the terms of the amendment, as provided in RCW 90.44.080 in the case of an original permit.

(3) The construction of a replacement or new additional well or wells at the location of the original well or wells shall be allowed without application to the department for an amendment. However, the following apply to such a replacement or new additional well: (a) The well shall tap the same body of public groundwater as the original well or wells; (b) if a replacement well is constructed, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) if a new additional well is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original water use permit or certificate; (d) the construction and use of the well shall not interfere with or impair water rights with an earlier date of priority than the water right or rights for the original well or wells; (e) the replacement or additional well shall be located no closer than the original well to a well it might interfere with; (f) the department may specify an approved manner of construction of the well; and (g) the department shall require a showing of compliance with the conditions of this subsection (3).

(4) As used in this section, the "location of the original well or wells" of a water right permit or certificate is the area described as the point of withdrawal in the original public notice published for the application for the water right for the well. The location of the original well or wells of a water right claim filed under chapter 90.14 RCW is the area located within a one-quarter mile radius of the current well or wells.

(5) The development and use of a small irrigation impoundment, as defined in RCW 90.03.370(8), does not constitute a change or amendment for the purposes of this section. The exemption expressly provided by this subsection shall not be

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construed as requiring an amendment of any existing water right to enable the holder of the right to store water governed by the right.

**NEW SECTION. Sec. 11.** A new section is added to chapter 90.44 RCW to read as follows:

Applications to appropriate groundwater under a cost-reimbursement agreement must be processed in accordance with RCW 90.03.265 when an applicant requests the assignment of a cost-reimbursement consultant as provided in RCW 43.21A.690.

**NEW SECTION. Sec. 12.** A new section is added to chapter 90.44 RCW to read as follows:

(1) The department may expedite processing of applications within the same source of water on its own volition when there is interest from a sufficient number of applicants or upon receipt of written requests from at least ten percent of the applicants within the same source of water.

(2) If the conditions of subsection (1) of this section have been met and the department determines that the public interest is best served by expediting applications within a water source, the department must notify in writing all persons who have pending applications on file for a new appropriation, change, transfer, or amendment of a water right from that water source. A water source may include surface water only, groundwater only, or surface and groundwater together if the department determines that they are hydraulically connected. The notice must be made by way of mail and by publication in a newspaper of general circulation in the area where affected properties are located. The notice must:

(a) Inform those applicants that expedited processing of applications with the described water source is being initiated;

(b) Provide to individual applicants the criteria under which the applications will be examined and determined;

(c) Provide to individual applicants the estimated cost for having an application processed on an expedited basis;

(d) Provide an estimate of how long the expedited process will take before an application is approved or denied; and

(e) Provide at least sixty days for the applicants to respond in writing regarding the applicant's decision to participate in expedited processing of their applications.

(3) In addition to the application fees provided in RCW 90.03.470, the department must recover the full cost of processing all the applications from applicants who elect to participate within the water source through expedited processing fees. The department must calculate an expedited processing fee based primarily on the proportionate quantity of water requested by each applicant and may adjust the fee if it appears that the application will require a disproportionately greater amount of time and effort to process due to its complexity. Any application fees that were paid by the applicant under RCW 90.03.470 must be credited against the applicant's share of the cost of processing applications under the provisions of this section.

(4) The expedited processing fee must be collected by the department prior to the expedited processing of an application. An applicant who has stated in writing that he or she wants his or her application processed using the expedited procedures in this section must transmit the processing fee within sixty days of the written request. Failure to do so will result in the applicant not being included in expedited processing for that water source.

(5) If an applicant elects not to participate in expedited processing, the application remains on file with the department, the applicant retains his or her priority date, and the application may be processed in the future through regular processing, expedited processing, coordinated cost-reimbursement processing, or cost-reimbursement. Such an application may not be processed through expedited processing within twelve months after the department's issuance of decisions on participating applications at the conclusion of expedited processing unless the applicant agrees to

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pay the full proportionate share that would otherwise have been paid during such processing. Any proceeds collected from an applicant under this delayed entry into expedited processing may be used to reimburse the other applicants who participated in the previous expedited processing of applications.

**NEW SECTION. Sec. 13.** Section 9 of this act expires June 30, 2019.

**NEW SECTION. Sec. 14.** Section 10 of this act takes effect June 30, 2019.

**NEW SECTION. Sec. 15.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Senators Rockefeller and Honeyford spoke in favor of adoption of the striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senators Rockefeller and Honeyford to Second Substitute Senate Bill No. 6267.

The motion by Senator Rockefeller carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "improvements;" strike the remainder of the title and insert "amending RCW 90.03.265, 90.14.065, 90.44.100, and 90.44.100; adding new sections to chapter 90.03 RCW; adding new sections to chapter 90.44 RCW; creating new sections; providing an effective date; and providing an expiration date."

#### MOTION

On motion of Senator Rockefeller, the rules were suspended, Engrossed Second Substitute Senate Bill No. 6267 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller and Honeyford spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Marr, Senator Kauffman was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6267.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6267 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Holmquist and Stevens

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Excused: Senator McCaslin

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6267, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6261, by Senators Marr, Schoesler, Berkey, Zarelli and Hobbs

Addressing utility services collections against rental property.

The measure was read the second time.

MOTION

On motion of Senator Marr, Substitute Senate Bill No. 6261 was not substituted for Senate Bill No. 6261 and the substitute bill was not adopted.

MOTION

Senator Marr moved that the following striking amendment by Senator Marr and others be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 35.21.217 and 1998 c 285 s 1 are each amended to read as follows:

(1) Prior to furnishing utility services, a city or town may require a deposit to guarantee payment for services. However, failure to require a deposit does not affect the validity of any lien authorized by RCW 35.21.290 or 35.67.200. A city or town may determine how to apply partial payments on past due accounts.

(2) A city or town may provide a real property owner or the owner's designee with duplicates of tenant utility service bills, or may notify an owner or the owner's designee that a tenant's utility account is delinquent. However, if an owner or the owner's designee notifies the city or town in writing that a property served by the city or town is a rental property, asks to be notified of a tenant's delinquency, and has provided, in writing, a complete and accurate mailing address, the city or town shall notify the owner or the owner's designee of a tenant's delinquency at the same time and in the same manner the city or town notifies the tenant of the tenant's delinquency or by mail, and the city or town is prohibited from collecting from the owner or the owner's designee any charges for electric light or power services more than four months past due. When a city or town provides a real property owner or the owner's designee with duplicates of tenant utility service bills or notice that a tenant's utility account is delinquent, the city or town shall notify the tenant that it is providing the duplicate bills or delinquency notice to the owner or the owner's designee.

(3) After ~~(January 1, 1999)~~ August 1, 2010, if a city or town fails to notify the owner of a tenant's delinquency after receiving a written request to do so and after receiving the other information required by this subsection, the city or town shall have no lien against the premises for the tenant's delinquent and unpaid charges and is prohibited from collecting the tenant's delinquent and unpaid charges for electric light or power services from the owner or the owner's designee.

(4) When a utility account is in a tenant's name, the owner or the owner's designee shall notify the city or town in writing within fourteen days of the termination of the rental agreement and vacation of the premises. If the owner or the owner's designee fails

to provide this notice, a city or town providing electric light or power services is not limited to collecting only up to four months of a tenant's delinquent charges from the owner or the owner's designee, provided that the city or town has complied with the notification requirements of subsection (3) of this section.

(5) Before disconnecting utility services, a city or town shall determine whether the property served is rental property and if so, whether the customer of record is the real property owner or a tenant. When the city or town has reasonable grounds to believe that the property served is rental property and the customer of record is the real property owner and not the tenant, the city or town shall undertake reasonable efforts to inform the tenant of the impending disconnection at the same time and in the same manner that it notifies the customer of record. This notice must inform the tenant that, upon request, the city or town shall delay the disconnection of services for ten business days to give the tenant an opportunity to resolve the delinquency or dispute with his or her landlord or to arrange for continued service by opening his or her own utility service account. A city or town shall provide utility services to a tenant on the same terms and conditions as other utility customers, without requiring that he or she pay delinquent amounts for services previously provided to the rental property and owed by the landlord or a previous tenant.

**Sec. 2.** RCW 35.21.290 and 1965 c 7 s 35.21.290 are each amended to read as follows:

Except as provided in RCW 35.21.217(4), cities and towns owning their own waterworks, or electric light or power plants shall have a lien against the premises to which water, electric light, or power services were furnished for four months charges therefor due or to become due, but not for any charges more than four months past due(~~(: PROVIDED, That the owner of the premises or the owner of a delinquent mortgage thereon may give written notice to the superintendent or other head of such works or plant to cut off service to such premises accompanied by payment or tender of payment of the then delinquent and unpaid charges for such service against the premises together with the cut off charge, whereupon the city or town shall have no lien against the premises for charges for such service thereafter furnished, nor shall the owner of the premises or the owner of a delinquent mortgage thereon be held for the payment thereof).~~)"

MOTION

Senator Regala moved that the following amendment by Senator Regala and Marr to the striking amendment be adopted:

On page 2, line 15 strike "Before" through "tenant" on line 31 and insert the following, "When the utility account for a rental property is in the owner's name and a city or town has been previously notified that a tenant resides at that property, the city or town shall provide notice of pending disconnection of electric light or power services to such tenant at least ten calendar days prior to disconnection, so that the tenant has an opportunity to resolve the delinquency or dispute with his or her landlord or to arrange for continued service by opening his or her own utility service account. Payment of delinquent amounts due on the owner's utility account at the time of such notice shall be paid by the owner of the rental property and the tenant shall not be required to pay the same"

Senators Regala and Marr spoke in favor of adoption of the amendment to the striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator Regala and Marr on page 2, line 15 to the striking amendment to Senate Bill No. 6261.

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The motion by Senator Regala carried and the amendment was adopted by voice vote.

Senator Marr spoke in favor of adoption of the striking amendment as amended.

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment as amended by Senator Marr and others to Senate Bill No. 6261.

The motion by Senator Marr carried and the striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "property;" strike the remainder of the title and insert "and amending RCW 35.21.217 and 35.21.290."

#### MOTION

On motion of Senator Marr, the rules were suspended, Engrossed Senate Bill No. 6261 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Marr spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6261.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6261 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 1; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Hatfield and Haugen

Absent: Senator Ranker

Excused: Senator McCaslin

ENGROSSED SENATE BILL NO. 6261, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

The President assumed the chair.

#### SECOND READING

SENATE BILL NO. 6308, by Senators Carrell, King, Marr, Stevens, Becker and Roach

Controlling computer access by residents of the special commitment center.

The measure was read the second time.

#### MOTION

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On motion of Senator Carrell, the rules were suspended, Senate Bill No. 6308 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Carrell spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Marr, Senator Prentice was excused.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6308.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6308 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators McCaslin and Prentice

SENATE BILL NO. 6308, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6192, by Senators Marr and Brandland

Providing for modification of the disposition concerning restitution in juvenile cases.

#### MOTIONS

On motion of Senator Marr, Substitute Senate Bill No. 6192 was substituted for Senate Bill No. 6192 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Marr, the rules were suspended, Substitute Senate Bill No. 6192 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Marr spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Kauffman, Senator Kline was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6192.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6192 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray,

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Oemig, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Kline, McCaslin and Prentice

SUBSTITUTE SENATE BILL NO. 6192, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6584, by Senators Fraser, Swecker, Keiser, Schoesler, Roach, McDermott and Shin

Applying the prohibition against unfair practices by insurers and their remedies and penalties to the state health care authority. Revised for 1st Substitute: Monitoring and reporting customer complaints and appeals to the state health care authority.

MOTIONS

On motion of Senator Fraser, Substitute Senate Bill No. 6584 was substituted for Senate Bill No. 6584 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Fraser, the rules were suspended, Substitute Senate Bill No. 6584 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fraser and Pflug spoke in favor of the passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6584.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6584 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yeas: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Kline, McCaslin and Prentice

SUBSTITUTE SENATE BILL NO. 6584, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

RULING BY THE PRESIDENT

President Owen: "In ruling on the inquiry raised by Senator Benton as to the application of Initiative Number 960 to Engrossed Substitute Senate Bill 5912, the President finds and rules as follows:

At issue is the imposition of a three-dollar fee on certain court filings, the proceeds of which will be used to publicly fund Supreme Court campaigns. While this measure's goal of enhancing the integrity of our Supreme Court is laudable, the President believes that this purpose is of overall benefit to society at large. While a filing charge paying for a judicial

purpose—such as the daily functioning of the courts—would very likely be a fee, paying for campaigns seems only remotely connected with the operations of the courts. It is possible, for example, that a candidate who benefits from the fee by having his or her campaign paid for with public funds would not prevail in the election, never even serving on the bench. This broader social purpose of publicly-funded campaigns, arguably of great benefit to the general public, is not sufficiently connected to the fee and those paying it. The nexus between those paying and the benefit is too indirect, and thus this charge is more properly considered a tax under the provisions of I-960.

For these reasons, this measure will need a two-thirds vote of this body for final passage.

SECOND READING

SENATE BILL NO. 6371, by Senators McDermott and Berkey

Concerning money transmitters.

MOTIONS

On motion of Senator McDermott, Substitute Senate Bill No. 6371 was substituted for Senate Bill No. 6371 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator McDermott, the rules were suspended, Substitute Senate Bill No. 6371 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McDermott spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6371.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6371 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 5; Absent, 1; Excused, 1.

Voting yeas: Senators Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nays: Senators Becker, Benton, Holmquist, Roach and Stevens

Absent: Senator Brown

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6371, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6540, by Senators Fairley, Swecker, King, Parlette, Fraser, Pridemore, Shin and Roach

Transferring the combined fund drive from the department of personnel to the secretary of state.

The measure was read the second time.

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## MOTION

On motion of Senator Fairley, the rules were suspended, Senate Bill No. 6540 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fairley spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6540.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6540 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SENATE BILL NO. 6540, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6524, by Senators King, Kohl-Welles, Kastama, Holmquist, Keiser, Honeyford, Regala, Franklin, McDermott, Hewitt and Kline

Addressing unemployment insurance penalties and contribution rates for employers who are not "qualified employers."

## MOTIONS

On motion of Senator King, Substitute Senate Bill No. 6524 was substituted for Senate Bill No. 6524 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator King, the rules were suspended, Substitute Senate Bill No. 6524 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6524.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6524 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker,

Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6524, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6533, by Senators Roach and Gordon

Granting high school credit for learning experiences.

## MOTION

On motion of Senator McAuliffe, Substitute Senate Bill No. 6533 was substituted for Senate Bill No. 6533 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Roach moved that the following amendment by Senators Roach and McAuliffe be adopted:

On page 3, beginning on line 15, after "students" strike "consistent with policies adopted by local school boards under section 3 of this act"

Senator Roach spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Roach and McAuliffe on page 3, line 15 to Substitute Senate Bill No. 6533.

The motion by Senator Roach carried and the amendment was adopted by voice vote.

## MOTION

On motion of Senator McAuliffe, the rules were suspended, Engrossed Substitute Senate Bill No. 6533 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Roach spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6533.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6533 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6533, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

THIRTY SEVENTH DAY, FEBRUARY 16, 2010  
SECOND READING

SENATE BILL NO. 6299, by Senators Schoesler, Hatfield and Shin

Regarding livestock inspection. Revised for 1st Substitute:  
Regarding animal inspections.

#### MOTIONS

On motion of Senator Schoesler, Substitute Senate Bill No. 6299 was substituted for Senate Bill No. 6299 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Schoesler, the rules were suspended, Substitute Senate Bill No. 6299 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Schoesler spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6299.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6299 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker and Tom

Voting nay: Senators Holmquist, Stevens and Zarelli

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6299, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE JOINT RESOLUTION NO. 8225, by Senators Fraser, Brandland and Prentice

Resolving to define "interest" in the state Constitution.

The measure was read the second time.

#### MOTION

On motion of Senator Fraser, the rules were suspended, Senate Joint Resolution No. 8225 was advanced to third reading, the second reading considered the third and the resolution was placed on final passage.

Senators Fraser and Zarelli spoke in favor of the passage of the resolution.

The President declared the question before the Senate to be the final passage of Senate Joint Resolution No. 8225.

#### ROLL CALL

2010 REGULAR SESSION

The Secretary called the roll on the final passage of Senate Joint Resolution No. 8225 and the resolution passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SENATE JOINT RESOLUTION NO. 8225, having received the constitutional majority, was declared passed.

#### SECOND READING

SENATE BILL NO. 6662, by Senators Kilmer, Roach, Kastama, Keiser, Zarelli and Shin

Regarding developing a curriculum for a career track for home care aides.

#### MOTIONS

On motion of Senator Kilmer, Substitute Senate Bill No. 6662 was substituted for Senate Bill No. 6662 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kilmer, the rules were suspended, Substitute Senate Bill No. 6662 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kilmer spoke in favor of passage of the bill.

Senator Becker spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6662.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6662 and the bill passed the Senate by the following vote: Yeas, 38; Nays, 10; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Tom and Zarelli

Voting nay: Senators Becker, Delvin, Hewitt, Holmquist, Honeyford, Morton, Parlette, Schoesler, Stevens and Swecker

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6662, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6522, by Senators Pflug, Keiser, Swecker, Murray, Honeyford, Kline, Hewitt and Shin

Establishing the accountable care organization pilot projects.

#### MOTION

THIRTY SEVENTH DAY, FEBRUARY 16, 2010

2010 REGULAR SESSION

On motion of Senator Pflug, Substitute Senate Bill No. 6522 was substituted for Senate Bill No. 6522 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Pflug moved that the following amendment by Senators Pflug and Keiser be adopted:

On page 2, after line 19, insert the following:

"(3) The legislature further finds that public-private partnerships and joint projects, such as the Washington patient-centered medical home collaborative administered and funded jointly between the department of health and the Washington academy of family physicians, are research-supported, evidence-based primary care delivery projects that should be encouraged to the fullest extent possible because they improve health outcomes for patients and increase primary care clinical effectiveness, thereby reducing the overall costs in our health care system."

On page 3, line 25, after "payment" insert "and delivery"

On page 3, line 28, after "incentives" strike "." and insert ";"

On page 3, line 31, after "technology;" insert "and"

(iii) Patient-centered medical homes are an integral component to an accountable care organization with a focus on improving patient outcomes, optimizing the use of health care information technology, patient registries, and chronic disease management, thereby improving the primary care team, and achieving cost savings through lowering health care utilization;"

On page 3, line 35, after "care" strike "." and insert ";" and"

On page 4, line 10, after "ongoing" insert "joint project of the"

On page 4, line 10, after "health" insert "and the Washington academy of family physicians patient-centered"

On page 4, line 11, after "collaborative" insert "being put into practice"

Senator Pflug spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Pflug and Keiser on page 2, after line 19 to Substitute Senate Bill No. 6522.

The motion by Senator Pflug carried and the amendment was adopted by voice vote.

## MOTION

Senator Pflug moved that the following amendment by Senator Pflug and others be adopted:

On page 2, line 22, after "shall", insert "within available resources"

Senator Pflug spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Pflug on page 2, line 22 to Substitute Senate Bill No. 6522.

The motion by Senator Pflug carried and the amendment was adopted by voice vote.

## MOTION

On motion of Senator Pflug, the rules were suspended, Engrossed Substitute Senate Bill No. 6522 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pflug and Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6522.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6522 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6522, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 5:01 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Wednesday, February 17, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

THIRTY EIGHTH DAY

MORNING SESSION

Senate Chamber, Olympia, Wednesday, February 17, 2010

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Berkey, Carrell, Delvin, Eide, Fairley, Hargrove, Hewitt, Holmquist, Kastama, Kauffman, Kilmer, McCaslin, Murray, Pflug, Prentice, Pridemore, Ranker, Sheldon, Swecker, Tom and Zarelli.

The Sergeant at Arms Color Guard consisting of Pages Alexander Vaishampayan and Nicholas Vaishampayan, presented the Colors. Rabbi Jim Mirel of Temple B'Nai Torah Church offered the prayer.

MOTION

On motion of Senator McDermott, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator McDermott, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

February 16, 2010

MR. PRESIDENT:

The House has passed:

- SECOND SUBSTITUTE HOUSE BILL 1597,
- ENGROSSED SUBSTITUTE HOUSE BILL 2424,
- ENGROSSED SUBSTITUTE HOUSE BILL 2752,
- SECOND ENGROSSED SUBSTITUTE HOUSE BILL 2912,
- ENGROSSED SUBSTITUTE HOUSE BILL 3040,
- ENGROSSED HOUSE BILL 3168.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

February 16, 2010

MR. PRESIDENT:

The House has passed:

- HOUSE BILL 2701,
- HOUSE BILL 2823,
- SECOND SUBSTITUTE HOUSE BILL 2882,
- ENGROSSED SUBSTITUTE HOUSE BILL 2925,
- HOUSE BILL 2989
- ENGROSSED SUBSTITUTE HOUSE BILL 3179.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator McDermott, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 6858 by Senators Zarelli, Pflug, King, Hewitt, Stevens, Delvin, Schoesler and Parlette

AN ACT Relating to carrying out the state's paramount duty by providing ample, stable, and dependable funding for basic education by shifting a portion of school funding from local levies to the state property tax levy; amending RCW 28A.160.192, 28A.150.260, 84.52.0531, and 84.52.0531; amending 2006 c 119 s 3 (uncodified); amending 2009 c 4 s 909 (uncodified); adding a new section to chapter 28A.160 RCW; adding a new section to chapter 84.52 RCW; adding a new section to chapter 28A.150 RCW; creating a new section; repealing 2009 c 548 s 805 (uncodified); providing effective dates; and providing expiration dates.

Referred to Committee on Ways & Means.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

E2SHB 1418 by House Committee on Education (originally sponsored by Representatives Kagi, Priest, Sullivan, Walsh, Pettigrew, Roberts, Dickerson, Quall, Seaquist, Sells, Appleton, Hunt, Haler, Pedersen, Orwall, Ormsby, Hasegawa, Conway, Kenney, Maxwell, Santos, Probst, Driscoll, Goodman and Nelson)

AN ACT Relating to establishing a statewide dropout reengagement program; amending RCW 28A.305.190 and 28B.15.067; adding new sections to chapter 28A.175 RCW; and creating a new section.

Referred to Committee on Ways & Means.

SHB 1545 by House Committee on Ways & Means (originally sponsored by Representatives Conway, Seaquist, Bailey, Crouse, Hasegawa, Kenney, Simpson, Morrell and Ormsby)

AN ACT Relating to higher education employees' annuities and retirement income plans; and amending RCW 28B.10.400.

Referred to Committee on Ways & Means.

2SHB 1572 by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Hunt, Lias, Appleton, Miloscia and Williams)

AN ACT Relating to all mail elections; amending RCW 29A.04.008, 29A.04.019, 29A.04.128, 29A.04.031, 29A.04.220, 29A.04.255, 29A.04.580, 29A.04.611, 29A.04.470, 29A.08.130, 29A.08.140, 29A.08.440, 29A.08.620, 29A.08.720, 29A.08.775, 29A.08.810, 29A.08.820, 29A.12.085, 29A.12.090, 29A.12.110, 29A.12.160, 29A.16.010, 29A.16.040, 29A.16.060, 29A.16.120, 29A.16.130, 29A.24.081, 29A.24.131, 29A.28.021, 29A.28.061, 29A.32.241, 29A.36.115, 29A.36.131, 29A.36.161, 29A.40.070, 29A.40.080, 29A.40.091, 29A.40.100, 29A.40.110, 29A.40.120, 29A.44.010, 29A.44.030, 29A.44.040, 29A.44.050,

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29A.44.060, 29A.44.070, 29A.44.090, 29A.44.140,  
 29A.44.150, 29A.44.160, 29A.44.170, 29A.44.190,  
 29A.44.205, 29A.44.207, 29A.44.210, 29A.44.225,  
 29A.44.231, 29A.44.260, 29A.44.265, 29A.44.270,  
 29A.44.410, 29A.44.430, 29A.44.490, 29A.44.530,  
 29A.46.260, 29A.48.010, 29A.48.040, 29A.48.060,  
 29A.52.141, 29A.52.311, 29A.52.351, 29A.53.080,  
 29A.56.010, 29A.56.490, 29A.60.010, 29A.60.030,  
 29A.60.050, 29A.60.110, 29A.60.120, 29A.60.160,  
 29A.60.160, 29A.60.170, 29A.60.180, 29A.60.190,  
 29A.60.190, 29A.60.230, 29A.60.235, 29A.64.041,  
 29A.80.041, 29A.84.050, 29A.84.510, 29A.84.550,  
 29A.84.730, 36.83.110, 85.38.125, and 90.72.040; reenacting  
 and amending RCW 29A.40.061, 29A.60.070, and  
 29A.60.165; adding new sections to chapter 29A.04 RCW;  
 adding new sections to chapter 29A.48 RCW; adding a new  
 section to chapter 29A.80 RCW; recodifying RCW  
 29A.40.061, 29A.40.070, 29A.40.080, 29A.40.091,  
 29A.40.100, 29A.40.110, 29A.40.120, 29A.40.150, and  
 29A.44.430; repealing RCW 29A.16.020, 29A.16.030,  
 29A.16.110, 29A.16.140, 29A.16.150, 29A.16.170,  
 29A.40.010, 29A.40.020, 29A.40.030, 29A.40.040,  
 29A.40.050, 29A.40.130, 29A.40.140, 29A.44.020,  
 29A.44.080, 29A.44.110, 29A.44.120, 29A.44.130,  
 29A.44.180, 29A.44.201, 29A.44.221, 29A.44.250,  
 29A.44.280, 29A.44.290, 29A.44.310, 29A.44.320,  
 29A.44.330, 29A.44.340, 29A.44.350, 29A.44.420,  
 29A.44.450, 29A.44.460, 29A.44.470, 29A.44.480,  
 29A.44.510, 29A.44.520, 29A.48.020, 29A.48.030,  
 29A.60.060, 29A.60.200, 29A.84.540, 29A.84.545, and  
 29A.84.680; providing an effective date; and providing an  
 expiration date.

Referred to Committee on Government Operations &  
 Elections.

EHB 1653 by Representative Simpson

AN ACT Relating to clarifying the integration of shoreline  
 management act policies with the growth management act;  
 amending RCW 36.70A.480 and 90.58.030; adding a new  
 section to chapter 90.58 RCW; creating new sections; and  
 declaring an emergency.

Referred to Committee on Environment, Water & Energy.

2SHB 2016 by House Committee on State Government &  
 Tribal Affairs (originally sponsored by Representatives  
 Flannigan, Appleton, Hurst, Miloscia and Hunt)

AN ACT Relating to campaign contribution and disclosure  
 laws; amending RCW 42.17.020, 42.17.367, 42.17.369,  
 42.17.461, 42.17.463, 42.17.350, 42.17.360, 42.17.370,  
 42.17.690, 42.17.380, 42.17.405, 42.17.420, 42.17.450,  
 42.17.030, 42.17.040, 42.17.050, 42.17.060, 42.17.065,  
 42.17.067, 42.17.080, 42.17.090, 42.17.3691, 42.17.093,  
 42.17.100, 42.17.103, 42.17.105, 42.17.550, 42.17.135,  
 42.17.561, 42.17.565, 42.17.570, 42.17.575, 42.17.510,  
 42.17.520, 42.17.540, 42.17.110, 42.17.610, 42.17.640,  
 42.17.645, 42.17.070, 42.17.095, 42.17.125, 42.17.660,  
 42.17.720, 42.17.740, 42.17.790, 42.17.680, 42.17.130,  
 42.17.245, 42.17.150, 42.17.155, 42.17.160, 42.17.170,  
 42.17.172, 42.17.175, 42.17.180, 42.17.190, 42.17.200,  
 42.17.210, 42.17.220, 42.17.230, 42.17.240, 42.17.241,  
 42.17.242, 42.17.390, 42.17.395, 42.17.397, 42.17.400, and

42.56.010; reenacting and amending RCW 42.17.2401;  
 adding a new chapter to Title 42 RCW; creating new sections;  
 recodifying RCW 42.17.010, 42.17.020, 42.17.035,  
 42.17.440, 42.17.367, 42.17.369, 42.17.460, 42.17.461,  
 42.17.463, 42.17.350, 42.17.360, 42.17.370, 42.17.690,  
 42.17.380, 42.17.405, 42.17.420, 42.17.430, 42.17.450,  
 42.17.030, 42.17.040, 42.17.050, 42.17.060, 42.17.065,  
 42.17.067, 42.17.080, 42.17.090, 42.17.3691, 42.17.093,  
 42.17.100, 42.17.103, 42.17.105, 42.17.550, 42.17.135,  
 42.17.561, 42.17.565, 42.17.570, 42.17.575, 42.17.510,  
 42.17.520, 42.17.530, 42.17.540, 42.17.110, 42.17.610,  
 42.17.640, 42.17.645, 42.17.700, 42.17.070, 42.17.095,  
 42.17.120, 42.17.125, 42.17.650, 42.17.660, 42.17.670,  
 42.17.720, 42.17.730, 42.17.740, 42.17.770, 42.17.780,  
 42.17.790, 42.17.680, 42.17.760, 42.17.128, 42.17.130,  
 42.17.710, 42.17.750, 42.17.245, 42.17.150, 42.17.155,  
 42.17.160, 42.17.170, 42.17.172, 42.17.175, 42.17.180,  
 42.17.190, 42.17.200, 42.17.210, 42.17.220, 42.17.230,  
 42.17.240, 42.17.2401, 42.17.241, 42.17.242, 42.17.390,  
 42.17.395, 42.17.397, 42.17.400, 42.17.410, 42.17.900,  
 42.17.910, 42.17.911, 42.17.912, 42.17.920, 42.17.930,  
 42.17.940, 42.17.945, 42.17.950, 42.17.955, 42.17.960,  
 42.17.961, 42.17.962, 42.17.963, 42.17.964, 42.17.965, and  
 42.17.966; repealing RCW 42.17.131, 42.17.362, 42.17.365,  
 42.17.375, 42.17.465, 42.17.467, 42.17.469, 42.17.471,  
 42.17.562, 42.17.620, and 42.17.647; providing an effective  
 date; and declaring an emergency.

Referred to Committee on Government Operations &  
 Elections.

ESHB 2399 by House Committee on Ecology & Parks  
 (originally sponsored by Representatives Upthegrove, Rodne,  
 Finn, Armstrong, Rolfes, Haler, Driscoll, Chase, Morrell,  
 Maxwell, Simpson and Hudgins)

AN ACT Relating to penalties for engaging in, or advertising  
 to engage in, solid waste collection without a solid waste  
 collection certificate; amending RCW 81.77.040 and  
 81.77.090; prescribing penalties; and providing an effective  
 date.

Referred to Committee on Environment, Water & Energy.

SHB 2408 by House Committee on Local Government &  
 Housing (originally sponsored by Representatives Angel, Haler,  
 Schmick, Short, Fagan, McCune, Campbell, Rolfes, Chase and  
 Warnick)

AN ACT Relating to notifying property owners of proposals  
 to modify zoning requirements; adding a new section to  
 chapter 35.21 RCW; adding a new section to chapter 35A.21  
 RCW; adding a new section to chapter 36.70 RCW; and  
 adding a new section to chapter 36.70A RCW.

Referred to Committee on Government Operations &  
 Elections.

SHB 2416 by House Committee on Technology, Energy  
 & Communications (originally sponsored by Representatives  
 Morris, Chase, Eddy, Van De Wege, Morrell, Upthegrove,  
 Simpson, Kenney, Hudgins and Ormsby)

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AN ACT Relating to efficiency standards for consumer products; amending RCW 19.260.030, 19.260.040, and 19.260.050; and reenacting and amending RCW 19.260.020.

Referred to Committee on Environment, Water & Energy.

Referred to Committee on Environment, Water & Energy.

SHB 2471 by House Committee on Technology, Energy & Communications (originally sponsored by Representatives McCoy, Chase and Morris)

E2SHB 2539 by House Committee on Ways & Means (originally sponsored by Representative Upthegrove)

AN ACT Relating to optimizing the collection of source separated materials within the current regulatory structure; amending RCW 70.95.080 and 81.77.185; adding a new section to chapter 81.77 RCW; and creating new sections.

AN ACT Relating to net metering of electricity; and amending RCW 80.60.010, 80.60.020, and 80.60.030.

Referred to Committee on Environment, Water & Energy.

Referred to Committee on Environment, Water & Energy.

ESHB 2541 by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Takko, Orcutt, Kessler, Kretz and Blake)

E2SHB 2480 by House Committee on General Government Appropriations (originally sponsored by Representatives Blake, Warnick, Takko, Upthegrove, Dunshee, Hinkle, Sells, Kretz and Ormsby)

AN ACT Relating to maximizing the ecosystem services provided by forestry through the promotion of the economic success of the forest products industry; amending RCW 76.09.010 and 76.09.040; reenacting and amending RCW 76.09.020; creating new sections; and providing an expiration date.

AN ACT Relating to implementing certain recommendations of the sustainable recreation work group; amending RCW 79.10.140, 4.24.210, and 77.32.010; creating a new section; and prescribing penalties.

Referred to Committee on Natural Resources, Ocean & Recreation.

Referred to Committee on Natural Resources, Ocean & Recreation.

HB 2567 by Representatives Carlyle, Dickerson, Simpson, Anderson, White, Nelson, Sullivan, Kenney, Maxwell, Liias, Pettigrew and Santos

HB 2495 by Representatives White, Roberts, Dickerson, Carlyle, Springer, Miloscia, Nelson, Simpson, Dunshee, Pedersen and Kenney

AN ACT Relating to the excise taxation of publicly owned facilities accredited by the association of zoos and aquariums; adding a new section to chapter 82.04 RCW; and creating a new section.

AN ACT Relating to ballot tabulation; and amending RCW 29A.40.110.

Referred to Committee on Ways & Means.

Referred to Committee on Government Operations & Elections.

ESHB 2571 by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representative Appleton)

ESHB 2496 by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives White, Orwall, Chase, Dickerson, Carlyle, Upthegrove, Springer, Nelson, Simpson, Miloscia, Dunshee and Hunt)

AN ACT Relating to the definition of predatory; and amending RCW 9.94A.030.

AN ACT Relating to ballot design; and amending RCW 29A.36.161.

Referred to Committee on Judiciary.

Referred to Committee on Government Operations & Elections.

2SHB 2603 by House Committee on Ways & Means (originally sponsored by Representatives Smith, Kenney, Bailey, Quall, Morris, Blake, Anderson, Chase, Kelley, Short, Appleton, Sullivan, Dammeier, Upthegrove, Klippert, Chandler, Kristiansen, Rolfes, Pearson, Roach, Parker, Morrell, Haler, Walsh, Orcutt, Johnson, Liias, Hunt, Probst, Ericksen, Moeller, Kretz, Sells, Hope, Herrera and Warnick)

HB 2511 by Representatives Kirby, Blake, Upthegrove, Conway, Van De Wege, Ormsby, Moeller, Campbell and Haigh

AN ACT Relating to violations of state law or agency rule by small businesses; and amending RCW 34.05.110.

AN ACT Relating to motorcycle profiling; and adding a new section to chapter 43.101 RCW.

Referred to Committee on Economic Development, Trade & Innovation.

Referred to Committee on Judiciary.

SHB 2527 by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Morris, Chase, Hudgins and Jacks)

HB 2642 by Representatives Kenney, Probst, Maxwell, Ericks, Conway, Hasegawa, Sullivan, Springer, Pettigrew, Chase, Dickerson, White, Carlyle, Chandler, Rolfes, Hunt and Moeller

AN ACT Relating to the energy facility site evaluation council; and amending RCW 80.50.020, 80.50.030, and 80.50.071.

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AN ACT Relating to wine tasting at farmers markets; amending RCW 66.24.170 and 66.28.040; creating a new section; and providing an expiration date.

Referred to Committee on Labor, Commerce & Consumer Protection.

3SHB 2687 by House Committee on Ways & Means (originally sponsored by Representatives Kagi, Haler, Roberts, Walsh, Goodman, Dickerson, Maxwell, Clibborn, Seaquist, Green, Haigh, Johnson, Kenney, Moeller and Nelson)

AN ACT Relating to creating the home visiting services account; and adding a new section to chapter 43.215 RCW.

Referred to Committee on Early Learning & K-12 Education.

SHB 2704 by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Takko, Hinkle, Appleton, Haler, Rolfes, Van De Wege, Quall, Warnick and Morris)

AN ACT Relating to transferring the Washington main street program to the department of archaeology and historic preservation; amending RCW 35.100.020, 43.360.010, and 82.73.050; reenacting and amending RCW 82.73.010; creating new sections; and providing an effective date.

Referred to Committee on Government Operations & Elections.

HB 2734 by Representatives Kagi, Lias, Chase, Miloscia, Clibborn, Wallace, Maxwell, Nelson, Simpson and Santos

AN ACT Relating to allowing federally qualified community health centers to buy surplus real property from the department of transportation; and amending RCW 47.12.063.

Referred to Committee on Transportation.

ESHB 2756 by House Committee on Finance (originally sponsored by Representatives Driscoll, Parker, Haler, Ormsby, Lias, Pettigrew, Kelley, Sullivan, Green, Moeller, Simpson, Darneille, Morrell, Pearson, Hurst, Chase and Santos)

AN ACT Relating to allowing medicare supplement insurance premiums to be deducted from the calculation of disposable income for the purpose of qualifying for senior property tax programs; reenacting and amending RCW 84.36.383; and creating a new section.

Referred to Committee on Ways & Means.

2SHB 2759 by House Committee on Ways & Means (originally sponsored by Representatives Maxwell, Anderson, Roberts, White, Goodman, Clibborn, Kenney, Hunter, Morrell and Haigh)

AN ACT Relating to adjusting local school finance related to nonresident students enrolled in online learning; amending RCW 84.52.0531 and 84.52.0531; creating a new section; providing an effective date; and providing an expiration date.

Referred to Committee on Ways & Means.

SHB 2789 by House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Chase, Hudgins, Moeller and Simpson)

AN ACT Relating to authorizing issuance of subpoenas for purposes of agency investigations of underground economic activity; amending RCW 51.04.040 and 50.12.130; adding a new section to chapter 82.32 RCW; and creating a new section.

Referred to Committee on Labor, Commerce & Consumer Protection.

E2SHB 2793 by House Committee on Ways & Means (originally sponsored by Representatives Kessler, Walsh, Pedersen, Chase, Williams, Kagi, Moeller, Haigh, Nelson and Simpson)

AN ACT Relating to clarifying and expanding the rights and obligations of state registered domestic partners and other couples related to parentage; amending RCW 26.26.011, 26.26.021, 26.26.041, 26.26.051, 26.26.101, 26.26.106, 26.26.111, 26.26.116, 26.26.130, 26.26.150, 26.26.300, 26.26.305, 26.26.310, 26.26.315, 26.26.320, 26.26.335, 26.26.340, 26.26.360, 26.26.375, 26.26.400, 26.26.405, 26.26.410, 26.26.420, 26.26.425, 26.26.430, 26.26.435, 26.26.445, 26.26.505, 26.26.510, 26.26.525, 26.26.530, 26.26.535, 26.26.540, 26.26.545, 26.26.550, 26.26.555, 26.26.570, 26.26.575, 26.26.585, 26.26.590, 26.26.600, 26.26.620, 26.26.625, 26.26.630, 26.26.700, 26.26.705, 26.26.710, 26.26.715, 26.26.720, 26.26.725, 26.26.730, 26.26.735, 26.26.740, 26.26.903, 26.26.911, and 9A.64.030; adding new sections to chapter 26.26 RCW; creating new sections; and repealing RCW 26.26.210, 26.26.220, 26.26.230, 26.26.240, 26.26.250, and 26.26.260.

Referred to Committee on Government Operations & Elections.

EHB 2805 by Representatives Ormsby, Campbell, Williams, Van De Wege, Simpson, White, Chase, Hasegawa, Rolfes and Conway

AN ACT Relating to public works involving off-site prefabrication; amending RCW 39.04.350; adding a new section to chapter 39.04 RCW; creating a new section; and providing an expiration date.

Referred to Committee on Labor, Commerce & Consumer Protection.

SHB 2818 by House Committee on Environmental Health (originally sponsored by Representatives Chase and Simpson)

AN ACT Relating to reducing the environmental health impact of cleaning in state facilities; and adding a new chapter to Title 70 RCW.

Referred to Committee on Environment, Water & Energy.

EHB 2830 by Representatives Simpson, Bailey, Kirby, Kelley, Rodne and Nelson

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AN ACT Relating to credit union regulatory enforcement powers; amending RCW 31.12.005, 31.12.085, 31.12.267, 31.12.516, 31.12.545, 31.12.565, 31.12.569, 31.12.575, 31.12.585, 31.12.595, 31.12.625, 31.12.651, 31.12.671, 31.12.674, and 31.12.850; adding new sections to chapter 31.12 RCW; prescribing penalties; and declaring an emergency.

Referred to Committee on Financial Institutions, Housing & Insurance.

EHB 2831 by Representatives Simpson, Bailey, Kirby, Kelley, Chase, Wallace, Rodne and Nelson

AN ACT Relating to state-chartered commercial banks, trust companies, savings banks, and their holding companies; amending RCW 30.04.010, 30.04.020, 30.04.030, 30.04.050, 30.04.060, 30.04.070, 30.04.075, 30.04.111, 30.04.127, 30.04.215, 30.04.217, 30.04.450, 30.04.455, 30.04.460, 30.04.470, 30.04.475, 30.12.040, 30.12.042, 30.12.044, 30.12.047, 30.12.070, 30.12.090, 30.12.100, 30.12.190, 30.12.240, 30.44.010, 30.44.020, 30.44.030, 30.44.100, 30.44.110, 30.44.160, 30.44.270, 30.46.010, 32.04.020, 32.04.070, 32.04.100, 32.04.110, 32.04.211, 32.04.220, 32.04.250, 32.04.260, 32.04.270, 32.04.290, 32.08.153, 32.16.090, 32.16.093, 32.16.095, 32.16.097, 32.16.140, 32.20.285, 32.24.040, 32.24.050, 32.24.060, 32.24.070, 32.24.080, and 32.24.090; adding a new section to chapter 23B.01 RCW; adding a new section to chapter 23B.14 RCW; adding a new section to chapter 30.12 RCW; adding a new section to chapter 32.04 RCW; adding a new section to chapter 32.08 RCW; adding a new section to chapter 32.16 RCW; adding a new section to chapter 32.24 RCW; adding a new chapter to Title 32 RCW; repealing RCW 30.04.310; prescribing penalties; and declaring an emergency.

Referred to Committee on Financial Institutions, Housing & Insurance.

2SHB 2867 by House Committee on Ways & Means (originally sponsored by Representatives Kagi, Sells, White, Hunt, Chase, Kessler, Morrell, Van De Wege, Kenney and Hasegawa)

AN ACT Relating to early learning; amending RCW 43.215.005 and 43.215.020; and creating a new section.

Referred to Committee on Early Learning & K-12 Education.

SHB 2884 by House Committee on Local Government & Housing (originally sponsored by Representatives Quall and Morris)

AN ACT Relating to limited expansions of urban growth areas into one hundred year floodplains in areas adjacent to a freeway interchange or interstate in counties wholly or partially bordering salt waters with more than one hundred thousand but fewer than one hundred fifty thousand residents; and reenacting and amending RCW 36.70A.110.

Referred to Committee on Government Operations & Elections.

SHB 2962 by House Committee on Local Government & Housing (originally sponsored by Representatives Probst and Hunter)

AN ACT Relating to allowing county treasurers to use electronic bill presentment and payment that includes an automatic electronic payment option for property taxes; and amending RCW 84.56.020.

Referred to Committee on Government Operations & Elections.

SHB 2990 by House Committee on Local Government & Housing (originally sponsored by Representatives Pettigrew, Santos, Simpson and Kenney)

AN ACT Relating to alternative city assumption and tax authority provisions pertaining to water-sewer districts; amending RCW 35.13A.020, 35.13A.030, and 35.13A.040; adding a new section to chapter 35.21 RCW; adding a new chapter to Title 35 RCW; creating a new section; and providing an expiration date.

Referred to Committee on Ways & Means.

E2SHB 3024 by House Committee on Ways & Means (originally sponsored by Representatives Conway, Morrell, Van De Wege, Williams, Sullivan, Seaquist, Green, Campbell, Simpson, Wood and Nelson)

AN ACT Relating to meal and rest breaks for employees of hospitals; and adding a new section to chapter 49.12 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

ESHB 3048 by House Committee on Ways & Means (originally sponsored by Representatives Cody, Armstrong and Pettigrew)

AN ACT Relating to administration of the medicaid program; and creating a new section.

Referred to Committee on Health & Long-Term Care.

ESHB 3067 by House Committee on Local Government & Housing (originally sponsored by Representatives Williams, Rodne, Springer, Clibborn, Lias, Upthegrove, Priest and Wallace)

AN ACT Relating to establishing a process for the payment of impact fees through provisions stipulated in recorded covenants; and amending RCW 82.02.050 and 36.70A.070.

Referred to Committee on Financial Institutions, Housing & Insurance.

2SHB 3076 by House Committee on Ways & Means (originally sponsored by Representatives Dickerson and Kenney)

AN ACT Relating to evaluations of persons under the involuntary treatment act; amending RCW 71.05.150, 71.05.240, and 71.05.310; reenacting and amending RCW 71.05.020; creating new sections; and providing an expiration date.

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Referred to Committee on Human Services & Corrections.

MOTION

On motion of Senator McDermott, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Substitute House Bill No. 1545 which was referred to the Committee on Ways & Means and Third Substitute House Bill No. 2687 which was referred to the Committee on Early Learning & K-12 Education.

MOTION

On motion of Senator McDermott, the Senate advanced to the eighth order of business.

MOTION

Senator Keiser moved adoption of the following resolution:

SENATE RESOLUTION  
8698

By Senators Keiser, McAuliffe, McDermott, Hobbs, Tom, Oemig, King, Roach, Marr, Kauffman, and Brandland

WHEREAS, Michele Brees graduated from Mt. Rainier High School in the Highline School District and went on to receive her undergraduate degree from Brigham Young University and a graduate degree from Leslie College; and

WHEREAS, Ms. Brees, after teaching for several years in Nevada, then returned and has taught elementary education in the Highline School District; and

WHEREAS, The health and fitness of children is a passion for Michele, which has lead her to create the "WISH Program," an after-school running club that allows students to learn about staying active through running while also teaching them about eating healthy and doing their best; and

WHEREAS, She has taught third through fifth grade classes at Madrona Elementary School for the past nine years, a school where the free and reduced school lunch population is 89.7 percent; and

WHEREAS, In 2007, Michele was named a "Teacher of the Year for Secondary and Elementary Education" in the Highline School District, the first year the District participated in this program sponsored by the Office of the Superintendent of Public Instruction; and

WHEREAS, Michele successfully completed the rigorous National Board Certification in 2009; and

WHEREAS, As a result of her dedication and professionalism, on July 9th, 2009, Michele Brees was named as a recipient of the Presidential Award for Excellence in Mathematics and Science Teaching; and

WHEREAS, This award is presented in a special White House ceremony to the recipients from each of the fifty states; and additionally, recipients receive a 10,000 dollar award from the National Science Foundation; and

WHEREAS, In conferring this award, President Barack Obama stated, "There is no higher calling than furthering the educational advancement of our nation's young people and encouraging and inspiring our next generation of leaders"; and

WHEREAS, Michele continues to contribute to the expansion of excellence in education by opening her classroom for observation and provides math instruction training for her colleagues;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor Michele Brees for her outstanding public service to the students in the Highline School District, her dedication to the students of Washington, and her ongoing promotion of health, fitness, and excellence in math and science; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Washington State Senate, Michele Brees and her family, the Superintendent of the Highline School District, and the Washington State Office of the Superintendent of Public Instruction.

Senators Keiser, McAuliffe, Shin and Kohl-Welles spoke in favor of the adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8698.

The motion by Senator Keiser carried and the resolution was adopted by voice vote.

INTRODUCTION OF SPECIAL GUEST

The President welcomed and introduced Ms. Michele Brees who was present in the gallery.

MOTION

At 10:19 a.m., on motion of Senator McDermott, the Senate adjourned until 12:00 noon, Thursday, February 18, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**THIRTY NINTH DAY**

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NOON SESSION

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Senate Chamber, Olympia, Thursday, February 18, 2010

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

MOTION

On motion of Senator McDermott, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

February 17, 2010

SHB 2443 Prime Sponsor, Committee on Health Care & Wellness: Conforming the uniform controlled substances act to existing state and federal law. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Marr and Parlette.

Passed to Committee on Rules for second reading.

February 17, 2010

HB 2492 Prime Sponsor, Representative Simpson: Addressing shared leave for members of the law enforcement officers' and firefighters' retirement system, plan 2. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Carrell; Fairley; Hobbs; Honeyford; Keiser; Kline; McDermott; Oemig; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

February 17, 2010

HB 2521 Prime Sponsor, Representative Driscoll: Addressing conversion rights upon termination of eligibility for health plan coverage. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Marr and Parlette.

Passed to Committee on Rules for second reading.

February 17, 2010

HB 2540 Prime Sponsor, Representative Cody: Concerning the practice of dentistry. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Marr and Parlette.

Passed to Committee on Rules for second reading.

February 17, 2010

SHB 2620 Prime Sponsor, Committee on Finance: Concerning excise taxation of certain products and services provided or furnished electronically. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Carrell; Fairley; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

February 17, 2010

SHB 2758 Prime Sponsor, Committee on Finance: Documenting wholesale sales for excise tax purposes. (REVISED FOR ENGROSSED: ) Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Carrell; Fairley; Hobbs; Honeyford; Keiser; Kohl-Welles; McDermott; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

February 17, 2010

HB 2858 Prime Sponsor, Representative Appleton: Regarding the purchasing authority of institutions of higher education. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: Do pass. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Hewitt; McAuliffe; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

February 17, 2010

HB 2877 Prime Sponsor, Representative Moeller: Authorizing payment of regulated company stock in lieu of a portion of salary for educational employees. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Zarelli; Carrell; Fairley; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

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HB 2898 Prime Sponsor, Representative Morrell:  
Simplifying medicaid payment for nursing facilities. Reported  
by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by  
Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget  
Chair; Tom, Vice Chair, Operating Budget; Zarelli; Carrell;  
Fairley; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles;  
McDermott; Oemig; Parlette; Pridemore; Regala;  
Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

## MOTION

On motion of Senator McDermott, all measures listed on the  
Standing Committee report were referred to the committees as  
designated.

## MOTION

On motion of Senator McDermott, the Senate advanced to the  
fifth order of business.

## INTRODUCTION AND FIRST READING

SB 6859 by Senator Prentice

AN ACT Relating to fiscal matters.

Referred to Committee on Ways & Means.

SB 6860 by Senator Prentice

AN ACT Relating to fiscal matters.

Referred to Committee on Ways & Means.

SB 6861 by Senator Prentice

AN ACT Relating to education.

Referred to Committee on Ways & Means.

SB 6862 by Senator Prentice

AN ACT Relating to education.

Referred to Committee on Ways & Means.

SB 6863 by Senator Prentice

AN ACT Relating to criminal justice.

Referred to Committee on Ways & Means.

SB 6864 by Senator Prentice

AN ACT Relating to criminal justice.

Referred to Committee on Ways & Means.

SB 6865 by Senator Prentice

AN ACT Relating to public employee health benefits.

Referred to Committee on Ways & Means.

SB 6866 by Senator Prentice

AN ACT Relating to financing public infrastructure.

Referred to Committee on Ways & Means.

SB 6867 by Senator Tom

AN ACT Relating to state printing; amending RCW  
1.08.039, 28A.300.040, 28B.10.029, 40.04.090, 40.06.030,  
41.06.142, and 43.08.061; reenacting and amending RCW  
41.06.070; creating new sections; repealing RCW 43.78.010,  
43.78.020, 43.78.030, 43.78.040, 43.78.050, 43.78.070,  
43.78.080, 43.78.090, 43.78.100, 43.78.105, 43.78.110,  
43.78.170, 15.24.085, 15.62.190, 16.67.170, 40.04.030, and  
40.07.050; and providing an effective date.

Referred to Committee on Ways & Means.

## INTRODUCTION AND FIRST READING OF HOUSE BILLS

ESHB 2424 by House Committee on Public Safety &  
Emergency Preparedness (originally sponsored by  
Representatives O'Brien, Pearson, Hurst, Takko, Herrera,  
Chandler, Ross, Rodne, Dammeier, Condotta, Shea, Klippert,  
Smith, Walsh, Parker, McCune, Campbell, Johnson, Eddy,  
Morrell, Kelley, Short, Sullivan, Conway, Kagi, Roach,  
Kristiansen, Bailey, Haler, Schmick, Ericks, Warnick, Ormsby,  
Moeller and Hope)

AN ACT Relating to protecting children from sexual  
exploitation and abuse; amending RCW 9.68.001,  
9.68A.110, 9.68A.011, 9.68A.050, 9.68A.060, and  
9.68A.070; reenacting and amending RCW 9.94A.515;  
adding a new section to chapter 9.68A RCW; and prescribing  
penalties.

Referred to Committee on Judiciary.

HB 2701 by Representative Taylor

AN ACT Relating to the time of commencement of regular  
legislative sessions; and amending RCW 44.04.010.

Referred to Committee on Government Operations &  
Elections.

ESHB 2752 by House Committee on Early Learning &  
Children's Services (originally sponsored by Representatives  
Dickerson, Orwall, Walsh, Goodman, Kagi, Roberts, Pedersen,  
Green, Santos and Nelson)

AN ACT Relating to the safety of runaway youth; amending  
RCW 13.32A.082; and creating a new section.

Referred to Committee on Human Services & Corrections.

HB 2823 by Representatives Kristiansen, Armstrong,  
Blake and Kelley

AN ACT Relating to permitting retired participants to resume  
volunteer firefighter, emergency worker, or reserve officer

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service; amending RCW 41.24.010; and adding a new section to chapter 41.24 RCW.

Referred to Committee on Government Operations & Elections.

Referred to Committee on Ways & Means.

ESHB 3179 by House Committee on Finance (originally sponsored by Representatives Springer and Ericks)

2SHB 2882 by House Committee on Ways & Means (originally sponsored by Representatives Klippert, Green, Dammeier, Dickerson, Kelley, Wallace and McCune)

AN ACT Relating to local excise tax provisions for counties and cities; amending RCW 82.14.450, 82.14.460, 82.14.340, 82.12.010, 82.14.230, and 9.46.113; and repealing 2009 c 551 s 12 (uncodified).

AN ACT Relating to detaining persons with mental disorders; amending RCW 70.96B.045, 71.05.050, and 71.05.153; creating new sections; and providing an expiration date.

Referred to Committee on Ways & Means.

Referred to Committee on Human Services & Corrections.

MOTION

2ESHB 2912 by House Committee on Finance (originally sponsored by Representatives Quall, Carlyle, O'Brien, Ericks, Dunshee, Sullivan, Blake, Jacks, Hunter and Maxwell)

On motion of Senator McDermott, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

AN ACT Relating to modifying local excise taxes in counties that have pledged lodging tax revenues for the payment of bonds prior to June 26, 1975; amending RCW 67.28.180, 82.14.0485, 82.14.049, 82.14.0494, 82.14.360, 36.38.010, and 36.100.220; adding a new section to chapter 67.28 RCW; and providing an effective date.

MOTION

On motion of Senator McDermott, the Senate advanced to the eighth order of business.

Referred to Committee on Ways & Means.

MOTION

Senator Fraser moved adoption of the following resolution:

ESHB 2925 by House Committee on Ways & Means (originally sponsored by Representatives Kretz, Short and Condotta)

SENATE RESOLUTION

8699

AN ACT Relating to impact payments of a municipally owned hydroelectric facility; amending RCW 35.21.420 and 35.21.425; and declaring an emergency.

By Senators Fraser, Jacobsen, Swecker, Haugen, Becker, Hargrove, Sheldon, and Carrell

Referred to Committee on Government Operations & Elections.

WHEREAS, Intercity Transit which serves Olympia, Lacey, Tumwater, Yelm, and Thurston County, received the American Public Transportation Association's highest honor in 2009, being honored as the best transportation system in the nation for its size community; and

HB 2989 by Representatives Moeller and Cody

AN ACT Relating to respiratory care practitioners; and amending RCW 18.89.020 and 18.89.040.

WHEREAS, Intercity Transit was also honored by The Federal Transit Administration in 2009 with its "Success in Enhancing Transit Ridership Award"; and

Referred to Committee on Health & Long-Term Care.

WHEREAS, Intercity Transit's employee training has won national recognition and has resulted in a well-trained, customer service-oriented workforce; and

ESHB 3040 by House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Wood, Appleton, Rolfes, Sells, Sullivan and Finn)

AN ACT Relating to the licensing of appraisal management companies; reenacting and amending RCW 18.235.020; adding a new chapter to Title 18 RCW; and providing an effective date.

WHEREAS, Intercity Transit provides high quality Dial-A-Lift service for persons with disabilities that exceeds the requirements of the Americans with Disabilities Act, providing over 150,000 trips per year; and

Referred to Committee on Labor, Commerce & Consumer Protection.

WHEREAS, Intercity Transit operates over 185 vanpools which take over 1,000 vehicles per day off the state's busiest highways; and

EHB 3168 by Representatives Orcutt and McCune

AN ACT Relating to providing taxpayers additional appeal protections for value changes; amending RCW 84.40.038; and creating a new section.

WHEREAS, Intercity Transit coordinates services with Pierce Transit, Mason County Transit, Grays Harbor Transit, Sound Transit, and Amtrak to provide regional access to its citizens; and

WHEREAS, 80 percent of all Intercity Transit riders use transit to get to work, school, shopping, or personal business - directly supporting the economy; and

WHEREAS, 5 million trips were taken on Intercity Transit services in 2009; and

WHEREAS, Intercity Transit's 30 million dollar operating budget contributes to the economy by providing 288 jobs, with a multiplier effect of 1,230 additional jobs, and its 12 million dollar capital investment work creates an additional 492 jobs; and

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WHEREAS, Intercity Transit's creativity is shown in many ways, including bicycle commuter contests, travel training, youth programs, and Village Vans bus driver employment training and programs; and

WHEREAS, Intercity Transit showed great leadership and environmental stewardship in being one of the first transit systems in the United States to use biodiesel to fuel its entire transit fleet, reducing air pollution, gas consumption, and harmful emissions;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor Intercity Transit's national recognitions and celebrate its continued service to the people of the State of Washington and its dedication to the protection of our environment, and its well-trained, highly motivated, customer-focused, community-minded employees committed to the quality of life of Washingtonians.

Senator Fraser spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8699.

The motion by Senator Fraser carried and the resolution was adopted by voice vote.

#### MOTION

Senator Kohl-Welles moved adoption of the following resolution:

#### SENATE RESOLUTION 8700

By Senators Kohl-Welles, Pridemore, Berkey, Kline, McAuliffe, Delvin, Parlette, Ranker, Keiser, Honeyford, Hobbs, Oemig, Prentice, Fraser, Franklin, Eide, and Shin

WHEREAS, People of all ethnic and cultural heritage live in Washington State, sharing their traditions, histories, and cultures with the citizens of our state; and

WHEREAS, The State of Washington recognizes the great cultural contributions made by the many generations and individuals of Norwegian descent residing in our state, particularly in Ballard; and

WHEREAS, Since 1889, the greater Seattle area and beyond have joined in celebrating Norway's Constitution Day on the 17th of May by hosting a 17th of May, or "Syttende Mai," Festival and parade in Ballard to honor the day in 1814 when Norway declared its independence by signing its Constitution; and

WHEREAS, The Ballard May 17th parade is one of the largest ethnic parades in the United States and the largest May 17th Parade outside of Oslo, Norway; and

WHEREAS, On the 17th of May the Ballard community will join together to participate in a wide range of cultural festivities and events in celebration of all that is Norwegian;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor Norway's National Day, May 17, 2010, and encourage all citizens of Washington state to join in celebrating the culture and heritage of Norway; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Norwegian 17th of May Committee and to the Nordic Heritage Museum.

Senator Kohl-Welles spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8700.

The motion by Senator Kohl-Welles carried and the resolution was adopted by voice vote.

#### MOTION

Senator Kohl-Welles moved adoption of the following resolution:

#### SENATE RESOLUTION 8701

By Senators Kohl-Welles, Kline, Ranker, McAuliffe, Delvin, Keiser, McDermott, Regala, Brandland, Honeyford, Hobbs, Prentice, Franklin, Eide, Shin, Holmquist, Haugen, and Fraser

WHEREAS, The Washington state commercial fishing fleet begins leaving in March for the Pacific and Alaskan waters, and the Blessing of the Fleet will occur March 14, 2010, at Fisherman's Terminal in Ballard; and

WHEREAS, This is the 82nd year that the Ballard First Lutheran Church has held the blessing; and

WHEREAS, The Washington state commercial fishing fleet begins leaving Blaine waters in May, and the Blessing of the Fleet will occur at Saw Tooth Dock in Blaine Harbor, May 2, 2010; and

WHEREAS, The Washington state commercial fishing fleet is one of the world's largest distant water fleets; and

WHEREAS, The commercial fishing industry directly and indirectly employs thousands of people and is one of the largest industries in Washington state; and

WHEREAS, The harvest annually contributes significantly to the Washington state economy; and

WHEREAS, The life of a fisher is fraught with danger and hardship that most people will never face; and

WHEREAS, Strength and courage are requirements for anyone who chooses to work on the sea, braving the elements in order to harvest the ocean's resources; and

WHEREAS, The men and women who work on fishing boats, at times in dangerous circumstances, deserve our admiration, thanks, and, when tragedy strikes, our remembrance; and

WHEREAS, Too often fishers lose their lives, devastating not only the close-knit community of fishing families in our region, but also our entire state;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate extend its condolences to the families and friends of all our fishers who have lost their lives at sea, wish the entire commercial fishing fleet a safe and prosperous season, and express its hope that all of our fishers will return home safely to their families, friends, and communities.

Senator Kohl-Welles spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8701.

The motion by Senator Kohl-Welles carried and the resolution was adopted by voice vote.

#### INTRODUCTION OF SPECIAL GUEST

The President welcomed and introduced Mike Harbour, General Manager of Intercity Transit, who was seated in the gallery.

#### MOTION

Senator Kohl-Welles moved adoption of the following resolution:

THIRTY NINTH DAY, FEBRUARY 18, 2010  
SENATE RESOLUTION  
8702

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By Senators Kohl-Welles, Delvin, Kline, Keiser, Regala,  
Parlette, Prentice, Holmquist, Murray, Pridemore, McDermott,  
Hobbs, Ranker, Tom, and Shin

WHEREAS, Pets provide companionship to more than 71 million households in the United States; and

WHEREAS, In the United States of America approximately five million cats and dogs are euthanized each year, although many of them are healthy and adoptable; and

WHEREAS, Washington state animal shelters and humane societies euthanize approximately sixty thousand cats and dogs each year, many of whom are healthy and adoptable, due to a lack of critical resources, public awareness, and availability of good homes; and

WHEREAS, Over 56 percent of dogs and puppies entering shelters are euthanized, based on reports from over 1,055 facilities across America; and

WHEREAS, Over 70 percent of cats and kittens entering shelters are euthanized, based on reports from over 1,055 facilities across America; and

WHEREAS, This tragic overpopulation of pets costs citizens and taxpayers of this country tens of millions of dollars annually through animal service and control programs aimed at coping with the millions of homeless animals; and

WHEREAS, There are an estimated 1.5 million unaltered cats and dogs currently in Washington state; and

WHEREAS, Spaying and neutering has been shown to dramatically reduce the overpopulation of pets and feral cats, proving to be a wise investment in saving animal lives and taxpayer dollars; and

WHEREAS, There are several organizations in Washington currently providing to the public low cost spay and neuter programs; and

WHEREAS, Veterinarians, national and local animal protection organizations, and private citizens have joined together again to advocate the spaying and neutering of pets and feral cats on "Spay Day 2010";

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor those persons and organizations participating in "Spay Day 2010" to assist in reducing overpopulation of pets and feral cats.

Senator Kohl-Welles spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8702.

The motion by Senator Kohl-Welles carried and the resolution was adopted by voice vote.

#### INTRODUCTION OF SPECIAL GUEST

The President welcomed Dan Paul, Washington State Director, The Humane Society of the U. S. who was seated in the gallery.

#### MOTION

At 12:14 p.m., on motion of Senator McDermott, the Senate adjourned until 10:00 a.m. Friday, February 19, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**FORTIETH DAY**

**MORNING SESSION**

Senate Chamber, Olympia, Friday, February 19, 2010

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Brown, Delvin, Eide, Fairley, Hargrove, Hewitt, Hobbs, Holmquist, Jacobsen, Marr, McCaslin, Oemig, Prentice, Pridemore, Ranker, Regala, Sheldon, Tom and Zarelli.

The Sergeant at Arms Color Guard consisting of Pages Ina Dash and Jefferson Lee, presented the Colors. Senator Kline offered the prayer.

**MOTION**

On motion of Senator McDermott, the reading of the Journal of the previous day was dispensed with and it was approved.

**MOTION**

There being no objection, the Senate advanced to the first order of business.

**REPORTS OF STANDING COMMITTEES**

February 17, 2010

HB 1785 Prime Sponsor, Representative Armstrong: Concerning the chief for a day program. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Berkey; Delvin; Hatfield; Kauffman; Kilmer and King.

Passed to Committee on Rules for second reading.

February 18, 2010

SHB 2420 Prime Sponsor, Committee on Community & Economic Development & Trade: Promoting industries that rely on the state's working land base. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: Do pass as amended. Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli; Delvin; Eide and Kilmer.

Passed to Committee on Rules for second reading.

February 17, 2010

SHB 2429 Prime Sponsor, Committee on Commerce & Labor: Addressing the resale of motor vehicles previously determined as having nonconformities. Reported by Committee on Transportation

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Berkey; Delvin; Hatfield; Kauffman; Kilmer and King.

Passed to Committee on Labor, Commerce & Consumer Protection.

February 18, 2010

SHB 2430 Prime Sponsor, Committee on Health Care & Wellness: Concerning cardiovascular invasive specialists. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Fairley; Murray and Parlette.

Passed to Committee on Rules for second reading.

February 18, 2010

HB 2435 Prime Sponsor, Representative Green: Concerning midwives. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Fairley; Murray and Parlette.

Passed to Committee on Rules for second reading.

February 18, 2010

HB 2605 Prime Sponsor, Representative Driscoll: Concerning billing for anatomic pathology services. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Fairley and Parlette.

Passed to Committee on Rules for second reading.

February 18, 2010

2SHB 2670 Prime Sponsor, Committee on Ways & Means: Restoring the school district levy base. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; Oemig, Vice Chair, K-12; King; Hobbs; Holmquist and McDermott.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Roach.

Passed to Committee on Ways & Means.

February 18, 2010

2SHB 2759 Prime Sponsor, Committee on Ways & Means: Adjusting local school finance related to nonresident students enrolled in online learning. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass as amended. Signed by Senators McAuliffe, Chair; Oemig, Vice Chair, K-12; King; Hobbs; Holmquist; McDermott and Roach.

Passed to Committee on Ways & Means.

February 18, 2010

SHB 2841 Prime Sponsor, Committee on Health Care & Wellness: Concerning the standard health questionnaire. Reported by Committee on Health & Long-Term Care

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MAJORITY recommendation: Do pass as amended. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Fairley; Murray and Parlette.

The House has passed:  
HOUSE BILL NO. 2697.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

Passed to Committee on Rules for second reading.

MOTION

February 18, 2010  
SHB 2893 Prime Sponsor, Committee on Education Appropriations: Changing school levy provisions. Reported by Committee on Early Learning & K-12 Education

On motion of Senator McDermott, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King; Hobbs and McDermott.

SB 6868 by Senator Hargrove

AN ACT Relating to the reasons for which a manifest injustice disposition may be imposed upon a juvenile offender; amending RCW 13.40.150, 13.40.160, and 13.40.165; and providing an effective date.

MINORITY recommendation: Do not pass. Signed by Senator Holmquist.

Referred to Committee on Human Services & Corrections.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Roach.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

Passed to Committee on Ways & Means.

E2SHB 1597 by House Committee on Finance (originally sponsored by Representatives Springer and Hunter)

February 18, 2010  
SHB 2933 Prime Sponsor, Committee on Finance: Modifying sales and use tax provisions for the local infrastructure financing tool program. Reported by Committee on Economic Development, Trade & Innovation

AN ACT Relating to improving the administration of state and local tax programs without impacting tax collections by providing greater consistency in numerous tax incentive programs, revising provisions relating to the confidentiality and disclosure of tax information, and amending statutes to improve clarity and consistency, eliminate obsolete provisions, and simplify administration; amending RCW 42.56.230, 82.16.120, 82.32.480, 82.60.100, 82.62.080, 82.63.070, 82.74.070, 82.75.060, 83.100.210, 39.100.050, 82.04.060, 82.04.190, 82.04.280, 82.04.280, 82.04.3651, 82.04.394, 82.08.010, 82.08.020, 82.08.020, 82.08.0256, 82.08.02573, 82.08.0273, 82.08.0293, 82.08.865, 82.08.700, 82.12.0257, 82.12.040, 82.12.865, 82.14.020, 82.16.110, 82.32.080, 82.32.440, 82.36.440, 82.38.280, 82.62.010, 82.80.120, 83.100.040, 83.100.046, 83.100.046, 29A.36.210, 36.68.525, 36.69.145, 84.36.040, 84.36.381, 84.36.385, 84.37.030, 84.37.902, 84.48.050, 84.52.030, 84.52.070, and 84.52.080; amending 2009 c 461 s 9 (uncodified); reenacting and amending RCW 82.32.330, 82.04.050, 82.04.360, 82.08.050, 82.16.010, 82.32.520, 82.32.730, 84.34.020, and 84.36.383; adding a new section to chapter 35.102 RCW; adding a new section to chapter 82.32 RCW; creating new sections; repealing RCW 84.55.080; providing effective dates; providing expiration dates; and providing a contingent expiration date.

MAJORITY recommendation: Do pass. Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli; Delvin; Eide and Kilmer.

Passed to Committee on Ways & Means.

MOTION

On motion of Senator McDermott, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

On motion of Senator McDermott, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

February 18, 2010

MR. PRESIDENT  
The House has passed:  
ENGROSSED SUBSTITUTE HOUSE BILL 1775,  
ENGROSSED HOUSE BILL 3023,  
ENGROSSED SUBSTITUTE HOUSE BILL 3175.  
and the same are herewith transmitted.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator McDermott, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

MOTION

February 18, 2010

MR. PRESIDENT

On motion of Senator McDermott, the Senate advanced to the eighth order of business.

The motion by Senator Kastama carried and the resolution was adopted by voice vote.

Senator Kastama moved adoption of the following resolution:

SENATE RESOLUTION  
8694

By Senators Kastama, Jacobsen, Haugen, Sheldon, Shin, Franklin, Regala, Murray, Eide, Marr, McDermott, Hobbs, Kilmer, Berkey, Kauffman, Gordon, McAuliffe, Keiser, Kohl-Welles, Roach, Becker, Stevens, and Carrell

WHEREAS, The annual Daffodil Festival is a cherished tradition for the people of Pierce County and the Northwest; and

WHEREAS, 2010 marks the 77th annual Daffodil Festival; and

WHEREAS, The mission of the Daffodil Festival is to focus national and regional attention on our local area as a place to live and visit; to give citizens of Pierce County a civic endeavor where the "Carousel of Spring" comes alive, fostering civic pride; to give young people and organizations of the local area an opportunity to display their talents and abilities; to give vent to citizens' enthusiasm in parades, pageantry, and events; and to stimulate the business economy through expenditures by and for the Festival and by visitors attracted during Festival Week; and

WHEREAS, The Festival began in 1926 as a modest garden party in Sumner and grew steadily each year until 1934, when flowers, which previously had been largely discarded in favor of daffodil bulbs, were used to decorate cars and bicycles for a short parade through Tacoma; and

WHEREAS, The Festival's 2010 events are ongoing with the 49th Annual Junior Parade on March 27, 2010, the 77th Annual Grand Floral Street Parade on April 10, 2010--winding its way from downtown Tacoma through the communities of Puyallup, Sumner, and Orting and consisting of approximately 40 float entries and over 80 other entries, including bands, marching and mounted units, and floats that are decorated with fresh-cut Daffodils, numbering in the thousands--and will culminate with the 58th Annual Marine parade on April 18, 2010; and

WHEREAS, This year's Festival royalty includes Princesses Emily Lanoce, Bethel High School; Ashley Alvarez, Bonney Lake High School; Mindy Barton, Cascade Christian High School; Crystal Daniels, Chief Leschi High School; Felicia Brown, Clover Park High School; Sara Davis, Curtis High School; Kaitlynn Barratt, Eatonville High School; Jenae Wilczynski, Emerald Ridge High School; Anne Phillips, Fife High School; Celine Mortensen, Franklin Pierce High School; Tresa Turner, Graham-Kapowsin High School; Ilona Trofimovich, Henry Foss High School; Kelly Hewitt, Lakes High School; Cassaunda Myers, Lincoln High School; Christine Smith, Mt. Tahoma High School; Destiny Sternod, Orting High School; Stephanie Clark, Puyallup High School; Victoria Knight, Rogers High School; Kaleigh Barnett, Spanaway Lake High School; Annie Jeong, Stadium High School; Alexandra Montano, Sumner High School; and Sharsten Thompson, Washington High School;

NOW, THEREFORE, BE IT RESOLVED, That the Senate recognize and honor the many contributions made to our state by the Daffodil Festival and its organizers for the past 77 years; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the 2010 Daffodil Festival Officers and to the members of the Festival Royalty.

Senators Kastama, Becker, King, Roach and Franklin spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8694.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Stephanie Clark, the 2010 Daffodil Queen, who was seated at the rostrum.

With permission of the Senate, business was suspended to allow Daffodil Queen Stephanie Clark to address the Senate.

REMARKS BY MISS STEPHANIE CLARK

Stephanie Clark: "Hello, my name is Stephanie Clark and I'm the Princess from Puyallup High School. I would just like to say thank you so much for having us here today. It is an incredible honor and a privilege that we've all been looking forward to. You all welcomed us so graciously this morning. Those words were all very kind and we're all extremely excited to be here. Like it has been said, this is the Daffodil Festival's seventy-seventh spring this year and we are celebrating the 'Carousel of Spring.' The daffodil was introduced into Puyallup and Sumner in the early 1920's and the Valley has shown brighter every day since. Some important days that we have coming on our calendars this year is the spaghetti feed at Puyallup High School on February 26, Daffodil Days at the South Hill Mall on February 27 & 28. The Queen's coronation on March 12 at Four Square Church in Puyallup and then of course the Grand Floral Parade on April 10 which goes through Tacoma, Puyallup, Sumner and Orting. Again, I'd like to thank everybody for having us today, especially Senator Kastama and his aides for organizing and this visit so wonderfully for us. Thank you."

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced representatives of the Daffodil Festival, Daffodil Festival President Karen Baskett; Vice President of Royalty Kathi Baldwin; Queen Mother Kimberly James and Daffodil Festival Officers and the royalty chaperones who were seated in the gallery.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed a group of home school students from Bainbridge Island led by Rebecca Rockefeller, daughter of Senator Rockefeller, who were seated in the gallery.

PERSONAL PRIVILEGE

Senator McDermott: "Thank you Mr. President. I'd like to observe that today is the anniversary of the signing of Executive Order 9066 by Franklin Delano Roosevelt that interned many Americans, particularly Japanese ancestry that we were aware of in our region. German and Italian Americans as well following the outbreak of World War II and America's entrance into it. We need to observe it because it was a time when actually American citizens were interned within our own country, our own borders, for perceived threats to our nation. In fact, the FBI director argued against it believing that true threats had already been captured long before the Executive Order was signed. In a day when we had many young women here who we hope have great roles to achieve in their lives, professionally and personally, I think it's important to recognize that in fact the first lady, Eleanor Roosevelt, had spoken to her husband the President on numerous occasions persuading him not to sign it. Unfortunately he did and I think particularly with people from Bainbridge Island observing

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our work today we need to recognize the anniversary of the signing of Executive Order 9066. Thank you Mr. President.”

MOTION

At 10:25 a.m., on motion of Senator McDermott, the Senate adjourned until 12:00 noon, Monday, February 22, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**FORTY THIRD DAY****NOON SESSION**

Senate Chamber, Olympia, Monday, February 22, 2010

The Senate was called to order at 12:00 noon by the Vice President Pro Tempore. No roll call was taken.

**MOTION**

On motion of Senator McDermott, the reading of the Journal of the previous day was dispensed with and it was approved.

**MOTION**

There being no objection, the Senate advanced to the first order of business.

**REPORTS OF STANDING COMMITTEES**

February 18, 2010

E2SHB 1096 Prime Sponsor, Committee on General Government Appropriations: Enhancing small business participation in state purchasing. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Fairley, Chair; Roach; McDermott and Pridemore.

Passed to Committee on Economic Development, Trade & Innovation.

February 18, 2010

2SHB 1761 Prime Sponsor, Committee on State Government & Tribal Affairs: Addressing the ethical use of legislative web sites. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; McDermott and Pridemore.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Roach.

Passed to Committee on Rules for second reading.

February 19, 2010

ESHB 2399 Prime Sponsor, Committee on Ecology & Parks: Prohibiting and prescribing penalties for engaging in, or advertising to engage in, solid waste collection without a solid waste collection certificate. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Honeyford; Delvin; Fraser; Holmquist; Marr; Morton; Oemig and Ranker.

Passed to Committee on Rules for second reading.

February 18, 2010

SHB 2403 Prime Sponsor, Committee on State Government & Tribal Affairs: Concerning military leave for public employees. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott and Pridemore.

Passed to Committee on Rules for second reading.

February 18, 2010

HB 2406 Prime Sponsor, Representative Kelley: Concerning the joint legislative audit and review committee. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott and Pridemore.

Passed to Committee on Rules for second reading.

February 19, 2010

ESHB 2414 Prime Sponsor, Committee on Judiciary: Authorizing abatement of nuisances involving criminal street gang activity. Reported by Committee on Judiciary

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon; Hargrove; Kohl-Welles and Roach.

Passed to Committee on Government Operations & Elections.

February 19, 2010

HB 2465 Prime Sponsor, Representative Hurst: Concerning breath test instruments approved by the state toxicologist. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon; Hargrove; Kohl-Welles and Roach.

Passed to Committee on Rules for second reading.

February 19, 2010

SHB 2466 Prime Sponsor, Committee on Judiciary: Concerning the regulation of ignition interlock devices by the Washington state patrol. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon; Hargrove; Kohl-Welles and Roach.

Passed to Committee on Rules for second reading.

February 18, 2010

HB 2490 Prime Sponsor, Representative Angel: Concerning persons with intellectual disabilities. Reported by Committee on Government Operations & Elections

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MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Roach; McDermott and Pridemore.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

February 19, 2010

February 19, 2010  
SHB 2515 Prime Sponsor, Committee on Technology, Energy & Communications: Regarding biodiesel fuel labeling requirements. Reported by Committee on Environment, Water & Energy

HB 2676 Prime Sponsor, Representative Chase: Extending the pay back period for certain energy conservation loans. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Honeyford; Delvin; Fraser; Holmquist; Marr; Morton; Oemig and Ranker.

MAJORITY recommendation: Do pass. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Honeyford; Delvin; Fraser; Holmquist; Marr; Morton; Oemig and Ranker.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

February 18, 2010

February 19, 2010

SHB 2525 Prime Sponsor, Committee on Community & Economic Development & Trade: Concerning public facilities districts created by at least two city or county legislative authorities. Reported by Committee on Government Operations & Elections

HB 2677 Prime Sponsor, Representative Chase: Extending the pay back period for certain water conservation loans. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Fairley, Chair; Roach; McDermott and Pridemore.

MAJORITY recommendation: Do pass. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Honeyford; Delvin; Fraser; Holmquist; Marr; Morton; Oemig and Ranker.

Passed to Committee on Economic Development, Trade & Innovation.

Passed to Committee on Rules for second reading.

February 18, 2010

February 18, 2010

ESHB 2538 Prime Sponsor, Committee on Ecology & Parks: Regarding high-density urban development. Reported by Committee on Government Operations & Elections

HB 2707 Prime Sponsor, Representative Simpson: Concerning the method of calculating public utility district commissioner compensation. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Fairley, Chair; Roach; McDermott and Pridemore.

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; McDermott and Pridemore.

Passed to Committee on Environment, Water & Energy.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Roach.

Passed to Committee on Rules for second reading.

February 19, 2010

February 19, 2010

SHB 2657 Prime Sponsor, Committee on Judiciary: Addressing the dissolution of limited liability companies. Reported by Committee on Judiciary

SHB 2745 Prime Sponsor, Committee on Environmental Health: Concerning compliance with the environmental protection agency's renovation, repair, and painting rule in the lead-based paint program. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass as amended. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon; Hargrove; Kohl-Welles and Roach.

MAJORITY recommendation: Do pass. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Honeyford; Delvin; Fraser; Marr; Oemig and Ranker.

Passed to Committee on Rules for second reading.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Holmquist and Morton.

Passed to Committee on Rules for second reading.

February 19, 2010

February 18, 2010

SHB 2661 Prime Sponsor, Committee on Technology, Energy & Communications: Regarding the Washington State University extension energy program's plant operations support program. Reported by Committee on Environment, Water & Energy

HB 2748 Prime Sponsor, Representative Simpson: Concerning dues paid to the Washington public ports association

MAJORITY recommendation: Do pass. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Honeyford; Delvin; Fraser; Holmquist; Marr; Morton; Oemig and Ranker.

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by port districts. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; McDermott and Pridemore.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Roach.

Passed to Committee on Rules for second reading.

February 18, 2010

E2SHB 2793 Prime Sponsor, Committee on Ways & Means: Clarifying and expanding the rights and obligations of state registered domestic partners and other couples related to parentage. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; McDermott and Pridemore.

Passed to Committee on Rules for second reading.

February 18, 2010

ESHB 3179 Prime Sponsor, Committee on Finance: Concerning local excise tax provisions for counties and cities. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Fairley, Chair; Roach; McDermott and Pridemore.

Passed to Committee on Ways & Means.

#### REPORTS OF STANDING COMMITTEES GUBERNATORIAL APPOINTMENTS

February 19, 2010

SGA 9260 TED STURDEVANT, appointed on November 9, 2009, for the term ending at the governors pleasure, as Director of the Department of Ecology. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Honeyford; Fraser; Marr; Morton; Oemig and Ranker.

Passed to Committee on Rules for second reading.

February 18, 2010

SGA 9264 SUSAN DREYFUS, appointed on May 18, 2009, for the term ending at the governors pleasure, as Director of the Department of Social and Health Services. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

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SGA 9265 TOM KARIER, reappointed on January 16, 2010, for the term ending January 15, 2013, as Member of the Northwest Power and Conservation Council. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Honeyford; Delvin; Fraser; Holmquist; Marr; Morton; Oemig and Ranker.

Passed to Committee on Rules for second reading.

#### MOTION

On motion of Senator McDermott, all measures listed on the Standing Committee report were referred to the committees as designated.

#### MOTION

On motion of Senator McDermott, the Senate advanced to the fifth order of business.

#### INTRODUCTION AND FIRST READING

SB 6869 by Senator Prentice

AN ACT Relating to suspending the child support pass-through payment; amending RCW 26.23.035; and providing an effective date.

Referred to Committee on Ways & Means.

SB 6870 by Senator Hargrove

AN ACT Relating to containing costs for services to sexually violent predators; and amending RCW 71.09.050, 71.09.090, 71.09.110, and 71.09.300.

Referred to Committee on Human Services & Corrections.

SB 6871 by Senators Hargrove and Regala

AN ACT Relating to judicial branch and criminal justice funding; amending RCW 3.62.020, 12.40.020, 36.18.018, and 46.63.110; reenacting and amending RCW 3.62.060 and 36.18.020; adding a new section to chapter 48.22 RCW; creating a new section; and providing an effective date.

Referred to Committee on Ways & Means.

SB 6872 by Senator Keiser

AN ACT Relating to medicaid nursing facility payments; amending RCW 74.46.010, 74.46.020, 74.46.431, 74.46.435, 74.46.437, 74.46.439, 74.46.475, 74.46.496, 74.46.501, 74.46.506, 74.46.508, 74.46.511, 74.46.515, 74.46.521, 74.46.835, and 74.46.800; adding a new section to chapter 74.46 RCW; repealing RCW 74.46.030, 74.46.040, 74.46.050, 74.46.060, 74.46.080, 74.46.090, 74.46.100, 74.46.155, 74.46.165, 74.46.190, 74.46.200, 74.46.220, 74.46.230, 74.46.240, 74.46.250, 74.46.270, 74.46.280, 74.46.290, 74.46.300, 74.46.310, 74.46.320, 74.46.330, 74.46.340, 74.46.350, 74.46.360, 74.46.370, 74.46.380, 74.46.390, 74.46.410, 74.46.433, 74.46.445, 74.46.533,

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74.46.600, 74.46.610, 74.46.620, 74.46.625, 74.46.630, 74.46.640, 74.46.650, 74.46.660, 74.46.680, 74.46.690, 74.46.700, 74.46.711, 74.46.770, 74.46.780, 74.46.790, 74.46.820, 74.46.900, 74.46.901, 74.46.902, 74.46.905, and 74.46.906; and declaring an emergency.

Referred to Committee on Ways & Means.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

ESHB 1775 by House Committee on Transportation (originally sponsored by Representatives White, Carlyle, Nelson, Uptegrove and Simpson)

AN ACT Relating to the regulation of certain limousine carriers; amending RCW 46.72A.010, 46.72A.020, 46.72A.030, 46.72A.040, 46.72A.050, 46.72A.060, 46.72A.080, 46.72A.090, 46.72A.100, 46.72A.120, and 46.72A.140; adding a new section to chapter 46.72A RCW; creating a new section; prescribing penalties; and providing an effective date.

Referred to Committee on Transportation.

HB 2697 by Representatives Conway and Condotta

AN ACT Relating to real estate broker licensure fees; amending RCW 18.85.451, 18.85.461, and 18.85.471; providing an effective date; and providing expiration dates.

Referred to Committee on Labor, Commerce & Consumer Protection.

EHB 3023 by Representatives Jacks, Chandler, Kretz, Hunt, Blake and Wallace

AN ACT Relating to consolidating the state's pollution liability insurance agency within the department of ecology; amending RCW 70.148.005, 70.148.010, 70.148.020, 70.148.025, 70.148.030, 70.148.035, 70.148.040, 70.148.050, 70.148.060, 70.148.070, 70.148.080, 70.148.090, 70.148.130, 70.148.140, 70.148.150, 70.148.160, 70.148.170, 70.149.010, 70.149.030, 70.149.040, 70.149.050, 70.149.060, 70.149.090, and 70.149.120; reenacting and amending RCW 43.21B.110; adding a new section to chapter 70.149 RCW; adding a new section to chapter 70.148 RCW; creating a new section; providing an effective date; and providing expiration dates.

Referred to Committee on Environment, Water & Energy.

ESHB 3175 by House Committee on General Government Appropriations (originally sponsored by Representative Darneille)

AN ACT Relating to transferring the office of minority and women's business enterprises into the department of commerce; amending RCW 39.19.020, 39.19.030, 39.19.041, 39.19.060, 39.19.250, 39.19.150, 39.19.200, 39.19.210, 39.19.220, 39.19.230, 42.17.2401, and 43.63A.690; creating a new section; repealing RCW 41.06.082; and providing an effective date.

Referred to Committee on Economic Development, Trade & Innovation.

MOTION

On motion of Senator McDermott, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Engrossed Substitute House Bill No. 3175 which was referred to the Committee on Economic Development, Trade & Innovation.

MOTION

On motion of Senator McDermott, pursuant to rule 46, the Labor, Commerce & Consumer Protection was granted leave to meet during the day's session.

MOTION

On motion of Senator McDermott, the Senate advanced to the eighth order of business.

MOTION

Senator Jacobsen moved adoption of the following resolution:

SENATE RESOLUTION

8696

By Senators Jacobsen and Swecker

WHEREAS, AquaSeed Corporation, a Washington State company, has spent many years developing innovative and environmentally sound salmon production techniques, with the goal of providing more nutritious salmon while using methods that are safe for both people and the environment; and

WHEREAS, Since 1988, AquaSeed has selectively bred a strain of Pacific Coho salmon capable of superior growth in a land based, contained freshwater system, marketed by AquaSeed as SweetSpring Salmon; and

WHEREAS, AquaSeed's SweetSpring Salmon demonstrate extremely low levels of contaminants, as well as high levels of omega-3 fatty acids important for human health; and

WHEREAS, AquaSeed's proprietary production and water conservation system avoid deleterious environmental impacts through innovative and rigorous control of discharge water quality; and

WHEREAS, In recognition of the foregoing, on January 14, 2010, the Monterey Bay Aquarium Seafood Watch Program took the unprecedented step of awarding AquaSeed's SweetSpring Salmon the acclaimed "SuperGreen" designation, denoting the very highest ranking for environmental sustainability and human health; and

WHEREAS, AquaSeed's SuperGreen designation is the first such designation awarded to salmon aquaculture anywhere in the world; and

WHEREAS, Monterey Bay's ranking came after several months of intensive site visits and operational reviews at AquaSeed's Rochester, Washington production facility, and concluded that AquaSeed's fish health, contaminant control, and pollution discharge levels meet the very highest standards; and

WHEREAS, AquaSeed's designation as a SuperGreen company is a groundbreaking achievement that serves as an international model for environmentally sustainable salmon production and was featured in the renowned publication, *Scientific American*; and

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WHEREAS, Pacific salmon conservation efforts led by AquaSeed protect several stocks of threatened Pacific salmon through their Safety-Net Programs; and

WHEREAS, AquaSeed's innovative entrepreneurship provides environmentally sustainable employment opportunities for the citizens of the State of Washington; and

WHEREAS, AquaSeed's conservation and environmental leadership is a credit to the State of Washington and its citizens;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor AquaSeed Corporation as a SuperGreen company, acknowledging AquaSeed's invaluable contribution to environmentally sustainable salmon production, salmon conservation, and rural Washington employment opportunities; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Secretary of the Senate to the Honorable Christine Gregoire, Washington Departments of Agriculture and Ecology, and the President of AquaSeed Corporation.

Senator Jacobsen spoke in favor of adoption of the resolution.

The Vice President Pro Tempore declared the question before the Senate to be the adoption of Senate Resolution No. 8696.

The motion by Senator Jacobsen carried and the resolution was adopted by voice vote.

#### INTRODUCTION OF SPECIAL GUESTS

The Vice President Pro Tempore welcomed and introduced Owner and President of Aquaseed Per Heggelund and wife Mimi Heggelund; and Greg Hudson, Vice President of Production of Aquaseed and wife Holly Hudson who were seated in the gallery.

#### MOTION

At 12:10 p.m., on motion of Senator McDermott, the Senate was recessed until 5:45 p.m.

#### EVENING SESSION

The Senate was called to order at 5:45 p.m. by President Pro Tempore.

The Secretary called the roll and announced to the President Pro Tempore that all members were present with the exception of Senators McCaslin and Pflug.

#### MOTION

On motion of Senator Eide, pursuant to rule 46, the Committees on Judiciary and Financial Institutions, Housing & Insurance committees were granted leave to meet during the following day's floor session. (February 23, 2010).

#### MOTION TO LIMIT DEBATE

Senator Eide: "Madam. President, I move that the members of the Senate be allowed to speak but once on each question before the Senate, that such speech be limited to three minutes and that members be prohibited from yielding their time, however, the maker of a motion shall be allowed to open and close debate. This motion shall be in effect through February 22, 2010."

The President Pro Tempore declared the question before the Senate to be the motion by Senator Eide to limit debate.

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The motion by Senator Eide carried and debate was limited through February 22, 2010 by voice vote.

#### MOTION

At 5:55 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 6:47 p.m. by the President Pro Tempore.

#### MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

#### MESSAGE FROM THE HOUSE

February 17, 2010

MR. PRESIDENT

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6130 with the following amendment: 6130-S.E AMH FIN H5208.1 6130-S.E AMH FIN H5208.1,

On page 1, beginning on line 11, strike all of section 2

Renumber the remaining sections consecutively, correct any internal references accordingly, and correct the title. and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Prentice moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6130.

Senator Prentice spoke in favor of the motion.

Senators Benton and Schoesler spoke against the motion.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Prentice that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6130.

The motion by Senator Prentice carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6130 by voice vote.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6130, as amended by the House.

Senators Benton, Roach, Carrell and Parlette spoke against passage of the bill.

#### MOTION

On motion of Senator Brandland, Senators McCaslin and Pflug were excused.

Senators Holmquist, Schoesler, Honeyford, King, Becker and Sheldon spoke against passage of the bill.

Senators Brown and Kohl-Welles spoke in favor of passage of the bill.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6130, as amended by the

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House, and the bill passed the Senate by the following vote:  
Yeas, 26; Nays, 21; Absent, 0; Excused, 2.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Hobbs, Holmquist, Honeyford, Kauffman, Kilmer, King, Marr, Morton, Parlette, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Excused: Senators McCaslin and Pflug

ENGROSSED SUBSTITUTE SENATE BILL NO. 6130, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 7:21 p.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Tuesday, February 23, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

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NOON SESSION

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Senate Chamber, Olympia, Tuesday, February 23, 2010

The Senate was called to order at 12:00 noon by the President Pro Tempore. No roll call was taken.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

February 23, 2010

The President Pro Tempore signed:  
ENGROSSED SUBSTITUTE SENATE BILL 6130

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

February 22, 2010

SB 6858 Prime Sponsor, Senator Zarelli: Providing for ample funding for basic education. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King; Brandland; Gordon; Hobbs; Holmquist and McDermott.

MINORITY recommendation: Do not pass. Signed by Senator Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Roach.

Passed to Committee on Ways & Means.

February 22, 2010

HB 1080 Prime Sponsor, Representative Simpson: Allowing impact fees to be used for all fire protection facilities. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott; Pridemore and Swecker.

Passed to Committee on Rules for second reading.

February 22, 2010

2SHB 1180 Prime Sponsor, Committee on General Government Appropriations: Regarding the use of bisphenol A. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass as amended. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Fairley; Marr and Murray.

MINORITY recommendation: Do not pass. Signed by Senator Pflug.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Becker and Parlette.

Passed to Committee on Rules for second reading.

February 22, 2010

E2SHB 1418 Prime Sponsor, Committee on Education: Establishing a statewide dropout reengagement system. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King; Brandland; Gordon; Hobbs; Holmquist; McDermott; Roach and Tom.

Passed to Committee on Ways & Means.

February 22, 2010

HB 1757 Prime Sponsor, Representative Haigh: Establishing a small school district contingency fund. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; King; Brandland; Gordon; Hobbs; Holmquist; McDermott and Roach.

Passed to Committee on Ways & Means.

February 22, 2010

2EHB 1876 Prime Sponsor, Representative McCune: Providing funds for disabled veterans through voluntary donations. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; Benton; McDermott; Pridemore and Swecker.

Passed to Committee on Rules for second reading.

February 22, 2010

HB 1880 Prime Sponsor, Representative Armstrong: Concerning ballot envelopes. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass as amended. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; Benton; McDermott; Pridemore and Swecker.

Passed to Committee on Rules for second reading.

February 22, 2010

HB 1966 Prime Sponsor, Representative McCoy: Adding wheelchair users to the types of individuals for whom drivers must take additional precautions. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; Marr, Vice Chair;

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Swecker; Becker; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King; Ranker and Sheldon.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

February 22, 2010

SHB 2179 Prime Sponsor, Committee on Transportation: Authorizing cities located in counties having a population of more than one million five hundred thousand to provide and contract for supplemental transportation improvements. Reported by Committee on Transportation

HB 2470 Prime Sponsor, Representative Haigh: Concerning veterinary technician licenses. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: Do pass. Signed by Senators Hatfield, Chair; Schoesler; Becker; Haugen and Morton.

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King; Ranker and Sheldon.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

February 22, 2010

SHB 2224 Prime Sponsor, Committee on Local Government & Housing: Concerning the installation of residential fire sprinkler systems. Reported by Committee on Government Operations & Elections

HB 2483 Prime Sponsor, Representative Hurst: Concerning overseas and service voters. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Roach; McDermott; Pridemore and Swecker.

MAJORITY recommendation: Do pass as amended. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; Benton; McDermott; Pridemore and Swecker.

MINORITY recommendation: Do not pass. Signed by Senator Oemig, Vice Chair.

Passed to Committee on Rules for second reading.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Benton.

Passed to Committee on Rules for second reading.

February 22, 2010

SHB 2409 Prime Sponsor, Committee on Local Government & Housing: Concerning the sale of water-sewer district real property. Reported by Committee on Government Operations & Elections

February 22, 2010

2SHB 2551 Prime Sponsor, Committee on Ways & Means: Establishing the Washington vaccine association. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; Benton; McDermott; Pridemore and Swecker.

MAJORITY recommendation: Do pass as amended. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Marr; Murray and Parlette.

Passed to Committee on Rules for second reading.

Passed to Committee on Ways & Means.

February 22, 2010

HB 2461 Prime Sponsor, Representative Blake: Extending to 2015 the assessment levied under RCW 15.36.551 to support the dairy inspection program. Reported by Committee on Agriculture & Rural Economic Development

February 22, 2010

HB 2575 Prime Sponsor, Representative Upthegrove: Expanding the membership of the capital projects advisory review board. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Hatfield, Chair; Ranker, Vice Chair; Schoesler; Becker; Haugen; Morton and Shin.

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; McDermott and Pridemore.

Passed to Committee on Rules for second reading.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Roach; Benton and Swecker.

February 22, 2010

ESHB 2464 Prime Sponsor, Committee on Transportation: Implementing rules and penalties for drivers when approaching certain emergency, roadside assistance, or police vehicles in emergency zones. Reported by Committee on Transportation

Passed to Committee on Rules for second reading.

February 22, 2010

HB 2592 Prime Sponsor, Representative Hunt: Prohibiting incentive towing programs for private property impounds. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kilmer; King; Ranker and Sheldon.

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker;

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Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King; Ranker and Sheldon.

Passed to Committee on Rules for second reading.

February 22, 2010

SHB 2686 Prime Sponsor, Committee on Health Care & Wellness: Concerning fees for dental services that are not covered by insurance or contract. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass as amended. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Fairley; Marr; Murray and Parlette.

Passed to Committee on Rules for second reading.

February 22, 2010

SHB 2706 Prime Sponsor, Committee on Health Care & Wellness: Concerning exemption from immunization. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Marr; Murray and Parlette.

MINORITY recommendation: Do not pass. Signed by Senator Fairley.

Passed to Committee on Rules for second reading.

February 22, 2010

SHB 2828 Prime Sponsor, Committee on Health Care & Wellness: Requiring hospitals to report certain health care data. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Fairley; Marr; Murray and Parlette.

Passed to Committee on Rules for second reading.

February 22, 2010

SHB 2863 Prime Sponsor, Committee on General Government Appropriations: Transferring food assistance programs to the department of agriculture. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: Do pass. Signed by Senators Hatfield, Chair; Ranker, Vice Chair; Schoesler; Becker; Haugen; Morton and Shin.

Passed to Committee on Rules for second reading.

February 22, 2010

ESHB 2876 Prime Sponsor, Committee on Health Care & Wellness: Concerning pain management. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass as amended. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Marr and Murray.

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MINORITY recommendation: That it be referred without recommendation. Signed by Senators Becker; Fairley and Parlette.

Passed to Committee on Rules for second reading.

February 22, 2010

SHB 2962 Prime Sponsor, Committee on Local Government & Housing: Allowing county treasurers to use electronic bill presentment and payment that includes an automatic electronic payment option for property taxes. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; McDermott and Pridemore.

MINORITY recommendation: Do not pass. Signed by Senators Benton and Swecker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Roach.

Passed to Committee on Rules for second reading.

February 22, 2010

HB 2989 Prime Sponsor, Representative Moeller: Concerning respiratory care practitioners. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Fairley; Marr; Murray and Parlette.

Passed to Committee on Rules for second reading.

February 22, 2010

SHB 2990 Prime Sponsor, Committee on Local Government & Housing: Addressing alternative city assumption and tax authority provisions pertaining to water-sewer districts. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; McDermott; Pridemore and Swecker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Roach and Benton.

Passed to Committee on Ways & Means.

February 22, 2010

HB 2996 Prime Sponsor, Representative Quall: Including approved private schools in the superintendent of public instruction's record check information rules. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King; Brandland; Gordon; Hobbs; Holmquist; McDermott; Roach and Tom.

Passed to Committee on Rules for second reading.

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SHB 2997 Prime Sponsor, Committee on Health Care & Wellness: Concerning the size of a small employer's group for purposes of health benefit plans. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Fairley; Marr; Murray and Parlette.

Passed to Committee on Rules for second reading.

February 22, 2010

SHB 3001 Prime Sponsor, Committee on Transportation: Addressing bicycle and pedestrian safety education in traffic schools. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King; Ranker and Sheldon.

Passed to Committee on Rules for second reading.

February 22, 2010

SHB 3036 Prime Sponsor, Committee on Education: Requiring a public meeting before a school district contracts for nonvoter-approved debt. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King; Brandland; Gordon; Hobbs; Holmquist; McDermott; Roach and Tom.

Passed to Committee on Rules for second reading.

February 22, 2010

ESHB 3067 Prime Sponsor, Committee on Local Government & Housing: Establishing a process for the payment of impact fees through provisions stipulated in recorded covenants. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Benton; McDermott; Pridemore and Swecker.

Passed to Committee on Financial Institutions, Housing & Insurance.

February 22, 2010

HB 3095 Prime Sponsor, Representative Blake: Modifying the powers of the Washington tree fruit research commission. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: Do pass. Signed by Senators Hatfield, Chair; Ranker, Vice Chair; Schoesler; Becker; Haugen; Morton and Shin.

Passed to Committee on Rules for second reading.

MOTION

On motion of Eide, all measures listed on the Standing Committee report were referred to the committees as designated with the exception of Substitute House Bill No. 2990 which was referred to the Committee on Ways & Means.

MOTION

On motion of Senator Eide, the Senate advanced to the third order of business.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

February 15, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

BILL GRINSTEIN, reappointed February 15, 2010, for the term ending June 30, 2013, as Member of the Higher Education Coordinating Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

MOTION

On motion of Senator Eide, the appointee listed on the Gubernatorial Appointment report was referred to the committee as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

MOTION

Senator Jacobsen moved adoption of the following resolution:

SENATE RESOLUTION

8695

By Senator Jacobsen

WHEREAS, It is the tradition of the Washington State Senate to honor our state educational institutions and the programs that further the education of our citizens; and

WHEREAS, The University of Washington's Graduate Opportunity and Minority Achievement Program - GO MAP - has for more than 40 years been a driving force in the promotion of academic excellence and career success for so many students of ethnic minorities and other underrepresented groups; and

WHEREAS, GO MAP has encouraged the growth of a diverse campus community with its outreach efforts to recruit members of underrepresented groups to pursue graduate level studies at the University; and

WHEREAS, GO MAP has played a leading role in building a sense of community among the diverse groups of students from a wide variety of backgrounds who make up the student and faculty community of the University of Washington; and

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WHEREAS, GO MAP's programs have directly contributed to the University's reputation as a leading research institution with an environment where students of every ethnicity may pursue the goal of academic excellence;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate does hereby acknowledge and honor the Graduate Opportunities and Minority Achievement Program at the University of Washington; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Graduate Opportunities and Minority Achievement Program at the University of Washington.

Senator Jacobsen spoke in favor of adoption of the resolution.

The President Pro Tempore declared the question before the Senate to be the adoption of Senate Resolution No. 8695.

The motion by Senator Jacobsen carried and the resolution was adopted by voice vote.

#### INTRODUCTION OF SPECIAL GUESTS

The President Pro Tempore welcomed, Dr. Anthony Salazar, Diversity Specialist and Dr. Juan Guerra, Director/Associate Dean & Associate Vice Provost (the Graduate Opportunities & Minority Achievement Program at the University of Washington) representatives who were seated in the gallery.

#### MOTION

Senator Holmquist moved adoption of the following resolution:

#### SENATE RESOLUTION 8705

By Senators Holmquist, Benton, Honeyford, Kohl-Welles, and Roach

WHEREAS, The people of Grant County voted to establish Fire Districts Numbers 10 and 11 in September 1958; and

WHEREAS, Fire Districts Numbers 10 and 11 were established on October 14, 1958; and

WHEREAS, Fire District Number 10 is currently served by Fire Commissioners Dwight Vander Vorste, Robert Weber, Mike Moore, District Secretary Angie Argo, and led by Fire Chief Brian Evans; and

WHEREAS, Grant County Fire District Number 11 is currently served by Fire Commissioners Ray Wardenaar, Gary Christenson, Tim Freedman, District Secretary Bob Schrom, and led by Fire Chief Brian Evans; and

WHEREAS, The early and continued success of Grant County Fire Districts Numbers 10 and 11 is due to countless volunteer hours and community involvement; and

WHEREAS, The brave members of Grant County Fire Districts Numbers 10 and 11 provide fire, rescue, and EMS services across five hundred twenty square miles; protect six communities, agricultural land, and critical infrastructure including the Wanapum Dam and Interstate 90 at the Vantage Bridge; and participate in the Washington State Patrol mobilization plan, having provided apparatus and personnel across the great State of Washington during times of need;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize and honor the firefighters of Grant County Fire Districts Numbers 10 and 11, who have risked their lives and given their time to create an outstanding fifty-year legacy of protecting life and property in Grant County; and

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BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Dwight Vander Vorste, Chairman of Grant County Fire District Number 10; Ray Wardenaar, Chairman of Grant County Fire District Number 11; and Brian Evans, Fire Chief of Grant County Fire Districts Numbers 10 and 11.

Senators Holmquist and Brandland spoke in favor of adoption of the resolution.

The President Pro Tempore declared the question before the Senate to be the adoption of Senate Resolution No. 8705.

The motion by Senator Holmquist carried and the resolution was adopted by voice vote.

#### INTRODUCTION OF SPECIAL GUESTS

The President Pro Tempore welcomed representatives of the Grant County Fire District 10, Commissioner Dwight Vander Vorste; Commissioner Mike Moore; Commissioner Robert Weber, District Secretary; Volunteer EMT, Angie Argo and Grant County Fire District No. 11, Commissioner Tim Freedman, wife Nancy; Commissioner Gary L. Christenson; District Secretary, Bob Schrom; Arrow Miller, retired volunteer and wife of the late Willis Miller, a fifty year volunteer and mentor; Grant County Fire District No. 11 Chief Brian Evans and wife Denise who were seated in the gallery.

#### MOTION

Senator McAuliffe moved adoption of the following resolution:

#### SENATE RESOLUTION 8691

By Senators McAuliffe, Delvin, Gordon, Roach, McDermott, Haugen, Fairley, Eide, Regala, Tom, McCaslin, Becker, Kauffman, Zarelli, Kilmer, and King

WHEREAS, Providing all Washington state children a public education is the paramount duty of the state; and

WHEREAS, It is impossible to provide our children a quality public education if they cannot get to school, if they are hungry during the school day, or if the schools they arrive at are neglected, cold, and unsafe; and

WHEREAS, Classified employees are the bus drivers who are safely transporting, in sometimes dangerous road conditions, over 474,514 students each day in 9,035 busses over 500,000 miles; the child nutrition employees providing breakfast for 113,518 students and lunches for over 440,000 students each day; the custodian, maintenance, and security employees ensuring that the 2,174 school buildings where our children are receiving their education are functional, warm, clean, and safe; and

WHEREAS, Classified employees are the secretaries who make sure that all parents, staff, and most importantly all children receive the necessary support and services while at the same time providing love and attention to each student's special needs, even if all that is needed is a Band-Aid, a friendly ear, or a reminder; and

WHEREAS, Classified employees are the paraeducators who are increasingly depended upon to provide individualized attention to students in the classroom to ensure they meet the higher academic standards, as well as provide such specialized services as nursing and interpreting for deaf and disabled children and students who speak other languages; and

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WHEREAS, Classified employees are normally the first employees called upon when there is a threat to our children's safety and security; and

WHEREAS, It is necessary to employ over 50,000 classified employees to provide these essential support services to the nearly one million students receiving public education; and

WHEREAS, Washington state students have had their education significantly enhanced by the services of classified school employees; and

WHEREAS, Washington state citizens seldom reflect on the critical role classified employees play in providing our children a quality education;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor classified school employees during Classified School Employee Week, March 8 through 12, 2010, and urge all citizens to join in honoring, recognizing, and respecting the dedication and hard work of all classified school employees; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Public School Employees of Washington, SEIU Local 1948 and SEIU Local 925.

Senator McAuliffe spoke in favor of adoption of the resolution.

The President Pro Tempore declared the question before the Senate to be the adoption of Senate Resolution No. 8691.

The motion by Senator McAuliffe carried and the resolution was adopted by voice vote.

MOTION

Senator McAuliffe moved adoption of the following resolution:

SENATE RESOLUTION  
8704

By Senators McAuliffe, Kauffman, McDermott, Oemig, King, Murray, Rockefeller, Berkey, Brandland, Becker, Stevens, Roach, Gordon, Fraser, and Franklin

WHEREAS, The arts, including dance, music, theatre, and visual arts, are defined as a core content area in Washington state's definition of basic education, and considered an essential component of the complete and balanced education that should be provided for all students; and

WHEREAS, Learning in and through the arts enables students to develop critical thinking and problem-solving skills, imagination and creativity, discipline, alternative ways to communicate and express feelings and ideas, and cross-cultural understanding, which supports academic success across the curriculum as well as personal growth outside the classroom; and

WHEREAS, Imagination and creativity are increasingly understood as critical capacities needed for success in life in the 21st century and enables students to be globally competitive, and students develop these abilities through meaningful learning in the arts; and

WHEREAS, The arts can bring every academic subject to life and the integration of the arts within the broader academic curriculum, including reading, mathematics, science, and social studies, can enhance student engagement, extend student learning, and deepen student understanding of all the academic content areas; and

WHEREAS, The arts can transform our schools into havens of creativity and exploration, places where students want to learn,

teachers want to teach, and all members of the learning community are more engaged and motivated; and

WHEREAS, We applaud the efforts and dedication of educators and advocates around the state, and we call for school and community leaders to continue to broaden and strengthen their arts education focus in order to ensure equity of access to arts learning for all students;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate acknowledge that May 2010 is recognized by the Governor as Arts Education Month in Washington State, and all communities are encouraged to celebrate the arts with meaningful activities and programs for students, teachers, and the public that demonstrate learning and understanding in the arts, and all citizens are urged to become interested in and give full support to quality school arts programs for children and youth; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to ArtsEd Washington.

Senator McAuliffe spoke in favor of adoption of the resolution.

The President Pro Tempore declared the question before the Senate to be the adoption of Senate Resolution No. 8704.

The motion by Senator McAuliffe carried and the resolution was adopted by voice vote.

MOTION

At 12:21 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Wednesday, February 24, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

FORTY FIFTH DAY

MORNING SESSION

Senate Chamber, Olympia, Wednesday, February 24, 2010

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Brown, Fairley, Marr, McCaslin, Oemig, Prentice, Ranker, Roach and Tom.

The Sergeant at Arms Color Guard consisting of Pages Shauna Dowlen and Johnathan Taylor-Kantz, presented the Colors. Imam Bejamin Shabbazz of the Ali-Islam Center offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

February 22, 2010

SB 6409 Prime Sponsor, Senator Kastama: Creating the Washington investment in excellence account. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 6409 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; Murray; Oemig; Pridemore and Rockefeller.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Brandland; Carrell; Honeyford; Parlette; Pflug and Schoesler.

Passed to Committee on Rules for second reading.

February 22, 2010

SB 6748 Prime Sponsor, Senator Tom: Concerning the business and occupation taxation of newspaper-labeled supplements. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hobbs; Kline; Kohl-Welles; Murray; Parlette; Pflug; Pridemore and Regala.

MINORITY recommendation: Do not pass. Signed by Senators McDermott and Rockefeller.

Passed to Committee on Rules for second reading.

February 22, 2010

SB 6844 Prime Sponsor, Senator Prentice: Streamlining lottery accounts by transferring local accounts into the treasury

custodial accounts, directing transfers of unclaimed prize money, and eliminating obsolete provisions. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6844 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Pridemore; Regala and Rockefeller.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Brandland; Carrell; Parlette; Pflug and Schoesler.

Passed to Committee on Rules for second reading.

February 22, 2010

2SHB 1162 Prime Sponsor, Committee on Education Appropriations: Providing for social emotional learning in public schools. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; Gordon; Hobbs and McDermott.

MINORITY recommendation: Do not pass. Signed by Senators King; Holmquist and Roach.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Brandland.

Passed to Committee on Rules for second reading.

February 23, 2010

E2SHB 1317 Prime Sponsor, Committee on Ways & Means: Regarding the disclosure of public records containing information used to locate or identify employees of criminal justice agencies. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott and Swecker.

Passed to Committee on Rules for second reading.

February 23, 2010

SHB 1913 Prime Sponsor, Committee on Judiciary: Changing provisions relating to process servers. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon and Kohl-Welles.

Passed to Committee on Rules for second reading.

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HB 2398 Prime Sponsor, Representative Hunt: Modifying election notice provisions. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass as amended. Signed by Senators Fairley, Chair; Oemig, Vice Chair; McDermott and Swecker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Roach.

Passed to Committee on Rules for second reading.

February 23, 2010

HB 2428 Prime Sponsor, Representative Takko: Concerning fees for locating surplus funds from county governments, real estate property taxes, assessments, and other government lien foreclosures or charges. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott; Pridemore and Swecker.

Passed to Committee on Financial Institutions, Housing & Insurance.

February 23, 2010

ESHB 2496 Prime Sponsor, Committee on State Government & Tribal Affairs: Modifying ballot design provisions. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott; Pridemore and Swecker.

Passed to Committee on Rules for second reading.

February 23, 2010

SHB 2580 Prime Sponsor, Committee on Education: Concerning secondary career and technical education courses. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: Do pass. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Hewitt; Jacobsen; McAuliffe; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

February 23, 2010

2SHB 2603 Prime Sponsor, Committee on Ways & Means: Requiring agencies to give small businesses an opportunity to comply with a state law or agency rule before imposing a penalty. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott; Pridemore and Swecker.

Passed to Committee on Economic Development, Trade & Innovation.

February 23, 2010  
HB 2638 Prime Sponsor, Representative McCoy: Regarding instructional materials provided in a specialized format. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: Do pass as amended. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Hewitt; Jacobsen; McAuliffe; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

February 23, 2010

HB 2694 Prime Sponsor, Representative Sells: Regarding a bachelor of science in nursing program at the University Center. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: Do pass. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Hewitt; Jacobsen; McAuliffe; Pflug; Shin; Stevens and Tom.

Passed to Committee on Ways & Means.

February 23, 2010

SHB 2768 Prime Sponsor, Committee on Public Safety & Emergency Preparedness: Requiring background investigations for peace officers and reserve officers as a condition of employment. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon and Kohl-Welles.

Passed to Committee on Rules for second reading.

February 23, 2010

HB 2973 Prime Sponsor, Representative Orcutt: Creating resident student classifications for certain members of the military and their spouses and dependents. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: Do pass. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Hewitt; Jacobsen; McAuliffe; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

February 22, 2010

SHB 3066 Prime Sponsor, Committee on Finance: Creating uniformity among annual tax reporting survey provisions. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

February 23, 2010

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HJM 4025 Prime Sponsor, Representative O'Brien: Honoring Vietnam veterans. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott; Pridemore and Swecker.

Passed to Committee on Rules for second reading.

REPORTS OF STANDING COMMITTEES  
GUBERNATORIAL APPOINTMENTS

February 23, 2010

SGA 9239 CHARLENE D STRONG, appointed on February 9, 2009, for the term ending June 17, 2012, as Member of the Human Rights Commission. Reported by Committee on Judiciary

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon and Kohl-Welles.

Passed to Committee on Rules for second reading.

February 23, 2010

SGA 9253 VANESSA R GASTON, appointed on September 14, 2009, for the term ending June 17, 2014, as Member of the Human Rights Commission. Reported by Committee on Judiciary

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon and Kohl-Welles.

Passed to Committee on Rules for second reading.

February 23, 2010

SGA 9259 LAURA JENNINGS, reappointed on December 10, 2009, for the term ending September 30, 2015, as Member of the Board of Regents, Washington State University. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; McAuliffe; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

February 23, 2010

SGA 9262 GAYATRI J EASSEY, appointed on October 12, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, Seattle, So. Seattle and No. Seattle Community Colleges District No. 6. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; McAuliffe; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

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SGA 9263 ORIN SMITH, appointed on December 10, 2009, for the term ending September 30, 2015, as Member of the Board of Regents, University of Washington. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; McAuliffe; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

February 23, 2010

SGA 9266 THOMAS C MOSER, reappointed on October 1, 2005, for the term ending September 30, 2010, as Member of the Board of Trustees, Skagit Valley Community College District No. 4. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; McAuliffe; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

February 23, 2010

SGA 9270 JAQUELINE B ROSENBLATT, appointed on October 6, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, Pierce Community College District No. 11. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; McAuliffe; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

February 23, 2010

SGA 9271 KATE REARDON, appointed on June 1, 2009, for the term ending September 30, 2011, as Member of the Board of Trustees, Central Washington University. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; McAuliffe; Pflug; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

February 23, 2010

SGA 9273 IRA SENGUPTA, reappointed on December 9, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, Renton Technical College District No. 27. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Jacobsen; McAuliffe; Pflug; Shin; Stevens and Tom.

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Passed to Committee on Rules for second reading.

MOTION

On motion of Eide, all measures listed on the Standing Committee report were referred to the committees as designated with the exception of House Bill No. 2694 which was referred to the Committee on Ways & Means.

MOTION

On motion of Senator Eide, the Senate advanced to the third order of business.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

February 12, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

STANLEY M. SORSCHER, appointed February 12, 2010, for the term ending October 1, 2010, as Member of the Small Business Export Finance Assistance Center Board of Directors.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Economic Development, Trade & Innovation.

MOTION

On motion of Senator Eide, the appointee listed on the Gubernatorial Appointment report was referred to the committee as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

February 23, 2010

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 6130, and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 6873 by Senators Murray, Kline, Kohl-Welles, Regala, Ranker, Keiser, Fairley, Oemig, Fraser and Jacobsen

AN ACT Relating to increasing state revenues to preserve funding for essential public services by preventing abusive tax avoidance transactions, narrowing or eliminating certain

tax preferences, and providing equitable tax treatment; amending RCW 82.04.220, 82.04.2907, 82.04.460, 82.32.090, 82.12.020, 82.45.033, 82.45.070, 82.45.080, 82.45.100, 82.45.220, 43.07.390, 82.04.4292, 82.08.0273, 82.04.423, 82.04.4266, 82.04.250, 82.04.250, 82.04.298, 82.04.334, 82.04.4463, 82.08.806, 82.32.545, 82.32.550, 82.32.630, 82.32.632, 82.45.195, 35.102.150, 48.14.080, 82.48.010, 82.48.020, 82.48.030, 82.48.070, 82.48.080, 82.48.110, 82.45.010, 82.45.080, 82.32.145, 82.60.020, 82.62.010, 82.16.020, 82.16.020, 82.04.4282, 82.08.037, 82.12.037, 82.12.010, 82.14.230, 82.16.110, 82.08.890, 82.12.890, 54.28.011, 82.08.010, 82.08.962, and 82.12.962; reenacting and amending RCW 82.45.010, 82.04.260, 82.04.261, 82.04.440, 82.04.360, 82.04.050, and 82.04.050; adding new sections to chapter 82.04 RCW; adding new sections to chapter 82.32 RCW; adding a new section to chapter 82.48 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; creating new sections; repealing RCW 82.04.44525, 82.04.272, 82.04.062, 82.08.811, 82.12.811, and 82.04.394; providing effective dates; providing contingent effective dates; providing expiration dates; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 6874 by Senators Tom, Keiser and Kohl-Welles

AN ACT Relating to providing funding for the basic health plan by increasing the taxes on certain tobacco products and facilitating the funding within the state expenditure limit; amending RCW 82.24.020, 82.24.026, and 43.135.035; adding a new section to chapter 70.47 RCW; repealing RCW 82.24.027 and 82.24.028; making an appropriation; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 6875 by Senators Prentice, Kline and Kohl-Welles

AN ACT Relating to providing funding for levy equalization, state need grants, kindergarten programs, and working families' tax exemptions by increasing revenues and facilitating the funding within the state expenditure limit; amending RCW 82.08.020, 82.08.020, 82.08.0206, and 43.135.035; reenacting and amending RCW 82.08.064; creating a new section; making an appropriation; providing effective dates; providing an expiration date; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 6876 by Senator Prentice

AN ACT Relating to regulation of water recreation facilities; amending RCW 70.90.140, 70.90.150, 70.90.160, 70.90.170, 70.90.190, 70.90.200, and 70.90.210; repealing RCW 70.90.125; and providing an effective date.

Referred to Committee on Ways & Means.

SB 6877 by Senators Prentice and Kohl-Welles

AN ACT Relating to newborn screening fees; amending RCW 70.83.023; and providing an effective date.

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Referred to Committee on Ways & Means.

**SB 6878** by Senators Prentice and Kline

AN ACT Relating to fees for criminal background checks; amending RCW 43.43.838; and providing an effective date.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

MOTION

Senator Shin moved adoption of the following resolution:

SENATE RESOLUTION  
8693

By Senators Shin, Fairley, McAuliffe, Murray, Haugen, Berkey, Kastama, Gordon, Hobbs, Swecker, Schoesler, Delvin, Eide, McDermott, Jacobsen, Becker, Stevens, and Zarelli

WHEREAS, Bastyr University is a nonprofit, accredited institution for higher education, founded in 1978, and located on a 51-acre campus on the north shore of Lake Washington in the City of Kenmore, Washington; and

WHEREAS, Bastyr University is working to transform the health and well-being of the human community through educating the world's future leaders in the natural health arts and sciences; and

WHEREAS, Bastyr University is internationally recognized as a pioneer in the natural health arts and sciences, modeling an integrated approach to research, education, and clinical service; and

WHEREAS, Bastyr University respects the healing power of nature and offers a multidisciplinary curriculum that combines the pursuit of scientific knowledge with the wisdom of ancient healing methods from around the world; and

WHEREAS, Bastyr University was the first natural health arts and sciences university in the country to receive funding for complementary and alternative medicine research from the National Institutes of Health; and

WHEREAS, Bastyr University has completed more than 80 research studies and has been instrumental in increasing the amount of research activity in the field of natural health sciences; and

WHEREAS, Bastyr University's teaching clinic, Bastyr Center for Natural Health, is the largest natural health clinic in the Northwest, with more than 35,000 annual patient visits; and

WHEREAS, Bastyr University is committed to a sustainable health care model and annually provides free healthcare services to underserved populations in the greater Seattle area; and

WHEREAS, Bastyr University's commitment to eco-friendly, LEED certified building practices exemplifies the university's role as a leader in natural health arts and sciences education and furthers its mission to enhance the health and well-being of the human community; and

WHEREAS, Bastyr University is an internationally recognized community of scholars, students, and supporters who share a

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common commitment to the transformation of the health of the human family through education, research, and clinical services;

NOW, THEREFORE, BE IT RESOLVED, That the Senate does hereby recognize the various contributions and lasting legacy made by Bastyr University; and

BE IT FURTHER RESOLVED, That copies of this resolution be transmitted by the Secretary of the Senate to the Board of Trustees of Bastyr University and Bastyr University President, Dr. Dan Church.

Senators Shin, Keiser, Swecker, Pflug and Jacobsen spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8693.

The motion by Senator Shin carried and the resolution was adopted by voice vote.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed representatives of Bastyr University, Daniel Church, President; Greg Goode, Chief of Staff; Barrie Cohen, University Trustee; Joseph Pizzorno, Founder and first President; Dr. Less Griffith, University Co-Founder; and other faculty and staff from Bastyr University and David Baker, Mayor of Kenmore, who were seated in the gallery.

MOTION

At 10:23 a.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Thursday, February 25, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**FORTY SIXTH DAY**

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NOON SESSION

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Senate Chamber, Olympia, Thursday, February 25, 2010

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

February 23, 2010

SB 6381 Prime Sponsor, Senator Haugen: Making 2009-11 supplemental transportation appropriations. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 6381 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; Swecker; Becker; Berkey; Delvin; Eide; Hatfield; Kastama; Kauffman; Kilmer; King; Ranker and Sheldon.

Passed to Committee on Rules for second reading.

February 24, 2010

EHB 1653 Prime Sponsor, Representative Simpson: Clarifying the integration of shoreline management act policies with the growth management act. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass. Signed by Senators Rockefeller, Chair; Honeyford; Delvin; Fraser; Marr and Morton.

MINORITY recommendation: Do not pass. Signed by Senator Holmquist.

Passed to Committee on Rules for second reading.

February 24, 2010

HB 1697 Prime Sponsor, Representative Liias: Regarding career and technical student organizations. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King; Brandland; Gordon; Hobbs; Holmquist; McDermott and Roach.

Passed to Committee on Rules for second reading.

February 23, 2010

SHB 2138 Prime Sponsor, Committee on Local Government & Housing: Concerning the use of surplus property

for the development of affordable housing. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin and McDermott.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Parlette and Schoesler.

Passed to Committee on Ways & Means.

February 24, 2010

SHB 2226 Prime Sponsor, Committee on Judiciary: Issuing firearms certificates to retired law enforcement officers. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon; Hargrove; Kohl-Welles and Roach.

Passed to Committee on Rules for second reading.

February 24, 2010

2SHB 2396 Prime Sponsor, Committee on Health & Human Services Appropriations: Regarding emergency cardiac and stroke care. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Fairley; Marr; Murray and Parlette.

Passed to Committee on Rules for second reading.

February 23, 2010

HB 2419 Prime Sponsor, Representative Bailey: Modifying the exemption to the three-year active transacting requirement for foreign or alien insurer applicants. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin; McDermott and Parlette.

Passed to Committee on Rules for second reading.

February 24, 2010

SHB 2487 Prime Sponsor, Committee on Public Safety & Emergency Preparedness: Increasing costs for administering a deferred prosecution. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon; Hargrove; Kohl-Welles and Roach.

Passed to Committee on Rules for second reading.

February 24, 2010

ESHB 2504 Prime Sponsor, Committee on Technology, Energy & Communications: Concerning minimum renewable

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fuel content requirements. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass as amended. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Fraser; Holmquist; Morton and Ranker.

MINORITY recommendation: Do not pass. Signed by Senator Marr.

Passed to Committee on Transportation.

February 23, 2010

HB 2510 Prime Sponsor, Representative Kelley: Authorizing public hospital districts to execute security instruments. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin; McDermott and Parlette.

Passed to Committee on Rules for second reading.

February 23, 2010

SHB 2512 Prime Sponsor, Committee on Financial Institutions & Insurance: Concerning nonresident surplus line brokers and insurance producers. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin; McDermott and Parlette.

Passed to Committee on Rules for second reading.

February 23, 2010

SHB 2517 Prime Sponsor, Committee on Local Government & Housing: Exempting housing authorities from certain state requirements when certain federal law requirements are applicable. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin; McDermott; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

February 24, 2010

ESHB 2518 Prime Sponsor, Committee on Judiciary: Modifying oath requirements for interpreters. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon; Hargrove; Kohl-Welles and Roach.

Passed to Committee on Rules for second reading.

February 24, 2010

SHB 2525 Prime Sponsor, Committee on Community & Economic Development & Trade: Concerning public facilities districts created by at least two city or county legislative

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authorities. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: Do pass as amended. Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli; Delvin; Eide and Kilmer.

Passed to Committee on Ways & Means.

February 23, 2010

ESHB 2560 Prime Sponsor, Committee on Financial Institutions & Insurance: Forming joint underwriting associations. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin and McDermott.

MINORITY recommendation: Do not pass. Signed by Senator Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Parlette.

Passed to Committee on Rules for second reading.

February 23, 2010

ESHB 2564 Prime Sponsor, Committee on Financial Institutions & Insurance: Regarding escrow agents. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin and McDermott.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Parlette and Schoesler.

Passed to Committee on Rules for second reading.

February 24, 2010

ESHB 2565 Prime Sponsor, Committee on Judiciary: Mandating a twelve-hour impound hold on motor vehicles used by persons arrested for driving under the influence. Reported by Committee on Judiciary

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Kline, Chair; Regala, Vice Chair; Gordon; Hargrove; Kohl-Welles and Roach.

Passed to Committee on Transportation.

February 23, 2010

SHB 2585 Prime Sponsor, Committee on Financial Institutions & Insurance: Addressing insurance statutes, generally. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin; McDermott; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

February 24, 2010

HB 2598 Prime Sponsor, Representative Takko: Concerning the disposal of dredged riverbed materials from the Mount St. Helen's eruption. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: Do pass. Signed by Senators Jacobsen, Chair; Morton; Fraser; Hargrove; Hatfield and Stevens.

Passed to Committee on Rules for second reading.

February 23, 2010

HB 2608 Prime Sponsor, Representative Nelson: Concerning regulation and licensing of residential mortgage loan servicers and services. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin and McDermott.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Parlette and Schoesler.

Passed to Committee on Rules for second reading.

February 24, 2010

HB 2621 Prime Sponsor, Representative Orwall: Designating resource programs for science, technology, engineering, and mathematics instruction in K-12 schools. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass as amended. Signed by Senators McAuliffe, Chair; King; Brandland; Holmquist; McDermott; Roach and Tom.

Passed to Committee on Ways & Means.

February 23, 2010

2SHB 2623 Prime Sponsor, Committee on General Government Appropriations: Reviewing the foreclosure of residential real property. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin; McDermott; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

February 24, 2010

SHB 2651 Prime Sponsor, Committee on Community & Economic Development & Trade: Authorizing port districts to participate in activities related to job training and placement. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: Do pass. Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli; Delvin; Eide and Kilmer.

Passed to Committee on Rules for second reading.

February 24, 2010

EHB 2667 Prime Sponsor, Representative Chandler: Concerning communications during a forest fire response. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: Do pass. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Fraser; Hargrove; Hatfield and Stevens.

Passed to Committee on Rules for second reading.

February 24, 2010

HB 2681 Prime Sponsor, Representative Goodman: Allowing compensation for part-time judges' judicial services. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon; Hargrove; Kohl-Welles and Roach.

Passed to Committee on Rules for second reading.

February 24, 2010

SHB 2684 Prime Sponsor, Committee on Higher Education: Establishing opportunity centers at community colleges. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: Do pass. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Hewitt; Jacobsen; McAuliffe; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

February 24, 2010

3SHB 2687 Prime Sponsor, Committee on Ways & Means: Creating the home visiting services account. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass as amended. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; Gordon; Hobbs; McDermott and Roach.

MINORITY recommendation: Do not pass. Signed by Senator Holmquist.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators King and Brandland.

Passed to Committee on Ways & Means.

February 24, 2010

2SHB 2731 Prime Sponsor, Committee on Ways & Means: Creating an early learning program for educationally at-risk children. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass as amended. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; Gordon; Hobbs and McDermott.

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MINORITY recommendation: Do not pass. Signed by Senator Holmquist.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators King; Brandland and Roach.

Passed to Committee on Ways & Means.

February 24, 2010

SHB 2776 Prime Sponsor, Committee on Education Appropriations: Regarding funding distribution formulas for K-12 education. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass as amended. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; Gordon; Hobbs and McDermott.

MINORITY recommendation: Do not pass. Signed by Senators King; Brandland and Holmquist.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Roach.

Passed to Committee on Ways & Means.

February 24, 2010

SHB 2801 Prime Sponsor, Committee on Education: Regarding antiharassment strategies in public schools. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass as amended. Signed by Senators McAuliffe, Chair; Oemig, Vice Chair, K-12; Gordon; Hobbs; McDermott and Roach.

MINORITY recommendation: Do not pass. Signed by Senators King; Brandland and Holmquist.

Passed to Committee on Ways & Means.

February 23, 2010

EHB 2830 Prime Sponsor, Representative Simpson: Addressing credit union regulatory enforcement powers. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin; McDermott; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

February 23, 2010

EHB 2831 Prime Sponsor, Representative Simpson: Regulating state-chartered commercial banks, trust companies, savings banks, and their holding companies. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin; McDermott; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

February 23, 2010  
ESHB 2842 Prime Sponsor, Committee on Financial Institutions & Insurance: Addressing confidentiality as it relates to insurer receivership. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin; McDermott and Parlette.

Passed to Committee on Rules for second reading.

February 24, 2010

SHB 2852 Prime Sponsor, Committee on Education: Concerning college-level online learning by high school students. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King; Brandland; Gordon; Hobbs; Holmquist; McDermott; Roach and Tom.

Passed to Committee on Ways & Means.

February 24, 2010

2SHB 2854 Prime Sponsor, Committee on Ways & Means: Making changes to the state higher education loan program. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: Do pass. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Hewitt; Jacobsen; McAuliffe; Shin and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Stevens.

Passed to Committee on Ways & Means.

February 24, 2010

2SHB 2867 Prime Sponsor, Committee on Ways & Means: Promoting early learning. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass as amended. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King; Brandland; Gordon; Hobbs and McDermott.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Roach.

Passed to Committee on Rules for second reading.

February 24, 2010

HB 2888 Prime Sponsor, Representative Herrera: Concerning continuing education for pharmacy technicians. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Fairley; Marr; Murray and Parlette.

Passed to Committee on Rules for second reading.

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HB 2904 Prime Sponsor, Representative Kagi: Concerning the powers and duties of the office of the education ombudsman. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass as amended. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King; Brandland; Gordon; Hobbs; Holmquist; McDermott; Roach and Tom.

Passed to Committee on Rules for second reading.

February 24, 2010

ESHB 2913 Prime Sponsor, Committee on Education Appropriations: Authorizing innovative interdistrict cooperative high school programs. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; King; Brandland; Gordon; Hobbs; Holmquist; McDermott; Roach and Tom.

Passed to Committee on Ways & Means.

February 24, 2010

SHB 2930 Prime Sponsor, Committee on Higher Education: Expanding the pool of qualified teachers. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: Do pass as amended. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Becker; Hewitt; Jacobsen; McAuliffe; Shin; Stevens and Tom.

Passed to Committee on Rules for second reading.

February 24, 2010

E2SHB 3026 Prime Sponsor, Committee on Ways & Means: Regarding school district compliance with state and federal civil rights laws. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass as amended. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; Gordon; Hobbs and McDermott.

MINORITY recommendation: Do not pass. Signed by Senators King; Brandland and Holmquist.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Roach.

Passed to Committee on Ways & Means.

February 23, 2010

ESHB 3032 Prime Sponsor, Committee on Financial Institutions & Insurance: Defining normal wear and tear for a motor vehicle for the purpose of a service contract. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin; McDermott and Parlette.

Passed to Committee on Rules for second reading.

February 24, 2010

SHB 3046 Prime Sponsor, Committee on Judiciary: Addressing the dissolution of the assets and affairs of a nonprofit corporation. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon; Hargrove; Kohl-Welles and Roach.

Passed to Committee on Rules for second reading.

February 23, 2010

SHB 3060 Prime Sponsor, Committee on Financial Institutions & Insurance: Modifying surplus line coverage provisions. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; McDermott; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

February 24, 2010

HB 3068 Prime Sponsor, Representative Santos: Providing access to alternative routes to certification for the recruiting Washington teachers program. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass as amended. Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King; Brandland; Gordon; Hobbs; Holmquist and Roach.

Passed to Committee on Rules for second reading.

February 24, 2010

ESHB 3072 Prime Sponsor, Committee on Health Care & Wellness: Including wound care management in occupational therapy. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass as amended. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Fairley; Marr and Parlette.

Passed to Committee on Rules for second reading.

February 24, 2010

HJM 4024 Prime Sponsor, Representative Angel: Concerning a memorial petitioning for the elimination of the term "mentally retarded" in federal law. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Pflug; Becker; Fairley and Parlette.

Passed to Committee on Rules for second reading.

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HJM 4027 Prime Sponsor, Representative Hasegawa: Requesting that a retired space shuttle orbiter be transferred to Washington's museum of flight. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: Do pass. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Fraser; Hargrove; Hatfield and Stevens.

Passed to Committee on Rules for second reading.

REPORTS OF STANDING COMMITTEES  
GUBERNATORIAL APPOINTMENTS

February 23, 2010

SGA 9209 DENNIS KLOIDA, reappointed on September 14, 2009, for the term ending June 30, 2013, as Member of the Housing Finance Commission. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin and McDermott.

Passed to Committee on Rules for second reading.

February 23, 2010

SGA 9244 PAMELA J TIETZ, appointed on October 1, 2009, for the term ending June 30, 2013, as Member of the Housing Finance Commission. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin and McDermott.

Passed to Committee on Rules for second reading.

February 24, 2010

SGA 9272 PATRICIA T LANTZ, appointed on January 15, 2010, for the term ending December 31, 2014, as Member of the Parks and Recreation Commission. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Hargrove; Hatfield and Stevens.

Passed to Committee on Rules for second reading.

MOTION

On motion of Eide, all measures listed on the Standing Committee report were referred to the committees as designated with the exception of Engrossed Substitute House Bill No. 2504 which was referred to the Committee on Transportation.

MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

MOTION

Senator Becker moved adoption of the following resolution:

SENATE RESOLUTION  
8678

By Senators Becker, Berkey, Kauffman, Sheldon, Kilmer, Hatfield, Swecker, King, Haugen, and Ranker

WHEREAS, Osteoporosis is a disease characterized by low bone mass, structural deterioration of bone, and increased susceptibility to fractures, especially of older women; and

WHEREAS, Osteoporosis is a public health threat for an estimated 52 million Americans and more than 1.2 million Washingtonians; and

WHEREAS, In Washington state, approximately 300,000 individuals already have osteoporosis and approximately 900,000 are estimated to have low bone mass, placing them at increased risk for osteoporosis; and

WHEREAS, One in every two women and one in every four men over the age of 50 will have an osteoporosis-related fracture in her or his remaining lifetime; and

WHEREAS, Building strong bones during childhood and adolescence can be the best defense against developing osteoporosis later in life; and

WHEREAS, Osteoporosis is often thought of as an older person's disease, but bone health is a concern for a person of any age; and

WHEREAS, Substantial risk of osteoporosis has been reported in people of all ethnic backgrounds; and

WHEREAS, Although osteoporosis often has no symptoms in its early stages, a bone density test can be used to assess fracture risk and to establish the diagnosis and severity of the disease; and

WHEREAS, Osteoporosis accounts for billions of dollars in health care costs; and

WHEREAS, The Surgeon General of the United States believes that bone health is critically important to the overall health and quality of the life of Americans and that their bone health is in jeopardy and will only get worse if left unchecked; and

WHEREAS, Optimum bone health and prevention of osteoporosis can be maximized by a balanced diet rich in calcium and vitamin D, weight-bearing exercise, and a healthy lifestyle with no smoking or excessive alcohol intake; and

WHEREAS, May 2010 is Osteoporosis Awareness and Prevention Month;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate of the state of Washington, recognize and appreciate the ideals, goals, and activities of Osteoporosis Awareness and Prevention Month and urge the people of Washington to observe appropriate good health programs and activities with respect to preventing and controlling osteoporosis, including talking with their health care professionals about bone health.

Senator Becker spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8678.

The motion by Senator Becker carried and the resolution was adopted by voice vote.

MOTION

Senator Ranker moved adoption of the following resolution:

SENATE RESOLUTION  
8689

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By Senators Ranker, Kastama, Gordon, Brown, Pridemore, Sheldon, Jacobsen, Rockefeller, Hatfield, Oemig, Marr, McAuliffe, Haugen, McDermott, Prentice, Fairley, Regala, and Eide

WHEREAS, Mr. Wolf Bauer has been a pioneer of the Northwest and a leader in outdoor education and environmental conservation since 1929; and

WHEREAS, In March of 1930, Mr. Bauer won the Mountaineers first slalom race and served as a trailbreaker for the Mountaineers first patrol race; and

WHEREAS, In the summer of 1935, Mr. Bauer and Mr. Jack Hossack made the first ascent of the Ptarmigan Ridge on the north face of Mt. Rainier, reaching the summit in two days; and

WHEREAS, Mr. Bauer's designs and innovations led to the development of the modern fiberglass kayak, as well as the sport of kayaking; and

WHEREAS, In 1948, Mr. Bauer created the Washington Foldboat Club, which is currently titled the Washington Kayak Club; and

WHEREAS, A group led by Mr. Bauer made the first descent of Boulder Drop on the Skykomish River near Index, Washington; and

WHEREAS, In 1949, Mr. Bauer created the Mountain Rescue and Safety Council, which is presently titled the Mountain Rescue Council, and served as the Council's chairman for its first six years; and

WHEREAS, Mr. Bauer's dedication to the preservation of the Green River Gorge led to appropriations for purchase of surrounding lands from individuals, railroads, and timber companies; and

WHEREAS, Mr. Bauer was a founding member of the Washington Environmental Council in 1969; and

WHEREAS, In 1969, Mr. Bauer drafted the 'Natural Shorelines Act', which was incorporated into the Shoreline Management Act of 1971; and

WHEREAS, Mr. Bauer still hikes the trails of Washington Park in Anacortes; and

WHEREAS, Mr. Bauer celebrated his 98th birthday on February 24, 2010;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate officially recognize Mr. Wolf Bauer for his dedication to outdoor education and safety, as well as his steadfast commitment to the preservation of Washington rivers and shorelines; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Mr. Wolf Bauer.

Senator Ranker spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8689.

The motion by Senator Ranker carried and the resolution was adopted by voice vote.

MOTION

Senator Honeyford moved adoption of the following resolution:

SENATE RESOLUTION  
8692

By Senator Honeyford

WHEREAS, In April 1879 the town of Bickleton was founded when the travel-weary leader of a group of pioneers preparing to camp for the night stated, "I'm not going any farther now"; and

WHEREAS, Bickleton, the central town of Eastern Klickitat County, was first inhabited by Native Americans; and

WHEREAS, Charles Nathaniel Bickle, for whom the town was named, and the David Ransler family were the first white settlers; and

WHEREAS, The town is known as "The Bluebird Capital of the Pacific Northwest" and has surrounded itself with one of the finest wheat growing regions in our state; and

WHEREAS, The town of Cleveland lies four miles west of Bickleton and was founded in 1880-1881, when S. Lowenberg, a Goldendale merchant, established a branch store on the site of the present town on a homestead held by Ripley Dodge who soon opened a hotel and on whose land was built a blacksmith shop, and wheat-growing and stock raising soon became the main industries; and

WHEREAS, Cleveland's rodeo grounds are the location of the 100 year-old Bickleton Pioneer Picnic and Rodeo to be held again this year on June 11, 12, and 13, to include a rodeo on Saturday and Sunday, cowboy breakfasts, a Saturday night dance, and a 1905 restored Herschell-Spillman carousel, only one of three of its type still in operation; and

WHEREAS, The Herschell-Spillman carousel's horses are on display the rest of the year in Bickleton's Carousel Museum and brought out for this one weekend to be enjoyed by young and old alike;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize and congratulate the towns of Bickleton and Cleveland on the 100th Anniversary of the Bickleton Pioneer Picnic and Rodeo; and

BE IT FURTHER RESOLVED, That a copy of this 100-Year Anniversary Resolution be immediately transmitted by the Secretary of the Senate to The Alder Creek Pioneer Association and to Lou Marzeles, News Editor of The Goldendale Sentinel.

Senator Honeyford spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8692.

The motion by Senator Honeyford carried and the resolution was adopted by voice vote.

MOTION

Senator Jacobsen moved adoption of the following resolution:

SENATE RESOLUTION  
8697

By Senator Jacobsen

WHEREAS, It is the tradition of the Washington State Senate to honor great entrepreneurs who serve our community, our State, and our nation with innovative products and services; and

WHEREAS, Ebbets Field Flannels has been in business in Seattle for over twenty years; and

WHEREAS, Jerry Cohen started Ebbets Field Flannels with the idea of producing quality reproductions of baseball uniforms worn by the Pacific Coast League, Negro League, and other minor league teams; and

WHEREAS, The championing of Negro leagues baseball history reflects Ebbets Field Flannels' most challenging, difficult,

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and rewarding research effort in re-creating jerseys worn by Satchel Paige, Josh Gibson, Jackie Robinson, and others; and

WHEREAS, Jerry Cohen has steadfastly maintained his singular vision to produce historically accurate vintage flannel baseball shirts and related clothing items; and

WHEREAS, Each flannel shirt produced by Ebbets Field Flannels is a distinct project tailored to the needs of each consumer, preserving the historical significance of each shirt produced; and

WHEREAS, Ebbets Field Flannels makes products that reflect our country's enthusiasm for sports, a significant part of our shared national experience, something that unites us all, whether we follow a favorite team all season or only join in our nation's passion for the World Series, the Super Bowl, or March Madness; and

WHEREAS, Ebbets Field Flannels shares this enthusiasm with the world beyond our borders, having produced baseball uniforms for teams in Russia and the fledgling national baseball team in Iraq; and

WHEREAS, For their "overwhelming and heartwarming response" and generous donation to the Iraqi baseball team, Ebbets Field Flannels received national praise and recognition on the Rachel Maddow Show on MSNBC;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate does hereby recognize and honor Jerry Cohen and Ebbets Field Flannels, in celebration of their pioneering research efforts and their contributions to the historical records of baseball uniform annals and commitment to promoting our national pastime; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Jerry Cohen and Ebbets Field Flannels.

Senator Jacobsen spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8697.

The motion by Senator Jacobsen carried and the resolution was adopted by voice vote.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Jerry Cohen, who was seated in the gallery.

#### MOTION

Senator Eide moved adoption of the following resolution:

#### SENATE RESOLUTION 8706

By Senator Eide

WHEREAS, Federal Way, Washington celebrates 20 years of cityhood on February 28, 2010; and

WHEREAS, Over 88,000 dynamic and diverse residents of Federal Way take pride in their community by working, planning, and volunteering together for successes in business, education, arts, growth, and development; and

WHEREAS, Federal Way's public school system is recognized as one of the best in the state with advanced technology, advanced placement, and international baccalaureate classes and access to Highline Community College and DeVry University; and

WHEREAS, Federal Way offers the beauty of the Pacific Northwest with five miles of Puget Sound waterfront to the west and Mt. Rainier majestically seen to the east and features 29 city parks and walking trails; and

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WHEREAS, Federal Way's West Hylebos Wetlands Park is a regional treasure featuring a 120-acre forested wetland preserve enjoyed by tens of thousands of visitors annually and stewardship of the Hylebos Creek salmon stream by the Friends of the Hylebos and its many volunteers, sets a positive example for urban environmental stewardship in the Puget Sound Region; and

WHEREAS, Federal Way is always growing with many new attractions for residents and visitors, including the new City Hall, the Federal Way Community Center, Weyerhaeuser King County Aquatic Center, Celebration Park, the EX3 Ron Sandwith Teen Center, Dumas Bay Park and Knutzen Family Theater, Pacific Rim Bonsai Collection, and Wild Waves Theme Park; and

WHEREAS, St. Francis Hospital in Federal Way is recognized as one of the top hospitals nationally and Virginia Mason Medical Center offers 39 clinical specialties to serve thousands of patients each year; and

WHEREAS, Businesses and corporations, such as Weyerhaeuser Company, World Vision, Washington Education Association, Baden Sports, Washington State Golf Association, Washington State Trucking Association, and many others, make their headquarters in Federal Way; and

WHEREAS, There must be something in the water in Federal Way that produces two world-renowned Olympic medal-winning short track speed skaters, Apolo Anton Ohno and J.R. Celski;

NOW, THEREFORE, BE IT RESOLVED, That the members of the Washington State Senate acknowledge and honor the city of Federal Way, Washington, in its first 20 years of cityhood and the many more that will follow.

Senator Eide spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8706.

The motion by Senator Eide carried and the resolution was adopted by voice vote.

#### MOTION

Senator Kilmer moved adoption of the following resolution:

#### SENATE RESOLUTION 8707

By Senators Kilmer, Shin, Delvin, Marr, Jacobsen, Hobbs, Berkey, Becker, Gordon, and Brandland

WHEREAS, Every twenty-three seconds someone in the United States sustains a traumatic brain injury, totaling roughly four thousand people daily and 1.4 million people annually; and

WHEREAS, Out of the 1.4 million people annually who sustain traumatic brain injuries, 50,000 of them will die, while an additional 80,000 will experience the onset of lifelong disabilities as a result of their brain injury; and

WHEREAS, Traumatic brain injury now affects over 5.3 million American citizens, who now live with resulting disabilities; and

WHEREAS, In Washington state, traumatic brain injury patients constitute ten percent of the state's population of persons with disabilities; and

WHEREAS, The Defense and Veterans Brain Injury Center reports that incidences of traumatic brain injury for troops serving in Iraq and Afghanistan are uniquely common compared with past conflicts, with more than two-thirds of blast-injured veterans identified as having a brain injury; and

WHEREAS, The costs of traumatic brain injury in the United States total more than 60 billion dollars; and

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WHEREAS, There is no cure for traumatic brain injuries, only prevention; and

WHEREAS, The Brain Injury Association of America has created a partnership with the Centers for Disease Control and Prevention, the Health Resources and Services Administration in the United States Department of Health and Human Services, the Defense Brain and Spinal Cord Injury Program for veterans and military personnel, the Washington Protection and Advocacy System, and the Brain Injury Association of Washington that strives to provide a better future for traumatic brain injury patients through prevention, research, education, and advocacy; and

WHEREAS, The traumatic brain injury advocacy groups already mentioned have recognized and declared the month of March 2010 National Brain Injury Awareness Month;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize and honor the work of these organizations in their efforts to combat traumatic brain injuries; and

BE IT FURTHER RESOLVED, That the Washington State Senate honor these organizations and the victims of traumatic brain injury during the month of March, National Brain Injury Awareness Month.

Senator Kilmer spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8707.

The motion by Senator Kilmer carried and the resolution was adopted by voice vote.

MOTION

Senator Kilmer moved adoption of the following resolution:

SENATE RESOLUTION  
8708

By Senators Kilmer, Shin, Delvin, Marr, Jacobsen, Hobbs, Berkey, Becker, and Gordon

WHEREAS, Ann Daley has an enviably distinguished career of public service at the federal level for eight years and in Washington State for thirty-one years; and

WHEREAS, Ann Daley has worked in both Washingtons in her service on the staff of United States Senator Alan Cranston, and in the administration of four governors of the State of Washington, including the Honorable Booth Gardner, the Honorable Mike Lowry, the Honorable Gary Locke, and the Honorable Christine O. Gregoire; and

WHEREAS, Ann Daley has worked on both sides of the Capitol Dome in her service as staff to both the House of Representatives and the Senate of the State of Washington, including staff to Speaker Joe King; and

WHEREAS, Ann Daley served as assistant treasurer for Washington State; and

WHEREAS, Ann Daley was appointed to the board of regents at the University of Washington in 1995; and

WHEREAS, Ann Daley has served on numerous other boards and commissions, including both the pollution control and the shoreline hearings boards; and

WHEREAS, Ann Daley served as vice president for business and finance at The Evergreen State College; and

WHEREAS, Ann Daley has been a strong advocate for education at all levels as fundamentally important to a civil society; and

WHEREAS, Ann Daley was lead staff for Governor Gregoire's Washington Learns; and

WHEREAS, Ann Daley served as the executive director of the higher education coordinating board twice, and produced two important strategic master plans for higher education; and

WHEREAS, Ann Daley is regarded as among the best in Washington at bringing diverse interest groups to consensus around sound public policy; and

WHEREAS, Ann Daley has always served the public with the utmost integrity, and has earned a reputation as being an intelligent, fair-minded, and even-handed leader; and

WHEREAS, Ann Daley will leave public service at the end of March 2010 to devote full time in her role as Gram Gram to Alyssa, Koby, and James;

NOW, THEREFORE, BE IT RESOLVED, That the Senate commend Ann Daley for nearly forty years of dedicated service to the people of Washington State; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Ann Daley.

Senators Kilmer, Jacobsen and Becker spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8708.

The motion by Senator Kilmer carried and the resolution was adopted by voice vote.

MOTION

Senator Parlette moved adoption of the following resolution:

SENATE RESOLUTION  
8709

By Senators Morton and Parlette

WHEREAS, It is the tradition of the Washington State Senate to honor the great entrepreneurs and family businesses that have uniquely shaped the Northwest; and

WHEREAS, Gebbers Farms is celebrating its centennial anniversary this year; and

WHEREAS, Dan Gamble planted his first apple orchard in Brewster, Washington in 1910; and

WHEREAS, Dan Gamble built his first apple packing shed in 1918; and

WHEREAS, Martha Gamble was the first baby girl born in the new town of Brewster; and

WHEREAS, In 1927, John Gebbers and Martha Gamble married and established a home in Brewster where John ran the family orchards and cattle ranch while Martha operated the apple packing shed and saw mill; and

WHEREAS, During the depression, Martha Gebbers issued her own scrip to pay her employees and vendors and continued to grow her operations while selling apples on the streets of Los Angeles and continued moving winter apple supplies throughout southern California, Las Vegas, and Phoenix until the late 1950s; and

WHEREAS, In 1941, Martha Gebbers was one of the first businesses to recruit a work force through a guest worker program allowing the company to build and operate a new apple warehouse in Brewster, as well as help run the cattle ranch and saw mill during the war years; and

WHEREAS, In 1968, the family planted some of Washington's first Granny Smith apple trees and is now one of the leading sources of that variety, as well as Fuji, Gala, Red Delicious, and Golden Delicious apples; and

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WHEREAS, With over 5,000 acres of orchard, the Gebbers Family now farms one of the largest contiguous apple orchards in the world; and

WHEREAS, Gebbers Farms is one of the major suppliers of late season sweet cherries; and

WHEREAS, Gebbers Farms is one hundred percent family owned and managed;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate does hereby acknowledge and honor Gebbers Farms in celebration of its 100th year in operation; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Secretary of the Senate to the Gebbers Family Farm.

Senator Parlette spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8709.

The motion by Senator Parlette carried and the resolution was adopted by voice vote.

#### MOTION

At 12:23 p.m., on motion of Senator Eide, the Senate adjourned until 11:00 a.m. Friday, February 26, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**FORTY SEVENTH DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Friday, February 26, 2010

The Senate was called to order at 11:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Brown, Fairley, Haugen, Holmquist, McCaslin, Pridemore, Roach, Stevens and Swecker.

The Sergeant at Arms Color Guard consisting of Pages Jeremy Dickens and Emily Orne, presented the Colors. Roy Wilson, spiritual leader of the Cowlitz Tribe, offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

February 25, 2010

E2SHB 1096 Prime Sponsor, Committee on General Government Appropriations: Enhancing small business participation in state purchasing. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: Do pass as amended. Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli; Delvin; Eide and Kilmer.

Passed to Committee on Ways & Means.

February 25, 2010

HB 1690 Prime Sponsor, Representative Hasegawa: Authorizing alternative public works contracting procedures. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass as amended. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; Benton; McDermott; Pridemore and Swecker.

Passed to Committee on Rules for second reading.

February 25, 2010

ESHB 1714 Prime Sponsor, Committee on Health Care & Wellness: Concerning association health plans. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass as amended. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Fairley; Marr; Murray and Parlette.

Passed to Committee on Ways & Means.

February 25, 2010

HB 1830 Prime Sponsor, Representative Santos: Establishing business definitions for public contracting.

Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: Do pass as amended. Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli; Delvin; Eide and Kilmer.

Passed to Committee on Ways & Means.

February 24, 2010

ESHB 1885 Prime Sponsor, Committee on Agriculture & Natural Resources: Regarding the feeding of wildlife. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: Do pass as amended. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Fraser; Hargrove; Hatfield and Swecker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Morton and Stevens.

Passed to Committee on Rules for second reading.

February 25, 2010

SHB 2402 Prime Sponsor, Committee on Finance: Concerning a property tax exemption for property owned by a nonprofit organization and used for the purpose of a farmers market. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: Do pass as amended. Signed by Senators Hatfield, Chair; Ranker, Vice Chair; Schoesler; Becker; Haugen; Morton and Shin.

Passed to Committee on Ways & Means.

February 25, 2010

ESHB 2414 Prime Sponsor, Committee on Judiciary: Authorizing abatement of nuisances involving criminal street gang activity. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass as amended. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; Benton; McDermott; Pridemore and Swecker.

Passed to Committee on Rules for second reading.

February 24, 2010

HB 2428 Prime Sponsor, Representative Takko: Concerning fees for locating surplus funds from county governments, real estate property taxes, assessments, and other government lien foreclosures or charges. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin; McDermott; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

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HB 2456 Prime Sponsor, Representative Schmick: Concerning population thresholds that determine the number of local councilmembers and receipt of local funds. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Roach; Benton; McDermott; Pridemore and Swecker.

Passed to Committee on Rules for second reading.

February 25, 2010

HB 2460 Prime Sponsor, Representative Smith: Regarding organic products. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: Do pass as amended. Signed by Senators Hatfield, Chair; Ranker, Vice Chair; Becker; Haugen and Shin.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Schoesler and Morton.

Passed to Committee on Rules for second reading.

February 25, 2010

2SHB 2481 Prime Sponsor, Committee on General Government Appropriations: Authorizing the department of natural resources to enter into forest biomass supply agreements. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: Do pass as amended. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Fraser; Hargrove; Hatfield and Swecker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Stevens.

Passed to Committee on Ways & Means.

February 25, 2010

ESHB 2499 Prime Sponsor, Committee on Commerce & Labor: Changing regulations concerning black powder. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

February 25, 2010

SHB 2503 Prime Sponsor, Committee on Agriculture & Natural Resources: Regarding membership on the board of natural resources. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: Do pass as amended. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Fraser; Hargrove; Hatfield; Stevens and Swecker.

Passed to Committee on Rules for second reading.

February 25, 2010

ESHB 2541 Prime Sponsor, Committee on Agriculture & Natural Resources: Promoting and fostering the success of the forest products industry. (REVISED FOR ENGROSSED: Promoting the economic success of the forest products industry.) Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: Do pass as amended. Signed by Senators Jacobsen, Chair; Morton; Fraser; Hargrove; Hatfield and Stevens.

Passed to Committee on Rules for second reading.

February 25, 2010

SHB 2555 Prime Sponsor, Committee on Commerce & Labor: Authorizing the department of labor and industries to issue subpoenas to enforce production of information related to electricians and electrical installations. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; King and Kline.

MINORITY recommendation: Do not pass. Signed by Senator Honeyford.

Passed to Committee on Rules for second reading.

February 25, 2010

SHB 2556 Prime Sponsor, Committee on Agriculture & Natural Resources: Regarding financial security requirements under chapter 22.09 RCW. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: Do pass. Signed by Senators Hatfield, Chair; Ranker, Vice Chair; Schoesler; Becker; Haugen; Morton and Shin.

Passed to Committee on Rules for second reading.

February 24, 2010

SHB 2566 Prime Sponsor, Committee on Local Government & Housing: Creating an exemption from impact fees for low-income housing. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin and McDermott.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Schoesler.

Passed to Committee on Rules for second reading.

February 25, 2010

SHB 2593 Prime Sponsor, Committee on Agriculture & Natural Resources: Concerning the department of fish and wildlife's ability to manage shellfish resources. Reported by Committee on Natural Resources, Ocean & Recreation

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MAJORITY recommendation: Do pass as amended. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Fraser; Hargrove; Hatfield and Swecker.

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford; King and Kline.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Stevens.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

February 25, 2010

2SHB 2603 Prime Sponsor, Committee on Ways & Means: Requiring agencies to give small businesses an opportunity to comply with a state law or agency rule before imposing a penalty. Reported by Committee on Economic Development, Trade & Innovation

SHB 2704 Prime Sponsor, Committee on State Government & Tribal Affairs: Transferring the Washington main street program to the department of archaeology and historic preservation. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass as amended. Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli; Delvin; Eide and Kilmer.

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; Benton; McDermott; Pridemore and Swecker.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

February 25, 2010

February 25, 2010

E2SHB 2658 Prime Sponsor, Committee on Ways & Means: Refocusing the department of commerce, including transferring programs. Reported by Committee on Economic Development, Trade & Innovation

HB 2720 Prime Sponsor, Representative Armstrong: Concerning the Washington soldiers' home. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass as amended. Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli; Delvin; Eide and Kilmer.

MAJORITY recommendation: Do pass as amended. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Benton; McDermott; Pridemore and Swecker.

Passed to Committee on Ways & Means.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Roach.

Passed to Committee on Rules for second reading.

February 25, 2010

February 25, 2010

HB 2659 Prime Sponsor, Representative Ormsby: Modifying reporting requirements for timber purchases. Reported by Committee on Natural Resources, Ocean & Recreation

HB 2740 Prime Sponsor, Representative Seaquist: Regarding the definition of land use decision in the land use petition act. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Jacobsen, Chair; Ranker, Vice Chair; Morton; Hargrove; Hatfield and Stevens.

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott; Pridemore and Swecker.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

February 25, 2010

February 25, 2010

SHB 2688 Prime Sponsor, Committee on Commerce & Labor: Creating a beer and wine tasting endorsement to the grocery store liquor license. Reported by Committee on Labor, Commerce & Consumer Protection

HB 2750 Prime Sponsor, Representative Sells: Addressing public utility districts and deferred compensation and supplemental savings plans. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford; King and Kline.

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; Benton; McDermott; Pridemore and Swecker.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

February 25, 2010

February 25, 2010

HB 2697 Prime Sponsor, Representative Conway: Concerning real estate broker licensure fees. Reported by Committee on Labor, Commerce & Consumer Protection

SHB 2775 Prime Sponsor, Committee on Local Government & Housing: Regarding membership on the state building code council. Reported by Committee on Government Operations & Elections

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MAJORITY recommendation: Do pass as amended. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott; Pridemore and Swecker.

Passed to Committee on Rules for second reading.

February 25, 2010

HB 2848 Prime Sponsor, Representative Alexander: Repealing RCW 36.32.210. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Benton; McDermott; Pridemore and Swecker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Roach.

Passed to Committee on Rules for second reading.

February 25, 2010

ESHB 2875 Prime Sponsor, Committee on Health Care & Wellness: Concerning health savings accounts. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass as amended. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Marr; Murray and Parlette.

Passed to Committee on Rules for second reading.

February 25, 2010

SHB 2884 Prime Sponsor, Committee on Local Government & Housing: Authorizing limited expansions of urban growth areas into one hundred year floodplains in areas adjacent to a freeway interchange or interstate in counties wholly or partially bordering salt waters with more than one hundred thousand but fewer than one hundred fifty thousand residents. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; Pridemore and Swecker.

Passed to Committee on Rules for second reading.

February 25, 2010

ESHB 2925 Prime Sponsor, Committee on Ways & Means: Concerning impact payments of a municipally owned hydroelectric facility. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; Benton; McDermott; Pridemore and Swecker.

Passed to Committee on Rules for second reading.

February 25, 2010

HB 2947 Prime Sponsor, Representative Wood: Concerning special occasion licenses. Reported by Committee on Labor, Commerce & Consumer Protection

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MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

February 25, 2010

E2SHB 2961 Prime Sponsor, Committee on Health & Human Services Appropriations: Establishing a statewide electronic sales tracking system for the nonprescription sales of ephedrine, pseudoephedrine, and phenylpropanolamine. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Marr; Murray and Parlette.

Passed to Committee on Rules for second reading.

February 25, 2010

ESHB 2986 Prime Sponsor, Committee on Local Government & Housing: Requiring the appointment of nonvoting labor members to public transportation governing bodies. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass as amended. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott and Pridemore.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Swecker.

Passed to Committee on Rules for second reading.

February 25, 2010

HB 3030 Prime Sponsor, Representative Fagan: Regarding the administration of irrigation districts. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: Do pass as amended. Signed by Senators Hatfield, Chair; Ranker, Vice Chair; Schoesler; Becker; Haugen; Morton and Shin.

Passed to Committee on Rules for second reading.

February 25, 2010

HB 3061 Prime Sponsor, Representative Condotta: Addressing claims of insolvent self-insurers under industrial insurance. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

February 24, 2010

ESHB 3067 Prime Sponsor, Committee on Local Government & Housing: Establishing a process for the payment of impact fees through provisions stipulated in recorded covenants. Reported by Committee on Financial Institutions, Housing & Insurance

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MAJORITY recommendation: Do pass as amended. Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Benton; Franklin and McDermott.

MOTION

On motion of Senator Eide, the Senate advanced to the third order of business.

MINORITY recommendation: Do not pass. Signed by Senator Schoesler.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Parlette.

February 15, 2010

Passed to Committee on Rules for second reading.

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

REPORTS OF STANDING COMMITTEES  
GUBERNATORIAL APPOINTMENTS

Ladies and Gentlemen:

February 25, 2010

SGA 9154 CHRISTOPHER P BARRY, appointed on February 10, 2009, for the term ending January 19, 2013, as Member of the Board of Pharmacy. Reported by Committee on Health & Long-Term Care

I have the honor to submit the following appointment, subject to your confirmation.

RICHARD F. MCCURDY, appointed March 1, 2010, for the term ending December 26, 2011, as Member of the Board of Pilotage Commissioners.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Transportation.

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug; Becker; Fairley; Marr; Murray and Parlette.

MOTION

Passed to Committee on Rules for second reading.

On motion of Senator Eide, the following measures under consideration by the Committee on Rules were removed from the Committee's Green Sheet and placed in the Committee's "X" file: Senate Bill 5111; Senate Bill 5208; Senate Bill 5255; Senate Bill 5302; Senate Bill 5422; Senate Bill 5549; Senate Bill 5550; Senate Bill 5563; Senate Bill 5564; Senate Bill 5624; Senate Bill 5757; Senate Bill 5838; Substitute Senate Bill 5948; Senate Bill 5986; Senate Bill 6191; Senate Bill 6194; Senate Bill 6198; Senate Bill 6210; Senate Bill 6225; Senate Bill 6228; Senate Bill 6234; Senate Bill 6235; Senate Bill 6238; Senate Bill 6252; Senate Bill 6253; Senate Bill 6258; Senate Bill 6274; Senate Bill 6292; Senate Bill 6300; Senate Bill 6322; Senate Bill 6323; Senate Bill 6327; Senate Bill 6328; Senate Bill 6333; Senate Bill 6352; Senate Bill 6362; Senate Bill 6366; Senate Bill 6370; Senate Bill 6377; Senate Bill 6386; Senate Bill 6397; Senate Bill 6406; Senate Bill 6408; Senate Bill 6412; Senate Bill 6435; Senate Bill 6440; Senate Bill 6442; Senate Bill 6451; Senate Bill 6454; Senate Bill 6460; Senate Bill 6461; Senate Bill 6469; Senate Bill 6471; Senate Bill 6490; Senate Bill 6498; Senate Bill 6500; Senate Bill 6512; Senate Bill 6528; Senate Bill 6539; Senate Bill 6551; Senate Bill 6552; Senate Bill 6559; Senate Bill 6586; Senate Bill 6619; Substitute Senate Bill 6620; Senate Bill 6630; Senate Bill 6641; Senate Bill 6654; Senate Bill 6663; Senate Bill 6666; Senate Bill 6668; Senate Bill 6669; Senate Bill 6670; Senate Bill 6683; Senate Bill 6685; Senate Bill 6689; Senate Bill 6695; Senate Bill 6700; Senate Bill 6701; Senate Bill 6703; Senate Bill 6709; Senate Bill 6715; Senate Bill 6719; Senate Bill 6738; Senate Bill 6743; Senate Bill 6768; Senate Bill 6772; Senate Bill 6791; Senate Bill 6792; Senate Bill 6794; Senate Bill 6797; Senate Bill 6802; Senate Bill 6827; Senate Joint Memorial 8019; Senate Joint Resolution 8208; Senate Joint Resolution 8209; Senate Joint Resolution 8212; Substitute Senate Bill 5698; Substitute Senate Bill 5152; Senate Bill 5951; and the following measures were removed from the Committee's White Sheet and placed in the Committee's "X" file: Senate Bill 5067; Senate Bill 5069; Senate Bill 5086; Senate Bill 5096; Senate Bill 5279; Senate Bill 5292; Senate Bill 5398; Senate Bill 5588; Senate Bill 5633; Senate Bill 5728; Senate Bill 5770; Senate Bill 5788; Substitute Senate Bill 6023; Senate Bill 6195; Senate Bill 6216; Senate Bill 6242; Senate Bill 6245; Senate Bill 6264; Senate Bill 6266; Senate Bill 6384; Senate Bill 6413; Senate Bill 6428; Senate Bill 6431; Senate Bill 6456; Senate Bill 6466;

February 25, 2010

SGA 9158 RONALD K SPERLING, appointed on February 11, 2009, for the term ending February 11, 2013, as Member of the Health Care Facilities Authority. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Fairley; Marr and Murray.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Pflug; Becker and Parlette.

Passed to Committee on Rules for second reading.

February 25, 2010

SGA 9163 GARY HARRIS, reappointed on February 10, 2009, for the term ending January 19, 2013, as Member of the Board of Pharmacy. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Keiser, Chair; Franklin, Vice Chair; Fairley; Marr and Murray.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Pflug; Becker and Parlette.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

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Senate Bill 6489; Senate Bill 6492; Senate Bill 6494; Senate Bill 6545; Senate Bill 6607; Senate Bill 6612; Senate Bill 6624; Senate Bill 6665; Senate Bill 6671; Senate Bill 6672; Senate Bill 6676; Senate Bill 6697; Senate Bill 6729; Senate Bill 6732; Senate Bill 6742; Senate Bill 6793; Senate Bill 6800; Senate Bill 6803; Senate Bill 6811; Senate Bill 6823; Senate Bill 6845; Senate Joint Memorial 8009; Senate Joint Memorial 8017; Senate Joint Memorial 8023; Senate Bill 5176; Senate Bill 5227; Senate Bill 5615; Senate Bill 5622; Senate Bill 5672; Senate Bill 5696; Engrossed Substitute Senate Bill 5840; Engrossed Substitute Senate Bill 6037; Senate Bill 6065; Senate Bill 6067; Substitute Senate Bill 6109; Senate Bill 6204; Senate Bill 6301; Senate Bill 6347; Senate Bill 6348; Senate Bill 6353; Senate Bill 6405; Senate Bill 6501; Senate Bill 6775; Senate Bill 6798; Substitute Senate Bill 5026; Substitute Senate Bill 5061 Substitute Senate Bill 5141 Substitute Senate Bill 5232; Senate Bill 5453; Senate Bill 5507; Engrossed Senate Bill 5519 Substitute Senate Bill 5528; Substitute Senate Bill 5727; Substitute Senate Bill 5760; Engrossed Substitute Senate Bill 5800; Engrossed Senate Bill 5886; Substitute Senate Bill 6172.

#### MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed Mr. Wolf Bauer who was present in the gallery and honored by the Senate with Senate Resolution No. 8689 on the previous legislative day.

#### MOTION

Senator Kohl-Welles moved adoption of the following resolution:

#### SENATE RESOLUTION 8710

By Senators Kohl-Welles, Rockefeller, Prentice, Parlette, Brandland, Honeyford, Keiser, Regala, Fairley, Kline, Stevens, Tom, Delvin, Fraser, Oemig, Eide, and McAuliffe

WHEREAS, Washington State is blessed with the majestic and impressive Cascade Mountains and Olympic Mountains, and these natural features help define Washington's character and are a part of its heritage; and

WHEREAS, Ed Viesturs moved to Washington over three decades ago to live among the state's great peaks and began his climbing career as a guide on Mount Rainier, reaching its summit over 200 times; and

WHEREAS, Ed Viesturs has taken the skills and lessons he learned on the slopes of Washington's mountains to the world's highest mountain, summiting Mount Everest for the seventh time on May 19, 2009; and

WHEREAS, Ed Viesturs became the first American to reach the summits of all fourteen of the world's 8,000-meter mountains on Annapurna on May 12, 2005, and only the fifth person in the world to accomplish this amazing feat without bottled oxygen; and

WHEREAS, Ed Viesturs' actions have proven time and again that he lives by high ideals even in high places, adhering to his famous creed that reaching the summit is optional but coming home isn't, and sacrificing his own plans to come to the aid of stricken climbers; and

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WHEREAS, Ed Viesturs shares his experiences with organizations and audiences around this state and around the world, inspiring others to strive for more and emphasizing that there is truly no shortcut to the top and that planning and teamwork are the foundations of success;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate commend Ed Viesturs for his outstanding accomplishments as America's most accomplished Himalayan climber and for his contributions to the sport of climbing, especially in safety and awareness, and for his dedication to promoting high ideals and excellence in his community; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Ed Viesturs.

Senators Kohl-Welles, Delvin, Rockefeller and Tom spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8710.

The motion by Senator Kohl-Welles carried and the resolution was adopted by voice vote.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed Mr. Ed Viesturs who was seated at the rostrum.

With permission of the Senate, business was suspended to allow Ed Viesturs to address the Senate.

#### REMARKS BY ED VIESTURS

Ed Viesturs: "Thank you. It's a true honor to here. You know, I'm so glad I moved over thirty years ago from the great mountaineering state of Illinois. But you know, what drew me here was I read the book 'Annapurna' which was described earlier and I was inspired by that story and it was basically about team work, adventure, camaraderie, you know trial and tribulation and I think based on my personality I thought that's something I wanted to do and I figured I had to go somewhere like this great state to learn about mountaineering because so many great mountaineers had started here, had come from here and I knew that. Three of my mentors and heroes are coincidentally here today. They were honoring Wolf Bauer earlier, Dee. Molenaar is in the audience as well who was on one of the first American K2 expeditions in 1953 and Lou Whittaker as well in the audience who was my boss on Mt. Rainier for many years and took me on first successful eight thousand meter expedition in Kangchenjunga in 1989 and you know, when I came out to climb I knew I would have to have teachers and mentors and learn the basics, climb the small mountains before I went to the bigger mountains and thank you and I had such great teachers and mentors and leaders. You know, in the mountains we say that we follow in the footsteps of others and that's true. Literally and figuratively, you know I, people that went ahead of us that broke the trail that broke those mental and physiological barriers of climbing very high, that's what I was able to use to climb these mountains as well. When we're working as a team in the mountains we do literally do break the trail for each other. So, there is a tremendous amount of team work involved, you know, hopefully the people that you go with are your friends because if you don't like them at sea level you're not going to like them at twenty-six thousand feet. There's that implicit trust as well and for me when I went to climb these mountains it was all about the journey and the process and it was a struggle and I spent eighteen years of my life you know climbing the fourteen eight thousand meter peaks but when I sat on the summit of the Annapurna at the end of that it was for me that literal dream come true moment. I

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am so glad I did it, I'm so glad that I live here in this state of Washington and I can raise my family here as well. Thank you very much."

SB 6870 Prime Sponsor, Senator Hargrove: Containing costs for services to sexually violent predators. Reported by Committee on Human Services & Corrections

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and recognized Lou Whittaker and Dee Molenaar who were seated in the gallery.

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland and McAuliffe.

PERSONAL PRIVILEGE

Senator McAuliffe: "Thank you Mr. President. I would request the Senate have a moment of silence for the special education teacher who was fatally shot outside of Tacoma elementary school this morning at seven thirty am. It was Birney Elementary School and it was a domestic violence tragedy and I would like us to extend our sympathies to the teachers and staff and families at Birney Elementary who are affected by this tragedy."

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Carrell.

Passed to Committee on Rules for second reading.

MOMENT OF SILENCE

The Senate observed a moment of silence in memory of Miss Jennifer Paulson who passed away February 26, 2010.

February 25, 2010  
E2SHB 1149 Prime Sponsor, Committee on Financial Institutions & Insurance: Protecting consumers from breaches of security. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass as amended. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

PERSONAL PRIVILEGE

Senator Kohl-Welles: "Mr. Viesturs will be in Senator Eide's office for the next half hour, if anybody would like to come in and chat with him or if you have a book of his you would like to have an autographed he'll be there. Thank you."

February 25, 2010  
SHB 1329 Prime Sponsor, Committee on Ways & Means: Providing collective bargaining for child care center directors and workers. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass as amended. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin and Kline.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and King.

MOTION

At 11:27 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

Passed to Committee on Ways & Means.

AFTERNOON SESSION

The Senate was called to order at 2:14 p.m. by President Pro Tempore.

February 25, 2010  
2SHB 1357 Prime Sponsor, Committee on Health Care & Wellness: Protecting consumers by assuring persons using the title of social worker have graduated with a degree in social work from an educational program accredited by the council on social work education. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell and McAuliffe.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, the Senate reverted to the first order of business.

SUPPLEMENTAL REPORTS OF STANDING COMMITTEES

February 25, 2010  
SB 6868 Prime Sponsor, Senator Hargrove: Limiting the reasons for which a manifest injustice disposition may be imposed upon a juvenile offender. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 6868 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

February 25, 2010  
E2SHB 1560 Prime Sponsor, Committee on Ways & Means: Regarding collective bargaining at institutions of higher education. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass as amended. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin and Kline.

Passed to Committee on Rules for second reading.

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MINORITY recommendation: Do not pass. Signed by Senators Honeyford and King.

Passed to Committee on Rules for second reading.

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ESHB 1956 Prime Sponsor, Committee on Local Government & Housing: Authorizing the housing of homeless persons on property owned or controlled by a church. (REVISED FOR PASSED LEGISLATURE: Authorizing religious organizations to host temporary encampments for homeless persons on property owned or controlled by a religious organization. ) Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

February 25, 2010

2SHB 2016 Prime Sponsor, Committee on State Government & Tribal Affairs: Concerning campaign contribution and disclosure laws. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass as amended. Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach; McDermott; Pridemore and Swecker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Benton.

Passed to Committee on Rules for second reading.

February 26, 2010

SHB 2416 Prime Sponsor, Committee on Technology, Energy & Communications: Establishing energy efficiency standards for consumer products. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass as amended. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Fraser; Marr; Oemig and Ranker.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford; Delvin and Morton.

Passed to Committee on Rules for second reading.

February 25, 2010

SHB 2422 Prime Sponsor, Committee on Public Safety & Emergency Preparedness: Changing escape or disappearance notice requirements. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

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ESHB 2424 Prime Sponsor, Committee on Public Safety & Emergency Preparedness: Protecting children from sexual exploitation and abuse. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon; Hargrove; Kohl-Welles and Roach.

Passed to Committee on Rules for second reading.

February 25, 2010

SHB 2429 Prime Sponsor, Committee on Commerce & Labor: Addressing the resale of motor vehicles previously determined as having nonconformities. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

February 25, 2010

2SHB 2436 Prime Sponsor, Committee on General Government Appropriations: Concerning vehicle license fraud. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; Swecker; Becker; Berkey; Delvin; Eide; Hatfield; Kastama; Kilmer and Sheldon.

Passed to Committee on Rules for second reading.

February 25, 2010

EHB 2444 Prime Sponsor, Representative Williams: Providing leave from employment for participating in a child's educational activities. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin and Kline.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and King.

Passed to Committee on Rules for second reading.

February 26, 2010

SHB 2457 Prime Sponsor, Committee on Judiciary: Placing restrictions on pro se defendants when questioning witnesses. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon; Hargrove; Kohl-Welles and Roach.

Passed to Committee on Rules for second reading.

February 25, 2010

SHB 2486 Prime Sponsor, Committee on Public Safety & Emergency Preparedness: Concerning costs for the collection of DNA samples. Reported by Committee on Human Services & Corrections

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MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell and McAuliffe.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Kauffman.

Passed to Committee on Rules for second reading.

February 26, 2010

SHB 2524 Prime Sponsor, Committee on Commerce & Labor: Concerning prohibited practices of collection agencies. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended. Signed by Senators Kline, Chair; Regala, Vice Chair; Gordon; Hargrove; Kohl-Welles and Roach.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Carrell.

Passed to Committee on Rules for second reading.

February 26, 2010

SHB 2527 Prime Sponsor, Committee on Technology, Energy & Communications: Regarding the energy facility site evaluation council. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass as amended. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Honeyford; Delvin; Fraser; Morton and Ranker.

Passed to Committee on Rules for second reading.

February 25, 2010

HB 2528 Prime Sponsor, Representative Appleton: Retroactively applying certain intermediate license law amendments made during the 2009 legislative session. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; Swecker; Becker; Berkey; Delvin; Eide; Hatfield; Kastama; Kilmer; King and Sheldon.

Passed to Committee on Rules for second reading.

February 25, 2010

SHB 2533 Prime Sponsor, Committee on Human Services: Concerning the interstate compact on mental health. (REVISED FOR PASSED LEGISLATURE: Concerning detention and interstate transfer of persons found not guilty by reason of insanity. ) Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

February 25, 2010

SHB 2534 Prime Sponsor, Committee on Public Safety & Emergency Preparedness: Establishing a program to verify the address of registered sex offenders and kidnapping offenders. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

February 26, 2010

ESHB 2538 Prime Sponsor, Committee on Ecology & Parks: Regarding high-density urban development. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass as amended. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Honeyford; Delvin; Fraser; Morton; Oemig; Ranker and Sheldon.

Passed to Committee on Rules for second reading.

February 26, 2010

E2SHB 2539 Prime Sponsor, Committee on Ways & Means: Optimizing the collection of source separated materials. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Honeyford; Delvin; Fraser; Morton and Ranker.

Passed to Committee on Rules for second reading.

February 25, 2010

SHB 2546 Prime Sponsor, Committee on Commerce & Labor: Concerning classroom training for electrical trainees. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; King and Kline.

MINORITY recommendation: Do not pass. Signed by Senator Honeyford.

Passed to Committee on Rules for second reading.

February 25, 2010

ESHB 2547 Prime Sponsor, Committee on Commerce & Labor: Concerning franchise agreements between new motor vehicle dealers and manufacturers. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass as amended. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

February 25, 2010

SHB 2589 Prime Sponsor, Committee on Commerce & Labor: Concerning on-site wastewater treatment systems

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designer licensing. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

February 25, 2010

SHB 2596 Prime Sponsor, Committee on Early Learning & Children's Services: Defining child advocacy centers for the multidisciplinary investigation of child abuse and implementation of county protocols. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

February 26, 2010

HB 2625 Prime Sponsor, Representative Kelley: Addressing bail for felony offenses. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon; Kohl-Welles and Roach.

Passed to Committee on Ways & Means.

February 25, 2010

SHB 2627 Prime Sponsor, Committee on Judiciary: Concerning child support order summary report forms. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

February 25, 2010

HB 2629 Prime Sponsor, Representative Kelley: Updating provisions related to adoption petitions. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

February 25, 2010

HB 2642 Prime Sponsor, Representative Kenney: Establishing a pilot project to allow wine tasting at farmers markets. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass as amended. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford; King and Kline.

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Passed to Committee on Rules for second reading.

February 25, 2010

SHB 2649 Prime Sponsor, Committee on Commerce & Labor: Correcting references in RCW 50.29.021(2)(c)(i), (c)(ii), and (3)(e), RCW 50.29.062(2)(b)(i)(B) and (2)(b)(iii), and RCW 50.29.063(1)(b) and (2)(a)(ii) to unemployment insurance statutes concerning employer experience rating accounts and contribution rates. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

February 25, 2010

SHB 2678 Prime Sponsor, Committee on Commerce & Labor: Modifying distributions of funds by the horse racing commission to nonprofit race meets. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

February 25, 2010

SHB 2680 Prime Sponsor, Committee on Early Learning & Children's Services: Implementing a guardianship program. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

February 25, 2010

SHB 2717 Prime Sponsor, Committee on Human Services: Restricting leave from state facilities. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

February 25, 2010

SHB 2722 Prime Sponsor, Committee on Judiciary: Concerning persons appointed by the court to provide information in family law and adoption cases. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

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HB 2735 Prime Sponsor, Representative Goodman: Encouraging the need for representation of children in dependency matters. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

February 26, 2010

2SHB 2742 Prime Sponsor, Committee on Transportation: Addressing accountability for persons driving under the influence of intoxicating liquor or drugs. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon; Hargrove; Kohl-Welles and Roach.

Passed to Committee on Rules for second reading.

February 25, 2010

ESHB 2747 Prime Sponsor, Committee on Human Services: Limiting the use of restraints on pregnant women or youth. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Carrell; Kauffman and McAuliffe.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Brandland.

Passed to Committee on Rules for second reading.

February 25, 2010

ESHB 2752 Prime Sponsor, Committee on Early Learning & Children's Services: Modifying provisions relating to providing shelter to a minor. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Rules for second reading.

February 26, 2010

ESHB 2777 Prime Sponsor, Committee on Public Safety & Emergency Preparedness: Modifying domestic violence provisions. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended. Signed by Senators Kline, Chair; Regala, Vice Chair; Gordon; Hargrove; Kohl-Welles and Roach.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Carrell.

Passed to Committee on Rules for second reading.

February 25, 2010

2SHB 2782 Prime Sponsor, Committee on Ways & Means: Concerning the security lifeline act. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell and McAuliffe.

Passed to Committee on Ways & Means.

February 25, 2010

SHB 2789 Prime Sponsor, Committee on Commerce & Labor: Authorizing issuance of subpoenas for purposes of agency investigations of underground economic activity. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; King and Kline.

MINORITY recommendation: Do not pass. Signed by Senator Honeyford.

Passed to Committee on Rules for second reading.

February 25, 2010

ESHB 2790 Prime Sponsor, Committee on Commerce & Labor: Making technical and clarifying changes to the liquor laws. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

February 25, 2010

EHB 2805 Prime Sponsor, Representative Ormsby: Regarding public works involving off-site prefabrication. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass as amended. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin and Kline.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and King.

Passed to Committee on Rules for second reading.

February 25, 2010

HB 2817 Prime Sponsor, Representative O'Brien: Exempting a person's identifying information from public disclosure when submitted in the course of using the sex offender notification and registration program for the purpose of receiving notification regarding registered sex offenders. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell and McAuliffe.

Passed to Committee on Rules for second reading.

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HB 2861 Prime Sponsor, Representative Rodne: Adding state certified court reporters to the list of persons authorized to administer oaths and affirmations. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon; Hargrove; Kohl-Welles and Roach.

Passed to Committee on Rules for second reading.

February 25, 2010

2SHB 2882 Prime Sponsor, Committee on Ways & Means: Detaining persons with mental disorders. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell and McAuliffe.

Passed to Committee on Rules for second reading.

February 25, 2010

HB 2918 Prime Sponsor, Representative Eddy: Removing state route number 908 from the state highway system. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Berkey; Delvin; Eide; Hatfield; Kastama; Kilmer; King and Sheldon.

Passed to Committee on Rules for second reading.

February 25, 2010

HB 2942 Prime Sponsor, Representative O'Brien: Offering human trafficking training for criminal justice and correctional personnel, and other public safety employees. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

February 25, 2010

SHB 3003 Prime Sponsor, Committee on Commerce & Labor: Placing symphony musicians under the jurisdiction of the public employment relations commission for purposes of collective bargaining. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin and Kline.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and King.

Passed to Committee on Rules for second reading.

SHB 3016 Prime Sponsor, Committee on Judiciary: Updating provisions concerning the modification, review, and adjustment of child support orders to improve access to justice and to ensure compliance with federal requirements. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Kauffman and McAuliffe.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Carrell.

Passed to Committee on Rules for second reading.

February 25, 2010

E2SHB 3024 Prime Sponsor, Committee on Ways & Means: Providing uninterrupted meal and rest breaks for hospital employees. (REVISED FOR ENGROSSED: Providing uninterrupted meal and rest breaks for certain employees. ) Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass as amended. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin and Kline.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and King.

Passed to Committee on Rules for second reading.

February 25, 2010

ESHB 3040 Prime Sponsor, Committee on Commerce & Labor: Regarding the licensing of appraisal management companies. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass as amended. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford and King.

Passed to Committee on Rules for second reading.

February 25, 2010

2SHB 3076 Prime Sponsor, Committee on Ways & Means: Concerning the involuntary treatment act. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell; Kauffman and McAuliffe.

Passed to Committee on Ways & Means.

February 26, 2010

SHB 3105 Prime Sponsor, Committee on Ecology & Parks: Allowing the director of financial management to include alternative fuel vehicles in a strategy to reduce fuel consumption and emissions from state agency fleets. (REVISED FOR PASSED LEGISLATURE: Including alternative fuel vehicles in a strategy to reduce fuel consumption and emissions from state agency fleets. ) Reported by Committee on Environment, Water & Energy

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MAJORITY recommendation: Do pass as amended. Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Honeyford; Delvin; Fraser; Morton; Oemig; Ranker and Sheldon.

Passed to Committee on Rules for second reading.

February 25, 2010

SHB 3124 Prime Sponsor, Committee on Early Learning & Children's Services: Requiring a report to child protective services when a child is present in the vehicle of a person arrested for driving or being in control of a vehicle while under the influence of alcohol or drugs. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Brandland; Carrell and McAuliffe.

Passed to Committee on Rules for second reading.

February 25, 2010

E2SHB 3141 Prime Sponsor, Committee on Ways & Means: Regarding delivery of temporary assistance to needy families. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Kauffman and McAuliffe.

MINORITY recommendation: Do not pass. Signed by Senator Carrell.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Stevens and Brandland.

Passed to Committee on Ways & Means.

February 25, 2010

SHB 3145 Prime Sponsor, Committee on Commerce & Labor: Improving administration of wage complaints. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin; Honeyford; King and Kline.

Passed to Committee on Rules for second reading.

February 26, 2010

ESHJR 4220 Prime Sponsor, Committee on Public Safety & Emergency Preparedness: Amending the state Constitution so that the provision relating to bailable crimes by sufficient sureties is modified. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended. Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell; Gordon; Hargrove; Kohl-Welles and Roach.

Passed to Committee on Rules for second reading.

MOTION

On motion of Eide, all measures listed on the Supplemental Standing Committee report were referred to the committees as designated with the exception of Second Substitute House Bill No. 3076 which was referred to the Committee on Ways & Means.

SECOND SUPPLEMENTAL REPORTS OF STANDING COMMITTEES

February 25, 2010

2SHB 1572 Prime Sponsor, Committee on State Government & Tribal Affairs: Adopting all mail voting. Reported by Committee on Government Operations & Elections

MAJORITY recommendation: Do pass as amended. Signed by Senators Fairley, Chair; Oemig, Vice Chair; McDermott and Pridemore.

MINORITY recommendation: Do not pass. Signed by Senator Roach.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Swecker.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, the measure listed on the Second Supplemental Standing Committee report was referred to the committee as designated.

MOTION

At 2:16 p.m., on motion of Senator Eide, the Senate adjourned until 11:00 a.m. Saturday, February 27, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**FORTY EIGHTH DAY**

**MORNING SESSION**

Senate Chamber, Olympia, Saturday, February 27, 2010

The Senate was called to order at 11:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Brown, Delvin, Fraser, Holmquist, McCaslin, Murray, Prentice, Swecker and Tom.

The Sergeant at Arms Color Guard consisting of Senate Interns, Ben Nelson and Jason Doudt, presented the Colors. Senator Fraser offered the prayer.

**MOTION**

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

**MOTION**

There being no objection, the Senate advanced to the first order of business.

**REPORTS OF STANDING COMMITTEES**

February 26, 2010

SB 6444 Prime Sponsor, Senator Prentice: Making 2010 operating supplemental appropriations. Reported by Committee on Ways & Means

**MAJORITY recommendation:** That Substitute Senate Bill No. 6444 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

**MINORITY recommendation:** Do not pass. Signed by Senators Zarelli; Brandland; Carrell; Hewitt; Honeyford; Parlette; Pflug and Schoesler.

Passed to Committee on Rules for second reading.

**MOTION**

On motion of Senator Eide, the measure listed on the Standing Committee report was referred to the committee as designated.

**MOTION**

There being no objection, the Senate advanced to the third order of business.

**MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS**

February 12, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON  
Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

ROBERT C. ANDERSON, appointed February 12, 2010, for the term ending October 1, 2012, as Member of the Small Business Export Finance Assistance Center Board of Directors.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Financial Institutions, Housing & Insurance.

February 12, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

MIKE D. MARAVE, appointed February 12, 2010, for the term ending October 1, 2012, as Member of the Small Business Export Finance Assistance Center Board of Directors.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Financial Institutions, Housing & Insurance.

**MOTION**

On motion of Senator Eide, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated.

**MOTION**

On motion of Senator Eide, the Senate advanced to the fourth order of business.

**MESSAGE FROM THE HOUSE**

February 26, 2010

MR. PRESIDENT:

The House has passed:

SUBSTITUTE HOUSE BILL 2935,

SUBSTITUTE HOUSE BILL 2941.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

**MESSAGE FROM THE HOUSE**

February 26, 2010

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL 2954,

ENGROSSED HOUSE BILL 2969.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

**MOTION**

At 11:11 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

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The Senate was called to order at 11:54 a.m. by President Owen.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2464, by House Committee on Transportation (originally sponsored by Representatives Liias, Johnson, O'Brien, Morrell, Maxwell, Sullivan, Simpson, Van De Wege, Kenney, Ericks and Sells)

Implementing rules and penalties for drivers when approaching certain emergency, roadside assistance, or police vehicles in emergency zones.

The measure was read the second time.

MOTION

Senator Marr moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following: "Sec. 1. RCW 46.61.212 and 2007 c 83 s 1 are each amended to read as follows:

(1) The driver of any motor vehicle, upon approaching an emergency zone, which is defined as the adjacent lanes of the roadway two hundred feet before and after (a) a stationary authorized emergency vehicle that is making use of audible and/or visual signals meeting the requirements of RCW 46.37.190, (b) a tow truck that is making use of visual red lights meeting the requirements of RCW 46.37.196, (c) other vehicles providing roadside assistance that are making use of warning lights with three hundred sixty degree visibility, or (d) a police vehicle properly and lawfully displaying a flashing, blinking, or alternating emergency light or lights, shall:

((4)) (i) On a highway having four or more lanes, at least two of which are intended for traffic proceeding in the same direction as the approaching vehicle, proceed with caution and, if reasonable, with due regard for safety and traffic conditions, yield the right-of-way by making a lane change or moving away from the lane or shoulder occupied by the stationary authorized emergency vehicle or police vehicle;

((2)) (ii) On a highway having less than four lanes, proceed with caution, reduce the speed of the vehicle, and, if reasonable, with due regard for safety and traffic conditions, and under the rules of this chapter, yield the right-of-way by passing to the left at a safe distance and simultaneously yield the right-of-way to all vehicles traveling in the proper direction upon the highway; or

((3)) (iii) If changing lanes or moving away would be unreasonable or unsafe, proceed with due caution and reduce the speed of the vehicle.

(2) A person may not drive a vehicle in an emergency zone at a speed greater than the posted speed limit.

(3) A person found to be in violation of this section, or any infraction relating to speed restrictions in an emergency zone, must be assessed a monetary penalty equal to twice the penalty assessed under RCW 46.63.110. This penalty may not be waived, reduced, or suspended.

(4) A person who drives a vehicle in an emergency zone in such a manner as to endanger or be likely to endanger any emergency

zone worker or property is guilty of reckless endangerment of emergency zone workers. A violation of this subsection is a gross misdemeanor punishable under chapter 9A.20 RCW.

(5) The department shall suspend for sixty days the driver's license, permit to drive, or nonresident driving privilege of a person convicted of reckless endangerment of emergency zone workers.

NEW SECTION. Sec. 2. (1) Within existing resources, the state patrol and the department of transportation shall conduct education and outreach efforts regarding emergency zones, including drivers' obligations in emergency zones and the penalties for violating these obligations, for at least ninety days after the effective date of this act. The education and outreach efforts must include the use of department of transportation variable message signs.

(2) This section expires June 30, 2011.

Sec. 3. RCW 46.63.020 and 2009 c 485 s 6 are each amended to read as follows:

Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

(1) RCW 46.09.120(2) relating to the operation of a nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance;

(2) RCW 46.09.130 relating to operation of nonhighway vehicles;

(3) RCW 46.10.090(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;

(4) RCW 46.10.130 relating to the operation of snowmobiles;

(5) Chapter 46.12 RCW relating to certificates of ownership and registration and markings indicating that a vehicle has been destroyed or declared a total loss;

(6) RCW 46.16.010 relating to the nonpayment of taxes and fees by failure to register a vehicle and falsifying residency when registering a motor vehicle;

(7) RCW 46.16.011 relating to permitting unauthorized persons to drive;

(8) RCW 46.16.160 relating to vehicle trip permits;

(9) RCW 46.16.381(2) relating to knowingly providing false information in conjunction with an application for a special placard or license plate for disabled persons' parking;

(10) RCW 46.20.005 relating to driving without a valid driver's license;

(11) RCW 46.20.091 relating to false statements regarding a driver's license or instruction permit;

(12) RCW 46.20.0921 relating to the unlawful possession and use of a driver's license;

(13) RCW 46.20.342 relating to driving with a suspended or revoked license or status;

(14) RCW 46.20.345 relating to the operation of a motor vehicle with a suspended or revoked license;

(15) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license, temporary restricted driver's license, or ignition interlock driver's license;

(16) RCW 46.20.740 relating to operation of a motor vehicle without an ignition interlock device in violation of a license notation that the device is required;

(17) RCW 46.20.750 relating to circumventing an ignition interlock device;

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(18) RCW 46.25.170 relating to commercial driver's licenses;  
 (19) Chapter 46.29 RCW relating to financial responsibility;  
 (20) RCW 46.30.040 relating to providing false evidence of financial responsibility;  
 (21) RCW 46.37.435 relating to wrongful installation of sunscreening material;  
 (22) RCW 46.37.650 relating to the sale, resale, distribution, or installation of a previously deployed air bag;  
 (23) RCW 46.37.671 through 46.37.675 relating to signal preemption devices;  
 (24) RCW 46.44.180 relating to operation of mobile home pilot vehicles;  
 (25) RCW 46.48.175 relating to the transportation of dangerous articles;  
 (26) RCW 46.52.010 relating to duty on striking an unattended car or other property;  
 (27) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;  
 (28) RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;  
 (29) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company, an employer, and an alcohol/drug assessment or treatment agency;  
 (30) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;  
 (31) RCW 46.55.035 relating to prohibited practices by tow truck operators;  
 (32) RCW 46.55.300 relating to vehicle immobilization;  
 (33) RCW 46.61.015 relating to obedience to police officers, flaggers, or firefighters;  
 (34) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;  
 (35) RCW 46.61.022 relating to failure to stop and give identification to an officer;  
 (36) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;  
 (37) RCW 46.61.212(4) relating to reckless endangerment of emergency zone workers;  
 (38) RCW 46.61.500 relating to reckless driving;  
~~((38))~~ (39) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;  
~~((39))~~ (40) RCW 46.61.503 relating to a person under age twenty-one driving a motor vehicle after consuming alcohol;  
~~((40))~~ (41) RCW 46.61.520 relating to vehicular homicide by motor vehicle;  
~~((41))~~ (42) RCW 46.61.522 relating to vehicular assault;  
~~((42))~~ (43) RCW 46.61.5249 relating to first degree negligent driving;  
~~((43))~~ (44) RCW 46.61.527(4) relating to reckless endangerment of roadway workers;  
~~((44))~~ (45) RCW 46.61.530 relating to racing of vehicles on highways;  
~~((45))~~ (46) RCW 46.61.655(7) (a) and (b) relating to failure to secure a load;  
~~((46))~~ (47) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;  
~~((47))~~ (48) RCW 46.61.740 relating to theft of motor vehicle fuel;  
~~((48))~~ (49) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;  
~~((49))~~ (50) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;  
~~((50))~~ (51) Chapter 46.65 RCW relating to habitual traffic offenders;

~~((51))~~ (52) RCW 46.68.010 relating to false statements made to obtain a refund;  
~~((52))~~ (53) RCW 46.35.030 relating to recording device information;  
~~((53))~~ (54) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;  
~~((54))~~ (55) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;  
~~((55))~~ (56) RCW 46.72A.060 relating to limousine carrier insurance;  
~~((56))~~ (57) RCW 46.72A.070 relating to operation of a limousine without a vehicle certificate;  
~~((57))~~ (58) RCW 46.72A.080 relating to false advertising by a limousine carrier;  
~~((58))~~ (59) Chapter 46.80 RCW relating to motor vehicle wreckers;  
~~((59))~~ (60) Chapter 46.82 RCW relating to driver's training schools;  
~~((60))~~ (61) RCW 46.87.260 relating to alteration or forgery of a cab card, letter of authority, or other temporary authority issued under chapter 46.87 RCW;  
~~((61))~~ (62) RCW 46.87.290 relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW.

**Sec. 4.** RCW 46.20.342 and 2008 c 282 s 4 are each amended to read as follows:

(1) It is unlawful for any person to drive a motor vehicle in this state while that person is in a suspended or revoked status or when his or her privilege to drive is suspended or revoked in this or any other state. Any person who has a valid Washington driver's license is not guilty of a violation of this section.

(a) A person found to be an habitual offender under chapter 46.65 RCW, who violates this section while an order of revocation issued under chapter 46.65 RCW prohibiting such operation is in effect, is guilty of driving while license suspended or revoked in the first degree, a gross misdemeanor. Upon the first such conviction, the person shall be punished by imprisonment for not less than ten days. Upon the second conviction, the person shall be punished by imprisonment for not less than ninety days. Upon the third or subsequent conviction, the person shall be punished by imprisonment for not less than one hundred eighty days. If the person is also convicted of the offense defined in RCW 46.61.502 or 46.61.504, when both convictions arise from the same event, the minimum sentence of confinement shall be not less than ninety days. The minimum sentence of confinement required shall not be suspended or deferred. A conviction under this subsection does not prevent a person from petitioning for reinstatement as provided by RCW 46.65.080.

(b) A person who violates this section while an order of suspension or revocation prohibiting such operation is in effect and while the person is not eligible to reinstate his or her driver's license or driving privilege, other than for a suspension for the reasons described in (c) of this subsection, is guilty of driving while license suspended or revoked in the second degree, a gross misdemeanor. This subsection applies when a person's driver's license or driving privilege has been suspended or revoked by reason of:

(i) A conviction of a felony in the commission of which a motor vehicle was used;

(ii) A previous conviction under this section;

(iii) A notice received by the department from a court or diversion unit as provided by RCW 46.20.265, relating to a minor who has committed, or who has entered a diversion unit concerning an offense relating to alcohol, legend drugs, controlled substances, or imitation controlled substances;

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(iv) A conviction of RCW 46.20.410, relating to the violation of restrictions of an occupational driver's license, a temporary restricted driver's license, or an ignition interlock driver's license;

(v) A conviction of RCW 46.20.345, relating to the operation of a motor vehicle with a suspended or revoked license;

(vi) A conviction of RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(vii) A conviction of RCW 46.61.024, relating to attempting to elude pursuing police vehicles;

(viii) A conviction of RCW 46.61.212(4), relating to reckless endangerment of emergency zone workers;

(ix) A conviction of RCW 46.61.500, relating to reckless driving;

~~((ix))~~ (x) A conviction of RCW 46.61.502 or 46.61.504, relating to a person under the influence of intoxicating liquor or drugs;

~~((x))~~ (xi) A conviction of RCW 46.61.520, relating to vehicular homicide;

~~((xi))~~ (xii) A conviction of RCW 46.61.522, relating to vehicular assault;

~~((xii))~~ (xiii) A conviction of RCW 46.61.527(4), relating to reckless endangerment of roadway workers;

~~((xiii))~~ (xiv) A conviction of RCW 46.61.530, relating to racing of vehicles on highways;

~~((xiv))~~ (xv) A conviction of RCW 46.61.685, relating to leaving children in an unattended vehicle with motor running;

~~((xv))~~ (xvi) A conviction of RCW 46.61.740, relating to theft of motor vehicle fuel;

~~((xvi))~~ (xvii) A conviction of RCW 46.64.048, relating to attempting, aiding, abetting, coercing, and committing crimes;

~~((xvii))~~ (xviii) An administrative action taken by the department under chapter 46.20 RCW; or

~~((xviii))~~ (xix) A conviction of a local law, ordinance, regulation, or resolution of a political subdivision of this state, the federal government, or any other state, of an offense substantially similar to a violation included in this subsection.

(c) A person who violates this section when his or her driver's license or driving privilege is, at the time of the violation, suspended or revoked solely because (i) the person must furnish proof of satisfactory progress in a required alcoholism or drug treatment program, (ii) the person must furnish proof of financial responsibility for the future as provided by chapter 46.29 RCW, (iii) the person has failed to comply with the provisions of chapter 46.29 RCW relating to uninsured accidents, (iv) the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, as provided in RCW 46.20.289, (v) the person has committed an offense in another state that, if committed in this state, would not be grounds for the suspension or revocation of the person's driver's license, (vi) the person has been suspended or revoked by reason of one or more of the items listed in (b) of this subsection, but was eligible to reinstate his or her driver's license or driving privilege at the time of the violation, or (vii) the person has received traffic citations or notices of traffic infraction that have resulted in a suspension under RCW 46.20.267 relating to intermediate drivers' licenses, or any combination of (c)(i) through (vii) of this subsection, is guilty of driving while license suspended or revoked in the third degree, a misdemeanor.

(2) Upon receiving a record of conviction of any person or upon receiving an order by any juvenile court or any duly authorized court officer of the conviction of any juvenile under this section, the department shall:

(a) For a conviction of driving while suspended or revoked in the first degree, as provided by subsection (1)(a) of this section,

extend the period of administrative revocation imposed under chapter 46.65 RCW for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(b) For a conviction of driving while suspended or revoked in the second degree, as provided by subsection (1)(b) of this section, not issue a new license or restore the driving privilege for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(c) Not extend the period of suspension or revocation if the conviction was under subsection (1)(c) of this section. If the conviction was under subsection (1)(a) or (b) of this section and the court recommends against the extension and the convicted person has obtained a valid driver's license, the period of suspension or revocation shall not be extended.

**Sec. 5.** RCW 46.63.110 and 2009 c 479 s 39 are each amended to read as follows:

(1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The monetary penalty for a violation of (a) RCW 46.55.105(2) is two hundred fifty dollars for each offense; (b) RCW 46.61.210(1) is five hundred dollars for each offense. No penalty assessed under this subsection (2) may be reduced.

(3) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(4) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(5) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(6) Whenever a monetary penalty, fee, cost, assessment, or other monetary obligation is imposed by a court under this chapter it is immediately payable. If the court determines, in its discretion, that a person is not able to pay a monetary obligation in full, and not more than one year has passed since the later of July 1, 2005, or the date the monetary obligation initially became due and payable, the court shall enter into a payment plan with the person, unless the person has previously been granted a payment plan with respect to the same monetary obligation, or unless the person is in noncompliance of any existing or prior payment plan, in which case the court may, at its discretion, implement a payment plan. If the court has notified the department that the person has failed to pay or comply and the person has subsequently entered into a payment plan and made an initial payment, the court shall notify the department that the infraction has been adjudicated, and the department shall rescind any suspension of the person's driver's license or driver's privilege based on failure to respond to that infraction. "Payment plan," as used in this section, means a plan that requires reasonable

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payments based on the financial ability of the person to pay. The person may voluntarily pay an amount at any time in addition to the payments required under the payment plan.

(a) If a payment required to be made under the payment plan is delinquent or the person fails to complete a community restitution program on or before the time established under the payment plan, unless the court determines good cause therefor and adjusts the payment plan or the community restitution plan accordingly, the court shall notify the department of the person's failure to meet the conditions of the plan, and the department shall suspend the person's driver's license or driving privilege until all monetary obligations, including those imposed under subsections (3) and (4) of this section, have been paid, and court authorized community restitution has been completed, or until the department has been notified that the court has entered into a new time payment or community restitution agreement with the person.

(b) If a person has not entered into a payment plan with the court and has not paid the monetary obligation in full on or before the time established for payment, the court shall notify the department of the delinquency. The department shall suspend the person's driver's license or driving privilege until all monetary obligations have been paid, including those imposed under subsections (3) and (4) of this section, or until the person has entered into a payment plan under this section.

(c) If the payment plan is to be administered by the court, the court may assess the person a reasonable administrative fee to be wholly retained by the city or county with jurisdiction. The administrative fee shall not exceed ten dollars per infraction or twenty-five dollars per payment plan, whichever is less.

(d) Nothing in this section precludes a court from contracting with outside entities to administer its payment plan system. When outside entities are used for the administration of a payment plan, the court may assess the person a reasonable fee for such administrative services, which fee may be calculated on a periodic, percentage, or other basis.

(e) If a court authorized community restitution program for offenders is available in the jurisdiction, the court may allow conversion of all or part of the monetary obligations due under this section to court authorized community restitution in lieu of time payments if the person is unable to make reasonable time payments.

(7) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed:

(a) A fee of five dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the emergency medical services and trauma care system trust account under RCW 70.168.040;

(b) A fee of ten dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the Washington auto theft prevention authority account; and

(c) A fee of two dollars per infraction. Revenue from this fee shall be forwarded to the state treasurer for deposit in the traumatic brain injury account established in RCW 74.31.060.

(8)(a) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction other than of RCW 46.61.527 or 46.61.212 shall be assessed an additional penalty of twenty dollars. The court may not reduce, waive, or suspend the additional penalty unless the court finds the offender to be indigent. If a court authorized community restitution program for offenders is available in the jurisdiction, the court shall allow offenders to offset all or a part of the penalty due under this

subsection (8) by participation in the court authorized community restitution program.

(b) Eight dollars and fifty cents of the additional penalty under (a) of this subsection shall be remitted to the state treasurer. The remaining revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted under this subsection to the state treasurer must be deposited in the state general fund. The balance of the revenue received by the county or city treasurer under this subsection must be deposited into the county or city current expense fund. Moneys retained by the city or county under this subsection shall constitute reimbursement for any liabilities under RCW 43.135.060.

(9) If a legal proceeding, such as garnishment, has commenced to collect any delinquent amount owed by the person for any penalty imposed by the court under this section, the court may, at its discretion, enter into a payment plan.

(10) The monetary penalty for violating RCW 46.37.395 is: (a) Two hundred fifty dollars for the first violation; (b) five hundred dollars for the second violation; and (c) seven hundred fifty dollars for each violation thereafter.

NEW SECTION. **Sec. 6.** This act takes effect January 1, 2011."

Senator Marr spoke in favor of adoption of the committee striking amendment.

#### MOTION

On motion of Senator Brandland, Senators Delvin, Holmquist, McCaslin and Swecker were excused.

#### MOTION

On motion of Senator Marr, Senators Brown, Fairley, Murray and Prentice were excused.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to Engrossed Substitute House Bill No. 2464.

The motion by Senator Marr carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "zones;" strike the remainder of the title and insert "amending RCW 46.61.212, 46.63.020, 46.20.342, and 46.63.110; creating a new section; prescribing penalties; providing an effective date; and providing an expiration date."

#### MOTION

On motion of Senator Marr, the rules were suspended, Engrossed Substitute House Bill No. 2464 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Marr spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2464 as amended by the Senate.

#### ROLL CALL

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The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2464 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 32; Nays, 8; Absent, 2; Excused, 7.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Eide, Fairley, Franklin, Hatfield, Haugen, Hobbs, Honeyford, Jacobsen, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Oemig, Parlette, Pflug, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin and Zarelli

Voting nay: Senators Carrell, Gordon, Hargrove, Hewitt, Kauffman, Morton, Roach and Stevens

Absent: Senators Fraser and Tom

Excused: Senators Brown, Delvin, Holmquist, McCaslin, Murray, Prentice and Swecker

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2464 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Marr, Senators Fraser and Tom were excused.

#### SECOND READING

HOUSE BILL NO. 2996, by Representatives Quall and Priest

Including approved private schools in the superintendent of public instruction's record check information rules.

The measure was read the second time.

#### MOTION

On motion of Senator McAuliffe, the rules were suspended, House Bill No. 2996 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2996.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2996 and the bill passed the Senate by the following vote: Yeas, 40; Nays, 0; Absent, 0; Excused, 9.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Eide, Fairley, Franklin, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Oemig, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens and Zarelli

Excused: Senators Brown, Delvin, Fraser, Holmquist, McCaslin, Murray, Prentice, Swecker and Tom

HOUSE BILL NO. 2996, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Marr, Senator Regala was excused.

#### SECOND READING

HOUSE BILL NO. 2681, by Representatives Goodman, Rodne and Kelley

Allowing compensation for part-time judges' judicial services.

The measure was read the second time.

#### MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Judiciary be adopted:

Strike everything after the enacting clause and insert the following: "**Sec. 1.** RCW 3.34.140 and 1984 c 258 s 20 are each amended to read as follows:

Any district judge may hold a session in any district in the state, at the request of the judge or majority of judges in the district if the visiting judge determines that the state of business in his or her district allows the judge to be absent. The county legislative authority in which the district court is located shall first approve the temporary absence and the judge pro tempore shall not be required to serve during the judge's absence. A visiting judge shall be entitled to reimbursement for subsistence, lodging, and travel expenses in accordance with the rates applicable to state officers under RCW 43.03.050 and 43.03.060 as now or hereafter amended while so acting, to be paid by the visited district. These expenses shall not be paid to the visiting judge unless the legislative authority of the county in which the visited district is located has approved the payment before the visit. In addition a visiting part-time district court judge, when not serving in a judicial capacity in his or her district, shall be entitled to compensation for judicial services so long as the legislative authority of the county in which the visited district is located has approved the payment before the visit."

Senator Kline spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary to House Bill No. 2681.

The motion by Senator Kline carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "services;" strike the remainder of the title and insert "and amending RCW 3.34.140."

#### MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 2681 as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2681 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2681 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 39; Nays, 0; Absent, 0; Excused, 10.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Eide, Fairley, Franklin, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Oemig, Parlette, Pflug, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens and Zarelli

Excused: Senators Brown, Delvin, Fraser, Holmquist, McCaslin, Murray, Prentice, Regala, Swecker and Tom

HOUSE BILL NO. 2681, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2858, by Representatives Appleton, Anderson, Sells, White and Wallace

Regarding the purchasing authority of institutions of higher education.

The measure was read the second time.

#### MOTION

On motion of Senator Kilmer, the rules were suspended, House Bill No. 2858 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kilmer spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2858.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2858 and the bill passed the Senate by the following vote: Yeas, 40; Nays, 0; Absent, 0; Excused, 9.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Eide, Fairley, Franklin, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Oemig, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens and Zarelli

Excused: Senators Brown, Delvin, Fraser, Holmquist, McCaslin, Murray, Prentice, Swecker and Tom

HOUSE BILL NO. 2858, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2490, by Representative Angel

Concerning persons with intellectual disabilities.

The measure was read the second time.

#### MOTION

On motion of Senator Fairley, the rules were suspended, House Bill No. 2490 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fairley, Roach and Brandland spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2490.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2490 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Eide, Fairley, Franklin, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom and Zarelli

Excused: Senators Brown, Delvin, Fraser, Holmquist, McCaslin, Prentice and Swecker

HOUSE BILL NO. 2490, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2399, by House Committee on Ecology & Parks (originally sponsored by Representatives Upthegrove, Rodne, Finn, Armstrong, Rolfes, Haler, Driscoll, Chase, Morrell, Maxwell, Simpson and Hudgins)

Prohibiting and prescribing penalties for engaging in, or advertising to engage in, solid waste collection without a solid waste collection certificate.

The measure was read the second time.

#### MOTION

On motion of Senator Rockefeller, the rules were suspended, Engrossed Substitute House Bill No. 2399 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rockefeller spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2399.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2399 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette,

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Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom and Zarelli

Excused: Senators Brown, Delvin, Holmquist, McCaslin and Swecker

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2399, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2430, by House Committee on Health Care & Wellness (originally sponsored by Representatives Morrell, Driscoll, Hinkle, Blake, Walsh, Green, Roberts, Goodman, Clibborn, Carlyle, Moeller, Kelley and Hurst)

Concerning cardiovascular invasive specialists.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 2430 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Pflug spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2430.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2430 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom and Zarelli

Excused: Senators Delvin, Holmquist, McCaslin and Swecker

SUBSTITUTE HOUSE BILL NO. 2430, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2598, by Representatives Takko, Blake and Herrera

Concerning the disposal of dredged riverbed materials from the Mount St. Helen's eruption.

The measure was read the second time.

MOTION

On motion of Senator Jacobsen, the rules were suspended, House Bill No. 2598 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Jacobsen and Morton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2598.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2598 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 2; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom and Zarelli

Absent: Senators Brown and Hargrove

Excused: Senators Delvin, Holmquist, McCaslin and Swecker

HOUSE BILL NO. 2598, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED HOUSE BILL NO. 2667, by Representatives Chandler, Simpson, Kelley and Warnick

Concerning communications during a forest fire response.

The measure was read the second time.

MOTION

On motion of Senator Jacobsen, the rules were suspended, Engrossed House Bill No. 2667 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Jacobsen, Morton and Honeyford spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 2667.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2667 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom and Zarelli

Excused: Senators Delvin, Holmquist, McCaslin and Swecker

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ENGROSSED HOUSE BILL NO. 2667, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2510, by Representatives Kelley, Rodne, Hurst, Bailey, Kirby, Simpson and Morrell

Authorizing public hospital districts to execute security instruments.

The measure was read the second time.

#### MOTION

On motion of Senator Berkey, the rules were suspended, House Bill No. 2510 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Berkey spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2510.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2510 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom and Zarelli

Excused: Senators Delvin, Holmquist, McCaslin and Swecker

HOUSE BILL NO. 2510, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2521, by Representatives Driscoll, Williams, Cody, Morrell, Ormsby and Moeller

Addressing conversion rights upon termination of eligibility for health plan coverage.

The measure was read the second time.

#### MOTION

On motion of Senator Keiser, the rules were suspended, House Bill No. 2521 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Pflug spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2521.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2521 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom and Zarelli

Excused: Senators Delvin, Holmquist, McCaslin and Swecker

HOUSE BILL NO. 2521, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2420, by House Committee on Community & Economic Development & Trade (originally sponsored by Representatives Kenney, Orcutt, Van De Wege, Conway, Kessler, Blake, Hope, Herrera, Lias, Sullivan, Campbell, Schmick, Quall, Dammeier, Chase, Takko, Morrell and Smith)

Promoting industries that rely on the state's working land base.

The measure was read the second time.

#### MOTION

Senator Kastama moved that the following committee striking amendment by the Committee on Economic Development, Trade & Innovation be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds that:

(a) Washington's forest products industry plays a critical economic and environmental role in the state. The industry provides a wide range of services and goods both to Washingtonians and people around the world and is vital to the well-being and lifestyle of the people of the state of Washington; and

(b) It is in the best interest of the state to support and enhance the forest products industry.

(2) The legislature further finds that the state's forest practices are sustainably managed according to some of the most stringent riparian growing and harvest rules of any state in the nation or in the world, and that the state of Washington has received fifty-year assurances from the federal government that the state's forest practices satisfy the requirements of the federal endangered species act for aquatic species. As part of their environmental stewardship, forest landowners in Washington have repaired or removed nearly three thousand fish passage barriers, returned nearly twenty-five hundred miles of forest roads to their natural condition, and opened up nearly fifteen hundred miles of riparian salmonid habitat.

(3) The legislature further finds that Washington's forests naturally create habitat for fish and wildlife, clean water, and carbon storage; all environmental benefits that are lost when land is converted out of working forestry into another use. In recognition of forestry's benefits, the international panel on climate change has

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reported that a sustainable forest management strategy aimed at maintaining or increasing forest carbon stocks, while producing an annual sustained yield of timber, fiber, wood products, or energy from the forest, will generate the largest sustained carbon mitigation benefit.

(4) The legislature further finds that the forest products industry is a seventeen billion dollar industry, making it Washington's second largest manufacturing industry. The forest products industry alone provides nearly forty-five thousand direct jobs and one hundred sixty-two thousand indirect jobs, many located in rural areas.

(5) The legislature further finds that working forests help generate wealth through recreation and tourism, the retention and creation of green jobs, and through the production of wood products and energy, a finding supported by the United States secretary of agriculture.

**Sec. 2.** RCW 43.330.310 and 2008 c 14 s 9 are each amended to read as follows:

(1) The legislature establishes a comprehensive green economy jobs growth initiative based on the goal of, by 2020, increasing the number of green economy jobs to twenty-five thousand from the eight thousand four hundred green economy jobs the state had in 2004.

(2) The department, in consultation with the employment security department, the state workforce training and education coordinating board, the state board ~~((of for))~~ for community and technical colleges, and the higher education coordinating board, shall develop a defined list of terms, consistent with current workforce and economic development terms, associated with green economy industries and jobs.

(3)(a) The employment security department, in consultation with the department, the state workforce training and education coordinating board, the state board for community and technical colleges, the higher education coordinating board, Washington State University small business development center, and the Washington State University extension energy program, shall conduct labor market research to analyze the current labor market and projected job growth in the green economy, the current and projected recruitment and skill requirement of green economy industry employers, the wage and benefits ranges of jobs within green economy industries, and the education and training requirements of entry-level and incumbent workers in those industries.

(i) The employment security department shall conduct an analysis of occupations in the forest products industry to: (A) Determine key growth factors and employment projections in the industry; and (B) define the education and skill standards required for current and emerging green occupations in the industry.

(ii) The term "forest products industry" must be given a broad interpretation when implementing (a)(i) of this subsection and includes, but is not limited to, businesses that grow, manage, harvest, transport, and process forest, wood, and paper products.

(b) The University of Washington business and economic development center shall: Analyze the current opportunities for and participation in the green economy by minority and women-owned business enterprises in Washington; identify existing barriers to their successful participation in the green economy; and develop strategies with specific policy recommendations to improve their successful participation in the green economy. The research may be informed by the research of the Puget Sound regional council prosperity partnership, as well as other entities. The University of Washington business and economic development center shall report to the appropriate committees of the house of representatives and the senate on their research, analysis, and recommendations by December 1, 2008.

(4) Based on the findings from subsection (3) of this section, the employment security department, in consultation with the

department and taking into account the requirements and goals of chapter 14, Laws of 2008 and other state clean energy and energy efficiency policies, shall propose which industries will be considered high-demand green industries, based on current and projected job creation and their strategic importance to the development of the state's green economy. The employment security department and the department shall take into account which jobs within green economy industries will be considered high-wage occupations and occupations that are part of career pathways to the same, based on family-sustaining wage and benefits ranges. These designations, and the results of the employment security department's broader labor market research, shall inform the planning and strategic direction of the department, the state workforce training and education coordinating board, the state board for community and technical colleges, and the higher education coordinating board.

(5) The department shall identify emerging technologies and innovations that are likely to contribute to advancements in the green economy, including the activities in designated innovation partnership zones established in RCW 43.330.270.

(6) The department, consistent with the priorities established by the state economic development commission, shall:

(a) Develop targeting criteria for existing investments, and make recommendations for new or expanded financial incentives and comprehensive strategies, to recruit, retain, and expand green economy industries and small businesses; and

(b) Make recommendations for new or expanded financial incentives and comprehensive strategies to stimulate research and development of green technology and innovation, including designating innovation partnership zones linked to the green economy.

(7) For the purposes of this section, "target populations" means (a) entry-level or incumbent workers in high-demand green industries who are in, or are preparing for, high-wage occupations; (b) dislocated workers in declining industries who may be retrained for high-wage occupations in high-demand green industries; (c) dislocated agriculture, timber, or energy sector workers who may be retrained for high-wage occupations in high-demand green industries; (d) eligible veterans or national guard members; (e) disadvantaged populations; or (f) anyone eligible to participate in the state opportunity grant program under RCW 28B.50.271.

(8) The legislature directs the state workforce training and education coordinating board to create and pilot green industry skill panels. These panels shall consist of business representatives from: Green industry sectors ((related to clean energy)), including but not limited to forest product companies, companies engaged in energy efficiency and renewable energy production, companies engaged in pollution prevention, reduction, and mitigation, and companies engaged in green building work and green transportation; labor unions representing workers in those industries or labor affiliates administering state-approved, joint apprenticeship programs or labor-management partnership programs that train workers for these industries((:)); state and local veterans agencies((:)); employer associations((:)); educational institutions((:)); and local workforce development councils within the region that the panels propose to operate((:)); and other key stakeholders as determined by the applicant. Any of these stakeholder organizations are eligible to receive grants under this section and serve as the intermediary that convenes and leads the panel. Panel applicants must provide labor market and industry analysis that demonstrates high demand, or demand of strategic importance to the development of the state's clean energy economy as identified in this section, for high-wage occupations, or occupations that are part of career pathways to the same, within the relevant industry sector. The panel shall:

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(a) Conduct labor market and industry analyses, in consultation with the employment security department, and drawing on the findings of its research when available;

(b) Plan strategies to meet the recruitment and training needs of the industry and small businesses; and

(c) Leverage and align other public and private funding sources.

(9) The green industries jobs training account is created in the state treasury. Moneys from the account must be utilized to supplement the state opportunity grant program established under RCW 28B.50.271. All receipts from appropriations directed to the account must be deposited into the account. Expenditures from the account may be used only for the activities identified in this subsection. The state board for community and technical colleges, in consultation with the state workforce training and education coordinating board, informed by the research of the employment security department and the strategies developed in this section, may authorize expenditures from the account. The state board for community and technical colleges must distribute grants from the account on a competitive basis.

(a)(i) Allowable uses of these grant funds, which should be used when other public or private funds are insufficient or unavailable, may include:

(A) Curriculum development;

(B) Transitional jobs strategies for dislocated workers in declining industries who may be retrained for high-wage occupations in green industries;

(C) Workforce education to target populations; and

(D) Adult basic and remedial education as necessary linked to occupation skills training.

(ii) Allowable uses of these grant funds do not include student assistance and support services available through the state opportunity grant program under RCW 28B.50.271.

(b) Applicants eligible to receive these grants may be any organization or a partnership of organizations that has demonstrated expertise in:

(i) Implementing effective education and training programs that meet industry demand; and

(ii) Recruiting and supporting, to successful completion of those training programs carried out under these grants, the target populations of workers.

(c) In awarding grants from the green industries jobs training account, the state board for community and technical colleges shall give priority to applicants that demonstrate the ability to:

(i) Use labor market and industry analysis developed by the employment security department and green industry skill panels in the design and delivery of the relevant education and training program, and otherwise utilize strategies developed by green industry ((skills [skill]) skill) panels;

(ii) Leverage and align existing public programs and resources and private resources toward the goal of recruiting, supporting, educating, and training target populations of workers;

(iii) Work collaboratively with other relevant stakeholders in the regional economy;

(iv) Link adult basic and remedial education, where necessary, with occupation skills training;

(v) Involve employers and, where applicable, labor unions in the determination of relevant skills and competencies and, where relevant, the validation of career pathways; and

(vi) Ensure that supportive services, where necessary, are integrated with education and training and are delivered by organizations with direct access to and experience with the targeted population of workers.

**Sec. 3.** RCW 43.330.375 and 2009 c 536 s 4 are each amended to read as follows:

(1) The department and the workforce board (~~(, in consultation with the leadership team,)~~) must:

(a) Coordinate efforts across the state to ensure that federal training and education funds are captured and deployed in a focused and effective manner in order to support green economy projects and accomplish the goals of the evergreen jobs initiative;

(b) Accelerate and coordinate efforts by state and local organizations to identify, apply for, and secure all sources of funds, particularly those created by the 2009 American recovery and reinvestment act, and to ensure that distributions of funding to local organizations are allocated in a manner that is time-efficient and user-friendly for the local organizations. Local organizations eligible to receive support include but are not limited to:

(i) Associate development organizations;

(ii) Workforce development councils;

(iii) Public utility districts; and

(iv) Community action agencies;

(c) Support green economy projects at both the state and local level by developing a process and a framework to provide, at a minimum:

(i) Administrative and technical assistance;

(ii) Assistance with and expediting of permit processes; and

(iii) Priority consideration of opportunities leading to exportable green economy goods and services, including renewable energy technology;

(d) Coordinate local and state implementation of projects using federal funds to ensure implementation is time-efficient and user-friendly for local organizations;

(e) Emphasize through both support and outreach efforts, projects that:

(i) Have a strong and lasting economic or environmental impact;

(ii) Lead to a domestically or internationally exportable good or service, including renewable energy technology;

(iii) Create training programs leading to a credential, certificate, or degree in a green economy field;

(iv) Strengthen the state's competitiveness in a particular sector or cluster of the green economy;

(v) Create employment opportunities for veterans, members of the national guard, and low-income and disadvantaged populations;

(vi) Comply with prevailing wage provisions of chapter 39.12 RCW;

(vii) Ensure at least fifteen percent of labor hours are performed by apprentices;

(f) Identify emerging technologies and innovations that are likely to contribute to advancements in the green economy, including the activities in designated innovation partnership zones established in RCW 43.330.270;

(g) Identify barriers to the growth of green jobs in traditional industries such as the forest products industry;

(h) Identify statewide performance metrics for projects receiving agency assistance. Such metrics may include:

(i) The number of new green jobs created each year, their wage levels, and, to the extent determinable, the percentage of new green jobs filled by veterans, members of the national guard, and low-income and disadvantaged populations;

(ii) The total amount of new federal funding secured, the respective amounts allocated to the state and local levels, and the timeliness of deployment of new funding by state agencies to the local level;

(iii) The timeliness of state deployment of funds and support to local organizations; and

(iv) If available, the completion rates, time to completion, and training-related placement rates for green economy postsecondary training programs;

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~~((H))~~ (i) Identify strategies to allocate existing and new funding streams for green economy workforce training programs and education to emphasize those leading to a credential, certificate, or degree in a green economy field;

~~((H))~~ (j) Identify and implement strategies to allocate existing and new funding streams for workforce development councils and associate development organizations to increase their effectiveness and efficiency and increase local capacity to respond rapidly and comprehensively to opportunities to attract green jobs to local communities;

~~((H))~~ (k) Develop targeting criteria for existing investments that are consistent with the economic development commission's economic development strategy and the goals of this section and RCW 28C.18.170, 28B.50.281, and 49.04.200; and

~~((H))~~ (l) Make and support outreach efforts so that residents of Washington, particularly members of target populations, become aware of educational and employment opportunities identified and funded through the evergreen jobs act.

(2) The department and the workforce board ~~(, in consultation with the leadership team,)~~ must provide semiannual performance reports to the governor and appropriate committees of the legislature on:

(a) Actual statewide performance based on the performance measures identified in subsection ~~(1)((e))~~ (h) of this section;

(b) How the state is emphasizing and supporting projects that lead to a domestically or internationally exportable good or service, including renewable energy technology;

(c) A list of projects supported, created, or funded in furtherance of the goals of the evergreen jobs initiative and the actions taken by state and local organizations, including the effectiveness of state agency support provided to local organizations as directed in subsection (1)(b) and (c) of this section;

(d) Recommendations for new or expanded financial incentives and comprehensive strategies to:

(i) Recruit, retain, and expand green economy industries and small businesses; and

(ii) Stimulate research and development of green technology and innovation, which may include designating innovation partnership zones linked to the green economy;

(e) Any information that associate development organizations and workforce development councils choose to provide to appropriate legislative committees regarding the effectiveness, timeliness, and coordination of support provided by state agencies under this section and RCW 28C.18.170, 28B.50.281, and 49.04.200; and

(f) Any recommended statutory changes necessary to increase the effectiveness of the evergreen jobs initiative and state responsiveness to local agencies and organizations.

(3) The definitions, designations, and results of the employment security department's broader labor market research under RCW 43.330.010 shall inform the planning and strategic direction of the department, the state workforce training and education coordinating board, the state board for community and technical colleges, and the higher education coordinating board."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Economic Development, Trade & Innovation to Substitute House Bill No. 2420.

The motion by Senator Kastama carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "base;" strike the remainder of the title and insert "amending RCW 43.330.310 and 43.330.375; and creating a new section."

MOTION

On motion of Senator Kastama, the rules were suspended, Substitute House Bill No. 2420 as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kastama and Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2420 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2420 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom and Zarelli

Excused: Senators Delvin, Holmquist, McCaslin and Swecker

SUBSTITUTE HOUSE BILL NO. 2420 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2661, by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Hudgins, Hunt, Kenney and Morrell)

Regarding the Washington State University extension energy program's plant operations support program.

The measure was read the second time.

MOTION

On motion of Senator Rockefeller, the rules were suspended, Substitute House Bill No. 2661 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller and Honeyford spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2661.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2661 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom and Zarelli

Excused: Senators Delvin, Holmquist, McCaslin and Swecker

SUBSTITUTE HOUSE BILL NO. 2661, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 3066, by House Committee on Finance (originally sponsored by Representatives Parker, Springer, Eddy, Condotta and Wallace)

Creating uniformity among annual tax reporting survey provisions.

The measure was read the second time.

#### MOTION

On motion of Senator Prentice, the rules were suspended, Substitute House Bill No. 3066 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 3066.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3066 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom and Zarelli

Excused: Senators Delvin, Holmquist, McCaslin and Swecker

SUBSTITUTE HOUSE BILL NO. 3066, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2515, by Representatives Morris, Chase, Kenney and Hudgins

Regarding biodiesel fuel labeling requirements.

The measure was read the second time.

#### MOTION

On motion of Senator Rockefeller, the rules were suspended, House Bill No. 2515 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller and Honeyford spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2515.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2515 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom and Zarelli

Excused: Senators Delvin, Holmquist, McCaslin and Swecker

HOUSE BILL NO. 2515, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 1080, by Representatives Simpson and Williams

Allowing impact fees to be used for all fire protection facilities.

The measure was read the second time.

#### MOTION

Senator Benton moved that the following amendment by Senator Benton be adopted:

On page 2, line 24, after "~~district~~)." insert the following:

"A county, city, or town, shall not adopt or collect an impact fee from within a fire district for the purpose of financing fire protection facilities under subsection (7)(d) if the number of building permits over the previous twelve months have dropped more than fifty percent from the highest volume year within the last five years.

Senators Benton and Honeyford spoke in favor of adoption of the amendment.

Senator Pridemore spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Benton on page 2, line 24 to House Bill No. 1080.

The motion by Senator Benton failed and the amendment was not adopted by voice vote.

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## MOTION

Senator Benton moved that the following amendment by Senator Benton be adopted:

On page 2, line 24, after "~~district~~)." insert the following:

" All equipment purchased with impact fee revenue collected from within a fire district for purposes of financing fire protection facilities under subsection (7)(d) may only be expended on fire protection facilities within the boundaries of the fire district from which the impact fee revenue was collected."

Senators Benton and Honeyford spoke in favor of adoption of the amendment.

Senator Pridemore spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Benton on page 2, line 24 to House Bill No. 1080.

The motion by Senator Benton failed and the amendment was not adopted by voice vote.

## MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford be adopted:

On page 2, line 24, after "~~district~~)." insert the following:

" If equipment is purchased with impact fee revenue collected from within a fire district for the purpose of financing fire protection facilities under subsection (7)(d) and that equipment is used for any purpose outside of the fire district, the fire district shall provide fire protection services to anyone needing such services in the area which the equipment is being used."

Senator Honeyford spoke in favor of adoption of the amendment.

Senator Pridemore spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 2, line 24 to House Bill No. 1080.

The motion by Senator Honeyford failed and the amendment was not adopted by voice vote.

## MOTION

Senator Carrell moved that the following amendment by Senator Carrell be adopted:

On page 2, line 24, after "~~district~~)." insert the following:

" Impact fees collected under 82.02.050 through 82.02.090 from within a fire district for the purpose of financing fire protection facilities under subsection (7)(d) shall not be used for any purpose outside the fire district from which the impact fees were collected."

Senators Carrell and Honeyford spoke in favor of adoption of the amendment.

Senator McDermott spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Carrell on page 2, line 24 to House Bill No. 1080.

The motion by Senator Carrell failed and the amendment was not adopted by voice vote.

## MOTION

Senator King moved that the following amendment by Senator King be adopted:

On page 2, line 24, after "~~district~~)." insert the following:

" Nothing in this subsection (7)(d) authorizes or otherwise permits impact fees to be imposed or spent for fire protection facilities in developed areas where fire protection services are provided by, and within the capacity of, existing fire protection facilities."

Senators King and Pflug spoke in favor of adoption of the amendment.

Senator McDermott spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator King on page 2, line 24 to House Bill No. 1080.

The motion by Senator King failed and the amendment was not adopted by voice vote.

## MOTION

Senator Stevens moved that the following amendment by Senator Stevens be adopted:

On page 2, line 24, after "~~district~~)." insert the following:

" A county, city, or town, shall not adopt or collect impact fees within a fire district for the purpose of financing fire protection facilities under subsection (7)(d) if the county's unemployment rate greater than six percent.

Senators Stevens, Honeyford and Carrell spoke in favor of adoption of the amendment.

Senators McDermott and Pridemore spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Stevens on page 2, line 24 to House Bill No. 1080.

The motion by Senator Stevens failed and the amendment was not adopted by voice vote.

## MOTION

Senator Parlette moved that the following amendment by Senator Parlette be adopted:

On page 2, line 24, after "~~district~~)." Insert the following:

"The authority to impose impact fees for fire protection services in jurisdictions that are not part of a fire district expires on December 31, 2019."

On page 1, line 2 of the title, after "facilities", strike "and"

On page 2, line 2 of the title, after "RCW 82.02.090", insert the following:

"; and providing an expiration date"

Senator Parlette spoke in favor of adoption of the amendment.

Senator Pridemore spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Parlette on page 2, line 24 to House Bill No. 1080.

The motion by Senator Parlette failed and the amendment was not adopted by voice vote.

## MOTION

Senator Schoesler moved that the following amendment by Senator Schoesler be adopted:

On page 2, line 24, after "~~district~~)." insert "The authority to impose impact fees for fire protection services in jurisdictions

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that are not part of a fire district applies only to: (i) Counties with more than one million five hundred thousand residents and the cities and towns within these counties; and (ii) counties adjoining counties meeting the requirements of (i) of this subsection that have more than six hundred fifty thousand but fewer than eight hundred thousand residents, and the cities and towns within these counties."

Senators Schoesler and Honeyford spoke in favor of adoption of the amendment.

Senator Pridemore spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Schoesler on page 2, line 24 to House Bill No. 1080.

The motion by Senator Schoesler failed and the amendment was not adopted by voice vote.

#### MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford be adopted:

On page 2, line 24, after "~~district~~)." insert "A person required to pay for fire protection services as part of their property taxes shall not be required to pay an impact fee under RCW 82.02.050 through 82.02.090 for those same system improvements."

Senator Honeyford spoke in favor of adoption of the amendment.

Senator McDermott spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 2, line 24 to House Bill No. 1080.

The motion by Senator Honeyford failed and the amendment was not adopted by voice vote.

#### MOTION

Senator Morton moved that the following amendment by Senator Morton be adopted:

On page 2, line 24, after "~~district~~)." insert the following:

" Impact fees collected under 82.02.050 through 82.02.090 from within a fire district for the purpose of financing fire protection facilities under subsection (7)(d) shall not be imposed on properties that are within an existing fire district and are sold to first time home buyers. If the county, city, or town collects impact fees prior to the sale to a new home buyer, the first time home buyer shall receive a refund of the exempted impact fee paid.

Senators Morton and Stevens spoke in favor of adoption of the amendment.

Senator Fairley spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Morton on page 2, line 24 to House Bill No. 1080.

The motion by Senator Morton failed and the amendment was not adopted by voice vote.

#### MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford be adopted:

On page 2, after line 33, insert the following:

"NEW SECTION, Sec. 2. This act takes effect July 1, 2015."

On page 1, line 2 of the title, after "facilities; ", strike "and".

On page 1, line 2 of the title, after "RCW 82.02.090", insert the following:

"; and providing an effective date"

Senator Honeyford spoke in favor of adoption of the amendment.

Senator Pridemore spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 2, line 33 to House Bill No. 1080.

The motion by Senator Honeyford failed and the amendment was not adopted by voice vote.

#### MOTION

On motion of Senator Fairley, the rules were suspended, House Bill No. 1080 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fairley, Pridemore and McDermott spoke in favor of passage of the bill.

Senators Honeyford, Becker, Sheldon, Stevens, Pflug, Carrell and Parlette spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1080.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1080 and the bill passed the Senate by the following vote: Yeas, 31; Nays, 14; Absent, 0; Excused, 4.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Shin and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Hewitt, Honeyford, King, Morton, Parlette, Pflug, Schoesler, Sheldon, Stevens and Zarelli

Excused: Senators Delvin, Holmquist, McCaslin and Swecker

HOUSE BILL NO. 1080, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 1:56 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

#### AFTERNOON SESSION

The Senate was called to order at 3:40 p.m. by President Owen.

#### SECOND READING

SENATE BILL NO. 6381, by Senators Haugen and Marr

Making 2009-11 supplemental transportation appropriations.

#### MOTION

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On motion of Senator Haugen, Substitute Senate Bill No. 6381 was substituted for Senate Bill No. 6381 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Kilmer moved that the following amendment by Senator Rockefeller and others be adopted:

On page 13, line 8, after "~~legislature.))~~" strike all material through "funding." on line 12 and insert the following:

"The commission may impose a ferry fuel surcharge effective July 1, 2011. When implementing a ferry fuel surcharge, the commission must regard ferry fuel surcharges as fare policy changes and thus, ferry fuel surcharges should be included in all public procedures and processes currently used for fare pricing per RCW 47.60.290."

Senator Kilmer spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Rockefeller and others on page 13, line 8 to Substitute Senate Bill No. 6381.

The motion by Senator Kilmer carried and the amendment was adopted by voice vote.

#### MOTION

Senator Kauffman moved that the following amendment by Senator Kauffman and others be adopted:

On page 35, line 15, after "tracking." strike "The study must consider the interconnectivity benefits of, and potential for, a future Amtrak Cascades route in the vicinities of south King county and north Pierce county." and insert "The study must also consider the interconnectivity benefits of, and potential for, future Amtrak Cascades stops in south King county and north Pierce county. As part of its consideration, the department shall conduct a thorough market analysis of the potential for adding or changing stops on the Amtrak Cascades route. The department shall amend the scope, schedule, and budget of the current study process to accommodate the market analysis."

Senator Kauffman spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Kauffman and others on page 35, line 15 to Substitute Senate Bill No. 6381.

The motion by Senator Kauffman carried and the amendment was adopted by voice vote.

#### MOTION

Senator King moved that the following amendment by Senator King and Haugen be adopted:

On page 58, line 11, after "(401212R)" strike "to construct a temporary signal, purchase right-of-way, and design a future roundabout" and insert "for safety improvements"

Senator King spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators King and Haugen on page 58, line 11 to Substitute Senate Bill No. 6381.

The motion by Senator King carried and the amendment was adopted by voice vote.

#### MOTION

Senator Haugen moved that the following amendment by Senators Haugen and King be adopted:

On page 64, line 6, after "support." insert "\$5,851,000 of the total appropriation is provided solely for the Washington state ferries to develop a reservation system."

On page 67, beginning on line 4, strike all material through "system." on line 6 and insert "((10) \$3,763,000 of the total appropriation is provided solely for the Washington state ferries to develop a reservation system.))"

On page 68, line 27, after "March" strike "1" and insert "15"

On page 69, line 20, strike "\$100,002,000" and insert "\$103,002,000"

On page 69, line 27, strike "\$732,969,000" and insert "\$735,969,000"

On page 74, line 4, after "(((\$20,000,000—))" strike "\$33,000,000" and insert "\$36,000,000"

On page 81, at the beginning of line 17, strike "Multimodal Transportation" and insert "Motor Vehicle"

On page 86, line 35, after "to the" strike "multimodal transportation" and insert "motor vehicle"

On page 81, line 19, after "limitations:" insert "(1)"

On page 81, after line 25, insert "(2) Any cash balance in the waste tire removal account shall be transferred to the motor vehicle account for the purpose of road wear related maintenance on state and local public highways."

On page 86, after line 37, insert the following:

"**Sec. 705.** RCW 70.95.532 and 2009 c 261 s 4 are each amended to read as follows:

(1) All receipts from tire fees imposed under RCW 70.95.510, except as provided in subsection (2) of this section, must be deposited in the waste tire removal account created under RCW 70.95.521. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used for the cleanup of unauthorized waste tire piles and measures that prevent future accumulation of unauthorized waste tire piles.

(2) On September 1st of odd-numbered years, the state treasurer must transfer any cash balance in excess of one million dollars from the waste tire removal account created under RCW 70.95.521 to the motor vehicle account for the purpose of road wear related maintenance on state and local public highways.

(3) During the 2009-11 fiscal biennium, the legislature may transfer any cash balance in excess of one million dollars from the waste tire removal account created under RCW 70.95.521 to the motor vehicle account for the purpose of road wear related maintenance on state and local public highways."

Renumber the sections and subsections consecutively and correct any internal references accordingly.

Senators Haugen and King spoke in favor of adoption of the amendment.

Senator Honeyford spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Haugen and King on page 64, line 6 to Engrossed Substitute Senate Bill No. 6381.

The motion by Senator Haugen carried and the amendment was adopted by voice vote.

#### MOTION

On motion of Senator Haugen, the rules were suspended, Engrossed Substitute Senate Bill No. 6381 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and King spoke in favor of passage of the bill.

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## PARLIAMENTARY INQUIRY

Senator Brandland: "I excused some of my members earlier today. does that excuse, are they still excused?"

## REPLY BY THE PRESIDENT

President Owen: "They're still excused unless they voted. If they've come and voted then they would have to be re-excused. You might want to state it just so we make sure that we have the right members excused."

## MOTION

On motion of Senator Brandland, Senators Delvin, Holmquist, McCaslin, Roach, Swecker and Zarelli were excused.

Senators Marr spoke in favor of passage of the bill.  
Senators Carrell spoke against passage of the bill.

## POINT OF INQUIRY

Senator Franklin: "Would Senator Haugen yield to a question? Thank you Senator Haugen. Well the colleague from the twenty-eighth district, Senator Carrell made a very good explanation because this is a huge issue in the city of Lakewood and not only the city of Lakewood but the residents itself. It will cause a problem. So my question to you is, how then can we work to make sure because people's lives are going to be affected and I mentioned that to you earlier? So, how are going to mitigate and work with this Senator?"

Senator Haugen: "Well, I appreciate the question. Me, I don't have the material right in front of me. I really can't directly answer your question. I can tell you that all across this state grade separation is a huge issue and we need to work together. If we don't have the potential to do that within the federal dollars we're getting, hopefully in the future, we'll be able to take a look at that. You know, this is a Sound Transit project that you're talking about. We do not have control of Sound Transit's budget but we do make investments on track that we share. And so, without in front of me I really can't answer your question but I will have the staff get back to you."

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6381.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6381 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 3; Absent, 1; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Prentice, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom and Zarelli

Voting nay: Senators Carrell, Morton and Pflug

Absent: Senator Ranker

Excused: Senators Delvin, Holmquist, McCaslin and Swecker

ENGROSSED SUBSTITUTE SENATE BILL NO. 6381, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6444, by Senators Prentice and Tom

Making 2010 operating supplemental appropriations. Revised for 1st Substitute: Making 2010 supplemental operating appropriations.

## MOTION

On motion of Senator Prentice, Substitute Senate Bill No. 6444 was substituted for Senate Bill No. 6444 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Murray moved that the following amendment by Senators Murray and Hewitt be adopted:

On page 29, line 32, after "solely" strike everything through page 31, line 38 and insert "to implement the provisions of Substitute Senate Bill No. 6675 (Global health program). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse."

Senator Murray spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Murray and Hewitt on page 29, line 32 to Substitute Senate Bill No. 6444.

The motion by Senator Murray carried and the amendment was adopted by voice vote.

## MOTION

Senator Zarelli moved that the following amendment by Senators Zarelli and Tom be adopted:

On page 88, after line 21, insert the following:

"(21) By December 1, 2010, the department shall analyze the costs to the state of in-home caregivers. This shall include the cost differential to the state in-home care program from utilizing caregivers employed by a homecare agency compared with those working as individual providers and, as a separately analyzed group, the costs of family member providers. The analysis shall consider the differential in hourly Medicaid reimbursement rates between the agency providers and the individual providers including but not limited to administrative costs to the department, utilization of authorized hours, and utilization of health care benefits by home care providers. The department shall report on the impact of the department's labor agreements, since the inception of collective bargaining for homecare workers, on the state's cost for homecare worker wages, benefits and health insurance benefits. The department shall include in this analysis the effect of indirect costs to the state of individual versus agency caregivers, including the costs associated with tort liability, costs associated with providing interpreters, the incidence of Medicaid and other forms of payment fraud, and the eligibility of the caregiver for full or partial government paid benefits."

Senators Zarelli and Parlette spoke in favor of adoption of the amendment.

Senators Keiser and Prentice spoke against adoption of the amendment.

FORTY EIGHTH DAY, FEBRUARY 27, 2010

2010 REGULAR SESSION

## MOTION

On motion of Senator Marr, Senator Hatfield was excused.

The President declared the question before the Senate to be the adoption of the amendment by Senators Zarelli and Tom on page 88, line 21 to Substitute Senate Bill No. 6444.

The motion by Senator Zarelli failed and the amendment was not adopted by a rising vote.

## MOTION

Senator Schoesler moved that the following amendment by Senator Schoesler be adopted:

On page 159, line 9, decrease general-fund state appropriation by \$250,000 and adjust totals accordingly.

On page 160, beginning on line 14, strike all material through line 15 on page 161.

On page 195, line 6, increase general fund--state appropriation by \$250,000 and adjust totals accordingly.

On page 199, line 23, strike "\$1,667,000" and replace with "~~(\$1,667,000)~~\$1,917,000.

Senator Schoesler spoke in favor of adoption of the amendment. Senator Fraser spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Schoesler on page 159, line 9 to Substitute Senate Bill No. 6444.

The motion by Senator Schoesler failed and the amendment was not adopted by voice vote.

## MOTION

Senator Brandland moved that the following amendment by Senator Brandland be adopted:

On page 208, after line 7, insert new subsection:

"(5) Up to \$78,474,000 in school district per-pupil expenditures for the student achievement program may be provided by school district funds, including but not limited to transfer of a portion of a school district's state allocations for health insurance, to the extent arrangements are made between school districts and the Washington education association or other entities with Washington state school district employee rate stabilization reserve trusts. To the extent school districts' expenditures for employee health and other benefits, agreed to prior to the effective date of this section, are paid by balances in rate stabilization reserve trusts, school districts will maintain their program expenditures on student achievement programs. Teachers must receive communication, in writing or electronically, informing them that the option exists."

Senators Brandland and Pflug spoke in favor of adoption of the amendment.

Senator Oemig spoke against adoption of the amendment.

Senator Brandland again spoke in favor of adoption of the amendment.

## POINT OF ORDER

Senator McAuliffe: "I would request that the members speak to the amendment and not to the intentions of anyone else on the floor."

## REPLY BY THE PRESIDENT

President Owen: "That is the rule Senator Brandland."

Senators Schoesler, Carrell, Honeyford spoke in favor of adoption of the amendment.

Senator Brown spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Brandland on page 208, after line 7 to Substitute Senate Bill No. 6381.

The motion by Senator Brandland failed and the amendment was not adopted by a rising vote.

## MOTION

On motion of Senator Prentice, the rules were suspended, Engrossed Substitute Senate Bill No. 6444 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Prentice, Berkey, Rockefeller, King, Brown and Murray spoke in favor of passage of the bill.

Senators Zarelli, Benton, Carrell, Roach, Pflug, Parlette and Stevens spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6444.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6444 and the bill passed the Senate by the following vote: Yeas, 25; Nays, 19; Absent, 0; Excused, 5.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Fraser, Gordon, Hargrove, Haugen, Jacobsen, Kastama, Kauffman, Keiser, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller and Shin

Voting nay: Senators Becker, Benton, Brandland, Carrell, Franklin, Hewitt, Hobbs, Honeyford, Kilmer, King, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Tom and Zarelli

Excused: Senators Delvin, Hatfield, Holmquist, McCaslin and Swecker

ENGROSSED SUBSTITUTE SENATE BILL NO. 6444, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Eide, Engrossed Substitute Senate Bill No. 6444 was immediately transmitted to the House of Representatives.

## MOTION

At 5:00 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Monday, March 1, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

FIFTIETH DAY

MORNING SESSION

Senate Chamber, Olympia, Monday, March 1, 2010

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Haugen, Holmquist, McCaslin, Murray and Regala.

The Sergeant at Arms Color Guard consisting of Pages Shell Gordon and Andrew Forrest, presented the Colors. Senator Shin offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

February 27, 2010

HB 1541 Prime Sponsor, Representative Seaquist: Granting half-time service credit for half-time educational employment prior to January 1, 1987, in plans 2 and 3 of the school employees' retirement system and the public employees' retirement system. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Carrell; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

February 27, 2010

SHB 1545 Prime Sponsor, Committee on Ways & Means: Authorizing the higher education coordinating board to offer higher education annuities and retirement income plans. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Carrell; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

February 27, 2010

SHB 2196 Prime Sponsor, Committee on Ways & Means: Including service credit transferred from the law enforcement officers' and firefighters' retirement system plan 1 in the determination of eligibility for military service credit. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Zarelli; Carrell; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

February 25, 2010

2SHB 2551 Prime Sponsor, Committee on Ways & Means: Establishing the Washington vaccine association. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Honeyford; McDermott; Parlette; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

February 27, 2010

HB 2823 Prime Sponsor, Representative Kristiansen: Permitting retired participants to resume volunteer firefighter, emergency worker, or reserve officer service. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Carrell; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

February 27, 2010

HB 2987 Prime Sponsor, Representative Simpson: Addressing the impact on the firefighters' pension fund when a city or town enters a regional fire protection service authority. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Carrell; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Honeyford.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

FIFTIETH DAY, MARCH 1, 2010

2010 REGULAR SESSION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

On motion of Senator Eide, the Senate advanced to the fifth order of business.

MESSAGE FROM THE HOUSE

INTRODUCTION AND FIRST READING

February 28, 2010

SB 6879 by Senators Keiser, Tom and Kline

MR. PRESIDENT:

AN ACT Relating to transferring the functions of the home care quality authority to the department of social and health services; amending RCW 41.56.030, 43.105.340, 74.39A.095, 74.39A.220, 74.39A.240, 74.39A.260, and 74.39A.250; reenacting and amending RCW 74.39A.270; creating new sections; decodifying RCW 74.39A.290; repealing RCW 70.127.041, 74.39A.230, and 74.39A.280; and providing an effective date.

The House has passed:

Referred to Committee on Ways & Means.

- ENGROSSED SENATE BILL 5041,
- SECOND ENGROSSED SENATE BILL 5617,
- SENATE BILL 6227,
- SUBSTITUTE SENATE BILL 6239,
- SUBSTITUTE SENATE BILL 6251,
- SUBSTITUTE SENATE BILL 6271,
- SUBSTITUTE SENATE BILL 6273,
- SENATE BILL 6275,
- ENGROSSED SENATE BILL 6287,
- SENATE BILL 6288,
- SENATE BILL 6297,
- SUBSTITUTE SENATE BILL 6337,
- SENATE BILL 6365,
- SUBSTITUTE SENATE BILL 6395,
- SUBSTITUTE SENATE BILL 6398,
- SENATE BILL 6450,
- SUBSTITUTE SENATE BILL 6524,
- SENATE BILL 6543,
- SUBSTITUTE SENATE BILL 6591,
- SUBSTITUTE SENATE BILL 6674,
- SUBSTITUTE SENATE BILL 6749,
- SENATE JOINT MEMORIAL 8026.

SB 6880 by Senator Keiser

AN ACT Relating to emergency medical technicians and paramedics; amending RCW 18.71.010, 18.73.030, 18.73.081, 43.70.110, and 43.70.250; reenacting and amending RCW 18.71.205; and providing an effective date.

and the same are herewith transmitted.

Referred to Committee on Ways & Means.

BARBARA BAKER, Chief Clerk

INTRODUCTION AND FIRST READING OF HOUSE BILLS

SHB 2935 by House Committee on General Government Appropriations (originally sponsored by Representatives Van De Wege, Sells, Blake, Takko, Darneille, Walsh, Hinkle and Kessler)

MESSAGE FROM THE HOUSE

AN ACT Relating to environmental and land use hearings boards; amending RCW 43.21B.001, 43.21B.010, 43.21B.010, 43.21B.180, 43.21B.230, 43.21B.320, 36.70A.270, 70.95.094, 76.06.180, 76.09.050, 76.09.080, 76.09.090, 76.09.170, 76.09.310, 77.55.011, 77.55.021, 77.55.141, 77.55.181, 77.55.241, 77.55.291, 78.44.270, 78.44.380, 79.100.120, 84.33.0775, 90.58.140, 90.58.180, 90.58.190, 90.58.210, and 90.58.560; reenacting and amending RCW 43.21B.005, 43.21B.005, 43.21B.110, 43.21B.110, 43.21B.300, 43.21B.310, and 76.09.020; adding a new section to chapter 43.21B RCW; adding new sections to chapter 36.70A RCW; adding a new section to chapter 76.09 RCW; creating new sections; repealing RCW 43.21B.190, 76.09.210, 76.09.220, 76.09.230, 77.55.301, 77.55.311, 43.21L.005, 43.21L.010, 43.21L.020, 43.21L.030, 43.21L.040, 43.21L.050, 43.21L.060, 43.21L.070, 43.21L.080, 43.21L.090, 43.21L.100, 43.21L.110, 43.21L.120, 43.21L.130, 43.21L.140, 43.21L.900, and 43.21L.901; providing effective dates; and providing expiration dates.

MR. PRESIDENT:

Referred to Committee on Ways & Means.

The House has passed:

- SUBSTITUTE SENATE BILL 5046,
- ENGROSSED SENATE BILL 5516,
- SENATE BILL 5582,
- SUBSTITUTE SENATE BILL 6197,
- SUBSTITUTE SENATE BILL 6211,
- SUBSTITUTE SENATE BILL 6213,
- SENATE BILL 6229,
- ENGROSSED SUBSTITUTE SENATE BILL 6286,
- SUBSTITUTE SENATE BILL 6298,
- SUBSTITUTE SENATE BILL 6299,
- ENGROSSED SUBSTITUTE SENATE BILL 6306,
- SUBSTITUTE SENATE BILL 6367,
- SUBSTITUTE SENATE BILL 6371,
- SENATE BILL 6467,
- SUBSTITUTE SENATE BILL 6544,
- SENATE BILL 6546,
- SUBSTITUTE SENATE BILL 6584,
- SUBSTITUTE SENATE BILL 6634.

SHB 2941 by House Committee on Transportation (originally sponsored by Representatives Clibborn, O'Brien, Maxwell, Liias, Eddy, Springer, Hunter and Goodman)

and the same are herewith transmitted.

AN ACT Relating to the use of express toll lanes in the Interstate 405 corridor; amending RCW 47.56.810; adding new sections to chapter 47.56 RCW; creating a new section; and prescribing penalties.

BARBARA BAKER, Chief Clerk

MOTION

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Referred to Committee on Transportation.

ESHB 2954 by House Committee on Health & Human Services Appropriations (originally sponsored by Representative Cody)

AN ACT Relating to license fees for nursing homes, boarding homes, and adult family homes; amending RCW 18.51.050, 18.20.050, and 70.128.060; and adding a new section to chapter 43.20A RCW.

Referred to Committee on Ways & Means.

EHB 2969 by Representative Hudgins

AN ACT Relating to promoting efficiencies in the services provided by the office of the public printer; amending RCW 43.78.080, 43.78.030, 43.78.070, 43.78.090, 43.78.100, 43.78.105, 43.78.110, 43.78.170, 43.105.041, 1.08.039, 15.24.085, 15.62.190, 16.67.170, 28A.300.040, 28B.10.029, 40.04.030, 40.06.030, 40.07.050, and 43.08.061; reenacting and amending RCW 43.105.020 and 41.06.070; adding new sections to chapter 43.105 RCW; adding a new section to chapter 41.56 RCW; creating new sections; recodifying RCW 43.78.030, 43.78.070, 43.78.090, 43.78.100, 43.78.105, 43.78.110, 43.78.130, 43.78.140, 43.78.150, 43.78.160, and 43.78.170; repealing RCW 43.78.010, 43.78.020, 43.78.040, 43.78.050, and 43.78.080; and providing effective dates.

Referred to Committee on Ways & Means.

#### MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

#### MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Oemig moved that Gubernatorial Appointment No. 9180, Sang Chae, as a member of the Board of Trustees, Lake Washington Technical College District No. 26, be confirmed.

Senator Oemig spoke in favor of the motion.

#### MOTION

On motion of Senator Brandland, Senator McCaslin was excused.

#### MOTION

On motion of Senator Marr, Senators Brown, Haugen and Murray were excused.

#### APPOINTMENT OF SANG CHAE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9180, Sang Chae as a member of the Board of Trustees, Lake Washington Technical College District No. 26.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9180, Sang Chae as a member of the Board of Trustees, Lake Washington Technical College District No. 26 and the appointment was confirmed by the following vote: Yeas, 42; Nays, 0; Absent, 3; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hatfield, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senators Hargrove, Holmquist and Regala

Excused: Senators Brown, Haugen, McCaslin and Murray  
Gubernatorial Appointment No. 9180, Sang Chae, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Lake Washington Technical College District No. 26.

#### MOTION

On motion of Senator Brandland, Senator Holmquist was excused.

#### MOTION

On motion of Senator McDermott, Senators Hargrove and Regala were excused.

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Swecker moved that Gubernatorial Appointment No. 9246, Tony Tortorice, as a member of the Department of Information Services, be confirmed.

Senators Swecker and Tom spoke in favor of the motion.

#### APPOINTMENT OF TONY TORTORICE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9246, Tony Tortorice as a member of the Department of Information Services.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9246, Tony Tortorice as a member of the Department of Information Services and the appointment was confirmed by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brown, Hargrove, Holmquist, McCaslin, Murray and Regala

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Gubernatorial Appointment No. 9246, Tony Tortorice, having received the constitutional majority was declared confirmed as a member of the Department of Information Services.

Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Hargrove

Excused: Senators Brown, Holmquist and McCaslin

Gubernatorial Appointment No. 9060, Roshni A. Jokhi, having received the constitutional majority was declared confirmed as a member of the Professional Educator Standards Board.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Kohl-Welles moved that Gubernatorial Appointment No. 9213, Valoria Loveland, as a member of the Lottery Commission, be confirmed.

Senator Kohl-Welles spoke in favor of the motion.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Fraser moved that Gubernatorial Appointment No. 9177, Judy Blinn, as a member of the Board of Trustees, South Puget Sound Community College District No. 24, be confirmed.

Senator Fraser spoke in favor of the motion.

APPOINTMENT OF VALORIA LOVELAND

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9213, Valoria Loveland as a member of the Lottery Commission.

APPOINTMENT OF JUDY BLINN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9177, Judy Blinn as a member of the Board of Trustees, South Puget Sound Community College District No. 24.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9213, Valoria Loveland as a member of the Lottery Commission and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9177, Judy Blinn as a member of the Board of Trustees, South Puget Sound Community College District No. 24 and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brown, Holmquist, McCaslin and Murray

Gubernatorial Appointment No. 9213, Valoria Loveland, having received the constitutional majority was declared confirmed as a member of the Lottery Commission.

Excused: Senators Holmquist and McCaslin

Gubernatorial Appointment No. 9177, Judy Blinn, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, South Puget Sound Community College District No. 24.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Brandland moved that Gubernatorial Appointment No. 9060, Roshni A. Jokhi, as a member of the Professional Educator Standards Board, be confirmed.

Senator Brandland spoke in favor of the motion.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Prentice moved that Gubernatorial Appointment No. 9258, Michael L. Reichert, as a member of the Gambling Commission, be confirmed.

Senator Prentice spoke in favor of the motion.

APPOINTMENT OF ROSHNI A. JOKHI

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9060, Roshni A. Jokhi as a member of the Professional Educator Standards Board.

APPOINTMENT OF MICHAEL L. REICHERT

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9258, Michael L. Reichert as a member of the Gambling Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9060, Roshni A. Jokhi as a member of the Professional Educator Standards Board and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug,

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9258, Michael L. Reichert as a member of the Gambling Commission and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Holmquist and McCaslin

Gubernatorial Appointment No. 9258, Michael L. Reichert, having received the constitutional majority was declared confirmed as a member of the Gambling Commission.

#### SECOND READING

#### CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator McDermott moved that Gubernatorial Appointment No. 9176, Michael Blakely, as a member of the Board of Trustees, Big Bend Community College District No. 18, be confirmed.

Senator McDermott spoke in favor of the motion.

#### APPOINTMENT OF MICHAEL BLAKELY

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9176, Michael Blakely as a member of the Board of Trustees, Big Bend Community College District No. 18.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9176, Michael Blakely as a member of the Board of Trustees, Big Bend Community College District No. 18 and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Holmquist and McCaslin

Gubernatorial Appointment No. 9176, Michael Blakely, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Big Bend Community College District No. 18.

#### SECOND READING

#### CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Fraser moved that Gubernatorial Appointment No. 9077, Darryl-Jean Mark, as a member of the Personnel Resources Board, be confirmed.

Senator Fraser spoke in favor of the motion.

#### APPOINTMENT OF DARRYL-JEAN MARK

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9077, Darryl-Jean Mark as a member of the Personnel Resources Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9077, Darryl-Jean Mark as a member of the Personnel Resources Board and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Holmquist and McCaslin

Gubernatorial Appointment No. 9077, Darryl-Jean Mark, having received the constitutional majority was declared confirmed as a member of the Personnel Resources Board.

#### SECOND READING

#### CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Haugen moved that Gubernatorial Appointment No. 9234, Donald B. Sehlin, as a member of the Public Disclosure Commission, be confirmed.

Senators Haugen and Honeyford spoke in favor of passage of the motion.

#### APPOINTMENT OF DONALD B. SEHLIN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9234, Donald B. Sehlin as a member of the Public Disclosure Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9234, Donald B. Sehlin as a member of the Public Disclosure Commission and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Holmquist and McCaslin

Gubernatorial Appointment No. 9234, Donald B. Sehlin, having received the constitutional majority was declared confirmed as a member of the Public Disclosure Commission.

#### SECOND READING

#### CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Fraser moved that Gubernatorial Appointment No. 9188, Sharon Foster, as a member of the Liquor Control Board, be confirmed.

Senator Fraser spoke in favor of the motion.

#### APPOINTMENT OF SHARON FOSTER

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The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9188, Sharon Foster as a member of the Liquor Control Board.

SUBSTITUTE HOUSE BILL NO. 2466, by House Committee on Judiciary (originally sponsored by Representatives Goodman, Rodne, Kelley, Roberts, Johnson, Ericks, Hudgins and Hurst)

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9188, Sharon Foster as a member of the Liquor Control Board and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Concerning the regulation of ignition interlock devices by the Washington state patrol.

The measure was read the second time.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Judiciary be adopted:

Excused: Senators Holmquist and McCaslin

Gubernatorial Appointment No. 9188, Sharon Foster, having received the constitutional majority was declared confirmed as a member of the Liquor Control Board.

Strike everything after the enacting clause and insert the following: "**Sec. 1.** RCW 46.04.215 and 2005 c 200 s 1 are each amended to read as follows:

SECOND READING

HOUSE BILL NO. 2465, by Representatives Hurst, Rodne, Kelley, Roberts and Ericks

"Ignition interlock device" means breath alcohol analyzing ignition equipment or other biological or technical device certified in conformance with section 2 of this act and rules adopted by the state patrol and designed to prevent a motor vehicle from being operated by a person who has consumed an alcoholic beverage. ~~((The state patrol shall by rule provide standards for the certification, installation, repair, and removal of the devices.))~~

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.43 RCW to read as follows:

Concerning breath test instruments approved by the state toxicologist.

(1) The state patrol shall by rule provide standards for the certification, installation, repair, maintenance, monitoring, inspection, and removal of ignition interlock devices, as defined under RCW 46.04.215, and equipment as outlined under this section, and may inspect the records and equipment of manufacturers and vendors during regular business hours for compliance with statutes and rules and may suspend or revoke certification for any noncompliance. The state patrol may only inspect ignition interlock devices in the vehicles of customers for proper installation and functioning when installation is being done at the vendors' place of business.

The measure was read the second time.

MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 2465 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

(2)(a) When a certified service provider or individual installer of ignition interlock devices is found to be out of compliance, the installation privileges of that certified service provider or individual installer may be suspended or revoked until the certified service provider or individual installer comes into compliance. During any suspension or revocation period, the certified service provider or individual installer is responsible for notifying affected customers of any changes in their service agreement.

Senators Kline and Carrell spoke in favor of passage of the bill.

(b) A certified service provider or individual installer whose certification is suspended or revoked for noncompliance has a right to an administrative hearing under chapter 34.05 RCW to contest the suspension or revocation, or both. For the administrative hearing, the procedure and rules of evidence are as specified in chapter 34.05 RCW, except as otherwise provided in this chapter. Any request for an administrative hearing must be made in writing and must be received by the state patrol within twenty days after the receipt of the notice of suspension or revocation.

The President declared the question before the Senate to be the final passage of House Bill No. 2465.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2465 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

(3)(a) An ignition interlock device must employ fuel cell technology. For the purposes of this subsection, "fuel cell technology" consists of the following electrochemical method: An electrolyte designed to oxidize the alcohol and release electrons to be collected by an active electrode; a current flow is generated within the electrode proportional to the amount of alcohol oxidized on the fuel cell surface; and the electrical current is measured and reported as breath alcohol concentration. Fuel cell technology is highly specific for alcohols.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Holmquist and McCaslin

HOUSE BILL NO. 2465, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

(b) To be certified, an ignition interlock device must:

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(i) Meet or exceed the minimum test standards according to rules adopted by the state patrol. Only a notarized statement from a laboratory that is certified by the international organization of standardization and is capable of performing the tests specified will be accepted as proof of meeting or exceeding the standards. The notarized statement must include the name and signature of the person in charge of the tests under the following statement:

"Two samples of (model name), manufactured by (manufacturer) were tested by (laboratory) certified by the Internal Organization of Standardization. They do meet or exceed all specifications listed in the Federal Register, Volume 71, Number 31 (57 FR 11772), Breath Alcohol Ignition Interlock Devices (BAIID), NHTSA 2005-23470."; and

(ii) Be maintained in accordance with the rules and standards adopted by the state patrol.

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.43 RCW to read as follows:

For the purposes of section 2 of this act, companies not using ignition interlock devices that employ fuel cell technology as of the effective date of this act shall have five years from the effective date of this act to begin using ignition interlock devices that employ fuel cell technology."

Senator Kline spoke in favor of adoption of the committee striking amendment.

#### MOTION

On motion of Senator Marr, Senator McAuliffe was excused.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary to Substitute House Bill No. 2466.

The motion by Senator Kline carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "devices;" strike the remainder of the title and insert "amending RCW 46.04.215; and adding new sections to chapter 43.43 RCW."

#### MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 2466 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2466 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2466 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McDermott, Morton, Murray, Oemig,

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Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Holmquist, McAuliffe and McCaslin

SUBSTITUTE HOUSE BILL NO. 2466 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SECOND ENGROSSED HOUSE BILL NO. 1876, by Representatives McCune, Miloscia, Haler, Klippert, Campbell, Rodne, Schmick, O'Brien, Roach, Warnick, Short, Conway, Cox and Orcutt

Providing funds for disabled veterans through voluntary donations.

The measure was read the second time.

#### MOTION

On motion of Senator Hobbs, the rules were suspended, Second Engrossed House Bill No. 1876 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Engrossed House Bill No. 1876.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed House Bill No. 1876 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Holmquist, McAuliffe and McCaslin

SECOND ENGROSSED HOUSE BILL NO. 1876, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 2519, by Representatives Green, Hope, Ericks, Maxwell, Sullivan, Upthegrove, Carlyle, Conway, Simpson, Van De Wege, Kenney, Morrell, Hurst, Campbell and Kelley

Addressing duty-related death benefits for public safety employees.

The measure was read the second time.

#### MOTION

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Senator Prentice moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 41.26.510 and 2009 c 523 s 7 and 2009 c 226 s 2 are each reenacted and amended to read as follows:

(1) Except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse or domestic partner as if in fact such spouse or domestic partner had been nominated by written designation, or if there be no such surviving spouse or domestic partner, then to such member's legal representatives.

(2) ~~((#))~~ Except as provided in subsection (4) of this section, if a member who is killed in the course of employment or a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse, domestic partner, or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 41.26.430, actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 41.26.460 and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.26.430; if a surviving spouse or domestic partner who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse or domestic partner, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse or domestic partner eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption that the ages of the spouse or domestic partner and member were equal at the time of the member's death; or

(b)(i) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670; or

(ii) If the member dies on or after July 25, 1993, one hundred fifty percent of the member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670. Any accumulated contributions attributable to restorations made under RCW 41.50.165(2) shall be refunded at one hundred percent.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies after October 1, 1977, and is not survived by a spouse, domestic partner, or an eligible child, then the accumulated contributions standing to the

member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To an estate, a person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives.

(4) The retirement allowance of a member who is killed in the course of employment, as determined by the director of the department of labor and industries, or the retirement allowance of a member who has left the employ of an employer due to service in the national guard or military reserves and dies while honorably serving in the national guard or military reserves during a period of war as defined in RCW 41.04.005, is not subject to an actuarial reduction for early retirement as provided in RCW 41.26.430 or an actuarial reduction to reflect a joint and one hundred percent survivor option under RCW 41.26.460. The member's retirement allowance is computed under RCW 41.26.420, except that the member shall be entitled to a minimum retirement allowance equal to ten percent of such member's final average salary. The member shall additionally receive a retirement allowance equal to two percent of such member's average final salary for each year of service beyond five.

(5) The retirement allowance paid to the spouse or domestic partner and dependent children of a member who is killed in the course of employment, as set forth in RCW 41.05.011(~~((4))~~) (16), shall include reimbursement for any payments of premium rates to the Washington state health care authority pursuant to RCW 41.05.080.

**Sec. 2.** RCW 41.26.048 and 2009 c 523 s 4 are each amended to read as follows:

(1) A ~~((one hundred fifty))~~ two hundred fourteen thousand dollar death benefit shall be paid to the member's estate, or such person or persons, trust or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's death benefit shall be paid to the member's surviving spouse or domestic partner as if in fact such spouse or domestic partner had been nominated by written designation, or if there be no such surviving spouse or domestic partner, then to such member's legal representatives.

(2) The benefit under this section shall be paid only when death occurs: (a) As a result of injuries sustained in the course of employment; or (b) as a result of an occupational disease or infection that arises naturally and proximately out of employment covered under this chapter. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050.

(3)(a) Beginning July 1, 2010, and every year thereafter, the department shall determine the following information:

(i) The index for the 2008 calendar year, to be known as "index A;"

(ii) The index for the calendar year prior to the date of determination, to be known as "index B;" and

(iii) The ratio obtained when index B is divided by index A.

(b) The value of the ratio obtained shall be the annual adjustment to the original death benefit and shall be applied beginning every July 1st. In no event, however, shall the annual adjustment:

(i) Produce a benefit which is lower than two hundred fourteen

thousand dollars;

- (ii) Exceed three percent in the initial annual adjustment; or
- (iii) Differ from the previous year's annual adjustment by more than three percent.

(c) For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index -- Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

**Sec. 3.** RCW 51.32.050 and 2007 c 284 s 1 are each amended to read as follows:

(1) Where death results from the injury the expenses of burial not to exceed two hundred percent of the average monthly wage in the state as defined in RCW 51.08.018 shall be paid.

(2)(a) Where death results from the injury, a surviving spouse of a deceased worker eligible for benefits under this title shall receive monthly for life or until remarriage payments according to the following schedule:

- (i) If there are no children of the deceased worker, sixty percent of the wages of the deceased worker;
- (ii) If there is one child of the deceased worker and in the legal custody of such spouse, sixty-two percent of the wages of the deceased worker;
- (iii) If there are two children of the deceased worker and in the legal custody of such spouse, sixty-four percent of the wages of the deceased worker;
- (iv) If there are three children of the deceased worker and in the legal custody of such spouse, sixty-six percent of the wages of the deceased worker;
- (v) If there are four children of the deceased worker and in the legal custody of such spouse, sixty-eight percent of the wages of the deceased worker; or
- (vi) If there are five or more children of the deceased worker and in the legal custody of such spouse, seventy percent of the wages of the deceased worker.

(b) Where the surviving spouse does not have legal custody of any child or children of the deceased worker or where after the death of the worker legal custody of such child or children passes from such surviving spouse to another, any payment on account of such child or children not in the legal custody of the surviving spouse shall be made to the person or persons having legal custody of such child or children. The amount of such payments shall be five percent of the monthly benefits payable as a result of the worker's death for each such child but such payments shall not exceed twenty-five percent. Such payments on account of such child or children shall be subtracted from the amount to which such surviving spouse would have been entitled had such surviving spouse had legal custody of all of the children and the surviving spouse shall receive the remainder after such payments on account of such child or children have been subtracted. Such payments on account of a child or children not in the legal custody of such surviving spouse shall be apportioned equally among such children.

(c) Payments to the surviving spouse of the deceased worker shall cease at the end of the month in which remarriage occurs: PROVIDED, That a monthly payment shall be made to the child or children of the deceased worker from the month following such remarriage in a sum equal to five percent of the wages of the deceased worker for one child and a sum equal to five percent for each additional child up to a maximum of five such children. Payments to such child or children shall be apportioned equally among such children. Such sum shall be in place of any payments theretofore made for the benefit of or on account of any such child or children. If the surviving spouse does not have legal custody of any child or children of the deceased worker, or if after the death of the worker, legal custody of such child or children passes from such

surviving spouse to another, any payment on account of such child or children not in the legal custody of the surviving spouse shall be made to the person or persons having legal custody of such child or children.

(d) In no event shall the monthly payments provided in subsection (2) of this section:

- (i) Exceed the applicable percentage of the average monthly wage in the state as computed under RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

(ii) For dates of injury or disease manifestation after July 1, 2008, be less than fifteen percent of the average monthly wage in the state as computed under RCW 51.08.018 plus an additional ten dollars per month for a surviving spouse and an additional ten dollars per month for each child of the worker up to a maximum of five children. However, if the monthly payment computed under this subsection (2)(d)(ii) is greater than one hundred percent of the wages of the deceased worker as determined under RCW 51.08.178, the monthly payment due to the surviving spouse shall be equal to the greater of the monthly wages of the deceased worker or the minimum benefit set forth in this section on June 30, 2008.

(e) In addition to the monthly payments provided for in subsection (2)(a) through (c) of this section, a surviving spouse or child or children of such worker if there is no surviving spouse, or dependent parent or parents, if there is no surviving spouse or child or children of any such deceased worker shall be forthwith paid a sum equal to one hundred percent of the average monthly wage in the state as defined in RCW 51.08.018, any such children, or parents to share and share alike in said sum.

(f) Upon remarriage of a surviving spouse the monthly payments for the child or children shall continue as provided in this section, but the monthly payments to such surviving spouse shall cease at the end of the month during which remarriage occurs. However, after September 8, 1975, an otherwise eligible surviving spouse of a worker who died at any time prior to or after September 8, 1975, shall have an option of:

(i)(A) Receiving, once and for all, a lump sum of twenty-four times the monthly compensation rate in effect on the date of remarriage allocable to the spouse for himself or herself pursuant to subsection (2)(a)(i) of this section and subject to any modifications specified under subsection (2)(d) of this section and RCW 51.32.075(3) or fifty percent of the then remaining annuity value of his or her pension, whichever is the lesser: PROVIDED, That if the injury occurred prior to July 28, 1991, the remarriage benefit lump sum available shall be as provided in the remarriage benefit schedules then in effect; ((B))

(B) If a surviving spouse is the surviving spouse of a member of the law enforcement officers' and firefighters' retirement system under chapter 41.26 RCW or the state patrol retirement system under chapter 43.43 RCW, the surviving spouse may receive a lump sum of thirty-six times the monthly compensation rate in effect on the date of remarriage allocable to the spouse for himself or herself pursuant to subsection (2)(a)(i) of this section and RCW 51.32.075(3) or fifty percent of the remaining annuity value of his or her pension provided under this chapter, whichever is the lesser: PROVIDED, That if the injury occurred prior to July 28, 1991, the

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lump sum benefit shall be as provided in the remarriage benefit schedules then in effect; or

(ii) If a surviving spouse does not choose the option specified in subsection (2)(f)(i) of this section to accept the lump sum payment, the remarriage of the surviving spouse of a worker shall not bar him or her from claiming the lump sum payment authorized in subsection (2)(f)(i) of this section during the life of the remarriage, or shall not prevent subsequent monthly payments to him or to her if the remarriage has been terminated by death or has been dissolved or annulled by valid court decree provided he or she has not previously accepted the lump sum payment.

(g) If the surviving spouse during the remarriage should die without having previously received the lump sum payment provided in subsection (2)(f)(i) of this section, his or her estate shall be entitled to receive the sum specified under subsection (2)(f)(i) of this section or fifty percent of the then remaining annuity value of his or her pension whichever is the lesser.

(h) The effective date of resumption of payments under subsection (2)(f)(ii) of this section to a surviving spouse based upon termination of a remarriage by death, annulment, or dissolution shall be the date of the death or the date the judicial decree of annulment or dissolution becomes final and when application for the payments has been received.

(i) If it should be necessary to increase the reserves in the reserve fund or to create a new pension reserve fund as a result of the amendments in chapter 45, Laws of 1975-'76 2nd ex. sess., the amount of such increase in pension reserve in any such case shall be transferred to the reserve fund from the supplemental pension fund.

(3) If there is a child or children and no surviving spouse of the deceased worker or the surviving spouse is not eligible for benefits under this title, a sum equal to thirty-five percent of the wages of the deceased worker shall be paid monthly for one child and a sum equivalent to fifteen percent of such wage shall be paid monthly for each additional child, the total of such sum to be divided among such children, share and share alike: PROVIDED, That benefits under this subsection or subsection (4) of this section shall not exceed the lesser of sixty-five percent of the wages of the deceased worker at the time of his or her death or the applicable percentage of the average monthly wage in the state as defined in RCW 51.08.018, as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

(4) In the event a surviving spouse receiving monthly payments dies, the child or children of the deceased worker shall receive the same payment as provided in subsection (3) of this section.

(5) If the worker leaves no surviving spouse or child, but leaves a dependent or dependents, a monthly payment shall be made to each dependent equal to fifty percent of the average monthly support actually received by such dependent from the worker during the twelve months next preceding the occurrence of the injury, but the total payment to all dependents in any case shall not exceed the lesser of sixty-five percent of the wages of the deceased worker at the time of his or her death or the applicable percentage of the average monthly wage in the state as defined in RCW 51.08.018 as follows:

AFTER	PERCENTAGE
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June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

If any dependent is under the age of eighteen years at the time of the occurrence of the injury, the payment to such dependent shall cease when such dependent reaches the age of eighteen years except such payments shall continue until the dependent reaches age twenty-three while permanently enrolled at a full time course in an accredited school. The payment to any dependent shall cease if and when, under the same circumstances, the necessity creating the dependency would have ceased if the injury had not happened.

(6) For claims filed prior to July 1, 1986, if the injured worker dies during the period of permanent total disability, whatever the cause of death, leaving a surviving spouse, or child, or children, the surviving spouse or child or children shall receive benefits as if death resulted from the injury as provided in subsections (2) through (4) of this section. Upon remarriage or death of such surviving spouse, the payments to such child or children shall be made as provided in subsection (2) of this section when the surviving spouse of a deceased worker remarries.

(7) For claims filed on or after July 1, 1986, every worker who becomes eligible for permanent total disability benefits shall elect an option as provided in RCW 51.32.067.

**Sec. 4.** RCW 28B.15.380 and 2005 c 249 s 2 are each amended to read as follows:

Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, and The Evergreen State College (~~may~~) shall exempt the following students from the payment of all (~~or a portion of~~) tuition fees and services and activities fees:

(1) Children of any law enforcement officer (~~(or)~~) as defined in chapter 41.26 RCW, firefighter as defined in chapter 41.26 or 41.24 RCW, or Washington state patrol officer who lost his or her life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state: PROVIDED, That such persons may receive the exemption only if they begin their course of study at a state-supported college or university within ten years of their graduation from high school; and

(2) Surviving spouses of any law enforcement officer as defined in chapter 41.26 RCW, firefighter as defined in chapter 41.26 or 41.24 RCW, or Washington state patrol officer who lost his or her life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state.

(3) The governing boards of the state universities, the regional universities, and The Evergreen State College shall report to the higher education coordinating board on the annual cost of tuition fees and services and activities fees waived for surviving spouses and children under this section. The higher education coordinating board shall consolidate the reports of the waived fees and annually report to the appropriate fiscal and policy committees of the legislature.

**Sec. 5.** RCW 28B.15.520 and 2007 c 355 s 6 are each amended to read as follows:

Subject to the limitations of RCW 28B.15.910, the governing boards of the community colleges may:

(1)(a) Waive all or a portion of tuition fees and services and activities fees for:

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~~((a))~~ (i) Students nineteen years of age or older who are eligible for resident tuition and fee rates as defined in RCW 28B.15.012 through 28B.15.015, who enroll in a course of study or program which will enable them to finish their high school education and obtain a high school diploma or certificate, but who are not eligible students as defined by RCW 28A.600.405; and shall waive all of tuition fees and services and activities fees for:

~~((b))~~ (ii) Children of any law enforcement officer ~~((or))~~ as defined in chapter 41.26 RCW, firefighter as defined in chapter 41.26 or 41.24 RCW, or Washington state patrol officer who lost his or her life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state: PROVIDED, That such persons may receive the waiver only if they begin their course of study at a community college within ten years of their graduation from high school; and

(iii) Surviving spouses of any law enforcement officer as defined in chapter 41.26 RCW, firefighter as defined in chapter 41.26 or 41.24 RCW, or Washington state patrol officer who lost his or her life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state.

(b) The governing boards of the community colleges shall report to the state board for community and technical colleges on the annual cost of tuition fees and services and activities fees waived for surviving spouses and children under parts (a)(ii) and (iii) of this subsection. The state board for community and technical colleges shall consolidate the reports of the waived fees and annually report to the appropriate fiscal and policy committees of the legislature;

(2) Waive all or a portion of the nonresident tuition fees differential for:

(a) Nonresident students enrolled in a community college course of study or program which will enable them to finish their high school education and obtain a high school diploma or certificate but who are not eligible students as defined by RCW 28A.600.405. The waiver shall be in effect only for those courses which lead to a high school diploma or certificate; and

(b) Up to forty percent of the students enrolled in the regional education program for deaf students, subject to federal funding of such program.

**Sec. 6.** RCW 43.43.295 and 2009 c 522 s 8 and 2009 c 226 s 4 are each reenacted and amended to read as follows:

(1) For members commissioned on or after January 1, 2003, except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse or domestic partner as if in fact such spouse or domestic partner had been nominated by written designation, or if there be no such surviving spouse or domestic partner, then to such member's legal representatives.

(2) If a member who is killed in the course of employment or a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or

domestic partner or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 43.43.260, actuarially reduced, except under subsection (4) of this section, by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 43.43.278 and if the member was not eligible for normal retirement at the date of death a further reduction from age fifty-five or when the member could have attained twenty-five years of service, whichever is less; if a surviving spouse or domestic partner who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse or domestic partner, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse or domestic partner eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated under this section making the assumption that the ages of the spouse or domestic partner and member were equal at the time of the member's death; or

(b)(i) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670; or

(ii) If the member dies, one hundred fifty percent of the member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670. Any accumulated contributions attributable to restorations made under RCW 41.50.165(2) shall be refunded at one hundred percent.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, and is not survived by a spouse or domestic partner or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To an estate, a person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives.

(4) The retirement allowance of a member who is killed in the course of employment, as determined by the director of the department of labor and industries, or the retirement allowance of a member who has left the employ of an employer due to service in the national guard or military reserves and dies while honorably serving in the national guard or military reserves during a period of war as defined in RCW 41.04.005, is not subject to an actuarial reduction for early retirement if the member was not eligible for normal retirement or an actuarial reduction to reflect a joint and one hundred percent survivor option under RCW 43.43.278. The member is entitled to a minimum retirement allowance equal to ten percent of such member's final average salary. The member shall additionally receive a retirement allowance equal to two percent of such member's average final salary for each year of service beyond five.

**Sec. 7.** RCW 43.43.285 and 2009 c 522 s 7 are each amended to read as follows:

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(1) A (~~one hundred fifty~~) two hundred fourteen thousand dollar death benefit shall be paid to the member's estate, or such person or persons, trust or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's death benefit shall be paid to the member's surviving spouse or domestic partner as if in fact such spouse or domestic partner had been nominated by written designation, or if there be no such surviving spouse or domestic partner, then to such member's legal representatives.

(2)(a) The benefit under this section shall be paid only where death occurs as a result of (i) injuries sustained in the course of employment; or (ii) an occupational disease or infection that arises naturally and proximately out of employment covered under this chapter. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050.

(b) The retirement allowance paid to the spouse or domestic partner and dependent children of a member who is killed in the course of employment, as set forth in RCW 41.05.011(~~((44))~~) (16), shall include reimbursement for any payments of premium rates to the Washington state health care authority under RCW 41.05.080.

(3)(a) Beginning July 1, 2010, and every year thereafter, the department shall determine the following information:

(i) The index for the 2008 calendar year, to be known as "index A";

(ii) The index for the calendar year prior to the date of determination, to be known as "index B"; and

(iii) The ratio obtained when index B is divided by index A.

(b) The value of the ratio obtained shall be the annual adjustment to the original death benefit and shall be applied beginning every July 1st. In no event, however, shall the annual adjustment:

(i) Produce a benefit which is lower than two hundred fourteen thousand dollars;

(ii) Exceed three percent in the initial annual adjustment; or

(iii) Differ from the previous year's annual adjustment by more than three percent.

(c) For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index -- Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

NEW SECTION. Sec. 8. Section 1 of this act applies prospectively to the benefits of all members killed in the course of employment since October 1, 1977.

NEW SECTION. Sec. 9. Sections 2 and 7 of this act apply to the benefits of all members killed in the course of employment since January 1, 2009.

NEW SECTION. Sec. 10. Section 6 of this act applies prospectively to the benefits of all members killed in the course of employment since January 1, 2003."

Senator Prentice spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed House Bill No. 2519.

The motion by Senator Prentice carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "employees;" strike the remainder of the title and insert "amending RCW 41.26.048, 51.32.050, 28B.15.380, 28B.15.520, and 43.43.285; reenacting and amending RCW 41.26.510 and 43.43.295; and creating new sections."

MOTION

On motion of Senator Prentice, the rules were suspended, Engrossed House Bill No. 2519 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 2519 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2519 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Holmquist, McAuliffe and McCaslin

ENGROSSED HOUSE BILL NO. 2519 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2828, by House Committee on Health Care & Wellness (originally sponsored by Representatives Campbell and Morrell)

Requiring hospitals to report certain health care data.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 2828 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Pflug spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2828.

ROLL CALL

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The Secretary called the roll on the final passage of Substitute House Bill No. 2828 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Holmquist and McCaslin

SUBSTITUTE HOUSE BILL NO. 2828, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

## MESSAGE FROM THE HOUSE

February 28, 2010

MR. PRESIDENT:

The House has passed:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2630.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

At 11:28 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

EVENING SESSION

The Senate was called to order at 6:57 p.m. by Senator McDermott.

## MOTION

On motion of Senator Eide, the Senate reverted to the first order of business.

## SUPPLEMENTAL REPORTS OF STANDING COMMITTEES

March 1, 2010

E2SHB 1096 Prime Sponsor, Committee on General Government Appropriations: Enhancing small business participation in state purchasing. Reported by Committee on Ways & Means

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Rockefeller and Schoesler.

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MINORITY recommendation: That it be referred without recommendation. Signed by Senators Brandland and Parlette.

Passed to Committee on Rules for second reading.

March 1, 2010

E2SHB 1418 Prime Sponsor, Committee on Education: Establishing a statewide dropout reengagement system. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pridemore; Regala; Rockefeller and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Carrell.

Passed to Committee on Rules for second reading.

March 1, 2010

2SHB 1591 Prime Sponsor, Committee on Transportation: Concerning the use of certain transportation benefit district funds. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; Ranker and Sheldon.

MINORITY recommendation: Do not pass. Signed by Senator King.

Passed to Committee on Rules for second reading.

March 1, 2010

E2SHB 1597 Prime Sponsor, Committee on Finance: Improving the administration of state and local tax programs without impacting tax collections by providing greater consistency in numerous tax incentive programs, revising provisions relating to the confidentiality and disclosure of tax information, and amending statutes to improve clarity and consistency, eliminate obsolete provisions, and simplify administration. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pridemore; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

March 1, 2010

SHB 1679 Prime Sponsor, Committee on Ways & Means: Reimbursing medical expenses for certain totally disabled public safety personnel. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget;

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Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; McDermott; Murray; Oemig; Parlette; Pridemore; Regala; Rockefeller and Schoesler.

terminals when estimated costs are less than one hundred twenty thousand dollars. Reported by Committee on Transportation

Passed to Committee on Rules for second reading.

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Berkey; Eide; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King; Ranker and Sheldon.

March 1, 2010

ESHB 1714 Prime Sponsor, Committee on Health Care & Wellness: Concerning association health plans. Reported by Committee on Ways & Means

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Becker and Delvin.

Passed to Committee on Rules for second reading.

MAJORITY recommendation: Do pass as amended by Committee on Health & Long-Term Care. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pridemore; Regala; Rockefeller and Schoesler.

March 1, 2010

SHB 2402 Prime Sponsor, Committee on Finance: Concerning a property tax exemption for property owned by a nonprofit organization and used for the purpose of a farmers market. Reported by Committee on Ways & Means

Passed to Committee on Rules for second reading.

MAJORITY recommendation: Do pass as amended by Committee on Agriculture & Rural Economic Development. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pridemore; Regala; Rockefeller and Schoesler.

March 1, 2010

ESHB 1775 Prime Sponsor, Committee on Transportation: Regulating certain limousine carriers. Reported by Committee on Transportation

Passed to Committee on Rules for second reading.

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Hatfield; Jacobsen; Kastama; Kilmer; Ranker and Sheldon.

March 1, 2010

2SHB 2481 Prime Sponsor, Committee on General Government Appropriations: Authorizing the department of natural resources to enter into forest biomass supply agreements. Reported by Committee on Ways & Means

MINORITY recommendation: Do not pass. Signed by Senators Berkey; Kauffman and King.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Becker; Delvin and Eide.

Passed to Committee on Rules for second reading.

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Hewitt; Hobbs; Keiser; Kline; McDermott; Pridemore; Regala; Rockefeller and Schoesler.

March 1, 2010

SHB 2138 Prime Sponsor, Committee on Local Government & Housing: Concerning the use of surplus property for the development of affordable housing. Reported by Committee on Ways & Means

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Honeyford and Parlette.

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Pridemore; Regala and Rockefeller.

Passed to Committee on Rules for second reading.

MINORITY recommendation: Do not pass. Signed by Senators Tom, Vice Chair, Operating Budget; Zarelli; Carrell; Honeyford and Schoesler.

March 1, 2010

SHB 2525 Prime Sponsor, Committee on Community & Economic Development & Trade: Concerning public facilities districts created by at least two city or county legislative authorities. (REVISED FOR PASSED LEGISLATURE: Concerning public facilities districts.) Reported by Committee on Ways & Means

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Brandland; Hewitt and Parlette.

Passed to Committee on Rules for second reading.

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Pridemore; Regala; Rockefeller and Schoesler.

March 1, 2010

HB 2271 Prime Sponsor, Representative Liias: Authorizing state forces to perform work on ferry vessels or

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MINORITY recommendation: That it be referred without recommendation. Signed by Senators Brandland and Parlette.

Passed to Committee on Rules for second reading.

March 1, 2010

ESHB 2565 Prime Sponsor, Committee on Judiciary: Mandating a twelve-hour impound hold on motor vehicles used by persons arrested for driving under the influence. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kilmer; King; Ranker and Sheldon.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Kauffman.

Passed to Committee on Rules for second reading.

March 1, 2010

HB 2621 Prime Sponsor, Representative Orwall: Designating resource programs for science, technology, engineering, and mathematics instruction in K-12 schools. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended by Committee on Early Learning & K-12 Education. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Oemig; Parlette; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

March 1, 2010

HB 2625 Prime Sponsor, Representative Kelley: Addressing bail for felony offenses. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended by Committee on Judiciary. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Parlette; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

March 1, 2010

E2SHB 2658 Prime Sponsor, Committee on Ways & Means: Refocusing the department of commerce, including transferring programs. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; McDermott; Murray; Oemig; Parlette; Pridemore; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

March 1, 2010  
2SHB 2670 Prime Sponsor, Committee on Ways & Means: Restoring the school district levy base. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Oemig; Parlette; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

March 1, 2010

3SHB 2687 Prime Sponsor, Committee on Ways & Means: Creating the home visiting services account. Reported by Committee on Ways & Means

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senator Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Brandland; Carrell; Hewitt; Honeyford and Parlette.

Passed to Committee on Rules for second reading.

March 1, 2010

ESHB 2716 Prime Sponsor, Committee on Transportation: Providing a right of first repurchase for surplus transportation property. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King; Ranker and Sheldon.

Passed to Committee on Rules for second reading.

March 1, 2010

SHB 2721 Prime Sponsor, Committee on Transportation: Concerning commute trip reduction programs. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King; Ranker and Sheldon.

Passed to Committee on Rules for second reading.

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2SHB 2731 Prime Sponsor, Committee on Ways & Means: Creating an early learning program for educationally at-risk children. Reported by Committee on Ways & Means

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MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore and Regala.

enrolled in online learning. Reported by Committee on Ways & Means

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Brandland; Carrell; Hewitt; Honeyford; Parlette and Schoesler.

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Oemig; Parlette; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

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HB 2734 Prime Sponsor, Representative Kagi: Allowing federally qualified community health centers to buy surplus real property from the department of transportation. Reported by Committee on Transportation

SHB 2776 Prime Sponsor, Committee on Education Appropriations: Regarding funding distribution formulas for K-12 education. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; Marr, Vice Chair; Becker; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King; Ranker and Sheldon.

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Oemig; Regala and Rockefeller.

Passed to Committee on Rules for second reading.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Honeyford and Schoesler.

March 1, 2010

SHB 2739 Prime Sponsor, Committee on Transportation: Concerning the enforcement of certain school or playground crosswalk violations. Reported by Committee on Transportation

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Brandland; Hewitt and Parlette.

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Berkey; Eide; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King; Ranker and Sheldon.

Passed to Committee on Rules for second reading.

March 1, 2010

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Delvin.

SHB 2801 Prime Sponsor, Committee on Education: Regarding antiharassment strategies in public schools. Reported by Committee on Ways & Means

Passed to Committee on Rules for second reading.

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Oemig; Pridemore; Regala and Rockefeller.

March 1, 2010

ESHB 2753 Prime Sponsor, Committee on Capital Budget: Creating a workforce housing program. (REVISED FOR ENGROSSED: Creating the Washington works housing program. ) Reported by Committee on Ways & Means

MINORITY recommendation: Do not pass. Signed by Senator Schoesler.

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Brandland; Hewitt; Honeyford and Parlette.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Carrell; Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

March 1, 2010

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Tom, Vice Chair, Operating Budget; Brandland; Hewitt and Parlette.

SHB 2852 Prime Sponsor, Committee on Education: Concerning college-level online learning by high school students. Reported by Committee on Ways & Means

Passed to Committee on Rules for second reading.

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Oemig; Parlette; Regala; Rockefeller and Schoesler.

March 1, 2010

2SHB 2759 Prime Sponsor, Committee on Ways & Means: Adjusting local school finance related to nonresident students

Passed to Committee on Rules for second reading.

March 1, 2010

2ESHB 2912 Prime Sponsor, Committee on Finance: Modifying local excise taxes in counties that have pledged lodging tax revenues for the payment of bonds prior to June 26, 1975. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Hewitt and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Parlette.

Passed to Committee on Rules for second reading.

March 1, 2010

ESHB 2913 Prime Sponsor, Committee on Education Appropriations: Authorizing innovative interdistrict cooperative high school programs. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Zarelli; Brandland; Hewitt; Hobbs; Honeyford; Keiser; Kline; McDermott; Parlette; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

March 1, 2010

SHB 2935 Prime Sponsor, Committee on General Government Appropriations: Regarding environmental and land use hearings boards and making more uniform the timelines for filing appeals with those boards. (REVISED FOR PASSED LEGISLATURE: Regarding environmental and land use hearings boards. ) Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Brandland; Hewitt; Honeyford; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

March 1, 2010

SHB 2939 Prime Sponsor, Committee on Transportation: Concerning notations on driver abstracts that a person was not at fault in a motor vehicle accident. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King and Sheldon.

Passed to Committee on Rules for second reading.

March 1, 2010

SHB 2941 Prime Sponsor, Committee on Transportation: Authorizing the use of express toll lanes in the Interstate 405 corridor. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; Marr, Vice Chair; Berkey; Eide; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; Ranker and Sheldon.

MINORITY recommendation: Do not pass. Signed by Senators Swecker; Becker; Delvin and King.

Passed to Committee on Rules for second reading.

March 1, 2010

SHB 2990 Prime Sponsor, Committee on Local Government & Housing: Addressing alternative city assumption and tax authority provisions pertaining to water-sewer districts. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Brandland; Carrell; Hewitt; Honeyford; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

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HB 3007 Prime Sponsor, Representative Upthegrove: Authorizing airport operators to make airport property available at less than fair market rental value for public recreational or other community uses. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker; Becker; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King; Ranker and Sheldon.

Passed to Committee on Rules for second reading.

March 1, 2010

E2SHB 3026 Prime Sponsor, Committee on Ways & Means: Regarding school district compliance with state and federal civil rights laws. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Hewitt and Schoesler.

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MINORITY recommendation: That it be referred without recommendation. Signed by Senators Brandland; Carrell; Honeyford and Parlette.

Passed to Committee on Rules for second reading.

March 1, 2010

2SHB 3076 Prime Sponsor, Committee on Ways & Means: Concerning the involuntary treatment act. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Parlette; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

March 1, 2010

E2SHB 3141 Prime Sponsor, Committee on Ways & Means: Regarding delivery of temporary assistance to needy families. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Brandland; Carrell; Hewitt; Honeyford; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

March 1, 2010

ESHB 3179 Prime Sponsor, Committee on Finance: Concerning local excise tax provisions for counties and cities. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Carrell; Hewitt; Honeyford and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Brandland and Parlette.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Supplemental Committee report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

SUPPLEMENTAL INTRODUCTION AND FIRST READING

SB 6881 by Senators Fraser, Honeyford and Prentice

AN ACT Relating to a new surcharge on certain recorded documents for preservation of local archive documents and the Washington state heritage center; and adding a new section to chapter 36.22 RCW.

Referred to Committee on Ways & Means.

SB 6882 by Senator Carrell

AN ACT Relating to pretrial release or detention; adding a new chapter to Title 10 RCW; providing a contingent effective date; and providing an expiration date.

Referred to Committee on Judiciary.

SUPPLEMENTAL INTRODUCTION AND FIRST READING OF HOUSE BILLS

E2SHB 2630 by House Committee on Education Appropriations (originally sponsored by Representatives Probst, Kenney, Conway, Maxwell, Jacks, White, Simpson, Seaquist, Sells, Goodman, Ormsby and Santos)

AN ACT Relating to creating the opportunity express program; amending RCW 28C.04.390 and 28C.18.164; adding a new section to chapter 28B.50 RCW; adding a new section to chapter 50.24 RCW; creating a new section; and declaring an emergency.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, all measures listed on the Supplemental Introduction and First Reading report were referred to the committees as designated.

MOTION

At 6:59 p.m., on motion of Senator Eide, the Senate adjourned until 10:30 a.m. Tuesday, March 2, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

FIFTY FIRST DAY

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MORNING SESSION

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Senate Chamber, Olympia, Tuesday, March 2, 2010

The Senate was called to order at 10:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Fairley and McCaslin.

The Naval Air Station Whidbey Island Color Guard consisting of Sergeant Michael Lancaster, U. S. Marine Corps; Corporal Myles Buttler, U. S. Marine Corps; Master At Arms 3<sup>rd</sup> Class, Justin Farrow, U. S. Navy; Lance Corporal Christopher Bearden, U. S. Marine Corps; and Master at Arms Seaman Krystal Bell, U. S. Navy presented the Colors. Captain James Puttler, U. S. Navy offered the prayer.

The National Anthem was performed by Musician 3<sup>rd</sup> Class Sarah Reasner.

REMARKS BY THE PRESIDENT

President Owen: "Once again incredible job by the Navy and we owe them a great debt of gratitude. Thank you all very, very much."

INTRODUCTION OF SPECIAL GUESTS

The President introduced members of the U. S. Navy, Rear Admiral James Symonds, Commander, Navy Region Northwest; Rear Admiral Joseph Auicon, Commander, Carrier Strike Group 3; Rear Admiral Mark Guadagnini, Commander, Carrier Strike Group 9; Captain Gerral David, Commanding Officer, Naval Air Station Whidbey Island; Captain Mark Olson, Commanding Officer, Naval Base Kitsap (NBK); Captain Tom Mascolo, Commanding Officer, Naval Station Everett; Captain Gary Hetzel, Commanding Officer, NRNW Reserve Component Command; Captain James Dolan, Commanding Officer, Fleet Industrial Supply Center; Captain Mark Brouker, Commanding Officer, Naval Hospital Bremerton; Captain Steve Williamson, Puget Sound Naval Shipyard Business & Strategic Planning Officer; Captain Jorge Rios, Commanding Officer, Naval Facilities Engineering Command NW; Commander Mark Loose, Commanding Officer, Naval Magazine Indian Island; and Lieutenant Commander Erik Neal, Executive Officer, Naval Undersea Warfare Center, Keyport who were seated in the gallery.

PERSONAL PRIVILEGE

Senator Haugen: "Thank you Mr. President. Well, it is indeed an honor to stand on the floor and say how proud I am that I represent the Whidbey Island Naval Base. Many of the folks who serve in the Everett station that was in my legislative district. I don't know about the rest of you but when I saw those young men standing up there with the flag I thought about the Olympics and those heroes standing with the flag. Well, let me tell you these young men and women are champions every day for us and to me that really struck home. You know the Military, we think of them as just people who serve when they go to sea as the Navy, but the truth of the matter is they are good neighbors when they are in your communities. The volunteers from Whidbey Island Naval Base go up and down that Island working in their schools and their communities making huge, huge contributions. They're

there so many times when we don't realize the importance of having them here I know when they rescued the person from Mt. St. Helens, I was so proud to know it was a Navy helicopter from Whidbey Island who did that. I often look out my window and see the jets flying over and yes, some people do growl about the noise but it truly is a sound of freedom and we are privileged to have such a large contingency here in the state of Washington. The Military not only with the Navy but from all of them but I particularly like the Navy, I have five brothers, all served in the Military, four of them were Navy officers and 1 Navy men, and I really do think the Navy is the best branch. I just always liked the uniform. Thank you very much."

PERSONAL PRIVILEGE

Senator Rockefeller: "Thank you Mr. President. Well, I want to join the gentle lady who just spoke in expressing my admiration and appreciation to the United States Marines and United States Navy which are the key stone of some many things that happen in Kitsap County where I'm from. We are proud to claim the Puget Sound Naval Station, the facility of Bangor and the Keyport facility as well. They're part of our strategic assets but there also wonderful community assets. Every one of the enlisted personnel, the officers and the families and the civilian employees and all the retirees add up to a wonderful strong community. They make the quality of life here better here for all of us and in addition to that they serve our country in a magnificent way and the prayer mentioned they do it on land, on the sea, under the sea and abroad and at home and we are indeed indebted to you for protecting our community and our country every day. Thank you very much."

PERSONAL PRIVILEGE

Senator Benton: "Thank you Mr. President, I too rise to honor the young men and women of our armed forces but for many years I didn't know there was anything, any other armed force other than the Navy. You see, I grew up in a Navy family, my father joined the Navy as a Seaman First Class and when he retired after twenty-one years, he retired as a W01 (Warrant Officer First Class). He was lend leased to the British to outfit three British cruisers for the invasion of Normandy. And so we grew up hearing the stories about the Navy and that's really all he ever talked about. Of course, my oldest brother joined the Navy, flew A3s out of Whidbey and was a member of Gulf of Tonkin Yacht Club. It wasn't until he was shot down in Vietnam that we really came to love the Marines because after about seven hours on the ground a Marine helicopter came and took him out. You know after that he always thought those Marine guys were pretty ok. Prior to that they always had this little rivalry between the Navy and the Marines but after that Marine chopper came in and took him out off the ground he said those Marine boys were ok so our second favorite after that has always been the Marines but those a special place in our hearts and our family for the Navy and we thank you men and women of the Navy and the Marine Corps and all of our armed services for all the fine work they do around the world, making our country proud for everything that they do and everywhere that they go. So thank you very much. It's an honor to be here and honor you today."

PERSONAL PRIVILEGE

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Senator Kilmer: “Thank you Mr. President. I want to echo the remarks of my good colleague from Kitsap County. He is right that the presence of the Navy in our county makes our county stronger and better. But that’s not the only place where the presence of the Navy and its members provide us with greater strength, they’re doing so in the Middle East, in Afghanistan and in Iraq. The Navy is in Haiti and in Chile providing security and humanitarian efforts as we speak. Regardless where they are serving, them and their families sacrifice on our behalf’s and I think we owe them a true debt of gratitude. Their presence today is not only an opportunity to say thank you but it’s also a reminder of the role that we all as citizens need to play in supporting them. In 1961 President Kennedy said, ‘The strength of our armed forces rest not alone upon their active and reserve members or industrial productivity and human resources but also upon the understanding and support of an informed American people.’ That’s why their presence is so important today and that’s why I think we all owe them a thank you. Thank you Mr. President.”

## PERSONAL PRIVILEGE

Senator Sheldon: “Thank you Mr. President. It’s been a pleasure to represent a large part of Kitsap over the years. I started to think back some of the great memories that I’ve had, to visit Keyport for example and go out on the USS Ohio, one of our first nuclear submarines and actually go under the water in Hood Canal. What an experience that was to see the young people that were running that boat. It was amazing. A chance and a long forgotten memory now for us when the USS Missouri was docked there to go down with you, Mr. President, as well to go aboard the Missouri and get a taste of history, real history of World War II. I guess the best memory I have and it’s about a colleague that we had that would be sitting up towards the front there. Senator Bob Oke when the Senate asked myself and Senator Oke to go to Bremerton and welcome back the Carl Vininnes and represent you and the Senate when that fine carrier came back from the first Gulf War. Senator Oke, of course, had been a Chief Petty Officer in the Navy and the Officer, he really didn’t have much time for the Admirals and other Officers, he really had, his focus was on the enlisted men and he pointed out to me all those young sailors that were on the bow that were first off were obviously coming home to welcome a child that had been born while they were away. So, it was a great experience and the people I’ve met there and the officers and men and women that serve us are a great, great asset to our country. Thank you Mr. President.”

## PERSONAL PRIVILEGE

Senator Berkey: “Well, I have the honor of representing the district that is home to Naval Station Everett under the command of Captain Mascolo and the Navy Base is a jewel on our Everett waterfront and I might add it is sited directly under the home of former United States Senator Henry M. Jackson which is an interesting coincidence but as a member of our community I would like to say how very proud we are of the men and women who serve our country in the armed forces and who for a brief time call our Pacific Northwest home. Thank you.”

## PERSONAL PRIVILEGE

Senator Becker: “Thank you Mr. President. I too stand and want to say thank you so much for everything that you do for us. My dad served in the Navy and he always told us such neat stories about being out on the ship and the only injury he received in the

war was getting his appendix out on the ship. We loved it when he put on his uniform and still could fit in it after so many years and it was always a sense of pride in our family. My nephew’s in the Navy and just shipped out to Italy. I’m going to go visit him and I really want to say thank you very much for everything that you do and everything that you’ve done. Thank you.”

## PERSONAL PRIVILEGE

Senator Brandland: “Well, thank you Mr. President. I also rise in support of the Navy, as someone that spent some time in the Navy. My brother retired from the Navy. It’s funny, well, not funny but not too long ago, or this morning someone said ‘Hey, do you have a, is there a Naval presence in Bellingham?’ and my response was ‘No’. I thought about it for a minute and I thought no, there is not a Naval Base in Whatcom County but I can assure you that there is a naval presence in Whatcom County because and that is the search and rescue arm of the Naval Station Whidbey Island. For years, the search and rescue organization at Whidbey Island has been coming to the aid of, specifically the Whatcom County Sherriff’s Office to help them with search and rescue activities on in the Mt. Baker and in the Cascades and they have actually lost, we’ve lost personnel, Naval personnel have been killed in their rescue attempts up in the Cascades. So, I can tell you right now every year the Navy is in the Cascades with their helicopters with their search and rescue organization rescuing people that go up there and get themselves into a lot of trouble and if it weren’t for the United States Navy and their search and rescue organization there’d be a lot of dead people up there. I also had the opportunity to, with former Secretary of State Ralph Munro visit the USS John Stennis not too long ago and witnessed flight operations in the Pacific Ocean. I’m telling you that is a humbling, humbling experience. To look up there, I think they called it Vultures Gulch or something like that, and watching these airplanes take off and land and you look down at the flight deck are there must be a hundred people roaming around this flight deck as planes are landing and taking off and there so proud, the Captain of the ship was so proud to say the average age of these kids is in their early twenties. They’re responsible for millions of dollars of aircraft. They know where everybody’s at. It is a, it’s like a well run watch to see that whole performance. It was truly humbling to see those young people, men and women taking care of that whole operation and boy I can’t tell you how thankful I am for United States Navy and all that you have done for us. Thank you.”

## PERSONAL PRIVILEGE

Senator Roach: “Thank you Mr. President. Well, of course I’m going to rise and remind everyone my son’s in the Air Force. He’s a Captain in the Air Force. I love all the branches of the service and I think raised my children and will my grandchildren to love and respect what has been done, the sacrifices that are made to protect our country. Last night I got a phone call about five o’clock, Mr. President, from Levi Larson who was an aide of mine a couple years ago. He’s a Marine now. He called to say he’s going to Afghanistan. We talked for an hour. What an incredible young man that is. The people that sign up, it’s a volunteer career we have, if you’re in the services are very special people, willing to make sacrifices if that be the case. I wanted to mention to you Mr. President, members of the Senate, that well Levi Larson is a Marine his brother Luke Larson just got out of the Marine Corps. He spent two tours in Iraq. He’s from Forks, Washington. There’s something other than what we read about in Twilight, some really good people in Forks and Luke Larson has

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written a book called ‘Senator’s Son’ of his experiences in a novel form of what happened in those two tours in Iraq and I commend that to you Mr. President and members of the Senate because it shows what our young people are doing. It shows what the United States of America is doing to bring peace to the world to keep the shipping lands open, to protect freedom and democracy and I want to thank you and tell you one last thing that when I was growing up in San Diego I would go with my dad to Miramar Naval Air Station, the gun club there. What an experience to shoot trap when, in the back ground, you saw those naval aviators taking off and the roar and just a very exciting thing. More of our young people should be going I think to our air shows to really get a feeling for our country is willing to do to protect our freedoms. Thank you Mr. President.”

PERSONAL PRIVILEGE

Senator Shin: “I too rise in support of our Navy of the United States. I like to tell a little story called a miracle ship. During the Korean War between 1950 and 1953 US forces land in Korea including the navy and we marched on to North and by November 24, 1950, Chinese force crossed the North border and we made a massive evacuation. There’s a little port in North Korea called the Hunan there is a US Navy Captain, load up all the tanks and trucks and the troops about ready to depart to evacuate but he saw from the horizon was one hundred Korean refugees running trying to escape from the Chinese communist invasion and Captain take a look at it, his ship and the refugees without permission from the commanding officer he ordered all the tanks and trucks to be unloaded and dump them in the ocean and he replaced the entire ship with the six thousand Korean refugees and landed in the port in South safely. This year Korea and the United States is celebrating sixtieth anniversary of the Korean War and Korean government and Hollywood decided to make a movie, full length movie, in order to express their compassion and humanity by the US Navy. I thought I’d share that with you. This is a touching story and I was asked be as a discussion on that project and they started producing that movie as we speak now. Thank you Mr. President.”

PERSONAL PRIVILEGE

Senator Kohl-Welles: “Thank you Mr. President. We also have look to the future and I’m very proud that my grandson graduated from Navy boot camp last month in Illinois.”

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

MOTION

Senator Parlette moved adoption of the following resolution:

SENATE RESOLUTION

8711

By Senators Parlette, Kastama, Gordon, Becker, Honeyford, Kilmer, Pridemore, Shin, Swecker, Franklin, King, Benton,

Morton, Zarelli, Kohl-Welles, Haugen, Eide, Schoesler, Delvin, Pflug, and Regala

WHEREAS, Washington's apple industry is a major contributor to the economic health of both the State and its people; and

WHEREAS, The City of Wenatchee is preparing to celebrate the 91st annual Washington State Apple Blossom Festival to take place from April 22 through May 2, 2010; and

WHEREAS, The Apple Blossom Festival, which began as a one-day gathering of poetry and song in Wenatchee's Memorial Park, is one of the oldest major festivals in the state, first celebrated in 1919 when Mrs. E. Wagner organized the first Blossom Day; and

WHEREAS, The Apple Blossom Festival celebrates the importance of the apple industry in the Wenatchee Valley and its environs; and

WHEREAS, The Apple Blossom Festival recognizes three young women who by their superior and distinctive efforts have exemplified the spirit and meaning of the Apple Blossom Festival; and

WHEREAS, These three young women are selected to reign over the Apple Blossom Festival and serve as ambassadors to the outlying communities as Princesses and Queen; and

WHEREAS, Laurie Bazan has been selected to represent her community as a 2010 Apple Blossom Princess, for her jovial demeanor and commitment to helping others as demonstrated by the generous giving of her time to mentor migrant and low-income middle school students, in addition to her strong academic performance as a Running Start participant and a diverse array of extracurricular activities, including her passion for music as exemplified by her third year of service as the president of the Mariachi Huenachi; and

WHEREAS, Lauren Ferguson has been selected to represent her community as a 2010 Apple Blossom Princess, for her strong leadership ability as shown through the organization of several school activities including freshman orientation and homecoming week and her genuine, lighthearted attitude and passion for life, in addition to her commitment to academic excellence as a member of the Honor Society and her involvement in extracurricular activities, including competitive dance team and volunteering for community charities; and

WHEREAS, Margaret Robinson has been selected to represent her community as the 2010 Apple Blossom Queen, for her compassionate, poised, and humble spirit and her strong academic performance and participation in extracurricular activities including being a member of the swim and dive team and the editor of her high school's newspaper, in addition to her kindhearted, jubilant, and heartfelt love for her family, friends, and community; and

WHEREAS, These three young women all desire to share their proven talents and leadership ambition to serve their community and be an encouragement to those they encounter;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor the accomplishments of the members of the Apple Blossom Festival Court and join the City of Wenatchee and the people of the State of Washington in celebrating the Washington State Apple Blossom Festival; and

BE IT FURTHER RESOLVED, That copies of this Resolution be immediately transmitted by the Secretary of the Senate to Queen Margaret Robinson, Princess Laurie Bazan, Princess Lauren Ferguson, and the Board of Directors and Chairpeople of the Washington State Apple Blossom Festival.

Senator Parlette spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8711.

The motion by Senator Parlette carried and the resolution was adopted by voice vote.

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INTRODUCTION OF SPECIAL GUESTS

The President welcomed former Secretary of State Ralph Munro who was seated in the gallery.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Apple Blossom Festival Princess Laurie Bazan, Princess Lauren Ferguson and Queen Margaret Robinson who were seated at the rostrum.

With permission of the Senate, business was suspended to allow Queen Margaret Robinson to address the Senate.

REMARKS BY MISS MARGARET ROBINSON

Margaret Robinson: "Good morning. See if I can find my cheat sheet. Thank you so much for having Princesses Laurie, Lauren and myself here today. It is such an honor to tour the Capitol and speak to you and we are so privileged to represent the Wenatchee Valley on behalf of the Apple Blossom Festival. To those of us who call Wenatchee our home the festival embodies our friends, family and community coming together for the common good. It offers a time for us to appreciate the natural beauty of the Wenatchee Valley and to spend time with our loved ones. So what makes the Wenatchee Valley unique? Maybe it is skiing on the slopes of Mission Ridge or biking around the Columbia River on our beloved loop trail. Perhaps it is hiking through the pristine wonder of the enchantment lakes before returning home to enjoy our three hundred days of sunshine. Maybe, what makes this special is that with this sunshine we can enjoy bountiful harvest of the farmers market where we can get a juicy sample of the world's best apples and cherries while strolling through our historic downtown area. But maybe, what makes us truly unique is more than our local community attractions. Maybe what really sets us apart is the shared sense of purpose that our community exhibits through these activities. Nothing better demonstrates that sense of shared purpose than the eleven glorious days of the Apple Blossom Festival, when thousands of volunteers freely give themselves to create something really unique in all of Washington. We would like to invite all of you to experience the ninety-first Apple Blossom Festival from April 22-May 2 or visit us at the web at AppleBlossom.org. From the youth parade to the grand parade and the carnival to the food fair, there are countless opportunities to experience the community support and family atmosphere that the festival represents. See you at Festival 2010."

MOTION

At 11:09 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 2:04 p.m. by President Owen.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1149, by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Williams, Roach, Simpson, Kirby, Dunshee, Nelson and Ormsby)

Protecting consumers from breaches of security.

The measure was read the second time.

MOTION

Senator Kohl-Welles moved that the following committee striking amendment by the Committee on Labor, Commerce & Consumer Protection be adopted:

Strike everything after the enacting clause and insert the following: "NEW SECTION. Sec. 1. The legislature recognizes that data breaches of credit and debit card information contribute to identity theft and fraud and can be costly to consumers. The legislature also recognizes that when a breach occurs, remedial measures such as reissuance of credit or debit cards affected by the breach can help to reduce the incidence of identity theft and associated costs to consumers. Accordingly, the legislature intends to encourage financial institutions to reissue credit and debit cards to consumers when appropriate, and to permit financial institutions to recoup data breach costs associated with the reissuance from large businesses and card processors who are negligent in maintaining or transmitting card data.

NEW SECTION. Sec. 2. A new section is added to chapter 19.255 RCW to read as follows:

(1) For purposes of this section:

(a) "Account information" means: (i) The full, unencrypted magnetic stripe of a credit card or debit card; (ii) the full, unencrypted account information contained on an identification device as defined under RCW 19.300.010; or (iii) the unencrypted primary account number on a credit card or debit card or identification device, plus any of the following if not encrypted: Cardholder name, expiration date, or service code.

(b) "Breach" has the same meaning as "breach of the security of the system" in RCW 19.255.010.

(c) "Business" means an individual, partnership, corporation, association, organization, government entity, or any other legal or commercial entity that processes more than six million credit card and debit card transactions annually, and who provides, offers, or sells goods or services to persons who are residents of Washington.

(d) "Credit card" has the same meaning as in RCW 9A.56.280.

(e) "Debit card" has the same meaning as in RCW 9A.56.280 and for the purposes of this section, includes a payroll debit card.

(f) "Encrypted" means enciphered or encoded using standards reasonable for the breached business or processor taking into account the business or processor's size and the number of transactions processed annually.

(g) "Financial institution" has the same meaning as in RCW 30.22.040.

(h) "Processor" means an individual, partnership, corporation, association, organization, government entity, or any other legal or commercial entity, other than a business as defined under this section, that directly processes or transmits account information for or on behalf of another person as part of a payment processing service.

(i) "Service code" means the three or four digit number in the magnetic stripe or on a credit card or debit card that is used to specify acceptance requirements or to validate the card.

(j) "Vendor" means an individual, partnership, corporation, association, organization, government entity, or any other legal or commercial entity that manufactures and sells software or

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equipment that is designed to process, transmit, or store account information or that maintains account information that it does not own.

(2) Processors, businesses, and vendors are not liable under this section if (a) the account information was encrypted at the time of the breach, or (b) the processor, business, or vendor was certified compliant with the payment card industry data security standards adopted by the payment card industry security standards council, and in force at the time of the breach. A processor, business, or vendor will be considered compliant, if its payment card industry data security compliance was validated by an annual security assessment, and if this assessment took place no more than one year prior to the time of the breach. For the purposes of this subsection (2), a processor, business, or vendor's security assessment of compliance is nonrevocable. The nonrevocability of a processor, business, or vendor's security assessment of compliance is only for the purpose of determining a processor, business, or vendor's liability under this subsection (2).

(3)(a) If a processor or business fails to take reasonable care to guard against unauthorized access to account information that is in the possession or under the control of the business or processor, and the failure is found to be the proximate cause of a breach, the processor or business is liable to a financial institution for reimbursement of reasonable actual costs related to the reissuance of credit cards and debit cards that are incurred by the financial institution to mitigate potential current or future damages to its credit card and debit card holders that reside in the state of Washington as a consequence of the breach, even if the financial institution has not suffered a physical injury in connection with the breach. In any legal action brought pursuant to this subsection, the prevailing party is entitled to recover its reasonable attorneys' fees and costs incurred in connection with the legal action.

(b) A vendor, instead of a processor or business, is liable to a financial institution for the damages described in (a) of this subsection to the extent that the damages were proximately caused by the vendor's negligence and if the claim is not limited or foreclosed by another provision of law or by a contract to which the financial institution is a party.

(4) Nothing in this section may be construed as preventing or foreclosing any entity responsible for handling account information on behalf of a business or processor from being made a party to an action under this section.

(5) Nothing in this section may be construed as preventing or foreclosing a processor, business, or vendor from asserting any defense otherwise available to it in an action including, but not limited to, defenses of contract, or of contributory or comparative negligence.

(6) In cases to which this section applies, the trier of fact shall determine the percentage of the total fault which is attributable to every entity which was the proximate cause of the claimant's damages.

(7) The remedies under this section are cumulative and do not restrict any other right or remedy otherwise available under law, however a trier of fact may reduce damages awarded to a financial institution by any amount the financial institution recovers from a credit card company in connection with the breach, for costs associated with access card reissuance.

**NEW SECTION. Sec. 3.** This act takes effect July 1, 2010.

**NEW SECTION. Sec. 4.** This act applies prospectively only. This act applies to any breach occurring on or after the effective date of this section."

Senator Kohl-Welles spoke in favor of adoption of the committee striking amendment.

MOTION

On motion of Senator Brandland, Senators Benton, McCaslin and Pflug were excused.

MOTION

On motion of Senator Marr, Senators Fairley, Kastama, Oemig and Ranker were excused.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Labor, Commerce & Consumer Protection to Engrossed Second Substitute House Bill No. 1149.

The motion by Senator Kohl-Welles carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "security;" strike the remainder of the title and insert "adding a new section to chapter 19.255 RCW; creating new sections; and providing an effective date."

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Second Substitute House Bill No. 1149 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1149 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1149 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Kauffman

Excused: Senators Fairley, McCaslin and Pflug

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1149 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2585, by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Kelley, Kirby and Moeller)

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Concerning insurance. Revised for 1st Substitute: Addressing insurance statutes, generally.

The measure was read the second time.

MOTION

On motion of Senator Berkey, the rules were suspended, Substitute House Bill No. 2585 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Berkey spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2585.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2585 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, McCaslin and Pflug

SUBSTITUTE HOUSE BILL NO. 2585, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2226, by House Committee on Judiciary (originally sponsored by Representatives Orcutt, Blake, Maxwell, Williams and Hope)

Issuing firearms certificates to retired law enforcement officers.

The measure was read the second time.

MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 2226 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

MOTION

On motion of Senator Marr, Senator Ranker was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2226.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2226 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, McCaslin and Pflug

SUBSTITUTE HOUSE BILL NO. 2226, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

The President signed:

- ENGROSSED SENATE BILL 5041,
- SUBSTITUTE SENATE BILL 5046,
- ENGROSSED SENATE BILL 5516,
- SENATE BILL 5582,
- SECOND ENGROSSED SENATE BILL 5617,
- SUBSTITUTE SENATE BILL 6197,
- SUBSTITUTE SENATE BILL 6211,
- SUBSTITUTE SENATE BILL 6213,
- SENATE BILL 6227,
- SENATE BILL 6229,
- SUBSTITUTE SENATE BILL 6239,
- SUBSTITUTE SENATE BILL 6251,
- SUBSTITUTE SENATE BILL 6271,
- SUBSTITUTE SENATE BILL 6273,
- SENATE BILL 6275,
- ENGROSSED SUBSTITUTE SENATE BILL 6286,
- ENGROSSED SENATE BILL 6287,
- SENATE BILL 6288,
- SENATE BILL 6297,
- SUBSTITUTE SENATE BILL 6298,
- SUBSTITUTE SENATE BILL 6299,
- ENGROSSED SUBSTITUTE SENATE BILL 6306,
- SUBSTITUTE SENATE BILL 6337,
- SENATE BILL 6365,
- SUBSTITUTE SENATE BILL 6367,
- SUBSTITUTE SENATE BILL 6371,
- SUBSTITUTE SENATE BILL 6395,
- SUBSTITUTE SENATE BILL 6398,
- SENATE BILL 6450,
- SENATE BILL 6467,
- SUBSTITUTE SENATE BILL 6524,
- SENATE BILL 6543,
- SUBSTITUTE SENATE BILL 6544,
- SENATE BILL 6546,
- SUBSTITUTE SENATE BILL 6584,
- SUBSTITUTE SENATE BILL 6591,
- SUBSTITUTE SENATE BILL 6634,
- SUBSTITUTE SENATE BILL 6674,
- SUBSTITUTE SENATE BILL 6749,
- SENATE JOINT MEMORIAL 8026.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2551, by House Committee on Ways & Means (originally sponsored by

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Representatives Cody, Green, Sullivan, Pedersen, Darneille and Moeller)

Establishing the Washington vaccine association.

The measure was read the second time.

MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following: "**NEW SECTION, Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Association" means the Washington vaccine association.

(2) "Covered lives" means all persons under the age of nineteen in Washington state who are:

(a) Covered under an individual or group health benefit plan issued or delivered in Washington state or an individual or group health benefit plan that otherwise provides benefits to Washington residents; or

(b) Enrolled in a group health benefit plan administered by a third-party administrator. Persons under the age of nineteen for whom federal funding is used to purchase vaccines or who are enrolled in state purchased health care programs covering low-income children including, but not limited to, apple health for kids under RCW 74.09.470 and the basic health plan under chapter 70.47 RCW are not considered "covered lives" under this chapter.

(3) "Estimated vaccine cost" means the estimated cost to the state over the course of a state fiscal year for the purchase and distribution of vaccines purchased at the federal discount rate by the department of health.

(4) "Health benefit plan" has the same meaning as defined in RCW 48.43.005 and also includes health benefit plans administered by a third-party administrator.

(5) "Health carrier" has the same meaning as defined in RCW 48.43.005.

(6) "Secretary" means the secretary of the department of health.

(7) "State supplied vaccine" means vaccine purchased by the state department of health for covered lives for whom the state is purchasing vaccine using state funds raised via assessments on health carriers and third-party administrators as provided in this chapter.

(8) "Third-party administrator" means any person or entity who, on behalf of a health insurer or health care purchaser, receives or collects charges, contributions, or premiums for, or adjusts or settles claims on or for, residents of Washington state or Washington health care providers and facilities.

(9) "Total nonfederal program cost" means the estimated vaccine cost less the amount of federal revenue available to the state for the purchase and distribution of vaccines.

(10) "Vaccine" means a preparation of killed or attenuated living microorganisms, or fraction thereof, that upon administration stimulates immunity that protects against disease and is approved by the federal food and drug administration as safe and effective and recommended by the advisory committee on immunization practices of the centers for disease control and prevention for administration to children under the age of nineteen years.

**NEW SECTION, Sec. 2.** There is created a nonprofit corporation to be known as the Washington vaccine association. The association is formed for the purpose of collecting and remitting adequate funds from health carriers and third-party administrators for the cost of vaccines provided to certain children in Washington state.

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**NEW SECTION, Sec. 3.** (1) The association is comprised of all health carriers issuing or renewing health benefit plans in Washington state and all third-party administrators conducting business on behalf of residents of Washington state or Washington health care providers and facilities. Third-party administrators are subject to registration under section 9 of this act.

(2) The association is a nonprofit corporation under chapter 24.03 RCW and has the powers granted under that chapter.

(3) The board of directors includes the following voting members:

(a) Four members, selected from health carriers or third-party administrators, excluding health maintenance organizations, that have the most fully insured and self-funded covered lives in Washington state. The count of total covered lives includes enrollment in all companies included in their holding company system. Each health carrier or third-party administrator is entitled to no more than a single position on the board to represent all entities under common ownership or control.

(b) One member selected from the health maintenance organization having the most fully insured and self-insured covered lives in Washington state. The count of total lives includes enrollment in all companies included in its holding company system. Each health maintenance organization is entitled to no more than a single position on the board to represent all entities under common ownership or control.

(c) One member, representing health carriers not otherwise represented on the board under (a) or (b) of this subsection, who is elected from among the health carrier members not designated under (a) or (b) of this subsection.

(d) One member, representing Taft Hartley plans, appointed by the secretary from a list of nominees submitted by the Northwest administrators association.

(e) One member representing Washington state employers offering self-funded health coverage, appointed by the secretary from a list of nominees submitted by the Puget Sound health alliance.

(f) Two physician members appointed by the secretary, including at least one board certified pediatrician.

(g) The secretary, or a designee of the secretary with expertise in childhood immunization purchasing and distribution.

(4) The directors' terms and appointments must be specified in the plan of operation adopted by the association.

(5) The board of directors of the association shall:

(a) Prepare and adopt articles of association and bylaws;

(b) Prepare and adopt a plan of operation;

(c) Submit the plan of operation to the secretary for approval;

(d) Conduct all activities in accordance with the approved plan of operation;

(e) Enter into contracts as necessary or proper to collect and disburse the assessment;

(f) Enter into contracts as necessary or proper to administer the plan of operation;

(g) Sue or be sued, including taking any legal action necessary or proper for the recovery of any assessment for, on behalf of, or against members of the association or other participating person;

(h) Appoint, from among its directors, committees as necessary to provide technical assistance in the operation of the association, including the hiring of independent consultants as necessary;

(i) Obtain such liability and other insurance coverage for the benefit of the association, its directors, officers, employees, and agents as may in the judgment of the board of directors be helpful or necessary for the operation of the association;

(j) By May 1, 2010, establish the estimated amount of the assessment needed for the period of May 1, 2010, through December 31, 2010, based upon the estimate provided to the

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association under section 4(1) of this act; and notify, in writing, each health carrier and third-party administrator of the health carrier's or third-party administrator's total assessment for this period by May 15, 2010;

(k) On an annual basis, beginning no later than November 1, 2010, and by November 1st of each year thereafter, establish the estimated amount of the assessment;

(l) Notify, in writing, each health carrier and third-party administrator of the health carrier's or third-party administrator's estimated total assessment by November 15th of each year;

(m) Submit a periodic report to the secretary listing those health carriers or third-party administrators that failed to remit their assessments and audit health carrier and third-party administrator books and records for accuracy of assessment payment submission;

(n) Allow each health carrier or third-party administrator no more than ninety days after the notification required by (l) of this subsection to remit any amounts in arrears or submit a payment plan, subject to approval by the association and initial payment under an approved payment plan;

(o) Deposit annual assessments collected by the association, less the association's administrative costs, with the state treasurer to the credit of the universal vaccine purchase account established in RCW 43.70.720;

(p) Borrow and repay such working capital, reserve, or other funds as, in the judgment of the board of directors, may be helpful or necessary for the operation of the association; and

(q) Perform any other functions as may be necessary or proper to carry out the plan of operation and to affect any or all of the purposes for which the association is organized.

(6) The secretary shall convene the initial meeting of the association board of directors.

**NEW SECTION. Sec. 4.** (1) The secretary shall estimate the total nonfederal program cost for the upcoming calendar year by October 1, 2010, and October 1st of each year thereafter. Additionally, the secretary shall subtract any amounts needed to serve children enrolled in state purchased health care programs covering low-income children for whom federal vaccine funding is not available, and report the final amount to the association. In addition, the secretary shall perform such calculation for the period of May 1st through December 31st, 2010, as soon as feasible but in no event later than April 1, 2010. The estimates shall be timely communicated to the association.

(2) The board of directors of the association shall determine the method and timing of assessment collection in consultation with the department of health. The board shall use a formula designed by the board to ensure the total anticipated nonfederal program cost, minus costs for other children served through state-purchased health care programs covering low-income children, calculated under subsection (1) of this section, is collected and transmitted to the universal vaccine purchase account created in RCW 43.70.720 in order to ensure adequacy of state funds to order state-supplied vaccine from federal centers for disease control and prevention.

(3) Each licensed health carrier and each third-party administrator on behalf of its clients' health benefit plans must be assessed and is required to timely remit payment for its share of the total amount needed to fund nonfederal program costs calculated by the department of health. Such an assessment includes additional funds as determined necessary by the board to cover the reasonable costs for the association's administration. The board shall determine the assessment methodology, with the intent of ensuring that the nonfederal costs are based on actual usage of vaccine for a health carrier or third-party administrator's covered lives. State and local governments and school districts must pay their portion of vaccine expense for covered lives under this chapter.

(4) The board of the association shall develop a mechanism through which the number and cost of doses of vaccine purchased under this chapter that have been administered to children covered by each health carrier, and each third-party administrator's clients health benefit plans, are attributed to each such health carrier and third-party administrator. Except as otherwise permitted by the board, this mechanism must include at least the following: Date of service; patient name; vaccine received; and health benefit plan eligibility. The data must be collected and maintained in a manner consistent with applicable state and federal health information privacy laws. Beginning November 1, 2011, and each November 1st thereafter, the board shall factor the results of this mechanism for the previous year into the determination of the appropriate assessment amount for each health carrier and third-party administrator for the upcoming year.

(5) For any year in which the total calculated cost to be received from association members through assessments is less than the total nonfederal program cost, the association must pay the difference to the state for deposit into the universal vaccine purchase account established in RCW 43.70.720. The board may assess, and the health carrier and third-party administrators are obligated to pay, their proportionate share of such costs and appropriate reserves as determined by the board.

(6) The aggregate amount to be raised by the association in any year may be reduced by any surpluses remaining from prior years.

(7) In order to generate sufficient start-up funding, the association may accept prepayment from member health carriers and third-party administrators, subject to offset of future amounts otherwise owing or other repayment method as determined by the board. The initial deposit of start-up funding must be deposited into the universal vaccine purchase account on or before April 30, 2010.

**NEW SECTION. Sec. 5.** (1) The board of the association shall establish a committee for the purposes of developing recommendations to the board regarding selection of vaccines to be purchased in each upcoming year by the department. The committee must be composed of at least five voting board members, including at least three health carrier or third-party administrator members, one physician, and the secretary or the secretary's designee. The committee must also include a representative of vaccine manufacturers, who is a nonvoting member of the committee. The representative of vaccine manufacturers must be chosen by the secretary from a list of three nominees submitted collectively by vaccine manufacturers on an annual basis.

(2) In selecting vaccines to purchase, the following factors should be strongly considered by the committee: Patient safety and clinical efficacy, public health and purchaser value, compliance with RCW 70.95M.115, patient and provider choice, and stability of vaccine supply.

**NEW SECTION. Sec. 6.** In addition to the duties and powers enumerated elsewhere in this chapter:

(1) The association may, pursuant to either vote of its board of directors or request of the secretary, audit compliance with reporting obligations established under the association's plan of operation. Upon failure of any entity that has been audited to reimburse the costs of such audit as certified by vote of the association's board of directors within forty-five days of notice of such vote, the secretary shall assess a civil penalty of one hundred fifty percent of the amount of such costs.

(2) The association may establish an interest charge for late payment of any assessment under this chapter. The secretary shall assess a civil penalty against any health carrier or third-party administrator that fails to pay an assessment within three months of notification under section 3 of this act. The civil penalty under this subsection is one hundred fifty percent of such assessment.

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(3) The secretary and the association are authorized to file liens and seek judgment to recover amounts in arrears and civil penalties, and recover reasonable collection costs, including reasonable attorneys' fees and costs. Civil penalties so levied must be deposited in the universal vaccine purchase account created in RCW 43.70.720.

(4) The secretary may adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this section.

**NEW SECTION. Sec. 7.** The board of directors of the association shall submit to the secretary, no later than one hundred twenty days after the close of the association's fiscal year, a financial report in a form approved by the secretary.

**NEW SECTION. Sec. 8.** No liability on the part of, and no cause of action of any nature, shall arise against any member of the board of the association, against an employee or agent of the association, or against any health care provider for any lawful action taken by them in the performance of their duties or required activities under this chapter.

**NEW SECTION. Sec. 9.** A new section is added to chapter 43.24 RCW to read as follows:

(1)(a) Beginning September 1, 2010, a third-party administrator must register with the department of licensing and renew its registration on an annual basis thereafter prior to December 31st of each year, or within ten days after the registrant changes its name, business name, business address, or business telephone number, whichever occurs sooner.

(b) The registrant shall pay the registration or renewal fee established by the department of licensing as provided in RCW 43.24.086.

(c) Any person or entity that is acting as or holding itself out to be a third-party administrator while failing to have registered under this section is subject to a civil penalty of not less than one thousand dollars nor more than ten thousand dollars for each violation. The civil penalty is in addition to any other penalties that may be imposed for violations of other laws of this state.

(2) For the purposes of this section, "third-party administrator" has the same meaning as defined in section 1 of this act.

(3) The department of licensing may adopt rules under chapter 34.05 RCW as necessary to implement this section.

**Sec. 10.** RCW 43.70.720 and 2009 c 564 s 934 are each amended to read as follows:

The universal vaccine purchase account is created in the custody of the state treasurer. Receipts from public and private sources for the purpose of increasing access to vaccines for children may be deposited into the account. Expenditures from the account must be used exclusively for the purchase of vaccines, at no cost to health care providers in Washington, to administer to children under nineteen years old who are not eligible to receive vaccines at no cost through federal programs. Only the secretary or the secretary's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**NEW SECTION. Sec. 11.** Sections 1 through 8 and 12 through 14 of this act constitute a new chapter in Title 70 RCW.

**NEW SECTION. Sec. 12.** (1) The association board may, on or after June 30, 2015, vote to recommend termination of the association if it finds that the original intent of its formation and operation, which is to ensure more cost-effective purchase and distribution of vaccine than if provided through uncoordinated purchase by health care providers, has not been achieved. The association board shall provide notice of the recommendation to the relevant policy and fiscal committees of the legislature within thirty days of the vote being taken by the association board. If the legislature has not acted by the last day of the next regular legislative

session to reject the board's recommendation, the board may vote to permanently dissolve the association.

(2) In the event of a voluntary or involuntary dissolution of the association, funds remaining in the universal purchase vaccine account created in RCW 43.70.720 that were collected under this chapter must be returned to the member health carrier and third-party administrators in proportion to their previous year's contribution, from any balance remaining following the repayment of any prepayments for start-up funding not previously recouped by such member.

**NEW SECTION. Sec. 13.** Physicians and clinics ordering state supplied vaccine must ensure they have billing mechanisms and practices in place that enable the association to accurately track vaccine delivered to association members' covered lives and must submit documentation in such a form as may be prescribed by the board in consultation with state physician organizations. Physicians and other persons providing childhood immunization are strongly encouraged to use state supplied vaccine whenever possible. Nothing in this chapter prohibits health carriers and third-party administrators from denying claims for vaccine serum costs when the serum or serums providing similar protection are provided or available via state supplied vaccine.

**NEW SECTION. Sec. 14.** If the requirement that any segment of health carriers, third-party administrators, or state or local governmental entities provide funding for the program established in this chapter is invalidated by a court of competent jurisdiction, the board of the association may terminate the program one hundred twenty days following a final judicial determination on the matter.

**NEW SECTION. Sec. 15.** A new section is added to chapter 48.43 RCW to read as follows:

Assessments paid by carriers under section 4 of this act may be considered medical expenses for purposes of rate setting and regulatory filings.

**NEW SECTION. Sec. 16.** A new section is added to chapter 82.04 RCW to read as follows:

This chapter does not apply to assessments described in sections 3 and 4 of this act received by a nonprofit corporation established under section 2 of this act.

**NEW SECTION. Sec. 17.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

#### MOTION

Senator Keiser moved that the following amendment by Senators Keiser and Parlette to the committee striking amendment be adopted:

On page 3, line 30 after "operation" insert ". The plan of operation shall include a dispute mechanism through which a carrier or third party administrator can challenge an assessment determination by the board under section 4 of this chapter. The board shall include a means to bring unresolved disputes to an impartial decision maker as a component of the dispute mechanism;"

Senators Keiser and Parlette spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Keiser and Parlette on page 3, line 30 to the committee striking amendment to Second Substitute House Bill No. 2551.

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The motion by Senator Keiser carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means as amended to Second Substitute House Bill No. 2551.

The motion by Senator Keiser carried and the committee striking amendment as amended was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "association;" strike the remainder of the title and insert "amending RCW 43.70.720; adding a new section to chapter 43.24 RCW; adding a new section to chapter 48.43 RCW; adding a new section to chapter 82.04 RCW; adding a new chapter to Title 70 RCW; prescribing penalties; and declaring an emergency."

MOTION

On motion of Senator Keiser, the rules were suspended, Second Substitute House Bill No. 2551 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser, Oemig and Parlette spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2551 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2551 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 2; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Holmquist and Stevens

Excused: Senators Fairley, McCaslin and Pflug

SECOND SUBSTITUTE HOUSE BILL NO. 2551 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Marr, Senator Prentice was excused.

MOTION

On motion of Senator Brandland, Senators Delvin and Hewitt were excused.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2560, by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Orwall, Upthegrove, Quall, Simpson, Nelson and Morrell)

Regulating joint underwriting associations. Revised for 1st Substitute: Forming joint underwriting associations.

The measure was read the second time.

MOTION

On motion of Senator Berkey, the rules were suspended, Engrossed Substitute House Bill No. 2560 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Berkey spoke in favor of passage of the bill.

Senator Schoesler spoke against passage of the bill.

MOTION

On motion of Senator Pridemore, Senator Ranker was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2560.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2560 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 17; Absent, 0; Excused, 4.

Voting yea: Senators Berkey, Brown, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, McDermott, Murray, Oemig, Pridemore, Ranker, Regala, Roach, Rockefeller, Shin and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, Marr, Morton, Parlette, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Excused: Senators Fairley, McCaslin, Pflug and Prentice

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2560, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED HOUSE BILL NO. 1653, by Representative Simpson

Clarifying the integration of shoreline management act policies with the growth management act.

The measure was read the second time.

MOTION

On motion of Senator Rockefeller, the rules were suspended, Engrossed House Bill No. 1653 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller and Honeyford spoke in favor of passage of the bill.

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Senator Holmquist spoke against passage of the bill.

objection, the title of the bill was ordered to stand as the title of the act.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1653.

#### SECOND READING

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1653 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 10; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brown, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Shin, Swecker and Tom

Voting nay: Senators Becker, Brandland, Carrell, Delvin, Holmquist, Morton, Roach, Sheldon, Stevens and Zarelli

Excused: Senators Fairley, McCaslin, Pflug and Prentice  
ENGROSSED HOUSE BILL NO. 1653, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SUBSTITUTE HOUSE BILL NO. 2593, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Rolfes, Morris, Uptegrove, Williams, Liias, White and Nelson)

Concerning the department of fish and wildlife's ability to manage shellfish resources.

The measure was read the second time.

#### MOTION

Senator Jacobsen moved that the following committee striking amendment by the Committee on Natural Resources, Ocean & Recreation be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 77.15 RCW to read as follows:

(1) A person is guilty of the unlawful use of shellfish gear for commercial purposes if the person:

(a) Takes, fishes for, or possesses crab, shrimp, or crawfish for commercial purposes with shellfish gear that is constructed or altered in a manner that violates any rule of the commission relating to required gear design specifications; or

(b) Is found in possession of, upon any vessel located on the waters of the state, shellfish gear that is constructed or altered in a manner that violates any rule of the commission relating to required gear design specifications, unless a person holds a valid crab pot removal permit under RCW 77.70.500 and is in the process of transporting removed crab pots as part of the Dungeness crab pot removal program.

(2) The unlawful use of shellfish gear for commercial purposes is a gross misdemeanor.

**NEW SECTION. Sec. 2.** A new section is added to chapter 77.15 RCW to read as follows:

(1) A person is guilty of the unlawful use of shellfish gear for personal use purposes if the person:

(a) Takes, fishes for, or possesses crab, shrimp, or crawfish for personal use purposes with shellfish gear that is constructed or altered in a manner that violates any rule of the commission relating to required gear design specifications; or

(b) Is found in possession of, upon any vessel located on the waters of the state, shellfish gear that is constructed or altered in a manner that violates any rule of the commission relating to required gear design specifications, unless a person holds a valid crab pot removal permit under RCW 77.70.500 and is in the process of transporting removed crab pots as part of the Dungeness crab pot removal program.

(2) The unlawful use of shellfish gear for personal use purposes is a misdemeanor.

**Sec. 3.** RCW 77.70.500 and 2009 c 355 s 1 are each amended to read as follows:

(1)(a) As part of a coastal commercial Dungeness crab pot removal program, the department shall issue a crab pot removal permit that allows the participants in the Dungeness crab-coastal fishery created in RCW 77.70.280 to remove crab pots belonging to state commercial licensed crab fisheries from coastal marine waters after the close of the primary commercial Dungeness crab-coastal

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2704, by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Takko, Hinkle, Appleton, Haler, Rolfes, Van De Wege, Quall, Warnick and Morris)

Transferring the Washington main street program to the department of archaeology and historic preservation.

The measure was read the second time.

#### MOTION

On motion of Senator Pridemore, the rules were suspended, Substitute House Bill No. 2704 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pridemore, Parlette and Honeyford spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2704.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2704 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, McCaslin, Pflug and Prentice  
SUBSTITUTE HOUSE BILL NO. 2704, having received the constitutional majority, was declared passed. There being no

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harvest season, regardless of whether the crab pot was originally set by the participant or not.

(b) Beginning fifteen days after the close of the primary commercial Dungeness crab-coastal harvest season, any individual with a current commercial Dungeness crab-coastal license and a valid crab pot removal permit issued by the department may remove a crab pot or crab pots used to harvest Dungeness crabs remaining in coastal marine waters after the close of the primary commercial Dungeness crab-coastal harvest season.

(c) In cooperation with individuals with a current commercial Dungeness crab-coastal license, the department may expand the coastal commercial Dungeness crab pot removal program to those areas closed to commercial Dungeness crab harvest prior to the end of the primary season.

(d) Nothing in this section prohibits the department from exempting certain crab pots from the coastal commercial Dungeness crab pot removal program or from restricting crab pot removal activities to specific geographic areas.

((e) The department may adopt rules to implement this subsection (1).))

(2)(a) The department may expand the crab pot removal program to allow for the removal of shellfish pots belonging to state commercial or recreational licensed shellfish fisheries from Puget Sound waters during shellfish harvest closures, regardless of whether the shellfish pot was originally set by the permittee or not.

(b) If the department expands the program to Puget Sound waters, the department shall limit the program as necessary to streamline implementation, minimize the oversight burden on fish and wildlife enforcement officers, minimize interference with lawful fisheries and other user groups, minimize administrative overhead cost, and avoid the collection of shellfish pots that are not abandoned. The program may be limited as deemed appropriate by the department, including limitations on:

(i) The number of participants;

(ii) The eligible geographic areas in Puget Sound where shellfish pots may be recovered;

(iii) The types of shellfish pots that may be recovered;

(iv) The maximum or minimum depth where a shellfish pot must be located to be eligible for recovery; and

(v) The ports through which the vessels collecting the abandoned shellfish pots may operate.

(3) The department may adopt rules to implement subsections (1) and (2) of this section.

(4)(a) The following are exempt from complying with the lost and found property provisions in chapter 63.21 RCW:

(i) An individual participating in permitted crab pot removal activities in coastal marine waters who has a valid crab pot removal permit, and who adheres to the provisions of the permit as they relate to crab pot removal(~~(, is exempt from complying with the lost and found property provisions in chapter 63.21 RCW.); and~~); and

(ii) An individual participating in permitted shellfish pot removal activities in Puget Sound waters who has a valid shellfish pot removal permit and who adheres to the provisions of the permit as they relate to shellfish pot removal.

(b) The individual who removes ~~(the crab)~~ a shellfish pot under a valid crab pot removal permit or a valid shellfish pot removal permit takes the property free and clear of all claims of the owner or previous holder and free and clear of all individuals claiming ownership under the previous owner.

((3)(a) A person is guilty of unlawful use of a crab pot removal permit if the person:

(i) Violates any terms or conditions of the permit issued under this section; or

(ii) Violates any rule of the department applicable to the requirement for, issuance of, or use of the permit.

(b) Unlawful use of a crab pot removal permit is a misdemeanor.))

(5) A violation of this section, or any rules or permit conditions provided under this section, is punishable as provided in RCW 77.15.750.

(6) Individuals who remove shellfish pots under a valid crab pot removal permit or a valid shellfish pot removal permit in accordance with this section are not subject to permitting under RCW 77.55.021.

**Sec. 4.** RCW 77.15.520 and 1998 c 190 s 37 are each amended to read as follows:

(1) Except for actions involving shellfish gear punishable under section 1 of this act, a person is guilty of commercial fishing using unlawful gear or methods if the person acts for commercial purposes and takes or fishes for any fish or shellfish using any gear or method in violation of a rule of the ((department)) commission specifying, regulating, or limiting the gear or method for taking, fishing, or harvesting of such fish or shellfish.

(2) Commercial fishing using unlawful gear or methods is a gross misdemeanor.

**Sec. 5.** RCW 77.15.380 and 2001 c 253 s 39 are each amended to read as follows:

(1) A person is guilty of unlawful recreational fishing in the second degree if the person fishes for, takes, possesses, or harvests fish or shellfish and:

(a) The person does not have and possess the license or the catch record card required by chapter 77.32 RCW for such activity; or

(b) The action violates any rule of the commission or the director regarding seasons, bag or possession limits but less than two times the bag or possession limit, closed areas, closed times, or any other rule addressing the manner or method of fishing or possession of fish, except for use of a net to take fish as provided for in RCW 77.15.580 and the unlawful use of shellfish gear for personal use as provided in section 2 of this act.

(2) Unlawful recreational fishing in the second degree is a misdemeanor.

**Sec. 6.** RCW 63.21.080 and 2009 c 355 s 2 are each amended to read as follows:

This chapter shall not apply to:

(1) Motor vehicles under chapter 46.52 RCW;

(2) Unclaimed property in the hands of a bailee under chapter 63.24 RCW;

(3) Uniform disposition of unclaimed property under chapter 63.29 RCW;

(4) Secured vessels under chapter 79A.65 RCW; and

(5) Crab or other shellfish pots in coastal marine or Puget Sound waters under RCW 77.70.500.

**Sec. 7.** RCW 77.12.865 and 2005 c 146 s 1004 are each amended to read as follows:

(1) As used in this section and RCW 77.12.870, "derelict fishing gear" includes lost or abandoned fishing nets, fishing lines, ~~((crab pots, shrimp pots,))~~ and other commercial and recreational fishing equipment. The term does not include lost or abandoned vessels or shellfish pots.

(2) The department, in partnership with the Northwest straits commission, the department of natural resources, and other interested parties, must publish guidelines for the safe removal and disposal of derelict fishing gear. The guidelines ~~((must be completed by August 31, 2002, and))~~ may be updated as deemed necessary by the department. The guidelines must be made available to any person interested in derelict fishing gear removal.

(3) Derelict fishing gear removal conducted in accordance with the guidelines prepared in subsection (2) of this section is not subject to permitting under RCW 77.55.021.

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**Sec. 8.** RCW 77.12.870 and 2009 c 333 s 21 are each amended to read as follows:

(1) The department, in ((consultation with the Northwest straits commission, the department of natural resources, and other interested parties, must create and maintain a database of known derelict fishing gear)) partnership with the Northwest straits commission, the department of natural resources, and other interested parties, must create and ensure the maintenance of a database of known derelict fishing gear and shellfish pots, including the type of gear and its location.

(2) A person who loses or abandons commercial fishing gear or shellfish pots within the waters of the state is encouraged to report the location of the loss and the type of gear lost to the department within forty-eight hours of the loss.

**Sec. 9.** RCW 77.15.750 and 2009 c 333 s 14 are each amended to read as follows:

(1) A person is guilty of unlawful use of a department permit if the person:

(a) Violates any terms or conditions of the permit issued by the department or the director; or

(b) Violates any rule of the commission or the director applicable to the requirement for, issuance of, or use of the permit.

(2)(a) Permits covered under subsection (1) of this section include, but are not limited to, master hunter permits, crab pot removal permits and shellfish pot removal permits under RCW 77.70.500, depredation permits, landowner hunting permits, commercial carp license permits, permits to possess or dispense beer or malt liquor pursuant to RCW 66.28.210, and permits to hold, sponsor, or attend an event requiring a banquet permit from the liquor control board.

(b) Permits excluded from subsection (1) of this section include fish and wildlife lands vehicle use permits, commercial use or activity permits, noncommercial use or activity permits, parking permits, experimental fishery permits, trial commercial fishery permits, and scientific collection permits.

(3) Unlawful use of a department permit is a misdemeanor.

(4) A person is guilty of unlawful use of an experimental fishery permit or a trial commercial fishery permit if the person:

(a) Violates any terms or conditions of the permit issued by the department or the director; or

(b) Violates any rule of the commission or the director applicable to the issuance or use of the permit.

(5) Unlawful use of an experimental fishery permit or a trial commercial fishery permit is a gross misdemeanor.

(6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Experimental fishery permit" means a permit issued by the director for either:

(i) An "emerging commercial fishery," defined as a fishery for a newly classified species for which the department has determined that there is a need to limit participation; or

(ii) An "expanding commercial fishery," defined as a fishery for a previously classified species in a new area, by a new method, or at a new effort level, for which the department has determined that there is a need to limit participation.

(b) "Trial commercial fishery permit" means a permit issued by the department for trial harvest of a newly classified species or harvest of a previously classified species in a new area or by a new means.

**Sec. 10.** RCW 77.55.041 and 2005 c 146 s 302 are each amended to read as follows:

(1) The removal of derelict fishing gear does not require a permit under this chapter if the gear is removed according to the guidelines described in RCW 77.12.865.

(2) The removal of crab and other shellfish gear does not require a permit under this chapter if the gear is removed under a permit issued pursuant to RCW 77.70.500.

**Sec. 11.** RCW 77.32.430 and 2009 c 333 s 40 are each amended to read as follows:

(1) Catch record card information is necessary for proper management of the state's food fish and game fish species and shellfish resources. Catch record card administration shall be under rules adopted by the commission. There is no charge for an initial catch record card. Each subsequent or duplicate catch record card costs ten dollars.

(2) A license to take and possess Dungeness crab is only valid in Puget Sound waters east of the Bonilla-Tatoosh line if the fisher has in possession a valid catch record card officially endorsed for Dungeness crab. The endorsement shall cost no more than three dollars, including any or all fees authorized under RCW 77.32.050, when purchased for a personal use saltwater, combination, or shellfish and seaweed license. The endorsement shall cost no more than one dollar, including any or all fees authorized under RCW 77.32.050, when purchased for a temporary combination fishing license authorized under RCW 77.32.470(3)(a).

(3) Catch record cards issued with affixed temporary short-term charter stamp licenses are not subject to the ten-dollar charge nor to the Dungeness crab endorsement fee provided for in this section. Charter boat or guide operators issuing temporary short-term charter stamp licenses shall affix the stamp to each catch record card issued before fishing commences. Catch record cards issued with a temporary short-term charter stamp are valid for one day.

(4) The department shall include provisions for recording marked and unmarked salmon in catch record cards issued after March 31, 2004.

(5)(a) The funds received from the sale of catch record cards and the Dungeness crab endorsement must be deposited into the state wildlife account created in RCW 77.12.170. The funds received from the Dungeness crab endorsement may be used only for the sampling, monitoring, and management of catch associated with the Dungeness crab recreational fisheries. Until June 30, 2011, funds received from the Dungeness crab endorsement may be used for the removal and disposal of derelict shellfish gear either directly by the department or under contract with a third party.

(b) Moneys allocated under this section shall supplement and not supplant other federal, state, and local funds used for Dungeness crab recreational fisheries management.

**NEW SECTION. Sec. 12.** (1) The department of fish and wildlife shall, in cooperation with stakeholders in the recreational and commercial crab fisheries and other knowledgeable individuals, as deemed appropriate by the director of the department, deliver to the appropriate committees of the legislature findings and recommendations relating to the following topics:

(a) The scope of the derelict shellfish gear problem in Washington waters, including estimates of the existing quantity of derelict gear and estimates of annual shellfish gear loss;

(b) The cost of recovering and disposing of derelict shellfish gear;

(c) Technical and legal barriers to recovering and disposing of derelict shellfish gear;

(d) Possible public education efforts to prevent future shellfish gear loss and to promote compliance with required gear specifications;

(e) Possible changes to the current funding structure for derelict shellfish gear removal and Dungeness crab sampling, monitoring, and management, which may include the termination or alteration of the existing Dungeness crab endorsement required under RCW 77.32.430 and the identification of possible new funding sources.

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(2) If deemed practicable by the director of the department of fish and wildlife, the findings and recommendations included in the report required in this section should be informed by the actual collection of derelict shellfish pots.

(3) Findings and recommendations required under this section must be submitted consistent with RCW 43.01.036 by December 31, 2010.

(4) This section expires July 31, 2011.

**Sec. 13.** RCW 77.70.350 and 2006 c 159 s 1 are each amended to read as follows:

(1) The following restrictions apply to vessel designations and substitutions on Dungeness crab-coastal fishery licenses:

(a) The holder of the license may not:

(i) Designate on the license a vessel the hull length of which exceeds ninety-nine feet; or

(ii) Change vessel designation if the hull length of the vessel proposed to be designated exceeds the hull length designated on the license on June 7, 2006, by more than ten feet. However, if such vessel designation is the result of an emergency transfer, the applicable vessel length would be the most recent permanent vessel designation on the license prior to June 7, 2006;

(b) If the hull length of the vessel proposed to be designated is comparable to or exceeds by up to one foot the hull length of the currently designated vessel, the department may change the vessel designation no more than once in any ~~((two consecutive Washington state coastal crab seasons))~~ one-year period, measured from September 15th to September 15th of the following year, unless the currently designated vessel is lost or in disrepair such that it does not safely operate, in which case the department may allow a change in vessel designation;

(c) If the hull length of the vessel proposed to be designated exceeds by between one and ten feet the hull length of the designated vessel on June 7, 2006, the department may change the vessel designation no more than once on or after June 7, 2006, unless a request is made by the license holder during a Washington state coastal crab season for an emergency change in vessel designation. If such an emergency request is made, the director may allow a temporary change in designation to another vessel, if the hull length of the other vessel does not exceed by more than ten feet the hull length of the currently designated vessel.

(2) For the purposes of this section, "hull length" means the length overall of a vessel's hull as shown by marine survey or by manufacturer's specifications.

(3) By December 31, 2010, the department must, in cooperation with the coastal crab fishing industry, evaluate the effectiveness of this section and, if necessary, recommend any statutory changes to the appropriate committees of the senate and house of representatives.

**Sec. 14.** RCW 77.70.150 and 2005 c 110 s 1 are each amended to read as follows:

(1) A sea urchin dive fishery license is required to take sea urchins for commercial purposes. A sea urchin dive fishery license authorizes the use of only one diver in the water at any time during sea urchin harvest operations. If the same vessel has been designated on two sea urchin dive fishery licenses, two divers may be in the water. A natural person may not hold more than two sea urchin dive fishery licenses.

(2) Except as provided in subsection (6) of this section, the director shall issue no new sea urchin dive fishery licenses. For licenses issued for the year 2000 and thereafter, the director shall renew existing licenses only to a natural person who held the license at the end of the previous year. If a sea urchin dive fishery license is not held by a natural person as of December 31, 1999, it is not renewable. However, if the license is not held because of revocation or suspension of licensing privileges, the director shall

renew the license in the name of a natural person at the end of the revocation or suspension if the license holder applies for renewal of the license before the end of the year in which the revocation or suspension ends.

(3) Where a licensee failed to obtain the license during the previous year because of a license suspension or revocation by the director or the court, the licensee may qualify for a license by establishing that the person held such a license during the last year in which the person was eligible.

(4) Surcharges as provided for in this section shall be collected and deposited into the sea urchin dive fishery account hereby created in the custody of the state treasurer. The collections and deposits must continue, as set forth in (a) and (b) of this subsection, through license year 2013, or until the number of licenses is reduced to twenty, whichever occurs first. Only the director or the director's designee may authorize expenditures from the account. The sea urchin dive fishery account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. Expenditures from the account shall only be used to retire sea urchin licenses until the number of licenses is reduced to ~~((twenty-five))~~ twenty, and thereafter shall only be used for sea urchin management and enforcement. The director or the director's designee shall notify the department of revenue within thirty days when the number of licenses is reduced to twenty.

(a) A surcharge of one hundred dollars shall be charged with each sea urchin dive fishery license renewal for licenses issued ~~((in))~~ for license years 2000 through ((2010)) 2013, or until the number of licenses is reduced to twenty, whichever occurs first.

(b) For licenses issued for ~~((the year))~~ license years 2000 ((and thereafter,)) through 2013, or until the number of licenses is reduced to twenty, whichever occurs first, a surcharge shall be charged on the sea urchin dive fishery license for designating an alternate operator. The surcharge shall be as follows: Five hundred dollars for the first year or each of the first two consecutive years after 1999 that any alternate operator is designated and two thousand five hundred dollars each year thereafter that any alternate operator is designated.

(5) Sea urchin dive fishery licenses are transferable. ~~((After December 31, 1999,))~~ For licenses issued for license years 2000 through 2013, or whenever the number of licenses is reduced to twenty, whichever occurs first, there is a surcharge to transfer a sea urchin dive fishery license. The surcharge is five hundred dollars for the first transfer of a license valid for ~~((calendar))~~ license year 2000, and two thousand five hundred dollars for any subsequent transfer, ~~((whether))~~ occurring in the ~~((year))~~ license years 2000 ~~((or thereafter))~~ through 2013, or whenever the number of licenses is reduced to twenty, whichever occurs first. Notwithstanding this subsection, a one-time transfer exempt from surcharge applies for a transfer from the natural person licensed on January 1, 2000, to that person's spouse or child.

(6) If fewer than ~~((twenty-five))~~ twenty natural persons are eligible for sea urchin dive fishery licenses, the director may accept applications for new licenses. The additional licenses may not cause more than ~~((twenty-five))~~ twenty natural persons to be eligible for a sea urchin dive fishery license. New licenses issued under this section shall be distributed according to rules of the department that recover the value of such licensed privilege.

**Sec. 15.** RCW 77.70.190 and 2005 c 110 s 2 are each amended to read as follows:

(1) A sea cucumber dive fishery license is required to take sea cucumbers for commercial purposes. A sea cucumber dive fishery license authorizes the use of only one diver in the water at any time during sea cucumber harvest operations. If the same vessel has been designated on two sea cucumber dive fishery licenses, two

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divers may be in the water. A natural person may not hold more than two sea cucumber dive fishery licenses.

(2) Except as provided in subsection (6) of this section, the director shall issue no new sea cucumber dive fishery licenses. For licenses issued for the year 2000 and thereafter, the director shall renew existing licenses only to a natural person who held the license at the end of the previous year. If a sea cucumber dive fishery license is not held by a natural person as of December 31, 1999, it is not renewable. However, if the license is not held because of revocation or suspension of licensing privileges, the director shall renew the license in the name of a natural person at the end of the revocation or suspension if the license holder applies for renewal of the license before the end of the year in which the revocation or suspension ends.

(3) Where a licensee failed to obtain the license during either of the previous two years because of a license suspension by the director or the court, the licensee may qualify for a license by establishing that the person held such a license during the last year in which the person was eligible.

(4) Surcharges as provided for in this section shall be collected and deposited into the sea cucumber dive fishery account hereby created in the custody of the state treasurer. The collections and deposits must continue, as set forth in (a) and (b) of this subsection, through license year 2013, or until the number of licenses is reduced to twenty, whichever occurs first. Only the director or the director's designee may authorize expenditures from the account. The sea cucumber dive fishery account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. Expenditures from the account shall only be used to retire sea cucumber licenses until the number of licenses is reduced to ~~((twenty five))~~ twenty, and thereafter shall only be used for sea cucumber management and enforcement. The director or the director's designee shall notify the department of revenue within thirty days when the number of licenses is reduced to twenty.

(a) A surcharge of one hundred dollars shall be charged with each sea cucumber dive fishery license renewal for licenses issued in 2000 through ~~((2010))~~ 2013, or until the number of licenses is reduced to twenty, whichever occurs first.

(b) For licenses issued for ~~((the year))~~ license years 2000 ((and thereafter,)) through 2013, or until the number of licenses is reduced to twenty, whichever occurs first, a surcharge shall be charged on the sea cucumber dive fishery license for designating an alternate operator. The surcharge shall be as follows: Five hundred dollars for the first year or each of the first two consecutive years after 1999 that any alternate operator is designated and two thousand five hundred dollars each year thereafter that any alternate operator is designated.

(5) Sea cucumber dive fishery licenses are transferable. ~~((After December 31, 1999,))~~ For licenses issued for license years 2000 through 2013, or whenever the number of licenses is reduced to twenty, whichever occurs first, there is a surcharge to transfer a sea cucumber dive fishery license. The surcharge is five hundred dollars for the first transfer of a license valid for ~~((calendar))~~ license year 2000 and two thousand five hundred dollars for any subsequent transfer ~~((whether))~~, occurring in the ~~((year))~~ license years 2000 ~~((or thereafter))~~ through 2013, or whenever the number of licenses is reduced to twenty, whichever occurs first. Notwithstanding this subsection, a one-time transfer exempt from surcharge applies for a transfer from the natural person licensed on January 1, 2000, to that person's spouse or child.

(6) If fewer than ~~((twenty five))~~ twenty persons are eligible for sea cucumber dive fishery licenses, the director may accept applications for new licenses. The additional licenses may not cause more than ~~((twenty five))~~ twenty natural persons to be eligible for a sea cucumber dive fishery license. New licenses issued under

this section shall be distributed according to rules of the department that recover the value of such licensed privilege.

**Sec. 16.** RCW 82.27.020 and 2005 c 110 s 3 are each amended to read as follows:

(1) In addition to all other taxes, licenses, or fees provided by law there is established an excise tax on the commercial possession of enhanced food fish as provided in this chapter. The tax is levied upon and shall be collected from the owner of the enhanced food fish whose possession constitutes the taxable event. The taxable event is the first possession in Washington by an owner after the enhanced food fish has been landed. Processing and handling of enhanced food fish by a person who is not the owner is not a taxable event to the processor or handler.

(2) A person in possession of enhanced food fish and liable to this tax may deduct from the price paid to the person from which the enhanced food fish (except oysters) are purchased an amount equal to a tax at one-half the rate levied in this section upon these products.

(3) The measure of the tax is the value of the enhanced food fish at the point of landing.

(4) The tax shall be equal to the measure of the tax multiplied by the rates for enhanced food fish as follows:

(a) Chinook, coho, and chum salmon and anadromous game fish: Five and twenty-five one-hundredths percent;

(b) Pink and sockeye salmon: Three and fifteen one-hundredths percent;

(c) Other food fish and shellfish, except oysters, sea urchins, and sea cucumbers: Two and one-tenth percent;

(d) Oysters: Eight one-hundredths of one percent;

(e) Sea urchins: Four and six-tenths percent through December 31, ~~((2010))~~ 2013, or until the department of fish and wildlife notifies the department that the number of sea urchin licenses has been reduced to twenty licenses, whichever occurs first, and two and one-tenth percent thereafter; and

(f) Sea cucumbers: Four and six-tenths percent through December 31, ~~((2010))~~ 2013, or until the department of fish and wildlife notifies the department that the number of sea cucumber licenses has been reduced to twenty licenses, whichever occurs first, and two and one-tenth percent thereafter.

(5) An additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (4) of this section.

**Sec. 17.** RCW 82.27.070 and 2005 c 110 s 4 are each amended to read as follows:

All taxes collected by the department of revenue under this chapter shall be deposited in the state general fund except for the excise tax on anadromous game fish, which shall be deposited in the state wildlife ~~((fund, and, during the period))~~ account. From January 1, 2000, to December 31, ((2010)) 2013, or until the department of fish and wildlife notifies the department that the license reduction goals of the sea urchin or sea cucumber fishery have been met, whichever occurs first, twenty-five forty-sixths of the revenues derived from the excise tax on sea urchins collected under RCW 82.27.020 shall be deposited into the sea urchin dive fishery account created in RCW 77.70.150, and twenty-five forty-sixths of the revenues derived from the excise tax on sea cucumbers collected under RCW 82.27.020 shall be deposited into the sea cucumber dive fishery account created in RCW 77.70.190."

Senator Jacobsen spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Natural Resources, Ocean & Recreation to Substitute House Bill No. 2593.

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The motion by Senator Jacobsen carried and the committee striking amendment was adopted by voice vote.

Senator Kastama spoke in favor of passage of the bill.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "resources;" strike the remainder of the title and insert "amending RCW 77.70.500, 77.15.520, 77.15.380, 63.21.080, 77.12.865, 77.12.870, 77.15.750, 77.55.041, 77.32.430, 77.70.350, 77.70.150, 77.70.190, 82.27.020, and 82.27.070; adding new sections to chapter 77.15 RCW; prescribing penalties; and providing an expiration date."

#### MOTION

On motion of Senator Jacobsen, the rules were suspended, Substitute House Bill No. 2593 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Jacobsen and Morton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2593 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2593 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 42; Nays, 3; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Carrell, Holmquist and Stevens

Excused: Senators Fairley, McCaslin, Pflug and Prentice

SUBSTITUTE HOUSE BILL NO. 2593 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2651, by House Committee on Community & Economic Development & Trade (originally sponsored by Representatives Upthegrove, Orwall, Simpson, Nelson, Hudgins and Hasegawa)

Authorizing port districts to participate in activities related to job training and placement.

The measure was read the second time.

#### MOTION

On motion of Senator Kastama, the rules were suspended, Substitute House Bill No. 2651 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2651.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2651 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 2; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Honeyford and Morton

Excused: Senators Fairley, McCaslin, Pflug and Prentice

SUBSTITUTE HOUSE BILL NO. 2651, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 3046, by House Committee on Judiciary (originally sponsored by Representatives Driscoll, Rodne, Kretz, Ormsby, Wood, Johnson and Parker)

Addressing the dissolution of the assets and affairs of a nonprofit corporation.

The measure was read the second time.

#### MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Judiciary be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 24.03 RCW to read as follows:

Superior courts may dissolve a nonprofit corporation:

(1) Except as provided in the articles of incorporation or bylaws, in a proceeding by fifty members or members holding at least five percent of the voting power, whichever is less, by one or more directors, or by the attorney general if it is established that:

(a) The directors are deadlocked in the management of the corporate affairs, the members, if any, are unable to break the deadlock, and irreparable injury to the corporation or its mission is threatened or being suffered because of the deadlock;

(b) The directors or those in control of the corporation have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent;

(c) The members are deadlocked in voting power and have failed, for a period that includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have, or otherwise would have, expired;

(d) The corporate assets are being misapplied or wasted; or

(e) The corporation has insufficient assets to continue its activities and it is no longer able to assemble a quorum of directors or members;

(2) In a proceeding by a creditor, if it is established that:

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(a) The creditor's claim has been reduced to judgment, the execution on the judgment returned unsatisfied, and the corporation is insolvent; or

(b) The corporation has admitted in a record that the creditor's claim is due and owing and the corporation is insolvent; or

(3) In a proceeding by the corporation to have its voluntary dissolution continued under court supervision.

**NEW SECTION. Sec. 2.** A new section is added to chapter 24.03 RCW to read as follows:

(1) Venue for a proceeding brought by the attorney general to dissolve a corporation pursuant to section 1 of this act lies in the court specified in RCW 24.03.260. Venue for a proceeding brought by any other party named in section 1 of this act lies in the county where a corporation's principal office (or, if none in this state, its registered office) is or was last located.

(2) It is not necessary to make directors or members parties to a proceeding to dissolve a nonprofit corporation unless relief is sought against them individually.

(3) A court in a proceeding brought to dissolve a nonprofit corporation may issue injunctions, appoint a general or custodial receiver with all powers and duties the court directs, take other action required to preserve the corporate assets wherever located, and carry on the activities of the corporation until a full hearing can be held.

(4) A court in a judicial proceeding brought to dissolve a nonprofit corporation may appoint one or more general receivers to wind up and liquidate, or one or more custodial receivers to manage, the affairs of the corporation. The court shall hold a hearing, after giving notice to all parties to the proceeding and any interested persons designated by the court, before appointing a general or custodial receiver. The court appointing a general or custodial receiver has exclusive jurisdiction over the corporation and all of its property wherever located.

(5) The court may require the general or custodial receiver to post bond, with or without sureties, in an amount the court directs.

(6) The court shall describe the powers and duties of the general or custodial receiver in its appointing order, which may be amended from time to time. Among other powers:

(a) The general receiver:

(i) May dispose of all or any part of the assets of the nonprofit corporation wherever located, at a public or private sale, if authorized by the court; and

(ii) May sue and defend in his or her own name as general receiver of the corporation in all courts of this state;

(b) The custodial receiver may exercise all of the powers of the corporation, through or in place of its board of directors, to the extent necessary to manage the affairs of the corporation consistent with its mission and in the best interests of the corporation, and its creditors.

(7) During a general receivership, the court may redesignate the general receiver a custodial receiver, and during a custodial receivership may redesignate the custodial receiver a general receiver, if doing so is consistent with the mission of the nonprofit corporation and in the best interests of the corporation and its creditors.

(8) The court from time to time during the general or custodial receivership may order compensation paid and expense disbursements or reimbursements made to the general or custodial receiver and counsel from the assets of the nonprofit corporation or proceeds from the sale of the assets.

(9) The assets of the corporation or the proceeds resulting from the sale, conveyance, or other disposition thereof shall be applied and distributed as follows:

(a) All costs and expenses of the court proceedings and all liabilities and obligations of the corporation shall be paid, satisfied, and discharged, or adequate provision shall be made therefor;

(b) Assets held by the corporation upon condition requiring return, transfer, or conveyance, which condition occurs by reason of the dissolution or liquidation, shall be returned, transferred, or conveyed in accordance with such requirements;

(c) Assets received and held by the corporation subject to limitations permitting their use only for charitable, religious, eleemosynary, benevolent, educational, or similar purposes, but not held upon a condition requiring return, transfer, or conveyance by reason of the dissolution or liquidation, shall be transferred or conveyed to one or more domestic or foreign corporations, societies, or organizations engaged in activities substantially similar to those of the dissolving or liquidating corporation as the court may direct;

(d) Other assets, if any, shall be distributed in accordance with the provisions of the articles of incorporation or the bylaws to the extent that the articles of incorporation or bylaws determine the distributive rights of members, or any class or classes of members, or provide for distribution to others;

(e) Any remaining assets may be distributed to such persons, societies, organizations, or domestic or foreign corporations, whether for profit or not for profit, specified in the plan of distribution adopted as provided in this chapter, or where no plan of distribution has been adopted, as the court may direct.

(10) Subsections (4) through (8) of this section do not apply to a church or its integrated auxiliaries.

**NEW SECTION. Sec. 3.** A new section is added to chapter 24.03 RCW to read as follows:

(1) If after a hearing the court determines that one or more grounds for judicial dissolution described in section 1 of this act exist, it may enter a decree dissolving the nonprofit corporation and specifying the effective date of the dissolution, and the clerk of the court shall deliver a certified copy of the decree to the secretary of state, who shall file it.

(2) After entering the decree of dissolution, the court shall direct the winding up and liquidation of the nonprofit corporation's affairs in accordance with this chapter.

**Sec. 4.** RCW 7.60.025 and 2006 c 52 s 1 are each amended to read as follows:

(1) A receiver may be appointed by the superior court of this state in the following instances, but except in any case in which a receiver's appointment is expressly required by statute, or any case in which a receiver's appointment is sought by a state agent whose authority to seek the appointment of a receiver is expressly conferred by statute, or any case in which a receiver's appointment with respect to real property is sought under (b)(ii) of this subsection, a receiver shall be appointed only if the court additionally determines that the appointment of a receiver is reasonably necessary and that other available remedies either are not available or are inadequate:

(a) On application of any party, when the party is determined to have a probable right to or interest in property that is a subject of the action and in the possession of an adverse party, or when the property or its revenue-producing potential is in danger of being lost or materially injured or impaired. A receiver may be appointed under this subsection (1)(a) whether or not the application for appointment of a receiver is combined with, or is ancillary to, an action seeking a money judgment or other relief;

(b) Provisionally, during the pendency of any action to foreclose upon any lien against or for forfeiture of any interest in real or personal property, or after notice of a trustee's sale has been given under RCW 61.24.040, or after notice of forfeiture has been given under RCW 61.30.040, on application of any person, when the interest in the property that is the subject of foreclosure or forfeiture

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of the person seeking the receiver's appointment is determined to be probable and either:

(i) The property or its revenue-producing potential is in danger of being lost or materially injured or impaired; or

(ii) The appointment of a receiver with respect to the real or personal property that is the subject of the action, the notice of trustee's sale or notice of forfeiture is provided for by agreement or is reasonably necessary to effectuate or enforce an assignment of rents or other revenues from the property;

(c) After judgment, in order to give effect to the judgment;

(d) To dispose of property according to provisions of a judgment dealing with its disposition;

(e) To the extent that property is not exempt from execution, at the instance of a judgment creditor either before or after the issuance of any execution, to preserve or protect it, or prevent its transfer;

(f) If and to the extent that property is subject to execution to satisfy a judgment, to preserve the property during the pendency of an appeal, or when an execution has been returned unsatisfied, or when an order requiring a judgment debtor to appear for proceedings supplemental to judgment has been issued and the judgment debtor fails to submit to examination as ordered;

(g) Upon an attachment of real or personal property when the property attached is of a perishable nature or is otherwise in danger of waste, impairment, or destruction, or where the abandoned property's owner has absconded with, secreted, or abandoned the property, and it is necessary to collect, conserve, manage, control, or protect it, or to dispose of it promptly, or when the court determines that the nature of the property or the exigency of the case otherwise provides cause for the appointment of a receiver;

(h) In an action by a transferor of real or personal property to avoid or rescind the transfer on the basis of fraud, or in an action to subject property or a fund to the payment of a debt;

(i) In an action against any person who is not an individual if the object of the action is the dissolution of that person, or if that person has been dissolved, or if that person is insolvent or is not generally paying the person's debts as those debts become due unless they are the subject of bona fide dispute, or if that person is in imminent danger of insolvency;

(j) In accordance with RCW 7.08.030 (4) and (6), in cases in which a general assignment for the benefit of creditors has been made;

(k) In quo warranto proceedings under chapter 7.56 RCW;

(l) As provided under RCW 11.64.022;

(m) In an action by the department of licensing under RCW 18.35.220(3) with respect to persons engaged in the business of dispensing of hearing aids, RCW ((18.85.350)) 18.85.430 in the case of persons engaged in the business of a real estate broker, associate real estate broker, or real estate salesperson, or RCW 19.105.470 with respect to persons engaged in the business of camping resorts;

(n) In an action under RCW 18.44.470 or 18.44.490 in the case of persons engaged in the business of escrow agents;

(o) Upon a petition with respect to a nursing home in accordance with and subject to receivership provisions under chapter 18.51 RCW;

(p) Under RCW 19.40.071(3), in connection with a proceeding for relief with respect to a transfer fraudulent as to a creditor or creditors;

(q) Under RCW 19.100.210(1), in an action by the attorney general or director of financial institutions to restrain any actual or threatened violation of the franchise investment protection act;

(r) In an action by the attorney general or by a prosecuting attorney under RCW 19.110.160 with respect to a seller of business opportunities;

(s) In an action by the director of financial institutions under RCW 21.20.390 in cases involving actual or threatened violations of the securities act of Washington or under RCW 21.30.120 in cases involving actual or threatened violations of chapter 21.30 RCW with respect to certain businesses and transactions involving commodities;

(t) In an action for or relating to dissolution of a business corporation under RCW 23B.14.065, 23B.14.300, 23B.14.310, or 23B.14.320, for dissolution of a nonprofit corporation under ((RCW 24.03.270)) section 2 of this act, for dissolution of a mutual corporation under RCW 24.06.305, or in any other action for the dissolution or winding up of any other entity provided for by Title 23, 23B, 24, or 25 RCW;

(u) In any action in which the dissolution of any public or private entity is sought, in any action involving any dispute with respect to the ownership or governance of such an entity, or upon the application of a person having an interest in such an entity when the appointment is reasonably necessary to protect the property of the entity or its business or other interests;

(v) Under RCW 25.05.215, in aid of a charging order with respect to a partner's interest in a partnership;

(w) Under and subject to RCW 30.44.100, 30.44.270, and 30.56.030, in the case of a bank or trust company or, under and subject to RCW 32.24.070 through 32.24.090, in the case of a mutual savings bank;

(x) Under and subject to RCW 31.12.637 and 31.12.671 through 31.12.724, in the case of credit unions;

(y) Upon the application of the director of financial institutions under RCW 31.35.090 in actions to enforce chapter 31.35 RCW applicable to agricultural lenders, under RCW 31.40.120 in actions to enforce chapter 31.40 RCW applicable to entities engaged in federally guaranteed small business loans, under RCW 31.45.160 in actions to enforce chapter 31.45 RCW applicable to persons licensed as check cashers or check sellers, or under RCW 19.230.230 in actions to enforce chapter 19.230 RCW applicable to persons licensed under the uniform money services act;

(z) Under RCW 35.82.090 or 35.82.180, with respect to a housing project;

(aa) Under RCW 39.84.160 or 43.180.360, in proceedings to enforce rights under any revenue bonds issued for the purpose of financing industrial development facilities or bonds of the Washington state housing finance commission, or any financing document securing any such bonds;

(bb) Under and subject to RCW 43.70.195, in an action by the secretary of health or by a local health officer with respect to a public water system;

(cc) As contemplated by RCW 61.24.030, with respect to real property that is the subject of nonjudicial foreclosure proceedings under chapter 61.24 RCW;

(dd) As contemplated by RCW 61.30.030(3), with respect to real property that is the subject of judicial or nonjudicial forfeiture proceedings under chapter 61.30 RCW;

(ee) Under RCW 64.32.200(2), in an action to foreclose upon a lien for common expenses against a dwelling unit subject to the horizontal property regimes act, chapter 64.32 RCW;

(ff) Under RCW 64.34.364(10), in an action by a unit owners' association to foreclose a lien for nonpayment of delinquent assessments against condominium units;

(gg) Upon application of the attorney general under RCW 64.36.220(3), in aid of any writ or order restraining or enjoining violations of chapter 64.36 RCW applicable to timeshares;

(hh) Under RCW 70.95A.050(3), in aid of the enforcement of payment or performance of municipal bonds issued with respect to facilities used to abate, control, or prevent pollution;

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(ii) Upon the application of the department of social and health services under RCW 74.42.580, in cases involving nursing homes;

(jj) Upon the application of the utilities and transportation commission under RCW 80.28.040, with respect to a water company that has failed to comply with an order of such commission within the time deadline specified therein;

(kk) Under RCW 87.56.065, in connection with the dissolution of an irrigation district;

(ll) Upon application of the attorney general or the department of licensing, in any proceeding that either of them are authorized by statute to bring to enforce Title 18 or 19 RCW; the securities act of Washington, chapter 21.20 RCW; the Washington commodities act, chapter 21.30 RCW; the land development act, chapter 58.19 RCW; or under chapter 64.36 RCW relating to the regulation of timeshares;

(mm) Upon application of the director of financial institutions in any proceeding that the director of financial institutions is authorized to bring to enforce chapters 31.35, 31.40, and 31.45 RCW; or

(nn) In such other cases as may be provided for by law, or when, in the discretion of the court, it may be necessary to secure ample justice to the parties.

(2) The superior courts of this state shall appoint as receiver of property located in this state a person who has been appointed by a federal or state court located elsewhere as receiver with respect to the property specifically or with respect to the owner's property generally, upon the application of the person or of any party to that foreign proceeding, and following the appointment shall give effect to orders, judgments, and decrees of the foreign court affecting the property in this state held by the receiver, unless the court determines that to do so would be manifestly unjust or inequitable. The venue of such a proceeding may be any county in which the person resides or maintains any office, or any county in which any property over which the receiver is to be appointed is located at the time the proceeding is commenced.

(3) At least seven days' notice of any application for the appointment of a receiver shall be given to the owner of property to be subject thereto and to all other parties in the action, and to other parties in interest as the court may require. If any execution by a judgment creditor under Title 6 RCW or any application by a judgment creditor for the appointment of a receiver, with respect to property over which the receiver's appointment is sought, is pending in any other action at the time the application is made, then notice of the application for the receiver's appointment also shall be given to the judgment creditor in the other action. The court may shorten or expand the period for notice of an application for the appointment of a receiver upon good cause shown.

(4) The order appointing a receiver in all cases shall reasonably describe the property over which the receiver is to take charge, by category, individual items, or both if the receiver is to take charge of less than all of the owner's property. If the order appointing a receiver does not expressly limit the receiver's authority to designated property or categories of property of the owner, the receiver is a general receiver with the authority to take charge over all of the owner's property, wherever located.

(5) The court may condition the appointment of a receiver upon the giving of security by the person seeking the receiver's appointment, in such amount as the court may specify, for the payment of costs and damages incurred or suffered by any person should it later be determined that the appointment of the receiver was wrongfully obtained.

**NEW SECTION. Sec. 5.** The following acts or parts of acts are each repealed:

(1) RCW 24.03.265 (Jurisdiction of court to liquidate assets and affairs of corporation) and 1986 c 240 s 39 & 1967 c 235 s 54;

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(2) RCW 24.03.270 (Procedure in liquidation of corporation by court) and 1967 c 235 s 55; and

(3) RCW 24.03.290 (Decree of involuntary dissolution) and 1967 c 235 s 59.

**NEW SECTION. Sec. 6.** This act is prospective and applies only to actions or proceedings commenced on or after the effective date of this act.

**NEW SECTION. Sec. 7.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Senators Kline and Carrell spoke in favor of adoption of the committee striking amendment.

#### MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford to the committee striking amendment be adopted:

On page 10, after line 19, strike all of section 7.

ReNUMBER the sections consecutively and correct any internal references accordingly.

On page 10, line 27 of the title amendment, after "24.03.290", strike "; and declaring an emergency"

Senator Honeyford spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Brown spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 10, after line 19 to the committee striking amendment to Substitute House Bill No. 3046.

The motion by Senator Honeyford failed and the amendment to the committee striking amendment was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary to Substitute House Bill No. 3046.

The motion by Senator Kline carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "corporation;" strike the remainder of the title and insert "amending RCW 7.60.025; adding new sections to chapter 24.03 RCW; creating a new section; repealing RCW 24.03.265, 24.03.270, and 24.03.290; and declaring an emergency."

#### MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 3046 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kline and Marr spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 3046 as amended by the Senate.

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## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3046 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 1; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Honeyford

Excused: Senators Fairley, McCaslin, Pflug and Prentice

SUBSTITUTE HOUSE BILL NO. 3046 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2747, by House Committee on Human Services (originally sponsored by Representatives Darneille, Cody, Williams, Kagi, Pedersen, Nelson, Dickerson, Hasegawa and Chase)

Limiting the use of restraints on pregnant women or youth.

The measure was read the second time.

## MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 72.09.015 and 2009 c 521 s 165 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Adult basic education" means education or instruction designed to achieve general competence of skills in reading, writing, and oral communication, including English as a second language and preparation and testing services for obtaining a high school diploma or a general equivalency diploma.

(2) "Base level of correctional services" means the minimum level of field services the department of corrections is required by statute to provide for the supervision and monitoring of offenders.

(3) "Community custody" has the same meaning as that provided in RCW 9.94A.030 and also includes community placement and community supervision as defined in RCW 9.94B.020.

(4) "Contraband" means any object or communication the secretary determines shall not be allowed to be: (a) Brought into; (b) possessed while on the grounds of; or (c) sent from any institution under the control of the secretary.

(5) "Correctional facility" means a facility or institution operated directly or by contract by the secretary for the purposes of incarcerating adults in total or partial confinement, as defined in RCW 9.94A.030.

(6) "County" means a county or combination of counties.

~~((6))~~ (7) "Department" means the department of corrections.

~~((7))~~ (8) "Earned early release" means earned release as authorized by RCW 9.94A.728.

~~((8))~~ (9) "Evidence-based" means a program or practice that has had multiple-site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective in reducing recidivism for the population.

~~((9))~~ (10) "Extended family visit" means an authorized visit between an inmate and a member of his or her immediate family that occurs in a private visiting unit located at the correctional facility where the inmate is confined.

~~((10))~~ (11) "Good conduct" means compliance with department rules and policies.

~~((11))~~ (12) "Good performance" means successful completion of a program required by the department, including an education, work, or other program.

~~((12))~~ (13) "Immediate family" means the inmate's children, stepchildren, grandchildren, great grandchildren, parents, stepparents, grandparents, great grandparents, siblings, and a person legally married to or in a state registered domestic partnership with an inmate. "Immediate family" does not include an inmate adopted by another inmate or the immediate family of the adopted or adopting inmate.

~~((13))~~ (14) "Indigent inmate," "indigent," and "indigency" mean an inmate who has less than a ten-dollar balance of disposable income in his or her institutional account on the day a request is made to utilize funds and during the thirty days previous to the request.

~~((14))~~ (15) "Individual reentry plan" means the plan to prepare an offender for release into the community. It should be developed collaboratively between the department and the offender and based on an assessment of the offender using a standardized and comprehensive tool to identify the offender's risks and needs. The individual reentry plan describes actions that should occur to prepare individual offenders for release from prison or jail, specifies the supervision and services they will experience in the community, and describes an offender's eventual discharge to aftercare upon successful completion of supervision. An individual reentry plan is updated throughout the period of an offender's incarceration and supervision to be relevant to the offender's current needs and risks.

~~((15))~~ (16) "Inmate" means a person committed to the custody of the department, including but not limited to persons residing in a correctional institution or facility and persons released from such facility on furlough, work release, or community custody, and persons received from another state, state agency, county, or federal jurisdiction.

~~((16))~~ (17) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix.

(18) "Physical restraint" means the use of any bodily force or physical intervention to control an offender or limit an offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent an offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive offender who is unwilling to leave the area voluntarily; or

(c) Guide an offender from one location to another.

(19) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the woman or youth leaves the hospital, birthing center, or clinic.

(20) "Privilege" means any goods or services, education or work

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programs, or earned early release days, the receipt of which are directly linked to an inmate's (a) good conduct; and (b) good performance. Privileges do not include any goods or services the department is required to provide under the state or federal Constitution or under state or federal law.

~~((17))~~ (21) "Promising practice" means a practice that presents, based on preliminary information, potential for becoming a research-based or consensus-based practice.

~~((18))~~ (22) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

~~((19))~~ (23) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons.

(24) "Secretary" means the secretary of corrections or his or her designee.

~~((20))~~ (25) "Significant expansion" includes any expansion into a new product line or service to the class I business that results from an increase in benefits provided by the department, including a decrease in labor costs, rent, or utility rates (for water, sewer, electricity, and disposal), an increase in work program space, tax advantages, or other overhead costs.

~~((21))~~ (26) "Superintendent" means the superintendent of a correctional facility under the jurisdiction of the Washington state department of corrections, or his or her designee.

~~((22))~~ (27) "Transportation" means the conveying, by any means, of an incarcerated pregnant woman or youth from the correctional facility to another location from the moment she leaves the correctional facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated woman or youth from the correctional facility to a transport vehicle and from the vehicle to the other location.

(28) "Unfair competition" means any net competitive advantage that a business may acquire as a result of a correctional industries contract, including labor costs, rent, tax advantages, utility rates (water, sewer, electricity, and disposal), and other overhead costs. To determine net competitive advantage, the correctional industries board shall review and quantify any expenses unique to operating a for-profit business inside a prison.

~~((23))~~ (29) "Vocational training" or "vocational education" means "vocational education" as defined in RCW 72.62.020.

~~((24))~~ (30) "Washington business" means an in-state manufacturer or service provider subject to chapter 82.04 RCW existing on June 10, 2004.

~~((25))~~ (31) "Work programs" means all classes of correctional industries jobs authorized under RCW 72.09.100.

**NEW SECTION. Sec. 2.** (1) Except in extraordinary circumstances, no restraints of any kind may be used on any pregnant woman or youth incarcerated in a correctional facility during transportation to and from visits to medical providers and court proceedings during the third trimester of her pregnancy, or during postpartum recovery. For purposes of this section, "extraordinary circumstances" exist where a corrections officer makes an individualized determination that restraints are necessary to prevent an incarcerated pregnant woman or youth from escaping, or from injuring herself, medical or correctional personnel, or others. In the event the corrections officer determines that extraordinary circumstances exist and restraints are used, the corrections officer must fully document in writing the reasons that he or she determined such extraordinary circumstances existed such that restraints were used. As part of this documentation, the corrections officer must also include the kind of restraints used and

the reasons those restraints were considered the least restrictive available and the most reasonable under the circumstances.

(2) While the pregnant woman or youth is in labor or in childbirth no restraints of any kind may be used. Nothing in this section affects the use of hospital restraints requested for the medical safety of a patient by treating physicians licensed under Title 18 RCW.

(3) Anytime restraints are permitted to be used on a pregnant woman or youth, the restraints must be the least restrictive available and the most reasonable under the circumstances, but in no case shall leg irons or waist chains be used on any woman or youth known to be pregnant.

(4) No correctional personnel shall be present in the room during the pregnant woman's or youth's labor or childbirth, unless specifically requested by medical personnel. If the employee's presence is requested by medical personnel, the employee should be female, if practicable.

(5) If the doctor, nurse, or other health professional treating the pregnant woman or youth requests that restraints not be used, the corrections officer accompanying the pregnant woman or youth shall immediately remove all restraints.

**NEW SECTION. Sec. 3.** (1) The secretary shall provide an informational packet about the requirements of this act to all medical staff and nonmedical staff who are involved in the transportation of women and youth who are pregnant, as well as such other staff as the secretary deems appropriate. The informational packet provided to staff under this section shall be developed as provided in section 13 of this act.

(2) The secretary shall cause the requirements of this act to be provided to all women or youth who are pregnant, at the time the department assumes custody of the person. In addition, the secretary shall cause a notice containing the requirements of this act to be posted in conspicuous locations in the correctional facilities, including but not limited to the locations in which medical care is provided within the facilities.

**Sec. 4.** RCW 70.48.020 and 2009 c 411 s 3 are each reenacted and amended to read as follows:

As used in this chapter the words and phrases in this section shall have the meanings indicated unless the context clearly requires otherwise.

(1) "Administration" means the direct application of a drug whether by ingestion or inhalation, to the body of an inmate by a practitioner or nonpractitioner jail personnel.

(2) "Correctional facility" means a facility operated by a governing unit primarily designed, staffed, and used for the housing of adult persons serving terms not exceeding one year for the purposes of punishment, correction, and rehabilitation following conviction of a criminal offense.

(3) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of medication whether or not there is an agency relationship.

(4) "Detention facility" means a facility operated by a governing unit primarily designed, staffed, and used for the temporary housing of adult persons charged with a criminal offense prior to trial or sentencing and for the housing of adult persons for purposes of punishment and correction after sentencing or persons serving terms not to exceed ninety days.

(5) "Drug" and "legend drug" have the same meanings as provided in RCW 69.41.010.

(6) "Governing unit" means the city and/or county or any combinations of cities and/or counties responsible for the operation, supervision, and maintenance of a jail.

(7) "Health care" means preventive, diagnostic, and rehabilitative services provided by licensed health care

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professionals and/or facilities; such care to include providing prescription drugs where indicated.

(8) "Holding facility" means a facility operated by a governing unit primarily designed, staffed, and used for the temporary housing of adult persons charged with a criminal offense prior to trial or sentencing and for the temporary housing of such persons during or after trial and/or sentencing, but in no instance shall the housing exceed thirty days.

(9) "Jail" means any holding, detention, special detention, or correctional facility as defined in this section.

(10) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix.

(11) "Major urban" means a county or combination of counties which has a city having a population greater than twenty-six thousand based on the 1978 projections of the office of financial management.

~~((11))~~ (12) "Medication" means a drug, legend drug, or controlled substance requiring a prescription or an over-the-counter or nonprescription drug.

~~((12))~~ (13) "Medication assistance" means assistance rendered by nonpractitioner jail personnel to an inmate residing in a jail to facilitate the individual's self-administration of a legend drug or controlled substance or nonprescription medication. "Medication assistance" includes reminding or coaching the individual, handing the medication container to the individual, opening the individual's medication container, using an enabler, or placing the medication in the individual's hand.

~~((13))~~ (14) "Medium urban" means a county or combination of counties which has a city having a population equal to or greater than ten thousand but less than twenty-six thousand based on the 1978 projections of the office of financial management.

~~((14))~~ (15) "Nonpractitioner jail personnel" means appropriately trained staff who are authorized to manage, deliver, or administer prescription and nonprescription medication under RCW 70.48.490.

~~((15))~~ (16) "Office" means the office of financial management.

~~((16))~~ (17) "Physical restraint" means the use of any bodily force or physical intervention to control an offender or limit an offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

- (a) Prevent an offender from completing an act that would result in potential bodily harm to self or others or damage property;
- (b) Remove a disruptive offender who is unwilling to leave the area voluntarily; or
- (c) Guide an offender from one location to another.

(18) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the woman or youth leaves the hospital, birthing center, or clinic.

(19) "Practitioner" has the same meaning as provided in RCW 69.41.010.

~~((17))~~ (20) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

- (a) Physical restraint; or
- (b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons.

(21) "Rural" means a county or combination of counties which

has a city having a population less than ten thousand based on the 1978 projections of the office of financial management.

~~((18))~~ (22) "Special detention facility" means a minimum security facility operated by a governing unit primarily designed, staffed, and used for the housing of special populations of sentenced persons who do not require the level of security normally provided in detention and correctional facilities including, but not necessarily limited to, persons convicted of offenses under RCW 46.61.502 or 46.61.504.

(23) "Transportation" means the conveying, by any means, of an incarcerated pregnant woman or youth from the correctional facility or any facility covered by this chapter to another location from the moment she leaves the correctional facility or any facility covered by this chapter to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated woman or youth from the correctional facility or facility covered by this chapter to a transport vehicle and from the vehicle to the other location.

NEW SECTION. **Sec. 5.** (1) Except in extraordinary circumstances no restraints of any kind may be used on any pregnant woman or youth incarcerated in a correctional facility or any facility covered by this chapter during transportation to and from visits to medical providers and court proceedings during the third trimester of her pregnancy, or during postpartum recovery. For purposes of this section, "extraordinary circumstances" exist where a corrections officer or employee of the correctional facility or any facility covered by this chapter makes an individualized determination that restraints are necessary to prevent an incarcerated pregnant woman or youth from escaping, or from injuring herself, medical or correctional personnel, or others. In the event the corrections officer or employee of the correctional facility or any facility covered by this chapter determines that extraordinary circumstances exist and restraints are used, the corrections officer or employee must fully document in writing the reasons that he or she determined such extraordinary circumstances existed such that restraints were used. As part of this documentation, the corrections officer or employee must also include the kind of restraints used and the reasons those restraints were considered the least restrictive available and the most reasonable under the circumstances.

(2) While the pregnant woman or youth is in labor or in childbirth no restraints of any kind may be used. Nothing in this section affects the use of hospital restraints requested for the medical safety of a patient by treating physicians licensed under Title 18 RCW.

(3) Anytime restraints are permitted to be used on a pregnant woman or youth, the restraints must be the least restrictive available and the most reasonable under the circumstances, but in no case shall leg irons or waist chains be used on any woman or youth known to be pregnant.

(4) No correctional personnel or employee of the correctional facility or any facility covered by this chapter shall be present in the room during the pregnant woman's or youth's labor or childbirth, unless specifically requested by medical personnel. If the employee's presence is requested by medical personnel, the employee should be female, if practicable.

(5) If the doctor, nurse, or other health professional treating the pregnant woman or youth requests that restraints not be used, the corrections officer or employee accompanying the pregnant woman or youth shall immediately remove all restraints.

NEW SECTION. **Sec. 6.** (1) The jail administrator or his or her designee or chief law enforcement executive or his or her designee shall provide notice of the requirements of this act to the appropriate staff at a correctional facility or a facility covered by this chapter. Appropriate staff shall include all medical staff and staff who are involved in the transportation of pregnant women and youth as well as such other staff deemed appropriate.

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(2) The jail administrator or his or her designee or chief law enforcement executive or his or her designee shall cause the requirements of this act to be provided to all women and youth of child bearing age at intake. In addition, the jail administrator or his or her designee or chief law enforcement executive or his or her designee shall cause a notice containing the requirements of this act to be posted in locations in which medical care is provided within the facilities.

**Sec. 7.** RCW 72.05.020 and 1998 c 269 s 2 are each amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Community facility" means a group care facility operated for the care of juveniles committed to the department under RCW 13.40.185. A county detention facility that houses juveniles committed to the department under RCW 13.40.185 pursuant to a contract with the department is not a community facility.

(2) "Department" means the department of social and health services.

(3) "Juvenile" means a person under the age of twenty-one who has been sentenced to a term of confinement under the supervision of the department under RCW 13.40.185.

(4) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix.

(5) "Physical restraint" means the use of any bodily force or physical intervention to control an offender or limit a juvenile offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent a juvenile offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive juvenile offender who is unwilling to leave the area voluntarily; or

(c) Guide a juvenile offender from one location to another.

(6) "Postpartum recovery" means (a) the entire period a youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the youth leaves the hospital, birthing center, or clinic.

(7) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons.

(8) "Service provider" means the entity that operates a community facility.

(9) "Transportation" means the conveying, by any means, of an incarcerated pregnant woman or youth from the institution or community facility to another location from the moment she leaves the institution or community facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated woman or youth from the institution or community facility to a transport vehicle and from the vehicle to the other location.

**NEW SECTION. Sec. 8.** (1) Except in extraordinary circumstances no restraints of any kind may be used on any pregnant youth in an institution or a community facility covered by this chapter during transportation to and from visits to medical providers and court proceedings during the third trimester of her pregnancy, or during postpartum recovery. For purposes of this

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section, "extraordinary circumstances" exist where an employee of an institution or community facility covered by this chapter makes an individualized determination that restraints are necessary to prevent an incarcerated pregnant youth from escaping, or from injuring herself, medical or correctional personnel, or others. In the event an employee of an institution or community facility covered by this chapter determines that extraordinary circumstances exist and restraints are used, the corrections officer or employee must fully document in writing the reasons that he or she determined such extraordinary circumstances existed such that restraints were used. As part of this documentation, the employee of an institution or community facility covered by this chapter must also include the kind of restraints used and the reasons those restraints were considered the least restrictive available and the most reasonable under the circumstances.

(2) While the pregnant youth is in labor or in childbirth no restraints of any kind may be used. Nothing in this section affects the use of hospital restraints requested for the medical safety of a patient by treating physicians licensed under Title 18 RCW.

(3) Anytime restraints are permitted to be used on a pregnant youth, the restraints must be the least restrictive available and the most reasonable under the circumstances, but in no case shall leg irons or waist chains be used on any youth known to be pregnant.

(4) No employee of the institution or community facility shall be present in the room during the pregnant youth's labor or childbirth, unless specifically requested by medical personnel. If the employee's presence is requested by medical personnel, the employee should be female, if practicable.

(5) If the doctor, nurse, or other health professional treating the pregnant youth requests that restraints not be used, the employee accompanying the pregnant youth shall immediately remove all restraints.

**NEW SECTION. Sec. 9.** (1) The secretary shall provide an informational packet about the requirements of this act to all medical staff and nonmedical staff of the institution or community facility who are involved in the transportation of youth who are pregnant, as well as such other staff as the secretary deems appropriate. The informational packet provided to staff under this section shall be developed as provided in section 13 of this act.

(2) The secretary shall cause the requirements of this act to be provided to all youth who are pregnant, at the time the secretary assumes custody of the person. In addition, the secretary shall cause a notice containing the requirements of this act to be posted in conspicuous locations in the institutions or community facilities, including but not limited to the locations in which medical care is provided within the facilities.

**Sec. 10.** RCW 13.40.020 and 2009 c 454 s 2 are each amended to read as follows:

For the purposes of this chapter:

(1) "Community-based rehabilitation" means one or more of the following: Employment; attendance of information classes; literacy classes; counseling, outpatient substance abuse treatment programs, outpatient mental health programs, anger management classes, education or outpatient treatment programs to prevent animal cruelty, or other services; or attendance at school or other educational programs appropriate for the juvenile as determined by the school district. Placement in community-based rehabilitation programs is subject to available funds;

(2) "Community-based sanctions" may include one or more of the following:

(a) A fine, not to exceed five hundred dollars;

(b) Community restitution not to exceed one hundred fifty hours of community restitution;

(3) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community

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by the offender as punishment for committing an offense. Community restitution may be performed through public or private organizations or through work crews;

(4) "Community supervision" means an order of disposition by the court of an adjudicated youth not committed to the department or an order granting a deferred disposition. A community supervision order for a single offense may be for a period of up to two years for a sex offense as defined by RCW 9.94A.030 and up to one year for other offenses. As a mandatory condition of any term of community supervision, the court shall order the juvenile to refrain from committing new offenses. As a mandatory condition of community supervision, the court shall order the juvenile to comply with the mandatory school attendance provisions of chapter 28A.225 RCW and to inform the school of the existence of this requirement. Community supervision is an individualized program comprised of one or more of the following:

- (a) Community-based sanctions;
- (b) Community-based rehabilitation;
- (c) Monitoring and reporting requirements;
- (d) Posting of a probation bond;

(5) "Confinement" means physical custody by the department of social and health services in a facility operated by or pursuant to a contract with the state, or physical custody in a detention facility operated by or pursuant to a contract with any county. The county may operate or contract with vendors to operate county detention facilities. The department may operate or contract to operate detention facilities for juveniles committed to the department. Pretrial confinement or confinement of less than thirty-one days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

(6) "Court," when used without further qualification, means the juvenile court judge(s) or commissioner(s);

(7) "Criminal history" includes all criminal complaints against the respondent for which, prior to the commission of a current offense:

(a) The allegations were found correct by a court. If a respondent is convicted of two or more charges arising out of the same course of conduct, only the highest charge from among these shall count as an offense for the purposes of this chapter; or

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history. A successfully completed deferred adjudication that was entered before July 1, 1998, or a deferred disposition shall not be considered part of the respondent's criminal history;

(8) "Department" means the department of social and health services;

(9) "Detention facility" means a county facility, paid for by the county, for the physical confinement of a juvenile alleged to have committed an offense or an adjudicated offender subject to a disposition or modification order. "Detention facility" includes county group homes, inpatient substance abuse programs, juvenile basic training camps, and electronic monitoring;

(10) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender, or any other person, community accountability board, youth court under the supervision of the juvenile court, or other entity except a law enforcement official or entity, with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.40.080, or any person, community accountability board, or other entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter. For purposes of this subsection, "community accountability board" means a board

comprised of members of the local community in which the juvenile offender resides. The superior court shall appoint the members. The boards shall consist of at least three and not more than seven members. If possible, the board should include a variety of representatives from the community, such as a law enforcement officer, teacher or school administrator, high school student, parent, and business owner, and should represent the cultural diversity of the local community;

(11) "Foster care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care;

(12) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

(13) "Intensive supervision program" means a parole program that requires intensive supervision and monitoring, offers an array of individualized treatment and transitional services, and emphasizes community involvement and support in order to reduce the likelihood a juvenile offender will commit further offenses;

(14) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years and who has not been previously transferred to adult court pursuant to RCW 13.40.110, unless the individual was convicted of a lesser charge or acquitted of the charge for which he or she was previously transferred pursuant to RCW 13.40.110 or who is not otherwise under adult court jurisdiction;

(15) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person eighteen years of age or older over whom jurisdiction has been extended under RCW 13.40.300;

(16) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix;

(17) "Local sanctions" means one or more of the following: (a) 0-30 days of confinement; (b) 0-12 months of community supervision; (c) 0-150 hours of community restitution; or (d) \$0-\$500 fine;

~~((17))~~ (18) "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a serious, and clear danger to society in light of the purposes of this chapter;

~~((18))~~ (19) "Monitoring and reporting requirements" means one or more of the following: Curfews; requirements to remain at home, school, work, or court-ordered treatment programs during specified hours; restrictions from leaving or entering specified geographical areas; requirements to report to the probation officer as directed and to remain under the probation officer's supervision; and other conditions or limitations as the court may require which may not include confinement;

~~((19))~~ (20) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

~~((20))~~ (21) "Physical restraint" means the use of any bodily force or physical intervention to control a juvenile offender or limit a juvenile offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent a juvenile offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive juvenile offender who is unwilling to leave the area voluntarily; or

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(c) Guide a juvenile offender from one location to another.

(22) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the youth leaves the hospital, birthing center, or clinic;

(23) "Probation bond" means a bond, posted with sufficient security by a surety justified and approved by the court, to secure the offender's appearance at required court proceedings and compliance with court-ordered community supervision or conditions of release ordered pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of cash or posting of other collateral in lieu of a bond if approved by the court;

~~((21))~~ (24) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

~~((22))~~ (25) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, lost wages resulting from physical injury, and costs of the victim's counseling reasonably related to the offense. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

~~((23))~~ (26) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons;

(27) "Secretary" means the secretary of the department of social and health services. "Assistant secretary" means the assistant secretary for juvenile rehabilitation for the department;

~~((24))~~ (28) "Services" means services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

~~((25))~~ (29) "Sex offense" means an offense defined as a sex offense in RCW 9.94A.030;

~~((26))~~ (30) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of his or her sexual gratification;

~~((27))~~ (31) "Surety" means an entity licensed under state insurance laws or by the state department of licensing, to write corporate, property, or probation bonds within the state, and justified and approved by the superior court of the county having jurisdiction of the case;

~~((28))~~ (32) "Transportation" means the conveying, by any means, of an incarcerated pregnant youth from the institution or detention facility to another location from the moment she leaves the institution or detention facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated youth from the institution or detention facility to a transport vehicle and from the vehicle to the other location.

(33) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration;

~~((29))~~ (34) "Violent offense" means a violent offense as defined in RCW 9.94A.030;

~~((30))~~ (35) "Youth court" means a diversion unit under the supervision of the juvenile court.

**NEW SECTION. Sec. 11.** (1) Except in extraordinary circumstances, no restraints of any kind may be used on any pregnant youth in an institution or detention facility covered by this

chapter during transportation to and from visits to medical providers and court proceedings during the third trimester of her pregnancy, or during postpartum recovery. For purposes of this section, "extraordinary circumstances" exist where an employee at an institution or detention facility makes an individualized determination that restraints are necessary to prevent an incarcerated pregnant youth from escaping, or from injuring herself, medical or correctional personnel, or others. In the event the employee of the institution or detention facility determines that extraordinary circumstances exist and restraints are used, the employee of the institution or detention facility must fully document in writing the reasons that he or she determined such extraordinary circumstances existed such that restraints were used. As part of this documentation, the employee of the institution or detention facility must also include the kind of restraints used and the reasons those restraints were considered the least restrictive available and the most reasonable under the circumstances.

(2) While the pregnant youth is in labor or in childbirth no restraints of any kind may be used. Nothing in this section affects the use of hospital restraints requested for the medical safety of a patient by treating physicians licensed under Title 18 RCW.

(3) Anytime restraints are permitted to be used on a pregnant youth, the restraints must be the least restrictive available and the most reasonable under the circumstances, but in no case shall leg irons or waist chains be used on any youth known to be pregnant.

(4) No employee of the institution or detention facility shall be present in the room during the pregnant youth's labor or childbirth, unless specifically requested by medical personnel. If the employee's presence is requested by medical personnel, the employee should be female, if practicable.

(5) If the doctor, nurse, or other health professional treating the pregnant youth requests that restraints not be used, the employee of the institution or detention facility accompanying the pregnant youth shall immediately remove all restraints.

**NEW SECTION. Sec. 12.** (1) The director of the juvenile detention facility shall provide an informational packet about the requirements of this act to all medical staff and nonmedical staff who are involved in the transportation of youth who are pregnant, as well as such other staff as appropriate. The informational packet provided to staff under this section shall be developed as provided in section 13 of this act.

(2) The director shall cause the requirements of this act to be provided to all youth who are pregnant, at the time the facility assumes custody of the person. In addition, the facility shall cause a notice containing the requirements of this act to be posted in conspicuous locations in the detention facilities, including but not limited to the locations in which medical care is provided within the facilities.

**NEW SECTION. Sec. 13.** The Washington association of sheriffs and police chiefs, the department of corrections, the department of social and health services, juvenile rehabilitation administration, and the criminal justice training commission shall jointly develop an informational packet on the requirements of this act. The packet shall be ready for distribution no later than September 1, 2010.

**NEW SECTION. Sec. 14.** No civil liability may be imposed by any court on the county or its jail officers or employees under sections 5 and 6 of this act except upon proof of gross negligence.

**NEW SECTION. Sec. 15.** Sections 2 and 3 of this act are each added to chapter 72.09 RCW.

**NEW SECTION. Sec. 16.** Sections 5, 6, and 13 of this act are each added to chapter 70.48 RCW.

**NEW SECTION. Sec. 17.** Sections 8 and 9 of this act are each added to chapter 72.05 RCW.

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NEW SECTION. Sec. 18. Sections 11 and 12 of this act are each added to chapter 13.40 RCW."

Senator Hargrove spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Engrossed Substitute House Bill No. 2747.

The motion by Senator Hargrove carried and the committee striking amendment was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "youth;" strike the remainder of the title and insert "amending RCW 72.09.015, 72.05.020, and 13.40.020; reenacting and amending RCW 70.48.020; adding new sections to chapter 72.09 RCW; adding new sections to chapter 70.48 RCW; adding new sections to chapter 72.05 RCW; adding new sections to chapter 13.40 RCW; and creating a new section."

## MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Substitute House Bill No. 2747 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove, Fraser, Stevens, Honeyford and Brandland spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2747 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2747 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, McCaslin and Pflug

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2747 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 3:22 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

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The Senate was called to order at 4:58 p.m. by President Owen.

## SECOND READING

HOUSE BILL NO. 2608, by Representatives Nelson, Kirby, Chase, Simpson, Morrell, Maxwell and Moeller

Concerning regulation and licensing of residential mortgage loan servicers and services.

The measure was read the second time.

## MOTION

On motion of Senator Berkey, the rules were suspended, House Bill No. 2608 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Berkey spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2608.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2608 and the bill passed the Senate by the following vote: Yeas, 40; Nays, 6; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Becker, Holmquist, Honeyford, Morton, Schoesler and Stevens

Excused: Senators Fairley, McCaslin and Pflug

HOUSE BILL NO. 2608, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1956, by House Committee on Local Government & Housing (originally sponsored by Representatives Williams, Chase, Ormsby, Darnelle, Van De Wege, Dickerson and Simpson)

Authorizing the housing of homeless persons on property owned or controlled by a church. Revised for 1st Substitute: Authorizing the housing of homeless persons on property owned or controlled by a church. (REVISED FOR ENGROSSED: Authorizing churches to host temporary encampments for homeless persons on property owned or controlled by a church.)

The measure was read the second time.

## MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that there are many homeless persons in our state that are in need of shelter and

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other services that are not being provided by the state and local governments. The legislature also finds that in many communities, religious organizations play an important role in providing needed services to the homeless, including the provision of shelter upon property owned by the religious organization. By providing such shelter, the religious institutions in our communities perform a valuable public service that, for many, offers a temporary, stop-gap solution to the larger social problem of increasing numbers of homeless persons.

This act provides guidance to cities and counties in regulating homeless encampments within the community, but still leaves those entities with broad discretion to protect the health and safety of its citizens. It is the hope of this legislature that local governments and religious organizations can work together and utilize dispute resolution processes without the need for litigation.

**NEW SECTION. Sec. 2.** A new section is added to chapter 36.01 RCW to read as follows:

(1) A religious organization may host temporary encampments for the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings.

(2) A county may not enact an ordinance or regulation or take any other action that:

(a) Imposes conditions other than those necessary to protect public health and safety and that do not substantially burden the decisions or actions of a religious organization regarding the location of housing or shelter for homeless persons on property owned by the religious organization;

(b) Requires a religious organization to obtain insurance pertaining to the liability of a municipality with respect to homeless persons housed on property owned by a religious organization or otherwise requires the religious organization to indemnify the municipality against such liability; or

(c) Imposes permit fees in excess of the actual costs associated with the review and approval of the required permit applications.

(3) For the purposes of this section, "religious organization" means the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property.

(4) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for (a) damages arising from the permitting decisions for a temporary encampment for the homeless as provided in this section and (b) any conduct or unlawful activity that may occur as a result of the temporary encampment for the homeless as provided in this section.

**NEW SECTION. Sec. 3.** A new section is added to chapter 35.21 RCW to read as follows:

(1) A religious organization may host temporary encampments for the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings.

(2) A city or town may not enact an ordinance or regulation or take any other action that:

(a) Imposes conditions other than those necessary to protect public health and safety and that do not substantially burden the decisions or actions of a religious organization regarding the location of housing or shelter for homeless persons on property owned by the religious organization;

(b) Requires a religious organization to obtain insurance pertaining to the liability of a municipality with respect to homeless persons housed on property owned by a religious organization or otherwise requires the religious organization to indemnify the municipality against such liability; or

(c) Imposes permit fees in excess of the actual costs associated with the review and approval of the required permit applications.

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(3) For the purposes of this section, "religious organization" means the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property.

(4) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for (a) damages arising from the permitting decisions for a temporary encampment for the homeless as provided in this section and (b) any conduct or unlawful activity that may occur as a result of the temporary encampment for the homeless as provided in this section.

**NEW SECTION. Sec. 4.** A new section is added to chapter 35A.21 RCW to read as follows:

(1) A religious organization may host temporary encampments for the homeless on property owned or controlled by the religious organization whether within buildings located on the property or elsewhere on the property outside of buildings.

(2) A code city may not enact an ordinance or regulation or take any other action that:

(a) Imposes conditions other than those necessary to protect public health and safety and that do not substantially burden the decisions or actions of a religious organization regarding the location of housing or shelter for homeless persons on property owned by the religious organization;

(b) Requires a religious organization to obtain insurance pertaining to the liability of a municipality with respect to homeless persons housed on property owned by a religious organization or otherwise requires the religious organization to indemnify the municipality against such liability; or

(c) Imposes permit fees in excess of the actual costs associated with the review and approval of the required permit applications.

(3) For the purposes of this section, "religious organization" means the federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property.

(4) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for (a) damages arising from the permitting decisions for a temporary encampment for the homeless as provided in this section and (b) any conduct or unlawful activity that may occur as a result of the temporary encampment for the homeless as provided in this section.

**NEW SECTION. Sec. 5.** Nothing in this act is intended to change applicable law or be interpreted to prohibit a county, city, town, or code city from applying zoning and land use regulations allowable under established law to real property owned by a religious organization, regardless of whether the property owned by the religious organization is used to provide shelter or housing to homeless persons.

**NEW SECTION. Sec. 6.** Nothing in this act supersedes a court ordered consent decree or other negotiated settlement between a public agency and religious organization entered into prior to July 1, 2010, for the purposes of establishing a temporary encampment for the homeless as provided in this act."

Senator Hargrove spoke in favor of adoption of the committee striking amendment.

#### MOTION

On motion of Senator Delvin, Senator Carrell was excused.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Engrossed Substitute House Bill No. 1956.

The motion by Senator Hargrove carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "church;" strike the remainder of the title and insert "adding a new section to chapter 36.01 RCW; adding a new section to chapter 35.21 RCW; adding a new section to chapter 35A.21 RCW; and creating new sections."

MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Substitute House Bill No. 1956 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1956 as amended by the Senate .

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1956 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 40; Nays, 5; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Holmquist, Honeyford, Roach, Schoesler and Sheldon

Excused: Senators Carrell, Fairley, McCaslin and Pflug

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1956 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2533, by House Committee on Human Services (originally sponsored by Representatives Pearson, Hurst, Kelley and Morrell)

Adopting the interstate compact on mental health. Revised for 1st Substitute: Concerning the interstate compact on mental health.

The measure was read the second time.

MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 71.05 RCW to read as follows:

(1) A civil commitment may be initiated under the procedures described in RCW 71.05.150 or 71.05.153 for a person who has been found not guilty by reason of insanity in a state other than Washington and who has fled from detention, commitment, or conditional release in that state, on the basis of a request by the state in which the person was found not guilty by reason of insanity for the person to be detained and transferred back to the custody or care of the requesting state. A finding of likelihood of serious harm or grave disability is not required for a commitment under this section. The detention may occur at either an evaluation and treatment facility or a state hospital. The petition for seventy-two hour detention filed by the designated mental health professional must be accompanied by the following documents:

(a) A copy of an order for detention, commitment, or conditional release of the person in a state other than Washington on the basis of a judgment of not guilty by reason of insanity;

(b) A warrant issued by a magistrate in the state in which the person was found not guilty by reason of insanity indicating that the person has fled from detention, commitment, or conditional release in that state and authorizing the detention of the person within the state in which the person was found not guilty by reason of insanity;

(c) A statement from the executive authority of the state in which the person was found not guilty by reason of insanity requesting that the person be returned to the requesting state and agreeing to facilitate the transfer of the person to the requesting state.

(2) The person shall be entitled to a probable cause hearing within the time limits applicable to other detentions under this chapter and shall be afforded the rights described in this chapter including the right to counsel. At the probable cause hearing, the court shall determine the identity of the person and whether the other requirements of this section are met. If the court so finds, the court may order continued detention in a treatment facility for up to thirty days for the purpose of the transfer of the person to the custody or care of the requesting state. The court may order a less restrictive alternative to detention only under conditions which ensure the person's safe transfer to the custody or care of the requesting state within thirty days without undue risk to the safety of the person or others.

(3) For the purposes of this section, "not guilty by reason of insanity" shall be construed to include any provision of law which is generally equivalent to a finding of criminal insanity within the state of Washington; and "state" shall be construed to mean any state, district, or territory of the United States."

MOTION

Senator Hargrove moved that the following amendment by Senators Hargrove and Stevens to the committee striking amendment be adopted:

On page 2, beginning on line 18 of the title amendment, strike the title amendment and insert the following:

"On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "the detention and interstate transfer of persons found not guilty by reason of insanity; and adding a new section to chapter 71.05 RCW.""

Senator Hargrove spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Hargrove and Stevens on page 2, line 18 to the committee striking amendment to Substitute House Bill No. 2533.

The motion by Senator Hargrove carried and the amendment to the committee striking amendment was adopted by voice vote.

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Senator Hargrove spoke in favor of adoption of the committee striking amendment as amended.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections as amended to Substitute House Bill No. 2533.

The motion by Senator Hargrove carried and the committee striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "health," strike the remainder of the title and insert "and adding a new section to chapter 71.05 RCW."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 2533 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2533 as amended by the Senate

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2533 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Carrell, Fairley, McCaslin and Pflug

SUBSTITUTE HOUSE BILL NO. 2533 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE JOINT MEMORIAL NO. 4004, by House Committee on Transportation (originally sponsored by Representatives Van De Wege, Kessler, Rodne, Lias, Takko, Hurst, Jacks, Hasegawa, Kelley, Eddy, Seaquist, McCoy, Appleton, Hudgins, Morrell, Hope, Sullivan and Nelson)

Naming a certain portion of state route number 110 the "Operations Desert Shield and Desert Storm Memorial Highway."

The measure was read the second time.

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Joint Memorial No. 4004 was advanced to third reading, the second reading considered the third and the memorial was placed on final passage.

Senator Hargrove spoke in favor of passage of the memorial.

The President declared the question before the Senate to be the final passage of Substitute House Joint Memorial No. 4004.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Joint Memorial No. 4004 and the memorial passed the Senate by the following vote: Yeas, 44; Nays, 1; Absent, 1; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Oemig

Absent: Senator Brown

Excused: Senators Fairley, McCaslin and Pflug

SUBSTITUTE HOUSE JOINT MEMORIAL NO. 4004, having received the constitutional majority, was declared passed.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2538, by House Committee on Ecology & Parks (originally sponsored by Representatives Upthegrove, Taylor, Eddy, Pedersen, Clibborn, Chase and Springer)

Regarding high-density urban development.

The measure was read the second time.

#### MOTION

Senator Fraser moved that the following committee striking amendment by the Committee on Environment, Water & Energy be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** It is the intent of the legislature to encourage high-density, compact, in-fill development and redevelopment within existing urban areas in order to further existing goals of chapter 36.70A RCW, the growth management act, to promote the use of public transit and encourage further investment in transit systems, and to contribute to the reduction of greenhouse gas emissions by: (1) Encouraging local governments to adopt plans and regulations that authorize compact, high-density urban development as defined in section 2 of this act; (2) providing for the funding and preparation of environmental impact statements that comprehensively examine the impacts of such development at the time that the plans and regulations are adopted; and (3) encouraging development that is consistent with such plans and regulations by precluding appeals under chapter 43.21C RCW.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.21C RCW to read as follows:

(1) Cities with a population greater than five thousand, in accordance with their existing comprehensive planning and

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development regulation authority under chapter 36.70A RCW, and in accordance with this section, may adopt optional elements of their comprehensive plans and optional development regulations that apply within specified subareas of the cities, that are either:

(a) Areas designated as mixed-use or urban centers in a land use or transportation plan adopted by a regional transportation planning organization; or

(b) Areas within one-half mile of a major transit stop that are zoned to have an average minimum density of fifteen dwelling units or more per gross acre.

(2) Cities located on the east side of the Cascade mountains and located in a county with a population of two hundred thirty thousand or less, in accordance with their existing comprehensive planning and development regulation authority under chapter 36.70A RCW, and in accordance with this section, may adopt optional elements of their comprehensive plans and optional development regulations that apply within the mixed-use or urban centers. The optional elements of their comprehensive plans and optional development regulations must enhance pedestrian, bicycle, transit, or other nonvehicular transportation methods.

(3) A major transit stop is defined as:

(a) A stop on a high capacity transportation service funded or expanded under the provisions of chapter 81.104 RCW;

(b) Commuter rail stops;

(c) Stops on rail or fixed guideway systems, including transitways;

(d) Stops on bus rapid transit routes or routes that run on high occupancy vehicle lanes; or

(e) Stops for a bus or other transit mode providing fixed route service at intervals of at least thirty minutes during the peak hours of operation.

(4)(a) A city that elects to adopt such an optional comprehensive plan element and optional development regulations shall prepare a nonproject environmental impact statement, pursuant to RCW 43.21C.030, assessing and disclosing the probable significant adverse environmental impacts of the optional comprehensive plan element and development regulations and of future development that is consistent with the plan and regulations.

(b) At least one community meeting must be held on the proposed subarea plan before the scoping notice for such a nonproject environmental impact statement is issued. Notice of scoping for such a nonproject environmental impact statement and notice of the community meeting required by this section must be mailed to all property owners of record within the subarea to be studied, to all property owners within one hundred fifty feet of the boundaries of such a subarea, to all affected federally recognized tribal governments whose ceded area is within one-half mile of the boundaries of the subarea, and to agencies with jurisdiction over the future development anticipated within the subarea.

(c) In cities with over five hundred thousand residents, notice of scoping for such a nonproject environmental impact statement and notice of the community meeting required by this section must be mailed to all small businesses as defined in RCW 19.85.020, and to all community preservation and development authorities established under chapter 43.167 RCW, located within the subarea to be studied or within one hundred fifty feet of the boundaries of such subarea. The process for community involvement must have the goal of fair treatment and meaningful involvement of all people with respect to the development and implementation of the subarea planning process.

(d) The notice of the community meeting must include general illustrations and descriptions of buildings generally representative of the maximum building envelope that will be allowed under the proposed plan and indicate that future appeals of proposed developments that are consistent with the plan will be limited.

Notice of the community meeting must include signs located on major travel routes in the subarea. If the building envelope increases during the process, another notice complying with the requirements of this section must be issued before the next public involvement opportunity.

(e) Any person that has standing to appeal the adoption of this subarea plan or the implementing regulations under RCW 36.70A.280 has standing to bring an appeal of the nonproject environmental impact statement required by this subsection.

(f) Cities with over five hundred thousand residents shall prepare a study that accompanies or is appended to the nonproject environmental impact statement, but must not be part of that statement, that analyzes the extent to which the proposed subarea plan may result in the displacement or fragmentation of existing businesses, existing residents, including people living with poverty, families with children, and intergenerational households, or cultural groups within the proposed subarea plan. The city shall also discuss the results of the analysis at the community meeting.

(g) As an incentive for development authorized under this section, a city shall consider establishing a transfer of development rights program in consultation with the county where the city is located, that conserves county-designated agricultural and forest land of long-term commercial significance. If the city decides not to establish a transfer of development rights program, the city must state in the record the reasons for not adopting the program. The city's decision not to establish a transfer of development rights program is not subject to appeal. Nothing in this subsection (4)(g) may be used as a basis to challenge the optional comprehensive plan or subarea plan policies authorized under this section.

(5)(a) Until July 1, 2018, a proposed development that is consistent with the optional comprehensive plan or subarea plan policies and development regulations adopted under subsection (1) or (2) of this section and that is environmentally reviewed under subsection (4) of this section may not be challenged in administrative or judicial appeals for noncompliance with this chapter as long as a complete application for such a development that vests the application or would later lead to vested status under city or state law is submitted to the city within a time frame established by the city, but not to exceed ten years from the date of issuance of the final environmental impact statement.

(b) After July 1, 2018, the immunity from appeals under this chapter of any application that vests or will vest under this subsection or the ability to vest under this subsection is still valid, provided that the final subarea environmental impact statement is issued by July 1, 2018. After July 1, 2018, a city may continue to collect reimbursement fees under subsection (6) of this section for the proportionate share of a subarea environmental impact statement issued prior to July 1, 2018.

(6) It is recognized that a city that prepares a nonproject environmental impact statement under subsection (4) of this section must endure a substantial financial burden. A city may recover its reasonable expenses of preparation of a nonproject environmental impact statement prepared under subsection (4) of this section through access to financial assistance under RCW 36.70A.490 or funding from private sources. In addition, a city is authorized to recover a portion of its reasonable expenses of preparation of such a nonproject environmental impact statement by the assessment of reasonable and proportionate fees upon subsequent development that is consistent with the plan and development regulations adopted under subsection (5) of this section, as long as the development makes use of and benefits, as described in subsection (5) of this section, from the nonproject environmental impact statement prepared by the city. Any assessment fees collected from subsequent development may be used to reimburse funding received from private sources. In order to collect such fees, the city must

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enact an ordinance that sets forth objective standards for determining how the fees to be imposed upon each development will be proportionate to the impacts of each development and to the benefits accruing to each development from the nonproject environmental impact statement. Any disagreement about the reasonableness or amount of the fees imposed upon a development may not be the basis for delay in issuance of a project permit for that development. The fee assessed by the city may be paid with the written stipulation "paid under protest" and if the city provides for an administrative appeal of its decision on the project for which the fees are imposed, any dispute about the amount of the fees must be resolved in the same administrative appeal process.

(7) If a proposed development is inconsistent with the nonproject environmental impact statement developed under subsection (4) of this section or if potential impacts from a proposed development are not adequately addressed in the nonproject environmental impact statement developed under subsection (4) of this section, the city shall require a supplement environmental impact statement.

**Sec. 3.** RCW 82.02.020 and 2009 c 535 s 1103 are each amended to read as follows:

Except only as expressly provided in chapters 67.28, 81.104, and 82.14 RCW, the state preempts the field of imposing retail sales and use taxes and taxes upon parimutuel wagering authorized pursuant to RCW 67.16.060, conveyances, and cigarettes, and no county, town, or other municipal subdivision shall have the right to impose taxes of that nature. Except as provided in RCW 64.34.440 and 82.02.050 through 82.02.090, no county, city, town, or other municipal corporation shall impose any tax, fee, or charge, either direct or indirect, on the construction or reconstruction of residential buildings, commercial buildings, industrial buildings, or on any other building or building space or appurtenance thereto, or on the development, subdivision, classification, or reclassification of land. However, this section does not preclude dedications of land or easements within the proposed development or plat which the county, city, town, or other municipal corporation can demonstrate are reasonably necessary as a direct result of the proposed development or plat to which the dedication of land or easement is to apply.

This section does not prohibit voluntary agreements with counties, cities, towns, or other municipal corporations that allow a payment in lieu of a dedication of land or to mitigate a direct impact that has been identified as a consequence of a proposed development, subdivision, or plat. A local government shall not use such voluntary agreements for local off-site transportation improvements within the geographic boundaries of the area or areas covered by an adopted transportation program authorized by chapter 39.92 RCW. Any such voluntary agreement is subject to the following provisions:

(1) The payment shall be held in a reserve account and may only be expended to fund a capital improvement agreed upon by the parties to mitigate the identified, direct impact;

(2) The payment shall be expended in all cases within five years of collection; and

(3) Any payment not so expended shall be refunded with interest to be calculated from the original date the deposit was received by the county and at the same rate applied to tax refunds pursuant to RCW 84.69.100; however, if the payment is not expended within five years due to delay attributable to the developer, the payment shall be refunded without interest.

No county, city, town, or other municipal corporation shall require any payment as part of such a voluntary agreement which the county, city, town, or other municipal corporation cannot establish is reasonably necessary as a direct result of the proposed development or plat.

Nothing in this section prohibits cities, towns, counties, or other municipal corporations from collecting reasonable fees from an applicant for a permit or other governmental approval to cover the cost to the city, town, county, or other municipal corporation of processing applications, inspecting and reviewing plans, or preparing detailed statements required by chapter 43.21C RCW, including reasonable fees that are consistent with section 2(6) of this act.

This section does not limit the existing authority of any county, city, town, or other municipal corporation to impose special assessments on property specifically benefitted thereby in the manner prescribed by law.

Nothing in this section prohibits counties, cities, or towns from imposing or permits counties, cities, or towns to impose water, sewer, natural gas, drainage utility, and drainage system charges. However, no such charge shall exceed the proportionate share of such utility or system's capital costs which the county, city, or town can demonstrate are attributable to the property being charged. Furthermore, these provisions may not be interpreted to expand or contract any existing authority of counties, cities, or towns to impose such charges.

Nothing in this section prohibits a transportation benefit district from imposing fees or charges authorized in RCW 36.73.120 nor prohibits the legislative authority of a county, city, or town from approving the imposition of such fees within a transportation benefit district.

Nothing in this section prohibits counties, cities, or towns from imposing transportation impact fees authorized pursuant to chapter 39.92 RCW.

Nothing in this section prohibits counties, cities, or towns from requiring property owners to provide relocation assistance to tenants under RCW 59.18.440 and 59.18.450.

Nothing in this section limits the authority of counties, cities, or towns to implement programs consistent with RCW 36.70A.540, nor to enforce agreements made pursuant to such programs.

This section does not apply to special purpose districts formed and acting pursuant to Title 54, 57, or 87 RCW, nor is the authority conferred by these titles affected."

Senator Fraser spoke in favor of adoption of the committee striking amendment.

#### MOTION

Senator Fraser moved that the following amendment by Senators Fraser, Honeyford and Rockefeller to the committee striking amendment be adopted:

On page 5, beginning on line 17 of the amendment, after "inconsistent" strike all material through "statement." on line 22, and insert "with the optional comprehensive plan or subarea plan policies and development regulations adopted under subsection (1) of this section, the city shall require additional environmental review in accordance with this chapter."

Senator Fraser spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Fraser, Honeyford and Rockefeller on page 5, line 17 to the committee striking amendment to Engrossed Substitute House Bill No. 2538.

The motion by Senator Fraser carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the

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Committee on Environment, Water & Energy as amended to Engrossed Substitute House Bill No. 2538.

The motion by Senator Fraser carried and the committee striking amendment as amended was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "development;" strike the remainder of the title and insert "amending RCW 82.02.020; adding a new section to chapter 43.21C RCW; and creating a new section."

MOTION

On motion of Senator Fraser, the rules were suspended, Engrossed Substitute House Bill No. 2538 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fraser and Honeyford spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2538 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2538 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yeas: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, McCaslin and Pflug

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2538 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2657, by House Committee on Judiciary (originally sponsored by Representative Pedersen)

Addressing the dissolution of limited liability companies.

The measure was read the second time.

MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Judiciary be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 25.15.005 and 2008 c 198 s 4 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Certificate of formation" means the certificate referred to in RCW 25.15.070, and the certificate as amended.

(2) "Event of dissociation" means an event that causes a person to cease to be a member as provided in RCW 25.15.130.

(3) "Foreign limited liability company" means an entity that is formed under:

(a) The limited liability company laws of any state other than this state; or

(b) The laws of any foreign country that is: (i) An unincorporated association, (ii) formed under a statute pursuant to which an association may be formed that affords to each of its members limited liability with respect to the liabilities of the entity, and (iii) not required, in order to transact business or conduct affairs in this state, to be registered or qualified under Title 23B or 24 RCW, or any other chapter of the Revised Code of Washington authorizing the formation of a domestic entity and the registration or qualification in this state of similar entities formed under the laws of a jurisdiction other than this state.

(4) "Limited liability company" and "domestic limited liability company" means a limited liability company having one or more members that is organized and existing under this chapter.

(5) "Limited liability company agreement" means any written agreement of the members, or any written statement of the sole member, as to the affairs of a limited liability company and the conduct of its business which is binding upon the member or members.

(6) "Limited liability company interest" means a member's share of the profits and losses of a limited liability company and a member's right to receive distributions of the limited liability company's assets.

(7) "Manager" or "managers" means, with respect to a limited liability company that has set forth in its certificate of formation that it is to be managed by managers, the person, or persons designated in accordance with RCW 25.15.150(2).

(8) "Member" means a person who has been admitted to a limited liability company as a member as provided in RCW 25.15.115 and who has not been dissociated from the limited liability company.

(9) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, or a separate legal entity comprised of two or more of these entities, or any other legal or commercial entity.

(10) "Professional limited liability company" means a limited liability company which is organized for the purpose of rendering professional service and whose certificate of formation sets forth that it is a professional limited liability company subject to RCW 25.15.045.

(11) "Professional service" means the same as defined under RCW 18.100.030.

(12) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(13) "State" means the District of Columbia or the Commonwealth of Puerto Rico or any state, territory, possession, or other jurisdiction of the United States other than the state of Washington.

Sec. 2. RCW 25.15.070 and 1994 c 211 s 201 are each amended to read as follows:

(1) In order to form a limited liability company, one or more persons must execute a certificate of formation. The certificate of formation shall be filed in the office of the secretary of state and set forth:

(a) The name of the limited liability company;

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(b) The address of the registered office and the name and address of the registered agent for service of process required to be maintained by RCW 25.15.020;

(c) The address of the principal place of business of the limited liability company;

(d) If the limited liability company is to have a specific date of dissolution, the latest date on which the limited liability company is to dissolve;

(e) If management of the limited liability company is vested in a manager or managers, a statement to that effect;

(f) Any other matters the members decide to include therein; and

(g) The name and address of each person executing the certificate of formation.

(2) Effect of filing:

(a) Unless a delayed effective date is specified, a limited liability company is formed when its certificate of formation is filed by the secretary of state. A delayed effective date for a certificate of formation may be no later than the ninetieth day after the date it is filed.

(b) The secretary of state's filing of the certificate of formation is conclusive proof that the persons executing the certificate satisfied all conditions precedent to the formation (~~(except in a proceeding by the state to cancel the certificate)~~).

(c) A limited liability company formed under this chapter shall be a separate legal entity((, the existence of which as a separate legal entity shall continue until cancellation of the limited liability company's certificate of formation)).

**Sec. 3.** RCW 25.15.085 and 2002 c 74 s 17 are each amended to read as follows:

(1) Each document required by this chapter to be filed in the office of the secretary of state shall be executed in the following manner, or in compliance with the rules established to facilitate electronic filing under RCW 25.15.007, except as set forth in RCW 25.15.105(4)(b):

(a) Each original certificate of formation must be signed by the person or persons forming the limited liability company;

(b) A reservation of name may be signed by any person;

(c) A transfer of reservation of name must be signed by, or on behalf of, the applicant for the reserved name;

(d) A registration of name must be signed by any member or manager of the foreign limited liability company;

(e) A certificate of amendment or restatement must be signed by at least one manager, or by a member if management of the limited liability company is reserved to the members;

(f) A certificate of (~~cancellation~~) dissolution must be signed by the person or persons authorized to wind up the limited liability company's affairs pursuant to RCW 25.15.295(~~(4)~~) (3);

(g) If a surviving domestic limited liability company is filing articles of merger, the articles of merger must be signed by at least one manager, or by a member if management of the limited liability company is reserved to the members, or if the articles of merger are being filed by a surviving foreign limited liability company, limited partnership, or corporation, the articles of merger must be signed by a person authorized by such foreign limited liability company, limited partnership, or corporation; and

(h) A foreign limited liability company's application for registration as a foreign limited liability company doing business within the state must be signed by any member or manager of the foreign limited liability company.

(2) Any person may sign a certificate, articles of merger, limited liability company agreement, or other document by an attorney-in-fact or other person acting in a valid representative capacity, so long as each document signed in such manner identifies the capacity in which the signator signed.

(3) The person executing the document shall sign it and state beneath or opposite the signature the name of the person and capacity in which the person signs. The document must be typewritten or printed, and must meet such legibility or other standards as may be prescribed by the secretary of state.

(4) The execution of a certificate or articles of merger by any person constitutes an affirmation under the penalties of perjury that the facts stated therein are true.

**Sec. 4.** RCW 25.15.095 and 2002 c 74 s 18 are each amended to read as follows:

(1) The original signed copy, together with a duplicate copy that may be either a signed, photocopied, or conformed copy, of the certificate of formation or any other document required to be filed pursuant to this chapter, except as set forth under RCW 25.15.105 or unless a duplicate is not required under rules adopted under RCW 25.15.007, shall be delivered to the secretary of state. If the secretary of state determines that the documents conform to the filing provisions of this chapter, he or she shall, when all required filing fees have been paid:

(a) Endorse on each signed original and duplicate copy the word "filed" and the date of its acceptance for filing;

(b) Retain the signed original in the secretary of state's files; and

(c) Return the duplicate copy to the person who filed it or the person's representative.

(2) If the secretary of state is unable to make the determination required for filing by subsection (1) of this section at the time any documents are delivered for filing, the documents are deemed to have been filed at the time of delivery if the secretary of state subsequently determines that:

(a) The documents as delivered conform to the filing provisions of this chapter; or

(b) Within twenty days after notification of nonconformance is given by the secretary of state to the person who delivered the documents for filing or the person's representative, the documents are brought into conformance.

(3) If the filing and determination requirements of this chapter are not satisfied completely within the time prescribed in subsection (2)(b) of this section, the documents shall not be filed.

(4) Upon the filing of a certificate of amendment (or judicial decree of amendment) or restated certificate in the office of the secretary of state, or upon the future effective date or time of a certificate of amendment (or judicial decree thereof) or restated certificate, as provided for therein, the certificate of formation shall be amended or restated as set forth therein. (~~Upon the filing of a certificate of cancellation (or a judicial decree thereof), or articles of merger which act as a certificate of cancellation, or upon the future effective date or time of a certificate of cancellation (or a judicial decree thereof) or of articles of merger which act as a certificate of cancellation, as provided for therein, or as specified in RCW 25.15.290, the certificate of formation is canceled.~~)

**Sec. 5.** RCW 25.15.270 and 2009 c 437 s 1 are each amended to read as follows:

A limited liability company is dissolved and its affairs shall be wound up upon the first to occur of the following:

(1)(a) The dissolution date, if any, specified in the certificate of formation. If a dissolution date is not specified in the certificate of formation, the limited liability company's existence will continue until the first to occur of the events described in subsections (2) through (6) of this section. If a dissolution date is specified in the certificate of formation, the certificate of formation may be amended and the existence of the limited liability company may be extended by vote of all the members.

(b) This subsection does not apply to a limited liability company formed under RCW 30.08.025 or 32.08.025;

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(2) The happening of events specified in a limited liability company agreement;

(3) The written consent of all members;

(4) Unless the limited liability company agreement provides otherwise, ninety days following an event of dissociation of the last remaining member, unless those having the rights of assignees in the limited liability company under RCW 25.15.130(1) have, by the ninetieth day, voted to admit one or more members, voting as though they were members, and in the manner set forth in RCW 25.15.120(1);

(5) The entry of a decree of judicial dissolution under RCW 25.15.275; or

(6) The ~~((expiration of five years after the effective date of dissolution under RCW 25.15.285 without the reinstatement))~~ administrative dissolution of the limited liability company by the secretary of state under RCW 25.15.285(2), unless the limited liability company is reinstated by the secretary of state under RCW 25.15.290.

**NEW SECTION. Sec. 6.** A new section is added to chapter 25.15 RCW to read as follows:

(1) After dissolution occurs under RCW 25.15.270, the limited liability company may deliver to the secretary of state for filing a certificate of dissolution signed in accordance with RCW 25.15.085.

(2) A certificate of dissolution filed under subsection (1) of this section must set forth:

(a) The name of the limited liability company; and

(b) A statement that the limited liability company is dissolved under RCW 25.15.270.

**Sec. 7.** RCW 25.15.290 and 2009 c 437 s 2 are each amended to read as follows:

(1) A limited liability company that has been administratively dissolved under RCW 25.15.285 may apply to the secretary of state for reinstatement within five years after the effective date of dissolution. The application must be delivered to the secretary of state for filing and state:

(a) ~~((Recite))~~ The name of the limited liability company and the effective date of its administrative dissolution;

(b) ~~((State))~~ That the ground or grounds for dissolution either did not exist or have been eliminated; and

(c) ~~((State))~~ That the limited liability company's name satisfies the requirements of RCW 25.15.010.

(2) If the secretary of state determines that ~~((the))~~ an application contains the information required by subsection (1) of this section and that the name is available, the secretary of state shall reinstate the limited liability company and give the limited liability company written notice, as provided in RCW 25.15.285(1), of the reinstatement that recites the effective date of reinstatement. If the name is not available, the limited liability company must file with its application for reinstatement an amendment to its certificate of formation reflecting a change of name.

(3) When ~~((the))~~ reinstatement ((s)) becomes effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the limited liability company may resume carrying on its ~~((business))~~ activities as if the administrative dissolution had never occurred.

~~((4))~~ If an application for reinstatement is not made within the five-year period set forth in subsection (1) of this section, or if the application made within this period is not granted, the limited liability company's certificate of formation is deemed canceled.)

**Sec. 8.** RCW 25.15.293 and 2009 c 437 s 3 are each amended to read as follows:

(1) A limited liability company ~~((voluntarily))~~ dissolved under RCW 25.15.270 (2) or (3) that has filed a certificate of dissolution under section 6 of this act may ((apply to the secretary of state for reinstatement)) revoke its dissolution within one hundred twenty

days ~~((after the effective date))~~ of filing its certificate of dissolution.

~~((The application must:~~

~~—(a) Recite the name of the limited liability company and the effective date of its voluntary dissolution;~~

~~—(b) State that the ground or grounds for voluntary dissolution have been eliminated; and~~

~~—(c) State that the limited liability company's name satisfies the requirements of RCW 25.15.010.~~

~~—(2) If the secretary of state determines that the application contains the information required by subsection (1) of this section and that the name is available, the secretary of state shall reinstate the limited liability company and give the limited liability company written notice of the reinstatement that recites the effective date of reinstatement. If the name is not available, the limited liability company must file with its application for reinstatement an amendment to its certificate of formation reflecting a change of name.~~

~~—(3) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the voluntary dissolution and the limited liability company may resume carrying on its business as if the voluntary dissolution had never occurred.~~

~~—(4) If an application for reinstatement is not made within the one hundred twenty day period set forth in subsection (1) of this section, or if the application made within this period is not granted, the secretary of state shall cancel the limited liability company's certificate of formation.)~~

(2)(a) Except as provided in (b) of this subsection, revocation of dissolution must be approved in the same manner as the dissolution was approved unless that approval permitted revocation in some other manner, in which event the dissolution may be revoked in the manner permitted.

(b) If dissolution occurred upon the happening of events specified in the limited liability company agreement, revocation of dissolution must be approved in the manner necessary to amend the provisions of the limited liability company agreement specifying the events of dissolution.

(3) After the revocation of dissolution is approved, the limited liability company may revoke the dissolution and the certificate of dissolution by delivering to the secretary of state for filing a certificate of revocation of dissolution that sets forth:

(a) The name of the limited liability company and a statement that the name satisfies the requirements of RCW 25.15.010; if the name is not available, the limited liability company must file a certificate of amendment changing its name with the certificate of revocation of dissolution;

(b) The effective date of the dissolution that was revoked;

(c) The date that the revocation of dissolution was approved;

(d) If the limited liability company's managers revoked the dissolution, a statement to that effect;

(e) If the limited liability company's managers revoked a dissolution approved by the company's members, a statement that revocation was permitted by action by the managers alone pursuant to that approval; and

(f) If member approval was required to revoke the dissolution, a statement that revocation of the dissolution was duly approved by the members in accordance with subsection (2) of this section.

(4) Revocation of dissolution and revocation of the certificate of dissolution are effective upon the filing of the certificate of revocation of dissolution.

(5) When the revocation of dissolution and revocation of the certificate of dissolution are effective, they relate back to and take effect as of the effective date of the dissolution and the limited liability company resumes carrying on its activities as if the dissolution had never occurred.

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**Sec. 9.** RCW 25.15.295 and 1994 c 211 s 806 are each amended to read as follows:

((1) Unless otherwise provided in a limited liability company agreement, a manager who has not wrongfully dissolved a limited liability company or, if none, the members or a person approved by the members or, if there is more than one class or group of members, then by each class or group of members, in either case, by members contributing, or required to contribute, more than fifty percent of the agreed value (as stated in the records of the limited liability company required to be kept pursuant to RCW 25.15.135) of the contributions made, or required to be made, by all members, or by the members in each class or group, as appropriate, may wind up the limited liability company's affairs. The superior courts, upon cause shown, may wind up the limited liability company's affairs upon application of any member or manager, his or her legal representative or assignee, and in connection therewith, may appoint a receiver.

(2) Upon dissolution of a limited liability company and until the filing of a certificate of cancellation as provided in RCW 25.15.080, the persons winding up the limited liability company's affairs may, in the name of, and for and on behalf of, the limited liability company, prosecute and defend suits, whether civil, criminal, or administrative, gradually settle and close the limited liability company's business, dispose of and convey the limited liability company's property, discharge or make reasonable provision for the limited liability company's liabilities, and distribute to the members any remaining assets of the limited liability company.)

(1) A limited liability company continues after dissolution only for the purpose of winding up its activities.

(2) In winding up its activities, the limited liability company:

(a) May file a certificate of dissolution with the secretary of state to provide notice that the limited liability company is dissolved, preserve the limited liability company's business or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal, or administrative, transfer the limited liability company's property, settle disputes, and perform other necessary acts; and

(b) Shall discharge the limited liability company's liabilities, settle and close the limited liability company's activities, and marshal and distribute the assets of the company.

(3) Unless otherwise provided in a limited liability company agreement, the persons responsible for managing the business and affairs of a limited liability company under RCW 25.15.150 are responsible for winding up the activities of a dissolved limited liability company. If a dissolved limited liability company does not have any managers or members, the legal representative of the last person to have been a member may wind up the activities of the dissolved limited liability company, in which event the legal representative is a manager for the purposes of RCW 25.15.155.

(4) If the persons responsible for winding up the activities of a dissolved limited liability company under subsection (3) of this section decline or fail to wind up the limited liability company's activities, a person to wind up the dissolved limited liability company's activities may be appointed by the consent of the transferees owning a majority of the rights to receive distributions as transferees at the time consent is to be effective. A person appointed under this subsection:

(a) Is a manager for the purposes of RCW 25.15.155; and

(b) Shall promptly amend the certificate of formation to state:

(i) The name of the person who has been appointed to wind up the limited liability company; and

(ii) The street and mailing address of the person.

(5) The superior court may order judicial supervision of the winding up, including the appointment of a person to wind up the dissolved limited liability company's activities, if:

(a) On application of a member, the applicant establishes good cause; or

(b) On application of a transferee, a limited liability company does not have any managers or members and within a reasonable time following the dissolution no person has been appointed pursuant to subsection (3) or (4) of this section.

**NEW SECTION. Sec. 10.** A new section is added to chapter 25.15 RCW to read as follows:

(1) A dissolved limited liability company that has filed a certificate of dissolution with the secretary of state may dispose of the known claims against it by following the procedure described in subsection (2) of this section.

(2) A dissolved limited liability company may notify its known claimants of the dissolution in a record. The notice must:

(a) Specify the information required to be included in a known claim;

(b) Provide a mailing address to which the known claim must be sent;

(c) State the deadline for receipt of the known claim, which may not be fewer than one hundred twenty days after the date the notice is received by the claimant; and

(d) State that the known claim will be barred if not received by the deadline.

(3) A known claim against a dissolved limited liability company is barred if the requirements of subsection (2) of this section are met and:

(a) The known claim is not received by the specified deadline; or

(b) In the case of a known claim that is timely received but rejected by the dissolved limited liability company, the claimant does not commence an action to enforce the known claim against the limited liability company within ninety days after the receipt of the notice of rejection.

(4) For purposes of this section, "known claim" means any claim or liability that either:

(a)(i) Has matured sufficiently, before or after the effective date of the dissolution, to be legally capable of assertion against the dissolved limited liability company, whether or not the amount of the claim or liability is known or determinable; or (ii) is unmatured, conditional, or otherwise contingent but may subsequently arise under any executory contract to which the dissolved limited liability company is a party, other than under an implied or statutory warranty as to any product manufactured, sold, distributed, or handled by the dissolved limited liability company; and

(b) As to which the dissolved limited liability company has knowledge of the identity and the mailing address of the holder of the claim or liability and, in the case of a matured and legally assertable claim or liability, actual knowledge of existing facts that either (i) could be asserted to give rise to, or (ii) indicate an intention by the holder to assert, such a matured claim or liability.

**Sec. 11.** RCW 25.15.303 and 2006 c 325 s 1 are each amended to read as follows:

Except as provided in section 10 of this act, the dissolution of a limited liability company does not take away or impair any remedy available to or against that limited liability company, its managers, or its members for any right or claim existing, or any liability incurred at any time, whether prior to or after dissolution, unless the limited liability company has filed a certificate of dissolution under section 6 of this act, that has not been revoked under RCW 25.15.293, and an action or other proceeding thereon is not commenced within three years after the ((effective date)) filing of the certificate of dissolution. Such an action or proceeding by or against the limited liability company may be prosecuted or defended by the limited liability company in its own name.

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**Sec. 12.** RCW 25.15.340 and 1994 c 211 s 907 are each amended to read as follows:

25.15.295, 25.15.303, 25.15.340, and 25.15.805; adding new sections to chapter 25.15 RCW; and repealing RCW 25.15.080."

(1) A foreign limited liability company doing business in this state may not maintain any action, suit, or proceeding in this state until it has registered in this state, and has paid to this state all fees and penalties for the years or parts thereof, during which it did business in this state without having registered.

(2) Neither the failure of a foreign limited liability company to register in this state (~~((does not impair))~~) nor the issuance of a certificate of cancellation with respect to a foreign limited liability company's registration in this state impairs:

(a) The validity of any contract or act of the foreign limited liability company;

(b) The right of any other party to the contract to maintain any action, suit, or proceeding on the contract; or

(c) ~~((Prevent))~~ The foreign limited liability company from defending any action, suit, or proceeding in any court of this state.

(3) A member or a manager of a foreign limited liability company is not liable for the obligations of the foreign limited liability company solely by reason of the limited liability company's having done business in this state without registration.

**Sec. 13.** RCW 25.15.805 and 1994 c 211 s 1302 are each amended to read as follows:

(1) The secretary of state shall adopt rules establishing fees which shall be charged and collected for:

(a) Filing of a certificate of formation for a domestic limited liability company or an application for registration of a foreign limited liability company;

(b) Filing of a certificate of ~~((cancellation))~~ dissolution for a domestic ~~((or foreign))~~ limited liability company;

(c) Filing a certificate of cancellation for a foreign limited liability company.

(d) Filing of a certificate of amendment or restatement for a domestic or foreign limited liability company;

~~((d))~~ (e) Filing an application to reserve, register, or transfer a limited liability company name;

~~((e))~~ (f) Filing any other certificate, statement, or report authorized or permitted to be filed;

~~((f))~~ (g) Copies, certified copies, certificates, service of process filings, and expedited filings or other special services.

(2) In the establishment of a fee schedule, the secretary of state shall, insofar as is possible and reasonable, be guided by the fee schedule provided for corporations governed by Title 23B RCW. Fees for copies, certified copies, certificates of record, and service of process filings shall be as provided for in RCW 23B.01.220.

(3) All fees collected by the secretary of state shall be deposited with the state treasurer pursuant to law.

NEW SECTION. Sec. 14. RCW 25.15.080 (Cancellation of certificate) and 1994 c 211 s 203 are each repealed."

Senator Kline spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary to Substitute House Bill No. 2657.

The motion by Senator Kline carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "companies;" strike the remainder of the title and insert "amending RCW 25.15.005, 25.15.070, 25.15.085, 25.15.095, 25.15.270, 25.15.290, 25.15.293,

#### MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 2657 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kline and Carrell spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2657 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2657 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, McCaslin and Pflug

SUBSTITUTE HOUSE BILL NO. 2657 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2789, by House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Chase, Hudgins, Moeller and Simpson)

Authorizing issuance of subpoenas for purposes of agency investigations of underground economy activity. Revised for 1st Substitute: Authorizing issuance of subpoenas for purposes of agency investigations of underground economic activity.

The measure was read the second time.

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 2789 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.

Senators Honeyford and Schoesler spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2789.

#### ROLL CALL

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The Secretary called the roll on the final passage of Substitute House Bill No. 2789 and the bill passed the Senate by the following vote: Yeas, 36; Nays, 10; Absent, 0; Excused, 3.

Voting yea: Senators Berkeley, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin and Tom

Voting nay: Senators Becker, Benton, Brandland, Hewitt, Holmquist, Honeyford, Schoesler, Stevens, Swecker and Zarelli

Excused: Senators Fairley, McCaslin and Pflug

SUBSTITUTE HOUSE BILL NO. 2789, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2547, by House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Condotta, Maxwell, Sullivan, Roach, Kessler, Sells, Kenney, Appleton, Hunter, Pedersen, Upthegrove, Hinkle, Ormsby, Herrera, Kretz, Hasegawa, Campbell, Takko, Springer, Dammeier and Haler)

Concerning franchise agreements between new motor vehicle dealers and manufacturers.

The measure was read the second time.

## MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Labor, Commerce & Consumer Protection be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.96.030 and 1989 c 415 s 3 are each amended to read as follows:

Notwithstanding the terms of a franchise and notwithstanding the terms of a waiver, no manufacturer may terminate, cancel, or fail to renew a franchise with a new motor vehicle dealer, unless the manufacturer has complied with the notice requirements of RCW 46.96.070 and an administrative law judge has determined, if requested in writing by the new motor vehicle dealer within the applicable time period specified in RCW 46.96.070 (1), (2), or (3), after hearing, that there is good cause for the termination, cancellation, or nonrenewal of the franchise and that the manufacturer has acted in good faith, as defined in this chapter, regarding the termination, cancellation, or nonrenewal. Between the time of issuance of the notice required under RCW 46.96.070 and the effective termination, cancellation, or nonrenewal of the franchise under this chapter, the rights, duties, and obligations of the new motor vehicle dealer and the manufacturer under the franchise and this chapter are unaffected, including those under RCW 46.96.200.

**Sec. 2.** RCW 46.96.070 and 1989 c 415 s 7 are each amended to read as follows:

Before the termination, cancellation, or nonrenewal of a franchise, the manufacturer shall give written notification to both the department and the new motor vehicle dealer. For the purposes of this chapter, the discontinuance of the sale and distribution of a new motor vehicle line, or the constructive discontinuance by material reduction in selection offered, such that continuing to retail the line

is no longer economically viable for a dealer is, at the option of the dealer, considered a termination, cancellation, or nonrenewal of a franchise. The notice shall be by certified mail or personally delivered to the new motor vehicle dealer and shall state the intention to terminate, cancel, or not renew the franchise, the reasons for the termination, cancellation, or nonrenewal, and the effective date of the termination, cancellation, or nonrenewal. The notice shall be given:

(1) Not less than ninety days before the effective date of the termination, cancellation, or nonrenewal;

(2) Not less than fifteen days before the effective date of the termination, cancellation, or nonrenewal with respect to any of the following that constitute good cause for termination, cancellation, or nonrenewal:

(a) Insolvency of the new motor vehicle dealer or the filing of any petition by or against the new motor vehicle dealer under bankruptcy or receivership law;

(b) Failure of the new motor vehicle dealer to conduct sales and service operations during customary business hours for seven consecutive business days, except for acts of God or circumstances beyond the direct control of the new motor vehicle dealer;

(c) Conviction of the new motor vehicle dealer, or principal operator of the dealership, of a felony punishable by imprisonment; or

(d) Suspension or revocation of a license that the new motor vehicle dealer is required to have to operate the new motor vehicle dealership where the suspension or revocation is for a period in excess of thirty days;

(3) Not less than one hundred eighty days before the effective date of termination, cancellation, or nonrenewal, where the manufacturer intends to discontinue sale and distribution of the new motor vehicle line.

**Sec. 3.** RCW 46.96.090 and 1989 c 415 s 9 are each amended to read as follows:

(1) In the event of a termination, cancellation, or nonrenewal under this chapter, except for termination, cancellation, or nonrenewal under RCW 46.96.070(2) or a voluntary termination, cancellation, or nonrenewal initiated by the dealer, the manufacturer shall, at the request and option of the new motor vehicle dealer, also pay to the new motor vehicle dealer the dealer costs for any relocation, substantial alteration, or remodeling of a dealer's facilities required by a manufacturer for the continuance or renewal of a franchise agreement completed within three years of the termination, cancellation, or nonrenewal and:

(a) A sum equivalent to rent for the unexpired term of the lease or one year, whichever is less, or such longer term as provided in the franchise, if the new motor vehicle dealer is leasing the new motor vehicle dealership facilities from a lessor other than the manufacturer; or

(b) A sum equivalent to the reasonable rental value of the new motor vehicle dealership facilities for one year or until the facilities are leased or sold, whichever is less, if the new motor vehicle dealer owns the new motor vehicle dealership facilities.

(2) The rental payment required under subsection (1) of this section is only required to the extent that the facilities were used for activities under the franchise and only to the extent the facilities were not leased for unrelated purposes. If the rental payment under subsection (1) of this section is made, the manufacturer is entitled to possession and use of the new motor vehicle dealership facilities for the period rent is paid.

**Sec. 4.** RCW 46.96.105 and 2003 c 21 s 2 are each amended to read as follows:

(1) Each manufacturer shall specify in its franchise agreement, or in a separate written agreement, with each of its dealers licensed in this state, the dealer's obligation to perform warranty work or

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service on the manufacturer's products. Each manufacturer shall provide each of its dealers with a schedule of compensation to be paid to the dealer for any warranty work or service, including parts, labor, and diagnostic work, required of the dealer by the manufacturer in connection with the manufacturer's products. The schedule of compensation must not be less than the rates charged by the dealer for similar service to retail customers for nonwarranty service and repairs, and must not be less than the schedule of compensation for an existing dealer as of the effective date of this section.

(a) The rates charged by the dealer for nonwarranty service or work for parts means the price paid by the dealer for those parts, including all shipping and other charges, increased by the franchisee's average percentage markup. A dealer must establish and declare the dealer's average percentage markup by submitting to the manufacturer one hundred sequential customer-paid service repair orders or ninety days of customer-paid service repair orders, whichever is less, covering repairs made no more than one hundred eighty days before the submission. A change in a dealer's established average percentage markup takes effect thirty days following the submission. A manufacturer may not require a dealer to establish average percentage markup by another methodology. A manufacturer may not require information that the dealer believes is unduly burdensome or time consuming to provide, including, but not limited to, part-by-part or transaction-by-transaction calculations.

(b) A manufacturer shall compensate a dealer for labor and diagnostic work at the rates charged by the dealer to its retail customers for such work. If a manufacturer can demonstrate that the rates unreasonably exceed those of all other franchised motor vehicle dealers in the same relevant market area offering the same or a competitive motor vehicle line, the manufacturer is not required to honor the rate increase proposed by the dealer. If the manufacturer is not required to honor the rate increase proposed by the dealer, the dealer is entitled to resubmit a new proposed rate for labor and diagnostic work.

(c) A dealer may not be granted an increase in the average percentage markup or labor and diagnostic work rate more than twice in one calendar year.

(2) All claims for warranty work for parts and labor made by dealers under this section shall be submitted to the manufacturer within one year of the date the work was performed. All claims submitted must be paid by the manufacturer within thirty days following receipt, provided the claim has been approved by the manufacturer. The manufacturer has the right to audit claims for warranty work and to charge the dealer for any unsubstantiated, incorrect, or false claims for a period of one year following payment. However, the manufacturer may audit and charge the dealer for any fraudulent claims during any period for which an action for fraud may be commenced under applicable state law.

(3) All claims submitted by dealers on the forms and in the manner specified by the manufacturer shall be either approved or disapproved within thirty days following their receipt. The manufacturer shall notify the dealer in writing of any disapproved claim, and shall set forth the reasons why the claim was not approved. Any claim not specifically disapproved in writing within thirty days following receipt is approved, and the manufacturer is required to pay that claim within thirty days of receipt of the claim.

(4) A manufacturer may not otherwise recover all or any portion of its costs for compensating its dealers licensed in this state for warranty parts and service either by reduction in the amount due to the dealer or by separate charge, surcharge, or other imposition.

**Sec. 5.** RCW 46.96.110 and 1989 c 415 s 11 are each amended to read as follows:

(1) Notwithstanding the terms of a franchise, (a) an owner may appoint a designated successor to succeed to the ownership of the new motor vehicle dealer franchise upon the owner's death or incapacity, or (b) if an owner who has owned the franchise for not less than five consecutive years, the owner may appoint a designated successor to be effective on a date of the owner's choosing that is prior to the owner's death or disability.

(2) Notwithstanding the terms of a franchise, a designated successor ~~((of a deceased or incapacitated owner of a new motor vehicle dealer franchise))~~ described under subsection (1) of this section may succeed to the ownership interest of the owner under the existing franchise, if:

(a) In the case of a designated successor who meets the definition of a designated successor under RCW 46.96.020(5)(a), but who is not experienced in the business of a new motor vehicle dealer, the person will employ an individual who is qualified and experienced in the business of a new motor vehicle dealer to help manage the day-to-day operations of the motor vehicle dealership; or in the case of a designated successor who meets the definition of a designated successor under RCW 46.96.020(5) (b) or (c), the person is qualified and experienced in the business of a new motor vehicle dealer and meets the normal, reasonable, and uniformly applied standards for grant of an application as a new motor vehicle dealer by the manufacturer; and

(b) The designated successor furnishes written notice to the manufacturer of his or her intention to succeed to the ownership of the new motor vehicle dealership within sixty days after the owner's death or incapacity, or if the appointment is under subsection (1)(b) of this section, at least thirty days before the designated successor's proposed succession; and

(c) The designated successor agrees to be bound by all terms and conditions of the franchise.

(3) The manufacturer may request, and the designated successor shall promptly provide, such personal and financial information as is reasonably necessary to determine whether the succession should be honored.

(4) A manufacturer may refuse to honor the succession to the ownership of a new motor vehicle dealer franchise by a designated successor if the manufacturer establishes that good cause exists for its refusal to honor the succession. If the designated successor ~~((of a deceased or incapacitated owner))~~ of a new motor vehicle dealer franchise fails to meet the requirements set forth in subsections (2)(a), (b), and (c) of this section, good cause for refusing to honor the succession is presumed to exist. If a manufacturer believes that good cause exists for refusing to honor the succession to the ownership of a new motor vehicle dealer franchise by a designated successor, the manufacturer shall serve written notice on the designated successor and on the department of its refusal to honor the succession no earlier than sixty days from the date the notice is served. The notice must be served not later than sixty days after the manufacturer's receipt of:

(a) Notice of the designated successor's intent to succeed to the ownership interest of the new motor vehicle dealer's franchise; or

(b) Any personal or financial information requested by the manufacturer.

(5) The notice in subsection (4) of this section shall state the specific grounds for the refusal to honor the succession. If the notice of refusal is not timely and properly served, the designated successor may continue the franchise in full force and effect, subject to termination only as otherwise provided under this chapter.

(6) Within twenty days after receipt of the notice or within twenty days after the end of any appeal procedure provided by the manufacturer, whichever is greater, the designated successor may file a petition with the department protesting the refusal to honor the succession. The petition shall contain a short statement setting

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forth the reasons for the designated successor's protest. Upon the filing of a protest and the receipt of the filing fee, the department shall promptly notify the manufacturer that a timely protest has been filed and shall request the appointment of an administrative law judge under chapter 34.12 RCW to conduct a hearing. The manufacturer shall not terminate or otherwise discontinue the existing franchise until the administrative law judge has held a hearing and has determined that there is good cause for refusing to honor the succession. If an appeal is taken, the manufacturer shall not terminate or discontinue the franchise until the appeal to superior court is finally determined or until the expiration of one hundred eighty days from the date of issuance of the administrative law judge's written decision, whichever is less. Nothing in this section precludes a manufacturer or dealer from petitioning the superior court for a stay or other relief pending judicial review.

(7) The manufacturer has the burden of proof to show that good cause exists for the refusal to honor the succession.

(8) The administrative law judge shall conduct the hearing and render a final decision as expeditiously as possible, but in any event not later than one hundred eighty days after a protest is filed.

(9) The administrative law judge shall conduct any hearing concerning the refusal to the succession as provided in RCW 46.96.050(2) and all hearing costs shall be borne as provided in that subsection. A party to such a hearing aggrieved by the final order of the administrative law judge may appeal as provided and allowed in RCW 46.96.050(3).

(10) This section does not preclude the owner of a new motor vehicle dealer franchise from designating any person as his or her successor by a written, notarized, and witnessed instrument filed with the manufacturer. In the event of a conflict between such a written instrument that has not been revoked by written notice from the owner to the manufacturer and this section, the written instrument governs.

**Sec. 6.** RCW 46.96.185 and 2003 c 21 s 3 are each amended to read as follows:

(1) Notwithstanding the terms of a franchise agreement, a manufacturer, distributor, factory branch, or factory representative, or an agent, officer, parent company, wholly or partially owned subsidiary, affiliated entity, or other person controlled by or under common control with a manufacturer, distributor, factory branch, or factory representative, shall not:

(a) Discriminate between new motor vehicle dealers by selling or offering to sell a like vehicle to one dealer at a lower actual price than the actual price offered to another dealer for the same model similarly equipped;

(b) Discriminate between new motor vehicle dealers by selling or offering to sell parts or accessories to one dealer at a lower actual price than the actual price offered to another dealer;

(c) Discriminate between new motor vehicle dealers by using a promotion plan, marketing plan, or other similar device that results in a lower actual price on vehicles, parts, or accessories being charged to one dealer over another dealer;

(d) Discriminate between new motor vehicle dealers by adopting a method, or changing an existing method, for the allocation, scheduling, or delivery of new motor vehicles, parts, or accessories to its dealers that is not fair, reasonable, and equitable. Upon the request of a dealer, a manufacturer, distributor, factory branch, or factory representative shall disclose in writing to the dealer the method by which new motor vehicles, parts, and accessories are allocated, scheduled, or delivered to its dealers handling the same line or make of vehicles;

(e) Discriminate against a new motor vehicle dealer by preventing, offsetting, or otherwise impairing the dealer's right to request a documentary service fee on affinity or similar program purchases. This prohibition applies to, but is not limited to, any

promotion plan, marketing plan, manufacturer or dealer employee or employee friends or family purchase programs, or similar plans or programs;

(f) Give preferential treatment to some new motor vehicle dealers over others by refusing or failing to deliver, in reasonable quantities and within a reasonable time after receipt of an order, to a dealer holding a franchise for a line or make of motor vehicles sold or distributed by the manufacturer, distributor, factory branch, or factory representative, a new vehicle, parts, or accessories, if the vehicle, parts, or accessories are being delivered to other dealers, or require a dealer to purchase unreasonable advertising displays or other materials, or unreasonably require a dealer to remodel or renovate existing facilities as a prerequisite to receiving a model or series of vehicles;

~~((f))~~ (g) Compete with a new motor vehicle dealer of any make or line by acting in the capacity of a new motor vehicle dealer, or by owning, operating, or controlling, whether directly or indirectly, a motor vehicle dealership in this state. It is not, however, a violation of this subsection for:

(i) A manufacturer, distributor, factory branch, or factory representative to own or operate a dealership for a temporary period, not to exceed two years, during the transition from one owner of the dealership to another where the dealership was previously owned by a franchised dealer and is currently for sale to any qualified independent person at a fair and reasonable price. The temporary operation may be extended for one twelve-month period on petition of the temporary operator to the department. The matter will be handled as an adjudicative proceeding under chapter 34.05 RCW. A dealer who is a franchisee of the petitioning manufacturer or distributor may intervene and participate in a proceeding under this subsection ~~(1)((f))~~ (g)(i). The temporary operator has the burden of proof to show justification for the extension and a good faith effort to sell the dealership to an independent person at a fair and reasonable price;

(ii) A manufacturer, distributor, factory branch, or factory representative to own or operate a dealership in conjunction with an independent person in a bona fide business relationship for the purpose of broadening the diversity of its dealer body and enhancing opportunities for qualified persons who are part of a group who have historically been underrepresented in its dealer body, or other qualified persons who lack the resources to purchase a dealership outright, and where the independent person: (A) Has made, or within a period of two years from the date of commencement of operation will have made, a significant, bona fide capital investment in the dealership that is subject to loss; (B) has an ownership interest in the dealership; and (C) operates the dealership under a bona fide written agreement with the manufacturer, distributor, factory branch, or factory representative under which he or she will acquire all of the ownership interest in the dealership within a reasonable period of time and under reasonable terms and conditions. The manufacturer, distributor, factory branch, or factory representative has the burden of proof of establishing that the acquisition of the dealership by the independent person was made within a reasonable period of time and under reasonable terms and conditions. Nothing in this subsection ~~(1)((f))~~ (g)(ii) relieves a manufacturer, distributor, factory branch, or factory representative from complying with ~~(RCW 46.96.185(1))~~ (a) through ~~((e))~~ (f) of this subsection;

(iii) A manufacturer, distributor, factory branch, or factory representative to own or operate a dealership in conjunction with an independent person in a bona fide business relationship where the independent person: (A) Has made, or within a period of two years from the date of commencement of operation will have made, a significant, bona fide capital investment in the dealership that is subject to loss; (B) has an ownership interest in the dealership; and

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(C) operates the dealership under a bona fide written agreement with the manufacturer, distributor, factory branch, or factory representative under which he or she will acquire all of the ownership interest in the dealership within a reasonable period of time and under reasonable terms and conditions. The manufacturer, distributor, factory branch, or factory representative has the burden of proof of establishing that the acquisition of the dealership by the independent person was made within a reasonable period of time and under reasonable terms and conditions. The number of dealerships operated under this subsection (1)(~~(f)~~) (~~(g)~~(iii)) may not exceed four percent rounded up to the nearest whole number of a manufacturer's total of new motor vehicle dealer franchises in this state. Nothing in this subsection (1)(~~(f)~~) (~~(g)~~(iii)) relieves a manufacturer, distributor, factory branch, or factory representative from complying with (~~RCW 46.96.185(1)~~) (a) through (~~(e)~~) (~~(f)~~) of this subsection;

(iv) A truck manufacturer to own, operate, or control a new motor vehicle dealership that sells only trucks of that manufacturer's line make with a gross vehicle weight rating of 12,500 pounds or more, and the truck manufacturer has been continuously engaged in the retail sale of the trucks at least since January 1, 1993; or

(v) A manufacturer to own, operate, or control a new motor vehicle dealership trading exclusively in a single line make of the manufacturer if (A) the manufacturer does not own, directly or indirectly, in the aggregate, in excess of forty-five percent of the total ownership interest in the dealership, (B) at the time the manufacturer first acquires ownership or assumes operation or control of any such dealership, the distance between any dealership thus owned, operated, or controlled and the nearest new motor vehicle dealership trading in the same line make of vehicle and in which the manufacturer has no ownership or control is not less than fifteen miles and complies with the applicable provisions in the relevant market area sections of this chapter, (C) all of the manufacturer's franchise agreements confer rights on the dealer of that line make to develop and operate within a defined geographic territory or area, as many dealership facilities as the dealer and the manufacturer agree are appropriate, and (D) as of January 1, 2000, the manufacturer had no more than four new motor vehicle dealers of that manufacturer's line make in this state, and at least half of those dealers owned and operated two or more dealership facilities in the geographic territory or area covered by their franchise agreements with the manufacturer;

(~~(e)~~) (~~(h)~~) Compete with a new motor vehicle dealer by owning, operating, or controlling, whether directly or indirectly, a service facility in this state for the repair or maintenance of motor vehicles under the manufacturer's new car warranty and extended warranty. Nothing in this subsection (1)(~~(e)~~) (~~(h)~~), however, prohibits a manufacturer, distributor, factory branch, or factory representative from owning or operating a service facility for the purpose of providing or performing maintenance, repair, or service work on motor vehicles that are owned by the manufacturer, distributor, factory branch, or factory representative;

(~~(h)~~) (~~(i)~~) Use confidential or proprietary information obtained from a new motor vehicle dealer to unfairly compete with the dealer. For purposes of this subsection (1)(~~(h)~~) (~~(i)~~), "confidential or proprietary information" means trade secrets as defined in RCW 19.108.010, business plans, marketing plans or strategies, customer lists, contracts, sales data, revenues, or other financial information;

(~~(i)~~) (~~(j)~~(i)) Terminate, cancel, or fail to renew a franchise with a new motor vehicle dealer based upon any of the following events, which do not constitute good cause for termination, cancellation, or nonrenewal under RCW 46.96.060: (A) The fact that the new motor vehicle dealer owns, has an investment in, participates in the management of, or holds a franchise agreement for the sale or service of another make or line of new motor vehicles(~~(-e)~~); (B) the

fact that the new motor vehicle dealer has established another make or line of new motor vehicles or service in the same dealership facilities as those of the manufacturer or distributor (~~(with the prior written approval of the manufacturer or distributor, if the approval was required under the terms of the new motor vehicle dealer's franchise agreement)~~); (C) that the new motor vehicle dealer has or intends to relocate the manufacturer or distributor's make or line of new motor vehicles or service to an existing dealership facility that is within the relevant market area, as defined in RCW 46.96.140, of the make or line to be relocated, except that, in any nonemergency circumstance, the dealer must give the manufacturer or distributor at least sixty days' notice of his or her intent to relocate; or (D) the failure of a franchisee to change the location of the dealership or to make substantial alterations to the use or number of franchises on the dealership premises or facilities.

(ii) Notwithstanding the limitations of this section, a manufacturer may, for separate consideration, enter into a written contract with a dealer to exclusively sell and service a single make or line of new motor vehicles at a specific facility for a defined period of time. The penalty for breach of the contract must not exceed the amount of consideration paid by the manufacturer plus a reasonable rate of interest; (~~(e)~~

~~(f)~~) (~~(k)~~) Coerce or attempt to coerce a motor vehicle dealer to refrain from, or prohibit or attempt to prohibit a new motor vehicle dealer from acquiring, owning, having an investment in, participating in the management of, or holding a franchise agreement for the sale or service of another make or line of new motor vehicles or related products, or establishing another make or line of new motor vehicles or service in the same dealership facilities, if the prohibition against acquiring, owning, investing, managing, or holding a franchise for such additional make or line of vehicles or products, or establishing another make or line of new motor vehicles or service in the same dealership facilities, is not supported by reasonable business considerations. The burden of proving that reasonable business considerations support or justify the prohibition against the additional make or line of new motor vehicles or products or nonexclusive facilities is on the manufacturer;

(l) Require, by contract or otherwise, a new motor vehicle dealer to make a material alteration, expansion, or addition to any dealership facility, unless the required alteration, expansion, or addition is uniformly required of other similarly situated new motor vehicle dealers of the same make or line of vehicles and is reasonable in light of all existing circumstances, including economic conditions. In any proceeding in which a required facility alteration, expansion, or addition is an issue, the manufacturer or distributor has the burden of proof;

(m) Prevent or attempt to prevent by contract or otherwise any new motor vehicle dealer from changing the executive management of a new motor vehicle dealer unless the manufacturer or distributor, having the burden of proof, can show that a proposed change of executive management will result in executive management by a person or persons who are not of good moral character or who do not meet reasonable, preexisting, and equitably applied standards of the manufacturer or distributor. If a manufacturer or distributor rejects a proposed change in the executive management, the manufacturer or distributor shall give written notice of its reasons to the dealer within sixty days after receiving written notice from the dealer of the proposed change and all related information reasonably requested by the manufacturer or distributor, or the change in executive management must be considered approved; or

(n) Condition the sale, transfer, relocation, or renewal of a franchise agreement or condition manufacturer, distributor, factory branch, or factory representative sales, services, or parts incentives upon the manufacturer obtaining site control, including rights to

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purchase or lease the dealer's facility, or an agreement to make improvements or substantial renovations to a facility. For purposes of this section, a substantial renovation has a gross cost to the dealer in excess of five thousand dollars.

(2) Subsection (1)(a), (b), and (c) of this section do not apply to sales to a motor vehicle dealer: (a) For resale to a federal, state, or local government agency; (b) where the vehicles will be sold or donated for use in a program of driver's education; (c) where the sale is made under a manufacturer's bona fide promotional program offering sales incentives or rebates; (d) where the sale of parts or accessories is under a manufacturer's bona fide quantity discount program; or (e) where the sale is made under a manufacturer's bona fide fleet vehicle discount program. For purposes of this subsection, "fleet" means a group of fifteen or more new motor vehicles purchased or leased by a dealer at one time under a single purchase or lease agreement for use as part of a fleet, and where the dealer has been assigned a fleet identifier code by the department of licensing.

(3) The following definitions apply to this section:

(a) "Actual price" means the price to be paid by the dealer less any incentive paid by the manufacturer, distributor, factory branch, or factory representative, whether paid to the dealer or the ultimate purchaser of the vehicle.

(b) "Control" or "controlling" means (i) the possession of, title to, or control of ten percent or more of the voting equity interest in a person, whether directly or indirectly through a fiduciary, agent, or other intermediary, or (ii) the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, through director control, by contract, or otherwise, except as expressly provided under the franchise agreement.

(c) "Motor vehicles" does not include trucks that are 14,001 pounds gross vehicle weight and above or recreational vehicles as defined in RCW 43.22.335.

(d) "Operate" means to manage a dealership, whether directly or indirectly.

(e) "Own" or "ownership" means to hold the beneficial ownership of one percent or more of any class of equity interest in a dealership, whether the interest is that of a shareholder, partner, limited liability company member, or otherwise. To hold an ownership interest means to have possession of, title to, or control of the ownership interest, whether directly or indirectly through a fiduciary, agent, or other intermediary.

(4) A violation of this section is deemed to affect the public interest and constitutes an unlawful and unfair practice under chapter 19.86 RCW. A person aggrieved by an alleged violation of this section may petition the department to have the matter handled as an adjudicative proceeding under chapter 34.05 RCW.

**Sec. 7.** RCW 46.96.200 and 1994 c 274 s 7 are each amended to read as follows:

(1) Notwithstanding the terms of a franchise, a manufacturer shall not ~~((unreasonably))~~ withhold consent to the sale, transfer, or exchange of a franchise to a qualified buyer who meets the normal, reasonable, and uniformly applied standards established by the manufacturer for the appointment of a new dealer who does not already hold a franchise with the manufacturer or is capable of being licensed as a new motor vehicle dealer in the state of Washington. A decision or determination made by the administrative law judge as to whether a qualified buyer is capable of being licensed as a new motor vehicle dealer in the state of Washington is not conclusive or determinative of any ultimate determination made by the department of licensing as to the buyer's qualification for a motor vehicle dealer license. A manufacturer's failure to respond in writing to a request for consent under this subsection within sixty days after receipt of a written request on the forms, if any, generally

used by the manufacturer containing the information and reasonable promises required by a manufacturer is deemed to be consent to the request. A manufacturer may request, and, if so requested, the applicant for a franchise (a) shall promptly provide such personal and financial information as is reasonably necessary to determine whether the sale, transfer, or exchange should be approved, and (b) shall agree to be bound by all reasonable terms and conditions of the franchise.

(2) If a manufacturer refuses to approve the sale, transfer, or exchange of a franchise, the manufacturer shall serve written notice on the applicant, the transferring, selling, or exchanging new motor vehicle dealer, and the department of its refusal to approve the transfer of the franchise no later than sixty days after the date the manufacturer receives the written request from the new motor vehicle dealer. If the manufacturer has requested personal or financial information from the applicant under subsection (1) of this section, the notice shall be served not later than sixty days after the receipt of all of such documents. Service of all notices under this section shall be made by personal service or by certified mail, return receipt requested.

(3) The notice in subsection (2) of this section shall state the specific grounds for the refusal to approve the sale, transfer, or exchange of the franchise.

(4) Within twenty days after receipt of the notice of refusal to approve the sale, transfer, or exchange of the franchise by the transferring new motor vehicle dealer, the new motor vehicle dealer may file a petition with the department to protest the refusal to approve the sale, transfer, or exchange. The petition shall contain a short statement setting forth the reasons for the dealer's protest. Upon the filing of a protest and the receipt of the filing fee, the department shall promptly notify the manufacturer that a timely protest has been filed, and the department shall arrange for a hearing with an administrative law judge as the presiding officer to determine if the manufacturer unreasonably withheld consent to the sale, transfer, or exchange of the franchise.

(5) ((In determining whether the manufacturer unreasonably withheld its approval to the sale, transfer, or exchange, the manufacturer has the burden of proof that it acted reasonably. A manufacturer's refusal to accept or approve a proposed buyer who otherwise meets the normal, reasonable, and uniformly applied standards established by the manufacturer for the appointment of a new dealer, or who otherwise is capable of being licensed as a new motor vehicle dealer in the state of Washington, is presumed to be unreasonable.

(6))) The administrative law judge shall conduct a hearing and render a final decision as expeditiously as possible, but in any event not later than one hundred twenty days after a protest is filed. Only the selling, transferring, or exchanging new motor vehicle dealer and the manufacturer may be parties to the hearing.

~~((7)))~~ (6) The administrative law judge shall conduct any hearing as provided in RCW 46.96.050(2), and all hearing costs shall be borne as provided in that subsection. Only the manufacturer and the selling, transferring, or exchanging new motor vehicle dealer may appeal the final order of the administrative law judge as provided in RCW 46.96.050(3).

~~((8)))~~ (7) This section and RCW 46.96.030 through 46.96.110 apply to all franchises and contracts existing on July 23, 1989, between manufacturers and new motor vehicle dealers as well as to all future franchises and contracts between manufacturers and new motor vehicle dealers.

~~((9)))~~ (8) RCW 46.96.140 through 46.96.190 apply to all franchises and contracts existing on October 1, 1994, between manufacturers and new motor vehicle dealers as well as to all future franchises and contracts between manufacturers and new motor vehicle dealers.

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**NEW SECTION. Sec. 8.** A new section is added to chapter 46.96 RCW to read as follows:

(1) In the event of a termination, cancellation, or nonrenewal under this chapter, except for a termination, cancellation, or nonrenewal under RCW 46.96.070(2), or a voluntary termination, cancellation, or nonrenewal initiated by the dealer, the manufacturer shall, at the request and option of the new motor vehicle dealer, also pay to the new motor vehicle dealer the fair market value of the motor vehicle dealer's goodwill for the make or line as of the date immediately preceding any communication to the public or dealer regarding termination. To the extent the franchise agreement provides for the payment or reimbursement to the new motor vehicle dealer in excess of the value specified in this section, the provisions of the franchise agreement control.

(2) The manufacturer shall pay the new motor vehicle dealer the value specified in subsection (1) of this section within ninety days after the date of termination.

**NEW SECTION. Sec. 9.** A new section is added to chapter 46.96 RCW to read as follows:

A manufacturer shall, upon demand, indemnify and hold harmless any existing or former franchisee and the franchisee's successors and assigns from any and all damages sustained and attorneys' fees and other expenses reasonably incurred by the franchisee that result from or relate to any claim made or asserted by a third party against the franchisee to the extent the claim results from any of the following:

(1) The condition, characteristics, manufacture, assembly, or design of any vehicle, parts, accessories, tools, or equipment, or the selection or combination of parts or components manufactured or distributed by the manufacturer or distributor;

(2) Service systems, procedures, or methods that the franchisor required or recommended the franchisee to use;

(3) Improper use by the manufacturer, its assignees, contractors, representatives, or licensees of nonpublic personal information obtained from a franchisee concerning any consumer, customer, or employee of the franchisee; or

(4) Any act or omission of the manufacturer or distributor for which the franchisee would have a claim for contribution or indemnity under applicable law or under the franchise, irrespective of any prior termination or expiration of the franchise.

**NEW SECTION. Sec. 10.** A new section is added to chapter 46.96 RCW to read as follows:

A manufacturer may not take or threaten to take any adverse action against a new motor vehicle dealer, including charge backs, reducing vehicle allocations, or terminating or threatening to terminate a franchise, because the dealer sold or leased a vehicle to a customer who exported the vehicle to a foreign country or who resold the vehicle, unless the manufacturer or distributor definitively proves that the dealer knew or reasonably should have known that the customer intended to export or resell the vehicle. A manufacturer or distributor shall, upon demand, indemnify, hold harmless, and defend any existing or former franchisee or franchisee's successors or assigns from any and all claims asserted, or damages sustained and attorneys' fees and other expenses reasonably incurred by the franchisee that result from or relate to any claim made or asserted, by a third party against the franchisee for any policy, program, or other behavior suggested by the manufacturer for sales of vehicles to parties that intend to export a vehicle purchased from the franchisee.

**NEW SECTION. Sec. 11.** A new section is added to chapter 46.96 RCW to read as follows:

A new motor vehicle dealer who is injured in his or her business or property by a violation of this chapter may bring a civil action in the superior court to recover the actual damages sustained by the dealer, together with the costs of the suit, including reasonable

attorneys' fees if the new motor vehicle dealer prevails. The new motor vehicle dealer may bring a civil action in district court to recover his or her actual damages, except for damages that exceed the amount specified in RCW 3.66.020, and the costs of the suit, including reasonable attorneys' fees.

**NEW SECTION. Sec. 12.** A new section is added to chapter 46.96 RCW to read as follows:

A manufacturer or distributor shall not enter into an agreement or understanding with a new motor vehicle dealer that requires the dealer to waive any provisions of this chapter. However, a dealer may, by written contract and for valuable and reasonable separate consideration, waive, limit, or disclaim a manufacturer's obligations or a dealer's rights under RCW 46.96.080, 46.96.090, 46.96.105, 46.96.140, and 46.96.150, if the contract sets forth the specific provisions of this chapter that are waived, limited, or disclaimed. A manufacturer shall not coerce, threaten, intimidate, or require a new motor vehicle dealer, as a condition to granting or renewing a franchise, to enter into such an agreement or understanding.

**NEW SECTION. Sec. 13.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Labor, Commerce & Consumer Protection to Engrossed Substitute House Bill No. 2547.

The motion by Senator Keiser carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "manufacturers;" strike the remainder of the title and insert "amending RCW 46.96.030, 46.96.070, 46.96.090, 46.96.105, 46.96.110, 46.96.185, and 46.96.200; and adding new sections to chapter 46.96 RCW."

MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute House Bill No. 2547 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Marr spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2547 as amended by the Senate

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2547 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala,

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Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, McCaslin and Pflug

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2547 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1966, by Representatives McCoy, Ormsby and Simpson

Adding wheelchair users to the types of individuals for whom drivers must take additional precautions.

The measure was read the second time.

## MOTION

Senator Haugen moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 70.84.040 and 1997 c 271 s 20 are each amended to read as follows:

The driver of a vehicle approaching a totally or partially blind pedestrian who is carrying a cane predominantly white in color (with or without a red tip), a totally or partially blind or hearing impaired pedestrian using a dog guide, ~~((or an otherwise physically disabled))~~ a person with physical disabilities using a service animal, or a person with a disability using a wheelchair or a power wheelchair as defined in RCW 46.04.415 shall take all necessary precautions to avoid injury to such pedestrian or wheelchair user. Any driver who fails to take such precaution shall be liable in damages for any injury caused such pedestrian or wheelchair user. It shall be unlawful for the operator of any vehicle to drive into or upon any crosswalk while there is on such crosswalk(§) such pedestrian(§) or wheelchair user crossing or attempting to cross the roadway, if such pedestrian or wheelchair user is using a white cane, using a dog guide, ~~((or))~~ using a service animal, or using a wheelchair or a power wheelchair as defined in RCW 46.04.415. The failure of any such pedestrian or wheelchair user so to signal shall not deprive him or her of the right-of-way accorded him or her by other laws.

**NEW SECTION. Sec. 2.** This act takes effect August 1, 2010."

Senator Haugen spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to House Bill No. 1966.

The motion by Senator Haugen carried and the committee striking amendment was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "precautions;" strike the remainder of the title and insert "amending RCW 70.84.040; and providing an effective date."

## MOTION

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On motion of Senator Haugen, the rules were suspended, House Bill No. 1966 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1966 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1966 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, McCaslin and Pflug

HOUSE BILL NO. 1966 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2396, by House Committee on Health & Human Services Appropriations (originally sponsored by Representatives Morrell, Hinkle, Driscoll, Campbell, Cody, Van De Wege, Carlyle, Johnson, Simpson, Hurst, O'Brien, Clibborn, Nelson, Maxwell, Conway, McCoy and Moeller)

Concerning emergency cardiac and stroke care. Revised for 2nd Substitute: Regarding emergency cardiac and stroke care.

The measure was read the second time.

## MOTION

On motion of Senator Keiser, the rules were suspended, Second Substitute House Bill No. 2396 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2396.

## ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2396 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King,

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Kline, Kohl-Welles, Marr, McCauliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, McCaslin and Pflug

SECOND SUBSTITUTE HOUSE BILL NO. 2396, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2841, by House Committee on Health Care & Wellness (originally sponsored by Representatives Hinkle, Cody, Kristiansen, Morrell and Pearson)

Concerning the standard health questionnaire.

The measure was read the second time.

#### MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Health & Long-Term Care be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 48.43.018 and 2009 c 42 s 1 are each amended to read as follows:

(1) Except as provided in (a) through (g) of this subsection, a health carrier may require any person applying for an individual health benefit plan and the health care authority shall require any person applying for nonsubsidized enrollment in the basic health plan to complete the standard health questionnaire designated under chapter 48.41 RCW.

(a) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee due to his or her change of residence from one geographic area in Washington state to another geographic area in Washington state where his or her current health plan is not offered, completion of the standard health questionnaire shall not be a condition of coverage if application for coverage is made within ninety days of relocation.

(b) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee:

(i) Because a health care provider with whom he or she has an established care relationship and from whom he or she has received treatment within the past twelve months is no longer part of the carrier's provider network under his or her existing Washington individual health benefit plan; and

(ii) His or her health care provider is part of another carrier's or a basic health plan managed care system's provider network; and

(iii) Application for a health benefit plan under that carrier's provider network individual coverage or for basic health plan nonsubsidized enrollment is made within ninety days of his or her provider leaving the previous carrier's provider network; then completion of the standard health questionnaire shall not be a condition of coverage.

(c) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee due to his or her having exhausted continuation coverage provided under 29 U.S.C. Sec. 1161 et seq., completion of the standard health questionnaire shall not be a condition of coverage if application for coverage is made within ninety days of exhaustion of continuation coverage. A health carrier or the health care authority as administrator of basic health plan nonsubsidized coverage shall

accept an application without a standard health questionnaire from a person currently covered by such continuation coverage if application is made within ninety days prior to the date the continuation coverage would be exhausted and the effective date of the individual coverage applied for is the date the continuation coverage would be exhausted, or within ninety days thereafter.

(d) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee due to a change in employment status that would qualify him or her to purchase continuation coverage provided under 29 U.S.C. Sec. 1161 et seq., but the person's employer is exempt under federal law from the requirement to offer such coverage, completion of the standard health questionnaire shall not be a condition of coverage if: (i) Application for coverage is made within ninety days of a qualifying event as defined in 29 U.S.C. Sec. 1163; and (ii) the person had at least twenty-four months of continuous group coverage immediately prior to the qualifying event. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous group coverage if application is made no more than ninety days prior to the date of a qualifying event and the effective date of the individual coverage applied for is the date of the qualifying event, or within ninety days thereafter.

(e) If a person is seeking an individual health benefit plan, completion of the standard health questionnaire shall not be a condition of coverage if: (i) The person had at least twenty-four months of continuous basic health plan coverage under chapter 70.47 RCW immediately prior to disenrollment; and (ii) application for coverage is made within ninety days of disenrollment from the basic health plan. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous basic health plan coverage if application is made no more than ninety days prior to the date of disenrollment and the effective date of the individual coverage applied for is the date of disenrollment, or within ninety days thereafter.

(f) If a person is seeking an individual health benefit plan due to a change in employment status that would qualify him or her to purchase continuation coverage provided under 29 U.S.C. Sec. 1161 et seq., completion of the standard health questionnaire is not a condition of coverage if: (i) Application for coverage is made within ninety days of a qualifying event as defined in 29 U.S.C. Sec. 1163; and (ii) the person had at least twenty-four months of continuous group coverage immediately prior to the qualifying event. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous group coverage if application is made no more than ninety days prior to the date of a qualifying event and the effective date of the individual coverage applied for is the date of the qualifying event, or within ninety days thereafter.

(g) If a person is seeking an individual health benefit plan due to their terminating continuation coverage under 29 U.S.C. Sec. 1161 et seq., completion of the standard health questionnaire shall not be a condition of coverage if: (i) Application for coverage is made within ninety days of terminating the continuation coverage; and (ii) the person had at least twenty-four months of continuous group coverage immediately prior to the termination. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous group coverage if application is made no more than ninety days prior to the date of termination of the continuation coverage and the effective date of the individual coverage applied for is the date the continuation coverage is terminated, or within ninety days thereafter.

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(h) If a person is seeking an individual health benefit plan because his or her employer, or former employer, discontinues group coverage due to the closure of the business, completion of the standard health questionnaire shall not be a condition of coverage if: (i) Application for coverage is made within ninety days of the employer discontinuing group coverage due to closure of the business; and (ii) the person had at least twenty-four months of continuous group coverage immediately prior to the termination. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous group coverage if application is made no more than ninety days prior to the date of discontinuation of group coverage, and the effective date of the individual coverage applied for is the date the group coverage is discontinued, or within ninety days thereafter.

(2) If, based upon the results of the standard health questionnaire, the person qualifies for coverage under the Washington state health insurance pool, the following shall apply:

(a) The carrier may decide not to accept the person's application for enrollment in its individual health benefit plan and the health care authority, as administrator of basic health plan nonsubsidized coverage, shall not accept the person's application for enrollment as a nonsubsidized enrollee; and

(b) Within fifteen business days of receipt of a completed application, the carrier or the health care authority as administrator of basic health plan nonsubsidized coverage shall provide written notice of the decision not to accept the person's application for enrollment to both the person and the administrator of the Washington state health insurance pool. The notice to the person shall state that the person is eligible for health insurance provided by the Washington state health insurance pool, and shall include information about the Washington state health insurance pool and an application for such coverage. If the carrier or the health care authority as administrator of basic health plan nonsubsidized coverage does not provide or postmark such notice within fifteen business days, the application is deemed approved.

(3) If the person applying for an individual health benefit plan: (a) Does not qualify for coverage under the Washington state health insurance pool based upon the results of the standard health questionnaire; (b) does qualify for coverage under the Washington state health insurance pool based upon the results of the standard health questionnaire and the carrier elects to accept the person for enrollment; or (c) is not required to complete the standard health questionnaire designated under this chapter under subsection (1)(a) or (b) of this section, the carrier or the health care authority as administrator of basic health plan nonsubsidized coverage, whichever entity administered the standard health questionnaire, shall accept the person for enrollment if he or she resides within the carrier's or the basic health plan's service area and provide or assure the provision of all covered services regardless of age, sex, family structure, ethnicity, race, health condition, geographic location, employment status, socioeconomic status, other condition or situation, or the provisions of RCW 49.60.174(2). The commissioner may grant a temporary exemption from this subsection if, upon application by a health carrier, the commissioner finds that the clinical, financial, or administrative capacity to serve existing enrollees will be impaired if a health carrier is required to continue enrollment of additional eligible individuals."

Senator Keiser spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care to Substitute House Bill No. 2841.

The motion by Senator Keiser carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "questionnaire;" strike the remainder of the title and insert "and amending RCW 48.43.018."

#### MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 2841 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Parlette spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Hatfield, Senator Murray was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2841 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2841 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, McCaslin, Murray and Pflug

SUBSTITUTE HOUSE BILL NO. 2841 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2016, by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Flannigan, Appleton, Hurst, Miloscia and Hunt)

Concerning campaign contribution and disclosure laws.

The measure was read the second time.

#### MOTION

Senator McDermott moved that the following committee striking amendment by the Committee on Government Operations & Elections be adopted:

Strike everything after the enacting clause and insert the following:

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**"PART 1  
GENERAL PROVISIONS"**

**Sec. 101.** RCW 42.17.020 and 2008 c 6 s 201 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Actual malice" means to act with knowledge of falsity or with reckless disregard as to truth or falsity.

(2) "Agency" includes all state agencies and all local agencies. "State agency" includes every state office, department, division, bureau, board, commission, or other state agency. "Local agency" includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency.

(3) "Authorized committee" means the political committee authorized by a candidate, or by the public official against whom recall charges have been filed, to accept contributions or make expenditures on behalf of the candidate or public official.

(4) "Ballot proposition" means any "measure" as defined by RCW 29A.04.091, or any initiative, recall, or referendum proposition proposed to be submitted to the voters of the state or any municipal corporation, political subdivision, or other voting constituency from and after the time when the proposition has been initially filed with the appropriate election officer of that constituency (~~(prior to)~~ before its circulation for signatures.

(5) "Benefit" means a commercial, proprietary, financial, economic, or monetary advantage, or the avoidance of a commercial, proprietary, financial, economic, or monetary disadvantage.

(6) "Bona fide political party" means:

(a) An organization that has ~~((filed a valid certificate of nomination with))~~ been recognized as a minor political party by the secretary of state ((under chapter 29A.20 RCW)));

(b) The governing body of the state organization of a major political party, as defined in RCW 29A.04.086, that is the body authorized by the charter or bylaws of the party to exercise authority on behalf of the state party; or

(c) The county central committee or legislative district committee of a major political party. There may be only one legislative district committee for each party in each legislative district.

(7) "Depository" means a bank ~~((designated by a candidate or political committee pursuant to RCW 42.17.050)), mutual savings bank, savings and loan association, or credit union doing business in this state.~~

(8) "Treasurer" and "deputy treasurer" mean the individuals appointed by a candidate or political committee, pursuant to RCW 42.17.050 (as recodified by this act), to perform the duties specified in that section.

(9) "Candidate" means any individual who seeks nomination for election or election to public office. An individual seeks nomination or election when he or she first:

(a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote his or her candidacy for office;

(b) Announces publicly or files for office;

(c) Purchases commercial advertising space or broadcast time to promote his or her candidacy; or

(d) Gives his or her consent to another person to take on behalf of the individual any of the actions in (a) or (c) of this subsection.

(10) "Caucus political committee" means a political committee organized and maintained by the members of a major political party in the state senate or state house of representatives.

(11) "Commercial advertiser" means any person who sells the service of communicating messages or producing printed material for broadcast or distribution to the general public or segments of the general public whether through the use of newspapers, magazines, television and radio stations, billboard companies, direct mail advertising companies, printing companies, or otherwise.

(12) "Commission" means the agency established under RCW 42.17.350 (as recodified by this act).

(13) "Compensation" unless the context requires a narrower meaning, includes payment in any form for real or personal property or services of any kind ~~((= PROVIDED, That))~~. For the purpose of compliance with RCW 42.17.241 (as recodified by this act), ~~((the term))~~ "compensation" ~~((shall))~~ does not include per diem allowances or other payments made by a governmental entity to reimburse a public official for expenses incurred while the official is engaged in the official business of the governmental entity.

(14) "Continuing political committee" means a political committee that is an organization of continuing existence not established in anticipation of any particular election campaign.

(15)(a) "Contribution" includes:

(i) A loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds between political committees, or anything of value, including personal and professional services for less than full consideration;

(ii) An expenditure made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a political committee, the person or persons named on the candidate's or committee's registration form who direct expenditures on behalf of the candidate or committee, or their agents;

(iii) The financing by a person of the dissemination, distribution, or republication, in whole or in part, of broadcast, written, graphic, or other form of political advertising or electioneering communication prepared by a candidate, a political committee, or its authorized agent;

(iv) Sums paid for tickets to fund-raising events such as dinners and parties, except for the actual cost of the consumables furnished at the event.

(b) "Contribution" does not include:

(i) Standard interest on money deposited in a political committee's account;

(ii) Ordinary home hospitality;

(iii) A contribution received by a candidate or political committee that is returned to the contributor within five business days of the date on which it is received by the candidate or political committee;

(iv) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is of primary interest to the general public, that is in a news medium controlled by a person whose business is that news medium, and that is not controlled by a candidate or a political committee;

(v) An internal political communication primarily limited to the members of or contributors to a political party organization or political committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;

(vi) The rendering of personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. "Volunteer services," for the purposes of this ~~((section))~~ subsection, means services or labor for which the individual is not compensated by any person;

(vii) Messages in the form of reader boards, banners, or yard or window signs displayed on a person's own property or property occupied by a person. However, a facility used for such political

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advertising for which a rental charge is normally made must be reported as an in-kind contribution and counts towards any applicable contribution limit of the person providing the facility;

(viii) Legal or accounting services rendered to or on behalf of:

(A) A political party or caucus political committee if the person paying for the services is the regular employer of the person rendering such services; or

(B) A candidate or an authorized committee if the person paying for the services is the regular employer of the individual rendering the services and if the services are solely for the purpose of ensuring compliance with state election or public disclosure laws; or

(ix) The performance of ministerial functions by a person on behalf of two or more candidates or political committees either as volunteer services defined in (b)(vi) of this subsection or for payment by the candidate or political committee for whom the services are performed as long as:

(A) The person performs solely ministerial functions;

(B) A person who is paid by two or more candidates or political committees is identified by the candidates and political committees on whose behalf services are performed as part of their respective statements of organization under RCW 42.17.040 (as recodified by this act); and

(C) The person does not disclose, except as required by law, any information regarding a candidate's or committee's plans, projects, activities, or needs, or regarding a candidate's or committee's contributions or expenditures that is not already publicly available from campaign reports filed with the commission, or otherwise engage in activity that constitutes a contribution under (a)(ii) of this subsection.

A person who performs ministerial functions under this subsection (15)(b)(ix) is not considered an agent of the candidate or committee as long as he or she has no authority to authorize expenditures or make decisions on behalf of the candidate or committee.

(c) Contributions other than money or its equivalent are deemed to have a monetary value equivalent to the fair market value of the contribution. Services or property or rights furnished at less than their fair market value for the purpose of assisting any candidate or political committee are deemed a contribution. Such a contribution must be reported as an in-kind contribution at its fair market value and counts towards any applicable contribution limit of the provider.

(16) "Elected official" means any person elected at a general or special election to any public office, and any person appointed to fill a vacancy in any such office.

(17) "Election" includes any primary, general, or special election for public office and any election in which a ballot proposition is submitted to the voters(~~(--PROVIDED, That)~~). An election in which the qualifications for voting include other than those requirements set forth in Article VI, section 1 (Amendment 63) of the Constitution of the state of Washington shall not be considered an election for purposes of this chapter.

(18) "Election campaign" means any campaign in support of or in opposition to a candidate for election to public office and any campaign in support of, or in opposition to, a ballot proposition.

(19) "Election cycle" means the period beginning on the first day of January after the date of the last previous general election for the office that the candidate seeks and ending on December 31st after the next election for the office. In the case of a special election to fill a vacancy in an office, "election cycle" means the period beginning on the day the vacancy occurs and ending on December 31st after the special election.

(20) "Electioneering communication" means any broadcast, cable, or satellite television or radio transmission, United States postal service mailing, billboard, newspaper, or periodical that:

(a) Clearly identifies a candidate for a state, local, or judicial office either by specifically naming the candidate, or identifying the candidate without using the candidate's name;

(b) Is broadcast, transmitted, mailed, erected, distributed, or otherwise published within sixty days before any election for that office in the jurisdiction in which the candidate is seeking election; and

(c) Either alone, or in combination with one or more communications identifying the candidate by the same sponsor during the sixty days before an election, has a fair market value of five thousand dollars or more.

(21) "Electioneering communication" does not include:

(a) Usual and customary advertising of a business owned by a candidate, even if the candidate is mentioned in the advertising when the candidate has been regularly mentioned in that advertising appearing at least twelve months preceding his or her becoming a candidate;

(b) Advertising for candidate debates or forums when the advertising is paid for by or on behalf of the debate or forum sponsor, so long as two or more candidates for the same position have been invited to participate in the debate or forum;

(c) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is:

(i) Of primary interest to the general public;

(ii) In a news medium controlled by a person whose business is that news medium; and

(iii) Not a medium controlled by a candidate or a political committee;

(d) Slate cards and sample ballots;

(e) Advertising for books, films, dissertations, or similar works (i) written by a candidate when the candidate entered into a contract for such publications or media at least twelve months before becoming a candidate, or (ii) written about a candidate;

(f) Public service announcements;

(g) A mailed internal political communication primarily limited to the members of or contributors to a political party organization or political committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;

(h) An expenditure by or contribution to the authorized committee of a candidate for state, local, or judicial office; or

(i) Any other communication exempted by the commission through rule consistent with the intent of this chapter.

(22) "Expenditure" includes a payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. ~~((The term))~~ "Expenditure" also includes a promise to pay, a payment, or a transfer of anything of value in exchange for goods, services, property, facilities, or anything of value for the purpose of assisting, benefiting, or honoring any public official or candidate, or assisting in furthering or opposing any election campaign. For the purposes of this chapter, agreements to make expenditures, contracts, and promises to pay may be reported as estimated obligations until actual payment is made. ~~((The term))~~ "Expenditure" shall not include the partial or complete repayment by a candidate or political committee of the principal of a loan, the receipt of which loan has been properly reported.

(23) "Final report" means the report described as a final report in RCW 42.17.080(2) (as recodified by this act).

(24) "General election" for the purposes of RCW 42.17.640 (as recodified by this act) means the election that results in the election of a person to a state or local office. It does not include a primary.

(25) "Gift(~~-- is as defined)~~)" has the definition in RCW 42.52.010.

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(26) "Immediate family" includes the spouse or domestic partner, dependent children, and other dependent relatives, if living in the household. For the purposes of ~~((RCW 42.17.640 through 42.17.790))~~ the definition of "intermediary" in this section, "immediate family" means an individual's spouse or domestic partner, and child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual and the spouse or the domestic partner of any such person and a child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual's spouse or domestic partner and the spouse or the domestic partner of any such person.

(27) "Incumbent" means a person who is in present possession of an elected office.

(28) "Independent expenditure" means an expenditure that has each of the following elements:

(a) It is made in support of or in opposition to a candidate for office by a person who is not (i) a candidate for that office, (ii) an authorized committee of that candidate for that office, (iii) a person who has received the candidate's encouragement or approval to make the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office, or (iv) a person with whom the candidate has collaborated for the purpose of making the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;

(b) The expenditure pays in whole or in part for political advertising that either specifically names the candidate supported or opposed, or clearly and beyond any doubt identifies the candidate without using the candidate's name; and

(c) The expenditure, alone or in conjunction with another expenditure or other expenditures of the same person in support of or opposition to that candidate, has a value of ~~((five))~~ eight hundred dollars or more. A series of expenditures, each of which is under ~~((five))~~ eight hundred dollars, constitutes one independent expenditure if their cumulative value is ~~((five))~~ eight hundred dollars or more.

(29)(a) "Intermediary" means an individual who transmits a contribution to a candidate or committee from another person unless the contribution is from the individual's employer, immediate family ~~((as defined for purposes of RCW 42.17.640 through 42.17.790))~~, or an association to which the individual belongs.

(b) A treasurer or a candidate is not an intermediary for purposes of the committee that the treasurer or candidate serves.

(c) A professional fund-raiser is not an intermediary if the fund-raiser is compensated for fund-raising services at the usual and customary rate.

(d) A volunteer hosting a fund-raising event at the individual's home is not an intermediary for purposes of that event.

(30) "Legislation" means bills, resolutions, motions, amendments, nominations, and other matters pending or proposed in either house of the state legislature, and includes any other matter that may be the subject of action by either house or any committee of the legislature and all bills and resolutions that, having passed both houses, are pending approval by the governor.

(31) "Lobby" and "lobbying" each mean attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency under the state administrative procedure act, chapter 34.05 RCW. Neither "lobby" nor "lobbying" includes an association's or other organization's act of communicating with the members of that association or organization.

(32) "Lobbyist" includes any person who lobbies either in his or her own or another's behalf.

(33) "Lobbyist's employer" means the person or persons by whom a lobbyist is employed and all persons by whom he or she is compensated for acting as a lobbyist.

(34) "Ministerial functions" means an act or duty carried out as part of the duties of an administrative office without exercise of personal judgment or discretion.

(35) "Participate" means that, with respect to a particular election, an entity:

(a) Makes either a monetary or in-kind contribution to a candidate;

(b) Makes an independent expenditure or electioneering communication in support of or opposition to a candidate;

(c) Endorses a candidate ~~((prior to))~~ before contributions ~~((being))~~ are made by a subsidiary corporation or local unit with respect to that candidate or that candidate's opponent;

(d) Makes a recommendation regarding whether a candidate should be supported or opposed ~~((prior to))~~ before a contribution ~~((being))~~ is made by a subsidiary corporation or local unit with respect to that candidate or that candidate's opponent; or

(e) Directly or indirectly collaborates or consults with a subsidiary corporation or local unit on matters relating to the support of or opposition to a candidate, including, but not limited to, the amount of a contribution, when a contribution should be given, and what assistance, services or independent expenditures, or electioneering communications, if any, will be made or should be made in support of or opposition to a candidate.

(36) "Person" includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency however constituted, candidate, committee, political committee, political party, executive committee thereof, or any other organization or group of persons, however organized.

(37) ("Person in interest" means the person who is the subject of a record or any representative designated by that person, except that if that person is under a legal disability, the term "person in interest" means and includes the parent or duly appointed legal representative.

(38)) "Political advertising" includes any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, or other means of mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support or opposition in any election campaign.

~~((39))~~ (38) "Political committee" means any person (except a candidate or an individual dealing with his or her own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.

~~((40))~~ (39) "Primary" for the purposes of RCW 42.17.640 (as recodified by this act) means the procedure for nominating a candidate to state or local office under chapter 29A.52 RCW or any other primary for an election that uses, in large measure, the procedures established in chapter 29A.52 RCW.

~~((41))~~ (40) "Public office" means any federal, state, judicial, county, city, town, school district, port district, special district, or other state political subdivision elective office.

~~((42))~~ (41) "Public record" (includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. For the office of the secretary of the senate and the office of the chief clerk of the house of representatives, public records means legislative records as defined

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in RCW 40.14.100 and also means the following: All budget and financial records; personnel leave, travel, and payroll records; records of legislative sessions; reports submitted to the legislature; and any other record designated a public record by any official action of the senate or the house of representatives) has the definition in RCW 42.56.010.

~~((43))~~ (42) "Recall campaign" means the period of time beginning on the date of the filing of recall charges under RCW 29A.56.120 and ending thirty days after the recall election.

~~((44))~~ (43) "Sponsor of an electioneering communications, independent expenditures, or political advertising" means the person paying for the electioneering communication, independent expenditure, or political advertising. If a person acts as an agent for another or is reimbursed by another for the payment, the original source of the payment is the sponsor.

~~((45) "State))~~ (44) "Legislative office" means the office of a member of the state house of representatives or the office of a member of the state senate.

~~((46))~~ (45) "State office" means state legislative office or the office of governor, lieutenant governor, secretary of state, attorney general, commissioner of public lands, insurance commissioner, superintendent of public instruction, state auditor, or state treasurer.

~~((47))~~ (46) "State official" means a person who holds a state office.

~~((48))~~ (47) "Surplus funds" mean, in the case of a political committee or candidate, the balance of contributions that remain in the possession or control of that committee or candidate subsequent to the election for which the contributions were received, and that are in excess of the amount necessary to pay remaining debts incurred by the committee or candidate ~~((prior))~~ with respect to that election. In the case of a continuing political committee, "surplus funds" mean those contributions remaining in the possession or control of the committee that are in excess of the amount necessary to pay all remaining debts when it makes its final report under RCW 42.17.065 (as recodified by this act).

~~((49))~~ "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

As used in this chapter, the singular shall take the plural and any gender, the other, as the context requires.)

## PART 2 ELECTRONIC ACCESS

**Sec. 201.** RCW 42.17.367 and 1999 c 401 s 9 are each amended to read as follows:

~~((By February 1, 2000,))~~ The commission shall operate a web site or contract for the operation of a web site that allows access to reports, copies of reports, or copies of data and information submitted in reports, filed with the commission under RCW 42.17.040, 42.17.065, 42.17.080, 42.17.100, ~~((and))~~ 42.17.105, 42.17.150, 42.17.170, 42.17.175, and 42.17.180 (as recodified by this act). ~~((By January 1, 2001, the web site shall allow access to reports, copies of reports, or copies of data and information submitted in reports, filed with the commission under RCW 42.17.150, 42.17.170, 42.17.175, and 42.17.180.))~~ In addition, the commission shall attempt to make available via the web site other public records submitted to or generated by the commission that are required by this chapter to be available for public use or inspection.

**Sec. 202.** RCW 42.17.369 and 2000 c 237 s 3 are each amended to read as follows:

(1) ~~((By July 1, 1999,))~~ The commission shall make available to candidates, public officials, and political committees that are required to file reports under this chapter an electronic filing alternative for submitting financial affairs reports, contribution reports, and expenditure reports ~~((including but not limited to filing by diskette, modem, satellite, or the Internet)).~~

(2) ~~((By January 1, 2002,))~~ The commission shall make available to lobbyists and lobbyists' employers required to file reports under RCW 42.17.150, 42.17.170, 42.17.175, or 42.17.180 (as recodified by this act) an electronic filing alternative for submitting these reports ~~((including but not limited to filing by diskette, modem, satellite, or the Internet)).~~

(3) The commission shall make available to candidates, public officials, political committees, lobbyists, and lobbyists' employers an electronic copy of the appropriate reporting forms at no charge.

**Sec. 203.** RCW 42.17.461 and 2000 c 237 s 5 are each amended to read as follows:

~~((4))~~ The commission shall establish goals that all reports, copies of reports, or copies of the data or information included in reports, filed under RCW 42.17.040, 42.17.065, 42.17.080, 42.17.100, 42.17.105, 42.17.150, 42.17.170, 42.17.175, and 42.17.180 (as recodified by this act), that are:

((a) Submitted using the commission's electronic filing system shall be accessible in the commission's office within two business days of the commission's receipt of the report and shall be accessible on the commission's web site within seven business days of the commission's receipt of the report; and

(b) Submitted in any format or using any method other than as described in (a) of this subsection, shall be accessible in the commission's office within four business days of the actual physical receipt of the report, and not the technical date of filing as provided under RCW 42.17.420, and shall be accessible on the commission's web site within fourteen business days of the actual physical receipt of the report, and not the technical date of filing as provided under RCW 42.17.420, as specified in rule adopted by the commission.

(2) On January 1, 2001, or shortly thereafter, the commission shall revise these goals to reflect that all reports, copies of reports, or copies of the data or information included in reports, filed under RCW 42.17.040, 42.17.065, 42.17.080, 42.17.100, 42.17.105, 42.17.150, 42.17.170, 42.17.175, and 42.17.180, that are:

(a) Submitted using the commission's electronic filing system shall be accessible in the commission's office within two business days of the commission's receipt of the report and on the commission's web site within four business days of the commission's receipt of the report; and

(b) Submitted in any format or using any method other than as described in (a) of this subsection, shall be accessible in the commission's office within four business days of the actual physical receipt of the report, and not the technical date of filing as provided under RCW 42.17.420, and on the commission's web site within seven business days of the actual physical receipt of the report, and not the technical date of filing as provided under RCW 42.17.420, as specified in rule adopted by the commission.

(3) On January 1, 2002, or shortly thereafter, the commission shall revise these goals to reflect that all reports, copies of reports, or copies of the data or information included in reports, filed under RCW 42.17.040, 42.17.065, 42.17.080, 42.17.100, 42.17.105, 42.17.150, 42.17.170, 42.17.175, and 42.17.180, that are:

(a)) (1) Submitted using the commission's electronic filing system must be accessible in the commission's office and on the commission's web site within two business days of the commission's receipt of the report; and

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~~((b))~~ (2) Submitted ~~((in any format or using any method other than as described in (a) of this subsection,))~~ on paper must be accessible in the commission's office and on the commission's web site within four business days of the actual physical receipt of the report, and not the technical date of filing as provided under RCW 42.17.420 ~~(as recodified by this act)~~, as specified in rule adopted by the commission.

**Sec. 204.** RCW 42.17.463 and 1999 c 401 s 3 are each amended to read as follows:

By July 1st of each year ~~((beginning in 2000)),~~ the commission shall calculate the following performance measures, provide a copy of the performance measures to the governor and appropriate legislative committees, and make the performance measures available to the public:

(1) The average number of days that elapse between the commission's receipt of reports filed under RCW 42.17.040, 42.17.065, 42.17.080, and 42.17.100 ~~(as recodified by this act)~~ and the time that the report, a copy of the report, or a copy of the data or information included in the report, is first accessible to the general public (a) in the commission's office, and (b) via the commission's web site;

(2) The average number of days that elapse between the commission's receipt of reports filed under RCW 42.17.105 ~~(as recodified by this act)~~ and the time that the report, a copy of the report, or a copy of the data or information included in the report, is first accessible to the general public (a) in the commission's office, and (b) via the commission's web site;

(3) The average number of days that elapse between the commission's receipt of reports filed under RCW 42.17.150, 42.17.170, 42.17.175, and 42.17.180 ~~(as recodified by this act)~~ and the time that the report, a copy of the report, or a copy of the data or information included in the report, is first accessible to the general public (a) in the commission's office, and (b) via the commission's web site;

(4) The percentage of candidates, categorized as statewide, ~~((state))~~ legislative, or local, that have used each of the following methods to file reports under RCW 42.17.080 or 42.17.105 ~~(as recodified by this act)~~: (a) Hard copy paper format; ~~((b) electronic format via diskette; (c) electronic format via modem or satellite; (d))~~ or (b) electronic format via the Internet; ~~((and (e) any other format or method;))~~

(5) The percentage of continuing political committees that have used each of the following methods to file reports under RCW 42.17.065 or 42.17.105 ~~(as recodified by this act)~~: (a) Hard copy paper format; ~~((b) electronic format via diskette; (c) electronic format via modem or satellite; (d))~~ or (b) electronic format via the Internet; ~~((and (e) any other format or method;))~~ and

(6) The percentage of lobbyists and lobbyists' employers that have used each of the following methods to file reports under RCW 42.17.150, 42.17.170, 42.17.175, or 42.17.180 ~~(as recodified by this act)~~: (a) Hard copy paper format; ~~((b) electronic format via diskette; (c) electronic format via modem or satellite; (d))~~ or (b) electronic format via the Internet; ~~((and (e) any other format or method;))~~.

**PART 3  
ADMINISTRATION**

**Sec. 301.** RCW 42.17.350 and 1998 c 30 s 1 are each amended to read as follows:

(1) ~~((There is hereby established a " ))~~ The public disclosure commission ~~(( " which ))~~ is established. The commission shall be composed of five members ~~((who shall be))~~ appointed by the governor, with the consent of the senate. All appointees shall be persons of the highest integrity and qualifications. No more than

three members shall have an identification with the same political party.

(2) The term of each member shall be five years. No member is eligible for appointment to more than one full term. Any member may be removed by the governor, but only upon grounds of neglect of duty or misconduct in office.

(3) During his or her tenure, a member of the commission is prohibited from engaging in any of the following activities, either within or outside the state of Washington:

(a) Holding or campaigning for elective office;

(b) Serving as an officer of any political party or political committee;

(c) Permitting his or her name to be used in support of or in opposition to a candidate or proposition;

(d) Soliciting or making contributions to a candidate or in support of or in opposition to any candidate or proposition;

(e) Participating in any way in any election campaign; or

(f) Lobbying, employing, or assisting a lobbyist, except that a member or the staff of the commission may lobby to the limited extent permitted by RCW 42.17.190 ~~(as recodified by this act)~~ on matters directly affecting this chapter.

(4) A vacancy on the commission shall be filled within thirty days of the vacancy by the governor, with the consent of the senate, and the appointee shall serve for the remaining term of his or her predecessor. A vacancy shall not impair the powers of the remaining members to exercise all of the powers of the commission.

(5) Three members of the commission shall constitute a quorum. The commission shall elect its own chair and adopt its own rules of procedure in the manner provided in chapter 34.05 RCW.

(6) Members shall be compensated in accordance with RCW 43.03.250 and ~~((in addition))~~ shall be reimbursed for travel expenses incurred while engaged in the business of the commission as provided in RCW 43.03.050 and 43.03.060. The compensation provided pursuant to this section shall not be considered salary for purposes of the provisions of any retirement system created ~~((pursuant to))~~ under the ~~((general))~~ laws of this state.

**Sec. 302.** RCW 42.17.360 and 1973 c 1 s 36 are each amended to read as follows:

The commission shall:

(1) Develop and provide forms for the reports and statements required to be made under this chapter;

(2) Prepare and publish a manual setting forth recommended uniform methods of bookkeeping and reporting for use by persons required to make reports and statements under this chapter;

(3) Compile and maintain a current list of all filed reports and statements;

(4) Investigate whether properly completed statements and reports have been filed within the times required by this chapter;

(5) Upon complaint or upon its own motion, investigate and report apparent violations of this chapter to the appropriate law enforcement authorities;

(6) Conduct a sufficient number of audits and field investigations to provide a statistically valid finding regarding the degree of compliance with the provisions of this chapter by all required filers. Any documents, records, reports, computer files, papers, or materials provided to the commission for use in conducting audits and investigations must be returned to the candidate, campaign, or political committee from which they were received within one week of the commission's completion of an audit or field investigation;

(7) Prepare and publish an annual report to the governor as to the effectiveness of this chapter and its enforcement by appropriate law enforcement authorities; ~~((and~~

~~—(7))~~ (8) Enforce this chapter according to the powers granted it

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by law;

(9) Adopt rules governing the arrangement, handling, indexing, and disclosing of those reports required by this chapter to be filed with a county auditor or county elections official. The rules shall:

(a) Ensure ease of access by the public to the reports; and

(b) Include, but not be limited to, requirements for indexing the reports by the names of candidates or political committees and by the ballot proposition for or against which a political committee is receiving contributions or making expenditures;

(10) Adopt rules to carry out the policies of chapter 348, Laws of 2006. The adoption of these rules is not subject to the time restrictions of RCW 42.17.370(1) (as recodified by this act);

(11) Adopt administrative rules establishing requirements for filer participation in any system designed and implemented by the commission for the electronic filing of reports; and

(12) Maintain and make available to the public and political committees of this state a toll-free telephone number.

**Sec. 303.** RCW 42.17.370 and 1995 c 397 s 17 are each amended to read as follows:

The commission ~~((is empowered to))~~ may:

(1) Adopt, ~~((promulgate,))~~ amend, and rescind suitable administrative rules to carry out the policies and purposes of this chapter, which rules shall be adopted under chapter 34.05 RCW. Any rule relating to campaign finance, political advertising, or related forms that would otherwise take effect after June 30th of a general election year shall take effect no earlier than the day following the general election in that year;

(2) Appoint an executive director and set, within the limits established by the state committee on agency officials' salaries under RCW 43.03.028, the executive director's compensation ~~((of an executive director who)).~~ The executive director shall perform such duties and have such powers as the commission may prescribe and delegate to implement and enforce this chapter efficiently and effectively. The commission shall not delegate its authority to adopt, amend, or rescind rules nor ~~((shall))~~ may it delegate authority to determine whether an actual violation of this chapter has occurred or to assess penalties for such violations;

(3) Prepare and publish ~~((such))~~ reports and technical studies as in its judgment will tend to promote the purposes of this chapter, including reports and statistics concerning campaign financing, lobbying, financial interests of elected officials, and enforcement of this chapter;

(4) ~~((Make from time to time, on its own motion))~~ Conduct, as it deems appropriate, audits and field investigations;

(5) Make public the time and date of any formal hearing set to determine whether a violation has occurred, the question or questions to be considered, and the results thereof;

(6) Administer oaths and affirmations, issue subpoenas, and compel attendance, take evidence, and require the production of any ~~((books, papers, correspondence, memorandums, or other))~~ records relevant ~~((or material for the purpose of))~~ to any investigation authorized under this chapter, or any other proceeding under this chapter;

(7) Adopt ~~((and promulgate))~~ a code of fair campaign practices;

(8) ~~((Relieve, by rule,))~~ Adopt rules relieving candidates or political committees of obligations to comply with the election campaign provisions of this chapter ~~((relating to election campaigns)),~~ if they have not received contributions nor made expenditures in connection with any election campaign of more than ~~((one))~~ five thousand dollars;

(9) Adopt rules prescribing reasonable requirements for keeping accounts of, and reporting on a quarterly basis, costs incurred by state agencies, counties, cities, and other municipalities and political subdivisions in preparing, publishing, and distributing legislative information. ~~((The term))~~ For the purposes of this subsection,

"legislative information~~((;))~~" ~~((for the purposes of this subsection,))~~ means books, pamphlets, reports, and other materials prepared, published, or distributed at substantial cost, a substantial purpose of which is to influence the passage or defeat of any legislation. The state auditor in his or her regular examination of each agency under chapter 43.09 RCW shall review the rules, accounts, and reports and make appropriate findings, comments, and recommendations ~~((in his or her examination reports))~~ concerning those agencies; and

(10) ~~((After hearing, by order approved and ratified by a majority of the membership of the commission, suspend or modify any of the reporting requirements of this chapter in a particular case if it finds that literal application of this chapter works a manifestly unreasonable hardship and if it also finds that the suspension or modification will not frustrate the purposes of the chapter. The commission shall find that a manifestly unreasonable hardship exists if reporting the name of an entity required to be reported under RCW 42.17.241(1)(g)(ii) would be likely to adversely affect the competitive position of any entity in which the person filing the report or any member of his or her immediate family holds any office, directorship, general partnership interest, or an ownership interest of ten percent or more. Any suspension or modification shall be only to the extent necessary to substantially relieve the hardship. The commission shall act to suspend or modify any reporting requirements only if it determines that facts exist that are clear and convincing proof of the findings required under this section. Requests for renewals of reporting modifications may be heard in a brief adjudicative proceeding as set forth in RCW 34.05.482 through 34.05.494 and in accordance with the standards established in this section. No initial request may be heard in a brief adjudicative proceeding and no request for renewal may be heard in a brief adjudicative proceeding if the initial request was granted more than three years previously or if the applicant is holding an office or position of employment different from the office or position held when the initial request was granted. The commission shall adopt administrative rules governing the proceedings. Any citizen has standing to bring an action in Thurston county superior court to contest the propriety of any order entered under this section within one year from the date of the entry of the order; and~~

(11) Revise, at least once every five years but no more often than every two years, the monetary reporting thresholds and reporting code values of this chapter. The revisions shall be only for the purpose of recognizing economic changes as reflected by an inflationary index recommended by the office of financial management. The revisions shall be guided by the change in the index for the period commencing with the month of December preceding the last revision and concluding with the month of December preceding the month the revision is adopted. As to each of the three general categories of this chapter (reports of campaign finance, reports of lobbyist activity, and reports of the financial affairs of elected and appointed officials), the revisions shall equally affect all thresholds within each category. Revisions shall be adopted as rules under chapter 34.05 RCW. The first revision authorized by this subsection shall reflect economic changes from the time of the last legislative enactment affecting the respective code or threshold through December 1985;

(12) ~~((Develop and provide to filers a system for certification of reports required under this chapter which are transmitted by facsimile or electronically to the commission. Implementation of the program is contingent on the availability of funds.~~

NEW SECTION. Sec. 304. SUSPENSION OR MODIFICATION OF REPORTING REQUIREMENTS. (1) The commission may suspend or modify any of the reporting requirements of this chapter if it finds that literal application of this chapter works a manifestly unreasonable hardship in a particular

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case and the suspension or modification will not frustrate the purposes of this chapter. The commission may suspend or modify reporting requirements only after a hearing is held and the suspension or modification receives approval from a majority of the commission. The commission shall act to suspend or modify any reporting requirements:

(a) Only if it determines that facts exist that are clear and convincing proof of the findings required under this section; and

(b) Only to the extent necessary to substantially relieve the hardship.

(2) A manifestly unreasonable hardship exists if reporting the name of an entity required to be reported under RCW 42.17.241(1)(g)(ii) (as recodified by this act) would be likely to adversely affect the competitive position of any entity in which the person filing the report, or any member of his or her immediate family, holds any office, directorship, general partnership interest, or an ownership interest of ten percent or more.

(3) Requests for renewals of reporting modifications may be heard in a brief adjudicative proceeding as set forth in RCW 34.05.482 through 34.05.494 and in accordance with the standards established in this section. No initial request may be heard in a brief adjudicative proceeding. No request for renewal may be heard in a brief adjudicative proceeding if the initial request was granted more than three years previously or if the applicant is holding an office or position of employment different from the office or position held when the initial request was granted.

(4) Any citizen has standing to bring an action in Thurston county superior court to contest the propriety of any order entered under this section within one year from the date of the entry of the order.

(5) The commission shall adopt rules governing the proceedings.

**Sec. 305.** RCW 42.17.690 and 1993 c 2 s 9 are each amended to read as follows:

(1) At the beginning of each even-numbered calendar year, the commission shall increase or decrease ~~((and))~~ the dollar amounts in ~~((this chapter))~~ RCW 42.17.020(2), 42.17.125(3), 42.17.180(1), 42.17.640, 42.17.645, and 42.17.740 (as recodified by this act) based on changes in economic conditions as reflected in the inflationary index ~~((used by the commission under RCW 42.17.370))~~ recommended by the office of financial management. The new dollar amounts established by the commission under this section shall be rounded off ~~((by the commission))~~ to amounts as judged most convenient for public understanding and so as to be within ten percent of the target amount equal to the base amount provided in this chapter multiplied by the increase in the inflationary index since ~~((December 3, 1992))~~ July 2008.

(2) The commission may revise, at least once every five years but no more often than every two years, the monetary reporting thresholds and reporting code values of this chapter. The revisions shall be only for the purpose of recognizing economic changes as reflected by an inflationary index recommended by the office of financial management. The revisions shall be guided by the change in the index for the period commencing with the month of December preceding the last revision and concluding with the month of December preceding the month the revision is adopted. As to each of the three general categories of this chapter, reports of campaign finance, reports of lobbyist activity, and reports of the financial affairs of elected and appointed officials, the revisions shall equally affect all thresholds within each category. The revisions authorized by this subsection shall reflect economic changes from the time of the last legislative enactment affecting the respective code or threshold.

(3) Revisions made in accordance with subsections (1) and (2) of this section shall be adopted as rules under chapter 34.05 RCW.

**Sec. 306.** RCW 42.17.380 and 1982 c 35 s 196 are each amended to read as follows:

((1)) The office of the secretary of state shall be designated as a place where the public may file papers or correspond with the commission and receive any form or instruction from the commission.

(2)) The attorney general, through his or her office, shall ~~((supply such))~~ provide assistance as ~~((the commission may require in order))~~ required by the commission to carry out its responsibilities under this chapter. The commission may employ attorneys who are neither the attorney general nor an assistant attorney general to carry out any function of the attorney general prescribed in this chapter.

**Sec. 307.** RCW 42.17.405 and 2006 c 240 s 2 are each amended to read as follows:

(1) Except as provided in subsections (2), (3), and (7) of this section, the reporting provisions of this chapter do not apply to:

(a) Candidates, elected officials, and agencies in political subdivisions with less than one thousand registered voters as of the date of the most recent general election in the jurisdiction((, to));

(b) Political committees formed to support or oppose candidates or ballot propositions in such political subdivisions((,); or ((to))

(c) Persons making independent expenditures in support of or opposition to such ballot propositions.

(2) The reporting provisions of this chapter apply in any exempt political subdivision from which a "petition for disclosure" containing the valid signatures of fifteen percent of the number of registered voters, as of the date of the most recent general election in the political subdivision, is filed with the commission. The commission shall by rule prescribe the form of the petition. After the signatures are gathered, the petition shall be presented to the auditor or elections officer of the county, or counties, in which the political subdivision is located. The auditor or elections officer shall verify the signatures and certify to the commission that the petition contains no less than the required number of valid signatures. The commission, upon receipt of a valid petition, shall order every known affected person in the political subdivision to file the initially required statement and reports within fourteen days of the date of the order.

(3) The reporting provisions of this chapter apply in any exempt political subdivision that by ordinance, resolution, or other official action has petitioned the commission to make the provisions applicable to elected officials and candidates of the exempt political subdivision. A copy of the action shall be sent to the commission. If the commission finds the petition to be a valid action of the appropriate governing body or authority, the commission shall order every known affected person in the political subdivision to file the initially required statement and reports within fourteen days of the date of the order.

(4) The commission shall void any order issued by it pursuant to subsection (2) or (3) of this section when, at least four years after issuing the order, the commission is presented a petition or official action so requesting from the affected political subdivision. Such petition or official action shall meet the respective requirements of subsection (2) or (3) of this section.

(5) Any petition for disclosure, ordinance, resolution, or official action of an agency petitioning the commission to void the exemption in RCW 42.17.030(3) (as recodified by this act) shall not be considered unless it has been filed with the commission:

(a) In the case of a ballot measure, at least sixty days before the date of any election in which campaign finance reporting is to be required;

(b) In the case of a candidate, at least sixty days before the first day on which a person may file a declaration of candidacy for any election in which campaign finance reporting is to be required.

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(6) Any person exempted from reporting under this chapter may at his or her option file the statement and reports.

(7) The reporting provisions of this chapter apply to a candidate in any political subdivision if the candidate receives or expects to receive five thousand dollars or more in contributions.

**Sec. 308.** RCW 42.17.420 and 1999 c 401 s 10 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, ~~((when)) the date of receipt of any properly addressed application, report, statement, notice, or payment required to be made under the provisions of this chapter (has been deposited postpaid in the United States mail properly addressed, it shall be deemed to have been received on the date of mailing. It shall be presumed that) is the date shown by the post office cancellation mark on the envelope ~~((is the date of mailing))~~ of the submitted material. The provisions of this section do not apply to reports required to be delivered under RCW 42.17.105 and 42.17.175 (as recodified by this act).~~

(2) When a report is filed electronically with the commission, it is deemed to have been received on the file transfer date. The commission shall notify the filer of receipt of the electronically filed report. Such notification may be sent by mail, facsimile, or electronic mail. If the notification of receipt of the electronically filed report is not received by the filer, the filer may offer his or her own proof of sending the report, and such proof shall be treated as if it were a receipt sent by the commission. Electronic filing may be used for purposes of filing the special reports required to be delivered under RCW 42.17.105 and 42.17.175 (as recodified by this act).

**Sec. 309.** RCW 42.17.450 and 1973 c 1 s 45 are each amended to read as follows:

~~((Persons with whom statements or reports or copies of statements or reports are required to be filed under this chapter)) (1) County auditors and county elections officials shall preserve ~~((them))~~ filed statements or reports for not less than six years.~~

~~(2) The commission~~~~((, however,))~~ shall preserve ~~((such))~~ filed statements or reports for not less than ten years.

#### PART 4 CAMPAIGN FINANCE REPORTING

**Sec. 401.** RCW 42.17.030 and 2006 c 240 s 1 are each amended to read as follows:

The provisions of this chapter relating to the financing of election campaigns shall apply in all election campaigns other than (1) for precinct committee officer; (2) for a federal elective office; and (3) for an office of a political subdivision of the state that does not encompass a whole county and that contains fewer than five thousand registered voters as of the date of the most recent general election in the subdivision, unless required by RCW 42.17.405 (2) through (5) and (7) (as recodified by this act).

**Sec. 402.** RCW 42.17.040 and 2007 c 358 s 2 are each amended to read as follows:

(1) Every political committee~~((, within two weeks after its organization or, within two weeks after the date when it first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier,))~~ shall file a statement of organization with the commission and with the county auditor or elections officer of the county in which the candidate resides, or in the case of any other political committee, the county in which the treasurer resides. The statement must be filed within two weeks after organization or within two weeks after the date the committee first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier. A political committee organized within the last three weeks before an election and having the expectation of receiving contributions or

making expenditures during and for that election campaign shall file a statement of organization within three business days after its organization or when it first has the expectation of receiving contributions or making expenditures in the election campaign.

(2) The statement of organization shall include but not be limited to:

(a) The name and address of the committee;

(b) The names and addresses of all related or affiliated committees or other persons, and the nature of the relationship or affiliation;

(c) The names, addresses, and titles of its officers; or if it has no officers, the names, addresses, and titles of its responsible leaders;

(d) The name and address of its treasurer and depository;

(e) A statement whether the committee is a continuing one;

(f) The name, office sought, and party affiliation of each candidate whom the committee is supporting or opposing, and, if the committee is supporting the entire ticket of any party, the name of the party;

(g) The ballot proposition concerned, if any, and whether the committee is in favor of or opposed to such proposition;

(h) What distribution of surplus funds will be made, in accordance with RCW 42.17.095 (as recodified by this act), in the event of dissolution;

(i) The street address of the place and the hours during which the committee will make available for public inspection its books of account and all reports filed in accordance with RCW 42.17.080 (as recodified by this act);

(j) Such other information as the commission may by regulation prescribe, in keeping with the policies and purposes of this chapter;

(k) The name, address, and title of any person who authorizes expenditures or makes decisions on behalf of the candidate or committee; and

(l) The name, address, and title of any person who is paid by or is a volunteer for a candidate or political committee to perform ministerial functions and who performs ministerial functions on behalf of two or more candidates or committees.

(3) Any material change in information previously submitted in a statement of organization shall be reported to the commission and to the appropriate county elections officer within the ten days following the change.

**Sec. 403.** RCW 42.17.050 and 1989 c 280 s 3 are each amended to read as follows:

(1) Each candidate, within two weeks after becoming a candidate, and each political committee, at the time it is required to file a statement of organization, shall designate and file with the commission and the appropriate county elections officer the name~~((s))~~ and address~~((es))~~ of~~((:~~

~~—(a)) one legally competent individual, who may be the candidate, to serve as a treasurer~~~~((; and~~

~~—(b) A bank, mutual savings bank, savings and loan association, or credit union doing business in this state to serve as depository and the name of the account or accounts maintained in it).~~

(2) A candidate, a political committee, or a treasurer may appoint as many deputy treasurers as is considered necessary and ~~((may designate not more than one additional depository in each other county in which the campaign is conducted. The candidate or political committee))~~ shall file the names and addresses of the deputy treasurers ~~((and additional depositories))~~ with the commission and the appropriate county elections officer.

(3) ~~((A candidate may not knowingly establish, use, direct, or control more than one political committee for the purpose of supporting that candidate during a particular election campaign. This does not prohibit: (a) In addition to a candidate's having his or her own political committee, the candidate's participation in a political committee established to support a slate of candidates~~

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which includes the candidate; or (b) joint fund-raising efforts by candidates when a separate political committee is established for that purpose and all contributions are disbursed to and accounted for on a pro rata basis by the benefiting candidates.

(4))(a) A candidate or political committee may at any time remove a treasurer or deputy treasurer ((or change a designated depository)).

(b) In the event of the death, resignation, removal, or change of a treasurer((;)) or deputy treasurer, ((or depository,)) the candidate or political committee shall designate and file with the commission and the appropriate county elections officer the name and address of any successor.

((;)) (4) No treasurer((;)) or deputy treasurer((, or depository)) may be deemed to be in compliance with the provisions of this chapter until his or her name and address is filed with the commission and the appropriate county elections officer.

**NEW SECTION. Sec. 404. DEPOSITORIES.** Each candidate and each political committee shall designate and file with the commission and the appropriate county elections officer the name and address of not more than one depository for each county in which the campaign is conducted in which the candidate's or political committee's accounts are maintained and the name of the account or accounts maintained in that depository on behalf of the candidate or political committee. The candidate or political committee may at any time change the designated depository and shall file with the commission and the appropriate county elections officer the same information for the successor depository as for the original depository. The candidate or political committee may not be deemed in compliance with the provisions of this chapter until the information required for the depository is filed with the commission and the appropriate county elections officer.

**Sec. 405.** RCW 42.17.060 and 1989 c 280 s 4 are each amended to read as follows:

(1) All monetary contributions received by a candidate or political committee shall be deposited by the treasurer or deputy treasurer in a depository in an account established and designated for that purpose. Such deposits shall be made within five business days of receipt of the contribution.

(2) Political committees ((which)) that support or oppose more than one candidate or ballot proposition, or exist for more than one purpose, may maintain multiple separate bank accounts within the same designated depository for such purpose((;—PROVIDED, That)) only if:

\_\_\_ (a) Each such account ((shall)) bears the same name;

\_\_\_ (b) Each such account is followed by an appropriate designation ((which)) that accurately identifies its separate purpose((;—AND PROVIDED FURTHER, That)); and

\_\_\_ (c) Transfers of funds ((which)) that must be reported under RCW 42.17.090(1)((, (d) may)) (e) (as recodified by this act) are not ((be)) made from more than one such account.

(3) Nothing in this section prohibits a candidate or political committee from investing funds on hand in a depository in bonds, certificates, or tax-exempt securities, or in savings accounts or other similar instruments in financial institutions, or in mutual funds other than the depository((;—PROVIDED, That)) but only if:

\_\_\_ (a) The commission and the appropriate county elections officer ((is)) are notified in writing of the initiation and the termination of the investment((;—PROVIDED FURTHER, That)); and

\_\_\_ (b) The principal of such investment, when terminated together with all interest, dividends, and income derived from the investment ((are)), is deposited in the depository in the account from which the investment was made and properly reported to the commission and the appropriate county elections officer ((prior to)) before any further disposition or expenditure ((thereof)).

(4) Accumulated unidentified contributions, other than those made by persons whose names must be maintained on a separate and private list by a political committee's treasurer pursuant to RCW 42.17.090(1)(b) (as recodified by this act), ((which total)) in excess of one percent of the total accumulated contributions received in the current calendar year, or three hundred dollars ((;)), whichever is more((;)), may not be deposited, used, or expended, but shall be returned to the donor((;)) if his or her identity can be ascertained. If the donor cannot be ascertained, the contribution shall escheat to the state((;)) and shall be paid to the state treasurer for deposit in the state general fund.

((;)) (5) A contribution of more than fifty dollars in currency may not be accepted unless a receipt, signed by the contributor and by the candidate, treasurer, or deputy treasurer, is prepared and made a part of the campaign's or political committee's financial records.))

**Sec. 406.** RCW 42.17.065 and 2000 c 237 s 1 are each amended to read as follows:

(1) In addition to the provisions of this section, a continuing political committee shall file and report on the same conditions and at the same times as any other committee in accordance with the provisions of RCW 42.17.040, 42.17.050, and 42.17.060 (as recodified by this act).

(2) A continuing political committee shall file ((with the commission and the auditor or elections officer of the county in which the committee maintains its office or headquarters and if there is no such office or headquarters then in the county in which the committee treasurer resides)) a report on the tenth day of ((the)) each month detailing ((its activities)) expenditures made and contributions received for the preceding calendar month ((in which the committee has received a contribution or made an expenditure: PROVIDED, That such)), This report ((shall)) need only be filed if either the total contributions received or total expenditures made since the last such report exceed two hundred dollars((: PROVIDED FURTHER, That after January 1, 2002, if the committee files with the commission electronically, it need not also file with the county auditor or elections officer)). The report must be filed with the commission and the auditor or elections officer of the county in which the committee maintains its office or headquarters. If the committee does not have an office or headquarters, the report must be filed in the county where the committee treasurer resides. However, if the committee files with the commission electronically, it need not also file with the county auditor or elections officer. The report shall be on a form supplied by the commission and shall include the following information:

(a) The information required by RCW 42.17.090 (as recodified by this act);

(b) Each expenditure made to retire previously accumulated debts of the committee((;)) identified by recipient, amount, and date of payments;

(c) ((Such)) Other information ((as)) the commission shall prescribe by rule ((prescribe)).

(3) If a continuing political committee ((shall)) makes a contribution in support of or in opposition to a candidate or ballot proposition within sixty days ((prior to)) before the date ((on which such)) that the candidate or ballot proposition will be voted upon, ((such continuing political)) the committee shall report pursuant to RCW 42.17.080 (as recodified by this act).

(4) A continuing political committee shall file reports as required by this chapter until it is dissolved, at which time a final report shall be filed. Upon submitting a final report, the duties of the ((campaign)) treasurer shall cease and there shall be no obligation to make any further reports.

(5) The ((campaign)) treasurer shall maintain books of account, current within five business days, that accurately ((reflecting)) reflect all contributions and expenditures ((on a current basis within

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~~five business days of receipt or expenditure~~). During the eight days immediately preceding the date of any election ~~(, for which)~~ that the committee has received any contributions or made any expenditures, the books of account shall be kept current within one business day and shall be open for public inspection in the same manner as provided for candidates and other political committees in RCW 42.17.080(5) (as recodified by this act).

(6) All reports filed pursuant to this section shall be certified as correct by the ~~(campaign)~~ treasurer.

(7) The ~~(campaign)~~ treasurer shall preserve books of account, bills, receipts, and all other financial records of the campaign or political committee for not less than five calendar years following the year during which the transaction occurred.

**Sec. 407.** RCW 42.17.067 and 1989 c 280 s 6 are each amended to read as follows:

(1) Fund-raising activities ~~(which meet)~~ meeting the standards of subsection (2) of this section may be reported in accordance with the provisions of this section in lieu of reporting in accordance with RCW 42.17.080 (as recodified by this act).

(2) Standards:

(a) The activity consists of one or more of the following:

(i) ~~(The retail)~~ A sale of goods or services sold at a reasonable approximation of the fair market value of each item or service ~~(sold at the activity)~~; or

(ii) A gambling operation ~~(which)~~ that is licensed, conducted, or operated in accordance with the provisions of chapter 9.46 RCW; or

(iii) A gathering where food and beverages are purchased ~~(where)~~ and the price of admission or the per person charge for the food and beverages is no more than twenty-five dollars; or

(iv) A concert, dance, theater performance, or similar entertainment event ~~(where)~~ and the price of admission is no more than twenty-five dollars; or

(v) An auction or similar sale ~~(where)~~ for which the total fair market value of items donated by any person ~~(for sale)~~ is no more than fifty dollars; and

(b) No person responsible for receiving money at ~~(such)~~ the fund-raising activity knowingly accepts payments from a single person at or from such an activity to the candidate or committee aggregating more than fifty dollars unless the name and address of the person making ~~(such)~~ the payment, together with the amount paid to the candidate or committee, are disclosed in the report filed pursuant to subsection (6) of this section; and

(c) ~~(Such)~~ Any other standards ~~(as shall be)~~ established by rule of the commission to prevent frustration of the purposes of this chapter.

(3) All funds received from a fund-raising activity ~~(which)~~ that conforms with subsection (2) of this section ~~(shall)~~ must be deposited in the depository within five business days of receipt by the treasurer or deputy treasurer ~~(in the depository)~~.

(4) At the time reports are required under RCW 42.17.080 (as recodified by this act), the treasurer or deputy treasurer making the deposit shall file with the commission and the appropriate county elections officer a report of the fund-raising activity which ~~(shall)~~ must contain the following information:

(a) The date of the activity;

(b) A precise description of the fund-raising methods used in the activity; and

(c) The total amount of cash receipts from persons, each of whom paid no more than fifty dollars.

(5) The treasurer or deputy treasurer shall certify the report is correct.

(6) The treasurer shall report pursuant to RCW 42.17.080 and 42.17.090 (as recodified by this act):

(a) The name and address and the amount contributed ~~(of)~~ by each person ~~(who contributes)~~ contributing goods or services with a fair market value of more than fifty dollars to a fund-raising activity reported under subsection (4) of this section ~~(;)~~; and

(b) The name and address ~~(of)~~ and the amount paid by each person whose identity can be ascertained, ~~(and the amount paid, from whom were knowingly received payments)~~ who made a contribution to the candidate or committee aggregating more than fifty dollars at or from such a fund-raising activity.

**Sec. 408.** RCW 42.17.080 and 2008 c 73 s 1 are each amended to read as follows:

(1) In addition to the information required under RCW 42.17.040 and 42.17.050 (as recodified by this act), on the day the treasurer is designated, each candidate or political committee ~~(shall)~~ must file with the commission and the county auditor or elections officer of the county in which the candidate resides, or in the case of a political committee, the county in which the treasurer resides, ~~(in addition to any statement of organization required under RCW 42.17.040 or 42.17.050;)~~ a report of all contributions received and expenditures made prior to that date, if any.

(2) ~~(At the following intervals)~~ Each treasurer shall file with the commission and the county auditor or elections officer of the county in which the candidate resides, or in the case of a political committee, the county in which the committee maintains its office or headquarters, ~~(and if there is no office or headquarters then)~~ or in the county in which the treasurer resides if there is no office or headquarters, a report containing the information required by RCW 42.17.090 (as recodified by this act) at the following intervals:

(a) On the twenty-first day and the seventh day immediately preceding the date on which the election is held; ~~(and)~~

(b) On the tenth day of the first month after the election; and

(c) On the tenth day of each month in which no other reports are required to be filed under this section ~~(; PROVIDED, That such report shall only be filed)~~ only if the committee has received a contribution or made an expenditure in the preceding calendar month and either the total contributions received or total expenditures made since the last such report exceed two hundred dollars.

(When there is no outstanding debt or obligation, and the campaign fund is closed, and the campaign is concluded in all respects, and in the case of a political committee, the committee has ceased to function and has dissolved, the treasurer shall file a final report. Upon submitting a final report, the duties of the treasurer shall cease and there shall be no obligation to make any further reports.)

The report filed twenty-one days before the election shall report all contributions received and expenditures made as of the end of the one business day before the date of the report. The report filed seven days before the election shall report all contributions received and expenditures made as of the end of the one business day before the date of the report. Reports filed on the tenth day of the month shall report all contributions received and expenditures made from the closing date of the last report filed through the last day of the month preceding the date of the current report.

(3) For the period beginning the first day of the fourth month preceding the date ~~(on which)~~ of the special election ~~(is held)~~, or for the period beginning the first day of the fifth month before the date ~~(on which)~~ of the general election ~~(is held)~~, and ending on the date of that special or general election, each Monday the treasurer shall file with the commission and the appropriate county elections officer a report of each bank deposit made during the previous seven calendar days. The report shall contain the name of each person contributing the funds ~~(so deposited)~~ and the amount contributed by each person. However, ~~(contributions of)~~ persons who contribute no more than twenty-five dollars in the aggregate

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~~((from any one person may be deposited without identifying the contributor))~~ are not required to be identified in the report. A copy of the report shall be retained by the treasurer for his or her records. In the event of deposits made by a deputy treasurer, the copy shall be forwarded to the treasurer for his or her records. Each report shall be certified as correct by the treasurer or deputy treasurer making the deposit.

(4) If a city requires that candidates or committees for city offices file reports with a city agency, the candidate or treasurer ~~((so filing need not also))~~ complying with the requirement does not need to file the report with the county auditor or elections officer.

(5) The treasurer or candidate shall maintain books of account accurately reflecting all contributions and expenditures on a current basis within five business days of receipt or expenditure. During the eight days immediately preceding the date of the election the books of account shall be kept current within one business day. As specified in the committee's statement of organization filed under RCW 42.17.040 ~~(as recodified by this act)~~, the books of account must be open for public inspection by appointment at the designated place for inspections between 8:00 a.m. and 8:00 p.m. on any day from the eighth day immediately before the election through the day immediately before the election, other than Saturday, Sunday, or a legal holiday. It is a violation of this chapter for a candidate or political committee to refuse to allow and keep an appointment for an inspection to be conducted during these authorized times and days. The appointment must be allowed at an authorized time and day for such inspections that is within twenty-four hours of the time and day that is requested for the inspection.

(6) ~~((The treasurer or candidate shall preserve books of account, bills, receipts, and all other financial records of the campaign or political committee for not less than five calendar years following the year during which the transaction occurred.~~

(7) All reports filed pursuant to subsection (1) or (2) of this section shall be certified as correct by the candidate and the treasurer.

(8)) Copies of all reports filed pursuant to this section shall be readily available for public inspection ~~((for at least two consecutive hours Monday through Friday, excluding legal holidays, between 8:00 a.m. and 8:00 p.m., as specified in the committee's statement of organization filed pursuant to RCW 42.17.040))~~ by appointment, pursuant to subsection (5) of this section, at the principal headquarters or, if there is no headquarters, at the address of the treasurer or such other place as may be authorized by the commission.

~~((9) After January 1, 2002,))~~ (7) A report that is filed with the commission electronically need not also be filed with the county auditor or elections officer.

~~((10) The commission shall adopt administrative rules establishing requirements for filer participation in any system designed and implemented by the commission for the electronic filing of reports.))~~

(8) The treasurer or candidate shall preserve books of account, bills, receipts, and all other financial records of the campaign or political committee for not less than five calendar years following the year during which the transaction occurred.

(9) All reports filed pursuant to subsection (1) or (2) of this section shall be certified as correct by the candidate and the treasurer.

(10) When there is no outstanding debt or obligation, the campaign fund is closed, and the campaign is concluded in all respects or in the case of a political committee, the committee has ceased to function and has dissolved, the treasurer shall file a final report. Upon submitting a final report, the duties of the treasurer shall cease and there is no obligation to make any further reports.

**Sec. 409.** RCW 42.17.090 and 2003 c 123 s 1 are each amended to read as follows:

~~((4))~~ Each report required under RCW 42.17.080 (1) and (2) (as recodified by this act) must be certified as correct by the treasurer and the candidate and shall disclose the following:

~~((a))~~ (1) The funds on hand at the beginning of the period;

~~((b))~~ (2) The name and address of each person who has made one or more contributions during the period, together with the money value and date of ~~((such))~~ each contribution~~((s))~~ and the aggregate value of all contributions received from each ~~((such))~~ person during the campaign, or in the case of a continuing political committee, the current calendar year~~((—PROVIDED, That)),~~ with the following exceptions:

(a) Pledges in the aggregate of less than one hundred dollars from any one person need not be reported~~((—PROVIDED FURTHER, That the));~~

(b) Income ~~((which))~~ that results from a fund-raising activity conducted in accordance with RCW 42.17.067 ~~(as recodified by this act)~~ may be reported as one lump sum, with the exception of that portion ~~((of such income which was))~~ received from persons whose names and addresses are required to be included in the report required by RCW 42.17.067~~((—PROVIDED FURTHER, That))~~ (as recodified by this act);

(c) Contributions of no more than twenty-five dollars in the aggregate from any one person during the election campaign may be reported as one lump sum ~~((so long as))~~ if the ~~((campaign))~~ treasurer maintains a separate and private list of the name, address, and amount of each such contributor~~((—PROVIDED FURTHER, That));~~ and

(d) The money value of contributions of postage shall be the face value of ~~((such))~~ the postage;

~~((e))~~ (3) Each loan, promissory note, or security instrument to be used by or for the benefit of the candidate or political committee made by any person, ~~((together with))~~ including the names and addresses of the lender and each person liable directly, indirectly or contingently and the date and amount of each such loan, promissory note, or security instrument;

~~((d))~~ (4) All other contributions not otherwise listed or exempted;

~~((e))~~ (5) The name and address of each candidate or political committee to which any transfer of funds was made, ~~((together with))~~ including the amounts and dates of ~~((such))~~ the transfers;

~~((f))~~ (6) The name and address of each person to whom an expenditure was made in the aggregate amount of more than fifty dollars during the period covered by this report, ~~((and))~~ the amount, date, and purpose of each ~~((such))~~ expenditure~~((—A candidate for state executive or state legislative office or the political committee of such a candidate shall report this information for an expenditure under one of the following categories, whichever is appropriate: (i) Expenditures for the election of the candidate; (ii) expenditures for nonreimbursed public office related expenses; (iii) expenditures required to be reported under (e) of this subsection; or (iv) expenditures of surplus funds and other expenditures. The report of such a candidate or committee shall contain a separate total of expenditures for each category and a total sum of all expenditures. Other candidates and political committees need not report information regarding expenditures under the categories listed in (i) through (iv) of this subsection or under similar such categories unless required to do so by the commission by rule. The report of such an other candidate or committee shall also contain)),~~ and the total sum of all expenditures;

~~((g))~~ (7) The name and address of each person ~~((to whom any expenditure was made directly or indirectly to compensate the person))~~ directly compensated for soliciting or procuring signatures on an initiative or referendum petition, the amount of ~~((such))~~ the

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compensation to each ~~((such))~~ person, and the total ~~((of the))~~ expenditures made for this purpose. Such expenditures shall be reported under this subsection ~~((1)(g) whether the expenditures are or are not also))~~ in addition to what is required to be reported under ~~((f) of this))~~ subsection (6) of this section;

~~((h))~~ (8) The name and address of any person and the amount owed for any debt, obligation, note, unpaid loan, or other liability in the amount of more than two hundred fifty dollars or in the amount of more than fifty dollars that has been outstanding for over thirty days;

~~((i))~~ (9) The surplus or deficit of contributions over expenditures;

~~((j))~~ (10) The disposition made in accordance with RCW 42.17.095 (as recodified by this act) of any surplus funds; and

~~((k) Such)~~ (11) Any other information ~~((as shall be))~~ required by the commission by rule in conformance with the policies and purposes of this chapter.

((2) The treasurer and the candidate shall certify the correctness of each report.)

**Sec. 410.** RCW 42.17.3691 and 2000 c 237 s 4 are each amended to read as follows:

(1) ((Beginning January 1, 2002, each candidate or political committee that expended twenty-five thousand dollars or more in the preceding year or expects to expend twenty-five thousand dollars or more in the current year shall file all contribution reports and expenditure reports required by this chapter by the electronic alternative provided by the commission under RCW 42.17.369. The commission may make exceptions on a case-by-case basis for candidates whose authorized committees lack the technological ability to file reports using the electronic alternative provided by the commission.

(2) Beginning January 1, 2004,) Each candidate or political committee that expended ten thousand dollars or more in the preceding year or expects to expend ten thousand dollars or more in the current year shall file all contribution reports and expenditure reports required by this chapter by the electronic alternative provided by the commission under RCW 42.17.369 (as recodified by this act). The commission may make exceptions on a case-by-case basis for candidates whose authorized committees lack the technological ability to file reports using the electronic alternative provided by the commission.

~~((3))~~ (2) Failure by a candidate or political committee to comply with this section is a violation of this chapter.

**Sec. 411.** RCW 42.17.093 and 2006 c 348 s 6 are each amended to read as follows:

(1) An out-of-state political committee organized for the purpose of supporting or opposing candidates or ballot propositions in another state that is not otherwise required to report under RCW 42.17.040 through 42.17.090 (as recodified by this act) shall report as required in this section when it makes an expenditure supporting or opposing a Washington state candidate or political committee. The committee shall file with the commission a statement disclosing:

(a) Its name and address;

(b) The purposes of the out-of-state committee;

(c) The names, addresses, and titles of its officers or, if it has no officers, the names, addresses, and the titles of its responsible leaders;

(d) The name, office sought, and party affiliation of each candidate in the state of Washington whom the out-of-state committee is supporting or opposing and, if ~~((such))~~ the committee is supporting or opposing the entire ticket of any party, the name of the party;

(e) The ballot proposition supported or opposed in the state of Washington, if any, and whether ~~((such))~~ the committee is in favor of or opposed to ~~((such))~~ that proposition;

(f) The name and address of each person residing in the state of Washington or corporation ~~((which))~~ that has a place of business in the state of Washington who has made one or more contributions in the aggregate of more than twenty-five dollars to the out-of-state committee during the current calendar year, together with the money value and date of ~~((such))~~ the contributions;

(g) The name, address, and employer of each person or corporation residing outside the state of Washington who has made one or more contributions in the aggregate of more than two thousand five hundred fifty dollars to the out-of-state committee during the current calendar year, together with the money value and date of ~~((such))~~ the contributions. Annually, the commission must modify the two thousand five hundred fifty dollar limit in this subsection based on percentage change in the implicit price deflator for personal consumption expenditures for the United States as published for the most recent twelve-month period by the bureau of economic analysis of the federal department of commerce;

(h) The name and address of each person in the state of Washington to whom an expenditure was made by the out-of-state committee with respect to a candidate or political committee in the aggregate amount of more than fifty dollars, the amount, date, and purpose of ~~((such))~~ the expenditure, and the total sum of ~~((such))~~ the expenditures; and

(i) ~~((Such))~~ Any other information as the commission may prescribe by rule in keeping with the policies and purposes of this chapter.

(2) Each statement shall be filed no later than the tenth day of the month following any month in which a contribution or other expenditure reportable under subsection (1) of this section is made. An out-of-state committee incurring an obligation to file additional statements in a calendar year may satisfy the obligation by timely filing reports that supplement previously filed information.

**Sec. 412.** RCW 42.17.100 and 1995 c 397 s 28 are each amended to read as follows:

(1) For the purposes of this section and RCW 42.17.550 ~~((the term))~~ (as recodified by this act), "independent expenditure" means any expenditure that is made in support of or in opposition to any candidate or ballot proposition and is not otherwise required to be reported pursuant to RCW 42.17.060, 42.17.080, or 42.17.090 (as recodified by this act). "Independent expenditure" does not include: An internal political communication primarily limited to the contributors to a political party organization or political action committee, or the officers, management staff, and stockholders of a corporation or similar enterprise, or the members of a labor organization or other membership organization; or the rendering of personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. "Volunteer services," for the purposes of this section, means services or labor for which the individual is not compensated by any person.

(2) Within five days after the date of making an independent expenditure that by itself or when added to all other ~~((such))~~ independent expenditures made during the same election campaign by the same person equals one hundred dollars or more, or within five days after the date of making an independent expenditure for which no reasonable estimate of monetary value is practicable, whichever occurs first, the person who made the independent expenditure shall file with the commission and the county elections officer of the county of residence for the candidate supported or opposed by the independent expenditure (or in the case of an expenditure made in support of or in opposition to a local ballot

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proposition, the county of residence for the person making the expenditure) an initial report of all independent expenditures made during the campaign ~~((prior to))~~ before and including such date.

(3) At the following intervals each person who is required to file an initial report pursuant to subsection (2) of this section shall file with the commission and the county elections officer of the county of residence for the candidate supported or opposed by the independent expenditure (or in the case of an expenditure made in support of or in opposition to a ballot proposition, the county of residence for the person making the expenditure) a further report of the independent expenditures made since the date of the last report:

(a) On the twenty-first day and the seventh day preceding the date on which the election is held; and

(b) On the tenth day of the first month after the election; and

(c) On the tenth day of each month in which no other reports are required to be filed pursuant to this section. However, the further reports required by this subsection (3) shall only be filed if the reporting person has made an independent expenditure since the date of the last previous report filed.

(4) The report filed pursuant to ~~((paragraph (a) of this))~~ subsection (3) (a) of this section shall be the final report, and upon submitting such final report the duties of the reporting person shall cease, and there shall be no obligation to make any further reports.

~~((4))~~ (5) All reports filed pursuant to this section shall be certified as correct by the reporting person.

~~((5))~~ (6) Each report required by subsections (2) and (3) of this section shall disclose for the period beginning at the end of the period for the last previous report filed or, in the case of an initial report, beginning at the time of the first independent expenditure, and ending not more than one business day before the date the report is due:

(a) The name and address of the person filing the report;

(b) The name and address of each person to whom an independent expenditure was made in the aggregate amount of more than fifty dollars, and the amount, date, and purpose of each ~~((such))~~ expenditure. If no reasonable estimate of the monetary value of a particular independent expenditure is practicable, it is sufficient to report instead a precise description of services, property, or rights furnished through the expenditure, and where appropriate, to attach a copy of the item produced or distributed by the expenditure;

(c) The total sum of all independent expenditures made during the campaign to date; and

(d) ~~((Such))~~ Any other information ~~((as shall be required by))~~ the commission may require by rule ~~((in conformance with the policies and purposes of this chapter)).~~

**Sec. 413.** RCW 42.17.103 and 2005 c 445 s 7 are each amended to read as follows:

(1) The sponsor of political advertising who, within twenty-one days of an election, publishes, mails, or otherwise presents to the public political advertising supporting or opposing a candidate or ballot proposition that qualifies as an independent expenditure with a fair market value of one thousand dollars or more shall deliver, either electronically or in written form, a special report to the commission within twenty-four hours of, or on the first working day after, the date the political advertising is first published, mailed, or otherwise presented to the public.

(2) If a sponsor is required to file a special report under this section, the sponsor shall also deliver to the commission within the delivery period established in subsection (1) of this section a special report for each subsequent independent expenditure of any size supporting or opposing the same candidate who was the subject of the previous independent expenditure, supporting or opposing that candidate's opponent, or supporting or opposing the same ballot proposition that was the subject of the previous independent expenditure.

(3) The special report must include ~~((at least))~~:

(a) The name and address of the person making the expenditure;

(b) The name and address of the person to whom the expenditure was made;

(c) A detailed description of the expenditure;

(d) The date the expenditure was made and the date the political advertising was first published or otherwise presented to the public;

(e) The amount of the expenditure;

(f) The name of the candidate supported or opposed by the expenditure, the office being sought by the candidate, and whether the expenditure supports or opposes the candidate; or the name of the ballot proposition supported or opposed by the expenditure and whether the expenditure supports or opposes the ballot proposition; and

(g) Any other information the commission may require by rule.

(4) All persons required to report under RCW 42.17.065, 42.17.080, 42.17.090, 42.17.100, and 42.17.565 (as recodified by this act) are subject to the requirements of this section. The commission may determine that reports filed pursuant to this section also satisfy the requirements of RCW 42.17.100 (as recodified by this act).

(5) The sponsor of independent expenditures supporting a candidate or opposing that candidate's opponent required to report under this section shall file with each required report an affidavit or declaration of the person responsible for making the independent expenditure that the expenditure was not made in cooperation, consultation, or concert with, or at the request or suggestion of, the candidate, the candidate's authorized committee, or the candidate's agent, or with the encouragement or approval of the candidate, the candidate's authorized committee, or the candidate's agent.

**Sec. 414.** RCW 42.17.105 and 2001 c 54 s 2 are each amended to read as follows:

(1) ~~((Campaign))~~ Treasurers shall prepare and deliver to the commission a special report ~~((regarding any))~~ when a contribution or aggregate of contributions ~~((which is))~~ totals one thousand dollars or more ~~((;))~~ is from a single person or entity ~~((;))~~ and is received during a special reporting period.

~~((Any))~~ (2) A political committee ~~((making))~~ shall prepare and deliver to the commission a special report when it makes a contribution or an aggregate of contributions to a single entity ~~((which is))~~ that totals one thousand dollars or more ~~((shall also prepare and deliver to the commission the special report if the contribution or aggregate of contributions is made))~~ during a special reporting period.

~~((For the purposes of subsections (1) through (7) of this section:—(a) Each of the following intervals is a))~~ (3) An aggregate of contributions includes only those contributions made to or received from a single entity during any one special reporting period. Any subsequent contribution of any size made to or received from the same person or entity during the special reporting period must also be reported.

(4) Special reporting periods, for purposes of this section, include: ~~((;))~~

(a) The ~~((interval beginning after the))~~ period ~~((covered by))~~ beginning on the day after the last report required by RCW 42.17.080 and 42.17.090 (as recodified by this act) to be filed before a primary and concluding on the end of the day before that primary; ~~((and (ii))~~

(b) The ~~((interval composed of the))~~ period twenty-one days preceding a general election; and

~~((b))~~ (c) An aggregate of contributions includes only those contributions received from a single entity during any one special reporting period or made by the contributing political committee to a single entity during any one special reporting period.

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~~((2))~~ (5) If a campaign treasurer files a special report under this section for one or more contributions received from a single entity during a special reporting period, the treasurer shall also file a special report under this section for each subsequent contribution of any size which is received from that entity during the special reporting period. If a political committee files a special report under this section for a contribution or contributions made to a single entity during a special reporting period, the political committee shall also file a special report for each subsequent contribution of any size which is made to that entity during the special reporting period.

~~((3) Except as provided in subsection (4) of this section, the))~~ (6) Special reports required by this section shall be delivered electronically or in written form, including but not limited to mailgram, telegram, or nightletter. The special report may be transmitted orally by telephone to the commission if the written form of the report is postmarked and mailed to the commission or the electronic filing is transferred to the commission within the delivery periods established in (a) and (b) of this subsection.

(a) The special report required of a contribution recipient ~~((by))~~ under subsection (1) of this section shall be delivered to the commission within forty-eight hours of the time, or on the first working day after: The contribution of one thousand dollars or more is received by the candidate or treasurer; the aggregate received by the candidate or treasurer first equals one thousand dollars or more; or ~~((the))~~ any subsequent contribution ~~((that must be reported under subsection (2) of this section))~~ from the same source is received by the candidate or treasurer.

(b) The special report required of a contributor ~~((by))~~ under subsection ~~((4))~~ (2) of this section or RCW 42.17.175 (as recodified by this act) shall be delivered to the commission, and the candidate or political committee to whom the contribution or contributions are made, within twenty-four hours of the time, or on the first working day after: The contribution is made; the aggregate of contributions made first equals one thousand dollars or more; or ~~((the))~~ any subsequent contribution ~~((that must be reported under subsection (2) of this section))~~ to the same person or entity is made.

~~((4))~~ The special report may be transmitted orally by telephone to the commission to satisfy the delivery period required by subsection (3) of this section if the written form of the report is also mailed to the commission and postmarked within the delivery period established in subsection (3) of this section or the file transfer date of the electronic filing is within the delivery period established in subsection (3) of this section.

(5)) (7) The special report shall include ((at least)):

- (a) The amount of the contribution or contributions;
- (b) The date or dates of receipt;
- (c) The name and address of the donor;
- (d) The name and address of the recipient; and
- (e) Any other information the commission may by rule require.

~~((6))~~ (8) Contributions reported under this section shall also be reported as required by other provisions of this chapter.

~~((7))~~ (9) The commission shall prepare daily a summary of the special reports made under this section and RCW 42.17.175 (as recodified by this act).

~~((8))~~ It is a violation of this chapter for any person to make, or for any candidate or political committee to accept from any one person, contributions reportable under RCW 42.17.090 in the aggregate exceeding fifty thousand dollars for any campaign for statewide office or exceeding five thousand dollars for any other campaign subject to the provisions of this chapter within twenty-one days of a general election. This subsection does not apply to contributions made by, or accepted from, a bona fide political party as defined in this chapter, excluding the county central committee or legislative district committee.

(9)) (10) Contributions governed by this section include, but are not limited to, contributions made or received indirectly through a third party or entity whether the contributions are or are not reported to the commission as earmarked contributions under RCW 42.17.135 (as recodified by this act).

**Sec. 415.** RCW 42.17.550 and 1993 c 2 s 23 are each amended to read as follows:

A person or entity, other than a party organization making an independent expenditure ~~((by))~~ that consists of mailing one thousand or more identical or nearly identical cumulative pieces of political advertising in a single calendar year shall ~~((report that activity. The report must be made~~ within two working days after the date of the mailing, ~~((file a statement))~~ disclosing the number of pieces in the mailing and an example of the mailed political advertising ~~((with)). The report must be sent to the election officer of the county ((or) of residence ((for) of the candidate supported or opposed by the independent campaign expenditure ((or)). In the case of an expenditure made in support of or in opposition to a ballot proposition, the report must be sent to the county of residence ((for) of the person making the expenditure.~~

**Sec. 416.** RCW 42.17.135 and 1989 c 280 s 13 are each amended to read as follows:

A ~~((candidate or))~~ political committee receiving a contribution earmarked for the benefit of ~~((another))~~ a candidate or another political committee shall:

(1) Report the contribution as required in RCW 42.17.080 and 42.17.090 (as recodified by this act);

(2) Complete a report, entitled "Earmarked contributions," on a form prescribed by the commission ~~((by rule, which))~~ that identifies the name and address of the person who made the contribution, the candidate or political committee for whose benefit the contribution is earmarked, the amount of the contribution, and the date ~~((on which))~~ that the contribution was received; and

(3) ~~((Notify))~~ Mail or deliver to the commission and the candidate or political committee ~~((for whose benefit))~~ benefiting from the contribution ~~((is earmarked regarding the receipt of the contribution by mailing or delivering to the commission and to the candidate or committee))~~ a copy of the "Earmarked contributions" report within two working days of receipt of the contribution. ~~((Such notice shall be given within two working days of receipt of the contribution.))~~

(4) A candidate or political committee receiving notification of an earmarked contribution under subsection (3) of this section shall report the contribution, once notification of the contribution is received by the candidate or committee, in the same manner as ~~((the receipt of))~~ any other contribution ~~((is disclosed in reports))~~, as required by RCW 42.17.080 and 42.17.090 (as recodified by this act).

## PART 5

### POLITICAL ADVERTISING AND ELECTIONEERING COMMUNICATIONS

**Sec. 501.** RCW 42.17.561 and 2005 c 445 s 1 are each amended to read as follows:

(1) The legislature finds that:

~~((4))~~ (a) Timely disclosure to voters of the identity and sources of funding for electioneering communications is vitally important to the integrity of state, local, and judicial elections.

~~((2))~~ (b) Electioneering communications that identify political candidates for state, local, or judicial office and that are distributed sixty days before an election for those offices are intended to influence voters and the outcome of those elections.

~~((3))~~ (c) The state has a compelling interest in providing voters information about electioneering communications in political

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campaigns concerning candidates for state, local, or judicial office so that voters can be fully informed as to the: ~~((a))~~ (i) Source of support or opposition to those candidates; and ~~((b))~~ (ii) identity of persons attempting to influence the outcome of state, local, and judicial candidate elections.

~~((4))~~ (d) Nondisclosure of financial information about advertising that masquerades as relating only to issues and not to candidate campaigns fosters corruption or the appearance of corruption. These consequences can be substantially avoided by full disclosure of the identity and funding of those persons paying for such advertising.

~~((5))~~ (e) The United States supreme court held in *McConnell et al. v. Federal Elections Commission*, 540 U.S. 93, 124 S.Ct. 619, 157 L.Ed.2d 491 (2003) that speakers seeking to influence elections do not possess an inviolable free speech right to engage in electioneering communications regarding elections, including when issue advocacy is the functional equivalent of express advocacy. Therefore, such election campaign communications can be regulated and the source of funding disclosed.

~~((6))~~ (f) The state ~~((also))~~ has a sufficiently compelling interest in preventing corruption in political campaigns to justify and restore contribution limits and restrictions on the use of soft money in RCW 42.17.640 (as recodified by this act). Those interests include restoring restrictions on the use of such funds for electioneering communications, as well as the laws preventing circumvention of those limits and restrictions.

(2) Based upon the findings in this section, chapter 445, Laws of 2005 is narrowly tailored to accomplish the following and is intended to:

(a) Improve the disclosure to voters of information concerning persons and entities seeking to influence state, local, and judicial campaigns through reasonable and effective mechanisms, including improving disclosure of the source, identity, and funding of electioneering communications concerning state, local, and judicial candidate campaigns;

(b) Regulate electioneering communications that mention state, local, and judicial candidates and that are broadcast, mailed, erected, distributed, or otherwise published right before the election so that the public knows who is paying for such communications;

(c) Reenact and amend the contribution limits in RCW 42.17.640 (7) and (15) (as recodified by this act) and the restrictions on the use of soft money, including as applied to electioneering communications, as those limits and restrictions were in effect following the passage of chapter 2, Laws of 1993 (Initiative Measure No. 134) and before the state supreme court decision in *Washington State Republican Party v. Washington State Public Disclosure Commission*, 141 Wn.2d 245, 4 P.3d 808 (2000). The commission is authorized to fully restore the implementation of the limits and restrictions of RCW 42.17.640 (7) and (15) (as recodified by this act) in light of *McConnell et al. v. Federal Elections Commission*, 540 U.S. 93, 124 S.Ct. 619, 157 L.Ed.2d 491 (2003). The United States supreme court upheld the disclosure and regulation of electioneering communications in political campaigns, including but not limited to issue advocacy that is the functional equivalent of express advocacy; and

(d) Authorize the commission to adopt rules to implement chapter 445, Laws of 2005.

**Sec. 502.** RCW 42.17.565 and 2005 c 445 s 3 are each amended to read as follows:

(1) A payment for or promise to pay for any electioneering communication shall be reported to the commission by the sponsor on forms the commission shall develop by rule to include, at a minimum, the following information:

- (a) Name and address of the sponsor;
- (b) Source of funds for the communication, including:

(i) General treasury funds. The name and address of businesses, unions, groups, associations, or other organizations using general treasury funds for the communication, however, if a business, union, group, association, or other organization undertakes a special solicitation of its members or other persons for an electioneering communication, or it otherwise receives funds for an electioneering communication, that entity shall report pursuant to (b)(ii) of this subsection;

(ii) Special solicitations and other funds. The name, address, and, for individuals, occupation and employer, of a person whose funds were used to pay for the electioneering communication, along with the amount, if such funds from the person have exceeded two hundred fifty dollars in the aggregate for the electioneering communication; and

(iii) Any other source information required or exempted by the commission by rule;

(c) Name and address of the person to whom an electioneering communication related expenditure was made;

(d) A detailed description of each expenditure of more than one hundred dollars;

(e) The date the expenditure was made and the date the electioneering communication was first broadcast, transmitted, mailed, erected, distributed, or otherwise published;

(f) The amount of the expenditure;

(g) The name of each candidate clearly identified in the electioneering communication, the office being sought by each candidate, and the amount of the expenditure attributable to each candidate; and

(h) Any other information the commission may require or exempt by rule.

(2) Electioneering communications shall be reported as follows: The sponsor of an electioneering communication shall report to the commission within twenty-four hours of, or on the first working day after, the date the electioneering communication is broadcast, transmitted, mailed, erected, distributed, or otherwise published.

(3) Electioneering communications shall be reported electronically by the sponsor using software provided or approved by the commission. The commission may make exceptions on a case-by-case basis for a sponsor who lacks the technological ability to file reports using the electronic means provided or approved by the commission.

(4) All persons required to report under RCW 42.17.065, 42.17.080, 42.17.090, and 42.17.100 (as recodified by this act) are subject to the requirements of this section, although the commission may determine by rule that persons filing according to those sections may be exempt from reporting some of the information otherwise required by this section. The commission may determine that reports filed pursuant to this section also satisfy the requirements of RCW 42.17.100 and 42.17.103 (as recodified by this act).

(5) Failure of any sponsor to report electronically under this section shall be a violation of this chapter.

**Sec. 503.** RCW 42.17.570 and 2005 c 445 s 4 are each amended to read as follows:

(1) An electioneering communication made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a candidate's authorized committee, or their agents is a contribution to the candidate.

(2) An electioneering communication made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a political committee or its agents is a contribution to the political committee.

(3) If an electioneering communication is not a contribution pursuant to subsection (1) or (2) of this section, the sponsor shall file an affidavit or declaration so stating at the time the sponsor is

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required to report the electioneering communication expense under RCW 42.17.565 (as recodified by this act).

**Sec. 504.** RCW 42.17.575 and 2005 c 445 s 5 are each amended to read as follows:

(1) The sponsor of an electioneering communication shall preserve all financial records relating to the communication, including books of account, bills, receipts, contributor information, and ledgers, for not less than five calendar years following the year in which the communication was broadcast, transmitted, mailed, erected, or otherwise published.

(2) All reports filed under RCW 42.17.565 (as recodified by this act) shall be certified as correct by the sponsor. If the sponsor is an individual using his or her own funds to pay for the communication, the certification shall be signed by the individual. If the sponsor is a political committee, the certification shall be signed by the committee treasurer. If the sponsor is another entity, the certification shall be signed by the individual responsible for authorizing the expenditure on the entity's behalf.

**Sec. 505.** RCW 42.17.510 and 2005 c 445 s 9 are each amended to read as follows:

(1) All written political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name and address. All radio and television political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name. The use of an assumed name for the sponsor of electioneering communications, independent expenditures, or political advertising shall be unlawful. For partisan office, if a candidate has expressed a party or independent preference on the declaration of candidacy, that party or independent designation shall be clearly identified in electioneering communications, independent expenditures, or political advertising.

(2) In addition to the ~~((materials))~~ information required by subsection (1) of this section, except as specifically addressed in subsections (4) and (5) of this section, all political advertising undertaken as an independent expenditure or an electioneering communication by a person or entity other than a bona fide political party ~~((organization, and all electioneering communications,))~~ must include as part of the communication:

~~((a) The ((following)) statement ((as part of the communication "NOTICE TO VOTERS (Required by law): This advertisement is not authorized or approved by any candidate): "No candidate authorized this ad. It is paid for by (name, address, city, state)((-))";~~

~~((b) If the ((advertisement undertaken as an independent expenditure or electioneering communication is undertaken by a nonindividual other than a party organization, then the following notation must also be included)) sponsor is a political committee, the statement: "Top Five Contributors," followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period before the date of the advertisement or communication; and~~

~~((c) If the sponsor is a political committee established, maintained, or controlled directly, or indirectly through the formation of one or more political committees, by an individual, corporation, union, association, or other entity, the full name of that individual or entity.~~

(3) The ~~((statements and listings of contributors))~~ information required by subsections (1) and (2) of this section shall:

(a) Appear on the first page or fold of the written advertisement or communication in at least ten-point type, or in type at least ten percent of the largest size type used in a written advertisement or communication directed at more than one voter, such as a billboard or poster, whichever is larger;

(b) Not be subject to the half-tone or screening process; and

(c) Be set apart from any other printed matter.

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(4) In an independent expenditure or electioneering communication transmitted via television or other medium that includes a visual image, the following statement must either be clearly spoken, or appear in print and be visible for at least four seconds, appear in letters greater than four percent of the visual screen height, and have a reasonable color contrast with the background: "No candidate authorized this ad. Paid for by (name, city, state)." If the advertisement or communication is undertaken by a nonindividual other than a party organization, then the following notation must also be included: "Top Five Contributors" followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period before the date of the advertisement. Abbreviations may be used to describe contributing entities if the full name of the entity has been clearly spoken previously during the broadcast advertisement.

(5) The following statement shall be clearly spoken in an independent expenditure or electioneering communication transmitted by a method that does not include a visual image: "No candidate authorized this ad. Paid for by (name, city, state)." If the independent expenditure or electioneering communication is undertaken by a nonindividual other than a party organization, then the following statement must also be included: "Top Five Contributors" followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period before the date of the advertisement. Abbreviations may be used to describe contributing entities if the full name of the entity has been clearly spoken previously during the broadcast advertisement.

(6) Political yard signs are exempt from the requirement of subsections (1) and (2) of this section that the name and address of the sponsor of political advertising be listed on the advertising. In addition, the public disclosure commission shall, by rule, exempt from the identification requirements of subsections (1) and (2) of this section forms of political advertising such as campaign buttons, balloons, pens, pencils, sky-writing, inscriptions, and other forms of advertising where identification is impractical.

(7) For the purposes of this section, "yard sign" means any outdoor sign with dimensions no greater than eight feet by four feet.

**Sec. 506.** RCW 42.17.520 and 1984 c 216 s 2 are each amended to read as follows:

At least one picture of the candidate used in any political advertising shall have been taken within the last five years and shall be no smaller than ~~((the largest))~~ any other picture of the same candidate used in the same advertisement.

**Sec. 507.** RCW 42.17.540 and 1984 c 216 s 4 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the responsibility for compliance with RCW 42.17.510 through 42.17.530 (as recodified by this act) shall ~~((rest))~~ be with the sponsor of the political advertising and not with the broadcasting station or other medium.

(2) If a broadcasting station or other medium changes the content of a political advertisement, the station or medium shall be responsible for any failure of the advertisement to comply with RCW 42.17.510 through 42.17.530 (as recodified by this act) that results from that change.

**Sec. 508.** RCW 42.17.110 and 2005 c 445 s 8 are each amended to read as follows:

(1) Each commercial advertiser who has accepted or provided political advertising or electioneering communications during the election campaign shall maintain documents and books of account that shall be open for public inspection during normal business hours during the campaign and for a period of no less than three

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years after the date of the applicable election (~~(during normal business hours)~~). The documents and books of account (~~(which)~~) shall specify:

- (a) The names and addresses of persons from whom it accepted political advertising or electioneering communications;
- (b) The exact nature and extent of the services rendered; and
- (c) The ~~((consideration))~~ total cost and the manner of ~~((paying that consideration for such))~~ payment for the services.

(2) At the request of the commission, each commercial advertiser (~~(which must))~~ required to comply with subsection (1) of this section shall deliver to the commission (~~(upon its request,))~~ copies of ~~((such))~~ the information ~~((as))~~ that must be maintained and be open for public inspection pursuant to subsection (1) of this section.

**PART 6  
CAMPAIGN CONTRIBUTION LIMITS AND OTHER  
RESTRICTIONS**

**Sec. 601.** RCW 42.17.610 and 1993 c 2 s 1 are each amended to read as follows:

(1) The people of the state of Washington find and declare that:

~~((1))~~ (a) The financial strength of certain individuals or organizations should not permit them to exercise a disproportionate or controlling influence on the election of candidates.

~~((2))~~ (b) Rapidly increasing political campaign costs have led many candidates to raise larger percentages of money from special interests with a specific financial stake in matters before state government. This has caused the public perception that decisions of elected officials are being improperly influenced by monetary contributions.

~~((3))~~ (c) Candidates are raising less money in small contributions from individuals and more money from special interests. This has created the public perception that individuals have an insignificant role to play in the political process.

(2) By limiting campaign contributions, the people intend to:

(a) Ensure that individuals and interest groups have fair and equal opportunity to influence elective and governmental processes;

(b) Reduce the influence of large organizational contributors; and

(c) Restore public trust in governmental institutions and the electoral process.

**Sec. 602.** RCW 42.17.640 and 2006 c 348 s 1 are each amended to read as follows:

(1) The contribution limits in this section apply to:

(a) Candidates for ~~((state))~~ legislative office;

(b) Candidates for state office other than ~~((state))~~ legislative office;

(c) Candidates for county office in a county that has over two hundred thousand registered voters;

(d) Candidates for special purpose district office if that district is authorized to provide freight and passenger transfer and terminal facilities and that district has over two hundred thousand registered voters;

(e) Persons holding an office in (a) through (d) of this subsection against whom recall charges have been filed or to a political committee having the expectation of making expenditures in support of the recall of a person holding the office;

(f) Caucus political committees;

(g) Bona fide political parties.

(2) No person, other than a bona fide political party or a caucus political committee, may make contributions to a candidate for a ~~((state))~~ legislative office or county office that in the aggregate exceed ~~((seven))~~ eight hundred dollars or to a candidate for a public office in a special purpose district or a state office other than a

~~((state))~~ legislative office that in the aggregate exceed one thousand ~~((four))~~ six hundred dollars for each election in which the candidate is on the ballot or appears as a write-in candidate. Contributions to candidates subject to the limits in this section made with respect to a primary may not be made after the date of the primary. However, contributions to a candidate or a candidate's authorized committee may be made with respect to a primary until thirty days after the primary, subject to the following limitations: (a) The candidate lost the primary; (b) the candidate's authorized committee has insufficient funds to pay debts outstanding as of the date of the primary; and (c) the contributions may only be raised and spent to satisfy the outstanding debt. Contributions to candidates subject to the limits in this section made with respect to a general election may not be made after the final day of the applicable election cycle.

(3) No person, other than a bona fide political party or a caucus political committee, may make contributions to a state official, a county official, or a public official in a special purpose district against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the state official, county official, or public official in a special purpose district during a recall campaign that in the aggregate exceed ~~((seven))~~ eight hundred dollars if for a ~~((state))~~ legislative office or county office or one thousand ~~((four))~~ six hundred dollars if for a special purpose district office or a state office other than a ~~((state))~~ legislative office.

(4)(a) Notwithstanding subsection (2) of this section, no bona fide political party or caucus political committee may make contributions to a candidate during an election cycle that in the aggregate exceed (i) ~~((seventy))~~ eighty cents multiplied by the number of eligible registered voters in the jurisdiction from which the candidate is elected if the contributor is a caucus political committee or the governing body of a state organization, or (ii) ~~((thirty-five))~~ forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No candidate may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed ~~((thirty-five))~~ forty cents times the number of registered voters in the jurisdiction from which the candidate is elected.

(5)(a) Notwithstanding subsection (3) of this section, no bona fide political party or caucus political committee may make contributions to a state official, county official, or a public official in a special purpose district against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the state official, county official, or a public official in a special purpose district during a recall campaign that in the aggregate exceed (i) ~~((seventy))~~ eighty cents multiplied by the number of eligible registered voters in the jurisdiction entitled to recall the state official if the contributor is a caucus political committee or the governing body of a state organization, or (ii) ~~((thirty-five))~~ forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No official holding an office specified in subsection (1) of this section against whom recall charges have been filed, no authorized committee of the official, and no political committee having the expectation of making expenditures in support of the recall of the official may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county

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central committees or legislative district committees would in the aggregate exceed ~~((thirty-five))~~ forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected.

(6) For purposes of determining contribution limits under subsections (4) and (5) of this section, the number of eligible registered voters in a jurisdiction is the number at the time of the most recent general election in the jurisdiction.

(7) Notwithstanding subsections (2) through (5) of this section, no person other than an individual, bona fide political party, or caucus political committee may make contributions reportable under this chapter to a caucus political committee that in the aggregate exceed ~~((seven))~~ eight hundred dollars in a calendar year or to a bona fide political party that in the aggregate exceed ~~((three))~~ four thousand ~~((five-hundred))~~ dollars in a calendar year. This subsection does not apply to loans made in the ordinary course of business.

(8) For the purposes of RCW 42.17.640 through 42.17.790 (as recodified by this act), a contribution to the authorized political committee of a candidate or of an official specified in subsection (1) of this section against whom recall charges have been filed is considered to be a contribution to the candidate or official.

(9) A contribution received within the twelve-month period after a recall election concerning an office specified in subsection (1) of this section is considered to be a contribution during that recall campaign if the contribution is used to pay a debt or obligation incurred to influence the outcome of that recall campaign.

(10) The contributions allowed by subsection (3) of this section are in addition to those allowed by subsection (2) of this section, and the contributions allowed by subsection (5) of this section are in addition to those allowed by subsection (4) of this section.

(11) RCW 42.17.640 through 42.17.790 (as recodified by this act) apply to a special election conducted to fill a vacancy in an office specified in subsection (1) of this section. However, the contributions made to a candidate or received by a candidate for a primary or special election conducted to fill such a vacancy shall not be counted toward any of the limitations that apply to the candidate or to contributions made to the candidate for any other primary or election.

(12) Notwithstanding the other subsections of this section, no corporation or business entity not doing business in Washington state, no labor union with fewer than ten members who reside in Washington state, and no political committee that has not received contributions of ten dollars or more from at least ten persons registered to vote in Washington state during the preceding one hundred eighty days may make contributions reportable under this chapter to a state office candidate, to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the official. This subsection does not apply to loans made in the ordinary course of business.

(13) Notwithstanding the other subsections of this section, no county central committee or legislative district committee may make contributions reportable under this chapter to a candidate specified in subsection (1) of this section, or an official specified in subsection (1) of this section against whom recall charges have been filed, or political committee having the expectation of making expenditures in support of the recall of an official specified in subsection (1) of this section if the county central committee or legislative district committee is outside of the jurisdiction entitled to elect the candidate or recall the official.

(14) No person may accept contributions that exceed the contribution limitations provided in this section.

(15) The following contributions are exempt from the contribution limits of this section:

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(a) An expenditure or contribution earmarked for voter registration, for absentee ballot information, for precinct caucuses, for get-out-the-vote campaigns, for precinct judges or inspectors, for sample ballots, or for ballot counting, all without promotion of or political advertising for individual candidates; ~~((or))~~

(b) An expenditure by a political committee for its own internal organization or fund-raising without direct association with individual candidates; or

(c) An expenditure or contribution for independent expenditures as defined in RCW 42.17.020 or electioneering communications as defined in RCW 42.17.020.

**Sec. 603.** RCW 42.17.645 and 2006 c 348 s 2 are each amended to read as follows:

(1) No person may make contributions to a candidate for judicial office that in the aggregate exceed one thousand ~~((four))~~ six hundred dollars for each election in which the candidate is on the ballot or appears as a write-in candidate. Contributions made with respect to a primary may not be made after the date of the primary. However, contributions to a candidate or a candidate's authorized committee may be made with respect to a primary until thirty days after the primary, subject to the following limitations: (a) The candidate lost the primary; (b) the candidate's authorized committee has insufficient funds to pay debts outstanding as of the date of the primary; and (c) the contributions may only be raised and spent to satisfy the outstanding debt. Contributions made with respect to a general election may not be made after the final day of the applicable election cycle.

(2) This section through RCW 42.17.790 (as recodified by this act) apply to a special election conducted to fill a vacancy in an office. However, the contributions made to a candidate or received by a candidate for a primary or special election conducted to fill such a vacancy will not be counted toward any of the limitations that apply to the candidate or to contributions made to the candidate for any other primary or election.

(3) No person may accept contributions that exceed the contribution limitations provided in this section.

(4) The dollar limits in this section must be adjusted according to RCW 42.17.690 (as recodified by this act).

NEW SECTION. **Sec. 604.** REPORTABLE CONTRIBUTIONS--PREELECTION LIMITATIONS. (1) It is a violation of this chapter for any person to make, or for any candidate or political committee to accept from any one person, contributions reportable under RCW 42.17.090 (as recodified by this act) in the aggregate exceeding fifty thousand dollars for any campaign for statewide office or exceeding five thousand dollars for any other campaign subject to the provisions of this chapter within twenty-one days of a general election. This subsection does not apply to contributions made by, or accepted from, a bona fide political party as defined in this chapter, excluding the county central committee or legislative district committee.

(2) Contributions governed by this section include, but are not limited to, contributions made or received indirectly through a third party or entity whether the contributions are or are not reported to the commission as earmarked contributions under RCW 42.17.135 (as recodified by this act).

**Sec. 605.** RCW 42.17.070 and 2007 c 358 s 3 are each amended to read as follows:

No expenditures may be made or incurred by any candidate or political committee ~~((except on the authority of))~~ unless authorized by the candidate or the person or persons named on the candidate's or committee's registration form ~~((and))~~ . A record of all such expenditures shall be maintained by the treasurer.

No expenditure of more than fifty dollars may be made in currency unless a receipt, signed by the recipient and by the

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candidate or treasurer, is prepared and made a part of the campaign's or political committee's financial records.

**Sec. 606.** RCW 42.17.095 and 2005 c 467 s 1 are each amended to read as follows:

The surplus funds of a candidate(;) or ~~((of a political committee supporting or opposing a candidate;))~~ a candidate's authorized committee may only be disposed of in any one or more of the following ways:

(1) Return the surplus to a contributor in an amount not to exceed that contributor's original contribution;

(2) ~~((Transfer the surplus to the candidate's personal account as reimbursement))~~ Using surplus, reimburse the candidate for lost earnings incurred as a result of that candidate's election campaign. ~~((Such))~~ Lost earnings shall be verifiable as unpaid salary or, when the candidate is not salaried, as an amount not to exceed income received by the candidate for services rendered during an appropriate, corresponding time period. All lost earnings incurred shall be documented and a record thereof shall be maintained by the candidate or the candidate's ~~((political))~~ authorized committee. The committee shall ~~((include))~~ maintain a copy of ~~((such))~~ this record ~~((when its expenditure for such reimbursement is reported pursuant to RCW 42.17.090))~~ in accordance with RCW 42.17.080(6) (as recodified by this act);

(3) Transfer the surplus without limit to a political party or to a caucus political committee;

(4) Donate the surplus to a charitable organization registered in accordance with chapter 19.09 RCW;

(5) Transmit the surplus to the state treasurer for deposit in the general fund, the ~~((oral history))~~ Washington state legacy project, state library, and archives account under RCW 43.07.380, or the legislative international trade account under RCW ~~((44.04.270))~~ 43.15.050, as specified by the candidate or political committee; or

(6) Hold the surplus in the ~~((campaign))~~ depository or depositories designated in accordance with ~~((RCW 42.17.050))~~ section 404 of this act for possible use in a future election campaign for the same office last sought by the candidate and report any such disposition in accordance with RCW 42.17.090~~((= PROVIDED, That))~~ (as recodified by this act). If the candidate subsequently announces or publicly files for office, the appropriate information ~~((as appropriate is))~~ must be reported to the commission in accordance with RCW 42.17.040 through 42.17.090 (as recodified by this act). If a subsequent office is not sought the surplus held shall be disposed of in accordance with the requirements of this section.

(7) Hold the surplus campaign funds in a separate account for nonreimbursed public office-related expenses or as provided in this section, and report any such disposition in accordance with RCW 42.17.090 (as recodified by this act). The separate account required under this subsection shall not be used for deposits of campaign funds that are not surplus.

(8) No candidate or authorized committee may transfer funds to any other candidate or other political committee.

The disposal of surplus funds under this section shall not be considered a contribution for purposes of this chapter.

**NEW SECTION. Sec. 607. CANDIDATES' POLITICAL COMMITTEES--LIMITATIONS.** A candidate may not knowingly establish, use, direct, or control more than one political committee for the purpose of supporting that candidate during a particular election campaign. This does not prohibit: (1) In addition to a candidate's having his or her own political committee, the candidate's participation in a political committee established to support a slate of candidates that includes the candidate; or (2) joint fund-raising efforts by candidates when a separate political committee is established for that purpose and all contributions are

disbursed to and accounted for on a pro rata basis by the benefiting candidates.

**Sec. 608.** RCW 42.17.125 and 1995 c 397 s 29 are each amended to read as follows:

Contributions received and reported in accordance with RCW 42.17.060 through 42.17.090 (as recodified by this act) may only be ~~((transferred))~~ paid to ~~((the personal account of))~~ a candidate, or ~~((of))~~ a treasurer or other individual or expended for such individual's personal use under the following circumstances:

(1) Reimbursement for or ~~((loans))~~ payments to cover lost earnings incurred as a result of campaigning or services performed for the political committee. ~~((Such))~~ Lost earnings shall be verifiable as unpaid salary, or when the individual is not salaried, as an amount not to exceed income received by the individual for services rendered during an appropriate, corresponding time period. All lost earnings incurred shall be documented and a record ~~((thereof))~~ shall be maintained by the ~~((individual))~~ candidate or the ~~((individual's political))~~ candidate's authorized committee in accordance with RCW 42.17.080 (as recodified by this act). ~~((The political committee shall include a copy of such record when its expenditure for such reimbursement is reported pursuant to RCW 42.17.090.))~~

(2) Reimbursement for direct out-of-pocket election campaign and postelection campaign related expenses made by the individual. To receive reimbursement from the political committee, the individual shall provide the political committee with written documentation as to the amount, date, and description of each expense, and the political committee shall include a copy of such information when its expenditure for such reimbursement is reported pursuant to RCW 42.17.090 (as recodified by this act).

(3) Repayment of loans made by the individual to political committees~~((, which repayment))~~ shall be reported pursuant to RCW 42.17.090 (as recodified by this act). However, contributions may not be used to reimburse a candidate for loans totaling more than ~~((three))~~ four thousand seven hundred dollars made by the candidate to the candidate's own ~~((political))~~ authorized committee ~~((or campaign))~~.

**Sec. 609.** RCW 42.17.660 and 2005 c 445 s 12 are each amended to read as follows:

For purposes of this chapter:

(1) A contribution by a political committee with funds that have all been contributed by one person who exercises exclusive control over the distribution of the funds of the political committee is a contribution by the controlling person.

(2) Two or more entities are treated as a single entity if one of the two or more entities is a subsidiary, branch, or department of a corporation that is participating in an election campaign or making contributions, or a local unit or branch of a trade association, labor union, or collective bargaining association that is participating in an election campaign or making contributions. All contributions made by a person or political committee whose contribution or expenditure activity is financed, maintained, or controlled by a trade association, labor union, collective bargaining organization, or the local unit of a trade association, labor union, or collective bargaining organization are considered made by the trade association, labor union, collective bargaining organization, or local unit of a trade association, labor union, or collective bargaining organization.

(3) The commission shall adopt rules to carry out this section and is not subject to the time restrictions of RCW 42.17.370(1) (as recodified by this act).

**Sec. 610.** RCW 42.17.720 and 1995 c 397 s 22 are each amended to read as follows:

(1) A loan is considered to be a contribution from the lender and any guarantor of the loan and is subject to the contribution

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limitations of this chapter. The full amount of the loan shall be attributed to the lender and to each guarantor.

(2) A loan to a candidate for public office or the candidate's ~~((political))~~ authorized committee must be by written agreement.

(3) The proceeds of a loan made to a candidate for public office:

(a) By a commercial lending institution;

(b) Made in the regular course of business; and

(c) On the same terms ordinarily available to members of the public, are not subject to the contribution limits of this chapter.

**Sec. 611.** RCW 42.17.740 and 1995 c 397 s 23 are each amended to read as follows:

(1) A person may not make a contribution of more than ~~((fifty))~~ eighty dollars, other than an in-kind contribution, except by a written instrument containing the name of the donor and the name of the payee.

(2) A political committee may not make a contribution, other than in-kind, except by a written instrument containing the name of the donor and the name of the payee.

**Sec. 612.** RCW 42.17.790 and 1995 c 397 s 27 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a candidate for public office or the candidate's ~~((political))~~ authorized committee may not use or permit the use of contributions, whether or not surplus, solicited for or received by the candidate ~~((for public office))~~ or the candidate's ~~((political))~~ authorized committee to further the candidacy of the individual for an office other than the office designated on the statement of organization. A contribution solicited for or received on behalf of the candidate ~~((for public office))~~ is considered solicited or received for the candidacy for which the individual is then a candidate if the contribution is solicited or received before the general election~~((s))~~ for which the candidate ~~((for public office))~~ is a nominee or is unopposed.

(2) With the written approval of the contributor, a candidate ~~((for public office))~~ or the candidate's ~~((political))~~ authorized committee may use or permit the use of contributions, whether or not surplus, solicited for or received by the candidate ~~((for public office))~~ or the candidate's ~~((political))~~ authorized committee from that contributor to further the candidacy of the individual for an office other than the office designated on the statement of organization. If the contributor does not approve the use of his or her contribution to further the candidacy of the individual for an office other than the office designated on the statement of organization at the time of the contribution, the contribution must be considered surplus funds and disposed of in accordance with RCW 42.17.095 ~~((as recodified by this act))~~.

**Sec. 613.** RCW 42.17.680 and 2002 c 156 s 1 are each amended to read as follows:

(1) No employer or labor organization may increase the salary of an officer or employee, or ~~((give an emolument to))~~ compensate an officer, employee, or other person or entity, with the intention that the increase in salary, or the ~~((emolument))~~ compensation, or a part of it, be contributed or spent to support or oppose a candidate, state official against whom recall charges have been filed, political party, or political committee.

(2) No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (a) the failure to contribute to, (b) the failure in any way to support or oppose, or (c) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee. At least annually, an employee from whom wages or salary are withheld under subsection (3) of this section shall be notified of the provisions of this subsection.

(3) No employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries may withhold or divert a portion of an employee's wages or salaries for

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contributions to political committees or for use as political contributions except upon the written request of the employee. The request must be made on a form prescribed by the commission informing the employee of the prohibition against employer and labor organization discrimination described in subsection (2) of this section. The employee may revoke the request at any time. At least annually, the employee shall be notified about the right to revoke the request.

(4) Each person or entity who withholds contributions under subsection (3) of this section shall maintain open for public inspection for a period of no less than three years, during normal business hours, documents and books of accounts that shall include a copy of each employee's request, the amounts and dates funds were actually withheld, and the amounts and dates funds were transferred to a political committee. Copies of such information shall be delivered to the commission upon request.

## PART 7 PUBLIC OFFICIALS', EMPLOYEES', AND AGENCIES' CAMPAIGN RESTRICTIONS, PROHIBITIONS, AND REPORTING

**Sec. 701.** RCW 42.17.130 and 2006 c 215 s 2 are each amended to read as follows:

No elective official nor any employee of his ~~((for her))~~ or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of a public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency. However, this does not apply to the following activities:

(1) Action taken at an open public meeting by members of an elected legislative body or by an elected board, council, or commission of a special purpose district including, but not limited to, fire districts, public hospital districts, library districts, park districts, port districts, public utility districts, school districts, sewer districts, and water districts, to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition so long as (a) any required notice of the meeting includes the title and number of the ballot proposition, and (b) members of the legislative body, members of the board, council, or commission of the special purpose district, or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(2) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry;

(3) Activities which are part of the normal and regular conduct of the office or agency.

(4) This section does not apply to any person who is a state officer or state employee as defined in RCW 42.52.010.

**Sec. 702.** RCW 42.17.245 and 2005 c 274 s 282 are each amended to read as follows:

After January 1st and before April 15th of each calendar year, the state treasurer, each county, public utility district, and port district treasurer, and each treasurer of an incorporated city or town whose population exceeds one thousand shall file with the commission:

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(1) A statement under oath that no public funds under that treasurer's control were invested in any institution where the treasurer or, in the case of a county, a member of the county finance committee, held during the reporting period an office, directorship, partnership interest, or ownership interest; or

(2) A report disclosing for the previous calendar year: (a) The name and address of each financial institution in which the treasurer or, in the case of a county, a member of the county finance committee, held during the reporting period an office, directorship, partnership interest, or ownership interest which holds or has held during the reporting period public accounts of the governmental entity for which the treasurer is responsible; (b) the aggregate sum of time and demand deposits held in each such financial institution on December 31; and (c) the highest balance held at any time during such reporting period (~~(= PROVIDED, That)~~). The state treasurer shall disclose the highest balance information only upon a public records request under chapter 42.56 RCW. The statement or report required by this section shall be filed either with the statement required under RCW 42.17.240 (as recodified by this act) or separately.

**NEW SECTION. Sec. 703.** No state-elected official or municipal officer may speak or appear in a public service announcement that is broadcast, shown, or distributed in any form whatsoever during the period beginning January 1st and continuing through the general election if that official or officer is a candidate. If the official or officer does not control the broadcast, showing, or distribution of a public service announcement in which he or she speaks or appears, then the official or officer shall contractually limit the use of the public service announcement to be consistent with this section prior to participating in the public service announcement. This section does not apply to public service announcements that are part of the regular duties of the office that only mention or visually display the office or office seal or logo and do not mention or visually display the name of the official or officer in the announcement.

**PART 8  
LOBBYING DISCLOSURE AND RESTRICTIONS**

**Sec. 801.** RCW 42.17.150 and 1987 c 201 s 1 are each amended to read as follows:

(1) Before (~~(doing any)~~) lobbying, or within thirty days after being employed as a lobbyist, whichever occurs first, a lobbyist shall register by filing with the commission a lobbyist registration statement, in such detail as the commission shall prescribe, (~~(showing)~~) that includes the following information:

(a) (~~(His)~~) The lobbyist's name, permanent business address, and any temporary residential and business addresses in Thurston county during the legislative session;

(b) The name, address and occupation or business of the lobbyist's employer;

(c) The duration of (~~(his)~~) the lobbyist's employment;

(d) (~~(His)~~) The compensation to be received for lobbying (~~(= how much he is)~~), the amount to be paid for expenses, and what expenses are to be reimbursed;

(e) Whether the (~~(person from whom he receives said compensation employs him)~~) lobbyist is employed solely as a lobbyist or whether (~~(he)~~) the lobbyist is a regular employee performing services for his or her employer which include but are not limited to the influencing of legislation;

(f) The general subject or subjects (~~(of his legislative interest)~~) to be lobbied;

(g) A written authorization from each of the lobbyist's employers confirming such employment;

(h) The name and address of the person who will have custody of the accounts, bills, receipts, books, papers, and documents required to be kept under this chapter;

(i) If the lobbyist's employer is an entity (including, but not limited to, business and trade associations) whose members include, or which as a representative entity undertakes lobbying activities for, businesses, groups, associations, or organizations, the name and address of each member of such entity or person represented by such entity whose fees, dues, payments, or other consideration paid to such entity during either of the prior two years have exceeded five hundred dollars or who is obligated to or has agreed to pay fees, dues, payments, or other consideration exceeding five hundred dollars to such entity during the current year.

(2) Any lobbyist who receives or is to receive compensation from more than one person for (~~(his services as a lobbyist)~~) lobbying shall file a separate notice of representation (~~(with respect to)~~) for each (~~(such)~~) person (~~(= except that where a lobbyist whose fee for acting as such in respect to the same legislation or type of legislation is, or is to be, paid or contributed to by more than one person then such lobbyist may file a single statement, in which he shall detail the name, business address and occupation of each person so paying or contributing, and the amount of the respective payments or contributions made by each such person)~~). However, if two or more persons are jointly paying or contributing to the payment of the lobbyist, the lobbyist may file a single statement detailing the name, business address, and occupation of each person paying or contributing and the respective amounts to be paid or contributed.

(3) Whenever a change, modification, or termination of the lobbyist's employment occurs, the lobbyist shall (~~(=)~~) file with the commission an amended registration statement within one week of (~~(such)~~) the change, modification, or termination (~~(= furnish full information regarding the same by filing with the commission an amended registration statement)~~.

(4) Each registered lobbyist (~~(who has registered)~~) shall file a new registration statement, revised as appropriate, on the second Monday in January of each odd-numbered year (~~(= and)~~). Failure to do so (~~(shall)~~) terminates (~~(his)~~) the lobbyist's registration.

**Sec. 802.** RCW 42.17.155 and 1995 c 397 s 6 are each amended to read as follows:

Each lobbyist shall at the time he or she registers submit to the commission a recent photograph of himself or herself of a size and format as determined by rule of the commission, together with the name of the lobbyist's employer, the length of his or her employment as a lobbyist before the legislature, a brief biographical description, and any other information he or she may wish to submit not to exceed fifty words in length. (~~(Such)~~) The photograph and information shall be published by the commission at least biennially in a booklet form (~~(by the commission)~~) for distribution to legislators and the public.

**Sec. 803.** RCW 42.17.160 and 1998 c 55 s 3 are each amended to read as follows:

The following persons and activities (~~(shall be)~~) are exempt from registration and reporting under RCW 42.17.150, 42.17.170, and 42.17.200 (as recodified by this act):

(1) Persons who limit their lobbying activities to appearing before public sessions of committees of the legislature, or public hearings of state agencies;

(2) Activities by lobbyists or other persons whose participation has been solicited by an agency under RCW 34.05.310(2);

(3) News or feature reporting activities and editorial comment by working members of the press, radio, or television and the publication or dissemination thereof by a newspaper, book publisher, regularly published periodical, radio station, or television station;

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(4) Persons who lobby without compensation or other consideration for acting as a lobbyist(~~(= PROVIDED, Such)~~), if the person makes no expenditure for or on behalf of any member of the legislature or elected official or public officer or employee of the state of Washington in connection with such lobbying. The exemption contained in this subsection is intended to permit and encourage citizens of this state to lobby any legislator, public official, or state agency without incurring any registration or reporting obligation provided they do not exceed the limits stated above. Any person exempt under this subsection (4) may at his or her option register and report under this chapter;

(5) Persons who restrict their lobbying activities to no more than four days or parts (~~(thereof)~~) of four days during any three-month period and whose total expenditures during such three-month period for or on behalf of any one or more members of the legislature or state elected officials or public officers or employees of the state of Washington in connection with such lobbying do not exceed twenty-five dollars(~~(= PROVIDED, That)~~). The commission shall ((promulgate regulations)) adopt rules to require disclosure by persons exempt under this subsection or their employers or entities which sponsor or coordinate the lobbying activities of such persons if it determines that such regulations are necessary to prevent frustration of the purposes of this chapter. Any person exempt under this subsection (5) may at his or her option register and report under this chapter;

(6) The governor;

(7) The lieutenant governor;

(8) Except as provided by RCW 42.17.190(1) (as recodified by this act), members of the legislature;

(9) Except as provided by RCW 42.17.190(1) (as recodified by this act), persons employed by the legislature for the purpose of aiding in the preparation or enactment of legislation or the performance of legislative duties;

(10) Elected officials, and officers and employees of any agency reporting under RCW 42.17.190(5) (as recodified by this act).

**Sec. 804.** RCW 42.17.170 and 1995 c 397 s 33 are each amended to read as follows:

(1) Any lobbyist registered under RCW 42.17.150 (as recodified by this act) and any person who lobbies shall file with the commission (~~(periodic)~~) monthly reports of his or her lobbying activities (~~(signed by the lobbyist)~~). The reports shall be made in the form and manner prescribed by the commission and must be signed by the lobbyist. ~~((They shall be due monthly and))~~ The monthly report shall be filed within fifteen days after the last day of the calendar month covered by the report.

(2) ~~((Each such))~~ The monthly (~~(periodic)~~) report shall contain:

(a) The totals of all expenditures for lobbying activities made or incurred by ~~((such))~~ the lobbyist or on behalf of ~~((such))~~ the lobbyist by the lobbyist's employer during the period covered by the report. ~~((Such))~~ Expenditure totals for lobbying activities shall be segregated according to financial category, including compensation; food and refreshments; living accommodations; advertising; travel; contributions; and other expenses or services. Each individual expenditure of more than twenty-five dollars for entertainment shall be identified by date, place, amount, and the names of all persons ~~((in the group partaking in or of such))~~ taking part in the entertainment, along with the dollar amount attributable to each person, including ~~((any portion thereof attributable to))~~ the lobbyist's ~~((participation therein, and shall include amounts actually expended on each person where calculable, or allocating any portion of the expenditure to individual participants.~~

~~— Notwithstanding the foregoing, lobbyists are not required to report the following:~~

~~— (i) Unreimbursed personal living and travel expenses not incurred directly for lobbying;~~

~~— (ii) Any expenses incurred for his or her own living accommodations;~~

~~— (iii) Any expenses incurred for his or her own travel to and from hearings of the legislature;~~

~~— (iv) Any expenses incurred for telephone, and any office expenses, including rent and salaries and wages paid for staff and secretarial assistance)) portion.~~

(b) In the case of a lobbyist employed by more than one employer, the proportionate amount of ~~((such))~~ expenditures in each category incurred on behalf of each of ~~((his))~~ the lobbyist's employers.

(c) An itemized listing of each ~~((such expenditure))~~ contribution of money or of tangible or intangible personal property, whether contributed by the lobbyist personally or delivered or transmitted by the lobbyist, ~~((in the nature of a contribution of money or of tangible or intangible personal property))~~ to any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition, or for or on behalf of any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition. All contributions made to, or for the benefit of, any candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition shall be identified by date, amount, and the name of the candidate, elected official, or officer or employee of any agency, or any political committee supporting or opposing any ballot proposition receiving, or to be benefited by each such contribution.

(d) The subject matter of proposed legislation or other legislative activity or rule(~~(-)~~) making under chapter 34.05 RCW, the state administrative procedure act, and the state agency considering the same, which the lobbyist has been engaged in supporting or opposing during the reporting period, unless exempt under RCW 42.17.160(2) (as recodified by this act).

(e) ~~((Such other information relevant to lobbying activities as the commission shall by rule prescribe. Information supporting such activities as are required to be reported is subject to audit by the commission.~~

(f)) A listing of each payment for an item specified in RCW 42.52.150(5) in excess of fifty dollars and each item specified in RCW 42.52.010(~~((9))~~) (10) (d) and (f) made to a state elected official, state officer, or state employee. Each item shall be identified by recipient, date, and approximate value of the item.

~~((g))~~ (f) The total expenditures ~~((made))~~ paid or incurred during the reporting period by the lobbyist for lobbying purposes, whether through or on behalf of a lobbyist or otherwise(~~(= As used in this subsection, "expenditures" includes amounts paid or incurred during the reporting period)~~), for (i) political advertising as defined in RCW 42.17.020 (as recodified by this act); and (ii) public relations, telemarketing, polling, or similar activities if ~~((such))~~ the activities, directly or indirectly, are intended, designed, or calculated to influence legislation or the adoption or rejection of a rule, standard, or rate by an agency under the administrative procedure act. The report shall specify the amount, the person to whom the amount was paid, and a brief description of the activity.

(3) ~~((If a state elected official or a member of such an official's immediate family is identified by a lobbyist in such a report as having received from the lobbyist an item specified in RCW 42.52.150(5) or 42.52.010(9) (d) or (f), the lobbyist shall transmit to the official a copy of the completed form used to identify the item in the report at the same time the report is filed with the commission))~~ Lobbyists are not required to report the following:

(a) Unreimbursed personal living and travel expenses not incurred directly for lobbying;

(b) Any expenses incurred for his or her own living accommodations;

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(c) Any expenses incurred for his or her own travel to and from hearings of the legislature;

(d) Any expenses incurred for telephone, and any office expenses, including rent and salaries and wages paid for staff and secretarial assistance.

(4) The commission may adopt rules to vary the content of lobbyist reports to address specific circumstances, consistent with this section. Lobbyist reports are subject to audit by the commission.

**Sec. 805.** RCW 42.17.172 and 1993 c 2 s 32 are each amended to read as follows:

(1) When a listing or a report of contributions is made to the commission under RCW 42.17.170(2)(c) (as recodified by this act), a copy of the listing or report must be given to the candidate, elected official, professional staff member of the legislature, or officer or employee of an agency, or a political committee supporting or opposing a ballot proposition named in the listing or report.

(2) If a state elected official or a member of the official's immediate family is identified by a lobbyist in a lobbyist report as having received from the lobbyist an item specified in RCW 42.52.150(5) or 42.52.010(10) (d) or (f), the lobbyist shall transmit to the official a copy of the completed form used to identify the item in the report at the same time the report is filed with the commission.

**Sec. 806.** RCW 42.17.175 and 2001 c 54 s 3 are each amended to read as follows:

Any lobbyist registered under RCW 42.17.150 (as recodified by this act), any person who lobbies, and any lobbyist's employer making a contribution or an aggregate of contributions to a single entity that is one thousand dollars or more during a special reporting period, as specified in RCW 42.17.105 (as recodified by this act), before a primary or general election (, as such period is specified in RCW 42.17.105(4),) shall file one or more special reports (for the contribution or aggregate of contributions and for subsequent contributions made during that period under the same circumstances) in the same manner and to the same extent that a contributing political committee must file (such a report or reports) under RCW 42.17.105 (as recodified by this act). (Such a special report shall be filed in the same manner provided under RCW 42.17.105 for a special report of a contributing political committee.)

**Sec. 807.** RCW 42.17.180 and 1993 c 2 s 27 are each amended to read as follows:

(1) Every employer of a lobbyist registered under this chapter during the preceding calendar year and every person other than an individual that made contributions aggregating to more than (ten) sixteen thousand dollars or independent expenditures aggregating to more than (five) eight hundred dollars during the preceding calendar year shall file with the commission on or before the last day of February of each year a statement disclosing for the preceding calendar year the following information:

(a) The name of each state elected official and the name of each candidate for state office who was elected to the office and any member of the immediate family of those persons to whom the person reporting has paid any compensation in the amount of (five) eight hundred dollars or more during the preceding calendar year for personal employment or professional services, including professional services rendered by a corporation, partnership, joint venture, association, union, or other entity in which the person holds any office, directorship, or any general partnership interest, or an ownership interest of ten percent or more, the value of the compensation in accordance with the reporting provisions set out in RCW 42.17.241(2) (as recodified by this act), and the consideration given or performed in exchange for the compensation.

(b) The name of each state elected official, successful candidate for state office, or members of his or her immediate family to whom

the person reporting made expenditures, directly or indirectly, either through a lobbyist or otherwise, the amount of the expenditures and the purpose for the expenditures. For the purposes of this subsection, (the term) "expenditure" shall not include any expenditure made by the employer in the ordinary course of business if the expenditure is not made for the purpose of influencing, honoring, or benefiting the elected official, successful candidate, or member of his immediate family, as an elected official or candidate.

(c) The total expenditures made by the person reporting for lobbying purposes, whether through or on behalf of a registered lobbyist or otherwise.

(d) All contributions made to a political committee supporting or opposing a candidate for state office, or to a political committee supporting or opposing a statewide ballot proposition. Such contributions shall be identified by the name and the address of the recipient and the aggregate amount contributed to each such recipient.

(e) The name and address of each registered lobbyist employed by the person reporting and the total expenditures made by (such) the person reporting for each (such) lobbyist for lobbying purposes.

(f) The names, offices sought, and party affiliations of candidates for state offices supported or opposed by independent expenditures of the person reporting and the amount of each such expenditure.

(g) The identifying proposition number and a brief description of any statewide ballot proposition supported or opposed by expenditures not reported under (d) of this subsection and the amount of each such expenditure.

(h) (Such) Any other information (as) the commission prescribes by rule.

(2)(a) Except as provided in (b) of this subsection, an employer of a lobbyist registered under this chapter shall file a special report with the commission if the employer makes a contribution or contributions aggregating more than one hundred dollars in a calendar month to any one of the following: A candidate, elected official, officer or employee of an agency, or political committee. The report shall identify the date and amount of each such contribution and the name of the candidate, elected official, agency officer or employee, or political committee receiving the contribution or to be benefited by the contribution. The report shall be filed on a form prescribed by the commission and shall be filed within fifteen days after the last day of the calendar month during which the contribution was made.

(b) The provisions of (a) of this subsection do not apply to a contribution (which) that is made through a registered lobbyist and reportable under RCW 42.17.170 (as recodified by this act).

**Sec. 808.** RCW 42.17.190 and 1995 c 397 s 7 are each amended to read as follows:

(1) The house of representatives and the senate shall report annually: The total budget; the portion of the total attributed to staff; and the number of full-time and part-time staff positions by assignment, with dollar figures as well as number of positions.

(2) Unless authorized by subsection (3) of this section or otherwise expressly authorized by law, no public funds may be used directly or indirectly for lobbying (- PROVIDED). However, this does not prevent officers or employees of an agency from communicating with a member of the legislature on the request of that member; or communicating to the legislature, through the proper official channels, requests for legislative action or appropriations (which) that are deemed necessary for the efficient conduct of the public business or actually made in the proper performance of their official duties (- PROVIDED FURTHER, That). This subsection does not apply to the legislative branch.

(3) Any agency, not otherwise expressly authorized by law, may expend public funds for lobbying, but such lobbying activity shall be limited to (a) providing information or communicating on matters pertaining to official agency business to any elected official or officer or employee of any agency or (b) advocating the official position or interests of the agency to any elected official or officer or employee of any agency (~~(-- PROVIDED, That)~~). Public funds may not be expended as a direct or indirect gift or campaign contribution to any elected official or officer or employee of any agency. For the purposes of this subsection, ~~((the term))~~ "gift" means a voluntary transfer of any thing of value without consideration of equal or greater value, but does not include informational material transferred for the sole purpose of informing the recipient about matters pertaining to official agency business. This section does not permit the printing of a state publication ~~((which))~~ that has been otherwise prohibited by law.

(4) No elective official or any employee of his or her office or any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, in any effort to support or oppose an initiative to the legislature. "Facilities of a public office or agency" has the same meaning as in RCW 42.17.130 (as recodified by this act) and 42.52.180. The provisions of this subsection shall not apply to the following activities:

(a) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose an initiative to the legislature so long as (i) any required notice of the meeting includes the title and number of the initiative to the legislature, and (ii) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(b) A statement by an elected official in support of or in opposition to any initiative to the legislature at an open press conference or in response to a specific inquiry;

(c) Activities ~~((which))~~ that are part of the normal and regular conduct of the office or agency;

(d) Activities conducted regarding an initiative to the legislature that would be permitted under RCW 42.17.130 (as recodified by this act) and 42.52.180 if conducted regarding other ballot measures.

(5) Each state agency, county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district ~~((which))~~ that expends public funds for lobbying shall file with the commission, except as exempted by (d) of this subsection, quarterly statements providing the following information for the quarter just completed:

(a) The name of the agency filing the statement;

(b) The name, title, and job description and salary of each elected official, officer, or employee who lobbied, a general description of the nature of the lobbying, and the proportionate amount of time spent on the lobbying;

(c) A listing of expenditures incurred by the agency for lobbying including but not limited to travel, consultant or other special contractual services, and brochures and other publications, the principal purpose of which is to influence legislation;

(d) For purposes of this subsection ~~((the term))~~, "lobbying" does not include:

(i) Requests for appropriations by a state agency to the office of financial management pursuant to chapter 43.88 RCW nor requests by the office of financial management to the legislature for appropriations other than its own agency budget requests;

(ii) Recommendations or reports to the legislature in response to a legislative request expressly requesting or directing a specific

study, recommendation, or report by an agency on a particular subject;

(iii) Official reports including recommendations submitted to the legislature on an annual or biennial basis by a state agency as required by law;

(iv) Requests, recommendations, or other communication between or within state agencies or between or within local agencies;

(v) Any other lobbying to the extent that it includes:

(A) Telephone conversations or preparation of written correspondence;

(B) In-person lobbying on behalf of an agency of no more than four days or parts thereof during any three-month period by officers or employees of that agency and in-person lobbying by any elected official of such agency on behalf of such agency or in connection with the powers, duties, or compensation of such official ~~(-- PROVIDED, That)~~. The total expenditures of nonpublic funds made in connection with such lobbying for or on behalf of any one or more members of the legislature or state elected officials or public officers or employees of the state of Washington ~~((do))~~ may not exceed fifteen dollars for any three-month period ~~(-- PROVIDED FURTHER, That)~~. The exemption under this subsection (5)(d)(v)(B) is in addition to the exemption provided in (d)(v)(A) of this subsection;

(C) Preparation or adoption of policy positions.

The statements shall be in the form and the manner prescribed by the commission and shall be filed within one month after the end of the quarter covered by the report.

(6) In lieu of reporting under subsection (5) of this section, any county, city, town, municipal corporation, quasi municipal corporation, or special purpose district may determine and so notify the public disclosure commission ~~((:))~~ that elected officials, officers, or employees who, on behalf of any such local agency, engage in lobbying reportable under subsection (5) of this section shall register and report such reportable lobbying in the same manner as a lobbyist who is required to register and report under RCW 42.17.150 and 42.17.170 (as recodified by this act). Each such local agency shall report as a lobbyist employer pursuant to RCW 42.17.180 (as recodified by this act).

(7) The provisions of this section do not relieve any elected official or officer or employee of an agency from complying with other provisions of this chapter, if such elected official, officer, or employee is not otherwise exempted.

(8) The purpose of this section is to require each state agency and certain local agencies to report the identities of those persons who lobby on behalf of the agency for compensation, together with certain separately identifiable and measurable expenditures of an agency's funds for that purpose. This section shall be reasonably construed to accomplish that purpose and not to require any agency to report any of its general overhead cost or any other costs ~~((which))~~ that relate only indirectly or incidentally to lobbying or ~~((which))~~ that are equally attributable to or inseparable from nonlobbying activities of the agency.

The public disclosure commission may adopt rules clarifying and implementing this legislative interpretation and policy.

**Sec. 809.** RCW 42.17.200 and 1990 c 139 s 5 are each amended to read as follows:

(1) Any person who has made expenditures, not reported by a registered lobbyist under RCW 42.17.170 (as recodified by this act) or by a candidate or political committee under RCW 42.17.065 or 42.17.080 (as recodified by this act), exceeding ~~((five hundred))~~ one thousand dollars in the aggregate within any three-month period or exceeding ~~((two))~~ five hundred dollars in the aggregate within any one-month period in presenting a program ~~((addressed))~~ to the public, a substantial portion of which is intended, designed, or

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calculated primarily to influence legislation shall ~~((be required to))~~ register and report, as provided in subsection (2) of this section, as a sponsor of a grass roots lobbying campaign.

(2) Within thirty days after becoming a sponsor of a grass roots lobbying campaign, the sponsor shall register by filing with the commission a registration statement, in such detail as the commission shall prescribe, showing:

(a) The sponsor's name, address, and business or occupation, and, if the sponsor is not an individual, the names, addresses, and titles of the controlling persons responsible for managing the sponsor's affairs;

(b) The names, addresses, and business or occupation of all persons organizing and managing the campaign, or hired to assist the campaign, including any public relations or advertising firms participating in the campaign, and the terms of compensation for all such persons;

(c) The names and addresses of each person contributing twenty-five dollars or more to the campaign, and the aggregate amount contributed;

(d) The purpose of the campaign, including the specific legislation, rules, rates, standards, or proposals that are the subject matter of the campaign;

(e) The totals of all expenditures made or incurred to date on behalf of the campaign ~~((, which totals shall be))~~ segregated according to financial category, including but not limited to the following: Advertising, segregated by media, and in the case of large expenditures (as provided by rule of the commission), by outlet; contributions; entertainment, including food and refreshments; office expenses including rent and the salaries and wages paid for staff and secretarial assistance, or the proportionate amount ~~((thereof))~~ paid or incurred for lobbying campaign activities; consultants; and printing and mailing expenses.

(3) Every sponsor who has registered under this section shall file monthly reports with the commission ~~((, which reports shall be filed))~~ by the tenth day of the month for the activity during the preceding month. The reports shall update the information contained in the sponsor's registration statement and in prior reports and shall show contributions received and totals of expenditures made during the month, in the same manner as provided for in the registration statement.

(4) When the campaign has been terminated, the sponsor shall file a notice of termination with the final monthly report ~~((, which notice))~~. The final report shall state the totals of all contributions and expenditures made on behalf of the campaign, in the same manner as provided for in the registration statement.

**Sec. 810.** RCW 42.17.210 and 1973 c 1 s 21 are each amended to read as follows:

If any person registered or required to be registered as a lobbyist ~~((under this chapter employs))~~, or ~~((if))~~ any employer of any person registered or required to be registered as a lobbyist ~~((under this chapter))~~, employs ~~((any))~~ a member or an employee of the legislature, ~~((or any))~~ a member of ~~((any))~~ a state board or commission, ~~((or any employee of the legislature,))~~ or ~~((any))~~ a full-time state employee, ~~((if such))~~ and that new employee ~~((shall))~~ remains in the partial employ of the state ~~((or any agency thereof, then))~~, the new employer ~~((shall))~~ must file within fifteen days after employment a statement ((under oath)) with the commission, signed under oath, setting out the nature of the employment, the name of the person ((to be paid thereunder)) employed, and the amount of pay or consideration ((to be paid thereunder. The statement shall be filed within fifteen days after the commencement of such employment)).

**Sec. 811.** RCW 42.17.220 and 1973 c 1 s 22 are each amended to read as follows:

It ~~((shall be))~~ is a violation of this chapter for any person to employ for pay or any consideration, or pay or agree to pay any consideration to, a person to lobby who is not registered under this chapter except upon the condition that such a person must register as a lobbyist as provided by this chapter~~((, and such person does in fact so register as soon as practicable))~~.

**Sec. 812.** RCW 42.17.230 and 1987 c 201 s 2 are each amended to read as follows:

(1) A person required to register as a lobbyist under ~~((this chapter))~~ shall also have the following obligations, the violation of which shall constitute cause for revocation of his registration, and may subject such person, and such person's employer, if such employer aids, abets, ratifies, or confirms any such act, to other civil liabilities, as provided by this chapter:

(1) Such persons shall obtain and preserve all ~~((RCW 42.17.150))~~ RCW 42.17.150 (as recodified by this act) shall substantiate financial reports required to be made under this chapter with accounts, bills, receipts, books, papers, and other necessary documents (necessary to substantiate the financial reports required to be made under this chapter). All such documents must be obtained and preserved for a period of at least five years from the date of ~~((the))~~ filing ~~((of))~~ the statement containing such items ~~((, which accounts, bills, receipts, books, papers, and documents))~~ and shall be made available for inspection by the commission at any time ~~((: PROVIDED, That if a lobbyist is required under))~~. If the terms of ((his)) the lobbyist's employment contract ((to turn any)) require that these records be turned over to his or her employer, responsibility for the preservation and inspection of ((such)) these records under this subsection shall ((rest)) be with such employer.

(2) ~~((In addition,))~~ A person required to register as a lobbyist under RCW 42.17.150 (as recodified by this act) shall not:

(a) Engage in any lobbying activity ~~((as a lobbyist))~~ before registering as ~~((such))~~ a lobbyist;

(b) Knowingly deceive or attempt to deceive ~~((any))~~ a legislator ~~((as to any fact))~~ regarding the facts pertaining to any pending or proposed legislation;

(c) Cause or influence the introduction of ~~((any))~~ a bill or amendment ~~((thereto))~~ to that bill for the purpose of ~~((thereafter))~~ later being employed to secure its defeat;

(d) Knowingly represent an interest adverse to ~~((any of))~~ his or her employer(s) without ~~((first))~~ full disclosure of the adverse interest to the employer and obtaining ~~((such))~~ the employer's written consent ~~((thereto after full disclosure to such employer of such adverse interest))~~;

(e) Exercise any undue influence, extortion, or unlawful retaliation upon any legislator ~~((by reason of such))~~ due to the legislator's position ((with respect to, or his vote upon,)) or vote on any pending or proposed legislation;

(f) Enter into any agreement, arrangement, or understanding ~~((according to which his or her))~~ in which any portion of his or her compensation ((, or any portion thereof,)) is or will be contingent upon ((the)) his or her success ((of any attempt to influence)) in influencing legislation.

(3) A violation by a lobbyist of this section shall be cause for revocation of his or her registration, and may subject the lobbyist and the lobbyist's employer, if the employer aids, abets, ratifies, or confirms the violation, to other civil liabilities as provided by this chapter.

## PART 9 PERSONAL FINANCIAL AFFAIRS REPORTING BY CANDIDATES AND PUBLIC OFFICIALS

**Sec. 901.** RCW 42.17.240 and 1995 c 397 s 8 are each amended to read as follows:

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(1) ~~After January 1st and before April 15th of each year, every~~ elected official and every executive state officer shall ~~((after January 1st and before April 15th of each year))~~ file with the commission a statement of financial affairs for the preceding calendar year. However, any local elected official whose term of office ~~((expires immediately after))~~ ends on December 31st shall file the statement required to be filed by this section for the final year ~~((that ended on that December 31st))~~ of his or her term.

(2) Within two weeks of becoming a candidate, every candidate shall ~~((within two weeks of becoming a candidate))~~ file with the commission a statement of financial affairs for the preceding twelve months.

(3) Within two weeks of appointment, every person appointed to a vacancy in an elective office or executive state officer position shall ~~((within two weeks of being so appointed))~~ file with the commission a statement of financial affairs for the preceding twelve months.

(4) A statement of a candidate or appointee filed during the period from January 1st to April 15th shall cover the period from January 1st of the preceding calendar year to the time of candidacy or appointment if the filing of the statement would relieve the individual of a prior obligation to file a statement covering the entire preceding calendar year.

(5) No individual may be required to file more than once in any calendar year.

(6) Each statement of financial affairs filed under this section shall be sworn as to its truth and accuracy.

(7) Every elected official and every executive state officer shall file with their statement of financial affairs a statement certifying that they have read and are familiar with RCW 42.17.130 (as recodified by this act) or 42.52.180, whichever is applicable.

(8) For the purposes of this section, the term "executive state officer" includes those listed in RCW 42.17.2401.

(9) This section does not apply to incumbents or candidates for a federal office or the office of precinct committee officer.

**Sec. 902.** RCW 42.17.2401 and 2009 c 565 s 24 are each amended to read as follows:

For the purposes of RCW 42.17.240 (as recodified by this act), ~~((the term))~~ "executive state officer" includes:

(1) The chief administrative law judge, the director of agriculture, ~~((the administrator of the Washington basic health plan))~~ the director of the department of services for the blind, the director of the state system of community and technical colleges, the director of commerce, the secretary of corrections, the director of early learning, the director of ecology, the commissioner of employment security, the chair of the energy facility site evaluation council, the secretary of the state finance committee, the director of financial management, the director of fish and wildlife, the executive secretary of the forest practices appeals board, the director of the gambling commission, the director of general administration, the secretary of health, the administrator of the Washington state health care authority, the executive secretary of the health care facilities authority, the executive secretary of the higher education facilities authority, the executive secretary of the horse racing commission, the executive secretary of the human rights commission, the executive secretary of the indeterminate sentence review board, the director of the department of information services, the executive director of the state investment board, the director of labor and industries, the director of licensing, the director of the lottery commission, the director of the office of minority and women's business enterprises, the director of parks and recreation, the director of personnel, the executive director of the public disclosure commission, the executive director of the Puget Sound partnership, the director of the recreation and conservation office, the director of retirement systems, the director of revenue, the

secretary of social and health services, the chief of the Washington state patrol, the executive secretary of the board of tax appeals, the secretary of transportation, the secretary of the utilities and transportation commission, the director of veterans affairs, the president of each of the regional and state universities and the president of The Evergreen State College, and each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Central Washington University board of trustees, the boards of trustees of each community college and each technical college, each member of the state board for community and technical colleges, state convention and trade center board of directors, ~~((committee for deferred compensation,))~~ Eastern Washington University board of trustees, Washington economic development finance authority, The Evergreen State College board of trustees, executive ethics board, forest practices appeals board, forest practices board, gambling commission, life sciences discovery fund authority board of trustees, Washington health care facilities authority, ~~((each member of the Washington health services commission,))~~ higher education coordinating board, higher education facilities authority, horse racing commission, state housing finance commission, human rights commission, indeterminate sentence review board, board of industrial insurance appeals, information services board, ~~((recreation and conservation funding board,))~~ state investment board, commission on judicial conduct, legislative ethics board, liquor control board, lottery commission, ~~((marine oversight board,))~~ Pacific Northwest electric power and conservation planning council, parks and recreation commission, board of pilotage commissioners, pollution control hearings board, public disclosure commission, ~~((public pension commission,))~~ shorelines hearings board, public employees' benefits board, recreation and conservation funding board, salmon recovery funding board, board of tax appeals, transportation commission, University of Washington board of regents, utilities and transportation commission, ~~((Washington state maritime commission,))~~ Washington personnel resources board, Washington ~~((public power supply system))~~ energy northwest executive board, Washington State University board of regents, Western Washington University board of trustees, and fish and wildlife commission.

**Sec. 903.** RCW 42.17.241 and 2008 c 6 s 202 are each amended to read as follows:

(1) The statement of financial affairs required by RCW 42.17.240 (as recodified by this act) shall disclose the following information for the reporting individual and each member of his or her immediate family:

(a) Occupation, name of employer, and business address; ~~((and))~~

(b) Each bank ~~((or))~~ account, savings account ~~((or))~~, and insurance policy in which ~~((any such person or persons owned))~~ a direct financial interest ~~((that exceeded five))~~ was held that exceeds twenty thousand dollars at any time during the reporting period; each other item of intangible personal property in which ~~((any such person or persons owned))~~ a direct financial interest ~~((the value of which exceeded five hundred))~~ was held that exceeds two thousand dollars during the reporting period; the name, address, and nature of the entity; and the nature and highest value of each ~~((such))~~ direct financial interest during the reporting period; ~~((and))~~

(c) The name and address of each creditor to whom the value of ~~((five hundred))~~ two thousand dollars or more was owed; the original amount of each debt to each ~~((such))~~ creditor; the amount of each debt owed to each creditor as of the date of filing; the terms of repayment of each ~~((such))~~ debt; and the security given, if any, for each such debt ~~((: PROVIDED, That))~~. Debts arising ((out of))

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from a "retail installment transaction" as defined in chapter 63.14 RCW (retail installment sales act) need not be reported; ~~((and))~~

(d) Every public or private office, directorship, and position held as trustee; ~~((and))~~

(e) All persons for whom any legislation, rule, rate, or standard has been prepared, promoted, or opposed for current or deferred compensation ~~((: PROVIDED, That))~~. For the purposes of this subsection, "compensation" does not include payments made to the person reporting by the governmental entity for which ~~((such))~~ the person serves as an elected official or state executive officer or professional staff member for his or her service in office; the description of such actual or proposed legislation, rules, rates, or standards; and the amount of current or deferred compensation paid or promised to be paid; ~~((and))~~

(f) The name and address of each governmental entity, corporation, partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from whom compensation has been received in any form of a total value of ~~((five hundred))~~ two thousand dollars or more; the value of the compensation; and the consideration given or performed in exchange for the compensation; ~~((and))~~

(g) The name of any corporation, partnership, joint venture, association, union, or other entity in which is held any office, directorship, or any general partnership interest, or an ownership interest of ten percent or more; the name or title of that office, directorship, or partnership; the nature of ownership interest; and ~~((with respect to each such entity))~~: (i) With respect to a governmental unit in which the official seeks or holds any office or position, if the entity has received compensation in any form during the preceding twelve months from the governmental unit, the value of the compensation and the consideration given or performed in exchange for the compensation; and (ii) the name of each governmental unit, corporation, partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from which the entity has received compensation in any form in the amount of ~~((two thousand five hundred))~~ ten thousand dollars or more during the preceding twelve months and the consideration given or performed in exchange for the compensation ~~((: PROVIDED, That the term))~~. As used in (g)(ii) of this subsection, "compensation" ~~((for purposes of this subsection (1)(g)(ii))~~ does not include payment for water and other utility services at rates approved by the Washington state utilities and transportation commission or the legislative authority of the public entity providing the service ~~((: PROVIDED, FURTHER, That))~~. With respect to any bank or commercial lending institution in which is held any office, directorship, partnership interest, or ownership interest, it shall only be necessary to report either the name, address, and occupation of every director and officer of the bank or commercial lending institution and the average monthly balance of each account held during the preceding twelve months by the bank or commercial lending institution from the governmental entity for which the individual is an official or candidate or professional staff member, or all interest paid by a borrower on loans from and all interest paid to a depositor by the bank or commercial lending institution if the interest exceeds ~~((six))~~ two thousand four hundred dollars; ~~((and))~~

(h) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds ~~((two thousand five hundred))~~ ten thousand dollars in which any direct financial interest was acquired during the preceding calendar year, and a statement of the amount and nature of the financial interest and of the consideration given in exchange for that interest; ~~((and))~~

(i) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of

Washington, the assessed valuation of which exceeds ~~((two thousand five hundred))~~ ten thousand dollars in which any direct financial interest was divested during the preceding calendar year, and a statement of the amount and nature of the consideration received in exchange for that interest, and the name and address of the person furnishing the consideration; ~~((and))~~

(j) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds ~~((two thousand five hundred))~~ ten thousand dollars in which a direct financial interest was held ~~((: PROVIDED, That))~~. If a description of the property has been included in a report previously filed, the property may be listed, for purposes of this ~~((provision))~~ subsection (1)(j), by reference to the previously filed report; ~~((and))~~

(k) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds ~~((five))~~ twenty thousand dollars, in which a corporation, partnership, firm, enterprise, or other entity had a direct financial interest, in which corporation, partnership, firm, or enterprise a ten percent or greater ownership interest was held; ~~((and))~~

(l) A list of each occasion, specifying date, donor, and amount, at which food and beverage in excess of fifty dollars was accepted under RCW 42.52.150(5); ~~((and))~~

(m) A list of each occasion, specifying date, donor, and amount, at which items specified in RCW 42.52.010(10) (d) and (f) were accepted; and

(n) Such other information as the commission may deem necessary in order to properly carry out the purposes and policies of this chapter, as the commission shall prescribe by rule.

(2) Where an amount is required to be reported under subsection (1)(a) through (m) of this section, it shall be sufficient to comply with the requirement to report whether the amount is less than ~~((one))~~ four thousand dollars, at least ~~((one))~~ four thousand dollars but less than ~~((five))~~ twenty thousand dollars, at least ~~((five))~~ twenty thousand dollars but less than ~~((ten))~~ forty thousand dollars, at least ~~((ten))~~ forty thousand dollars but less than ~~((twenty-five))~~ one hundred thousand dollars, or ~~((twenty-five))~~ one hundred thousand dollars or more. An amount of stock may be reported by number of shares instead of by market value. No provision of this subsection may be interpreted to prevent any person from filing more information or more detailed information than required.

(3) Items of value given to an official's or employee's spouse, domestic partner, or family member are attributable to the official or employee, except the item is not attributable if an independent business, family, or social relationship exists between the donor and the spouse, domestic partner, or family member.

**Sec. 904.** RCW 42.17.242 and 1977 ex.s. c 336 s 4 are each amended to read as follows:

No payment shall be made to any person required to report under RCW 42.17.240 ~~((as recodified by this act))~~ and no payment shall be accepted by any such person, directly or indirectly, in a fictitious name, anonymously, or by one person through an agent, relative, or other person in such a manner as to conceal the identity of the source of the payment or in any other manner so as to effect concealment ~~((except that))~~. The commission may issue categorical and specific exemptions to the reporting of the actual source when there is an undisclosed principal for recognized legitimate business purposes.

## PART 10 ENFORCEMENT

**Sec. 1001.** RCW 42.17.390 and 2006 c 315 s 2 are each amended to read as follows:

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One or more of the following civil remedies and sanctions may be imposed by court order in addition to any other remedies provided by law:

(1) If the court finds that the violation of any provision of this chapter by any candidate or political committee probably affected the outcome of any election, the result of ~~((said))~~ that election may be held void and a special election held within sixty days of ~~((such))~~ the finding. Any action to void an election shall be commenced within one year of the date of the election in question. It is intended that this remedy be imposed freely in all appropriate cases to protect the right of the electorate to an informed and knowledgeable vote.

(2) If any lobbyist or sponsor of any grass roots lobbying campaign violates any of the provisions of this chapter, his or her registration may be revoked or suspended and he or she may be enjoined from receiving compensation or making expenditures for lobbying ~~((: PROVIDED, HOWEVER, That))~~. The imposition of ~~((such))~~ a sanction shall not excuse ~~((said))~~ the lobbyist from filing statements and reports required by this chapter.

(3) ~~((Any))~~ A person who violates any of the provisions of this chapter may be subject to a civil penalty of not more than ten thousand dollars for each ~~((such))~~ violation. However, a person or entity who violates RCW 42.17.640 (as recodified by this act) may be subject to a civil penalty of ten thousand dollars or three times the amount of the contribution illegally made or accepted, whichever is greater.

(4) ~~((Any))~~ A person who fails to file a properly completed statement or report within the time required by this chapter may be subject to a civil penalty of ten dollars per day for each day each ~~((such))~~ delinquency continues.

(5) ~~((Any))~~ A person who fails to report a contribution or expenditure as required by this chapter may be subject to a civil penalty equivalent to the amount not reported as required.

(6) The court may enjoin any person to prevent the doing of any act herein prohibited, or to compel the performance of any act required herein.

**Sec. 1002.** RCW 42.17.395 and 2006 c 315 s 3 are each amended to read as follows:

(1) The commission may (a) determine whether an actual violation of this chapter has occurred; and (b) issue and enforce an appropriate order following such a determination.

(2) The commission, in cases where it chooses to determine whether an actual violation has occurred, shall hold a hearing pursuant to the administrative procedure act, chapter 34.05 RCW, to make ~~((such))~~ a determination. Any order that the commission issues under this section shall be pursuant to such a hearing.

(3) In lieu of holding a hearing or issuing an order under this section, the commission may refer the matter to the attorney general or other enforcement agency as provided in RCW 42.17.360 (as recodified by this act).

(4) The person against whom an order is directed under this section shall be designated as the respondent. The order may require the respondent to cease and desist from the activity that constitutes a violation and in addition, or alternatively, may impose one or more of the remedies provided in RCW 42.17.390 (2) through (5) (as recodified by this act). No individual penalty assessed by the commission may exceed one thousand seven hundred dollars, and in any case where multiple violations are involved in a single complaint or hearing, the maximum aggregate penalty may not exceed four thousand two hundred dollars.

(5) An order issued by the commission under this section shall be subject to judicial review under the administrative procedure act, chapter 34.05 RCW. If the commission's order is not satisfied and no petition for review is filed within thirty days ~~((as provided in RCW 34.05.542))~~, the commission may petition a court of competent jurisdiction of any county in which a petition for review

could be filed under that section, for an order of enforcement. Proceedings in connection with the commission's petition shall be in accordance with RCW 42.17.397 (as recodified by this act).

**Sec. 1003.** RCW 42.17.397 and 1989 c 175 s 92 are each amended to read as follows:

The following procedure shall apply in all cases where the commission has petitioned a court of competent jurisdiction for enforcement of any order it has issued pursuant to this chapter:

(1) A copy of the petition shall be served by certified mail directed to the respondent at his or her last known address. The court shall issue an order directing the respondent to appear at a time designated in the order, not less than five days from the date thereof, and show cause why the commission's order should not be enforced according to its terms.

(2) The commission's order shall be enforced by the court if the respondent does not appear, or if the respondent appears and the court finds, pursuant to a hearing held for that purpose:

(a) That the commission's order is unsatisfied; ~~((and))~~

(b) That the order is regular on its face; and

(c) That the respondent's answer discloses no valid reason why the commission's order should not be enforced or that the respondent had an appropriate remedy by review under RCW 34.05.570(3) and failed to avail himself or herself of that remedy without valid excuse.

(3) Upon appropriate application by the respondent, the court may, after hearing and for good cause, alter, amend, revise, suspend, or postpone all or part of the commission's order. In any case where the order is not enforced by the court according to its terms, the reasons for the court's actions shall be clearly stated in writing, and ~~((such))~~ the action shall be subject to review by the appellate courts by certiorari or other appropriate proceeding.

(4) The court's order of enforcement, when entered, shall have the same force and effect as a civil judgment.

(5) Notwithstanding RCW 34.05.578 through 34.05.590, this section is the exclusive method for enforcing an order of the commission.

**Sec. 1004.** RCW 42.17.400 and 2007 c 455 s 1 are each amended to read as follows:

(1) The attorney general and the prosecuting authorities of political subdivisions of this state may bring civil actions in the name of the state for any appropriate civil remedy, including but not limited to the special remedies provided in RCW 42.17.390 (as recodified by this act).

(2) The attorney general and the prosecuting authorities of political subdivisions of this state may investigate or cause to be investigated the activities of any person who there is reason to believe is or has been acting in violation of this chapter, and may require any such person or any other person reasonably believed to have information concerning the activities of such person to appear at a time and place designated in the county in which such person resides or is found, to give such information under oath and to produce all accounts, bills, receipts, books, paper and documents which may be relevant or material to any investigation authorized under this chapter.

(3) When the attorney general or the prosecuting authority of any political subdivision of this state requires the attendance of any person to obtain such information or ~~((the production of))~~ produce the accounts, bills, receipts, books, papers, and documents ~~((which))~~ that may be relevant or material to any investigation authorized under this chapter, he or she shall issue an order setting forth the time when and the place where attendance is required and shall cause the same to be delivered to or sent by registered mail to the person at least fourteen days before the date fixed for attendance. ~~((Such))~~ The order shall have the same force and effect as a subpoena, shall be effective statewide, and, upon application of the

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attorney general or ~~((said))~~ the prosecuting authority, obedience to the order may be enforced by any superior court judge in the county where the person receiving it resides or is found, in the same manner as though the order were a subpoena. The court, after hearing, for good cause, and upon application of any person aggrieved by the order, shall have the right to alter, amend, revise, suspend, or postpone all or any part of its provisions. In any case where the order is not enforced by the court according to its terms, the reasons for the court's actions shall be clearly stated in writing, and ~~((such))~~ the action shall be subject to review by the appellate courts by certiorari or other appropriate proceeding.

(4) ~~((Any))~~ A person who has notified the attorney general and the prosecuting attorney in the county in which the violation occurred in writing that there is reason to believe that some provision of this chapter is being or has been violated may himself or herself bring in the name of the state any of the actions (hereinafter referred to as a citizen's action) authorized under this chapter.

(a) This citizen action may be brought only if:

(i) The attorney general and the prosecuting attorney have failed to commence an action hereunder within forty-five days after ~~((such))~~ the notice;

(ii) ~~((Such))~~ The person has thereafter further notified the attorney general and prosecuting attorney that ~~((said))~~ the person will commence a citizen's action within ten days upon their failure ~~((so))~~ to do so;

(iii) The attorney general and the prosecuting attorney have in fact failed to bring such action within ten days of receipt of said second notice; and

(iv) The citizen's action is filed within two years after the date when the alleged violation occurred.

(b) If the person who brings the citizen's action prevails, the judgment awarded shall escheat to the state, but he or she shall be entitled to be reimbursed by the state of Washington for costs and ~~((attorney's))~~ attorneys' fees he or she has incurred ~~((-- PROVIDED, That))~~. In the case of a citizen's action ~~((which))~~ that is dismissed and ~~((which))~~ that the court also finds was brought without reasonable cause, the court may order the person commencing the action to pay all costs of trial and reasonable ~~((attorney's))~~ attorneys' fees incurred by the defendant.

(5) In any action brought under this section, the court may award to the state all costs of investigation and trial, including ~~((a))~~ reasonable ~~((attorney's))~~ attorneys' fees to be fixed by the court. If the violation is found to have been intentional, the amount of the judgment, which shall for this purpose include the costs, may be trebled as punitive damages. If damages or trebled damages are awarded in such an action brought against a lobbyist, the judgment may be awarded against the lobbyist, and the lobbyist's employer or employers joined as defendants, jointly, severally, or both. If the defendant prevails, he or she shall be awarded all costs of trial, and may be awarded ~~((a))~~ reasonable ~~((attorney's))~~ attorneys' fees to be fixed by the court to be paid by the state of Washington.

**Sec. 1005.** RCW 42.56.010 and 2007 c 197 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agency" includes all state agencies and all local agencies. "State agency" includes every state office, department, division, bureau, board, commission, or other state agency. "Local agency" includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency.

(2) "Person in interest" means the person who is the subject of a record or any representative designated by that person, except that if

that person is under a legal disability, "person in interest" means and includes the parent or duly appointed legal representative.

(3) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. For the office of the secretary of the senate and the office of the chief clerk of the house of representatives, public records means legislative records as defined in RCW 40.14.100 and also means the following: All budget and financial records; personnel leave, travel, and payroll records; records of legislative sessions; reports submitted to the legislature; and any other record designated a public record by any official action of the senate or the house of representatives.

~~((3))~~ (4) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

**PART 11  
MISCELLANEOUS PROVISIONS**

NEW SECTION. **Sec. 1101.** When RCW 42.17.2401 (as recodified by this act) is codified, the code reviser shall arrange the names of the agencies in each subsection in alphabetical order, arranged according to the first distinctive word of each agency's name.

NEW SECTION. **Sec. 1102.** The following sections are recodified as a new chapter in Title 42 RCW, to be codified as chapter 42.17A RCW, in the following order with the following subchapter headings:

GENERAL PROVISIONS

RCW 42.17.010

RCW 42.17.020

RCW 42.17.035

RCW 42.17.440

ELECTRONIC ACCESS

RCW 42.17.367

RCW 42.17.369

RCW 42.17.460

RCW 42.17.461

RCW 42.17.463

ADMINISTRATION

RCW 42.17.350

RCW 42.17.360

RCW 42.17.370

Section 304 of this act

RCW 42.17.690

RCW 42.17.380

RCW 42.17.405

RCW 42.17.420

RCW 42.17.430

RCW 42.17.450

CAMPAIGN FINANCE REPORTING

RCW 42.17.030

RCW 42.17.040

RCW 42.17.050

Section 404 of this act

RCW 42.17.060

RCW 42.17.065

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RCW 42.17.067  
 RCW 42.17.080  
 RCW 42.17.090  
 RCW 42.17.3691  
 RCW 42.17.093  
 RCW 42.17.100  
 RCW 42.17.103  
 RCW 42.17.105  
 RCW 42.17.550  
 RCW 42.17.135  
 POLITICAL ADVERTISING AND ELECTIONEERING  
 COMMUNICATIONS  
 RCW 42.17.561  
 RCW 42.17.565  
 RCW 42.17.570  
 RCW 42.17.575  
 RCW 42.17.510  
 RCW 42.17.520  
 RCW 42.17.530  
 RCW 42.17.540  
 RCW 42.17.110  
 CAMPAIGN CONTRIBUTION LIMITS AND OTHER  
 RESTRICTIONS  
 RCW 42.17.610  
 RCW 42.17.640  
 RCW 42.17.645  
 RCW 42.17.700  
 Section 604 of this act  
 RCW 42.17.070  
 RCW 42.17.095  
 RCW 42.17.120  
 Section 607 of this act  
 RCW 42.17.125  
 RCW 42.17.650  
 RCW 42.17.660  
 RCW 42.17.670  
 RCW 42.17.720  
 RCW 42.17.730  
 RCW 42.17.740  
 RCW 42.17.770  
 RCW 42.17.780  
 RCW 42.17.790  
 RCW 42.17.680  
 RCW 42.17.760  
 PUBLIC OFFICIALS, EMPLOYEES, AND AGENCIES  
 CAMPAIGN RESTRICTIONS AND  
 PROHIBITIONS--REPORTING  
 RCW 42.17.128  
 RCW 42.17.130  
 RCW 42.17.710  
 RCW 42.17.750  
 RCW 42.17.245  
 Section 703 of this act  
 LOBBYING DISCLOSURE AND RESTRICTIONS  
 RCW 42.17.150  
 RCW 42.17.155  
 RCW 42.17.160  
 RCW 42.17.170  
 RCW 42.17.172  
 RCW 42.17.175  
 RCW 42.17.180  
 RCW 42.17.190  
 RCW 42.17.200  
 RCW 42.17.210  
 RCW 42.17.220

RCW 42.17.230  
 PERSONAL FINANCIAL AFFAIRS REPORTING BY  
 CANDIDATES AND PUBLIC OFFICIALS  
 RCW 42.17.240  
 RCW 42.17.2401  
 RCW 42.17.241  
 RCW 42.17.242  
 ENFORCEMENT  
 RCW 42.17.390  
 RCW 42.17.395  
 RCW 42.17.397  
 RCW 42.17.400  
 RCW 42.17.410  
 TECHNICAL PROVISIONS  
 RCW 42.17.900  
 RCW 42.17.910  
 RCW 42.17.911  
 RCW 42.17.912  
 RCW 42.17.920  
 RCW 42.17.930  
 RCW 42.17.940  
 RCW 42.17.945  
 RCW 42.17.950  
 RCW 42.17.955  
 RCW 42.17.960  
 RCW 42.17.961  
 RCW 42.17.962  
 RCW 42.17.963  
 RCW 42.17.964  
 RCW 42.17.965  
 RCW 42.17.966

**NEW SECTION. Sec. 1103.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed:

- (1) RCW 42.17.131 (Exemption from RCW 42.17.130) and 1994 c 154 s 317;
- (2) RCW 42.17.362 (Toll-free telephone number) and 2000 c 237 s 6;
- (3) RCW 42.17.365 (Audits and investigations) and 1999 c 401 s 8 & 1993 c 2 s 29;
- (4) RCW 42.17.375 (Reports filed with county elections official--Rules governing) and 1983 c 294 s 1;
- (5) RCW 42.17.465 (Information technology plan--Contents) and 1999 c 401 s 4;
- (6) RCW 42.17.467 (Information technology plan--Consultation) and 1999 c 401 s 5;
- (7) RCW 42.17.469 (Information technology plan--Submission) and 1999 c 401 s 6;
- (8) RCW 42.17.471 (Access performance reports) and 1999 c 401 s 7;
- (9) RCW 42.17.562 (Intent) and 2005 c 445 s 2;
- (10) RCW 42.17.620 (Intent) and 1993 c 2 s 2; and
- (11) RCW 42.17.647 (Rules) and 2006 c 348 s 3.

**NEW SECTION. Sec. 1104.** Sections 505, 602, and 703 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

**NEW SECTION. Sec. 1105.** Sections 101 through 504, 506 through 601, and 603 through 1103 of this act take effect January 1, 2012."

On page 1, line 1 of the title, after "laws;" strike the remainder of the title and insert "amending RCW 42.17.020, 42.17.367, 42.17.369, 42.17.461, 42.17.463, 42.17.350, 42.17.360, 42.17.370, 42.17.690, 42.17.380, 42.17.405, 42.17.420, 42.17.450, 42.17.030, 42.17.040, 42.17.050, 42.17.060, 42.17.065, 42.17.067, 42.17.080, 42.17.090, 42.17.3691, 42.17.093, 42.17.100, 42.17.103, 42.17.105,

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42.17.550, 42.17.135, 42.17.561, 42.17.565, 42.17.570, 42.17.575, 42.17.510, 42.17.520, 42.17.540, 42.17.110, 42.17.610, 42.17.640, 42.17.645, 42.17.070, 42.17.095, 42.17.125, 42.17.660, 42.17.720, 42.17.740, 42.17.790, 42.17.680, 42.17.130, 42.17.245, 42.17.150, 42.17.155, 42.17.160, 42.17.170, 42.17.172, 42.17.175, 42.17.180, 42.17.190, 42.17.200, 42.17.210, 42.17.220, 42.17.230, 42.17.240, 42.17.241, 42.17.242, 42.17.390, 42.17.395, 42.17.397, 42.17.400, and 42.56.010; reenacting and amending RCW 42.17.2401; adding a new chapter to Title 42 RCW; creating new sections; recodifying RCW 42.17.010, 42.17.020, 42.17.035, 42.17.440, 42.17.367, 42.17.369, 42.17.460, 42.17.461, 42.17.463, 42.17.350, 42.17.360, 42.17.370, 42.17.690, 42.17.380, 42.17.405, 42.17.420, 42.17.430, 42.17.450, 42.17.030, 42.17.040, 42.17.050, 42.17.060, 42.17.065, 42.17.067, 42.17.080, 42.17.090, 42.17.3691, 42.17.093, 42.17.100, 42.17.103, 42.17.105, 42.17.550, 42.17.135, 42.17.561, 42.17.565, 42.17.570, 42.17.575, 42.17.510, 42.17.520, 42.17.530, 42.17.540, 42.17.110, 42.17.610, 42.17.640, 42.17.645, 42.17.700, 42.17.070, 42.17.095, 42.17.120, 42.17.125, 42.17.650, 42.17.660, 42.17.670, 42.17.720, 42.17.730, 42.17.740, 42.17.770, 42.17.780, 42.17.790, 42.17.680, 42.17.760, 42.17.128, 42.17.130, 42.17.710, 42.17.750, 42.17.245, 42.17.150, 42.17.155, 42.17.160, 42.17.170, 42.17.172, 42.17.175, 42.17.180, 42.17.190, 42.17.200, 42.17.210, 42.17.220, 42.17.230, 42.17.240, 42.17.2401, 42.17.241, 42.17.242, 42.17.390, 42.17.395, 42.17.397, 42.17.400, 42.17.410, 42.17.900, 42.17.910, 42.17.911, 42.17.912, 42.17.920, 42.17.930, 42.17.940, 42.17.945, 42.17.950, 42.17.955, 42.17.960, 42.17.961, 42.17.962, 42.17.963, 42.17.964, 42.17.965, and 42.17.966; repealing RCW 42.17.131, 42.17.362, 42.17.365, 42.17.375, 42.17.465, 42.17.467, 42.17.469, 42.17.471, 42.17.562, 42.17.620, and 42.17.647; providing an effective date; and declaring an emergency."

POINT OF ORDER

Senator Benton: "I believe that the committee amendment to Second Substitute House Bill No. 2016 is outside the scope and object of the bill and in violation of Senate Rule 66. The amendment prohibits an elected official from making public service announcements while the general topic of the bill is public disclosure law. In fact, it is supposedly a technical cleanup bill and that is primarily what this bill does. In the one-hundred three pages there are only two real minor policy changes. Therefore, the committee amendment is outside the scope and object of the bill and I ask the President to rule thereon."

Senator McDermott spoke against the point of order.

MOTION

On motion of Senator Eide, further consideration of Second Substitute House Bill No. 2016 was deferred and the bill held its place on the second reading calendar.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2487, by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Goodman, Rodne, Klippert, Green, Santos, Kessler, Liias and Kelley)

Increasing costs for administering a deferred prosecution.

The measure was read the second time.

MOTION

On motion of Senator Marr, the rules were suspended, Substitute House Bill No. 2487 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

PARLIAMENTARY INQUIRY

Senator Kline: "I understand the bill was just bumped?"

REPLY BY THE PRESIDENT

President Owen: "It has been bumped to third reading. That is correct."

Senators Kline and Carrell spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2487.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2487 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Tom

Absent: Senator Zarelli

Excused: Senators Fairley, McCaslin and Pflug

SUBSTITUTE HOUSE BILL NO. 2487, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, Senator Zarelli was excused.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1560, by House Committee on Ways & Means (originally sponsored by Representatives Conway, Wood and Simpson)

Regarding collective bargaining at institutions of higher education.

The measure was read the second time.

MOTION

Senator Kohl-Welles moved that the following committee amendment by the Committee on Labor, Commerce & Consumer Protection be adopted:

On page 4, after line 36, insert the following:

"**NEW SECTION. Sec. 2.** A new section is added to chapter 41.56 RCW to read as follows:

In addition to the entities listed in RCW 41.56.020, this chapter applies to full-time and part-time University of Washington

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extension lecturers in English language programs holding annual and quarterly contracts."

On page 1, line 2 of the title, after "education;" strike "and" and after "41.80.010" insert "; and adding a new section to chapter 41.56 RCW"

Senator Kohl-Welles spoke in favor of adoption of the committee amendment.

#### POINT OF ORDER

Senator Holmquist: "Thank you Mr. President. The bill as it came to us makes changes to RCW 41.80.010. It changes certain procedures for collectively bargaining with higher education institutions. The bill allows unions a choice in whether to participate in multi-employer collective bargaining and also allows unions to organize later in the process to have their contracts funded in the budget. By contrast, the amendment hangs what is essentially Senate Bill No. 5986, it grants substantial rights to University of Washington extension lecturers by amending RCW 41.56 to grant them the right collectively bargain. For these reasons, I believe the amendment offered is outside the scope and object of the underlying bill and I respectfully request a ruling on this matter. Thank you."

Senator Kohl-Welles spoke against the point of order.

#### MOTION

On motion of Senator Eide, further consideration of Engrossed Second Substitute House Bill No. 1560 was deferred and the bill held its place on the second reading calendar.

#### SECOND READING

HOUSE BILL NO. 2861, by Representatives Rodne, Pedersen and Wallace

Adding state certified court reporters to the list of persons authorized to administer oaths and affirmations.

The measure was read the second time.

#### MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 2861 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2861.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2861 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

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Excused: Senators Fairley, McCaslin and Pflug

HOUSE BILL NO. 2861, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2686, by House Committee on Health Care & Wellness (originally sponsored by Representatives Driscoll, Hinkle, Condotta, Moeller and Goodman)

Concerning fees for dental services that are not covered by insurance or contract.

The measure was read the second time.

#### MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Health & Long-Term Care be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 48.20 RCW to read as follows:

(1) Notwithstanding any other provisions of law, no disability insurance policy of any disability insurer as provided in this chapter subject to the jurisdiction of the state of Washington that covers any dental services, and no contract or participating provider agreement with a dentist may:

(a) Require, directly or indirectly, that a dentist who is a participating provider provide services to a subscriber at a fee set by, or at a fee subject to the approval of, the disability insurer unless the dental services are covered services, including services that would be reimbursable but for the application of contractual limitations such as benefit maximums, deductibles, coinsurance, waiting periods, or frequency limitations, under the applicable disability insurance policy; nor

(b) Prohibit, directly or indirectly, a dentist who is a participating provider from offering or providing to a subscriber dental services that are not covered services on any terms or conditions acceptable to the dentist and the subscriber.

(2) For the purposes of this section, "covered services" means dental services that are reimbursable under the applicable insurance policy or subscriber agreement or would be reimbursable but for the application of contractual limitations such as benefit maximums, deductibles, coinsurance, waiting periods or frequency limitations.

**NEW SECTION. Sec. 2.** A new section is added to chapter 48.21 RCW to read as follows:

(1) Notwithstanding any other provisions of law, no group disability insurance contract or blanket disability insurance contract of any disability insurer as provided for in this chapter subject to the jurisdiction of the state of Washington that covers any dental services, and no contract or participating provider agreement with a dentist may:

(a) Require, directly or indirectly, that a dentist who is a participating provider provide services to a subscriber at a fee set by, or at a fee subject to the approval of, the disability insurer unless the dental services are covered services, including services that would be reimbursable but for the application of contractual limitations such as benefit maximums, deductibles, coinsurance, waiting periods, or frequency limitations, under the applicable group plan or disability insurance policy; nor

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(b) Prohibit, directly or indirectly, a dentist who is a participating provider from offering or providing to a subscriber dental services that are not covered services on any terms or conditions acceptable to the dentist and the subscriber.

(2) For the purposes of this section, "covered services" means dental services that are reimbursable under the applicable insurance policy, group plan, or subscriber agreement or would be reimbursable but for the application of contractual limitations such as benefit maximums, deductibles, coinsurance, waiting periods or frequency limitations.

**NEW SECTION. Sec. 3.** A new section is added to chapter 48.44 RCW to read as follows:

(1) Notwithstanding any other provisions of law, no contract of any health care service contractor subject to the jurisdiction of the state of Washington that covers any dental services, and no contract or participating provider agreement with a dentist may:

(a) Require, directly or indirectly, that a dentist who is a participating provider provide services to an enrolled participant at a fee set by, or at a fee subject to the approval of, the health care service contractor unless the dental services are covered services, including services that would be reimbursable but for the application of contractual limitations such as benefit maximums, deductibles, coinsurance, waiting periods, or frequency limitations, under the applicable group contract or individual contract; nor

(b) Prohibit, directly or indirectly, a dentist who is a participating provider from offering or providing to an enrolled participant dental services that are not covered services on any terms or conditions acceptable to the dentist and the enrolled participant.

(2) For the purposes of this section, "covered services" means dental services that are reimbursable under the applicable subscriber agreement or would be reimbursable but for the application of contractual limitations such as benefit maximums, deductibles, coinsurance, waiting periods or frequency limitations."

Senator Keiser spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care to Substitute House Bill No. 2686.

The motion by Senator Keiser carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 3 of the title, after "contracts;" strike the remainder of the title and insert "adding a new section to chapter 48.20 RCW; adding a new section to chapter 48.21 RCW; and adding a new section to chapter 48.44 RCW."

#### MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 2686 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Parlette spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2686 as amended by the Senate .

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2686 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Voting nay: Senator Tom

Excused: Senators Fairley, McCaslin and Pflug

SUBSTITUTE HOUSE BILL NO. 2686 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2842, by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Parker, Kirby and Kenney)

Addressing confidentiality as it relates to insurer receivership.

The measure was read the second time.

#### MOTION

On motion of Senator Berkey, the rules were suspended, Engrossed Substitute House Bill No. 2842 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Berkey spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2842.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2842 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Absent: Senator Tom

Excused: Senators Fairley, McCaslin and Pflug

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2842, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

On motion of Senator Eide, Senator Tom was excused.

## MOTION

On motion of Senator Delvin, Senator Carrell was excused.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3032, by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Simpson and Bailey)

Defining normal wear and tear for a motor vehicle for the purpose of a service contract.

The measure was read the second time.

## MOTION

On motion of Senator Berkey, the rules were suspended, Engrossed Substitute House Bill No. 3032 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Berkey spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 3032.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 3032 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Carrell, Fairley, McCaslin and Pflug

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3032, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 2555, by House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Simpson, Ormsby and Moeller)

Authorizing the department of labor and industries to issue subpoenas to enforce production of information related to electricians and electrical installations.

The measure was read the second time.

## MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 2555 was advanced to third

reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill. Senator Honeyford spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2555.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2555 and the bill passed the Senate by the following vote: Yeas, 32; Nays, 13; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brown, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin and Tom

Voting nay: Senators Becker, Brandland, Delvin, Hewitt, Holmquist, Honeyford, King, Morton, Parlette, Schoesler, Stevens, Swecker and Zarelli

Excused: Senators Carrell, Fairley, McCaslin and Pflug

SUBSTITUTE HOUSE BILL NO. 2555, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1913, by House Committee on Judiciary (originally sponsored by Representatives Warnick, Flannigan and Simpson)

Changing provisions relating to process servers.

The measure was read the second time.

## MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 1913 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1913.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1913 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Delvin, Eide, Franklin, Fraser, Gordon, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Hargrove

Excused: Senators Carrell, Fairley, McCaslin and Pflug

SUBSTITUTE HOUSE BILL NO. 1913, having received the constitutional majority, was declared passed. There being no

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objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 6:49 p.m., on motion of Senator Eide, the Senate adjourned until 9:00 a.m. Wednesday, March 3, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**FIFTY SECOND DAY**

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MORNING SESSION

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BARBARA BAKER, Chief Clerk

Senate Chamber, Olympia, Wednesday, March 3, 2010

MESSAGE FROM THE HOUSE

March 2, 2010

The Senate was called to order at 9:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Brown, Fairley, Gordon, Hargrove, Haugen, Holmquist, Kline, McAuliffe, McCaslin and Oemig.

The Sergeant at Arms Color Guard consisting of Pages Zach Campbell and Jasmin Kariious, presented the Colors. Senator Morton offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the third order of business.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

February 15, 2010  
TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

HARRY BARBER, reappointed February 15, 2010, for the term ending July 15, 2013, as Member of the Salmon Recovery Funding Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Natural Resources, Ocean & Recreation.

MOTION

On motion of Senator Eide, the appointee listed on the Gubernatorial Appointment report was referred to the committee as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

March 2, 2010

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE SENATE BILL 6241,  
SUBSTITUTE SENATE BILL 6357,  
ENGROSSED SUBSTITUTE SENATE BILL 6499,  
ENGROSSED SUBSTITUTE SENATE BILL 6522.

and the same are herewith transmitted.

MR. PRESIDENT:

The House has passed:

SUBSTITUTE SENATE BILL 6414,  
SUBSTITUTE SENATE BILL 6556,  
SENATE BILL 6627,  
SENATE BILL 6745,  
SUBSTITUTE SENATE BILL 6831.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator McDermott moved that Gubernatorial Appointment No. 9262, Gayatri J. Eassey, as a member of the Board of Trustees, Seattle, South Seattle and North Seattle Community Colleges District No. 6, be confirmed.

Senator McDermott spoke in favor of the motion.

MOTION

On motion of Senator Brandland, Senators Holmquist, McCaslin and Zarelli were excused.

MOTION

On motion of Senator Marr, Senators Brown, Fairley, Gordon, Haugen, McAuliffe and Oemig were excused.

APPOINTMENT OF GAYATRI J. EASSEY

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9262, Gayatri J. Eassey as a member of the Board of Trustees, Seattle, South Seattle and North Seattle Community Colleges District No. 6.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9262, Gayatri J. Eassey as a member of the Board of Trustees, Seattle, South Seattle and North Seattle Community Colleges District No. 6 and the appointment was confirmed by the following vote: Yeas, 39; Nays, 0; Absent, 2; Excused, 8.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Franklin, Fraser, Hatfield, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McDermott, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli  
Absent: Senators Hargrove and Kline

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Excused: Senators Brown, Fairley, Gordon, Haugen, Holmquist, McAuliffe, McCaslin and Oemig

Senator Honeyford moved adoption of the following resolution:

Gubernatorial Appointment No. 9262, Gayatri J. Eassey, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Seattle, South Seattle and North Seattle Community Colleges District No. 6.

SENATE RESOLUTION

8668

INTRODUCTION OF SPECIAL GUESTS

The President introduced Miss Kaleigh Boyd, the 2010 YMCA Youth Legislature's Lt. Governor, who was seated at the rostrum and shadowing the President for the day.

By Senators Honeyford and Prentice

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Marr moved that Gubernatorial Appointment No. 9167, Tom A. Johnson, as a member of the Higher Education Facilities Authority, be confirmed.

Senator Marr spoke in favor of the motion.

WHEREAS, The earliest documented proof of Filipino presence in the continental United States was on October 18, 1587, when the first "Luzones Indios" set foot in Morro Bay, California; and

WHEREAS, The Filipino American National Historical Society recognizes the year of 1763 as the date of the first permanent Filipino settlement in the United States in St. Malo Parrish, Louisiana, which brings new perspective to the economic, cultural, social, and other notable contributions that Filipino Americans have made toward the development of the United States; and

APPOINTMENT OF TOM A. JOHNSON

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9167, Tom A. Johnson as a member of the Higher Education Facilities Authority.

WHEREAS, The Filipino American National Historical Society recognizes that in the year 1888, records indicate that the first known employee from the Philippines in the Pacific Northwest, "Manilla," worked at the largest lumber mill in the world of that time at Port Blakely on Bainbridge Island; and

WHEREAS, Efforts must continue to promote the study of Filipino American history and culture, as mandated in the mission statement of the Filipino American National Historical Society, because the roles of Filipino Americans have been overlooked in the writing, teaching, and learning of United States history; and

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9167, Tom A. Johnson as a member of the Higher Education Facilities Authority and the appointment was confirmed by the following vote: Yeas, 40; Nays, 0; Absent, 2; Excused, 7.

WHEREAS, It is imperative for Filipino American youth to have positive role models to instill in them the importance of education, complemented with the richness of their ethnicity and the value of their legacy; and

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McDermott, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

WHEREAS, Washington State is home to many Filipino American families, the largest Asian/Pacific Islander ethnic population found in the state, and has the fourth largest population of Filipino Americans in the United States, and is the home to historic Filipino communities such as Wapato, Bainbridge Island, Seattle, Tacoma, Auburn, and Bremerton, among others; and

Absent: Senators Hargrove and Kline

Excused: Senators Brown, Fairley, Gordon, Holmquist, McAuliffe, McCaslin and Oemig

WHEREAS, The 13th Biennial National Conference of the Filipino American National Historical Society returns, in July 2010, to Seattle, the site of the first National Conference;

Gubernatorial Appointment No. 9167, Tom A. Johnson, having received the constitutional majority was declared confirmed as a member of the Higher Education Facilities Authority.

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize October 2010, with special distinction of their honorable service in the United States military branches, as the 423rd anniversary of the presence of Filipinos in the United States, as a significant time to study the advancement of Filipino Americans in the history of the State of Washington and the United States; and that the Washington State Senate designate October 2010 as the inaugural Filipino American History Month; and

MOTION

At 9:17 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Secretary of the Senate to Rey Pascua, President of the Filipino American Community of Yakima Valley, for further distribution to the Filipino American National Historical Society and Asian and Pacific Islander organizations and the Superintendent of Public Instruction.

The Senate was called to order at 11:14 a.m. by President Owen.

MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

Senators Honeyford, Prentice, Kline, Regala, Shin, Kauffman, Kohl-Welles, King, Roach, Rockefeller and Jacobsen spoke in favor of adoption of the resolution.

MOTION

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8668.

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The motion by Senator Honeyford carried and the resolution was adopted by voice vote.

On motion of Senator Marr, Senators Brown, Fairley, Gordon, Haugen, McAuliffe and Oemig were excused.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the Filipino American community; Rey Pacua, President, Sandra Pascua and members of the Yakima Valley Filipino American National Historical Society; Dr. Frederic and Dorothy Cordova, National Filipino American Historical Society; Velma Valoria, former Washington State Representative; Alma Kern, President, and other members of the Filipino American Community of Seattle and other areas around the state; Kendee Yamaguchi, Executive Director and members of the Commission on Asian Pacific/American Affairs; Jose Calugas Jr, son of Medal of Honor winner Jose Calugas Sr., and Chair of the Philippine Scout Heritage Society, Tacoma Center; Alex Borromeo, President and other officers of the Pacific Northwest Filipino American Chamber of Commerce; Richard Gurtiza, President and member of the Filipino American Political Action Group of Washington; Diane Narasaki, Chair and Chapter members of the American Pacific Islander Coalition and Dr. Pio DeCano (who's father's court case in 1938 won the right for Filipinos to lease land in Washington State) who were seated in the gallery.

#### MOTION

Pursuant to Rule 46, on motion of Senator Eide, and without objection the Committee on Ways & Means was granted leave to meet during the day's floor session.

#### MOTION

At 11:40 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

#### AFTERNOON SESSION

The Senate was called to order at 2:36 p.m. by President Owen.

#### MOTION

On motion of Senator Eide, the Senate reverted to the sixth order of business.

#### SECOND READING

#### CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Hargrove moved that Gubernatorial Appointment No. 9264, Susan Dreyfus, as Director of the Department of Social and Health Services, be confirmed.

Senators Hargrove and King spoke in favor of passage of the motion.

#### MOTION

On motion of Senator Brandland, Senators Holmquist, McCaslin and Zarelli were excused.

#### MOTION

#### APPOINTMENT OF SUSAN DREYFUS

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9264, Susan Dreyfus as Director of the Department of Social and Health Services.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9264, Susan Dreyfus as Director of the Department of Social and Health Services and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Kline

Excused: Senators Brown, Holmquist and McCaslin

Gubernatorial Appointment No. 9264, Susan Dreyfus, having received the constitutional majority was declared confirmed as Director of the Department of Social and Health Services.

#### INTRODUCTION OF SPECIAL GUEST

The President welcomed and introduced the Counsel General of Turkey, John Gokcen who was seated in the gallery.

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2481, by House Committee on General Government Appropriations (originally sponsored by Representatives Van De Wege, Kretz, Blake, Hinkle, Ormsby, Dunshee, McCoy, Eddy, Upthegrove, Carlyle, Haler, Morrell, Warnick and Kessler)

Authorizing the department of natural resources to enter into forest biomass supply agreements.

The measure was read the second time.

#### MOTION

Senator Jacobsen moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that the utilization of forest biomass materials located on state lands will assist in achieving the purposes of the forest biomass energy demonstration project under RCW 43.30.835, facilitate and support the emerging forest biomass market and clean energy economy, and enable the department to encourage biomass energy development on state trust lands for the trust land's potential long-term benefits to trust beneficiaries. The legislature finds that biomass utilization on state forest lands must be accomplished in a manner that retains organic components of the forest necessary to restore or sustain forest ecological functions.

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**NEW SECTION. Sec. 2.** (1) The department may maintain a list of all potential sources of forest biomass on state lands for the purposes of identifying and making forest biomass, as defined in RCW 79.02.010, available for sale, exploration, collection, processing, storage, stockpiling, and conversion into energy, biofuels, for use in a biorefinery, or any other similar use. Prior to entering an agreement authorized by section 3(1) or 4 of this act, the department shall complete an inventory of the available biomass in the area that will be subject to the agreement, except that no inventory will be required as a prerequisite for demonstration projects authorized pursuant to RCW 43.30.835. The inventory must contain, at a minimum, an estimated amount of the forest biomass available in the area that will be subject to the agreement and a determination of the ecological and operational sustainability of the volumetric limit established by the agreement under section 3(5) of this act.

(2) The data developed for each inventoried area will be compiled for the list authorized by this section. In order to utilize the list to limit or terminate any agreement authorized under this act, the department must determine that the overall supply of forest biomass in a region or watershed has been reduced to a point such that further exploration and collection of forest biomass may not be ecologically or operationally sustainable or might otherwise threaten long-term forest health.

**NEW SECTION. Sec. 3.** (1) The department is authorized to enter forest biomass supply contracts on terms and conditions acceptable to the department for terms of up to five years, except as provided in subsection (4) of this section, for the purpose of providing a supply of forest biomass during the term of the contract except as the term of the contract may be limited under subsection (2) of this section, provided that such a contract must terminate automatically upon the removal of the agreed volume of biomass and the completion of other conditions of the contract.

(2) The department may authorize the sale of forest biomass in a contract for the sale of valuable materials under chapter 79.15 RCW provided that the department complies with the provisions of this chapter and: (a) Requires a separate bid and selects an apparent highest bidder for the forest biomass separately from the sale of valuable materials; (b) expressly includes forest biomass as an element of the sale of the valuable materials to be sold in the sales contract; or (c) a combination of (a) and (b) of this subsection. The term of the contract for the removal of biomass, if the sale is made in conformance with this subsection, must not exceed the term of the contract for valuable materials sold under chapter 79.15 RCW.

(3) The department may: (a) Enter into direct sales contracts for forest biomass, without public auction, based upon procedures adopted by the board to ensure competitive market prices and accountability; or (b) enter into contracts for forest biomass at public auction or by sealed bid to the highest bidder in a manner consistent with the sale procedures established for the sale of valuable materials in chapter 79.15 RCW or as may be adopted by the board.

(4) In the event a contracting entity makes a qualifying capital investment of fifty million dollars or more, the department may enter into an agreement for up to fifteen years. Such an agreement must include provisions that are periodically adjusted for market conditions. In addition, the conditions of the contract must include provisions that allow the department, when in the best interest of trust beneficiaries, to maintain the availability of biomass resources on state lands to existing pulp and paper operations or other existing biomass processing operations that are using such resources, in quantities typical for the period of five years preceding the effective date of this section. For the purposes of this section, "qualifying capital investment" means a planned and committed investment at the time the contract is set with the requirement that at least fifty

million dollars be invested before the removal of any biomass under the contract.

(5) The department must specify in each contract an annual volumetric limit of the total cubic volume or tons of forest biomass to be supplied from a specific unit, geographically delineated area, or region within a watershed or watersheds on an ecologically and operationally sustainable basis. The department shall adopt general procedures for making the biomass supply availability determinations under this subsection. The procedures must be written to ensure that biomass utilization on forest lands managed by the department is accomplished in a manner that retains organic components of the forest necessary to restore or sustain forest ecological functions. The department shall develop utilization standards and operational methods in recognition of the variability of on-site conditions. The department may unilaterally amend the volume to be supplied by providing the contracting party with a minimum of six months notice prior to reducing the contract volume to be supplied if the department determines, under section 2 of this act, that the available supply has been reduced to a point such that further removal of forest biomass may not be ecologically or operationally sustainable or may adversely affect long-term forest health.

(6) At the expiration of the contract term, the department may renew the contract for up to three additional five year periods on terms and conditions acceptable to the department, if the department finds: (a) An ecologically and operationally sustainable supply of forest biomass is available for the term of the contract; (b) the payment under the contract represents the fair market value at the time of the renewal; and (c) the purchaser agrees to the estimated amount of biomass material available.

(7) Where the department sells forest biomass in a contract for sale of valuable materials under subsection (2) of this section, any valuable material conveyed as timber in such a contract must count toward the achievement of annual or decadal targets developed in the sustainable timber harvest calculation required by RCW 79.10.320, or similar targets for timber harvest volume, even where the purchaser uses that material as a biomass energy feedstock. All other biomass volume conveyed as authorized in this chapter must not be counted toward such sustainable timber harvest targets.

(8) All contractors and their operations authorized under this section shall comply with all applicable state and federal laws and regulations.

**NEW SECTION. Sec. 4.** The department is authorized to lease state lands for the purpose of the sale, exploration, collection, processing, storage, stockpiling, and conversion of biomass into energy or biofuels, the development of a biorefinery, or for any other resource use derived from biomass if the department is able to obtain a fair market rental return to the state or the appropriate constitutional or statutory trust and if the lease is in the best interest of the state and the affected trust, as follows:

(1) Leases authorized under this chapter may be entered into by public auction, in accordance with the provisions of RCW 79.13.140, or by negotiation.

(2) All leases must contain such terms and conditions as may be prescribed by the department in accordance with the provision of this act and to ensure that removal of forest biomass is ecologically and operationally sustainable. Leases authorized under this act may be for a term of no more than fifty years.

(3) For leases that involve the development of biomass processing, biofuel manufacturing, or biomass energy production facilities, the department may include provisions for reduced rent until an approved plan of development is completed and the facility is operational, provided that provisions are included to require: (a) Adequate assurances to protect the department's interest in a future rental income stream; (b) the demonstration of reasonable progress

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consistent with an approved plan of development; and (c) a lump sum payment to the department in the amount of the difference between the fair market rent and the reduced rent, if the approved plan of development is not completed in the time required in the plan.

(4) The department may require the payment of production rent or other compensation for the use of the land and biomass materials on the land. If the department is not entering a supply contract under section 3 of this act for any forest biomass to be supplied for the lease purposes from the leased land, then the department must require a royalty payment for the contribution to value of any product created by the lessee that is associated with forest biomass removed from the leased land in an amount fixed by the board.

(5) All lessees and their operations authorized under this section shall comply with all applicable state and federal laws and regulations.

**NEW SECTION. Sec. 5.** (1) For the purpose of improving forest health on state trust lands, and to better clarify the relationship of forest biomass with the by-products of forest health and fuel reduction treatments that have been traditionally utilized for other products, the department of natural resources shall evaluate how the supply agreements in sections 3 and 4 of this act could be utilized to sustain or create rural jobs and timber manufacturing infrastructure, and to sell state timber to traditional types of timber purchasers. The department shall report its findings to the appropriate committees of the legislature by December 15, 2010, and the evaluation must at a minimum identify how such supply agreements could:

(a) Ensure the department of natural resources meets its fiduciary responsibility to the state's trust beneficiaries;

(b) Restore or sustain a competitive market for state timber sales;

(c) Generate returns for the trust that are commensurate with fluctuating market prices; and

(d) Ensure environmental compliance with all pertinent state and federal laws, and provide for ecologically and operationally sustainable biomass removal.

(2) For the purposes of proving the concepts evaluated in this section, the department may, in addition to the authorities granted in section 3 of this act, establish a five-year forest health and fuel reduction supply agreement demonstration project. Solicitation of private industry partners for such a project must be competitive, must focus on areas where traditional forest products manufacturing infrastructure and rural jobs have been lost, and should consider prioritizing partners utilizing materials for both traditional forest products and biomass energy conversion.

**Sec. 6.** RCW 79.02.010 and 2004 c 199 s 201 are each amended to read as follows:

The definitions in this section apply throughout this title unless the context clearly requires otherwise.

(1) "Aquatic lands" means all state-owned tidelands, shorelands, harbor areas, and the beds of navigable waters as defined in (~~chapter 79.90~~) RCW 79.105.060 that are administered by the department.

(2) "Board" means the board of natural resources.

(3) "Commissioner" means the commissioner of public lands.

(4) "Community and technical college forest reserve lands" means lands managed under RCW 79.02.420.

(5) "Department" means the department of natural resources.

(6) "Improvements" means anything considered a fixture in law placed upon or attached to lands administered by the department that has changed the value of the lands or any changes in the previous condition of the fixtures that changes the value of the lands.

(7) "Land bank lands" means lands acquired under RCW 79.19.020.

(8) "Person" means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of a federal, state, or local governmental unit, however designated.

(9) "Public lands" means lands of the state of Washington administered by the department including but not limited to state lands, state forest lands, and aquatic lands.

(10) "State forest lands" means lands acquired under RCW 79.22.010, 79.22.040, and 79.22.020.

(11) "State lands" includes:

(a) School lands, that is, lands held in trust for the support of the common schools;

(b) University lands, that is, lands held in trust for university purposes;

(c) Agricultural college lands, that is, lands held in trust for the use and support of agricultural colleges;

(d) Scientific school lands, that is, lands held in trust for the establishment and maintenance of a scientific school;

(e) Normal school lands, that is, lands held in trust for state normal schools;

(f) Capitol building lands, that is, lands held in trust for the purpose of erecting public buildings at the state capital for legislative, executive, and judicial purposes;

(g) Institutional lands, that is, lands held in trust for state charitable, educational, penal, and reformatory institutions; and

(h) Land bank, escheat, donations, and all other lands, except aquatic lands, administered by the department that are not devoted to or reserved for a particular use by law.

(12) "Valuable materials" means any product or material on the lands, such as forest products, forage or agricultural crops, stone, gravel, sand, peat, and all other materials of value except: (a) Mineral, coal, petroleum, and gas as provided for under chapter 79.14 RCW; and (b) forest biomass as provided for under chapter 79.-- RCW (the new chapter created in section 14 of this act).

(13)(a) "Forest biomass" means the by-products of: Current forest management activities; current forest protection treatments prescribed or permitted under chapter 76.04 RCW; or the by-products of forest health treatment prescribed or permitted under chapter 76.06 RCW.

(b) "Forest biomass" does not include wood pieces that have been treated with chemical preservatives such as: Creosote, pentachlorophenol, or copper-chrome-arsenic; wood from existing old growth forests; wood required to be left on-site under chapter 76.09 RCW, the state forest practices act; and implementing rules, and other legal and contractual requirements; or municipal solid waste.

**Sec. 7.** RCW 43.30.020 and 2009 c 163 s 6 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Administrator" means the administrator of the department of natural resources.

(2) "Agency" and "state agency" means any branch, department, or unit of the state government, however designated or constituted.

(3) "Board" means the board of natural resources.

(4) "Commissioner" means the commissioner of public lands.

(5) "Department" means the department of natural resources.

(6) ("Forest biomass" means the by-products of: Current forest practices prescribed or permitted under chapter 76.09 RCW; current forest protection treatments prescribed or permitted under chapter 76.04 RCW; or the by-products of forest health treatments prescribed or permitted under chapter 76.06 RCW. "Forest biomass" does not include wood pieces that have been treated with chemical preservatives such as: Creosote, pentachlorophenol, or copper-chrome-arsenic; wood from old growth forests, except wood

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removed for forest health treatments under chapter 76.06 RCW and RCW 79.15.540; wood required by chapter 76.09 RCW for large woody debris recruitment; or municipal solid waste.

(7))) "Supervisor" means the supervisor of natural resources.

**Sec. 8.** RCW 76.06.180 and 2007 c 480 s 7 are each amended to read as follows:

(1) Prior to issuing a forest health hazard warning or forest health hazard order, the commissioner shall consider the findings and recommendations of the forest health technical advisory committee and shall consult with county government officials, forest landowners and forest land managers, consulting foresters, and other interested parties to gather information on the threat, opportunities or constraints on treatment options, and other information they may provide. The commissioner, or a designee, shall conduct a public hearing in a county within the geographical area being considered.

(2) The commissioner of public lands may issue a forest health hazard warning when he or she deems such action is necessary to manage the development of a threat to forest health or address an existing threat to forest health. A decision to issue a forest health hazard warning may be based on existing forest stand conditions and:

(a) The presence of an uncharacteristic insect or disease outbreak that has or is likely to (i) spread to multiple forest ownerships and cause extensive damage to forests; or (ii) significantly increase forest fuel that is likely to further the spread of uncharacteristic fire;

(b) When, due to extensive physical damage from wind or ice storm or other cause, there are (i) insect populations building up to large scale levels; or (ii) significantly increased forest fuels that are likely to further the spread of uncharacteristic fire; or

(c) When otherwise determined by the commissioner to be appropriate.

(3) The commissioner of public lands may issue a forest health hazard order when he or she deems such action is necessary to address a significant threat to forest health. A decision to issue a forest health hazard order may be based on existing forest stand conditions and:

(a) The presence of an uncharacteristic insect or disease outbreak that has (i) spread to multiple forest ownerships and has caused and is likely to continue to cause extensive damage to forests; or (ii) significantly increased forest fuels that are likely to further the spread of uncharacteristic fire;

(b) When, due to extensive physical damage from wind or ice storm or other cause (i) insect populations are causing extensive damage to forests; or (ii) significantly increased forest fuels are likely to further the spread of uncharacteristic fire;

(c) Insufficient landowner action under a forest health hazard warning; or

(d) When otherwise determined by the commissioner to be appropriate.

(4) A forest health hazard warning or forest health hazard order shall be issued by use of a commissioner's order. General notice of the commissioner's order shall be published in a newspaper of general circulation in each county within the area covered by the order and on the department's web site. The order shall specify the boundaries of the area affected, including federal and tribal lands, the forest stand conditions that would make a parcel subject to the provisions of the order, and the actions landowners or land managers should take to reduce the hazard. If the forest health hazard warning or order relates to land managed by the department, the warning or order may also contain provisions for the department's utilization of any forest biomass pursuant to chapter 79.-- RCW (the new chapter created in section 14 of this act).

(5) Written notice of a forest health hazard warning or forest health hazard order shall be provided to forest landowners of specifically affected property.

(a) The notice shall set forth:

(i) The reasons for the action;

(ii) The boundaries of the area affected, including federal and tribal lands;

(iii) Suggested actions that should be taken by the forest landowner under a forest health hazard warning or the actions that must be taken by a forest landowner under a forest health hazard order;

(iv) The time within which such actions should or must be taken;

(v) How to obtain information or technical assistance on forest health conditions and treatment options;

(vi) The right to request mitigation under subsection (6) of this section and appeal under subsection (7) of this section;

(vii) These requirements are advisory only for federal and tribal lands.

(b) The notice shall be served by personal service or by mail to the latest recorded real property owner, as shown by the records of the county recording officer as defined in RCW 65.08.060. Service by mail is effective on the date of mailing. Proof of service shall be by affidavit or declaration under penalty of perjury.

(6) Forest landowners who have been issued a forest health hazard order under subsection (5) of this section may apply to the department for the remission or mitigation of such order. The application shall be made to the department within fifteen days after notice of the order has been served. Upon receipt of the application, the department may remit or mitigate the order upon whatever terms the department in its discretion deems proper, provided the department deems the remission or mitigation to be in the best interests of carrying out the purposes of this chapter. The department may ascertain the facts regarding all such applications in such reasonable manner and under such rule as it deems proper.

(7) Forest landowners who have been issued a forest health hazard order under subsection (5) of this section may appeal the order to the forest practices appeals board.

(a) The appeal shall be filed within thirty days after notice of the order has been served, unless application for mitigation has been made to the department. When such an application for mitigation is made, such appeal shall be filed within thirty days after notice of the disposition of the application for mitigation has been served.

(b) The appeal must set forth:

(i) The name and mailing address of the appellant;

(ii) The name and mailing address of the appellant's attorney, if any;

(iii) A duplicate copy of the forest health hazard order;

(iv) A separate and concise statement of each error alleged to have been committed;

(v) A concise statement of facts upon which the appellant relies to sustain the statement of error; and

(vi) A statement of the relief requested.

(8) A forest health hazard order issued under subsection (5) of this section is effective thirty days after date of service unless application for remission or mitigation is made or an appeal is filed. When an application for remission or mitigation is made, the order is effective thirty days after notice setting forth the disposition of the application is served unless an appeal is filed from such disposition. Whenever an appeal of the order is filed, the order shall become effective only upon completion of all administrative and judicial review proceedings and the issuance of a final decision confirming the order in whole or in part.

(9) Upon written request, the department may certify as adequate a forest health management plan developed by a forest

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landowner, before or in response to a forest health hazard warning or forest health hazard order, if the plan is likely to achieve the desired result and the terms of the plan are being diligently followed by the forest landowner. The certification of adequacy shall be determined by the department in its sole discretion, and be provided to the requestor in writing.

**Sec. 9.** RCW 79.15.100 and 2004 c 177 s 5 are each amended to read as follows:

(1) Valuable materials may be sold separately from the land as a "lump sum sale" or as a "scale sale."

(a) "Lump sum sale" means any sale offered with a single total price applying to all the material conveyed.

(b) "Scale sale" means any sale offered with per unit prices to be applied to the material conveyed.

(2) Payment for lump sum sales must be made as follows:

(a) Lump sum sales under five thousand dollars appraised value require full payment on the day of sale.

(b) Lump sum sales appraised at over five thousand dollars but under one hundred thousand dollars may require full payment on the day of sale.

(c) Lump sum sales requiring full payment on the day of sale may be paid in cash or by certified check, cashier's check, bank draft, or money order, all payable to the department.

(3) Except for sales paid in full on the day of sale or sales with adequate bid bonds, an initial deposit not to exceed twenty-five percent of the actual or projected purchase price shall be made on the day of sale.

(a) Sales with bid bonds are subject to the day of sale payment and replacement requirements prescribed by RCW 79.15.110.

(b) The initial deposit must be maintained until all contract obligations of the purchaser are satisfied. However, all or a portion of the initial deposit may be applied as the final payment for the valuable materials in the event the department determines that adequate security exists for the performance or fulfillment of any remaining obligations of the purchaser under the sale contract.

(4) Advance payments or other adequate security acceptable to the department is required for valuable materials sold on a scale sale basis or a lump sum sale not requiring full payment on the day of sale.

(a) The purchaser must notify the department before any operation takes place on the sale site.

(b) Upon notification as provided in (a) of this subsection, the department must require advanced payment or may allow purchasers to submit adequate security.

(c) The amount of advanced payments or security must be determined by the department and must at all times equal or exceed the value of timber cut and other valuable materials processed or removed until paid for.

(d) Security may be bank letters of credit, payment bonds, assignments of savings accounts, assignments of certificates of deposit, or other methods acceptable to the department as adequate security.

(5) All valuable material must be removed from the sale area within the period specified in the contract.

(a) The specified period may not exceed five years from date of purchase except for stone, sand, gravel, fill material, or building stone.

(b) The specified period for stone, sand, gravel, fill material, or building stone may not exceed thirty years.

(c) In all cases, any valuable material not removed from the land within the period specified in the contract reverts to the state. The department may utilize any remaining forest biomass in accordance with chapter 79.-- RCW (the new chapter created in section 14 of this act).

(6) The department may extend a contract beyond the normal termination date specified in the sale contract as the time for removal of valuable materials when, in the department's judgment, the purchaser is acting in good faith and endeavoring to remove the materials. The extension is contingent upon payment of the fees specified below.

(a) The extended time for removal shall not exceed:

(i) Forty years from date of purchase for stone, sand, gravel, fill material, or building stone;

(ii) A total of ten years beyond the original termination date for all other valuable materials.

(b) An extension fee fixed by the department will be charged based on the estimated loss of income per acre to the state resulting from the granting of the extension plus interest on the unpaid portion of the contract. The board must periodically fix and adopt by rule the interest rate, which shall not be less than six percent per annum.

(c) The sale contract shall specify:

(i) The applicable rate of interest as fixed at the day of sale and the maximum extension payment; and

(ii) The method for calculating the unpaid portion of the contract upon which interest is paid.

(d) The minimum extension fee is fifty dollars per extension plus interest on the unpaid portion of the contract.

(e) Moneys received for any extension must be credited to the same fund in the state treasury as was credited the original purchase price of the valuable material sold.

(7) The department may, in addition to any other securities, require a performance security to guarantee compliance with all contract requirements. The security is limited to those types listed in subsection (4) of this section. The value of the performance security will, at all times, equal or exceed the value of work performed or to be performed by the purchaser.

(8) The department does not need to comply with the provisions of this chapter for forest biomass except as described in the provisions of chapter 79.-- RCW (the new chapter created in section 14 of this act). Forest biomass may not be included in any sales contract authorized under this chapter unless the department has complied with the provisions of chapter 79.-- RCW (the new chapter created in section 14 of this act).

(9) The provisions of this section apply unless otherwise provided by statute.

**Sec. 10.** RCW 79.15.220 and 2001 c 250 s 14 are each amended to read as follows:

When the department finds valuable materials on state land that are damaged by fire, wind, flood, or from any other cause, it shall determine if the salvage of the damaged valuable materials is in the best interest of the trust for which the land is held, which may include the salvage of forest biomass under chapter 79.-- RCW (the new chapter created in section 14 of this act). If salvaging the valuable materials is in the best interest of the trust, the department shall proceed to offer the valuable materials for sale. The valuable materials, when offered for sale, must be sold in the most expeditious and efficient manner as determined by the department. In determining if the sale is in the best interest of the trust the department shall consider the net value of the valuable materials and relevant elements of the physical and social environment.

**Sec. 11.** RCW 79.15.510 and 2009 c 418 s 2 are each amended to read as follows:

(1) The department may establish a contract harvesting program for directly contracting for the removal of timber and other valuable materials from state lands and for conducting silvicultural treatments consistent with RCW 79.15.540.

(2) The contract requirements must be compatible with the office of financial management's guide to public service contracts.

(3) The department may not use contract harvesting for more than twenty percent of the total annual volume of timber offered for sale. However, volume removed primarily to address an identified forest health issue under RCW 79.15.540 may not be included in calculating the ((~~ten~~ ~~twenty~~ percent)) annual limit of contract harvesting sales. Forest biomass resulting from harvesting to address an identified forest health issue under RCW 79.15.540 may be utilized in accordance with chapter 79.-- RCW (the new chapter created in section 14 of this act).

**Sec. 12.** RCW 79.15.510 and 2004 c 218 s 6 are each amended to read as follows:

(1) The department may establish a contract harvesting program for directly contracting for the removal of timber and other valuable materials from state lands and for conducting silvicultural treatments consistent with RCW 79.15.540.

(2) The contract requirements must be compatible with the office of financial management's guide to public service contracts.

(3) The department may not use contract harvesting for more than ten percent of the total annual volume of timber offered for sale. However, volume removed primarily to address an identified forest health issue under RCW 79.15.540 may not be included in calculating the ((~~ten~~ percent)) annual limit of contract harvesting sales. Forest biomass resulting from harvesting to address an identified forest health issue under RCW 79.15.540 may be utilized in accordance with chapter 79.-- RCW (the new chapter created in section 14 of this act).

**NEW SECTION. Sec. 13.** The department of natural resources must conduct a survey of scientific literature regarding the carbon neutrality of forest biomass. The department must submit the survey results with any findings and recommendations to the appropriate committees of the legislature by December 15, 2010.

This section expires January 1, 2011.

**NEW SECTION. Sec. 14.** Sections 1 through 5 of this act constitute a new chapter in Title 79 RCW.

**NEW SECTION. Sec. 15.** Section 11 of this act expires January 1, 2014.

**NEW SECTION. Sec. 16.** Section 12 of this act takes effect January 1, 2014."

Senator Jacobsen spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Second Substitute House Bill No. 2481.

The motion by Senator Jacobsen carried and the committee striking amendment was adopted by voice vote.

**MOTION**

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "agreements;" strike the remainder of the title and insert "amending RCW 79.02.010, 43.30.020, 76.06.180, 79.15.100, 79.15.220, 79.15.510, and 79.15.510; adding a new chapter to Title 79 RCW; creating a new section; providing an effective date; and providing expiration dates."

**MOTION**

On motion of Senator Jacobsen, the rules were suspended, Second Substitute House Bill No. 2481 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Jacobsen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2481 as amended by the Senate.

**ROLL CALL**

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2481 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brown and McCaslin

SECOND SUBSTITUTE HOUSE BILL NO. 2481 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

**SIGNED BY THE PRESIDENT**

The President signed:

ENGROSSED SUBSTITUTE SENATE BILL 6241,  
 SUBSTITUTE SENATE BILL 6357,  
 SUBSTITUTE SENATE BILL 6414,  
 ENGROSSED SUBSTITUTE SENATE BILL 6499,  
 ENGROSSED SUBSTITUTE SENATE BILL 6522,  
 SUBSTITUTE SENATE BILL 6556,  
 SENATE BILL 6627,  
 SENATE BILL 6745,  
 SUBSTITUTE SENATE BILL 6831.

**INTRODUCTION OF SPECIAL GUESTS**

The President introduced 2010 Miss Omak Stampede Queen, Michelle Demmitt, who was seated at the rostrum.

**RULING BY THE PRESIDENT**

President Owen: "In ruling on the Point of Order raised by Senator Holmquist as to whether the committee amendment to Engrossed Second Substitute House Bill No. 1560 fits within the scope and object of the underlying bill, the President finds and rules as follows.

Engrossed Second Substitute House Bill No. 1560 addresses certain changes to collective bargaining for institutions of higher education. Specifically, the bill authorizes those institutions to utilize the services of the governor in negotiating collective bargaining agreements, and provides certain optional tools for conducting negotiations, by allowing for master collective bargaining agreements. Further, the bill provides a means for implementing these agreements in the event they are not completed prior to a legislative session. The President notes that the governor already represents state agencies as provided in the same statute the bill would amend.

In general, the President would characterize the bill as addressing the processes that attend collective bargaining at institutions of higher education, and introduces additional efficiencies into the process.

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The committee amendment, by contrast, would provide collective bargaining rights for a group of employees who currently do not have such rights. The expansion of rights is a substantive change in the categories of employees who have the right to collectively bargain.

For these reasons, the President finds that the amendment is not within the scope and object of the underlying bill, and Senator Holmquist's point of order is well-taken.

The Senate resumed consideration of Engrossed Second Substitute House Bill No. 1560 which was deferred on March 2, 2010.

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Second Substitute House Bill No. 1560 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.  
Senator Holmquist spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1560.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1560 and the bill passed the Senate by the following vote: Yeas, 33; Nays, 15; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin and Tom

Voting nay: Senators Becker, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, Morton, Parlette, Pflug, Schoesler, Stevens, Swecker and Zarelli

Excused: Senator McCaslin

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1560, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### RULING BY THE PRESIDENT

President Owen: "In ruling on the Point of Order raised by Senator Benton as to whether the committee amendment to Second Substitute House Bill No. 2016 fits within the scope and object of the underlying bill, the President finds and rules as follows.

In considering whether a particular proposed amendment fits within the scope and object of a bill, the President begins with a thorough review of the underlying bill. Second Substitute House Bill No. 2016 revises most portions of Chapter 42.17 RCW. These changes affect the operation of the Public Disclosure Commission, the reporting requirements of candidates and political action committees, the ability of both major and minor political parties to participate in elections, the disclosure requirements of lobbyists, and the routine financial disclosures required of state employees. Although the bill contains numerous technical changes, it also introduces several significant policy changes to these areas.

The Point of Order challenges the addition of an additional policy change: limiting the use of public service announcements by certain state officials in the period shortly before an election. Although the underlying bill contains a slight reference to public service announcements, the amendment would go further and limit their use during an election year.

Consistent with his past rulings, the President considers Second Substitute House Bill No. 2016 an omnibus measure which makes technical changes, clarifications, and substantive policy changes to a host of statutes that affect candidates, political groups, and state employees. The bill is sufficiently broad to include with its scope the limitation contained in the proposed amendment.

For these reasons, the President finds that the amendment is within the scope and object of the underlying bill, and Senator Benton's point is not well-taken."

The Senate resumed consideration of Second Substitute House Bill No. 2016 which had been deferred on March 2, 2010 the previous legislative day.

Senator McDermott spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Government Operations & Elections to Second Substitute House Bill No. 2016.

The motion by Senator Becker carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "laws;" strike the remainder of the title and insert "amending RCW 42.17.020, 42.17.367, 42.17.369, 42.17.461, 42.17.463, 42.17.350, 42.17.360, 42.17.370, 42.17.690, 42.17.380, 42.17.405, 42.17.420, 42.17.450, 42.17.030, 42.17.040, 42.17.050, 42.17.060, 42.17.065, 42.17.067, 42.17.080, 42.17.090, 42.17.3691, 42.17.093, 42.17.100, 42.17.103, 42.17.105, 42.17.550, 42.17.135, 42.17.561, 42.17.565, 42.17.570, 42.17.575, 42.17.510, 42.17.520, 42.17.540, 42.17.110, 42.17.610, 42.17.640, 42.17.645, 42.17.070, 42.17.095, 42.17.125, 42.17.660, 42.17.720, 42.17.740, 42.17.790, 42.17.680, 42.17.130, 42.17.245, 42.17.150, 42.17.155, 42.17.160, 42.17.170, 42.17.172, 42.17.175, 42.17.180, 42.17.190, 42.17.200, 42.17.210, 42.17.220, 42.17.230, 42.17.240, 42.17.241, 42.17.242, 42.17.390, 42.17.395, 42.17.397, 42.17.400, and 42.56.010; reenacting and amending RCW 42.17.2401; adding a new chapter to Title 42 RCW; creating new sections; recodifying RCW 42.17.010, 42.17.020, 42.17.035, 42.17.440, 42.17.367, 42.17.369, 42.17.460, 42.17.461, 42.17.463, 42.17.350, 42.17.360, 42.17.370, 42.17.690, 42.17.380, 42.17.405, 42.17.420, 42.17.430, 42.17.450, 42.17.030, 42.17.040, 42.17.050, 42.17.060, 42.17.065, 42.17.067, 42.17.080, 42.17.090, 42.17.3691, 42.17.093, 42.17.100, 42.17.103, 42.17.105, 42.17.550, 42.17.135, 42.17.561, 42.17.565, 42.17.570, 42.17.575, 42.17.510, 42.17.520, 42.17.530, 42.17.540, 42.17.110, 42.17.610, 42.17.640, 42.17.645, 42.17.700, 42.17.070, 42.17.095, 42.17.120, 42.17.125, 42.17.650, 42.17.660, 42.17.670, 42.17.720, 42.17.730, 42.17.740, 42.17.770, 42.17.780, 42.17.790, 42.17.680, 42.17.760, 42.17.128, 42.17.130, 42.17.710, 42.17.750, 42.17.245, 42.17.150, 42.17.155, 42.17.160, 42.17.170, 42.17.172, 42.17.175, 42.17.180, 42.17.190, 42.17.200, 42.17.210, 42.17.220, 42.17.230, 42.17.240, 42.17.2401, 42.17.241, 42.17.242, 42.17.390, 42.17.395, 42.17.397, 42.17.400, 42.17.410, 42.17.900, 42.17.910, 42.17.911, 42.17.912, 42.17.920, 42.17.930, 42.17.940,

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42.17.945, 42.17.950, 42.17.955, 42.17.960, 42.17.961, 42.17.962, 42.17.963, 42.17.964, 42.17.965, and 42.17.966; repealing RCW 42.17.131, 42.17.362, 42.17.365, 42.17.375, 42.17.465, 42.17.467, 42.17.469, 42.17.471, 42.17.562, 42.17.620, and 42.17.647; providing an effective date; and declaring an emergency."

MOTION

On motion of Senator McDermott, the rules were suspended, Second Substitute House Bill No. 2016 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McDermott spoke in favor of passage of the bill.

Senators Roach, Sheldon and Brandland spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2016 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2016 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 32; Nays, 16; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Shin, Swecker and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, Morton, Parlette, Pflug, Roach, Sheldon, Stevens and Zarelli

Excused: Senator McCaslin

SECOND SUBSTITUTE HOUSE BILL NO. 2016 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1591, by House Committee on Transportation (originally sponsored by Representatives Uptegrove, Clibborn, Simpson and Liias)

Concerning the use of certain transportation benefit district funds.

The measure was read the second time.

MOTION

On motion of Senator Marr, the rules were suspended, Second Substitute House Bill No. 1591 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Marr and Swecker spoke in favor of passage of the bill.

MOTION

On motion of Senator Delvin, Senator Carrell was excused.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1591.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1591 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 2; Absent, 1; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker and Zarelli

Voting nay: Senators Holmquist and Stevens

Absent: Senator Tom

Excused: Senators Carrell and McCaslin

SECOND SUBSTITUTE HOUSE BILL NO. 1591, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Marr, Senator Tom was excused.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2777, by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Goodman, O'Brien, Driscoll, Kessler, Maxwell, Finn, Hurst, Williams, Appleton, Hudgins, Kelley, Ericks, Morrell, McCoy, Seaquist, Green, Carlyle, Conway, Pearson and Simpson)

Modifying domestic violence provisions.

The measure was read the second time.

MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Judiciary be adopted:

Strike everything after the enacting clause and insert the following:

**"PART ONE  
INTENT**

**NEW SECTION. Sec. 101.** The legislature intends to improve the lives of persons who suffer from the adverse effects of domestic violence and to require reasonable, coordinated measures to prevent domestic violence from occurring. The legislature intends to give law enforcement and the courts better tools to identify violent perpetrators of domestic violence and hold them accountable. The legislature intends to: Increase the safety afforded to individuals who seek protection of public and private agencies involved in domestic violence prevention; improve the ability of agencies to address the needs of victims and their children and the delivery of services; upgrade the quality of treatment programs; and enhance the ability of the justice system to respond quickly and fairly to domestic violence. In order to improve the lives of persons who have, or may suffer, the effects of domestic

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violence the legislature intends to achieve more uniformity in the decision-making processes at public and private agencies that address domestic violence by reducing inconsistencies and duplications allowing domestic violence victims to achieve safety and stability in their lives.

## PART TWO LAW ENFORCEMENT/ARREST PROVISIONS

**Sec. 201.** RCW 10.31.100 and 2006 c 138 s 23 are each amended to read as follows:

A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of the officer, except as provided in subsections (1) through (10) of this section.

(1) Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor, involving physical harm or threats of harm to any person or property or the unlawful taking of property or involving the use or possession of cannabis, or involving the acquisition, possession, or consumption of alcohol by a person under the age of twenty-one years under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070 or 9A.52.080, shall have the authority to arrest the person.

(2) A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) An order has been issued of which the person has knowledge under RCW 26.44.063, or chapter 7.90, 10.99, 26.09, 26.10, 26.26, 26.50, or 74.34 RCW restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence, or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location or, in the case of an order issued under RCW 26.44.063, imposing any other restrictions or conditions upon the person; or

(b) A foreign protection order, as defined in RCW 26.52.010, has been issued of which the person under restraint has knowledge and the person under restraint has violated a provision of the foreign protection order prohibiting the person under restraint from contacting or communicating with another person, or excluding the person under restraint from a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, or a violation of any provision for which the foreign protection order specifically indicates that a violation will be a crime; or

(c) The person is sixteen years or older and within the preceding four hours has assaulted a family or household member as defined in RCW 10.99.020 and the officer believes: (i) A felonious assault has occurred; (ii) an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or (iii) that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that family or household members have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable

effort to consider: (i) The intent to protect victims of domestic violence under RCW 10.99.010; (ii) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and (iii) the history of domestic violence ~~((between the))~~ of each person(s) involved, including whether the conduct was part of an ongoing pattern of abuse.

(3) Any police officer having probable cause to believe that a person has committed or is committing a violation of any of the following traffic laws shall have the authority to arrest the person:

(a) RCW 46.52.010, relating to duty on striking an unattended car or other property;

(b) RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(c) RCW 46.61.500 or 46.61.530, relating to reckless driving or racing of vehicles;

(d) RCW 46.61.502 or 46.61.504, relating to persons under the influence of intoxicating liquor or drugs;

(e) RCW 46.20.342, relating to driving a motor vehicle while operator's license is suspended or revoked;

(f) RCW 46.61.5249, relating to operating a motor vehicle in a negligent manner.

(4) A law enforcement officer investigating at the scene of a motor vehicle accident may arrest the driver of a motor vehicle involved in the accident if the officer has probable cause to believe that the driver has committed in connection with the accident a violation of any traffic law or regulation.

(5) Any police officer having probable cause to believe that a person has committed or is committing a violation of RCW 79A.60.040 shall have the authority to arrest the person.

(6) An officer may act upon the request of a law enforcement officer in whose presence a traffic infraction was committed, to stop, detain, arrest, or issue a notice of traffic infraction to the driver who is believed to have committed the infraction. The request by the witnessing officer shall give an officer the authority to take appropriate action under the laws of the state of Washington.

(7) Any police officer having probable cause to believe that a person has committed or is committing any act of indecent exposure, as defined in RCW 9A.88.010, may arrest the person.

(8) A police officer may arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that an order has been issued of which the person has knowledge under chapter 10.14 RCW and the person has violated the terms of that order.

(9) Any police officer having probable cause to believe that a person has, within twenty-four hours of the alleged violation, committed a violation of RCW 9A.50.020 may arrest such person.

(10) A police officer having probable cause to believe that a person illegally possesses or illegally has possessed a firearm or other dangerous weapon on private or public elementary or secondary school premises shall have the authority to arrest the person.

For purposes of this subsection, the term "firearm" has the meaning defined in RCW 9.41.010 and the term "dangerous weapon" has the meaning defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

(11) Except as specifically provided in subsections (2), (3), (4), and (6) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

(12) No police officer may be held criminally or civilly liable for making an arrest pursuant to ~~((RCW 10.31.100))~~ subsection (2) or (8) of this section if the police officer acts in good faith and without malice.

**NEW SECTION. Sec. 202.** A new section is added to chapter 36.28A RCW to read as follows:

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(1)(a) When funded, the Washington association of sheriffs and police chiefs shall convene a work group to develop a model policy regarding the reporting of domestic violence as defined in RCW 10.99.020 to law enforcement in cases where the victim is unable or unwilling to make a report in the jurisdiction where the alleged crime occurred.

(b) The model policy must include policies and procedures related to:

(i) Collecting and securing evidence; and

(ii) Creating interlocal agreements between law enforcement agencies.

(2) In developing the model policy under subsection (1)(a) of this section, the association shall consult with appropriate stakeholders and government agencies.

**PART THREE**

**NO-CONTACT AND PROTECTION ORDERS**

**Sec. 301.** RCW 10.99.045 and 2000 c 119 s 19 are each amended to read as follows:

(1) A defendant arrested for an offense involving domestic violence as defined by RCW 10.99.020 shall be required to appear in person before a magistrate within one judicial day after the arrest.

(2) A defendant who is charged by citation, complaint, or information with an offense involving domestic violence as defined by RCW 10.99.020 and not arrested shall appear in court for arraignment in person as soon as practicable, but in no event later than fourteen days after the next day on which court is in session following the issuance of the citation or the filing of the complaint or information.

(3)(a) At the time of the appearances provided in subsection (1) or (2) of this section, the court shall determine the necessity of imposing a no-contact order or other conditions of pretrial release according to the procedures established by court rule for a preliminary appearance or an arraignment. The court may include in the order any conditions authorized under RCW 9.41.800 and 10.99.040.

(b) For the purposes of (a) of this subsection, the prosecutor shall provide for the court's review:

(i) The defendant's criminal history, if any, that occurred in Washington or any other state;

(ii) If available, the defendant's criminal history that occurred in any tribal jurisdiction; and

(iii) The defendant's individual order history.

(c) For the purposes of (b) of this subsection, criminal history includes all previous convictions and orders of deferred prosecution, as reported through the judicial information system or otherwise available to the court or prosecutor, current to within the period specified in (d) of this subsection before the date of the appearance.

(d) The periods applicable to previous convictions and orders of deferred prosecution are:

(i) One working day, in the case of previous actions of courts that fully participate in the state judicial information system; and

(ii) Seven calendar days, in the case of previous actions of courts that do not fully participate in the judicial information system. For the purposes of this subsection, "fully participate" means regularly providing records to and receiving records from the system by electronic means on a daily basis.

(4) Appearances required pursuant to this section are mandatory and cannot be waived.

(5) The no-contact order shall be issued and entered with the appropriate law enforcement agency pursuant to the procedures outlined in RCW 10.99.040 (2) and ~~((4))~~ (6).

**Sec. 302.** RCW 26.50.020 and 1992 c 111 s 8 are each amended to read as follows:

(1)(a) Any person may seek relief under this chapter by filing a petition with a court alleging that the person has been the victim of domestic violence committed by the respondent. The person may petition for relief on behalf of himself or herself and on behalf of minor family or household members.

(b) Any person thirteen years of age or older may seek relief under this chapter by filing a petition with a court alleging that he or she has been the victim of violence in a dating relationship and the respondent is sixteen years of age or older.

(2)(a) A person under eighteen years of age who is sixteen years of age or older may seek relief under this chapter and is not required to seek relief by a guardian or next friend.

(b) A person under sixteen years of age who is seeking relief under subsection (1)(b) of this section is required to seek relief by a parent, guardian, guardian ad litem, or next friend.

(3) No guardian or guardian ad litem need be appointed on behalf of a respondent to an action under this chapter who is under eighteen years of age if such respondent is sixteen years of age or older.

(4) The court may, if it deems necessary, appoint a guardian ad litem for a petitioner or respondent who is a party to an action under this chapter.

(5) The courts defined in RCW 26.50.010~~((3))~~ (4) have jurisdiction over proceedings under this chapter. The jurisdiction of district and municipal courts under this chapter shall be limited to enforcement of RCW 26.50.110(1), or the equivalent municipal ordinance, and the issuance and enforcement of temporary orders for protection provided for in RCW 26.50.070 if: (a) A superior court has exercised or is exercising jurisdiction over a proceeding under this title or chapter 13.34 RCW involving the parties; (b) the petition for relief under this chapter presents issues of residential schedule of and contact with children of the parties; or (c) the petition for relief under this chapter requests the court to exclude a party from the dwelling which the parties share. When the jurisdiction of a district or municipal court is limited to the issuance and enforcement of a temporary order, the district or municipal court shall set the full hearing provided for in RCW 26.50.050 in superior court and transfer the case. If the notice and order are not served on the respondent in time for the full hearing, the issuing court shall have concurrent jurisdiction with the superior court to extend the order for protection.

(6) An action under this chapter shall be filed in the county or the municipality where the petitioner resides, unless the petitioner has left the residence or household to avoid abuse. In that case, the petitioner may bring an action in the county or municipality of the previous or the new household or residence.

(7) A person's right to petition for relief under this chapter is not affected by the person leaving the residence or household to avoid abuse.

(8) For the purposes of this section "next friend" means any competent individual, over eighteen years of age, chosen by the minor and who is capable of pursuing the minor's stated interest in the action.

**NEW SECTION. Sec. 303.** A new section is added to chapter 26.50 RCW to read as follows:

(1) The administrative office of the courts shall update the law enforcement information form which it provides for the use of a petitioner who is seeking an ex parte protection order in such a fashion as to prompt the person to disclose on the form whether the person who the petitioner is seeking to restrain has a disability, brain injury, or impairment requiring special assistance.

(2) Any peace officer who serves a protection order on a respondent with the knowledge that the respondent requires special assistance due to a disability, brain injury, or impairment shall make a reasonable effort to accommodate the needs of the respondent to

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the extent practicable without compromise to the safety of the petitioner.

**Sec. 304.** RCW 26.50.060 and 2009 c 439 s 2 are each amended to read as follows:

(1) Upon notice and after hearing, the court may provide relief as follows:

(a) Restrain the respondent from committing acts of domestic violence;

(b) Exclude the respondent from the dwelling that the parties share, from the residence, workplace, or school of the petitioner, or from the day care or school of a child;

(c) Prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance from a specified location;

(d) On the same basis as is provided in chapter 26.09 RCW, the court shall make residential provision with regard to minor children of the parties. However, parenting plans as specified in chapter 26.09 RCW shall not be required under this chapter;

(e) Order the respondent to participate in a domestic violence perpetrator treatment program approved under RCW 26.50.150;

(f) Order other relief as it deems necessary for the protection of the petitioner and other family or household members sought to be protected, including orders or directives to a peace officer, as allowed under this chapter;

(g) Require the respondent to pay the administrative court costs and service fees, as established by the county or municipality incurring the expense and to reimburse the petitioner for costs incurred in bringing the action, including reasonable attorneys' fees;

(h) Restrain the respondent from having any contact with the victim of domestic violence or the victim's children or members of the victim's household;

(i) Restrain the respondent from harassing, following, keeping under physical or electronic surveillance, cyberstalking as defined in RCW 9.61.260, and using telephonic, audiovisual, or other electronic means to monitor the actions, location, or communication of a victim of domestic violence, the victim's children, or members of the victim's household. For the purposes of this subsection, "communication" includes both "wire communication" and "electronic communication" as defined in RCW 9.73.260;

(j) Require the respondent to submit to electronic monitoring. The order shall specify who shall provide the electronic monitoring services and the terms under which the monitoring must be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the respondent to pay for electronic monitoring;

~~((+))~~ (k) Consider the provisions of RCW 9.41.800;

~~((+))~~ (l) Order possession and use of essential personal effects. The court shall list the essential personal effects with sufficient specificity to make it clear which property is included. Personal effects may include pets. The court may order that a petitioner be granted the exclusive custody or control of any pet owned, possessed, leased, kept, or held by the petitioner, respondent, or minor child residing with either the petitioner or respondent and may prohibit the respondent from interfering with the petitioner's efforts to remove the pet. The court may also prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance of specified locations where the pet is regularly found; and

~~((+))~~ (m) Order use of a vehicle.

(2) If a protection order restrains the respondent from contacting the respondent's minor children the restraint shall be for a fixed period not to exceed one year. This limitation is not applicable to orders for protection issued under chapter 26.09, 26.10, or 26.26 RCW. With regard to other relief, if the petitioner has petitioned

for relief on his or her own behalf or on behalf of the petitioner's family or household members or minor children, and the court finds that the respondent is likely to resume acts of domestic violence against the petitioner or the petitioner's family or household members or minor children when the order expires, the court may either grant relief for a fixed period or enter a permanent order of protection.

If the petitioner has petitioned for relief on behalf of the respondent's minor children, the court shall advise the petitioner that if the petitioner wants to continue protection for a period beyond one year the petitioner may either petition for renewal pursuant to the provisions of this chapter or may seek relief pursuant to the provisions of chapter 26.09 or 26.26 RCW.

(3) If the court grants an order for a fixed time period, the petitioner may apply for renewal of the order by filing a petition for renewal at any time within the three months before the order expires. The petition for renewal shall state the reasons why the petitioner seeks to renew the protection order. Upon receipt of the petition for renewal the court shall order a hearing which shall be not later than fourteen days from the date of the order. Except as provided in RCW 26.50.085, personal service shall be made on the respondent not less than five days before the hearing. If timely service cannot be made the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided in RCW 26.50.085 or by mail as provided in RCW 26.50.123. If the court permits service by publication or mail, the court shall set the new hearing date not later than twenty-four days from the date of the order. If the order expires because timely service cannot be made the court shall grant an ex parte order of protection as provided in RCW 26.50.070. The court shall grant the petition for renewal unless the respondent proves by a preponderance of the evidence that the respondent will not resume acts of domestic violence against the petitioner or the petitioner's children or family or household members when the order expires. The court may renew the protection order for another fixed time period or may enter a permanent order as provided in this section. The court may award court costs, service fees, and reasonable attorneys' fees as provided in subsection (1)(g) of this section.

(4) In providing relief under this chapter, the court may realign the designation of the parties as "petitioner" and "respondent" where the court finds that the original petitioner is the abuser and the original respondent is the victim of domestic violence and may issue an ex parte temporary order for protection in accordance with RCW 26.50.070 on behalf of the victim until the victim is able to prepare a petition for an order for protection in accordance with RCW 26.50.030.

(5) Except as provided in subsection (4) of this section, no order for protection shall grant relief to any party except upon notice to the respondent and hearing pursuant to a petition or counter-petition filed and served by the party seeking relief in accordance with RCW 26.50.050.

(6) The court order shall specify the date the order expires if any. The court order shall also state whether the court issued the protection order following personal service, service by publication, or service by mail and whether the court has approved service by publication or mail of an order issued under this section.

(7) If the court declines to issue an order for protection or declines to renew an order for protection, the court shall state in writing on the order the particular reasons for the court's denial.

**Sec. 305.** RCW 26.50.070 and 2000 c 119 s 16 are each amended to read as follows:

(1) Where an application under this section alleges that irreparable injury could result from domestic violence if an order is not issued immediately without prior notice to the respondent, the

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court may grant an ex parte temporary order for protection, pending a full hearing, and grant relief as the court deems proper, including an order:

(a) Restraining any party from committing acts of domestic violence;

(b) Restraining any party from going onto the grounds of or entering the dwelling that the parties share, from the residence, workplace, or school of the other, or from the day care or school of a child until further order of the court;

(c) Prohibiting any party from knowingly coming within, or knowingly remaining within, a specified distance from a specified location;

(d) Restraining any party from interfering with the other's custody of the minor children or from removing the children from the jurisdiction of the court;

(e) Restraining any party from having any contact with the victim of domestic violence or the victim's children or members of the victim's household; ~~(and)~~

(f) Considering the provisions of RCW 9.41.800; and

(g) Restraining the respondent from harassing, following, keeping under physical or electronic surveillance, cyberstalking as defined in RCW 9.61.260, and using telephonic, audiovisual, or other electronic means to monitor the actions, location, or communication of a victim of domestic violence, the victim's children, or members of the victim's household. For the purposes of this subsection, "communication" includes both "wire communication" and "electronic communication" as defined in RCW 9.73.260.

(2) Irreparable injury under this section includes but is not limited to situations in which the respondent has recently threatened petitioner with bodily injury or has engaged in acts of domestic violence against the petitioner.

(3) The court shall hold an ex parte hearing in person or by telephone on the day the petition is filed or on the following judicial day.

(4) An ex parte temporary order for protection shall be effective for a fixed period not to exceed fourteen days or twenty-four days if the court has permitted service by publication under RCW 26.50.085 or by mail under RCW 26.50.123. The ex parte order may be reissued. A full hearing, as provided in this chapter, shall be set for not later than fourteen days from the issuance of the temporary order or not later than twenty-four days if service by publication or by mail is permitted. Except as provided in RCW 26.50.050, 26.50.085, and 26.50.123, the respondent shall be personally served with a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing.

(5) Any order issued under this section shall contain the date and time of issuance and the expiration date and shall be entered into a statewide judicial information system by the clerk of the court within one judicial day after issuance.

(6) If the court declines to issue an ex parte temporary order for protection the court shall state the particular reasons for the court's denial. The court's denial of a motion for an ex parte order of protection shall be filed with the court.

**NEW SECTION. Sec. 306.** A new section is added to chapter 26.50 RCW to read as follows:

(1) In a proceeding in which a petition for an order for protection under this chapter is sought, a court of this state may exercise personal jurisdiction over a nonresident individual if:

(a) The individual is personally served with a petition within this state;

(b) The individual submits to the jurisdiction of this state by consent, entering a general appearance, or filing a responsive document having the effect of waiving any objection to consent to personal jurisdiction;

(c) The act or acts of the individual or the individual's agent giving rise to the petition or enforcement of an order for protection occurred within this state;

(d)(i) The act or acts of the individual or the individual's agent giving rise to the petition or enforcement of an order for protection occurred outside this state and are part of an ongoing pattern of domestic violence or stalking that has an adverse effect on the petitioner or a member of the petitioner's family or household and the petitioner resides in this state; or

(ii) As a result of acts of domestic violence or stalking, the petitioner or a member of the petitioner's family or household has sought safety or protection in this state and currently resides in this state; or

(e) There is any other basis consistent with RCW 4.28.185 or with the Constitutions of this state and the United States.

(2) For jurisdiction to be exercised under subsection (1)(d)(i) or (ii) of this section, the individual must have communicated with the petitioner or a member of the petitioner's family, directly or indirectly, or made known a threat to the safety of the petitioner or member of the petitioner's family while the petitioner or family member resides in this state. For the purposes of subsection (1)(d)(i) or (ii) of this section, "communicated or made known" includes, but is not limited to, through the mail, telephonically, or a posting on an electronic communication site or medium. Communication on any electronic medium that is generally available to any individual residing in the state shall be sufficient to exercise jurisdiction under subsection (1)(d)(i) or (ii) of this section.

(3) For the purposes of this section, an act or acts that "occurred within this state" includes, but is not limited to, an oral or written statement made or published by a person outside of this state to any person in this state by means of the mail, interstate commerce, or foreign commerce. Oral or written statements sent by electronic mail or the internet are deemed to have "occurred within this state."

**NEW SECTION. Sec. 307.** A new section is added to chapter 7.90 RCW to read as follows:

(1) In a proceeding in which a petition for a sexual assault protection order is sought under this chapter, a court of this state may exercise personal jurisdiction over a nonresident individual if:

(a) The individual is personally served with a petition within this state;

(b) The individual submits to the jurisdiction of this state by consent, entering a general appearance, or filing a responsive document having the effect of waiving any objection to consent to personal jurisdiction;

(c) The act or acts of the individual or the individual's agent giving rise to the petition or enforcement of a sexual assault protection order occurred within this state;

(d)(i) The act or acts of the individual or the individual's agent giving rise to the petition or enforcement of a sexual assault protection order occurred outside this state and are part of an ongoing pattern of sexual assaults or stalking that has an adverse effect on the petitioner or a member of the petitioner's family or household and the petitioner resides in this state; or

(ii) As a result of acts of stalking or a sexual assault, the petitioner or a member of the petitioner's family or household has sought safety or protection in this state and currently resides in this state; or

(e) There is any other basis consistent with RCW 4.28.185 or with the constitutions of this state and the United States.

(2) For jurisdiction to be exercised under subsection (1)(d)(i) or (ii) of this section, the individual must have communicated with the petitioner or a member of the petitioner's family, directly or indirectly, or made known a threat to the safety of the petitioner or member of the petitioner's family while the petitioner or family member resides in this state. For the purposes of subsection

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(1)(d)(i) or (ii) of this section, "communicated or made known" includes, but is not limited to, through the mail, telephonically, or a posting on an electronic communication site or medium. Communication on any electronic medium that is generally available to any individual residing in the state shall be sufficient to exercise jurisdiction under subsection (1)(d)(i) or (ii) of this section.

(3) For the purposes of this section, an act or acts that "occurred within this state" includes, but is not limited to, an oral or written statement made or published by a person outside of this state to any person in this state by means of the mail, interstate commerce, or foreign commerce. Oral or written statements sent by electronic mail or the internet are deemed to have "occurred within this state."

**NEW SECTION. Sec. 308.** A new section is added to chapter 10.14 RCW to read as follows:

(1) In a proceeding in which a petition for an order for protection under this chapter is sought, a court of this state may exercise personal jurisdiction over a nonresident individual if:

(a) The individual is personally served with a petition within this state;

(b) The individual submits to the jurisdiction of this state by consent, entering a general appearance, or filing a responsive document having the effect of waiving any objection to consent to personal jurisdiction;

(c) The act or acts of the individual or the individual's agent giving rise to the petition or enforcement of an order for protection occurred within this state;

(d)(i) The act or acts of the individual or the individual's agent giving rise to the petition or enforcement of an order for protection occurred outside this state and are part of an ongoing pattern of harassment that has an adverse effect on the petitioner or a member of the petitioner's family or household and the petitioner resides in this state; or

(ii) As a result of acts of harassment, the petitioner or a member of the petitioner's family or household has sought safety or protection in this state and currently resides in this state; or

(e) There is any other basis consistent with RCW 4.28.185 or with the constitutions of this state and the United States.

(2) For jurisdiction to be exercised under subsection (1)(d)(i) or (ii) of this section, the individual must have communicated with the petitioner or a member of the petitioner's family, directly or indirectly, or made known a threat to the safety of the petitioner or member of the petitioner's family while the petitioner or family member resides in this state. For the purposes of subsection (1)(d)(i) or (ii) of this section, "communicated or made known" includes, but is not limited to, through the mail, telephonically, or a posting on an electronic communication site or medium. Communication on any electronic medium that is generally available to any individual residing in the state shall be sufficient to exercise jurisdiction under subsection (1)(d)(i) or (ii) of this section.

(3) For the purposes of this section, an act or acts that "occurred within this state" includes, but is not limited to, an oral or written statement made or published by a person outside of this state to any person in this state by means of the mail, interstate commerce, or foreign commerce. Oral or written statements sent by electronic mail or the internet are deemed to have "occurred within this state."

**Sec. 309.** RCW 10.99.040 and 2000 c 119 s 18 are each amended to read as follows:

(1) Because of the serious nature of domestic violence, the court in domestic violence actions:

(a) Shall not dismiss any charge or delay disposition because of concurrent dissolution or other civil proceedings;

(b) Shall not require proof that either party is seeking a dissolution of marriage prior to instigation of criminal proceedings;

(c) Shall waive any requirement that the victim's location be disclosed to any person, other than the attorney of a criminal

defendant, upon a showing that there is a possibility of further violence: **PROVIDED**, That the court may order a criminal defense attorney not to disclose to his or her client the victim's location; and

(d) Shall identify by any reasonable means on docket sheets those criminal actions arising from acts of domestic violence.

(2)(a) Because of the likelihood of repeated violence directed at those who have been victims of domestic violence in the past, when any person charged with or arrested for a crime involving domestic violence is released from custody before arraignment or trial on bail or personal recognizance, the court authorizing the release may prohibit that person from having any contact with the victim. The jurisdiction authorizing the release shall determine whether that person should be prohibited from having any contact with the victim. If there is no outstanding restraining or protective order prohibiting that person from having contact with the victim, the court authorizing release may issue, by telephone, a no-contact order prohibiting the person charged or arrested from having contact with the victim or from knowingly coming within, or knowingly remaining within, a specified distance of a location.

(b) In issuing the order, the court shall consider the provisions of RCW 9.41.800.

(c) The no-contact order shall also be issued in writing as soon as possible. By January 1, 2011, the administrative office of the courts shall develop a pattern form for all no-contact orders issued under this chapter. A no-contact order issued under this chapter must substantially comply with the pattern form developed by the administrative office of the courts.

(3) At the time of arraignment the court shall determine whether a no-contact order shall be issued or extended. The no-contact order shall terminate if the defendant is acquitted or the charges are dismissed. If a no-contact order is issued or extended, the court may also include in the conditions of release a requirement that the defendant submit to electronic monitoring. If electronic monitoring is ordered, the court shall specify who shall provide the monitoring services, and the terms under which the monitoring shall be performed. Upon conviction, the court may require as a condition of the sentence that the defendant reimburse the providing agency for the costs of the electronic monitoring.

(4)(a) Willful violation of a court order issued under subsection (2) or (3) of this section is punishable under RCW 26.50.110.

(b) The written order releasing the person charged or arrested shall contain the court's directives and shall bear the legend: "Violation of this order is a criminal offense under chapter 26.50 RCW and will subject a violator to arrest; any assault, drive-by shooting, or reckless endangerment that is a violation of this order is a felony. You can be arrested even if any person protected by the order invites or allows you to violate the order's prohibitions. You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order."

(c) A certified copy of the order shall be provided to the victim.

(5) If a no-contact order has been issued prior to charging, that order shall expire at arraignment or within seventy-two hours if charges are not filed. Such orders need not be entered into the computer-based criminal intelligence information system in this state which is used by law enforcement agencies to list outstanding warrants.

(6) Whenever a no-contact order is issued, modified, or terminated under subsection (2) or (3) of this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order the law enforcement agency shall enter the order for one year or until the expiration date specified on the order into any computer-based criminal intelligence information system available in this state used by law enforcement

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agencies to list outstanding warrants. Entry into the computer-based criminal intelligence information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state. Upon receipt of notice that an order has been terminated under subsection (3) of this section, the law enforcement agency shall remove the order from the computer-based criminal intelligence information system.

(7) All courts shall develop policies and procedures by January 1, 2011, to grant victims a process to modify or rescind a no-contact order issued under this chapter. The administrative office of the courts shall develop a model policy to assist the courts in implementing the requirements of this subsection.

**NEW SECTION. Sec. 310.** A new section is added to chapter 2.56 RCW to read as follows:

(1) The administrative office of the courts shall develop guidelines by December 1, 2011, for all courts to establish a process to reconcile duplicate or conflicting no-contact or protection orders issued by courts in this state.

(2) The guidelines developed under subsection (1) of this section must include:

(a) A process to allow any party named in a no-contact or protection order to petition for the purpose of reconciling duplicate or conflicting orders; and

(b) A procedure to address no-contact and protection order data sharing between court jurisdictions in this state.

(3) By January 1, 2011, the administrative office of the courts shall provide a report back to the legislature concerning the progress made to develop the guidelines required by this section.

#### **PART FOUR SENTENCING REFORMS**

**Sec. 401.** RCW 9.94A.030 and 2009 c 375 s 4 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed as part of a sentence under this chapter and served in the community subject to controls placed on the offender's movement and activities by the department.

(6) "Community protection zone" means the area within eight hundred eighty feet of the facilities and grounds of a public or private school.

(7) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(8) "Confinement" means total or partial confinement.

(9) "Conviction" means an adjudication of guilt pursuant to Title 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(11) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon.

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(12) "Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted activities for their mutual aid and protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.

(13) "Criminal street gang associate or member" means any person who actively participates in any criminal street gang and who intentionally promotes, furthers, or assists in any criminal act by the criminal street gang.

(14) "Criminal street gang-related offense" means any felony or misdemeanor offense, whether in this state or elsewhere, that is committed for the benefit of, at the direction of, or in association with any criminal street gang, or is committed with the intent to promote, further, or assist in any criminal conduct by the gang, or is committed for one or more of the following reasons:

(a) To gain admission, prestige, or promotion within the gang;

(b) To increase or maintain the gang's size, membership, prestige, dominance, or control in any geographical area;

(c) To exact revenge or retribution for the gang or any member of the gang;

(d) To obstruct justice, or intimidate or eliminate any witness against the gang or any member of the gang;

(e) To directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage for the gang, its reputation, influence, or membership; or

(f) To provide the gang with any advantage in, or any control or dominance over any criminal market sector, including, but not limited to, manufacturing, delivering, or selling any controlled substance (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88 RCW); human trafficking (RCW 9A.40.100); or promoting pornography (chapter 9.68 RCW).

(15) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(16) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

(17) "Department" means the department of corrections.

(18) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community custody, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(19) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(20) "Domestic violence" has the same meaning as defined in RCW 10.99.020 and 26.50.010.

(21) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

~~((21))~~ (22) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

~~((22))~~ (23) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

~~((23))~~ (24) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

~~((24))~~ (25) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-run injury-accident (RCW 46.52.020(4)), felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or felony physical control of a vehicle while

under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

~~((25))~~ (26) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

~~((26))~~ (27) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

~~((27))~~ (28) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

~~((28))~~ (29) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

~~((29))~~ (30) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense

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that under the laws of this state would be a felony classified as a most serious offense under this subsection;

(v)(i) A prior conviction for indecent liberties under RCW 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997;

(w) Any out-of-state conviction for a felony offense with a finding of sexual motivation if the minimum sentence imposed was ten years or more; provided that the out-of-state felony offense must be comparable to a felony offense under Title 9 or 9A RCW and the out-of-state definition of sexual motivation must be comparable to the definition of sexual motivation contained in this section.

~~((30))~~ (31) "Nonviolent offense" means an offense which is not a violent offense.

~~((34))~~ (32) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. In addition, for the purpose of community custody requirements under this chapter, "offender" also means a misdemeanor or gross misdemeanor probationer convicted of an offense included in RCW 9.94A.501(1) and ordered by a superior court to probation under the supervision of the department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

~~((32))~~ (33) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention.

~~((33))~~ (34) "Pattern of criminal street gang activity" means:

(a) The commission, attempt, conspiracy, or solicitation of, or any prior juvenile adjudication of or adult conviction of, two or more of the following criminal street gang-related offenses:

(i) Any "serious violent" felony offense as defined in this section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a Child 1 (RCW 9A.36.120);

(ii) Any "violent" offense as defined by this section, excluding Assault of a Child 2 (RCW 9A.36.130);

(iii) Deliver or Possession with Intent to Deliver a Controlled Substance (chapter 69.50 RCW);

(iv) Any violation of the firearms and dangerous weapon act (chapter 9.41 RCW);

(v) Theft of a Firearm (RCW 9A.56.300);

(vi) Possession of a Stolen Firearm (RCW 9A.56.310);

(vii) Malicious Harassment (RCW 9A.36.080);

(viii) Harassment where a subsequent violation or deadly threat is made (RCW 9A.46.020(2)(b));

(ix) Criminal Gang Intimidation (RCW 9A.46.120);

(x) Any felony conviction by a person eighteen years of age or older with a special finding of involving a juvenile in a felony offense under RCW 9.94A.833;

(xi) Residential Burglary (RCW 9A.52.025);

(xii) Burglary 2 (RCW 9A.52.030);

(xiii) Malicious Mischief 1 (RCW 9A.48.070);

(xiv) Malicious Mischief 2 (RCW 9A.48.080);

(xv) Theft of a Motor Vehicle (RCW 9A.56.065);

(xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

(xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);

(xviii) Taking a Motor Vehicle Without Permission 2 (RCW 9A.56.075);

(xix) Extortion 1 (RCW 9A.56.120);

(xx) Extortion 2 (RCW 9A.56.130);

(xxi) Intimidating a Witness (RCW 9A.72.110);

(xxii) Tampering with a Witness (RCW 9A.72.120);

(xxiii) Reckless Endangerment (RCW 9A.36.050);

(xxiv) Coercion (RCW 9A.36.070);

(xxv) Harassment (RCW 9A.46.020); or

(xxvi) Malicious Mischief 3 (RCW 9A.48.090);

(b) That at least one of the offenses listed in (a) of this subsection shall have occurred after July 1, 2008;

(c) That the most recent committed offense listed in (a) of this subsection occurred within three years of a prior offense listed in (a) of this subsection; and

(d) Of the offenses that were committed in (a) of this subsection, the offenses occurred on separate occasions or were committed by two or more persons.

~~((34))~~ (35) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection ~~((34))~~ (35)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

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~~((35))~~ (36) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; or (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority.

~~((36))~~ (37) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

~~((37))~~ (38) "Public school" has the same meaning as in RCW 28A.150.010.

~~((38))~~ (39) "Repetitive domestic violence offense" means any:

(a)(i) Domestic violence assault that is not a felony offense under RCW 9A.36.041;

(ii) Domestic violence violation of a no contact order under chapter 10.99 RCW that is not a felony offense;

(iii) Domestic violence violation of a protection order under chapter 26.09, 26.10, 26.26, or 26.50 RCW that is not a felony offense;

(iv) Domestic violence harassment offense under RCW 9A.46.020 that is not a felony offense; or

(v) Domestic violence stalking offense under RCW 9A.46.110 that is not a felony offense; or

(b) Any federal, out-of-state, tribal court, military, county, or municipal conviction for an offense that under the laws of this state would be classified as a repetitive domestic violence offense under (a) of this subsection.

(40) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

~~((39))~~ (41) "Risk assessment" means the application of the risk instrument recommended to the department by the Washington state institute for public policy as having the highest degree of predictive accuracy for assessing an offender's risk of reoffense.

~~((40))~~ (42) "Serious traffic offense" means:

(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

~~((41))~~ (43) "Serious violent offense" is a subcategory of violent offense and means:

(a)(i) Murder in the first degree;

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

(viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

~~((42))~~ (44) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.130(12);

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080; or

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

~~((43))~~ (45) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

~~((44))~~ (46) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

~~((45))~~ (47) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

~~((46))~~ (48) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

~~((47))~~ (49) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

~~((48))~~ (50) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

~~((49))~~ (51) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

~~((50))~~ (52) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

(ix) Assault of a child in the second degree;

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating

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liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and

(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

~~((54))~~ (53) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

~~((52))~~ (54) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

~~((53))~~ (55) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

**Sec. 402.** RCW 9.94A.535 and 2008 c 276 s 303 and 2008 c 233 s 9 are each reenacted and amended to read as follows:

The court may impose a sentence outside the standard sentence range for an offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence. Facts supporting aggravated sentences, other than the fact of a prior conviction, shall be determined pursuant to the provisions of RCW 9.94A.537.

Whenever a sentence outside the standard sentence range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard sentence range shall be a determinate sentence.

If the sentencing court finds that an exceptional sentence outside the standard sentence range should be imposed, the sentence is subject to review only as provided for in RCW 9.94A.585(4).

A departure from the standards in RCW 9.94A.589 (1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in this section, and may be appealed by the offender or the state as set forth in RCW 9.94A.585 (2) through (6).

(1) Mitigating Circumstances - Court to Consider

The court may impose an exceptional sentence below the standard range if it finds that mitigating circumstances are established by a preponderance of the evidence. The following are illustrative only and are not intended to be exclusive reasons for exceptional sentences.

(a) To a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident.

(b) Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

(c) The defendant committed the crime under duress, coercion, threat, or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

(d) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(e) The defendant's capacity to appreciate the wrongfulness of his or her conduct, or to conform his or her conduct to the requirements of the law, was significantly impaired. Voluntary use of drugs or alcohol is excluded.

(f) The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

(g) The operation of the multiple offense policy of RCW 9.94A.589 results in a presumptive sentence that is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(h) The defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(i) The current offense involved domestic violence, as defined in RCW 10.99.020, and the defendant suffered a continuing pattern of coercion, control, or abuse by the victim of the offense and the offense is a response to that coercion, control, or abuse.

(2) Aggravating Circumstances - Considered and Imposed by the Court

The trial court may impose an aggravated exceptional sentence without a finding of fact by a jury under the following circumstances:

(a) The defendant and the state both stipulate that justice is best served by the imposition of an exceptional sentence outside the standard range, and the court finds the exceptional sentence to be consistent with and in furtherance of the interests of justice and the purposes of the sentencing reform act.

(b) The defendant's prior unscored misdemeanor or prior unscored foreign criminal history results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(c) The defendant has committed multiple current offenses and the defendant's high offender score results in some of the current offenses going unpunished.

(d) The failure to consider the defendant's prior criminal history which was omitted from the offender score calculation pursuant to RCW 9.94A.525 results in a presumptive sentence that is clearly too lenient.

(3) Aggravating Circumstances - Considered by a Jury - Imposed by the Court

Except for circumstances listed in subsection (2) of this section, the following circumstances are an exclusive list of factors that can support a sentence above the standard range. Such factors should be determined by procedures specified in RCW 9.94A.537.

(a) The defendant's conduct during the commission of the current offense manifested deliberate cruelty to the victim.

(b) The defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance.

(c) The current offense was a violent offense, and the defendant knew that the victim of the current offense was pregnant.

(d) The current offense was a major economic offense or series of offenses, so identified by a consideration of any of the following factors:

(i) The current offense involved multiple victims or multiple incidents per victim;

(ii) The current offense involved attempted or actual monetary loss substantially greater than typical for the offense;

(iii) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time; or

(iv) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(e) The current offense was a major violation of the Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to trafficking in controlled substances, which was more onerous than the typical offense of its statutory definition: The presence of

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ANY of the following may identify a current offense as a major VUCSA:

(i) The current offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to do so;

(ii) The current offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use;

(iii) The current offense involved the manufacture of controlled substances for use by other parties;

(iv) The circumstances of the current offense reveal the offender to have occupied a high position in the drug distribution hierarchy;

(v) The current offense involved a high degree of sophistication or planning, occurred over a lengthy period of time, or involved a broad geographic area of disbursement; or

(vi) The offender used his or her position or status to facilitate the commission of the current offense, including positions of trust, confidence or fiduciary responsibility (e.g., pharmacist, physician, or other medical professional).

(f) The current offense included a finding of sexual motivation pursuant to RCW 9.94A.835.

(g) The offense was part of an ongoing pattern of sexual abuse of the same victim under the age of eighteen years manifested by multiple incidents over a prolonged period of time.

(h) The current offense involved domestic violence, as defined in RCW 10.99.020, and one or more of the following was present:

(i) The offense was part of an ongoing pattern of psychological, physical, or sexual abuse of ~~((the))~~ a victim or multiple victims manifested by multiple incidents over a prolonged period of time;

(ii) The offense occurred within sight or sound of the victim's or the offender's minor children under the age of eighteen years; or

(iii) The offender's conduct during the commission of the current offense manifested deliberate cruelty or intimidation of the victim.

(i) The offense resulted in the pregnancy of a child victim of rape.

(j) The defendant knew that the victim of the current offense was a youth who was not residing with a legal custodian and the defendant established or promoted the relationship for the primary purpose of victimization.

(k) The offense was committed with the intent to obstruct or impair human or animal health care or agricultural or forestry research or commercial production.

(l) The current offense is trafficking in the first degree or trafficking in the second degree and any victim was a minor at the time of the offense.

(m) The offense involved a high degree of sophistication or planning.

(n) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(o) The defendant committed a current sex offense, has a history of sex offenses, and is not amenable to treatment.

(p) The offense involved an invasion of the victim's privacy.

(q) The defendant demonstrated or displayed an egregious lack of remorse.

(r) The offense involved a destructive and foreseeable impact on persons other than the victim.

(s) The defendant committed the offense to obtain or maintain his or her membership or to advance his or her position in the hierarchy of an organization, association, or identifiable group.

(t) The offender committed the current offense shortly after being released from incarceration.

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(u) The current offense is a burglary and the victim of the burglary was present in the building or residence when the crime was committed.

(v) The offense was committed against a law enforcement officer who was performing his or her official duties at the time of the offense, the offender knew that the victim was a law enforcement officer, and the victim's status as a law enforcement officer is not an element of the offense.

(w) The defendant committed the offense against a victim who was acting as a good samaritan.

(x) The defendant committed the offense against a public official or officer of the court in retaliation of the public official's performance of his or her duty to the criminal justice system.

(y) The victim's injuries substantially exceed the level of bodily harm necessary to satisfy the elements of the offense. This aggravator is not an exception to RCW 9.94A.530(2).

(z)(i)(A) The current offense is theft in the first degree, theft in the second degree, possession of stolen property in the first degree, or possession of stolen property in the second degree; (B) the stolen property involved is metal property; and (C) the property damage to the victim caused in the course of the theft of metal property is more than three times the value of the stolen metal property, or the theft of the metal property creates a public hazard.

(ii) For purposes of this subsection, "metal property" means commercial metal property, private metal property, or nonferrous metal property, as defined in RCW 19.290.010.

(aa) The defendant committed the offense with the intent to directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage to or for a criminal street gang as defined in RCW 9.94A.030, its reputation, influence, or membership.

**Sec. 403.** RCW 9.94A.525 and 2008 c 231 s 3 are each amended to read as follows:

The offender score is measured on the horizontal axis of the sentencing grid. The offender score rules are as follows:

The offender score is the sum of points accrued under this section rounded down to the nearest whole number.

(1) A prior conviction is a conviction which exists before the date of sentencing for the offense for which the offender score is being computed. Convictions entered or sentenced on the same date as the conviction for which the offender score is being computed shall be deemed "other current offenses" within the meaning of RCW 9.94A.589.

(2)(a) Class A and sex prior felony convictions shall always be included in the offender score.

(b) Class B prior felony convictions other than sex offenses shall not be included in the offender score, if since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent ten consecutive years in the community without committing any crime that subsequently results in a conviction.

(c) Except as provided in (e) of this subsection, class C prior felony convictions other than sex offenses shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent five consecutive years in the community without committing any crime that subsequently results in a conviction.

(d) Except as provided in (e) of this subsection, serious traffic convictions shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender spent five years in the community without committing any crime that subsequently results in a conviction.

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(e) If the present conviction is felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)), prior convictions of felony driving while under the influence of intoxicating liquor or any drug, felony physical control of a vehicle while under the influence of intoxicating liquor or any drug, and serious traffic offenses shall be included in the offender score if: (i) The prior convictions were committed within five years since the last date of release from confinement (including full-time residential treatment) or entry of judgment and sentence; or (ii) the prior convictions would be considered "prior offenses within ten years" as defined in RCW 46.61.5055.

(f) This subsection applies to both adult and juvenile prior convictions.

(3) Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. Federal convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. If there is no clearly comparable offense under Washington law or the offense is one that is usually considered subject to exclusive federal jurisdiction, the offense shall be scored as a class C felony equivalent if it was a felony under the relevant federal statute.

(4) Score prior convictions for felony anticipatory offenses (attempts, criminal solicitations, and criminal conspiracies) the same as if they were convictions for completed offenses.

(5)(a) In the case of multiple prior convictions, for the purpose of computing the offender score, count all convictions separately, except:

(i) Prior offenses which were found, under RCW 9.94A.589(1)(a), to encompass the same criminal conduct, shall be counted as one offense, the offense that yields the highest offender score. The current sentencing court shall determine with respect to other prior adult offenses for which sentences were served concurrently or prior juvenile offenses for which sentences were served consecutively, whether those offenses shall be counted as one offense or as separate offenses using the "same criminal conduct" analysis found in RCW 9.94A.589(1)(a), and if the court finds that they shall be counted as one offense, then the offense that yields the highest offender score shall be used. The current sentencing court may presume that such other prior offenses were not the same criminal conduct from sentences imposed on separate dates, or in separate counties or jurisdictions, or in separate complaints, indictments, or informations;

(ii) In the case of multiple prior convictions for offenses committed before July 1, 1986, for the purpose of computing the offender score, count all adult convictions served concurrently as one offense, and count all juvenile convictions entered on the same date as one offense. Use the conviction for the offense that yields the highest offender score.

(b) As used in this subsection (5), "served concurrently" means that: (i) The latter sentence was imposed with specific reference to the former; (ii) the concurrent relationship of the sentences was judicially imposed; and (iii) the concurrent timing of the sentences was not the result of a probation or parole revocation on the former offense.

(6) If the present conviction is one of the anticipatory offenses of criminal attempt, solicitation, or conspiracy, count each prior conviction as if the present conviction were for a completed offense. When these convictions are used as criminal history, score them the same as a completed crime.

(7) If the present conviction is for a nonviolent offense and not covered by subsection (11), (12), or (13) of this section, count one point for each adult prior felony conviction and one point for each

juvenile prior violent felony conviction and 1/2 point for each juvenile prior nonviolent felony conviction.

(8) If the present conviction is for a violent offense and not covered in subsection (9), (10), (11), (12), or (13) of this section, count two points for each prior adult and juvenile violent felony conviction, one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(9) If the present conviction is for a serious violent offense, count three points for prior adult and juvenile convictions for crimes in this category, two points for each prior adult and juvenile violent conviction (not already counted), one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(10) If the present conviction is for Burglary 1, count prior convictions as in subsection (8) of this section; however count two points for each prior adult Burglary 2 or residential burglary conviction, and one point for each prior juvenile Burglary 2 or residential burglary conviction.

(11) If the present conviction is for a felony traffic offense count two points for each adult or juvenile prior conviction for Vehicular Homicide or Vehicular Assault; for each felony offense count one point for each adult and 1/2 point for each juvenile prior conviction; for each serious traffic offense, other than those used for an enhancement pursuant to RCW 46.61.520(2), count one point for each adult and 1/2 point for each juvenile prior conviction; count one point for each adult and 1/2 point for each juvenile prior conviction for operation of a vessel while under the influence of intoxicating liquor or any drug.

(12) If the present conviction is for homicide by watercraft or assault by watercraft count two points for each adult or juvenile prior conviction for homicide by watercraft or assault by watercraft; for each felony offense count one point for each adult and 1/2 point for each juvenile prior conviction; count one point for each adult and 1/2 point for each juvenile prior conviction for driving under the influence of intoxicating liquor or any drug, actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, or operation of a vessel while under the influence of intoxicating liquor or any drug.

(13) If the present conviction is for manufacture of methamphetamine count three points for each adult prior manufacture of methamphetamine conviction and two points for each juvenile manufacture of methamphetamine offense. If the present conviction is for a drug offense and the offender has a criminal history that includes a sex offense or serious violent offense, count three points for each adult prior felony drug offense conviction and two points for each juvenile drug offense. All other adult and juvenile felonies are scored as in subsection (8) of this section if the current drug offense is violent, or as in subsection (7) of this section if the current drug offense is nonviolent.

(14) If the present conviction is for Escape from Community Custody, RCW 72.09.310, count only prior escape convictions in the offender score. Count adult prior escape convictions as one point and juvenile prior escape convictions as 1/2 point.

(15) If the present conviction is for Escape 1, RCW 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as one point and juvenile prior convictions as 1/2 point.

(16) If the present conviction is for Burglary 2 or residential burglary, count priors as in subsection (7) of this section; however, count two points for each adult and juvenile prior Burglary 1 conviction, two points for each adult prior Burglary 2 or residential burglary conviction, and one point for each juvenile prior Burglary 2 or residential burglary conviction.

(17) If the present conviction is for a sex offense, count priors as in subsections (7) through (11) and (13) through (16) of this section;

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however count three points for each adult and juvenile prior sex offense conviction.

(18) If the present conviction is for failure to register as a sex offender under RCW 9A.44.130(11), count priors as in subsections (7) through (11) and (13) through (16) of this section; however count three points for each adult and juvenile prior sex offense conviction, excluding prior convictions for failure to register as a sex offender under RCW 9A.44.130(11), which shall count as one point.

(19) If the present conviction is for an offense committed while the offender was under community custody, add one point. For purposes of this subsection, community custody includes community placement or postrelease supervision, as defined in chapter 9.94B RCW.

(20) If the present conviction is for Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a Motor Vehicle Without Permission 2, count priors as in subsections (7) through (18) of this section; however count one point for prior convictions of Vehicle Prowling 2, and three points for each adult and juvenile prior Theft 1 (of a motor vehicle), Theft 2 (of a motor vehicle), Possession of Stolen Property 1 (of a motor vehicle), Possession of Stolen Property 2 (of a motor vehicle), Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a Motor Vehicle Without Permission 2 conviction.

(21) If the present conviction is for a felony domestic violence offense where domestic violence as defined in RCW 9.94A.030 was plead and proven, count priors as in subsections (7) through (20) of this section; however, count points as follows:

(a) Count two points for each adult prior conviction where domestic violence as defined in RCW 9.94A.030 was plead and proven after August 1, 2011, for the following offenses: A violation of a no contact order that is a felony offense, a violation of a protection order that is a felony offense, a felony domestic violence harassment offense, a felony domestic violence stalking offense, a domestic violence Burglary 1 offense, a domestic violence Kidnapping 1 offense, a domestic violence Kidnapping 2 offense, a domestic violence unlawful imprisonment offense, a domestic violence Robbery 1 offense, a domestic violence Robbery 2 offense, a domestic violence Assault 1 offense, a domestic violence Assault 2 offense, a domestic violence Assault 3 offense, a domestic violence Arson 1 offense, or a domestic violence Arson 2 offense; and

(b) Count one point for each second and subsequent juvenile conviction where domestic violence as defined in RCW 9.94A.030 was plead and proven after August 1, 2011, for the offenses listed in (a) of this subsection.

(c) Count one point for each adult prior conviction for a repetitive domestic violence offense as defined in RCW 9.94A.030, where domestic violence as defined in RCW 9.94A.030, was plead and proven after August 1, 2011.

(22) The fact that a prior conviction was not included in an offender's offender score or criminal history at a previous sentencing shall have no bearing on whether it is included in the criminal history or offender score for the current offense. Prior convictions that were not counted in the offender score or included in criminal history under repealed or previous versions of the sentencing reform act shall be included in criminal history and shall count in the offender score if the current version of the sentencing reform act requires including or counting those convictions. Prior convictions that were not included in criminal history or in the offender score shall be included upon any resentencing to ensure imposition of an accurate sentence.

NEW SECTION. **Sec. 404.** A new section is added to chapter 10.99 RCW to read as follows:

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(1) In sentencing for a crime of domestic violence as defined in this chapter, courts of limited jurisdiction shall consider, among other factors, whether:

(a) The defendant suffered a continuing pattern of coercion, control, or abuse by the victim of the offense and the offense is a response to that coercion, control, or abuse;

(b) The offense was part of an ongoing pattern of psychological, physical, or sexual abuse of a victim or multiple victims manifested by multiple incidents over a prolonged period of time; and

(c) The offense occurred within sight or sound of the victim's or the offender's minor children under the age of eighteen years.

(2)(a) In sentencing for a crime of domestic violence as defined in this chapter, the prosecutor shall provide for the court's review:

(i) The defendant's criminal history, if any, that occurred in Washington or any other state;

(ii) If available, the defendant's prior criminal history that occurred in any tribal jurisdiction; and

(iii) The defendant's individual order history.

(b) For the purposes of (a) of this subsection, criminal history includes all previous convictions and orders of deferred prosecution, as reported through the judicial information system or otherwise available to the court or prosecutor, current to within the period specified in (c) of this subsection before the date of sentencing.

(c) The periods applicable to previous convictions and orders of deferred prosecution are:

(i) One working day, in the case of previous actions of courts that fully participate in the state judicial information system; and

(ii) Seven calendar days, in the case of previous actions of courts that do not fully participate in the judicial information system. For the purposes of this subsection, "fully participate" means regularly providing records to and receiving records from the system by electronic means on a daily basis.

**Sec. 405.** RCW 3.66.068 and 2001 c 94 s 2 are each amended to read as follows:

For a period not to exceed five years after imposition of sentence for a defendant sentenced for a domestic violence offense or under RCW 46.61.5055 and two years after imposition of sentence for all other offenses, the court has continuing jurisdiction and authority to suspend or defer the execution of all or any part of its sentence upon stated terms, including installment payment of fines. A defendant who has been sentenced, or whose sentence has been deferred, and who then fails to appear for any hearing to address the defendant's compliance with the terms of probation when ordered to do so by the court, shall have the term of probation tolled until such time as the defendant makes his or her presence known to the court on the record. However, the jurisdiction period in this section does not apply to the enforcement of orders issued under RCW 46.20.720. For the purposes of this section, "domestic violence offense" means a crime listed in RCW 10.99.020 that is not a felony offense.

**Sec. 406.** RCW 3.50.330 and 2001 c 94 s 5 are each amended to read as follows:

For a period not to exceed five years after imposition of sentence for a defendant sentenced for a domestic violence offense or under RCW 46.61.5055 and two years after imposition of sentence for all other offenses, the court shall have continuing jurisdiction and authority to suspend or defer the execution of all or any part of the sentence upon stated terms, including installment payment of fines. A defendant who has been sentenced, or whose sentence has been deferred, and who then fails to appear for any hearing to address the defendant's compliance with the terms of probation when ordered to do so by the court, shall have the term of probation tolled until such time as the defendant makes his or her presence known to the court on the record. However, the jurisdiction period in this section does not apply to the enforcement

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of orders issued under RCW 46.20.720. Any time before entering an order terminating probation, the court may modify or revoke its order suspending or deferring the imposition or execution of the sentence. For the purposes of this section, "domestic violence offense" means a crime listed in RCW 10.99.020 that is not a felony offense.

**Sec. 407.** RCW 35.20.255 and 2005 c 400 s 5 are each amended to read as follows:

(1) Judges of the municipal court, in their discretion, shall have the power in all criminal proceedings within their jurisdiction including violations of city ordinances, to defer imposition of any sentence, suspend all or part of any sentence including installment payment of fines, fix the terms of any such deferral or suspension, and provide for such probation as in their opinion is reasonable and necessary under the circumstances of the case, but in no case shall it extend for more than five years from the date of conviction for a defendant to be sentenced for a domestic violence offense or under RCW 46.61.5055 and two years from the date of conviction for all other offenses. A defendant who has been sentenced, or whose sentence has been deferred, and who then fails to appear for any hearing to address the defendant's compliance with the terms of probation when ordered to do so by the court, shall have the term of probation tolled until such time as the defendant makes his or her presence known to the court on the record. However, the jurisdiction period in this section does not apply to the enforcement of orders issued under RCW 46.20.720. Any time before entering an order terminating probation, the court may modify or revoke its order suspending or deferring the imposition or execution of the sentence. For the purposes of this subsection, "domestic violence offense" means a crime listed in RCW 10.99.020 that is not a felony offense.

(2)(a) If a defendant whose sentence has been deferred requests permission to travel or transfer to another state, the director of probation services or a designee thereof shall determine whether such request is subject to RCW 9.94A.745, the interstate compact for adult offender supervision. If such request is subject to the compact, the director or designee shall:

(i) Notify the department of corrections of the defendant's request;

(ii) Provide the department of corrections with the supporting documentation it requests for processing an application for transfer;

(iii) Notify the defendant of the fee due to the department of corrections for processing an application under the compact;

(iv) Cease supervision of the defendant while another state supervises the defendant pursuant to the compact;

(v) Resume supervision if the defendant returns to this state before the period of deferral expires.

(b) The defendant shall receive credit for time served while being supervised by another state.

(c) If the probationer is returned to the state at the request of the receiving state under rules of the interstate compact for adult offender supervision, the department of corrections is responsible for the cost of returning the probationer.

(d) The state of Washington, the department of corrections and its employees, and any city and its employees are not liable for civil damages resulting from any act or omission authorized or required under this section unless the act or omission constitutes gross negligence.

#### PART FIVE

#### TREATMENT/SERVICES FOR PERPETRATORS AND VICTIMS

**Sec. 501.** RCW 26.50.150 and 1999 c 147 s 1 are each amended to read as follows:

Any program that provides domestic violence treatment to perpetrators of domestic violence must be certified by the department of social and health services and meet minimum standards for domestic violence treatment purposes. The department of social and health services shall adopt rules for standards of approval of domestic violence perpetrator programs ~~((that accept perpetrators of domestic violence into treatment to satisfy court orders or that represent the programs as ones that treat domestic violence perpetrators))~~. The treatment must meet the following minimum qualifications:

(1) All treatment must be based upon a full, complete clinical intake including but not limited to: Current and past violence history; a lethality risk assessment; history of treatment from past domestic violence perpetrator treatment programs; a complete diagnostic evaluation; a substance abuse assessment; criminal history; assessment of cultural issues, learning disabilities, literacy, and special language needs; and a treatment plan that adequately and appropriately addresses the treatment needs of the individual.

(2) To facilitate communication necessary for periodic safety checks and case monitoring, the program must require the perpetrator to sign the following releases:

(a) A release for the program to inform the victim and victim's community and legal advocates that the perpetrator is in treatment with the program, and to provide information, for safety purposes, to the victim and victim's community and legal advocates;

(b) A release to prior and current treatment agencies to provide information on the perpetrator to the program; and

(c) A release for the program to provide information on the perpetrator to relevant legal entities including: Lawyers, courts, parole, probation, child protective services, and child welfare services.

(3) Treatment must be for a minimum treatment period defined by the secretary of the department by rule. The weekly treatment sessions must be in a group unless there is a documented, clinical reason for another modality. Any other therapies, such as individual, marital, or family therapy, substance abuse evaluations or therapy, medication reviews, or psychiatric interviews, may be concomitant with the weekly group treatment sessions described in this section but not a substitute for it.

(4) The treatment must focus primarily on ending the violence, holding the perpetrator accountable for his or her violence, and changing his or her behavior. The treatment must be based on nonvictim-blaming strategies and philosophies and shall include education about the individual, family, and cultural dynamics of domestic violence. If the perpetrator or the victim has a minor child, treatment must specifically include education regarding the effects of domestic violence on children, such as the emotional impacts of domestic violence on children and the long-term consequences that exposure to incidents of domestic violence may have on children.

(5) Satisfactory completion of treatment must be contingent upon the perpetrator meeting specific criteria, defined by rule by the secretary of the department, and not just upon the end of a certain period of time or a certain number of sessions.

(6) The program must have policies and procedures for dealing with reoffenses and noncompliance.

(7) All evaluation and treatment services must be provided by, or under the supervision of, qualified personnel.

(8) The secretary of the department may adopt rules and establish fees as necessary to implement this section.

(9) The department may conduct on-site monitoring visits as part of its plan for certifying domestic violence perpetrator programs and monitoring implementation of the rules adopted by the secretary of the department to determine compliance with the minimum qualifications for domestic violence perpetrator programs. The

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applicant or certified domestic violence perpetrator program shall cooperate fully with the department in the monitoring visit and provide all program and management records requested by the department to determine the program's compliance with the minimum certification qualifications and rules adopted by the department.

### PART SIX MISCELLANEOUS PROVISIONS

NEW SECTION. **Sec. 601.** A new section is added to chapter 2.56 RCW to read as follows:

(1)(a) The administrative office of the courts shall, within existing resources, convene a work group to address the issue of transmitting information regarding revocation of concealed pistol licenses, upon the entry of orders issued under chapter 10.99, 26.50, or 26.52 RCW.

(b) The work group must include a superior court judge, a district court judge, a municipal court judge, an attorney whose practice includes a significant amount of time representing defendants in criminal trials, and representatives from the following entities: The Washington state patrol, the Washington association of sheriffs and police chiefs, the prosecuting attorneys association, the department of licensing, and the county clerks. Other members may be added as deemed appropriate by the work group.

(2) The work group shall review the methods currently used to transfer information between the courts, the county clerks, the prosecutors, the department of licensing, the Washington state patrol, and local law enforcement agencies regarding the suspension and revocation of concealed pistol licenses.

(3) The goal of the work group is to identify methods to expedite the transfer of information to enhance the safety of law enforcement and the public.

(4) The work group shall report its recommendations to the affected entities and the legislature not later than December 1, 2010. All agency representatives shall cooperate fully with the work group's efforts."

Senator Kline spoke in favor of adoption of the committee striking amendment.

### MOTION

Senator Zarelli moved that the following amendment by Senator Zarelli to the committee striking amendment be adopted:

On page 50, after line 4, insert the following:

"**Sec. 602.** RCW 68.50.160 and 2007 c 156 s 24 are each amended to read as follows:

(1) A person has the right to control the disposition of his or her own remains without the predeath or postdeath consent of another person. A valid written document expressing the decedent's wishes regarding the place or method of disposition of his or her remains, signed by the decedent in the presence of a witness, is sufficient legal authorization for the procedures to be accomplished.

(2) Prearrangements that are prepaid, or filed with a licensed funeral establishment or cemetery authority, under RCW 18.39.280 through 18.39.345 and chapter 68.46 RCW are not subject to cancellation or substantial revision by survivors. Absent actual knowledge of contrary legal authorization under this section, a licensed funeral establishment or cemetery authority shall not be held criminally nor civilly liable for acting upon such prearrangements.

(3) If the decedent has not made a prearrangement as set forth in subsection (2) of this section or the costs of executing the decedent's wishes regarding the disposition of the decedent's remains exceeds a reasonable amount or directions have not been given by the

decedent, the right to control the disposition of the remains of a deceased person vests in, and the duty of disposition and the liability for the reasonable cost of preparation, care, and disposition of such remains devolves upon the following in the order named:

(a) The surviving spouse or state registered domestic partner.

(b) The surviving adult children of the decedent.

(c) The surviving parents of the decedent.

(d) The surviving siblings of the decedent.

(e) A person acting as a representative of the decedent under the signed authorization of the decedent.

(4) If any person to whom the right of control has vested pursuant to subsection (3) of this section has been arrested or charged with first or second degree murder or first degree manslaughter in connection with the decedent's death, the right of control is relinquished and passed on in accordance with subsection (3) of this section.

(5) If a cemetery authority as defined in RCW 68.04.190 or a funeral establishment licensed under chapter 18.39 RCW has made a good faith effort to locate the person cited in subsection (3)(a) through (e) of this section or the legal representative of the decedent's estate, the cemetery authority or funeral establishment shall have the right to rely on an authority to bury or cremate the human remains, executed by the most responsible party available, and the cemetery authority or funeral establishment may not be held criminally or civilly liable for burying or cremating the human remains. In the event any government agency provides the funds for the disposition of any human remains and the government agency elects to provide funds for cremation only, the cemetery authority or funeral establishment may not be held criminally or civilly liable for cremating the human remains.

~~((5))~~ (6) The liability for the reasonable cost of preparation, care, and disposition devolves jointly and severally upon all kin of the decedent in the same degree of kindred, in the order listed in subsection (3) of this section, and upon the estate of the decedent."

Senators Zarelli and Kline spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Zarelli on page 50, after line 4 to the committee striking amendment to Engrossed Substitute House Bill No. 2777.

The motion by Senator Zarelli carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary as amended to Engrossed Substitute House Bill No. 2777.

The motion by Senator Kline carried and the committee striking amendment as amended was adopted by voice vote.

### MOTION

There being no objection, the following title amendments were adopted:

On page 1, line 1 of the title, after "provisions;" strike the remainder of the title and insert "amending RCW 10.31.100, 10.99.045, 26.50.020, 26.50.060, 26.50.070, 10.99.040, 9.94A.030, 9.94A.525, 3.66.068, 3.50.330, 35.20.255, and 26.50.150; reenacting and amending RCW 9.94A.535; adding a new section to chapter 36.28A RCW; adding new sections to chapter 26.50 RCW; adding a new section to chapter 7.90 RCW; adding a new section to chapter 10.14 RCW; adding new sections to chapter 2.56 RCW; adding a new section to chapter 10.99 RCW; and creating a new section."

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On page 50, line 8 of the title amendment, after "35.20.255," strike "and 26.50.150" and insert "26.50.150, and 68.50.160"

#### MOTION

On motion of Senator Kline, the rules were suspended, Engrossed Substitute House Bill No. 2777 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2777 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2777 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Carrell and McCaslin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2777 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2271, by Representatives Lias, Rodne, Sells, Clibborn, Johnson, Takko, Van De Wege, Springer, Williams, Finn, Nelson, Seaquist and Simpson

Authorizing state forces to perform work on ferry vessels or terminals when estimated costs are less than one hundred twenty thousand dollars.

The measure was read the second time.

#### MOTION

Senator Haugen moved that the following committee striking amendment by the Committee on Transportation be not adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** It is the intent of the legislature that final recommendations from the joint transportation committee ferry study, submitted to the legislature during the 2009 regular legislative session, be enacted by the legislature and implemented by the department of transportation as soon as practicable in order to benefit from the efficiencies and cost savings identified in the recommendations. It is also the intent of the legislature to make various additional policy changes aimed at further efficiencies and cost savings. Since the study began in 2006, recommendations have been made with regard to long range planning and implementing the most efficient and effective balance between ferry capital and operating

investments. It is intended that this act, the 2009-2011 omnibus transportation appropriations act, and subsequent transportation appropriations acts serve as vehicles for enacting these recommendations in order to maximize the utilization of existing capacity and to make the most efficient use of existing assets and tax dollars.

**Sec. 2.** RCW 47.60.355 and 2007 c 512 s 11 are each amended to read as follows:

(1) Terminal and vessel preservation funding requests shall only be for assets in the life-cycle cost model.

(2) Terminal and vessel preservation funding requests that exceed five million dollars per project must be accompanied by a predesign study. The predesign study must include all elements required by the office of financial management.

**Sec. 3.** RCW 47.60.365 and 2007 c 512 s 12 are each amended to read as follows:

The department shall develop terminal and vessel design standards that:

(1) Adhere to vehicle level of service standards as described in RCW 47.06.140;

(2) Adhere to operational strategies as described in RCW 47.60.327; and

(3) Choose the most efficient balance between capital and operating investments by using a life-cycle cost analysis.

**Sec. 4.** RCW 47.60.375 and 2008 c 124 s 3 are each amended to read as follows:

(1) The capital plan must adhere to the following:

(a) A current ridership demand forecast;

(b) Vehicle level of service standards as described in RCW 47.06.140;

(c) Operational strategies as described in RCW 47.60.327; and

(d) Terminal and vessel design standards as described in RCW 47.60.365.

(2) The capital plan must include the following:

(a) A current vessel preservation plan;

(b) A current systemwide vessel rebuild and replacement plan as described in RCW 47.60.377;

(c) A current vessel deployment plan; and

(d) A current terminal preservation plan that adheres to the life-cycle cost model on capital assets as described in RCW 47.60.345.

**Sec. 5.** RCW 47.60.385 and 2008 c 124 s 6 are each amended to read as follows:

(1) Terminal improvement, vessel improvement, and vessel acquisition project funding requests must adhere to the capital plan(

~~—(2) Requests for terminal improvement design and construction funding must))~~, include route-based planning, and be submitted with a predesign study that:

(a) Includes all elements required by the office of financial management;

(b) Separately identifies basic terminal and vessel elements essential for operation and their costs;

(c) Separately identifies additional elements to provide ancillary revenue and customer comfort and their costs;

(d) Includes construction phasing options that are consistent with forecasted ridership increases;

(e) Separately identifies additional elements requested by local governments and the cost and proposed funding source of those elements;

(f) Separately identifies multimodal elements and the cost and proposed funding source of those elements; ((and))

(g) Identifies all contingency amounts((.

(h)[(3)] When planning for new vessel acquisitions, the department must evaluate the long-term vessel operating costs

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related to fuel efficiency and staffing));

(h) Identifies any terminal, vessel, or other capital modifications that would be required as a result of the proposed capital project;

(i) Includes planned service modifications as a result of the proposed capital project, and the consistency of those service modifications with the capital plan; and

(j) Demonstrates the evaluation of long-term operating costs including fuel efficiency, staffing, and preservation.

(2) The department shall prioritize vessel preservation and acquisition funding requests over vessel improvement funding requests.

NEW SECTION. **Sec. 6.** A new section is added to chapter 47.60 RCW to read as follows:

(1) In addition to the requirements of RCW 47.60.385(1), initial requests for, and substantial modification requests to, vessel acquisition funding must be submitted with a predesign study that:

(a) Includes a business decision case on vessel sizing;

(b) Includes an updated vessel deployment plan demonstrating maximum use of existing vessels, and an updated systemwide vessel rebuild and replacement plan;

(c) Includes an analysis that demonstrates that acquiring a new vessel or improving an existing vessel is more cost-effective than other alternatives considered. At a minimum, alternatives explored must include:

(i) Alternatives to new vessel construction that increase capacity of existing vessels;

(ii) Service level changes in lieu of adding vessel capacity; and

(iii) Acquiring existing vessels or existing vessel plans rather than wholly new vessels or vessel plans; and

(d) Demonstrates that the vessel proposed for improvement, construction, or purchase, if intended to replace an existing vessel or to place an existing vessel into inactive or reserve status, is consistent with the scheduled replacements in the rebuild and replacement plan.

(2) In addition to the requirements of RCW 47.60.385(1), initial requests for, and substantial modification requests to, vessel improvement funding must be submitted with a predesign study that includes:

(a) An explanation of any regulatory changes necessitating the improvement;

(b) The requirements under subsection (1) of this section, if the improvement modifies the capacity of a vessel;

(c) A cost-benefit analysis of any modifications designed to improve fuel efficiency, including potential impacts on vessel maintenance and repair; and

(d) An assessment of out-of-service time associated with making the improvement and ongoing preservation of the improvement.

NEW SECTION. **Sec. 7.** A new section is added to chapter 47.60 RCW to read as follows:

(1) The legislature finds measuring the performance of Washington state ferries requires the measurement of quality, timeliness, and unit cost of services delivered to customers. Consequently, the department must develop a set of metrics that measure that performance and report to the transportation committees of the house of representatives and senate and to the office of financial management on the development of these measurements along with recommendations to the 2011 legislature on which measurements must become a part of the next transportation budget.

(2) Annually, the department shall report to the transportation committees of the legislature statistics regarding its on-time arrival and departure status on a route-by-route and month-by-month basis, as well as an annual route-by-route and systemwide basis, weighted by the number of customers on each sailing and distinguishing peak

period on-time performance. The statistics must include reasons for any delays over ten minutes from the scheduled time. The statistics must be prominently displayed on the Washington state ferries' web site. Each Washington state ferries vessel and terminal must prominently display the statistics as they relate to their specific route.

NEW SECTION. **Sec. 8.** (1) Signage must be prominently displayed at each terminal and on each vessel that informs the public that assaults on Washington state employees will be prosecuted to the full extent of the law.

(2) The department shall investigate the frequency, severity, and prosecutorial results of assaults on Washington state ferries employees and, if appropriate, make recommendations to the transportation committees of the senate and house of representatives during the 2011 legislative session regarding methods to decrease the number of assaults on employees and procedures for prosecuting those who assault employees.

(3) This section expires June 30, 2011.

**Sec. 9.** RCW 47.28.030 and 2007 c 218 s 90 are each amended to read as follows:

(1)(a) A state highway shall be constructed, altered, repaired, or improved, and improvements located on property acquired for right-of-way purposes may be repaired or renovated pending the use of such right-of-way for highway purposes, by contract or state forces. The work or portions thereof may be done by state forces when the estimated costs thereof are less than fifty thousand dollars and effective July 1, 2005, sixty thousand dollars(~~(= PROVIDED, That)~~).

(b) When delay of performance of such work would jeopardize a state highway or constitute a danger to the traveling public, the work may be done by state forces when the estimated cost thereof is less than eighty thousand dollars and effective July 1, 2005, one hundred thousand dollars.

(c) When the department of transportation determines to do the work by state forces, it shall enter a statement upon its records to that effect, stating the reasons therefor.

(d) To enable a larger number of small businesses, and minority, and women contractors to effectively compete for department of transportation contracts, the department may adopt rules providing for bids and award of contracts for the performance of work, or furnishing equipment, materials, supplies, or operating services whenever any work is to be performed and the engineer's estimate indicates the cost of the work would not exceed eighty thousand dollars and effective July 1, 2005, one hundred thousand dollars.

(2) The rules adopted under this section:

~~((4))~~ (a) Shall provide for competitive bids to the extent that competitive sources are available except when delay of performance would jeopardize life or property or inconvenience the traveling public; and

~~((2))~~ (b) Need not require the furnishing of a bid deposit nor a performance bond, but if a performance bond is not required then progress payments to the contractor may be required to be made based on submittal of paid invoices to substantiate proof that disbursements have been made to laborers, material suppliers, mechanics, and subcontractors from the previous partial payment; and

~~((3))~~ (c) May establish prequalification standards and procedures as an alternative to those set forth in RCW 47.28.070, but the prequalification standards and procedures under RCW 47.28.070 shall always be sufficient.

(3) The department of transportation shall comply with such goals and rules as may be adopted by the office of minority and women's business enterprises to implement chapter 39.19 RCW with respect to contracts entered into under this chapter. The department may adopt such rules as may be necessary to comply with the rules

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adopted by the office of minority and women's business enterprises under chapter 39.19 RCW.

(4)(a) For the period of July 1, 2010, through June 30, 2011, work for less than seventy-five thousand dollars may be performed on ferry vessels and terminals by state forces.

(b) The department shall hire a disinterested, third party to conduct an independent analysis to identify methods of reducing out-of-service times for vessel maintenance, preservation, and improvement projects. The analysis must include options to extend the hours and days of operation at Eagle Harbor maintenance facility, consolidating work while vessels are at shipyards by having state forces perform services traditionally performed at Eagle Harbor at the shipyard, and decreasing the allowable time at shipyards. The analysis must also compare the out-of-service vessel times of performing services by state forces versus contracting out those services which in turn must be used to form a recommendation as to what the threshold of work performed on ferry vessels and terminals by state forces should be. This analysis must be presented to the transportation committees of the senate and house of representatives by December 1, 2010.

(c) The department shall develop a proposed ferry vessel maintenance, preservation, and improvement program and present it to the transportation committees of the senate and house of representatives by December 1, 2010. The proposed program must:

(i) Improve the basis for budgeting vessel maintenance, preservation, and improvement costs and for projecting those costs into a sixteen-year financial plan;

(ii) Limit the amount of planned out-of-service time to the greatest extent possible, including options associated with department staff as well as commercial shipyards; and

(iii) Be based on the service plan in the capital plan, recognizing that vessel preservation and improvement needs may vary by route.

(d) In developing the proposed ferry vessel maintenance, preservation, and improvement program, the department shall consider the following, related to reducing vessel out-of-service time:

(i) The costs compared to benefits of Eagle Harbor repair and maintenance facility operations options to include staffing costs and benefits in terms of reduced out-of-service time;

(ii) The maintenance requirements for on-vessel staff, including the benefits of a systemwide standard;

(iii) The costs compared to benefits of staff performing preservation or maintenance work, or both, while the vessel is underway, tied up between sailings, or not deployed;

(iv) A review of the department's vessel maintenance, preservation, and improvement program contracting process and contractual requirements;

(v) The costs compared to benefits of allowing for increased costs associated with expedited delivery;

(vi) A method for comparing the anticipated out-of-service time of proposed projects and other projects planned during the same construction period;

(vii) Coordination with required United States coast guard dry dockings;

(viii) A method for comparing how proposed projects relate to the service requirements of the route on which the vessel normally operates; and

(ix) A method for evaluating the ongoing maintenance and preservation costs associated with proposed improvement projects.

**Sec. 10.** RCW 47.64.006 and 1989 c 327 s 1 are each amended to read as follows:

The legislature declares that it is the public policy of the state of Washington to: (1) Provide continuous operation of the Washington state ferry system at reasonable cost to users; (2)

efficiently provide levels of ferry service consistent with trends and forecasts of ferry usage; (3) promote harmonious and cooperative relationships between the ferry system and its employees by permitting ferry employees to organize and bargain collectively; (4) protect the citizens of this state by assuring effective and orderly operation of the ferry system in providing for their health, safety, and welfare; (5) prohibit and prevent all strikes or work stoppages by ferry employees; (6) protect the rights of ferry employees with respect to employee organizations; and (7) promote just and fair compensation, benefits, and working conditions for ferry system employees (~~(as compared with public and private sector employees in states along the west coast of the United States, including Alaska, and in British Columbia in directly comparable but not necessarily identical positions)~~).

**Sec. 11.** RCW 47.64.120 and 2006 c 164 s 3 are each amended to read as follows:

(1) The employer and ferry system employee organizations, through their collective bargaining representatives, shall meet at reasonable times, to negotiate in good faith with respect to wages, hours, working conditions, insurance, and health care benefits as limited by RCW 47.64.270, and other matters mutually agreed upon. Employer funded retirement benefits shall be provided under the public employees retirement system under chapter 41.40 RCW and shall not be included in the scope of collective bargaining. Any retirement system or retirement benefits shall not be subject to collective bargaining.

(2) Upon ratification of bargaining agreements, ferry employees are entitled to an amount equivalent to the interest earned on retroactive compensation increases. For purposes of this section, the interest earned on retroactive compensation increases is the same monthly rate of interest that was earned on the amount of the compensation increases while held in the state treasury. The interest will be computed for each employee until the date the retroactive compensation is paid, and must be allocated in accordance with appropriation authority. The interest earned on retroactive compensation is not considered part of the ongoing compensation obligation of the state and is not compensation earnable for the purposes of chapter 41.40 RCW. Negotiations shall also include grievance procedures for resolving any questions arising under the agreement, which shall be embodied in a written agreement and signed by the parties.

(3) Except as otherwise provided in this chapter, if a conflict exists between an executive order, administrative rule, or agency policy relating to wages, hours, and terms and conditions of employment and a collective bargaining agreement negotiated under this chapter, the collective bargaining agreement shall prevail. A provision of a collective bargaining agreement that conflicts with the terms of a statute is invalid and unenforceable.

**Sec. 12.** RCW 47.64.170 and 2007 c 160 s 1 are each amended to read as follows:

(1) Any ferry employee organization certified as the bargaining representative shall be the exclusive representative of all ferry employees in the bargaining unit and shall represent all such employees fairly.

(2) A ferry employee organization or organizations and the governor may each designate any individual as its representative to engage in collective bargaining negotiations.

(3) Negotiating sessions, including strategy meetings of the employer or employee organizations, mediation, and the deliberative process of arbitrators are exempt from the provisions of chapter 42.30 RCW. Hearings conducted by arbitrators may be open to the public by mutual consent of the parties.

(4) Terms of any collective bargaining agreement may be enforced by civil action in Thurston county superior court upon the initiative of either party.

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(5) Ferry system employees or any employee organization shall not negotiate or attempt to negotiate directly with anyone other than the person who has been appointed or authorized a bargaining representative for the purpose of bargaining with the ferry employees or their representative.

(6)(a) Within ten working days after the first Monday in September of every odd-numbered year, the parties shall attempt to agree on an interest arbitrator to be used if the parties are not successful in negotiating a comprehensive collective bargaining agreement. If the parties cannot agree on an arbitrator within the ten-day period, either party may request a list of seven arbitrators from the federal mediation and conciliation service. The parties shall select an interest arbitrator using the coin toss/alternate strike method within thirty calendar days of receipt of the list. Immediately upon selecting an interest arbitrator, the parties shall cooperate to reserve dates with the arbitrator for potential arbitration between August 1st and September 15th of the following even-numbered year. The parties shall also prepare a schedule of at least five negotiation dates for the following year, absent an agreement to the contrary. The parties shall execute a written agreement before November 1st of each odd-numbered year setting forth the name of the arbitrator and the dates reserved for bargaining and arbitration. This subsection (6)(a) imposes minimum obligations only and is not intended to define or limit a party's full, good faith bargaining obligation under other sections of this chapter.

(b) The negotiation of a proposed collective bargaining agreement by representatives of the employer and a ferry employee organization shall commence on or about February 1st of every even-numbered year.

(c) For negotiations covering the 2009-2011 biennium and subsequent biennia, the time periods specified in this section, and in RCW 47.64.210 and 47.64.300 through 47.64.320, must ensure conclusion of all agreements on or before October 1st of the even-numbered year next preceding the biennial budget period during which the agreement should take effect. These time periods may only be altered by mutual agreement of the parties in writing. Any such agreement and any impasse procedures agreed to by the parties under RCW 47.64.200 must include an agreement regarding the new time periods that will allow final resolution by negotiations or arbitration by October 1st of each even-numbered year.

(7) Until a new collective bargaining agreement is in effect, the terms and conditions of the previous collective bargaining agreement shall remain in force. It is the intent of this section that the collective bargaining agreement or arbitrator's award shall commence on July 1st of each odd-numbered year and shall terminate on June 30th of the next odd-numbered year to coincide with the ensuing biennial budget year, as defined by RCW 43.88.020(7), to the extent practical. It is further the intent of this section that all collective bargaining agreements be concluded by October 1st of the even-numbered year before the commencement of the biennial budget year during which the agreements are to be in effect.

(8)(a) The governor shall submit a request either for funds necessary to implement the collective bargaining agreements including, but not limited to, the compensation and fringe benefit provisions or for legislation necessary to implement the agreement, or both. Requests for funds necessary to implement the collective bargaining agreements shall not be submitted to the legislature by the governor unless such requests:

(i) Have been submitted to the director of the office of financial management by October 1st before the legislative session at which the requests are to be considered; and

(ii) Have been certified by the director of the office of financial management as being feasible financially for the state.

(b) The governor shall submit a request either for funds necessary to implement the arbitration awards or for legislation necessary to implement the arbitration awards, or both. Requests for funds necessary to implement the arbitration awards shall not be submitted to the legislature by the governor unless such requests have been submitted to the director of the office of financial management by October 1st before the legislative session at which the requests are to be considered. Requests for funds necessary to implement the arbitration awards shall not be submitted to the legislature by the governor unless such requests:

(i) Have been submitted to the director of the office of financial management by October 1st before the legislative session at which the requests are to be considered; and

(ii) Have been certified by the director of the office of financial management as being feasible financially for the state.

(c) The legislature shall approve or reject the submission of the request for funds necessary to implement the collective bargaining agreements or arbitration awards as a whole for each agreement or award. The legislature shall not consider a request for funds to implement a collective bargaining agreement or arbitration award unless the request is transmitted to the legislature as part of the governor's budget document submitted under RCW 43.88.030 and 43.88.060. If the legislature rejects or fails to act on the submission, either party may reopen all or part of the agreement and award or the exclusive bargaining representative may seek to implement the procedures provided for in RCW 47.64.210 and 47.64.300.

(9) If, after the compensation and fringe benefit provisions of an agreement or arbitration award are approved by the legislature, a significant revenue shortfall occurs resulting in reduced appropriations, as declared by proclamation of the governor or by resolution of the legislature, both parties shall immediately enter into collective bargaining for a mutually agreed upon modification of the agreement or award.

**Sec. 13.** RCW 47.64.200 and 2006 c 164 s 7 are each amended to read as follows:

As the first step in the performance of their duty to bargain, the employer and the employee organization shall endeavor to agree upon impasse procedures. ~~((Unless otherwise agreed to by the employee organization and the employer in their impasse procedures, the arbitrator or panel is limited to selecting the most reasonable offer, in its judgment, of the final offers on each impasse item submitted by the parties.))~~ The arbitrator shall make written findings of fact and a written determination of the issues in dispute, based on the evidence presented. The employee organization and the employer may mutually agree to the impasse procedure under which the arbitrator or panel may issue a decision it deems just and appropriate with respect to each impasse item. If the parties fail to agree upon impasse procedures under this section, the impasse procedures provided in RCW 47.64.210 and 47.64.230 and 47.64.300 through 47.64.320 apply. It is unlawful for either party to refuse to participate in the impasse procedures provided in RCW 47.64.210 and 47.64.230 and 47.64.300 through 47.64.320.

**Sec. 14.** RCW 47.64.280 and 2006 c 164 s 18 are each amended to read as follows:

(1) There is created the marine employees' commission. The governor shall appoint the commission with the consent of the senate. The commission shall consist of three members: One member to be appointed from labor, one member from industry, and one member from the public who has significant knowledge of maritime affairs. The public member shall be chair of the commission. One of the original members shall be appointed for a term of three years, one for a term of four years, and one for a term of five years. Their successors shall be appointed for terms of five years each, except that any person chosen to fill a vacancy shall be

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appointed only for the unexpired term of the member whom he or she succeeds. Commission members are eligible for reappointment. Any member of the commission may be removed by the governor, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause. Commission members are not eligible for state retirement under chapter 41.40 RCW by virtue of their service on the commission. Members of the commission shall be compensated in accordance with RCW 43.03.250 and shall receive reimbursement for official travel and other expenses at the same rate and on the same terms as provided for the transportation commission by RCW 47.01.061. The payments shall be made from the Puget Sound ferry operations account.

(2) The commission shall: (a) Adjust all complaints, grievances, and disputes between labor and management arising out of the operation of the ferry system as provided in RCW 47.64.150; (b) provide for impasse mediation as required in RCW 47.64.210; ~~and (c) ((provide salary surveys as required in RCW 47.64.220; and (d)))~~ perform those duties required in RCW 47.64.300.

(3)(a) In adjudicating all complaints, grievances, and disputes, the party claiming labor disputes shall, in writing, notify the commission, which shall make careful inquiry into the cause thereof and issue an order advising the ferry employee, or the ferry employee organization representing him or her, and the department of transportation, as to the decision of the commission.

(b) The parties are entitled to offer evidence relating to disputes at all hearings conducted by the commission. The orders and awards of the commission are final and binding upon any ferry employee or employees or their representative affected thereby and upon the department.

(c) The commission shall adopt rules of procedure under chapter 34.05 RCW.

(d) The commission has the authority to subpoena any ferry employee or employees, or their representatives, and any member or representative of the department, and any witnesses. The commission may require attendance of witnesses and the production of all pertinent records at any hearings held by the commission. The subpoenas of the commission are enforceable by order of any superior court in the state of Washington for the county within which the proceeding may be pending. The commission may hire staff as necessary, appoint consultants, enter into contracts, and conduct studies as reasonably necessary to carry out this chapter.

**Sec. 15.** RCW 47.64.320 and 2006 c 164 s 14 are each amended to read as follows:

(1) The mediator, arbitrator, or arbitration panel may consider only matters that are subject to bargaining under this chapter, except that health care benefits are not subject to interest arbitration.

(2) The decision of an arbitrator or arbitration panel is not binding on the legislature and, if the legislature does not approve the funds necessary to implement provisions pertaining to compensation and fringe benefit provisions of an arbitrated collective bargaining agreement, is not binding on the state, the department of transportation, or the ferry employee organization.

(3) In making its determination, the arbitrator or arbitration panel shall be mindful of the legislative purpose under RCW 47.64.005 and 47.64.006 and, as additional standards or guidelines to aid it in reaching a decision, shall take into consideration the following factors:

(a) The financial ability of the department to pay for the compensation and fringe benefit provisions of a collective bargaining agreement;

(b) Past collective bargaining contracts between the parties including the bargaining that led up to the contracts;

~~((b))~~ (c) The constitutional and statutory authority of the employer;

~~((e))~~ (d) Stipulations of the parties;

~~((d))~~ The results of the salary survey as required in RCW 47.64.220;

(e) Comparison of wages, hours, employee benefits, and conditions of employment of the involved ferry employees with those of public and private sector employees in states along the west coast of the United States, including Alaska, and in British Columbia doing directly comparable but not necessarily identical work, giving consideration to factors peculiar to the area and the classifications involved;

(f)) (e) Changes in any of the foregoing circumstances during the pendency of the proceedings;

~~((e))~~ (f) The limitations on ferry toll increases and operating subsidies as may be imposed by the legislature; ~~(and~~

~~((b))~~ (g) The ability of the state to retain ferry employees;

(h) Comparison of wages, hours, employee benefits, and conditions of employment of the involved ferry employees with those of other public employees in the state;

(i) The overall compensation presently received by the ferry employees, including direct wage compensation, vacations, holidays and other paid excused time, pensions, insurance benefits, and all other direct or indirect monetary benefits received;

(j) The implicit price deflator for personal consumption index; and

(k) Other factors that are normally or traditionally taken into consideration in the determination of matters that are subject to bargaining under this chapter.

**NEW SECTION. Sec. 16.** A new section is added to chapter 47.60 RCW to read as follows:

The department shall not allow free passage on any ferry vessel operated by the department to:

(1) Any department employee unless it is directly related to the employee's job duties, directly reporting to duty, or directly returning home from duty;

(2) Any former department employee or their families; or

(3) Any department employee's family members.

**NEW SECTION. Sec. 17.** The following acts or parts of acts are each repealed:

(1) RCW 47.61.010 (Authority to enter into agreement and apply for financial assistance) and 1984 c 7 s 338 & 1965 ex.s. c 56 s 1;

(2) RCW 47.61.020 (Bonds for matching funds--Issuance and sale) and 1965 ex.s. c 56 s 2;

(3) RCW 47.61.030 (Term of bonds--Terms and conditions) and 1965 ex.s. c 56 s 3;

(4) RCW 47.61.040 (Bonds--Signatures--Registration--Where payable--Negotiable instruments) and 1965 ex.s. c 56 s 4;

(5) RCW 47.61.050 (Bonds--Denominations--Manner and terms of sale--Legal investment for state funds) and 1965 ex.s. c 56 s 5;

(6) RCW 47.61.060 (Proceeds of bonds--Deposit and use) and 1965 ex.s. c 56 s 6;

(7) RCW 47.61.070 (Statement describing nature of bond obligation--Pledge of excise taxes) and 1965 ex.s. c 56 s 7;

(8) RCW 47.61.080 (Bonds to reflect terms and conditions of grant agreement) and 1965 ex.s. c 56 s 8;

(9) RCW 47.61.090 (Designation of funds to repay bonds and interest) and 1984 c 7 s 339 & 1965 ex.s. c 56 s 9;

(10) RCW 47.61.100 (Bond repayment procedure--Highway bond retirement fund) and 1965 ex.s. c 56 s 10;

(11) RCW 47.61.110 (Sums in excess of bond retirement requirements--Use) and 1965 ex.s. c 56 s 11;

(12) RCW 47.60.240 (Liability to persons other than shippers or passengers--Limitation) and 1984 c 7 s 318 & 1961 c 13 s 47.60.240;

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(13) RCW 47.60.395 (Evaluation of cost allocation methodology and preservation and improvement costs--Exception) and 2009 c 470 s 707 & 2007 c 512 s 15;

(14) RCW 47.60.649 (Passenger-only ferry service--Finding) and 1998 c 166 s 1;

(15) RCW 47.60.652 (Passenger-only ferry service--Vessel and terminal acquisition, procurement, and construction) and 1998 c 166 s 2;

(16) RCW 47.60.654 (Passenger-only ferry service--Contingency) and 1998 c 166 s 3;

(17) RCW 47.60.658 (Passenger-only ferry service between Vashon and Seattle) and 2007 c 223 s 8 & 2006 c 332 s 3;

(18) RCW 47.60.770 (Jumbo ferry construction--Notice) and 1993 c 493 s 1;

(19) RCW 47.60.772 (Jumbo ferry construction--Bidding documents) and 1993 c 493 s 2;

(20) RCW 47.60.774 (Jumbo ferry construction--Procedure on conclusion of evaluation) and 1993 c 493 s 4;

(21) RCW 47.60.776 (Jumbo ferry construction--Contract) and 1993 c 493 s 5;

(22) RCW 47.60.778 (Jumbo ferry construction--Bid deposits--Low bidder claiming error) and 1996 c 18 s 9 & 1993 c 493 s 6; and

(23) RCW 47.60.780 (Jumbo ferry construction--Propulsion system acquisition) and 1994 c 181 s 2.

**NEW SECTION. Sec. 18.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 2 of the title, after "terminals;" strike the remainder of the title and insert "amending RCW 47.60.355, 47.60.365, 47.60.375, 47.60.385, 47.28.030, 47.64.006, 47.64.120, 47.64.170, 47.64.200, 47.64.280, and 47.64.320; adding new sections to chapter 47.60 RCW; creating new sections; repealing RCW 47.61.010, 47.61.020, 47.61.030, 47.61.040, 47.61.050, 47.61.060, 47.61.070, 47.61.080, 47.61.090, 47.61.100, 47.61.110, 47.60.240, 47.60.395, 47.60.649, 47.60.652, 47.60.654, 47.60.658, 47.60.770, 47.60.772, 47.60.774, 47.60.776, 47.60.778, and 47.60.780; providing an expiration date; and declaring an emergency."

The President declared the question before the Senate to be the motion by Senator Haugen to not adopt the committee striking amendment by the Committee on Transportation to House Bill No. 2271.

The motion by Senator Haugen carried and the committee striking amendment was not adopted by voice vote.

#### MOTION

Senator Haugen moved that the following striking amendment by Senators Haugen and Swecker be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** It is the intent of the legislature that final recommendations from the joint transportation committee ferry study, submitted to the legislature during the 2009 regular legislative session, be enacted by the legislature and implemented by the department of transportation as soon as practicable in order to benefit from the efficiencies and cost savings identified in the recommendations. It is also the intent of the legislature to make various additional policy changes aimed at further efficiencies and cost savings. Since the study began in 2006, recommendations have been made with regard to long range planning and implementing the most efficient and effective balance between ferry capital and operating investments. It is intended that this act, the

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2009-2011 omnibus transportation appropriations act, and subsequent transportation appropriations acts serve as vehicles for enacting these recommendations in order to maximize the utilization of existing capacity and to make the most efficient use of existing assets and tax dollars.

**Sec. 2.** RCW 47.60.355 and 2007 c 512 s 11 are each amended to read as follows:

(1) Terminal and vessel preservation funding requests shall only be for assets in the life-cycle cost model.

(2) Terminal and vessel preservation funding requests that exceed five million dollars per project must be accompanied by a predesign study. The predesign study must include all elements required by the office of financial management.

**Sec. 3.** RCW 47.60.365 and 2007 c 512 s 12 are each amended to read as follows:

The department shall develop terminal and vessel design standards that:

(1) Adhere to vehicle level of service standards as described in RCW 47.06.140;

(2) Adhere to operational strategies as described in RCW 47.60.327; and

(3) Choose the most efficient balance between capital and operating investments by using a life-cycle cost analysis.

**Sec. 4.** RCW 47.60.375 and 2008 c 124 s 3 are each amended to read as follows:

(1) The capital plan must adhere to the following:

(a) A current ridership demand forecast;

(b) Vehicle level of service standards as described in RCW 47.06.140;

(c) Operational strategies as described in RCW 47.60.327; and

(d) Terminal and vessel design standards as described in RCW 47.60.365.

(2) The capital plan must include the following:

(a) A current vessel preservation plan;

(b) A current systemwide vessel rebuild and replacement plan as described in RCW 47.60.377;

(c) A current vessel deployment plan; and

(d) A current terminal preservation plan that adheres to the life-cycle cost model on capital assets as described in RCW 47.60.345.

**Sec. 5.** RCW 47.60.385 and 2008 c 124 s 6 are each amended to read as follows:

(1) Terminal improvement, vessel improvement, and vessel acquisition project funding requests must adhere to the capital plan((-

~~(2) Requests for terminal improvement design and construction funding must)), include route-based planning, and be submitted with a predesign study that:~~

(a) Includes all elements required by the office of financial management;

(b) Separately identifies basic terminal and vessel elements essential for operation and their costs;

(c) Separately identifies additional elements to provide ancillary revenue and customer comfort and their costs;

(d) Includes construction phasing options that are consistent with forecasted ridership increases;

(e) Separately identifies additional elements requested by local governments and the cost and proposed funding source of those elements;

(f) Separately identifies multimodal elements and the cost and proposed funding source of those elements; ~~((and))~~

(g) Identifies all contingency amounts((.

(h)[(3)] When planning for new vessel acquisitions, the department must evaluate the long-term vessel operating costs related to fuel efficiency and staffing);

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(h) Identifies any terminal, vessel, or other capital modifications that would be required as a result of the proposed capital project;

(i) Includes planned service modifications as a result of the proposed capital project, and the consistency of those service modifications with the capital plan; and

(j) Demonstrates the evaluation of long-term operating costs including fuel efficiency, staffing, and preservation.

(2) The department shall prioritize vessel preservation and acquisition funding requests over vessel improvement funding requests.

NEW SECTION. **Sec. 6.** A new section is added to chapter 47.60 RCW to read as follows:

(1) In addition to the requirements of RCW 47.60.385(1), initial requests for, and substantial modification requests to, vessel acquisition funding must be submitted with a predesign study that:

(a) Includes a business decision case on vessel sizing;

(b) Includes an updated vessel deployment plan demonstrating maximum use of existing vessels, and an updated systemwide vessel rebuild and replacement plan;

(c) Includes an analysis that demonstrates that acquiring a new vessel or improving an existing vessel is more cost-effective than other alternatives considered. At a minimum, alternatives explored must include:

(i) Alternatives to new vessel construction that increase capacity of existing vessels;

(ii) Service level changes in lieu of adding vessel capacity; and

(iii) Acquiring existing vessels or existing vessel plans rather than wholly new vessels or vessel plans; and

(d) Demonstrates that the vessel proposed for improvement, construction, or purchase, if intended to replace an existing vessel or to place an existing vessel into inactive or reserve status, is consistent with the scheduled replacements in the rebuild and replacement plan.

(2) In addition to the requirements of RCW 47.60.385(1), initial requests for, and substantial modification requests to, vessel improvement funding must be submitted with a predesign study that includes:

(a) An explanation of any regulatory changes necessitating the improvement;

(b) The requirements under subsection (1) of this section, if the improvement modifies the capacity of a vessel;

(c) A cost-benefit analysis of any modifications designed to improve fuel efficiency, including potential impacts on vessel maintenance and repair; and

(d) An assessment of out-of-service time associated with making the improvement and ongoing preservation of the improvement.

NEW SECTION. **Sec. 7.** A new section is added to chapter 47.60 RCW to read as follows:

(1) The legislature finds measuring the performance of Washington state ferries requires the measurement of quality, timeliness, and unit cost of services delivered to customers. Consequently, the department must develop a set of metrics that measure that performance and report to the transportation committees of the house of representatives and senate and to the office of financial management on the development of these measurements along with recommendations to the 2011 legislature on which measurements must become a part of the next transportation budget.

(2) Annually, the department shall report to the transportation committees of the legislature statistics regarding its on-time arrival and departure status on a route-by-route and month-by-month basis, as well as an annual route-by-route and systemwide basis, weighted by the number of customers on each sailing and distinguishing peak period on-time performance. The statistics must include reasons

for any delays over ten minutes from the scheduled time. The statistics must be prominently displayed on the Washington state ferries' web site. Each Washington state ferries vessel and terminal must prominently display the statistics as they relate to their specific route.

NEW SECTION. **Sec. 8.** (1) Signage must be prominently displayed at each terminal and on each vessel that informs the public that assaults on Washington state employees will be prosecuted to the full extent of the law.

(2) The department shall investigate the frequency, severity, and prosecutorial results of assaults on Washington state ferries employees and, if appropriate, make recommendations to the transportation committees of the senate and house of representatives during the 2011 legislative session regarding methods to decrease the number of assaults on employees and procedures for prosecuting those who assault employees.

(3) This section expires June 30, 2011.

**Sec. 9.** RCW 47.28.030 and 2007 c 218 s 90 are each amended to read as follows:

~~(1)(a)~~ A state highway shall be constructed, altered, repaired, or improved, and improvements located on property acquired for right-of-way purposes may be repaired or renovated pending the use of such right-of-way for highway purposes, by contract or state forces. The work or portions thereof may be done by state forces when the estimated costs thereof are less than fifty thousand dollars and effective July 1, 2005, sixty thousand dollars(~~(= PROVIDED, That))~~).

~~(b)~~ When delay of performance of such work would jeopardize a state highway or constitute a danger to the traveling public, the work may be done by state forces when the estimated cost thereof is less than eighty thousand dollars and effective July 1, 2005, one hundred thousand dollars.

~~(c)~~ When the department of transportation determines to do the work by state forces, it shall enter a statement upon its records to that effect, stating the reasons therefor.

~~(d)~~ To enable a larger number of small businesses, and minority, and women contractors to effectively compete for department of transportation contracts, the department may adopt rules providing for bids and award of contracts for the performance of work, or furnishing equipment, materials, supplies, or operating services whenever any work is to be performed and the engineer's estimate indicates the cost of the work would not exceed eighty thousand dollars and effective July 1, 2005, one hundred thousand dollars.

~~(2)~~ The rules adopted under this section:

~~((1))~~ ~~(a)~~ Shall provide for competitive bids to the extent that competitive sources are available except when delay of performance would jeopardize life or property or inconvenience the traveling public; and

~~((2))~~ ~~(b)~~ Need not require the furnishing of a bid deposit nor a performance bond, but if a performance bond is not required then progress payments to the contractor may be required to be made based on submittal of paid invoices to substantiate proof that disbursements have been made to laborers, material suppliers, mechanics, and subcontractors from the previous partial payment; and

~~((3))~~ ~~(c)~~ May establish prequalification standards and procedures as an alternative to those set forth in RCW 47.28.070, but the prequalification standards and procedures under RCW 47.28.070 shall always be sufficient.

~~(3)~~ The department of transportation shall comply with such goals and rules as may be adopted by the office of minority and women's business enterprises to implement chapter 39.19 RCW with respect to contracts entered into under this chapter. The department may adopt such rules as may be necessary to comply with the rules

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adopted by the office of minority and women's business enterprises under chapter 39.19 RCW.

(4)(a) For the period of July 1, 2010, through June 30, 2011, work for less than seventy-five thousand dollars may be performed on ferry vessels and terminals by state forces.

(b) The department shall hire a disinterested, third party to conduct an independent analysis to identify methods of reducing out-of-service times for vessel maintenance, preservation, and improvement projects. The analysis must include options to extend the hours and days of operation at Eagle Harbor maintenance facility, consolidating work while vessels are at shipyards by having state forces perform services traditionally performed at Eagle Harbor at the shipyard, and decreasing the allowable time at shipyards. The analysis must also compare the out-of-service vessel times of performing services by state forces versus contracting out those services which in turn must be used to form a recommendation as to what the threshold of work performed on ferry vessels and terminals by state forces should be. This analysis must be presented to the transportation committees of the senate and house of representatives by December 1, 2010.

(c) The department shall develop a proposed ferry vessel maintenance, preservation, and improvement program and present it to the transportation committees of the senate and house of representatives by December 1, 2010. The proposed program must:

(i) Improve the basis for budgeting vessel maintenance, preservation, and improvement costs and for projecting those costs into a sixteen-year financial plan;

(ii) Limit the amount of planned out-of-service time to the greatest extent possible, including options associated with department staff as well as commercial shipyards; and

(iii) Be based on the service plan in the capital plan, recognizing that vessel preservation and improvement needs may vary by route.

(d) In developing the proposed ferry vessel maintenance, preservation, and improvement program, the department shall consider the following, related to reducing vessel out-of-service time:

(i) The costs compared to benefits of Eagle Harbor repair and maintenance facility operations options to include staffing costs and benefits in terms of reduced out-of-service time;

(ii) The maintenance requirements for on-vessel staff, including the benefits of a systemwide standard;

(iii) The costs compared to benefits of staff performing preservation or maintenance work, or both, while the vessel is underway, tied up between sailings, or not deployed;

(iv) A review of the department's vessel maintenance, preservation, and improvement program contracting process and contractual requirements;

(v) The costs compared to benefits of allowing for increased costs associated with expedited delivery;

(vi) A method for comparing the anticipated out-of-service time of proposed projects and other projects planned during the same construction period;

(vii) Coordination with required United States coast guard dry dockings;

(viii) A method for comparing how proposed projects relate to the service requirements of the route on which the vessel normally operates; and

(ix) A method for evaluating the ongoing maintenance and preservation costs associated with proposed improvement projects.

**Sec. 10.** RCW 47.64.006 and 1989 c 327 s 1 are each amended to read as follows:

The legislature declares that it is the public policy of the state of Washington to: (1) Provide continuous operation of the Washington state ferry system at reasonable cost to users; (2)

efficiently provide levels of ferry service consistent with trends and forecasts of ferry usage; (3) promote harmonious and cooperative relationships between the ferry system and its employees by permitting ferry employees to organize and bargain collectively; (4) protect the citizens of this state by assuring effective and orderly operation of the ferry system in providing for their health, safety, and welfare; (5) prohibit and prevent all strikes or work stoppages by ferry employees; (6) protect the rights of ferry employees with respect to employee organizations; and (7) promote just and fair compensation, benefits, and working conditions for ferry system employees ((as compared with public and private sector employees in states along the west coast of the United States, including Alaska, and in British Columbia in directly comparable but not necessarily identical positions)).

**Sec. 11.** RCW 47.64.120 and 2006 c 164 s 3 are each amended to read as follows:

(1) The employer and ferry system employee organizations, through their collective bargaining representatives, shall meet at reasonable times, to negotiate in good faith with respect to wages, hours, working conditions, insurance, and health care benefits as limited by RCW 47.64.270, and other matters mutually agreed upon. Employer funded retirement benefits shall be provided under the public employees retirement system under chapter 41.40 RCW and shall not be included in the scope of collective bargaining. Any retirement system or retirement benefits shall not be subject to collective bargaining.

(2) Upon ratification of bargaining agreements, ferry employees are entitled to an amount equivalent to the interest earned on retroactive compensation increases. For purposes of this section, the interest earned on retroactive compensation increases is the same monthly rate of interest that was earned on the amount of the compensation increases while held in the state treasury. The interest will be computed for each employee until the date the retroactive compensation is paid, and must be allocated in accordance with appropriation authority. The interest earned on retroactive compensation is not considered part of the ongoing compensation obligation of the state and is not compensation earnable for the purposes of chapter 41.40 RCW. Negotiations shall also include grievance procedures for resolving any questions arising under the agreement, which shall be embodied in a written agreement and signed by the parties.

(3) Except as otherwise provided in this chapter, if a conflict exists between an executive order, administrative rule, or agency policy relating to wages, hours, and terms and conditions of employment and a collective bargaining agreement negotiated under this chapter, the collective bargaining agreement shall prevail. A provision of a collective bargaining agreement that conflicts with the terms of a statute is invalid and unenforceable.

**Sec. 12.** RCW 47.64.170 and 2007 c 160 s 1 are each amended to read as follows:

(1) Any ferry employee organization certified as the bargaining representative shall be the exclusive representative of all ferry employees in the bargaining unit and shall represent all such employees fairly.

(2) A ferry employee organization or organizations and the governor may each designate any individual as its representative to engage in collective bargaining negotiations.

(3) Negotiating sessions, including strategy meetings of the employer or employee organizations, mediation, and the deliberative process of arbitrators are exempt from the provisions of chapter 42.30 RCW. Hearings conducted by arbitrators may be open to the public by mutual consent of the parties.

(4) Terms of any collective bargaining agreement may be enforced by civil action in Thurston county superior court upon the initiative of either party.

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(5) Ferry system employees or any employee organization shall not negotiate or attempt to negotiate directly with anyone other than the person who has been appointed or authorized a bargaining representative for the purpose of bargaining with the ferry employees or their representative.

(6)(a) Within ten working days after the first Monday in September of every odd-numbered year, the parties shall attempt to agree on an interest arbitrator to be used if the parties are not successful in negotiating a comprehensive collective bargaining agreement. If the parties cannot agree on an arbitrator within the ten-day period, either party may request a list of seven arbitrators from the federal mediation and conciliation service. The parties shall select an interest arbitrator using the coin toss/alternate strike method within thirty calendar days of receipt of the list. Immediately upon selecting an interest arbitrator, the parties shall cooperate to reserve dates with the arbitrator for potential arbitration between August 1st and September 15th of the following even-numbered year. The parties shall also prepare a schedule of at least five negotiation dates for the following year, absent an agreement to the contrary. The parties shall execute a written agreement before November 1st of each odd-numbered year setting forth the name of the arbitrator and the dates reserved for bargaining and arbitration. This subsection (6)(a) imposes minimum obligations only and is not intended to define or limit a party's full, good faith bargaining obligation under other sections of this chapter.

(b) The negotiation of a proposed collective bargaining agreement by representatives of the employer and a ferry employee organization shall commence on or about February 1st of every even-numbered year.

(c) For negotiations covering the 2009-2011 biennium and subsequent biennia, the time periods specified in this section, and in RCW 47.64.210 and 47.64.300 through 47.64.320, must ensure conclusion of all agreements on or before October 1st of the even-numbered year next preceding the biennial budget period during which the agreement should take effect. These time periods may only be altered by mutual agreement of the parties in writing. Any such agreement and any impasse procedures agreed to by the parties under RCW 47.64.200 must include an agreement regarding the new time periods that will allow final resolution by negotiations or arbitration by October 1st of each even-numbered year.

(7) ((Until a new collective bargaining agreement is in effect, the terms and conditions of the previous collective bargaining agreement shall remain in force.)) It is the intent of this section that the collective bargaining agreement or arbitrator's award shall commence on July 1st of each odd-numbered year and shall terminate on June 30th of the next odd-numbered year to coincide with the ensuing biennial budget year, as defined by RCW 43.88.020(7), to the extent practical. It is further the intent of this section that all collective bargaining agreements be concluded by October 1st of the even-numbered year before the commencement of the biennial budget year during which the agreements are to be in effect. After the expiration date of a collective bargaining agreement negotiated under this chapter, all of the terms and conditions specified in the collective bargaining agreement remain in effect until the effective date of a subsequently negotiated agreement, not to exceed one year from the expiration date stated in the agreement. Thereafter, the employer may unilaterally implement according to law.

(8)(a) The governor shall submit a request either for funds necessary to implement the collective bargaining agreements including, but not limited to, the compensation and fringe benefit provisions or for legislation necessary to implement the agreement, or both. Requests for funds necessary to implement the collective bargaining agreements shall not be submitted to the legislature by the governor unless such requests:

(i) Have been submitted to the director of the office of financial management by October 1st before the legislative session at which the requests are to be considered; and

(ii) Have been certified by the director of the office of financial management as being feasible financially for the state.

(b) The governor shall submit a request either for funds necessary to implement the arbitration awards or for legislation necessary to implement the arbitration awards, or both. Requests for funds necessary to implement the arbitration awards shall not be submitted to the legislature by the governor unless such requests have been submitted to the director of the office of financial management by October 1st before the legislative session at which the requests are to be considered. Requests for funds necessary to implement the arbitration awards shall not be submitted to the legislature by the governor unless such requests:

(i) Have been submitted to the director of the office of financial management by October 1st before the legislative session at which the requests are to be considered; and

(ii) Have been certified by the director of the office of financial management as being feasible financially for the state.

(c) The legislature shall approve or reject the submission of the request for funds necessary to implement the collective bargaining agreements or arbitration awards as a whole for each agreement or award. The legislature shall not consider a request for funds to implement a collective bargaining agreement or arbitration award unless the request is transmitted to the legislature as part of the governor's budget document submitted under RCW 43.88.030 and 43.88.060. If the legislature rejects or fails to act on the submission, either party may reopen all or part of the agreement and award or the exclusive bargaining representative may seek to implement the procedures provided for in RCW 47.64.210 and 47.64.300.

(9) If, after the compensation and fringe benefit provisions of an agreement or arbitration award are approved by the legislature, a significant revenue shortfall occurs resulting in reduced appropriations, as declared by proclamation of the governor or by resolution of the legislature, both parties shall immediately enter into collective bargaining for a mutually agreed upon modification of the agreement or award.

**Sec. 13.** RCW 47.64.200 and 2006 c 164 s 7 are each amended to read as follows:

As the first step in the performance of their duty to bargain, the employer and the employee organization shall endeavor to agree upon impasse procedures. ~~((Unless otherwise agreed to by the employee organization and the employer in their impasse procedures, the arbitrator or panel is limited to selecting the most reasonable offer, in its judgment, of the final offers on each impasse item submitted by the parties.))~~ The arbitrator shall make written findings of fact and a written determination of the issues in dispute, based on the evidence presented. The employee organization and the employer may mutually agree to the impasse procedure under which the arbitrator or panel may issue a decision it deems just and appropriate with respect to each impasse item. If the parties fail to agree upon impasse procedures under this section, the impasse procedures provided in RCW 47.64.210 and 47.64.230 and 47.64.300 through 47.64.320 apply. It is unlawful for either party to refuse to participate in the impasse procedures provided in RCW 47.64.210 and 47.64.230 and 47.64.300 through 47.64.320.

**Sec. 14.** RCW 47.64.280 and 2006 c 164 s 18 are each amended to read as follows:

(1) There is created the marine employees' commission. The governor shall appoint the commission with the consent of the senate. The commission shall consist of three members: One member to be appointed from labor, one member from industry, and one member from the public who has significant knowledge of

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maritime affairs. The public member shall be chair of the commission. One of the original members shall be appointed for a term of three years, one for a term of four years, and one for a term of five years. Their successors shall be appointed for terms of five years each, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he or she succeeds. Commission members are eligible for reappointment. Any member of the commission may be removed by the governor, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause. Commission members are not eligible for state retirement under chapter 41.40 RCW by virtue of their service on the commission. Members of the commission shall be compensated in accordance with RCW 43.03.250 and shall receive reimbursement for official travel and other expenses at the same rate and on the same terms as provided for the transportation commission by RCW 47.01.061. The payments shall be made from the Puget Sound ferry operations account.

(2) The commission shall: (a) Adjust all complaints, grievances, and disputes between labor and management arising out of the operation of the ferry system as provided in RCW 47.64.150; (b) provide for impasse mediation as required in RCW 47.64.210; ~~and~~ (c) ~~((provide salary surveys as required in RCW 47.64.220; and~~ ~~(d)))~~ perform those duties required in RCW 47.64.300.

(3)(a) In adjudicating all complaints, grievances, and disputes, the party claiming labor disputes shall, in writing, notify the commission, which shall make careful inquiry into the cause thereof and issue an order advising the ferry employee, or the ferry employee organization representing him or her, and the department of transportation, as to the decision of the commission.

(b) The parties are entitled to offer evidence relating to disputes at all hearings conducted by the commission. The orders and awards of the commission are final and binding upon any ferry employee or employees or their representative affected thereby and upon the department.

(c) The commission shall adopt rules of procedure under chapter 34.05 RCW.

(d) The commission has the authority to subpoena any ferry employee or employees, or their representatives, and any member or representative of the department, and any witnesses. The commission may require attendance of witnesses and the production of all pertinent records at any hearings held by the commission. The subpoenas of the commission are enforceable by order of any superior court in the state of Washington for the county within which the proceeding may be pending. The commission may hire staff as necessary, appoint consultants, enter into contracts, and conduct studies as reasonably necessary to carry out this chapter.

**Sec. 15.** RCW 47.64.320 and 2006 c 164 s 14 are each amended to read as follows:

(1) The mediator, arbitrator, or arbitration panel may consider only matters that are subject to bargaining under this chapter, except that health care benefits are not subject to interest arbitration.

(2) The decision of an arbitrator or arbitration panel is not binding on the legislature and, if the legislature does not approve the funds necessary to implement provisions pertaining to compensation and fringe benefit provisions of an arbitrated collective bargaining agreement, is not binding on the state, the department of transportation, or the ferry employee organization.

(3) In making its determination, the arbitrator or arbitration panel shall be mindful of the legislative purpose under RCW 47.64.005 and 47.64.006 and, as additional standards or guidelines to aid it in reaching a decision, shall take into consideration the following factors:

(a) The financial ability of the department to pay for the compensation and fringe benefit provisions of a collective

bargaining agreement;

(b) Past collective bargaining contracts between the parties including the bargaining that led up to the contracts;

~~((b)))~~ (c) The constitutional and statutory authority of the employer;

~~((c)))~~ (d) Stipulations of the parties;

~~((d)))~~ (e) The results of the salary survey as required in RCW 47.64.220;

(e) Comparison of wages, hours, employee benefits, and conditions of employment of the involved ferry employees with those of public and private sector employees in states along the west coast of the United States, including Alaska, and in British Columbia doing directly comparable but not necessarily identical work, giving consideration to factors peculiar to the area and the classifications involved;

(f)) (e) Changes in any of the foregoing circumstances during the pendency of the proceedings;

~~((e)))~~ (f) The limitations on ferry toll increases and operating subsidies as may be imposed by the legislature; ~~((and~~

~~(h)))~~ (g) The ability of the state to retain ferry employees;

(h) Comparison of wages, hours, employee benefits, and conditions of employment of the involved ferry employees with those of other public employees in the state;

(i) The overall compensation presently received by the ferry employees, including direct wage compensation, vacations, holidays and other paid excused time, pensions, insurance benefits, and all other direct or indirect monetary benefits received;

(j) The implicit price deflator for personal consumption index; and

(k) Other factors that are normally or traditionally taken into consideration in the determination of matters that are subject to bargaining under this chapter.

**NEW SECTION. Sec. 16.** A new section is added to chapter 47.60 RCW to read as follows:

The department shall not allow free passage on any ferry vessel operated by the department to:

(1) Any department employee unless it is directly related to the employee's job duties, directly reporting to duty, or directly returning home from duty;

(2) Any former department employee or their families; or

(3) Any department employee's family members.

**NEW SECTION. Sec. 17.** The following acts or parts of acts are each repealed:

(1) RCW 47.61.010 (Authority to enter into agreement and apply for financial assistance) and 1984 c 7 s 338 & 1965 ex.s. c 56 s 1;

(2) RCW 47.61.020 (Bonds for matching funds--Issuance and sale) and 1965 ex.s. c 56 s 2;

(3) RCW 47.61.030 (Term of bonds--Terms and conditions) and 1965 ex.s. c 56 s 3;

(4) RCW 47.61.040 (Bonds--Signatures--Registration--Where payable--Negotiable instruments) and 1965 ex.s. c 56 s 4;

(5) RCW 47.61.050 (Bonds--Denominations--Manner and terms of sale--Legal investment for state funds) and 1965 ex.s. c 56 s 5;

(6) RCW 47.61.060 (Proceeds of bonds--Deposit and use) and 1965 ex.s. c 56 s 6;

(7) RCW 47.61.070 (Statement describing nature of bond obligation--Pledge of excise taxes) and 1965 ex.s. c 56 s 7;

(8) RCW 47.61.080 (Bonds to reflect terms and conditions of grant agreement) and 1965 ex.s. c 56 s 8;

(9) RCW 47.61.090 (Designation of funds to repay bonds and interest) and 1984 c 7 s 339 & 1965 ex.s. c 56 s 9;

(10) RCW 47.61.100 (Bond repayment procedure--Highway bond retirement fund) and 1965 ex.s. c 56 s 10;

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(11) RCW 47.61.110 (Sums in excess of bond retirement requirements--Use) and 1965 ex.s. c 56 s 11;

(12) RCW 47.60.240 (Liability to persons other than shippers or passengers--Limitation) and 1984 c 7 s 318 & 1961 c 13 s 47.60.240;

(13) RCW 47.60.395 (Evaluation of cost allocation methodology and preservation and improvement costs--Exception) and 2009 c 470 s 707 & 2007 c 512 s 15;

(14) RCW 47.60.649 (Passenger-only ferry service--Finding) and 1998 c 166 s 1;

(15) RCW 47.60.652 (Passenger-only ferry service--Vessel and terminal acquisition, procurement, and construction) and 1998 c 166 s 2;

(16) RCW 47.60.654 (Passenger-only ferry service--Contingency) and 1998 c 166 s 3;

(17) RCW 47.60.658 (Passenger-only ferry service between Vashon and Seattle) and 2007 c 223 s 8 & 2006 c 332 s 3;

(18) RCW 47.60.770 (Jumbo ferry construction--Notice) and 1993 c 493 s 1;

(19) RCW 47.60.772 (Jumbo ferry construction--Bidding documents) and 1993 c 493 s 2;

(20) RCW 47.60.774 (Jumbo ferry construction--Procedure on conclusion of evaluation) and 1993 c 493 s 4;

(21) RCW 47.60.776 (Jumbo ferry construction--Contract) and 1993 c 493 s 5;

(22) RCW 47.60.778 (Jumbo ferry construction--Bid deposits--Low bidder claiming error) and 1996 c 18 s 9 & 1993 c 493 s 6; and

(23) RCW 47.60.780 (Jumbo ferry construction--Propulsion system acquisition) and 1994 c 181 s 2.

**NEW SECTION. Sec. 18.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 19.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Senator Haugen spoke in favor of adoption of the striking amendment.

MOTION

Senator Pflug moved that the following amendment by Senator Pflug to the striking amendment be adopted:

On page 16, after line 11 of the amendment, insert the following:

"The department shall not reimburse any department employee for mileage or travel time costs for commuting between the employee's home residence and work assignment when the employee bids on the work assignment location."

Senator Pflug demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

Senators Pflug and Swecker spoke in favor of adoption of the amendment to the striking amendment.

Senator Haugen spoke against the adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Pflug on page 16, line 11, to the striking amendment to House Bill No. 2271.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Pflug to the striking amendment and the amendment was adopted by the following vote: Yeas, 33; Nays, 15; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Franklin, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Kastama, Kauffman, Kilmer, King, Marr, Morton, Oemig, Parlette, Pflug, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Brown, Fairley, Fraser, Gordon, Haugen, Jacobsen, Keiser, Kline, Kohl-Welles, McAuliffe, McDermott, Murray, Prentice, Pridemore and Regala

Excused: Senator McCaslin

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Haugen and Swecker as amended to House Bill No. 2271.

The motion by Senator Haugen carried and the striking amendment as amended was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "terminals;" strike the remainder of the title and insert "amending RCW 47.60.355, 47.60.365, 47.60.375, 47.60.385, 47.28.030, 47.64.006, 47.64.120, 47.64.170, 47.64.200, 47.64.280, and 47.64.320; adding new sections to chapter 47.60 RCW; creating new sections; repealing RCW 47.61.010, 47.61.020, 47.61.030, 47.61.040, 47.61.050, 47.61.060, 47.61.070, 47.61.080, 47.61.090, 47.61.100, 47.61.110, 47.60.240, 47.60.395, 47.60.649, 47.60.652, 47.60.654, 47.60.658, 47.60.770, 47.60.772, 47.60.774, 47.60.776, 47.60.778, and 47.60.780; providing an expiration date; and declaring an emergency."

MOTION

On motion of Senator Swecker, the rules were suspended, House Bill No. 2271 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and Swecker spoke in favor of passage of the bill.

MOTION

On motion of Senator Marr, Senators Hargrove and Kline were excused.

The President declared the question before the Senate to be the final passage of House Bill No. 2271 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2271 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King,

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Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

HOUSE BILL NO. 2271 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2649, by House Committee on Commerce & Labor (originally sponsored by Representatives Green, Conway, Moeller and Williams)

Correcting references in RCW 50.29.021(2)(c)(i), (c)(ii), and (3)(e), RCW 50.29.062(2)(b)(i)(B) and (2)(b)(iii), and RCW 50.29.063(1)(b) and (2)(a)(ii) to unemployment insurance statutes concerning employer experience rating accounts and contribution rates.

The measure was read the second time.

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 2649 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Marr, Senators Kastama and Kline were excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2649.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2649 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Kastama, Kline and McCaslin

SUBSTITUTE HOUSE BILL NO. 2649, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 3076, by House Committee on Ways & Means (originally sponsored by Representatives Dickerson and Kenney)

Concerning the involuntary treatment act.

The measure was read the second time.

#### MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The Washington institute for public policy shall, in collaboration with the department of social and health services and other applicable entities, undertake a search for a validated mental health assessment tool or combination of tools to be used by designated mental health professionals when undertaking assessments of individuals for detention, commitment, and revocation under the involuntary treatment act pursuant to chapter 71.05 RCW.

(2) This section expires June 30, 2011.

NEW SECTION. **Sec. 2.** A new section is added to chapter 71.05 RCW to read as follows:

(1) In determining whether a person is gravely disabled or presents a likelihood of serious harm, the court or evaluating designated mental health professional must consider the symptoms and behavior of the respondent in light of all available evidence or information concerning the respondent's historical behavior, as disclosed by the clinical record or credible witnesses with knowledge of the respondent.

(2) Symptoms or behavior which standing alone would not justify civil commitment may support an inference of grave disability or likelihood of serious harm when: (a) Such symptoms or behavior are closely associated with symptoms or behavior which preceded and led to a past incident of involuntary hospitalization, severe deterioration, or one or more violent acts; (b) these symptoms or behavior represent a marked and concerning change in the baseline behavior of the respondent; and (c) without treatment, the continued deterioration of the respondent is highly probable.

NEW SECTION. **Sec. 3.** A new section is added to chapter 71.05 RCW to read as follows:

(1) Whenever a person who is the subject of an involuntary commitment order under this chapter is discharged from an evaluation and treatment facility or state hospital, the evaluation and treatment facility or state hospital shall provide notice of the person's discharge to the designated mental health professional office responsible for the initial commitment and the designated mental health professional office that serves the county in which the person is expected to reside. The evaluation and treatment facility or state hospital must also provide these offices with a copy of any less restrictive order or conditional release order entered in conjunction with the discharge of the person, unless the evaluation and treatment facility or state hospital has entered into a memorandum of understanding obligating another entity to provide these documents.

(2) The notice and documents referred to in subsection (1) of this section shall be provided as soon as possible and no later than one business day following the discharge of the person. Notice is not required under this section if the discharge is for the purpose of transferring the person for continued detention and treatment under this chapter at another treatment facility.

(3) The department shall maintain and make available an updated list of contact information for designated mental health professional offices around the state.

NEW SECTION. **Sec. 4.** Section 2 of this act is effective January 1, 2012.

NEW SECTION. **Sec. 5.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not

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provided by June 30, 2010, in the omnibus appropriations act, this act is null and void."

Senator Hargrove spoke in favor of adoption of the committee striking amendment.

#### MOTION

Senator Hargrove moved that the following amendment by Senators Brandland and Hargrove to the committee striking amendment be adopted:

On page 2, line 27, after "purposes of", insert "sections one through four"

On page 2, line 29, after "act," strike "this act is" and insert "sections one through four of this act are"

On page 2, after line 26, insert the following:

"NEW SECTION. **Sec. 5.** A new section is added to chapter 9.94A RCW to read as follows:

(1) Before imposing any legal financial obligations upon a defendant who suffers from a mental health condition, other than restitution or the victim penalty assessment under RCW 7.68.035, a judge must first determine that the defendant, under the terms of this section, has the means to pay such additional sums.

(2) For the purposes of this section, a defendant suffers from a mental health condition when the defendant has been diagnosed with a mental disorder that prevents the defendant from participating in gainful employment, as evidenced by a determination of mental disability as the basis for the defendant's enrollment in a public assistance program, a record of involuntary hospitalization, or by competent expert evaluation."

Renumber the sections consecutively and correct any internal references accordingly.

Senator Hargrove spoke in favor of adoption of the amendment to the committee striking amendment.

#### MOTION

On motion of Senator Delvin, Senator Carrell was excused.

The President declared the question before the Senate to be the adoption of the amendment by Senators Brandland and Hargrove on page 2, line 27 to the committee striking amendment to Second Substitute House Bill No. 3076.

The motion by Senator Hargrove carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means as amended to Second Substitute House Bill No. 3076.

The motion by Senator Hargrove carried and the committee striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendments were adopted:

On page 1, line 2 of the title, after "act;" strike the remainder of the title and insert "adding new sections to chapter 71.05 RCW; creating new sections; providing an effective date; and providing an expiration date."

On page 3, line 2 of the title amendment, after "chapter", insert "9.94 RCW and chapter"

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Second Substitute House Bill No. 3076 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 3076 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 3076 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Carrell, Kline and McCaslin

SECOND SUBSTITUTE HOUSE BILL NO. 3076 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2402, by House Committee on Finance (originally sponsored by Representatives White, Rolfes, Armstrong, Haler, Nelson, Roberts, Maxwell, Dickerson, Crouse, Jacks, Walsh, Wallace, Sells, Ormsby, Kenney, Williams, Blake, Chase, Morris, Campbell, Appleton, Carlyle, Conway, Bailey, Hope and Haigh)

Concerning a property tax exemption for property owned by a nonprofit organization and used for the purpose of a farmers market.

The measure was read the second time.

#### MOTION

Senator Hatfield moved that the following committee amendment by the Committee on Agriculture & Rural Economic Development be adopted:

On page 2, after line 35, insert the following:

"**Sec. 2.** RCW 84.36.020 and 1994 c 124 s 16 are each amended to read as follows:

The following real and personal property (~~shall be~~) is exempt from taxation:

(1) All lands, buildings, and personal property required for necessary administration and maintenance, used, or to the extent used, exclusively for public burying grounds or cemeteries without discrimination as to race, color, national origin or ancestry;

(2) All churches, personal property, and the ground, not exceeding five acres in area, upon which a church of any nonprofit recognized religious denomination is or (~~shall~~) will be built, together with a parsonage, convent, and buildings and improvements required for the maintenance and safeguarding of such property. The area exempted (~~shall~~) in any case includes all ground covered by the

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church, parsonage, convent, and buildings and improvements required for the maintenance and safeguarding of such property and the structures and ground necessary for street access, parking, light, and ventilation, but the area of unoccupied ground exempted in such cases, in connection with church, parsonage, convent, and buildings and improvements required for the maintenance and safeguarding of such property, ~~((shall))~~ does not exceed the equivalent of one hundred twenty by one hundred twenty feet except where additional unoccupied land may be required to conform with state or local codes, zoning, or licensing requirements. The parsonage and convent need not be on land contiguous to the church property. Except as otherwise provided in this subsection, to be exempt the property must be wholly used for church purposes~~((PROVIDED, That))~~. The loan or rental of property otherwise exempt under this ~~((paragraph))~~ subsection to a nonprofit organization, association, or corporation, or school for use for an eleemosynary activity ~~((shall))~~ or for use for activities related to a farmers market, does not nullify the exemption provided in this ~~((paragraph))~~ subsection if the rental income, if any, is reasonable and is devoted solely to the operation and maintenance of the property. However, activities related to a farmers market may not occur on the property more than fifty-three days each assessment year. For the purposes of this section, "farmers market" has the same meaning as "qualifying farmers market" as defined in RCW 66.24.170.

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senator Hatfield spoke in favor of adoption of the committee amendment.

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Agriculture & Rural Economic Development to Substitute House Bill No. 2402.

The motion by Senator Hatfield carried and the committee amendment was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "market;" strike the remainder of the title and insert "amending RCW 84.36.037 and 84.36.020; creating a new section; and providing an expiration date."

## MOTION

On motion of Senator Hatfield, the rules were suspended, Substitute House Bill No. 2402 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hatfield spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2402 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2402 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford,

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Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Gordon

Excused: Senators Kline and McCaslin

SUBSTITUTE HOUSE BILL NO. 2402 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 2740, by Representatives Seaquist and Angel

Regarding the definition of land use decision in the land use petition act.

The measure was read the second time.

## MOTION

On motion of Senator Fairley, the rules were suspended, House Bill No. 2740 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fairley spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2740.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2740 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Kline and McCaslin

HOUSE BILL NO. 2740, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1541, by Representatives Seaquist, Conway, Crouse and Simpson

Granting half-time service credit for half-time educational employment prior to January 1, 1987, in plans 2 and 3 of the school employees' retirement system and the public employees' retirement system.

The measure was read the second time.

## MOTION

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On motion of Senator Prentice, the rules were suspended, House Bill No. 1541 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1541.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1541 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Kline and McCaslin

HOUSE BILL NO. 1541, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Marr, Senator Pridemore was excused.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2913, by House Committee on Education Appropriations (originally sponsored by Representatives Haigh, Priest, Quall, Haler, Kessler, Kagi, Nealey, Finn, Maxwell, Sullivan and Kenney)

Authorizing innovative interdistrict cooperative high school programs.

The measure was read the second time.

MOTION

On motion of Senator McAuliffe, the rules were suspended, Engrossed Substitute House Bill No. 2913 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe and King spoke in favor of passage of the bill.

MOTION

On motion of Senator Marr, Senator Prentice was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2913.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2913 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Kline, McCaslin, Prentice and Pridemore

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2913, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED HOUSE BILL NO. 2830, by Representatives Simpson, Bailey, Kirby, Kelley, Rodne and Nelson

Addressing credit union regulatory enforcement powers.

The measure was read the second time.

MOTION

On motion of Senator Berkey, the rules were suspended, Engrossed House Bill No. 2830 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Berkey spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 2830.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2830 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Kline, McCaslin, Prentice and Pridemore

ENGROSSED HOUSE BILL NO. 2830, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2734, by Representatives Kagi, Liias, Chase, Miloscia, Clibborn, Wallace, Maxwell, Nelson, Simpson and Santos

Allowing federally qualified community health centers to buy surplus real property from the department of transportation.

The measure was read the second time.

MOTION

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Senator Haugen moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 47.12.063 and 2006 c 17 s 2 are each amended to read as follows:

(1) It is the intent of the legislature to continue the department's policy giving priority consideration to abutting property owners in agricultural areas when disposing of property through its surplus property program under this section.

(2) Whenever the department determines that any real property owned by the state of Washington and under the jurisdiction of the department is no longer required for transportation purposes and that it is in the public interest to do so, the department may sell the property or exchange it in full or part consideration for land or improvements or for construction of improvements at fair market value to any of the following governmental entities or persons:

(a) Any other state agency;

(b) The city or county in which the property is situated;

(c) Any other municipal corporation;

(d) Regional transit authorities created under chapter 81.112 RCW;

(e) The former owner of the property from whom the state acquired title;

(f) In the case of residentially improved property, a tenant of the department who has resided thereon for not less than six months and who is not delinquent in paying rent to the state;

(g) Any abutting private owner but only after each other abutting private owner (if any), as shown in the records of the county assessor, is notified in writing of the proposed sale. If more than one abutting private owner requests in writing the right to purchase the property within fifteen days after receiving notice of the proposed sale, the property shall be sold at public auction in the manner provided in RCW 47.12.283;

(h) To any person through the solicitation of written bids through public advertising in the manner prescribed by RCW 47.28.050;

(i) To any other owner of real property required for transportation purposes;

(j) In the case of property suitable for residential use, any nonprofit organization dedicated to providing affordable housing to very low-income, low-income, and moderate-income households as defined in RCW 43.63A.510 and is eligible to receive assistance through the Washington housing trust fund created in chapter 43.185 RCW; ~~((e))~~

(k) A federally qualified community health center as defined in RCW 82.04.4311; or

(l) A federally recognized Indian tribe within whose reservation boundary the property is located.

(3) Sales to purchasers may at the department's option be for cash, by real estate contract, or exchange of land or improvements. Transactions involving the construction of improvements must be conducted pursuant to chapter 47.28 RCW or Title 39 RCW, as applicable, and must comply with all other applicable laws and rules.

(4) Conveyances made pursuant to this section shall be by deed executed by the secretary of transportation and shall be duly acknowledged.

(5) Unless otherwise provided, all moneys received pursuant to the provisions of this section less any real estate broker commissions paid pursuant to RCW 47.12.320 shall be deposited in the motor vehicle fund.

NEW SECTION. **Sec. 2.** Section 1 of this act expires June 30, 2012."

Senator Haugen spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to House Bill No. 2734.

The motion by Senator Haugen carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 3 of the title, after "transportation;" strike the remainder of the title and insert "amending RCW 47.12.063; and providing an expiration date."

#### MOTION

On motion of Senator Haugen, the rules were suspended, House Bill No. 2734 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and Swecker spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Marr, Senator Brown was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 2734 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2734 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 31; Nays, 14; Absent, 0; Excused, 4.

Voting yea: Senators Berkey, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin and Swecker

Voting nay: Senators Becker, Benton, Brandland, Hewitt, Holmquist, Honeyford, Morton, Parlette, Pflug, Roach, Schoesler, Stevens, Tom and Zarelli

Excused: Senators Brown, Kline, McCaslin and Prentice

HOUSE BILL NO. 2734 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2527, by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Morris, Chase, Hudgins and Jacks)

Regarding the energy facility site evaluation council.

The measure was read the second time.

MOTION

Senator Fraser moved that the following committee striking amendment by the Committee on Environment, Water & Energy be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 80.50.020 and 2007 c 325 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Applicant" means any person who makes application for a site certification pursuant to the provisions of this chapter.

(2) "Application" means any request for approval of a particular site or sites filed in accordance with the procedures established pursuant to this chapter, unless the context otherwise requires.

(3) "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.

(4) "Site" means any proposed or approved location of an energy facility, alternative energy resource, or electrical transmission facility.

(5) "Certification" means a binding agreement between an applicant and the state which shall embody compliance to the siting guidelines, in effect as of the date of certification, which have been adopted pursuant to RCW 80.50.040 as now or hereafter amended as conditions to be met prior to or concurrent with the construction or operation of any energy facility.

(6) "Associated facilities" means storage, transmission, handling, or other related and supporting facilities connecting an energy plant with the existing energy supply, processing, or distribution system, including, but not limited to, communications, controls, mobilizing or maintenance equipment, instrumentation, and other types of ancillary transmission equipment, off-line storage or venting required for efficient operation or safety of the transmission system and overhead, and surface or subsurface lines of physical access for the inspection, maintenance, and safe operations of the transmission facility and new transmission lines constructed to operate at nominal voltages of at least 115,000 volts to connect a thermal power plant or alternative energy facilities to the northwest power grid. However, common carrier railroads or motor vehicles shall not be included.

(7) "Transmission facility" means any of the following together with their associated facilities:

(a) Crude or refined petroleum or liquid petroleum product transmission pipeline of the following dimensions: A pipeline larger than six inches minimum inside diameter between valves for the transmission of these products with a total length of at least fifteen miles;

(b) Natural gas, synthetic fuel gas, or liquefied petroleum gas transmission pipeline of the following dimensions: A pipeline larger than fourteen inches minimum inside diameter between valves, for the transmission of these products, with a total length of at least fifteen miles for the purpose of delivering gas to a distribution facility, except an interstate natural gas pipeline regulated by the United States federal power commission.

(8) "Electrical transmission facilities" means electrical power lines and related equipment.

(9) "Independent consultants" means those persons who have no financial interest in the applicant's proposals and who are retained by the council to evaluate the applicant's proposals, supporting studies, or to conduct additional studies.

(10) "Thermal power plant" means, for the purpose of certification, any electrical generating facility using any fuel(~~(, including nuclear materials,))~~ for distribution of electricity by electric utilities.

(11) "Energy facility" means an energy plant or transmission facilities: PROVIDED, That the following are excluded from the provisions of this chapter:

(a) Facilities for the extraction, conversion, transmission or storage of water, other than water specifically consumed or discharged by energy production or conversion for energy purposes; and

(b) Facilities operated by and for the armed services for military purposes or by other federal authority for the national defense.

(12) "Council" means the energy facility site evaluation council created by RCW 80.50.030.

(13) "Counsel for the environment" means an assistant attorney general or a special assistant attorney general who shall represent the public in accordance with RCW 80.50.080.

(14) "Construction" means on-site improvements, excluding exploratory work, which cost in excess of two hundred fifty thousand dollars.

(15) "Energy plant" means the following facilities together with their associated facilities:

(a) Any nuclear power facility where the primary purpose is to produce and sell electricity;

~~(b) Any nonnuclear stationary thermal power plant with generating capacity of three hundred fifty thousand kilowatts or more, measured using maximum continuous electric generating capacity, less minimum auxiliary load, at average ambient temperature and pressure, and floating thermal power plants of one hundred thousand kilowatts or more(, including associated facilities. For the purposes of this subsection, "floating thermal power plants" means a thermal power plant that is))~~ suspended on the surface of water by means of a barge, vessel, or other floating platform;

~~((b))~~ (c) Facilities which will have the capacity to receive liquefied natural gas in the equivalent of more than one hundred million standard cubic feet of natural gas per day, which has been transported over marine waters;

~~((e))~~ (d) Facilities which will have the capacity to receive more than an average of fifty thousand barrels per day of crude or refined petroleum or liquefied petroleum gas which has been or will be transported over marine waters, except that the provisions of this chapter shall not apply to storage facilities unless occasioned by such new facility construction;

~~((d))~~ (e) Any underground reservoir for receipt and storage of natural gas as defined in RCW 80.40.010 capable of delivering an average of more than one hundred million standard cubic feet of natural gas per day; and

~~((e))~~ (f) Facilities capable of processing more than twenty-five thousand barrels per day of petroleum or biofuel into refined products except where such biofuel production is undertaken at existing operating industrial facilities.

(16) "Land use plan" means a comprehensive plan or land use element thereof adopted by a unit of local government pursuant to chapter 35.63, 35A.63, 36.70, or 36.70A RCW, or as otherwise designated by chapter 325, Laws of 2007.

(17) "Zoning ordinance" means an ordinance of a unit of local government regulating the use of land and adopted pursuant to chapter 35.63, 35A.63, 36.70, or 36.70A RCW or Article XI of the state Constitution, or as otherwise designated by chapter 325, Laws of 2007.

(18) "Alternative energy resource" (~~means~~) includes energy facilities of the following types: (a) Wind; (b) solar energy; (c) geothermal energy; (d) landfill gas; (e) wave or tidal action; or (f)

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biomass energy based on solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic.

(19) "Secretary" means the secretary of the United States department of energy.

(20) "Preapplication process" means the process which is initiated by written correspondence from the preapplicant to the council, and includes the process adopted by the council for consulting with the preapplicant and with cities, towns, and counties prior to accepting applications for all transmission facilities.

(21) "Preapplicant" means a person considering applying for a site certificate agreement for any transmission facility.

(22) "Biofuel" has the same meaning as defined in RCW 43.325.010.

**Sec. 2.** RCW 80.50.030 and 2001 c 214 s 4 are each amended to read as follows:

(1) There is created and established the energy facility site evaluation council.

(2)(a) The chair of the council shall be appointed by the governor with the advice and consent of the senate, shall have a vote on matters before the council, shall serve for a term coextensive with the term of the governor, and is removable for cause. The chair may designate a member of the council to serve as acting chair in the event of the chair's absence. The salary of the chair shall be determined under RCW 43.03.040. The chair is a "state employee" for the purposes of chapter 42.52 RCW. As applicable, when attending meetings of the council, members may receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060, and are eligible for compensation under RCW 43.03.250.

(b) The chair or a designee shall execute all official documents, contracts, and other materials on behalf of the council. The Washington state department of community, trade, and economic development shall provide all administrative and staff support for the council. The director of the department of community, trade, and economic development has supervisory authority over the staff of the council and shall employ such personnel as are necessary to implement this chapter. Not more than three such employees may be exempt from chapter 41.06 RCW.

(3)(a) The council shall consist of the directors, administrators, or their designees, of the following departments, agencies, commissions, and committees or their statutory successors:

- (i) Department of ecology;
- (ii) Department of fish and wildlife;
- (iii) Department of community, trade, and economic development;
- (iv) Utilities and transportation commission; and
- (v) Department of natural resources.

(b) The directors, administrators, or their designees, of the following departments, agencies, and commissions, or their statutory successors, may participate as councilmembers at their own discretion provided they elect to participate no later than sixty days after an application is filed:

- (i) Department of agriculture;
- (ii) Department of health;
- (iii) Military department; and
- (iv) Department of transportation.

(c) Council membership is discretionary for agencies that choose to participate under (b) of this subsection only for applications that are filed with the council on or after May 8, 2001. For applications filed before May 8, 2001, council membership is mandatory for those agencies listed in (b) of this subsection.

(4) The appropriate county legislative authority of every county wherein an application for a proposed site is filed shall appoint a

member or designee as a voting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the county which he or she represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site.

(5) The city legislative authority of every city within whose corporate limits an energy (~~plant~~) facility is proposed to be located shall appoint a member or designee as a voting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the city which he or she represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site.

(6) For any port district wherein an application for a proposed port facility is filed subject to this chapter, the port district shall appoint a member or designee as a nonvoting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the port district which he or she represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site. The provisions of this subsection shall not apply if the port district is the applicant, either singly or in partnership or association with any other person.

**Sec. 3.** RCW 80.50.071 and 2006 c 196 s 5 are each amended to read as follows:

(1) The council shall receive all applications for energy facility site certification. ((The following fees or charges for application processing or certification monitoring shall be paid by the applicant or certificate holder:)) Each applicant shall pay such reasonable costs as are actually and necessarily incurred by the council in processing an application.

(a) ((A fee of twenty-five thousand dollars for each proposed site, to be applied toward the cost of the independent consultant study authorized in this subsection, shall accompany the application and shall be a condition precedent to any further consideration or action on the application by the council)) Each applicant shall, at the time of application submission, deposit fifty thousand dollars, or such greater amount as may be specified by the council after consultation with the applicant. Costs that may be charged against the deposit include, but are not limited to, independent consultants' costs, councilmember's wages, employee benefits, costs of a hearing examiner, costs of a court reporter, staff salaries, wages and employee benefits, goods and services, travel expenses, and miscellaneous direct expenses as arise directly from processing an application.

((The council shall commission its own independent consultant study to measure the consequences of the proposed energy facility on the environment for each site application. The council shall direct the consultant to study any matter which it deems essential to an adequate appraisal of the site. The full cost of the study shall be paid by the applicant: PROVIDED, That said costs exceeding a total of the twenty-five thousand dollars paid pursuant to subsection (1)(a) of this section shall be payable subject to the applicant giving prior approval to such excess amount.))

(b) ((Each applicant shall, in addition to the costs of the independent consultant provided by subsection (1)(a) of this section, pay such reasonable costs as are actually and necessarily incurred by the council and its members as designated in RCW 80.50.030 in processing the application. Such costs shall include, but are not limited to, council member's wages, employee benefits, costs of a hearing examiner, a court reporter, additional staff salaries, wages and employee benefits, goods and services, travel expenses within the state and miscellaneous expenses, as arise directly from processing such application)) The council may commission its own

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independent consultant study to measure the consequences of the proposed energy facility on the environment or any matter that it deems essential to an adequate appraisal of the site. The council shall provide an estimate of the cost of the study to the applicant and consider applicant comments.

((Each applicant shall, at the time of application submission, deposit twenty thousand dollars, or such lesser amount as may be specified by council rule, to cover costs provided for by subsection (1)(b) of this section. Reasonable and necessary costs of the council directly attributable to application processing shall be charged against such deposit.))

(c) The council shall submit to each applicant a statement of such expenditures (~~actually~~) made during the preceding calendar quarter which shall be in sufficient detail to explain such expenditures. The applicant shall pay the state treasurer the amount of such statement to restore the total amount on deposit to the originally established level: PROVIDED, That such applicant may, at the request of the council, increase the amount of funds on deposit to cover anticipated expenses during peak periods of application processing. Any funds remaining unexpended at the conclusion of application processing shall be refunded to the applicant, or at the applicant's option, credited against required deposits of certificate holders.

~~((e))~~ (2) Each certificate holder shall pay such reasonable costs as are actually and necessarily incurred by the council for inspection and determination of compliance by the certificate holder with the terms of the certification relative to monitoring the effects of construction (~~and~~), operation, and site restoration of the facility.

(a) Each certificate holder, within thirty days of execution of the site certification agreement, shall have on deposit (~~twenty~~) fifty thousand dollars, or such (~~other~~) greater amount as may be specified by the council (~~rule, to cover costs provided for by subsection (1)(e) of this section~~) after consultation with the certificate holder. (~~Reasonable and necessary costs of the council directly attributable to~~) Costs that may be charged against the deposit include, but are not limited to, those specified in subsection (1)(a) of this section as arise from inspection and determination of compliance by the certificate holder with the terms of the certification (~~relative to monitoring the effects of construction and operation of the facility shall be charged against such deposit~~).

(b) The council shall submit to each certificate holder a statement of such expenditures actually made during the preceding calendar quarter which shall be in sufficient detail to explain such expenditures. The certificate holder shall pay the state treasurer the amount of such statement to restore the total amount on deposit to the originally established level: PROVIDED, That if the actual (~~reasonable, and necessary~~) expenditures for inspection and determination of compliance in the preceding calendar quarter have exceeded the amount of funds on deposit, such excess costs shall be paid by the certificate holder.

~~((2))~~ (3) If an applicant or certificate holder fails to provide the initial deposit, or if subsequently required payments are not received within thirty days following receipt of the statement from the council, the council may (a) in the case of the applicant, suspend processing of the application until payment is received; or (b) in the case of a certificate holder, suspend the certification.

~~((3))~~ (4) All payments required of the applicant or certificate holder under this section are to be made to the state treasurer who shall make payments as instructed by the council from the funds submitted. All such funds shall be subject to state auditing procedures. Any unexpended portions thereof shall be returned to the applicant or certificate holder.

NEW SECTION. Sec. 4. Rule-making costs incurred by the energy facility site evaluation council in implementing and

administering this act shall be proportionately divided among the certificate holders and applicants directly affected by this act."

Senator Fraser spoke in favor of adoption of the committee striking amendment.

MOTION

Senator Ranker moved that the following amendment by Senator Ranker and others to the committee striking amendment be adopted:

On page 4, line 4 of the amendment, before "industrial" strike "operating"

Senator Ranker spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Ranker and others on page 4, line 4 to the committee striking amendment to Substitute House Bill No. 2527.

The motion by Senator Ranker carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Environment, Water & Energy as amended to Substitute House Bill No. 2527.

The motion by Senator Fraser carried and the committee striking amendment as amended was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "council;" strike the remainder of the title and insert "amending RCW 80.50.020, 80.50.030, and 80.50.071; and creating a new section."

MOTION

On motion of Senator Fraser, the rules were suspended, Substitute House Bill No. 2527 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fraser and Honeyford spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2527 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2527 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 43; Nays, 2; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli  
Voting nay: Senators Holmquist and Stevens

Excused: Senators Brown, Kline, McCaslin and Prentice

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SUBSTITUTE HOUSE BILL NO. 2527 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2419, by Representatives Bailey, Nelson and Kirby

Modifying the exemption to the three-year active transacting requirement for foreign or alien insurer applicants.

The measure was read the second time.

#### MOTION

On motion of Senator Berkey, the rules were suspended, House Bill No. 2419 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Berkey spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Schoesler, Senator Pflug was excused.

#### MOTION

On motion of Senator Marr, Senator Ranker was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 2419.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2419 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brown, McCaslin, Pflug and Prentice

HOUSE BILL NO. 2419, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2460, by Representatives Smith, Nelson, Liias, Van De Wege, Blake, Bailey, Upthegrove, Kenney and Moeller

Regarding organic products.

The measure was read the second time.

#### MOTION

Senator Hatfield moved that the following committee striking amendment by the Committee on Agriculture & Rural Economic Development be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 15.86.010 and 2002 c 220 s 1 are each amended to read as follows:

The legislature recognizes a public benefit in:

(1) Establishing standards governing the labeling and advertising of ~~((food))~~ agricultural products and ~~((agricultural))~~ commodities as ~~((organically produced))~~ organic products or transitional products;

(2) Providing certification under the ~~((federal organic food production act of 1990, 7 U.S.C. Sec. 6501 et seq., and the rules adopted thereunder))~~ national organic program for agricultural products marketed and labeled using the term "organic" or a derivative of the term "organic;"

(3) Providing access for Washington producers, processors, and handlers to domestic and international markets for organic ~~((food))~~ products; ~~((and))~~

(4) Establishing a state organic program or obtaining federal accreditation as a certifying agent under the ~~((federal organic food production act of 1990, 7 U.S.C. Sec. 6501 et seq., and the rules adopted thereunder))~~ national organic program; and

(5) Establishing a brand name materials list for registration of inputs that comply with national, international, or other organic standards.

Sec. 2. RCW 15.86.020 and 2002 c 220 s 2 are each amended to read as follows:

~~((Unless the context clearly requires otherwise,))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Director" means the director of the department of agriculture or the director's designee.

(2) "Organic ~~((food))~~ product" means any agricultural product, in whole or in part, including meat, dairy, and beverage, that is marketed using the term organic or any derivative of organic and that is produced, handled, and processed in accordance with this chapter.

(3) "Producer" means any person or organization who or which grows, raises, or produces an agricultural product.

(4) "Handler" means any person who sells, distributes, or packs organic or transitional products.

(5) "Transitional ~~((food))~~ product" means any ~~((food))~~ agricultural product that ~~((satisfies all of the))~~ meets requirements ~~((of))~~ for organic ~~((food))~~ certification, except ~~((the time requirements as defined in rule))~~ that the organic production areas have not been free of prohibited substances for thirty-six months. Use of prohibited substances must have ceased for at least twelve months prior to the harvest of a transitional product.

(6) "Organic certifying agent" means any third-party certification organization that is recognized by the director as being one which imposes, for certification, standards consistent with this chapter.

(7) "Processor" means any person engaged in the canning, freezing, drying, dehydrating, cooking, pressing, powdering, packaging, baking, heating, mixing, grinding, churning, separating, extracting, cutting, fermenting, eviscerating, preserving, jarring, or otherwise processing of an organic ~~((food))~~ or transitional product.

(8) "Person" means any natural person, firm, partnership, exchange, association, trustee, receiver, corporation, and any member, officer, or employee thereof or assignee for the benefit of creditors.

(9) "Department" means the state department of agriculture.

(10) "Represent" means to hold out as or to advertise.

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(11) "Sale" means selling, offering for sale, holding for sale, preparing for sale, trading, bartering, offering a gift as an inducement for sale of, and advertising for sale in any media.

(12) "Material" means any substance or mixture of substances that is intended to be used in agricultural production, processing, or handling.

(13) "Fertilizer" means a single or blended substance containing one or more recognized plant nutrients which is used primarily for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth.

(14) "Label" means a display of written, printed, or graphic material on the immediate container of an agricultural product or any such material affixed to any agricultural product or affixed to a bulk container containing an agricultural product, except for package liners or a display of written, printed, or graphic material which contains only information about the weight of the product.

(15) "Labeling" includes all written, printed, or graphic material accompanying an agricultural product at any time or written, printed, or graphic material about the agricultural product displayed at retail stores about the product.

(16) "National organic program" means the program administered by the United States department of agriculture pursuant to 7 C.F.R. Part 205, which implements the federal organic food production act of 1990 (7 U.S.C. Sec. 6501 et seq.).

(17) "Registrant" means the person registering a material on the brand name materials list under the provisions of this chapter.

(18) "Certification" or "certified" means a determination documented by a certificate of organic operation made by a certifying agent that a production or handling operation is in compliance with the national organic program or with international standards.

(19) "Compost" means the product of a managed process through which microorganisms break down plant and animal materials into more available forms suitable for application to the soil.

(20) "Crop production aid" means any substance, material, structure, or device that is used to aid a producer of an agricultural product except for fertilizers and pesticides.

(21) "Livestock production aid" means any substance, material, structure, or device that is used to aid a producer in the production of livestock such as parasiticides, medicines, and feed additives.

(22) "Organic waste-derived material" means grass clippings, leaves, weeds, bark, plantings, prunings, and other vegetative wastes, uncontaminated wood waste from logging and milling operations, food wastes, food processing wastes, and materials derived from these wastes through composting. "Organic waste-derived material" does not include products that contain biosolids as defined in chapter 70.95J RCW.

(23) "Soil amendment" means any substance that is intended to improve the physical characteristics of the soil, except for fertilizers and pesticides.

(24) "Spray adjuvant" means any product intended to be used with a pesticide as an aid to the application or to the effect of the pesticide and that is in a package or container separate from the pesticide. "Spray adjuvant" includes, but is not limited to, wetting agents, spreading agents, deposit builders, adhesives, emulsifying agents, deflocculating agents, and water modifiers or similar agent with or without toxic properties of its own intended to be used with any other pesticide as an aid to its application or to its effect. "Spray adjuvant" does not include products that are only intended to mark the location where a pesticide is applied.

(25) "Pesticide" means, but is not limited to:

(a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, nematode, mollusk, fungus, weed, and any other form of plant or animal life or

virus, except a virus on or in a living human being or other animal, which is normally considered to be a pest or which the director may declare to be a pest;

(b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant;

(c) Any substance or mixture of substances intended to be used as a spray adjuvant; and

(d) Any other substances intended for such use as may be named by the director by rule.

(26) "Postharvest material" means any substance, material, structure, or device that is used in the postharvest handling of agricultural products.

(27) "Processing aid" means a substance that is added to a food:

(a) During processing, but is removed in some manner from the food before it is packaged in its finished form;

(b) During processing, is converted into constituents normally present in the food, and does not significantly increase the amount of the constituents naturally found in the food; and

(c) For its technical or functional effect in the processing but is present in the finished food at insignificant levels and does not have any technical or functional effect in that food.

(28) "Manufacturer" means a person that compounds, produces, granulates, mixes, blends, repackages, or otherwise alters the composition of materials.

**Sec. 3.** RCW 15.86.030 and 2002 c 220 s 3 are each amended to read as follows:

(1) To be labeled, sold, or represented as an organic ~~((food))~~ product, a product ~~((shall))~~ must be produced under standards established ~~((under RCW 15.86.060))~~ in this chapter or rules adopted pursuant to this chapter. A producer, processor, or handler shall not represent, sell, or offer for sale any ~~((food))~~ agricultural product with the representation that the product is ~~((an))~~ organic ~~((food))~~ if the producer, processor, or handler knows, or has reason to know, that the ~~((food))~~ product has not been produced, processed, or handled in accordance with standards established ~~((under RCW 15.86.060))~~ in this chapter or rules adopted pursuant to this chapter.

(2) The department may conduct evaluations in retail establishments to verify compliance with organic labeling and advertising requirements of this chapter, rules adopted pursuant to this chapter, and the national organic program.

**Sec. 4.** RCW 15.86.060 and 2002 c 220 s 4 are each amended to read as follows:

(1) The director shall adopt rules, in conformity with chapter 34.05 RCW, as the director believes are appropriate for the adoption of the national organic program ~~((under the federal organic food production act of 1990, 7 U.S.C. Sec. 6501 et seq., and the rules adopted thereunder))~~ and for the proper administration of this chapter.

(2)(a) The director shall issue orders to producers, processors, or handlers whom ~~((he or she))~~ the director finds are violating ~~((any provision of this chapter,))~~ RCW 15.86.030 or 15.86.090 or rules ~~((or regulations))~~ adopted ((under)) pursuant to this chapter, to cease their violations and desist from future violations.

(b) Whenever the director finds that a producer, processor, or handler has committed a violation, the director shall impose on and collect from the violator a civil fine not exceeding the total of ~~((the following amounts))~~:

~~((a))~~ (i) The state's estimated costs of investigating and taking appropriate administrative and enforcement actions in respect to the violation; and

~~((b))~~ (ii) One thousand dollars.

~~((c))~~ (3) The director may deny, suspend, or revoke a certification provided for in this chapter if he or she determines that an applicant or certified person has violated this chapter or rules adopted under it.)

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**Sec. 5.** RCW 15.86.065 and 2002 c 220 s 7 are each amended to read as follows:

(1) The department is authorized to take such actions, conduct proceedings, and enter orders as permitted or contemplated for a state organic program or certifying agent under the ~~((federal organic food production act of 1990, 7 U.S.C. Sec. 6501 et seq., and the rules adopted thereunder))~~ national organic program.

(2) The director may deny, suspend, or revoke a certification provided for in this chapter if the director determines that an applicant or certified person has violated this chapter or rules adopted pursuant to this chapter.

(3) The ~~((state organic))~~ program shall not be inconsistent with the requirements of ~~((7 U.S.C. Sec. 6501 et seq. and the rules adopted thereunder, including 7 C.F.R. Sec. 205.668))~~ the national organic program.

(4) The department shall adopt rules necessary to implement this section.

**Sec. 6.** RCW 15.86.070 and 2002 c 220 s 5 are each amended to read as follows:

(1) The director may adopt rules establishing a program for certifying producers, processors, and handlers as meeting state, national, or international standards for organic or transitional ~~((food))~~ products.

(2) The rules:

(a) May govern, but are not limited to governing:

(i) The number and scheduling of on-site visits, both announced and unannounced, by certification personnel;

(ii) Recordkeeping requirements; and

(iii) The submission of product samples for chemical analysis ~~((The rules)); and~~

(b) Shall include a fee schedule that will provide for the recovery of the full cost of the ~~((organic food))~~ program.

(3) All fees collected under this ~~((section))~~ chapter shall be deposited in an account within the agricultural local fund ~~((and))~~. The revenue from such fees shall be used solely for carrying out the provisions of this ~~((section))~~ chapter, and no appropriation is required for disbursement from the fund.

(4) The director may employ such personnel as are necessary to carry out the provisions of this ~~((section))~~ chapter.

((2) The fees established under this section may be increased in excess of the fiscal growth factor as provided in RCW 43.135.055 for the fiscal year ending June 30, 2003.))

**Sec. 7.** RCW 15.86.090 and 2002 c 220 s 6 are each amended to read as follows:

(1) It is unlawful for any person to sell, offer for sale, or process any agricultural product within this state with an organic label unless that person is certified under this chapter by the department or a recognized organic certifying agent.

(2) Subsection (1) of this section shall not apply to:

(a) Final retailers of organic ~~((food))~~ products that do not process organic ~~((food))~~ products; or

(b) Producers who sell no more than five thousand dollars annually in value of agricultural products directly to consumers.

**NEW SECTION. Sec. 8.** A new section is added to chapter 15.86 RCW to read as follows:

(1) To be labeled, sold, or represented as transitional products, agricultural products must comply with transitional product standards specified in this chapter and rules adopted pursuant to this chapter, including no application of substances prohibited under the national organic program within one year immediately preceding harvest.

(2) A producer, processor, or handler may not represent, sell, or offer for sale any agricultural product as a transitional product if the producer, processor, or handler knows or has reason to know that the

product does not comply with transitional product standards specified in this chapter or rules adopted pursuant to this chapter.

(3)(a) The department may set and collect transitional certification fees, including fees for application for transitional certification, renewal of transitional certification, inspections, and sampling. Collected fees are subject to provisions specified in RCW 15.86.070.

(b) The fee for application for transitional certification is fifty dollars per site in addition to any organic certification application fees established under this chapter. The department may increase this fee by rule as necessary to cover costs of provision of services.

(4) The department may conduct evaluations in retail establishments to verify compliance with transitional labeling and advertising requirements of this chapter, rules adopted pursuant to this chapter, and the national organic program.

**NEW SECTION. Sec. 9.** A new section is added to chapter 15.86 RCW to read as follows:

(1) The department may establish a brand name materials list of registered materials that are approved for use in organic production, processing, or handling in accordance with the national organic program or international standards. Registration of a material on the brand name materials list is voluntary. While registration is not required for a material to be used or sold in this state, registration is necessary for a material to be included on the brand name materials list.

(2)(a) Manufacturers of materials may submit an application to the department for registration of a material on the brand name materials list. Applications must be made on a form designated by the department, and must include:

(i) The name and address of the manufacturer;

(ii) The name and address of the manufacturer's representative making the representations in the application;

(iii) The brand name that the material is sold under;

(iv) A copy of the labeling accompanying the material and a statement of all claims to be made for it, including the directions and precautions for use;

(v) The complete formula of the material, including the active and inert ingredients;

(vi) A description of the manufacturing process, including all materials used for the extraction and synthesis of the material, if appropriate;

(vii) The intended uses of the product;

(viii) The source or supplier of all ingredients;

(ix) The required fee for registration or renewal; and

(x) Any additional information required by rule.

(b) If any change to the information provided in an application occurs at any time after an application is submitted, the registrant must immediately submit corrected information to the department for review. Failure by the registrant to provide corrections to information provided in the application may result in suspension or revocation of the registration.

(c) By submitting an application for registration on the brand name materials list, the applicant expressly consents to jurisdiction of the state of Washington in all matters related to the registration.

(d) Applications for registration on the brand name materials list are governed by chapter 34.05 RCW.

(3)(a) By applying for registration on the brand name materials list, the registrant expressly grants to the department or other organic certifying agent or inspection agent approved by the national organic program the right to enter the registrant's premises during normal business hours or at other reasonable times to:

(i) Inspect the portion of the premises where the material, inputs, or ingredients are stored, produced, manufactured, packaged, or labeled;

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(ii) Inspect records related to the sales, storage, production, manufacture, packaging, or labeling of the material, inputs, or ingredients; and

(iii) Obtain samples of materials, inputs, and ingredients.

(b) Should the registrant refuse to allow inspection of the premises or records or fail to provide samples, the registration on the brand name materials list is cancelled. The department shall deny applications for registration where the registrant refuses to allow the inspection of the premises or records or fails to provide samples as provided in this section.

(c) Required inspections may be conducted by department personnel, by an organic certifying agent, or by another inspection agent approved by the national organic program. The department may establish by rule evaluation criteria for review of inspection reports conducted by an organic certifying agent or inspection agent approved by the national organic program.

(4) The director may adopt rules necessary to implement the brand name materials list, including but not limited to:

(a) Fees related to registration;

(b) The number and scheduling of inspections, both announced and unannounced;

(c) Recordkeeping requirements;

(d) Additional application requirements;

(e) Labeling of registered materials; and

(f) Chemical analysis of material samples.

(5)(a) The department may establish a brand name materials list to register materials approved for use under:

(i) National organic program standards; or

(ii) International or additional organic standards.

(b) The director may review materials registered on the brand name materials list as approved for use under the national organic program for compliance with specific international or additional organic standards as designated by rule. A registered material that complies with a specific international or additional organic standard may also be registered as approved under that standard.

(6) Registration of a material on the brand name materials list under this chapter does not guarantee acceptance for use in organic production or processing by organic certifying agents other than the department. The department is not liable for any losses or damage that occurs as a result of use of a material registered on the brand name materials list.

(7) The director may deny, suspend, or revoke a registration on the brand name materials list if the director determines that a registrant has:

(a) Failed to meet the registration criteria established in this chapter or rules adopted pursuant to this chapter; or

(b) Violated any other provision of this chapter or rules adopted pursuant to this chapter.

**NEW SECTION. Sec. 10.** A new section is added to chapter 15.86 RCW to read as follows:

(1) The department is authorized to set and collect fees for application for registration, renewal of registration, inspections, and sampling for the brand name materials list. Collected fees are subject to provisions specified in RCW 15.86.070. The department may increase by rule fees established in this section as necessary to cover costs of provision of services.

(2)(a) The application fee for registration of a pesticide, spray adjuvant, processing aid, livestock production aid, or postharvest material is:

(i) Five hundred dollars per material for an initial registration; and

(ii) Three hundred dollars per material for renewing a registration.

(b) The application fee for registration of a fertilizer, soil amendment, organic waste-derived material, compost, animal manure, or crop production aid is:

(i) Four hundred dollars per material for an initial registration; and

(ii) Two hundred dollars per material for renewing a registration.

(3)(a) Renewal applications postmarked after October 31st must include, in addition to the renewal fee, a late fee of:

(i) One hundred dollars per material for applications postmarked after October 31st;

(ii) Two hundred dollars per material for applications postmarked after November 30th; and

(iii) Three hundred dollars per material for applications postmarked after December 31st.

(b) Renewal applications received after February 2nd will not be accepted, and applicants must reapply as new applicants.

(4) Inspections and any additional visit that must be arranged must be billed at forty dollars per hour plus travel costs and mileage, charged at the rate established by the office of financial management.

(5) Chemical analysis of material samples, if required for registration or requested by the applicant, must be billed at a rate established by the laboratory services division of the department of agriculture or at cost for analyses performed by another laboratory.

(6) Requests for expedited reviews may be submitted and, if approved, must be billed at forty dollars per hour.

(7) The department may assess compliance with an international or additional organic standard for materials registered on the brand name materials list as approved for use under the national organic program. Requests for additional assessments of materials approved under the national organic program must be billed at a rate of one hundred dollars per product for each standard."

Senator Hatfield spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Agriculture & Rural Economic Development to House Bill No. 2460.

The motion by Senator Hatfield carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "products;" strike the remainder of the title and insert "amending RCW 15.86.010, 15.86.020, 15.86.030, 15.86.060, 15.86.065, 15.86.070, and 15.86.090; adding new sections to chapter 15.86 RCW; and prescribing penalties."

MOTION

On motion of Senator Hatfield, the rules were suspended, House Bill No. 2460 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hatfield spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2460 as amended by the Senate.

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ROLL CALL

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The Secretary called the roll on the final passage of House Bill No. 2460 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Holmquist

Excused: Senators McCaslin, Pflug and Prentice

HOUSE BILL NO. 2460 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 2831, by Representatives Simpson, Bailey, Kirby, Kelley, Chase, Wallace, Rodne and Nelson

Regulating state-chartered commercial banks, trust companies, savings banks, and their holding companies.

The measure was read the second time.

#### MOTION

On motion of Senator Berkey, the rules were suspended, Engrossed House Bill No. 2831 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Berkey spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 2831.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2831 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators McCaslin, Pflug and Prentice

ENGROSSED HOUSE BILL NO. 2831, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2534, by House Committee on Public Safety & Emergency Preparedness

(originally sponsored by Representatives Hurst, Pearson, O'Brien, Chase, Kelley, Conway, Van De Wege, Sells, Ericks, Morrell, Kirby, Campbell, Haigh and Smith)

Establishing a program to verify the address of registered sex offenders and kidnapping offenders.

The measure was read the second time.

#### MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9A.44.130 and 2008 c 230 s 1 are each amended to read as follows:

(1)(a) Any adult or juvenile residing whether or not the person has a fixed residence, or who is a student, is employed, or carries on a vocation in this state who has been found to have committed or has been convicted of any sex offense or kidnapping offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any sex offense or kidnapping offense, shall register with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation, or as otherwise specified in this section. Where a person required to register under this section is in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility as a result of a sex offense or kidnapping offense, the person shall also register at the time of release from custody with an official designated by the agency that has jurisdiction over the person.

(b) Any adult or juvenile who is required to register under (a) of this subsection:

(i) Who is attending, or planning to attend, a public or private school regulated under Title 28A RCW or chapter 72.40 RCW shall, within ten days of enrolling or prior to arriving at the school to attend classes, whichever is earlier, notify the sheriff for the county of the person's residence of the person's intent to attend the school, and the sheriff shall promptly notify the principal of the school;

(ii) Who is admitted to a public or private institution of higher education shall, within ten days of enrolling or by the first business day after arriving at the institution, whichever is earlier, notify the sheriff for the county of the person's residence of the person's intent to attend the institution;

(iii) Who gains employment at a public or private institution of higher education shall, within ten days of accepting employment or by the first business day after commencing work at the institution, whichever is earlier, notify the sheriff for the county of the person's residence of the person's employment by the institution; or

(iv) Whose enrollment or employment at a public or private institution of higher education is terminated shall, within ten days of such termination, notify the sheriff for the county of the person's residence of the person's termination of enrollment or employment at the institution.

(c) Persons required to register under this section who are enrolled in a public or private institution of higher education on June 11, 1998, or a public or private school regulated under Title 28A RCW or chapter 72.40 RCW on September 1, 2006, must notify the county sheriff immediately.

(d) The sheriff shall notify the school's principal or institution's department of public safety and shall provide that department with

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the same information provided to a county sheriff under subsection (3) of this section.

(e)(i) A principal receiving notice under this subsection must disclose the information received from the sheriff under (b) of this subsection as follows:

(A) If the student who is required to register as a sex offender is classified as a risk level II or III, the principal shall provide the information received to every teacher of any student required to register under (a) of this subsection and to any other personnel who, in the judgment of the principal, supervises the student or for security purposes should be aware of the student's record;

(B) If the student who is required to register as a sex offender is classified as a risk level I, the principal shall provide the information received only to personnel who, in the judgment of the principal, for security purposes should be aware of the student's record.

(ii) Any information received by a principal or school personnel under this subsection is confidential and may not be further disseminated except as provided in RCW 28A.225.330, other statutes or case law, and the family and educational and privacy rights act of 1994, 20 U.S.C. Sec. 1232g et seq.

(2) This section may not be construed to confer any powers pursuant to RCW 4.24.550 upon the public safety department of any public or private school or institution of higher education.

(3)(a) The person shall provide the following information when registering: (i) Name; (ii) complete residential address; (iii) date and place of birth; (iv) place of employment; (v) crime for which convicted; (vi) date and place of conviction; (vii) aliases used; (viii) social security number; (ix) photograph; and (x) fingerprints.

(b) Any person who lacks a fixed residence shall provide the following information when registering: (i) Name; (ii) date and place of birth; (iii) place of employment; (iv) crime for which convicted; (v) date and place of conviction; (vi) aliases used; (vii) social security number; (viii) photograph; (ix) fingerprints; and (x) where he or she plans to stay.

(4)(a) Offenders shall register with the county sheriff within the following deadlines. For purposes of this section the term "conviction" refers to adult convictions and juvenile adjudications for sex offenses or kidnapping offenses:

(i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex offense on, before, or after February 28, 1990, and who, on or after July 28, 1991, are in custody, as a result of that offense, of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, and (B) kidnapping offenders who on or after July 27, 1997, are in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, must register at the time of release from custody with an official designated by the agency that has jurisdiction over the offender. The agency shall within three days forward the registration information to the county sheriff for the county of the offender's anticipated residence. The offender must also register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register. Failure to register at the time of release and within twenty-four hours of release constitutes a violation of this section and is punishable as provided in subsection ~~((4))~~ (10) of this section.

When the agency with jurisdiction intends to release an offender with a duty to register under this section, and the agency has knowledge that the offender is eligible for developmental disability services from the department of social and health services, the

agency shall notify the division of developmental disabilities of the release. Notice shall occur not more than thirty days before the offender is to be released. The agency and the division shall assist the offender in meeting the initial registration requirement under this section. Failure to provide such assistance shall not constitute a defense for any violation of this section.

(ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 28, 1991. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (4)(a)(ii) as of July 28, 1991, or a kidnapping offender required to register as of July 27, 1997, shall not relieve the offender of the duty to register or to reregister following a change in residence. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on or after July 23, 1995, and kidnapping offenders who, on or after July 27, 1997, as a result of that offense are in the custody of the United States bureau of prisons or other federal or military correctional agency for sex offenses committed before, on, or after February 28, 1990, or kidnapping offenses committed on, before, or after July 27, 1997, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. Sex offenders who, on July 23, 1995, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (4)(a)(iii) as of July 23, 1995, or a kidnapping offender required to register as of July 27, 1997 shall not relieve the offender of the duty to register or to reregister following a change in residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders who are convicted of a sex offense on or after July 28, 1991, for a sex offense that was committed on or after February 28, 1990, and kidnapping offenders who are convicted on or after July 27, 1997, for a kidnapping offense that was committed on or after July 27, 1997, but who are not sentenced to serve a term of confinement immediately upon sentencing, shall report to the county sheriff to register immediately upon completion of being sentenced.

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(v) **OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON RESIDENTS.** Sex offenders and kidnapping offenders who move to Washington state from another state or a foreign country that are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the state department of social and health services at the time of moving to Washington, must register within three business days of establishing residence or reestablishing residence if the person is a former Washington resident. The duty to register under this subsection applies to sex offenders convicted under the laws of another state or a foreign country, federal or military statutes for offenses committed before, on, or after February 28, 1990, or Washington state for offenses committed before, on, or after February 28, 1990, and to kidnapping offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed before, on, or after July 27, 1997. Sex offenders and kidnapping offenders from other states or a foreign country who, when they move to Washington, are under the jurisdiction of the department of corrections, the indeterminate sentence review board, or the department of social and health services must register within twenty-four hours of moving to Washington. The agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to Washington.

(vi) **OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY.** Any adult or juvenile who has been found not guilty by reason of insanity under chapter 10.77 RCW of (A) committing a sex offense on, before, or after February 28, 1990, and who, on or after July 23, 1995, is in custody, as a result of that finding, of the state department of social and health services, or (B) committing a kidnapping offense on, before, or after July 27, 1997, and who on or after July 27, 1997, is in custody, as a result of that finding, of the state department of social and health services, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. The state department of social and health services shall provide notice to the adult or juvenile in its custody of the duty to register. Any adult or juvenile who has been found not guilty by reason of insanity of committing a sex offense on, before, or after February 28, 1990, but who was released before July 23, 1995, or any adult or juvenile who has been found not guilty by reason of insanity of committing a kidnapping offense but who was released before July 27, 1997, shall be required to register within twenty-four hours of receiving notice of this registration requirement. The state department of social and health services shall make reasonable attempts within available resources to notify sex offenders who were released before July 23, 1995, and kidnapping offenders who were released before July 27, 1997. Failure to register within twenty-four hours of release, or of receiving notice, constitutes a violation of this section and is punishable as provided in subsection ~~((4))~~ (10) of this section.

(vii) **OFFENDERS WHO LACK A FIXED RESIDENCE.** Any person who lacks a fixed residence and leaves the county in which he or she is registered and enters and remains within a new county for twenty-four hours is required to register with the county sheriff not more than twenty-four hours after entering the county and provide the information required in subsection (3)(b) of this section.

(viii) **OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER SUPERVISION.** Offenders who lack a fixed residence and who are under the supervision of the department shall register in the county of their supervision.

(ix) **OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND SCHOOL IN ANOTHER STATE.** Offenders required to register in Washington, who move to another state, or who work, carry on a vocation, or attend school in another

state shall register a new address, fingerprints, and photograph with the new state within ten days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. The person must also send written notice within ten days of moving to the new state or to a foreign country to the county sheriff with whom the person last registered in Washington state. The county sheriff shall promptly forward this information to the Washington state patrol.

(b) Failure to register within the time required under this section constitutes a per se violation of this section and is punishable as provided in subsection ~~((4))~~ (10) of this section. The county sheriff shall not be required to determine whether the person is living within the county.

(c) An arrest on charges of failure to register, service of an information, or a complaint for a violation of this section, or arraignment on charges for a violation of this section, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under this section who asserts as a defense the lack of notice of the duty to register shall register immediately following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this subsection (4)(c) constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.

(d) The deadlines for the duty to register under this section do not relieve any sex offender of the duty to register under this section as it existed prior to July 28, 1991.

(5)(a) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must send signed written notice of the change of address to the county sheriff within seventy-two hours of moving. If any person required to register pursuant to this section moves to a new county, the person must send signed written notice of the change of address at least fourteen days before moving to the county sheriff in the new county of residence and must register with that county sheriff within twenty-four hours of moving. The person must also send signed written notice within ten days of the change of address in the new county to the county sheriff with whom the person last registered. The county sheriff with whom the person last registered shall promptly forward the information concerning the change of address to the county sheriff for the county of the person's new residence. Upon receipt of notice of change of address to a new state, the county sheriff shall promptly forward the information regarding the change of address to the agency designated by the new state as the state's offender registration agency.

(b) It is an affirmative defense to a charge that the person failed to send a notice at least fourteen days in advance of moving as required under (a) of this subsection that the person did not know the location of his or her new residence at least fourteen days before moving. The defendant must establish the defense by a preponderance of the evidence and, to prevail on the defense, must also prove by a preponderance that the defendant sent the required notice within twenty-four hours of determining the new address.

(6)(a) Any person required to register under this section who lacks a fixed residence shall provide signed written notice to the sheriff of the county where he or she last registered within forty-eight hours excluding weekends and holidays after ceasing to have a fixed residence. The notice shall include the information required by subsection (3)(b) of this section, except the photograph and fingerprints. The county sheriff may, for reasonable cause, require the offender to provide a photograph and fingerprints. The sheriff shall forward this information to the sheriff of the county in

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which the person intends to reside, if the person intends to reside in another county.

(b) A person who lacks a fixed residence must report weekly, in person, to the sheriff of the county where he or she is registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. ~~((The county sheriff's office may require the person to list the locations where the person has stayed during the last seven days.))~~ The person must keep an accurate accounting of where he or she stays during the week and provide it to the county sheriff upon request. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

(c) If any person required to register pursuant to this section does not have a fixed residence, it is an affirmative defense to the charge of failure to register, that he or she provided written notice to the sheriff of the county where he or she last registered within forty-eight hours excluding weekends and holidays after ceasing to have a fixed residence and has subsequently complied with the requirements of subsections (4)(a)(vii) or (viii) and (6) of this section. To prevail, the person must prove the defense by a preponderance of the evidence.

(7) ((All offenders who are required to register pursuant to this section who have a fixed residence and who are designated as a risk level II or III must report, in person, every ninety days to the sheriff of the county where he or she is registered. Reporting shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. An offender who complies with the ninety-day reporting requirement with no violations for a period of at least five years in the community may petition the superior court to be relieved of the duty to report every ninety days. The petition shall be made to the superior court in the county where the offender resides or reports under this section. The prosecuting attorney of the county shall be named and served as respondent in any such petition. The court shall relieve the petitioner of the duty to report if the petitioner shows, by a preponderance of the evidence, that the petitioner has complied with the reporting requirement for a period of at least five years and that the offender has not been convicted of a criminal violation of this section for a period of at least five years, and the court determines that the reporting no longer serves a public safety purpose. Failure to report, as specified, constitutes a violation of this section and is punishable as provided in subsection (11) of this section.

(8)) A sex offender subject to registration requirements under this section who applies to change his or her name under RCW 4.24.130 or any other law shall submit a copy of the application to the county sheriff of the county of the person's residence and to the state patrol not fewer than five days before the entry of an order granting the name change. No sex offender under the requirement to register under this section at the time of application shall be granted an order changing his or her name if the court finds that doing so will interfere with legitimate law enforcement interests, except that no order shall be denied when the name change is requested for religious or legitimate cultural reasons or in recognition of marriage or dissolution of marriage. A sex offender under the requirement to register under this section who receives an order changing his or her name shall submit a copy of the order to the county sheriff of the county of the person's residence and to the state patrol within five days of the entry of the order.

((9)) (8) The county sheriff shall obtain a photograph of the individual and shall obtain a copy of the individual's fingerprints. A photograph may be taken at any time to update an individual's file.

~~((40))~~ (9) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540, 70.48.470, and 72.09.330:

(a) "Sex offense" means:

(i) Any offense defined as a sex offense by RCW 9.94A.030;

(ii) Any violation under RCW 9A.44.096 (sexual misconduct with a minor in the second degree);

(iii) Any violation under RCW 9.68A.090 (communication with a minor for immoral purposes);

(iv) Any federal or out-of-state conviction for an offense that under the laws of this state would be classified as a sex offense under this subsection; and

(v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030 or this subsection.

(b) "Kidnapping offense" means: (i) The crimes of kidnapping in the first degree, kidnapping in the second degree, and unlawful imprisonment, as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent; (ii) any offense that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a kidnapping offense under this subsection ~~((40))~~ (9)(b); and (iii) any federal or out-of-state conviction for an offense that under the laws of this state would be classified as a kidnapping offense under this subsection ~~((40))~~ (9)(b).

(c) "Employed" or "carries on a vocation" means employment that is full-time or part-time for a period of time exceeding fourteen days, or for an aggregate period of time exceeding thirty days during any calendar year. A person is employed or carries on a vocation whether the person's employment is financially compensated, volunteered, or for the purpose of government or educational benefit.

(d) "Student" means a person who is enrolled, on a full-time or part-time basis, in any public or private educational institution. An educational institution includes any secondary school, trade or professional institution, or institution of higher education.

~~((41))~~ (10)(a) A person who knowingly fails to comply with any of the requirements of this section is guilty of a class B felony if the crime for which the individual was convicted was a felony sex offense as defined in subsection ~~((40))~~ (9)(a) of this section or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony sex offense as defined in subsection ~~((40))~~ (9)(a) of this section.

(b) If the crime for which the individual was convicted was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.

~~((42))~~ (11)(a) A person who knowingly fails to comply with any of the requirements of this section is guilty of a class C felony if the crime for which the individual was convicted was a felony kidnapping offense as defined in subsection ~~((40))~~ (9)(b) of this section or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony kidnapping offense as defined in subsection ~~((40))~~ (9)(b) of this section.

(b) If the crime for which the individual was convicted was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.

~~((43))~~ (12) Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a peace officer, including a county sheriff, or law enforcement agency, for failing to release information authorized under this section.

**Sec. 2.** RCW 9A.44.135 and 2000 c 91 s 1 are each amended to read as follows:

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(1) When an offender registers with the county sheriff pursuant to RCW 9A.44.130, the county sheriff shall notify the police chief or town marshal of the jurisdiction in which the offender has registered to live. If the offender registers to live in an unincorporated area of the county, the sheriff shall make reasonable attempts to verify that the offender is residing at the registered address. If the offender registers to live in an incorporated city or town, the police chief or town marshal shall make reasonable attempts to verify that the offender is residing at the registered address. Reasonable attempts ~~((at verifying an address shall include at a minimum:~~

~~— (a) For offenders who have not been previously designated sexually violent predators under chapter 71.09 RCW or an equivalent procedure in another jurisdiction, each year the chief law enforcement officer of the jurisdiction where the offender is registered to live shall send)) include verifying an offender's address pursuant to the grant program established under section 3 of this act. If the sheriff or police chief or town marshal does not participate in the grant program established under section 3 of this act, reasonable attempts require a yearly mailing by certified mail, with return receipt requested, a nonforwardable verification form to the offender at the offender's last registered address sent by the chief law enforcement officer of the jurisdiction where the offender is registered to live. ((b)) For offenders who have been previously designated sexually violent predators under chapter 71.09 RCW or the equivalent procedure in another jurisdiction, even if the designation has subsequently been removed, this mailing must be sent every ninety days ((the county sheriff shall send by certified mail, with return receipt requested, a nonforwardable verification form to the offender at the offender's last registered address)).~~

~~((c)) The offender must sign the verification form, state on the form whether he or she still resides at the last registered address, and return the form to the chief law enforcement officer of the jurisdiction where the offender is registered to live within ten days after receipt of the form.~~

(2) The chief law enforcement officer of the jurisdiction where the offender has registered to live shall make reasonable attempts to locate any sex offender who fails to return the verification form or who cannot be located at the registered address.

If the offender fails to return the verification form or the offender is not at the last registered address, the chief law enforcement officer of the jurisdiction where the offender has registered to live shall promptly forward this information to the county sheriff and to the Washington state patrol for inclusion in the central registry of sex offenders.

(3) When an offender notifies the county sheriff of a change to his or her residence address pursuant to RCW 9A.44.130, and the new address is in a different law enforcement jurisdiction, the county sheriff shall notify the police chief or town marshal of the jurisdiction from which the offender has moved.

(4) County sheriffs and police chiefs or town marshals may enter into agreements for the purposes of delegating the authority and obligation to fulfill the requirements of this section.

**NEW SECTION. Sec. 3.** A new section is added to chapter 36.28A RCW to read as follows:

(1) When funded, the Washington association of sheriffs and police chiefs shall administer a grant program to local governments for the purpose of verifying the address and residency of sex offenders and kidnapping offenders registered under RCW 9A.44.130 who reside within the county sheriff's jurisdiction. The Washington association of sheriffs and police chiefs shall:

(a) Enter into performance-based agreements with local governments to ensure that registered offender address and residency are verified:

(i) For level I offenders, every twelve months;

(ii) For level II offenders, every six months; and

(iii) For level III offenders, every three months;

(b) Collect performance data from all participating jurisdictions sufficient to evaluate the efficiency and effectiveness of the address and residency verification program; and

(c) Submit a report on the effectiveness of the address and residency verification program to the governor and the appropriate committees of the house of representatives and senate by December 31st each year.

(2) The Washington association of sheriffs and police chiefs may retain up to three percent of the amounts provided pursuant to this section for the cost of administration. Any funds not disbursed for address and residency verification or retained for administration may be allocated to local prosecutors for the prosecution costs associated with failing to register offenses.

(3) For the purposes of this section, unclassified offenders and kidnapping offenders shall be considered at risk level I unless in the opinion of the local jurisdiction a higher classification is in the interest of public safety.

(4) County sheriffs and police chiefs or town marshals may enter into agreements for the purposes of delegating the authority and obligation to fulfill the requirements of this section."

Senator Hargrove spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Substitute House Bill No. 2534.

The motion by Senator Hargrove carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "offenders;" strike the remainder of the title and insert "amending RCW 9A.44.130 and 9A.44.135; and adding a new section to chapter 36.28A RCW."

#### POINT OF ORDER

Senator Hargrove: "Can Senator Hewitt take pictures of me on the floor with his camera?"

#### REPLY BY THE PRESIDENT

President Owen: "He has a wide angle lens. Anything else."

#### REMARKS BY SENATOR HARGROVE

Senator Hargrove: "You know my nickname should be Gracie. And it doesn't need to be as wide as it used to."

#### REPLY BY THE PRESIDENT

President Owen: "True."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 2534 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2534 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2534 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators McCaslin, Pflug and Prentice

SUBSTITUTE HOUSE BILL NO. 2534 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3040, by House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Wood, Appleton, Rolfes, Sells, Sullivan and Finn)

Regarding the licensing of appraisal management companies.

The measure was read the second time.

MOTION

Senator Kohl-Welles moved that the following committee striking amendment by the Committee on Labor, Commerce & Consumer Protection be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1. DEFINITIONS.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Appraisal" means the act or process of estimating value; an estimate of value; or of pertaining to appraising and related functions.

(2) "Appraisal management company" means an entity that performs appraisal management services, regardless of the use of the term appraisal management company, mortgage technology provider, lender processing services, lender services, loan processor, mortgage services, real estate closing services provider, settlement services provider, or vendor management company, or any other term.

(3) "Appraisal management services" means to perform any or all of the following functions on behalf of a lender, financial institution, mortgage broker, loan originator, or any other person:

(a) Administer an appraiser panel;

(b) Recruit, qualify, verify licensing or certification, and negotiate fees and service level expectations with persons who are part of an appraiser panel;

(c) Receive an order for an appraisal from one person, or entity, and deliver the order for the appraisal to an appraiser that is part of an appraiser panel for completion;

(d) Track and determine the status of appraisal orders;

(e) Conduct quality control of a completed appraisal prior to the delivery of the appraisal to the person that ordered the appraisal; and

(f) Provide a completed appraisal performed by an appraiser to one or more persons that have ordered an appraisal.

(4) "Appraisal review" or "appraisal review services" means developing and communicating an opinion about the quality of another appraiser's work that was performed, or assignment results that were developed, as part of an appraisal assignment.

(5) "Appraiser" means a person who is licensed or certified under chapter 18.140 RCW or under similar laws of another state.

(6) "Appraiser panel" means a network of appraisers who are independent contractors of an appraisal management company that have:

(a) Independently applied to or responded to an invitation, request, or solicitation from an appraisal management company to perform appraisals for persons, or entities, that have ordered appraisals through the appraisal management company, or to perform appraisals for the appraisal management company directly, on a periodic basis, as assigned by the appraisal management company; and

(b) Been selected, and approved, by an appraisal management company to perform appraisals for a person, or entity, that has ordered an appraisal through the appraisal management company, or to perform appraisals for the appraisal management company directly, on a periodic basis, as assigned by the appraisal management company.

(7) "Controlling person" means:

(a) An owner, officer, or director of a corporation, partnership, or other business entity seeking to offer appraisal management services in this state;

(b) An individual employed, appointed, or authorized by an appraisal management company that has the authority to enter into a contractual relationship with other persons for the performance of appraisal management services and has the authority to enter into agreements with appraisers for the performance of appraisals;

(c) An individual who possesses the power to direct or cause the direction of the management or policies of an appraisal management company;

(d) Any person who controls a partnership, company, association, or corporation through one or more intermediaries, alone or in concert with others, or a ten percent or greater interest in a partnership, company, association, or corporation; or

(e) Any person who controls a limited liability company or is the owner of a sole proprietorship.

(8) "Department" means the department of licensing.

(9) "Director" means the director of the department of licensing.

NEW SECTION. **Sec. 2. POWERS AND DUTIES OF DIRECTOR.** The director shall:

(1) Adopt rules to implement this chapter;

(2) Establish appropriate administrative procedures for the processing of the applications;

(3) Issue licenses to qualified companies under the provisions of this chapter; and

(4) Maintain a roster of the names and addresses of companies licensed under this chapter;

(5) Employ professional, clerical, and technical assistance as may be necessary to properly administer the work of the director;

(6) Establish forms necessary to administer this chapter;

(7) Oversee the performance of any background investigations;

(8) Initiate and oversee investigations and any audits;

(9) Establish grounds for disciplinary actions;

(10) Adopt fees under RCW 43.24.086; and

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(11) Do all other things necessary to carry out the provisions of this chapter and comply with the requirements of any pertinent federal laws pertaining to appraisal management companies.

**NEW SECTION. Sec. 3. IMMUNITY.** The director or individuals acting on behalf of the director are immune from suit in any action, civil or criminal, based on any acts performed in the course of their duties except for their intentional or willful misconduct.

**NEW SECTION. Sec. 4. APPLICATIONS--ORIGINAL AND RENEWALS.** (1) Applications for licensure must be made to the department on forms approved by the director. A license is valid for two years and must be renewed on or before the expiration date. Applications for original and renewal licenses must include a statement confirming that the company must comply with applicable rules and that the company understands the penalties for misconduct.

(2) The appropriate fees must accompany all applications for original licensure and renewal.

(3) Each applicant shall file and maintain a surety bond, approved by the director, executed by the applicant as obligor and by a surety company authorized to do a surety business in this state as surety, whose liability as the surety may not exceed in the aggregate the penal sum of the bond. The penal sum of the bond must be a minimum of twenty-five thousand dollars. The bond must run to the state of Washington as obligee for the use and benefit of the state and of any person or persons who may have a cause of action against the obligor under this chapter. The bond must be conditioned that the obligor as licensee will faithfully conform to and abide by this chapter and all the rules adopted under this chapter. The bond will pay to the state and any person or persons having a cause of action against the obligor all moneys that may become due and owing to the state and those persons under and by virtue of this chapter.

**NEW SECTION. Sec. 5. OUT OF STATE COMPANIES--CONSENT FOR SERVICE OF PROCESS.** Every company seeking licensure whose headquarters is not based in the state of Washington shall submit, with the application for licensure, an irrevocable consent that service of process upon the controlling person or persons may be made by service on the director if, in an action against the entity in a Washington state court arising out of the entity's activities as an appraisal management company, the plaintiff cannot, in the exercise of due diligence, obtain personal service upon the company.

**NEW SECTION. Sec. 6. LICENSURE--REQUIRED USE OF NAME AND LICENSE NUMBER.** (1) A license issued under this chapter must bear the signature or facsimile signature of the director and a license number assigned by the director.

(2) Each licensed appraisal management company shall place the name under which it does business and its license number on any appraisal engagement document issued.

**NEW SECTION. Sec. 7. LICENSURE REQUIRED.** (1) It is unlawful for an entity to engage or attempt to engage in business as an appraisal management company, to engage or attempt to perform appraisal management services, or to advertise or hold itself out as engaging in or conducting business as an appraisal management company without first obtaining a license issued by the department under this chapter.

(2) An application for the issuance or renewal of a license required by subsection (1) of this section must, at a minimum, include the following information:

- (a) Name of the entity seeking licensure;
- (b) Names under which the entity will do business;
- (c) Business address of the entity seeking licensure;
- (d) Phone contact information of the entity seeking licensure;

(e) If the entity is not a corporation that is domiciled in this state, the name and contact information for the company's agent for service of process in this state;

(f) The name, address, and contact information for any individual or any corporation, partnership, or other business entity that owns ten percent or more of the appraisal management company;

(g) The name, address, and contact information for a controlling person;

(h) A certification that the entity has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company for work being done in this state holds a license or certificate in good standing under chapter 18.140 RCW;

(i) A certification that the entity has a system in place to review the work of appraisers that are performing real estate appraisal services on a periodic basis and have a policy in place to require that the real estate appraisal services provided by the appraiser are being conducted in accordance with chapter 18.140 RCW and other applicable state and federal laws;

(j) A certification that the entity maintains a detailed record of each service request that it receives and the appraiser that performs the real estate appraisal services under section 13 of this act;

(k) A certification that the entity maintains a complete copy of the completed appraisal report performed as a part of any request, for a minimum period of five years, or at least two years after final disposition of any judicial proceeding related to the assignment, under uniform standards of professional appraisal practice provisions, and that the appraisals must be provided to the department upon demand;

(l) An irrevocable uniform consent to service of process, under section 6 of this act; and

(m) Any other relevant information reasonably required by the department to obtain a license under the requirements of this chapter.

**NEW SECTION. Sec. 8. OWNER REQUIREMENTS.** (1) Each entity owning more than ten percent of an appraisal management company may not be:

(a) Directly controlled by a person who has had a license or certificate to act as an appraiser refused, denied, canceled, or revoked; or

(b) More than ten percent owned by any person who has had a license or certificate to act as an appraiser refused, denied, canceled, or revoked in any state.

(2) Each person that owns more than ten percent of an appraisal management company must:

(a) Not have had a license or certificate to act as an appraiser refused, denied, canceled, or revoked in any state;

(b) Be of good moral character, as determined by the department; and

(c) Submit to a background investigation under section 15 of this act.

(3) Each appraisal management company must certify to the department that it has reviewed each and every individual or entity that owns more than ten percent of the appraisal management company and that no person or entity that owns more than ten percent of the appraisal management company is prohibited from owning an appraisal management company under this section.

(4) A person under this section may appeal an adjudicative proceeding involving a final decision of the director to deny, suspend, or revoke a license under chapter 18.235 RCW.

**NEW SECTION. Sec. 9. CONTROLLING PERSON REQUIREMENTS.** (1)(a) An appraisal management company shall designate one controlling person that will be the main contact

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for all communication between the department and the appraisal management company.

(b) Should the controlling person change, the appraisal management company must notify the director within fourteen business days and provide the name and contact information of the new controlling person.

(2) The controlling person designated under subsection (1) of this section must:

(a) Have never had a license or certificate to act as an appraiser surrendered in lieu of disciplinary action, refused, denied, canceled, or revoked in any state;

(b) Be of good moral character, as determined by the department; and

(c) Submit to a background investigation under section 15 of this act.

**NEW SECTION. Sec. 10. APPRAISER REQUIREMENTS.** (1) An appraisal management company may not knowingly contract with or employ as an appraiser:

(a) Any person who has ever had a license or certificate to act as an appraiser in this state, or in any other state, surrendered in lieu of disciplinary action, refused, denied, canceled, or revoked;

(b) Any person who has been convicted of an offense that reflects adversely upon the person's integrity, competence, or fitness to meet the responsibilities of an appraiser or appraisal management company;

(c) Any person who has been convicted of, or who has pled guilty or nolo contendere to, a felony related to participation in the real estate or mortgage loan industry:

(i) During the seven-year period preceding the date of the application for licensing and registration; or

(ii) At any time preceding the date of application, if the felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering;

(d) Any person who is in violation of chapter 19.146 or 31.04 RCW; or

(e) Any person who is in violation of this chapter.

(2) An appraisal management company may not:

(a) Knowingly enter into any independent contractor arrangement for appraisal or appraisal review services with any person who has ever had a license or certificate to act as an appraiser in this state, or in any other state, surrendered in lieu of disciplinary action, refused, denied, canceled, or revoked; and

(b) Knowingly enter into any contract, agreement, or other business relationship for appraisal or appraisal review services with any entity that employs, has entered into an independent contractor arrangement, or has entered into any contract, agreement, or other business relationship with any person who has ever had a license or certificate to act as an appraiser in this state or in any other state surrendered in lieu of disciplinary action, refused, denied, canceled, or revoked.

(3) Any employee of the appraisal management company, or any contractor working in any capacity on behalf of the appraisal management company, that has any involvement in the actual performance of appraisal or appraisal review services, or review and analysis of completed appraisals must be a state licensed or state certified appraiser in the state in which the property is located, and must have geographic and product competence. This requirement does not apply to any review or examination of the appraisal for grammatical, typographical, or similar errors or general reviews of the appraisal for completeness.

**NEW SECTION. Sec. 11. EXEMPTIONS.** The provisions of this chapter do not apply to the following:

(1) A department or unit within a financial institution that is subject to direct regulation by an agency of the United States government, or to regulation by an agency of this state, that receives

a request for the performance of an appraisal from one employee of the financial institution, and another employee of the same financial institution assigns the request for the appraisal to an appraiser that is part of an appraiser panel; or

(2) An appraiser that enters into an agreement, whether written or otherwise, with another appraiser for the performance of an appraisal, and upon completion of the appraisal, the report of the appraiser performing the appraisal is signed by both the appraiser who completed the appraisal and the appraiser who requested the completion of the appraisal.

**NEW SECTION. Sec. 12. RECORDKEEPING.** An appraisal management company must certify to the department on initial application and upon renewal, that it maintains a detailed record of each service request that it receives and the appraiser that performs the appraisal for the appraisal management company. This statement must also certify that the appraisal management company maintains a complete copy of the completed appraisal report, for a minimum period of five years after the appraisal is completed, or two years after final disposition of a judicial proceeding related to the assignment, whichever period expires later.

**NEW SECTION. Sec. 13. ADJUDICATION OF DISPUTES BETWEEN AN APPRAISAL MANAGEMENT COMPANY AND AN APPRAISER.** (1) Except within the first thirty days after an appraiser is first added to the appraiser panel of an appraisal management company, an appraisal management company may not remove an appraiser from its appraiser panel, or otherwise refuse to assign requests for real estate appraisal services to an appraiser without:

(a) Notifying the appraiser in writing of the reasons why the appraiser is being removed from the appraiser panel of the appraisal management company, including if the appraiser is being removed from the panel for illegal conduct, a violation of state licensing standards, substandard performance, or administrative purposes. In addition, if the removal is not for administrative purposes, the nature of the alleged conduct, substandard performance, or violation must be provided; and

(b) Providing an opportunity for the appraiser to respond to the notification of the appraisal management company.

(2) An appraiser that is removed from the appraiser panel of an appraisal management company for alleged illegal conduct or a violation of state licensing standards, may file a complaint with the department for a review of the decision of the appraisal management company, except that in no case will the department make any determination regarding the nature of the business relationship between the appraiser and the appraisal management company which is unrelated to the actions specified in subsection (1) of this section.

(3) If an appraiser files a complaint against an appraisal management company pursuant to subsection (2) of this section, the department may investigate the complaint within one hundred eighty days during which time the appraiser must remain removed from the panel.

(4) If after opportunity for hearing and review, the department determines that an appraiser did not commit a violation of law or a violation of state licensing standards, the department shall order that an appraiser be restored to the appraiser panel of the appraisal management company that was the subject of the complaint without prejudice.

(5) Following the adjudication of a complaint to the department by an appraiser against an appraisal management company, an appraisal management company may not refuse to make assignments for real estate appraisal services to an appraiser, or reduce the number of assignments, or otherwise penalize the appraiser because of the adjudicated complaint, if the department

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has found that the appraisal management company acted without reasonable cause in removing the appraiser from the appraiser panel.

**NEW SECTION. Sec. 14. DISCIPLINARY ACTIONS--GROUNDS.** (1) In addition to the unprofessional conduct described in RCW 18.235.130, the director may take disciplinary action for the following:

(a) Failing to meet the minimum qualifications for licensure established under this chapter;

(b) Failing to pay appraisers no later than forty-five days after completion of the appraisal service unless otherwise agreed or unless the appraiser has been notified in writing that a bona fide dispute exists regarding the performance or quality of the appraisal service;

(c) Failing to pay appraisers even if the appraisal management company is not paid by its client;

(d) Coercing, extorting, colluding, compensating, inducing, intimidating, bribing an appraiser, or in any other manner including:

(i) Withholding or threatening to withhold timely payment for an appraisal;

(ii) Requiring the appraiser to remit a portion of the appraisal fee back to the appraisal management company;

(iii) Withholding or threatening to withhold future business for, or demoting or terminating or threatening to demote or terminate, an appraiser;

(iv) Expressly or impliedly promising future business, promotions, or increased compensation for an appraiser;

(v) Conditioning the request for an appraisal or the payment of an appraisal fee or salary or bonus on the opinion, conclusion, or valuation to be reached, or on a preliminary estimate or opinion requested from an appraiser;

(vi) Requesting that an appraiser provide an estimated, predetermined, or desired valuation in an appraisal report, or provide estimated values or comparable sales at any time prior to the appraiser's completion of an appraisal;

(vii) Providing to an appraiser an anticipated, estimated, encouraged, or desired value for a subject property or a proposed or target amount to be loaned to the borrower, except that a copy of the sales contract for purchase transactions must be provided to the appraiser;

(viii) Providing to an appraiser, or any entity or person related to the appraiser, stock or other financial or nonfinancial benefits;

(ix) Obtaining, using, or paying for a second or subsequent appraisal or ordering an automated valuation model in connection with a mortgage financing transaction unless there is a reasonable basis to believe that the initial appraisal was flawed or tainted and such basis is clearly and appropriately noted in the loan file, or unless such appraisal or automated valuation model is done pursuant to a bona fide prefunding or postfunding appraisal review or quality control process; or

(x) Any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity, or impartiality, or that violates law;

(e) Altering, modifying, or otherwise changing a completed appraisal report submitted by an appraiser;

(f) Copying and using the appraiser's signature for any purpose or in any other report;

(g) Extracting, copying, or using only a portion of the appraisal report without reference to the entire report;

(h) Prohibiting or attempting to prohibit the appraiser from including or referencing the appraisal fee, the appraisal management company name or identity, or the client's or lender's name or identity in the appraisal report;

(i) Knowingly requiring an appraiser to prepare an appraisal report, engaging an appraiser to perform an appraisal, or accepting an appraisal from an appraiser who has informed the appraisal

management company that he or she does not have either the geographic competence or necessary expertise to complete the appraisal;

(j) Knowingly requiring an appraiser to prepare an appraisal report under such a limited time frame when the appraiser, in the appraiser's own professional judgment, has informed the appraisal management company that it does not afford the appraiser the ability to meet all relevant legal and professional obligations or provide a credible opinion of value for the property being appraised. This subsection (1)(j) allows an appraiser to decline an assignment, but is not a basis for complaints against the appraisal management company;

(k) Requiring, or attempting to require, an appraiser to modify an appraisal report except as permitted under subsection (2)(a) or (b) of this section;

(l) Prohibiting, or attempting to prohibit, or inhibiting legal or other allowable communication between the appraiser and:

(i) The lender;

(ii) A real estate licensee;

(iii) A property owner; or

(iv) Any other party or person from whom the appraiser, in the appraiser's own professional judgment, believes information would be relevant or pertinent in completing the appraisal;

(m) Knowingly requiring or attempting to require the appraiser to do anything that violates chapter 18.140 RCW or other applicable state and federal laws or with any allowable assignment conditions or certifications required by the client;

(n) Prohibiting or refusing to allow, or attempting to prohibit or refuse to allow, the transfer of an appraisal from one lender to another lender if the lenders are allowed to transfer an appraisal under applicable federal law; or

(o) Requiring an appraiser to sign any indemnification agreement that would require the appraiser to defend and hold harmless the appraisal management company or any of its agents, employees, or independent contractors for any liability, damage, losses, or claims arising out of the services performed by the appraisal management company or its agents, employees, or independent contractors and not the services performed by the appraiser.

(2) Nothing in subsection (1) of this section may be construed as prohibiting the appraisal management company from requesting that an appraiser:

(a) Provide additional information about the basis for a valuation, including whether or not the appraiser considered other sales and reasons the other sales were either not considered relevant or included in the appraisal; or

(b) Correct objective factual errors in an appraisal report.

**NEW SECTION. Sec. 15. BACKGROUND INVESTIGATIONS.** Background investigations under this chapter consist of fingerprint-based background checks through the Washington state patrol criminal identification system and through the federal bureau of investigation. The applicant is required to pay the current federal and state fees for fingerprint-based criminal history background checks. The applicant shall submit the fingerprints and required fees for the background checks to the department for submission to the Washington state patrol.

**NEW SECTION. Sec. 16. APPRAISAL MANAGEMENT COMPANY ACCOUNT.** The appraisal management company account is created in the state treasury. All fees and penalties under this chapter must be paid to the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for expenses incurred in carrying out the provisions of this chapter. Any residue in the account shall be accumulated and shall not revert to the general fund at the end of the biennium. The account is subject to allotment procedures under

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chapter 43.88 RCW, but an appropriation is not required for expenditures.

**NEW SECTION. Sec. 17. UNIFORM REGULATION OF BUSINESS AND PROFESSIONS ACT.** The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

**Sec. 18.** RCW 18.235.020 and 2009 c 412 s 22, 2009 c 370 s 20, and 2009 c 102 s 5 are each reenacted and amended to read as follows:

(1) This chapter applies only to the director and the boards and commissions having jurisdiction in relation to the businesses and professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The director has authority under this chapter in relation to the following businesses and professions:

- (i) Auctioneers under chapter 18.11 RCW;
- (ii) Bail bond agents and bail bond recovery agents under chapter 18.185 RCW;
- (iii) Camping resorts' operators and salespersons under chapter 19.105 RCW;
- (iv) Commercial telephone solicitors under chapter 19.158 RCW;
- (v) Cosmetologists, barbers, manicurists, and estheticians under chapter 18.16 RCW;
- (vi) Court reporters under chapter 18.145 RCW;
- (vii) Driver training schools and instructors under chapter 46.82 RCW;
- (viii) Employment agencies under chapter 19.31 RCW;
- (ix) For hire vehicle operators under chapter 46.72 RCW;
- (x) Limousines under chapter 46.72A RCW;
- (xi) Notaries public under chapter 42.44 RCW;
- (xii) Private investigators under chapter 18.165 RCW;
- (xiii) Professional boxing, martial arts, and wrestling under chapter 67.08 RCW;
- (xiv) Real estate appraisers under chapter 18.140 RCW;
- (xv) Real estate brokers and salespersons under chapters 18.85 and 18.86 RCW;
- (xvi) Security guards under chapter 18.170 RCW;
- (xvii) Sellers of travel under chapter 19.138 RCW;
- (xviii) Timeshares and timeshare salespersons under chapter 64.36 RCW;
- (xix) Whitewater river outfitters under chapter 79A.60 RCW;
- ~~((and))~~
- (xx) Home inspectors under chapter 18.280 RCW; ~~((and))~~
- (xxi) Body artists, body piercers, and tattoo artists, and body art, body piercing, and tattooing shops and businesses, under chapter 18.300 RCW; and
- (xxii) Appraisal management companies under chapter 18.-- RCW (the new chapter created in section 20 of this act).

(b) The boards and commissions having authority under this chapter are as follows:

- (i) The state board of registration for architects established in chapter 18.08 RCW;
- (ii) The Washington state collection agency board established in chapter 19.16 RCW;
- (iii) The state board of registration for professional engineers and land surveyors established in chapter 18.43 RCW governing licenses issued under chapters 18.43 and 18.210 RCW;
- (iv) The funeral and cemetery board established in chapter 18.39 RCW governing licenses issued under chapters 18.39 and 68.05 RCW;
- (v) The state board of licensure for landscape architects established in chapter 18.96 RCW; and

(vi) The state geologist licensing board established in chapter 18.220 RCW.

(3) In addition to the authority to discipline license holders, the disciplinary authority may grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered under RCW 18.235.110 by the disciplinary authority.

**NEW SECTION. Sec. 19. SEVERABILITY.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 20.** Sections 1 through 17 and 19 of this act constitute a new chapter in Title 18 RCW.

**NEW SECTION. Sec. 21.** This act takes effect July 1, 2011."

Senator Kohl-Welles spoke in favor of adoption of the committee striking amendment.

MOTION

Senator Kohl-Welles moved that the following amendment by Senators Kohl-Welles and King to the committee striking amendment be adopted:

On page 13, at the beginning of line 12 of the amendment, strike "Moneys in the account may be spent only after appropriation."

Senator Kohl-Welles spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Kohl-Welles and King on page 13, line 12 to the committee striking amendment to Engrossed Substitute House Bill No. 3040.

The motion by Senator Kohl-Welles carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Labor, Commerce & Consumer Protection as amended to Engrossed Substitute House Bill No. 3040.

The motion by Senator Kohl-Welles carried and the committee striking amendment as amended was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "companies;" strike the remainder of the title and insert "reenacting and amending RCW 18.235.020; adding a new chapter to Title 18 RCW; and providing an effective date."

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Substitute House Bill No. 3040 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.

## APPOINTMENT OF PAUL CHILES

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 3040 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 3040 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Holmquist and Stevens

Excused: Senators McCaslin and Pflug

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3040 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 5:02 p.m., on motion of Senator Eide, the Senate was recessed until 6:30 p.m.

EVENING SESSION

The Senate was called to order at 6:30 p.m. by President Owen.

## PARLIAMENTARY INQUIRY

Senator McDermott: "What order of business are we in at present?"

## REPLY BY THE PRESIDENT

President Owen: "We are presently in the sixth order of business. If you asked me what we're doing that would have a whole different answer."

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Gordon moved that Gubernatorial Appointment No. 9181, Paul Chiles, as a member of the Board of Trustees, Bellevue Community College District No. 8, be confirmed.

Senator Gordon spoke in favor of the motion.

## MOTION

On motion of Senator Honeyford, Senators Brandland, Carrell, Parlette, Pflug and Stevens were excused.

## MOTION

On motion of Senator Marr, Senators Brown and Kauffman were excused.

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9181, Paul Chiles as a member of the Board of Trustees, Bellevue Community College District No. 8.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9181, Paul Chiles as a member of the Board of Trustees, Bellevue Community College District No. 8 and the appointment was confirmed by the following vote: Yeas, 41; Nays, 0; Absent, 1; Excused, 7.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McDermott, Morton, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Absent: Senator McAuliffe

Excused: Senators Brown, Carrell, Kauffman, McCaslin, Parlette, Pflug and Stevens

Gubernatorial Appointment No. 9181, Paul Chiles, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Bellevue Community College District No. 8.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Ranker moved that Gubernatorial Appointment No. 9205, Sarah Ishmael, as a member of the Board of Trustees, Western Washington University, be confirmed.

Senator Ranker spoke in favor of the motion.

## APPOINTMENT OF SARAH ISHMAEL

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9205, Sarah Ishmael as a member of the Board of Trustees, Western Washington University.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9205, Sarah Ishmael as a member of the Board of Trustees, Western Washington University and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brown, Kauffman, McCaslin and Pflug

Gubernatorial Appointment No. 9205, Sarah Ishmael, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Western Washington University.

## SECOND READING

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ENGROSSED SUBSTITUTE HOUSE BILL NO. 2541, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Takko, Orcutt, Kessler, Kretz and Blake)

Maintaining a base of forest lands that may be used for commercial forestry. Revised for 1st Substitute: Promoting and fostering the success of the forest products industry. (REVISED FOR ENGROSSED: Promoting the economic success of the forest products industry. )

The measure was read the second time.

#### MOTION

Senator Jacobsen moved that the following committee striking amendment by the Committee on Natural Resources, Ocean & Recreation be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds that sustainably managed commercial forestry produces jobs and revenue while also providing clean water, clean air, renewable energy, wildlife habitat, open space, and carbon storage, among other ecological values. For these reasons, maintaining a base of forest lands that may be utilized for sustainably managed commercial forestry is of utmost importance to the state.

(2) The legislature finds that the promotion and fostering of the economic success of the forest products industry with the goal of keeping sustainably managed forestry as a priority land use, and helping to secure the timber managing, growing, harvesting, transporting, and manufacturing jobs is made possible by a vibrant working forest land base.

(3) The legislature further finds that maintaining sustainable working forests is important for the quality of life of all Washingtonians, and that sustainable forest practices can help to maintain and restore the vitality of Washington's communities while also helping to preserve Washington's natural landscapes and ecosystems.

(4) The legislature further finds that it is necessary to assist landowners in gaining access to additional sources of revenue, such as emerging ecosystem services markets, and to help landowners diversify their incomes, improve the ecological functions of their lands, and pass their lands and the lands' associated benefits to future generations.

(5) The legislature further finds that the conservation and restoration of forest ecosystems provide services to the residents of the state that help improve water and habitat quality, help avoid carbon emissions, help address impacts associated with climate change, and help natural resources adapt to these impacts.

(6) The legislature further finds that ecosystem services markets can lead to efficient, innovative, and effective conservation and restoration actions and facilitate improved integration of public and private investment.

(7) Therefore, it is the intent of the legislature to develop tools to facilitate small and industrial forest landowners' access to market capital from existing and emerging ecosystem services markets.

(8) The legislature further intends to enable forest landowners who provide ecosystem services access to financing to protect, restore, and maintain the ecological values provided by protection of public resources.

NEW SECTION. **Sec. 2.** A new section is added to chapter 76.44 RCW to read as follows:

The legislature finds that there are many issues facing the forest sector, such as climate change, forest health and fire, carbon

accounting, habitat and diversity, timber and water supplies, economic competitiveness, and the economic health of forest dependent communities. Enhancing the capability to effectively address these forest issues is critical to the state of Washington. To meet this need, the University of Washington school of forest resources will continue to work with the various interests concerned with the state's forest resources, including the legislature, state and federal governments, environmental organizations, local communities, the timber industry, and tribes, to improve these entities' ability to competitively recruit, educate, and train a high quality workforce.

**Sec. 3.** RCW 76.09.010 and 1999 sp.s. c 4 s 901 are each amended to read as follows:

(1) The legislature hereby finds and declares that the forest land resources are among the most valuable of all resources in the state; that a viable forest products industry is of prime importance to the state's economy; that it is in the public interest for public and private commercial forest lands to be managed consistent with sound policies of natural resource protection; that coincident with maintenance of a viable forest products industry, it is important to afford protection to forest soils, fisheries, wildlife, water quantity and quality, air quality, recreation, and scenic beauty.

(2) The legislature further finds and declares it to be in the public interest of this state to create and maintain through the adoption of this chapter a comprehensive statewide system of laws and forest practices rules which will achieve the following purposes and policies:

(a) Afford protection to, promote, foster and encourage timber growth, and require such minimum reforestation of commercial tree species on forest lands as will reasonably utilize the timber growing capacity of the soil following current timber harvest;

(b) Afford protection to forest soils and public resources by utilizing all reasonable methods of technology in conducting forest practices;

(c) Recognize both the public and private interest in the profitable growing and harvesting of timber;

(d) Promote efficiency by permitting maximum operating freedom consistent with the other purposes and policies stated herein;

(e) Provide for regulation of forest practices so as to avoid unnecessary duplication in such rules;

(f) Provide for interagency input and intergovernmental and tribal coordination and cooperation;

(g) Achieve compliance with all applicable requirements of federal and state law with respect to nonpoint sources of water pollution from forest practices;

(h) To consider reasonable land use planning goals and concepts contained in local comprehensive plans and zoning regulations;

(i) Foster cooperation among managers of public resources, forest landowners, Indian tribes and the citizens of the state; ~~(and)~~

(j) Develop a watershed analysis system that addresses the cumulative effect of forest practices on, at a minimum, the public resources of fish, water, and public capital improvements of the state and its political subdivisions; and

(k) Assist forest landowners in accessing market capital and financing for the ecosystem services provided to the public as a result of the protection of public resources.

(3) The legislature further finds and declares that it is also in the public interest of the state to encourage forest landowners to undertake corrective and remedial action to reduce the impact of mass earth movements and fluvial processes.

(4) The legislature further finds and declares that it is in the public interest that the applicants for state forest practices permits should assist in paying for the cost of review and permitting necessary for the environmental protection of these resources.

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**Sec. 4.** RCW 76.09.040 and 2009 c 246 s 1 are each amended to read as follows:

(1)(a) Where necessary to accomplish the purposes and policies stated in RCW 76.09.010, and to implement the provisions of this chapter, the board shall adopt forest practices rules pursuant to chapter 34.05 RCW and in accordance with the procedures enumerated in this section that:

~~((a))~~ (i) Establish minimum standards for forest practices;

~~((b))~~ (ii) Provide procedures for the voluntary development of resource management plans which may be adopted as an alternative to the minimum standards in (a)(i) of this subsection if the plan is consistent with the purposes and policies stated in RCW 76.09.010 and the plan meets or exceeds the objectives of the minimum standards;

~~((c))~~ (iii) Set forth necessary administrative provisions;

~~((d))~~ (iv) Establish procedures for the collection and administration of forest practice fees as set forth by this chapter; and

~~((e))~~ (v) Allow for the development of watershed analyses.

(b) Forest practices rules pertaining to water quality protection shall be adopted by the board after reaching agreement with the director of the department of ecology or the director's designee on the board with respect thereto. All other forest practices rules shall be adopted by the board.

(c) Forest practices rules shall be administered and enforced by either the department or the local governmental entity as provided in this chapter. Such rules shall be adopted and administered so as to give consideration to all purposes and policies set forth in RCW 76.09.010.

(2)(a) The board shall prepare proposed forest practices rules consistent with this section and chapter 34.05 RCW. In addition to any forest practices rules relating to water quality protection proposed by the board, the department of ecology may submit to the board proposed forest practices rules relating to water quality protection.

(b)(i) Prior to initiating the rule-making process, the proposed rules shall be submitted for review and comments to the department of fish and wildlife and to the counties of the state. After receipt of the proposed forest practices rules, the department of fish and wildlife and the counties of the state shall have thirty days in which to review and submit comments to the board, and to the department of ecology with respect to its proposed rules relating to water quality protection.

(ii) After the expiration of ~~((such))~~ the thirty day period, the board and the department of ecology shall jointly hold one or more hearings on the proposed rules pursuant to chapter 34.05 RCW. ~~((At such hearing(s)))~~ Any county representative may propose specific forest practices rules relating to problems existing within ~~((such))~~ the county at the hearings.

(iii) The board may adopt and the department of ecology may approve such proposals if they find the proposals are consistent with the purposes and policies of this chapter.

(3)(a) The board shall establish by rule a program for the acquisition of riparian open space and critical habitat for threatened or endangered species as designated by the board. Acquisition must be a conservation easement. Lands eligible for acquisition are forest lands within unconfined channel migration zones or forest lands containing critical habitat for threatened or endangered species as designated by the board. Once acquired, these lands may be held and managed by the department, transferred to another state agency, transferred to an appropriate local government agency, or transferred to a private nonprofit nature conservancy corporation, as defined in RCW 64.04.130, in fee or transfer of management obligation. The board shall adopt rules governing the acquisition by the state or donation to the state of such interest in lands including the right of refusal if the lands are subject to unacceptable liabilities. The rules shall include definitions of qualifying lands, priorities for

acquisition, and provide for the opportunity to transfer such lands with limited warranties and with a description of boundaries that does not require full surveys where the cost of securing the surveys would be unreasonable in relation to the value of the lands conveyed. The rules shall provide for the management of the lands for ecological protection or fisheries enhancement. For the purposes of conservation easements entered into under this section, the following apply:

~~((a))~~ (i) For conveyances of a conservation easement in which the landowner conveys an interest in the trees only, the compensation must include the timber value component, as determined by the cruised volume of any timber located within the channel migration zone or critical habitat for threatened or endangered species as designated by the board, multiplied by the appropriate quality code stumpage value for timber of the same species shown on the appropriate table used for timber harvest excise tax purposes under RCW 84.33.091;

~~((b))~~ (ii) For conveyances of a conservation easement in which the landowner conveys interests in both land and trees, the compensation must include the timber value component in (a)(i) of this subsection plus such portion of the land value component as determined just and equitable by the department. The land value component must be the acreage of qualifying channel migration zone or critical habitat for threatened or endangered species as determined by the board, to be conveyed, multiplied by the average per acre value of all commercial forest land in western Washington or the average for eastern Washington, whichever average is applicable to the qualifying lands. The department must determine the western and eastern Washington averages based on the land value tables established by RCW 84.33.140 and revised annually by the department of revenue.

~~((c))~~ (b) Subject to appropriations sufficient to cover the cost of such an acquisition program and the related costs of administering the program, the department must establish a conservation easement in land that an owner tenders for purchase; provided that such lands have been taxed as forest lands and are located within an unconfined channel migration zone or contain critical habitat for threatened or endangered species as designated by the board. Lands acquired under this section shall become riparian or habitat open space. These acquisitions shall not be deemed to trigger the compensating tax of chapters 84.33 and 84.34 RCW.

~~((d))~~ (c) Instead of offering to sell interests in qualifying lands, owners may elect to donate the interests to the state.

~~((e))~~ (d) Any acquired interest in qualifying lands by the state under this section shall be managed as riparian open space or critical habitat.

**NEW SECTION. Sec. 5.** (1) The department of natural resources shall, to the degree that resources are available, develop, consistent with this section, proposals for the development of appropriate landowner conservation incentives that support forest landowners maintaining their land in forestry. These incentives may include, but are not limited to, incentives that are related to ecosystem service markets, tax incentives, easements, technical assistance, and recognition or certification.

(2) The department of natural resources shall consult with the forest practices board, representatives of federal, state, and local government, Indian tribes, small forest landowners, conservation groups, industrial foresters, and other individuals deemed beneficial by the department in implementing this section.

(3) By December 31, 2011, the department of natural resources must present their research and any proposed incentives to the governor, the appropriate committees of the legislature, the commissioner of public lands, and the forest practices board. The department of natural resources shall also offer to present their findings and recommendations to the Washington congressional

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delegation, local governments, and any state or federal agency that has as a portion of their mission the support of Washington's working land base and the jobs, products, and ecological values that working lands provide.

(4) Neither the activities nor outcome of the department of natural resources' actions or decisions under this section shall cause, promote, or delay rule making by the forest practices board in the execution of its applicable duties.

(5) The department of natural resources is authorized to seek federal and private funds, and in-kind contributions to complete the work in this act. At the discretion of the department of natural resources, the department must comply with this act only to the degree that existing or acquired nonstate resources permit.

(6) This section expires July 1, 2012.

**Sec. 6.** RCW 76.09.020 and 2009 c 354 s 5 and 2009 c 246 s 4 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Adaptive management" means reliance on scientific methods to test the results of actions taken so that the management and related policy can be changed promptly and appropriately.

(2) "Appeals board" means the forest practices appeals board created by RCW 76.09.210.

(3) "Application" means the application required pursuant to RCW 76.09.050.

(4) "Aquatic resources" includes water quality, salmon, other species of the vertebrate classes Cephalaspidomorphi and Osteichthyes identified in the forests and fish report, the Columbia torrent salamander (*Rhyacotriton kezeri*), the Cascade torrent salamander (*Rhyacotriton cascadae*), the Olympic torrent salamander (*Rhyacotriton olympian*), the Dunn's salamander (*Plethodon dunni*), the Van Dyke's salamander (*Plethodon vandyke*), the tailed frog (*Ascaphus truei*), and their respective habitats.

(5) "Board" means the forest practices board created in RCW 76.09.030.

(6) "Commissioner" means the commissioner of public lands.

(7) "Contiguous" means land adjoining or touching by common corner or otherwise. Land having common ownership divided by a road or other right-of-way shall be considered contiguous.

(8) "Conversion to a use other than commercial timber operation" means a bona fide conversion to an active use which is incompatible with timber growing and as may be defined by forest practices rules.

(9) "Department" means the department of natural resources.

(10) "Fish passage barrier" means any artificial instream structure that impedes the free passage of fish.

(11) "Forest land" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing. Forest land does not include agricultural land that is or was enrolled in the conservation reserve enhancement program by contract if such agricultural land was historically used for agricultural purposes and the landowner intends to continue to use the land for agricultural purposes in the future. As it applies to the operation of the road maintenance and abandonment plan element of the forest practices rules on small forest landowners, the term "forest land" excludes:

(a) Residential home sites, which may include up to five acres; and

(b) Cropfields, orchards, vineyards, pastures, feedlots, fish pens, and the land on which appurtenances necessary to the production, preparation, or sale of crops, fruit, dairy products, fish, and livestock exist.

(12) "Forest landowner" means any person in actual control of forest land, whether such control is based either on legal or equitable

title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner. However, any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest landowner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

(13) "Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

- (a) Road and trail construction;
- (b) Harvesting, final and intermediate;
- (c) Precommercial thinning;
- (d) Reforestation;
- (e) Fertilization;
- (f) Prevention and suppression of diseases and insects;
- (g) Salvage of trees; and
- (h) Brush control.

"Forest practice" shall not include preparatory work such as tree marking, surveying and road flagging, and removal or harvesting of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber, or public resources.

(14) "Forest practices rules" means any rules adopted pursuant to RCW 76.09.040.

(15) "Forest road," as it applies to the operation of the road maintenance and abandonment plan element of the forest practices rules on small forest landowners, means a road or road segment that crosses land that meets the definition of forest land, but excludes residential access roads.

(16) "Forest trees" does not include hardwood trees cultivated by agricultural methods in growing cycles shorter than fifteen years if the trees were planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees. "Forest trees" includes Christmas trees, but does not include Christmas trees that are cultivated by agricultural methods, as that term is defined in RCW 84.33.035.

(17) "Forests and fish report" means the forests and fish report to the board dated April 29, 1999.

(18) "Operator" means any person engaging in forest practices except an employee with wages as his or her sole compensation.

(19) "Person" means any individual, partnership, private, public, or municipal corporation, county, the department or other state or local governmental entity, or association of individuals of whatever nature.

(20) "Public resources" means water, fish and wildlife, and in addition shall mean capital improvements of the state or its political subdivisions.

(21) "Small forest landowner" has the same meaning as defined in RCW 76.09.450.

(22) "Timber" means forest trees, standing or down, of a commercial species, including Christmas trees. However, "timber" does not include Christmas trees that are cultivated by agricultural methods, as that term is defined in RCW 84.33.035.

(23) "Timber owner" means any person having all or any part of the legal interest in timber. Where such timber is subject to a contract of sale, "timber owner" shall mean the contract purchaser.

(24) "Unconfined channel migration zone" means the area within which the active channel of an unconfined stream is prone to move and where the movement would result in a potential near-term loss of riparian forest adjacent to the stream. Sizeable islands with productive timber may exist within the zone.

(25) "Unconfined stream" means generally fifth order or larger waters that experience abrupt shifts in channel location, creating a

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complex floodplain characterized by extensive gravel bars, disturbance species of vegetation of variable age, numerous side channels, wall-based channels, oxbow lakes, and wetland complexes. Many of these streams have dikes and levees that may temporarily or permanently restrict channel movement.

(26) "Ecosystem services" means the benefits that the public enjoys as a result of natural processes and biological diversity.

(27) "Ecosystem services market" means a system in which providers of ecosystem services can access financing or market capital to protect, restore, and maintain ecological values, including the full spectrum of regulatory, quasiregulatory, and voluntary markets."

Senator Jacobsen spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Natural Resources, Ocean & Recreation to Engrossed Substitute House Bill No. 2541.

The motion by Senator Jacobsen carried and the committee striking amendment was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 3 of the title, after "industry;" strike the remainder of the title and insert "amending RCW 76.09.010 and 76.09.040; reenacting and amending RCW 76.09.020; adding a new section to chapter 76.44 RCW; creating new sections; and providing an expiration date."

## MOTION

On motion of Senator Regala, Senator Murray was excused.

## MOTION

On motion of Senator Jacobsen, the rules were suspended, Engrossed Substitute House Bill No. 2541 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Jacobsen and Morton spoke in favor of passage of the bill.

## MOTION

On motion of Senator Marr, Senator Brown was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2541 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2541 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach,

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Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brown, McCaslin, Murray and Pflug

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2541 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 2962, by House Committee on Local Government & Housing (originally sponsored by Representatives Probst and Hunter)

Allowing county treasurers to use electronic bill presentment and payment that includes an automatic electronic payment option for property taxes.

The measure was read the second time.

## MOTION

Senator Swecker moved that the following amendment by Senator Swecker be adopted:

On page 3, line 32, after "agreement", strike "that may include prepayment collection charges"

On page 4, beginning on line 4, strike all of subsection (d).

Renumber the sections consecutively and correct any internal references accordingly.

Senator Swecker spoke in favor of adoption of the amendment. Senator Pridemore spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Swecker on page 3, line 32 to Substitute House Bill No. 2962.

The motion by Senator Swecker failed and the amendment was not adopted by voice vote.

## MOTION

On motion of Senator Pridemore, the rules were suspended, Substitute House Bill No. 2962 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pridemore, Fairley and Roach spoke in favor of passage of the bill.

Senator Swecker spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2962.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2962 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 12; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Berkey, Brown, Delvin, Eide, Fairley, Franklin, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Shin, Tom and Zarelli

Voting nay: Senators Benton, Brandland, Carrell, Fraser, Holmquist, King, Morton, Parlette, Schoesler, Sheldon, Stevens and Swecker

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Excused: Senators McCaslin and Pflug

SUBSTITUTE HOUSE BILL NO. 2962, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2986, by House Committee on Local Government & Housing (originally sponsored by Representatives Simpson, Upthegrove, Campbell, Carlyle, Lias, Driscoll, Williams, Ormsby, Sullivan, Nelson, Sells, Appleton, Chase, Seaquist, Ericks, Goodman, Morrell, Green, Dickerson, Hudgins, Van De Wege, White, Maxwell, Miloscia, Conway, Moeller, Jacks, Hurst, Kenney and Hasegawa)

Requiring the appointment of nonvoting labor members to public transportation governing bodies.

The measure was read the second time.

#### MOTION

Senator McDermott moved that the following committee amendment by the Committee on Government Operations & Elections be adopted:

On page 2, line 27, after "representing" strike all material through "of"

On page 2, line 28, after "system." insert "If the public transportation employees are represented by more than one labor organization, all such labor organizations shall select the nonvoting member by majority vote."

On page 3, line 20, after "representing" strike all material through "of"

On page 3, beginning on line 21, after "authority." strike all material through "authority." on line 22 and insert "If the public transportation employees are represented by more than one labor organization, all such labor organizations shall select the nonvoting member by majority vote."

On page 4, line 31, after "representing" strike all material through "of"

On page 4, line 32, after "system." insert "If the public transportation employees are represented by more than one labor organization, all such labor organizations shall select the nonvoting member by majority vote."

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Government Operations & Elections to Engrossed Substitute House Bill No. 2986.

The motion by Senator McDermott carried and the committee amendment was adopted by voice vote.

#### MOTION

Senator Shin moved that the following amendment by Senator Shin be adopted:

On page 2, line 26, after "member" strike "is" and insert "must be an employee of the local public transportation system, and must be"

On page 3, line 19, after "individual" insert "employed by the county transportation authority and"

On page 4, line 30, after "member" strike "is" and insert "must be an employee of the local public transportation system, and must be"

Senator Shin spoke in favor of adoption of the amendment.

Senators Marr and Jacobsen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Shin on page 2, line 26 to Engrossed Substitute House Bill No. 2986.

The motion by Senator Shin failed and the amendment was not adopted by voice vote.

#### MOTION

Senator Becker moved that the following amendment by Senator Becker be adopted:

On page 2, line 26, after "member" strike "is" and insert "may not be an elected union official, and must be"

On page 3, line 21, after "authority" insert " ", but may not be an elected union official"

On page 4, line 30, after "member" strike "is" and insert "may not be an elected union official, and must be"

Senator Becker spoke in favor of adoption of the amendment.

Senator Marr spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Becker on page 2, line 26 to Engrossed Substitute House Bill No. 2986.

The motion by Senator Becker failed and the amendment was not adopted by voice vote.

#### MOTION

Senator Delvin moved that the following amendment by Senator Delvin be adopted:

On page 2, line 26, after "is ", strike all material through "representing the" on line 27, and insert "elected by a".

On page 3, line 19, after "individual ", strike all material through "representing the" on line 20, and insert "is elected by a".

On page 4, line 30, after "is ", strike all material through "representing the" on line 31, and insert "elected by a".

Senator Delvin spoke in favor of adoption of the amendment.

Senator Marr spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Delvin on page 2, line 26 to Engrossed Substitute House Bill No. 2986.

The motion by Senator Delvin failed and the amendment was not adopted by voice vote.

#### MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford be adopted:

On page 2, line 26, after "commission" insert ", except for a metropolitan transit commission located within a rural county. As used in this subsection, "rural county" means a county smaller than two hundred twenty-five square miles or as defined in RCW 82.14.370"

On page 3, line 27, after "session." insert "However, the requirements of this subsection do not apply to a county transportation authority located within a rural county. As used in

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this subsection, "rural county" means a county smaller than two hundred twenty-five square miles or as defined in RCW 82.14.370."

On page 4, line 30, after "authority" insert ", except for a public transportation benefit area authority located within a rural county. As used in this section, "rural county" means a county smaller than two hundred twenty-five square miles or as defined in RCW 82.14.370"

Senator Honeyford spoke in favor of adoption of the amendment.

Senator Marr spoke against adoption of the amendment.

#### REMARKS BY THE PRESIDENT

President Owen: "Speak for yourself, Senator."

Senator Marr: "Excuse me, Mr. President. I was speaking for myself in that case."

Senator Marr continued to speak against adoption of the amendment.

President Owen: "Senator Schoesler. Defend us brother."

#### MOTION

Senator Schoesler moved that the comments by the gentleman from the 6<sup>th</sup> Legislative District be spread upon the journal.

Senator Sheldon spoke in favor of adoption of the amendment.

#### PARLIAMENTARY INQUIRY

Senator Jacobsen: "The member that spoke previously made a motion. Are we suppose to ... don't we have to take action on it?"

#### REPLY BY THE PRESIDENT

President Owen: "Certainly, if you want to."

Senator Jacobsen: "I know 'size does not matter' but I think it's important to get this spread on the record because the record can be awful boring a lot of the time."

The President declared the question before the Senate to be the motion by Senator Schoesler that the comment by Senator Marr be spread upon the journal.

The motion by Senator Schoesler did not carry and the remarks by Senator Marr were not spread upon the journal by voice vote.

#### POINT OF ORDER

Senator Marr: "Mr. President, I believe we're speaking to amendment number 237 not the underlying striker or bill, substitute bill. I believe the remarks of the speaker are intended to be addressed towards the underlying bill."

#### REPLY BY THE PRESIDENT

President Owen: "Senator Sheldon, please make sure that your remarks are consistent with the amendment."

Senator Haugen spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 2, line 26 to Engrossed Substitute House Bill No. 2986.

The motion by Senator Honeyford failed and the amendment was not adopted by a rising vote.

#### MOTION

Senator King moved that the following amendment by Senator King be adopted:

On page 2, line 28, after "system." insert "The metropolitan transit commission shall not be liable in any action arising out of statements or actions by a nonvoting member."

On page 3, line 22, after "authority." insert "The county transportation authority shall not be liable in any action arising out of statements or actions by a nonvoting member."

On page 4, line 32, after "system." insert "The public transportation benefit area authority shall not be liable in any action arising out of statements or actions by a nonvoting member."

Senator King spoke in favor of adoption of the amendment.

Senator Marr spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator King on page 2, line 28 to Engrossed Substitute House Bill No. 2986.

The motion by Senator King failed and the amendment was not adopted by voice vote.

#### MOTION

Senator Holmquist moved that the following amendment by Senator Holmquist be adopted:

On page 2, line 29, after "years." insert "The nonvoting member shall comply with all governing bylaws and policies of the commission."

On page 3, line 22, after "authority." insert "The nonvoting member shall comply with all governing bylaws and policies of the authority."

On page 4, line 32, after "system." insert "The nonvoting member shall comply with all governing bylaws and policies of the authority."

Senators Holmquist and Schoesler spoke in favor of adoption of the amendment.

Senator Marr spoke against adoption of the amendment.

Senator Schoesler demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Holmquist on page 2, line 29 to Engrossed Substitute House Bill No. 2986.

#### ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Holmquist and the amendment was adopted by the following vote: Yeas, 41; Nays, 6; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Marr, McAuliffe, Morton, Murray, Oemig, Parlette, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Fraser, Jacobsen, Kohl-Welles, McDermott, Prentice and Ranker

Excused: Senators McCaslin and Pflug

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MOTION

MOTION

Senator Swecker moved that the following amendment by Senator Swecker be adopted:

On page 2, line 29, after "term of" strike "four" and insert "two"

On page 3, line 22, after "authority." insert "The nonvoting member is appointed for a term of two years."

On page 4, line 32, after "system." insert "The nonvoting member is appointed for a term of two years."

Senator Swecker spoke in favor of adoption of the amendment.

Senator Marr spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Swecker on page 2, line 29 to Engrossed Substitute House Bill No. 2986.

The motion by Senator Swecker failed and the amendment was not adopted by voice vote.

## WITHDRAWAL OF AMENDMENT

On motion of Senator Haugen, the amendment by Senator Haugen on page 2, line 31 to Engrossed Substitute House Bill No. 2986 was withdrawn.

## MOTION

Senator Benton moved that the following amendment by Senator Haugen be adopted:

On page 2, beginning on line 31, after "session" strike all material through "session" on line 33

On page 3, beginning on line 24, after "session" strike all material through "session" on line 27

On page 4, beginning on line 34, after "session" strike all material through "session" on line 37

Senator Benton spoke in favor of adoption of the amendment.

Senators Marr and McDermott spoke against adoption of the amendment.

Senator Schoesler demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Haugen on page 2, line 31 to Engrossed Substitute House Bill No. 2986.

The Secretary called the roll on the adoption of the amendment by Senator Haugen and the amendment was not adopted by the following vote: Yeas, 19; Nays, 27; Absent, 1; Excused, 2.

Voting yea: Senators Becker, Benton, Brandland, Carrell, Delvin, Hatfield, Haugen, Hewitt, Holmquist, Honeyford, King, Morton, Parlette, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

Absent: Senator Hargrove

Excused: Senators McCaslin and Pflug

## MOTION

On motion of Senator Eide, Senator Hargrove was excused.

Senator Zarelli moved that the following amendment by Senator Zarelli be adopted:

On page 2, line 33, after "session." insert "The nonvoting member will not be reimbursed for travel or expenses associated with attending commission meetings."

On page 3, line 27, after "session." insert "The nonvoting member will not be reimbursed for travel or expenses associated with attending authority meetings."

On page 4, line 37, after "session." insert "The nonvoting member will not be reimbursed for travel or expenses associated with attending authority meetings."

## WITHDRAWAL OF AMENDMENT

On motion of Senator Zarelli, the amendment by Senator Zarelli on page 2, line 33 to Engrossed Substitute House Bill No. 2986 was withdrawn.

## MOTION

Senator King moved that the following amendment by Senator King be adopted:

On page 2, line 33, after "session." Insert the following: "The requirement that a nonvoting member be appointed to the governing body of a metropolitan transit commission does not apply to a commission that has a labor management committee that meets at least six times a year."

On page 2, line 27, after "session." Insert the following: "The requirement that a nonvoting member be appointed to the governing body of a county transportation authority does not apply to an authority that has a labor management committee that meets at least six times a year."

On page 5, beginning on line 2, after "to" strike all material through "union" on line 3 and insert ":

(1) An authority that has no employees represented by a labor union; or

(2) An authority that has a labor management committee that meets at least six times a year."

Renumber the sections consecutively and correct any internal references accordingly.

Senator King spoke in favor of adoption of the amendment.

Senator Marr spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator King on page 2, line 33 to Engrossed Substitute House Bill No. 2986.

The motion by Senator King failed and the amendment was not adopted by a rising vote.

## MOTION

Senator Haugen moved that the following amendment by Senator Haugen be adopted:

On page 2, line 33, after "session." insert "The requirement that a nonvoting member be appointed to the governing body of a metropolitan transit commission does not apply to a commission that has no employees represented by a labor union."

On page 3, line 27, after "session" insert ". The requirement that a nonvoting member be appointed to the governing body of a county transportation authority does not apply to an authority that has no employees represented by a labor union"

## WITHDRAWAL OF AMENDMENT

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On motion of Senator Haugen, the amendment by Senator Haugen on page 2, line 33 to Engrossed Substitute House Bill No. 2986 was withdrawn.

#### MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford be adopted:

On page 6, after line 5, insert the following:

"**Sec. 4.** RCW 81.112.040 and 1994 c 109 s 1 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the regional transit authority shall be governed by a board consisting of representatives appointed by the county executive and confirmed by the council or other legislative authority of each member county. Membership shall be based on population from that portion of each county which lies within the service area. Board members shall be appointed initially on the basis of one for each one hundred forty-five thousand population within the county. Such appointments shall be made following consultation with city and town jurisdictions within the service area. In addition, the secretary of transportation or the secretary's designee shall serve as a member of the board and may have voting status with approval of a majority of the other members of the board. Only board members, not including alternates or designees, may cast votes.

Each member of the board, except the secretary of transportation or the secretary's designee, shall be:

(a) An elected official who serves on the legislative authority of a city or as mayor of a city within the boundaries of the authority;

(b) On the legislative authority of the county, if fifty percent of the population of the legislative official's district is within the authority boundaries; or

(c) A county executive from a member county within the authority boundaries.

When making appointments, each county executive shall ensure that representation on the board includes an elected city official representing the largest city in each county and assures proportional representation from other cities, and representation from unincorporated areas of each county within the service area. At least one-half of all appointees from each county shall serve on the governing authority of a public transportation system.

Members appointed from each county shall serve staggered four-year terms. Vacancies shall be filled by appointment for the remainder of the unexpired term of the position being vacated.

The governing board shall be reconstituted, with regard to the number of representatives from each county, on a population basis, using the official office of financial management population estimates, five years after its initial formation and, at minimum, in the year following each official federal census. The board membership may be reduced, maintained, or expanded to reflect population changes but under no circumstances may the board membership exceed twenty-five.

(2) There is one nonvoting member of the regional transit authority board. The nonvoting member is recommended by the labor organization representing the majority of the public transportation employees within the regional transit authority. The nonvoting member is appointed for a term of four years. The chair or cochair of the board shall exclude the nonvoting member from attending any executive session held for the purpose of discussing negotiations with labor organizations. The chair or cochair may exclude the nonvoting member from attending any other executive session.

~~((2))~~ (3) Major decisions of the authority shall require a favorable vote of two-thirds of the entire membership of the voting members. "Major decisions" include at least the following:

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System plan adoption and amendment; system phasing decisions; annual budget adoption; authorization of annexations; modification of board composition; and executive director employment.

~~((3))~~ (4) Each member of the board is eligible to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 and to receive compensation as provided in RCW 43.03.250."

On page 1, line 3 of the title, after "36.57.030," strike "and 36.57A.050" and insert "36.57A.050, and 81.112.040"

Senator Honeyford spoke in favor of adoption of the amendment.

Senator Marr spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 6, after line 5 to Engrossed Substitute House Bill No. 2986.

The motion by Senator Honeyford failed and the amendment was not adopted by voice vote.

#### MOTION

Senator Swecker moved that the following amendment by Senators Swecker and Haugen be adopted:

On page 6, after line 5, insert the following:

"**NEW SECTION. Sec. 4.** A new section is added to chapter 36.56 RCW to read as follows:

If a county has assumed the rights, powers, functions, and obligations of the metropolitan municipal corporation under this chapter and is operating a public transportation system, then the governance of the public transportation system must include one nonvoting member. The nonvoting member is recommended by the labor organization representing the majority of the public transportation employees within the public transportation system. The nonvoting member is appointed for a term of four years. The nonvoting member may be excluded from attending any executive session held for the purpose of discussing negotiations with labor organizations or from attending any other executive session."

On page 1, line 2 of the title, after "bodies;" strike "and"

On page 1, line 3 of the title, after "36.57A.050" insert "; and adding a new section to chapter 36.56 RCW"

Senator Swecker spoke in favor of adoption of the amendment.

Senator Marr spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Swecker and Haugen on page 6, after line 5 to Engrossed Substitute House Bill No. 2986.

The motion by Senator Swecker failed and the amendment was not adopted by voice vote.

#### MOTION

On motion of Senator McDermott, the rules were suspended, Engrossed Substitute House Bill No. 2986 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McDermott, Kline, Marr and Jacobsen spoke in favor of passage of the bill.

Senators Haugen, King and Sheldon spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2986 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2986 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 28; Nays, 19; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hobbs, Jacobsen, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Shin and Tom

Voting nay: Senators Becker, Berkey, Brandland, Carrell, Delvin, Hatfield, Haugen, Hewitt, Holmquist, Honeyford, Kastama, King, Morton, Parlette, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Excused: Senators McCaslin and Pflug

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2986 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3141, by House Committee on Ways & Means (originally sponsored by Representatives Kagi, Pettigrew, Seaquist, Kenney and Ormsby)

Redesigning the delivery of temporary assistance to needy families. Revised for 2nd Substitute: Regarding delivery of temporary assistance to needy families.

The measure was read the second time.

MOTION

Senator Regala moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 74.08A RCW to read as follows:

(1) The legislature finds that the goal of the Washington WorkFirst program is economic self-sufficiency for families through unsubsidized work. The legislature also finds that matching available resources with families' needs and developing a comprehensive plan assists families in attaining lasting self-sufficiency through work.

(2) The legislature also finds that the primary purposes of the temporary assistance for needy families program are: (a) To help job ready participants secure gainful employment; (b) to assist parents to prepare for and obtain sustainable employment that will lift the family out of poverty and lead to economic self-sufficiency; and (c) to provide basic income assistance and support to parents who are disabled or otherwise exempt from work activity requirements under federal law.

(3) The legislature further finds that parents who have adequate job skills and experiences should be referred to job search activities that will lead to employment.

(4) The legislature also finds that completion of appropriate educational and training programs is necessary for some families to achieve economic self-sufficiency through work because research demonstrates that without adequate levels of education or training,

job search activities alone have no measurable impact on a family's ability to obtain and maintain paid work.

(5) The legislature further finds that while many families have been successful in permanently leaving the program of temporary assistance for needy families, statistics indicate that families continue to return to the program in the absence of adequate education and training.

(6) In order to provide work opportunities for parents with significant barriers to employment, the legislature intends to build upon the successes of the community jobs program and to provide subsidized work opportunities to parents who are unable to find employment after earnest efforts at job search or education and training activities.

(7) The legislature intends to reform components of Washington's subsidized childcare program by redesigning the eligibility determination process to promote: (a) Stability for children and (b) predictability for parents who are either working or preparing and searching for work and the childcare providers who are serving low-income families.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.215 RCW to read as follows:

(1) The department shall establish and implement policies in the working connections child care program to promote stability and quality of care for children from low-income households. Policies for the expenditure of funds constituting the working connections child care program must be consistent with the outcome measures defined in RCW 74.08A.410 and the standards established in this section intended to promote continuity of care for children.

(2) Beginning in fiscal year 2011, for families with children enrolled in an early childhood education and assistance program, a head start program, or an early head start program, authorizations for the working connections child care subsidy shall be effective for twelve months unless a change in circumstances necessitates reauthorization sooner than twelve months.

(3) The department, in consultation with the department of social and health services, shall report to the legislature by September 1, 2011, with:

(a) An analysis of the impact of the twelve-month authorization period on the stability of child care, program costs, and administrative savings; and

(b) Recommendations for expanding the application of the twelve-month authorization period to additional populations of children in care.

NEW SECTION. **Sec. 3.** A new section is added to chapter 74.08A RCW to read as follows:

The Washington WorkFirst subcabinet, in consultation with the governor, shall:

(1) Reevaluate the structure and policies of the WorkFirst program in the context of legislative intent expressed in section 1 of this act, and in consideration of the relevant research relating to family economic self-sufficiency and the completion of training and education programs shown to be correlated with increased earnings and career growth;

(2) Develop a proposal for redesigning the state's use of temporary assistance for needy families funds in a manner that makes optimum use of all funds available in the state to promote more families moving out of poverty to sustainable self-sufficiency. The subcabinet must report the proposal to the appropriate committees of the legislature by December 1, 2010. The proposal must include the following elements:

(a) A process for conducting a reassessment for persons who have been unable to achieve sustainable self-sufficiency through employment after receiving WorkFirst assistance for fifty-four months. The reassessment must be designed to determine if referral to community jobs or other services, including education

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and training opportunities, is appropriate or necessary to assist the person in attaining self-sufficiency for the family;

(b) A plan for referring persons who have been unsuccessful in finding sustainable employment to the community jobs program or other wage-subsidized employment program established under RCW 74.08A.320. Referrals should complement other activities that might be identified in a reassessment under (a) of this subsection; and

(c) A schedule for the development and implementation of three pathways to family self-sufficiency that will guide case management and engage parents early in developing a comprehensive plan to achieve self-sufficiency while addressing families' current basic needs. The pathways must address appropriate referrals for:

(i) Persons who have: (A) Marketable job skills, adequate education, or experience and attachment to the job force, (B) transportation, (C) safe child care arrangements in place, and (D) no unaddressed barriers to employment;

(ii) Persons who have: (A) Few or no marketable job skills, (B) little experience or attachment to the job force, (C) no high school diploma or equivalent, or (D) a need to complete adult basic education or other activities to remove barriers to employment; and

(iii) Persons who are: (A) Incapacitated and unemployable, (B) caring for a child with a disability, or (C) the primary caregiver for a family member with a disability; and

(3)(a) Adopt the goal of increasing the percentage of households receiving temporary assistance for needy families that move into the middle-income bracket or higher, and delineate specific program strategies within the proposal required in subsection (2) of this section to reach that goal.

(b) The proposal developed under subsection (2) of this section shall also include an estimate by the office of financial management, in consultation with other state agencies, of the percentage of Washington residents with incomes in the middle-income bracket or higher, and the percentage of WorkFirst clients who have historically moved into the middle-income bracket or higher. The office of financial management shall continue, by December 1 of every year thereafter, to estimate and report the percentage of Washington residents with incomes in the middle-income bracket or higher to the governor and the appropriate committees of the legislature.

(c) For purposes of this section, "middle-income bracket" means family incomes between two hundred and five hundred percent of the 2009 federal poverty level, as determined by the United States department of health and human services for a family of four, adjusted annually for inflation.

**Sec. 4.** RCW 74.08A.285 and 2003 c 383 s 3 are each amended to read as follows:

The WorkFirst program operated by the department to meet the federal work requirements specified in P.L. 104-193 shall contain a job search component. The component shall consist of instruction on how to secure a job and assisted job search activities to locate and retain employment. Nonexempt recipients of temporary assistance for needy families shall participate in an initial job search for no more than twelve consecutive weeks, when appropriate, given the recipient's marketable job skills, attachment to the labor force, and level of education or training. Each recipient shall receive a work skills assessment upon referral to the job search program. The work skills assessment shall include but not be limited to education, employment history, employment strengths, and job skills. The recipient's ability to obtain employment will be reviewed periodically thereafter and, if it is clear at any time that further participation in a job search will not be productive, the department shall assess the recipient pursuant to RCW 74.08A.260. The department shall refer recipients unable to find employment through

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the initial job search period to ~~(work)~~ activities that will develop their skills or knowledge to make them more employable, including additional job search and job readiness assistance.

**Sec. 5.** RCW 74.08A.320 and 1997 c 58 s 325 are each amended to read as follows:

The department shall establish a wage subsidy program to be known as the community jobs program for recipients of temporary assistance for needy families who have barriers to employment, lack experience and attachment to the job force, or have been unsuccessful in securing employment leading to family self-sufficiency. The department shall give preference in job placements to private sector employers that have agreed to participate in the wage subsidy program. The department shall identify characteristics of employers who can meet the employment goals stated in RCW 74.08A.410. The department shall use these characteristics in identifying which employers may participate in the program. The department shall adopt rules for the participation of recipients of temporary assistance for needy families in the wage subsidy program. Participants in the program established under this section may not be employed if: (1) The employer has terminated the employment of any current employee or otherwise caused an involuntary reduction of its workforce in order to fill the vacancy so created with the participant; or (2) the participant displaces or partially displaces current employees. Employers providing positions created under this section shall meet the requirements of chapter 49.46 RCW. This section shall not diminish or result in the infringement of obligations or rights under chapters 41.06, 41.56, and 49.36 RCW and the national labor relations act, 29 U.S.C. Ch. 7. The department shall establish such local and statewide advisory boards, including business and labor representatives, as it deems appropriate to assist in the implementation of the wage subsidy program. Once the recipient is hired, the wage subsidy shall be authorized for up to nine months.

**NEW SECTION. Sec. 6.** RCW 74.08A.200 (Intent--Washington WorkFirst) and 1997 c 58 s 301 are each repealed.

**NEW SECTION. Sec. 7.** It is the intent of the legislature that this act be implemented within the funding appropriated in the 2009-11 biennial budget. No additional appropriations will be provided for its implementation."

Senator Regala spoke in favor of adoption of the committee striking amendment.

#### MOTION

Senator Roach moved that the following amendment by Senator Roach to the committee striking amendment be adopted:

Beginning on page 1, line 3 of the amendment, strike all of section 1

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 3, beginning on line 5 of the amendment, after "program" strike all material through "and" on line 7

On page 6, beginning on line 4 of the amendment, strike all of section 6

Renumber the remaining section consecutively.

On page 6, line 12 of the title amendment, after "adding" strike "new sections" and insert "a new section"

On page 6, line 13 of the title amendment, after "RCW;" insert "and"

On page 6, line 13 of the title amendment, after "section" strike "; and repealing RCW 74.08A.200"

Senator Roach spoke in favor of adoption of the amendment to the committee striking amendment.

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Senator Regala spoke against adoption of the amendment to the committee striking amendment.

Senator Schoesler demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

Senators Schoesler and Stevens spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Roach on page 1, line 3 to the committee striking amendment to Engrossed Second Substitute House Bill No. 3141.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Roach and the amendment was not adopted by the following vote: Yeas, 22; Nays, 25; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Hobbs, Holmquist, Honeyford, Kastama, Kauffman, Kilmer, King, Marr, Morton, Parlette, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Jacobsen, Keiser, Kline, Kohl-Welles, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

Excused: Senators McCaslin and Pflug

MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford to the committee striking amendment be adopted:

Beginning on page 4, line 28 of the amendment, strike all of section 4

Re-number the remaining sections consecutively and correct any internal references accordingly.

On page 6, line 11 of the title amendment, after "amending RCW" strike "74.08A.285 and"

Senator Honeyford spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Regala spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 4, line 28 to the committee striking amendment to Engrossed Second Substitute House Bill No. 3141.

The motion by Senator Honeyford failed and the amendment to the committee striking amendment was not adopted by voice vote.

MOTION

Senator Benton moved that the following amendment by Senator Benton to the committee striking amendment be adopted:

On page 6, after line 9 of the amendment, insert the following:

"Sec. 8. RCW 74.08A.010 and 2004 c 54 s 4 are each amended to read as follows:

(1) A family that includes an adult who has received temporary assistance for needy families for sixty months after July 27, 1997, shall be ineligible for further temporary assistance for needy families assistance.

(2) For the purposes of applying the rules of this section, the department shall count any month in which an adult family member received a temporary assistance for needy families cash assistance grant unless the assistance was provided when the family member was a minor child and not the head of the household or married to the head of the household.

(3) The department shall refer recipients who require specialized assistance to appropriate department programs, crime victims' programs through the department of ~~((community, trade, and economic development))~~ commerce, or the crime victims' compensation program of the department of labor and industries.

(4) The department may exempt a recipient and the recipient's family from the application of subsection (1) of this section by reason of hardship ~~((or if))~~ only under the following circumstances:

(a) The recipient is disabled;

(b) The recipient is an adult caretaker who is not the parent and is receiving assistance on behalf of the child;

(c) The recipient is a parent who is caring for an infant; or

(d) The recipient meets the family violence options of section 402(A)(7) of Title IVA of the federal social security act as amended by P.L. 104-193.

(5) The number of recipients and their families exempted from subsection (1) of this section for a fiscal year shall not exceed twenty percent of the average monthly number of recipients and their families to which assistance is provided under the temporary assistance for needy families program.

~~((5))~~ (6) The department shall not exempt a recipient and his or her family from the application of subsection (1) of this section until after the recipient has received fifty-two months of assistance under this chapter.

~~((6))~~ (7) Beginning on October 31, 2005, the department shall provide transitional food stamp assistance for a period of five months to a household that ceases to receive temporary assistance for needy families assistance and is not in sanction status. If necessary, the department shall extend the household's food stamp certification until the end of the transition period."

On page 6, beginning on line 11 of the title amendment, after "74.08A.285" strike "and 74.08A.320" and insert ", 74.08A.320, and 74.08A.010"

Senator Benton spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Regala spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Benton on page 6, after line 9 to the committee striking amendment to Engrossed Second Substitute House Bill No. 3141.

The motion by Senator Benton failed and the amendment to the committee striking amendment was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed Second Substitute House Bill No. 3141.

The motion by Senator Regala carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "families;" strike the remainder of the title and insert "amending RCW 74.08A.285 and

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74.08A.320; adding new sections to chapter 74.08A RCW; adding a new section to chapter 43.215 RCW; creating a new section; and repealing RCW 74.08A.200."

#### MOTION

On motion of Senator Regala, the rules were suspended, Engrossed Second Substitute House Bill No. 3141 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Regala, Brown and Franklin spoke in favor of passage of the bill.

Senators Schoesler, Carrell, Stevens, Parlette and Roach spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 3141 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 3141 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 27; Nays, 20; Absent, 0; Excused, 2.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kauffman, Keiser, Kline, Kohl-Welles, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, Kastama, Kilmer, King, Marr, Morton, Parlette, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Excused: Senators McCaslin and Pflug

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3141 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 2805, by Representatives Ormsby, Campbell, Williams, Van De Wege, Simpson, White, Chase, Hasegawa, Rolfes and Conway

Regarding public works involving off-site prefabrication.

The measure was read the second time.

#### MOTION

Senator Kohl-Welles moved that the following committee striking amendment by the Committee on Labor, Commerce & Consumer Protection be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 39.04 RCW to read as follows:

(1) For any public work estimated to cost over one million dollars, the contract must contain a provision requiring the submission of certain information about off-site, prefabricated, nonstandard, project specific items produced under the terms of the contract and produced outside Washington. The information must

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be submitted to the department of labor and industries under subsection (2) of this section. The information that must be provided is:

(a) The estimated cost of the public works project;

(b) The name of the awarding agency and the title of the public works project;

(c) The contract value of the off-site, prefabricated, nonstandard, project specific items produced outside Washington, including labor and materials; and

(d) The name, address, and federal employer identification number of the contractor that produced the off-site, prefabricated, nonstandard, project specific items.

(2)(a) The required information under this section must be submitted by the contractor or subcontractor as a part of the affidavit of wages paid form filed with the department of labor and industries under RCW 39.12.040. This information is only required to be submitted by the contractor or subcontractor who directly contracted for the off-site, prefabricated, nonstandard, project specific items produced outside Washington.

(b) The department of labor and industries shall include requests for the information about off-site, prefabricated, nonstandard, project specific items produced outside Washington on the affidavit of wages paid form required under RCW 39.12.040.

(c) The department of general administration shall develop standard contract language to meet the requirements of subsection (1) of this section and make the language available on its web site.

(3) For the purposes of this section, "off-site, prefabricated, nonstandard, project specific items" means products or items that are: (a) Made primarily of architectural or structural precast concrete, fabricated steel, pipe and pipe systems, or sheet metal and sheet metal duct work; (b) produced specifically for the public work and not considered to be regularly available shelf items; (c) produced or manufactured by labor expended to assemble or modify standard items; and (d) produced at an off-site location.

(4) The department of labor and industries shall transmit information collected under this section to the department of general administration on a regular basis. The department of general administration shall compile the information and submit it on an annual basis to the capital projects advisory review board created in RCW 39.10.220 for review and public hearing.

(5) This section applies to contracts entered into between September 1, 2010, and December 31, 2013.

**Sec. 2.** RCW 39.04.350 and 2009 c 197 s 2 are each amended to read as follows:

(1) Before award of a public works contract, a bidder must meet the following responsibility criteria to be considered a responsible bidder and qualified to be awarded a public works project. The bidder must:

(a) At the time of bid submittal, have a certificate of registration in compliance with chapter 18.27 RCW;

(b) Have a current state unified business identifier number;

(c) If applicable, have industrial insurance coverage for the bidder's employees working in Washington as required in Title 51 RCW; an employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW;

(d) Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3); ~~(and)~~

(e) If bidding on a public works project subject to the apprenticeship utilization requirements in RCW 39.04.320, not have been found out of compliance by the Washington state apprenticeship and training council for working apprentices out of ratio, without appropriate supervision, or outside their approved work processes as outlined in their standards of apprenticeship under chapter 49.04 RCW for the one-year period immediately

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preceding the date of the bid solicitation; and

MOTION

(f) Until December 31, 2013, not have violated section 1 of this act more than one time as determined by the department of labor and industries.

(2) In addition to the bidder responsibility criteria in subsection (1) of this section, the state or municipality may adopt relevant supplemental criteria for determining bidder responsibility applicable to a particular project which the bidder must meet.

(a) Supplemental criteria for determining bidder responsibility, including the basis for evaluation and the deadline for appealing a determination that a bidder is not responsible, must be provided in the invitation to bid or bidding documents.

(b) In a timely manner before the bid submittal deadline, a potential bidder may request that the state or municipality modify the supplemental criteria. The state or municipality must evaluate the information submitted by the potential bidder and respond before the bid submittal deadline. If the evaluation results in a change of the criteria, the state or municipality must issue an addendum to the bidding documents identifying the new criteria.

(c) If the bidder fails to supply information requested concerning responsibility within the time and manner specified in the bid documents, the state or municipality may base its determination of responsibility upon any available information related to the supplemental criteria or may find the bidder not responsible.

(d) If the state or municipality determines a bidder to be not responsible, the state or municipality must provide, in writing, the reasons for the determination. The bidder may appeal the determination within the time period specified in the bidding documents by presenting additional information to the state or municipality. The state or municipality must consider the additional information before issuing its final determination. If the final determination affirms that the bidder is not responsible, the state or municipality may not execute a contract with any other bidder until two business days after the bidder determined to be not responsible has received the final determination.

(3) The capital projects advisory review board created in RCW 39.10.220 shall develop suggested guidelines to assist the state and municipalities in developing supplemental bidder responsibility criteria. The guidelines must be posted on the board's web site."

Senator Kohl-Welles spoke in favor of adoption of the committee striking amendment.

MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford to the committee striking amendment be adopted:

On page 1, line 5, after "over", strike "one" and insert "fifteen"

Re-number the sections consecutively and correct any internal references accordingly.

Senator Honeyford spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Kohl-Welles spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 1, line 5 to the committee striking amendment to Engrossed House Bill No. 2805.

The motion by Senator Honeyford failed and the amendment to the committee striking amendment was not adopted by voice vote.

On motion of Senator Delvin, Senator Zarelli was excused.

MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford to the committee striking amendment be adopted:

On page 1, line 8, after "items", insert "estimated to cost over seventy-five thousand dollars"

Re-number the sections consecutively and correct any internal references accordingly.

Senator Honeyford spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Kohl-Welles spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 1, line 8 to the committee striking amendment to Engrossed House Bill No. 2805.

The motion by Senator Honeyford failed and the amendment was not adopted by voice vote.

MOTION

Senator King moved that the following amendment by Senator King to the committee striking amendment be adopted:

On page 1, line 15, after "(c) The", strike "contract value of" and insert "dollar amount that has been allocated by the contractor who purchases"

On page 1, after "Washington" strike ", including labor and materials"

On page 1, line 19, after "of the" strike "contractor" and insert "company"

Re-number the sections consecutively and correct any internal references accordingly.

Senator King spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Kohl-Welles spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator King on page 1, line 15 to the committee striking amendment to Engrossed House Bill No. 2805.

The motion by Senator King failed and the amendment to the committee striking amendment was not adopted by voice vote.

MOTION

Senator Kohl-Welles moved that the following amendment by Senator Kohl-Welles to the committee striking amendment be adopted:

On page 2, after line 5 of the amendment, insert the following:

"(d) Failure to submit the information required in subsection (1) of this section as part of the affidavit of wages paid form does not constitute a violation of RCW 39.12.050."

On page 2, after line 21 of the amendment, insert the following: "(6) This section does not apply to department of transportation public works projects."

Senator Kohl-Welles spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Kohl-Welles on page 2, after line 5 to the committee striking amendment to Engrossed House Bill No. 2805.

The motion by Senator Kohl-Welles carried and the amendment to the committee striking amendment was adopted by voice vote.

#### MOTION

Senator King moved that the following amendment by Senator King to the committee striking amendment be adopted:

On page 2, line 8, after "primarily of", strike all material through "considered" on line 11, and insert the following:

"structural precast concrete, structural steel, pipe systems, or sheet metal duct work; (b) produced specifically for the public work and not considered by the awarding agency"

Renumber the sections consecutively and correct any internal references accordingly.

Senators King and Holmquist spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Kohl-Welles spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator King on page 2, line 8 to the committee striking amendment to Engrossed House Bill No. 2805.

The motion by Senator King failed and the amendment to the committee striking amendment was not adopted by voice vote.

#### MOTION

Senator King moved that the following amendment by Senator King to the committee striking amendment be adopted:

On page 2, after line 13, insert the following:

"The awarding agency shall have the authority and obligation to determine whether an item included in the public works project is an off-site, prefabricated, nonstandard, project-specific item. The agency's determination is nonbinding and not subject to appeal."

Renumber the sections consecutively and correct any internal references accordingly.

Senators King and Holmquist spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Kohl-Welles spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator King on page 2, after line 13 to the committee striking amendment to Engrossed House Bill No. 2805.

The motion by Senator King failed and the amendment to the committee striking amendment was not adopted by voice vote.

#### MOTION

Senator Holmquist moved that the following amendment by Senator Holmquist to the committee striking amendment be adopted:

On page 2, line 15, after "to the", strike everything through "to the" on line 18.

On page 2, line 19, after "review" strike "and public hearing"

Renumber the sections consecutively and correct any internal references accordingly.

Senators Holmquist and Kohl-Welles spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Holmquist on page 2, line 15 to the committee striking amendment to Engrossed House Bill No. 2805.

The motion by Senator Holmquist carried and the amendment to the committee striking amendment was adopted by voice vote.

#### MOTION

Senator Haugen moved that the following amendment by Senator Haugen to the committee striking amendment be adopted:

On page 2, after line 21 of the amendment, insert the following:

"(6) This section does not apply to local transportation public works projects."

Senator Haugen spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Haugen on page 2, after line 21 to the committee striking amendment to Engrossed House Bill No. 2805.

The motion by Senator Haugen carried and the amendment to the committee striking amendment was adopted by voice vote.

#### MOTION

Senator Holmquist moved that the following amendment by Senator Holmquist to the committee striking amendment be adopted:

On page 2, after line 21, strike all of section 2.

Renumber the sections consecutively and correct any internal references accordingly.

On page 4, line 8 of the title amendment, strike "amending RCW 39.04.350;"

Senator Holmquist spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Kohl-Welles spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Holmquist on page 2, after line 21 to the committee striking amendment to Engrossed House Bill No. 2805.

The motion by Senator Holmquist failed and the amendment to the committee striking amendment was not adopted by a rising vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Labor, Commerce & Consumer Protection as amended to Engrossed House Bill No. 2805.

The motion by Senator Kohl-Welles carried and the committee striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

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On page 1, line 1 of the title, after "prefabrication;" strike the remainder of the title and insert "amending RCW 39.04.350; and adding a new section to chapter 39.04 RCW."

MOTION

At 9:31 p.m., on motion of Senator Eide, the Senate adjourned until 9:30 a.m. Thursday, March 4, 2010.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed House Bill No. 2805 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

BRAD OWEN, President of the Senate

Senator Kohl-Welles spoke in favor of passage of the bill.

THOMAS HOEMANN, Secretary of the Senate

Senator Schoesler moved pursuant to Rule 68, that Engrossed House Bill No. 2805 be committed to the Committee on Ways & Means.

REMARKS BY SENATOR EIDE

Senator Eide: "Thank you Mr. President. My understanding is that the fiscal note was under fifty thousand and that is ok here as far as I know, as far as it not going to Ways & Means. Excuse me it's forty-three thousand."

REPLY BY THE PRESIDENT

President Owen: "Senator Eide, the President in reading the rule doesn't believe that there's a dollar amount on it and the bill could be referred to anywhere. It just so happens that Senator Schoesler moved to refer it to Ways & Means."

Senator Eide spoke against the motion to commit.

The President declared the question before the Senate to be the motion by Senator Schoesler to commit Engrossed House Bill No. 2805 to the Committee on Ways & Means.

The motion by Senator Schoesler failed by a rising vote and the bill was not committed.

Senators King, Holmquist and Honeyford spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 2805 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2805 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 28; Nays, 18; Absent, 0; Excused, 3.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Hobbs, Jacobsen, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Haugen, Hewitt, Holmquist, Honeyford, Kastama, King, Morton, Parlette, Roach, Schoesler, Sheldon, Stevens and Swecker

Excused: Senators McCaslin, Pflug and Zarelli

ENGROSSED HOUSE BILL NO. 2805 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

FIFTY THIRD DAY

MORNING SESSION

Senate Chamber, Olympia, Thursday, March 4, 2010

The Senate was called to order at 9:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senator McCaslin.

The Sergeant at Arms Color Guard consisting of Pages Wynter Flournoy and Kennedy Simpson, presented the Colors. Reverend Hunt Priest of Emmanuel Episcopal Church of Mercer Island offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

March 3, 2010

MR. PRESIDENT:

The House has passed:

- SENATE BILL 6209,
- SENATE BILL 6279,
- SENATE BILL 6330,
- SUBSTITUTE SENATE BILL 6341,
- SENATE BILL 6453,
- SENATE BILL 6487,
- SUBSTITUTE SENATE BILL 6510,
- SENATE BILL 6555,
- SUBSTITUTE SENATE BILL 6558,
- SUBSTITUTE SENATE BILL 6577,
- SUBSTITUTE SENATE BILL 6816.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 3, 2010

MR. PRESIDENT:

The House has passed:

- ENGROSSED SUBSTITUTE HOUSE BILL 3178.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

MOTION

Senator Eide moved adoption of the following resolution:

SENATE RESOLUTION

8712

By Senators Brown, Hewitt, Eide, Brandland, Holmquist, Swecker, Carrell, Zarelli, Benton, Murray, Hatfield, Ranker, Gordon, Delvin, Regala, Franklin, Shin, Kohl-Welles, Rockefeller, Kastama, Haugen, Morton, Oemig, Honeyford, Pridemore, Parlette, Becker, King, Roach, and Schoesler

WHEREAS, The United States Winter Olympic team won more medals than any of its predecessors during the 2010 Vancouver Games; and

WHEREAS, Athletes from throughout the State of Washington made invaluable and inspirational contributions to their own sports and to the success of the U.S. team as a whole; and

WHEREAS, Spokane's Will Brandenburg was a standout member of the U.S. Alpine Ski Team, which dominated the Olympics with more medals than any of its predecessors; and

WHEREAS, Redmond's Holly Brooks inspired her adopted home of Anchorage, Alaska and her more than 100 cross-country skiing students with her improbable and inspirational push to make the Olympic team; and

WHEREAS, Federal Way's J.R. Celski overcame a devastating injury just a few months ago to win bronze in speed skating; and

WHEREAS, Cle Elum's Patrick Deneen's Olympic dreams crashed to the ground in the moguls jump finals after attempting a daring jump in the pursuit of victory; and

WHEREAS, Leavenworth's Torin Koos, participating in his third Olympics, nearly helped bring the U.S. cross-country ski team its first medal since 1976; and

WHEREAS, Woodinville's Christian Niccum and his teammate Dan Joye finished tops among American Lugers; and

WHEREAS, Bremerton's Bree Schaaf further proved her versatility as an athlete by placing fifth in the bobsleigh after competing in skeleton in previous Olympiads; and

WHEREAS, Blaine's Karen Thatcher scored four goals and recorded three assists as the forward led the Women's Hockey Team to a silver medal; and

WHEREAS, Seattle's Apolo Anton Ohno, claimed three more medals in speed skating to push his career total to eight, making him the most decorated Winter Olympian in U.S. history;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor and salute the dedication, desire, and natural ability that it takes to become an Olympic athlete; and

BE IT FURTHER RESOLVED, That the Washington State Senate applaud Washington's own Olympic athletes for their inspiration and contributions to their state and their country.

Senators Eide, Parlette and Pflug spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8712.

The motion by Senator Eide carried and the resolution was adopted by voice vote.

MOTION

At 9:44 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:29 a.m. by President Owen.

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## MOTION

On motion of Senator Eide, Rule 15 was suspended through March 5 for the purpose of allowing continued floor action.

EDITOR'S NOTE: Senate Rule 15 establishes the floor schedule and calls for a lunch and dinner break of 90 minutes each per day during regular daily sessions.

## MOTION TO LIMIT DEBATE

Senator Eide: "Mr. President, I move that the members of the Senate be allowed to speak but once on each question before the Senate, that such speech be limited to three minutes and that members be prohibited from yielding their time, however, the maker of a motion shall be allowed to open and close debate. This motion shall be in effect through March 5, 2010."

The President declared the question before the Senate to be the motion by Senator Eide to limit debate.

The motion by Senator Eide carried and debate was limited through March 5, 2010 by voice vote.

## MOTION

On motion of Senator Eide, the Senate reverted to the sixth order of business.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1714, by House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Morrell, Green and Moeller)

Concerning health insurance. Revised for 1st Substitute: Concerning association health plans.

The measure was read the second time.

## MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Health & Long-Term Care be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The insurance commissioner shall prepare and submit a report to the legislature related to the performance of the small group health plan market and the association health plan market. To the extent that the data needed to complete the report are not readily available, the commissioner may require carriers to submit aggregated data for the small group health plans and association health plans underwritten or administered by the carrier, for each calendar year 2005 through 2008. Data submitted shall not identify specific small group plans or association health plans, and the report shall not identify specific small group or association health plans or present data in a manner that allows identification of specific plans. Carriers who underwrite or administer an association health plan that covers fewer than ten thousand lives in any year reported may, at their own expense, contract with a third party to aggregate and report the information required under this section with that of other carriers who qualify for this option. The data must be reported separately for the carrier's small group health plan block of business and association health plan block of business, and must include the following information:

(a) The number of persons residing in Washington state who receive health benefit coverage through each block of business, including the number of persons enrolled in the plans on the first day and last day of each year, the number of persons enrolled in the plans during each year, and the number of persons who terminated enrollment in the plans during each year;

(b) The calendar year-end enrollment of each block of business, by age group using five-year increments beginning with age twenty and ending with age sixty-five, and the average age of persons covered in each block of business;

(c) The calendar year-end enrollment of each block of business by employer size for each year, reporting by groups of two to five, six to ten, eleven to twenty-five, twenty-six to fifty, fifty-one to one hundred, and more than one hundred;

(d) The annual calendar year earned premium and incurred claims for each block of business;

(e) For the association health plan block of business, the number of association health plans that limit eligibility for health plan coverage to employer groups of a minimum size, or that limit eligibility for health plan coverage to a subset of the industries that the association sponsoring the health plan was established to serve, and the percentage of health plan enrollees for whom each of the following elements is used in setting health plan rates:

- (i) Claims experience;
- (ii) Employer group size; or
- (iii) Health status factors.

(2) In fulfilling the requirements of subsection (1) of this section the commissioner may adopt rules necessary to implement the data submission administrative process under this section, including the format, timing of data reporting, data standards, instructions, definitions, and data sources. The commissioner is prohibited from collecting data from carriers if any rules necessary to implement the data submission administrative process have not been adopted.

(3) The commissioner must allow carriers a minimum of ninety days to submit data once carriers have received instructions.

(4) For the purposes of this subsection, the terms "association health plan" and "association plan" shall include all member-governed group health plans and multiple employer welfare arrangements and any other arrangement to which two or more public or private employers, of which at least two are small employers, contribute to provide health care for their employees.

(5) Data, information, and documents provided by a carrier pursuant to this section are exempt from public inspection and copying under RCW 48.02.120 and chapters 42.17 and 42.56 RCW.

(6) The third-party experts that prepare the analysis and report for the insurance commissioner shall submit the report directly to the appropriate committees of the legislature and the insurance commissioner. The report shall be submitted to the legislature no later than October 1, 2011.

(7) This section expires September 30, 2011.

**Sec. 2.** RCW 42.56.400 and 2009 c 104 s 23 are each amended to read as follows:

The following information relating to insurance and financial institutions is exempt from disclosure under this chapter:

(1) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110;

(2) Information obtained and exempted or withheld from public inspection by the health care authority under RCW 41.05.026, whether retained by the authority, transferred to another state purchased health care program by the authority, or transferred by the authority to a technical review committee created to facilitate the development, acquisition, or implementation of state purchased health care under chapter 41.05 RCW;

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(3) The names and individual identification data of either all owners or all insureds, or both, received by the insurance commissioner under chapter 48.102 RCW;

(4) Information provided under RCW 48.30A.045 through 48.30A.060;

(5) Information provided under RCW 48.05.510 through 48.05.535, 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600 through 48.46.625;

(6) Examination reports and information obtained by the department of financial institutions from banks under RCW 30.04.075, from savings banks under RCW 32.04.220, from savings and loan associations under RCW 33.04.110, from credit unions under RCW 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and from securities brokers and investment advisers under RCW 21.20.100, all of which is confidential and privileged information;

(7) Information provided to the insurance commissioner under RCW 48.110.040(3);

(8) Documents, materials, or information obtained by the insurance commissioner under RCW 48.02.065, all of which are confidential and privileged;

(9) Confidential proprietary and trade secret information provided to the commissioner under RCW 48.31C.020 through 48.31C.050 and 48.31C.070;

(10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in combination with any other data, may reveal the identity of a claimant, health care provider, health care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:

(a) "Claimant" has the same meaning as in RCW 48.140.010(2).

(b) "Health care facility" has the same meaning as in RCW 48.140.010(6).

(c) "Health care provider" has the same meaning as in RCW 48.140.010(7).

(d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

(e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

(11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;

(12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;

(13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080;

(14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140;

(15) Documents, materials, or information obtained by the insurance commissioner under RCW 48.17.595; ~~((and))~~

(16) Documents, materials, or information obtained by the insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii); and

(17) Data, information, and documents provided by a carrier pursuant to section 1 of this act."

Senator Keiser spoke in favor of adoption of the committee striking amendment.

#### MOTION

Senator Keiser moved that the following amendment by Senators Keiser and Parlette to the committee striking amendment be adopted:

On page 2, line 37 after "(6)" insert "The commissioner may enter into a personal services contract with a third-party

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contractor to assist with the analysis of the data described in section (1) without having to comply with the restrictions set forth in 2010 c 3 section 602 and 605."

Renumber the remaining sections accordingly

Senator Keiser spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Keiser and Parlette on page 2, line 37 to the committee striking amendment to Engrossed Substitute House Bill No. 1714.

The motion by Senator Keiser carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care as amended to Engrossed Substitute House Bill No. 1714.

The motion by Senator Keiser carried and the committee striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "plans;" strike the remainder of the title and insert "amending RCW 42.56.400; creating a new section; and providing an expiration date."

#### MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute House Bill No. 1714 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Pflug spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Brandland, Senator McCaslin was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1714 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1714 as amended by the Senate. and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Hewitt

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1714 as amended by the Senate, having received the constitutional

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majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2592, by Representatives Hunt and Hasegawa

Prohibiting incentive towing programs for private property impounds.

The measure was read the second time.

#### MOTION

On motion of Senator Haugen, the rules were suspended, House Bill No. 2592 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Haugen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2592.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2592 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

HOUSE BILL NO. 2592, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Marr, Senator Brown was excused.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2429, by House Committee on Commerce & Labor (originally sponsored by Representatives Wood, Condotta, Williams, Takko, Eddy, Morrell, O'Brien, Conway and Ormsby)

Addressing the resale of motor vehicles previously determined as having nonconformities.

The measure was read the second time.

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 2429 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and Holmquist spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2429.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2429 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brown and McCaslin

SUBSTITUTE HOUSE BILL NO. 2429, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2428, by Representatives Takko, Warnick, Springer, Parker, Eddy, Morrell, Kelley, O'Brien, Bailey and Ormsby

Concerning fees for locating surplus funds from county governments, real estate property taxes, assessments, and other government lien foreclosures or charges.

The measure was read the second time.

#### MOTION

On motion of Senator Berkey, the rules were suspended, House Bill No. 2428 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Berkey spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2428.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2428 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brown and McCaslin

HOUSE BILL NO. 2428, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2424, by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives O'Brien, Pearson, Hurst, Takko, Herrera, Chandler, Ross, Rodne, Dammeier, Condotta, Shea, Klippert, Smith, Walsh, Parker, McCune, Campbell, Johnson, Eddy, Morrell, Kelley, Short, Sullivan, Conway, Kagi, Roach, Kristiansen, Bailey, Haler, Schmick, Ericks, Warnick, Ormsby, Moeller and Hope)

Protecting children from sexual exploitation and abuse.

The measure was read the second time.

#### MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Judiciary be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9.68A.001 and 2007 c 368 s 1 are each amended to read as follows:

The legislature finds that the prevention of sexual exploitation and abuse of children constitutes a government objective of surpassing importance. The care of children is a sacred trust and should not be abused by those who seek commercial gain or personal gratification based on the exploitation of children.

The legislature further finds that the protection of children from sexual exploitation can be accomplished without infringing on a constitutionally protected activity. The definition of "sexually explicit conduct" and other operative definitions demarcate a line between protected and prohibited conduct and should not inhibit legitimate scientific, medical, or educational activities.

The legislature further finds that children engaged in sexual conduct for financial compensation are frequently the victims of sexual abuse. Approximately eighty to ninety percent of children engaged in sexual activity for financial compensation have a history of sexual abuse victimization. It is the intent of the legislature to encourage these children to engage in prevention and intervention services and to hold those who pay to engage in the sexual abuse of children accountable for the trauma they inflict on children.

The legislature further finds that due to the changing nature of technology, offenders are now able to access child pornography in different ways and in increasing quantities. By amending current statutes governing depictions of a minor engaged in sexually explicit conduct, it is the intent of the legislature to ensure that intentional viewing of and dealing in child pornography over the internet is subject to a criminal penalty without limiting the scope of existing prohibitions on the possession of or dealing in child pornography, including the possession of electronic depictions of a minor engaged in sexually explicit conduct. It is also the intent of the legislature to clarify, in response to *State v. Sutherby*, 204 P.3d 916 (2009), the unit of prosecution for the statutes governing possession of and dealing in depictions of a minor engaged in sexually explicit conduct. It is the intent of the legislature that the first degree offenses under RCW 9.68A.050, 9.68A.060, and 9.68A.070 have a per depiction or image unit of prosecution, while the second degree offenses under RCW 9.68A.050, 9.68A.060, and 9.68A.070 have a per incident unit of prosecution as established in *State v. Sutherby*, 204 P.3d 916 (2009). Furthermore, it is the intent of the legislature to set a different unit of prosecution for the new offense of viewing of depictions of a minor engaged in sexually explicit conduct such that each separate session of intentionally viewing over the internet of visual depictions or images of a minor engaged in sexually explicit conduct constitutes a separate offense.

**NEW SECTION. Sec. 2.** A new section is added to chapter 9.68A RCW to read as follows:

This chapter does not apply to lawful conduct between spouses.

**Sec. 3.** RCW 9.68A.011 and 2002 c 70 s 1 are each amended to read as follows:

Unless the context clearly indicates otherwise, the definitions in this section apply throughout this chapter.

(1) An "internet session" means a period of time during which an internet user, using a specific internet protocol address, visits or is logged into an internet site for an uninterrupted period of time.

(2) To "photograph" means to make a print, negative, slide, digital image, motion picture, or videotape. A "photograph" means anything tangible or intangible produced by photographing.

~~((2))~~ (3) "Visual or printed matter" means any photograph or other material that contains a reproduction of a photograph.

~~((3))~~ (4) "Sexually explicit conduct" means actual or simulated:

(a) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals;

(b) Penetration of the vagina or rectum by any object;

(c) Masturbation;

(d) Sadomasochistic abuse ((for the purpose of sexual stimulation of the viewer));

(e) ((Exhibition of the genitals or unclothed pubic or rectal areas of any minor, or the unclothed breast of a female minor, for the purpose of sexual stimulation of the viewer;

(f)) Defecation or urination for the purpose of sexual stimulation of the viewer;

(f) Depiction of the genitals or unclothed pubic or rectal areas of any minor, or the unclothed breast of a female minor, for the purpose of sexual stimulation of the viewer. For the purposes of this subsection (4)(f), it is not necessary that the minor know that he or she is participating in the described conduct, or any aspect of it; and

(g) Touching of a person's clothed or unclothed genitals, pubic area, buttocks, or breast area for the purpose of sexual stimulation of the viewer.

~~((4))~~ (5) "Minor" means any person under eighteen years of age.

~~((5))~~ (6) "Live performance" means any play, show, skit, dance, or other exhibition performed or presented to or before an audience of one or more, with or without consideration.

**Sec. 4.** RCW 9.68A.050 and 1989 c 32 s 3 are each amended to read as follows:

((A person who:))

(1)(a) A person commits the crime of dealing in depictions of a minor engaged in sexually explicit conduct in the first degree when he or she:

(i) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells ~~((any))~~ a visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.110(4) (a) through (e); or

~~((2))~~ (ii) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e).

(b) Dealing in depictions of a minor engaged in sexually explicit conduct in the first degree is ((guilty of)) a class ((C)) B felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each depiction or image of visual or printed matter constitutes a separate offense.

(2)(a) A person commits the crime of dealing in depictions of a minor engaged in sexually explicit conduct in the second degree

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when he or she:

(i) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells any visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g); or

(ii) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g).

(b) Dealing in depictions of a minor engaged in sexually explicit conduct in the second degree is a class C felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each incident of dealing in one or more depictions or images of visual or printed matter constitutes a separate offense.

**Sec. 5.** RCW 9.68A.060 and 1989 c 32 s 4 are each amended to read as follows:

(1)(a) A person (~~(who)~~) commits the crime of sending or bringing into the state depictions of a minor engaged in sexually explicit conduct in the first degree when he or she knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, (~~(any)~~) a visual or printed matter that depicts a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e).

(b) Sending or bringing into the state depictions of a minor engaged in sexually explicit conduct in the first degree is (~~(guilty of)~~) a class (~~(C)~~) B felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each depiction or image of visual or printed matter constitutes a separate offense.

(2)(a) A person commits the crime of sending or bringing into the state depictions of a minor engaged in sexually explicit conduct in the second degree when he or she knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, any visual or printed matter that depicts a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g).

(b) Sending or bringing into the state depictions of a minor engaged in sexually explicit conduct in the second degree is a class C felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each incident of sending or bringing into the state one or more depictions or images of visual or printed matter constitutes a separate offense.

**Sec. 6.** RCW 9.68A.070 and 2006 c 139 s 3 are each amended to read as follows:

(1)(a) A person (~~(who)~~) commits the crime of possession of depictions of a minor engaged in sexually explicit conduct in the first degree when he or she knowingly possesses a visual or printed matter depicting a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e).

(b) Possession of depictions of a minor engaged in sexually explicit conduct in the first degree is (~~(guilty of)~~) a class B felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each depiction or image of visual or printed matter constitutes a separate offense.

(2)(a) A person commits the crime of possession of depictions of a minor engaged in sexually explicit conduct in the second degree when he or she knowingly possesses any visual or printed matter depicting a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g).

(b) Possession of depictions of a minor engaged in sexually

explicit conduct in the second degree is a class C felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each incident of possession of one or more depictions or images of visual or printed matter constitutes a separate offense.

**NEW SECTION. Sec. 7.** A new section is added to chapter 9.68A RCW to read as follows:

(1) A person who intentionally views over the internet visual or printed matter depicting a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e) is guilty of viewing depictions of a minor engaged in sexually explicit conduct in the first degree, a class B felony punishable under chapter 9A.20 RCW.

(2) A person who intentionally views over the internet visual or printed matter depicting a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g) is guilty of viewing depictions of a minor engaged in sexually explicit conduct in the second degree, a class C felony punishable under chapter 9A.20 RCW.

(3) For the purposes of determining whether a person intentionally viewed over the internet a visual or printed matter depicting a minor engaged in sexually explicit conduct in subsection (1) or (2) of this section, the trier of fact shall consider the title, text, and content of the visual or printed matter, as well as the internet history, search terms, thumbnail images, downloading activity, expert computer forensic testimony, number of visual or printed matter depicting minors engaged in sexually explicit conduct, defendant's access to and control over the electronic device and its contents upon which the visual or printed matter was found, or any other relevant evidence. The state must prove beyond a reasonable doubt that the viewing was initiated by the user of the computer where the viewing occurred.

(4) For the purposes of this section, each separate internet session of intentionally viewing over the internet visual or printed matter depicting a minor engaged in sexually explicit conduct constitutes a separate offense.

**Sec. 8.** RCW 9.68A.110 and 2007 c 368 s 3 are each amended to read as follows:

(1) In a prosecution under RCW 9.68A.040, it is not a defense that the defendant was involved in activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses. Law enforcement and prosecution agencies shall not employ minors to aid in the investigation of a violation of RCW 9.68A.090 or 9.68A.100. (~~(This chapter does not apply to lawful conduct between spouses.)~~)

(2) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or 9.68A.080, it is not a defense that the defendant did not know the age of the child depicted in the visual or printed matter: PROVIDED, That it is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense the defendant was not in possession of any facts on the basis of which he or she should reasonably have known that the person depicted was a minor.

(3) In a prosecution under RCW 9.68A.040, 9.68A.090, 9.68A.101, or 9.68A.102, it is not a defense that the defendant did not know the alleged victim's age: PROVIDED, That it is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense, the defendant made a reasonable bona fide attempt to ascertain the true age of the minor by requiring production of a driver's license, marriage license, birth certificate, or other governmental or educational identification card or paper and did not rely solely on the oral allegations or apparent age of the minor.

(4) In a prosecution under RCW 9.68A.050, 9.68A.060, ~~((or))~~ 9.68A.070, or section 7 of this act, it shall be an affirmative defense that the defendant was a law enforcement officer or a person specifically authorized, in writing, to assist a law enforcement officer and acting at the direction of a law enforcement officer in the process of conducting an official investigation of a sex-related crime against a minor, or that the defendant was providing individual case treatment as a recognized medical facility or as a psychiatrist or psychologist licensed under Title 18 RCW. Nothing in this act is intended to in any way affect or diminish the immunity afforded an electronic communication service provider, remote computing service provider, or domain name registrar acting in the performance of its reporting or preservation responsibilities under 18 U.S.C. Secs. 2258a, 2258b, or 2258c.

(5) In a prosecution under RCW 9.68A.050, 9.68A.060, ~~((or))~~ 9.68A.070, or section 7 of this act, the state is not required to establish the identity of the alleged victim.

(6) In a prosecution under RCW 9.68A.070 or section 7 of this act, it shall be an affirmative defense that:

(a) The defendant was employed at or conducting research in partnership or in cooperation with any institution of higher education as defined in RCW 28B.07.020 or 28B.10.016, and:

(i) He or she was engaged in a research activity;

(ii) The research activity was specifically approved prior to the possession or viewing activity being conducted in writing by a person, or other such entity vested with the authority to grant such approval by the institution of higher learning; and

(iii) Viewing or possessing the visual or printed matter is an essential component of the authorized research; or

(b) The defendant was an employee of the Washington state legislature engaged in research at the request of a member of the legislature and:

(i) The request for research is made prior to the possession or viewing activity being conducted in writing by a member of the legislature;

(ii) The research is directly related to a legislative activity; and

(iii) Viewing or possessing the visual or printed matter is an essential component of the requested research and legislative activity.

(c) Nothing in this section authorizes otherwise unlawful viewing or possession of visual or printed matter depicting a minor engaged in sexually explicit conduct.

**Sec. 9.** RCW 9.94A.515 and 2008 c 108 s 23 and 2008 c 38 s 1 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

- XVI Aggravated Murder 1 (RCW 10.95.020)
- XV Homicide by abuse (RCW 9A.32.055)
- Malicious explosion 1 (RCW 70.74.280(1))
- Murder 1 (RCW 9A.32.030)
- XIV Murder 2 (RCW 9A.32.050)
- Trafficking 1 (RCW 9A.40.100(1))
- XIII Malicious explosion 2 (RCW 70.74.280(2))
- Malicious placement of an explosive 1 (RCW 70.74.270(1))

- XII Assault 1 (RCW 9A.36.011)
- Assault of a Child 1 (RCW 9A.36.120)
- Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
- Rape 1 (RCW 9A.44.040)
- Rape of a Child 1 (RCW 9A.44.073)
- Trafficking 2 (RCW 9A.40.100(2))
- XI Manslaughter 1 (RCW 9A.32.060)
- Rape 2 (RCW 9A.44.050)
- Rape of a Child 2 (RCW 9A.44.076)
- X Child Molestation 1 (RCW 9A.44.083)
- Criminal Mistreatment 1 (RCW 9A.42.020)
- Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
- Kidnapping 1 (RCW 9A.40.020)
- Leading Organized Crime (RCW 9A.82.060(1)(a))
- Malicious explosion 3 (RCW 70.74.280(3))
- Sexually Violent Predator Escape (RCW 9A.76.115)
- IX Abandonment of Dependent Person 1 (RCW 9A.42.060)
- Assault of a Child 2 (RCW 9A.36.130)
- Explosive devices prohibited (RCW 70.74.180)
- Hit and Run--Death (RCW 46.52.020(4)(a))
- Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)
- Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
- Malicious placement of an explosive 2 (RCW 70.74.270(2))
- Robbery 1 (RCW 9A.56.200)
- Sexual Exploitation (RCW 9.68A.040)
- Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
- VIII Arson 1 (RCW 9A.48.020)
- Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)
- Manslaughter 2 (RCW 9A.32.070)
- Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101)

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- Promoting Prostitution 1 (RCW 9A.88.070)
- Theft of Ammonia (RCW 69.55.010)
- Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- VII Burglary 1 (RCW 9A.52.020)
- Child Molestation 2 (RCW 9A.44.086)
- Civil Disorder Training (RCW 9A.48.120)
- Dealing in depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.050(1))
- Drive-by Shooting (RCW 9A.36.045)
- Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)
- Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))
- Introducing Contraband 1 (RCW 9A.76.140)
- Malicious placement of an explosive 3 (RCW 70.74.270(3))
- Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)
- Sending, bringing into state depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.060(1))
- Unlawful Possession of a Firearm in the first degree (RCW 9A.41.040(1))
- Use of a Machine Gun in Commission of a Felony (RCW 9A.41.225)
- Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
- VI Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
- Bribery (RCW 9A.68.010)
- Incest 1 (RCW 9A.64.020(1))
- Intimidating a Judge (RCW 9A.72.160)
- Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
- Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
- Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.070(1))
- Rape of a Child 3 (RCW 9A.44.079)
- Theft of a Firearm (RCW 9A.56.300)
- Unlawful Storage of Ammonia (RCW 69.55.020)
- V Abandonment of Dependent Person 2 (RCW 9A.42.070)
- Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
- Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))
- Child Molestation 3 (RCW 9A.44.089)
- Criminal Mistreatment 2 (RCW 9A.42.030)
- Custodial Sexual Misconduct 1 (RCW 9A.44.160)
- Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.050(2))
- Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145)
- Driving While Under the Influence (RCW 46.61.502(6))
- Extortion 1 (RCW 9A.56.120)
- Extortionate Extension of Credit (RCW 9A.82.020)
- Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
- Incest 2 (RCW 9A.64.020(2))
- Kidnapping 2 (RCW 9A.40.030)
- Perjury 1 (RCW 9A.72.020)
- Persistent prison misbehavior (RCW 9.94.070)
- Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6))
- Possession of a Stolen Firearm (RCW 9A.56.310)
- Rape 3 (RCW 9A.44.060)
- Rendering Criminal Assistance 1 (RCW 9A.76.070)
- Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.060(2))
- Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
- Sexually Violating Human Remains (RCW 9A.44.105)
- Stalking (RCW 9A.46.110)
- Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)
- IV Arson 2 (RCW 9A.48.030)
- Assault 2 (RCW 9A.36.021)
- Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))
- Assault by Watercraft (RCW

Bribing a Witness/Bribe Received by  
Witness (RCW 9A.72.090,  
9A.72.100)  
Cheating 1 (RCW 9.46.1961)

Commercial Bribery (RCW 9A.68.060)

Counterfeiting (RCW 9.16.035(4))

Endangerment with a Controlled  
Substance (RCW 9A.42.100)  
Escape 1 (RCW 9A.76.110)

Hit and Run--Injury (RCW  
46.52.020(4)(b))  
Hit and Run with Vessel--Injury  
Accident (RCW 79A.60.200(3))  
Identity Theft 1 (RCW 9.35.020(2))

Indecent Exposure to Person Under  
Age Fourteen (subsequent sex  
offense) (RCW 9A.88.010)  
Influencing Outcome of Sporting Event  
(RCW 9A.82.070)  
Malicious Harassment (RCW  
9A.36.080)

Possession of Depictions of a Minor  
Engaged in Sexually Explicit  
Conduct 2 (RCW 9.68.070(2))

Residential Burglary (RCW  
9A.52.025)  
Robbery 2 (RCW 9A.56.210)

Theft of Livestock 1 (RCW 9A.56.080)

Threats to Bomb (RCW 9.61.160)

Trafficking in Stolen Property 1 (RCW  
9A.82.050)  
Unlawful factoring of a credit card or  
payment card transaction (RCW  
9A.56.290(4)(b))  
Unlawful transaction of health  
coverage as a health care service  
contractor (RCW 48.44.016(3))  
Unlawful transaction of health  
coverage as a health maintenance  
organization (RCW 48.46.033(3))  
Unlawful transaction of insurance  
business (RCW 48.15.023(3))  
Unlicensed practice as an insurance  
professional (RCW  
48.17.063((4)) (2))  
Use of Proceeds of Criminal  
Profiteering (RCW 9A.82.080 (1)  
and (2))  
Vehicular Assault, by being under the  
influence of intoxicating liquor or  
any drug, or by the operation or  
driving of a vehicle in a reckless  
manner (RCW 46.61.522)

Viewing of Depictions of a Minor  
Engaged in Sexually Explicit  
Conduct 1 (section 7(1) of this act)

Willful Failure to Return from  
Furlough (RCW 72.66.060)

III Animal Cruelty 1 (Sexual Conduct or  
Contact) (RCW 16.52.205(3))  
Assault 3 (Except Assault 3 of a Peace  
Officer With a Projectile Stun  
Gun) (RCW 9A.36.031 except  
subsection (1)(h))  
Assault of a Child 3 (RCW 9A.36.140)

Bail Jumping with class B or C Felony  
(RCW 9A.76.170(3)(c))  
Burglary 2 (RCW 9A.52.030)

Commercial Sexual Abuse of a Minor  
(RCW 9.68A.100)  
Communication with a Minor for  
Immoral Purposes (RCW  
9.68A.090)  
Criminal Gang Intimidation (RCW  
9A.46.120)  
Custodial Assault (RCW 9A.36.100)

Cyberstalking (subsequent conviction  
or threat of death) (RCW  
9.61.260(3))  
Escape 2 (RCW 9A.76.120)

Extortion 2 (RCW 9A.56.130)

Harassment (RCW 9A.46.020)

Intimidating a Public Servant (RCW  
9A.76.180)  
Introducing Contraband 2 (RCW  
9A.76.150)  
Malicious Injury to Railroad Property  
(RCW 81.60.070)  
Mortgage Fraud (RCW 19.144.080)

Negligently Causing Substantial Bodily  
Harm By Use of a Signal  
Preemption Device (RCW  
46.37.674)  
Organized Retail Theft 1 (RCW  
9A.56.350(2))  
Perjury 2 (RCW 9A.72.030)

Possession of Incendiary Device (RCW  
9.40.120)  
Possession of Machine Gun or Short-Barreled  
Shotgun or Rifle (RCW  
9.41.190)  
Promoting Prostitution 2 (RCW  
9A.88.080)  
Retail Theft with Extenuating  
Circumstances 1 (RCW  
9A.56.360(2))  
Securities Act violation (RCW  
21.20.400)  
Tampering with a Witness (RCW  
9A.72.120)  
Telephone Harassment (subsequent  
conviction or threat of death)  
(RCW 9.61.230(2))

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| <p>Theft of Livestock 2 (RCW 9A.56.083)</p> <p>Theft with the Intent to Resell 1 (RCW 9A.56.340(2))</p> <p>Trafficking in Stolen Property 2 (RCW 9A.82.055)</p> <p>Unlawful Imprisonment (RCW 9A.40.040)</p> <p>Unlawful possession of firearm in the second degree (RCW 9A.41.040(2))</p> <p>Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)</p> <p>Willful Failure to Return from Work Release (RCW 72.65.070)</p> <p>II Computer Trespass 1 (RCW 9A.52.110)</p> <p>Counterfeiting (RCW 9.16.035(3))</p> <p>Escape from Community Custody (RCW 72.09.310)</p> <p>Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.130(11)(a))</p> <p>Health Care False Claims (RCW 48.80.030)</p> <p>Identity Theft 2 (RCW 9.35.020(3))</p> <p>Improperly Obtaining Financial Information (RCW 9.35.010)</p> <p>Malicious Mischief 1 (RCW 9A.48.070)</p> <p>Organized Retail Theft 2 (RCW 9A.56.350(3))</p> <p>Possession of Stolen Property 1 (RCW 9A.56.150)</p> <p>Possession of a Stolen Vehicle (RCW 9A.56.068)</p> <p>Retail Theft with Extenuating Circumstances 2 (RCW 9A.56.360(3))</p> <p>Theft 1 (RCW 9A.56.030)</p> <p>Theft of a Motor Vehicle (RCW 9A.56.065)</p> <p>Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(5)(a))</p> <p>Theft with the Intent to Resell 2 (RCW 9A.56.340(3))</p> <p>Trafficking in Insurance Claims (RCW 48.30A.015)</p> <p>Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))</p> <p>Unlawful Practice of Law (RCW 2.48.180)</p> <p>Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))</p> <p>Voyeurism (RCW 9A.44.115)</p> <p>I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)</p> | <p>False Verification for Welfare (RCW 74.08.055)</p> <p>Forgery (RCW 9A.60.020)</p> <p>Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)</p> <p>Malicious Mischief 2 (RCW 9A.48.080)</p> <p>Mineral Trespass (RCW 78.44.330)</p> <p>Possession of Stolen Property 2 (RCW 9A.56.160)</p> <p>Reckless Burning 1 (RCW 9A.48.040)</p> <p>Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)</p> <p>Theft 2 (RCW 9A.56.040)</p> <p>Theft of Rental, Leased, or Lease-purchased Property (valued at two hundred fifty dollars or more but less than one thousand five hundred dollars) (RCW 9A.56.096(5)(b))</p> <p>Transaction of insurance business beyond the scope of licensure (RCW 48.17.063(((+)))</p> <p>Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)</p> <p>Unlawful Possession of Fictitious Identification (RCW 9A.56.320)</p> <p>Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320)</p> <p>Unlawful Possession of Payment Instruments (RCW 9A.56.320)</p> <p>Unlawful Possession of a Personal Identification Device (RCW 9A.56.320)</p> <p>Unlawful Production of Payment Instruments (RCW 9A.56.320)</p> <p>Unlawful Trafficking in Food Stamps (RCW 9.91.142)</p> <p>Unlawful Use of Food Stamps (RCW 9.91.144)</p> <p>Vehicle Prowl 1 (RCW 9A.52.095)"</p> <p>Senator Kline spoke in favor of adoption of the committee striking amendment.</p> <p style="text-align: center;">MOTION</p> <p>Senator Kline moved that the following amendment by Senator Kline to the committee striking amendment be adopted:<br/>On page 3, line 31 of the amendment, strike "<u>9.68A.110</u>" and insert "<u>9.68A.011</u>"</p> <p>Senator Kline spoke in favor of adoption of the amendment to the committee striking amendment.</p> <p>The President declared the question before the Senate to be the adoption of the amendment by Senator Kline on page 3, line 31 to the committee striking amendment to Engrossed Substitute House Bill No. 2424.</p> <p>The motion by Senator Kline carried and the amendment to the committee striking amendment was adopted by voice vote.</p> |
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## PARLIAMENTARY INQUIRY

Senator Kline: "Referring it to amendment number 273?"

## REPLY BY THE PRESIDENT

President Owen: "Amendment number 236. We just adopted 273."

## MOTION

Senator Kline moved that the following amendment by Senator Kline and others to the committee striking amendment be adopted:

On page 19, after line 27 of the amendment, insert the following:

"**Sec. 10.** RCW 9.94A.535 and 2008 c 276 s 303 and 2008 c 233 s 9 are each reenacted and amended to read as follows:

The court may impose a sentence outside the standard sentence range for an offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence. Facts supporting aggravated sentences, other than the fact of a prior conviction, shall be determined pursuant to the provisions of RCW 9.94A.537.

Whenever a sentence outside the standard sentence range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard sentence range shall be a determinate sentence.

If the sentencing court finds that an exceptional sentence outside the standard sentence range should be imposed, the sentence is subject to review only as provided for in RCW 9.94A.585(4).

A departure from the standards in RCW 9.94A.589 (1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in this section, and may be appealed by the offender or the state as set forth in RCW 9.94A.585 (2) through (6).

## (1) Mitigating Circumstances - Court to Consider

The court may impose an exceptional sentence below the standard range if it finds that mitigating circumstances are established by a preponderance of the evidence. The following are illustrative only and are not intended to be exclusive reasons for exceptional sentences.

(a) To a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident.

(b) Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

(c) The defendant committed the crime under duress, coercion, threat, or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

(d) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(e) The defendant's capacity to appreciate the wrongfulness of his or her conduct, or to conform his or her conduct to the requirements of the law, was significantly impaired. Voluntary use of drugs or alcohol is excluded.

(f) The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

(g) The operation of the multiple offense policy of RCW 9.94A.589 results in a presumptive sentence that is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(h) The defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

## (2) Aggravating Circumstances - Considered and Imposed by the Court

The trial court may impose an aggravated exceptional sentence without a finding of fact by a jury under the following circumstances:

(a) The defendant and the state both stipulate that justice is best served by the imposition of an exceptional sentence outside the standard range, and the court finds the exceptional sentence to be consistent with and in furtherance of the interests of justice and the purposes of the sentencing reform act.

(b) The defendant's prior unscored misdemeanor or prior unscored foreign criminal history results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(c) The defendant has committed multiple current offenses and the defendant's high offender score results in some of the current offenses going unpunished.

(d) The failure to consider the defendant's prior criminal history which was omitted from the offender score calculation pursuant to RCW 9.94A.525 results in a presumptive sentence that is clearly too lenient.

## (3) Aggravating Circumstances - Considered by a Jury - Imposed by the Court

Except for circumstances listed in subsection (2) of this section, the following circumstances are an exclusive list of factors that can support a sentence above the standard range. Such facts should be determined by procedures specified in RCW 9.94A.537.

(a) The defendant's conduct during the commission of the current offense manifested deliberate cruelty to the victim.

(b) The defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance.

(c) The current offense was a violent offense, and the defendant knew that the victim of the current offense was pregnant.

(d) The current offense was a major economic offense or series of offenses, so identified by a consideration of any of the following factors:

(i) The current offense involved multiple victims or multiple incidents per victim;

(ii) The current offense involved attempted or actual monetary loss substantially greater than typical for the offense;

(iii) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time; or

(iv) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(e) The current offense was a major violation of the Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to trafficking in controlled substances, which was more onerous than the typical offense of its statutory definition: The presence of ANY of the following may identify a current offense as a major VUCSA:

(i) The current offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to do so;

(ii) The current offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use;

(iii) The current offense involved the manufacture of controlled substances for use by other parties;

(iv) The circumstances of the current offense reveal the offender to have occupied a high position in the drug distribution hierarchy;

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(v) The current offense involved a high degree of sophistication or planning, occurred over a lengthy period of time, or involved a broad geographic area of disbursement; or

(vi) The offender used his or her position or status to facilitate the commission of the current offense, including positions of trust, confidence or fiduciary responsibility (e.g., pharmacist, physician, or other medical professional).

(f) The current offense included a finding of sexual motivation pursuant to RCW 9.94A.835.

(g) The offense was part of an ongoing pattern of sexual abuse of the same victim under the age of eighteen years manifested by multiple incidents over a prolonged period of time.

(h) The current offense involved domestic violence, as defined in RCW 10.99.020, and one or more of the following was present:

(i) The offense was part of an ongoing pattern of psychological, physical, or sexual abuse of the victim manifested by multiple incidents over a prolonged period of time;

(ii) The offense occurred within sight or sound of the victim's or the offender's minor children under the age of eighteen years; or

(iii) The offender's conduct during the commission of the current offense manifested deliberate cruelty or intimidation of the victim.

(i) The offense resulted in the pregnancy of a child victim of rape.

(j) The defendant knew that the victim of the current offense was a youth who was not residing with a legal custodian and the defendant established or promoted the relationship for the primary purpose of victimization.

(k) The offense was committed with the intent to obstruct or impair human or animal health care or agricultural or forestry research or commercial production.

(l) The current offense is trafficking in the first degree or trafficking in the second degree and any victim was a minor at the time of the offense.

(m) The offense involved a high degree of sophistication or planning.

(n) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(o) The defendant committed a current sex offense, has a history of sex offenses, and is not amenable to treatment.

(p) The offense involved an invasion of the victim's privacy.

(q) The defendant demonstrated or displayed an egregious lack of remorse.

(r) The offense involved a destructive and foreseeable impact on persons other than the victim.

(s) The defendant committed the offense to obtain or maintain his or her membership or to advance his or her position in the hierarchy of an organization, association, or identifiable group.

(t) The defendant committed the current offense shortly after being released from incarceration.

(u) The current offense is a burglary and the victim of the burglary was present in the building or residence when the crime was committed.

(v) The offense was committed against a law enforcement officer who was performing his or her official duties at the time of the offense, the offender knew that the victim was a law enforcement officer, and the victim's status as a law enforcement officer is not an element of the offense.

(w) The defendant committed the offense against a victim who was acting as a good samaritan.

(x) The defendant committed the offense against a public official or officer of the court in retaliation of the public official's performance of his or her duty to the criminal justice system.

(y) The victim's injuries substantially exceed the level of bodily harm necessary to satisfy the elements of the offense. This aggravator is not an exception to RCW 9.94A.530(2).

(z)(i)(A) The current offense is theft in the first degree, theft in the second degree, possession of stolen property in the first degree, or possession of stolen property in the second degree; (B) the stolen property involved is metal property; and (C) the property damage to the victim caused in the course of the theft of metal property is more than three times the value of the stolen metal property, or the theft of the metal property creates a public hazard.

(ii) For purposes of this subsection, "metal property" means commercial metal property, private metal property, or nonferrous metal property, as defined in RCW 19.290.010.

(aa) The defendant committed the offense with the intent to directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage to or for a criminal street gang as defined in RCW 9.94A.030, its reputation, influence, or membership.

(bb) The current offense involved paying to view, over the internet in violation of section 7 of this act, depictions of a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (g)."

Senator Kline spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Kline and others on page 19, after line 27 to the committee striking amendment to Engrossed Substitute House Bill No. 2424.

The motion by Senator Kline carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary as amended to Engrossed Substitute House Bill No. 2424.

The motion by Senator Kline carried and the committee striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendments were adopted:

On page 1, line 2 of the title, after "abuse;" strike the remainder of the title and insert "amending RCW 9.68A.001, 9.68A.011, 9.68A.050, 9.68A.060, 9.68A.070, and 9.68A.110; reenacting and amending RCW 9.94A.515; adding new sections to chapter 9.68A RCW; and prescribing penalties."

On page 20, line 1 of the title amendment, after "9.94A.515" insert "and 9.94A.535"

#### MOTION

On motion of Senator Kline, the rules were suspended, Engrossed Substitute House Bill No. 2424 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2424 as amended by the Senate.

#### ROLL CALL

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The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2424 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yeas: Senators Becker, Benton, Berkey, Brandland, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Delvin

Excused: Senators Brown and McCaslin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2424 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 12:05 p.m., on motion of Senator Eide, the Senate was recessed until 1:00 p.m.

#### AFTERNOON SESSION

The Senate was called to order at 1:00 p.m. by President Owen.

#### MOTION

On motion of Senator Eide, the Senate reverted to the first order of business.

#### REPORTS OF STANDING COMMITTEES

March 3, 2010

SB 6182 Prime Sponsor, Senator Fairley: Concerning residential habilitation centers. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Fairley; Hobbs; Keiser; Kline; McDermott; Parlette; Pflug; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Carrell; Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

March 3, 2010

SB 6849 Prime Sponsor, Senator Pridemore: Consolidating forecast functions. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6849 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hobbs; Honeyford; Keiser; McDermott; Murray; Oemig; Parlette; Pflug; Pridemore and Schoesler.

Passed to Committee on Rules for second reading.

March 3, 2010

SB 6869 Prime Sponsor, Senator Prentice: Suspending the child support pass-through payment. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6869 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

March 3, 2010

SB 6871 Prime Sponsor, Senator Hargrove: Supporting judicial branch and criminal justice funding. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6871 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Brandland; Carrell; Honeyford; Parlette; Pflug and Schoesler.

Passed to Committee on Rules for second reading.

March 3, 2010

SB 6877 Prime Sponsor, Senator Prentice: Concerning newborn screening fees. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Brandland; Carrell; Parlette and Pflug.

Passed to Committee on Rules for second reading.

March 3, 2010

SB 6878 Prime Sponsor, Senator Prentice: Concerning fees for criminal background checks. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6878 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating

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Budget; Zarelli; Brandland; Fairley; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pflug; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senator Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Carrell and Parlette.

Passed to Committee on Rules for second reading.

March 3, 2010

SB 6880 Prime Sponsor, Senator Keiser: Concerning professional fees for certain emergency medical service occupations. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Carrell; Honeyford and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Brandland; Parlette and Pflug.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator McDermott moved that Gubernatorial Appointment No. 9025, Karen Daubert, as a member of the Recreation and Conservation Funding Board, be confirmed.

Senator McDermott spoke in favor of the motion.

MOTION

On motion of Senator Marr, Senators Brown, Fairley, Kauffman, Gordon, Haugen, McAuliffe, Oemig and Prentice were excused.

MOTION

On motion of Senator Brandland, Senators Becker, Delvin, Hewitt, Holmquist, McCaslin, Parlette, Stevens and Zarelli were excused.

APPOINTMENT OF KAREN DAUBERT

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9025, Karen Daubert as a member of the Recreation and Conservation Funding Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9025, Karen Daubert as a member of the Recreation and Conservation Funding Board and the appointment was confirmed by the following vote: Yeas, 38; Nays, 0; Absent, 2; Excused, 9.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Keiser, Kilmer, King, Kohl-Welles, Marr, McDermott, Morton, Murray, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senators Kline and Pflug

Excused: Senators Brown, Delvin, Gordon, Haugen, Holmquist, Kauffman, McAuliffe, McCaslin and Oemig

Gubernatorial Appointment No. 9025, Karen Daubert, having received the constitutional majority was declared confirmed as a member of the Recreation and Conservation Funding Board.

MOTION

On motion of Senator Brandland, Senators Kline and Pflug were excused.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Berkey moved that Gubernatorial Appointment No. 9271, Kate Reardon, as a member of the Board of Trustees, Central Washington University, be confirmed.

Senator Berkey spoke in favor of the motion.

APPOINTMENT OF KATE REARDON

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9271, Kate Reardon as a member of the Board of Trustees, Central Washington University.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9271, Kate Reardon as a member of the Board of Trustees, Central Washington University and the appointment was confirmed by the following vote: Yeas, 39; Nays, 0; Absent, 0; Excused, 10.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McDermott, Morton, Murray, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brown, Delvin, Gordon, Haugen, Holmquist, Kauffman, McAuliffe, McCaslin, Oemig and Pflug

Gubernatorial Appointment No. 9271, Kate Reardon, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Central Washington University.

SECOND READING

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## CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Hewitt moved that Gubernatorial Appointment No. 9182, Harold Cochran, as a member of the Board of Regents, Washington State University, be confirmed.

Senator Hewitt spoke in favor of the motion.

## APPOINTMENT OF HAROLD COCHRAN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9182, Harold Cochran as a member of the Board of Regents, Washington State University.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9182, Harold Cochran as a member of the Board of Regents, Washington State University and the appointment was confirmed by the following vote: Yeas, 40; Nays, 0; Absent, 0; Excused, 9.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Keiser, King, Kline, Kohl-Welles, Marr, McDermott, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brown, Delvin, Gordon, Haugen, Holmquist, Kauffman, McAuliffe, McCaslin and Oemig

Gubernatorial Appointment No. 9182, Harold Cochran, having received the constitutional majority was declared confirmed as a member of the Board of Regents, Washington State University.

## SECOND READING

## CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Fraser moved that Gubernatorial Appointment No. 9171, David Troutt, as a member of the Salmon Recovery Board, be confirmed.

Senator Fraser spoke in favor of the motion.

## APPOINTMENT OF DAVID TROUTT

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9171, David Troutt as a member of the Salmon Recovery Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9171, David Troutt as a member of the Salmon Recovery Board and the appointment was confirmed by the following vote: Yeas, 41; Nays, 0; Absent, 0; Excused, 8.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McDermott, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brown, Delvin, Gordon, Haugen, Kauffman, McAuliffe, McCaslin and Oemig

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Gubernatorial Appointment No. 9171, David Troutt, having received the constitutional majority was declared confirmed as a member of the Salmon Recovery Board.

## SECOND READING

HOUSE BILL NO. 2575, by Representative Upthegrove

Expanding the membership of the capital projects advisory review board.

The measure was read the second time.

## MOTION

On motion of Senator Fairley, the rules were suspended, House Bill No. 2575 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fairley spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2575.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2575 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 19; Absent, 0; Excused, 2.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, Kilmer, King, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Excused: Senators Haugen and McCaslin

HOUSE BILL NO. 2575, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Carrell, Senator Morton was excused.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 2620, by House Committee on Finance (originally sponsored by Representatives Hunter and Moeller)

Concerning excise taxation of certain products and services provided or furnished electronically.

The measure was read the second time.

## MOTION

On motion of Senator Prentice, the rules were suspended, Substitute House Bill No. 2620 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

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The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2620.

SECOND READING

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2620 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators McCaslin and Morton

SUBSTITUTE HOUSE BILL NO. 2620, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 2678, by House Committee on Commerce & Labor (originally sponsored by Representatives Quall, Priest, Simpson, Sullivan and Conway)

Modifying distributions of funds by the horse racing commission to nonprofit race meets.

The measure was read the second time.

## MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 2678 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and Holmquist spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2678.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2678 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Haugen

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 2678, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SUBSTITUTE HOUSE BILL NO. 2775, by House Committee on Local Government & Housing (originally sponsored by Representatives Dammeier, Hasegawa, Hunt, Armstrong, Short, Kristiansen, Springer, Kelley, Morrell, Pearson, Chase and Kretz)

Regarding membership on the state building code council.

The measure was read the second time.

## MOTION

Senator Fairley moved that the following committee amendment by the Committee on Government Operations & Elections be not adopted:

On page 2, beginning on line 36, after "council," strike all material through "void," on line 38 and insert the following:

"(e) Any member who no longer qualifies for appointment under this section may not vote on council actions, but may participate as an ex officio, nonvoting member until a replacement member is appointed. A member must notify the council staff and the governor's office within thirty days of the date the member no longer qualifies for appointment under this section. The governor shall appoint a qualified replacement for the member within sixty days of notice."

## POINT OF INQUIRY

Senator Roach: "Would Senator Fairley yield to a question? I don't have the striker in front of me. Does this bill then, it takes it back to the form that we had in the House. How does that relate then to the individual on the building code council that might have taken employment outside of the industry?"

Senator Fairley: "It's actually the exact same bill that we heard in committee. It's what came out. It just different form got put in so now we got two things with the same language so we have to take one away and just have the underlying."

Senator Roach: "And so our underlying bill allows....."

Senator Fairley: "It's exactly what you voted on in committee."

The President declared the question before the Senate to be the motion by Senator Fairley to not adopt the committee amendment by the Committee on Government Operations & Elections to Substitute House Bill No. 2775.

The motion by Senator Fairley carried and the committee amendment was not adopted by voice vote.

## MOTION

Senator Fairley moved that the following committee striking amendment by the Committee on Government Operations & Elections be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 19.27.070 and 1995 c 399 s 8 are each amended to read as follows:

There is hereby established a state building code council, to be appointed by the governor.

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(1) The state building code council shall consist of fifteen members~~(-);~~:

~~(a) Two ((of whom shall)) members must~~ be county elected legislative body members or elected executives ~~((and));~~;

~~(b) Two ((of whom shall)) members must~~ be city elected legislative body members or mayors~~(-);~~;

~~(c) One ((of the members shall)) member must~~ be a local government building code enforcement official ~~((and));~~;

~~(d) One ((of the members shall)) member must~~ be a local government fire service official~~((—Of the remaining nine members-));~~;

~~(e) One~~ member shall represent general construction, specializing in commercial and industrial building construction;

~~(f) One~~ member shall represent general construction, specializing in residential and multifamily building construction;

~~(g) One~~ member shall represent the architectural design profession;

~~(h) One~~ member shall represent the structural engineering profession;

~~(i) One~~ member shall represent the mechanical engineering profession;

~~(j) One~~ member shall represent the construction building trades;

~~(k) One~~ member shall represent manufacturers, installers, or suppliers of building materials and components;

~~(l) One~~ member ~~((shall)) must~~ be a person with a physical disability and shall represent the disability community; and

~~(m) One~~ member shall represent the general public.

~~(2) At least six of these fifteen members shall reside east of the crest of the Cascade mountains.~~

~~(3) The council shall include: Two members of the house of representatives appointed by the speaker of the house, one from each caucus; two members of the senate appointed by the president of the senate, one from each caucus; and an employee of the electrical division of the department of labor and industries, as ex officio, nonvoting members with all other privileges and rights of membership.~~

~~(4)(a) Terms of office shall be for three years, or for so long as the member remains qualified for the appointment.~~

~~(b) The council shall elect a member to serve as chair of the council for one-year terms of office.~~

~~(c) Any member who is appointed by virtue of being an elected official or holding public employment shall be removed from the council if he or she ceases being such an elected official or holding such public employment.~~

~~(d) Any member who is appointed to represent a specific private sector industry must maintain sufficiently similar employment or circumstances throughout the term of office to remain qualified to represent the specified industry. Retirement or unemployment is not cause for termination. However, if a councilmember enters into employment outside of the industry he or she has been appointed to represent, then he or she shall be removed from the council.~~

~~(e) Any member who no longer qualifies for appointment under this section may not vote on council actions, but may participate as an ex officio, nonvoting member until a replacement member is appointed. A member must notify the council staff and the governor's office within thirty days of the date the member no longer qualifies for appointment under this section. The governor shall appoint a qualified replacement for the member within sixty days of notice.~~

~~(5) Before making any appointments to the building code council, the governor shall seek nominations from recognized organizations which represent the entities or interests ((listed)) identified in this ((subsection)) section. ((Members serving on the council on July 28, 1985, may complete their terms of office. Any vacancy shall be filled by alternating appointments from governmental and nongovernmental entities or interests until the~~

~~council is constituted as required by this subsection.~~

~~—(2)) (6) Members shall not be compensated but shall receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060.~~

~~((3)) (7) The department of ((community, trade, and economic development)) commerce shall provide administrative and clerical assistance to the building code council."~~

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Government Operations & Elections to Substitute House Bill No. 2775.

The motion by Senator Fairley carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "council;" strike the remainder of the title and insert "and amending RCW 19.27.070."

#### MOTION

On motion of Senator Fairley, the rules were suspended, Substitute House Bill No. 2775 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fairley, Roach and Holmquist spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2775 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2775 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmier, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 2775 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1317, by House Committee on Ways & Means (originally sponsored by Representatives Kessler, Rodne, Simpson, O'Brien, Hunt, Hurst, Ormsby, Moeller, Chase, Sullivan and Kelley)

Regarding the disclosure of public records containing information used to locate or identify employees of criminal justice agencies.

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The measure was read the second time.

The measure was read the second time.

MOTION

Senator Swecker moved that the following amendment by Senator Swecker be adopted:

On page 2, line 24, after "and", strike "year", and insert "full date"

On page 2, line 24, after "birth", insert the following:

" For the purposes of this subsection, news media does not include any person or organization of persons in the custody of a criminal justice agency as defined in RCW 10.97.030."

Senators Swecker and Fairley spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Swecker on page 2, line 24 to Engrossed Second Substitute House Bill No. 1317.

The motion by Senator Swecker carried and the amendment was adopted by voice vote.

MOTION

On motion of Senator Fairley, the rules were suspended, Engrossed Second Substitute House Bill No. 1317 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fairley spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1317 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1317 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 2; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Oemig

Absent: Senators Kastama and Rockefeller

Excused: Senator McCaslin

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1317, as amended by the Senate having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1545, by House Committee on Ways & Means (originally sponsored by Representatives Conway, Seaquist, Bailey, Crouse, Hasegawa, Kenney, Simpson, Morrell and Ormsby)

Authorizing the higher education coordinating board to offer higher education annuities and retirement income plans.

MOTION

On motion of Senator Prentice, the rules were suspended, Substitute House Bill No. 1545 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1545.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1545 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 1545, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Marr, Senators Brown, Kastama and Prentice were excused.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1418, by House Committee on Education (originally sponsored by Representatives Kagi, Priest, Sullivan, Walsh, Pettigrew, Roberts, Dickerson, Quall, Seaquist, Sells, Appleton, Hunt, Haler, Pedersen, Orwall, Ormsby, Hasegawa, Conway, Kenney, Maxwell, Santos, Probst, Driscoll, Goodman and Nelson)

Establishing a statewide dropout reengagement system.

The measure was read the second time.

MOTION

On motion of Senator McAuliffe, the rules were suspended, Engrossed Second Substitute House Bill No. 1418 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1418.

ROLL CALL

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SECOND READING

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1418 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Kastama, McCaslin and Prentice

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1418, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the Honorable Claire Eeles, Consul General of New Zealand in Vancouver, B.C. and Rachael Jacobsen, Honorary Consul to New Zealand in Washington State who were seated in the gallery.

#### SECOND READING

HOUSE BILL NO. 1576, by Representatives Clibborn, Lias, Roach and Rodne

Determining the amount of motor vehicle fuel tax moneys derived from tax on marine fuel.

The measure was read the second time.

#### MOTION

On motion of Senator Haugen, the rules were suspended, House Bill No. 1576 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and Swecker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1576.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1576 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Kastama and McCaslin

HOUSE BILL NO. 1576, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SUBSTITUTE HOUSE BILL NO. 2416, by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Morris, Chase, Eddy, Van De Wege, Morrell, Upthegrove, Simpson, Kenney, Hudgins and Ormsby)

Establishing energy efficiency standards for consumer products.

The measure was read the second time.

#### MOTION

Senator Rockefeller moved that the following committee striking amendment by the Committee on Environment, Water & Energy be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 19.260 RCW to read as follows:

The department shall monitor television energy efficiency standards proposed in California and Oregon. After either state adopts proposed standards and the department determines that uniform standards among west coast states would promote consistency and provide market influence in achieving greater energy efficiency, the department shall, by December 1st of the year in which it makes the determination, provide recommendations regarding adoption of television energy efficiency standards to the appropriate committees of the legislature."

Senator Rockefeller spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Environment, Water & Energy to Substitute House Bill No. 2416.

The motion by Senator Rockefeller carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "products;" strike the remainder of the title and insert "and adding a new section to chapter 19.260 RCW."

#### MOTION

On motion of Senator Rockefeller, the rules were suspended, Substitute House Bill No. 2416 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller and Marr spoke in favor of passage of the bill.

Senators Honeyford and Schoesler spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2416 as amended by the Senate.

#### ROLL CALL

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The Secretary called the roll on the final passage of Substitute House Bill No. 2416 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 35; Nays, 13; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Tom and Zarelli

Voting nay: Senators Becker, Brandland, Carrell, Delvin, Hatfield, Hewitt, Holmquist, Honeyford, King, Morton, Schoesler, Stevens and Swecker

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 2416 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2717, by House Committee on Human Services (originally sponsored by Representatives Shea, Parker, Ross, Haler, Klippert, Taylor, McCune, Short, Kristiansen, Kretz, Crouse, Hinkle, Johnson, Rodne, Bailey, Orcutt, Angel, Fagan, Smith, Condotta, Pearson and Warnick)

Restricting outings from state facilities. Revised for 1st Substitute: Restricting leave from state facilities.

The measure was read the second time.

MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted:

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** A new section is added to chapter 10.77 RCW to read as follows:

(1) No person committed to the custody of the department for the determination of competency to stand trial under RCW 10.77.060, the restoration of competency for trial under RCW 10.77.084, 10.77.086, or 10.77.088, or following an acquittal by reason of insanity shall be authorized to leave the facility where the person is confined, except in the following circumstances:

(a) In accordance with conditional release or furlough authorized by a court;

(b) For necessary medical or legal proceedings not available in the facility where the person is confined;

(c) For visits to the bedside of a member of the person's immediate family who is seriously ill; or

(d) For attendance at the funeral of a member of the person's immediate family.

(2) Unless ordered otherwise by a court, no leave under subsection (1) of this section shall be authorized unless the person who is the subject of the authorization is escorted by a person approved by the secretary. During the authorized leave, the person approved by the secretary must be in visual or auditory contact at all times with the person on authorized leave.

(3) Prior to the authorization of any leave under subsection (1) of this section, the secretary must give notification to any county or

city law enforcement agency having jurisdiction in the location of the leave destination.

**Sec. 2.** RCW 10.77.010 and 2005 c 504 s 106 are each amended to read as follows:

As used in this chapter:

(1) "Admission" means acceptance based on medical necessity, of a person as a patient.

(2) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less-restrictive setting.

(3) "Conditional release" means modification of a court-ordered commitment, which may be revoked upon violation of any of its terms.

(4) A "criminally insane" person means any person who has been acquitted of a crime charged by reason of insanity, and thereupon found to be a substantial danger to other persons or to present a substantial likelihood of committing criminal acts jeopardizing public safety or security unless kept under further control by the court or other persons or institutions.

(5) "Department" means the state department of social and health services.

(6) "Designated mental health professional" has the same meaning as provided in RCW 71.05.020.

(7) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter, pending evaluation.

(8) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist or psychologist, or a social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary.

(9) "Developmental disability" means the condition as defined in RCW 71A.10.020(3).

(10) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order.

(11) "Furlough" means an authorized leave of absence for a resident of a state institution operated by the department designated for the custody, care, and treatment of the criminally insane, consistent with an order of conditional release from the court under this chapter, without any requirement that the resident be accompanied by, or be in the custody of, any law enforcement or institutional staff, while on such unescorted leave.

(12) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct.

(13) "History of one or more violent acts" means violent acts committed during: (a) The ten-year period of time prior to the filing of criminal charges; plus (b) the amount of time equal to time spent during the ten-year period in a mental health facility or in confinement as a result of a criminal conviction.

(14) "Immediate family member" means a spouse, child, stepchild, parent, stepparent, grandparent, sibling, or domestic partner.

(15) "Incompetency" means a person lacks the capacity to understand the nature of the proceedings against him or her or to assist in his or her own defense as a result of mental disease or defect.

~~((15))~~ (16) "Indigent" means any person who is financially unable to obtain counsel or other necessary expert or professional

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services without causing substantial hardship to the person or his or her family.

~~((16))~~ (17) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for an individual with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual release, and a projected possible date for release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences.

~~((17))~~ (18) "Professional person" means:

(a) A psychiatrist licensed as a physician and surgeon in this state who has, in addition, completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology or the American osteopathic board of neurology and psychiatry;

(b) A psychologist licensed as a psychologist pursuant to chapter 18.83 RCW; or

(c) A social worker with a master's or further advanced degree from an accredited school of social work or a degree deemed equivalent under rules adopted by the secretary.

~~((18))~~ (19) "Registration records" include all the records of the department, regional support networks, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness.

~~((19))~~ (20) "Release" means legal termination of the court-ordered commitment under the provisions of this chapter.

~~((20))~~ (21) "Secretary" means the secretary of the department of social and health services or his or her designee.

~~((21))~~ (22) "Treatment" means any currently standardized medical or mental health procedure including medication.

~~((22))~~ (23) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staffs, and by treatment facilities. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others.

~~((23))~~ (24) "Violent act" means behavior that: (a)(i) Resulted in; (ii) if completed as intended would have resulted in; or (iii) was threatened to be carried out by a person who had the intent and opportunity to carry out the threat and would have resulted in, homicide, nonfatal injuries, or substantial damage to property; or (b) recklessly creates an immediate risk of serious physical injury to another person. As used in this subsection, "nonfatal injuries" means physical pain or injury, illness, or an impairment of physical condition. "Nonfatal injuries" shall be construed to be consistent with the definition of "bodily injury," as defined in RCW 9A.04.110."

Senator Hargrove spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Substitute House Bill No. 2717.

The motion by Senator Hargrove carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "facilities;" strike the remainder of the title and insert "amending RCW 10.77.010; and adding a new section to chapter 10.77 RCW."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 2717 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2717 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2717 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 2717 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2801, by House Committee on Education (originally sponsored by Representatives Liias, Johnson, Pedersen, Hunt, Orwall, Maxwell, Quall, Moeller, Chase, Williams, Nelson and Simpson)

Regarding antiharassment strategies in public schools.

The measure was read the second time.

#### MOTION

Senator McAuliffe moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

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**"NEW SECTION. Sec. 1.** The legislature finds that despite a recognized law prohibiting harassment, intimidation, and bullying of students in public schools and despite widespread adoption of antiharassment policies by school districts, harassment of students continues and has not declined since the law was enacted. Furthermore, students and parents continue to seek assistance against harassment, and schools need to disseminate more widely their antiharassment policies and procedures. The legislature intends to expand the tools, information, and strategies that can be used to combat harassment, intimidation, and bullying of students, and increase awareness of the need for respectful learning communities in all public schools.

**Sec. 2.** RCW 28A.300.285 and 2007 c 407 s 1 are each amended to read as follows:

(1) By August 1, ~~((2003))~~ 2011, each school district shall adopt or amend if necessary a policy ~~((- within the scope of its authority,))~~ and procedure that at a minimum incorporates the revised model policy and procedure provided under subsection (4) of this section that prohibits the harassment, intimidation, or bullying of any student. It is the responsibility of each school district to share this policy with parents or guardians, students, volunteers, and school employees in accordance with rules adopted by the superintendent of public instruction. Each school district shall designate one person in the district as the primary contact regarding the antiharassment, intimidation, or bullying policy. The primary contact shall receive copies of all formal and informal complaints, have responsibility for assuring the implementation of the policy and procedure, and serve as the primary contact on the policy and procedures between the school district, the office of the education ombudsman, and the office of the superintendent of public instruction.

(2) "Harassment, intimidation, or bullying" means any intentional electronic, written, verbal, or physical act, including but not limited to one shown to be motivated by any characteristic in RCW 9A.36.080(3), or other distinguishing characteristics, when the intentional electronic, written, verbal, or physical act:

(a) Physically harms a student or damages the student's property; or

(b) Has the effect of substantially interfering with a student's education; or

(c) Is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or

(d) Has the effect of substantially disrupting the orderly operation of the school.

Nothing in this section requires the affected student to actually possess a characteristic that is a basis for the harassment, intimidation, or bullying.

(3) The policy and procedure should be adopted or amended through a process that includes representation of parents or guardians, school employees, volunteers, students, administrators, and community representatives. It is recommended that each such policy emphasize positive character traits and values, including the importance of civil and respectful speech and conduct, and the responsibility of students to comply with the district's policy prohibiting harassment, intimidation, or bullying.

(4)~~(a)~~ By August 1, ~~((2002))~~ 2010, the superintendent of public instruction, in consultation with representatives of parents, school personnel, the office of the education ombudsman, the Washington state school directors' association, and other interested parties, shall provide to ~~((school districts and educational service districts a))~~ the education committees of the legislature a revised and updated model harassment, intimidation, and bullying prevention policy and procedure. The superintendent of public instruction shall publish on its web site, with a link to the safety center web page, the revised and updated model harassment, intimidation, and bullying

prevention policy and procedure, along with training and instructional materials on the components that ~~((should))~~ shall be included in any district policy and procedure. The superintendent shall adopt rules regarding school districts' communication of the policy and procedure to parents, students, employees, and volunteers. ((Training materials shall be disseminated in a variety of ways, including workshops and other staff developmental activities, and through the office of the superintendent of public instruction's web site, with a link to the safety center web page. On the web site:

~~— (a) The office of the superintendent of public instruction shall post its model policy, recommended training materials, and instructional materials;))~~

(b) The office of the superintendent of public instruction has the authority to update with new technologies access to this information in the safety center, to the extent resources are made available~~((; and))~~.

(c) ~~((Individual school districts shall have direct access to the safety center web site to post a brief summary of their policies, programs, partnerships, vendors, and instructional and training materials, and to provide a link to the school district's web site for further information.))~~ Each school district shall by August 15, 2011, provide to the superintendent of public instruction a brief summary of its policies, procedures, programs, partnerships, vendors, and instructional and training materials to be posted on the school safety center web site, and shall also provide the superintendent with a link to the school district's web site for further information. The district's primary contact for bullying and harassment issues shall annually by August 15th verify posted information and links and notify the school safety center of any updates or changes.

(5) The Washington state school directors association, with the assistance of the office of the superintendent of public instruction, shall convene an advisory committee to develop a model policy prohibiting acts of harassment, intimidation, or bullying that are conducted via electronic means by a student while on school grounds and during the school day. The policy shall include a requirement that materials meant to educate parents and students about the seriousness of cyberbullying be disseminated to parents or made available on the school district's web site. The school directors association and the advisory committee shall develop sample materials for school districts to disseminate, which shall also include information on responsible and safe internet use as well as what options are available if a student is being bullied via electronic means, including but not limited to, reporting threats to local police and when to involve school officials, the internet service provider, or phone service provider. The school directors association shall submit the model policy and sample materials, along with a recommendation for local adoption, to the governor and the legislature and shall post the model policy and sample materials on its web site by January 1, 2008. Each school district board of directors shall establish its own policy by August 1, 2008.

(6) As used in this section, "electronic" or "electronic means" means any communication where there is the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means.

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.06B RCW to read as follows:

In addition to duties assigned under RCW 43.06B.020, the office of the education ombudsman shall serve as the lead agency to provide resources and tools to parents and families about public school antiharassment policies and strategies."

Senator McAuliffe spoke in favor of adoption of the committee striking amendment.

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The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Substitute House Bill No. 2801.

The motion by Senator McAuliffe carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "schools;" strike the remainder of the title and insert "amending RCW 28A.300.285; adding a new section to chapter 43.06B RCW; and creating a new section."

#### MOTION

On motion of Senator McAuliffe, the rules were suspended, Substitute House Bill No. 2801 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe, King and Hewitt spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2801 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2801 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 2801, as amended by the Senate having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE JOINT RESOLUTION NO. 4220, by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Hope, Kelley, Green, Conway, Parker, Hurst, Campbell, Wallace, Orcutt, Simpson, Ericks, Ericksen, Van De Wege, Morrell, Takko, Appleton, Maxwell, Orwall, Pearson, Kirby, Sells, Kenney, Johnson, Dammeier, Roberts and McCune)

Amending the state Constitution so that the provision relating to bailable crimes by sufficient sureties is modified.

The measure was read the second time.

#### MOTION

Senator Kline moved that the following committee amendment by the Committee on Judiciary be not adopted:

Beginning on page 1, after line 2, strike all material through "act." on page 2, line 1, and insert the following:

"THAT, At the next general election to be held in this state the secretary of state shall submit to the qualified voters of the state for their approval and ratification, or rejection, an amendment to Article I, section 20 of the Constitution of the state of Washington to read as follows:

Article I, section 20. All persons charged with crime shall be bailable by sufficient sureties, except ~~((for capital offenses))~~ when a person is charged with an offense involving the intentional death of another, the intentional infliction of great bodily harm on another, a choate sex offense for which the maximum sentence is the possibility of life in prison, or an offense that may result in a mandatory life sentence without the possibility of release upon conviction, or an attempt to accomplish these offenses when the proof is evident, or the presumption great, subject to such standards of release on bail as shall be determined by the legislature.

BE IT FURTHER RESOLVED, That the secretary of state shall cause notice of this constitutional amendment to be published at least four times during the four weeks next preceding the election in every legal newspaper in the state.

BE IT FURTHER RESOLVED, That this act shall be known as the Lakewood law enforcement memorial act."

The President declared the question before the Senate to be the motion by Senator Kline to not adopt the committee amendment by the Committee on Judiciary to Engrossed Substitute House Joint Resolution No. 4220.

The motion by Senator Kline carried and the committee amendment was not adopted by voice vote.

#### MOTION

Senator Kline moved that the following amendment by Senator Kline and others be adopted:

Beginning on page 1, line 2, strike everything after "ASSEMBLED:" and insert the following:

"THAT, At the next general election to be held in this state the secretary of state shall submit to the qualified voters of the state for their approval and ratification, or rejection, an amendment to Article I, section 20 of the Constitution of the state of Washington to read as follows:

Article I, section 20. All persons charged with crime shall be bailable by sufficient sureties, except for capital offenses when the proof is evident, or the presumption great. Bail may be denied for offenses punishable by the possibility of life in prison upon a showing by clear and convincing evidence of a propensity for violence that creates a substantial likelihood of danger to the community or any persons, subject to such limitations as shall be determined by the legislature.

BE IT FURTHER RESOLVED, That the secretary of state shall cause notice of this constitutional amendment to be published at least four times during the four weeks next preceding the election in every legal newspaper in the state."

Senator Kline spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Kline and others on page 1, line 2 to Engrossed Substitute House Joint Resolution No. 4220.

The motion by Senator Kline carried and the amendment was adopted by voice vote.

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MOTION

On motion of Senator Kline, the rules were suspended, Engrossed Substitute House Joint Resolution No. 4220 as amended by the Senate was advanced to third reading, the second reading considered the third and the resolution was placed on final passage.

Senators Kline, Carrell, Hargrove, Roach, Gordon and Becker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Joint Resolution No. 4220 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Joint Resolution No. 4220 as amended by the Senate and the resolution passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmner, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE HOUSE JOINT RESOLUTION NO. 4220 as amended by the Senate, having received the constitutional majority, was declared passed.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2496, by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives White, Orwall, Chase, Dickerson, Carlyle, Upthegrove, Springer, Nelson, Simpson, Miloscia, Dunshee and Hunt)

Modifying ballot design provisions.

The measure was read the second time.

MOTION

On motion of Senator Fairley, the rules were suspended, Engrossed Substitute House Bill No. 2496 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fairley spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2496.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2496 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist,

Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmner, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2496, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1679, by House Committee on Ways & Means (originally sponsored by Representatives Simpson, Van De Wege, Ericks, Williams, White, Kelley, Sells, Ross, Hope and Conway)

Providing access to catastrophic disability medical insurance under plan 2 of the law enforcement officers' and firefighters' retirement system. Revised for 1st Substitute: Reimbursing medical expenses for certain totally disabled public safety personnel.

The measure was read the second time.

MOTION

Senator Prentice moved that the following committee amendment by the Committee on Ways & Means be adopted:

On page 5, on line 17, after "(medical insurance)", insert "A member who is entitled to medicare must enroll and maintain enrollment in both medicare part A and medicare part B in order to remain eligible for the reimbursement provided in this subsection."

Senator Prentice spoke in favor of adoption of the committee amendment.

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Ways & Means to Substitute House Bill No. 1679.

The motion by Senator Prentice carried and the committee amendment was adopted by voice vote.

MOTION

On motion of Senator Prentice, the rules were suspended, Substitute House Bill No. 1679 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1679 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1679 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 2; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist,

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Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senators Carrell and Kline

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 1679 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Delvin, Senator Carrell was excused.

#### MOTION

On motion of Senator McDermott, Senator Kline was excused.

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Ranker moved that Gubernatorial Appointment No. 9238, Harriet Spanel, as a member of the Recreation and Conservation Funding Board, be confirmed.

Senator Ranker spoke in favor of the motion.

#### APPOINTMENT OF HARRIET SPANEL

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9238, Harriet Spanel as a member of the Recreation and Conservation Funding Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9238, Harriet Spanel as a member of the Recreation and Conservation Funding Board and the appointment was confirmed by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

Gubernatorial Appointment No. 9238, Harriet Spanel, having received the constitutional majority was declared confirmed as a member of the Recreation and Conservation Funding Board.

#### INTRODUCTION OF SPECIAL GUEST

The President introduced the Honorable Harriet Spanel, who was seated at the rostrum.

#### PERSONAL PRIVILEGE

Senator Brown: "Well, it really is a pleasure to welcome our former colleague back to the chamber and Senator Spanel we could use you on a few of these revenue votes that are coming up.

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So, if you'd like to stick around for the weekend that would be just great. On a more serious note I want to say that I always appreciated about Senator Spanel, not only the way that she was a very balanced and controlled member of our caucus and caucus chair. The other thing that many people did not realize is how carefully she attended to the details of the bill. She was actually sitting at her desk reading through things. Reading through striking amendments. There were countless number of times when she would say 'Oh, by the way, did you see this or did you see that' and it added a real measure of accuracy to our endeavors. A few of you might recall a little snafu we had earlier in the session. I don't think that would of happened with Senator Spanel sitting there. I think she would of caught it and so, Harriet it's a pleasure to have you here today."

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Gordon moved that Gubernatorial Appointment No. 9017, William Chapman, as a member of the Recreation and Conservation Funding Board, be confirmed.

Senator Gordon spoke in favor of the motion.

#### APPOINTMENT OF WILLIAM CHAPMAN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9017, William Chapman as a member of the Recreation and Conservation Funding Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9017, William Chapman as a member of the Recreation and Conservation Funding Board and the appointment was confirmed by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

Gubernatorial Appointment No. 9017, William Chapman, having received the constitutional majority was declared confirmed as a member of the Recreation and Conservation Funding Board.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2503, by House Committee on Agriculture & Natural Resources (originally sponsored by Representative Blake)

Regarding membership on the board of natural resources.

The measure was read the second time.

#### MOTION

Senator Jacobsen moved that the following committee striking amendment by the Committee on Natural Resources, Ocean & Recreation be adopted:

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Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.30.205 and 2003 c 334 s 104 are each amended to read as follows:

- (1) The board shall consist of six members:
  - (a) The governor or the governor's designee((,));
  - (b) The superintendent of public instruction((,));
  - (c) The commissioner ((of public lands, the dean of the college of forest resources of the University of Washington, the dean of the college of agriculture of Washington State University,));
  - (d) The director of the University of Washington school of forest resources;
  - (e) The dean of the Washington State University college of agricultural, human, and natural resource sciences; and
  - (f) A representative of those counties that contain state forest lands acquired or transferred under RCW 79.22.010, 79.22.040, and 79.22.020.
- (2)(a) The county representative on the board shall be selected by the legislative authorities of those counties that contain state forest lands acquired or transferred under RCW 79.22.010, 79.22.040, and 79.22.020. In the selection of the county representative, each participating county shall have one vote. The Washington state association of counties shall ~~((conduct))~~ convene a meeting for the purpose of making the selection and shall notify the board of the selection.
- (b) The county representative ~~((shall))~~ must be a duly elected member of a county legislative authority who shall serve a term of four years unless the representative should leave office for any reason. The initial term shall begin on July 1, 1986."

Senators Jacobsen and Morton spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Natural Resources, Ocean & Recreation to Substitute House Bill No. 2503.

The motion by Senator Jacobsen carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "members;" strike the remainder of the title and insert "and amending RCW 43.30.205."

MOTION

On motion of Senator Jacobsen, the rules were suspended, Substitute House Bill No. 2503 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Jacobsen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2503 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2503 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 2503 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 3124, by House Committee on Early Learning & Children's Services (originally sponsored by Representatives Roberts, Kagi, Simpson and Kenney)

Requiring a report to child protective services when a child is present in the vehicle of a person arrested for driving or being in control of a vehicle while under the influence of alcohol or drugs.

The measure was read the second time.

MOTION

Senator Regala moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 46.61 RCW to read as follows:

A law enforcement officer shall promptly notify child protective services whenever a child is present in a vehicle being driven by his or her parent, guardian, or legal custodian and that person is being arrested for a drug or alcohol-related driving offense. This section does not require law enforcement to take custody of the child unless there is no other responsible person, or an agency having the right to physical custody of the child that can be contacted, or the officer has reasonable grounds to believe the child should be taken into custody pursuant to RCW 13.34.050 or 26.44.050. For purposes of this section, "child" means any person under ten years of age.

**NEW SECTION. Sec. 2.** A new section is added to chapter 26.44 RCW to read as follows:

A law enforcement officer shall promptly notify child protective services whenever a child is present in a vehicle being driven by his or her parent, guardian, or legal custodian and that person is being arrested for a drug or alcohol-related driving offense. This section does not require law enforcement to take custody of the child unless there is no other responsible person, or an agency having the right to physical custody of the child that can be contacted, or the officer has reasonable grounds to believe the child should be taken into custody pursuant to RCW 13.34.050 or 26.44.050. For purposes of this section, "child" means any person under ten years of age."

Senator Regala spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Substitute House Bill No. 3124.

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The motion by Senator Regala carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 4 of the title, after "drugs;" strike the remainder of the title and insert "adding a new section to chapter 46.61 RCW; and adding a new section to chapter 26.44 RCW."

#### MOTION

On motion of Senator Regala, the rules were suspended, Substitute House Bill No. 3124 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Regala spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 3124 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3124 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Jacobsen

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 3124 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2621, by Representatives Orwall, Maxwell, Darneille, Morrell and Haigh

Designating resource programs for science, technology, engineering, and mathematics instruction in K-12 schools.

The measure was read the second time.

#### MOTION

Senator McAuliffe moved that the following committee striking amendment by the Committee on Early Learning & K-12 Education be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature has made a commitment to support multiple strategies to improve teaching and learning of science, technology, engineering, and mathematics in Washington's public schools. In recent years, Washington has adopted new technology, mathematics, and science learning

standards; initiated funding for middle schools to provide a career and technical program in science, technology, engineering, and mathematics at the same rate as a high school operating a similar program; provided professional development for mathematics and science teachers; created a scholarship program to encourage students to enter mathematics and science degree programs; supported career and technical education in high-demand fields; and authorized alternative ways for teachers to earn certification in the mathematics and science fields.

(2) At the local level, school districts and their communities are also finding new ways to improve teaching and learning of science, technology, engineering, and mathematics. Some districts have combined several best practices into promising learning models for students. For example, Aviation high school in the Highline school district offers a small, highly personalized learning community that is focused on interdisciplinary immersion in science, technology, engineering, and mathematics using a hands-on, project-based curriculum. Delta high school in the Tri-Cities is a collaboration among three school districts, a skill center, two institutions of higher education, a community foundation, and local business leaders. The science and math institute at Point Defiance in Tacoma offers students field-based applied learning using the natural, historical, and community resources of a large metropolitan park. These schools draw students from across regions who are seeking an exciting, rigorous, and nontraditional learning experience. Other schools and communities across the state are seeking to replicate these innovative learning models.

(3) The legislature intends to support continued expansion of the type of innovation and creativity displayed by Aviation, Delta, and the science and math institute by designating so-called "lighthouse" high schools to serve as resources and examples of best practices in science, technology, engineering, and mathematics instruction.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.630 RCW to read as follows:

(1) Subject to funds appropriated for this purpose, the superintendent of public instruction shall designate up to three middle schools and up to three high schools to serve as resources and examples of how to combine the following best practices:

(a) A small, highly personalized learning community;

(b) An interdisciplinary curriculum with a strong focus on science, technology, engineering, and mathematics delivered through a project-based instructional approach; and

(c) Active partnerships with businesses and the local community to connect learning beyond the classroom.

(2) The designated middle and high schools shall serve as lighthouse programs and provide technical assistance and advice to other middle and high schools and communities in the initial stages of creating an alternative learning environment focused on science, technology, engineering, and mathematics. The designated middle and high schools must have proven experience and be recognized as model programs.

(3) In addition, the office of the superintendent of public instruction shall work with the designated middle and high schools to publicize the models of best practices in science, technology, engineering, and mathematics instruction used by the designated middle and high schools and shall encourage other middle and high schools and communities to work with the designated middle and high schools to replicate similar models."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Early Learning & K-12 Education to House Bill No. 2621.

Senator McAuliffe spoke in favor of adoption of the committee striking amendment.

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The motion by Senator McAuliffe carried and the committee striking amendment was adopted by voice vote.

On motion of Senator Hatfield, Senator Jacobsen was excused.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "schools;" strike the remainder of the title and insert "adding a new section to chapter 28A.630 RCW; and creating a new section."

MOTION

On motion of Senator McAuliffe, the rules were suspended, House Bill No. 2621 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2621 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2621 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Jacobsen

Excused: Senator McCaslin

HOUSE BILL NO. 2621 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2684, by House Committee on Higher Education (originally sponsored by Representatives Kenney, Sullivan, Liias, Hasegawa, Simpson, Nelson, Goodman and Chase)

Establishing opportunity centers at community colleges.

The measure was read the second time.

MOTION

On motion of Senator Kilmer, the rules were suspended, Substitute House Bill No. 2684 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kilmer spoke in favor of passage of the bill.

MOTION

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2684.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2684 and the bill passed the Senate by the following vote: Yeas, 30; Nays, 17; Absent, 0; Excused, 2.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, Morton, Parlette, Pflug, Roach, Schoesler, Stevens, Swecker and Zarelli

Excused: Senators Jacobsen and McCaslin

SUBSTITUTE HOUSE BILL NO. 2684, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 3145, by House Committee on Commerce & Labor (originally sponsored by Representatives McCoy, Roberts, Simpson, Goodman, Kenney, Conway and Ormsby)

Improving administration of wage complaints.

The measure was read the second time.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 3145 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and Holmquist spoke in favor of passage of the bill.

MOTION

On motion of Senator Hatfield, Senator McAuliffe was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 3145.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3145 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 2; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

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Voting nay: Senators Benton and Carrell

Excused: Senators Jacobsen, McAuliffe and McCaslin

SUBSTITUTE HOUSE BILL NO. 3145, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1761, by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Hasegawa, Appleton and Hurst)

Addressing the ethical use of legislative web sites.

The measure was read the second time.

#### MOTION

On motion of Senator McDermott, the rules were suspended, Second Substitute House Bill No. 1761 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McDermott spoke in favor of passage of the bill.

#### POINT OF INQUIRY

Senator Roach: "Would Senator McDermott yield to a question? Senator, on the second bullet of our presentation before us, it says that the official legislative website of legislators seeking re-election must not be altered between June 30<sup>th</sup> and November 15<sup>th</sup>. Would that then mean that you couldn't take something off of your website? We understand you probably couldn't put something in it but can you take something in error out of it?"

Senator McDermott: "I'd have to check to be sure Senator. I honestly don't know."

#### MOTION

On motion of Senator Eide, further consideration of Second Substitute House Bill No. 1761 was deferred and the bill held its place on the third reading calendar.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2422, by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Parker, Hurst, Driscoll, Kelley, Dammeier, Schmick and Ormsby)

Changing escape or disappearance notification requirements. Revised for 1st Substitute: Changing escape or disappearance notice requirements.

The measure was read the second time.

#### MOTION

On motion of Senator Regala, the rules were suspended, Substitute House Bill No. 2422 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Regala and Schoesler spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2422.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2422 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Jacobsen and McCaslin

SUBSTITUTE HOUSE BILL NO. 2422, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, pursuant to Rule 46, the Committee on Ways & Means was granted special leave to meet during the day's session.

#### MOTION

At 4:18 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

#### EVENING SESSION

The Senate was called to order at 7:00 p.m. by President Owen.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2752, by House Committee on Early Learning & Children's Services (originally sponsored by Representatives Dickerson, Orwall, Walsh, Goodman, Kagi, Roberts, Pedersen, Green, Santos and Nelson)

Modifying provisions relating to providing shelter to a minor.

The measure was read the second time.

#### MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that youth services provide safety to youth on the streets and are a critical pathway to ensuring the youth's return home. Runaway youth are without protection, live under the threat of violence, and fall victim to predators who exploit their vulnerability. The policy of this state is to provide assistance to youth in crisis and to protect and preserve

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families. In order to effectively serve youth on the streets and promote their safe return home, shelters must have the time to establish and maintain an environment that facilitates open communication and trust.

The legislature also finds that parents of runaway youth have an interest in knowing their sons and daughters are safe in a shelter, rather than on the streets without protection. The legislature further finds that law enforcement and the department can notify a parent that the youth is safe, without disclosing the youth's location or compromising the ability of youth services providers to effectively assist youth in crisis.

**Sec. 2.** RCW 13.32A.082 and 2000 c 123 s 10 are each amended to read as follows:

(1)(a) Except as provided in (b) of this subsection, any person, including unlicensed youth shelters or runaway and homeless youth programs, who, without legal authorization, provides shelter to a minor and who knows at the time of providing the shelter that the minor is away from the parent's home without the permission of the parent, or other lawfully prescribed residence, shall promptly report the location of the child to the parent, the law enforcement agency of the jurisdiction in which the person lives, or the department. ~~((The report))~~

(b)(i) If a licensed overnight youth shelter, or another licensed organization whose stated mission is to provide services to homeless or runaway youth and their families, provides shelter to a minor and knows at the time of providing the shelter that the minor is away from a lawfully prescribed residence or home without parental permission, it shall contact the youth's parent, preferably within twenty-four hours but within no more than seventy-two hours following the time that the youth is admitted to the shelter or other licensed organization's program. The notification must include the whereabouts of the youth, a description of the youth's physical and emotional condition, and the circumstances surrounding the youth's contact with the shelter or organization. If there are compelling reasons not to notify the parent, the shelter or organization shall instead notify the department.

(ii) At least once every eight hours after learning that a youth receiving services or shelter under this section is away from home without permission, the shelter or organization staff must consult the information that the Washington state patrol makes publicly available under RCW 43.43.510(2). If the youth is publicly listed as missing, the shelter or organization shall immediately notify the department of its contact with the youth listed as missing. The notification must include a description of the youth's physical and emotional condition and the circumstances surrounding the youth's contact with the shelter or organization.

(c) Reports required under this section may be made by telephone or any other reasonable means.

(2) Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this section.

(a) "Shelter" means the person's home or any structure over which the person has any control.

(b) "Promptly report" means to report within eight hours after the person has knowledge that the minor is away from a lawfully prescribed residence or home without parental permission.

(c) "Compelling reasons" include, but are not limited to, circumstances that indicate that notifying the parent or legal guardian will subject the child to abuse or neglect as defined in chapter 26.44 RCW.

(3) When the department receives a report under subsection (1) of this section, it shall make a good faith attempt to notify the parent that a report has been received and offer services designed to resolve the conflict and accomplish a reunification of the family.

(4) Nothing in this section prohibits any person from immediately reporting the identity and location of any minor who is away from a

lawfully prescribed residence or home without parental permission more promptly than required under this section.

(5) This section expires on July 1, 2012.

**NEW SECTION. Sec. 3.** A new section is added to chapter 13.32A RCW to read as follows:

A private right of action or claim on the part of a parent is created against an unlicensed youth shelter or unlicensed runaway and homeless youth program who fails to meet the notification requirements in RCW 13.32A.082(1)(a).

**Sec. 4.** RCW 43.43.510 and 1998 c 67 s 2 are each amended to read as follows:

(1) As soon as is practical and feasible there shall be established, by means of data processing, files listing stolen and wanted vehicles, outstanding warrants, identifying children whose parents, custodians, or legal guardians have reported as having run away from home or the custodial residence, identifiable stolen property, files maintaining the central registry of sex offenders required to register under chapter 9A.44 RCW, and such other files as may be of general assistance to law enforcement agencies.

(2)(a) At the request of a parent, legal custodian, or guardian who has reported a child as having run away from home or the custodial residence, the Washington state patrol shall make the information about the runaway child as is filed in subsection (1) of this section publicly available.

(b) The information that can be made publicly available under (a) of this subsection is limited to the information that will facilitate the safe return of the child to his or her home or custodial residence and so long as making the information publicly available incurs no additional costs."

Senators Hargrove, Carrell, Murray and Stevens spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Engrossed Substitute House Bill No. 2752.

The motion by Senator Hargrove carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "youth;" strike the remainder of the title and insert "amending RCW 13.32A.082 and 43.43.510; adding a new section to chapter 13.32A RCW; creating a new section; and providing an expiration date."

MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Substitute House Bill No. 2752 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.

MOTION

On motion of Senator Marr, Senators Brown, Fraser and Oemig were excused.

MOTION

On motion of Senator Brandland, Senator Pflug was excused.

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The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2752 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2752 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brown, Fraser, McCaslin and Oemig

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2752 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2823, by Representatives Kristiansen, Armstrong, Blake and Kelley

Permitting retired participants to resume volunteer firefighter, emergency worker, or reserve officer service.

The measure was read the second time.

#### MOTION

On motion of Senator Prentice, the rules were suspended, House Bill No. 2823 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2823.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2823 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Gordon, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Hargrove

Excused: Senators Brown, Fraser, McCaslin and Oemig

HOUSE BILL NO. 2823, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SIGNED BY THE PRESIDENT

The President signed:

SENATE BILL 6209,  
SENATE BILL 6279,  
SENATE BILL 6330,  
SUBSTITUTE SENATE BILL 6341,  
SENATE BILL 6453,  
SENATE BILL 6487,  
SUBSTITUTE SENATE BILL 6510,  
SENATE BILL 6555,  
SUBSTITUTE SENATE BILL 6558,  
SUBSTITUTE SENATE BILL 6577,  
SUBSTITUTE SENATE BILL 6816.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2564, by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Nelson, Chase and Kirby)

Regarding escrow agents.

The measure was read the second time.

#### MOTION

On motion of Senator Berkey, the rules were suspended, Engrossed Substitute House Bill No. 2564 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Berkey spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2564.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2564 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 2; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Holmquist and Stevens

Excused: Senators Fraser, McCaslin and Oemig

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2564, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Marr, Senator Kastama was excused.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2776, by House Committee on Education Appropriations (originally sponsored by Representatives Sullivan, Priest, Maxwell, Dammeier, Carlyle, Finn, Anderson, Eddy, Nelson, Goodman, Orwall, Hunter, Simpson, Jacks, Kagi, Ormsby, Morrell, Probst and Santos)

Regarding funding distribution formulas for K-12 education.

The measure was read the second time.

MOTION

Senator McAuliffe moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) It is the legislature's intent to continue implementation of chapter 548, Laws of 2009, by adopting the technical details of a new distribution formula for the instructional program of basic education. The legislature intends to continue to review and revise the formulas and may make revisions as necessary for technical purposes and consistency in the event of mathematical or other technical errors.

(2) The legislature further intends to adjust the timelines for the working groups created under chapter 548, Laws of 2009, so that their expertise and advice can be received as soon as possible and to make adjustments to the composition of the local finance working group. The legislature further intends to clarify the legislature's intent to fully fund all-day kindergarten by the 2018-19 school year.

**Sec. 2.** RCW 28A.150.315 and 2009 c 548 s 107 are each amended to read as follows:

(1) Beginning with the 2007-08 school year, funding for voluntary all-day kindergarten programs shall be phased-in beginning with schools with the highest poverty levels, defined as those schools with the highest percentages of students qualifying for free and reduced-price lunch support in the prior school year. The funding shall continue to be phased-in until full statewide implementation of all-day kindergarten is achieved in the 2018-19 school year. Once a school receives funding for the all-day kindergarten program, that school shall remain eligible for funding in subsequent school years regardless of changes in the school's percentage of students eligible for free and reduced-price lunches as long as other program requirements are fulfilled. Additionally, schools receiving all-day kindergarten program support shall agree to the following conditions:

- (a) Provide at least a one thousand-hour instructional program;
- (b) Provide a curriculum that offers a rich, varied set of experiences that assist students in:
  - (i) Developing initial skills in the academic areas of reading, mathematics, and writing;
  - (ii) Developing a variety of communication skills;
  - (iii) Providing experiences in science, social studies, arts, health and physical education, and a world language other than English;
  - (iv) Acquiring large and small motor skills;
  - (v) Acquiring social and emotional skills including successful participation in learning activities as an individual and as part of a group; and
  - (vi) Learning through hands-on experiences;
- (c) Establish learning environments that are developmentally appropriate and promote creativity;
- (d) Demonstrate strong connections and communication with early learning community providers; and
- (e) Participate in kindergarten program readiness activities with early learning providers and parents.

(2) Subject to funds appropriated for this purpose, the superintendent of public instruction shall designate one or more school districts to serve as resources and examples of best practices in designing and operating a high-quality all-day kindergarten program. Designated school districts shall serve as lighthouse

programs and provide technical assistance to other school districts in the initial stages of implementing an all-day kindergarten program. Examples of topics addressed by the technical assistance include strategic planning, developing the instructional program and curriculum, working with early learning providers to identify students and communicate with parents, and developing kindergarten program readiness activities.

**Sec. 3.** 2009 c 548 s 302 (uncodified) is amended to read as follows:

(1) Beginning ~~((July))~~ April 1, 2010, the office of financial management, with assistance and support from the office of the superintendent of public instruction, shall convene a technical working group to develop options for a new system of supplemental school funding through local school levies and local effort assistance.

(2) The working group shall consider the impact on overall school district revenues of the new basic education funding system established ~~((under this act))~~ by the legislature based on prototypical schools and shall recommend a phase-in plan that ensures that no school district suffers a decrease in funding from one school year to the next due to implementation of the new system of supplemental funding.

(3) The working group shall also:

(a) Examine local school district capacity to address facility needs associated with phasing-in full-day kindergarten across the state and reducing class size in kindergarten through third grade;

(b) Provide technical advice to the quality education council including an analysis on the potential use of local funds that may become available for redeployment and redirection as a result of increased state funding allocations for pupil transportation and maintenance, supplies, and operating costs; and

(c) Advise the quality education council and the legislature on further development and implementation of the funding formulas under RCW 28A.150.260, as appropriate.

(4) The working group shall be composed of representatives from the department of revenue, the legislative evaluation and accountability program committee, school district and educational service district financial managers, and representatives of the Washington association of school business officers, the Washington education association, the Washington association of school administrators, the association of Washington school principals, the Washington state school directors' association, the public school employees of Washington, and other interested stakeholders with expertise in education finance. When choosing the individuals to serve on the working group, the office of financial management and the office of the superintendent of public instruction are encouraged, as appropriate, to include members of the funding formula technical working group convened in accordance with section 112, chapter 548, Laws of 2009. The working group may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders. In addition to the staff support provided by the office of financial management and the office of the superintendent of public instruction, the department of revenue shall provide technical assistance, including financial and legal analysis, to support the working group's findings and analysis under subsection (3) of this section.

~~((4))~~ (5) The local funding working group shall be monitored and overseen by the legislature and by the quality education council created in ~~((section 114 of this act))~~ RCW 28A.290.010. The working group shall submit an initial report to the legislature ((December 1)) and the quality education council by November 30, 2010, and a final report by June 30, 2011.

**Sec. 4.** RCW 43.41.398 and 2009 c 548 s 601 are each amended to read as follows:

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(1) The legislature recognizes that providing students with the opportunity to access a world-class educational system depends on our continuing ability to provide students with access to world-class educators. The legislature also understands that continuing to attract and retain the highest quality educators will require increased investments. The legislature intends to enhance the current salary allocation model and recognizes that changes to the current model cannot be imposed without great deliberation and input from teachers, administrators, and classified employees. Therefore, it is the intent of the legislature to begin the process of developing an enhanced salary allocation model that is collaboratively designed to ensure the rationality of any conclusions regarding what constitutes adequate compensation.

(2) Beginning July 1, (~~2011~~) 2010, the office of financial management in collaboration with the office of the superintendent of public instruction, shall convene a technical working group to recommend the details of an enhanced salary allocation model that aligns state expectations for educator development and certification with the compensation system and establishes recommendations for a concurrent implementation schedule. In addition to any other details the technical working group deems necessary, the technical working group shall make recommendations on the following:

- (a) How to reduce the number of tiers within the existing salary allocation model;
- (b) How to account for labor market adjustments;
- (c) How to account for different geographic regions of the state where districts may encounter difficulty recruiting and retaining teachers;
- (d) The role of and types of bonuses available;
- (e) Ways to accomplish salary equalization over a set number of years; and
- (f) Initial fiscal estimates for implementing the recommendations including a recognition that staff on the existing salary allocation model would have the option to grandfather in permanently to the existing schedule.

(3) As part of its work, the technical working group shall conduct or contract for a preliminary comparative labor market analysis of salaries and other compensation for school district employees to be conducted and shall include the results in any reports to the legislature. For the purposes of this subsection, "salaries and other compensation" includes average base salaries, average total salaries, average employee basic benefits, and retirement benefits.

(4) The analysis required under subsection (1) of this section must:

- (a) Examine salaries and other compensation for teachers, other certificated instructional staff, principals, and other building-level certificated administrators, and the types of classified employees for whom salaries are allocated;
- (b) Be calculated at a statewide level that identifies labor markets in Washington through the use of data from the United States bureau of the census and the bureau of labor statistics; and
- (c) Include a comparison of salaries and other compensation to the appropriate labor market for at least the following subgroups of educators: Beginning teachers and types of educational staff associates.

(5) The working group shall include representatives of the department of personnel, the professional educator standards board, the office of the superintendent of public instruction, the Washington education association, the Washington association of school administrators, the association of Washington school principals, the Washington state school directors' association, the public school employees of Washington, and other interested stakeholders with appropriate expertise in compensation related matters. The working group may convene advisory subgroups on

specific topics as necessary to assure participation and input from a broad array of diverse stakeholders.

(6) The working group shall be monitored and overseen by the legislature and the quality education council created in RCW 28A.290.010. The working group shall make an initial report to the legislature by (~~December 1, 2012~~) November 30, 2010, and a final report by June 30, 2011, and shall include in its report recommendations for whether additional further work of the group is necessary.

NEW SECTION. Sec. 5. A new section is added to chapter 28A.300 RCW to read as follows:

The office of the superintendent of public instruction shall implement and maintain an internet-based portal that provides ready public access to the state's prototypical school funding model for basic education under RCW 28A.150.260. The portal must provide citizens the opportunity to view, for each local school building, the staffing levels and other prototypical school funding elements that are assumed under the state funding formula. The portal must also provide a matrix displaying how individual school districts are deploying those same state resources through their allocation of staff and other resources to school buildings, so that citizens are able to compare the state assumptions to district allocation decisions for each local school building.

NEW SECTION. Sec. 6. The legislature intends to continue to refine and provide greater detail to the distribution formula for the basic education instructional allocation, which shall be based on minimum staffing and nonstaff costs that the legislature deems necessary to support instruction and operations in prototypical schools as defined by the legislature. The legislature expects that the detailed prototype school model will bring greater transparency, understanding, and public accountability to the funding system because it displays funding assumptions in understandable terms centered on the operations of school buildings.

Sec. 7. RCW 28A.150.260 and 2009 c 548 s 106 are each amended to read as follows:

The purpose of this section is to provide for the allocation of state funding that the legislature deems necessary to support school districts in offering the minimum instructional program of basic education under RCW 28A.150.220. The allocation shall be determined as follows:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula for the distribution of a basic education instructional allocation for each common school district.

(2) The distribution formula under this section shall be for allocation purposes only. Except as may be required under chapter 28A.155, 28A.165, 28A.180, or (~~28A.155~~) 28A.185 RCW, or federal laws and regulations, nothing in this section requires school districts to use basic education instructional funds to implement a particular instructional approach or service. Nothing in this section requires school districts to maintain a particular classroom teacher-to-student ratio or other staff-to-student ratio or to use allocated funds to pay for particular types or classifications of staff. Nothing in this section entitles an individual teacher to a particular teacher planning period.

(3)(a) To the extent the technical details of the formula have been adopted by the legislature and except when specifically provided as a school district allocation, the distribution formula for the basic education instructional allocation shall be based on minimum staffing and nonstaff costs the legislature deems necessary to support instruction and operations in prototypical schools serving high, middle, and elementary school students as provided in this section. The use of prototypical schools for the distribution formula does not constitute legislative intent that schools should be operated or structured in a similar fashion as the

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prototypes. Prototypical schools illustrate the level of resources needed to operate a school of a particular size with particular types and grade levels of students using commonly understood terms and inputs, such as class size, hours of instruction, and various categories of school staff. It is the intent that the funding allocations to school districts be adjusted from the school prototypes based on the actual number of annual average full-time equivalent students in each grade level at each school in the district and not based on the grade-level configuration of the school to the extent that data is available. The allocations shall be further adjusted from the school prototypes with minimum allocations for small schools and to reflect other factors identified in the omnibus appropriations act.

(b) For the purposes of this section, prototypical schools are defined as follows:

(i) A prototypical high school has six hundred average annual full-time equivalent students in grades nine through twelve;

(ii) A prototypical middle school has four hundred thirty-two average annual full-time equivalent students in grades seven and eight; and

(iii) A prototypical elementary school has four hundred average annual full-time equivalent students in grades kindergarten through six.

~~((e))~~ (4)(a) The minimum allocation for each level of prototypical school shall be based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours under RCW 28A.150.220 and provide at least one teacher planning period per school day, and based on ~~((a))~~ the following general education average class size ((as specified in the omnibus appropriations act.)) of full-time equivalent students per teacher:

General education average class size	
Grades K-3	25.23
Grade 4	27.00
Grades 5-6	27.00
Grades 7-8	28.53
Grades 9-12, except in cases when lower average class sizes are specified for approved career and technical education programs and skill centers	28.74

(b) The minimum allocation for each prototypical middle and high school shall also provide for full-time equivalent classroom teachers based on the following number of full-time equivalent students per teacher in career and technical education:

Career and technical education average class size	
Approved career and technical education offered at the middle school and high school level	26.57
Skill center programs meeting the standards established by the office of the superintendent of public instruction	22.76

(c) According to an implementation schedule adopted by the legislature, the omnibus appropriations act shall at a minimum specify:

(i) ~~((Basic average class size; —(ii) Basic))~~ A high-poverty average class size in schools where more than fifty percent of the students are eligible for free and reduced-price meals; and

~~((iii))~~ (ii) A specialty average class size for ((exploratory and preparatory career and technical education.)) laboratory science, advanced placement, and international baccalaureate courses(—; and

~~—(iv) Average class size in grades kindergarten through three)).~~

~~((4))~~ (5)(a) The minimum allocation for each level of prototypical school shall include allocations for the following types of staff in addition to classroom teachers:

((i) Principals, including assistant principals, and other certificated building-level administrators;

(ii) Teacher librarians, performing functions including information literacy, technology, and media to support school library media programs;

(iii) Student health services, a function that includes school nurses, whether certificated instructional or classified employee, and social workers;

(iv) Guidance counselors, performing functions including parent outreach and graduation advisor;

(v) Professional development coaches;

(vi) Teaching assistance, which includes any aspect of educational instructional services provided by classified employees;

(vii) Office support, technology support, and other noninstructional aides;

(viii) Custodians, warehouse, maintenance, laborer, and professional and technical education support employees; and

(ix) Classified staff providing student and staff safety.

(4)(a))

	<u>Elementary School</u>	<u>Middle School</u>	<u>High School</u>
<u>Principals, assistant principals, and other certificated building-level administrators, except administrators for approved career and technical programs and skill centers .....</u>	1.253	1.353	1.880
<u>Teacher librarians, a function that includes information literacy, technology, and media to support school library media programs .....</u>	0.663	0.519	0.523
<u>Health and social services:</u>			
<u>School nurses .....</u>	0.076	0.060	0.096
<u>Social workers.....</u>	0.042	0.006	0.015
<u>Psychologists.....</u>	0.017	0.002	0.007
<u>Guidance counselors, a function that includes parent outreach and graduation advising.....</u>	0.493	1.116	1.909
<u>Professional development coaches .....</u>	0.00	0.00	0.00
<u>Teaching assistance, including any aspect of educational instructional services provided by classified employees ...</u>	0.917	0.685	0.638
<u>Office support and other noninstructional aides .....</u>	1.971	2.277	3.201
<u>Custodians.....</u>	1.622	1.902	2.903
<u>Classified staff providing student and staff safety.....</u>	0.077	0.090	0.138
<u>Parent involvement coordinators .....</u>	0.000	0.000	0.000

(b) For career and technical education programs approved by the superintendent of public instruction, the minimum allocation for administrative staff shall be allocated at 0.410 per one hundred full-time equivalent career and technical education students and for other school-level certificated staff at 0.202 per one hundred

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full-time equivalent career and technical education students, regardless of the grade level at which the program is delivered, in lieu of the certificated allocations in (a) of this subsection.

(c) For skill center programs meeting the standards for skill center funding established in January 1999 by the superintendent of public instruction, the minimum allocation for administrative staff shall be allocated at 0.490 per one hundred full-time equivalent skill center students and for other school-level certificated staff at 0.236 per one hundred full-time equivalent skill center students in lieu of the certificated allocations in (a) of this subsection.

(6)(a) The minimum staffing allocation for each school district to provide district-wide support services shall be allocated per one thousand full-time equivalent students in grades K-12 as follows:

Staff per 1,000	
K-12 students	
Technology	0.615
Facilities, maintenance, and grounds	1.776
Warehouse, laborers, and mechanics	0.325

(b) The minimum allocation of staff units for each school district to support certificated and classified staffing of central administration shall be 5.39 percent of the staff units generated under subsections (4)(a) and (5)(a) of this section and (a) of this subsection.

(7)(a) Except as provided in subsection (8) of this section, the minimum allocation for each school district shall include allocations per annual average full-time equivalent student for the following materials, supplies, and operating costs: ~~((Student technology; utilities; curriculum, textbooks, library materials, and instructional supplies; instructional professional development for both certificated and classified staff; other building level costs including maintenance, custodial, and security; and central office administration.))~~

Per annual average	
full-time equivalent student	
in grades K-12	
Technology	\$54.43
Utilities and insurance	\$147.90
Curriculum and textbooks	\$58.44
Other supplies and library materials	\$124.07
Instructional professional development for certified and classified staff	\$9.04
Facilities maintenance	\$73.27
Security and central office	\$50.76

(b) ~~((The annual average full-time equivalent student amounts in (a) of this subsection shall be enhanced))~~ According to an implementation schedule adopted by the legislature and in addition to the amounts provided in (a) of this subsection, the omnibus appropriations act shall provide an amount based on the full-time equivalent student enrollment ~~((in))~~ for each of the following: (i) Exploratory career and technical education courses for students in grades seven through twelve; (ii) laboratory science courses for students in grades nine through twelve; (iii) preparatory career and technical education courses for students in grades nine through twelve offered in a high school; and (iv) preparatory career and technical education courses for students in grades eleven and twelve offered through a skill center.

~~((5))~~ (8) In addition to the allocations otherwise provided under ~~((subsections (3) and (4) of))~~ this section ~~((shall be enhanced as follows to provide additional allocations for classroom teachers and maintenance, supplies, and operating costs))~~ amounts shall be provided to support the following programs and services:

(a) To provide supplemental instruction and services for underachieving students through the learning assistance program under RCW 28A.165.005 through 28A.165.065, allocations shall be based on the ~~((percent))~~ district percentage of students in ~~((each~~

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~~school))~~ grades K-12 who ~~((are))~~ were eligible for free ~~((and))~~ or reduced-price meals in the prior school year. The minimum allocation for the ~~((learning assistance))~~ program shall provide ~~((an extended school day and extended school year))~~ for each level of prototypical school ~~((and a per student allocation for maintenance, supplies, and operating costs))~~ resources to provide, on a statewide average, 1.5156 hours per week in extra instruction with a class size of fifteen learning assistance program students per teacher and zero hours per week of instruction during vacation periods.

(b) To provide supplemental instruction and services for students whose primary language is other than English, allocations shall be based on the head count number of students in each school who are eligible for and enrolled in the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080. The minimum allocation for each level of prototypical school shall provide ~~((for supplemental instruction based on percent of the school day a student is assumed to receive supplemental instruction and a per student allocation for maintenance, supplies, and operating costs))~~ resources to provide, on a statewide average, 4.7780 hours per week in extra instruction with fifteen transitional bilingual instruction program students per teacher and zero hours per week of instruction during vacation periods.

~~((6))~~ ~~The allocations provided under subsections (3) and (4) of this section shall be enhanced))~~ ~~((c))~~ To provide additional allocations to support programs for highly capable students under RCW 28A.185.010 through 28A.185.030, allocations shall be based on two and three hundred fourteen one-thousandths percent of each school district's full-time equivalent basic education enrollment. The minimum allocation for the programs shall provide ~~((an extended school day and extended school year for each level of prototypical school and a per student allocation for maintenance, supplies, and operating costs))~~ resources to provide, on a statewide average, 2.1590 hours per week in extra instruction with fifteen highly capable program students per teacher and zero hours per week of instruction during vacation periods.

~~((7))~~ (9) The allocations under subsections ~~((3)(b), (e)(i), and (d), (4), and (8))~~ (4)(a), (5)(a), (6), and (7) of this section shall be enhanced as provided under RCW 28A.150.390 on an excess cost basis to provide supplemental instructional resources for students with disabilities.

~~((8))~~ The distribution formula shall include allocations to school districts to support certificated and classified staffing of central office administration. The minimum allocation shall be calculated as a percentage, identified in the omnibus appropriations act, of the total allocations for staff under subsections (3) and (6) of this section for all schools in the district.

~~((9))~~ (10)(a) For the purposes of allocations for prototypical high schools and middle schools under subsections (3) and ~~((5))~~ (8) of this section that are based on the percent of students in the school who are eligible for free and reduced-price meals, the actual percent of such students in a school shall be adjusted by a factor identified in the omnibus appropriations act to reflect underreporting of free and reduced-price meal eligibility among middle and high school students.

(b) Allocations or enhancements provided under subsections ~~((3) and))~~ (4), (5), and (7) of this section for exploratory and preparatory career and technical education courses shall be provided only for courses approved by the office of the superintendent of public instruction under chapter 28A.700 RCW.

~~((40))~~ (11)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature.

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(b) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect.

(c) The enrollment of any district shall be the annual average number of full-time equivalent students and part-time students as provided in RCW 28A.150.350, enrolled on the first school day of each month, including students who are in attendance pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district. The definition of full-time equivalent student shall be determined by rules of the superintendent of public instruction and shall be included as part of the superintendent's biennial budget request. The definition shall be based on the minimum instructional hour offerings required under RCW 28A.150.220. Any revision of the present definition shall not take effect until approved by the house ways and means committee and the senate ways and means committee.

(d) The office of financial management shall make a monthly review of the superintendent's reported full-time equivalent students in the common schools in conjunction with RCW 43.62.050.

**Sec. 8.** RCW 28A.150.390 and 2009 c 548 s 108 are each amended to read as follows:

(1) The superintendent of public instruction shall submit to each regular session of the legislature during an odd-numbered year a programmed budget request for special education programs for students with disabilities. Funding for programs operated by local school districts shall be on an excess cost basis from appropriations provided by the legislature for special education programs for students with disabilities and shall take account of state funds accruing through RCW 28A.150.260 ~~((3)(b), (c)(i), and (d), (4), and (8) and federal medical assistance and private funds accruing under RCW 74.09.5249 through 74.09.5253 and 74.09.5254 through 74.09.5256)) (4)(a), (5)(a), (6), and (7).~~

(2) The excess cost allocation to school districts shall be based on the following:

(a) A district's annual average headcount enrollment of students ages birth through four and those five year olds not yet enrolled in kindergarten who are eligible for and enrolled in special education, multiplied by the district's base allocation per full-time equivalent student, multiplied by 1.15; and

(b) A district's annual average full-time equivalent basic education enrollment, multiplied by the district's funded enrollment percent, multiplied by the district's base allocation per full-time equivalent student, multiplied by 0.9309.

(3) As used in this section:

(a) "Base allocation" means the total state allocation to all schools in the district generated by the distribution formula under RCW 28A.150.260 ~~((3)(b), (c)(i), and (d), (4), and (8))) (4)(a), (5)(a), (6), and (7), to be divided by the district's full-time equivalent enrollment.~~

(b) "Basic education enrollment" means enrollment of resident students including nonresident students enrolled under RCW 28A.225.225 and students from nonhigh districts enrolled under RCW 28A.225.210 and excluding students residing in another district enrolled as part of an interdistrict cooperative program under RCW 28A.225.250.

(c) "Enrollment percent" means the district's resident special education annual average enrollment, excluding students ages birth through four and those five year olds not yet enrolled in kindergarten, as a percent of the district's annual average full-time equivalent basic education enrollment.

(d) "Funded enrollment percent" means the lesser of the district's actual enrollment percent or twelve and seven-tenths percent.

**Sec. 9.** RCW 28A.150.410 and 2007 c 403 s 1 are each amended to read as follows:

(1) The legislature shall establish for each school year in the appropriations act a statewide salary allocation schedule, for allocation purposes only, to be used to distribute funds for basic education certificated instructional staff salaries under RCW 28A.150.260. For the purposes of this section, the staff allocations for classroom teachers, teacher librarians, professional development coaches, guidance counselors, and student health services staff under RCW 28A.150.260 are considered allocations for certificated instructional staff.

(2) Salary allocations for state-funded basic education certificated instructional staff shall be calculated by the superintendent of public instruction by determining the district's average salary for certificated instructional staff, using the statewide salary allocation schedule and related documents, conditions, and limitations established by the omnibus appropriations act.

(3) Beginning January 1, 1992, no more than ninety college quarter-hour credits received by any employee after the baccalaureate degree may be used to determine compensation allocations under the state salary allocation schedule and LEAP documents referenced in the omnibus appropriations act, or any replacement schedules and documents, unless:

(a) The employee has a master's degree; or

(b) The credits were used in generating state salary allocations before January 1, 1992.

(4) Beginning in the 2007-08 school year, the calculation of years of service for occupational therapists, physical therapists, speech-language pathologists, audiologists, nurses, social workers, counselors, and psychologists regulated under Title 18 RCW may include experience in schools and other nonschool positions as occupational therapists, physical therapists, speech-language pathologists, audiologists, nurses, social workers, counselors, or psychologists. The calculation shall be that one year of service in a nonschool position counts as one year of service for purposes of this chapter, up to a limit of two years of nonschool service. Nonschool years of service included in calculations under this subsection shall not be applied to service credit totals for purposes of any retirement benefit under chapter 41.32, 41.35, or 41.40 RCW, or any other state retirement system benefits.

**Sec. 10.** RCW 28A.150.100 and 1990 c 33 s 103 are each amended to read as follows:

(1) For the purposes of this section and RCW 28A.150.410 and 28A.400.200, "basic education certificated instructional staff" ~~(shall)~~ means all full-time equivalent classroom teachers, teacher librarians, guidance counselors, certificated student health services staff, and other certificated instructional staff in the following programs as defined for statewide school district accounting purposes: Basic education, secondary vocational education, general instructional support, and general supportive services.

(2) ~~(In the 1988-89 school year and thereafter,)~~ Each school district shall maintain a ratio of at least forty-six basic education certificated instructional staff to one thousand annual average full time equivalent students.

**Sec. 11.** 2009 c 548 s 710 (uncodified) is amended to read as follows:

(1) RCW 28A.150.030 (School day) and 1971 ex.s. c 161 s 1 & 1969 ex.s. c 223 s 28A.01.010;

(2) RCW 28A.150.060 (Certificated employee) and 2005 c 497 s 212, 1990 c 33 s 102, 1977 ex.s. c 359 s 17, 1975 1st ex.s. c 288 s 21, & 1973 1st ex.s. c 105 s 1;

(3) ~~(RCW 28A.150.100 (Basic education certificated instructional staff--Definition--Ratio to students) and 1990 c 33 s 103 & 1987 1st ex.s. c 2 s 203;~~

(4)) RCW 28A.150.040 (School year--Beginning--End) and

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1990 c 33 s 101, 1982 c 158 s 5, 1977 ex.s. c 286 s 1, 1975-'76 2nd ex.s. c 118 s 22, & 1969 ex.s. c 223 s 28A.01.020;

((~~5~~)) (4) RCW 28A.150.370 (Additional programs for which legislative appropriations must or may be made) and 1995 c 335 s 102, 1995 c 77 s 5, 1990 c 33 s 114, 1982 1st ex.s. c 24 s 1, & 1977 ex.s. c 359 s 7; and

((~~6~~)) (5) RCW 28A.155.180 (Safety net funds--Application--Technical assistance--Annual survey) and 2007 c 400 s 8.

**Sec. 12.** 2009 c 548 s 804 (uncodified) is amended to read as follows:

Sections 101 through 105, 107 through 110, and 701 through 710 of this act take effect September 1, 2011.

**NEW SECTION. Sec. 13.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

**NEW SECTION. Sec. 14.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 15.** Sections 6 through 13 of this act take effect September 1, 2011.

**NEW SECTION. Sec. 16.** Section 3 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Senator McAuliffe spoke in favor of adoption of the committee striking amendment.

#### MOTION

Senator McAuliffe moved that the following amendment by Senators McAuliffe and Oemig to the committee striking amendment be adopted:

On page 4, line 26 of the amendment, after "1," strike all material through "2010" and insert "2011"

On page 6, beginning on line 7 of the amendment, after "by" strike all material through "2011" on line 8, and insert "December 1, 2012"

Senator McAuliffe spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators McAuliffe and Oemig on page 4, line 26 Oemig to the committee striking amendment to Substitute House Bill No. 2776.

The motion by Senator McAuliffe carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means as amended to Substitute House Bill No. 2776.

The motion by Senator McAuliffe carried and the committee striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

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On page 1, line 2 of the title, after "education;" strike the remainder of the title and insert "amending RCW 28A.150.315, 43.41.398, 28A.150.260, 28A.150.390, 28A.150.410, and 28A.150.100; amending 2009 c 548 s 302 (uncodified); amending 2009 c 548 s 710 (uncodified); amending 2009 c 548 s 804 (uncodified); adding a new section to chapter 28A.300 RCW; creating new sections; providing an effective date; and declaring an emergency."

#### MOTION

On motion of Senator McAuliffe, the rules were suspended, Substitute House Bill No. 2776 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe, Tom and Oemig spoke in favor of passage of the bill.

Senators King, Pflug and Zarelli spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2776 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2776 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 32; Nays, 15; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brown, Eide, Fairley, Franklin, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin and Tom

Voting nay: Senators Becker, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, Morton, Parlette, Pflug, Schoesler, Stevens, Swecker and Zarelli

Excused: Senators Fraser and McCaslin

SUBSTITUTE HOUSE BILL NO. 2776 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 2707, by Representatives Simpson, Angel, Finn and Kretz

Concerning the method of calculating public utility district commissioner compensation.

The measure was read the second time.

#### MOTION

Senator Pflug moved that the following amendment by Senator Pflug be adopted:

On page 3, line 10, after "period.", insert the following:

" There shall be no adjustment to dollar thresholds as authorized under this subsection that are attributable to inflation occurring during the five year period ending June 30, 2013."

Senators Pflug and Parlette spoke in favor of adoption of the amendment.

Senator Sheldon spoke against adoption of the amendment.

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The President declared the question before the Senate to be the adoption of the amendment by Senator Pflug on page 3, line 10 to House Bill No. 2707.

The motion by Senator Pflug failed and the amendment was not adopted by voice vote.

## MOTION

On motion of Senator Pridemore, the rules were suspended, House Bill No. 2707 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

Senator Pflug spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2707.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2707 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 19; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brown, Delvin, Eide, Fairley, Franklin, Gordon, Hargrove, Hatfield, Hobbs, Jacobsen, Kline, Kohl-Welles, McAuliffe, McDermott, Morton, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Swecker and Tom

Voting nay: Senators Becker, Brandland, Carrell, Haugen, Hewitt, Holmquist, Honeyford, Kastama, Kauffman, Keiser, Kilmer, King, Marr, Parlette, Pflug, Roach, Schoesler, Stevens and Zarelli

Excused: Senators Fraser and McCaslin

HOUSE BILL NO. 2707, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 2546, by House Committee on Commerce & Labor (originally sponsored by Representatives Van De Wege, Conway, Morrell, Angel, Dunshee and Santos)

Concerning classroom training for electrical trainees.

The measure was read the second time.

## MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford be adopted:

On page 2, line 32, after "~~2007~~)", strike "The" and insert "For trainees reporting hours toward a general journeyman electrician certificate or a residential specialty electrician certificate, the"

Senator Honeyford spoke in favor of adoption of the amendment.

Senators Gordon and Kohl-Welles spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 2, line 32 to Substitute House Bill No. 2546.

The motion by Senator Honeyford failed and the amendment was not adopted by a rising vote.

## MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 2546 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles, Keiser spoke in favor of passage of the bill.

Senators King, Stevens, Benton, Morton spoke against passage of the bill.

## POINT OF INQUIRY

Senator Becker: "Would Senator Kohl-Welles yield to a question? What I'd actually like to know is can you give me any facts and figures of the number of injuries and deaths that may have caused you to come forward with this bill?"

Senator Kohl-Welles: "Senator Becker, no I do not have those at my disposal and this bill came from the other body. So, we can get that information for you but I don't have it right here."

Senators Tom and Honeyford spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2546.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2546 and the bill passed the Senate by the following vote: Yeas, 27; Nays, 20; Absent, 0; Excused, 2.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller and Shin

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, Kastama, King, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fraser and McCaslin

SUBSTITUTE HOUSE BILL NO. 2546, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## NOTICE OF RECONSIDERATION

Senator Eide, having voted on the prevailing side moved to immediately reconsider the vote by which Substitute House Bill No. 2776 passed the Senate.

The President declared the question before the Senate to be the motion by Senator Eide to immediately reconsider the vote by which Substitute House Bill No. 2776 pass the Senate.

Senators Zarelli and Parlette spoke in favor of passage of the bill.

## ROLL CALL

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The Secretary called the roll on the final passage of Substitute House Bill No. 2776 on reconsideration and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fraser and McCaslin

SUBSTITUTE HOUSE BILL NO. 2776, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2658, by House Committee on Community & Economic Development & Trade (originally sponsored by Representatives Kenney, Maxwell, McCoy and Morrell)

Refocusing the department of commerce, including transferring programs.

The measure was read the second time.

## MOTION

Senator Kastama moved that the following committee striking amendment by the Committee on Ways & Means be not adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** In 2009, the legislature changed the name of the department of community, trade, and economic development to the department of commerce and directed the agency to, among other things, develop a report with recommendations on statutory changes to ensure that the department's efforts: Are organized around a concise core mission and aligned with the state's comprehensive plan for economic development; generate greater local capacity; maximize results through partnerships and the use of intermediaries; and provide transparency and increased accountability. Recommendations for creating or consolidating programs deemed important to meeting the department's core mission and recommendations for terminating or transferring specific programs if they are not consistent with the department's core mission were to be included in the report.

In accordance with that legislation, chapter 565, Laws of 2009, in November 2009 the department of commerce submitted a plan that establishes a mission of growing and improving jobs in the state and recognizes the need for an innovation-driven economy. The plan also outlines agency priorities, efficiencies, and program transfers that will help to advance the new mission.

The primary purpose of this act is to implement portions of the department of commerce plan by transferring certain programs from the department of commerce to other state agencies whose missions are more closely aligned with the core functions of those programs. This act also directs additional efficiencies in state government and directs development of a statewide clean energy strategy, which will better enable the department of commerce to focus on its new mission.

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**Sec. 2.** RCW 43.330.005 and 1993 c 280 s 1 are each amended to read as follows:

The legislature finds that the long-term economic health of the state and its citizens depends upon the strength and vitality of its communities and businesses. It is the intent of this chapter to create a ~~((merged))~~ department of ~~((community, trade, and economic development))~~ commerce that fosters new partnerships for strong and sustainable communities. ~~((The consolidation of the department of trade and economic development and the department of community development into one department will))~~ The mission of the department is to grow and improve jobs in Washington and facilitate innovation. To carry out its mission, the department will bring together focused efforts to: Streamline access to business assistance and economic development services by providing ~~((a simpler point of entry for state programs))~~ them thorough sector-based, cluster-based, and regional partners; provide focused and flexible responses to changing economic conditions; generate greater local capacity to respond to both economic growth and environmental challenges; ~~((and))~~ increase accountability to the public, the executive branch, and the legislature~~((-~~  
~~—A new department can bring together a focused effort to:))~~; manage growth and achieve sustainable development; diversify the state's economy and export goods and services; provide greater access to economic opportunity; stimulate private sector investment and entrepreneurship; provide stable family-wage jobs and meet the diverse needs of families; provide affordable housing and housing services; and construct public infrastructure~~((-protect our cultural heritage; and promote the health and safety of the state's citizens))~~.

The legislature further finds that as a result of the rapid pace of global social and economic change, the state and local communities will require coordinated and creative responses by every segment of the community. The state can play a role in assisting such local efforts by reorganizing state assistance efforts to promote such partnerships. The department has a primary responsibility to provide financial and technical assistance to the communities of the state, to assist in improving the delivery of federal, state, and local programs, and to provide communities with opportunities for productive and coordinated development beneficial to the well-being of communities and their residents. It is the intent of the legislature in ~~((this consolidation))~~ creating the department to maximize the use of local expertise and resources in the delivery of community and economic development services.

**Sec. 3.** RCW 43.330.007 and 2009 c 565 s 1 are each amended to read as follows:

(1) The purpose of this chapter is to establish the broad outline of the structure of the department of commerce, leaving specific details of its internal organization and management to those charged with its administration. This chapter identifies the broad functions and responsibilities of the department and is intended to provide flexibility to the director to reorganize these functions to more closely reflect its customers, its mission, and its priorities, and to make recommendations for changes.

(2) In order to generate greater local capacity, maximize results through partnerships and the use of intermediaries, and leverage the use of state resources, the department shall, in carrying out its business assistance and economic development functions, provide business and economic development services primarily through sector-based, cluster-based, and regionally based organizations rather than providing assistance directly to individual firms.

**NEW SECTION. Sec. 4.** The department shall examine the functions and operations of agricultural commodity commissions in the state and collaborate with industry sector and cluster associations on legislation that would enable industries to develop self-financing systems for addressing industry-identified issues such as workforce training, international marketing, quality

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improvement, and technology deployment. By December 1, 2010, the department shall report to the governor and the legislature on its findings and proposed legislation.

**NEW SECTION. Sec. 5.** (1) The governor may, by executive order, delay the transfer of programs and personnel related to independent youth housing, housing assistance for persons with mental illness, crime victims' advocacy and sexual assault services, community mobilization against substance abuse and violence, and the long-term care ombudsman, and may, by July 15, 2010, direct such personnel and programs to be transferred to an agency or agencies other than the agency or agencies specified in this act. In making any decision to transfer programs and personnel, the governor shall rely on the recommendations made by the department of commerce pursuant to subsection (2) of this section.

(2) The department of commerce shall facilitate a stakeholder process to develop recommendations on the transfer of programs and personnel relating to the following: Independent youth housing, housing assistance for persons with mental illness, crime victims' advocacy and sexual assault services, community mobilization against substance abuse and violence, and the long-term care ombudsman. The department of commerce shall convene those parties with a direct interest in such programs and the agencies that may be appropriate recipients of the programs. The recommendations shall be delivered to the governor by July 1, 2010.

## PART I

### DEPARTMENT OF HEALTH--PUBLIC HEALTH

**Sec. 101.** RCW 70.05.125 and 2009 c 479 s 48 are each amended to read as follows:

(1) The county public health account is created in the state treasury. Funds deposited in the county public health account shall be distributed by the state treasurer to each local public health jurisdiction based upon amounts certified to it by the department of ~~((community, trade, and economic development))~~ health in consultation with the Washington state association of counties. The account shall include funds distributed under RCW 82.14.200(8) and such funds as are appropriated to the account from the state general fund, the public health services account under RCW 43.72.902, and such other funds as the legislature may appropriate to it.

(2)(a) The ~~((director))~~ secretary of the department of ~~((community, trade, and economic development))~~ health shall certify the amounts to be distributed to each local public health jurisdiction using 1995 as the base year of actual city contributions to local public health.

(b) Only if funds are available and in an amount no greater than available funds under RCW 82.14.200(8), the department of community, trade, and economic development shall adjust the amount certified under (a) of this subsection to compensate for any annexation of an area with fifty thousand residents or more to any city as a result of a petition during calendar year 1996 or 1997, or for any city that became newly incorporated as a result of an election during calendar year 1994 or 1995. The amount to be adjusted shall be equal to the amount which otherwise would have been lost to the health jurisdiction due to the annexation or incorporation as calculated using the jurisdiction's 1995 funding formula.

(c) The county treasurer shall certify the actual 1995 city contribution to the department. Funds in excess of the base shall be distributed proportionately among the health jurisdictions based on incorporated population figures as last determined by the office of financial management.

(3) Moneys distributed under this section shall be expended exclusively for local public health purposes.

**NEW SECTION. Sec. 102.** (1) All powers, duties, and functions of the department of commerce pertaining to county public health assistance are transferred to the department of health. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the secretary or the department of health when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of health. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the department of health. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of health.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the department of health.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of health. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of health to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of health. All existing contracts and obligations shall remain in full force and shall be performed by the department of health.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the department of health under this section whose positions are within an existing bargaining unit description at the department of health shall become a part of the existing bargaining unit at the department of health and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

## PART II

### DEPARTMENT OF SOCIAL AND HEALTH SERVICES--SUBSTANCE ABUSE PROGRAMS

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**Sec. 201.** RCW 43.270.020 and 2001 c 48 s 2 are each amended to read as follows:

(1) There is established in the department of (~~community, trade, and economic development~~) social and health services a grant program to provide incentive for and support for communities to develop targeted and coordinated strategies to reduce the incidence and impact of alcohol, tobacco, or other drug abuse, or violence. This program is known as the community mobilization program.

(2) The department (~~of community, trade, and economic development~~) shall make awards, subject to funds appropriated by the legislature, under the following terms:

(a) Starting July 1, 2001, funds will be available to countywide programs through a formula developed by the department (~~of community, trade, and economic development~~) in consultation with program contractors, which will take into consideration county population size.

(b) In order to be eligible for consideration, applicants must demonstrate, at a minimum:

(i) That the community has developed and is committed to carrying out a coordinated strategy of prevention, treatment, and law enforcement activities;

(ii) That the community has considered research-based theory when developing its strategy;

(iii) That proposals submitted for funding are based on a local assessment of need and address specific objectives contained in a coordinated strategy of prevention, treatment, and law enforcement against alcohol, tobacco, or other drug abuse, or violence;

(iv) Evidence of active participation in preparation of the proposal and specific commitments to implementing the community-wide agenda by leadership from education, law enforcement, local government, tribal government, and treatment entities in the community, and the opportunity for meaningful involvement from others such as neighborhood and citizen groups, businesses, human service, health and job training organizations, and other key elements of the community, particularly those whose responsibilities in law enforcement, treatment, prevention, education, or other community efforts provide direct, ongoing contact with substance abusers or those who exhibit violent behavior, or those at risk for alcohol, tobacco, or other drug abuse, or violent behavior;

(v) Evidence of additional local resources committed to the applicant's strategy totaling at least twenty-five percent of funds awarded under this section. These resources may consist of public or private funds, donated goods or services, and other measurable commitments, including in-kind contributions such as volunteer services, materials, supplies, physical facilities, or a combination thereof; and

(vi) That the funds applied for, if received, will not be used to replace funding for existing activities.

(c) At a minimum, grant applications must include the following:

(i) A definition of geographic area;

(ii) A needs assessment describing the extent and impact of alcohol, tobacco, or other drug abuse, and violence in the community, including an explanation of those who are most severely impacted and those most at risk of substance abuse or violent behavior;

(iii) An explanation of the community-wide strategy for prevention, treatment, and law enforcement activities related to alcohol, tobacco, or other drug abuse, or violence, with particular attention to those who are most severely impacted and/or those most at risk of alcohol, tobacco, or other drug abuse, or violent behavior;

(iv) An explanation of who was involved in development of the strategy and what specific commitments have been made to carry it out;

(v) Identification of existing prevention, education, treatment, and law enforcement resources committed by the applicant, including financial and other support, and an explanation of how the applicant's strategy involves and builds on the efforts of existing organizations or coalitions that have been carrying out community efforts against alcohol, tobacco, or other drug abuse, or violence;

(vi) Identification of activities that address specific objectives in the strategy for which additional resources are needed;

(vii) Identification of additional local resources, including public or private funds, donated goods or services, and other measurable commitments, that have been committed to the activities identified in (c)(vi) of this subsection;

(viii) Identification of activities that address specific objectives in the strategy for which funding is requested;

(ix) For each activity for which funding is requested, an explanation in sufficient detail to demonstrate:

(A) Feasibility through deliberative design, specific objectives, and a realistic plan for implementation;

(B) A rationale for how this activity will achieve measurable results and how it will be evaluated;

(C) That funds requested are necessary and appropriate to effectively carry out the activity; and

(x) Identification of a contracting agent meeting state requirements for each activity proposed for funding.

Each contracting agent must execute a written agreement with its local community mobilization advisory board that reflects the duties and powers of each party.

(3) Activities that may be funded through this grant program include those that:

(a) Prevent alcohol, tobacco, or other drug abuse, or violence through educational efforts, development of positive alternatives, intervention with high-risk groups, and other prevention strategies;

(b) Support effective treatment by increasing access to and availability of treatment opportunities, particularly for underserved or highly impacted populations, developing aftercare and support mechanisms, and other strategies to increase the availability and effectiveness of treatment;

(c) Provide meaningful consequences for participation in illegal activity and promote safe and healthy communities through support of law enforcement strategies;

(d) Create or build on efforts by existing community programs, coordinate their efforts, and develop cooperative efforts or other initiatives to make most effective use of resources to carry out the community's strategy against alcohol, tobacco, or other drug abuse, or violence; and

(e) Other activities that demonstrate both feasibility and a rationale for how the activity will achieve measurable results in the strategy against alcohol, tobacco, or other drug abuse, or violence.

**Sec. 202.** RCW 43.270.070 and 2001 c 48 s 3 are each amended to read as follows:

The department of (~~community, trade, and economic development~~) social and health services shall ask communities for suggestions on state practices, policies, and priorities that would help communities implement their strategies against alcohol, tobacco, or other drug abuse, or violence. The department of (~~community, trade, and economic development~~) social and health services shall review and respond to those suggestions making necessary changes where feasible, making recommendations to the legislature where appropriate, and providing an explanation as to why suggested changes cannot be accomplished, if the suggestions cannot be acted upon.

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**Sec. 203.** RCW 43.270.080 and 2001 c 48 s 4 are each amended to read as follows:

The department of (~~community, trade, and economic development~~) social and health services may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of RCW 43.270.010 through 43.270.080 and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments.

**NEW SECTION. Sec. 204.** (1) All powers, duties, and functions of the department of commerce pertaining to the community mobilization against substance abuse program are transferred to the department of social and health services. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the secretary or the department of social and health services when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of social and health services. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the department of social and health services. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of social and health services.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the department of social and health services.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of social and health services. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of social and health services to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of social and health services. All existing contracts and obligations shall remain in full force and shall be performed by the department of social and health services.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the department of social and health services under this section whose positions are within an existing bargaining unit description at the department of social and health services shall become a part of the existing bargaining unit at the department of social and health services and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

**PART III  
DEPARTMENT OF HEALTH--DEVELOPMENTAL  
DISABILITIES**

**Sec. 301.** RCW 43.330.210 and 2009 c 565 s 11 are each amended to read as follows:

The developmental disabilities endowment governing board is established to design and administer the developmental disabilities endowment. To the extent funds are appropriated for this purpose, the director of the department (~~of commerce~~) shall provide staff and administrative support to the governing board.

(1) The governing board shall consist of seven members as follows:

(a) Three of the members, who shall be appointed by the governor, shall be persons who have demonstrated expertise and leadership in areas such as finance, actuarial science, management, business, or public policy.

(b) Three members of the board, who shall be appointed by the governor, shall be persons who have demonstrated expertise and leadership in areas such as business, developmental disabilities service design, management, or public policy, and shall be family members of persons with developmental disabilities.

(c) The seventh member of the board, who shall serve as chair of the board, shall be appointed by the remaining six members of the board.

(2) Members of the board shall serve terms of four years and may be appointed for successive terms of four years at the discretion of the appointing authority. However, the governor may stagger the terms of the initial six members of the board so that approximately one-fourth of the members' terms expire each year.

(3) Members of the board shall be compensated for their service under RCW 43.03.240 and shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(4) The board shall meet periodically as specified by the call of the chair, or a majority of the board.

(5) Members of the governing board and the state investment board shall not be considered an insurer of the funds or assets of the endowment trust fund or the individual trust accounts. Neither of these two boards or their members shall be liable for the action or inaction of the other.

(6) Members of the governing board and the state investment board are not liable to the state, to the fund, or to any other person as a result of their activities as members, whether ministerial or discretionary, except for willful dishonesty or intentional violations of law. The department and the state investment board, respectively, may purchase liability insurance for members.

**Sec. 302.** RCW 43.330.240 and 2009 c 565 s 12 are each amended to read as follows:

The department (~~of commerce~~) shall adopt rules for the implementation of policies established by the governing board in RCW 43.330.200 through 43.330.230 (as recodified by this act). Such rules will be consistent with those statutes and chapter 34.05 RCW.

**NEW SECTION. Sec. 303.** The following sections are each recodified as sections in chapter 43.70 RCW:

RCW 43.330.195

RCW 43.330.200

RCW 43.330.205

RCW 43.330.210

RCW 43.330.220

RCW 43.330.225

RCW 43.330.230

RCW 43.330.240

**NEW SECTION. Sec. 304.** (1) All powers, duties, and functions of the department of commerce pertaining to the developmental disabilities endowment are transferred to the department of health. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the secretary or the department of health when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of health. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the department of health. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of health.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the department of health.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of health. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of health to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of health. All existing contracts and obligations shall remain in full force and shall be performed by the department of health.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the department of health under this section whose positions are within an existing bargaining unit description at the department of health shall become a part of the existing bargaining unit at the department of health and shall be considered an

appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

**PART IV  
DEPARTMENT OF SOCIAL AND HEALTH  
SERVICES--SPECIAL NEEDS  
HOUSING ASSISTANCE**

**Sec. 401.** RCW 82.14.400 and 2000 c 240 s 1 are each amended to read as follows:

(1) Upon the joint request of a metropolitan park district, a city with a population of more than one hundred fifty thousand, and a county legislative authority in a county with a national park and a population of more than five hundred thousand and less than one million five hundred thousand, the county shall submit an authorizing proposition to the county voters, fixing and imposing a sales and use tax in accordance with this chapter for the purposes designated in subsection (4) of this section and identified in the joint request. Such proposition must be placed on a ballot for a special or general election to be held no later than one year after the date of the joint request.

(2) The proposition is approved if it receives the votes of a majority of those voting on the proposition.

(3) The tax authorized in this section is in addition to any other taxes authorized by law and shall be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county. The rate of tax shall equal no more than one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(4) Moneys received from any tax imposed under this section shall be used solely for the purpose of providing funds for:

(a) Costs associated with financing, design, acquisition, construction, equipping, operating, maintaining, remodeling, repairing, reequipping, or improvement of zoo, aquarium, and wildlife preservation and display facilities that are currently accredited by the American zoo and aquarium association; or

(b) Those costs associated with (a) of this subsection and costs related to parks located within a county described in subsection (1) of this section.

(5) The department of revenue shall perform the collection of such taxes on behalf of the county at no cost to the county. In lieu of the charge for the administration and collection of local sales and use taxes under RCW 82.14.050 from which the county is exempt under this subsection (5), a percentage of the tax revenues authorized by this section equal to one-half of the maximum percentage provided in RCW 82.14.050 shall be transferred annually to the department of ~~((community, trade, and economic development, or its successor agency,))~~ social and health services from the funds allocated under subsection (6)(b) of this section for a period of twelve years from the first date of distribution of funds under subsection (6)(b) of this section. The department of ~~((community, trade, and economic development, or its successor agency,))~~ social and health services shall use funds transferred to it pursuant to this subsection (5) to provide, operate, and maintain community-based housing ~~((under chapter 43.185 RCW))~~ for persons who are mentally ill.

(6) If the joint request and the authorizing proposition include provisions for funding those costs included within subsection (4)(b) of this section, the tax revenues authorized by this section shall be allocated annually as follows:

(a) Fifty percent to the zoo and aquarium advisory authority; and

(b) Fifty percent to be distributed on a per capita basis as set out in the most recent population figures for unincorporated and

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incorporated areas only within that county, as determined by the office of financial management, solely for parks, as follows: To any metropolitan park district, to cities and towns not contained within a metropolitan park district, and the remainder to the county. Moneys received under this subsection (6)(b) by a county may not be used to replace or supplant existing per capita funding.

(7) Funds shall be distributed annually by the county treasurer to the county, and cities and towns located within the county, in the manner set out in subsection (6)(b) of this section.

(8) Prior to expenditure of any funds received by the county under subsection (6)(b) of this section, the county shall establish a process which considers needs throughout the unincorporated areas of the county in consultation with community advisory councils established by ordinance.

(9) By December 31, 2005, and thereafter, the county or any city with a population greater than eighty thousand must provide at least one dollar match for every two dollars received under this section.

(10) Properties subject to a memorandum of agreement between the federal bureau of land management, the advisory council on historic preservation, and the Washington state historic preservation officer have priority for funding from money received under subsection (6)(b) of this section for implementation of the stipulations in the memorandum of agreement.

(a) At least one hundred thousand dollars of the first four years of allocations under subsection (6)(b) of this section, to be matched by the county or city with one dollar for every two dollars received, shall be used to implement the stipulations of the memorandum of agreement and for other historical, archaeological, architectural, and cultural preservation and improvements related to the properties.

(b) The amount in (a) of this subsection shall come equally from the allocations to the county and to the city in which the properties are located, unless otherwise agreed to by the county and the city.

(c) The amount in (a) of this subsection shall not be construed to displace or be offered in lieu of any lease payment from a county or city to the state for the properties in question.

**NEW SECTION. Sec. 402.** (1) Powers, duties, and functions of the department of commerce pertaining to housing assistance for persons with mental illness, that are transferred in this act, are transferred to the department of social and health services. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the secretary or the department of social and health services when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of social and health services. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the department of social and health services. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of social and health services.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the department of social and health services.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a

determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of social and health services. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of social and health services to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of social and health services. All existing contracts and obligations shall remain in full force and shall be performed by the department of social and health services.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the department of social and health services under this section whose positions are within an existing bargaining unit description at the department of social and health services shall become a part of the existing bargaining unit at the department of social and health services and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

**Sec. 403.** RCW 43.63A.305 and 2009 c 148 s 1 are each amended to read as follows:

(1) The independent youth housing program is created in the department to provide housing stipends to eligible youth to be used for independent housing. In developing a plan for the design, implementation, and operation of the independent youth housing program, the department shall:

(a) Adopt policies, requirements, and procedures necessary to administer the program;

(b) Contract with one or more eligible organizations ~~((described))~~ listed under RCW 43.185A.040 to provide services and conduct administrative activities as described in subsection (3) of this section;

(c) Establish eligibility criteria for youth to participate in the independent youth housing program, giving priority to youth who have been dependents of the state for at least one year;

(d) Refer interested youth to the designated subcontractor organization administering the program in the area in which the youth intends to reside;

(e) Develop a method for determining the amount of the housing stipend, first and last month's rent, and security deposit, where applicable, to be dedicated to participating youth. The method for determining a housing stipend must take into account a youth's age, the youth's total income from all sources, the fair market rent for the area in which the youth lives or intends to live, and a variety of possible living situations for the youth. The amount of housing stipends must be adjusted, by a method and formula established by the department, to promote the successful transition for youth to complete housing self-sufficiency over time;

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(f) Ensure that the independent youth housing program is integrated and aligned with other state rental assistance and case management programs operated by the department of commerce, as well as case management and supportive services programs, including the independent living program, the transitional living program, and other related programs offered by the department (~~of social and health services~~); and

(g) Consult with (~~the department of social and health services and other~~) stakeholders involved with dependent youth, homeless youth, and homeless young adults, as appropriate.

(2) The department (~~of social and health services~~) shall collaborate with the department of commerce in implementing and operating the independent youth housing program including, but not limited to, the following:

(a) Refer potential eligible youth to the department before the youth's eighteenth birthday, if feasible, to include an indication, if known, of where the youth plans to reside after aging out of foster care;

(b) Provide information to all youth aged fifteen or older, who are dependents of the state under chapter 13.34 RCW, about the independent youth housing program, encouraging dependents nearing their eighteenth birthday to consider applying for enrollment in the program;

(c) Encourage organizations participating in the independent living program and the transitional living program to collaborate with independent youth housing program providers whenever possible to capitalize on resources and provide the greatest amount and variety of services to eligible youth;

(d) Annually provide to the department of commerce data reflecting changes in the percentage of youth aging out of the state dependency system each year who are eligible for state assistance, as well as any other data and performance measures that may assist the department of commerce to measure program success; and

(e) Annually, beginning by December 31, 2007, provide to the appropriate committees of the legislature and the interagency council on homelessness as described under RCW 43.185C.170 recommendations of strategies to reach the goals described in RCW 43.63A.311(2)(g) (as recodified by this act).

(3) Under the independent youth housing program, subcontractor organizations shall:

(a) Use moneys awarded to the organizations for housing stipends, security deposits, first and last month's rent stipends, case management program costs, and administrative costs. When subcontractor organizations determine that it is necessary to assist participating youth in accessing and maintaining independent housing, subcontractor organizations may also use moneys awarded to pay for professional mental health services and tuition costs for court-ordered classes and programs;

(i) Administrative costs for each subcontractor organization may not exceed twelve percent of the estimated total annual grant amount to the subcontractor organization;

(ii) All housing stipends, security deposits, and first and last month's rent stipends must be payable only to a landlord or housing manager of any type of independent housing;

(b) Enroll eligible youth who are referred by the department and who choose to reside in their assigned service area;

(c) Enter eligible youth program participants into the homeless client management information system as described in RCW 43.185C.180;

(d) Monitor participating youth's housing status;

(e) Evaluate participating youth's eligibility and compliance with department policies and procedures at least twice a year;

(f) Assist participating youth to develop or update an independent living plan focused on obtaining and retaining independent housing or collaborate with a case manager with whom

the youth is already involved to ensure that the youth has an independent living plan;

(g) Educate participating youth on tenant rights and responsibilities;

(h) Provide support to participating youth in the form of general case management and information and referral services, when necessary, or collaborate with a case manager with whom the youth is already involved to ensure that the youth is receiving the case management and information and referral services needed;

(i) Connect participating youth, when possible, with individual development account programs, other financial literacy programs, and other programs that are designed to help young people acquire economic independence and self-sufficiency, or collaborate with a case manager with whom the youth is already involved to ensure that the youth is receiving information and referrals to these programs, when appropriate;

(j) Submit expenditure and performance reports, including information related to the performance measures in RCW 43.63A.311 (as recodified by this act), to the department on a time schedule determined by the department; and

(k) Provide recommendations to the department regarding program improvements and strategies that might assist the state to reach its goals as described in RCW 43.63A.311(2)(g) (as recodified by this act).

**Sec. 404.** RCW 43.63A.307 and 2009 c 148 s 2 are each amended to read as follows:

The definitions in this section apply throughout (~~this chapter~~) RCW 43.63A.305 through 43.63A.315 (as recodified by this act) unless the context clearly requires otherwise.

(1) ("Department" means the department of community, trade, and economic development.

(2)) "Eligible youth" means an individual who:

(a) On or after September 1, 2006, is at least eighteen, was a dependent of the state under chapter 13.34 RCW at any time during the four-month period before his or her eighteenth birthday, and has not yet reached the age of twenty-three;

(b) Except as provided in RCW 43.63A.309(2)(a) (as recodified by this act), has a total income from all sources, except for temporary sources that include, but are not limited to, overtime wages, bonuses, or short-term temporary assignments, that does not exceed fifty percent of the area median income;

(c) Is not receiving services under RCW 74.13.031(10)(b);

(d) Complies with other eligibility requirements the department may establish.

~~((3))~~ (2) "Fair market rent" means the fair market rent in each county of the state, as determined by the United States department of housing and urban development.

~~((4))~~ (3) "Independent housing" means a housing unit that is not owned by or located within the home of the eligible youth's biological parents or any of the eligible youth's former foster care families or dependency guardians. "Independent housing" may include a unit in a transitional or other supportive housing facility.

~~((5))~~ (4) "Individual development account" or "account" means an account established by contract between a low-income individual and a sponsoring organization for the benefit of the low-income individual and funded through periodic contributions by the low-income individual that are matched with contributions by or through the sponsoring organization.

~~((6))~~ (5) "Subcontractor organization" means an eligible organization described under RCW 43.185A.040 that contracts with the department to administer the independent youth housing program.

**Sec. 405.** RCW 43.63A.311 and 2007 c 316 s 5 are each amended to read as follows:

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Beginning in 2007, the department must annually review and report on the performance of subcontractor organizations participating in the independent youth housing program, as well as the performance of the program as a whole.

(1) Reporting should be within the context of the state homeless housing strategic plan under RCW 43.185C.040 and any other relevant state or local homeless or affordable housing plans. The outcomes of the independent youth housing program must be included in the measurement of any performance measures described in chapter 43.185C RCW.

(2) The independent youth housing program report must include, at a minimum, an update on the following program performance measures, as well as any other performance measures the department may establish, for enrolled youth (~~(in consultation with the department of social and health services)~~), to be measured statewide and by county:

- (a) Increases in housing stability;
- (b) Increases in economic self-sufficiency;
- (c) Increases in independent living skills;
- (d) Increases in education and job training attainment;
- (e) Decreases in the use of all state-funded services over time;
- (f) Decreases in the percentage of youth aging out of the state dependency system each year who are eligible for state assistance

~~((as reported to the department by the department of social and health services)); and~~

(g) Recommendations to the legislature and to the interagency council on homelessness as described under RCW 43.185C.170 on program improvements and on departmental strategies that might assist the state to reach its goals of:

(i) Ensuring that all youth aging out of the state dependency system have access to a decent, appropriate, and affordable home in a healthy safe environment to prevent such youth from experiencing homelessness; and

(ii) Reducing each year the percentage of young people eligible for state assistance upon aging out of the state dependency system.

**Sec. 406.** RCW 43.63A.313 and 2007 c 316 s 6 are each amended to read as follows:

Chapter 316, Laws of 2007 does not create:

- (1) An entitlement to services;
- (2) Judicial authority to (a) extend the jurisdiction of juvenile court in a proceeding under chapter 13.34 RCW to a youth who has reached the age of eighteen or (b) order the provision of services to the youth; or
- (3) A private right of action or claim on the part of any individual, entity, or agency against the department(~~the department of social and health services,~~) or any contractor of the department(~~(s)~~).

**NEW SECTION. Sec. 407.** The following sections are each recodified as sections in chapter 43.20A RCW:

- RCW 43.63A.305
- RCW 43.63A.307
- RCW 43.63A.309
- RCW 43.63A.311
- RCW 43.63A.313
- RCW 43.63A.315

**NEW SECTION. Sec. 408.** (1) All powers, duties, and functions of the department of commerce pertaining to the independent youth housing program are transferred to the department of social and health services. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the secretary or the department of social and health services when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of

commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of social and health services. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the department of social and health services. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of social and health services.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the department of social and health services.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of social and health services. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of social and health services to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of social and health services. All existing contracts and obligations shall remain in full force and shall be performed by the department of social and health services.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the department of social and health services under this section whose positions are within an existing bargaining unit description at the department of social and health services shall become a part of the existing bargaining unit at the department of social and health services and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

#### **PART V DEPARTMENT OF LABOR AND INDUSTRIES--CRIME VICTIMS' PROGRAMS**

**Sec. 501.** RCW 9.94A.8673 and 2008 c 249 s 3 are each amended to read as follows:

(1) The sex offender policy board shall consist of thirteen voting members. Unless the member is specifically named in this section, the following organizations shall designate a person to sit on the board.

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- (a) The Washington association of sheriffs and police chiefs;
- (b) The Washington association of prosecuting attorneys;
- (c) The Washington association of criminal defense lawyers;
- (d) The chair of the indeterminate sentence review board or his or her designee;
- (e) The Washington association for the treatment of sex abusers;
- (f) The secretary of the department of corrections or his or her designee;
- (g) The Washington state superior court judge's association;
- (h) The assistant secretary of the juvenile rehabilitation administration or his or her designee;
- (i) The office of crime victims advocacy in the department of ~~((community, trade, and economic development))~~ labor and industries;
- (j) The Washington state association of counties;
- (k) The association of Washington cities;
- (l) The Washington association of sexual assault programs; and
- (m) The director of the special commitment center or his or her designee.

(2) The person so named in subsection (1) of this section has the authority to make decisions on behalf of the organization he or she represents.

(3) The nonvoting membership shall consist of the following:

- (a) Two members of the sentencing guidelines commission chosen by the chair of the commission; and
- (b) A representative of the criminal justice division in the attorney general's office.

(4) The board shall choose its chair by majority vote from among its voting membership. The chair's term shall be two years.

(5) The chair of the sentencing guidelines commission shall convene the first meeting.

(6) The Washington institute for public policy shall act as an advisor to the board.

**Sec. 502.** RCW 43.63A.720 and 1995 c 353 s 7 are each amended to read as follows:

There is established in the department ~~((of community, trade, and economic development))~~ a grant program to enhance funding for prostitution prevention and intervention services. Activities that can be funded through this grant program shall provide effective prostitution prevention and intervention services, such as counseling, parenting, housing relief, education, and vocational training, that:

(1) Comprehensively address the problems of persons who are prostitutes; and

(2) Enhance the ability of persons to leave or avoid prostitution.

**Sec. 503.** RCW 43.63A.735 and 1995 c 353 s 10 are each amended to read as follows:

(1) Subject to funds appropriated by the legislature, including funds in the prostitution prevention and intervention account, the department ~~((of community, trade, and economic development))~~ shall make awards under the grant program established by RCW 43.63A.720 (as recodified by this act).

(2) Awards shall be made competitively based on the purposes of and criteria in RCW 43.63A.720 through 43.63A.730 (as recodified by this act).

(3) Activities funded under this section may be considered for funding in future years, but shall be considered under the same terms and criteria as new activities. Funding of a program or activity under this chapter shall not constitute an obligation by the state of Washington to provide ongoing funding.

(4) The department ~~((of community, trade, and economic development))~~ may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the grant program established under RCW 43.63A.720 (as recodified by this

act) and expend the same or any income from these sources according to the terms of the gifts, grants, or endowments.

(5) The department ~~((of community, trade, and economic development))~~ may expend up to five percent of the funds appropriated for the grant program for administrative costs and grant supervision.

**Sec. 504.** RCW 43.280.011 and 1996 c 123 s 1 are each amended to read as follows:

The Washington state sexual assault services advisory committee issued a report to the department of community, trade, and economic development and the department of social and health services in June of 1995. The committee made several recommendations to improve the delivery of services to victims of sexual abuse and assault: (1) Consolidate the administration and funding of sexual assault and abuse services in one agency instead of splitting those functions between the department of social and health services and the department of community, trade, and economic development; (2) adopt a funding allocation plan to pool all funds for sexual assault services and to distribute them across the state to ensure the delivery of core and specialized services; (3) establish service, data collection, and management standards and outcome measurements for recipients of grants; and (4) create a data collection system to gather pertinent data concerning the delivery of sexual assault services to victims.

The legislature approves the recommendations of the advisory committee and consolidates the functions and funding for sexual assault services in the department of ~~((community, trade, and economic development))~~ labor and industries to implement the advisory committee's recommendations.

~~((The legislature does not intend to effect a reduction in service levels within available funding by transferring department of social and health services' powers and duties to the department of community, trade, and economic development.))~~ At a minimum, the department of ~~((community, trade, and economic development))~~ social and health services shall distribute the same percentage of the services it provides victims of sexual assault and abuse, pursuant to RCW 43.280.020, 70.125.080, and 74.14B.060, to children as were distributed to children through these programs in fiscal year 1996.

**Sec. 505.** RCW 43.280.020 and 1996 c 123 s 3 are each amended to read as follows:

There is established in the department of ~~((community, trade, and economic development))~~ labor and industries a grant program to enhance the funding for treating the victims of sex offenders. Activities that can be funded through this grant program are limited to those that:

(1) Provide effective treatment to victims of sex offenders;

(2) Increase access to and availability of treatment for victims of sex offenders, particularly if from underserved populations; and

(3) Create or build on efforts by existing community programs, coordinate those efforts, or develop cooperative efforts or other initiatives to make the most effective use of resources to provide treatment services to these victims.

Funding shall be given to those applicants that emphasize providing stable, victim-focused sexual abuse services and possess the qualifications to provide core services, as defined in RCW 70.125.030. Funds for specialized services, as defined in RCW 70.125.030, shall be disbursed through the request for proposal or request for qualifications process.

**Sec. 506.** RCW 43.280.060 and 1996 c 123 s 5 are each amended to read as follows:

(1) Subject to funds appropriated by the legislature, the department of ~~((community, trade, and economic development))~~ labor and industries shall make awards under the grant program established by RCW 43.280.020.

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(2) To aid the department of (~~community, trade, and economic development~~) labor and industries in making its funding determinations, the department shall form a peer review committee comprised of individuals who are knowledgeable or experienced in the management or delivery of treatment services to victims of sex offenders. The peer review committee shall advise the department on the extent to which each eligible applicant meets the treatment and management standards, as developed by the department. The department shall consider this advice in making awards.

(3) Activities funded under this section may be considered for funding in future years, but shall be considered under the same terms and criteria as new activities. Funding under this chapter shall not constitute an obligation by the state of Washington to provide ongoing funding.

**Sec. 507.** RCW 43.280.070 and 1995 c 399 s 115 are each amended to read as follows:

The department of (~~community, trade, and economic development~~) labor and industries may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of this chapter and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments.

**Sec. 508.** RCW 43.280.080 and 1995 c 241 s 1 are each amended to read as follows:

The office of crime victims advocacy is established in the department of (~~community, trade, and economic development~~) labor and industries. The office shall assist communities in planning and implementing services for crime victims, advocate on behalf of crime victims in obtaining needed services and resources, and advise local and state governments on practices, policies, and priorities that impact crime victims. In addition, the office shall administer grant programs for sexual assault treatment and prevention services, as authorized in this chapter.

**Sec. 509.** RCW 43.280.090 and 1995 c 269 s 2102 are each amended to read as follows:

The director of the department of (~~community, trade, and economic development~~) labor and industries may establish ad hoc advisory committees, as necessary, to obtain advice and guidance regarding the office of crime victims advocacy program.

**Sec. 510.** RCW 70.125.030 and 2009 c 565 s 50 are each reenacted and amended to read as follows:

As used in this chapter and unless the context indicates otherwise:

(1) "Community sexual assault program" means a community-based social service agency that is qualified to provide and provides core services to victims of sexual assault.

(2) "Core services" means treatment services for victims of sexual assault including information and referral, crisis intervention, medical advocacy, legal advocacy, support, system coordination, and prevention for potential victims of sexual assault.

(3) "Department" means the department of (~~commerce~~) labor and industries.

(4) "Law enforcement agencies" means police and sheriff's departments of this state.

(5) "Personal representative" means a friend, relative, attorney, or employee or volunteer from a community sexual assault program or specialized treatment service provider.

(6) "Rape crisis center" means a community-based social service agency which provides services to victims of sexual assault.

(7) "Sexual assault" means one or more of the following:

- (a) Rape or rape of a child;
- (b) Assault with intent to commit rape or rape of a child;
- (c) Incest or indecent liberties;
- (d) Child molestation;
- (e) Sexual misconduct with a minor;

(f) Custodial sexual misconduct;

(g) Crimes with a sexual motivation; or

(h) An attempt to commit any of the aforementioned offenses.

(8) "Specialized services" means treatment services for victims of sexual assault including support groups, therapy, and specialized sexual assault medical examination.

(9) "Victim" means any person who suffers physical and/or mental anguish as a proximate result of a sexual assault.

**Sec. 511.** RCW 74.14B.060 and 1996 c 123 s 8 are each amended to read as follows:

(1) Treatment services for children who have been sexually assaulted must be designed and delivered in a manner that accommodates their unique developmental needs and also considers the impact of family dynamics on treatment issues. In addition, the complexity of the civil and criminal justice systems requires that children who are involved receive appropriate consideration and attention that recognizes their unique vulnerability in a system designed primarily for adults.

(2) The department of (~~community, trade, and economic development~~) labor and industries shall provide, subject to available funds, comprehensive sexual assault services to sexually abused children and their families. The department shall provide treatment services by qualified, registered, certified, or licensed professionals on a one-to-one or group basis as may be deemed appropriate.

(3) Funds appropriated under this section shall be provided solely for contracts or direct purchase of specific treatment services from community organizations and private service providers for child victims of sexual assault and sexual abuse. Funds shall be disbursed through the request for proposal or request for qualifications process.

(4) As part of the request for proposal or request for qualifications process the department of (~~community, trade, and economic development~~) labor and industries shall ensure that there be no duplication of services with existing programs including the crime victims' compensation program as provided in chapter 7.68 RCW. The department shall also ensure that victims exhaust private insurance benefits available to the child victim before providing services to the child victim under this section.

**NEW SECTION. Sec. 512.** The following sections are each recodified as sections in chapter 43.22 RCW:

RCW 43.63A.720

RCW 43.63A.725

RCW 43.63A.730

RCW 43.63A.735

RCW 43.63A.740

**NEW SECTION. Sec. 513.** (1) All powers, duties, and functions of the department of commerce pertaining to the office of crime victims advocacy are transferred to the department of labor and industries. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the director or the department of labor and industries when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of labor and industries. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the department of labor and industries. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of labor and industries.

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(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the department of labor and industries.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of labor and industries. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of labor and industries to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of labor and industries. All existing contracts and obligations shall remain in full force and shall be performed by the department of labor and industries.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the department of labor and industries under this section whose positions are within an existing bargaining unit description at the department of labor and industries shall become a part of the existing bargaining unit at the department of labor and industries and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

NEW SECTION. **Sec. 514.** RCW 43.280.081 is decodified.

#### **PART VI WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION—ENERGY**

**Sec. 601.** RCW 80.50.030 and 2001 c 214 s 4 are each amended to read as follows:

(1) There is created and established the energy facility site evaluation council.

(2)(a) The chair of the council shall be appointed by the governor with the advice and consent of the senate, shall have a vote on matters before the council, shall serve for a term coextensive with the term of the governor, and is removable for cause. The chair may designate a member of the council to serve as acting chair in the event of the chair's absence. The salary of the chair shall be determined under RCW 43.03.040. The chair is a "state employee" for the purposes of chapter 42.52 RCW. As applicable, when attending meetings of the council, members may receive reimbursement for travel expenses in accordance with RCW

43.03.050 and 43.03.060, and are eligible for compensation under RCW 43.03.250.

(b) The chair or a designee shall execute all official documents, contracts, and other materials on behalf of the council. The Washington (~~state department of community, trade, and economic development~~) utilities and transportation commission shall provide all administrative and staff support for the council. The (~~director of the department of community, trade, and economic development~~) commission has supervisory authority over the staff of the council and shall employ such personnel as are necessary to implement this chapter. Not more than three such employees may be exempt from chapter 41.06 RCW.

(3)(a) The council shall consist of the directors, administrators, or their designees, of the following departments, agencies, commissions, and committees or their statutory successors:

- (i) Department of ecology;
- (ii) Department of fish and wildlife;
- (iii) Department of (~~community, trade, and economic development~~) commerce;
- (iv) Utilities and transportation commission; and
- (v) Department of natural resources.

(b) The directors, administrators, or their designees, of the following departments, agencies, and commissions, or their statutory successors, may participate as councilmembers at their own discretion provided they elect to participate no later than sixty days after an application is filed:

- (i) Department of agriculture;
- (ii) Department of health;
- (iii) Military department; and
- (iv) Department of transportation.

(c) Council membership is discretionary for agencies that choose to participate under (b) of this subsection only for applications that are filed with the council on or after May 8, 2001. For applications filed before May 8, 2001, council membership is mandatory for those agencies listed in (b) of this subsection.

(4)(a) The appropriate county legislative authority of every county wherein an application for a proposed site is filed shall appoint a member or designee as a voting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the county which he or she represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site.

(b) The council shall otherwise retain its independence in exercising its powers, functions, and duties and its supervisory control over nonadministrative staff support. Membership, powers, functions, and duties of the Washington state utilities and transportation commission and the council shall otherwise remain as provided by law.

(5) The city legislative authority of every city within whose corporate limits an energy plant is proposed to be located shall appoint a member or designee as a voting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the city which he or she represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site.

(6) For any port district wherein an application for a proposed port facility is filed subject to this chapter, the port district shall appoint a member or designee as a nonvoting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the port district which he or she represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site. The provisions of this subsection

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shall not apply if the port district is the applicant, either singly or in partnership or association with any other person.

**NEW SECTION. Sec. 602.** (1) All administrative powers, duties, and functions of the department of commerce pertaining to the energy facility site evaluation council are transferred to the Washington utilities and transportation commission. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the chair or the Washington utilities and transportation commission when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the Washington utilities and transportation commission. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the Washington utilities and transportation commission. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the Washington utilities and transportation commission.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the Washington utilities and transportation commission.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the Washington utilities and transportation commission. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the Washington utilities and transportation commission to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the Washington utilities and transportation commission. All existing contracts and obligations shall remain in full force and shall be performed by the Washington utilities and transportation commission.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the Washington utilities and transportation commission under this section whose positions are within an existing bargaining unit description at the Washington utilities and transportation commission shall become a part of the existing bargaining unit at the Washington utilities and transportation commission and shall be

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considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

**PART VII  
OFFICE OF FINANCIAL MANAGEMENT--LONG-TERM  
CARE OMBUDSMAN**

**Sec. 701.** RCW 43.190.030 and 1997 c 194 s 1 are each amended to read as follows:

There is created the office of the state long-term care ombudsman. The ~~((department of community, trade, and economic development))~~ office of financial management shall contract with a private nonprofit organization to provide long-term care ombudsman services as specified under, and consistent with, the federal older Americans act as amended, federal mandates, the goals of the state, and the needs of its citizens. The ~~((department of community, trade, and economic development))~~ office of financial management shall ensure that all program and staff support necessary to enable the ombudsman to effectively protect the interests of residents, patients, and clients of all long-term care facilities is provided by the nonprofit organization that contracts to provide long-term care ombudsman services. The ~~((department of community, trade, and economic development))~~ office of financial management shall adopt rules to carry out this chapter and the long-term care ombudsman provisions of the federal older Americans act, as amended, and applicable federal regulations. The long-term care ombudsman program shall have the following powers and duties:

(1) To provide services for coordinating the activities of long-term care ombudsmen throughout the state;

(2) Carry out such other activities as the ~~((department of community, trade, and economic development))~~ office of financial management deems appropriate;

(3) Establish procedures consistent with RCW 43.190.110 for appropriate access by long-term care ombudsmen to long-term care facilities and patients' records, including procedures to protect the confidentiality of the records and ensure that the identity of any complainant or resident will not be disclosed without the written consent of the complainant or resident, or upon court order;

(4) Establish a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems, with provision for submission of such data to the department of social and health services and to the federal department of health and human services, or its successor agency, on a regular basis; and

(5) Establish procedures to assure that any files maintained by ombudsman programs shall be disclosed only at the discretion of the ombudsman having authority over the disposition of such files, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed by such ombudsman unless:

(a) Such complainant or resident, or the complainant's or resident's legal representative, consents in writing to such disclosure; or

(b) Such disclosure is required by court order.

**Sec. 702.** RCW 43.190.120 and 1983 c 290 s 12 are each amended to read as follows:

It is the intent that federal requirements be complied with and the ~~((department))~~ office of financial management annually expend at least one percent of the state's allotment of social services funds from Title III B of the Older Americans Act of 1965, as it exists as of July 24, 1983, or twenty thousand dollars, whichever is greater to establish the state long-term care ombudsman program established by this chapter if funds are appropriated by the legislature.

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**NEW SECTION. Sec. 703.** (1) All powers, duties, and functions of the department of commerce pertaining to the long-term care ombudsman program are transferred to the office of financial management. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the director or the office of financial management when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the office of financial management. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the office of financial management. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the office of financial management.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the office of financial management.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the office of financial management. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the office of financial management to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the office of financial management. All existing contracts and obligations shall remain in full force and shall be performed by the office of financial management.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the office of financial management under this section whose positions are within an existing bargaining unit description at the office of financial management shall become a part of the existing bargaining unit at the office of financial management and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

**Sec. 801.** RCW 19.27.070 and 1995 c 399 s 8 are each amended to read as follows:

There is hereby established a state building code council to be appointed by the governor.

(1) The state building code council shall consist of fifteen members, two of whom shall be county elected legislative body members or elected executives and two of whom shall be city elected legislative body members or mayors. One of the members shall be a local government building code enforcement official and one of the members shall be a local government fire service official. Of the remaining nine members, one member shall represent general construction, specializing in commercial and industrial building construction; one member shall represent general construction, specializing in residential and multifamily building construction; one member shall represent the architectural design profession; one member shall represent the structural engineering profession; one member shall represent the mechanical engineering profession; one member shall represent the construction building trades; one member shall represent manufacturers, installers, or suppliers of building materials and components; one member shall be a person with a physical disability and shall represent the disability community; and one member shall represent the general public. At least six of these fifteen members shall reside east of the crest of the Cascade mountains. The council shall include: Two members of the house of representatives appointed by the speaker of the house, one from each caucus; two members of the senate appointed by the president of the senate, one from each caucus; and an employee of the electrical division of the department of labor and industries, as ex officio, nonvoting members with all other privileges and rights of membership. Terms of office shall be for three years. The council shall elect a member to serve as chair of the council for one-year terms of office. Any member who is appointed by virtue of being an elected official or holding public employment shall be removed from the council if he or she ceases being such an elected official or holding such public employment. Before making any appointments to the building code council, the governor shall seek nominations from recognized organizations which represent the entities or interests listed in this subsection. Members serving on the council on July 28, 1985, may complete their terms of office. Any vacancy shall be filled by alternating appointments from governmental and nongovernmental entities or interests until the council is constituted as required by this subsection.

(2) Members shall not be compensated but shall receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(3) The department of ~~((community, trade, and economic development))~~ general administration shall provide administrative and clerical assistance to the building code council.

**Sec. 802.** RCW 19.27.097 and 1995 c 399 s 9 are each amended to read as follows:

(1) Each applicant for a building permit of a building necessitating potable water shall provide evidence of an adequate water supply for the intended use of the building. Evidence may be in the form of a water right permit from the department of ecology, a letter from an approved water purveyor stating the ability to provide water, or another form sufficient to verify the existence of an adequate water supply. In addition to other authorities, the county or city may impose conditions on building permits requiring connection to an existing public water system where the existing system is willing and able to provide safe and reliable potable water to the applicant with reasonable economy and efficiency. An application for a water right shall not be sufficient proof of an adequate water supply.

**PART VIII  
BUILDING CODE COUNCIL**

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(2) Within counties not required or not choosing to plan pursuant to RCW 36.70A.040, the county and the state may mutually determine those areas in the county in which the requirements of subsection (1) of this section shall not apply. The departments of health and ecology shall coordinate on the implementation of this section. Should the county and the state fail to mutually determine those areas to be designated pursuant to this subsection, the county may petition the department of ~~((community, trade, and economic development))~~ general administration to mediate or, if necessary, make the determination.

(3) Buildings that do not need potable water facilities are exempt from the provisions of this section. The department of ecology, after consultation with local governments, may adopt rules to implement this section, which may recognize differences between high-growth and low-growth counties.

**Sec. 803.** RCW 19.27.150 and 1995 c 399 s 10 are each amended to read as follows:

Every month a copy of the United States department of commerce, bureau of the census' "report of building or zoning permits issued and local public construction" or equivalent report shall be transmitted by the governing bodies of counties and cities to the department of ~~((community, trade, and economic development))~~ general administration.

**Sec. 804.** RCW 19.27A.020 and 2009 c 423 s 4 are each amended to read as follows:

(1) The state building code council shall adopt rules to be known as the Washington state energy code as part of the state building code.

(2) The council shall follow the legislature's standards set forth in this section to adopt rules to be known as the Washington state energy code. The Washington state energy code shall be designed to:

(a) Construct increasingly energy efficient homes and buildings that help achieve the broader goal of building zero fossil-fuel greenhouse gas emission homes and buildings by the year 2031;

(b) Require new buildings to meet a certain level of energy efficiency, but allow flexibility in building design, construction, and heating equipment efficiencies within that framework; and

(c) Allow space heating equipment efficiency to offset or substitute for building envelope thermal performance.

(3) The Washington state energy code shall take into account regional climatic conditions. Climate zone 1 shall include all counties not included in climate zone 2. Climate zone 2 includes: Adams, Chelan, Douglas, Ferry, Grant, Kittitas, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, and Whitman counties.

(4) The Washington state energy code for residential buildings shall be the 2006 edition of the Washington state energy code, or as amended by rule by the council.

(5) The minimum state energy code for new nonresidential buildings shall be the Washington state energy code, 2006 edition, or as amended by the council by rule.

(6)(a) Except as provided in (b) of this subsection, the Washington state energy code for residential structures shall preempt the residential energy code of each city, town, and county in the state of Washington.

(b) The state energy code for residential structures does not preempt a city, town, or county's energy code for residential structures which exceeds the requirements of the state energy code and which was adopted by the city, town, or county prior to March 1, 1990. Such cities, towns, or counties may not subsequently amend their energy code for residential structures to exceed the requirements adopted prior to March 1, 1990.

(7) The state building code council shall consult with the department of ~~((community, trade, and economic development))~~ general administration as provided in RCW 34.05.310 prior to

publication of proposed rules. The director of the department of ~~((community, trade, and economic development))~~ general administration shall recommend to the state building code council any changes necessary to conform the proposed rules to the requirements of this section.

(8) The state building code council shall evaluate and consider adoption of the international energy conservation code in Washington state in place of the existing state energy code.

(9) The definitions in RCW 19.27A.140 apply throughout this section.

**Sec. 805.** RCW 19.27A.140 and 2009 c 423 s 2 are each amended to read as follows:

The definitions in this section apply to RCW 19.27A.130 through 19.27A.190 and 19.27A.020 unless the context clearly requires otherwise.

(1) "Benchmark" means the energy used by a facility as recorded monthly for at least one year and the facility characteristics information inputs required for a portfolio manager.

(2) "Conditioned space" means conditioned space, as defined in the Washington state energy code.

(3) "Consumer-owned utility" includes a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a mutual corporation or association formed under chapter 24.06 RCW, a port district formed under Title 53 RCW, or a water-sewer district formed under Title 57 RCW, that is engaged in the business of distributing electricity to one or more retail electric customers in the state.

(4) "Cost-effectiveness" means that a project or resource is forecast:

(a) To be reliable and available within the time it is needed; and

(b) To meet or reduce the power demand of the intended consumers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative project or resource, or any combination thereof.

(5) "Council" means the state building code council.

(6) ~~((("Department" means the department of community, trade, and economic development~~

~~—(7)))~~ "Embodied energy" means the total amount of fossil fuel energy consumed to extract raw materials and to manufacture, assemble, transport, and install the materials in a building and the life-cycle cost benefits including the recyclability and energy efficiencies with respect to building materials, taking into account the total sum of current values for the costs of investment, capital, installation, operating, maintenance, and replacement as estimated for the lifetime of the product or project.

~~((8)))~~ (7) "Energy consumption data" means the monthly amount of energy consumed by a customer as recorded by the applicable energy meter for the most recent twelve-month period.

~~((9)))~~ (8) "Energy service company" has the same meaning as in RCW 43.19.670.

~~((10)))~~ (9) "General administration" means the department of general administration.

~~((11)))~~ (10) "Greenhouse gas" and "greenhouse gases" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

~~((12)))~~ (11) "Investment grade energy audit" means an intensive engineering analysis of energy efficiency and management measures for the facility, net energy savings, and a cost-effectiveness determination.

~~((13)))~~ (12) "Investor-owned utility" means a corporation owned by investors that meets the definition of "corporation" as defined in RCW 80.04.010 and is engaged in distributing either

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electricity or natural gas, or both, to more than one retail electric customer in the state.

~~((14))~~ (13) "Major facility" means any publicly owned or leased building, or a group of such buildings at a single site, having ten thousand square feet or more of conditioned floor space.

~~((15))~~ (14) "National energy performance rating" means the score provided by the energy star program, to indicate the energy efficiency performance of the building compared to similar buildings in that climate as defined in the United States environmental protection agency "ENERGY STAR® Performance Ratings Technical Methodology."

~~((16))~~ (15) "Net zero energy use" means a building with net energy consumption of zero over a typical year.

~~((17))~~ (16) "Portfolio manager" means the United States environmental protection agency's energy star portfolio manager or an equivalent tool adopted by the department of general administration.

~~((18))~~ (17) "Preliminary energy audit" means a quick evaluation by an energy service company of the energy savings potential of a building.

~~((19))~~ (18) "Qualifying public agency" includes all state agencies, colleges, and universities.

~~((20))~~ (19) "Qualifying utility" means a consumer-owned or investor-owned gas or electric utility that serves more than twenty-five thousand customers in the state of Washington.

~~((21))~~ (20) "Reporting public facility" means any of the following:

(a) A building or structure, or a group of buildings or structures at a single site, owned by a qualifying public agency, that exceed ten thousand square feet of conditioned space;

(b) Buildings, structures, or spaces leased by a qualifying public agency that exceeds ten thousand square feet of conditioned space, where the qualifying public agency purchases energy directly from the investor-owned or consumer-owned utility;

(c) A wastewater treatment facility owned by a qualifying public agency; or

(d) Other facilities selected by the qualifying public agency.

~~((22))~~ (21) "State portfolio manager master account" means a portfolio manager account established to provide a single shared portfolio that includes reports for all the reporting public facilities.

**Sec. 806.** RCW 19.27A.150 and 2009 c 423 s 3 are each amended to read as follows:

(1) To the extent that funding is appropriated specifically for the purposes of this section, the department of commerce shall develop and implement a strategic plan for enhancing energy efficiency in and reducing greenhouse gas emissions from homes, buildings, districts, and neighborhoods. The strategic plan must be used to help direct the future code increases in RCW 19.27A.020, with targets for new buildings consistent with RCW 19.27A.160. The strategic plan will identify barriers to achieving net zero energy use in homes and buildings and identify how to overcome these barriers in future energy code updates and through complementary policies.

(2) The department of commerce must complete and release the strategic plan to the legislature and the council by December 31, 2010, and update the plan every three years.

(3) The strategic plan must include recommendations to the council on energy code upgrades. At a minimum, the strategic plan must:

(a) Consider development of aspirational codes separate from the state energy code that contain economically and technically feasible optional standards that could achieve higher energy efficiency for those builders that elected to follow the aspirational codes in lieu of or in addition to complying with the standards set forth in the state energy code;

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(b) Determine the appropriate methodology to measure achievement of state energy code targets using the United States environmental protection agency's target finder program or equivalent methodology;

(c) Address the need for enhanced code training and enforcement;

(d) Include state strategies to support research, demonstration, and education programs designed to achieve a seventy percent reduction in annual net energy consumption as specified in RCW 19.27A.160 and enhance energy efficiency and on-site renewable energy production in buildings;

(e) Recommend incentives, education, training programs and certifications, particularly state-approved training or certification programs, joint apprenticeship programs, or labor-management partnership programs that train workers for energy-efficiency projects to ensure proposed programs are designed to increase building professionals' ability to design, construct, and operate buildings that will meet the seventy percent reduction in annual net energy consumption as specified in RCW 19.27A.160;

(f) Address barriers for utilities to serve net zero energy homes and buildings and policies to overcome those barriers;

(g) Address the limits of a prescriptive code in achieving net zero energy use homes and buildings and propose a transition to performance-based codes;

(h) Identify financial mechanisms such as tax incentives, rebates, and innovative financing to motivate energy consumers to take action to increase energy efficiency and their use of on-site renewable energy. Such incentives, rebates, or financing options may consider the role of government programs as well as utility-sponsored programs;

(i) Address the adequacy of education and technical assistance, including school curricula, technical training, and peer-to-peer exchanges for professional and trade audiences;

(j) Develop strategies to develop and install district and neighborhood-wide energy systems that help meet net zero energy use in homes and buildings;

(k) Identify costs and benefits of energy efficiency measures on residential and nonresidential construction; and

(l) Investigate methodologies and standards for the measurement of the amount of embodied energy used in building materials.

(4) The department of commerce and the council shall convene a work group with the affected parties to inform the initial development of the strategic plan.

**Sec. 807.** RCW 19.27A.180 and 2009 c 423 s 7 are each amended to read as follows:

By December 31, 2009, to the extent that funding is appropriated specifically for the purposes of this section, the department of commerce shall develop and recommend to the legislature a methodology to determine an energy performance score for residential buildings and an implementation strategy to use such information to improve the energy efficiency of the state's existing housing supply. In developing its strategy, the department of commerce shall seek input from providers of residential energy audits, utilities, building contractors, mixed use developers, the residential real estate industry, and real estate listing and form providers.

**NEW SECTION. Sec. 808.** (1) All powers, duties, and functions of the department of commerce pertaining to administrative and support services for the state building code council are transferred to the department of general administration. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the director or the department of general administration when referring to the functions transferred in this section. Policy and planning assistance

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functions performed by the department of commerce remain with the department of commerce.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of general administration. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the department of general administration. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of general administration.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the department of general administration.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of general administration. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of general administration to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of general administration. All existing contracts and obligations shall remain in full force and shall be performed by the department of general administration.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the department of general administration under this section whose positions are within an existing bargaining unit description at the department of general administration shall become a part of the existing bargaining unit at the department of general administration and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

**PART IX**

**DEPARTMENT OF COMMERCE--ENERGY POLICY**

**Sec. 901.** RCW 43.21F.010 and 1975-'76 2nd ex.s. c 108 s 1 are each amended to read as follows:

(1) The legislature finds that the state needs to implement a comprehensive energy planning process that:

(a) Is based on high quality, unbiased analysis;

(b) Engages public agencies and stakeholders in a thoughtful, deliberative process that creates a cohesive plan that earns sustained support of the public and organizations and institutions that will ultimately be responsible for implementation and execution of the plan; and

(c) Establishes policies and practices needed to ensure the effective implementation of the strategy.

(2) The legislature further finds that energy drives the entire modern economy from petroleum for vehicles to electricity to light homes and power businesses. The legislature further finds that the nation and the world have started the transition to a clean energy economy, with significant improvements in energy efficiency and investments in new clean and renewable energy resources and technologies. The legislature further finds this transition may increase energy costs and it is imperative this increase be mitigated for Washington's energy cost advantage.

(3) The legislature finds and declares that it is the continuing purpose of state government, consistent with other essential considerations of state policy, to foster wise and efficient energy use and to promote energy self-sufficiency through the use of indigenous and renewable energy sources, consistent with the promotion of reliable energy sources, the general welfare, and the protection of environmental quality.

(4) The legislature further declares that a successful state energy strategy must balance three goals to:

(a) Maintain competitive energy prices that are fair and reasonable for consumers and businesses and support our state's continued economic success;

(b) Increase competitiveness by fostering a clean energy economy and jobs through business and workforce development; and

(c) Meet the state's obligations to reduce greenhouse gas emissions.

**Sec. 902.** RCW 43.21F.025 and 2009 c 565 s 27 are each reenacted and amended to read as follows:

(1) "Assistant director" means the assistant director of the department of commerce responsible for energy policy activities;

(2) "Department" means the department of commerce;

(3) "Director" means the director of the department of commerce;

(4) "Distributor" means any person, private corporation, partnership, individual proprietorship, utility, including investor-owned utilities, municipal utility, public utility district, joint operating agency, or cooperative, which engages in or is authorized to engage in the activity of generating, transmitting, or distributing energy in this state;

(5) "Energy" means petroleum or other liquid fuels; natural or synthetic fuel gas; solid carbonaceous fuels; fissionable nuclear material; electricity; solar radiation; geothermal resources; hydropower; organic waste products; wind; tidal activity; any other substance or process used to produce heat, light, or motion; or the savings from nongeneration technologies, including conservation or improved efficiency in the usage of any of the sources described in this subsection;

(6) "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, public utility district, joint operating agency, or any other entity, public or private, however organized; and

(7) "State energy strategy" means the document ~~((and energy policy direction))~~ developed ~~((under section 1, chapter 201, Laws of 1991 including any related appendices))~~ and updated by the department as allowed in RCW 43.21F.090.

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**NEW SECTION. Sec. 903.** A new section is added to chapter 43.21F RCW to read as follows:

(1) The state shall use the following principles to guide development and implementation of the state's energy strategy and to meet the goals of RCW 43.21F.010:

(a) Pursue all cost-effective energy efficiency and conservation as the state's preferred energy resource, consistent with state law;

(b) Ensure that the state's energy system meets the health, welfare, and economic needs of its citizens with particular emphasis on meeting the needs of low-income and vulnerable populations;

(c) Maintain and enhance economic competitiveness by ensuring an affordable and reliable supply of energy resources and by supporting clean energy technology innovation, access to clean energy markets worldwide, and clean energy business and workforce development;

(d) Reduce dependence on fossil fuel energy sources through improved efficiency and development of cleaner energy sources, such as bioenergy, low-carbon energy sources, and natural gas, and leveraging the indigenous resources of the state for the production of clean energy;

(e) Improve efficiency of transportation energy use through advances in vehicle technology, increased system efficiencies, development of electricity, biofuels, and other clean fuels, and regional transportation planning to improve transportation choices;

(f) Meet the state's statutory greenhouse gas limits and environmental requirements as the state develops and uses energy resources;

(g) Build on the advantage provided by the state's clean regional electrical grid by expanding and integrating additional carbon-free and carbon-neutral generation, and improving the transmission capacity serving the state;

(h) Make state government a model for energy efficiency, use of clean and renewable energy, and greenhouse gas-neutral operations; and

(i) Maintain and enhance our state's existing energy infrastructure.

(2) The department shall:

(a) During energy shortage emergencies, give priority to the allocation of energy resources to maintaining the public health, safety, and welfare of the state's citizens and industry in order to minimize adverse impacts on their physical, social, and economic well-being;

(b) Develop and disseminate impartial and objective energy information and analysis, while taking full advantage of the capabilities of the state's institutions of higher education, national laboratory, and other organizations with relevant expertise and analytical capabilities;

(c) Actively seek to maximize federal and other nonstate funding and support to the state for energy efficiency, renewable energy, emerging energy technologies, and other activities of benefit to the state's overall energy future; and

(d) Monitor the actions of all agencies of the state for consistent implementation of the state's energy policy including applicable statutory policies and goals relating to energy supply and use.

**Sec. 904.** RCW 43.21F.090 and 1996 c 186 s 106 are each amended to read as follows:

(1) By December 1, 2010, the department ((shall review the state energy strategy as developed under section 1, chapter 201, Laws of 1991, periodically with the guidance of an advisory committee. For each review, an advisory committee shall be established with a membership resembling as closely as possible the original energy strategy advisory committee specified under section 1, chapter 201, Laws of 1991. Upon completion of a public hearing regarding the advisory committee's advice and recommendations for revisions to the energy strategy, a written report shall be conveyed by the

department to the governor and the appropriate legislative committees. Any advisory committee established under this section shall be dissolved within three months after their written report is conveyed.)) of commerce shall update and revise the state energy strategy and implementation report with the guidance of an advisory committee formed under subsection (4) of this section. By December 1, 2011, and at least every five years thereafter, the department shall produce a fully updated state energy strategy and implementation report with the guidance of an advisory committee formed under subsection (4) of this section.

(2)(a) The strategy shall, to the maximum extent feasible, examine the state's entire energy system.

(b) In producing and updating the energy strategy, the department and advisory committee shall review related processes and documents relevant to a state energy strategy including, but not limited to, prior state energy strategies, the work of the clean energy leadership council, the climate advisory and action teams, the evergreen jobs committee, and reports of the state transportation planning commission, the economic development commission, and the Northwest power and conservation council.

(c) The strategy must build upon and be consistent with all relevant and applicable statutorily authorized energy, environmental, and other policies, goals, and programs.

(d) The strategy must identify administrative actions, regulatory coordination, and legislative recommendations that need to be undertaken to ensure that the energy strategy is implemented and operationally supported by all state agencies, regulatory bodies, and other organizations responsible for implementation of energy policy in the state.

(3) In order to facilitate high quality decision making, the director of the department shall engage a group of scientific, engineering, economic, and other experts in energy analysis.

(a) This group shall be comprised of representatives from the following institutions:

(i) Research institutions of higher education;

(ii) The Pacific Northwest national laboratory;

(iii) The Northwest power planning and conservation council; and

(iv) Other private, public, and nonprofit organizations that have a recognized expertise in engineering or economic analysis.

(b) This group will:

(i) Identify near and long-term analytical needs and capabilities necessary to develop a state energy strategy;

(ii) Provide unbiased information about the state and region's energy portfolio, future energy needs, scenarios for growth, and improved productivity.

(c) The department and advisory committee shall use this information in updating the state energy strategy.

(4)(a) In order to update the state strategy, the department shall form an advisory committee. The director shall appoint the advisory committee with a membership reflecting a balance of the interests in energy generation, distribution, and consumption, and economic development including: Residential, commercial, industrial, and agricultural users; electric and natural gas utilities or organizations, both consumer-owned and investor-owned; liquid fuel and natural gas industries; local governments; civic and environmental organizations; clean energy companies; energy research and development organizations, economic development organizations, and key public agencies; and other interested stakeholders. Any advisory committee established under this section must be dissolved within three months after the written report is conveyed. The department and advisory committee shall work with stakeholders and other state agencies to develop the strategy.

(b) Upon completion of a public hearing regarding the advisory

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committee's advice and recommendations for revisions to the energy strategy, the department shall present a written report to the governor and legislature which may include specific actions that will be needed to implement the strategy. The legislature shall, by concurrent resolution, approve or recommend changes to the strategy and updates.

(5) The department may periodically review and update the state energy strategy as necessary. The department shall engage an advisory committee as required in this section when updating the strategy and present any updates to the legislature for its approval.

(6) To assist in updates of the state energy strategy, the department shall actively seek both in-kind and financial support for this process from other nonstate sources. In order to avoid competition among Washington state agencies, the department shall coordinate the search for such external support. The department shall develop a work plan for updating the energy strategy that reflects the levels of activities and deliverables commensurate with the level of funding and in-kind support available from state and nonstate sources.

**NEW SECTION. Sec. 905.** RCW 43.21F.015 (State policy) and 1994 c 207 s 3 & 1981 c 295 s 1 are each repealed.

### PART X CRIMINAL JUSTICE TRAINING COMMISSION--SUBSTANCE ABUSE PROGRAM

**Sec. 1001.** RCW 36.27.100 and 1995 c 399 s 41 are each amended to read as follows:

The legislature recognizes that, due to the magnitude or volume of offenses in a given area of the state, there is a recurring need for supplemental assistance in the prosecuting of drug and drug-related offenses that can be directed to the area of the state with the greatest need for short-term assistance. A statewide drug prosecution assistance program is created within the ~~((department of community, trade, and economic development))~~ criminal justice training commission to assist county prosecuting attorneys in the prosecution of drug and drug-related offenses.

**NEW SECTION. Sec. 1002.** (1) All powers, duties, and functions of the department of commerce pertaining to the drug prosecution assistance program are transferred to the criminal justice training commission. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the director or the criminal justice training commission when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the criminal justice training commission. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the criminal justice training commission. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the criminal justice training commission.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the criminal justice training commission.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a

determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the criminal justice training commission. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the criminal justice training commission to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the criminal justice training commission. All existing contracts and obligations shall remain in full force and shall be performed by the criminal justice training commission.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the criminal justice training commission under this section whose positions are within an existing bargaining unit description at the criminal justice training commission shall become a part of the existing bargaining unit at the criminal justice training commission and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

### PART XI MUNICIPAL RESEARCH COUNCIL

**Sec. 1101.** RCW 43.110.030 and 2000 c 227 s 3 are each amended to read as follows:

~~((1))~~ (1) The ~~((municipal research council))~~ department of commerce shall contract for the provision of municipal research and services to cities, towns, and counties. Contracts for municipal research and services shall be made with state agencies, educational institutions, or private consulting firms, that in the judgment of ~~((council members))~~ the department are qualified to provide such research and services. Contracts for staff support may be made with state agencies, educational institutions, or private consulting firms that in the judgment of the ~~((council members))~~ department are qualified to provide such support.

~~((2))~~ (2) Municipal research and services shall consist of:

~~((1))~~ (a) Studying and researching city, town, and county government and issues relating to city, town, and county government;

~~((2))~~ (b) Acquiring, preparing, and distributing publications related to city, town, and county government and issues relating to city, town, and county government;

~~((3))~~ (c) Providing educational conferences relating to city, town, and county government and issues relating to city, town, and county government; and

~~((4))~~ (d) Furnishing legal, technical, consultative, and field services to cities, towns, and counties concerning planning, public health, utility services, fire protection, law enforcement, public

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works, and other issues relating to city, town, and county government.

(3) Requests for legal services by county officials shall be sent to the office of the county prosecuting attorney. Responses by the ~~((municipal research council))~~ department of commerce to county requests for legal services shall be provided to the requesting official and the county prosecuting attorney.

(4) The ~~((activities, programs, and services of the municipal research council shall be carried on in cooperation))~~ department of commerce shall coordinate with the association of Washington cities and the Washington state association of counties in carrying out the activities in this section. Services to cities and towns shall be based upon the moneys appropriated to the ~~((municipal research council))~~ department from the city and town research services account under RCW 43.110.060. Services to counties shall be based upon the moneys appropriated to the ~~((municipal research council))~~ department from the county research services account under RCW 43.110.050.

**Sec. 1102.** RCW 43.110.060 and 2002 c 38 s 4 are each amended to read as follows:

The city and town research services account is created in the state treasury. Moneys in the account shall consist of amounts transferred under RCW 66.08.190(2) and any other transfers or appropriations to the account. Moneys in the account may be spent only after an appropriation. Expenditures from the account may be used only for city and town research.

All unobligated moneys remaining in the account at the end of the fiscal biennium shall be distributed by the treasurer to the incorporated cities and towns of the state in the same manner as the distribution under RCW 66.08.190(1)(b)(iii).

((The treasurer may disburse amounts appropriated to the municipal research council from the city and town research services account by warrant or check to the contracting parties on invoices or vouchers certified by the chair of the municipal research council or his or her designee.)) Payments to public agencies may be made in advance of actual work contracted for, at the discretion of the ~~((council))~~ department of commerce.

**Sec. 1103.** RCW 43.110.080 and 2006 c 328 s 1 are each amended to read as follows:

(1) The ~~((municipal research council))~~ department of commerce shall contract for the provision of research and services to special purpose districts. A contract shall be made with a state agency, educational institution, or private consulting firm, that in the judgment of ~~((council members))~~ the department is qualified to provide such research and services.

(2) Research and services to special purpose districts shall consist of:

(a) Studying and researching issues relating to special purpose district government;

(b) Acquiring, preparing, and distributing publications related to special purpose districts; and

(c) Furnishing legal, technical, consultative, and field services to special purpose districts concerning issues relating to special purpose district government.

(3) The ~~((activities, programs, and services of the municipal research council to special purpose districts shall be carried on in cooperation))~~ department of commerce shall coordinate with the associations representing the various special purpose districts with respect to carrying out the activities in this section. Services to special purpose districts shall be based upon the moneys appropriated to the ~~((municipal research council))~~ department of commerce from the special purpose district research services account under RCW 43.110.090.

**Sec. 1104.** RCW 43.15.020 and 2009 c 560 s 27 are each amended to read as follows:

The lieutenant governor serves as president of the senate and is responsible for making appointments to, and serving on, the committees and boards as set forth in this section.

(1) The lieutenant governor serves on the following boards and committees:

(a) Capitol furnishings preservation committee, RCW 27.48.040;

(b) Washington higher education facilities authority, RCW 28B.07.030;

(c) Productivity board, also known as the employee involvement and recognition board, RCW 41.60.015;

(d) State finance committee, RCW 43.33.010;

(e) State capitol committee, RCW 43.34.010;

(f) Washington health care facilities authority, RCW 70.37.030;

(g) State medal of merit nominating committee, RCW 1.40.020;

(h) Medal of valor committee, RCW 1.60.020; and

(i) Association of Washington generals, RCW 43.15.030.

(2) The lieutenant governor, and when serving as president of the senate, appoints members to the following boards and committees:

(a) Civil legal aid oversight committee, RCW 2.53.010;

(b) Office of public defense advisory committee, RCW 2.70.030;

(c) Washington state gambling commission, RCW 9.46.040;

(d) Sentencing guidelines commission, RCW 9.94A.860;

(e) State building code council, RCW 19.27.070;

(f) Women's history consortium board of advisors, RCW 27.34.365;

(g) Financial ~~((literacy))~~ education public-private partnership, RCW 28A.300.450;

(h) Joint administrative rules review committee, RCW 34.05.610;

(i) Capital projects advisory review board, RCW 39.10.220;

(j) Select committee on pension policy, RCW 41.04.276;

(k) Legislative ethics board, RCW 42.52.310;

(l) Washington citizens' commission on salaries, RCW 43.03.305;

(m) Legislative oral history committee, RCW 44.04.325;

(n) State council on aging, RCW 43.20A.685;

(o) State investment board, RCW 43.33A.020;

(p) Capitol campus design advisory committee, RCW 43.34.080;

(q) Washington state arts commission, RCW 43.46.015;

(r) Information services board, RCW 43.105.032;

(s) K-20 educational network board, RCW 43.105.800;

(t) ~~((Municipal research council, RCW 43.110.040;~~

~~((u)))~~ Council for children and families, RCW 43.121.020;

~~((v)))~~ (u) PNWER-Net working subgroup under chapter 43.147 RCW;

~~((w)))~~ (v) Community economic revitalization board, RCW 43.160.030;

~~((x)))~~ (w) Washington economic development finance authority, RCW 43.163.020;

~~((y)))~~ (x) Life sciences discovery fund authority, RCW 43.350.020;

~~((z)))~~ (y) Legislative children's oversight committee, RCW 44.04.220;

~~((aa)))~~ (z) Joint legislative audit and review committee, RCW 44.28.010;

~~((ab)))~~ (aa) Joint committee on energy supply and energy conservation, RCW 44.39.015;

~~((ac)))~~ (bb) Legislative evaluation and accountability program committee, RCW 44.48.010;

~~((ad)))~~ (cc) Agency council on coordinated transportation, RCW 47.06B.020;

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- ~~((ee))~~ (dd) Manufactured housing task force, RCW 59.22.090;
- ~~((ff))~~ (ee) Washington horse racing commission, RCW 67.16.014;
- ~~((gg))~~ (ff) Correctional industries board of directors, RCW 72.09.080;
- ~~((hh))~~ (gg) Joint committee on veterans' and military affairs, RCW 73.04.150;
- ~~((ii))~~ (hh) Joint legislative committee on water supply during drought, RCW 90.86.020;
- ~~((jj))~~ (ii) Statute law committee, RCW 1.08.001; and
- ~~((kk))~~ (jj) Joint legislative oversight committee on trade policy, RCW 44.55.020.

**Sec. 1105.** RCW 35.21.185 and 1995 c 21 s 1 are each amended to read as follows:

- (1) It is the purpose of this section to provide a means whereby all cities and towns may obtain, through a single source, information regarding ordinances of other cities and towns that may be of assistance to them in enacting appropriate local legislation.
- (2) For the purposes of this section, (a) "clerk" means the city or town clerk or other person who is lawfully designated to perform the recordkeeping function of that office, and (b) "~~((municipal research council))~~ department" means the ~~((municipal research council created by chapter 43.110 RCW))~~ department of commerce.
- (3) The clerk of every city and town is directed to provide to the ~~((municipal research council))~~ department or its designee, promptly after adoption, a copy of each of its regulatory ordinances and such other ordinances or kinds of ordinances as may be described in a list or lists promulgated by the ~~((municipal research council))~~ department or its designee from time to time, and may provide such copies without charge. The ~~((municipal research council))~~ department may provide that information to the entity with which it contracts for the provision of municipal research and services, in order to provide a pool of information for all cities and towns in the state of Washington.
- (4) This section is intended to be directory and not mandatory.

**Sec. 1106.** RCW 35.102.040 and 2006 c 301 s 7 are each amended to read as follows:

- (1)(a) The cities, working through the association of Washington cities, shall form a model ordinance development committee made up of a representative sampling of cities that as of July 27, 2003, impose a business and occupation tax. This committee shall work through the association of Washington cities to adopt a model ordinance on municipal gross receipts business and occupation tax. The model ordinance and subsequent amendments shall be adopted using a process that includes opportunity for substantial input from business stakeholders and other members of the public. Input shall be solicited from statewide business associations and from local chambers of commerce and downtown business associations in cities that levy a business and occupation tax.
- (b) The ~~((municipal research council))~~ department of commerce shall contract to post the model ordinance on an internet web site and to make paper copies available for inspection upon request. The department of revenue and the department of licensing shall post copies of or links to the model ordinance on their internet web sites. Additionally, a city that imposes a business and occupation tax must make copies of its ordinance available for inspection and copying as provided in chapter 42.56 RCW.
- (c) The definitions and tax classifications in the model ordinance may not be amended more frequently than once every four years, however the model ordinance may be amended at any time to comply with changes in state law. Any amendment to a mandatory provision of the model ordinance must be adopted with the same effective date by all cities.

(2) A city that imposes a business and occupation tax must adopt the mandatory provisions of the model ordinance. The following provisions are mandatory:

- (a) A system of credits that meets the requirements of RCW 35.102.060 and a form for such use;
- (b) A uniform, minimum small business tax threshold of at least the equivalent of twenty thousand dollars in gross income annually. A city may elect to deviate from this requirement by creating a higher threshold or exemption but it shall not deviate lower than the level required in this subsection. If a city has a small business threshold or exemption in excess of that provided in this subsection as of January 1, 2003, and chooses to deviate below the threshold or exemption level that was in place as of January 1, 2003, the city must notify all businesses licensed to do business within the city at least one hundred twenty days prior to the potential implementation of a lower threshold or exemption amount;
- (c) Tax reporting frequencies that meet the requirements of RCW 35.102.070;
- (d) Penalty and interest provisions that meet the requirements of RCW 35.102.080 and 35.102.090;
- (e) Claim periods that meet the requirements of RCW 35.102.100;
- (f) Refund provisions that meet the requirements of RCW 35.102.110; and
- (g) Definitions, which at a minimum, must include the definitions enumerated in RCW 35.102.030 and 35.102.120. The definitions in chapter 82.04 RCW shall be used as the baseline for all definitions in the model ordinance, and any deviation in the model ordinance from these definitions must be described by a comment in the model ordinance.

(3) Except for the deduction required by RCW 35.102.160 and the system of credits developed to address multiple taxation under subsection (2)(a) of this section, a city may adopt its own provisions for tax exemptions, tax credits, and tax deductions.

(4) Any city that adopts an ordinance that deviates from the nonmandatory provisions of the model ordinance shall make a description of such differences available to the public, in written and electronic form.

**Sec. 1107.** RCW 36.70B.220 and 2005 c 274 s 272 are each amended to read as follows:

- (1) Each county and city having populations of ten thousand or more that plan under RCW 36.70A.040 shall designate permit assistance staff whose function it is to assist permit applicants. An existing employee may be designated as the permit assistance staff.
- (2) Permit assistance staff designated under this section shall:
  - (a) Make available to permit applicants all current local government regulations and adopted policies that apply to the subject application. The local government shall provide counter copies thereof and, upon request, provide copies according to chapter 42.56 RCW. The staff shall also publish and keep current one or more handouts containing lists and explanations of all local government regulations and adopted policies;
  - (b) Establish and make known to the public the means of obtaining the handouts and related information; and
  - (c) Provide assistance regarding the application of the local government's regulations in particular cases.
- (3) Permit assistance staff designated under this section may obtain technical assistance and support in the compilation and production of the handouts under subsection (2) of this section from the ~~((municipal research council and the department of community, trade, and economic development))~~ department of commerce.

**NEW SECTION. Sec. 1108.** The following acts or parts of acts are each repealed:

- (1) RCW 43.110.010 (Council created--Membership--Terms--Travel expenses) and 2001 c 290 s 1,

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1997 c 437 s 1, 1990 c 104 s 1, 1983 c 22 s 1, 1975-'76 2nd ex.s. c 34 s 129, 1975 1st ex.s. c 218 s 1, & 1969 c 108 s 2;

(2) RCW 43.110.040 (Local government regulation and policy handouts--Technical assistance) and 1996 c 206 s 10; and

(3) RCW 43.110.070 (Hazardous liquid and gas pipeline--Model ordinance and franchise agreement) and 2000 c 191 s 8.

**NEW SECTION. Sec. 1109.** (1) The municipal research council is hereby abolished and its powers, duties, and functions are hereby transferred to the department of commerce. All references to the municipal research council in the Revised Code of Washington shall be construed to mean the department of commerce.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the municipal research council shall be delivered to the custody of the department of commerce. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the municipal research council shall be made available to the department of commerce. All funds, credits, or other assets held by the municipal research council shall be assigned to the department of commerce.

(b) Any appropriations made to the municipal research council shall, on the effective date of this section, be transferred and credited to the department of commerce.

(c) If any question arises as to the transfer of any funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the municipal research council shall be continued and acted upon by the department of commerce. All existing contracts and obligations shall remain in full force and shall be performed by the department of commerce.

(4) The transfer of the powers, duties, and functions of the municipal research council shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

## PART XII MISCELLANEOUS PROVISIONS

**Sec. 1201.** RCW 41.06.070 and 2009 c 33 s 36 and 2009 c 5 s 1 are each reenacted and amended to read as follows:

(1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;

(m) The public printer or to any employees of or positions in the state printing plant;

(n) Officers and employees of the Washington state fruit commission;

(o) Officers and employees of the Washington apple commission;

(p) Officers and employees of the Washington state dairy products commission;

(q) Officers and employees of the Washington tree fruit research commission;

(r) Officers and employees of the Washington state beef commission;

(s) Officers and employees of the Washington grain commission;

(t) Officers and employees of any commission formed under chapter 15.66 RCW;

(u) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

(v) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

(w) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(x) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

(y) All employees of the marine employees' commission;

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(z) Staff employed by the department of ~~((community, trade, and economic development))~~ commerce to administer ~~((energy))~~ innovation and policy functions ((and manage));

~~((aa))~~ The manager of the energy site evaluation council ((activities under RCW 43.21F.045(2)(m))); and

~~((aaa))~~ (bb) Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(c) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the director of personnel may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the director of personnel stating the reasons for requesting such exemptions. The director of personnel shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the director determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the director of personnel shall grant the request and such determination shall be final as to any decision made before July 1, 1993. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions,

administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through (v) and (y) and (2) of this section, shall be determined by the director of personnel. Changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

For the twelve months following February 18, 2009, a salary or wage increase shall not be granted to any position exempt from classification under this chapter.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

NEW SECTION. Sec. 1202. RCW 43.63A.150 is decodified.

NEW SECTION. Sec. 1203. This act takes effect July 1, 2010."

On page 1, line 2 of the title, after "programs;" strike the remainder of the title and insert "amending RCW 43.330.005, 43.330.007, 70.05.125, 43.270.020, 43.270.070, 43.270.080, 43.330.210, 43.330.240, 82.14.400, 43.63A.305, 43.63A.307, 43.63A.311, 43.63A.313, 9.94A.8673, 43.63A.720, 43.63A.735, 43.280.011, 43.280.020, 43.280.060, 43.280.070, 43.280.080, 43.280.090, 74.14B.060, 80.50.030, 43.190.030, 43.190.120, 19.27.070, 19.27.097, 19.27.150, 19.27A.020, 19.27A.140, 19.27A.150, 19.27A.180, 43.21F.010, 43.21F.025, 43.21F.090, 36.27.100, 43.110.030, 43.110.060, 43.110.080, 43.15.020, 35.21.185, 35.102.040, and 36.70B.220; reenacting and amending RCW 70.125.030 and 41.06.070; adding new sections to chapter 43.70 RCW; adding new sections to chapter 43.20A RCW; adding new sections to chapter 43.22 RCW; adding a new section to chapter 43.21F RCW; creating new sections; recodifying RCW 43.330.195, 43.330.200, 43.330.205, 43.330.210, 43.330.220, 43.330.225, 43.330.230, 43.330.240, 43.63A.305, 43.63A.307, 43.63A.309, 43.63A.311, 43.63A.313, 43.63A.315, 43.63A.720, 43.63A.725, 43.63A.730, 43.63A.735, and 43.63A.740; decodifying RCW 43.280.081 and 43.63A.150; repealing RCW 43.21F.015, 43.110.010, 43.110.040, and 43.110.070; and providing an effective date."

The President declared the question before the Senate to be the motion by Senator Kastama to not adopt the committee striking amendment by the Committee on Ways & Means to Engrossed Second Substitute House Bill No. 2658.

The motion by Senator Kastama carried and the committee striking amendment was not adopted by voice vote.

MOTION

Senator Kastama moved that the following striking amendment by Senators Kastama and Zarelli be adopted:

Strike everything after the enacting clause and insert the following:

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"Sec. 1. RCW 43.330.007 and 2009 c 565 s 1 are each amended to read as follows:

(1)(a) In 2009, the legislature changed the name of the department of community, trade, and economic development to the department of commerce and directed the agency to, among other things, develop a report with recommendations on statutory changes to ensure that the department's efforts: Are organized around a concise core mission and aligned with the state's comprehensive plan for economic development; generate greater local capacity; maximize results through partnerships and the use of intermediaries; and provide transparency and increased accountability. Recommendations for creating or consolidating programs deemed important to meeting the department's core mission and recommendations for terminating or transferring specific programs if they are not consistent with the department's core mission were to be included in the report.

(b) In accordance with that legislation, chapter 565, Laws of 2009, in November 2009 the department of commerce submitted a plan that establishes a mission of growing and improving jobs in the state and recognizes the need for an innovation-driven economy. The plan also outlines agency priorities, efficiencies, and program transfers that will help to advance the new mission.

(c) The primary purpose of this act is to implement portions of the department of commerce plan by transferring certain programs from the department of commerce to other state agencies whose missions are more closely aligned with the core functions of those programs. This act also directs additional efficiencies in state government and directs development of a statewide clean energy strategy, which will better enable the department of commerce to focus on its new mission.

(2)(a) The legislature finds that the long-term economic health of the state and its citizens depends upon the strength and vitality of its communities and businesses. It is the intent of this chapter to create a department of commerce that fosters new partnerships for strong and sustainable communities. The mission of the department is to grow and improve jobs in Washington and facilitate innovation. To carry out its mission, the department will bring together focused efforts to: Streamline access to business assistance and economic development services by providing them through sector-based, cluster-based, and regional partners; provide focused and flexible responses to changing economic conditions; generate greater local capacity to respond to both economic growth and environmental challenges; increase accountability to the public, the executive branch, and the legislature; manage growth and achieve sustainable development; diversify the state's economy and export goods and services; provide greater access to economic opportunity; stimulate private sector investment and entrepreneurship; provide stable family-wage jobs and meet the diverse needs of families; provide affordable housing and housing services; and construct public infrastructure.

(b) The legislature further finds that as a result of the rapid pace of global social and economic change, the state and local communities will require coordinated and creative responses by every segment of the community. The state can play a role in assisting such local efforts by reorganizing state assistance efforts to promote such partnerships. The department has a primary responsibility to provide financial and technical assistance to the communities of the state, to assist in improving the delivery of federal, state, and local programs, and to provide communities with opportunities for productive and coordinated development beneficial to the well-being of communities and their residents. It is the intent of the legislature in creating the department to maximize the use of local expertise and resources in the delivery of community and economic development services.

(3) The purpose of this chapter is to establish the broad outline

of the structure of the department of commerce, leaving specific details of its internal organization and management to those charged with its administration. This chapter identifies the broad functions and responsibilities of the department and is intended to provide flexibility to the director to reorganize these functions to more closely reflect its customers, its mission, and its priorities, and to make recommendations for changes.

(4) In order to generate greater local capacity, maximize results through partnerships and the use of intermediaries, and leverage the use of state resources, the department shall, in carrying out its business assistance and economic development functions, provide business and economic development services primarily through sector-based, cluster-based, and regionally based organizations rather than providing assistance directly to individual firms.

(5) The department shall examine the functions and operations of agricultural commodity commissions in the state and collaborate with industry sector and cluster associations on legislation that would enable industries to develop self-financing systems for addressing industry-identified issues such as workforce training, international marketing, quality improvement, and technology deployment. By December 1, 2010, the department shall report to the governor and the legislature on its findings and proposed legislation.

(6) The legislature recognizes that there are many strong community services and housing programs currently operating within the department and serving our most vulnerable individuals, families, and communities. The legislature finds that some of these programs can readily be transferred beginning on July 1, 2010, to other mission-aligned agencies in state government. However, the legislature finds that to maintain the strength and credibility of the majority of the department's community services and housing programs, it is necessary to create a separate division for them within the department and to develop a plan to establish a separate state government agency for them in the future.

(7)(a) The legislature directs the department of commerce to establish a single division to contain community services and housing programs that deliver essential services to individuals, families, and communities, and to plan for the creation of a community services and housing agency.

(b) Services provided by the division shall include, but are not limited to: (i) Homeless housing and assistance programs including transitional housing, emergency shelter grants, independent youth housing, housing assistance for persons with mental illness, and housing opportunities for people with AIDS; (ii) affordable housing development programs including the housing trust fund and low-income home energy assistance; (iii) farm worker housing; (iv) crime victims' advocacy and sexual assault services; (v) community mobilization against substance abuse and violence; (vi) asset building for working families; (vii) local and community projects including the building communities fund, building for the arts, and youth recreational facilities grants; (viii) dispute resolution centers; (ix) the Washington families fund; (x) community services block grants; (xi) community development block grants; (xii) child care facility fund; (xiii) WorkFirst community jobs; (xiv) long-term care ombudsman; (xv) state drug task forces; (xvi) justice assistance grants; (xvii) children and families of incarcerated parents; and (xviii) the Washington new Americans program.

(c) The economic development committees in the house of representatives and the senate shall, in consultation with the governor and the department: (i) Solicit information and advice from representatives of community, social services, and housing organizations at the local and state levels, including minority communities, people with disabilities, and other vulnerable populations; and (ii) develop a plan for consideration and action in

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the 2011 legislative session to establish a separate state government agency whose mission is focused on community services and housing.

NEW SECTION. **Sec. 2.** RCW 43.330.005 (Intent) and 1993 c 280 s 1 are each repealed.

## PART I

### DEPARTMENT OF HEALTH--PUBLIC HEALTH

**Sec. 101.** RCW 70.05.125 and 2009 c 479 s 48 are each amended to read as follows:

(1) The county public health account is created in the state treasury. Funds deposited in the county public health account shall be distributed by the state treasurer to each local public health jurisdiction based upon amounts certified to it by the department of ~~((community, trade, and economic development))~~ health in consultation with the Washington state association of counties. The account shall include funds distributed under RCW 82.14.200(8) and such funds as are appropriated to the account from the state general fund, the public health services account under RCW 43.72.902, and such other funds as the legislature may appropriate to it.

(2)(a) The ~~((director))~~ secretary of the department of ~~((community, trade, and economic development))~~ health shall certify the amounts to be distributed to each local public health jurisdiction using 1995 as the base year of actual city contributions to local public health.

(b) Only if funds are available and in an amount no greater than available funds under RCW 82.14.200(8), the department of community, trade, and economic development shall adjust the amount certified under (a) of this subsection to compensate for any annexation of an area with fifty thousand residents or more to any city as a result of a petition during calendar year 1996 or 1997, or for any city that became newly incorporated as a result of an election during calendar year 1994 or 1995. The amount to be adjusted shall be equal to the amount which otherwise would have been lost to the health jurisdiction due to the annexation or incorporation as calculated using the jurisdiction's 1995 funding formula.

(c) The county treasurer shall certify the actual 1995 city contribution to the department. Funds in excess of the base shall be distributed proportionately among the health jurisdictions based on incorporated population figures as last determined by the office of financial management.

(3) Moneys distributed under this section shall be expended exclusively for local public health purposes.

NEW SECTION. **Sec. 102.** (1) All powers, duties, and functions of the department of commerce pertaining to county public health assistance are transferred to the department of health. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the secretary or the department of health when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of health. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the department of health. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of health.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on

the effective date of this section, be transferred and credited to the department of health.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of health. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of health to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of health. All existing contracts and obligations shall remain in full force and shall be performed by the department of health.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the department of health under this section whose positions are within an existing bargaining unit description at the department of health shall become a part of the existing bargaining unit at the department of health and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

## PART II

### DEPARTMENT OF HEALTH--DEVELOPMENTAL DISABILITIES

**Sec. 201.** RCW 43.330.210 and 2009 c 565 s 11 are each amended to read as follows:

The developmental disabilities endowment governing board is established to design and administer the developmental disabilities endowment. To the extent funds are appropriated for this purpose, the ~~((director))~~ secretary of the department ~~((of commerce))~~ shall provide staff and administrative support to the governing board.

(1) The governing board shall consist of seven members as follows:

(a) Three of the members, who shall be appointed by the governor, shall be persons who have demonstrated expertise and leadership in areas such as finance, actuarial science, management, business, or public policy.

(b) Three members of the board, who shall be appointed by the governor, shall be persons who have demonstrated expertise and leadership in areas such as business, developmental disabilities service design, management, or public policy, and shall be family members of persons with developmental disabilities.

(c) The seventh member of the board, who shall serve as chair of the board, shall be appointed by the remaining six members of the board.

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(2) Members of the board shall serve terms of four years and may be appointed for successive terms of four years at the discretion of the appointing authority. However, the governor may stagger the terms of the initial six members of the board so that approximately one-fourth of the members' terms expire each year.

(3) Members of the board shall be compensated for their service under RCW 43.03.240 and shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(4) The board shall meet periodically as specified by the call of the chair, or a majority of the board.

(5) Members of the governing board and the state investment board shall not be considered an insurer of the funds or assets of the endowment trust fund or the individual trust accounts. Neither of these two boards or their members shall be liable for the action or inaction of the other.

(6) Members of the governing board and the state investment board are not liable to the state, to the fund, or to any other person as a result of their activities as members, whether ministerial or discretionary, except for willful dishonesty or intentional violations of law. The department and the state investment board, respectively, may purchase liability insurance for members.

**Sec. 202.** RCW 43.330.240 and 2009 c 565 s 12 are each amended to read as follows:

The department (~~(of commerce)~~) shall adopt rules for the implementation of policies established by the governing board in RCW 43.330.200 through 43.330.230 (as recodified by this act). Such rules will be consistent with those statutes and chapter 34.05 RCW.

**NEW SECTION. Sec. 203.** The following sections are each recodified as sections in chapter 43.70 RCW:

RCW 43.330.195

RCW 43.330.200

RCW 43.330.205

RCW 43.330.210

RCW 43.330.220

RCW 43.330.225

RCW 43.330.230

RCW 43.330.240

**NEW SECTION. Sec. 204.** (1) All powers, duties, and functions of the department of commerce pertaining to the developmental disabilities endowment are transferred to the department of health. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the secretary or the department of health when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of health. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the department of health. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of health.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the department of health.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a

determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of health. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of health to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of health. All existing contracts and obligations shall remain in full force and shall be performed by the department of health.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the department of health under this section whose positions are within an existing bargaining unit description at the department of health shall become a part of the existing bargaining unit at the department of health and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

### **PART III BUILDING CODE COUNCIL**

**Sec. 301.** RCW 19.27.070 and 1995 c 399 s 8 are each amended to read as follows:

There is hereby established a state building code council to be appointed by the governor.

(1) The state building code council shall consist of fifteen members, two of whom shall be county elected legislative body members or elected executives and two of whom shall be city elected legislative body members or mayors. One of the members shall be a local government building code enforcement official and one of the members shall be a local government fire service official. Of the remaining nine members, one member shall represent general construction, specializing in commercial and industrial building construction; one member shall represent general construction, specializing in residential and multifamily building construction; one member shall represent the architectural design profession; one member shall represent the structural engineering profession; one member shall represent the mechanical engineering profession; one member shall represent the construction building trades; one member shall represent manufacturers, installers, or suppliers of building materials and components; one member shall be a person with a physical disability and shall represent the disability community; and one member shall represent the general public. At least six of these fifteen members shall reside east of the crest of the Cascade mountains. The council shall include: Two members of the house of representatives appointed by the speaker of the house, one from each caucus; two members of the senate appointed by the president of the senate, one from each caucus; and an employee of the electrical division of the department of labor and industries, as ex officio, nonvoting members with all other privileges and rights of

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membership. Terms of office shall be for three years. The council shall elect a member to serve as chair of the council for one-year terms of office. Any member who is appointed by virtue of being an elected official or holding public employment shall be removed from the council if he or she ceases being such an elected official or holding such public employment. Before making any appointments to the building code council, the governor shall seek nominations from recognized organizations which represent the entities or interests listed in this subsection. Members serving on the council on July 28, 1985, may complete their terms of office. Any vacancy shall be filled by alternating appointments from governmental and nongovernmental entities or interests until the council is constituted as required by this subsection.

(2) Members shall not be compensated but shall receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(3) The department of (~~community, trade, and economic development~~) general administration shall provide administrative and clerical assistance to the building code council.

**Sec. 302.** RCW 19.27.097 and 1995 c 399 s 9 are each amended to read as follows:

(1) Each applicant for a building permit of a building necessitating potable water shall provide evidence of an adequate water supply for the intended use of the building. Evidence may be in the form of a water right permit from the department of ecology, a letter from an approved water purveyor stating the ability to provide water, or another form sufficient to verify the existence of an adequate water supply. In addition to other authorities, the county or city may impose conditions on building permits requiring connection to an existing public water system where the existing system is willing and able to provide safe and reliable potable water to the applicant with reasonable economy and efficiency. An application for a water right shall not be sufficient proof of an adequate water supply.

(2) Within counties not required or not choosing to plan pursuant to RCW 36.70A.040, the county and the state may mutually determine those areas in the county in which the requirements of subsection (1) of this section shall not apply. The departments of health and ecology shall coordinate on the implementation of this section. Should the county and the state fail to mutually determine those areas to be designated pursuant to this subsection, the county may petition the department of (~~community, trade, and economic development~~) general administration to mediate or, if necessary, make the determination.

(3) Buildings that do not need potable water facilities are exempt from the provisions of this section. The department of ecology, after consultation with local governments, may adopt rules to implement this section, which may recognize differences between high-growth and low-growth counties.

**Sec. 303.** RCW 19.27.150 and 1995 c 399 s 10 are each amended to read as follows:

Every month a copy of the United States department of commerce, bureau of the census' "report of building or zoning permits issued and local public construction" or equivalent report shall be transmitted by the governing bodies of counties and cities to the department of (~~community, trade, and economic development~~) general administration.

**Sec. 304.** RCW 19.27A.020 and 2009 c 423 s 4 are each amended to read as follows:

(1) The state building code council shall adopt rules to be known as the Washington state energy code as part of the state building code.

(2) The council shall follow the legislature's standards set forth in this section to adopt rules to be known as the Washington state

energy code. The Washington state energy code shall be designed to:

(a) Construct increasingly energy efficient homes and buildings that help achieve the broader goal of building zero fossil-fuel greenhouse gas emission homes and buildings by the year 2031;

(b) Require new buildings to meet a certain level of energy efficiency, but allow flexibility in building design, construction, and heating equipment efficiencies within that framework; and

(c) Allow space heating equipment efficiency to offset or substitute for building envelope thermal performance.

(3) The Washington state energy code shall take into account regional climatic conditions. Climate zone 1 shall include all counties not included in climate zone 2. Climate zone 2 includes: Adams, Chelan, Douglas, Ferry, Grant, Kittitas, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, and Whitman counties.

(4) The Washington state energy code for residential buildings shall be the 2006 edition of the Washington state energy code, or as amended by rule by the council.

(5) The minimum state energy code for new nonresidential buildings shall be the Washington state energy code, 2006 edition, or as amended by the council by rule.

(6)(a) Except as provided in (b) of this subsection, the Washington state energy code for residential structures shall preempt the residential energy code of each city, town, and county in the state of Washington.

(b) The state energy code for residential structures does not preempt a city, town, or county's energy code for residential structures which exceeds the requirements of the state energy code and which was adopted by the city, town, or county prior to March 1, 1990. Such cities, towns, or counties may not subsequently amend their energy code for residential structures to exceed the requirements adopted prior to March 1, 1990.

(7) The state building code council shall consult with the department of (~~community, trade, and economic development~~) general administration as provided in RCW 34.05.310 prior to publication of proposed rules. The director of the department of (~~community, trade, and economic development~~) general administration shall recommend to the state building code council any changes necessary to conform the proposed rules to the requirements of this section.

(8) The state building code council shall evaluate and consider adoption of the international energy conservation code in Washington state in place of the existing state energy code.

(9) The definitions in RCW 19.27A.140 apply throughout this section.

**Sec. 305.** RCW 19.27A.140 and 2009 c 423 s 2 are each amended to read as follows:

The definitions in this section apply to RCW 19.27A.130 through 19.27A.190 and 19.27A.020 unless the context clearly requires otherwise.

(1) "Benchmark" means the energy used by a facility as recorded monthly for at least one year and the facility characteristics information inputs required for a portfolio manager.

(2) "Conditioned space" means conditioned space, as defined in the Washington state energy code.

(3) "Consumer-owned utility" includes a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a mutual corporation or association formed under chapter 24.06 RCW, a port district formed under Title 53 RCW, or a water-sewer district formed under Title 57 RCW, that is engaged in the business of distributing electricity to one or more retail electric customers in the state.

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(4) "Cost-effectiveness" means that a project or resource is forecast:

- (a) To be reliable and available within the time it is needed; and
- (b) To meet or reduce the power demand of the intended consumers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative project or resource, or any combination thereof.

(5) "Council" means the state building code council.

(6) (~~"Department" means the department of community, trade, and economic development.~~

~~(7))~~ (7) "Embodied energy" means the total amount of fossil fuel energy consumed to extract raw materials and to manufacture, assemble, transport, and install the materials in a building and the life-cycle cost benefits including the recyclability and energy efficiencies with respect to building materials, taking into account the total sum of current values for the costs of investment, capital, installation, operating, maintenance, and replacement as estimated for the lifetime of the product or project.

~~((8))~~ (7) "Energy consumption data" means the monthly amount of energy consumed by a customer as recorded by the applicable energy meter for the most recent twelve-month period.

~~((9))~~ (8) "Energy service company" has the same meaning as in RCW 43.19.670.

~~((10))~~ (9) "General administration" means the department of general administration.

~~((11))~~ (10) "Greenhouse gas" and "greenhouse gases" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

~~((12))~~ (11) "Investment grade energy audit" means an intensive engineering analysis of energy efficiency and management measures for the facility, net energy savings, and a cost-effectiveness determination.

~~((13))~~ (12) "Investor-owned utility" means a corporation owned by investors that meets the definition of "corporation" as defined in RCW 80.04.010 and is engaged in distributing either electricity or natural gas, or both, to more than one retail electric customer in the state.

~~((14))~~ (13) "Major facility" means any publicly owned or leased building, or a group of such buildings at a single site, having ten thousand square feet or more of conditioned floor space.

~~((15))~~ (14) "National energy performance rating" means the score provided by the energy star program, to indicate the energy efficiency performance of the building compared to similar buildings in that climate as defined in the United States environmental protection agency "ENERGY STAR® Performance Ratings Technical Methodology."

~~((16))~~ (15) "Net zero energy use" means a building with net energy consumption of zero over a typical year.

~~((17))~~ (16) "Portfolio manager" means the United States environmental protection agency's energy star portfolio manager or an equivalent tool adopted by the department of general administration.

~~((18))~~ (17) "Preliminary energy audit" means a quick evaluation by an energy service company of the energy savings potential of a building.

~~((19))~~ (18) "Qualifying public agency" includes all state agencies, colleges, and universities.

~~((20))~~ (19) "Qualifying utility" means a consumer-owned or investor-owned gas or electric utility that serves more than twenty-five thousand customers in the state of Washington.

~~((21))~~ (20) "Reporting public facility" means any of the following:

- (a) A building or structure, or a group of buildings or structures at a single site, owned by a qualifying public agency, that exceed ten thousand square feet of conditioned space;

- (b) Buildings, structures, or spaces leased by a qualifying public agency that exceeds ten thousand square feet of conditioned space, where the qualifying public agency purchases energy directly from the investor-owned or consumer-owned utility;

- (c) A wastewater treatment facility owned by a qualifying public agency; or

- (d) Other facilities selected by the qualifying public agency.

~~((22))~~ (21) "State portfolio manager master account" means a portfolio manager account established to provide a single shared portfolio that includes reports for all the reporting public facilities.

**Sec. 306.** RCW 19.27A.150 and 2009 c 423 s 3 are each amended to read as follows:

(1) To the extent that funding is appropriated specifically for the purposes of this section, the department of commerce shall develop and implement a strategic plan for enhancing energy efficiency in and reducing greenhouse gas emissions from homes, buildings, districts, and neighborhoods. The strategic plan must be used to help direct the future code increases in RCW 19.27A.020, with targets for new buildings consistent with RCW 19.27A.160. The strategic plan will identify barriers to achieving net zero energy use in homes and buildings and identify how to overcome these barriers in future energy code updates and through complementary policies.

(2) The department of commerce must complete and release the strategic plan to the legislature and the council by December 31, 2010, and update the plan every three years.

(3) The strategic plan must include recommendations to the council on energy code upgrades. At a minimum, the strategic plan must:

- (a) Consider development of aspirational codes separate from the state energy code that contain economically and technically feasible optional standards that could achieve higher energy efficiency for those builders that elected to follow the aspirational codes in lieu of or in addition to complying with the standards set forth in the state energy code;

- (b) Determine the appropriate methodology to measure achievement of state energy code targets using the United States environmental protection agency's target finder program or equivalent methodology;

- (c) Address the need for enhanced code training and enforcement;

- (d) Include state strategies to support research, demonstration, and education programs designed to achieve a seventy percent reduction in annual net energy consumption as specified in RCW 19.27A.160 and enhance energy efficiency and on-site renewable energy production in buildings;

- (e) Recommend incentives, education, training programs and certifications, particularly state-approved training or certification programs, joint apprenticeship programs, or labor-management partnership programs that train workers for energy-efficiency projects to ensure proposed programs are designed to increase building professionals' ability to design, construct, and operate buildings that will meet the seventy percent reduction in annual net energy consumption as specified in RCW 19.27A.160;

- (f) Address barriers for utilities to serve net zero energy homes and buildings and policies to overcome those barriers;

- (g) Address the limits of a prescriptive code in achieving net zero energy use homes and buildings and propose a transition to performance-based codes;

- (h) Identify financial mechanisms such as tax incentives, rebates, and innovative financing to motivate energy consumers to take action to increase energy efficiency and their use of on-site renewable energy. Such incentives, rebates, or financing options may consider the role of government programs as well as utility-sponsored programs;

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(i) Address the adequacy of education and technical assistance, including school curricula, technical training, and peer-to-peer exchanges for professional and trade audiences;

(j) Develop strategies to develop and install district and neighborhood-wide energy systems that help meet net zero energy use in homes and buildings;

(k) Identify costs and benefits of energy efficiency measures on residential and nonresidential construction; and

(l) Investigate methodologies and standards for the measurement of the amount of embodied energy used in building materials.

(4) The department of commerce and the council shall convene a work group with the affected parties to inform the initial development of the strategic plan.

**Sec. 307.** RCW 19.27A.180 and 2009 c 423 s 7 are each amended to read as follows:

By December 31, 2009, to the extent that funding is appropriated specifically for the purposes of this section, the department of commerce shall develop and recommend to the legislature a methodology to determine an energy performance score for residential buildings and an implementation strategy to use such information to improve the energy efficiency of the state's existing housing supply. In developing its strategy, the department of commerce shall seek input from providers of residential energy audits, utilities, building contractors, mixed use developers, the residential real estate industry, and real estate listing and form providers.

**NEW SECTION. Sec. 308.** (1) All powers, duties, and functions of the department of commerce pertaining to administrative and support services for the state building code council are transferred to the department of general administration. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the director or the department of general administration when referring to the functions transferred in this section. Policy and planning assistance functions performed by the department of commerce remain with the department of commerce.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of general administration. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the department of general administration. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of general administration.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the department of general administration.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of general administration. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of general administration to perform their usual duties upon the same

terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of general administration. All existing contracts and obligations shall remain in full force and shall be performed by the department of general administration.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the department of general administration under this section whose positions are within an existing bargaining unit description at the department of general administration shall become a part of the existing bargaining unit at the department of general administration and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

#### PART IV

#### DEPARTMENT OF COMMERCE--ENERGY POLICY

**Sec. 401.** RCW 43.21F.010 and 1975-'76 2nd ex.s. c 108 s 1 are each amended to read as follows:

(1) The legislature finds that the state needs to implement a comprehensive energy planning process that:

(a) Is based on high quality, unbiased analysis;

(b) Engages public agencies and stakeholders in a thoughtful, deliberative process that creates a cohesive plan that earns sustained support of the public and organizations and institutions that will ultimately be responsible for implementation and execution of the plan; and

(c) Establishes policies and practices needed to ensure the effective implementation of the strategy.

(2) The legislature further finds that energy drives the entire modern economy from petroleum for vehicles to electricity to light homes and power businesses. The legislature further finds that the nation and the world have started the transition to a clean energy economy, with significant improvements in energy efficiency and investments in new clean and renewable energy resources and technologies. The legislature further finds this transition may increase or decrease energy costs and efforts should be made to mitigate cost increases.

(3) The legislature finds and declares that it is the continuing purpose of state government, consistent with other essential considerations of state policy, to foster wise and efficient energy use and to promote energy self-sufficiency through the use of indigenous and renewable energy sources, consistent with the promotion of reliable energy sources, the general welfare, and the protection of environmental quality.

(4) The legislature further declares that a successful state energy strategy must balance three goals to:

(a) Maintain competitive energy prices that are fair and reasonable for consumers and businesses and support our state's continued economic success;

(b) Increase competitiveness by fostering a clean energy

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economy and jobs through business and workforce development; and

(c) Meet the state's obligations to reduce greenhouse gas emissions.

**Sec. 402.** RCW 43.21F.025 and 2009 c 565 s 27 are each reenacted and amended to read as follows:

(1) "Assistant director" means the assistant director of the department of commerce responsible for energy policy activities;

(2) "Department" means the department of commerce;

(3) "Director" means the director of the department of commerce;

(4) "Distributor" means any person, private corporation, partnership, individual proprietorship, utility, including investor-owned utilities, municipal utility, public utility district, joint operating agency, or cooperative, which engages in or is authorized to engage in the activity of generating, transmitting, or distributing energy in this state;

(5) "Energy" means petroleum or other liquid fuels; natural or synthetic fuel gas; solid carbonaceous fuels; fissionable nuclear material; electricity; solar radiation; geothermal resources; hydropower; organic waste products; wind; tidal activity; any other substance or process used to produce heat, light, or motion; or the savings from nongeneration technologies, including conservation or improved efficiency in the usage of any of the sources described in this subsection;

(6) "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, public utility district, joint operating agency, or any other entity, public or private, however organized; and

(7) "State energy strategy" means the document ~~((and energy policy direction)) developed ((under section 1, chapter 201, Laws of 1991 including any related appendices)) and updated by the department as allowed in RCW 43.21F.090.~~

**NEW SECTION. Sec. 403.** A new section is added to chapter 43.21F RCW to read as follows:

(1) The state shall use the following principles to guide development and implementation of the state's energy strategy and to meet the goals of RCW 43.21F.010:

(a) Pursue all cost-effective energy efficiency and conservation as the state's preferred energy resource, consistent with state law;

(b) Ensure that the state's energy system meets the health, welfare, and economic needs of its citizens with particular emphasis on meeting the needs of low-income and vulnerable populations;

(c) Maintain and enhance economic competitiveness by ensuring an affordable and reliable supply of energy resources and by supporting clean energy technology innovation, access to clean energy markets worldwide, and clean energy business and workforce development;

(d) Reduce dependence on fossil fuel energy sources through improved efficiency and development of cleaner energy sources, such as bioenergy, low-carbon energy sources, and natural gas, and leveraging the indigenous resources of the state for the production of clean energy;

(e) Improve efficiency of transportation energy use through advances in vehicle technology, increased system efficiencies, development of electricity, biofuels, and other clean fuels, and regional transportation planning to improve transportation choices;

(f) Meet the state's statutory greenhouse gas limits and environmental requirements as the state develops and uses energy resources;

(g) Build on the advantage provided by the state's clean regional electrical grid by expanding and integrating additional carbon-free and carbon-neutral generation, and improving the transmission capacity serving the state;

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(h) Make state government a model for energy efficiency, use of clean and renewable energy, and greenhouse gas-neutral operations; and

(i) Maintain and enhance our state's existing energy infrastructure.

(2) The department shall:

(a) During energy shortage emergencies, give priority in the allocation of energy resources to maintaining the public health, safety, and welfare of the state's citizens and industry in order to minimize adverse impacts on their physical, social, and economic well-being;

(b) Develop and disseminate impartial and objective energy information and analysis, while taking full advantage of the capabilities of the state's institutions of higher education, national laboratory, and other organizations with relevant expertise and analytical capabilities;

(c) Actively seek to maximize federal and other nonstate funding and support to the state for energy efficiency, renewable energy, emerging energy technologies, and other activities of benefit to the state's overall energy future; and

(d) Monitor the actions of all agencies of the state for consistent implementation of the state's energy policy including applicable statutory policies and goals relating to energy supply and use.

**Sec. 404.** RCW 43.21F.090 and 1996 c 186 s 106 are each amended to read as follows:

(1) By December 1, 2010, the department ((shall review the state energy strategy as developed under section 1, chapter 201, Laws of 1991, periodically with the guidance of an advisory committee. For each review, an advisory committee shall be established with a membership resembling as closely as possible the original energy strategy advisory committee specified under section 1, chapter 201, Laws of 1991. Upon completion of a public hearing regarding the advisory committee's advice and recommendations for revisions to the energy strategy, a written report shall be conveyed by the department to the governor and the appropriate legislative committees. Any advisory committee established under this section shall be dissolved within three months after their written report is conveyed.)) of commerce shall update and revise the state energy strategy and implementation report with the guidance of an advisory committee formed under subsection (4) of this section. By December 1, 2011, and at least every five years thereafter, the department shall produce a fully updated state energy strategy and implementation report with the guidance of an advisory committee formed under subsection (4) of this section.

(2)(a) The strategy shall, to the maximum extent feasible, examine the state's entire energy system.

(b) In producing and updating the energy strategy, the department and advisory committee shall review related processes and documents relevant to a state energy strategy including, but not limited to, prior state energy strategies, the work of the clean energy leadership council, the climate advisory and action teams, the evergreen jobs committee, and reports of the state transportation planning commission, the economic development commission, and the Northwest power and conservation council.

(c) The strategy must build upon and be consistent with all relevant and applicable statutorily authorized energy, environmental, and other policies, goals, and programs.

(d) The strategy must identify administrative actions, regulatory coordination, and legislative recommendations that need to be undertaken to ensure that the energy strategy is implemented and operationally supported by all state agencies and regulatory bodies responsible for implementation of energy policy in the state.

(3) In order to facilitate high quality decision making, the director of the department shall engage a group of scientific, engineering, economic, and other experts in energy analysis.

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(a) This group shall be comprised of representatives from the following institutions:

(i) Research institutions of higher education;

(ii) The Pacific Northwest national laboratory;

(iii) The Northwest power planning and conservation council; and

(iv) Other private, public, and nonprofit organizations that have a recognized expertise in engineering or economic analysis.

(b) This group will:

(i) Identify near and long-term analytical needs and capabilities necessary to develop a state energy strategy;

(ii) Provide unbiased information about the state and region's energy portfolio, future energy needs, scenarios for growth, and improved productivity.

(c) The department and advisory committee shall use this information in updating the state energy strategy.

(4)(a) In order to update the state strategy, the department shall form an advisory committee.

(b) The director shall appoint the advisory committee with a membership reflecting a balance of the interests in:

(i) Energy generation, distribution, and consumption;

(ii) Economic development; and

(iii) Environmental protection, including:

(A) Residential, commercial, industrial, and agricultural users;

(B) Electric and natural gas utilities or organizations, both consumer-owned and investor-owned;

(C) Liquid fuel and natural gas industries;

(D) Local governments;

(E) Civic and environmental organizations;

(F) Clean energy companies;

(G) Energy research and development organizations, economic development organizations, and key public agencies; and

(H) Other interested stakeholders.

(c) Any advisory committee established under this section must be dissolved within three months after the written report is conveyed.

(d) The department and advisory committee shall work with stakeholders and other state agencies to develop the strategy.

(5) Upon completion of a public hearing regarding the advisory committee's advice and recommendations for revisions to the energy strategy, the department shall present a written report to the governor and legislature which may include specific actions that will be needed to implement the strategy. The legislature shall, by concurrent resolution, approve or recommend changes to the strategy and updates.

(6) The department may periodically review and update the state energy strategy as necessary. The department shall engage an advisory committee as required in this section when updating the strategy and present any updates to the legislature for its approval.

(7) To assist in updates of the state energy strategy, the department shall actively seek both in-kind and financial support for this process from other nonstate sources. In order to avoid competition among Washington state agencies, the department shall coordinate the search for such external support. The department shall develop a work plan for updating the energy strategy that reflects the levels of activities and deliverables commensurate with the level of funding and in-kind support available from state and nonstate sources.

NEW SECTION. Sec. 405. RCW 43.21F.015 (State policy) and 1994 c 207 s 3 & 1981 c 295 s 1 are each repealed.

## PART V

### CRIMINAL JUSTICE TRAINING COMMISSION--DRUG PROSECUTION ASSISTANCE PROGRAM

**Sec. 501.** RCW 36.27.100 and 1995 c 399 s 41 are each amended to read as follows:

The legislature recognizes that, due to the magnitude or volume of offenses in a given area of the state, there is a recurring need for supplemental assistance in the prosecuting of drug and drug-related offenses that can be directed to the area of the state with the greatest need for short-term assistance. A statewide drug prosecution assistance program is created within the ~~((department of community, trade, and economic development))~~ criminal justice training commission to assist county prosecuting attorneys in the prosecution of drug and drug-related offenses.

NEW SECTION. Sec. 502. (1) All powers, duties, and functions of the department of commerce pertaining to the drug prosecution assistance program are transferred to the criminal justice training commission. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the director or the criminal justice training commission when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the criminal justice training commission. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the criminal justice training commission. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the criminal justice training commission.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the criminal justice training commission.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the criminal justice training commission. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the criminal justice training commission to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the criminal justice training commission. All existing contracts and obligations shall remain in full force and shall be performed by the criminal justice training commission.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and

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appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the criminal justice training commission under this section whose positions are within an existing bargaining unit description at the criminal justice training commission shall become a part of the existing bargaining unit at the criminal justice training commission and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

**PART VI  
WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION—ENERGY**

**Sec. 601.** RCW 80.50.030 and 2001 c 214 s 4 are each amended to read as follows:

(1) There is created and established the energy facility site evaluation council.

(2)(a) The chair of the council shall be appointed by the governor with the advice and consent of the senate, shall have a vote on matters before the council, shall serve for a term coextensive with the term of the governor, and is removable for cause. The chair may designate a member of the council to serve as acting chair in the event of the chair's absence. The salary of the chair shall be determined under RCW 43.03.040. The chair is a "state employee" for the purposes of chapter 42.52 RCW. As applicable, when attending meetings of the council, members may receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060, and are eligible for compensation under RCW 43.03.250.

(b) The chair or a designee shall execute all official documents, contracts, and other materials on behalf of the council. The Washington (~~state department of community, trade, and economic development~~) utilities and transportation commission shall provide all administrative and staff support for the council. The (~~director of the department of community, trade, and economic development~~) commission has supervisory authority over the staff of the council and shall employ such personnel as are necessary to implement this chapter. Not more than three such employees may be exempt from chapter 41.06 RCW. The council shall otherwise retain its independence in exercising its powers, functions, and duties and its supervisory control over nonadministrative staff support. Membership, powers, functions, and duties of the Washington state utilities and transportation commission and the council shall otherwise remain as provided by law.

(3)(a) The council shall consist of the directors, administrators, or their designees, of the following departments, agencies, commissions, and committees or their statutory successors:

- (i) Department of ecology;
- (ii) Department of fish and wildlife;
- (iii) Department of (~~community, trade, and economic development~~) commerce;
- (iv) Utilities and transportation commission; and
- (v) Department of natural resources.

(b) The directors, administrators, or their designees, of the following departments, agencies, and commissions, or their statutory successors, may participate as councilmembers at their own discretion provided they elect to participate no later than sixty days after an application is filed:

- (i) Department of agriculture;
- (ii) Department of health;
- (iii) Military department; and
- (iv) Department of transportation.

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(c) Council membership is discretionary for agencies that choose to participate under (b) of this subsection only for applications that are filed with the council on or after May 8, 2001. For applications filed before May 8, 2001, council membership is mandatory for those agencies listed in (b) of this subsection.

(4) The appropriate county legislative authority of every county wherein an application for a proposed site is filed shall appoint a member or designee as a voting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the county which he or she represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site.

(5) The city legislative authority of every city within whose corporate limits an energy plant is proposed to be located shall appoint a member or designee as a voting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the city which he or she represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site.

(6) For any port district wherein an application for a proposed port facility is filed subject to this chapter, the port district shall appoint a member or designee as a nonvoting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the port district which he or she represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site. The provisions of this subsection shall not apply if the port district is the applicant, either singly or in partnership or association with any other person.

NEW SECTION. Sec. 602. (1) All administrative powers, duties, and functions of the department of commerce pertaining to the energy facility site evaluation council are transferred to the Washington utilities and transportation commission. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the Washington utilities and transportation commission when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the Washington utilities and transportation commission. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the Washington utilities and transportation commission. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the Washington utilities and transportation commission.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the Washington utilities and transportation commission.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the Washington utilities and

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transportation commission. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the Washington utilities and transportation commission to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the Washington utilities and transportation commission. All existing contracts and obligations shall remain in full force and shall be performed by the Washington utilities and transportation commission.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the Washington utilities and transportation commission under this section whose positions are within an existing bargaining unit description at the Washington utilities and transportation commission shall become a part of the existing bargaining unit at the Washington utilities and transportation commission and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

**PART VII  
MUNICIPAL RESEARCH COUNCIL**

**Sec. 701.** RCW 43.110.030 and 2000 c 227 s 3 are each amended to read as follows:

~~(1)~~ (1) The ~~((municipal research council))~~ department of commerce shall contract for the provision of municipal research and services to cities, towns, and counties. Contracts for municipal research and services shall be made with state agencies, educational institutions, or private consulting firms, that in the judgment of ~~((council members))~~ the department are qualified to provide such research and services. Contracts for staff support may be made with state agencies, educational institutions, or private consulting firms that in the judgment of ~~((council members))~~ the department are qualified to provide such support.

~~(2)~~ (2) Municipal research and services shall consist of:

~~((1))~~ (a) Studying and researching city, town, and county government and issues relating to city, town, and county government;

~~((2))~~ (b) Acquiring, preparing, and distributing publications related to city, town, and county government and issues relating to city, town, and county government;

~~((3))~~ (c) Providing educational conferences relating to city, town, and county government and issues relating to city, town, and county government; and

~~((4))~~ (d) Furnishing legal, technical, consultative, and field services to cities, towns, and counties concerning planning, public health, utility services, fire protection, law enforcement, public works, and other issues relating to city, town, and county government.

~~(3)~~ (3) Requests for legal services by county officials shall be sent to the office of the county prosecuting attorney. Responses by the ~~((municipal research council))~~ department of commerce to county

requests for legal services shall be provided to the requesting official and the county prosecuting attorney.

~~(4)~~ (4) ~~((activities, programs, and services of the municipal research council shall be carried on in cooperation))~~ department of commerce shall coordinate with the association of Washington cities and the Washington state association of counties in carrying out the activities in this section. Services to cities and towns shall be based upon the moneys appropriated to the ~~((municipal research council))~~ department from the city and town research services account under RCW 43.110.060. Services to counties shall be based upon the moneys appropriated to the ~~((municipal research council))~~ department from the county research services account under RCW 43.110.050.

**Sec. 702.** RCW 43.110.060 and 2002 c 38 s 4 are each amended to read as follows:

The city and town research services account is created in the state treasury. Moneys in the account shall consist of amounts transferred under RCW 66.08.190(2) and any other transfers or appropriations to the account. Moneys in the account may be spent only after an appropriation. Expenditures from the account may be used only for city and town research.

All unobligated moneys remaining in the account at the end of the fiscal biennium shall be distributed by the treasurer to the incorporated cities and towns of the state in the same manner as the distribution under RCW 66.08.190(1)(b)(iii).

~~((The treasurer may disburse amounts appropriated to the municipal research council from the city and town research services account by warrant or check to the contracting parties on invoices or vouchers certified by the chair of the municipal research council or his or her designee.))~~ Payments to public agencies may be made in advance of actual work contracted for, at the discretion of the ~~((council))~~ department of commerce.

**Sec. 703.** RCW 43.110.080 and 2006 c 328 s 1 are each amended to read as follows:

~~(1)~~ (1) The ~~((municipal research council))~~ department of commerce shall contract for the provision of research and services to special purpose districts. A contract shall be made with a state agency, educational institution, or private consulting firm, that in the judgment of ~~((council members))~~ the department is qualified to provide such research and services.

~~(2)~~ (2) Research and services to special purpose districts shall consist of:

~~(a)~~ (a) Studying and researching issues relating to special purpose district government;

~~(b)~~ (b) Acquiring, preparing, and distributing publications related to special purpose districts; and

~~(c)~~ (c) Furnishing legal, technical, consultative, and field services to special purpose districts concerning issues relating to special purpose district government.

~~(3)~~ (3) The ~~((activities, programs, and services of the municipal research council to special purpose districts shall be carried on in cooperation))~~ department of commerce shall coordinate with the associations representing the various special purpose districts with respect to carrying out the activities in this section. Services to special purpose districts shall be based upon the moneys appropriated to the ~~((municipal research council))~~ department of commerce from the special purpose district research services account under RCW 43.110.090.

**Sec. 704.** RCW 43.15.020 and 2009 c 560 s 27 are each amended to read as follows:

The lieutenant governor serves as president of the senate and is responsible for making appointments to, and serving on, the committees and boards as set forth in this section.

~~(1)~~ (1) The lieutenant governor serves on the following boards and committees:

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(a) Capitol furnishings preservation committee, RCW 27.48.040;

(b) Washington higher education facilities authority, RCW 28B.07.030;

(c) Productivity board, also known as the employee involvement and recognition board, RCW 41.60.015;

(d) State finance committee, RCW 43.33.010;

(e) State capitol committee, RCW 43.34.010;

(f) Washington health care facilities authority, RCW 70.37.030;

(g) State medal of merit nominating committee, RCW 1.40.020;

(h) Medal of valor committee, RCW 1.60.020; and

(i) Association of Washington generals, RCW 43.15.030.

(2) The lieutenant governor, and when serving as president of the senate, appoints members to the following boards and committees:

(a) Civil legal aid oversight committee, RCW 2.53.010;

(b) Office of public defense advisory committee, RCW 2.70.030;

(c) Washington state gambling commission, RCW 9.46.040;

(d) Sentencing guidelines commission, RCW 9.94A.860;

(e) State building code council, RCW 19.27.070;

(f) Women's history consortium board of advisors, RCW 27.34.365;

(g) Financial ~~(literacy)~~ education public-private partnership, RCW 28A.300.450;

(h) Joint administrative rules review committee, RCW 34.05.610;

(i) Capital projects advisory review board, RCW 39.10.220;

(j) Select committee on pension policy, RCW 41.04.276;

(k) Legislative ethics board, RCW 42.52.310;

(l) Washington citizens' commission on salaries, RCW 43.03.305;

(m) Legislative oral history committee, RCW 44.04.325;

(n) State council on aging, RCW 43.20A.685;

(o) State investment board, RCW 43.33A.020;

(p) Capitol campus design advisory committee, RCW 43.34.080;

(q) Washington state arts commission, RCW 43.46.015;

(r) Information services board, RCW 43.105.032;

(s) K-20 educational network board, RCW 43.105.800;

(t) ~~(Municipal research council, RCW 43.110.010;~~

~~(u)~~ Council for children and families, RCW 43.121.020;

~~(v)~~ (u) PNWER-Net working subgroup under chapter 43.147 RCW;

~~(w)~~ (v) Community economic revitalization board, RCW 43.160.030;

~~(x)~~ (w) Washington economic development finance authority, RCW 43.163.020;

~~(y)~~ (x) Life sciences discovery fund authority, RCW 43.350.020;

~~(z)~~ (y) Legislative children's oversight committee, RCW 44.04.220;

~~(aa)~~ (z) Joint legislative audit and review committee, RCW 44.28.010;

~~(bb)~~ (aa) Joint committee on energy supply and energy conservation, RCW 44.39.015;

~~(cc)~~ (bb) Legislative evaluation and accountability program committee, RCW 44.48.010;

~~(dd)~~ (cc) Agency council on coordinated transportation, RCW 47.06B.020;

~~(ee)~~ (dd) Manufactured housing task force, RCW 59.22.090;

~~(ff)~~ (ee) Washington horse racing commission, RCW 67.16.014;

~~(gg)~~ (ff) Correctional industries board of directors, RCW 72.09.080;

~~(hh)~~ (gg) Joint committee on veterans' and military affairs, RCW 73.04.150;

~~(ii)~~ (hh) Joint legislative committee on water supply during drought, RCW 90.86.020;

~~(jj)~~ (ii) Statute law committee, RCW 1.08.001; and

~~(kk)~~ (jj) Joint legislative oversight committee on trade policy, RCW 44.55.020.

**Sec. 705.** RCW 35.21.185 and 1995 c 21 s 1 are each amended to read as follows:

(1) It is the purpose of this section to provide a means whereby all cities and towns may obtain, through a single source, information regarding ordinances of other cities and towns that may be of assistance to them in enacting appropriate local legislation.

(2) For the purposes of this section, (a) "clerk" means the city or town clerk or other person who is lawfully designated to perform the recordkeeping function of that office, and (b) "~~(municipal research council)~~ department" means the ~~(municipal research council created by chapter 43.110 RCW)~~ department of commerce.

(3) The clerk of every city and town is directed to provide to the ~~(municipal research council)~~ department or its designee, promptly after adoption, a copy of each of its regulatory ordinances and such other ordinances or kinds of ordinances as may be described in a list or lists promulgated by the ~~(municipal research council)~~ department or its designee from time to time, and may provide such copies without charge. The ~~(municipal research council)~~ department may provide that information to the entity with which it contracts for the provision of municipal research and services, in order to provide a pool of information for all cities and towns in the state of Washington.

(4) This section is intended to be directory and not mandatory.

**Sec. 706.** RCW 35.102.040 and 2006 c 301 s 7 are each amended to read as follows:

(1)(a) The cities, working through the association of Washington cities, shall form a model ordinance development committee made up of a representative sampling of cities that as of July 27, 2003, impose a business and occupation tax. This committee shall work through the association of Washington cities to adopt a model ordinance on municipal gross receipts business and occupation tax. The model ordinance and subsequent amendments shall be adopted using a process that includes opportunity for substantial input from business stakeholders and other members of the public. Input shall be solicited from statewide business associations and from local chambers of commerce and downtown business associations in cities that levy a business and occupation tax.

(b) The ~~(municipal research council)~~ department of commerce shall contract to post the model ordinance on an internet web site and to make paper copies available for inspection upon request. The department of revenue and the department of licensing shall post copies of or links to the model ordinance on their internet web sites. Additionally, a city that imposes a business and occupation tax must make copies of its ordinance available for inspection and copying as provided in chapter 42.56 RCW.

(c) The definitions and tax classifications in the model ordinance may not be amended more frequently than once every four years, however the model ordinance may be amended at any time to comply with changes in state law. Any amendment to a mandatory provision of the model ordinance must be adopted with the same effective date by all cities.

(2) A city that imposes a business and occupation tax must adopt the mandatory provisions of the model ordinance. The following provisions are mandatory:

(a) A system of credits that meets the requirements of RCW 35.102.060 and a form for such use;

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(b) A uniform, minimum small business tax threshold of at least the equivalent of twenty thousand dollars in gross income annually. A city may elect to deviate from this requirement by creating a higher threshold or exemption but it shall not deviate lower than the level required in this subsection. If a city has a small business threshold or exemption in excess of that provided in this subsection as of January 1, 2003, and chooses to deviate below the threshold or exemption level that was in place as of January 1, 2003, the city must notify all businesses licensed to do business within the city at least one hundred twenty days prior to the potential implementation of a lower threshold or exemption amount;

(c) Tax reporting frequencies that meet the requirements of RCW 35.102.070;

(d) Penalty and interest provisions that meet the requirements of RCW 35.102.080 and 35.102.090;

(e) Claim periods that meet the requirements of RCW 35.102.100;

(f) Refund provisions that meet the requirements of RCW 35.102.110; and

(g) Definitions, which at a minimum, must include the definitions enumerated in RCW 35.102.030 and 35.102.120. The definitions in chapter 82.04 RCW shall be used as the baseline for all definitions in the model ordinance, and any deviation in the model ordinance from these definitions must be described by a comment in the model ordinance.

(3) Except for the deduction required by RCW 35.102.160 and the system of credits developed to address multiple taxation under subsection (2)(a) of this section, a city may adopt its own provisions for tax exemptions, tax credits, and tax deductions.

(4) Any city that adopts an ordinance that deviates from the nonmandatory provisions of the model ordinance shall make a description of such differences available to the public, in written and electronic form.

**Sec. 707.** RCW 36.70B.220 and 2005 c 274 s 272 are each amended to read as follows:

(1) Each county and city having populations of ten thousand or more that plan under RCW 36.70A.040 shall designate permit assistance staff whose function it is to assist permit applicants. An existing employee may be designated as the permit assistance staff.

(2) Permit assistance staff designated under this section shall:

(a) Make available to permit applicants all current local government regulations and adopted policies that apply to the subject application. The local government shall provide counter copies thereof and, upon request, provide copies according to chapter 42.56 RCW. The staff shall also publish and keep current one or more handouts containing lists and explanations of all local government regulations and adopted policies;

(b) Establish and make known to the public the means of obtaining the handouts and related information; and

(c) Provide assistance regarding the application of the local government's regulations in particular cases.

(3) Permit assistance staff designated under this section may obtain technical assistance and support in the compilation and production of the handouts under subsection (2) of this section from the ~~((municipal research council and the department of community, trade, and economic development))~~ department of commerce.

**NEW SECTION. Sec. 708.** The following acts or parts of acts are each repealed:

(1) RCW 43.110.010 (Council created--Membership--Terms--Travel expenses) and 2001 c 290 s 1, 1997 c 437 s 1, 1990 c 104 s 1, 1983 c 22 s 1, 1975-'76 2nd ex.s. c 34 s 129, 1975 1st ex.s. c 218 s 1, & 1969 c 108 s 2;

(2) RCW 43.110.040 (Local government regulation and policy handouts--Technical assistance) and 1996 c 206 s 10; and

(3) RCW 43.110.070 (Hazardous liquid and gas pipeline--Model ordinance and franchise agreement) and 2000 c 191 s 8.

**NEW SECTION. Sec. 709.** (1) The municipal research council is hereby abolished and its powers, duties, and functions are hereby transferred to the department of commerce. All references to the municipal research council in the Revised Code of Washington shall be construed to mean the department of commerce.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the municipal research council shall be delivered to the custody of the department of commerce. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the municipal research council shall be made available to the department of commerce. All funds, credits, or other assets held by the municipal research council shall be assigned to the department of commerce.

(b) Any appropriations made to the municipal research council shall, on the effective date of this section, be transferred and credited to the department of commerce.

(c) If any question arises as to the transfer of any funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the municipal research council shall be continued and acted upon by the department of commerce. All existing contracts and obligations shall remain in full force and shall be performed by the department of commerce.

(4) The transfer of the powers, duties, and functions of the municipal research council shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

## PART VIII MISCELLANEOUS PROVISIONS

**NEW SECTION. Sec. 801.** RCW 43.63A.150 is decodified.

**NEW SECTION. Sec. 802.** This act takes effect July 1, 2010."

Senators Kastama and Zarelli spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kastama and Zarelli to Engrossed Second Substitute House Bill No. 2658.

The motion by Senator Kastama carried and the striking amendment was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "programs;" strike the remainder of the title and insert "amending RCW 43.330.007, 70.05.125, 43.330.210, 43.330.240, 19.27.070, 19.27.097, 19.27.150, 19.27A.020, 19.27A.140, 19.27A.150, 19.27A.180,

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43.21F.010, 43.21F.090, 36.27.100, 80.50.030, 43.110.030, 43.110.060, 43.110.080, 43.15.020, 35.21.185, 35.102.040, and 36.70B.220; reenacting and amending RCW 43.21F.025; adding new sections to chapter 43.70 RCW; adding a new section to chapter 43.21F RCW; creating new sections; recodifying RCW 43.330.195, 43.330.200, 43.330.205, 43.330.210, 43.330.220, 43.330.225, 43.330.230, and 43.330.240; decodifying RCW 43.63A.150; repealing RCW 43.330.005, 43.21F.015, 43.110.010, 43.110.040, and 43.110.070; and providing an effective date."

## MOTION

On motion of Senator Kastama, the rules were suspended, Engrossed Second Substitute House Bill No. 2658 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kastama and Rockefeller spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2658 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2658 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Holmquist and Honeyford

Excused: Senators Fraser and McCaslin

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2658 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 2406, by Representatives Kelley, Alexander, Miloscia and Haigh

Concerning the joint legislative audit and review committee.

The measure was read the second time.

## MOTION

On motion of Senator Rockefeller, the rules were suspended, House Bill No. 2406 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller and Parlette spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2406.

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ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2406 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Absent: Senator Tom

Excused: Senator McCaslin

HOUSE BILL NO. 2406, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 2877, by Representative Moeller

Authorizing payment of regulated company stock in lieu of a portion of salary for educational employees.

The measure was read the second time.

## MOTION

On motion of Senator Prentice, the rules were suspended, House Bill No. 2877 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

## MOTION

On motion of Senator Marr, Senator Kastama was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 2877.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2877 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

HOUSE BILL NO. 2877, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 2403, by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Morrell, Kelley, Armstrong,

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Bailey, Hope, O'Brien, Klippert, Morris, Hurst, Hunt, Green, Roberts, Sells, McCune, Campbell, Nelson, Rolfes, Chase, Smith, Appleton, Maxwell, Sullivan, Dammeier, Uptegrove, Carlyle, Conway, Simpson, Orwall, Kenney, McCoy, Ormsby, Kretz and Haigh)

Concerning military leave for public employees.

The measure was read the second time.

MOTION

On motion of Senator Hobbs, the rules were suspended, Substitute House Bill No. 2403 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2403.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2403 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 2403, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2603, by House Committee on Ways & Means (originally sponsored by Representatives Smith, Kenney, Bailey, Quall, Morris, Blake, Anderson, Chase, Kelley, Short, Appleton, Sullivan, Dammeier, Uptegrove, Klippert, Chandler, Kristiansen, Rolfes, Pearson, Roach, Parker, Morrell, Haler, Walsh, Orcutt, Johnson, Liias, Hunt, Probst, Ericksen, Moeller, Kretz, Sells, Hope, Herrera and Warnick)

Requiring agencies to give small businesses an opportunity to comply with a state law or agency rule before imposing a penalty.

The measure was read the second time.

MOTION

Senator Kilmer moved that the following committee striking amendment by the Committee on Economic Development, Trade & Innovation be not adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 34.05.110 and 2009 c 358 s 1 are each amended to read as follows:

(1) Agencies must provide to a small business a copy of the state law or agency rule that a small business is violating and a period of at least two business days to correct the violation before the agency may impose any fines, civil penalties, or administrative sanctions for a violation of a state law or agency rule by a small business. If no correction is possible, the requirements in this subsection do not apply.

(2) Except as provided in subsection ~~((3))~~ (4) of this section, agencies shall waive any fines, civil penalties, or administrative sanctions for first-time paperwork violations by a small business.

~~((2))~~ (3) When an agency waives a fine, penalty, or sanction under this section, when possible it shall require the small business to correct the violation within a reasonable period of time, in a manner specified by the agency. If correction is impossible, no correction may be required and failure to correct is not grounds for reinstatement of fines, penalties, or sanctions under subsection ~~((4))~~ (5)(b) of this section.

~~((3))~~ (4) Exceptions to requirements of subsection (1) of this section and the waiver requirement in subsection (2) of this section may be made for any of the following reasons:

(a) The agency head determines that the effect of the violation or waiver presents a direct danger to the public health, results in a loss of income or benefits to an employee, poses a potentially significant threat to human health or the environment, or causes serious harm to the public interest;

(b) The violation involves a small business knowingly or willfully engaging in conduct that may result in a felony conviction;

(c) The violation is of a requirement concerning the assessment, collection, or administration of any tax, tax program, debt, revenue, receipt, a regulated entity's financial filings, or insurance rate or form filing;

(d) The ~~((waiver is))~~ requirements of this section are in conflict with federal law or program requirements, federal requirements that are a prescribed condition to the allocation of federal funds to the state, or the requirements for eligibility of employers in this state for federal unemployment tax credits, as determined by the agency head;

(e) The small business committing the violation previously violated a substantially similar ~~((paperwork))~~ requirement; or

(f) The owner or operator of the small business committing the violation owns or operates, or owned or operated a different small business which previously violated a substantially similar ~~((paperwork))~~ requirement.

~~((4))~~ (5)(a) Nothing in this section prohibits an agency from waiving fines, civil penalties, or administrative sanctions incurred by a small business for a paperwork violation that is not a first-time offense.

(b) Any fine, civil penalty, or administrative sanction that is waived under this section may be reinstated and imposed in addition to any additional fines, penalties, or administrative sanctions associated with a subsequent violation for noncompliance with a substantially similar paperwork requirement, or failure to correct the previous violation as required by the agency under subsection ~~((2))~~ (3) of this section.

~~((5))~~ (6) Nothing in this section may be construed to diminish the responsibility for any citizen or business to apply for and obtain a permit, license, or authorizing document that is required to engage in a regulated activity, or otherwise comply with state or federal law.

~~((6))~~ (7) Nothing in this section shall be construed to apply to small businesses required to provide accurate and complete information and documentation in relation to any claim for payment of state or federal funds or who are licensed or certified to provide care and services to vulnerable adults or children.

~~((7))~~ (8) As used in this section:

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(a) "Small business" means a business with two hundred fifty or fewer employees or a gross revenue of less than seven million dollars annually as reported on its most recent federal income tax return or its most recent return filed with the department of revenue.

(b) "Paperwork violation" means the violation of any statutory or regulatory requirement that mandates the collection of information by an agency, or the collection, posting, or retention of information by a small business. This includes but is not limited to requirements in the Revised Code of Washington, the Washington Administrative Code, the Washington State Register, or any other agency directive.

(c) "First-time paperwork violation" means the first instance of a particular or substantially similar paperwork violation."

On page 1, line 2 of the title, after "businesses;" strike the remainder of the title and insert "and amending RCW 34.05.110."

The President declared the question before the Senate to be the motion by Senator Kilmer to not adopt the committee striking amendment by the Committee on Economic Development, Trade & Innovation to Second Substitute House Bill No. 2603.

The motion by Senator Kilmer carried and the committee striking amendment was not adopted by voice vote.

### MOTION

Senator Kilmer moved that the following striking amendment by Senators Kilmer and Zarelli be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 34.05.110 and 2009 c 358 s 1 are each amended to read as follows:

(1) Agencies must provide to a small business a copy of the state law or agency rule that a small business is violating and a period of at least two business days to correct the violation before the agency may impose any fines, civil penalties, or administrative sanctions for a violation of a state law or agency rule by a small business. If no correction is possible or if an agency is acting in response to a complaint made by a third party and the third party would be disadvantaged by the application of this subsection, the requirements in this subsection do not apply.

(2) Except as provided in subsection ~~((4))~~ (4) of this section, agencies shall waive any fines, civil penalties, or administrative sanctions for first-time paperwork violations by a small business.

~~((2))~~ (3) When an agency waives a fine, penalty, or sanction under this section, when possible it shall require the small business to correct the violation within a reasonable period of time, in a manner specified by the agency. If correction is impossible, no correction may be required and failure to correct is not grounds for reinstatement of fines, penalties, or sanctions under subsection ~~((4))~~ (5)(b) of this section.

~~((3))~~ (4) Exceptions to requirements of subsection (1) of this section and the waiver requirement in subsection (2) of this section may be made for any of the following reasons:

(a) The agency head determines that the effect of the violation or waiver presents a direct danger to the public health, results in a loss of income or benefits to an employee, poses a potentially significant threat to human health or the environment, or causes serious harm to the public interest;

(b) The violation involves a ~~((small business knowingly or willfully engaging in conduct that may result in a felony conviction))~~ knowing or willful violation;

(c) The violation is of a requirement concerning the assessment, collection, or administration of any tax, tax program, debt, revenue, receipt, a regulated entity's financial filings, or insurance rate or form filing;

(d) The ~~((waiver is))~~ requirements of this section are in conflict with federal law or program requirements, federal requirements that are a prescribed condition to the allocation of federal funds to the state, or the requirements for eligibility of employers in this state for federal unemployment tax credits, as determined by the agency head;

(e) The small business committing the violation previously violated a substantially similar ~~((paperwork))~~ requirement; or

(f) The owner or operator of the small business committing the violation owns or operates, or owned or operated a different small business which previously violated a substantially similar ~~((paperwork))~~ requirement.

~~((4))~~ (5)(a) Nothing in this section prohibits an agency from waiving fines, civil penalties, or administrative sanctions incurred by a small business for a paperwork violation that is not a first-time offense.

(b) Any fine, civil penalty, or administrative sanction that is waived under this section may be reinstated and imposed in addition to any additional fines, penalties, or administrative sanctions associated with a subsequent violation for noncompliance with a substantially similar paperwork requirement, or failure to correct the previous violation as required by the agency under subsection ~~((2))~~ (3) of this section.

~~((5))~~ (6) Nothing in this section may be construed to diminish the responsibility for any citizen or business to apply for and obtain a permit, license, or authorizing document that is required to engage in a regulated activity, or otherwise comply with state or federal law.

~~((6))~~ (7) Nothing in this section shall be construed to apply to small businesses required to provide accurate and complete information and documentation in relation to any claim for payment of state or federal funds or who are licensed or certified to provide care and services to vulnerable adults or children.

~~((7))~~ (8) Nothing in this section affects the attorney general's authority to impose fines, civil penalties, or administrative sanctions as otherwise authorized by law; nor shall this section affect the attorney general's authority to enforce the consumer protection act, chapter 19.86 RCW.

(9) As used in this section:

(a) "Small business" means a business with two hundred fifty or fewer employees or a gross revenue of less than seven million dollars annually as reported on its most recent federal income tax return or its most recent return filed with the department of revenue.

(b) "Paperwork violation" means the violation of any statutory or regulatory requirement that mandates the collection of information by an agency, or the collection, posting, or retention of information by a small business. This includes but is not limited to requirements in the Revised Code of Washington, the Washington Administrative Code, the Washington State Register, or any other agency directive.

(c) "First-time paperwork violation" means the first instance of a particular or substantially similar paperwork violation."

Senator Kilmer spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Kastama, Kilmer and Zarelli to Second Substitute House Bill No. 2603.

The motion by Senator Kilmer carried and the striking amendment was adopted by voice vote.

### MOTION

There being no objection, the following title amendment was adopted:

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On page 1, line 2 of the title, after "businesses;" strike the remainder of the title and insert "and amending RCW 34.05.110."

#### MOTION

On motion of Senator Kilmer, the rules were suspended, Second Substitute House Bill No. 2603 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kilmer spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2603 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2603 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SECOND SUBSTITUTE HOUSE BILL NO. 2603 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 3001, by House Committee on Transportation (originally sponsored by Representatives Klippert, Liias, Wallace, Campbell and Simpson)

Addressing bicycle and pedestrian safety education in traffic schools.

The measure was read the second time.

#### MOTION

Senator Haugen moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that a number of cities and counties in the state of Washington establish traffic schools. A court in a county that has established a traffic school may order an individual to attend the school as part of a sentence for the conviction of a traffic violation or as a condition on the suspension or deferral of a sentence. The legislature recognizes that since driver's education programs have only recently been required to provide information about how to drive safely among bicyclists and pedestrians, many licensed drivers do not have knowledge about such safe driving practices. In order to increase such knowledge and to avoid unnecessary injuries, fatalities, and conflicts, the legislature believes that it is appropriate to include bicycle and pedestrian curriculum approved by the department of

licensing for traffic schools or to new drivers as part of the curriculum of traffic schools. Curriculum materials, which are donated by bicycle organizations without state expense, are available from the department of licensing and posted on the department's web site.

**NEW SECTION. Sec. 2.** A new section is added to chapter 46.83 RCW to read as follows:

A traffic school established under this chapter shall include, as part of its curriculum on rules of the road, the curriculum for driving safely among bicyclists and pedestrians that has been approved by the department for driver training schools or traffic schools. This curriculum requirement must not exceed thirty minutes of the class or course."

On page 1, line 2 of the title, after "schools;" strike the remainder of the title and insert "adding a new section to chapter 46.83 RCW; and creating a new section."

#### MOTION

Senator McDermott moved that the following amendment by Senators McDermott and Haugen to the committee striking amendment be adopted:

On page 1, after line 27 of the amendment, insert the following:

**"NEW SECTION. Sec. 3.** A new section is added to chapter 46.61 RCW to read as follows:

(1) A person commits negligent driving in the second degree with a vulnerable user victim if, under circumstances constituting negligent driving in the second degree, as defined in RCW 46.61.525, he or she proximately causes the death, great bodily harm, or substantial bodily harm of a vulnerable user of a public way.

(2) A person commits negligent bicycling with a vulnerable user victim if he or she operates a bicycle in a manner that is both negligent and endangers or is likely to endanger any person or property and he or she proximately causes the death, great bodily harm, or substantial bodily harm of a vulnerable user of a public way. For purposes of this subsection, "negligent" has the same meaning as in RCW 46.61.525(2).

(3) The law enforcement officer or prosecuting authority issuing the notice of infraction for an offense under this section shall state on the notice of infraction that the offense was a proximate cause of death, great bodily harm, or substantial bodily harm, as defined in RCW 9A.04.110, of a vulnerable user of a public way. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be sooner than seven days from the date of the notice, except by agreement. The form for the notice of traffic infraction under this section shall be prescribed by rule of the supreme court and, in addition to the requirements of RCW 46.63.060, shall:

(a) State that a hearing will be scheduled by the court to determine the penalties under subsection (4) or (5) of this section and, if necessary, provide an opportunity for the person to contest the determination that the offense has been committed;

(b) State that (i) the person named in the notice of infraction is required to appear at the scheduled hearing regardless of whether the person named in the notice contests the determination that the offense has been committed, (ii) failure to appear at the hearing will result in the suspension of the person's driver's license or driving privilege for a minimum of ninety days and continue thereafter until any penalties imposed pursuant to this chapter have been satisfied; and (iii) failure to appear at the hearing will result in the imposition of a fine fixed by the court in an amount of at least one thousand dollars and not to exceed five thousand dollars; and

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(c) Include a statement of the monetary and nonmonetary penalties established and available under this section and any other applicable law.

(4) A person found to have committed negligent driving in the second degree with a vulnerable user victim or negligent bicycling with a vulnerable user victim shall be required to:

- (a) Pay a penalty of two hundred fifty dollars;
- (b) Complete a traffic safety course approved by the court;

(c) Perform up to one hundred hours of community service, which must be approved by the court and must include activities related to driver improvement and providing public education on traffic safety; and

(d) Submit certification to the court establishing that the requirements of this subsection have been met.

(5) In lieu of the penalties imposed under subsection (4) of this section, a person found to have committed a violation of this section may elect to:

(a) Pay a fine fixed by the court in an amount of at least one thousand dollars and not to exceed five thousand dollars; and

(b) Have his or her driving privileges suspended for ninety days.

(6) If a person found to have committed a violation of this section does not complete all requirements of subsection (4) of this section within one year of the date the violation of this section is found committed and does not elect the penalties described in subsection (5) of this section:

(a) The court shall impose a fine in an amount of at least one thousand dollars and not to exceed five thousand dollars; and

(b) The person's driving privileges shall be suspended for ninety days.

For good cause shown, the court may extend the period of time in which the person must complete the requirements of subsection (4) of this section before imposing the fine and driving privilege suspension provided for in this subsection.

(7) If a person issued a notice of infraction for a violation of this section fails to appear for a hearing scheduled pursuant to subsection (3)(a) of this section:

(a) The court shall enter an order assessing the monetary penalty;

(b) The person's driving privileges shall be suspended for ninety days; and

(c) The court shall notify the department in accordance with RCW 46.20.270 of the failure to respond to the notice of infraction or to appear at a scheduled hearing.

For good cause shown, the court may reschedule or continue the hearing scheduled pursuant to subsection (3)(a) of this section.

(8) An offense under this section is a traffic infraction. To the extent not inconsistent with this section, the provisions of chapter 46.63 RCW shall apply to infractions under this section. Procedures for the conduct of all hearings provided for in this section may be established by rule of the supreme court.

(9) If a person's driving privileges are suspended pursuant to subsection (5)(b), (6)(b), or (7)(b) of this section, the court shall send notice of such suspension to the department.

(10) For the purposes of this section, "vulnerable user of a public way" means: (a) A pedestrian; (b) a person riding an animal; or (c) a person operating any of the following on a public way:

- (i) A farm tractor or implement of husbandry without an enclosed shell;
- (ii) A skateboard;
- (iii) Roller skates or in-line skates;
- (iv) A scooter;
- (v) A bicycle or tricycle;
- (vi) An electric assist bicycle;
- (vii) An electric personal assistive mobility device; or

(viii) A wheelchair conveyance or other personal mobility device.

(11) Any act prohibited by this section that also constitutes a crime under any other law of this state may be the basis of prosecution under such other law notwithstanding that it may also be the basis for prosecution under this section.

**Sec. 4.** RCW 46.20.342 and 2008 c 282 s 4 are each amended to read as follows:

(1) It is unlawful for any person to drive a motor vehicle in this state while that person is in a suspended or revoked status or when his or her privilege to drive is suspended or revoked in this or any other state. Any person who has a valid Washington driver's license is not guilty of a violation of this section.

(a) A person found to be ~~(a)~~ a habitual offender under chapter 46.65 RCW, who violates this section while an order of revocation issued under chapter 46.65 RCW prohibiting such operation is in effect, is guilty of driving while license suspended or revoked in the first degree, a gross misdemeanor. Upon the first such conviction, the person shall be punished by imprisonment for not less than ten days. Upon the second conviction, the person shall be punished by imprisonment for not less than ninety days. Upon the third or subsequent conviction, the person shall be punished by imprisonment for not less than one hundred eighty days. If the person is also convicted of the offense defined in RCW 46.61.502 or 46.61.504, when both convictions arise from the same event, the minimum sentence of confinement shall be not less than ninety days. The minimum sentence of confinement required shall not be suspended or deferred. A conviction under this subsection does not prevent a person from petitioning for reinstatement as provided by RCW 46.65.080.

(b) A person who violates this section while an order of suspension or revocation prohibiting such operation is in effect and while the person is not eligible to reinstate his or her driver's license or driving privilege, other than for a suspension for the reasons described in (c) of this subsection, is guilty of driving while license suspended or revoked in the second degree, a gross misdemeanor. This subsection applies when a person's driver's license or driving privilege has been suspended or revoked by reason of:

(i) A conviction of a felony in the commission of which a motor vehicle was used;

(ii) A previous conviction under this section;

(iii) A notice received by the department from a court or diversion unit as provided by RCW 46.20.265, relating to a minor who has committed, or who has entered a diversion unit concerning an offense relating to alcohol, legend drugs, controlled substances, or imitation controlled substances;

(iv) A conviction of RCW 46.20.410, relating to the violation of restrictions of an occupational driver's license, a temporary restricted driver's license, or an ignition interlock driver's license;

(v) A conviction of RCW 46.20.345, relating to the operation of a motor vehicle with a suspended or revoked license;

(vi) A conviction of RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(vii) A conviction of RCW 46.61.024, relating to attempting to elude pursuing police vehicles;

(viii) A conviction of RCW 46.61.500, relating to reckless driving;

(ix) A conviction of RCW 46.61.502 or 46.61.504, relating to a person under the influence of intoxicating liquor or drugs;

(x) A conviction of RCW 46.61.520, relating to vehicular homicide;

(xi) A conviction of RCW 46.61.522, relating to vehicular assault;

(xii) A conviction of RCW 46.61.527(4), relating to reckless endangerment of roadway workers;

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(xiii) A conviction of RCW 46.61.530, relating to racing of vehicles on highways;

(xiv) A conviction of RCW 46.61.685, relating to leaving children in an unattended vehicle with motor running;

(xv) A conviction of RCW 46.61.740, relating to theft of motor vehicle fuel;

(xvi) A conviction of RCW 46.64.048, relating to attempting, aiding, abetting, coercing, and committing crimes;

(xvii) An administrative action taken by the department under chapter 46.20 RCW; ~~((e))~~

(xviii) A conviction of a local law, ordinance, regulation, or resolution of a political subdivision of this state, the federal government, or any other state, of an offense substantially similar to a violation included in this subsection; or

(xix) A finding that a person has committed a traffic infraction under section 3 of this act and suspension of driving privileges pursuant to section 3 (5)(b), (6)(b), or (7)(b) of this act.

(c) A person who violates this section when his or her driver's license or driving privilege is, at the time of the violation, suspended or revoked solely because (i) the person must furnish proof of satisfactory progress in a required alcoholism or drug treatment program, (ii) the person must furnish proof of financial responsibility for the future as provided by chapter 46.29 RCW, (iii) the person has failed to comply with the provisions of chapter 46.29 RCW relating to uninsured accidents, (iv) the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, as provided in RCW 46.20.289, (v) the person has committed an offense in another state that, if committed in this state, would not be grounds for the suspension or revocation of the person's driver's license, (vi) the person has been suspended or revoked by reason of one or more of the items listed in (b) of this subsection, but was eligible to reinstate his or her driver's license or driving privilege at the time of the violation, or (vii) the person has received traffic citations or notices of traffic infraction that have resulted in a suspension under RCW 46.20.267 relating to intermediate drivers' licenses, or any combination of (i) through (vii), is guilty of driving while license suspended or revoked in the third degree, a misdemeanor.

(2) Upon receiving a record of conviction of any person or upon receiving an order by any juvenile court or any duly authorized court officer of the conviction of any juvenile under this section, the department shall:

(a) For a conviction of driving while suspended or revoked in the first degree, as provided by subsection (1)(a) of this section, extend the period of administrative revocation imposed under chapter 46.65 RCW for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(b) For a conviction of driving while suspended or revoked in the second degree, as provided by subsection (1)(b) of this section, not issue a new license or restore the driving privilege for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(c) Not extend the period of suspension or revocation if the conviction was under subsection (1)(c) of this section. If the conviction was under subsection (1)(a) or (b) of this section and the court recommends against the extension and the convicted person has obtained a valid driver's license, the period of suspension or revocation shall not be extended.

**NEW SECTION. Sec. 5.** Sections 3 and 4 of this act apply to infractions committed on or after the effective date of this section.

**NEW SECTION. Sec. 6.** Sections 3 through 5 of this act take effect July 1, 2011."

On page 2, beginning on line 1 of the title amendment, strike the title amendment and insert "On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "bicycle and pedestrian safety; amending RCW 46.20.342; adding a new section to chapter 46.83 RCW; adding a new section to chapter 46.61 RCW; creating new sections; prescribing penalties; and providing an effective date.""

#### POINT OF ORDER

Senator Schoesler: "Thank you Mr. President. I believe the amendment offered is beyond the scope and object of the underlying bill and I have some arguments to offer on this Mr. President. The underlying bill deals with traffic schools and focuses on the required curriculum. Specifically, it directs traffic schools to include in their curriculum information on driving safety among bicyclists and pedestrians. By contrast the amendment hangs an entirely different bill onto this one and creates two new traffic infractions; negligence bicycling with a vulnerable user victim; and negligence driving in the second degree with a vulnerable user victim. The amendment details these infractions and provides penalties. The amendment has no connection to traffic school curriculum. For these reasons I believe that the amendment that is offered is outside the scope and object of the underlying bill and I respectfully request a ruling on this matter."

#### POINT OF ORDER

Senator McDermott: "I'd like to respond to the point of the previous speaker. Thank you Mr. President. House Bill No. 3001 before us now clearly addresses bicycling and pedestrian safety. The amendment offered by Senator Haugen and I, amendment number 292, clearly addresses bicyclist and pedestrian's safety as well, by defining vulnerable users and addressing negligence driving in the second degree to protect vulnerable users, bicyclists and pedestrians on our roadways. I believe that its within the scope and object and request a ruling to that effect. Thank you Mr. President."

#### RULING BY THE PRESIDENT

President Owen: "In ruling on the point of order raised by Senator Schoesler as to whether amendment number 292, the committee amendment to Substitute House Bill No. 3001 fits within the scope and object of the underlying bill. The President finds and rules as follows: The underlying bill and committee amendment at issue add driving safely among bicyclists and pedestrians to the traffic school curriculum. The amendment would add several new traffic infractions to the code and while they could be broadly characterized as dealing with bicyclists and pedestrians safety they are beyond the narrow scope of the committee amendment. For these reasons the President finds that the amendment number 292 is beyond the scope and object of the committee amendment and Senator Schoesler's point is well taken."

#### MOTION

On motion of Senator Eide, further consideration of Substitute House Bill No. 3001 was deferred and the bill held its place on the second reading calendar.

#### PERSONAL PRIVILEGE

Senator Kline: "Mr. President, it's getting to that season in the year and I know it's late nights for us and boredom. Hurry up and wait, that sort of thing that normally accompanies this time of session. I'd like to, with your kind permission, have my friends and colleagues a little entertainment; oranges. I know you don't like food on the to be eaten on the, in the chamber but I'm sure we can take our oranges in and if you don't mind Mr. President I'd love to distribute an orange to everyone of my colleagues."

#### REPLY BY THE PRESIDENT

President Owen: "Yes sir Senator, that would be quite fine as long as I get one."

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2876, by House Committee on Health Care & Wellness (originally sponsored by Representatives Moeller, Green and Morrell)

Concerning pain management.

The measure was read the second time.

#### MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Health & Long-Term Care be not adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 18.22 RCW to read as follows:

(1) By December 1, 2010, the board shall repeal its rules on pain management, WAC 246-922-510 through 246-922-540.

(2) By June 30, 2011, the board shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a) Dosing criteria, including a dosage amount that must not be exceeded unless a podiatric physician and surgeon first consults with a practitioner specializing in pain management;

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids.

(3) The board shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional association of podiatric physicians and surgeons in the state.

(4) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

**NEW SECTION. Sec. 2.** A new section is added to chapter 18.32 RCW to read as follows:

(1) By June 30, 2011, the commission shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a) Dosing criteria, including a dosage amount that must not be exceeded unless a dentist first consults with a practitioner specializing in pain management;

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids.

(2) The commission shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional association of dentists in the state.

(3) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

**NEW SECTION. Sec. 3.** A new section is added to chapter 18.57 RCW to read as follows:

(1) By December 1, 2010, the board shall repeal its rules on pain management, WAC 246-853-510 through 246-853-540.

(2) By June 30, 2011, the board shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a) Dosing criteria, including a dosage amount that must not be exceeded unless an osteopathic physician and surgeon first consults with a practitioner specializing in pain management;

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(3) The board shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest association of osteopathic physicians and surgeons in the state.

(4) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

**NEW SECTION. Sec. 4.** A new section is added to chapter 18.57A RCW to read as follows:

(1) By December 1, 2010, the board shall repeal its rules on pain management, WAC 246-854-120 through 246-854-150.

(2) By June 30, 2011, the board shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a) Dosing criteria, including a dosage amount that must not be exceeded unless an osteopathic physician's assistant first consults with a practitioner specializing in pain management;

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(3) The board shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest association of osteopathic physician's assistants in the state.

(4) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

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(b) To the management of acute pain caused by an injury or a surgical procedure.

**NEW SECTION. Sec. 5.** A new section is added to chapter 18.71 RCW to read as follows:

(1) By December 1, 2010, the commission shall repeal its rules on pain management, WAC 246-919-800 through 246-919-830.

(2) By June 30, 2011, the commission shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a) Dosing criteria, including a dosage amount that must not be exceeded unless a physician first consults with a practitioner specializing in pain management;

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(3) The commission shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional association of physicians in the state.

(4) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

**NEW SECTION. Sec. 6.** A new section is added to chapter 18.71A RCW to read as follows:

(1) By June 30, 2011, the commission shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a) Dosing criteria, including a dosage amount that must not be exceeded unless a physician assistant first consults with a practitioner specializing in pain management;

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(2) The commission shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional association of physician assistants in the state.

(3) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

**NEW SECTION. Sec. 7.** A new section is added to chapter 18.79 RCW to read as follows:

(1) By June 30, 2011, the commission shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a) Dosing criteria, including a dosage amount that must not be exceeded unless an advanced registered nurse practitioner or certified registered nurse anesthetist first consults with a practitioner specializing in pain management;

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(2) The commission shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional associations for advanced registered nurse practitioners and certified registered nurse anesthetists in the state.

(3) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

**NEW SECTION. Sec. 8.** The boards and commissions required to adopt rules on pain management under sections 1 through 7 of this act shall work collaboratively to ensure that the rules are as uniform as practicable."

On page 1, line 1 of the title, after "management;" strike the remainder of the title and insert "adding a new section to chapter 18.22 RCW; adding a new section to chapter 18.32 RCW; adding a new section to chapter 18.57 RCW; adding a new section to chapter 18.57A RCW; adding a new section to chapter 18.71 RCW; adding a new section to chapter 18.71A RCW; adding a new section to chapter 18.79 RCW; and creating a new section."

The President declared the question before the Senate to be the motion by Senator Keiser to not adopt the committee striking amendment by the Committee on Health & Long-Term Care to Engrossed Substitute House Bill No. 2876.

The motion by Senator Keiser carried and the committee striking amendment was not adopted by voice vote.

#### MOTION

Senator Keiser moved that the following striking amendment by Senators Keiser and Pflug be adopted:

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** A new section is added to chapter 18.22 RCW to read as follows:

(1) By June 30, 2011, the board shall repeal its rules on pain management, WAC 246-922-510 through 246-922-540.

(2) By June 30, 2011, the board shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a) Dosing criteria, including:

(i) A dosage amount that must not be exceeded unless a podiatric physician and surgeon first consults with a practitioner specializing in pain management, at no additional cost to the patient; and

(ii) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management, including the specific circumstance of a patient requiring a stable and ongoing course of treatment for pain management in which an initial consultation shall suffice for that complete course of treatment.

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids.

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(3) The board shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional association of podiatric physicians and surgeons in the state.

(4) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

**NEW SECTION. Sec. 2.** A new section is added to chapter 18.32 RCW to read as follows:

(1) By June 30, 2011, the commission shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a) Dosing criteria, including:

(i) A dosage amount that must not be exceeded unless a dentist first consults with a practitioner specializing in pain management, at no additional cost to the patient; and

(ii) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management, including the specific circumstance of a patient requiring a stable and ongoing course of treatment for pain management in which an initial consultation shall suffice for that complete course of treatment.

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids.

(2) The commission shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional association of dentists in the state.

(3) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

**NEW SECTION. Sec. 3.** A new section is added to chapter 18.57 RCW to read as follows:

(1) By June 30, 2011, the board shall repeal its rules on pain management, WAC 246-853-510 through 246-853-540.

(2) By June 30, 2011, the board shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a) Dosing criteria, including:

(i) A dosage amount that must not be exceeded unless an osteopathic physician and surgeon first consults with a practitioner specializing in pain management, at no additional cost to the patient; and

(ii) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management, including the specific circumstance of a patient requiring a stable and ongoing course of treatment for pain management in which an initial consultation shall suffice for that complete course of treatment.

(b) Guidance on when to seek specialty consultation, including information on sufficient training and experience to exempt an osteopathic physician and surgeon from the specialty consultation requirement, and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(3) The board shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest association of osteopathic physicians and surgeons in the state.

(4) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

**NEW SECTION. Sec. 4.** A new section is added to chapter 18.57A RCW to read as follows:

(1) By June 30, 2011, the board shall repeal its rules on pain management, WAC 246-854-120 through 246-854-150.

(2) By June 30, 2011, the board shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a) Dosing criteria, including:

(i) A dosage amount that must not be exceeded unless an osteopathic physician's assistant first consults with a practitioner specializing in pain management, at no additional cost to the patient; and

(ii) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management, including the specific circumstance of a patient requiring a stable and ongoing course of treatment for pain management in which an initial consultation shall suffice for that complete course of treatment.

(b) Guidance on when to seek specialty consultation, including information on sufficient training and experience to exempt an osteopathic physician's assistant from the specialty consultation requirement, and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(3) The board shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest association of osteopathic physician's assistants in the state.

(4) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

**NEW SECTION. Sec. 5.** A new section is added to chapter 18.71 RCW to read as follows:

(1) By June 30, 2011, the commission shall repeal its rules on pain management, WAC 246-919-800 through 246-919-830.

(2) By June 30, 2011, the commission shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a) Dosing criteria, including:

(i) A dosage amount that must not be exceeded unless a physician first consults with a practitioner specializing in pain management, at no additional cost to the patient; and

(ii) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management, including the specific circumstance of a patient requiring a stable and ongoing course of treatment for pain management in which an initial consultation shall suffice for that complete course of treatment.

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(b) Guidance on when to seek specialty consultation, including information on sufficient training and experience to exempt a physician from the specialty consultation requirement, and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(3) The commission shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional association of physicians in the state.

(4) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

**NEW SECTION. Sec. 6.** A new section is added to chapter 18.71A RCW to read as follows:

(1) By June 30, 2011, the commission shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a) Dosing criteria, including:

(i) A dosage amount that must not be exceeded unless a physician assistant first consults with a practitioner specializing in pain management, at no additional cost to the patient; and

(ii) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management, including the specific circumstance of a patient requiring a stable and ongoing course of treatment for pain management in which an initial consultation shall suffice for that complete course of treatment.

(b) Guidance on when to seek specialty consultation, including information on sufficient training and experience to exempt a physician assistant from the specialty consultation requirement, and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(2) The commission shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional association of physician assistants in the state.

(3) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

**NEW SECTION. Sec. 7.** A new section is added to chapter 18.79 RCW to read as follows:

(1) By June 30, 2011, the commission shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a) Dosing criteria, including:

(i) A dosage amount that must not be exceeded unless an advanced registered nurse practitioner or certified registered nurse anesthetist first consults with a practitioner specializing in pain management, at no additional cost to the patient; and

(ii) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management, including the specific circumstance of a patient requiring a stable and ongoing course of

treatment for pain management in which an initial consultation shall suffice for that complete course of treatment.

(b) Guidance on when to seek specialty consultation, including information on sufficient training and experience to exempt an advanced registered nurse practitioner or certified registered nurse anesthetist from the specialty consultation requirement, and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(2) The commission shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional associations for advanced registered nurse practitioners and certified registered nurse anesthetists in the state.

(3) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

**NEW SECTION. Sec. 8.** (1) The boards and commissions required to adopt rules on pain management under sections 1 through 7 of this act shall work collaboratively to ensure that the rules are as uniform as practicable.

(2) On January 11, 2011, each of the boards and commissions required to adopt rules on pain management under sections 1 through 7 of this act shall submit the proposed rules required by this act to the appropriate committees of the legislature."

Senators Keiser, Pflug and Franklin spoke in favor of adoption of the striking amendment.

Senator Fairley spoke against adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Keiser and Pflug to Engrossed Substitute House Bill No. 2876.

The motion by Senator Keiser carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "management;" strike the remainder of the title and insert "adding a new section to chapter 18.22 RCW; adding a new section to chapter 18.32 RCW; adding a new section to chapter 18.57 RCW; adding a new section to chapter 18.57A RCW; adding a new section to chapter 18.71 RCW; adding a new section to chapter 18.71A RCW; adding a new section to chapter 18.79 RCW; and creating a new section."

MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute House Bill No. 2876 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser, Parlette, Pflug and Becker spoke in favor of passage of the bill.

MOTION

On motion of Senator Marr, Senator Regala was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2876 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2876 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 37; Nays, 10; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Brandland, Brown, Carrell, Eide, Franklin, Fraser, Gordon, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, McAuliffe, McDermott, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker and Tom

Voting nay: Senators Berkey, Delvin, Fairley, Hatfield, Hobbs, Holmquist, Marr, Oemig, Stevens and Zarelli

Excused: Senators McCaslin and Regala

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2876, as amended by the Senate having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 9:13 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 9:15 p.m. by President Owen.

#### MOTION

At 9:15 p.m., on motion of Senator Eide, the Senate adjourned until 8:30 a.m. Friday, March 5, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**FIFTY FOURTH DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Friday, March 5, 2010

The Senate was called to order at 8:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Fairley, Holmquist, McCaslin, Pridemore and Zarelli.

The Sergeant at Arms Color Guard consisting of Pages Christian Sanchez and Sarabeth Mullins, presented the Colors. Pastor Erik Wilson-Weiberg of Ballard First Lutheran Church offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

March 3, 2010

SB 6339 Prime Sponsor, Senator Hobbs: Concerning a sales and use tax exemption for wax and ceramic materials used to create molds for ferrous and nonferrous investment castings. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6339 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hobbs; Honeyford; Keiser; Kohl-Welles; McDermott; Murray; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

March 3, 2010

SB 6609 Prime Sponsor, Senator Kastama: Concerning infrastructure financing for local governments. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 6609 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Pridemore; Regala and Rockefeller.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Brandland; Carrell; Honeyford; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

March 3, 2010

SB 6614 Prime Sponsor, Senator Pridemore: Clarifying the applicability of business and occupation tax to conservation

programs with the Bonneville power administration. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6614 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

March 3, 2010

SB 6846 Prime Sponsor, Senator Brandland: Concerning enhanced 911 emergency communications services. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6846 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Brandland; Fairley; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Parlette; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senator Carrell.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli and Schoesler.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

March 4, 2010

MR. PRESIDENT:

The Speaker has signed:

- ENGROSSED SENATE BILL 5041,
- SUBSTITUTE SENATE BILL 5046,
- ENGROSSED SENATE BILL 5516,
- SENATE BILL 5582,
- SECOND ENGROSSED SENATE BILL 5617,
- SUBSTITUTE SENATE BILL 6197,
- SUBSTITUTE SENATE BILL 6211,
- SUBSTITUTE SENATE BILL 6213,
- SENATE BILL 6227,
- SENATE BILL 6229,
- SUBSTITUTE SENATE BILL 6239,

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SUBSTITUTE SENATE BILL 6251,  
SUBSTITUTE SENATE BILL 6271,  
SUBSTITUTE SENATE BILL 6273,  
SENATE BILL 6275,  
ENGROSSED SUBSTITUTE SENATE BILL 6286,  
ENGROSSED SENATE BILL 6287,  
SENATE BILL 6288.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 4, 2010

MR. PRESIDENT:  
The Speaker has signed:  
ENGROSSED SUBSTITUTE SENATE BILL 6241,  
SUBSTITUTE SENATE BILL 6357,  
SUBSTITUTE SENATE BILL 6414,  
ENGROSSED SUBSTITUTE SENATE BILL 6499,  
ENGROSSED SUBSTITUTE SENATE BILL 6522,  
SUBSTITUTE SENATE BILL 6556,  
SENATE BILL 6627,  
SENATE BILL 6745,  
SUBSTITUTE SENATE BILL 6831.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 4, 2010

MR. PRESIDENT:  
The Speaker has signed:  
SENATE BILL 6297,  
SUBSTITUTE SENATE BILL 6298,  
SUBSTITUTE SENATE BILL 6299,  
ENGROSSED SUBSTITUTE SENATE BILL 6306,  
SUBSTITUTE SENATE BILL 6337,  
SENATE BILL 6365,  
SUBSTITUTE SENATE BILL 6367,  
SUBSTITUTE SENATE BILL 6371,  
SUBSTITUTE SENATE BILL 6395,  
SUBSTITUTE SENATE BILL 6398,  
SENATE BILL 6450,  
SENATE BILL 6467,  
SUBSTITUTE SENATE BILL 6524,  
SENATE BILL 6543,  
SENATE BILL 6546,  
SUBSTITUTE SENATE BILL 6584,  
SUBSTITUTE SENATE BILL 6591,  
SUBSTITUTE SENATE BILL 6634,  
SUBSTITUTE SENATE BILL 6674,  
SUBSTITUTE SENATE BILL 6749,  
SENATE JOINT MEMORIAL 8026.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 4, 2010

MR. PRESIDENT:  
The Speaker has signed:

SUBSTITUTE SENATE BILL 6544,  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 4, 2010

MR. PRESIDENT:  
The House has passed:  
ENGROSSED SUBSTITUTE HOUSE BILL 3132,  
ENGROSSED SUBSTITUTE HOUSE BILL 3182.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 4, 2010

MR. PRESIDENT:  
The House has passed:  
SENATE BILL 6218,  
SENATE BILL 6219,  
SUBSTITUTE SENATE BILL 6329,  
SUBSTITUTE SENATE BILL 6363,  
SENATE BILL 6418,  
SENATE JOINT MEMORIAL 8025.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

ESHB 3178 by House Committee on Ways & Means (originally sponsored by Representatives Carlyle, Anderson, Hunter, Rolfes, Eddy, Takko, Probst, Wallace, Maxwell, Van De Wege, Kelley, Green, Sullivan, Hudgins, Hope, Morrell, Springer, Ericks, Hunt, Goodman, Jacks and Finn)

AN ACT Relating to creating efficiencies in the use of technology in state government; amending RCW 43.88.560, 43.105.041, 43.105.180, and 43.105.160; adding new sections to chapter 43.105 RCW; adding a new section to chapter 43.88 RCW; adding a new section to chapter 2.68 RCW; adding a new section to chapter 44.68 RCW; creating new sections; repealing RCW 43.105.017; and providing an expiration date.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, the measure listed on the Introduction and First Reading report was referred to the committee as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

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SECOND READING

HOUSE BILL NO. 3007, by Representatives Upthegrove, Orwall, Williams and Wallace

Authorizing airport operators to make airport property available at less than fair market rental value for public recreational or other community uses.

The measure was read the second time.

MOTION

On motion of Senator Haugen, the rules were suspended, House Bill No. 3007 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Haugen spoke in favor of passage of the bill.

MOTION

On motion of Senator Marr, Senators Fairley, Hargrove and Pridemore were excused.

MOTION

On motion of Senator Brandland, Senators Benton, Holmquist, McCaslin, Pflug and Swecker were excused.

The President declared the question before the Senate to be the final passage of House Bill No. 3007.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3007 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 1; Absent, 1; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens and Swecker

Voting nay: Senator Tom

Absent: Senator Zarelli

Excused: Senators Fairley, Holmquist, McCaslin and Pridemore

HOUSE BILL NO. 3007, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Brandland, Senator Zarelli was excused.

SECOND READING

HOUSE BILL NO. 2748, by Representatives Simpson, Jacks and Chase

Concerning dues paid to the Washington public ports association by port districts.

The measure was read the second time.

MOTION

On motion of Senator Oemig, the rules were suspended, House Bill No. 2748 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of House Bill No. 2748.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2748 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Tom

Excused: Senators Fairley, Holmquist, McCaslin, Pridemore and Zarelli

HOUSE BILL NO. 2748, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2443, by House Committee on Health Care & Wellness (originally sponsored by Representatives Ericksen, Cody and Morrell)

Conforming the uniform controlled substances act to existing state and federal law.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 2443 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2443.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2443 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Ranker, Regala, Roach,

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Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, Holmquist, McCaslin and Pridemore

SUBSTITUTE HOUSE BILL NO. 2443, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 9:03 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 10:45 a.m. by President Owen.

## MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

## MOTION

Senator Keiser moved adoption of the following resolution:

SENATE RESOLUTION  
8703

By Senators Keiser, Franklin, Marr, Parlette, Becker, Kastama, Gordon, Rockefeller, Hobbs, Kline, Fraser, Kohl-Welles, Jacobsen, Kilmer, Morton, and King

WHEREAS, Mary Selecky is a leader who has served with distinction, both as the Secretary of the Washington State Department of Health for the past eleven years, and as President of the Association of State and Territorial Health Officers for two terms; and

WHEREAS, In both of her leadership roles, Secretary Selecky has advanced the goals of public health at both the state and national level through dedication, vision, and inspiring contributions; and

WHEREAS, Secretary Selecky's contributions include a commitment to increasing childhood immunization rates, preventing communicable disease, developing standards for public health performance, promoting chronic disease prevention, and assuring safe health professional standards; and

WHEREAS, Over the last nine years, under her leadership, the state's tobacco control program has reduced the number of youth smokers by 50 percent and has steadily reduced the number of adult smokers, giving the state the sixth lowest smoking rate in the nation; and

WHEREAS, Today the State of Washington is well-prepared to respond to emergencies, with an incident command structure being used effectively across the state; and

WHEREAS, During widespread storm and flood emergencies of 2007 and 2009, the Department of Health quickly communicated to citizens about ways to ensure safe drinking water, stop the spread of disease, and watch for signs of carbon monoxide poisoning; and

WHEREAS, The state of Washington is regarded as a model for cooperation between state and tribal authorities in the interests of emergency preparedness and pandemic flu planning; and

WHEREAS, Throughout her career, as a champion of public health, Mary Selecky has remained steadfast in her commitment to partnerships with local public health authorities and to her

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connection to rural communities, always listening to what people really need and how things actually work;

NOW, THEREFORE, BE IT RESOLVED, That the Senate recognize and honor Washington State Secretary of Health Mary Selecky, as the 2010 recipient of the American Medical Association's Nathan Davis Award for Outstanding Government Service, in recognition and gratitude for her tireless efforts on behalf of the health care needs of American citizens; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Secretary of Health Mary Selecky.

Senators Keiser, Franklin, Sheldon, King, Morton and Honeyford spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8703.

The motion by Senator Keiser carried and the resolution was adopted by voice vote.

## INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Secretary of the Department of Health, Mary Selecky who was seated in the gallery.

## INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced employees from the Department of Health, Terry Bergener, Brian Peyton, Allene Mares, Marie Flake, Dennis Dennis, John Erickson, Karen Jensen, Tim Church, Gregg Grunenfelder and Michelle Davis who were seated in the gallery.

## MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

## MESSAGE FROM THE HOUSE

March 4, 2010

MR. PRESIDENT:

The House has passed:

SUBSTITUTE HOUSE BILL NO. 2488.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

On motion of Senator Eide, the Senate advanced to the seventh order of business.

## THIRD READING

SECOND SUBSTITUTE HOUSE BILL NO. 1761, by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Hasegawa, Appleton and Hurst).

Addressing the ethical use of legislative web sites.

The bill was read on Third Reading.

## PARLIAMENTARY INQUIRY

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Senator McDermott: "What motion would I need to make to roll back to second reading?"

Senator Roach spoke against adoption of the amendment.

REPLY BY THE PRESIDENT

POINT OF INQUIRY

President Owen: "You would say something like, 'Mr. President, I move that the rules be suspended, Second Substitute House Bill No. 1761 be returned to second reading for the purpose of an amendment,' if you so desire."

Senator Carrell: "Would Senator Honeyford yield to a question? Does this mean then that we cannot use material from the website but somebody who maybe opposes one of us could use that material or is it a prohibition against anybody from using the material that might be on a website?"

MOTION

On motion of Senator McDermott, the rules were suspended and Second Substitute House Bill No. 1761 was returned to second reading for the purpose of amendment.

Senator Honeyford: "Well, thank you for the question. I'm not sure how to answer that. What the amendment does say is it strikes out that these materials are not subject to election year restrictions and it strikes that out and so I would believe that documents that are produced by the state and printed by the state would be prohibited."

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1761, by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Hasegawa, Appleton and Hurst)

The President declared the question before the Senate to be the adoption of the amendment by Senators Honeyford and Regala on page 2, line 25 to Second Substitute House Bill No. 1761.

Addressing the ethical use of legislative web sites.

The motion by Senator Honeyford carried and the amendment was adopted by voice vote.

The measure was read the second time.

MOTION

MOTION

Senator Honeyford moved that the following amendment by Senators Honeyford and Regala be adopted:

On motion of Senator McDermott, the rules were suspended, Second Substitute House Bill No. 1761 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

On page 2, line 25, after "purposes", strike all material through "well" on line 27

Senators McDermott and Honeyford spoke in favor of passage of the bill.

Renumber the sections consecutively and correct any internal references accordingly.

Senators Honeyford and Regala spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1761 as amended by the Senate.

POINT OF INQUIRY

ROLL CALL

Senator Benton: "Would Senator Honeyford yield to a question? Senator Honeyford, it seems to me the underlying bill would allow us to continue to be posted on the website, but this provision removes the language of the underlying bill. I'm not sure I understand exactly what you're trying to get at with this amendment. Perhaps you could explain it with a little more clarity. Are you saying that stuff on the website could not then be printed and used and passed out during a campaign? Is that what you're trying to get out of here? And, if so, I think that's a noble cause but it seems to me it's a little confusing, at least the effect statement here is a little confusing. So maybe you help clarify for me?"

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1761 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 41; Nays, 7; Absent, 0; Excused, 1.

Senator Honeyford: "Thank you Senator. We all have materials prepared. You have your updates, you have your end of session reports, all of those kinds of things and all the various products that come out here. There prepared at state expense by caucus staff, generally. Printed at government expense. And what this says, you can't use that for campaign materials. That's all the purpose of this amendment is. That you do not use those for campaign materials. You can use them on their website. You can use them that way. There's no prohibition, I guess, if someone wanted to print them off the website at your own expense but this just makes it clear that you cannot use state-produced materials for campaign purposes."

Voting yea: Senators Benton, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Becker, Brandland, Holmquist, Parlette, Pflug, Schoesler and Stevens

Excused: Senator McCaslin

SECOND SUBSTITUTE HOUSE BILL NO. 1761 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2867, by House Committee on Ways & Means (originally sponsored by Representatives Kagi, Sells, White, Hunt, Chase, Kessler, Morrell, Van De Wege, Kenney and Hasegawa)

Promoting early learning.

The measure was read the second time.

#### MOTION

Senator McAuliffe moved that the following committee striking amendment by the Committee on Early Learning & K-12 Education be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.215.005 and 2007 c 415 s 1 are each amended to read as follows:

(1) The legislature recognizes that:

(a) Parents are their children's first and most important teachers and decision makers;

(b) Research across disciplines now demonstrates that what happens in the earliest years makes a critical difference in children's readiness to succeed in school and life;

(c) Washington's competitiveness in the global economy requires a world-class education system that starts early and supports life-long learning;

(d) Washington state currently makes substantial investments in voluntary child care and early learning services and supports, but because services are fragmented across multiple state agencies, and early learning providers lack the supports and incentives needed to improve the quality of services they provide, many parents have difficulty accessing high quality early learning services;

(e) A more cohesive and integrated voluntary early learning system would result in greater efficiencies for the state, increased partnership between the state and the private sector, improved access to high quality early learning services, and better employment and early learning outcomes for families and all children.

(2) The legislature finds that:

(a) The early years of a child's life are critical to the child's healthy brain development and that the quality of caregiving during the early years can significantly impact the child's intellectual, social, and emotional development;

(b) A successful outcome for every child obtaining a K-12 education depends on children being prepared from birth for academic and social success in school. For children at risk of school failure, the achievement gap often emerges as early as eighteen months of age;

(c) There currently is a shortage of high quality services and supports for children ages birth to three and their parents and caregivers; and

(d) Increasing the availability of high quality services for children ages birth to three and their parents and caregivers will result in improved school and life outcomes.

(3) Therefore, the legislature intends to establish a robust birth-to-three continuum of services for parents and caregivers of young children in order to provide education and support regarding the importance of early childhood development.

~~((3))~~ (4) The purpose of this chapter is:

(a) To establish the department of early learning;

(b) To coordinate and consolidate state activities relating to child care and early learning programs;

(c) To safeguard and promote the health, safety, and well-being of children receiving child care and early learning assistance, which is paramount over the right of any person to provide care;

(d) To provide tools to promote the hiring of suitable providers of child care by:

(i) Providing parents with access to information regarding child care providers;

(ii) Providing parents with child care licensing action histories regarding child care providers; and

(iii) Requiring background checks of applicants for employment in any child care facility licensed or regulated under current law;

(e) To promote linkages and alignment between early learning programs and elementary schools and support the transition of children and families from prekindergarten environments to kindergarten;

(f) To promote the development of a sufficient number and variety of adequate child care and early learning facilities, both public and private; and

(g) To license agencies and to assure the users of such agencies, their parents, the community at large and the agencies themselves that adequate minimum standards are maintained by all child care and early learning facilities.

~~((4))~~ (5) This chapter does not expand the state's authority to license or regulate activities or programs beyond those licensed or regulated under existing law.

**Sec. 2.** RCW 43.215.020 and 2007 c 394 s 5 are each amended to read as follows:

(1) The department of early learning is created as an executive branch agency. The department is vested with all powers and duties transferred to it under this chapter and such other powers and duties as may be authorized by law.

(2) The primary duties of the department are to implement state early learning policy and to coordinate, consolidate, and integrate child care and early learning programs in order to administer programs and funding as efficiently as possible. The department's duties include, but are not limited to, the following:

(a) To support both public and private sectors toward a comprehensive and collaborative system of early learning that serves parents, children, and providers and to encourage best practices in child care and early learning programs;

(b) To make early learning resources available to parents and caregivers;

(c) To carry out activities, including providing clear and easily accessible information about quality and improving the quality of early learning opportunities for young children, in cooperation with the nongovernmental private-public partnership;

(d) To administer child care and early learning programs;

(e) To standardize internal financial audits, oversight visits, performance benchmarks, and licensing criteria, so that programs can function in an integrated fashion;

(f) To support the implementation of the nongovernmental private-public partnership and cooperate with that partnership in pursuing its goals including providing data and support necessary for the successful work of the partnership;

(g) To work cooperatively and in coordination with the early learning council;

(h) To collaborate with the K-12 school system at the state and local levels to ensure appropriate connections and smooth transitions between early learning and K-12 programs; ~~((and))~~

(i) To develop a comprehensive birth-to-three plan to provide education and support through a continuum of options including, but not limited to, services such as: Home visiting; quality incentives for infant and toddler child care subsidies; quality improvements for family home and center-based child care programs serving infants and toddlers; professional development; early literacy programs; and informal supports for family, friend, and neighbor caregivers;

(j) Upon the development of an early learning information

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system, to make available to parents timely inspection and licensing action information through the internet and other means.

(3) The department's programs shall be designed in a way that respects and preserves the ability of parents and legal guardians to direct the education, development, and upbringing of their children, and that recognizes and honors cultural and linguistic diversity. The department shall include parents and legal guardians in the development of policies and program decisions affecting their children.

**NEW SECTION. Sec. 3.** The department of early learning, in collaboration with the early learning nongovernmental private-public partnership and the early learning advisory council, shall develop a birth-to-three plan, including recommended appropriation levels, and report to the appropriate committees of the legislature and the governor by December 1, 2010. The plan and recommendations required under this section shall be developed within existing resources."

Senators McAuliffe and King spoke in favor of adoption of the committee striking amendment.

#### MOTION

On motion of Senator Becker, Senator Holmquist was excused.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Early Learning & K-12 Education to Second Substitute House Bill No. 2867.

The motion by Senator McAuliffe carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "learning;" strike the remainder of the title and insert "amending RCW 43.215.005 and 43.215.020; and creating a new section."

#### MOTION

On motion of Senator McAuliffe, the rules were suspended, Second Substitute House Bill No. 2867 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

#### POINT OF INQUIRY

Senator Benton: "Would Senator McAuliffe yield to a question? Thank you Senator. Could you tell me does this bill have any requirements for the government to be involved. It seems if the government is going to be involved in children's learning before kindergarten then I'd like to know if there is any requirements. Is it may or a shall? I mean are we requiring parents to register their children or to be involved in pre-kindergarten training of some sort in this legislation?"

Senator McAuliffe: "No, you're not. It is a voluntary system of learning for all families. Voluntary. No requirement."

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2867 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2867 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 43; Nays, 2; Absent, 2; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Carrell and Stevens

Absent: Senators Hargrove and Rockefeller

Excused: Senators Holmquist and McCaslin

SECOND SUBSTITUTE HOUSE BILL NO. 2867 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Marr, Senators Fraser, Hargrove, Prentice and Rockefeller were excused.

#### SECOND READING

HOUSE BILL NO. 2973, by Representatives Orcutt, Wallace, Herrera, Probst, McCune, Klippert, Kelley, Hunter, Kretz, Campbell and Johnson

Creating resident student classifications for certain members of the military and their spouses and dependents.

The measure was read the second time.

#### MOTION

On motion of Senator Kilmer, the rules were suspended, House Bill No. 2973 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kilmer and Becker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2973.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2973 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fraser, McCaslin and Prentice

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HOUSE BILL NO. 2973, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Ben Hoover, the son of Mike Hoover, Senate Counsel who was seated at the rostrum.

#### PERSONAL PRIVILEGE

Senator Keiser: "It happens that my youngest son's is also here today and it has always been a bit of a challenge to participate in his birthday as we are almost always at some important cutoff down here at the time. Thank you Mr. President."

#### REPLY BY THE PRESIDENT

President Owen: "Well, you could always bring him up here."

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2731, by House Committee on Ways & Means (originally sponsored by Representatives Goodman, Haler, Maxwell, Priest, Kagi, Sullivan, Seaquist, Quall, O'Brien, Jacks, Haigh, Pedersen, Darneille, Kenney, Rolfes, Hunter, Williams, Orwall, Lias, Carlyle, Roberts, Simpson, Walsh, Nelson, Kelley, Dickerson, Appleton, Eddy, Sells and Morrell)

Creating an early learning program for educationally at-risk children.

The measure was read the second time.

#### MOTION

Senator McAuliffe moved that the following committee striking amendment by the Committee on Ways & Means be not adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that children who participate in high quality preschool programs have improved educational and life outcomes and are more likely to graduate from high school and pursue higher education, experience successful employment opportunities, and have increased earnings. Therefore, the legislature intends to create an entitlement to a program of early learning to protect the current levels of funding for comprehensive preschool programs for three and four-year old children beginning September 1, 2011.

The legislature also finds that the state early childhood education and assistance program was established to help children from low-income families be prepared for kindergarten, and that the program has been a successful model for achieving that goal. Therefore, the legislature intends that implementing a program of early learning shall be accomplished by using the program standards and eligibility criteria in the early childhood education and assistance program.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.215 RCW to read as follows:

(1) An early learning program is established, beginning September 1, 2011, to provide preschool opportunities for children

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three and four years of age. The program shall be implemented by using the program standards and eligibility criteria in the early childhood education and assistance program under RCW 43.215.405. Participation in the program is voluntary. On a space-available basis, the program may allow enrollment of children who are not otherwise eligible by assessing a fee.

(2)(a) The program shall be implemented in phases, with the goal that full implementation be achieved in the 2017-18 school year.

(b) For an initial phase of an early learning program in school years 2011-12 and 2012-13, the number of slots for the early learning program shall not be less than the number of slots for three and four-year old children served in comprehensive preschool programs during the 2009-2011 biennium.

(c) Funding shall continue to be phased in incrementally each year until full statewide implementation of the early learning program is achieved.

(3) By December 1, 2010, the department shall report to the governor and the appropriate committees of legislature with recommendations for:

(a) Implementing an early learning program; and

(b) Renaming the early childhood education and assistance program to reflect the new early learning program.

(4) Beginning December 1, 2012, the department of early learning and the office of financial management shall annually review the caseload forecasts for the early learning program and report to the governor and the appropriate committees of the legislature with recommendations for phasing in additional funding to achieve the goal of full statewide implementation.

**Sec. 3.** RCW 43.215.405 and 2006 c 265 s 210 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903.

(1) "Advisory committee" means the advisory committee under RCW 43.215.420.

(2) "Department" means the department of early learning.

(3) "Eligible child" means a child at least three years of age and not eligible for kindergarten whose family income is at or below one hundred ten percent of the federal poverty level, as published annually by the federal department of health and human services, and includes a child whose family is eligible for public assistance, and who is not a participant in a federal or state program providing comprehensive services and may include children who are eligible under rules adopted by the department if the number of such children equals not more than ten percent of the total enrollment in the early childhood program. Priority for enrollment shall be given to children from families with the lowest income, children in foster care, or to eligible children from families with multiple needs.

(4) "Approved programs" means those state-supported education and special assistance programs which are recognized by the department as meeting the minimum program rules adopted by the department to qualify under RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903 and are designated as eligible for funding by the department under RCW 43.215.430 and 43.215.440.

(5) "Comprehensive" means an assistance program that focuses on the needs of the child and includes education, health, and family support services.

(6) "Family support services" means providing opportunities for parents to:

(a) Actively participate in their child's early childhood program;

(b) Increase their knowledge of child development and parenting skills;

(c) Further their education and training;

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(d) Increase their ability to use needed services in the community;

(e) Increase their self-reliance.

**Sec. 4.** RCW 43.215.425 and 1994 c 166 s 6 are each amended to read as follows:

The department shall adopt rules under chapter 34.05 RCW for the administration of the early childhood program. Approved early childhood programs shall conduct needs assessments of their service area, identify any targeted groups of children, to include but not be limited to children of seasonal and migrant farmworkers and native American populations living either on or off reservation, and provide to the department a service delivery plan, to the extent practicable, that addresses these targeted populations.

The department in developing rules for the early childhood program shall consult with the advisory committee, and shall consider such factors as coordination with existing head start and other early childhood programs, the preparation necessary for instructors, qualifications of instructors, adequate space and equipment, ~~((and))~~ special transportation needs, and technical assistance to providers. The rules shall specifically require the early childhood programs to provide for parental involvement in participation with their child's program, in local program policy decisions, in development and revision of service delivery systems, and in parent education and training. The rules shall include a method for allowing, on a space-available basis, enrollment of children who are not otherwise eligible by assessing fees.

**Sec. 5.** RCW 43.215.020 and 2007 c 394 s 5 are each amended to read as follows:

(1) The department of early learning is created as an executive branch agency. The department is vested with all powers and duties transferred to it under this chapter and such other powers and duties as may be authorized by law.

(2) The primary duties of the department are to implement state early learning policy and to coordinate, consolidate, and integrate child care and early learning programs in order to administer programs and funding as efficiently as possible. The department's duties include, but are not limited to, the following:

(a) To support both public and private sectors toward a comprehensive and collaborative system of early learning that serves parents, children, and providers and to encourage best practices in child care and early learning programs;

(b) To make early learning resources available to parents and caregivers;

(c) To carry out activities, including providing clear and easily accessible information about quality and improving the quality of early learning opportunities for young children, in cooperation with the nongovernmental private-public partnership;

(d) To administer child care and early learning programs;

(e) To standardize internal financial audits, oversight visits, performance benchmarks, and licensing criteria, so that programs can function in an integrated fashion;

(f) To support the implementation of the nongovernmental private-public partnership and cooperate with that partnership in pursuing its goals including providing data and support necessary for the successful work of the partnership;

(g) To work cooperatively and in coordination with the early learning council;

(h) To collaborate with the K-12 school system at the state and local levels to ensure appropriate connections and smooth transitions between early learning, including an early learning program established in section 2 of this act, and K-12 programs; ~~((and))~~

(i) To develop and implement an early learning program established in section 2 of this act; and

—(j) Upon the development of an early learning information

system, to make available to parents timely inspection and licensing action information through the internet and other means.

(3) The department's programs shall be designed in a way that respects and preserves the ability of parents and legal guardians to direct the education, development, and upbringing of their children. The department shall include parents and legal guardians in the development of policies and program decisions affecting their children.

**NEW SECTION. Sec. 6.** A new section is added to chapter 28A.320 RCW to read as follows:

For an early learning program established in section 2 of this act, school districts:

(1) Shall work cooperatively with program providers to coordinate the transition from preschool to kindergarten so that children and their families are well-prepared and supported; and

(2) May contract with the department of early learning to deliver services under the program."

On page 1, line 1 of the title, after "for" strike the remainder of the title and insert "children; amending RCW 43.215.405, 43.215.425, and 43.215.020; adding a new section to chapter 43.215 RCW; adding a new section to chapter 28A.320 RCW; and creating a new section."

The President declared the question before the Senate to be the motion by Senator McAuliffe to not adopt the committee striking amendment by the Committee on Ways & Means to Second Substitute House Bill No. 2731.

The motion by Senator McAuliffe carried and the committee striking amendment was not adopted by voice vote.

#### MOTION

Senator McAuliffe moved that the following striking amendment by Senator McAuliffe be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that children who participate in high quality preschool programs have improved educational and life outcomes and are more likely to graduate from high school and pursue higher education, experience successful employment opportunities, and have increased earnings. Therefore, the legislature intends to create an entitlement to a program of early learning to protect the current levels of funding for comprehensive preschool programs for three and four-year old children.

The legislature also finds that the state early childhood education and assistance program was established to help children from low-income families be prepared for kindergarten, and that the program has been a successful model for achieving that goal. Therefore, the legislature intends that implementing a program of early learning shall be accomplished by using the program standards and eligibility criteria in the early childhood education and assistance program.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.215 RCW to read as follows:

(1) An early learning program is established, beginning September 1, 2011, to provide preschool opportunities for children three and four years of age. The program shall be implemented by using the program standards and eligibility criteria in the early childhood education and assistance program under RCW 43.215.405. Participation in the program is voluntary.

(2)(a) For an initial phase of an early learning program in school years 2011-12 and 2012-13, the number of slots for the early learning program shall not be less than the number of slots for three and four-year old children served in the early childhood education and assistance program during the 2009-2011 biennium.

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(b) Funding shall continue to be phased in incrementally each year until full statewide implementation of the early learning program is achieved.

(3) Beginning December 1, 2010, the department shall report annually to the governor and the appropriate committees of the legislature. The first report shall include, but not be limited to:

(a) Recommendations for implementing an early learning program;

(b) A review of relevant early learning programs in Washington and other states; and

(c) Recommendations for renaming the early childhood education and assistance program to reflect the new early learning program.

(4) Beginning December 1, 2012, the department of early learning and the office of financial management shall annually review the caseload forecasts for the early learning program and report to the governor and the appropriate committees of the legislature with recommendations for phasing in additional funding to achieve the goal of full statewide implementation.

**Sec. 3.** RCW 43.215.405 and 2006 c 265 s 210 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903.

(1) "Advisory committee" means the advisory committee under RCW 43.215.420.

(2) "Department" means the department of early learning.

(3) "Eligible child" means a child at least three years of age and not eligible for kindergarten whose family income is at or below one hundred ten percent of the federal poverty level, as published annually by the federal department of health and human services, and includes a child whose family is eligible for public assistance, and who is not a participant in a federal or state program providing comprehensive services, and ~~((may include children who are eligible under rules adopted by the department if the number of such children equals not more than ten percent of the total enrollment in the early childhood program))~~ a child with disabilities who qualifies for funds in accordance with part B of the federal individuals with disabilities education act and any other federal or state laws relating to the provision of special education services. Priority for enrollment shall be given to children from families with the lowest income, children in foster care, or to eligible children from families with multiple needs.

(4) "Approved programs" means those state-supported education and special assistance programs which are recognized by the department as meeting the minimum program rules adopted by the department to qualify under RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903 and are designated as eligible for funding by the department under RCW 43.215.430 and 43.215.440.

(5) "Comprehensive" means an assistance program that focuses on the needs of the child and includes education, health, and family support services.

(6) "Family support services" means providing opportunities for parents to:

(a) Actively participate in their child's early childhood program;

(b) Increase their knowledge of child development and parenting skills;

(c) Further their education and training;

(d) Increase their ability to use needed services in the community;

(e) Increase their self-reliance.

**Sec. 4.** RCW 43.215.425 and 1994 c 166 s 6 are each amended to read as follows:

The department shall adopt rules under chapter 34.05 RCW for the administration of the early childhood program. Approved early childhood programs shall conduct needs assessments of their service area, identify any targeted groups of children, to include but not be limited to children of seasonal and migrant farmworkers and native American populations living either on or off reservation, and provide to the department a service delivery plan, to the extent practicable, that addresses these targeted populations.

The department in developing rules for the early childhood program shall consult with the advisory committee, and shall consider such factors as coordination with existing head start and other early childhood programs, the preparation necessary for instructors, qualifications of instructors, adequate space and equipment, ~~((and))~~ special transportation needs, and technical assistance to providers. The rules shall specifically require the early childhood programs to provide for parental involvement in participation with their child's program, in local program policy decisions, in development and revision of service delivery systems, and in parent education and training.

**Sec. 5.** RCW 43.215.020 and 2007 c 394 s 5 are each amended to read as follows:

(1) The department of early learning is created as an executive branch agency. The department is vested with all powers and duties transferred to it under this chapter and such other powers and duties as may be authorized by law.

(2) The primary duties of the department are to implement state early learning policy and to coordinate, consolidate, and integrate child care and early learning programs in order to administer programs and funding as efficiently as possible. The department's duties include, but are not limited to, the following:

(a) To support both public and private sectors toward a comprehensive and collaborative system of early learning that serves parents, children, and providers and to encourage best practices in child care and early learning programs;

(b) To make early learning resources available to parents and caregivers;

(c) To carry out activities, including providing clear and easily accessible information about quality and improving the quality of early learning opportunities for young children, in cooperation with the nongovernmental private-public partnership;

(d) To administer child care and early learning programs;

(e) To standardize internal financial audits, oversight visits, performance benchmarks, and licensing criteria, so that programs can function in an integrated fashion;

(f) To support the implementation of the nongovernmental private-public partnership and cooperate with that partnership in pursuing its goals including providing data and support necessary for the successful work of the partnership;

(g) To work cooperatively and in coordination with the early learning council;

(h) To collaborate with the K-12 school system at the state and local levels to ensure appropriate connections and smooth transitions between early learning, including an early learning program established in section 2 of this act, and K-12 programs; ~~((and))~~

(i) To develop and implement an early learning program established in section 2 of this act; and

\_\_\_(j) Upon the development of an early learning information system, to make available to parents timely inspection and licensing action information through the internet and other means.

(3) The department's programs shall be designed in a way that respects and preserves the ability of parents and legal guardians to direct the education, development, and upbringing of their children. The department shall include parents and legal guardians in the

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development of policies and program decisions affecting their children.

**NEW SECTION. Sec. 6.** A new section is added to chapter 28A.320 RCW to read as follows:

For an early learning program established in section 2 of this act, school districts:

(1) Shall work cooperatively with program providers to coordinate the transition from preschool to kindergarten so that children and their families are well-prepared and supported; and

(2) May contract with the department of early learning to deliver services under the program."

Senator McAuliffe spoke in favor of adoption of the striking amendment.

MOTION

Senator Zarelli moved that the following amendment by Senator Zarelli to the striking amendment be adopted:

On page 1, line 8, after "create" strike "an entitlement to"

Senators Zarelli, Pflug, King, Honeyford, Benton, Parlette and Carrell spoke in favor of adoption of the amendment to the striking amendment.

Senators McAuliffe, Kauffman, Brown and Franklin spoke against adoption of the amendment to the striking amendment.

MOTION

On motion of Senator Brandland Senator Holmquist was excused.

The President declared the question before the Senate to be the adoption of the amendment by Senator Zarelli on page 1, line 8 to the striking amendment to Second Substitute House Bill No. 2731.

The motion by Senator Zarelli failed and the amendment to the striking amendment was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator McAuliffe to Second Substitute House Bill No. 2731.

The motion by Senator McAuliffe carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "for" strike the remainder of the title and insert "children; amending RCW 43.215.405, 43.215.425, and 43.215.020; adding a new section to chapter 43.215 RCW; adding a new section to chapter 28A.320 RCW; and creating a new section."

MOTION

On motion of Senator McAuliffe, the rules were suspended, Second Substitute House Bill No. 2731 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe, Kauffman spoke in favor of passage of the bill.

Senators Zarelli, King, Stevens spoke against passage of the bill.

POINT OF ORDER

Senator Eide: "I believe the fine lady is over stepping the bounds of etiquette on the floor."

REPLY BY THE PRESIDENT

President Owen: "She is correct Senator, your remarks should be pointed solely at the merits or demerits of the bill."

MOTION

Senator Eide demanded that the previous question be put.

The President declared that at least two additional senators joined the demand and the demand was sustained.

The President declared the question before the Senate to be the motion of Senator Eide, "Shall the main question be now put?"

The motion by Senator Eide that the previous question be put carried by voice vote.

PERSONAL PRIVILEGE

Senator Pflug: "Thank you Mr. President. I really would like to encourage the majority not to continue to do this when we clearly do not....."

POINT OF ORDER

Senator Eide: "Thank you Mr. President. I believe a point of personal privilege is something you speak about yourself and not the bill that's before us."

REPLY BY THE PRESIDENT

President Owen: "Senator Pflug, your remarks on a point of personal privilege should not reflect the actions of the body but those issues personal to you for whatever purpose."

PERSONAL PRIVILEGE

Senator Pflug: "Well, it is personal to me. I think that many of us have a lot of passion about some of these issues and I really would like to have an opportunity to express our view point."

POINT OF ORDER

Senator Brown: "The Senator is debating the motion to close debate. She is not taking a point of personal privilege, Mr. President, in my opinion. I would ask that you consider that and we could move on perhaps."

REPLY BY THE PRESIDENT

President Owen: "Senator Pflug, the President believes she is correct. You are discussing the issue that was just passed by the body."

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2731 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2731 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 29; Nays, 16; Absent, 0; Excused, 4.

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Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Honeyford, King, Morton, Parlette, Pflug, Roach, Schoesler, Stevens, Swecker and Zarelli

Excused: Senators Fraser, Holmquist, McCaslin and Prentice  
 SECOND SUBSTITUTE HOUSE BILL NO. 2731 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Eide, pursuant to Rule 46, the Committee on Ways & Means was granted special leave to meet during the day's session.

## MOTION

At 12:00 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 2:21 p.m. by President Owen.

## MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

## MESSAGE FROM THE HOUSE

March 5, 2010

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1418,

SUBSTITUTE HOUSE BILL 1545,

HOUSE BILL 1576,

SUBSTITUTE HOUSE BILL 2403,

HOUSE BILL 2406,

SUBSTITUTE HOUSE BILL 2422,

HOUSE BILL 2428,

SUBSTITUTE HOUSE BILL 2429,

SUBSTITUTE HOUSE BILL 2546,

ENGROSSED SUBSTITUTE HOUSE BILL 2564,

HOUSE BILL 2575,

HOUSE BILL 2592,

SUBSTITUTE HOUSE BILL 2620,

SUBSTITUTE HOUSE BILL 2678,

SUBSTITUTE HOUSE BILL 2684,

HOUSE BILL 2707,

HOUSE BILL 2823,

HOUSE BILL 2877,

SUBSTITUTE HOUSE BILL 3145.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MESSAGE FROM THE HOUSE

March 5, 2010

MR. PRESIDENT:

The Speaker has signed:

SENATE BILL 6209,

SENATE BILL 6279,

SENATE BILL 6330,

SUBSTITUTE SENATE BILL 6341,

SENATE BILL 6453,

SENATE BILL 6487,

SUBSTITUTE SENATE BILL 6510,

SENATE BILL 6555,

SUBSTITUTE SENATE BILL 6558,

SUBSTITUTE SENATE BILL 6577,

SUBSTITUTE SENATE BILL 6816.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MESSAGE FROM THE HOUSE

March 4, 2010

MR. PRESIDENT:

The Speaker has signed:

HOUSE BILL 1080,

SECOND ENGROSSED HOUSE BILL 1876,

ENGROSSED SUBSTITUTE HOUSE BILL 2399,

SUBSTITUTE HOUSE BILL 2430,

HOUSE BILL 2465,

HOUSE BILL 2490,

HOUSE BILL 2510,

SUBSTITUTE HOUSE BILL 2515,

HOUSE BILL 2521,

HOUSE BILL 2598,

SUBSTITUTE HOUSE BILL 2661,

ENGROSSED HOUSE BILL 2667,

SUBSTITUTE HOUSE BILL 2828,

HOUSE BILL 2858,

HOUSE BILL 2996,

SUBSTITUTE HOUSE BILL 3066.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MESSAGE FROM THE HOUSE

March 4, 2010

MR. PRESIDENT:

The Speaker has signed:

HOUSE BILL 1541,

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1560,

SECOND SUBSTITUTE HOUSE BILL 1591,

HOUSE BILL 2419,

SUBSTITUTE HOUSE BILL 2649,

HOUSE BILL 2740,

ENGROSSED HOUSE BILL 2830,

ENGROSSED HOUSE BILL 2831,

ENGROSSED SUBSTITUTE HOUSE BILL 2913,

SUBSTITUTE HOUSE BILL 2962.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

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MESSAGE FROM THE HOUSE

March 4, 2010

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED HOUSE BILL 1653,  
 SUBSTITUTE HOUSE BILL 1913,  
 SUBSTITUTE HOUSE BILL 2226,  
 SECOND SUBSTITUTE HOUSE BILL 2396,  
 SUBSTITUTE HOUSE BILL 2487,  
 SUBSTITUTE HOUSE BILL 2555,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2560,  
 SUBSTITUTE HOUSE BILL 2585,  
 HOUSE BILL 2608,  
 SUBSTITUTE HOUSE BILL 2651,  
 SUBSTITUTE HOUSE BILL 2704,  
 SUBSTITUTE HOUSE BILL 2789,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2842,  
 HOUSE BILL 2861,  
 ENGROSSED SUBSTITUTE HOUSE BILL 3032,  
 SUBSTITUTE HOUSE JOINT MEMORIAL 4004.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 2939, by House Committee on Transportation (originally sponsored by Representatives Dammeier, Orwall, Parker, Probst, Morrell, Kessler, Smith and Kenney)

Concerning notations on driver abstracts that a person was not at fault in a motor vehicle accident.

The measure was read the second time.

## MOTION

Senator Marr moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.52.130 and 2009 c 276 s 1 are each amended to read as follows:

((1) A certified abstract of the driving record shall be furnished only to:

(a) The individual named in the abstract;

(b) An employer or prospective employer or an agent acting on behalf of an employer or prospective employer, or a volunteer organization for which the named individual has submitted an application for a position that could require the transportation of children under eighteen years of age, adults over sixty-five years of age, or persons with mental or physical disabilities;

(c) An employee or agent of a transit authority checking prospective volunteer vanpool drivers for insurance and risk management needs;

(d) The insurance carrier that has insurance in effect covering the employer or a prospective employer;

(e) The insurance carrier that has motor vehicle or life insurance

in effect covering the named individual;

(f) The insurance carrier to which the named individual has applied;

(g) An alcohol/drug assessment or treatment agency approved by the department of social and health services, to which the named individual has applied or been assigned for evaluation or treatment;

(h) City and county prosecuting attorneys;

(i) State colleges, universities, or agencies for employment and risk management purposes; or units of local government authorized to self-insure under RCW 48.62.031; or

(j) An employer or prospective employer or volunteer organization, or an agent acting on behalf of an employer or prospective employer or volunteer organization, for employment purposes related to driving by an individual as a condition of that individual's employment or otherwise at the direction of the employer or organization.

(2) Nothing in this section shall be interpreted to prevent a court from providing a copy of the driver's abstract to the individual named in the abstract, provided that the named individual has a pending case in that court for a suspended license violation or an open infraction or criminal case in that court that has resulted in the suspension of the individual's driver's license. A pending case includes criminal cases that have not reached a disposition by plea, stipulation, trial, or amended charge. An open infraction or criminal case includes cases on probation, payment agreement or subject to, or in collections. Courts may charge a reasonable fee for production and copying of the abstract for the individual.

(3) City attorneys and county prosecuting attorneys may provide the driving record to alcohol/drug assessment or treatment agencies approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment.

(4)(a) The director, upon proper request, shall furnish a certified abstract covering the period of not more than the last three years to insurance companies.

(b) The director may enter into a contractual agreement with an insurance company or its agent for the limited purpose of reviewing the driving records of existing policyholders for changes to the record during specified periods of time. The department shall establish a fee for this service, which must be deposited in the highway safety fund. The fee for this service must be set at a level that will not result in a net revenue loss to the state. Any information provided under this subsection must be treated in the same manner and subject to the same restrictions as certified abstracts.

(5) Upon proper request, the director shall furnish a certified abstract covering a period of not more than the last five years to state approved alcohol/drug assessment or treatment agencies, except that the certified abstract shall also include records of alcohol-related offenses as defined in RCW 46.01.260(2) covering a period of not more than the last ten years.

(6) Upon proper request, a certified abstract of the full driving record maintained by the department shall be furnished to a city or county prosecuting attorney, to the individual named in the abstract, to an employer or prospective employer or an agent acting on behalf of an employer or prospective employer of the named individual, or to a volunteer organization for which the named individual has submitted an application for a position that could require the transportation of children under eighteen years of age, adults over sixty-five years of age, or persons with physical or mental disabilities, or to an employee or agent of a transit authority checking prospective volunteer vanpool drivers for insurance and risk management needs.

(7) The abstract, whenever possible, shall include:

(a) An enumeration of motor vehicle accidents in which the

person was driving;

- (b) The total number of vehicles involved;
- (c) Whether the vehicles were legally parked or moving;
- (d) Whether the vehicles were occupied at the time of the accident;
- (e) Whether the accident resulted in any fatality;
- (f) Any reported convictions, forfeitures of bail, or findings that an infraction was committed based upon a violation of any motor vehicle law;
- (g) The status of the person's driving privilege in this state; and
- (h) Any reports of failure to appear in response to a traffic citation or failure to respond to a notice of infraction served upon the named individual by an arresting officer.

(8) Certified abstracts furnished to prosecutors and alcohol/drug assessment or treatment agencies shall also indicate whether a recorded violation is an alcohol-related offense as defined in RCW 46.01.260(2) that was originally charged as one of the alcohol-related offenses designated in RCW 46.01.260(2)(b)(i).

(9) The abstract provided to the insurance company shall exclude any information, except that related to the commission of misdemeanors or felonies by the individual, pertaining to law enforcement officers or firefighters as defined in RCW 41.26.030, or any officer of the Washington state patrol, while driving official vehicles in the performance of occupational duty. The abstract provided to the insurance company shall include convictions for RCW 46.61.5249 and 46.61.525 except that the abstract shall report them only as negligent driving without reference to whether they are for first or second degree negligent driving. The abstract provided to the insurance company shall exclude any deferred prosecution under RCW 10.05.060, except that if a person is removed from a deferred prosecution under RCW 10.05.090, the abstract shall show the deferred prosecution as well as the removal.

(10) The director shall collect for each abstract the sum of ten dollars, fifty percent of which shall be deposited in the highway safety fund and fifty percent of which must be deposited according to RCW 46.68.038.

(11) Any insurance company or its agent receiving the certified abstract shall use it exclusively for its own underwriting purposes and shall not divulge any of the information contained in it to a third party. No policy of insurance may be canceled, nonrenewed, denied, or have the rate increased on the basis of such information unless the policyholder was determined to be at fault. No insurance company or its agent for underwriting purposes relating to the operation of commercial motor vehicles may use any information contained in the abstract relative to any person's operation of motor vehicles while not engaged in such employment, nor may any insurance company or its agent for underwriting purposes relating to the operation of noncommercial motor vehicles use any information contained in the abstract relative to any person's operation of commercial motor vehicles.

(12) Any employer or prospective employer or an agent acting on behalf of an employer or prospective employer, or a volunteer organization for which the named individual has submitted an application for a position that could require the transportation of children under eighteen years of age, adults over sixty-five years of age, or persons with physical or mental disabilities, receiving the certified abstract shall use it exclusively for his or her own purpose:

(a) To determine whether the licensee should be permitted to operate a commercial vehicle or school bus, or operate a vehicle for a volunteer organization for purposes of transporting children under eighteen years of age, adults over sixty-five years of age, or persons with physical or mental disabilities, upon the public highways of this state; or (b) for employment purposes related to driving by an individual as a condition of that individual's employment or otherwise at the direction of the employer or organization, and shall

not divulge any information contained in it to a third party.

(13) Any employee or agent of a transit authority receiving a certified abstract for its vanpool program shall use it exclusively for determining whether the volunteer licensee meets those insurance and risk management requirements necessary to drive a vanpool vehicle. The transit authority may not divulge any information contained in the abstract to a third party.

(14) Any alcohol/drug assessment or treatment agency approved by the department of social and health services receiving the certified abstract shall use it exclusively for the purpose of assisting its employees in making a determination as to what level of treatment, if any, is appropriate. The agency, or any of its employees, shall not divulge any information contained in the abstract to a third party.

(15) Release of a certified abstract of the driving record of an employee, prospective employee, or prospective volunteer requires a statement signed by:

(a) The employee, prospective employee, or prospective volunteer that authorizes the release of the record, and

(b) the employer or volunteer organization attesting that the information is necessary:

(i) To determine whether the licensee should be employed to operate a commercial vehicle or school bus, or operate a vehicle for a volunteer organization for purposes of transporting children under eighteen years of age, adults over sixty-five years of age, or persons with physical or mental disabilities, upon the public highways of this state; or (ii) for employment purposes related to driving by an individual as a condition of that individual's employment or otherwise at the direction of the employer or organization. If the employer or prospective employer authorizes an agent to obtain this information on their behalf, this must be noted in the statement. This subsection does not apply to entities identified in subsection (1)(i) of this section.

(16) Any negligent violation of this section is a gross misdemeanor.

(17) Any intentional violation of this section is a class C felony.) Upon a proper request, the department may furnish an abstract of a person's driving record as permitted under this section.

(1) Contents of abstract of driving record. An abstract of a person's driving record, whenever possible, must include:

(a) An enumeration of motor vehicle accidents in which the person was driving, including:

(i) The total number of vehicles involved;

(ii) Whether the vehicles were legally parked or moving;

(iii) Whether the vehicles were occupied at the time of the accident; and

(iv) Whether the accident resulted in a fatality;

(b) Any reported convictions, forfeitures of bail, or findings that an infraction was committed based upon a violation of any motor vehicle law;

(c) The status of the person's driving privilege in this state; and

(d) Any reports of failure to appear in response to a traffic citation or failure to respond to a notice of infraction served upon the named individual by an arresting officer.

(2) Release of abstract of driving record. An abstract of a person's driving record may be furnished to the following persons or entities:

(a) Named individuals. (i) An abstract of the full driving record maintained by the department may be furnished to the individual named in the abstract.

(ii) Nothing in this section prevents a court from providing a copy of the driver's abstract to the individual named in the abstract, provided that the named individual has a pending or open infraction or criminal case in that court. A pending case includes criminal cases that have not reached a disposition by plea, stipulation, trial, or amended charge. An open infraction or criminal case includes

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cases on probation, payment agreement or subject to, or in collections. Courts may charge a reasonable fee for the production and copying of the abstract for the individual.

(b) **Employers or prospective employers.** (i) An abstract of the full driving record maintained by the department may be furnished to an employer or prospective employer or an agent acting on behalf of an employer or prospective employer of the named individual for purposes related to driving by the individual as a condition of employment or otherwise at the direction of the employer.

(ii) Release of an abstract of the driving record of an employee or prospective employee requires a statement signed by: (A) The employee or prospective employee that authorizes the release of the record; and (B) the employer attesting that the information is necessary for employment purposes related to driving by the individual as a condition of employment or otherwise at the direction of the employer. If the employer or prospective employer authorizes an agent to obtain this information on their behalf, this must be noted in the statement.

(iii) Upon request of the person named in the abstract provided under this subsection, and upon that same person furnishing copies of court records ruling that the person was not at fault in a motor vehicle accident, the department must indicate on any abstract provided under this subsection that the person was not at fault in the motor vehicle accident.

(c) **Volunteer organizations.** (i) An abstract of the full driving record maintained by the department may be furnished to a volunteer organization or an agent for a volunteer organization for which the named individual has submitted an application for a position that would require driving by the individual at the direction of the volunteer organization.

(ii) Release of an abstract of the driving record of a prospective volunteer requires a statement signed by: (A) The prospective volunteer that authorizes the release of the record; and (B) the volunteer organization attesting that the information is necessary for purposes related to driving by the individual at the direction of the volunteer organization. If the volunteer organization authorizes an agent to obtain this information on their behalf, this must be noted in the statement.

(d) **Transit authorities.** An abstract of the full driving record maintained by the department may be furnished to an employee or agent of a transit authority checking prospective volunteer vanpool drivers for insurance and risk management needs.

(e) **Insurance carriers.** (i) An abstract of the driving record maintained by the department covering the period of not more than the last three years may be furnished to an insurance company or its agent:

(A) That has motor vehicle or life insurance in effect covering the named individual;

(B) To which the named individual has applied; or

(C) That has insurance in effect covering the employer or a prospective employer of the named individual.

(ii) The abstract provided to the insurance company must:

(A) Not contain any information related to actions committed by law enforcement officers or firefighters, as both terms are defined in RCW 41.26.030, or by Washington state patrol officers, while driving official vehicles in the performance of their occupational duty. This does not apply to any situation where the vehicle was used in the commission of a misdemeanor or felony;

(B) Include convictions under RCW 46.61.5249 and 46.61.525, except that the abstract must report the convictions only as negligent driving without reference to whether they are for first or second degree negligent driving; and

(C) Exclude any deferred prosecution under RCW 10.05.060, except that if a person is removed from a deferred prosecution under

RCW 10.05.090, the abstract must show the deferred prosecution as well as the removal.

(iii) Any policy of insurance may not be canceled, nonrenewed, denied, or have the rate increased on the basis of information regarding an accident included in the abstract of a driving record, unless the policyholder was determined to be at fault.

(iv) Any insurance company or its agent, for underwriting purposes relating to the operation of commercial motor vehicles, may not use any information contained in the abstract relative to any person's operation of motor vehicles while not engaged in such employment. Any insurance company or its agent, for underwriting purposes relating to the operation of noncommercial motor vehicles, may not use any information contained in the abstract relative to any person's operation of commercial motor vehicles.

(v) The director may enter into a contractual agreement with an insurance company or its agent for the limited purpose of reviewing the driving records of existing policyholders for changes to the record during specified periods of time. The department shall establish a fee for this service, which must be deposited in the highway safety fund. The fee for this service must be set at a level that will not result in a net revenue loss to the state. Any information provided under this subsection must be treated in the same manner and is subject to the same restrictions as driving record abstracts.

(f) **Alcohol/drug assessment or treatment agencies.** An abstract of the driving record maintained by the department covering the period of not more than the last five years may be furnished to an alcohol/drug assessment or treatment agency approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment, for purposes of assisting employees in making a determination as to what level of treatment, if any, is appropriate, except that the abstract must:

(i) Also include records of alcohol-related offenses, as defined in RCW 46.01.260(2), covering a period of not more than the last ten years; and

(ii) Indicate whether an alcohol-related offense was originally charged as a violation of either RCW 46.61.502 or 46.61.504.

(g) **City attorneys and county prosecuting attorneys.** An abstract of the full driving record maintained by the department, including whether a recorded violation is an alcohol-related offense, as defined in RCW 46.01.260(2), that was originally charged as a violation of either RCW 46.61.502 or 46.61.504, may be furnished to city attorneys or county prosecuting attorneys. City attorneys and county prosecuting attorneys may provide the driving record to alcohol/drug assessment or treatment agencies approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment.

(h) **State colleges, universities, or agencies, or units of local government.** An abstract of the full driving record maintained by the department may be furnished to (i) state colleges, universities, or agencies for employment and risk management purposes or (ii) units of local government authorized to self-insure under RCW 48.62.031 for employment and risk management purposes.

(i) **Superintendent of public instruction.** An abstract of the full driving record maintained by the department may be furnished to the superintendent of public instruction for review of public school bus driver records. The superintendent or superintendent's designee may discuss information on the driving record with an authorized representative of the employing school district for employment and risk management purposes.

(3) **Release to third parties prohibited.** Any person or entity receiving an abstract of a person's driving record under subsection (2)(b) through (i) of this section shall use the abstract exclusively for

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his, her, or its own purposes or as otherwise expressly permitted under this section, and shall not divulge any information contained in the abstract to a third party.

(4) Fee. The director shall collect a ten-dollar fee for each abstract of a person's driving record furnished by the department. Fifty percent of the fee must be deposited in the highway safety fund, and fifty percent of the fee must be deposited according to RCW 46.68.038.

(5) Violation. (a) Any negligent violation of this section is a gross misdemeanor.

(b) Any intentional violation of this section is a class C felony.

NEW SECTION. Sec. 2. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2010, in the omnibus transportation appropriations act, this act is null and void.

NEW SECTION. Sec. 3. This act takes effect October 31, 2010."

Senator Marr spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to Substitute House Bill No. 2939.

The motion by Senator Marr carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "accident;" strike the remainder of the title and insert "amending RCW 46.52.130; creating a new section; prescribing penalties; and providing an effective date."

#### MOTION

On motion of Senator Marr, the rules were suspended, Substitute House Bill No. 2939 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Marr spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2939 as amended by the Senate

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2939 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 2; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senators Brown and Pflug

Excused: Senators Holmquist and McCaslin

SUBSTITUTE HOUSE BILL NO. 2939 as amended by the Senate, having received the constitutional majority, was declared

passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Delvin, Senator Pflug was excused.

#### SIGNED BY THE PRESIDENT

The President Signed:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1418,  
 SUBSTITUTE HOUSE BILL 1545,  
 HOUSE BILL 1576,  
 SUBSTITUTE HOUSE BILL 2403,  
 HOUSE BILL 2406,  
 SUBSTITUTE HOUSE BILL 2422,  
 HOUSE BILL 2428,  
 SUBSTITUTE HOUSE BILL 2429,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2496,  
 SUBSTITUTE HOUSE BILL 2546,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2564,  
 HOUSE BILL 2575,  
 HOUSE BILL 2592,  
 SUBSTITUTE HOUSE BILL 2620,  
 SUBSTITUTE HOUSE BILL 2678,  
 SUBSTITUTE HOUSE BILL 2684,  
 HOUSE BILL 2707,  
 HOUSE BILL 2823,  
 HOUSE BILL 2877,  
 SUBSTITUTE HOUSE BILL 3145.

#### MOTION

On motion of Senator Marr, Senator Brown was excused.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 3036, by House Committee on Education (originally sponsored by Representatives Quall, Kenney and Santos)

Requiring a public meeting before a school district contracts for nonvoter-approved debt.

The measure was read the second time.

#### MOTION

On motion of Senator McAuliffe, the rules were suspended, Substitute House Bill No. 3036 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 3036.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3036 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist,

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Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Prentice

Excused: Senators McCaslin and Pflug

SUBSTITUTE HOUSE BILL NO. 3036, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Marr, Senator Prentice was excused.

SIGNED BY THE PRESIDENT

The President signed:

HOUSE BILL 1080,

HOUSE BILL 1541,

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1560,

SECOND SUBSTITUTE HOUSE BILL 1591,

ENGROSSED HOUSE BILL 1653,

SECOND ENGROSSED HOUSE BILL 1876,

SUBSTITUTE HOUSE BILL 1913,

SUBSTITUTE HOUSE BILL 2226,

SECOND SUBSTITUTE HOUSE BILL 2396,

ENGROSSED SUBSTITUTE HOUSE BILL 2399,

HOUSE BILL 2419,

SUBSTITUTE HOUSE BILL 2430,

HOUSE BILL 2465,

SUBSTITUTE HOUSE BILL 2487,

HOUSE BILL 2490,

HOUSE BILL 2510,

SUBSTITUTE HOUSE BILL 2515,

HOUSE BILL 2521,

SUBSTITUTE HOUSE BILL 2555,

ENGROSSED SUBSTITUTE HOUSE BILL 2560,

SUBSTITUTE HOUSE BILL 2585,

HOUSE BILL 2598,

HOUSE BILL 2608,

SUBSTITUTE HOUSE BILL 2649,

SUBSTITUTE HOUSE BILL 2651,

SUBSTITUTE HOUSE BILL 2661,

ENGROSSED HOUSE BILL 2667,

SUBSTITUTE HOUSE BILL 2704,

HOUSE BILL 2740,

SUBSTITUTE HOUSE BILL 2789,

SUBSTITUTE HOUSE BILL 2828,

ENGROSSED HOUSE BILL 2830,

ENGROSSED HOUSE BILL 2831,

ENGROSSED SUBSTITUTE HOUSE BILL 2842,

HOUSE BILL 2858,

HOUSE BILL 2861,

ENGROSSED SUBSTITUTE HOUSE BILL 2913,

SUBSTITUTE HOUSE BILL 2962,

HOUSE BILL 2996,

ENGROSSED SUBSTITUTE HOUSE BILL 3032,

SUBSTITUTE HOUSE BILL 3066,

SUBSTITUTE HOUSE JOINT MEMORIAL 4004.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3179, by House Committee on Finance (originally sponsored by Representatives Springer and Ericks)

Revising local excise tax provisions for counties and cities. Revised for 1st Substitute: Concerning local excise tax provisions for counties and cities.

The measure was read the second time.

MOTION

Senator Regala moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 82.14.450 and 2009 c 551 s 1 are each amended to read as follows:

(1) A county legislative authority may submit an authorizing proposition to the county voters at a primary or general election and, if the proposition is approved by a majority of persons voting, impose a sales and use tax in accordance with the terms of this chapter. The title of each ballot measure must clearly state the purposes for which the proposed sales and use tax will be used. ~~((Funds raised under this tax shall not supplant existing funds used for these purposes, except as follows: Up to one hundred percent may be used to supplant existing funding in calendar year 2010; up to eighty percent may be used to supplant existing funding in calendar year 2011; up to sixty percent may be used to supplant existing funding in calendar year 2012; up to forty percent may be used to supplant existing funding in calendar year 2013; and up to twenty percent may be used to supplant existing funding in calendar year 2014. For purposes of this subsection, existing funds means the actual operating expenditures for the calendar year in which the ballot measure is approved by voters. Actual operating expenditures excludes lost federal funds, lost or expired state grants or loans, extraordinary events not likely to reoccur, changes in contract provisions beyond the control of the county or city receiving the services, and major nonrecurring capital expenditures.))~~ The rate of tax under this section may not exceed three-tenths of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(2)(a) A city legislative authority may submit an authorizing proposition to the city voters at a primary or general election and, if the proposition is approved by a majority of persons voting, impose a sales and use tax in accordance with the terms of this chapter. The title of each ballot measure must clearly state the purposes for which the proposed sales and use tax will be used. The rate of tax under this subsection may not exceed one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax. A city may not begin imposing a tax approved by the voters under this subsection prior to January 1, 2011.

(b) If a county adopts an ordinance or resolution to submit a ballot proposition to the voters to impose the sales and use tax under subsection (1) of this section prior to a city within the county adopting an ordinance or resolution to submit a ballot proposition to the voters to impose the tax under this subsection, the rate of tax by the city under this subsection may not exceed an amount that would cause the total county and city tax rate under this section to exceed three-tenths of one percent. This subsection (2)(b) also applies if the county and city adopt an ordinance or resolution to impose sales and use taxes under this section on the same date.

(c) If the city adopts an ordinance or resolution to submit a ballot proposition to the voters to impose the sales and use tax under this subsection prior to the county in which the city is located, the

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county must provide a credit against its tax under subsection (1) of this section for the city tax under this subsection to the extent the total county and city tax rate under this section would exceed three-tenths of one percent.

(3) The tax authorized in this section is in addition to any other taxes authorized by law and must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county.

~~((3))~~ (4) The retail sale or use of motor vehicles, and the lease of motor vehicles for up to the first thirty-six months of the lease, are exempt from tax imposed under this section.

~~((4))~~ (5) One-third of all money received under this section must be used solely for criminal justice purposes, fire protection purposes, or both. For the purposes of this subsection, "criminal justice purposes" has the same meaning as provided in RCW 82.14.340.

~~((5))~~ (6) Money received by a county under subsection (1) of this section must be shared between the county and the cities as follows: Sixty percent must be retained by the county and forty percent must be distributed on a per capita basis to cities in the county.

(7) Tax proceeds received by a city imposing a tax under this section must be shared between the county and city as follows: Fifteen percent must be distributed to the county and eighty-five percent is retained by the city.

**Sec. 2.** RCW 82.14.460 and 2009 c 551 s 2 are each amended to read as follows:

(1)(a) A county legislative authority may authorize, fix, and impose a sales and use tax in accordance with the terms of this chapter.

(b) If a county with a population over eight hundred thousand has not imposed the tax authorized under this subsection by January 1, 2011, any city with a population over fifty thousand located in that county may authorize, fix, and impose the sales and use tax in accordance with the terms of this chapter. The county must provide a credit against its tax for the full amount of tax imposed under this subsection (1)(b) by any city located in that county if the county imposes the tax after January 1, 2011.

(2) The tax authorized in this section ~~((shall be))~~ is in addition to any other taxes authorized by law and ~~((shall))~~ must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county for a county's tax and within a city for a city's tax. The rate of tax ~~((shall))~~ equals one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(3) Moneys collected under this section ~~((shall))~~ must be used solely for the purpose of providing for the operation or delivery of chemical dependency or mental health treatment programs and services and for the operation or delivery of therapeutic court programs and services. For the purposes of this section, "programs and services" includes, but is not limited to, treatment services, case management, and housing that are a component of a coordinated chemical dependency or mental health treatment program or service.

(4) All moneys collected under this section must be used solely for the purpose of providing new or expanded programs and services as provided in this section, except a portion of moneys collected under this section may be used to supplant existing funding for these purposes in any county as follows: Up to fifty percent may be used to supplant existing funding in calendar year 2010; up to forty percent may be used to supplant existing funding in calendar year 2011; up to thirty percent may be used to supplant existing funding in calendar year 2012; up to twenty percent may be used to supplant existing funding in calendar year 2013; and up to

ten percent may be used to supplant existing funding in calendar year 2014.

(5) Nothing in this section may be interpreted to prohibit the use of moneys collected under this section for the replacement of lapsed federal funding previously provided for the operation or delivery of services and programs as provided in this section.

**Sec. 3.** RCW 82.14.340 and 1995 c 309 s 1 are each amended to read as follows:

(1) The legislative authority of any county may fix and impose a sales and use tax in accordance with the terms of this chapter, provided that such sales and use tax is subject to repeal by referendum, using the procedures provided in RCW 82.14.036. The referendum procedure provided in RCW 82.14.036 is the exclusive method for subjecting any county sales and use tax ordinance or resolution to a referendum vote.

(2) The tax authorized in this section ~~((shall be))~~ is in addition to any other taxes authorized by law and ~~((shall))~~ must be collected from those persons who are taxable by the state pursuant to chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within such county. The rate of tax ~~((shall))~~ equals one-tenth of one percent of the selling price (in the case of a sales tax) or value of the article used (in the case of a use tax).

(3) When distributing moneys collected under this section, the state treasurer ~~((shall))~~ must distribute ten percent of the moneys to the county in which the tax was collected. The remainder of the moneys collected under this section ~~((shall))~~ must be distributed to the county and the cities within the county ratably based on population as last determined by the office of financial management. In making the distribution based on population, the county ~~((shall))~~ must receive that proportion that the unincorporated population of the county bears to the total population of the county and each city ~~((shall))~~ must receive that proportion that the city incorporated population bears to the total county population.

(4) Moneys received from any tax imposed under this section ~~((shall))~~ must be expended ~~((exclusively))~~ for criminal justice purposes ~~((and shall not be used to replace or supplant existing funding))~~. Criminal justice purposes are defined as activities that substantially assist the criminal justice system, which may include circumstances where ancillary benefit to the civil justice system occurs, and which includes domestic violence services such as those provided by domestic violence programs, community advocates, and legal advocates, as defined in RCW 70.123.020. ~~((Existing funding for purposes of this subsection is defined as calendar year 1989 actual operating expenditures for criminal justice purposes. Calendar year 1989 actual operating expenditures for criminal justice purposes exclude the following: Expenditures for extraordinary events not likely to reoccur, changes in contract provisions for criminal justice services, beyond the control of the local jurisdiction receiving the services, and major nonrecurring capital expenditures.))~~

(5) In the expenditure of funds for criminal justice purposes as provided in this section, cities and counties, or any combination thereof, are expressly authorized to participate in agreements, pursuant to chapter 39.34 RCW, to jointly expend funds for criminal justice purposes of mutual benefit. Such criminal justice purposes of mutual benefit include, but are not limited to, the construction, improvement, and expansion of jails, court facilities, ~~((and))~~ juvenile justice facilities, and services with ancillary benefits to the civil justice system.

**Sec. 4.** RCW 82.12.010 and 2009 c 535 s 304 are each amended to read as follows:

For the purposes of this chapter:

(1) "Purchase price" means the same as sales price as defined in RCW 82.08.010;

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(2)(a) "Value of the article used" (~~shall be~~) is the purchase price for the article of tangible personal property, the use of which is taxable under this chapter. The term also includes, in addition to the purchase price, the amount of any tariff or duty paid with respect to the importation of the article used. In case the article used is acquired by lease or by gift or is extracted, produced, or manufactured by the person using the same or is sold under conditions wherein the purchase price does not represent the true value thereof, the value of the article used (~~shall be~~) is determined as nearly as possible according to the retail selling price at place of use of similar products of like quality and character under such rules as the department may prescribe.

(b) In case the articles used are acquired by bailment, the value of the use of the articles so used (~~shall~~) must be in an amount representing a reasonable rental for the use of the articles so bailed, determined as nearly as possible according to the value of such use at the places of use of similar products of like quality and character under such rules as the department of revenue may prescribe. In case any such articles of tangible personal property are used in respect to the construction, repairing, decorating, or improving of, and which become or are to become an ingredient or component of, new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing or attaching of any such articles therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, then the value of the use of such articles so used (~~shall be~~) is determined according to the retail selling price of such articles, or in the absence of such a selling price, as nearly as possible according to the retail selling price at place of use of similar products of like quality and character or, in the absence of either of these selling price measures, such value may be determined upon a cost basis, in any event under such rules as the department of revenue may prescribe.

(c) In the case of articles owned by a user engaged in business outside the state which are brought into the state for no more than one hundred eighty days in any period of three hundred sixty-five consecutive days and which are temporarily used for business purposes by the person in this state, the value of the article used (~~shall~~) must be an amount representing a reasonable rental for the use of the articles, unless the person has paid tax under this chapter or chapter 82.08 RCW upon the full value of the article used, as defined in (a) of this subsection.

(d) In the case of articles manufactured or produced by the user and used in the manufacture or production of products sold or to be sold to the department of defense of the United States, the value of the articles used (~~shall be~~) is determined according to the value of the ingredients of such articles.

(e) In the case of an article manufactured or produced for purposes of serving as a prototype for the development of a new or improved product, the value of the article used (~~shall be~~) is determined by: (i) The retail selling price of such new or improved product when first offered for sale; or (ii) the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale.

(f) In the case of an article purchased with a direct pay permit under RCW 82.32.087, the value of the article used (~~shall be~~) is determined by the purchase price of such article if, but for the use of the direct pay permit, the transaction would have been subject to sales tax;

(3) "Value of the service used" means the purchase price for the digital automated service or other service, the use of which is taxable under this chapter. If the service is received by gift or under conditions wherein the purchase price does not represent the true value thereof, the value of the service used (~~shall be~~) is determined

as nearly as possible according to the retail selling price at place of use of similar services of like quality and character under rules the department may prescribe;

(4) "Value of the extended warranty used" means the purchase price for the extended warranty, the use of which is taxable under this chapter. If the extended warranty is received by gift or under conditions wherein the purchase price does not represent the true value of the extended warranty, the value of the extended warranty used (~~shall be~~) is determined as nearly as possible according to the retail selling price at place of use of similar extended warranties of like quality and character under rules the department may prescribe;

(5) "Value of the digital good or digital code used" means the purchase price for the digital good or digital code, the use of which is taxable under this chapter. If the digital good or digital code is acquired other than by purchase, the value of the digital good or digital code must be determined as nearly as possible according to the retail selling price at place of use of similar digital goods or digital codes of like quality and character under rules the department may prescribe;

(6) "Use," "used," "using," or "put to use" have their ordinary meaning, and mean:

(a) With respect to tangible personal property, except for natural gas and manufactured gas, the first act within this state by which the taxpayer takes or assumes dominion or control over the article of tangible personal property (as a consumer), and include installation, storage, withdrawal from storage, distribution, or any other act preparatory to subsequent actual use or consumption within this state;

(b) With respect to a service defined in RCW 82.04.050(2)(a), the first act within this state after the service has been performed by which the taxpayer takes or assumes dominion or control over the article of tangible personal property upon which the service was performed (as a consumer), and includes installation, storage, withdrawal from storage, distribution, or any other act preparatory to subsequent actual use or consumption of the article within this state;

(c) With respect to an extended warranty, the first act within this state after the extended warranty has been acquired by which the taxpayer takes or assumes dominion or control over the article of tangible personal property to which the extended warranty applies, and includes installation, storage, withdrawal from storage, distribution, or any other act preparatory to subsequent actual use or consumption of the article within this state;

(d) With respect to a digital good or digital code, the first act within this state by which the taxpayer, as a consumer, views, accesses, downloads, possesses, stores, opens, manipulates, or otherwise uses or enjoys the digital good or digital code;

(e) With respect to a digital automated service, the first act within this state by which the taxpayer, as a consumer, uses, enjoys, or otherwise receives the benefit of the service;

(f) With respect to a service defined as a retail sale in RCW 82.04.050(6)(b), the first act within this state by which the taxpayer, as a consumer, accesses the prewritten computer software; (~~and~~)

(g) With respect to a service defined as a retail sale in RCW 82.04.050(2)(g), the first act within this state after the service has been performed by which the taxpayer, as a consumer, views, accesses, downloads, possesses, stores, opens, manipulates, or otherwise uses or enjoys the digital good upon which the service was performed; and

(h) With respect to natural gas or manufactured gas, the use of which is taxable under RCW 82.12.022, including gas that is also taxable under the authority of RCW 82.14.230, the first act within this state by which the taxpayer consumes the gas by burning the gas or storing the gas in the taxpayer's own facilities for later consumption by the taxpayer;

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(7) "Taxpayer" and "purchaser" include all persons included within the meaning of the word "buyer" and the word "consumer" as defined in chapters 82.04 and 82.08 RCW;

(8)(a)(i) Except as provided in (a)(ii) of this subsection (8), "retailer" means every seller as defined in RCW 82.08.010 and every person engaged in the business of selling tangible personal property at retail and every person required to collect from purchasers the tax imposed under this chapter.

(ii) "Retailer" does not include a professional employer organization when a covered employee coemployed with the client under the terms of a professional employer agreement engages in activities that constitute a sale of tangible personal property, extended warranty, digital good, digital code, or a sale of any digital automated service or service defined as a retail sale in RCW 82.04.050 (2)(a) or (g), (3)(a), or (6)(b) that is subject to the tax imposed by this chapter. In such cases, the client, and not the professional employer organization, is deemed to be the retailer and is responsible for collecting and remitting the tax imposed by this chapter.

(b) For the purposes of (a) of this subsection, the terms "client," "covered employee," "professional employer agreement," and "professional employer organization" have the same meanings as in RCW 82.04.540;

(9) "Extended warranty" has the same meaning as in RCW 82.04.050(7);

(10) The meaning ascribed to words and phrases in chapters 82.04 and 82.08 RCW, insofar as applicable, ~~((shall have))~~ has full force and effect with respect to taxes imposed under the provisions of this chapter. "Consumer," in addition to the meaning ascribed to it in chapters 82.04 and 82.08 RCW insofar as applicable, ~~((shall))~~ also means any person who distributes or displays, or causes to be distributed or displayed, any article of tangible personal property, except newspapers, the primary purpose of which is to promote the sale of products or services. With respect to property distributed to persons within this state by a consumer as defined in this subsection (10), the use of the property ~~((shall be))~~ is deemed to be by such consumer.

**Sec. 5.** RCW 82.14.230 and 1989 c 384 s 2 are each amended to read as follows:

(1) The governing body of any city, while not required by legislative mandate to do so, may, by resolution or ordinance for the purposes authorized by this chapter, fix and impose on every person a use tax for the privilege of using natural gas or manufactured gas in the city as a consumer.

(2) The tax ~~((shall be))~~ is imposed in an amount equal to the value of the article used by the taxpayer multiplied by the rate in effect for the tax on natural gas businesses under RCW 35.21.870 in the city in which the article is used. The "value of the article used," does not include any amounts that are paid for the hire or use of a natural gas business in transporting the gas subject to tax under this subsection if those amounts are subject to tax under RCW 35.21.870.

(3) The tax imposed under this section ~~((shall))~~ does not apply to the use of natural or manufactured gas if the person who sold the gas to the consumer has paid a tax under RCW 35.21.870 with respect to the gas for which exemption is sought under this subsection.

(4) There ~~((shall be))~~ is a credit against the tax levied under this section in an amount equal to any tax paid by:

(a) The person who sold the gas to the consumer when that tax is a gross receipts tax similar to that imposed pursuant to RCW 35.21.870 by another ~~((state))~~ municipality or other unit of local government with respect to the gas for which a credit is sought under this subsection; or

(b) The person consuming the gas upon which a use tax similar to the tax imposed by this section was paid to another ~~((state))~~ municipality or other unit of local government with respect to the gas for which a credit is sought under this subsection.

(5) The use tax ~~((hereby))~~ imposed ~~((shall))~~ must be paid by the consumer. The administration and collection of the tax ~~((hereby))~~ imposed ~~((shall be))~~ is pursuant to RCW 82.14.050.

**Sec. 6.** RCW 9.46.113 and 1975 1st ex.s. c 166 s 11 are each amended to read as follows:

Any county, city or town which collects a tax on gambling activities authorized pursuant to RCW 9.46.110 ~~((shall))~~ must use the revenue from such tax primarily for the purpose of ~~((enforcement of the provisions of this chapter by the county, city or town law enforcement agency))~~ public safety.

**NEW SECTION. Sec. 7.** 2009 c 551 s 12 (uncodified) is hereby repealed."

Senator Regala spoke in favor of adoption of the committee striking amendment.

#### MOTION

Senator Kastama moved that the following amendment by Senators Kastama and Regala to the committee striking amendment be adopted:

On page 3, line 14, after "population over", strike "fifty" and insert "thirty"

On page 4, line 3, after "any county", insert "or city"

Senator Kastama spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Kastama and Regala on page 3, line 14 to the committee striking amendment to Engrossed Substitute House Bill No. 3179.

The motion by Senator Kastama carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means as amended to Engrossed Substitute House Bill No. 3179.

The motion by Senator Regala carried and the committee striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "cities;" strike the remainder of the title and insert "amending RCW 82.14.450, 82.14.460, 82.14.340, 82.12.010, 82.14.230, and 9.46.113; and repealing 2009 c 551 s 12 (uncodified)."

#### MOTION

On motion of Senator Regala, the rules were suspended, Engrossed Substitute House Bill No. 3179 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Regala spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 3179 as amended by the Senate.

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ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 3179 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 28; Nays, 18; Absent, 1; Excused, 2.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Jacobsen, Kastama, Kauffman, Keiser, Kline, Kohl-Welles, McAuliffe, McDermott, Murray, Oemig, Pridemore, Ranker, Regala, Rockefeller, Shin, Swecker and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hobbs, Holmquist, Honeyford, Kilmer, King, Marr, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon and Stevens

Absent: Senator Zarelli

Excused: Senators McCaslin and Prentice

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3179 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Brandland, Senator Zarelli was excused.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2990, by House Committee on Local Government & Housing (originally sponsored by Representatives Pettigrew, Santos, Simpson and Kenney)

Addressing alternative city assumption and tax authority provisions pertaining to water-sewer districts.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, Substitute House Bill No. 2990 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Prentice and Swecker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2990.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2990 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 8; Absent, 1; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Becker, Carrell, Delvin, Holmquist, Honeyford, Morton, Schoesler and Stevens

Absent: Senator Regala

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 2990, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2539, by House Committee on Ways & Means (originally sponsored by Representative Upthegrove)

Optimizing the collection of source separated materials.

The measure was read the second time.

MOTION

On motion of Senator Rockefeller, the rules were suspended, Engrossed Second Substitute House Bill No. 2539 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller and Honeyford spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2539.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2539 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2539, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2540, by Representatives Cody, Pedersen, Nelson, Kenney and Morrell

Concerning the practice of dentistry.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, House Bill No. 2540 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2540.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2540 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

HOUSE BILL NO. 2540, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2925, by House Committee on Ways & Means (originally sponsored by Representatives Kretz, Short and Condotta)

Concerning impact payments of a municipally owned hydroelectric facility.

The measure was read the second time.

#### MOTION

Senator McDermott moved that the following striking amendment by Senators McDermott and Morton be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 35.21.420 and 1965 c 7 s 35.21.420 are each amended to read as follows:

(1) Any city owning and operating a public utility and having facilities for the generation of electricity located in a county other than that in which the city is located, may provide for the public peace, health, safety and welfare of such county as concerns the facilities and the personnel employed in connection therewith, by contributing to the support of the county government of any such county and enter into contracts with any such county therefor.

(2)(a) Any city with a population greater than five hundred thousand people owning and operating a public utility and having facilities for the generation of electricity located in a county other than that in which the city is located, must provide for the impacts of lost revenue and the public peace, health, safety, and welfare of such county as concerns the facilities and the personnel employed in connection therewith, by contributing to the support of the county, city, or town government and school district of any such county and enter into contracts with any such county therefor as specified in RCW 35.21.425.

(b)(i) In the event a contract entered into under this section between a county and the governing body of a city with a population greater than five hundred thousand people authorized or required under this section expires prior to the adoption of a new contract between the parties, the city must continue to make compensatory payments calculated based on the payment terms set forth in the most recent expired compensation contract between the city and the

county until such time as a new contract is entered into by the parties.

(ii) In the event a contract entered into under this section between a county and the governing body of a city with a population greater than five hundred thousand people expired prior to the effective date of this act, the city shall be indebted to the county for any resulting arrearage accruing from the time of the expiration of the contract until such time as a new contract is entered into by the parties. The dollar amount of such arrearage shall be calculated retroactively by reference to the payment terms set forth in the most recent expired compensation contract between the city and the county.

(c) In the event a contract entered into under this section between a county and the governing body of a city with a population greater than five hundred thousand people expires, or has expired prior to the effective date of this section and the county and the city are unable to reach agreement on a new contract within six months of such expiration, then either the county or the city may initiate the arbitration procedures set forth in RCW 35.21.426 by serving a written notice of intent to arbitrate on the other. Arbitration must commence within sixty days of service of such notice, and must follow the arbitration procedures as provided in RCW 35.21.426. The city is responsible for the costs of arbitration, including compensation for the arbitrators' services, except that the city and the county shall bear their own costs for attorneys' fees and their own costs of litigation.

**Sec. 2.** RCW 35.21.425 and 1965 c 7 s 35.21.425 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, whenever after March 17, 1955, any city shall construct hydroelectric generating facilities or acquire land for the purpose of constructing the same in a county other than the county in which such city is located, and by reason of such construction or acquisition shall (1) cause loss of revenue and/or place a financial burden in providing for the public peace, health, safety, welfare, and added road maintenance in such county, in addition to road construction or relocation as set forth in RCW 90.28.010 and/or (2) shall cause any loss of revenues and/or increase the financial burden of any school district affected by the construction because of an increase in the number of pupils by reason of the construction or the operation of said generating facilities, the city shall enter into an agreement with said county and/or the particular school district or districts affected for the payment of moneys to recompense such losses or to provide for such increased financial burden, upon such terms and conditions as may be mutually agreeable to the city and the county and/or school district or districts.

(2)(a) Whenever after March 17, 1955, a municipal owned utility located in a city with a population greater than five hundred thousand people constructs or operates hydroelectric generating facilities or acquires land for the purpose of constructing or operating the same in a county other than the county in which the city is located must enter into an agreement with the county affected for the annual payment of moneys to recompense such losses, as provided under subsection (1) of this section.

(b)(i) In the event an agreement entered into under this section between a county and the governing body of either a city with a population greater than five hundred thousand people or a municipal utility owned by a city with a population greater than five hundred thousand people expires prior to the adoption of a new agreement between the parties, the city or utility must continue to make compensatory payments calculated based on the payment terms set forth in the most recent expired compensation contract between the city and the county until such time as a new agreement is entered into by the parties.

(ii) In the event an agreement entered into under this section

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between a county and the governing body of either a city with a population greater than five hundred thousand people or a municipal utility owned by a city with a population greater than five hundred thousand people expired prior to the effective date of this act, the city shall be indebted to the county for any resulting arrearage accruing from the time of the expiration of the agreement until such time as a new agreement is entered into by the parties. The dollar amount of such arrearage shall be calculated retroactively by reference to the payment terms set forth in the most recent expired compensation agreement between the city and the county.

(c) In the event an agreement entered into under this section between a county and the governing body of either a city with a population greater than five hundred thousand people or a municipal utility owned by a city with a population greater than five hundred thousand people expires, or has expired prior to the effective date of this section, and the county and the city are unable to reach agreement on a new agreement within six months of such expiration, then either the county or the city may initiate the arbitration procedures set forth in RCW 35.21.426 by serving a written notice of intent to arbitrate on the other. Arbitration must commence within sixty days of service of such notice, and must follow the arbitration procedures as provided in RCW 35.21.426. The city is responsible for the costs of arbitration, including compensation for the arbitrators' services, and the city and the county shall bear their own costs for attorneys' fees and their own costs of litigation.

**NEW SECTION. Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

The President declared the question before the Senate to be the adoption of the striking amendment by Senators McDermott and Morton to Engrossed Substitute House Bill No. 2925.

The motion by Senator McDermott carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "facility;" strike the remainder of the title and insert "amending RCW 35.21.420 and 35.21.425; and declaring an emergency."

MOTION

On motion of Senator McDermott, the rules were suspended, Engrossed Substitute House Bill No. 2925 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McDermott and Morton spoke in favor of passage of the bill.

MOTION

On motion of Senator Marr, Senators Brown and Kohl-Welles were excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2925 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2925 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yeas: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2925 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 3105, by House Committee on Ecology & Parks (originally sponsored by Representatives Rolfes, Wallace, Kenney and Ormsby)

Allowing the director of financial management to include alternative fuel vehicles in a strategy to reduce fuel consumption and emissions from state agency fleets.

The measure was read the second time.

MOTION

Senator Rockefeller moved that the following committee striking amendment by the Committee on Environment, Water & Energy be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.41.130 and 2009 c 519 s 6 are each amended to read as follows:

- (1) The director of financial management, after consultation with other interested or affected state agencies, shall establish overall policies governing the acquisition, operation, management, maintenance, repair, and disposal of ~~((:))~~ all ~~((passenger))~~ motor vehicles owned or operated by any state agency. ~~((Such))~~ These policies shall include but not be limited to a definition of what constitutes authorized use of a state owned or controlled passenger motor vehicle and other motor vehicles on official state business. The definition shall include, but not be limited to, the use of state-owned motor vehicles for commuter ride sharing so long as the entire capital depreciation and operational expense of the commuter ride-sharing arrangement is paid by the commuters. Any use other than such defined use shall be considered as personal use.
- (2)(a) By June 15, 2010, the director of the department of general administration, in consultation with the office and other interested or affected state agencies, shall develop strategies to ~~((reduce))~~ assist state agencies in reducing fuel consumption and emissions from all classes of vehicles.

(b) In an effort to achieve lower overall emissions for all classes of vehicles, state agencies should, when financially comparable over the vehicle's useful life, consider purchasing or converting to ultra-low carbon fuel vehicles.

- (3) State agencies shall ~~((use these strategies to: —(4)))~~ phase in fuel economy standards for motor pools and leased petroleum-based fuel vehicles to achieve an average fuel economy standard of thirty-six miles per gallon for passenger

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vehicle fleets by 2015(;

~~—(2) Achieve an average fuel economy of forty miles per gallon for light duty passenger vehicles purchased after June 15, 2010; and~~  
~~—(3) Achieve an average fuel economy standard of twenty-seven miles per gallon for light duty vans and sport utility vehicles purchased after June 15, 2010).~~

(4) After June 15, 2010, state agencies shall:

(a) When purchasing new petroleum-based fuel vehicles for vehicle fleets: (i) Achieve an average fuel economy of forty miles per gallon for light duty passenger vehicles; and (ii) achieve an average fuel economy of twenty-seven miles per gallon for light duty vans and sports utility vehicles; or

(b) Purchase ultra-low carbon fuel vehicles.

(5) State agencies must report annually on the progress made to achieve the goals under subsections ~~((1) through~~) (3) and (4) of this section beginning October 31, 2011.

(6) The department of general administration, in consultation with the office and other affected or interested agencies, shall develop a separate fleet fuel economy standard for all other classes of petroleum-based fuel vehicles and report the progress made toward meeting the fuel consumption and emissions goals established by this section to the governor and the relevant legislative committees by December 1, 2012.

(For the purposes of this section, light duty vehicles refers to cars, sport utility vehicles, and passenger vans.)

(7) The following vehicles are excluded from the ~~((agency fleet))~~ average fuel economy ~~((calculation))~~ goals established in subsections (3) and (4) of this section: Emergency response vehicles, passenger vans with a gross vehicle weight of eight thousand five hundred pounds or greater, vehicles that are purchased for off-pavement use, ultra-low carbon fuel vehicles, and vehicles that are driven less than two thousand miles per year.

(8) Average fuel economy calculations used under this section for petroleum-based fuel vehicles must be based upon the current United States environmental protection agency composite city and highway mile per gallon rating.

(9) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Petroleum-based fuel vehicle" means a vehicle that uses, as a fuel source, more than ten percent gasoline or diesel fuel.

(b) "Ultra-low carbon fuel vehicle" means a vehicle that uses, as a fuel source, at least ninety percent natural gas, hydrogen, biomethane, or electricity."

Senator Rockefeller spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Environment, Water & Energy to Substitute House Bill No. 3105.

The motion by Senator Rockefeller carried and the committee striking amendment was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 3 of the title, after "fleets;" strike the remainder of the title and insert "and amending RCW 43.41.130."

## MOTION

On motion of Senator Rockefeller, the rules were suspended, Substitute House Bill No. 3105 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller and Honeyford spoke in favor of passage of the bill.

## POINT OF INQUIRY

Senator Benton: "Would Senator Rockefeller yield to a question? Thank you, Senator will this bill increase the cost of our fleet in terms of the purchase of these alternative fuel vehicles and was there a fiscal note on this? What do you anticipate to be increase cost to the state if we adopt this measure?"

Senator Rockefeller: "Thank you for your inquiry Senator. Looking at the fiscal impact, no it shows a zero impact according to report that I have here."

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 3105 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3105 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridmore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 3105 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 2680, by House Committee on Early Learning & Children's Services (originally sponsored by Representatives Roberts, Kagi, Angel, Seaquist, Walsh, Maxwell and Kenney)

Implementing a guardianship program.

The measure was read the second time.

## MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that a guardianship is an appropriate permanent plan for a child who has been found to be dependent under chapter 13.34 RCW and who cannot safely be reunified with his or her parents. The legislature is concerned that parents not be pressured by the department into agreeing to the entry of a guardianship when further services would increase the chances that the child could be reunified with his or her parents. The legislature intends to create a separate guardianship

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chapter to establish permanency for children in foster care through the appointment of a guardian and dismissal of the dependency.

**NEW SECTION. Sec. 2. DEFINITIONS.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Child" means any individual under the age of eighteen years.

(2) "Dependent child" means a child who has been found by a court to be dependent in a proceeding under chapter 13.34 RCW.

(3) "Department" means the department of social and health services.

(4) "Guardian" means a person who: (a) Has been appointed by the court as the guardian of a child in a legal proceeding under this chapter; and (b) has the legal right to custody of the child pursuant to court order. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under chapter 13.34 RCW for the purpose of assisting the court in supervising the dependency.

(5) "Relative" means a person related to the child in the following ways: (a) Any blood relative, including those of half-blood, and including first cousins, second cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great; (b) stepfather, stepmother, stepbrother, and stepsister; (c) a person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law; (d) spouses of any persons named in (a), (b), or (c) of this subsection, even after the marriage is terminated; (e) relatives, as named in (a), (b), (c), or (d) of this subsection, of any half sibling of the child; or (f) extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a twenty-four hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);

(6) "Suitable person" means a nonrelative with whom the child or the child's family has a preexisting relationship; who has completed all required criminal history background checks and otherwise appears to be suitable and competent to provide care for the child; and with whom the child has been placed pursuant to RCW 13.34.130.

(7) "Supervising agency" means an agency licensed by the state under RCW 74.15.090, or licensed by a federally recognized Indian tribe located in this state under RCW 74.15.190, that has entered into a performance-based contract with the department to provide case management for the delivery and documentation of child welfare services as defined in RCW 74.13.020.

**NEW SECTION. Sec. 3. GUARDIANSHIP PETITION.**

(1) Any party to a dependency proceeding under chapter 13.34 RCW may request a guardianship be established for a dependent child by filing a petition in juvenile court under this chapter. All parties to the dependency and the proposed guardian must receive adequate notice of all proceedings under this chapter. For purposes of this chapter, a dependent child age twelve years or older is a party to the proceedings. A proposed guardian has the right to intervene in proceedings under this chapter.

(2) To be designated as a proposed guardian in a petition under this chapter, a person must be age twenty-one or over and must meet the minimum requirements to care for children as established by the department under RCW 74.15.030, including but not limited to licensed foster parents, relatives, and suitable persons.

(3) Every petition filed in proceedings under this chapter shall contain: (a) A statement alleging whether the child is or may be an

Indian child as defined in 25 U.S.C. Sec. 1903. If the child is an Indian child as defined under the Indian child welfare act, the provisions of that act shall apply; (b) a statement alleging whether the federal servicemembers civil relief act of 2003, 50 U.S.C. Sec. 501 et seq. applies to the proceeding; and (c) a statement alleging whether the Washington service members' civil relief act, chapter 38.42 RCW, applies to the proceeding.

(4) Every order or decree entered in any proceeding under this chapter shall contain: (a) A finding that the Indian child welfare act does or does not apply. Where there is a finding that the Indian child welfare act does apply, the decree or order must also contain a finding that all notice requirements and evidentiary requirements under the Indian child welfare act have been satisfied; (b) a finding that the federal servicemembers civil relief act of 2003 does or does not apply; and (c) a finding that the Washington service members' civil relief act, chapter 38.42 RCW, does or does not apply.

**NEW SECTION. Sec. 4. GUARDIANSHIP HEARING.**

(1) At the hearing on a guardianship petition, all parties have the right to present evidence and cross-examine witnesses. The rules of evidence apply to the conduct of the hearing. The hearing under this section to establish a guardianship or convert an existing dependency guardianship to a guardianship under this section is a stage of the dependency proceedings for purposes of RCW 13.34.090(2).

(2) A guardianship shall be established if:

(a) The court finds by a preponderance of the evidence that it is in the child's best interests to establish a guardianship, rather than to terminate the parent-child relationship and proceed with adoption, or to continue efforts to return custody of the child to the parent; and

(b) All parties agree to entry of the guardianship order and the proposed guardian is qualified, appropriate, and capable of performing the duties of guardian under section 5 of this act; or

(c)(i) The child has been found to be a dependent child under RCW 13.34.030;

(ii) A dispositional order has been entered pursuant to RCW 13.34.130;

(iii) At the time of the hearing on the guardianship petition, the child has or will have been removed from the custody of the parent for at least six consecutive months following a finding of dependency under RCW 13.34.030;

(iv) The services ordered under RCW 13.34.130 and 13.34.136 have been offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been offered or provided;

(v) There is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future; and

(vi) The proposed guardian has signed a statement acknowledging the guardian's rights and responsibilities toward the child and affirming the guardian's understanding and acceptance that the guardianship is a commitment to provide care for the child until the child reaches age eighteen.

(3) The court may not establish a guardianship for a child who has no legal parent unless the court, in addition to making the required findings set forth in subsection (2) of this section, finds one or more exceptional circumstances exist and the benefits for the child of establishing the guardianship outweigh any potential disadvantage to the child of having no legal parent. Exceptional circumstances may include but are not limited to:

(a) The child has special needs and a suitable guardian is willing to accept custody and able to meet the needs of the child to an extent unlikely to be achieved through adoption; or

(b) The proposed guardian has demonstrated a commitment to provide for the long-term care of the child and: (i) Is a relative of the child; (ii) has been a long-term caregiver for the child and has acted as a parent figure to the child and is viewed by the child as a

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parent figure; or (iii) the child's family has identified the proposed guardian as the preferred guardian, and, if the child is age twelve years or older, the child also has identified the proposed guardian as the preferred guardian.

(4) Upon the request of a dependency guardian appointed under chapter 13.34 RCW and the department or supervising agency, the court shall convert a dependency guardianship established under chapter 13.34 RCW to a guardianship under this chapter.

**NEW SECTION. Sec. 5. GUARDIANSHIP ORDER.** (1) If the court has made the findings required under section 4 of this act, the court shall issue an order establishing a guardianship for the child. If the guardian has not previously intervened, the guardian shall be made a party to the guardianship proceeding upon entry of the guardianship order. The order shall:

- (a) Appoint a person to be the guardian for the child;
- (b) Specify the guardian's rights and responsibilities concerning the care, custody, control, and nurturing of the child;
- (c) Specify the guardian's authority, if any, to receive, invest, and expend funds, benefits, or property belonging to the child;
- (d) Specify an appropriate frequency and type of contact between the parent or parents and the child, if applicable, and between the child and his or her siblings, if applicable; and
- (e) Specify the need for and scope of continued oversight by the court, if any.

(2) The guardian shall maintain physical and legal custody of the child and have the following rights and duties under the guardianship:

- (a) Duty to protect, nurture, discipline, and educate the child;
- (b) Duty to provide food, clothing, shelter, education as required by law, and health care for the child, including but not limited to, medical, dental, mental health, psychological, and psychiatric care and treatment;
- (c) Right to consent to health care for the child and sign a release authorizing the sharing of health care information with appropriate authorities, in accordance with state law;
- (d) Right to consent to the child's participation in social and school activities; and
- (e) Duty to notify the court of a change of address of the guardian and the child. Unless specifically ordered by the court, however, the standards and requirements for relocation in chapter 26.09 RCW do not apply to guardianships established under this chapter.

(3) If the child has independent funds or other valuable property under the control of the guardian, the guardian shall provide an annual written accounting, supported with appropriate documentation, to the court regarding receipt and expenditure by the guardian of any such funds or benefits. This subsection shall not be construed to require a guardian to account for any routine funds or benefits received from a public social service agency on behalf of the child.

(4) The guardianship shall remain in effect until the child reaches the age of eighteen years or until the court terminates the guardianship, whichever occurs sooner.

(5) Once the dependency has been dismissed pursuant to section 7 of this act, the court shall not order the department or other supervising agency to supervise or provide case management services to the guardian or the child as part of the guardianship order.

(6) The court shall issue a letter of guardianship to the guardian upon the entry of the court order establishing the guardianship under this chapter.

**NEW SECTION. Sec. 6. GUARDIANSHIP MODIFICATION.** (1) A guardian or a parent of the child may petition the court to modify the visitation provisions of a guardianship order by:

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(a) Filing with the court a motion for modification and an affidavit setting forth facts supporting the requested modification; and

(b) Providing notice and a copy of the motion and affidavit to all other parties. The nonmoving parties may file and serve opposing affidavits.

(2) The court shall deny the motion unless it finds that adequate cause for hearing the motion is established by the affidavits, in which case it shall set a date for hearing on an order to show cause why the requested modification should not be granted.

(3) If the court finds that a motion to modify a guardianship order has been brought in bad faith, the court may assess attorney's fees and court costs of the nonmoving party against the moving party.

**NEW SECTION. Sec. 7. GUARDIANSHIP TERMINATION.** (1) Any party to a guardianship proceeding may request termination of the guardianship by filing a petition and supporting affidavit alleging a substantial change has occurred in the circumstances of the child or the guardian and that the termination is necessary to serve the best interests of the child. The petition and affidavit must be served on the department or supervising agency and all parties to the guardianship.

(2) Except as provided in subsection (3) of this section, the court shall not terminate a guardianship unless it finds, upon the basis of facts that have arisen since the guardianship was established or that were unknown to the court at the time the guardianship was established, that a substantial change has occurred in the circumstances of the child or the guardian and that termination of the guardianship is necessary to serve the best interests of the child. The effect of a guardian's duties while serving in the military potentially impacting guardianship functions shall not, by itself, be a substantial change of circumstances justifying termination of a guardianship.

(3) The court may terminate a guardianship on the agreement of the guardian, the child, if the child is age twelve years or older, and a parent seeking to regain custody of the child if the court finds by a preponderance of the evidence and on the basis of facts that have arisen since the guardianship was established that:

(a) The parent has successfully corrected the parenting deficiencies identified by the court in the dependency action, and the circumstances of the parent have changed to such a degree that returning the child to the custody of the parent no longer creates a risk of harm to the child's health, welfare, and safety;

(b) The child, if age twelve years or older, agrees to termination of the guardianship and the return of custody to the parent; and

(c) Termination of the guardianship and return of custody of the child to the parent is in the child's best interests.

(4) Upon the entry of an order terminating a guardianship, the court shall enter an order:

(a) Granting the child's parent with legal and physical custody of the child;

(b) Granting a substitute guardian with legal and physical custody of the child; or

(c) Directing the child to be temporarily placed in the custody of the department for placement with a relative or other suitable person as defined in RCW 13.34.130(1)(b), if available, or in an appropriate licensed out-of-home placement, and directing that the department file a dependency petition on behalf of the child.

**NEW SECTION. Sec. 8. APPOINTMENT OF GUARDIAN AD LITEM OR ATTORNEY FOR THE CHILD.** In all proceedings to establish, modify, or terminate a guardianship order, the court shall appoint a guardian ad litem or attorney for the child. The court may appoint a guardian ad litem or attorney who represented the child in a prior proceeding under this chapter or

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under chapter 13.34 RCW, or may appoint an attorney to supersede an existing guardian ad litem.

**NEW SECTION. Sec. 9. GUARDIANSHIP SUBSIDY.**

(1) A relative guardian who is a licensed foster parent at the time a guardianship is established under this chapter and who has been the child's foster parent for a minimum of six consecutive months preceding entry of the guardianship order is eligible for a relative guardianship subsidy on behalf of the child. The department may establish rules setting eligibility, application, and program standards consistent with applicable federal guidelines for expenditure of federal funds.

(2) Within amounts appropriated for this specific purpose, a guardian who is a licensed foster parent at the time a guardianship is established under this chapter and who has been the child's foster parent for a minimum of six consecutive months preceding entry of the guardianship order is eligible for a guardianship subsidy on behalf of the child.

**Sec. 10.** RCW 13.34.030 and 2009 c 520 s 21 and 2009 c 397 s 1 are each reenacted and amended to read as follows:

For purposes of this chapter:

(1) "Abandoned" means when the child's parent, guardian, or other custodian has expressed, either by statement or conduct, an intent to forego, for an extended period, parental rights or responsibilities despite an ability to exercise such rights and responsibilities. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no contact between the child and the child's parent, guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon.

(2) "Child" and "juvenile" means any individual under the age of eighteen years.

(3) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until: (a) The child returns home; (b) an adoption decree, a permanent custody order, or guardianship order is entered; or (c) the dependency is dismissed, whichever occurs first.

(4) "Department" means the department of social and health services.

(5) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to this chapter for the limited purpose of assisting the court in the supervision of the dependency.

(6) "Dependent child" means any child who:

(a) Has been abandoned;

(b) Is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child; or

(c) Has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development.

(7) "Developmental disability" means a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial handicap to the individual.

(8) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding (~~other than a proceeding under this chapter~~), including a guardian appointed pursuant to chapter 13.-- RCW (the new chapter created

in section 17 of this act); and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" (~~shall~~) does not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

(9) "Guardian ad litem" means a person, appointed by the court to represent the best interests of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.

(10) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

(11) "Housing assistance" means appropriate referrals by the department or other supervising agencies to federal, state, local, or private agencies or organizations, assistance with forms, applications, or financial subsidies or other monetary assistance for housing. For purposes of this chapter, "housing assistance" is not a remedial service or time-limited family reunification service as described in RCW 13.34.025(2).

(12) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, general assistance, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, Medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(13) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(14) "Preventive services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services, including housing assistance, capable of preventing the need for out-of-home placement while protecting the child.

(15) "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to RCW 74.15.030.

(16) "Sibling" means a child's birth brother, birth sister, adoptive brother, adoptive sister, half-brother, or half-sister, or as defined by the law or custom of the Indian child's tribe for an Indian child as defined in 25 U.S.C. Sec. 1903(4).

(17) "Social study" means a written evaluation of matters relevant to the disposition of the case and shall contain the following information:

(a) A statement of the specific harm or harms to the child that intervention is designed to alleviate;

(b) A description of the specific services and activities, for both the parents and child, that are needed in order to prevent serious harm to the child; the reasons why such services and activities are likely to be useful; the availability of any proposed services; and the

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agency's overall plan for ensuring that the services will be delivered. The description shall identify the services chosen and approved by the parent;

(c) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs that have been considered and rejected; the preventive services, including housing assistance, that have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home; and the parents' attitude toward placement of the child;

(d) A statement of the likely harms the child will suffer as a result of removal;

(e) A description of the steps that will be taken to minimize the harm to the child that may result if separation occurs including an assessment of the child's relationship and emotional bond with any siblings, and the agency's plan to provide ongoing contact between the child and the child's siblings if appropriate; and

(f) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

(18) "Supervising agency" means an agency licensed by the state under RCW 74.15.090, or ~~((an))~~ licensed by a federally recognized Indian tribe located in this state under RCW 74.15.190 ~~((with whom the department)), that~~ has entered into a performance-based contract with the department to provide case management for the delivery and documentation of child welfare services as defined in RCW 74.13.020.

**NEW SECTION. Sec. 11.** A new section is added to chapter 13.34 RCW to read as follows:

(1) Notwithstanding the provisions of chapter 13.-- RCW (the new chapter created in section 17 of this act), a dependency guardianship established by court order under this chapter and in force on the effective date of this section shall remain subject to the provisions of this chapter unless: (a) The dependency guardianship is modified or terminated under the provisions of this chapter; or (b) the dependency guardianship is converted by court order to a guardianship pursuant to a petition filed under section 3 of this act.

(2) A dependency guardian or the department or supervising agency may request the juvenile court to convert a dependency guardianship established under this chapter to a guardianship under chapter 13.--RCW (the new chapter created in section 17 of this act) by filing a petition under section 3 of this act. If both the dependency guardian and the department or supervising agency agree that the dependency guardianship should be converted to a guardianship under this chapter, and if the court finds that such conversion is in the child's best interests, the court shall grant the petition and enter an order of guardianship in accordance with section 5 of this act.

(3) The court shall dismiss the dependency established under this chapter upon the entry of a guardianship order under chapter 13.-- RCW (the new chapter created in section 17 of this act).

**NEW SECTION. Sec. 12.** A new section is added to chapter 74.13 RCW to read as follows:

(1) The department shall adopt rules consistent with federal regulations for the receipt and expenditure of federal funds and implement a subsidy program for eligible relatives appointed by the court as a guardian under section 5 of this act.

(2) For the purpose of licensing a relative seeking to be appointed as a guardian and eligible for a guardianship subsidy under this section, the department shall, on a case-by-case basis, and when determined to be in the best interests of the child:

(a) Waive nonsafety licensing standards; and

(b) Apply the list of disqualifying crimes in the adoption and safe families act, rather than the secretary's list of disqualifying

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crimes, unless doing so would compromise the child's safety, or would adversely affect the state's ability to continue to obtain federal funding for child welfare related functions.

(3) Relative guardianship subsidy agreements shall be designed to promote long-term permanency for the child, and may include provisions for periodic review of the subsidy amount and the needs of the child.

**Sec. 13.** RCW 13.34.210 and 2009 c 520 s 35 and 2009 c 152 s 2 are each reenacted and amended to read as follows:

If, upon entering an order terminating the parental rights of a parent, there remains no parent having parental rights, the court shall commit the child to the custody of the department or a supervising agency willing to accept custody for the purpose of placing the child for adoption. If an adoptive home has not been identified, the department or supervising agency shall place the child in a licensed foster home, or take other suitable measures for the care and welfare of the child. The custodian shall have authority to consent to the adoption of the child consistent with chapter 26.33 RCW, the marriage of the child, the enlistment of the child in the armed forces of the United States, necessary surgical and other medical treatment for the child, and to consent to such other matters as might normally be required of the parent of the child.

If a child has not been adopted within six months after the date of the order and a guardianship of the child under ~~((RCW 13.34.231))~~ chapter 13.-- RCW (the new chapter created in section 17 of this act) or chapter 11.88 RCW, or a permanent custody order under chapter 26.10 RCW, has not been entered by the court, the court shall review the case every six months until a decree of adoption is entered. The supervising agency shall take reasonable steps to ensure that the child maintains relationships with siblings as provided in RCW 13.34.130(3) and shall report to the court the status and extent of such relationships.

**Sec. 14.** RCW 13.34.232 and 1994 c 288 s 7 are each amended to read as follows:

(1) ((If the court has made a finding under RCW 13.34.231, it shall enter)) An order establishing a dependency guardianship ((for the child. The order)) shall:

(a) Appoint a person or agency to serve as dependency guardian for the limited purpose of assisting the court to supervise the dependency;

(b) Specify the dependency guardian's rights and responsibilities concerning the care, custody, and control of the child. A dependency guardian shall not have the authority to consent to the child's adoption;

(c) Specify the dependency guardian's authority, if any, to receive, invest, and expend funds, benefits, or property belonging to the child;

(d) Specify an appropriate frequency of visitation between the parent and the child; and

(e) Specify the need for any continued involvement of the supervising agency and the nature of that involvement, if any.

(2) Unless the court specifies otherwise in the guardianship order, the dependency guardian shall maintain the physical custody of the child and have the following rights and duties:

(a) Protect, discipline, and educate the child;

(b) Provide food, clothing, shelter, education as required by law, and routine health care for the child;

(c) Consent to necessary health and surgical care and sign a release of health care information to appropriate authorities, pursuant to law;

(d) Consent to social and school activities of the child; and

(e) Provide an annual written accounting to the court regarding receipt by the dependency guardian of any funds, benefits, or property belonging to the child and expenditures made therefrom.

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(3) As used in this section, the term "health care" includes, but is not limited to, medical, dental, psychological, and psychiatric care and treatment.

(4) The child shall remain dependent for the duration of the guardianship. While the guardianship remains in effect, the dependency guardian shall be a party to any dependency proceedings pertaining to the child.

(5) The guardianship shall remain in effect only until the child is eighteen years of age or until the court terminates the guardianship order, whichever occurs sooner.

**Sec. 15.** RCW 13.34.234 and 2009 c 235 s 6 are each amended to read as follows:

A dependency guardian who is a licensed foster parent at the time the guardianship is established under ~~((RCW 13.34.231 and 13.34.232))~~ this chapter and who has been the child's foster parent for a minimum of six consecutive months preceding entry of the guardianship order ~~((is))~~ may be eligible for a guardianship subsidy on behalf of the child. ~~((The department may establish rules setting eligibility, application, and program standards consistent with applicable federal guidelines.))~~

**NEW SECTION. Sec. 16.** The following acts or parts of acts are each repealed:

(1) RCW 13.34.230 (Guardianship for dependent child--Petition for--Notice to, intervention by, department or supervising agency) and 2009 c 520 s 37, 1981 c 195 s 1, & 1979 c 155 s 51;

(2) RCW 13.34.231 (Guardianship for dependent child--Hearing--Rights of parties--Rules of evidence--Guardianship established, when) and 2000 c 122 s 29, 1994 c 288 s 6, & 1981 c 195 s 2;

(3) RCW 13.34.236 (Guardianship for dependent child--Qualifications for dependency guardian--Consideration of preferences of parent) and 1994 c 288 s 10 & 1981 c 195 s 7; and

(4) RCW 13.34.238 (Guardianship for dependent child--Relative guardianship subsidies) and 2009 c 235 s 5.

**NEW SECTION. Sec. 17.** Sections 2 through 9 of this act constitute a new chapter in Title 13 RCW."

Senator Hargrove spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Substitute House Bill No. 2680.

The motion by Senator Hargrove carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "program;" strike the remainder of the title and insert "amending RCW 13.34.232 and 13.34.234; reenacting and amending RCW 13.34.030 and 13.34.210; adding a new section to chapter 13.34 RCW; adding a new section to chapter 74.13 RCW; adding a new chapter to Title 13 RCW; creating a new section; and repealing RCW 13.34.230, 13.34.231, 13.34.236, and 13.34.238."

MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 2680 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2680 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2680 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 2; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senators Kline and Rockefeller

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 2680 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Marr, Senators Kline and Rockefeller were excused.

MOTION

On motion of Senator Brandland, Senator Carrell was excused.

SECOND READING

HOUSE BILL NO. 2659, by Representatives Ormsby, Orcutt, Blake, Smith, Sullivan and Van De Wege

Modifying reporting requirements for timber purchases.

The measure was read the second time.

MOTION

On motion of Senator Jacobsen, the rules were suspended, House Bill No. 2659 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Jacobsen and Morton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2659.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2659 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King,

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Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Carrell and McCaslin

HOUSE BILL NO. 2659, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6409, by Senators Kastama, Rockefeller, Shin and Kohl-Welles

Creating the Washington investment in excellence account. Revised for 2nd Substitute: Creating the Washington opportunity pathways account.

#### MOTION

On motion of Senator Kastama, Second Substitute Senate Bill No. 6409 was substituted for Senate Bill No. 6409 and the second substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Kastama moved that the following amendment by Senators Kastama and Becker be adopted:

On page 4, line 37, after "into the", strike "general fund", and insert "~~((general fund))~~ Washington opportunity pathways account".

Senator Kastama spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Kastama and Becker on page 4, line 37 to Second Substitute Senate Bill No. 6409.

The motion by Senator Kastama carried and the amendment was adopted by voice vote.

#### MOTION

Senator Kastama moved that the following amendment by Senators Kastama and Becker be adopted:

On page 5, line 30, after "lottery commission", strike "shall develop", and insert "shall upon the effective date of this section develop and begin implementation of".

Senator Kastama spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Kastama and Becker on page 5, line 30 to Second Substitute Senate Bill No. 6409.

The motion by Senator Kastama carried and the amendment was adopted by voice vote.

#### MOTION

On motion of Senator Kastama, the rules were suspended, Engrossed Second Substitute Senate Bill No. 6409 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kastama, Becker, Shin and Jacobsen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6409.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6409 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 13; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Delvin, Eide, Franklin, Fraser, Gordon, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Parlette, Pridemore, Ranker, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Benton, Carrell, Fairley, Hargrove, Haugen, Kauffman, McDermott, Morton, Pflug, Prentice, Regala, Roach and Stevens

Excused: Senator McCaslin

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6409, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 3030, by Representatives Fagan and Hinkle

Regarding the administration of irrigation districts.

The measure was read the second time.

#### MOTION

Senator Hatfield moved that the following committee striking amendment by the Committee on Agriculture & Rural Economic Development be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 87.03.001 and 1989 c 84 s 66 are each amended to read as follows:

The formation of an irrigation district may be subject to potential review by a boundary review board under chapter 36.93 RCW. The alteration of the boundaries of an irrigation district, including but not limited to a consolidation, addition of lands, exclusion of lands, or merger, may be subject to potential review by a boundary review board under chapter 36.93 RCW, except that additions or exclusions of land to an irrigation district, when those lands are within the boundary of a federal reclamation project, are not subject to review by a boundary review board under chapter 36.93 RCW.

"**Sec. 2.** RCW 87.03.436 and 1990 c 39 s 2 are each amended to read as follows:

All contract projects, the estimated cost of which is less than ~~((one))~~ three hundred thousand dollars, may be awarded ~~((to a contractor on))~~ using the small works roster ~~((The small works roster shall be comprised of all responsible contractors who have requested to be on the list. The board of directors shall authorize by resolution a procedure for securing telephone and/or written quotations from the contractors on the small works roster to assure establishment of a competitive price and for awarding contracts to the lowest responsible bidder. Such procedure shall require that a good faith effort be made to request quotations from all responsible~~

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~~contractors on the small works roster. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry. The small works roster shall be revised once a year.)~~ process under RCW 39.04.155.

**Sec. 3.** RCW 87.03.443 and 2004 c 215 s 3 are each amended to read as follows:

There may be created ~~((for))~~ by each irrigation district or separate legal authority created pursuant to RCW 87.03.018 a fund to be known as the upgrading and improvement fund. The board of directors shall determine what portion of the annual revenue of the irrigation district or separate legal authority will be placed into its upgrading and improvement fund, including all or any part of the funds received by a district or separate legal authority from the sale, delivery, and distribution of electrical energy. Moneys from the upgrading and improvement fund may ~~((only))~~ be used to modernize, improve, or upgrade ~~((the))~~ irrigation and hydroelectric power facilities ~~((of the irrigation district))~~ or to respond to an emergency affecting such facilities. The funds may also be used for licensing hydroelectric power facilities and for payment of capital improvements."

Senator Hatfield spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Agriculture & Rural Economic Development to House Bill No. 3030.

The motion by Senator Hatfield carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "districts;" strike the remainder of the title and insert "and amending RCW 87.03.001, 87.03.436, and 87.03.443."

MOTION

On motion of Senator Hatfield, the rules were suspended, House Bill No. 3030 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hatfield spoke in favor of passage of the bill.

MOTION

On motion of Senator Marr, Senator Regala was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 3030 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3030 as amended by the Senate and the bill passed the Senate by the following vote :Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King,

Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators McCaslin and Regala

HOUSE BILL NO. 3030 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2961, by House Committee on Health & Human Services Appropriations (originally sponsored by Representatives Campbell, Hurst, Morrell, Kelley and Ormsby)

Establishing a statewide electronic tracking system for the nonprescription sales of ephedrine, pseudoephedrine, and phenylpropanolamine. Revised for 2nd Substitute: Establishing a statewide electronic sales tracking system for the nonprescription sales of ephedrine, pseudoephedrine, and phenylpropanolamine.

The measure was read the second time.

MOTION

Senator Keiser moved that the following amendment by Senators Keiser and Murray be adopted:

On page 6, line 6, after "hours" insert "in accordance with any rules adopted pursuant to section 3 of this act"

On page 7, line 15, after "officers" insert "in accordance with rules adopted by the board of pharmacy regarding the privacy of the purchaser of products covered by this act and law enforcement access to the records submitted to the tracking system as provided in this section consistent with the federal combat meth act"

On page 7, line 26, after "section." insert "The board of pharmacy shall adopt rules regarding the privacy of the purchaser of products covered by this act, and any public or law enforcement access to the records submitted to the tracking system as provided in subsection (2) (c) of this section consistent with the federal combat meth act."

Senators Keiser and Pflug spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Keiser and Murray on page 6, line 6 to Engrossed Second Substitute House Bill No. 2961.

The motion by Senator Keiser carried and the amendment was adopted by voice vote.

MOTION

On motion of Senator Franklin, the rules were suspended, Engrossed Second Substitute House Bill No. 2961 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Franklin spoke in favor of passage of the bill.

POINT OF INQUIRY

Senator Benton: "Would Senator Franklin yield to a question? Thank you Senator Franklin, you said that the list will

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be provided to the vendors and the pharmacies at no cost. Can you tell me how we are going to pay for it?"

Senator Franklin: "The manufacturers, because these are dealing with over the counter drugs, they will be picking up the cost. and those of the small retailers are having some problems, they will continue to use the paper logs and will be phased in."

Senators Parlette and Becker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2961 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2961 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator McDermott

Excused: Senators McCaslin and Regala

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2961 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 3016, by House Committee on Judiciary (originally sponsored by Representative Pedersen)

Updating provisions concerning the modification, review, and adjustment of child support orders to improve access to justice and to ensure compliance with federal requirements.

The measure was read the second time.

#### MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 26.09.170 and 2008 c 6 s 1017 are each amended to read as follows:

(1) Except as otherwise provided in ~~((subsection (7) of))~~ RCW 26.09.070~~(7)~~, the provisions of any decree respecting maintenance or support may be modified: (a) Only as to installments accruing subsequent to the petition for modification or motion for adjustment except motions to compel court-ordered adjustments, which shall be effective as of the first date specified in the decree for implementing the adjustment; and, (b) except as otherwise provided in ~~((subsections (5), (6), (9), and (10) of))~~ this section, only upon a

showing of a substantial change of circumstances. The provisions as to property disposition may not be revoked or modified, unless the court finds the existence of conditions that justify the reopening of a judgment under the laws of this state.

(2) Unless otherwise agreed in writing or expressly provided in the decree the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance or registration of a new domestic partnership of the party receiving maintenance.

(3) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child are terminated by emancipation of the child or by the death of the parent obligated to support the child.

(4) Unless expressly provided by an order of the superior court or a court of comparable jurisdiction, provisions for the support ~~((provisions of the order))~~ of a child are terminated upon the marriage or registration of a domestic partnership to each other of parties to a paternity order, or upon the remarriage or registration of a domestic partnership to each other of parties to a decree of dissolution. The remaining provisions of the order, including provisions establishing paternity, remain in effect.

(5)(a) A party to an order of child support may petition for a modification based upon a showing of substantially changed circumstances at any time.

(b) An obligor's voluntary unemployment or voluntary underemployment, by itself, is not a substantial change of circumstances.

(6) An order of child support may be modified one year or more after it has been entered without a showing ~~((a substantial change))~~ of substantially changed circumstances:

(a) If the order in practice works a severe economic hardship on either party or the child;

(b) If a party requests an adjustment in an order for child support which was based on guidelines which determined the amount of support according to the child's age, and the child is no longer in the age category on which the current support amount was based;

(c) If a child is still in high school, upon a finding that there is a need to extend support beyond the eighteenth birthday to complete high school; or

(d) To add an automatic adjustment of support provision consistent with RCW 26.09.100.

~~((6))~~ An order or decree entered prior to June 7, 1984, may be modified without showing a substantial change of circumstances if the requested modification is to:

(a) Require health insurance coverage for a child named therein; or

(b) Modify an existing order for health insurance coverage.

(7) An obligor's voluntary unemployment or voluntary underemployment, by itself, is not a substantial change of circumstances.)

(7)(a) If twenty-four months have passed from the date of the entry of the order or the last adjustment or modification, whichever is later, the order may be adjusted without a showing of substantially changed circumstances based upon:

(i) Changes in the income of the parents; or

(ii) Changes in the economic table or standards in chapter 26.19 RCW.

(b) Either party may initiate the adjustment by filing a motion and child support worksheets.

(c) If the court adjusts or modifies a child support obligation pursuant to this subsection by more than thirty percent and the change would cause significant hardship, the court may implement the change in two equal increments, one at the time of the entry of the order and the second six months from the entry of the order.

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Twenty-four months must pass following the second change before a motion for another adjustment under this subsection may be filed.

(8)(a) The department of social and health services may file an action to modify or adjust an order of child support if public assistance money is being paid to or for the benefit of the child and the child support order is at least twenty-five percent ~~((or more))~~ above or below the appropriate child support amount set forth in the standard calculation as defined in RCW 26.19.011 and reasons for the deviation are not set forth in the findings of fact or order. ~~((The determination of twenty five percent or more shall be based on the current income of the parties and the department shall not be required to show a substantial change of circumstances if the reasons for the deviations were not set forth in the findings of fact or order.~~

~~—(9)(a) All child support decrees may be adjusted once every twenty four months based upon changes in the income of the parents without a showing of substantially changed circumstances. Either party may initiate the adjustment by filing a motion and child support worksheets.~~

~~—(b) A party may petition for modification in cases of substantially changed circumstances under subsection (1) of this section at any time. However, if relief is granted under subsection (1) of this section, twenty four months must pass before a motion for an adjustment under (a) of this subsection may be filed.~~

~~—(c) If, pursuant to (a) of this subsection or subsection (10) of this section, the court adjusts or modifies a child support obligation by more than thirty percent and the change would cause significant hardship, the court may implement the change in two equal increments, one at the time of the entry of the order and the second six months from the entry of the order. Twenty four months must pass following the second change before a motion for an adjustment under (a) of this subsection may be filed.~~

~~—(d) A parent who is receiving transfer payments who receives a wage or salary increase may not bring a modification action pursuant to subsection (1) of this section alleging that increase constitutes a substantial change of circumstances.~~

~~—(e) The department of social and health services may file an action at any time to modify an order of child support in cases of substantially changed circumstances if public assistance money is being paid to or for the benefit of the child. The determination of the existence of substantially changed circumstances by the department that lead to the filing of an action to modify the order of child support is not binding upon the court.~~

~~—(10) An order of child support may be adjusted twenty four months from the date of the entry of the decree or the last adjustment or modification, whichever is later, based upon changes in the economic table or standards in chapter 26.19 RCW.)~~

(b) The department of social and health services may file an action to modify or adjust an order of child support in a nonassistance case if:

(i) The child support order is at least twenty-five percent above or below the appropriate child support amount set forth in the standard calculation as defined in RCW 26.19.011;

(ii) The department has determined the case meets the department's review criteria; and

(iii) A party to the order or another state or jurisdiction has requested a review.

(c) The determination of twenty-five percent or more shall be based on the current income of the parties and the department shall not be required to show a substantial change of circumstances if the reasons for the deviations were not set forth in the findings of fact or order.

(9) The department of social and health services may file an action to modify or adjust an order of child support under subsections (5) through (7) of this section if:

(a) Public assistance money is being paid to or for the benefit of the child;

(b) A party to the order in a nonassistance case has requested a review; or

(c) Another state or jurisdiction has requested a modification of the order.

(10) If testimony other than affidavit is required in any proceeding under this section, a court of this state shall permit a party or witness to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means, unless good cause is shown.

**Sec. 2.** RCW 26.09.175 and 2002 c 199 s 2 are each amended to read as follows:

(1) A proceeding for the modification of an order of child support shall commence with the filing of a petition and worksheets. The petition shall be in the form prescribed by the administrator for the courts. There shall be a fee of twenty dollars for the filing of a petition for modification of dissolution.

(2)(a) The petitioner shall serve upon the other party the summons, a copy of the petition, and the worksheets in the form prescribed by the administrator for the courts. If the modification proceeding is the first action filed in this state, service shall be made by personal service. If the decree to be modified was entered in this state, service shall be by personal service or by any form of mail requiring a return receipt. Proof of service shall be filed with the court.

~~—(b) If the support obligation has been assigned to the state pursuant to RCW 74.20.330 or the state has a subrogated interest under RCW 74.20A.030, the summons, petition, and worksheets shall also be served on the attorney general; except that notice shall be given to the office of the prosecuting attorney for the county in which the action is filed in lieu of the office of the attorney general in those counties and in the types of cases as designated by the office of the attorney general by letter sent to the presiding superior court judge of that county. ~~((Proof of service shall be filed with the court.))~~~~

(3) ~~((The))~~ As provided for under RCW 26.09.170, the department of social and health services may file an action to modify or adjust an order of child support if:

(a) Public assistance money is being paid to or for the benefit of the child;

(b) A party to the order in a nonassistance case has requested a review; or

(c) Another state or jurisdiction has requested a modification of the order.

(4) A responding party's answer and worksheets shall be served and the answer filed within twenty days after service of the petition or sixty days if served out of state. ~~((The))~~ A responding party's failure to file an answer within the time required shall result in entry of a default judgment for the petitioner.

~~((4))~~ (5) At any time after responsive pleadings are filed, ~~((either))~~ any party may schedule the matter for hearing.

~~((5))~~ (6) Unless ~~((both))~~ all parties stipulate to arbitration or the presiding judge authorizes oral testimony pursuant to subsection ~~((6))~~ (7) of this section, a petition for modification of an order of child support shall be heard by the court on affidavits, the petition, answer, and worksheets only.

~~((6))~~ (7) A party seeking authority to present oral testimony on the petition to modify a support order shall file an appropriate motion not later than ten days after the time of notice of hearing. Affidavits and exhibits setting forth the reasons oral testimony is necessary to a just adjudication of the issues shall accompany the petition. The affidavits and exhibits must demonstrate the extraordinary features of the case. Factors which may be considered include, but are not limited to: (a) Substantial questions

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of credibility on a major issue; (b) insufficient or inconsistent discovery materials not correctable by further discovery; or (c) particularly complex circumstances requiring expert testimony.

(8) If testimony other than affidavit is required in any proceeding under this section, a court of this state shall permit a party or witness to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means, unless good cause is shown.

**Sec. 3.** RCW 26.09.100 and 2008 c 6 s 1013 are each amended to read as follows:

(1) In a proceeding for dissolution of marriage or domestic partnership, legal separation, declaration of invalidity, maintenance, or child support, after considering all relevant factors but without regard to misconduct, the court shall order either or both parents owing a duty of support to any child of the marriage or the domestic partnership dependent upon either or both spouses or domestic partners to pay an amount determined under chapter 26.19 RCW.

(2) The court may require automatic periodic adjustments or modifications of child support. That portion of any decree that requires periodic adjustments or modifications of child support shall use the provisions in chapter 26.19 RCW as the basis for the adjustment or modification. Provisions in the decree for periodic adjustment or modification shall not conflict with RCW 26.09.170 except that the decree may require periodic adjustments or modifications of support more frequently than the time periods established pursuant to RCW 26.09.170.

(3) Upon motion of a party and without a substantial change of circumstances, the court shall modify the decree to comply with subsection (2) of this section as to installments accruing subsequent to entry of the court's order on the motion for modification.

(4) The adjustment or modification provision may be modified by the court due to economic hardship consistent with the provisions of RCW 26.09.170((4)) (6)(a)."

Senator Hargrove spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Substitute House Bill No. 3016.

The motion by Senator Hargrove carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 3 of the title, after "requirements;" strike the remainder of the title and insert "and amending RCW 26.09.170, 26.09.175, and 26.09.100."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 3016 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 3016 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3016 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 3016 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SIGNED BY THE PRESIDENT

The President signed:

SENATE BILL 6218,  
SENATE BILL 6219,  
SUBSTITUTE SENATE BILL 6329,  
SUBSTITUTE SENATE BILL 6363,  
SENATE BILL 6418,  
SENATE JOINT MEMORIAL 8025.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2596, by House Committee on Early Learning & Children's Services (originally sponsored by Representatives Williams, Chase, Upthegrove and Simpson)

Defining child advocacy centers for the multidisciplinary investigation of child abuse and implementation of county protocols.

The measure was read the second time.

#### MOTION

Senator Hargrove moved that the following amendment by Senators Hargrove and Carrell be adopted:

On page 6, after line 2, insert the following:

**"NEW SECTION. Sec. 4.** A new section is added to chapter 9A.44 RCW to read as follows:

While Article I, section 22 of the state Constitution and the sixth amendment of the United States Constitution protect the right of a defendant to represent him or herself in a criminal trial, Article I, section 35 of the state Constitution requires that crime victims be accorded due dignity and respect. Conflicts may arise between these constitutional provisions when a pro se defendant questions a victim in court. Procedures may be employed that preserve the pro se defendant's control over his or her own trial and that limit the trauma experienced by the victim. The legislature commends consideration of these competing constitutional provisions to the supreme court of Washington."

Correct the title.

Senator Hargrove spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Hargrove and Carrell on page 6, after line 2 to Substitute House Bill No. 2596.

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The motion by Senator Hargrove carried and the amendment was adopted by voice vote.

MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 2596 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2596 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2596 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 2596 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2735, by Representatives Goodman, Appleton, Rolfes, Seaquist, Finn, Rodne, Williams, Haigh, Pettigrew, Nelson, Darneille, Hasegawa and Ormsby

Encouraging the need for representation of children in dependency matters.

The measure was read the second time.

MOTION

On motion of Senator Hargrove, the rules were suspended, House Bill No. 2735 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2735.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2735 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King,

Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Rockefeller

Excused: Senator McCaslin

HOUSE BILL NO. 2735, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Marr, Senator Rockefeller was excused.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2525, by House Committee on Community & Economic Development & Trade (originally sponsored by Representatives Nealey, Klippert, Chandler and Haler)

Concerning public facilities districts created by at least two city or county legislative authorities.

The measure was read the second time.

MOTION

Senator Delvin moved that the following committee striking amendment by the Committee on Economic Development, Trade & Innovation be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 35.57.010 and 2009 c 533 s 1 are each amended to read as follows:

(1)(a) The legislative authority of any town or city located in a county with a population of less than one million may create a public facilities district.

(b) The legislative authorities of any contiguous group of towns or cities located in a county or counties each with a population of less than one million may enter an agreement under chapter 39.34 RCW for the creation and joint operation of a public facilities district.

(c) The legislative authority of any town or city, or any contiguous group of towns or cities, located in a county with a population of less than one million and the legislative authority of a contiguous county, or the legislative authority of the county or counties in which the towns or cities are located, may enter into an agreement under chapter 39.34 RCW for the creation and joint operation of a public facilities district.

(d) The legislative authority of a city located in a county with a population greater than one million may create a public facilities district, when the city has a total population of less than one hundred fifteen thousand but greater than eighty thousand and commences construction of a regional center prior to July 1, 2008.

(e) At least ~~((two legislative authorities, one or more))~~ three contiguous towns or cities with a combined population of at least one hundred sixty thousand, each of which previously created a public facilities district ~~((or districts))~~ under ~~((b) or (c))~~ ((a)) of this subsection, may create an additional public facilities district ~~((notwithstanding the fact that one or more of those towns or cities, with or without a county or counties, previously have created one or more public facilities districts within the geographic boundaries of the additional public facilities district. Those existing)).~~ The

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previously created districts may continue their full corporate existence and activities notwithstanding the creation and existence of the additional district within ~~((all or part of))~~ the same geographic area. ~~((Additional public facilities districts formed under this subsection may be comprised of a maximum of three contiguous towns or cities separately or in combination with a maximum of two contiguous counties.))~~

(2)(a) A public facilities district ~~((shall be))~~ is coextensive with the boundaries of the city or town or contiguous group of cities or towns that created the district.

(b) A public facilities district created by an agreement between a town or city, or a contiguous group of towns or cities, and a contiguous county or the county in which they are located, ~~((shall be))~~ is coextensive with the boundaries of the towns or cities, and the boundaries of the county or counties as to the unincorporated areas of the county or counties. The boundaries ~~((shall))~~ do not include incorporated towns or cities that are not parties to the agreement for the creation and joint operation of the district.

(3)(a) A public facilities district created by a single city or town shall be governed by a board of directors consisting of five members selected as follows: (i) Two members appointed by the legislative authority of the city or town; and (ii) three members appointed by legislative authority based on recommendations from local organizations. The members appointed under (a)(i) of this subsection, shall not be members of the legislative authority of the city or town. The members appointed under (a)(ii) of this subsection, ~~((shall))~~ must be based on recommendations received from local organizations that may include, but are not limited to the local chamber of commerce, local economic development council, and local labor council. The members shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(b) A public facilities district created by a contiguous group of cities and towns ~~((shall))~~ must be governed by a board of directors consisting of seven members selected as follows: (i) Three members appointed by the legislative authorities of the cities and towns; and (ii) four members appointed by the legislative authorities of the cities and towns based on recommendations from local organizations. The members appointed under (b)(i) of this subsection shall not be members of the legislative authorities of the cities and towns. The members appointed under (b)(ii) of this subsection, ~~((shall))~~ must be based on recommendations received from local organizations that include, but are not limited to the local chamber of commerce, local economic development council, local labor council, and a neighborhood organization that is directly affected by the location of the regional center in their area. The members of the board of directors ~~((shall))~~ must be appointed in accordance with the terms of the agreement under chapter 39.34 RCW for the joint operation of the district and shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(c) A public facilities district created by a town or city, or a contiguous group of towns or cities, and a contiguous county or the county or counties in which they are located, ~~((shall))~~ must be governed by a board of directors consisting of seven members selected as follows: (i) Three members appointed by the legislative authorities of the cities, towns, and county; and (ii) four members appointed by the legislative authorities of the cities, towns, and county based on recommendations from local organizations. The members appointed under (c)(i) of this subsection shall not be members of the legislative authorities of the cities, towns, or county.

The members appointed under (c)(ii) of this subsection ~~((shall))~~ must be based on recommendations received from local organizations that include, but are not limited to, the local chamber of commerce, the local economic development council, the local labor council, and a neighborhood organization that is directly affected by the location of the regional center in their area. The members of the board of directors ~~((shall))~~ must be appointed in accordance with the terms of the agreement under chapter 39.34 RCW for the joint operation of the district and shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(d)(i) A public facilities district created under subsection (1)(e) of this section ~~((may))~~ must provide, in the agreement providing for its creation and operation, that the district must be governed by ~~((a board of directors appointed under (b) or (c) of this subsection, or by a))~~ an odd-numbered board of directors of not more than nine members who are also members of the legislative authorities that created the public facilities district or of the governing boards of the public facilities districts ~~((or districts, or both,))~~ previously created by those legislative authorities, or both.

(ii) A board of directors formed under this subsection must have an equal number of members representing each city ~~((;))~~ or town ~~((; or county))~~ participating in the public facilities district. ~~If ((a public facilities district is created by an even number of legislative authorities, the members representing or appointed by those legislative authorities shall appoint an additional board member)) there are unfilled board member positions after each city or town has appointed an equal number of board members, the members so appointed must appoint a number of additional board members necessary to fill any remaining positions.~~ For a board formed under this subsection to ~~((approve))~~ submit a proposition to the voters under RCW 82.14.048, ~~((the proposition must be approved by))~~ a majority of the members representing or appointed by each legislative authority participating in the public facilities district must agree to submit the proposition to the voters; however, the board may not submit a proposition to the voters prior to January 1, 2011.

(4) A public facilities district is a municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution.

(5) A public facilities district ~~((shall))~~ constitutes a body corporate and ~~((shall))~~ possesses all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, and to sue and be sued.

(6) A public facilities district may acquire and transfer real and personal property by lease, sublease, purchase, or sale. No direct or collateral attack on any public facilities district purported to be authorized or created in conformance with this chapter may be commenced more than thirty days after creation by the city and/or county legislative authority.

**Sec. 2.** RCW 35.57.020 and 2009 c 533 s 2 are each amended to read as follows:

(1)(a) ~~((Except for a public facilities district created under RCW 35.57.010(1)(c),))~~ A public facilities district is authorized to acquire, construct, own, remodel, maintain, equip, reequip, repair, finance, and operate one or more regional centers. For purposes of this chapter, "regional center" means a convention, conference, or special events center, or any combination of facilities, and related parking facilities, serving a regional population constructed, improved, or rehabilitated after July 25, 1999, at a cost of at least ten million dollars, including debt service. "Regional center" also

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includes an existing convention, conference, or special events center, and related parking facilities, serving a regional population, that is improved or rehabilitated after July 25, 1999, where the costs of improvement or rehabilitation are at least ten million dollars, including debt service. A "special events center" is a facility, available to the public, used for community events, sporting events, trade shows, and artistic, musical, theatrical, or other cultural exhibitions, presentations, or performances. A regional center is conclusively presumed to serve a regional population if state and local government investment in the construction, improvement, or rehabilitation of the regional center is equal to or greater than ten million dollars.

(b) A public facilities district created under RCW 35.57.010(1)(e):

(i) Is authorized, in addition to the authority granted under (a) of this subsection, to acquire, construct, own, remodel, maintain, equip, reequip, repair, finance, and operate one or more recreational facilities other than a ski area;

(ii) If exercising its authority under (a) or (b)(i) of this subsection, must obtain voter approval to fund each recreational facility or regional center pursuant to RCW 82.14.048(3); and

(iii) Possesses all of the powers with respect to recreational facilities other than a ski area that all public facilities districts possess with respect to regional centers under subsections (3), (4), and (7) of this section.

(2) A public facilities district may enter into contracts with any city or town for the purpose of exercising any powers of a community renewal agency under chapter 35.81 RCW.

(3) A public facilities district may impose charges and fees for the use of its facilities, and may accept and expend or use gifts, grants, and donations for the purpose of a regional center.

(4) A public facilities district may impose charges, fees, and taxes authorized in RCW 35.57.040, and use revenues derived therefrom for the purpose of paying principal and interest payments on bonds issued by the public facilities district to construct a regional center.

(5) Notwithstanding the establishment of a career, civil, or merit service system, a public facilities district may contract with a public or private entity for the operation or management of its public facilities.

(6) A public facilities district is authorized to use the supplemental alternative public works contracting procedures set forth in chapter 39.10 RCW in connection with the design, construction, reconstruction, remodel, or alteration of any regional center.

(7) A city or town in conjunction with any special agency, authority, or other district established by a county or any other governmental agency is authorized to use the supplemental alternative public works contracting procedures set forth in chapter 39.10 RCW in connection with the design, construction, reconstruction, remodel, or alteration of any regional center funded in whole or in part by a public facilities district.

(8) Any provision required to be submitted for voter approval under this section, may not be submitted for voter approval prior to January 1, 2011."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Economic Development, Trade & Innovation to Substitute House Bill No. 2525.

The motion by Senator Delvin carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "authorities;" strike the remainder of the title and insert "and amending RCW 35.57.010 and 35.57.020."

MOTION

On motion of Senator Delvin, the rules were suspended, Substitute House Bill No. 2525 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Delvin spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2525 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2525 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators McCaslin and Rockefeller

SUBSTITUTE HOUSE BILL NO. 2525 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2518, by House Committee on Judiciary (originally sponsored by Representatives Goodman, Rodne and Kelley)

Modifying oath requirements for interpreters.

The measure was read the second time.

MOTION

On motion of Senator Kline, the rules were suspended, Engrossed Substitute House Bill No. 2518 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2518.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2518 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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Voting ye: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2518, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 2179, by House Committee on Transportation (originally sponsored by Representative Eddy)

Authorizing cities to provide and contract for supplemental transportation improvements. Revised for 1st Substitute: Authorizing cities located in counties having a population of more than one million five hundred thousand to provide and contract for supplemental transportation improvements.

The measure was read the second time.

## MOTION

Senator Gordon moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** A new section is added to chapter 35.21 RCW to read as follows:

In addition to any other power and authority conferred to a city that is located in a county having a population of more than one million five hundred thousand, a city legislative authority may provide or contract for supplemental transportation improvements to meet mobility needs within the city's boundaries. For purposes of this section, a "supplemental transportation improvement" or "supplemental improvement" means any project, work, or undertaking to provide or contract for public transportation service in addition to any existing or planned public transportation service provided by public transportation agencies and systems serving the city. The supplemental authority provided to the city legislative authority under this section is subject to the following requirements:

(1) Prior to taking any action to provide or contract for supplemental transportation improvements permitted under this section, the legislative authority of the city shall conduct a public hearing at the time and place specified in a notice published at least once, not less than ten days before the hearing, in a newspaper of general circulation within the proposed district. The notice must specify the supplemental facilities or services to be provided or contracted for by the city, and must include estimated capital, operating, and maintenance costs. The legislative authority of the city shall hear objections from any person affected by the proposed supplemental improvements.

(2) Following the hearing held pursuant to subsection (1) of this section, if the city legislative authority finds that the proposed supplemental transportation improvements are in the public interest, the legislative authority shall adopt an ordinance providing for the supplemental improvements and provide or contract for the supplemental improvements.

(3) For purposes of providing or contracting for the proposed supplemental transportation improvements, the legislative authority of the city may contract with private providers and nonprofit organizations, and may form public-private partnerships. Such contracts and partnerships must require that public transportation services be coordinated with other public transportation agencies and systems serving the area and border jurisdictions.

(4) The legislative authorities of cities that are participating jurisdictions in a transportation benefit district, as provided under chapter 36.73 RCW, may petition the transportation benefit district for partial or full funding of supplemental transportation improvements as prescribed under section 3 of this act.

(5) Supplemental transportation improvements must be consistent with the city's comprehensive plan under chapter 36.70A RCW.

**Sec. 2.** RCW 36.73.015 and 2006 c 311 s 24 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "District" means a transportation benefit district created under this chapter.

(2) "City" means a city or town.

(3) "Transportation improvement" means a project contained in the transportation plan of the state or a regional transportation planning organization. A project may include investment in new or existing highways of statewide significance, principal arterials of regional significance, high capacity transportation, public transportation, and other transportation projects and programs of regional or statewide significance including transportation demand management. Projects may also include the operation, preservation, and maintenance of these facilities or programs.

(4) "Supplemental transportation improvement" or "supplemental improvement" means any project, work, or undertaking to provide public transportation service, in addition to a district's existing or planned voter-approved transportation improvements, proposed by a participating city member of the district under section 3 of this act.

**NEW SECTION. Sec. 3.** A new section is added to chapter 36.73 RCW to read as follows:

(1) In districts comprised of more than one member city, the legislative authorities of any member city that is located in a county having a population of more than one million five hundred thousand may petition the district to provide supplemental transportation improvements.

(2) Upon receipt of a petition as provided in subsection (1) of this section for supplemental transportation improvements that are to be fully funded by the petitioner city, including ongoing operating and maintenance costs, the district must:

(a) Conduct a public hearing, and provide notice and opportunity for public comment consistent with the requirements of RCW 36.73.050(1); and

(b) Following the hearing, if a majority of the district's governing board determines that the proposed supplemental transportation improvements are in the public interest, the district shall adopt an ordinance providing for the incorporation of the supplemental improvements into any existing services. The supplemental transportation improvements must be in addition to existing services provided by the district. The district shall enter into agreements with the petitioner city or identified service providers to coordinate existing services with the supplemental improvements.

(3) Upon receipt of a petition as provided in subsection (1) of this section for supplemental transportation improvements proposed to be partially or fully funded by the district, the district must:

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(a) Conduct a public hearing, and provide notice and opportunity for public comment consistent with the requirements of RCW 36.73.050(1); and

(b) Following the hearing, submit a proposition to the voters at the next special or general election for approval by a majority of the voters in the district. The proposition must specify the supplemental transportation improvements to be provided and must estimate the capital, maintenance, and operating costs to be funded by the district.

(4) If a proposition to incorporate supplemental transportation improvements is approved by the voters as provided under subsection (3) of this section, the district shall adopt an ordinance providing for the incorporation of the supplemental improvements into any existing services provided by the district. The supplemental improvements must be in addition to existing services. The district shall enter into agreements with the petitioner city or identified service providers to coordinate existing services with the supplemental improvements.

(5) A supplemental transportation improvement must be consistent with the petitioner city's comprehensive plan under chapter 36.70A RCW.

(6) Unless otherwise agreed to by the petitioner city or by a majority of the district's governing board, upon adoption of an ordinance under subsection (2) or (4) of this section, the district shall maintain its existing public transportation service levels in locations where supplemental transportation improvements are provided.

**NEW SECTION. Sec. 4.** A new section is added to chapter 35.58 RCW to read as follows:

If the legislative authority of a city provides or contracts for supplemental transportation improvements, as described in section 1 of this act or under chapter 36.73 RCW, a metropolitan municipal corporation serving the city or border jurisdictions shall coordinate its services with the supplemental transportation improvements to maximize efficiencies in public transportation services within and across service boundaries.

**NEW SECTION. Sec. 5.** A new section is added to chapter 36.57A RCW to read as follows:

If the legislative authority of a city provides or contracts for supplemental transportation improvements, as described in section 1 of this act or under chapter 36.73 RCW, a public transportation benefit area serving the city or border jurisdictions shall coordinate its services with the supplemental transportation improvements to maximize efficiencies in public transportation services within and across service boundaries.

**NEW SECTION. Sec. 6.** A new section is added to chapter 81.112 RCW to read as follows:

If the legislative authority of a city provides or contracts for supplemental transportation improvements, as described in section 1 of this act or under chapter 36.73 RCW, a regional transit authority serving the city or border jurisdictions shall coordinate its services with the supplemental transportation improvements to maximize efficiencies in public transportation services within and across service boundaries.

**Sec. 7.** RCW 35.58.260 and 1965 c 7 s 35.58.260 are each amended to read as follows:

If a metropolitan municipal corporation shall be authorized to perform the metropolitan transportation function, it shall, upon the effective date of the assumption of such power, have and exercise all rights with respect to the construction, acquisition, maintenance, operation, extension, alteration, repair, control and management of passenger transportation which any component city shall have been previously empowered to exercise and, except as provided in sections 1 and 3 of this act, such powers shall not thereafter be exercised by such component cities without the consent of the metropolitan municipal corporation: PROVIDED, That any city

owning and operating a public transportation system on such effective date may continue to operate such system within such city until such system shall have been acquired by the metropolitan municipal corporation and a metropolitan municipal corporation may not acquire such system without the consent of the city council of such city.

**Sec. 8.** RCW 35.58.272 and 1975 1st ex.s. c 270 s 1 are each amended to read as follows:

"Municipality" as used in RCW 35.58.272 through 35.58.279, as now or hereafter amended, and in RCW 36.57.080, 36.57.100, 36.57.110, 35.58.2721, 35.58.2794, and chapter 36.57A RCW, means any metropolitan municipal corporation which shall have been authorized to perform the function of metropolitan public transportation; any county performing the public transportation function as authorized by RCW 36.57.100 and 36.57.110 or which has established a county transportation authority pursuant to chapter 36.57 RCW; any public transportation benefit area established pursuant to chapter 36.57A RCW; and any city, which is not located within the boundaries of a metropolitan municipal corporation unless provided otherwise in sections 1 and 3 of this act, county transportation authority, or public transportation benefit area, and which owns, operates or contracts for the services of a publicly owned or operated system of transportation: PROVIDED, That the term "municipality" shall mean in respect to any county performing the public transportation function pursuant to RCW 36.57.100 and 36.57.110 only that portion of the unincorporated area lying wholly within such unincorporated transportation benefit area.

"Motor vehicle" as used in RCW 35.58.272 through 35.58.279, as now or hereafter amended, shall have the same meaning as in RCW 82.44.010.

"County auditor" shall mean the county auditor of any county or any person designated to perform the duties of a county auditor pursuant to RCW 82.44.140.

"Person" shall mean any individual, corporation, firm, association or other form of business association."

Senator Gordon spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to Substitute House Bill No. 2179.

The motion by Senator Gordon carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "improvements;" strike the remainder of the title and insert "amending RCW 36.73.015, 35.58.260, and 35.58.272; adding a new section to chapter 35.21 RCW; adding a new section to chapter 36.73 RCW; adding a new section to chapter 35.58 RCW; adding a new section to chapter 36.57A RCW; and adding a new section to chapter 81.112 RCW."

MOTION

On motion of Senator Gordon, the rules were suspended, Substitute House Bill No. 2179 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Gordon and Swecker spoke in favor of passage of the bill.

Senator Murray spoke against passage of the bill.

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The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2179 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2179 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 43; Nays, 5; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Marr, McAuliffe, Morton, Oemig, Parlette, Pflug, Prentice, Pridmore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Fairley, Kline, Kohl-Welles, McDermott and Murray

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 2179 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1880, by Representatives Armstrong, Hunt, Appleton, Alexander and Nelson

Concerning ballot envelopes.

The measure was read the second time.

## MOTION

Senator McDermott moved that the following committee striking amendment by the Committee on Government Operations & Elections be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 29A.40.091 and 2009 c 369 s 39 are each amended to read as follows:

The county auditor shall send each (~~absentee~~) voter a ballot, a security envelope in which to seal the ballot after voting, a larger envelope in which to return the security envelope, and instructions on how to mark the ballot and how to return it to the county auditor. The instructions that accompany (~~an absentee~~) a ballot for a partisan primary must include instructions for voting the applicable ballot style, as provided in chapter 29A.36 RCW. The (~~absentee~~) voter's name and address must be printed on the larger return envelope, which must also contain a declaration by the (~~absentee~~) voter reciting his or her qualifications and stating that he or she has not voted in any other jurisdiction at this election, together with a summary of the penalties for any violation of any of the provisions of this chapter. The declaration must clearly inform the voter that it is illegal to vote if he or she is not a United States citizen; it is illegal to vote if he or she has been convicted of a felony and has not had his or her voting rights restored; and, except as otherwise provided by law, it is illegal to cast a ballot or sign (~~an absentee~~) a return envelope on behalf of another voter. The return envelope must provide space for the voter to indicate the date on which the ballot was voted and for the voter to sign the oath. It must also contain a space so that the voter may include a telephone number. A summary of the applicable penalty provisions of this chapter must

be printed on the return envelope immediately adjacent to the space for the voter's signature. The signature of the voter on the return envelope must affirm and attest to the statements regarding the qualifications of that voter and to the validity of the ballot. The return envelope (~~(must also have a)~~ may provide secrecy (~~(flap that the voter may seal that will cover)~~) for the voter's signature and optional telephone number. For overseas (~~voters~~) and service voters, the signed declaration on the return envelope constitutes the equivalent of a voter registration for the election or primary for which the ballot has been issued. The voter must be instructed to either return the ballot to the county auditor by whom it was issued or attach sufficient first-class postage, if applicable, and mail the ballot to the appropriate county auditor no later than the day of the election or primary for which the ballot was issued.

If the county auditor chooses to forward (~~absentee~~) ballots, he or she must include with the ballot a clear explanation of the qualifications necessary to vote in that election and must also advise a voter with questions about his or her eligibility to contact the county auditor. This explanation may be provided on the ballot envelope, on an enclosed insert, or printed directly on the ballot itself. If the information is not included, the envelope must clearly indicate that the ballot is not to be forwarded and that return postage is guaranteed.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Government Operations & Elections to House Bill No. 1880.

The motion by Senator McDermott carried and the committee striking amendment was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "envelopes;" strike the remainder of the title and insert "amending RCW 29A.40.091; and declaring an emergency."

## MOTION

On motion of Senator McDermott, the rules were suspended, House Bill No. 1880 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McDermott and Roach spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1880 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1880 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles,

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Marr, McAuliffe, McDermott, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Gordon, Holmquist and Oemig

Excused: Senator McCaslin

HOUSE BILL NO. 1880 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2625, by Representatives Kelley, Ericks, Conway, Driscoll, O'Brien, Lias, Blake, Finn, Simpson, Orwall, Morrell and Campbell

Addressing bail for felony offenses.

The measure was read the second time.

MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Judiciary be not adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature intends to appoint a panel of experts to study bail practices and procedures. The bail system must be examined in a comprehensive and well-considered manner from all aspects including, but not limited to, judicial discretion, bail amounts and procedures, public safety, variations in county practices, constitutional restraints, and cost to local government. The variety of practices and procedures requires that a panel of experts study the issue and report its recommendation to the legislature.

**NEW SECTION. Sec. 2.** (1)(a) A legislative task force on bail practices is established, with members as provided in this subsection.

- (i) The president of the senate shall appoint one member from each of the two largest caucuses of the senate;
- (ii) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives;
- (iii) The chief justice of the Washington state supreme court or the chief justice's designee;
- (iv) A superior court judge appointed by the superior court judges association;
- (v) A district or municipal court judge appointed by the district and municipal court judges association;
- (vi) The governor or the governor's designee;
- (vii) The secretary of the Washington state department of corrections or the secretary's designee;
- (viii) Two prosecutors appointed by the Washington association of prosecuting attorneys or designees of the prosecutors;
- (ix) Two attorneys selected by separate associations of attorneys whose members have practices that focus on representing criminal defendants;
- (x) One police officer and one deputy sheriff selected by a statewide association of such officers and deputies;
- (xi) A representative of a statewide association of city governments, selected by the association;
- (xii) A representative of a statewide association of counties, selected by the association;
- (xiii) A representative employed as an adult corrections officer selected by a statewide association of such officers;

(xiv) A representative from an entity representing corrections officers at a local county jail in which adult offenders are in custody and located in any county with a population in excess of one million persons, selected by the entity;

(xv) A representative of a statewide organization concerned primarily with the protection of individual liberties, selected by the organization;

(xvi) A representative of a statewide association of advocates who work on behalf of victims and survivors of violent crimes, selected by the association;

(xvii) A representative of the bail bond enforcement industry, chosen by a statewide association of bail bond enforcement agents;

(xviii) A representative of the bail bond industry, chosen by a statewide association of bail companies;

(xix) A representative of a statewide consumer advocacy organization with at least thirty thousand members, selected by the organization.

(b) The task force shall choose its cochairs from among its legislative membership. The legislative cochairs shall convene the initial meeting of the task force.

(2) The task force shall review, at a minimum, the following issues:

(a) All aspects of bail, paying particular attention to legislation affecting bail and pretrial release introduced during the 2010 legislative session;

(b) A validated risk assessment tool that measures or predicts the likelihood that an offender will exhibit violent behavior if released and whether judges should use this tool at bail hearings;

(c) Bail practices by county, including the processes used to seek and grant bail as well as the standards by which bail is granted;

(d) Whether, or to what extent, uniformity of bail practices should be required by state law;

(e) The characteristics of the federal system;

(f) The benefits of competitive freedom of government regulation in the pricing of bail bonds;

(g) The interests of crime victims in being notified of a person's release on bail;

(h) The interests of counties and cities that maintain municipal courts;

(i) Legal and constitutional constraints in granting or denying bail;

(j) Whether the existing regulatory, judicial, or statutory constraints on bail should be revised; and

(k) The pretrial release system.

(3) The task force shall request that the Washington state institute for public policy conduct research to better inform the task force on issues, such as: (a) The percentage of people who are released on bail and reoffend while released on bail; (b) the likelihood that the offense for which bail was granted is statistically or causally related to additional offenses that are committed; and (c) the effect that race or economic status of a person seeking bail has on the likelihood of being granted bail.

(4) Staff support for the task force must be provided by senate committee services and the house of representatives office of program research.

(5) Travel and other membership expenses for legislative members must not be reimbursed. Nonlegislative members must seek reimbursement for travel and other membership expenses through their respective agencies or organizations.

(6) The task force shall hold meetings in state or local government facilities and shall endeavor to accommodate the varied places of residence among task force members.

(7) The task force may organize itself in a manner, and adopt rules of procedure, that it determines are most conducive to the timely completion of its charge.

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(8) The task force is subject to chapter 42.30 RCW.

(9) The task force shall report its findings and recommendations to the Washington state supreme court, the governor, and appropriate committees of the legislature by December 1, 2010.

(10) This section expires December 31, 2010."

On page 1, line 1 of the title, after "offenses;" strike the remainder of the title and insert "creating new sections; and providing an expiration date."

The President declared the question before the Senate to be the motion by Senator Kline to not adopt the committee striking amendment by the Committee on Judiciary to House Bill No. 2625.

The motion by Senator Kline carried and the committee striking amendment was not adopted by voice vote.

#### MOTION

Senator Kline moved that the following striking amendment by Senators Kline, Hargrove and Carrell be adopted:

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** The legislature intends by this act to require an individualized determination by a judicial officer of conditions of release for persons in custody for felony. This requirement is consistent with constitutional requirements and court rules regarding the right of a detained person to a prompt determination of probable cause and judicial review of the conditions of release and the requirement that judicial determinations of bail or release be made no later than the preliminary appearance stage.

**NEW SECTION. Sec. 2.** (1) Bail for the release of a person arrested and detained for a felony offense must be determined on an individualized basis by a judicial officer.

(2) This section expires August 1, 2011.

**NEW SECTION. Sec. 3.** It is the intent of the legislature to enact a law for the purpose of reasonably assuring public safety in bail determination hearings and hearings pursuant to the proposed amendment to Article I, section 20 of the state Constitution set forth in House Joint Resolution No. 4220. Other provisions of law address matters relating to assuring the appearance of the defendant at trial and preventing interference with the administration of justice.

**NEW SECTION. Sec. 4.** Upon the appearance before a judicial officer of a person charged with an offense, the judicial officer must issue an order that, pending trial, the person be:

(1) Released on personal recognizance;

(2) Released on a condition or combination of conditions ordered under section 5 of this act or other provision of law;

(3) Temporarily detained as allowed by law; or

(4) Detained as provided under this act.

**NEW SECTION. Sec. 5.** (1) The judicial officer may at any time amend the order to impose additional or different conditions of release. The conditions imposed under this chapter supplement but do not supplant provisions of law allowing the imposition of conditions to assure the appearance of the defendant at trial or to prevent interference with the administration of justice.

(2) Appropriate conditions of release under this chapter include, but are not limited to, the following:

(a) The defendant may be placed in the custody of a designated person or organization agreeing to supervise the defendant;

(b) The defendant may have restrictions placed upon travel, association, or place of abode during the period of release;

(c) The defendant may be required to comply with a specified curfew;

(d) The defendant may be required to return to custody during specified hours or to be placed on electronic monitoring, if available. The defendant, if convicted, may not have the period of

incarceration reduced by the number of days spent on electronic monitoring;

(e) The defendant may be prohibited from approaching or communicating in any manner with particular persons or classes of persons;

(f) The defendant may be prohibited from going to certain geographical areas or premises;

(g) The defendant may be prohibited from possessing any dangerous weapons or firearms;

(h) The defendant may be prohibited from possessing or consuming any intoxicating liquors or drugs not prescribed to the defendant. The defendant may be required to submit to testing to determine the defendant's compliance with this condition;

(i) The defendant may be prohibited from operating a motor vehicle that is not equipped with an ignition interlock device;

(j) The defendant may be required to report regularly to and remain under the supervision of an officer of the court or other person or agency; and

(k) The defendant may be prohibited from committing any violations of criminal law.

**NEW SECTION. Sec. 6.** If, after a hearing on offenses prescribed in Article I, section 20 of the state Constitution, the judicial officer finds, by clear and convincing evidence, that a person shows a propensity for violence that creates a substantial likelihood of danger to the community or any persons, and finds that no condition or combination of conditions will reasonably assure the safety of any other person and the community, such judicial officer must order the detention of the person before trial. The detainee is entitled to expedited review of the detention order by the court of appeals under the writ provided in RCW 7.36.160.

**NEW SECTION. Sec. 7.** The judicial officer must, in determining whether there are conditions of release that will reasonably assure the safety of any other person and the community, take into account the available information concerning:

(1) The nature and circumstances of the offense charged, including whether the offense is a crime of violence;

(2) The weight of the evidence against the defendant; and

(3) The history and characteristics of the defendant, including:

(a) The person's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings;

(b) Whether, at the time of the current offense or arrest, the defendant was on community supervision, probation, parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under federal, state, or local law; and

(c) The nature and seriousness of the danger to any person or the community that would be posed by the defendant's release.

**NEW SECTION. Sec. 8.** (1) The judicial officer must hold a hearing in cases involving offenses prescribed in Article 1, section 20, to determine whether any condition or combination of conditions will reasonably assure the safety of any other person and the community upon motion of the attorney for the government.

(2) The hearing must be held immediately upon the defendant's first appearance before the judicial officer unless the defendant, or the attorney for the government, seeks a continuance. Except for good cause, a continuance on motion of such person may not exceed five days (not including any intermediate Saturday, Sunday, or legal holiday), and a continuance on motion of the attorney for the government may not exceed three days (not including any intermediate Saturday, Sunday, or legal holiday). During a continuance, such person must be detained.

(3) At the hearing, such defendant has the right to be represented by counsel, and, if financially unable to obtain representation, to

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have counsel appointed. The defendant must be afforded an opportunity to testify, to present witnesses, to cross-examine witnesses who appear at the hearing, and to present information by proffer or otherwise. The rules concerning admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the hearing. The facts the judicial officer uses to support a finding that no condition or combination of conditions will reasonably assure the safety of any other person and the community must be supported by clear and convincing evidence of a propensity for violence that creates a substantial likelihood of danger to the community or any persons.

(4) The defendant may be detained pending completion of the hearing. The hearing may be reopened, before or after a determination by the judicial officer, at any time before trial if the judicial officer finds that information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue whether there are conditions of release that will reasonably assure the safety of any other person and the community.

**NEW SECTION. Sec. 9.** In a release order issued under section 5 of this act the judicial officer must:

(1) Include a written statement that sets forth all the conditions to which the release is subject, in a manner sufficiently clear and specific to serve as a guide for the defendant's conduct; and

(2) Advise the defendant of:

(a) The penalties for violating a condition of release, including the penalties for committing an offense while on pretrial release; and

(b) The consequences of violating a condition of release, including the immediate issuance of a warrant for the defendant's arrest.

**NEW SECTION. Sec. 10.** (1) In a detention order issued under section 6 of this act, the judicial officer must:

(a) Include written findings of fact and a written statement of the reasons for the detention;

(b) Direct that the person be committed to the custody of the appropriate correctional authorities for confinement separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal; and

(c) Direct that the person be afforded reasonable opportunity for private consultation with counsel.

(2) The judicial officer may, by subsequent order, permit the temporary release of the person, in the custody of an appropriate law enforcement officer or other appropriate person, to the extent that the judicial officer determines such release to be necessary for preparation of the person's defense or for another compelling reason.

**NEW SECTION. Sec. 11.** Nothing in this chapter may be construed as modifying or limiting the presumption of innocence.

**NEW SECTION. Sec. 12.** Sections 3 through 11 of this act constitute a new chapter in Title 10 RCW.

**NEW SECTION. Sec. 13.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 14.** Sections 1 and 2 take effect January 1, 2011. Sections 3 through 10 take effect January 1, 2011, only if the proposed amendment to Article I, section 20 of the state Constitution proposed in House Joint Resolution No. 4220 is validly submitted to and is approved and ratified by the voters at the next general election. If the proposed amendment is not approved and ratified, sections 3 through 11 of this act are null and void in their entirety."

Senators Kline and Carrell spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kline, Hargrove and Carrell to House Bill No. 2625.

The motion by Senator Kline carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "offenses;" strike the remainder of the title and insert "adding a new chapter to Title 10 RCW; providing a contingent effective date; and providing an expiration date."

#### MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 2625 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2625 as amended by the Senate

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2625 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

HOUSE BILL NO. 2625 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2742, by House Committee on Transportation (originally sponsored by Representatives Goodman, Liias, Sells, Hasegawa, Maxwell, Roberts, Jacks, Carlyle, Rolfes, Simpson, O'Brien and Morrell)

Addressing accountability for persons driving under the influence of intoxicating liquor or drugs.

The measure was read the second time.

#### MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Judiciary be adopted:

Strike everything after the enacting clause and insert the following:

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"Sec. 1. RCW 46.20.385 and 2008 c 282 s 9 are each amended to read as follows:

(1)(a) Beginning January 1, 2009, any person licensed under this chapter who is convicted of ~~((any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle in))~~ a violation of RCW 46.61.502 or 46.61.504 ~~((-other than vehicular homicide or vehicular assault))~~ or an equivalent local or out-of-state statute or ordinance, or a violation of RCW 46.61.520(1)(a) or 46.61.522(1)(b), or who has had or will have his or her license suspended, revoked, or denied under RCW 46.20.3101, may submit to the department an application for an ignition interlock driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is eligible to receive the license, may issue an ignition interlock driver's license.

(b) A person may apply for an ignition interlock driver's license anytime, including immediately after receiving the notices under RCW 46.20.308 or after his or her license is suspended, revoked, or denied. A person receiving an ignition interlock driver's license waives his or her right to a hearing or appeal under RCW 46.20.308.

(c) An applicant under this subsection shall provide proof to the satisfaction of the department that a functioning ignition interlock device has been installed on all vehicles operated by the person.

(i) The department shall require the person to maintain the device on all vehicles operated by the person and shall restrict the person to operating only vehicles equipped with the device, for the remainder of the period of suspension, revocation, or denial. The installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours.

(ii) Subject to any periodic renewal requirements established by the department under this section and subject to any applicable compliance requirements under this chapter or other law, an ignition interlock driver's license granted upon a suspension or revocation under RCW 46.61.5055 or 46.20.3101 extends through the remaining portion of any concurrent or consecutive suspension or revocation that may be imposed as the result of administrative action and criminal conviction arising out of the same incident.

(iii) The time period during which the person is licensed under this section shall apply on a day-for-day basis toward satisfying the period of time the ignition interlock device restriction is required under RCW 46.20.720 and 46.61.5055.

(2) An applicant for an ignition interlock driver's license who qualifies under subsection (1) of this section is eligible to receive a license only if(:

~~—(a) Within seven years immediately preceding the date of the offense that gave rise to the present conviction or incident, the applicant has not committed vehicular homicide under RCW 46.61.520 or vehicular assault under RCW 46.61.522; and~~

~~—(b))~~ the applicant files satisfactory proof of financial responsibility under chapter 46.29 RCW.

(3) Upon receipt of evidence that a holder of an ignition interlock driver's license granted under this subsection no longer has a functioning ignition interlock device installed on all vehicles operated by the driver, the director shall give written notice by first-class mail to the driver that the ignition interlock driver's license shall be canceled. ~~((The effective date of cancellation shall be fifteen days from the date of mailing the notice.))~~ If at any time before the cancellation goes into effect the driver submits evidence

that a functioning ignition interlock device has been installed on all vehicles operated by the driver, the cancellation shall be stayed. If the cancellation becomes effective, the driver may obtain, at no additional charge, a new ignition interlock driver's license upon submittal of evidence that a functioning ignition interlock device has been installed on all vehicles operated by the driver.

(4) A person aggrieved by the decision of the department on the application for an ignition interlock driver's license may request a hearing as provided by rule of the department.

(5) The director shall cancel an ignition interlock driver's license ~~((upon receipt of))~~ after receiving notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, no longer meets the eligibility requirements, or ~~((of))~~ has been convicted of or found to have committed a separate offense or any other act or omission that under this chapter would warrant suspension or revocation of a regular driver's license. The department must give notice of the cancellation ((is effective as of the date of the conviction, and continues with the same force and effect as any suspension or revocation under this title)) as provided under RCW 46.20.245. A person whose ignition interlock driver's license has been canceled under this section may reapply for a new ignition interlock driver's license if he or she is otherwise qualified under this section and pays the fee required under RCW 46.20.380.

(6)(a) Unless costs are waived by the ignition interlock company or the person is indigent under RCW 10.101.010, the applicant shall pay the cost of installing, removing, and leasing the ignition interlock device and shall pay an additional fee of twenty dollars per month. Payments shall be made directly to the ignition interlock company. The company shall remit the additional twenty-dollar fee to the department.

(b) The department shall deposit the proceeds of the twenty-dollar fee into the ignition interlock device revolving account. Expenditures from the account may be used only to administer and operate the ignition interlock device revolving account program. The department shall adopt rules to provide monetary assistance according to greatest need and when funds are available.

(7) The department shall adopt rules to implement ignition interlock licensing. The department shall consult with the administrative office of the courts, the state patrol, the Washington association of sheriffs and police chiefs, ignition interlock companies, and any other organization or entity the department deems appropriate.

Sec. 2. RCW 46.20.391 and 2008 c 282 s 6 are each amended to read as follows:

(1) Any person licensed under this chapter who is convicted of an offense relating to motor vehicles for which suspension or revocation of the driver's license is mandatory, other than vehicular homicide, vehicular assault, driving while under the influence of intoxicating liquor or any drug, or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, may submit to the department an application for a temporary restricted driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is eligible to receive the license, may issue a temporary restricted driver's license and may set definite restrictions as provided in RCW 46.20.394.

(2)(a) A person licensed under this chapter whose driver's license is suspended administratively due to failure to appear or pay a traffic ticket under RCW 46.20.289; a violation of the financial responsibility laws under chapter 46.29 RCW; or for multiple violations within a specified period of time under RCW 46.20.291, may apply to the department for an occupational driver's license.

(b) If the suspension is for failure to respond, pay, or comply with a notice of traffic infraction or conviction, the applicant must enter into a payment plan with the court.

(c) An occupational driver's license issued to an applicant described in (a) of this subsection shall be valid for the period of the suspension or revocation.

(3) An applicant for an occupational or temporary restricted driver's license who qualifies under subsection (1) or (2) of this section is eligible to receive such license only if:

(a) Within seven years immediately preceding the date of the offense that gave rise to the present conviction or incident, the applicant has not committed vehicular homicide under RCW 46.61.520 or vehicular assault under RCW 46.61.522; and

(b) The applicant demonstrates that it is necessary for him or her to operate a motor vehicle because he or she:

(i) Is engaged in an occupation or trade that makes it essential that he or she operate a motor vehicle;

(ii) Is undergoing continuing health care or providing continuing care to another who is dependent upon the applicant;

(iii) Is enrolled in an educational institution and pursuing a course of study leading to a diploma, degree, or other certification of successful educational completion;

(iv) Is undergoing substance abuse treatment or is participating in meetings of a twelve-step group such as Alcoholics Anonymous that requires the petitioner to drive to or from the treatment or meetings;

(v) Is fulfilling court-ordered community service responsibilities;

(vi) Is in a program that assists persons who are enrolled in a WorkFirst program pursuant to chapter 74.08A RCW to become gainfully employed and the program requires a driver's license;

(vii) Is in an apprenticeship, on-the-job training, or welfare-to-work program; or

(viii) Presents evidence that he or she has applied for a position in an apprenticeship or on-the-job training program for which a driver's license is required to begin the program, provided that a license granted under this provision shall be in effect for no longer than fourteen days; and

(c) The applicant files satisfactory proof of financial responsibility under chapter 46.29 RCW; and

(d) Upon receipt of evidence that a holder of an occupational driver's license granted under this subsection is no longer enrolled in an apprenticeship or on-the-job training program, the director shall give written notice by first-class mail to the driver that the occupational driver's license shall be canceled. ~~((The effective date of cancellation shall be fifteen days from the date of mailing the notice.))~~ If at any time before the cancellation goes into effect the driver submits evidence of continued enrollment in the program, the cancellation shall be stayed. If the cancellation becomes effective, the driver may obtain, at no additional charge, a new occupational driver's license upon submittal of evidence of enrollment in another program that meets the criteria set forth in this subsection; and

(e) The department shall not issue an occupational driver's license under (b)(iv) of this subsection if the applicant is able to receive transit services sufficient to allow for the applicant's participation in the programs referenced under (b)(iv) of this subsection.

(4) A person aggrieved by the decision of the department on the application for an occupational or temporary restricted driver's license may request a hearing as provided by rule of the department.

(5) The director shall cancel an occupational or temporary restricted driver's license ~~((upon receipt of))~~ after receiving notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, no longer meets the eligibility requirements, or ~~((or))~~ has been convicted of or found to have

committed a separate offense or any other act or omission that under this chapter ((46.20 RCW)) would warrant suspension or revocation of a regular driver's license. The department must give notice of the cancellation ((is effective as of the date of the conviction, and continues with the same force and effect as any suspension or revocation under this title)) as provided under RCW 46.20.245. A person whose occupational or temporary restricted driver's license has been canceled under this section may reapply for a new occupational or temporary restricted driver's license if he or she is otherwise qualified under this section and pays the fee required under RCW 46.20.380.

**Sec. 3.** RCW 46.20.720 and 2008 c 282 s 12 are each amended to read as follows:

(1) The court may order that after a period of suspension, revocation, or denial of driving privileges, and for up to as long as the court has jurisdiction, any person convicted of any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle may drive only a motor vehicle equipped with a functioning ignition interlock. The court shall establish a specific calibration setting at which the interlock will prevent the vehicle from being started. The court shall also establish the period of time for which interlock use will be required.

(2) Under RCW 46.61.5055~~((, 10.05.020, or section 18 of this act))~~ and subject to the exceptions listed in that statute, the court shall order any person convicted of ~~((an alcohol-related))~~ a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance ~~((or participating in a deferred prosecution program under RCW 10.05.020 or section 18 of this act for an alcohol related violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance))~~ to apply for an ignition interlock driver's license from the department under RCW 46.20.385 and to have a functioning ignition interlock device installed on all motor vehicles operated by the person.

(3) The department shall require that, after any applicable period of suspension, revocation, or denial of driving privileges, a person may drive only a motor vehicle equipped with a functioning ignition interlock device if the person is convicted of ~~((an alcohol-related))~~ a violation of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state statute or ordinance.

The department may waive the requirement for the use of such a device if it concludes that such devices are not reasonably available in the local area. The installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours.

The ignition interlock device shall be calibrated to prevent the motor vehicle from being started when the breath sample provided has an alcohol concentration of 0.025 or more. Subject to the provisions of subsection (4) of this section, the period of time of the restriction will be ~~((as follows))~~ no less than:

(a) For a person who has not previously been restricted under this section, a period of one year;

(b) For a person who has previously been restricted under (a) of this subsection, a period of five years;

(c) For a person who has previously been restricted under (b) of this subsection, a period of ten years.

(4) A restriction imposed under subsection (3) of this section shall remain in effect until the department receives a declaration from the person's ignition interlock device vendor, in a form provided or approved by the department, certifying that there have been none of

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the following incidents in the four consecutive months prior to the date of release:

- (a) An attempt to start the vehicle with a breath alcohol concentration of 0.04 or more;
- (b) Failure to take or pass any required retest; or
- (c) Failure of the person to appear at the ignition interlock device vendor when required for maintenance, repair, calibration, monitoring, inspection, or replacement of the device.

**Sec. 4.** RCW 46.61.5055 and 2008 c 282 s 14 are each amended to read as follows:

(1) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has no prior offense within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one day nor more than one year. Twenty-four consecutive hours of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(a)(i), the court may order not less than fifteen days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than two days nor more than one year. Two consecutive days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(b)(i), the court may order not less than thirty days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be

suspended or deferred unless the court finds the offender to be indigent.

(2) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has one prior offense within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than thirty days nor more than one year and sixty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Thirty days of imprisonment and sixty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than one year and ninety days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Forty-five days of imprisonment and ninety days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(3) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has two or three prior offenses within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ninety days nor more than one year and one hundred twenty days of electronic home monitoring. The offender shall pay for the cost of the electronic

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monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Ninety days of imprisonment and one hundred twenty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand dollars nor more than five thousand dollars. One thousand dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than one year and one hundred fifty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. One hundred twenty days of imprisonment and one hundred fifty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand five hundred dollars nor more than five thousand dollars. One thousand five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(4) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 shall be punished under chapter 9.94A RCW if: (a) The person has four or more prior offenses within ten years; or (b) the person has ever previously been convicted of: (i) A violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug; (ii) a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug; or (iii) an out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection.

(5)(a) The court shall require any person convicted of ~~((an alcohol-related))~~ a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to apply for an ignition interlock driver's license from the department ~~((under RCW 46.20.385))~~ and to have a functioning ignition interlock device installed on all motor vehicles operated by the person.

(b) The installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person

to operate a vehicle owned by the employer or other persons during working hours.

(c) An ignition interlock device imposed under this section shall be calibrated to prevent a motor vehicle from being started when the breath sample provided has an alcohol concentration of 0.025 or more.

(d) The court may waive the requirement that a person ~~((obtain))~~ apply for an ignition interlock driver's license ~~((and operate only vehicles equipped with a functioning ignition interlock device))~~ if the court makes a specific finding in writing that:

(i) The person lives out-of-state and the devices are not reasonably available in the person's local area~~((that))~~;

(ii) The person does not operate a vehicle~~((;))~~; or

(iii) The person is not eligible to receive an ignition interlock driver's license under RCW 46.20.385 because the person is not a resident of Washington, is a habitual traffic offender, has already applied for or is already in possession of an ignition interlock driver's license, has never had a driver's license, has been certified under chapter 74.20A RCW as noncompliant with a child support order, or is subject to any other condition or circumstance that makes the person ineligible to obtain an ignition interlock driver's license.

(e) ~~((When the requirement))~~ If a court finds that a person is not eligible to receive an ignition interlock driver's license under this section, the court is not required to make any further subsequent inquiry or determination as to the person's eligibility.

(f) If the court orders that a person ~~((obtain))~~ refrain from consuming any alcohol and requires the person to apply for an ignition interlock driver's license ~~((and operate only vehicles equipped with a functioning ignition interlock device is waived by the court))~~, and the person states that he or she does not operate a motor vehicle or the person is ineligible to obtain an ignition interlock driver's license, the court shall order the person to submit to alcohol monitoring through an alcohol detection breathalyzer device, transdermal sensor device, or other technology designed to detect alcohol in a person's system. The person shall pay for the cost of the monitoring. The county or municipality where the penalty is being imposed shall determine the cost.

~~((#))~~ (g) The period of time for which ignition interlock use or alcohol monitoring is required will be as follows:

(i) For a person who has not previously been restricted under this section, a period of one year;

(ii) For a person who has previously been restricted under ~~((#))~~ (g)(i) of this subsection, a period of five years;

(iii) For a person who has previously been restricted under ~~((#))~~ (g)(ii) of this subsection, a period of ten years.

(6) If a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 committed the offense while a passenger under the age of sixteen was in the vehicle, the court shall:

(a) In any case in which the installation and use of an interlock or other device is not mandatory under RCW 46.20.720 or other law, order the use of such a device for not less than sixty days following the restoration of the person's license, permit, or nonresident driving privileges; and

(b) In any case in which the installation and use of such a device is otherwise mandatory, order the use of such a device for an additional sixty days.

(7) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider the following:

(a) Whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property; and

(b) Whether at the time of the offense the person was driving or in physical control of a vehicle with one or more passengers.

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(8) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

(9) The license, permit, or nonresident privilege of a person convicted of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs must:

(a) If the person's alcohol concentration was less than 0.15, or if for reasons other than the person's refusal to take a test offered under RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) Where there has been no prior offense within seven years, be suspended or denied by the department for ninety days;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for two years; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for three years;

(b) If the person's alcohol concentration was at least 0.15:

(i) Where there has been no prior offense within seven years, be revoked or denied by the department for one year;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for nine hundred days; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for four years; or

(c) If by reason of the person's refusal to take a test offered under RCW 46.20.308, there is no test result indicating the person's alcohol concentration:

(i) Where there have been no prior offenses within seven years, be revoked or denied by the department for two years;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for three years; or

(iii) Where there have been two or more previous offenses within seven years, be revoked or denied by the department for four years.

The department shall grant credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under this subsection for a suspension, revocation, or denial imposed under RCW 46.20.3101 arising out of the same incident.

For purposes of this subsection (9), the department shall refer to the driver's record maintained under RCW 46.52.120 when determining the existence of prior offenses.

(10) After expiration of any period of suspension, revocation, or denial of the offender's license, permit, or privilege to drive required by this section, the department shall place the offender's driving privilege in probationary status pursuant to RCW 46.20.355.

(11)(a) In addition to any nonsuspendable and nondeferrable jail sentence required by this section, whenever the court imposes less than one year in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding five years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (ii) not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two hours after driving; and (iii) not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. The court may impose conditions of probation that include nonrepetition, installation of an ignition interlock device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a)(i), (ii), or (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

(12) A court may waive the electronic home monitoring requirements of this chapter when:

(a) The offender does not have a dwelling, telephone service, or any other necessity to operate an electronic home monitoring system;

(b) The offender does not reside in the state of Washington; or

(c) The court determines that there is reason to believe that the offender would violate the conditions of the electronic home monitoring penalty.

Whenever the mandatory minimum term of electronic home monitoring is waived, the court shall state in writing the reason for granting the waiver and the facts upon which the waiver is based, and shall impose an alternative sentence with similar punitive consequences. The alternative sentence may include, but is not limited to, additional jail time, work crew, or work camp.

Whenever the combination of jail time and electronic home monitoring or alternative sentence would exceed three hundred sixty-five days, the offender shall serve the jail portion of the sentence first, and the electronic home monitoring or alternative portion of the sentence shall be reduced so that the combination does not exceed three hundred sixty-five days.

(13) An offender serving a sentence under this section, whether or not a mandatory minimum term has expired, may be granted an extraordinary medical placement by the jail administrator subject to the standards and limitations set forth in RCW 9.94A.728((4)) (3).

(14) For purposes of this section and RCW 46.61.502 and 46.61.504:

(a) A "prior offense" means any of the following:

(i) A conviction for a violation of RCW 46.61.502 or an equivalent local ordinance;

(ii) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;

(iii) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(iv) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(v) A conviction for a violation of RCW 46.61.5249, 46.61.500, or 9A.36.050 or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(vi) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), (iii), (iv), or (v) of this subsection if committed in this state;

(vii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance; or

(viii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.5249, or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW

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46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

If a deferred prosecution is revoked based on a subsequent conviction for an offense listed in this subsection (14)(a), the subsequent conviction shall not be treated as a prior offense of the revoked deferred prosecution for the purposes of sentencing;

(b) "Within seven years" means that the arrest for a prior offense occurred within seven years ~~((of))~~ before or after the arrest for the current offense; and

(c) "Within ten years" means that the arrest for a prior offense occurred within ten years ~~((of))~~ before or after the arrest for the current offense.

**NEW SECTION. Sec. 5.** A new section is added to chapter 46.61 RCW to read as follows:

If a person is required, as part of the person's judgment and sentence, to install an ignition interlock device on all motor vehicles operated by the person and the person is under the jurisdiction of the municipality or county probation or supervision department, the probation or supervision department must verify the installation of the ignition interlock device or devices. The municipality or county probation or supervision department satisfies the requirement to verify the installation or installations if the municipality or county probation or supervision department receives written verification by one or more companies doing business in the state that it has installed the required device on each vehicle owned or operated by the person. The municipality or county shall have no further obligation to supervise the use of the ignition interlock device or devices by the person and shall not be civilly liable for any injuries or damages caused by the person for failing to use an ignition interlock device or for driving under the influence of intoxicating liquor or any drug or being in actual physical control of a motor vehicle under the influence of intoxicating liquor or any drug.

**Sec. 6.** RCW 46.20.410 and 2008 c 282 s 8 are each amended to read as follows:

(1) Any person convicted for violation of any restriction of an occupational driver's license~~(s))~~ or a temporary restricted driver's license~~((, or an ignition interlock driver's license))~~ shall in addition to the ~~((immediate revocation))~~ cancellation of such license and any other penalties provided by law be fined not less than fifty nor more than two hundred dollars or imprisoned for not more than six months or both such fine and imprisonment.

(2) It is a gross misdemeanor for a person to violate any restriction of an ignition interlock driver's license.

**Sec. 7.** RCW 46.20.342 and 2008 c 282 s 4 are each amended to read as follows:

(1) It is unlawful for any person to drive a motor vehicle in this state while that person is in a suspended or revoked status or when his or her privilege to drive is suspended or revoked in this or any other state. Any person who has a valid Washington driver's license is not guilty of a violation of this section.

(a) A person found to be an habitual offender under chapter 46.65 RCW, who violates this section while an order of revocation issued under chapter 46.65 RCW prohibiting such operation is in effect, is guilty of driving while license suspended or revoked in the first degree, a gross misdemeanor. Upon the first such conviction, the person shall be punished by imprisonment for not less than ten days. Upon the second conviction, the person shall be punished by imprisonment for not less than ninety days. Upon the third or subsequent conviction, the person shall be punished by imprisonment for not less than one hundred eighty days. If the person is also convicted of the offense defined in RCW 46.61.502 or 46.61.504, when both convictions arise from the same event, the minimum sentence of confinement shall be not less than ninety days. The minimum sentence of confinement required shall not be

suspended or deferred. A conviction under this subsection does not prevent a person from petitioning for reinstatement as provided by RCW 46.65.080.

(b) A person who violates this section while an order of suspension or revocation prohibiting such operation is in effect and while the person is not eligible to reinstate his or her driver's license or driving privilege, other than for a suspension for the reasons described in (c) of this subsection, is guilty of driving while license suspended or revoked in the second degree, a gross misdemeanor. For the purposes of this subsection, a person is not considered to be eligible to reinstate his or her driver's license or driving privilege if the person is eligible to obtain an ignition interlock driver's license but did not obtain such a license. This subsection applies when a person's driver's license or driving privilege has been suspended or revoked by reason of:

(i) A conviction of a felony in the commission of which a motor vehicle was used;

(ii) A previous conviction under this section;

(iii) A notice received by the department from a court or diversion unit as provided by RCW 46.20.265, relating to a minor who has committed, or who has entered a diversion unit concerning an offense relating to alcohol, legend drugs, controlled substances, or imitation controlled substances;

(iv) A conviction of RCW 46.20.410, relating to the violation of restrictions of an occupational driver's license, a temporary restricted driver's license, or an ignition interlock driver's license;

(v) A conviction of RCW 46.20.345, relating to the operation of a motor vehicle with a suspended or revoked license;

(vi) A conviction of RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(vii) A conviction of RCW 46.61.024, relating to attempting to elude pursuing police vehicles;

(viii) A conviction of RCW 46.61.500, relating to reckless driving;

(ix) A conviction of RCW 46.61.502 or 46.61.504, relating to a person under the influence of intoxicating liquor or drugs;

(x) A conviction of RCW 46.61.520, relating to vehicular homicide;

(xi) A conviction of RCW 46.61.522, relating to vehicular assault;

(xii) A conviction of RCW 46.61.527(4), relating to reckless endangerment of roadway workers;

(xiii) A conviction of RCW 46.61.530, relating to racing of vehicles on highways;

(xiv) A conviction of RCW 46.61.685, relating to leaving children in an unattended vehicle with motor running;

(xv) A conviction of RCW 46.61.740, relating to theft of motor vehicle fuel;

(xvi) A conviction of RCW 46.64.048, relating to attempting, aiding, abetting, coercing, and committing crimes;

(xvii) An administrative action taken by the department under chapter 46.20 RCW; or

(xviii) A conviction of a local law, ordinance, regulation, or resolution of a political subdivision of this state, the federal government, or any other state, of an offense substantially similar to a violation included in this subsection.

(c) A person who violates this section when his or her driver's license or driving privilege is, at the time of the violation, suspended or revoked solely because (i) the person must furnish proof of satisfactory progress in a required alcoholism or drug treatment program, (ii) the person must furnish proof of financial responsibility for the future as provided by chapter 46.29 RCW, (iii) the person has failed to comply with the provisions of chapter 46.29 RCW relating to uninsured accidents, (iv) the person has failed to respond to a notice of traffic infraction, failed to appear at a

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requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, as provided in RCW 46.20.289, (v) the person has committed an offense in another state that, if committed in this state, would not be grounds for the suspension or revocation of the person's driver's license, (vi) the person has been suspended or revoked by reason of one or more of the items listed in (b) of this subsection, but was eligible to reinstate his or her driver's license or driving privilege at the time of the violation, or (vii) the person has received traffic citations or notices of traffic infraction that have resulted in a suspension under RCW 46.20.267 relating to intermediate drivers' licenses, or any combination of (i) through (vii), is guilty of driving while license suspended or revoked in the third degree, a misdemeanor. For the purposes of this subsection, a person is not considered to be eligible to reinstate his or her driver's license or driving privilege if the person is eligible to obtain an ignition interlock driver's license but did not obtain such a license.

(2) Upon receiving a record of conviction of any person or upon receiving an order by any juvenile court or any duly authorized court officer of the conviction of any juvenile under this section, the department shall:

(a) For a conviction of driving while suspended or revoked in the first degree, as provided by subsection (1)(a) of this section, extend the period of administrative revocation imposed under chapter 46.65 RCW for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(b) For a conviction of driving while suspended or revoked in the second degree, as provided by subsection (1)(b) of this section, not issue a new license or restore the driving privilege for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(c) Not extend the period of suspension or revocation if the conviction was under subsection (1)(c) of this section. If the conviction was under subsection (1)(a) or (b) of this section and the court recommends against the extension and the convicted person has obtained a valid driver's license, the period of suspension or revocation shall not be extended.

**Sec. 8.** RCW 46.20.740 and 2008 c 282 s 13 are each amended to read as follows:

(1) The department shall attach or imprint a notation on the driving record of any person restricted under RCW 46.20.720 (~~(¶)~~), 46.61.5055, or 10.05.140 stating that the person may operate only a motor vehicle equipped with a functioning ignition interlock device. The department shall determine the person's eligibility for licensing based upon written verification by a company doing business in the state that it has installed the required device on a vehicle owned or operated by the person seeking reinstatement. If, based upon notification from the interlock provider or otherwise, the department determines that an ignition interlock required under this section is no longer installed or functioning as required, the department shall suspend the person's license or privilege to drive. Whenever the license or driving privilege of any person is suspended or revoked as a result of noncompliance with an ignition interlock requirement, the suspension shall remain in effect until the person provides notice issued by a company doing business in the state that a vehicle owned or operated by the person is equipped with a functioning ignition interlock device.

(2) It is a gross misdemeanor for a person with such a notation on his or her driving record to operate a motor vehicle that is not so equipped.

**Sec. 9.** RCW 10.05.020 and 2008 c 282 s 16 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section (~~(¶ section 18 of this act)~~), the petitioner shall allege under oath in the petition that the wrongful conduct charged is the result of or caused by alcoholism, drug addiction, or mental problems for which the person is in need of treatment and unless treated the probability of future recurrence is great, along with a statement that the person agrees to pay the cost of a diagnosis and treatment of the alleged problem or problems if financially able to do so. The petition shall also contain a case history and written assessment prepared by an approved alcoholism treatment program as designated in chapter 70.96A RCW if the petition alleges alcoholism, an approved drug program as designated in chapter 71.24 RCW if the petition alleges drug addiction, or by an approved mental health center if the petition alleges a mental problem.

(2) In the case of a petitioner charged with a misdemeanor or gross misdemeanor under chapter 9A.42 RCW, the petitioner shall allege under oath in the petition that the petitioner is the natural or adoptive parent of the alleged victim; that the wrongful conduct charged is the result of parenting problems for which the petitioner is in need of services; that the petitioner is in need of child welfare services under chapter 74.13 RCW to improve his or her parenting skills in order to better provide his or her child or children with the basic necessities of life; that the petitioner wants to correct his or her conduct to reduce the likelihood of harm to his or her minor children; that in the absence of child welfare services the petitioner may be unable to reduce the likelihood of harm to his or her minor children; and that the petitioner has cooperated with the department of social and health services to develop a plan to receive appropriate child welfare services; along with a statement that the person agrees to pay the cost of the services if he or she is financially able to do so. The petition shall also contain a case history and a written service plan from the department of social and health services.

(3) Before entry of an order deferring prosecution, a petitioner shall be advised of his or her rights as an accused and execute, as a condition of receiving treatment, a statement that contains: (a) An acknowledgment of his or her rights; (b) an acknowledgment and waiver of the right to testify, the right to a speedy trial, the right to call witnesses to testify, the right to present evidence in his or her defense, and the right to a jury trial; (c) a stipulation to the admissibility and sufficiency of the facts contained in the written police report; and (d) an acknowledgment that the statement will be entered and used to support a finding of guilty if the court finds cause to revoke the order granting deferred prosecution. The petitioner shall also be advised that he or she may, if he or she proceeds to trial and is found guilty, be allowed to seek suspension of some or all of the fines and incarceration that may be ordered upon the condition that he or she seek treatment and, further, that he or she may seek treatment from public and private agencies at any time without regard to whether or not he or she is found guilty of the offense charged. He or she shall also be advised that the court will not accept a petition for deferred prosecution from a person who: (i) Sincerely believes that he or she is innocent of the charges; (ii) sincerely believes that he or she does not, in fact, suffer from alcoholism, drug addiction, or mental problems (~~(, unless the petition for deferred prosecution is under section 18 of this act)~~); or (iii) in the case of a petitioner charged under chapter 9A.42 RCW, sincerely believes that he or she does not need child welfare services.

(4) Before entering an order deferring prosecution, the court shall make specific findings that: (a) The petitioner has stipulated to the admissibility and sufficiency of the facts as contained in the written police report; (b) the petitioner has acknowledged the admissibility of the stipulated facts in any criminal hearing on the underlying offense or offenses held subsequent to revocation of the order granting deferred prosecution; (c) the petitioner has

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acknowledged and waived the right to testify, the right to a speedy trial, the right to call witnesses to testify, the right to present evidence in his or her defense, and the right to a jury trial; and (d) the petitioner's statements were made knowingly and voluntarily. Such findings shall be included in the order granting deferred prosecution.

**Sec. 10.** RCW 10.05.090 and 2008 c 282 s 17 are each amended to read as follows:

If a petitioner, who has been accepted for a deferred prosecution, fails or neglects to carry out and fulfill any term or condition of the petitioner's treatment plan or any term or condition imposed in connection with the installation of an interlock or other device under RCW 46.20.720 ~~((or 46.20.385))~~, the facility, center, institution, or agency administering the treatment or the entity administering the use of the device, shall immediately report such breach to the court, the prosecutor, and the petitioner or petitioner's attorney of record, together with its recommendation. The court upon receiving such a report shall hold a hearing to determine whether the petitioner should be removed from the deferred prosecution program. At the hearing, evidence shall be taken of the petitioner's alleged failure to comply with the treatment plan or device installation and the petitioner shall have the right to present evidence on his or her own behalf. The court shall either order that the petitioner continue on the treatment plan or be removed from deferred prosecution. ~~((If the petitioner's noncompliance is based on a violation of a term or condition imposed in connection with the installation of an ignition interlock device under RCW 46.20.385, the court shall either order that the petitioner comply with the term or condition or be removed from deferred prosecution.))~~ If removed from deferred prosecution, the court shall enter judgment pursuant to RCW 10.05.020 and, if the charge for which the deferred prosecution was granted was a misdemeanor or gross misdemeanor under Title 46 RCW, shall notify the department of licensing of the removal and entry of judgment.

**Sec. 11.** RCW 10.05.160 and 2008 c 282 s 19 are each amended to read as follows:

The prosecutor may appeal an order granting deferred prosecution on any or all of the following grounds:

- (1) Prior deferred prosecution has been granted to the defendant;
- (2) Failure of the court to obtain proof of insurance or a treatment plan conforming to the requirements of this chapter;
- (3) Failure of the court to comply with the requirements of RCW 10.05.100;
- (4) Failure of the evaluation facility to provide the information required in RCW 10.05.040 and 10.05.050, if the defendant has been referred to the facility for treatment. If an appeal on such basis is successful, the trial court may consider the use of another treatment program;
- (5) Failure of the court to order the installation of an ignition interlock or other device under RCW ~~((46.20.720 or 46.20.385))~~ 10.05.140.

NEW SECTION. **Sec. 12.** This act takes effect January 1, 2011."

MOTION

Senator Brandland moved that the following amendment by Senators Brandland and Kline to the committee striking amendment be adopted:

On page 18, line 26 of the amendment, after "device on" strike "each" and insert "a"

Senator Brandland spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Brandland and Kline on page 18, line 26 to the committee striking amendment to Second Substitute House Bill No. 2742.

The motion by Senator Brandland carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary as amended to Second Substitute House Bill No. 2742.

The motion by Senator Kline carried and the committee striking amendment as amended was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "drugs;" strike the remainder of the title and insert "amending RCW 46.20.385, 46.20.391, 46.20.720, 46.61.5055, 46.20.410, 46.20.342, 46.20.740, 10.05.020, 10.05.090, and 10.05.160; adding a new section to chapter 46.61 RCW; prescribing penalties; and providing an effective date."

MOTION

On motion of Senator Kline, the rules were suspended, Second Substitute House Bill No. 2742 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2742 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2742 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SECOND SUBSTITUTE HOUSE BILL NO. 2742 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2697, by Representatives Conway and Condotta

Concerning real estate broker licensure fees.

The measure was read the second time.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, House Bill No. 2697 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2697.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2697 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 4; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Carrell, Holmquist, Morton and Stevens

Excused: Senator McCaslin

HOUSE BILL NO. 2697, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3026, by House Committee on Ways & Means (originally sponsored by Representatives Santos, Quall, Chase, Uptegrove, Kenney, Hunt, Nelson, Lias, McCoy, Hudgins, Simpson and Darneille)

Regarding school district compliance with state and federal civil rights laws.

The measure was read the second time.

#### MOTION

Senator McAuliffe moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that in 1975 legislation was adopted, codified as chapter 28A.640 RCW, recognizing the deleterious effect of discrimination on the basis of sex, specifically prohibiting such discrimination in Washington public schools, and requiring the office of the superintendent of public instruction to monitor and enforce compliance. The legislature further finds that, while numerous state and federal laws prohibit discrimination on other bases in addition to sex, the common school provisions in Title 28A RCW do not include specific acknowledgment of the right to be free from discrimination because of race, creed, color, national origin, honorably discharged veteran or military status, sexual orientation, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability, nor do any common school provisions specifically direct the office of the

superintendent of public instruction to monitor and enforce compliance with these laws. The legislature finds that one of the recommendations made to the legislature by the achievement gap oversight and accountability committee created in chapter 468, Laws of 2009, was that the office of the superintendent of public instruction should be specifically authorized to take affirmative steps to ensure that school districts comply with all civil rights laws, similar to what has already been authorized in chapter 28A.640 RCW with respect to discrimination on the basis of sex.

**NEW SECTION. Sec. 2.** Discrimination in Washington public schools on the basis of race, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation including gender expression or identity, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability is prohibited. The definitions given these terms in chapter 49.60 RCW apply throughout this chapter unless the context clearly requires otherwise.

**NEW SECTION. Sec. 3.** The superintendent of public instruction shall develop rules and guidelines to eliminate discrimination prohibited in section 2 of this act as it applies to public school employment, counseling and guidance services to students, recreational and athletic activities for students, access to course offerings, and in textbooks and instructional materials used by students.

**NEW SECTION. Sec. 4.** The office of the superintendent of public instruction shall monitor local school districts' compliance with this chapter, and shall establish a compliance timetable, rules, and guidelines for enforcement of this chapter.

**NEW SECTION. Sec. 5.** Any person aggrieved by a violation of this chapter, or aggrieved by the violation of any rule or guideline adopted under this chapter, has a right of action in superior court for civil damages and such equitable relief as the court determines.

**NEW SECTION. Sec. 6.** The superintendent of public instruction has the power to enforce and obtain compliance with the provisions of this chapter and the rules and guidelines adopted under this chapter, by appropriate order made pursuant to chapter 34.05 RCW. The order may include, but is not limited to, termination of all or part of state apportionment or categorical moneys to the offending school district, termination of specified programs in which violations may be flagrant within the offending school district, institution of corrective action, and the placement of the offending school district on probation with appropriate sanctions until compliance is achieved.

**NEW SECTION. Sec. 7.** This chapter is supplementary to, and does not supersede, existing law and procedures and future amendments to those laws and procedures relating to unlawful discrimination.

**NEW SECTION. Sec. 8.** Sections 1 through 7 of this act constitute a new chapter in Title 28A RCW.

**NEW SECTION. Sec. 9.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2010, in the omnibus appropriations act, this act is null and void."

Senator McAuliffe spoke in favor of adoption of the committee striking amendment.

#### MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford to the committee striking amendment be adopted:

On page 2, after line 15, strike all of section 5.

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Renumber the sections consecutively and correct any internal references accordingly.

Senator Honeyford spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Gordon spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 2, after line 15 to the committee striking amendment to Engrossed Second Substitute House Bill No. 3026.

The motion by Senator Honeyford failed and the amendment to the committee striking amendment was not adopted by voice vote.

#### MOTION

Senator King moved that the following amendment by Senator King to the committee striking amendment be adopted:

On page 2, line 18, after "has" insert ", following exhaustion of applicable administrative remedies,"

Senators King, Pflug and Honeyford spoke in favor of adoption of the amendment to the committee striking amendment.

Senators Gordon and Kline spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator King on page 2, line 18 to the committee striking amendment to Engrossed Second Substitute House Bill No. 3026.

The motion by Senator King failed and the amendment to the committee striking amendment was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed Second Substitute House Bill No. 3026.

The motion by Senator McAuliffe carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "laws;" strike the remainder of the title and insert "adding a new chapter to Title 28A RCW; and creating a new section."

#### MOTION

On motion of Senator McAuliffe, the rules were suspended, Engrossed Second Substitute House Bill No. 3026 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe, Franklin, Kohl-Welles and Gordon spoke in favor of passage of the bill.

Senators Honeyford, King, Hewitt, Schoesler and Pflug spoke against passage of the bill.

#### POINT OF ORDER

Senator McAuliffe: "I am concerned that the Senator is impugning our motives."

#### REPLY BY THE PRESIDENT

President Owen: "I don't believe the President heard that but please be careful Senator Pflug."

Senator Oemig spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 3026 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 3026 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 30; Nays, 18; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin and Tom

Voting nay: Senators Becker, Brandland, Carrell, Delvin, Hargrove, Hatfield, Hewitt, Holmquist, Honeyford, King, Morton, Parlette, Pflug, Roach, Schoesler, Stevens, Swecker and Zarelli

Excused: Senator McCaslin

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3026 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 5:21 p.m., on motion of Senator Eide, the Senate adjourned until 8:30 a.m. Saturday, March 6, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**FIFTY FIFTH DAY**

**MORNING SESSION**

Senate Chamber, Olympia, Saturday, March 6, 2010

The Senate was called to order at 8:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senator McCaslin.

The Sergeant at Arms Color Guard consisting of Interns Carrie Locken and Amanda Livesay, presented the Colors. Senator Morton offered the prayer.

**MOTION**

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

**MOTION**

There being no objection, the Senate advanced to the first order of business.

**REPORTS OF STANDING COMMITTEES**

March 5, 2010

**SB 6143** Prime Sponsor, Senator Prentice: Relating to revenue and taxation. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6143 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Fairley; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Brandland; Carrell; Hewitt; Honeyford; Parlette; Pflug and Schoesler.

Passed to Committee on Rules for second reading.

March 5, 2010

**SB 6874** Prime Sponsor, Senator Tom: Providing funding for the basic health plan by increasing the taxes on certain tobacco products and facilitating the funding within the state expenditure limit. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6874 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Carrell; Hewitt; Pflug and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Honeyford.

Passed to Committee on Rules for second reading.

**MOTION**

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

**MOTION**

On motion of Senator Eide, the Senate advanced to the fourth order of business.

**MESSAGE FROM THE HOUSE**

March 5, 2010

MR. PRESIDENT:  
The House has passed:  
SUBSTITUTE SENATE BILL 6361,  
SENATE BILL 6540.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

**MESSAGE FROM THE HOUSE**

March 5, 2010

MR. PRESIDENT:  
The House has passed:  
ENGROSSED SUBSTITUTE HOUSE BILL 3209.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

**MOTION**

On motion of Senator Eide, the Senate advanced to the fifth order of business.

**INTRODUCTION AND FIRST READING OF HOUSE BILLS**

**SHB 2488** by House Committee on Transportation (originally sponsored by Representatives Moeller, Morrell and Hasegawa)

AN ACT Relating to vehicle and vessel quick title; adding a new section to chapter 46.12 RCW; adding a new section to chapter 46.68 RCW; adding new sections to chapter 88.02 RCW; creating a new section; and providing an effective date.

Referred to Committee on Transportation.

**ESHB 3132** by House Committee on General Government Appropriations (originally sponsored by Representative Van De Wege)

AN ACT Relating to eliminating the Columbia River Gorge Compact; adding a new section to chapter 43.97 RCW; and creating a new section.

Referred to Committee on Ways & Means.

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ESHB 3182 by House Committee on Ways & Means (originally sponsored by Representatives Alexander, DeBolt, Armstrong, Kristiansen, Pearson, Bailey, Rodne, Johnson, Short, Dammeier, Taylor, Crouse, Nealey, Walsh, Roach, Warnick, Klippert, Parker, Ross, Haler, Fagan, Orcutt, Schmick, Angel, Smith, Shea, Ericksen and Kretz)

AN ACT Relating to state mandates on political subdivisions of the state; amending RCW 28A.225.015, 28A.225.020, 28A.225.025, 28A.225.030, 28A.225.151, 35.22.620, 36.27.020, 36.34.010, 39.44.210, 84.14.100, and 84.40.175; creating new sections; repealing RCW 43.19.691; and providing an effective date.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

MOTION TO LIMIT DEBATE

Senator Eide: "Mr. President, I move that the members of the Senate be allowed to speak but once on each question before the Senate, that such speech be limited to three minutes and that members be prohibited from yielding their time, however, the maker of a motion shall be allowed to open and close debate. This motion shall be in effect through March 6, 2010."

The President declared the question before the Senate to be the motion by Senator Eide to limit debate.

The motion by Senator Eide carried and debate was limited through March 6, 2010 by voice vote.

MOTION

At 8:45 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:07 a.m. by President Owen.

MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

MOTION

Senator Jacobsen moved adoption of the following resolution:

SENATE RESOLUTION  
8714

By Senator Jacobsen

WHEREAS, To celebrate the strong ties between the City of Seattle and the Kingdom of Sweden, the Swedish Consulate in Seattle in conjunction with the Swedish Embassy, the Nordic Heritage Museum, and the Swedish Cultural Center has declared May 3rd through May 9th, 2010, Seattle Sweden Week; and

WHEREAS, The goal of Sweden Week is to honor the strong and enduring relationship between Sweden and the Pacific

Northwest and to recognize the many contributions that Swedish-Americans have made to Washington State's history, culture, business, arts, and its people; and

WHEREAS, Swedish immigrants and their descendants have made a profound impact by furthering the proud democratic traditions and creative contributions that have defined the United States and made our country a beacon of liberty and progress to the world; and

WHEREAS, To underline the influence of Sweden in Seattle, Sweden Week will showcase Swedish film, music, literature, food, fashion, and other forms of creative expression; and

WHEREAS, Among the many prominent and distinguished visitors to participate in Sweden Week, Seattle will have the great honor of receiving Her Royal Highness Princess Madeleine of Sweden and His Excellency the Swedish Ambassador to the United States, Mr. Jonas Hafström; and

WHEREAS, Sweden Week will commemorate Swedish Hospital's centennial, the centennial of the University of Washington's Scandinavian Department and the five Nobel Laureates connected to the Fred Hutchinson Cancer Research Center and the University of Washington; and

WHEREAS, The Nordic Heritage Museum, in partnership with the Ethnic Heritage Council, Washington State Jewish Historical Society, the Jewish Federation of Seattle, and the Washington State Holocaust Education Resource Center, will honor the legacy of Raoul Wallenberg and his humanitarian efforts during World War II to rescue Jews from the Holocaust; and

WHEREAS, Sweden Week will also include a three-day conference focusing on sharing ideas and knowledge between Swedish and American businesses, specifically in the business sectors of clean technology, sustainable development, modern medical technology, and information technology, areas in which both Sweden and the Pacific Northwest transcend;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate does hereby acknowledge and honor the long-standing ties between the people of our State and the people of the Kingdom of Sweden; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Embassy of Sweden, the Swedish Consulate in Seattle, the Swedish-American Chambers of Commerce, the Nordic Heritage Museum, and the Swedish Cultural Center.

Senator Jacobsen spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8714.

The motion by Senator Jacobsen carried and the resolution was adopted by voice vote.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Eric Nelson, former Director of the Nordic Heritage Museum; Karin Luton, Consular Assistant, Honorary Consulate of Sweden in Seattle; Kate Westlin, Consular Trainee, Honorary Consulate of Sweden in Seattle who were seated in the gallery.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

March 3, 2010

MR. PRESIDENT:

FIFTY FIFTH DAY, MARCH 6, 2010

The House passed SUBSTITUTE SENATE BILL NO. 5668 with the following amendment(s): 5668-S AMH ENGR H5334.E 5668-S AMH ENGR H5334.E,

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that adding requirements to the use of consignment contracts and listing dealer agreements for the sale of manufactured/mobile homes is necessary to protect the interests of homeowners, especially those who are elderly.

The legislature intends this act to ensure a transparent transaction between the parties involved in the sale of a used manufactured/mobile home.

NEW SECTION. Sec. 2. A new section is added to chapter 46.70 RCW to read as follows:

(1) As used in this section:

(a) "Consignment" means an arrangement where a vehicle dealer accepts delivery or entrustment of a used manufactured/mobile home and agrees to sell the used manufactured/mobile home on behalf of another.

(b) "Listing agreement" means a contract between a seller of a used manufactured/mobile home and a listing dealer to locate a willing buyer for the used manufactured/mobile home.

(2) The consignment contract used under this section must state the minimum agreed upon amount which will be paid to the consignor and the maximum percentage or dollar value of commission to be paid to the listing dealer or other vehicle dealer for the sale of the used manufactured/mobile home. The listing dealer or other vehicle dealer shall remit to the consignor any moneys received above and beyond the agreed upon maximum percentage or dollar value of commission.

(3) The listing agreement used under this section must state the maximum percentage or dollar value of commission to be paid to the listing dealer or other vehicle dealer for the sale of the used manufactured/mobile home.

(4) The listing dealer or other vehicle dealer shall negotiate the purchase agreement between the seller and buyer of the used manufactured/mobile home, which must include the following procedure:

(a) All written purchase offers bearing the buyer's signature must immediately be delivered to the seller for acceptance or refusal.

(b) The seller accepts the purchase agreement by signing the offer. A copy of the purchase agreement must be delivered to the buyer immediately following the seller signing and accepting the offer as proof that the buyer's purchase offer was accepted.

(c) Any counteroffers or amendments to the purchase agreement must also bear the signatures of both the buyer and seller, and copies of the counteroffers or amendments must be delivered to each party.

(5) The listing dealer or other vehicle dealer must follow all other requirements under this chapter.

NEW SECTION. Sec. 3. A new section is added to chapter 46.70 RCW to read as follows:

A listing dealer or other vehicle dealer of manufactured/mobile homes acting on behalf of a seller for the sale and transfer of a used manufactured/mobile home shall complete and attach to any listing agreement the following notice:

NOTICE

The description and physical location of the used manufactured/mobile home to be sold under this listing agreement is.

The commission to be paid to the listing dealer or other vehicle dealer for the sale of the used manufactured/mobile home is

Any changes to the commission to be paid to the listing dealer or other vehicle dealer for the sale of the used manufactured/mobile home must be .

Sec. 4. RCW 46.70.028 and 2000 c 131 s 2 are each amended to read as follows:

Dealers who transact dealer business by consignment shall obtain a consignment contract for sale and shall comply with applicable provisions of this chapter ((46.70 RCW)). The dealer shall place all funds received from the sale of the consigned vehicle in a trust account until the sale is completed, except that the dealer shall pay any outstanding liens against the vehicle from these funds. Where title has been delivered to the purchaser, the dealer shall pay the amount due a consignor within ten days after the sale. However, in the case of a consignment from a licensed vehicle dealer from any state, the wholesale auto auction shall pay the consignor within twenty days. Dealers are also subject to the requirements of sections 2 and 3 of this act when engaged in the consignment of a used manufactured/mobile home.

Sec. 5. RCW 46.70.029 and 2001 c 64 s 8 are each amended to read as follows:

Listing dealers shall transact dealer business by obtaining a listing agreement for sale, and the buyer's purchase of the mobile home shall be handled as dealer inventory. All funds from the purchaser shall be placed in a trust account until the sale is completed, except that the dealer shall pay any outstanding liens against the mobile home from these funds. Where title has been delivered to the purchaser, the listing dealer shall pay the amount due a seller within ten days after the sale of a listed mobile home. A complete account of all funds received and disbursed shall be given to the seller or consignor after the sale is completed. The sale of listed mobile homes imposes the same duty under RCW 46.70.122 on the listing dealer as any other sale. Listing dealers are also subject to the requirements of sections 2 and 3 of this act."

Correct the title. and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Marr moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5668 and ask the House to recede therefrom.

Senators Marr spoke in favor of the motion.

MOTION

On motion of Senator Brandland, Senator McCaslin was excused.

MOTION

On motion of Senator Marr, Senator Prentice was excused.

The President declared the question before the Senate to be motion by Senator Marr that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5668 and ask the House to recede therefrom.

The motion by Senator Marr carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 5668 and asked the House to recede therefrom by voice vote.

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## MESSAGE FROM THE HOUSE

March 3, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6345 with the following amendment(s): 6345-S AMH ROAD MUNN 281 6345-S AMH ROAD MUNN 281,

On page 4, beginning on line 23, strike all of section 3. Renumber the remaining sections consecutively and correct any internal references accordingly. Correct the title, and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

Senator Haugen moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6345 and ask the House to recede therefrom.

The President declared the question before the Senate to be motion by Senator Haugen that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6345 and ask the House to recede therefrom.

The motion by Senator Haugen carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 6345 and asked the House to recede therefrom by voice vote.

## MESSAGE FROM THE HOUSE

March 4, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6350 with the following amendment(s): 6350-S AMH WAYS H5477.1 6350-S AMH WAYS H5477.1,

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that:

(a) Native American tribes have depended on the state's marine waters and its resources for countless generations and continue to do so for cultural, spiritual, economic, and subsistence purposes.

(b) The state has long demonstrated a strong commitment to protecting the state's marine waters, which are abundant in natural resources, contain a treasure of biological diversity, and are a source of multiple uses by the public supporting the economies of nearby communities as well as the entire state. These multiple uses include, but are not limited to: Marine-based industries and activities such as cargo, fuel, and passenger transportation; commercial, recreational, and tribal fishing; shellfish aquaculture; telecommunications and energy infrastructure; seafood processing; tourism; scientific research; and many related goods and services. These multiple uses as well as new emerging uses, such as renewable ocean energy, constitute a management challenge for sustaining resources and coordinating state decision making in a proactive, comprehensive and ecosystem-based manner.

(c) Washington's marine waters are part of a west coast-wide large marine ecosystem known as the California current, and the Puget Sound and Columbia river estuaries constitute two of the three largest estuaries that are part of this large marine ecosystem. Puget Sound and the Columbia river are estuaries of national significance under the national estuary program, and the outer coast includes the Olympic national marine sanctuary.

(d) Washington is working in cooperation with the states of Oregon and California and federal agencies on ocean and ocean

health management issues through the west coast governors' agreement on ocean health, and with the government of British Columbia on shared waters management issues through the British Columbia-Washington coastal and ocean task force.

(e) Washington has initiated comprehensive management programs to protect and promote compatible uses of these waters. These include: The development of a comprehensive ecosystem-based management plan known as the Puget Sound action agenda; shoreline plans for shorelines around the state; management plans for state-owned aquatic lands and their associated waters statewide; and watershed and salmon recovery management plans in the upland areas of Puget Sound, the coast, and the Columbia river. Data and data management tools have also been developed to support these management and planning activities, such as the coastal atlas managed by the department of ecology and the shore zone database managed by the department of natural resources.

(f) For marine waters specifically, Washington has formed several mechanisms to improve coordination and management. A legislatively authorized task force formed by the governor identified priority recommendations for improving state management of ocean resources through Washington's ocean action plan in 2006. The governor further formed an ongoing interagency team that assists the department of ecology in implementing these recommendations. There is an extensive network of marine resources committees within Puget Sound and on the outer coast and the Columbia river to promote and support local involvement identifying and conducting local priority marine projects and some have been involved in local planning and management. Through the Olympic coast intergovernmental policy council, the state has also formalized its working relationship with coastal tribes and the federal government in the management of the Olympic coast national marine sanctuary.

(g) Reports by the United States commission on oceans policy, the Pew oceans commission, and the joint oceans commission initiative recommend the adoption of a national ocean policy under which states and coastal communities would have a principal role in developing and implementing ecosystem-based management of marine waters. Acting on these recommendations, the president of the United States recently formed an interagency ocean policy task force charged with developing a national ocean policy and a framework for marine spatial planning that involves all governmental levels, including state, tribal, and local governments. To further develop and implement such a planning framework, it is anticipated that federal cooperation and support will be available to coastal states that are engaged in marine and coastal resource management and planning, including marine spatial planning.

(2) The purpose of this chapter is to build upon existing statewide Puget Sound, coastal, and Columbia river efforts. When resources become available, the state intends to augment the marine spatial component of existing plans and to improve the coordination among state agencies in the development and implementation of marine management plans.

(3) It is also the purpose of this chapter to establish policies to guide state agencies and local governments when exercising jurisdiction over proposed uses and activities in these waters. Specifically, in conducting marine spatial planning, and in augmenting existing marine management plans with marine spatial planning components, the state must:

(a) Continue to recognize the rights of native American tribes regarding marine natural resources;

(b) Base all planning on best available science. This includes identifying gaps in existing information, recommend a strategy for acquiring science needed to strengthen marine spatial plans, and create a process to adjust plans once additional scientific information is available;

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(c) Coordinate with all stakeholders, including marine resources committees and nongovernmental organizations, that are significantly involved in the collection of scientific information, ecosystem protection and restoration, or other activities related to marine spatial planning;

(d) Recognize that marine ecosystems span tribal, state, and international boundaries and that planning has to be coordinated with all entities with jurisdiction or authority in order to be effective;

(e) Establish or further promote an ecosystem-based management approach including linking marine spatial plans to adjacent nearshore and upland spatial or ecosystem-based plans;

(f) Ensure that all marine spatial plans are linked to measurable environmental outcomes;

(g) Establish a performance management system to monitor implementation of any new marine spatial plan;

(h) Establish an ocean stewardship policy that takes into account the existing natural, social, cultural, historic, and economic uses;

(i) Recognize that commercial, tribal, and recreational fisheries, and shellfish aquaculture are an integral part of our state's culture and contribute substantial economic benefits;

(j) Value biodiversity and ecosystem health, and protect special, sensitive, or unique estuarine and marine life and habitats, including important spawning, rearing, and migration areas for finfish, marine mammals, and productive shellfish habitats;

(k) Integrate this planning with existing plans and ongoing planning in the same marine waters and provide additional mechanisms for improving coordination and aligning management;

(l) Promote recovery of listed species under state and federal endangered species acts plans pursuant to those plans; and

(m) Fulfill the state's public trust and tribal treaty trust responsibilities in managing the state's ocean waters in a sustainable manner for current and future generations.

**NEW SECTION. Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Aquatic lands" includes all tidelands, shorelands, harbor areas, and the beds of navigable waters, and must be construed to be coextensive with the term "aquatic lands" as defined in RCW 79.105.060.

(2) "Exclusive economic zone waters" means marine waters from the offshore state boundary to the boundary of the exclusive economic zone, over which the United States government has primary jurisdiction.

(3) "Marine counties" includes Clallam, Jefferson, Grays Harbor, Wahkiakum, San Juan, Whatcom, Skagit, Island, Snohomish, King, Pierce, Thurston, Mason, Kitsap, and Pacific counties.

(4) "Marine ecosystem" means the physical, biological, and chemical components and processes and their interactions in marine waters and aquatic lands, including humans.

(5) "Marine interagency team" or "team" means the marine interagency team created under section 3 of this act.

(6) "Marine management plan" and "marine waters management plan" means any plan guiding activities on and uses of the state's marine waters, and may include a marine spatial plan or element.

(7) "Marine resources committees" means those committees organized under RCW 36.125.020 or by counties within the Northwest straits marine conservation initiative.

(8) "Marine spatial planning" means a public process of analyzing and allocating the spatial and temporal distribution of human activities in marine areas to achieve ecological, economic, and social objectives. Often this type of planning is done to reduce conflicts among uses, to reduce environmental impacts, to facilitate

compatible uses, to align management decisions, and to meet other objectives determined by the planning process.

(9) "Marine waters" means aquatic lands and waters under tidal influence, including saltwaters and estuaries to the ordinary high water mark lying within the boundaries of the state. This definition also includes the portion of the Columbia river bordering Pacific and Wahkiakum counties, Willapa Bay, Grays Harbor, the Strait of Juan de Fuca, and the entire Puget Sound.

**NEW SECTION. Sec. 3.** (1) The office of the governor shall chair a marine interagency team that is composed of representatives of each of the agencies in the governor's natural resources cabinet with management responsibilities for marine waters, including the independent agencies. A representative from a federal agency with lead responsibility for marine spatial planning must be invited to serve as a liaison to the team to help ensure consistency with federal actions and policy. The team must conduct the assessment authorized in section 4 of this act, assist state agencies under section 5 of this act with the review and coordination of such planning with their existing and ongoing planning, and conduct the marine management planning authorized in section 6 of this act.

(2) The team may not commence any activities authorized under sections 5 and 6 of this act until federal, private, or other nonstate funding is secured specifically for these activities.

**NEW SECTION. Sec. 4.** (1) The marine interagency team created in section 3 of this act must assess and recommend a framework for conducting marine spatial planning and integrating the planning into existing management plans. The assessment must include, but not be limited to, recommendations for:

(a) Including a marine spatial component into the Puget Sound action agenda;

(b) Integrating marine spatial planning into management efforts for the Columbia river estuary, working with the state of Oregon; and

(c) Developing a marine management plan containing a marine spatial component for the outer coast, to be incorporated within the comprehensive marine management plan authorized under section 6 of this act.

(2) The assessment authorized under subsection (1) of this section must also:

(a) Summarize existing goals and objectives for: Plans in Puget Sound, the Columbia river estuary, and the outer coast, including the Puget Sound action agenda; shoreline plans for shorelines around the state; management plans for state-owned aquatic lands and their associated waters statewide; and watershed and salmon recovery management plans;

(b) Develop recommended goals and objectives for marine spatial planning that integrate with existing policies and regulations, and recommend a schedule to develop marine ecosystem health indicators, considering the views and recommendations of affected stakeholders and governmental agencies;

(c) Summarize how the existing goals and objectives as well as recommended goals and objectives are consistent or inconsistent with those adopted by other states for the west coast large marine ecosystem, and with those goals and objectives articulated in relevant national oceans policies and the national framework for marine spatial planning;

(d) Identify the existing management activities and spatial data related to these priorities and objectives and the key needs for incorporating marine spatial planning into existing statewide plans; and

(e) Provide recommendations on achieving a unified approach to database management and delivery that would support marine spatial planning throughout the state.

(3) The results of this assessment must be provided to the appropriate legislative committees by December 15, 2010.

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(4) This section expires June 30, 2011.

**NEW SECTION. Sec. 5.** (1) Concurrently or prior to the assessment and planning activities provided in sections 4 and 6 of this act, and subject to available federal, private, or other nonstate funding for this purpose, all state agencies with marine waters planning and management responsibilities are authorized to include marine spatial data and marine spatial planning elements into their existing plans and ongoing planning.

(2) The director of the Puget Sound partnership under the direction of the leadership council created in RCW 90.71.220 must integrate marine spatial information and planning provisions into the action agenda. The information should be used to address gaps or improve the effectiveness of the spatial planning component of the action agenda, such as in addressing potential new uses such as renewable energy projects.

(3) The governor and the commissioner of public lands, working with appropriate marine management and planning agencies, should work cooperatively with the applicable west coast states, Canadian provinces, and with federal agencies, through existing cooperative entities such as the west coast governor's agreement on ocean health, the coastal and oceans task force, the Pacific coast collaborative, the Puget Sound federal caucus, and the United States and Canada cooperative agreement working group, to explore the benefits of developing joint marine spatial plans or planning frameworks in the shared waters of the Salish Sea, the Columbia river estuary, and in the exclusive economic zone waters. The governor and commissioner may approve the adoption of shared marine spatial plans or planning frameworks where they determine it would further policies of this chapter and chapter 43.143 RCW.

(4) On an ongoing basis, the director of the department of ecology shall work with other state agencies with marine management responsibilities, tribal governments, marine resources committees, local and federal agencies, and marine waters stakeholders to compile marine spatial information and to incorporate this information into ongoing plans. This work may be integrated with the comprehensive marine management plan authorized under section 6 of this act when that planning process is initiated.

(5) All actions taken to implement this section must be consistent with section 8 of this act.

**NEW SECTION. Sec. 6.** (1) Upon the receipt of federal, private, or other nonstate funding for this purpose, together with any required match of state funding that may be specifically provided for this purpose, the marine interagency team shall coordinate the development of a comprehensive marine management plan for the state's marine waters. The marine management plan must include marine spatial planning, as well as recommendations to the appropriate federal agencies regarding the exclusive economic zone waters. The plan may be developed in geographic segments, and may incorporate or be developed as an element of existing marine plans, such as the Puget Sound action agenda. The chair of the team may designate a state agency with marine management responsibilities to take the lead in developing and recommending to the team particular segments or elements of the comprehensive marine management plan.

(2) The marine management plan must be developed and implemented in a manner that:

(a) Recognizes and respects existing uses and tribal treaty rights;

(b) Promotes protection and restoration of ecosystem processes to a level that will enable long-term sustainable production of ecosystem goods and services;

(c) Addresses potential impacts of climate change and sea level rise upon current and projected marine waters uses and shoreline and coastal impacts;

(d) Fosters and encourages sustainable uses that provide economic opportunity without significant adverse environmental impacts;

(e) Preserves and enhances public access;

(f) Protects and encourages working waterfronts and supports the infrastructure necessary to sustain marine industry, commercial shipping, shellfish aquaculture, and other water-dependent uses;

(g) Fosters public participation in decision making and significant involvement of communities adjacent to the state's marine waters; and

(h) Integrates existing management plans and authorities and makes recommendations for aligning plans to the extent practicable.

(3) To ensure the effective stewardship of the state's marine waters held in trust for the benefit of the people, the marine management plan must rely upon existing data and resources, but also identify data gaps and, as possible, procure missing data necessary for planning.

(4) The marine management plan must include but not be limited to:

(a) An ecosystem assessment that analyzes the health and status of Washington marine waters including key social, economic, and ecological characteristics and incorporates the best available scientific information, including relevant marine data. This assessment should seek to identify key threats to plan goals, analyze risk and management scenarios, and develop key ecosystem indicators. In addition, the plan should incorporate existing adaptive management strategies underway by local, state, or federal entities and provide an adaptive management element to incorporate new information and consider revisions to the plan based upon research, monitoring, and evaluation;

(b) Using and relying upon existing plans and processes and additional management measures to guide decisions among uses proposed for specific geographic areas of the state's marine and estuarine waters consistent with applicable state laws and programs that control or address developments in the state's marine waters;

(c) A series of maps that, at a minimum, summarize available data on: The key ecological aspects of the marine ecosystem, including physical and biological characteristics, as well as areas that are environmentally sensitive or contain unique or sensitive species or biological communities that must be conserved and warrant protective measures; human uses of marine waters, particularly areas with high value for fishing, shellfish aquaculture, recreation, and maritime commerce; and appropriate locations with high potential for renewable energy production with minimal potential for conflicts with other existing uses or sensitive environments;

(d) An element that sets forth the state's recommendations to the federal government for use priorities and limitations, siting criteria, and protection of unique and sensitive biota and ocean floor features within the exclusive economic zone waters consistent with the policies and management criteria contained in this chapter and chapter 43.143 RCW;

(e) An implementation strategy describing how the plan's management measures and other provisions will be considered and implemented through existing state and local authorities; and

(f) A framework for coordinating state agency and local government review of proposed renewable energy development uses requiring multiple permits and other approvals that provide for the timely review and action upon renewable energy development proposals while ensuring protection of sensitive resources and minimizing impacts to other existing or projected uses in the area.

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(5) If the director of the department of fish and wildlife determines that a fisheries management element is appropriate for inclusion in the marine management plan, this element may include the incorporation of existing management plans and procedures and standards for consideration in adopting and revising fisheries management plans in cooperation with the appropriate federal agencies and tribal governments.

(6) Any provision of the marine management plan that does not have as its primary purpose the management of commercial or recreational fishing but that has an impact on this fishing must minimize the negative impacts on the fishing. The team must accord substantial weight to recommendations from the director of the department of fish and wildlife for plan revisions to minimize the negative impacts.

(7) The marine management plan must recognize and value existing uses. All actions taken to implement this section must be consistent with section 8 of this act.

(8) The marine management plan must identify any provisions of existing management plans that are substantially inconsistent with the plan.

(9)(a) In developing the marine management plan, the team shall implement a strong public participation strategy that seeks input from throughout the state and particularly from communities adjacent to marine waters. Public review and comment must be sought and incorporated with regard to planning the scope of work as well as in regard to significant drafts of the plan and plan elements.

(b) The team must engage tribes and marine resources committees in its activities throughout the planning process. In particular, prior to finalizing the plan, the team must provide each tribe and marine resources committee with a draft of the plan and invite them to review and comment on the plan.

(10) The team must complete the plan within twenty-four months of the initiation of planning under this section.

(11) The director of the department of ecology shall submit the completed marine management plan to the appropriate federal agency for its review and approval for incorporation into the state's federally approved coastal zone management program.

(12) Subsequent to the adoption of the marine management plan, the team may periodically review and adopt revisions to the plan to incorporate new information and to recognize and incorporate provisions in other marine management plans. The team must afford the public an opportunity to review and comment upon significant proposed revisions to the marine management plan.

**NEW SECTION. Sec. 7.** (1) Upon the adoption of the marine management plan under section 6 of this act, each state agency and local government must make decisions in a manner that ensures consistency with applicable legal authorities and conformance with the applicable provisions of the marine management plan to the greatest extent possible.

(2) The director of the department of ecology, in coordination with the team, shall periodically review existing management plans maintained by state agencies and local governments that cover the same marine waters as the marine management plan under section 6 of this act, and for any substantial inconsistency with the marine management plan the director shall make recommendations to the agency or to the local government for revisions to eliminate the inconsistency.

(3) Not later than four years following adoption of the marine management plan under section 6 of this act, the department of ecology, in coordination with the team, shall report to the appropriate marine waters committees in the senate and house of representatives describing provisions of existing management plans that are substantially inconsistent with the marine management plan

under section 6 of this act, and making recommendations for eliminating the inconsistency.

(4) All actions taken to implement this section must be consistent with section 8 of this act. In the event of a conflict between the marine management plan and local ordinances and regulations, local ordinances and regulations shall control.

**NEW SECTION. Sec. 8.** No authority is created under this chapter to affect in any way any project, use, or activity in the state's marine waters existing prior to or during the development and review of the marine management plan. No authority is created under this chapter to supersede the current authority of any state agency or local government.

**NEW SECTION. Sec. 9.** A new section is added to chapter 43.21F RCW to read as follows:

(1) In addition to the duties prescribed in RCW 43.21F.045, the department must develop guidance applicable to all state agencies for achieving a unified state position upon matters involving the siting and operation of renewable energy facilities in the state's coastal and estuarine marine waters. The guidance must provide procedures for coordinating the views and responsibilities of any state agency with jurisdiction or expertise over the matter under consideration, which may include federal policy proposals, activities, permits, licenses, or the extension of funding for activities in or affecting the state's marine waters. In developing the guidance, the director must consult with agencies with primary responsibilities for permitting and management of marine waters and bedlands, including the departments of natural resources, ecology, transportation, and fish and wildlife, and the state parks and recreation commission, the Puget Sound partnership, and the energy facility site evaluation council. The director must also consult and incorporate relevant information from the regional activities related to renewable energy siting in marine waters, including those under the west coast governors' agreement on ocean health.

(2) The director may not commence development of the guidance until federal, private, or other nonstate funding is secured for this activity. The director must adopt the guidance within one year of securing such funds.

(3) This section is intended to promote consistency and multiple agency coordination in developing positions and exercising jurisdiction in matters involving the siting and operation of renewable energy facilities and does not diminish or abrogate the authority or jurisdiction of any state agency over such matters established under any other law.

**NEW SECTION. Sec. 10.** (1) The marine resources stewardship trust account is created in the state treasury. All receipts from income derived from the investment of amounts credited to the account, any grants, gifts, or donations to the state for the purposes of marine management planning, marine spatial planning, data compilation, research, or monitoring, and any appropriations made to the account must be deposited in the account. Moneys in the account may be spent only after appropriation.

(2) Expenditures from the account may only be used for the purposes of marine management planning, marine spatial planning, research, monitoring, implementation of the marine management plan, and for the restoration or enhancement of marine habitat or resources.

**Sec. 11.** RCW 43.84.092 and 2009 c 479 s 31, 2009 c 472 s 5, and 2009 c 451 s 8 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the

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federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the budget stabilization account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the health system capacity account, the personal health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety account, the high occupancy toll lanes operations account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship

trust account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public transportation systems account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puyallup tribal settlement account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 corridor account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the urban arterial trust account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. Sec. 12. Sections 1 through 8 and 10 of this act constitute a new chapter in Title 43 RCW."

Correct the title.  
and the same are herewith transmitted.

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BARBARA BAKER, Chief Clerk

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## MOTION

Senator Ranker moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6350 and ask the House to recede therefrom.

## MOTION

Senator Honeyford moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6350.

Senators Ranker and Hargrove spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Honeyford that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6350.

The motion by Senator Honeyford failed and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 6350 by voice vote.

The President announced, by the previous action that the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 6350 and asked the House to recede.

## MESSAGE FROM THE HOUSE

March 2, 2010

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5543 with the following amendment(s): 5543-S.E AMH ENVH H5273.2 5543-S.E AMH ENVH H5273.2,

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that:

(1) Mercury is an essential component of many energy efficient lights. Improper disposal methods will lead to mercury releases that threaten the environment and harm human health. Spent mercury lighting is a hard to collect waste product that is appropriate for product stewardship;

(2) Convenient and environmentally sound product stewardship programs for mercury-containing lights that include collecting, transporting, and recycling mercury-containing lights will help protect Washington's environment and the health of state residents;

(3) The purpose of this act is to achieve a statewide goal of recycling all end-of-life mercury-containing lights by 2020 through expanded public education, a uniform statewide requirement to recycle all mercury-containing lights, and the development of a comprehensive, safe, and convenient collection system that includes use of residential curbside collection programs, mail-back containers, increased support for household hazardous waste facilities, and a network of additional collection locations;

(4) Product producers must play a significant role in financing no-cost collection and processing programs for mercury-containing lights; and

(5) Providers of premium collection services such as residential curbside and mail-back programs may charge a fee to cover the collection costs for these more convenient forms of collection.

**NEW SECTION. Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Brand" means a name, symbol, word, or mark that identifies a product, rather than its components, and attributes the product to the owner of the brand as the producer.

(2) "Covered entities" means:

(a) A single-family or a multifamily household generator and persons that deliver no more than fifteen mercury-containing lights to registered collectors for a product stewardship program during a ninety-day period; and

(b) A single-family or a multifamily household generator and persons that utilize a registered residential curbside collection program or a mail-back program for collection of mercury-containing lights and that discards no more than fifteen mercury-containing lights into those programs during a ninety-day period.

(3) "Collection" or "collect" means, except for persons involved in mail-back programs:

(a) The activity of accumulating any amount of mercury-containing lights at a location other than the location where the lights are used by covered entities, and includes curbside collection activities, household hazardous waste facilities, and other registered drop-off locations; and

(b) The activity of transporting mercury-containing lights in the state, where the transporter is not a generator of unwanted mercury-containing lights, to a location for purposes of accumulation.

(4) "Department" means the department of ecology.

(5) "Final disposition" means the point beyond which no further processing takes place and materials from mercury-containing lights have been transformed for direct use as a feedstock in producing new products, or disposed of or managed in permitted facilities.

(6) "Hazardous substances" or "hazardous materials" means those substances or materials identified by rules adopted under chapter 70.105 RCW.

(7) "Mail-back program" means the use of a prepaid postage container with mercury vapor barrier packaging that is used for the collection and recycling of mercury-containing lights from covered entities as part of a product stewardship program and is transported by the United States postal service or a common carrier.

(8) "Mercury vapor barrier packaging" means sealable containers that are specifically designed for the storage, handling, and transport of mercury-containing lights in order to prevent the escape of mercury into the environment by volatilization or any other means, and that meet the requirements for transporting by the United States postal service or a common carrier.

(9) "Mercury-containing lights" means lamps, bulbs, tubes, or other devices that contain mercury and provide functional illumination in homes, businesses, and outdoor stationary fixtures.

(10) "Orphan product" means a mercury-containing light that lacks a producer's brand, or for which the producer is no longer in business and has no successor in interest, or that bears a brand for which the department cannot identify an owner.

(11) "Person" means a sole proprietorship, partnership, corporation, nonprofit corporation or organization, limited liability company, firm, association, cooperative, or other legal entity located within or outside Washington state.

(12) "Processing" means recovering materials from unwanted products for use as feedstock in new products. Processing must occur at permitted facilities.

(13) "Producer" means a person that:

(a) Has or had legal ownership of the brand, brand name, or cobrand of a mercury-containing light sold in or into Washington state, except for persons whose primary business is retail sales;

(b) Imports or has imported mercury-containing lights branded by a producer that meets the requirements of (a) of this subsection and where that producer has no physical presence in the United States;

(c) If (a) and (b) of this subsection do not apply, makes or made an unbranded mercury-containing light that is sold or has been sold in or into Washington state; or

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(d)(i) Sells or sold at wholesale or retail a mercury-containing light; (ii) does not have legal ownership of the brand; and (iii) elects to fulfill the responsibilities of the producer for that product.

(14) "Product stewardship" means a requirement for a producer of mercury-containing lights to manage and reduce adverse safety, health, and environmental impacts of the product throughout its life cycle, including financing and providing for the collection, transporting, reusing, recycling, processing, and final disposition of their products.

(15) "Product stewardship plan" or "plan" means a detailed plan describing the manner in which a product stewardship program will be implemented.

(16) "Product stewardship program" or "program" means the methods, systems, and services financed and provided by producers of mercury-containing lights generated by covered entities that addresses product stewardship and includes collecting, transporting, reusing, recycling, processing, and final disposition of unwanted mercury-containing lights, including a fair share of orphan products.

(17) "Recovery" means the collection and transportation of unwanted mercury-containing lights under this chapter.

(18)(a) "Recycling" means transforming or remanufacturing unwanted products into usable or marketable materials for use other than landfill disposal or incineration.

(b) "Recycling" does not include energy recovery or energy generation by means of combusting unwanted products with or without other waste.

(19) "Reporting period" means the period commencing January 1st and ending December 31st in the same calendar year.

(20) "Residuals" means nonrecyclable materials left over from processing an unwanted product.

(21) "Retailer" means a person who offers mercury-containing lights for sale at retail through any means including, but not limited to, remote offerings such as sales outlets, catalogs, or the internet, but does not include a sale that is a wholesale transaction with a distributor or a retailer.

(22)(a) "Reuse" means a change in ownership of a mercury-containing light or its components, parts, packaging, or shipping materials for use in the same manner and purpose for which it was originally purchased, or for use again, as in shipping materials, by the generator of the shipping materials.

(b) "Reuse" does not include dismantling of products for the purpose of recycling.

(23) "Stakeholder" means a person who may have an interest in or be affected by a product stewardship program.

(24) "Stewardship organization" means an organization designated by a producer or group of producers to act as an agent on behalf of each producer to operate a product stewardship program.

(25) "Unwanted product" means a mercury-containing light no longer wanted by its owner or that has been abandoned, discarded, or is intended to be discarded by its owner.

**NEW SECTION. Sec. 3.** (1) Every producer of mercury-containing lights sold in or into Washington state for residential use must fully finance and participate in a product stewardship program for that product, including the department's costs for administering and enforcing this chapter.

(2) Every producer must:

(a) Participate in a product stewardship program approved by the department and operated by a product stewardship organization contracted by the department. All producers must finance and participate in the plan operated by the product stewardship organization, unless the producer obtains department approval for an independent plan as described in (b) of this subsection; or

(b) Finance and operate, either individually or jointly with other producers, a product stewardship program approved by the department.

(3) A producer, group of producers, or product stewardship organization funded by producers must pay all administrative and operational costs associated with their program or programs, except for the collection costs associated with curbside and mail-back collection programs. For curbside and mail-back programs, a producer, group of producers, or product stewardship organization shall finance the costs of transporting mercury-containing lights from accumulation points and for processing mercury-containing lights collected by curbside and mail-back programs. For collection locations, including household hazardous waste facilities, charities, retailers, government recycling sites, or other suitable locations, a producer, group of producers, or product stewardship organization shall finance the costs of collection, transportation, and processing of mercury-containing lights collected at the collection locations.

(4) Product stewardship programs shall collect unwanted mercury-containing lights delivered from covered entities for reuse, recycling, processing, or final disposition, and not charge a fee when lights are dropped off or delivered into the program.

(5) Product stewardship programs shall provide, at a minimum, no cost services in all cities in the state with populations greater than ten thousand and all counties of the state on an ongoing, year-round basis.

(6) All product stewardship programs operated under approved plans must recover their fair share of unwanted covered products as determined by the department.

(7) The department or its designee may inspect, audit, or review audits of processing and disposal facilities used to fulfill the requirements of a product stewardship program.

(8) No product stewardship program required under this chapter may use federal or state prison labor for processing unwanted products.

(9) Product stewardship programs for mercury-containing lights must be fully implemented by January 1, 2013.

**NEW SECTION. Sec. 4.** (1) A producer, group of producers, or product stewardship program submitting a proposed product stewardship plan under section 3(2)(b) of this act must submit that plan by January 1st of the year prior to the planned implementation.

(2) The department shall establish rules for plan content. Plans must include but are not limited to:

(a) All necessary information to inform the department about the plan operator and participating producers and their brands;

(b) The management and organization of the product stewardship program that will oversee the collection, transportation, and processing services;

(c) The identity of collection, transportation, and processing service providers, including a description of the consideration given to existing residential curbside collection infrastructure and mail-back systems as an appropriate collection mechanism;

(d) How the product stewardship program will seek to use businesses within the state, including transportation services, retailers, collection sites and services, existing curbside collection services, existing mail-back services, and processing facilities;

(e) A description of how the public will be informed about the recycling program;

(f) A description of the financing system required under section 5 of this act;

(g) How mercury and other hazardous substances will be handled for collection through final disposition;

(h) A public review and comment process; and

(i) Any other information deemed necessary by the department to ensure an effective mercury light product stewardship program that is in compliance with all applicable laws and rules.

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(3) All plans submitted to the department must be made available for public review on the department's web site and at the department's headquarters.

(4) At least two years from the start of the product stewardship program and once every four years thereafter, a producer, group of producers, or product stewardship organization operating a product stewardship program must update its product stewardship plan and submit the updated plan to the department for review and approval according to rules adopted by the department.

(5) Each product stewardship program shall submit an annual report to the department describing the results of implementing their plan for the prior year. The department may adopt rules for reporting requirements. All reports submitted to the department must be made available for public review on the department's web site and at the department's headquarters.

**NEW SECTION. Sec. 5.** (1) All producers that sell mercury-containing lights in or into the state of Washington are responsible for financing the mercury-containing light recycling program required by section 3 of this act.

(2) Each producer shall pay fifteen thousand dollars to the department to contract for a product stewardship program to be operated by a product stewardship organization. The department shall retain five thousand dollars of the fifteen thousand dollars for administration and enforcement costs.

(3) A producer or producers participating in an independent plan, as permitted under section 3(2)(b) of this act, must pay the full cost of operation. Each producer participating in an approved independent plan shall pay an annual fee of five thousand dollars to the department for administration and enforcement costs.

**NEW SECTION. Sec. 6.** (1) All mercury-containing lights collected in the state by product stewardship programs or other collection programs must be recycled and any process residuals must be managed in compliance with applicable laws.

(2) Mercury recovered from retorting must be recycled or placed in a properly permitted hazardous waste landfill, or placed in a properly permitted mercury repository.

**NEW SECTION. Sec. 7.** (1) Except for persons involved in registered mail-back programs, a person who collects unwanted mercury-containing lights in the state, receives funding through a product stewardship program for mercury-containing lights, and who is not a generator of unwanted mercury-containing lights must:

(a) Register with the department as a collector of unwanted mercury-containing lights. Until the department adopts rules for collectors, the collector must provide to the department the legal name of the person or entity owning and operating the collection location, the address and phone number of the collection location, and the name, address, and phone number of the individual responsible for operating the collection location and update any changes in this information within thirty days of the change;

(b) Maintain a spill and release response plan at the collection location that describes the materials, equipment, and procedures that will be used to respond to any mercury release from an unwanted mercury-containing light;

(c) Maintain a worker safety plan at the collection location that describes the handling of the unwanted mercury-containing lights at the collection location and measures that will be taken to protect worker health and safety; and

(d) Use packaging and shipping material that will minimize the release of mercury into the environment and minimize breakage and use mercury vapor barrier packaging if mercury-containing lights are transported by the United States postal service or a common carrier.

(2) A person who operates a curbside collection program or owns or operates a mail-back business participating in a product stewardship program for mercury-containing lights and uses the

United States postal service or a common carrier for transport must register with the department and use mercury vapor barrier packaging for curbside collection and mail-back containers.

**NEW SECTION. Sec. 8.** Effective January 1, 2013:

(1) All persons, residents, government, commercial, industrial, and retail facilities and office buildings must recycle their end-of-life mercury-containing lights.

(2) No mercury-containing lights may knowingly be placed in waste containers for disposal at incinerators, waste to energy facilities, or landfills.

(3) No mercury-containing lights may knowingly be placed in a container for mixed recyclables unless there is a separate location or compartment for the mercury-containing lights that complies with local government collection standards or guidelines.

(4) No owner or operator of a solid waste facility may be found in violation of this section if the facility has posted in a conspicuous location a sign stating that mercury-containing lights must be recycled and are not accepted for disposal.

(5) No solid waste collector may be found in violation of this section for mercury-containing lights placed in a disposal container by the generator of the mercury-containing light.

**NEW SECTION. Sec. 9.** As of January 1, 2013, no producer, wholesaler, retailer, electric utility, or other person may distribute, sell, or offer for sale mercury-containing lights for residential use to any person in this state unless the producer is participating in a product stewardship program under a plan approved by the department.

**NEW SECTION. Sec. 10.** (1) The department shall send a written warning and a copy of this chapter and any rules adopted to implement this chapter to a producer who is not participating in a product stewardship program approved by the department and whose mercury-containing lights are being sold in or into the state.

(2) A producer not participating in a product stewardship program approved by the department whose mercury-containing lights continue to be sold in or into the state sixty days after receiving a written warning from the department shall be assessed a penalty of up to one thousand dollars for each violation. A violation is one day of sales.

(3) If any producer fails to implement its approved plan, the department shall assess a penalty of up to five thousand dollars for the first violation along with notification that the producer must implement its plan within thirty days of the violation. After thirty days, any producer failing to implement their approved plan must be assessed a penalty of up to ten thousand dollars for the second and each subsequent violation. A subsequent violation occurs each thirty-day period that the producer fails to implement the approved plan.

(4) The department shall send a written warning to a producer that fails to submit a product stewardship plan, update or change the plan when required, or submit an annual report as required under this chapter. The written warning must include compliance requirements and notification that the requirements must be met within sixty days. If requirements are not met within sixty days, the producer will be assessed a ten thousand dollar penalty per day of noncompliance starting with the first day of notice of noncompliance.

(5) Penalties prescribed under this section must be reduced by fifty percent if the producer complies within thirty days of the second violation notice.

(6) A producer may appeal penalties prescribed under this section to the pollution control hearings board created under chapter 43.21B RCW.

**NEW SECTION. Sec. 11.** (1) The department shall provide on its web site a list of all producers participating in a product stewardship plan that the department has approved and a list of all

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producers the department has identified as noncompliant with this chapter and any rules adopted to implement this chapter.

(2) Product wholesalers, retailers, distributors, and electric utilities must check the department's web site or producer-provided written verification to determine if producers of products they are selling in or into the state are in compliance with this chapter.

(3) No one may distribute or sell mercury-containing lights in or into the state from producers who are not participating in a product stewardship program or who are not in compliance with this chapter and rules adopted under this chapter.

(4) The department shall serve, or send with delivery confirmation, a written warning explaining the violation to any person known to be distributing or selling mercury-containing lights in or into the state from producers who are not participating in a product stewardship program or who are not in compliance with this chapter and rules adopted under this chapter.

(5) Any person who continues to distribute or sell mercury-containing lights from a producer that is not participating in an approved product stewardship program sixty days after receiving a written warning from the department may be assessed a penalty two times the value of the products sold in violation of this chapter or five hundred dollars, whichever is greater. The penalty must be waived if the person verifies that the person has discontinued distribution or sales of mercury-containing lights within thirty days of the date the penalty is assessed. A retailer may appeal penalties to the pollution control hearings board.

(6) The department shall adopt rules to implement this section.

(7) A sale or purchase of mercury-containing lights as a casual or isolated sale as defined in RCW 82.04.040 is not subject to the provisions of this section.

(8) A person primarily engaged in the business of reuse and resale of a used mercury-containing light is not subject to the provisions of this section when selling used working mercury-containing lights, for use in the same manner and purpose for which it was originally purchased.

(9) In-state distributors, wholesalers, and retailers in possession of mercury-containing lights on the date that restrictions on the sale of the product become effective may exhaust their existing stock through sales to the public.

**NEW SECTION. Sec. 12.** All producers shall pay the department annual fees to cover the cost of administering and enforcing this chapter. The department may prioritize the work to implement this chapter if fees are not adequate to fund all costs of the program.

**NEW SECTION. Sec. 13.** The product stewardship programs account is created in the custody of the state treasurer. All funds received from producers under this chapter and penalties collected under this chapter must be deposited in the account. Expenditures from the account may be used only for administering this chapter. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**NEW SECTION. Sec. 14.** (1) The department may adopt rules necessary to implement, administer, and enforce this chapter.

(2) The department may adopt rules to establish performance standards for product stewardship programs and may establish administrative penalties for failure to meet the standards.

(3) By December 31, 2010, and annually thereafter until December 31, 2014, the department shall report to the appropriate committees of the legislature concerning the status of the product stewardship program and recommendations for changes to the provisions of this chapter.

(4) Beginning October 1, 2014, the department shall annually invite comments from local governments, communities, and citizens

to report their satisfaction with services provided by product stewardship programs. This information must be used by the department to determine if the plan operator is meeting convenience requirements and in reviewing proposed updates or changes to product stewardship plans.

(5) Beginning October 1, 2014, the department shall annually invite comments from retailers, consumer groups, electric utilities, the Northwest power and conservation council, and other interested parties regarding the impacts of the requirements of this chapter on the availability or purchase of energy efficient lighting within the state. If the department determines that evidence shows the requirements of this chapter have resulted in negative impacts on the availability or purchase of energy efficient lighting in the state, the department shall report this information by December 31st of each year to the appropriate committees of the legislature with recommendations for changes to the provisions of this chapter.

(6) Beginning October 1, 2014, the department shall annually invite comments from retailers, consumer groups, electric utilities, the Northwest power and conservation council, and other interested parties regarding the availability of energy efficient nonmercury lighting to replace mercury-containing lighting within the state. If the department determines that evidence shows that energy efficient nonmercury-containing lighting is available and achieves similar energy savings as mercury lighting at similar cost, the department shall report this information by December 31st of each year to the appropriate committees of the legislature with recommendations for legislative changes to reduce mercury use in lighting.

(7) Beginning October 1, 2014, the department shall annually estimate the overall statewide recycling rate for mercury-containing lights and calculate that portion of the recycling rate attributable to the product stewardship program.

(8) The department may require submission of independent performance evaluations and report evaluations documenting the effectiveness of mercury vapor barrier packaging in preventing the escape of mercury into the environment. The department may restrict the use of packaging for which adequate documentation has not been provided. Restricted packaging may not be used in any product stewardship program required under this chapter.

**NEW SECTION. Sec. 15.** Nothing in this chapter changes or limits the authority of the Washington utilities and transportation commission to regulate collection of solid waste, including curbside collection of residential recyclable materials, nor does this chapter change or limit the authority of a city or town to provide such service itself or by contract under RCW 81.77.020.

**NEW SECTION. Sec. 16.** Nothing in this chapter changes the requirements of any entity regulated under chapter 70.105 RCW to comply with the requirements under that chapter.

**NEW SECTION. Sec. 17.** This chapter must be liberally construed to carry out its purposes and objectives.

**Sec. 18.** RCW 70.95M.010 and 2003 c 260 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) ("Automotive mercury switch" includes a convenience switch, such as a switch for a trunk or hood light, and a mercury switch in antilock brake systems.) "Bulk mercury" includes any elemental, nonamalgamated mercury, regardless of volume quantity or weight and does not include products containing mercury collected for recycling or disposal at a permitted disposal facility.

(2) "Department" means the department of ecology.

(3) "Director" means the director of the department of ecology.

(4) "Health care facility" includes a hospital, nursing home, extended care facility, long-term care facility, clinical or medical laboratory, state or private health or mental institution, clinic, physician's office, or health maintenance organization.

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(5) "Manufacturer" includes any person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that produces a mercury-added product or an importer or domestic distributor of a mercury-added product produced in a foreign country. In the case of a multicomponent product containing mercury, the manufacturer is the last manufacturer to produce or assemble the product. If the multicomponent product or mercury-added product is produced in a foreign country, the manufacturer is the first importer or domestic distributor.

(6) "Mercury-added button-cell battery" means a button-cell battery to which the manufacturer intentionally introduces mercury for the operation of the battery.

(7) "Mercury-added novelty" means a mercury-added product intended mainly for personal or household enjoyment or adornment. Mercury-added novelties include, but are not limited to, items intended for use as practical jokes, figurines, adornments, toys, games, cards, ornaments, yard statues and figures, candles, jewelry, holiday decorations, items of apparel, and other similar products. Mercury-added novelty does not include games, toys, or products that require a button-cell or lithium battery, liquid crystal display screens, or a lamp that contains mercury.

(8) "Mercury-added product" means a product, commodity, or chemical, or a product with a component that contains mercury or a mercury compound intentionally added to the product, commodity, or chemical in order to provide a specific characteristic, appearance, or quality, or to perform a specific function, or for any other reason. Mercury-added products include those products listed in the interstate mercury education and reduction clearinghouse mercury-added products database, but are not limited to, mercury thermometers, mercury thermostats, mercury barometers, lamps, and mercury switches (~~in motor vehicles~~) or relays.

(9) "Mercury manometer" means a mercury-added product that is used for measuring blood pressure.

(10) "Mercury thermometer" means a mercury-added product that is used for measuring temperature.

(11) "Retailer" means a retailer of a mercury-added product.

(12) "Switch" means any device, which may be referred to as a switch, sensor, valve, probe, control, transponder, or any other apparatus, that directly regulates or controls the flow of electricity, gas, or other compounds, such as relays or transponders. "Switch" includes all components of the unit necessary to perform its flow control function. "Automotive mercury switch" includes a convenience switch, such as a switch for a trunk or hood light, and a mercury switch in antilock brake systems. "Utility switch" includes, but is not limited to, all devices that open or close an electrical circuit, or a liquid or gas valve. "Utility relay" includes, but is not limited to, all products or devices that open or close electrical contacts to control the operation of other devices in the same or other electrical circuit.

(13) "Wholesaler" means a wholesaler of a mercury-added product.

**Sec. 19.** RCW 70.95M.050 and 2003 c 260 s 6 are each amended to read as follows:

(1) Effective January 1, 2006, no person may sell, offer for sale, or distribute for sale or use in this state a mercury-added novelty. A manufacturer of mercury-added novelties must notify all retailers that sell the product about the provisions of this section and how to properly dispose of any remaining mercury-added novelty inventory.

(2)(a) Effective January 1, 2006, no person may sell, offer for sale, or distribute for sale or use in this state a manometer used to measure blood pressure or a thermometer that contains mercury. This subsection (2)(a) does not apply to:

(i) An electronic thermometer with a button-cell battery containing mercury;

(ii) A thermometer that contains mercury and that is used for food research and development or food processing, including meat, dairy products, and pet food processing;

(iii) A thermometer that contains mercury and that is a component of an animal agriculture climate control system or industrial measurement system or for veterinary medicine until such a time as the system is replaced or a nonmercury component for the system or application is available;

(iv) A thermometer or manometer that contains mercury that is used for calibration of other thermometers, manometers, apparatus, or equipment, unless a nonmercury calibration standard is approved for the application by the national institute of standards and technology;

(v) A thermometer that is provided by prescription. A manufacturer of a mercury thermometer shall supply clear instructions on the careful handling of the thermometer to avoid breakage and proper cleanup should a breakage occur; or

(vi) A manometer or thermometer sold or distributed to a hospital, or a health care facility controlled by a hospital, if the hospital has adopted a plan for mercury reduction consistent with the goals of the mercury chemical action plan developed by the department under section 302, chapter 371, Laws of 2002.

(b) A manufacturer of thermometers that contain mercury must notify all retailers that sell the product about the provisions of this section and how to properly dispose of any remaining thermometer inventory.

(3) Effective January 1, 2006, no person may sell, install, or reinstall a commercial or residential thermostat that contains mercury unless the manufacturer of the thermostat conducts or participates in a thermostat recovery or recycling program designed to assist contractors in the proper disposal of thermostats that contain mercury in accordance with 42 U.S.C. Sec. 6901, et seq., the federal resource conservation and recovery act.

(4) No person may sell, offer for sale, or distribute for sale or use in this state a motor vehicle manufactured after January 1, 2006, if the motor vehicle contains an automotive mercury switch.

(5) Nothing in this section restricts the ability of a manufacturer, importer, or domestic distributor from transporting products through the state, or storing products in the state for later distribution outside the state.

(6) Effective June 30, 2012, the sale or purchase and delivery of bulk mercury is prohibited, including sales through the internet or sales by private parties. However, the prohibition in this subsection does not apply to immediate dangerous waste recycling facilities or treatment, storage, and disposal facilities as approved by the department and sales to research facilities, or industrial facilities that provide products or services to entities exempted from this chapter. The facilities described in this subsection must submit an inventory of their purchase and use of bulk mercury to the department on an annual basis, as well as any mercury waste generated from such actions.

**NEW SECTION. Sec. 20.** Sections 1 through 17 and 21 of this act constitute a new chapter in Title 70 RCW.

**NEW SECTION. Sec. 21.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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Senator Rockefeller moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5543.

Senator Rockefeller spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Rockefeller that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5543.

The motion by Senator Rockefeller carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5543 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5543, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5543, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 36; Nays, 12; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Becker, Carrell, Delvin, Hargrove, Hatfield, Holmquist, Honeyford, King, Morton, Schoesler, Sheldon and Stevens

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 5543, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 2, 2010

MR. PRESIDENT:

The House passed SENATE BILL NO. 6379 with the following amendment(s): 6379 AMH TR H5433.1 6379 AMH TR H5433.1,

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** This act is intended to streamline and make technical amendments to certain codified statutes that deal with vehicle and vessel registration and title. Any statutory changes made by this act should be interpreted as technical in nature and not be interpreted to have any substantive policy or legal implications.

#### PART I. DEFINITIONS

**NEW SECTION. Sec. 101.** A new section is added to chapter 46.04 RCW to read as follows:

"Affidavit of loss" means a written statement confirming that the certificate of title, registration certificate, gross weight license, validation tab, or decal has been lost, stolen, destroyed, or mutilated. The statement must be in a form prescribed by the director.

**NEW SECTION. Sec. 102.** A new section is added to chapter 46.04 RCW to read as follows:

"Agent," for the purposes of entering into the standard contract required under RCW 46.01.140(1), means any county auditor or other individual, government, or business entity other than a subagent that is appointed to carry out vehicle registration and certificate of title functions for the department.

**NEW SECTION. Sec. 103.** A new section is added to chapter 46.04 RCW to read as follows:

"Amateur radio operator license plates" means special license plates displaying amateur radio call letters assigned by the federal communications commission.

**NEW SECTION. Sec. 104.** A new section is added to chapter 46.04 RCW to read as follows:

"Armed forces license plate collection" means the collection of six separate license plate designs issued under section 612 of this act. Each license plate design displays a symbol representing one of the five branches of the armed forces, and one representing the national guard.

**NEW SECTION. Sec. 105.** A new section is added to chapter 46.04 RCW to read as follows:

"Baseball stadium license plate" means special license plates commemorating the construction of a baseball stadium as defined in RCW 82.14.0485.

**NEW SECTION. Sec. 106.** A new section is added to chapter 46.04 RCW to read as follows:

"Business day" means Monday through Friday and excludes Saturday, Sunday, and state and federal holidays.

**NEW SECTION. Sec. 107.** A new section is added to chapter 46.04 RCW to read as follows:

"Cab and chassis" means an incomplete vehicle manufactured and sold with only a cab, frame, and running gear.

**Sec. 108.** RCW 46.04.125 and 1996 c 225 s 2 are each amended to read as follows:

"Collector" means the owner of one or more vehicles described in (~~RCW 46.16.305(4))~~ section 617(1) of this act who collects, purchases, acquires, trades, or disposes of the vehicle or parts of it, for his or her personal use, in order to preserve, restore, and maintain the vehicle for hobby or historical purposes.

**NEW SECTION. Sec. 109.** A new section is added to chapter 46.04 RCW to read as follows:

"Collector vehicle license plate" means a special license plate that may be assigned to a vehicle that is more than thirty years old.

**NEW SECTION. Sec. 110.** A new section is added to chapter 46.04 RCW to read as follows:

"Commercial trailer" means a trailer that is principally used to transport commodities, merchandise, produce, freight, or animals.

**NEW SECTION. Sec. 111.** A new section is added to chapter 46.04 RCW to read as follows:

"Confidential license plates" and "undercover license plates" mean standard issue license plates assigned to vehicles owned or operated by public agencies. These license plates are used as specifically authorized under RCW 46.08.066.

**NEW SECTION. Sec. 112.** A new section is added to chapter 46.04 RCW to read as follows:

"Converter gear" means an auxiliary axle, booster axle, dolly, or jeep axle.

**NEW SECTION. Sec. 113.** A new section is added to chapter 46.04 RCW to read as follows:

"Disabled American veteran license plates" means special license plates issued to a veteran, as defined in RCW 41.04.007, who meets the requirements provided in section 619 of this act.

**NEW SECTION. Sec. 114.** A new section is added to chapter 46.04 RCW to read as follows:

"Empty scale weight" means the weight of a vehicle as it stands without a load.

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**NEW SECTION. Sec. 115.** A new section is added to chapter 46.04 RCW to read as follows:

"Endangered wildlife license plates" means special license plates that display a symbol or artwork symbolizing endangered wildlife in Washington state.

**NEW SECTION. Sec. 116.** A new section is added to chapter 46.04 RCW to read as follows:

"Fixed load vehicle" means a commercial vehicle that has a structure or machinery permanently attached such as, but not limited to, an air compressor, a bunk house, a conveyor, a cook house, a donkey engine, a hoist, a rock crusher, a tool house, or a well drilling machine. Fixed load vehicles are not capable of carrying any additional load other than the structure or machinery permanently attached.

**NEW SECTION. Sec. 117.** A new section is added to chapter 46.04 RCW to read as follows:

"Former prisoner of war license plates" means special license plates that may be issued to former prisoners of war as authorized under section 619 of this act.

**NEW SECTION. Sec. 118.** A new section is added to chapter 46.04 RCW to read as follows:

"Gross vehicle weight rating" means the value specified by the manufacturer as the maximum load weight of a single vehicle.

**NEW SECTION. Sec. 119.** A new section is added to chapter 46.04 RCW to read as follows:

"Helping kids speak license plates" means special license plates that commemorate an organization that supports programs that provide free diagnostic and therapeutic services to children who have a severe delay in language or speech development.

**NEW SECTION. Sec. 120.** A new section is added to chapter 46.04 RCW to read as follows:

"Horseless carriage license plate" is a special license plate that may be assigned to a vehicle that is more than forty years old.

**NEW SECTION. Sec. 121.** A new section is added to chapter 46.04 RCW to read as follows:

"Hybrid motor vehicle" means a motor vehicle that uses multiple power sources or fuel types for propulsion and meets the federal definition of a hybrid motor vehicle.

**NEW SECTION. Sec. 122.** A new section is added to chapter 46.04 RCW to read as follows:

"Light truck" means a motor vehicle manufactured as a truck with a declared gross weight of twelve thousand pounds or less.

**NEW SECTION. Sec. 123.** A new section is added to chapter 46.04 RCW to read as follows:

"Market value threshold amount" means an amount set by rule by the department that is used to determine, together with the age of the vehicle, whether vehicle certificates of title for vehicles aged six years through twenty years should be identified as having been previously destroyed or reported as an insurance total loss.

**NEW SECTION. Sec. 124.** A new section is added to chapter 46.04 RCW to read as follows:

"Military affiliate radio system license plates" means special license plates displaying official military affiliate radio system call letters assigned by the United States department of defense.

**NEW SECTION. Sec. 125.** A new section is added to chapter 46.04 RCW to read as follows:

"Natural person" means a human being.

**NEW SECTION. Sec. 126.** A new section is added to chapter 46.04 RCW to read as follows:

"New motor vehicle" means any motor vehicle that (1) is self-propelled and is required to be registered and titled under this title, (2) has not been previously titled to a retail purchaser or lessee, and (3) is not a used vehicle as defined under RCW 46.04.660.

**NEW SECTION. Sec. 127.** A new section is added to chapter 46.04 RCW to read as follows:

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"Off-road vehicle" or "ORV" means a nonstreet registered vehicle when used for recreational purposes on nonhighway roads, trails, or a variety of other natural terrain. "Off-road vehicle" or "ORV" includes, but is not limited to, all-terrain vehicles, motorcycles, four-wheel drive vehicles, and dune buggies.

**NEW SECTION. Sec. 128.** A new section is added to chapter 46.04 RCW to read as follows:

"ORV registration" means a registration certificate or decal issued under the laws of this state pertaining to the registration of off-road vehicles under chapter 46.09 RCW.

**NEW SECTION. Sec. 129.** A new section is added to chapter 46.04 RCW to read as follows:

"Ownership in doubt" means that a vehicle or vessel owner is unable to obtain satisfactory evidence of ownership or releases of interest and is permitted to apply for a three-year registration period without a certificate of title or a three-year period with a bond covering the certificate of title.

**Sec. 130.** RCW 46.04.3815 and 1996 c 225 s 3 are each amended to read as follows:

"Parts car" means a motor vehicle that is owned by a collector to furnish parts for restoration or maintenance of a vehicle described in ((RCW 46.16.305(1))) section 617(1) of this act, thus enabling a collector to preserve, restore, and maintain such a vehicle.

**NEW SECTION. Sec. 131.** A new section is added to chapter 46.04 RCW to read as follows:

"Personalized license plates" means license plates that display the license plate number assigned to the vehicle or camper for which the license plate number was issued in a combination of letters or numbers, or both, requested by the owner of the vehicle or camper in accordance with chapter 46... RCW (the new chapter created in section 1224 of this act).

**NEW SECTION. Sec. 132.** A new section is added to chapter 46.04 RCW to read as follows:

"Private use single-axle trailer" means a trailer owned by a natural person and used for the private noncommercial use of the owner.

**NEW SECTION. Sec. 133.** A new section is added to chapter 46.04 RCW to read as follows:

"Purple heart license plates" means special license plates that may be assigned to a motor vehicle to recipients of the Purple Heart medal or to another qualified person.

**NEW SECTION. Sec. 134.** A new section is added to chapter 46.04 RCW to read as follows:

"Registration" means the registration certificate or license plates issued under the laws of this state pertaining to the registration of vehicles.

**NEW SECTION. Sec. 135.** A new section is added to chapter 46.04 RCW to read as follows:

"Renewal notice" means the notice to renew a vehicle registration sent to the registered owner by the department.

**NEW SECTION. Sec. 136.** A new section is added to chapter 46.04 RCW to read as follows:

"Report of sale" means a document or electronic record transaction that when properly completed and filed protects the seller of a vehicle from certain criminal and civil liabilities arising from use of the vehicle by another person after the vehicle has been sold or a change in ownership has occurred.

**NEW SECTION. Sec. 137.** A new section is added to chapter 46.04 RCW to read as follows:

"Ride share license plates" means special license plates issued for motor vehicles that are used primarily for commuter ride sharing as defined in RCW 46.74.010.

**NEW SECTION. Sec. 138.** A new section is added to chapter 46.04 RCW to read as follows:

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"Salvage vehicle" means a vehicle whose certificate of title has been surrendered to the department under RCW 46.12.070 (as recodified by this act) due to the vehicle's destruction or declaration as a total loss or for which there is documentation indicating that the vehicle has been declared salvage or has been damaged to the extent that the owner, an insurer, or other person acting on behalf of the owner, has determined that the cost of parts and labor plus the salvage value has made it uneconomical to repair the vehicle. "Salvage vehicle" does not include a motor vehicle having a model year designation of a calendar year that is at least six years before the calendar year in which the vehicle was wrecked, destroyed, or damaged, unless, after June 13, 2002, and immediately before the vehicle was wrecked, destroyed, or damaged, the vehicle had a retail fair market value of at least the then market value threshold amount and has a model year designation of a calendar year not more than twenty years before the calendar year in which the vehicle was wrecked, destroyed, or damaged.

**NEW SECTION. Sec. 139.** A new section is added to chapter 46.04 RCW to read as follows:

"Scale weight" means the weight of a vehicle without a load.

**NEW SECTION. Sec. 140.** A new section is added to chapter 46.04 RCW to read as follows:

"Secured party" has the same meaning as in RCW 62A.1-201.

**NEW SECTION. Sec. 141.** A new section is added to chapter 46.04 RCW to read as follows:

"Security interest" has the same meaning as in RCW 62A.1-201.

**NEW SECTION. Sec. 142.** A new section is added to chapter 46.04 RCW to read as follows:

"Share the road license plates" means special license plates displaying a symbol or artwork recognizing an organization that promotes bicycle safety and awareness education. Share the road license plates commemorate the life of Cooper Jones.

**NEW SECTION. Sec. 143.** A new section is added to chapter 46.04 RCW to read as follows:

"Ski & ride Washington license plates" means special license plates displaying a symbol or artwork recognizing the Washington snowsports industry.

**NEW SECTION. Sec. 144.** A new section is added to chapter 46.04 RCW to read as follows:

(1) "Special highway construction equipment" means any vehicle that is (a) designed and used primarily for the grading of highways, the paving of highways, earth moving, and other construction work on highways, (b) not designed or used primarily to transport persons or property on a public highway, and (c) only incidentally operated or moved over the highway.

(2) "Special highway construction equipment" includes, but is not limited to, road construction and maintenance machinery that is designed and used for the purposes described under subsection (1) of this section, such as portable air compressors, air drills, asphalt spreaders, bituminous mixers, bucket loaders, track laying tractors, ditchers, leveling graders, finishing machines, motor graders, paving mixers, road rollers, scarifiers, earth moving scrapers and carryalls, lighting plants, welders, pumps, power shovels and draglines, and self-propelled and tractor-drawn earth moving equipment and machinery, including dump trucks and tractor-dump trailer combinations that (a) are in excess of the legal width, (b) because of their length, height, or unladen weight, may not be moved on a public highway without the permit specified in RCW 46.44.090 and are not operated laden except within the boundaries of the project limits as defined by the contract, and other similar types of construction equipment, or (c) are driven or moved upon a public highway only for the purpose of crossing the highway from one property to another, provided that the movement does not

exceed five hundred feet and the vehicle is equipped with wheels or pads that will not damage the roadway surface.

**NEW SECTION. Sec. 145.** A new section is added to chapter 46.04 RCW to read as follows:

"Snowmobile" means a self-propelled vehicle that is capable of traveling over snow or ice that (1) utilizes as its means of propulsion an endless belt tread or cleats, or any combination of these or other similar means of contact with the surface upon which it is operated, (2) is steered wholly or in part by skis or sled type runners, and (3) is not otherwise registered as, or subject to, the motor vehicle excise tax in the state of Washington.

**NEW SECTION. Sec. 146.** A new section is added to chapter 46.04 RCW to read as follows:

"Sport utility vehicle" means a high performance motor vehicle weighing six thousand pounds or less, designed to carry ten passengers or less or designated as a sport utility vehicle by the manufacturer.

**NEW SECTION. Sec. 147.** A new section is added to chapter 46.04 RCW to read as follows:

"Square dancer license plates" means special license plates displaying a symbol of square dancers.

**NEW SECTION. Sec. 148.** A new section is added to chapter 46.04 RCW to read as follows:

"Standard issue license plates" means license plates that are held for general issue, and does not mean personalized license plates or any other special license plate.

**NEW SECTION. Sec. 149.** A new section is added to chapter 46.04 RCW to read as follows:

"Subagency" means the licensing office in which vehicle title and registration functions are carried out by a subagent.

**NEW SECTION. Sec. 150.** A new section is added to chapter 46.04 RCW to read as follows:

"Subagent" means a person or governmental entity recommended by a county auditor or other agent and who is appointed by the director to provide vehicle registration and certificate of title services under contract with the county auditor or other agent.

**NEW SECTION. Sec. 151.** A new section is added to chapter 46.04 RCW to read as follows:

"Tab" or "license tab" means a sticker issued by the department and affixed to the rear license plate to identify the vehicle license expiration month and year for a specific vehicle.

**NEW SECTION. Sec. 152.** A new section is added to chapter 46.04 RCW to read as follows:

"Total loss vehicle" means a vehicle that has been reported to the department as destroyed by an insurance company, self-insurer, or the vehicle owner or the owner's authorized representative.

**NEW SECTION. Sec. 153.** A new section is added to chapter 46.04 RCW to read as follows:

"Tow dolly" means a trailer equipped with between one and three axles designed to connect to a tow bar on the rear of a motor vehicle that is used to tow another vehicle. The front or rear wheels of the towed vehicle are secured to and rest on the tow dolly.

**NEW SECTION. Sec. 154.** A new section is added to chapter 46.04 RCW to read as follows:

"Transit permit" means a document that authorizes a person to operate a vehicle on a public highway of this state solely for the purpose of obtaining the necessary documentation to complete and apply for a Washington certificate of title or vehicle registration. Unlimited use of the vehicle is prohibited when operated under a transit permit.

**Sec. 155.** RCW 46.04.670 and 2003 c 141 s 6 are each amended to read as follows:

"Vehicle" includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is

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or may be transported or drawn upon a public highway, including bicycles. ~~((The term))~~ "Vehicle" does not include power wheelchairs or devices other than bicycles moved by human or animal power or used exclusively upon stationary rails or tracks. Mopeds ~~((shall))~~ are not ~~((be))~~ considered vehicles or motor vehicles for the purposes of chapter 46.70 RCW. Bicycles ~~((shall))~~ are not ~~((be))~~ considered vehicles for the purposes of chapter 46.12, 46.16, or 46.70 RCW or RCW 82.12.045. Electric personal assistive mobility devices are not considered vehicles or motor vehicles for the purposes of chapter 46.12, 46.16, 46.29, 46.37, or 46.70 RCW.

**NEW SECTION. Sec. 156.** A new section is added to chapter 46.04 RCW to read as follows:

"Vehicle license fee" means a fee collected by the state of Washington as a license fee, as that term is construed in Article II, section 40 of the state Constitution, for the act of registering a vehicle under chapter 46.16 RCW. "Vehicle license fee" does not include license plate fees, or taxes and fees collected by the department for other jurisdictions.

**NEW SECTION. Sec. 157.** A new section is added to chapter 46.04 RCW to read as follows:

"Vintage snowmobile" means a snowmobile manufactured at least thirty years ago.

**NEW SECTION. Sec. 158.** A new section is added to chapter 46.04 RCW to read as follows:

"Washington state parks license plates" means special license plates displaying a symbol or artwork recognizing Washington state parks as premier destinations of uncommon quality that preserve significant natural, cultural, historical, and recreational resources.

**NEW SECTION. Sec. 159.** A new section is added to chapter 46.04 RCW to read as follows:

"Washington's wildlife license plate collection" means the collection of three separate license plate designs. Each license plate design displays a distinct symbol or artwork, to include bear, deer, and elk, recognizing the wildlife of Washington.

**NEW SECTION. Sec. 160.** A new section is added to chapter 46.04 RCW to read as follows:

"We love our pets license plates" means special license plates displaying a symbol or artwork recognizing an organization that assists local member agencies of the federation of animal welfare and control agencies to promote and perform spay or neuter surgery on Washington state pets in order to reduce pet overpopulation.

**NEW SECTION. Sec. 161.** A new section is added to chapter 46.04 RCW to read as follows:

"Wild on Washington license plates" means special license plates that display a symbol or artwork symbolizing wildlife viewing in Washington state.

## PART II. GENERAL PROVISIONS AND NONHIGHWAY VEHICLES

**Sec. 201.** RCW 46.01.011 and 1994 c 92 s 500 are each amended to read as follows:

The legislature finds that the department of licensing administers laws relating to the licensing and regulation of professions, businesses, ~~((gambling))~~ and other activities in addition to administering laws relating to the licensing and regulation of vehicles and vehicle operators, dealers, and manufacturers. The laws administered by the department have the common denominator of licensing and regulation and are directed toward protecting and enhancing the well-being of the residents of the state.

**Sec. 202.** RCW 46.01.110 and 1995 c 403 s 108 are each amended to read as follows:

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The director ~~((of licensing is hereby authorized to))~~ may adopt and enforce ~~((such reasonable rules as may be consistent with and necessary))~~ rules to carry out ~~((the))~~ provisions ~~((relating))~~ related to vehicle ~~((licenses))~~ registrations, certificates of ~~((ownership and license registration and drivers' licenses not in conflict with the provisions of Title 46 RCW: PROVIDED, That the director of licensing may not adopt rules after July 23, 1995, that are based))~~ title, and drivers' licenses. These rules must not be based:

(1) Solely on a section of law stating a statute's intent or purpose((:));

(2) On the enabling provisions of the statute establishing the agency((:)); or

(3) On any combination of ((such provisions, for statutory authority to adopt any rule)) subsections (1) and (2) of this section.

**Sec. 203.** RCW 46.01.130 and 2009 c 169 s 1 are each amended to read as follows:

~~((The department of licensing shall have the general supervision))~~ The director:

(1) Shall supervise and control ((of)) the issuing of vehicle ((licenses)) certificates of title, vehicle registrations, and vehicle license ((number)) plates, and ((shall have)) has the full power to do all things necessary and proper to carry out the provisions of the law relating to the ((licensing)) registration of vehicles; ~~((the director shall have the power to))~~

(2) May appoint and employ deputies, assistants ~~((and)),~~ representatives, and ~~((such clerks as may be required from time to time, and to provide for their operation))~~ clerks;

(3) May establish branch offices in different parts of the state~~((and the director shall have the power to));~~

(4) May appoint ~~((the))~~ county auditors ~~((of the several counties as the director's agents for the licensing of vehicles.~~

—(2)(a) The director)) in Washington state or, in the absence of a county auditor, the department or an official of county government as agents for applications for and the issuance of vehicle certificates of title and vehicle registrations; and

(5)(a) Shall investigate the conviction records and pending charges of any current employee of or prospective employee being considered for any position with the department that has or will have:

(i) The ability to create or modify records of applicants for enhanced drivers' licenses and identicards issued under RCW 46.20.202; and

(ii) The ability to issue enhanced drivers' licenses and identicards under RCW 46.20.202.

(b) The investigation consists of a background check as authorized under RCW 10.97.050, 43.43.833, and 43.43.834, and the federal bureau of investigation. The background check must be conducted through the Washington state patrol criminal identification section and may include a national check from the federal bureau of investigation, which is through the submission of fingerprints. The director shall use the information solely to determine the character, suitability, and competence of current or prospective employees subject to this section.

(c) The director shall investigate the conviction records and pending charges of an employee subject to this subsection every five years.

(d) Criminal justice agencies shall provide the director with information that they may possess and that the director may require solely to determine the employment suitability of current or prospective employees subject to this section.

**Sec. 204.** RCW 46.01.140 and 2005 c 343 s 1 are each amended to read as follows:

~~((1))~~ The county auditor, if appointed by the director of licensing shall carry out the provisions of this title relating to the licensing of vehicles and the issuance of vehicle license number

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plates under the direction and supervision of the director and may with the approval of the director appoint assistants as special deputies and recommend subagents to accept applications and collect fees for vehicle licenses and transfers and to deliver vehicle license number plates.

(2) A county auditor appointed by the director may request that the director appoint subagencies within the county.

(a) Upon authorization of the director, the auditor shall use an open competitive process including, but not limited to, a written business proposal and oral interview to determine the qualifications of all interested applicants.

(b) A subagent may recommend a successor who is either the subagent's sibling, spouse, or child, or a subagency employee, as long as the recommended successor participates in the open, competitive process used to select an applicant. In making successor recommendation and appointment determinations, the following provisions apply:

(i) If a subagency is held by a partnership or corporate entity, the nomination must be submitted on behalf of, and agreed to by, all partners or corporate officers.

(ii) No subagent may receive any direct or indirect compensation or remuneration from any party or entity in recognition of a successor nomination. A subagent may not receive any financial benefit from the transfer or termination of an appointment.

(iii) (a) and (b) of this subsection are intended to assist in the efficient transfer of appointments in order to minimize public inconvenience. They do not create a proprietary or property interest in the appointment.

(c) The auditor shall submit all proposals to the director, and shall recommend the appointment of one or more subagents who have applied through the open competitive process. The auditor shall include in his or her recommendation to the director, not only the name of the successor who is a relative or employee, if applicable and if otherwise qualified, but also the name of one other applicant who is qualified and was chosen through the open competitive process. The director has final appointment authority.

(3)(a) A county auditor who is appointed as an agent by the department shall enter into a standard contract provided by the director, developed with the advice of the title and registration advisory committee.

(b) A subagent appointed under subsection (2) of this section shall enter into a standard contract with the county auditor, developed with the advice of the title and registration advisory committee. The director shall provide the standard contract to county auditors.

(c) The contracts provided for in (a) and (b) of this subsection must contain at a minimum provisions that:

(i) Describe the responsibilities, and where applicable, the liability, of each party relating to the service expectations and levels, equipment to be supplied by the department, and equipment maintenance;

(ii) Require the specific type of insurance or bonds so that the state is protected against any loss of collected motor vehicle tax revenues or loss of equipment;

(iii) Specify the amount of training that will be provided by the state, the county auditor, or subagents;

(iv) Describe allowable costs that may be charged to vehicle licensing activities as provided for in (d) of this subsection;

(v) Describe the causes and procedures for termination of the contract, which may include mediation and binding arbitration.

(d) The department shall develop procedures that will standardize and prescribe allowable costs that may be assigned to vehicle licensing and vessel registration and title activities performed by county auditors.

(e) The contracts may include any provision that the director deems necessary to ensure acceptable service and the full collection of vehicle and vessel tax revenues.

(f) The director may waive any provisions of the contract deemed necessary in order to ensure that readily accessible service is provided to the citizens of the state.

(4)(a) At any time any application is made to the director, the county auditor, or other agent pursuant to any law dealing with licenses, registration, or the right to operate any vehicle or vessel upon the public highways or waters of this state, excluding applicants already paying such fee under RCW 46.16.070 or 46.16.085, the applicant shall pay to the director, county auditor, or other agent a fee of three dollars for each application in addition to any other fees required by law.

(b) Counties that do not cover the expenses of vehicle licensing and vessel registration and title activities may submit to the department a request for cost-coverage moneys. The request must be submitted on a form developed by the department. The department shall develop procedures to verify whether a request is reasonable. Payment shall be made on requests found to be allowable from the licensing services account.

(c) Applicants for certificates of ownership, including applicants paying fees under RCW 46.16.070 or 46.16.085, shall pay to the director, county auditor, or other agent a fee of four dollars in addition to any other fees required by law.

(d) The fees under (a) and (c) of this subsection, if paid to the county auditor as agent of the director, or if paid to a subagent of the county auditor, shall be paid to the county treasurer in the same manner as other fees collected by the county auditor and credited to the county current expense fund. If the fee is paid to another agent of the director, the fee shall be used by the agent to defray his or her expenses in handling the application.

(e) Applicants required to pay the three-dollar fee established under (a) of this subsection, must pay an additional seventy-five cents, which must be collected and remitted to the state treasurer and distributed as follows:

(i) Fifty cents must be deposited into the department of licensing services account of the motor vehicle fund and must be used for agent and subagent support, which is to include but not be limited to the replacement of department-owned equipment in the possession of agents and subagents.

(ii) Twenty-five cents must be deposited into the license plate technology account created under RCW 46.16.685.

(5) A subagent shall collect a service fee of (a) ten dollars for changes in a certificate of ownership, with or without registration renewal, or verification of record and preparation of an affidavit of lost title other than at the time of the title application or transfer and (b) four dollars for registration renewal only, issuing a transit permit, or any other service under this section.

(6) If the fee is collected by the state patrol as agent for the director, the fee so collected shall be certified to the state treasurer and deposited to the credit of the state patrol highway account. If the fee is collected by the department of transportation as agent for the director, the fee shall be certified to the state treasurer and deposited to the credit of the motor vehicle fund. All such fees collected by the director or branches of his office shall be certified to the state treasurer and deposited to the credit of the highway safety fund.

(7) Any county revenues that exceed the cost of providing vehicle licensing and vessel registration and title activities in a county, calculated in accordance with the procedures in subsection (3)(d) of this section, shall be expended as determined by the county legislative authority during the process established by law for adoption of county budgets.

(8) The director may adopt rules to implement this section.)

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(1) **County auditor/agent duties.** A county auditor or other agent appointed by the director shall:

(a) Enter into a standard contract provided by the director, as developed in consultation with the advice of the title and registration advisory committee;

(b) Provide all services authorized by the director for vehicle certificates of title and vehicle registration applications and issuance under the direction and supervision of the director including, but not limited to:

(i) Processing reports of sale;

(ii) Processing transitional ownership transactions;

(iii) Processing mail-in vehicle registration renewals until directed otherwise by legislative authority;

(iv) Issuing registrations and temporary ORV use permits for off-road vehicles as required under chapter 46.09 RCW;

(v) Issuing registrations for snowmobiles as required under chapter 46.10 RCW; and

(vi) Collecting fees and taxes as required.

(2) **County auditor/agent assistants and subagents.** A county auditor or other agent appointed by the director may, with approval of the director:

(a) Appoint assistants as special deputies to accept applications for vehicle certificates of title and to issue vehicle registrations; and

(b) Recommend and request that the director appoint subagencies within the county to accept applications for vehicle certificates of title and vehicle registration application issuance.

(3) **Appointing subagents.** A county auditor or other agent appointed by the director who requests a subagency shall, with approval of the director:

(a) Use an open competitive process including, but not limited to, a written business proposal and oral interview to determine the qualifications of all interested applicants; and

(b) Submit all proposals to the director with a recommendation for appointment of one or more subagents who have applied through the open competitive process. If a qualified successor who is an existing subagent's sibling, spouse, or child, or a subagency employee has applied, the county auditor shall provide the name of the qualified successor and the name of one other applicant who is qualified and was chosen through the open competitive process.

(4) **Subagent duties.** A subagent appointed by the director shall:

(a) Enter into a standard contract with the county auditor or agent provided by the director, as developed in consultation with the title and registration advisory committee; and

(b) Provide all services authorized by the director for vehicle certificates of title and vehicle registration applications and issuance under the direction and supervision of the county auditor or agent and the director including, but not limited to:

(i) Processing reports of sale;

(ii) Processing transitional ownership transactions;

(iii) Mailing out vehicle registrations and replacement plates to internet payment option customers until directed otherwise by legislative authority;

(iv) Issuing registrations and temporary ORV use permits for off-road vehicles as required under chapter 46.09 RCW;

(v) Issuing registrations for snowmobiles as required under chapter 46.10 RCW; and

(vi) Collecting fees and taxes as required.

(5) **Subagent successorship.** A subagent appointed by the director who no longer wants his or her appointment may recommend a successor who is the subagent's sibling, spouse, or child, or a subagency employee. The recommended successor must participate in the open competitive process used to select an applicant. In making successor recommendations and appointment determinations, the following provisions apply:

(a) If a subagency is held by a partnership or corporate entity, the nomination must be submitted on behalf of, and agreed to by, all partners or corporate officers;

(b) A subagent may not receive any direct or indirect compensation or remuneration from any party or entity in recognition of a successor nomination. A subagent may not receive any financial benefit from the transfer or termination of an appointment; and

(c) The appointment of a successor is intended to assist in the efficient transfer of appointments to minimize public inconvenience. The appointment of a successor does not create a proprietary or property interest in the appointment.

(6) **Standard contracts.** The standard contracts provided by the director in this section may include provisions that the director deems necessary to ensure that readily accessible and acceptable service is provided to the citizens of the state, including the full collection of fees and taxes. The standard contracts must include provisions that:

(a) Describe responsibilities and liabilities of each party related to service expectations and levels;

(b) Describe the equipment to be supplied by the department and equipment maintenance;

(c) Require specific types of insurance or bonds, or both, to protect the state against any loss of collected revenue or loss of equipment;

(d) Specify the amount of training that will be provided by each of the parties;

(e) Describe allowable costs that may be charged for vehicle registration activities as described in subsection (7) of this section; and

(f) Describe causes and procedures for termination of the contract, which may include mediation and binding arbitration.

(7) **County auditor/agent cost reimbursement.** A county auditor or other agent appointed by the director who does not cover expenses for services provided by the standard contract may submit to the department a request for cost-coverage moneys. The request must be submitted on a form developed by the department. The department shall develop procedures to standardize and identify allowable costs and to verify whether a request is reasonable. Payment must be made on those requests found to be allowable from the licensing services account.

(8) **County auditor/agent revenue disbursement.** County revenues that exceed the cost of providing services described in the standard contract, calculated in accordance with the procedures in subsection (7) of this section, must be expended as determined by the county legislative authority during the process established by law for adoption of county budgets.

(9) **Appointment authority.** The director has final appointment authority for county auditors or other agents or subagents.

(10) **Rules.** The director may adopt rules to implement this section.

**Sec. 205.** RCW 46.01.230 and 2003 c 369 s 1 are each amended to read as follows:

((1) The department of licensing is authorized to accept checks and money orders for payment of drivers' licenses, certificates of ownership and registration, motor vehicle excise taxes, gross weight fees, and other fees and taxes collected by the department, in accordance with regulations adopted by the director. The director's regulations shall duly provide for the public's convenience consistent with sound business practice and shall encourage the annual renewal of vehicle registrations by mail to the department, authorizing checks and money orders for payment. Such regulations shall contain provisions for cancellation of any registrations, licenses, or permits paid for by checks or money

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orders which are not duly paid and for the necessary accounting procedures in such cases: PROVIDED, That any bona fide purchaser for value of a vehicle shall not be liable or responsible for any prior uncollected taxes and fees paid, pursuant to this section, by a check which has subsequently been dishonored: AND PROVIDED FURTHER, That no transfer of ownership of a vehicle may be denied to a bona fide purchaser for value of a vehicle if there are outstanding uncollected fees or taxes for which a predecessor paid, pursuant to this section, by check which has subsequently been dishonored nor shall the new owner be required to pay any fee for replacement vehicle license number plates that may be required pursuant to RCW 46.16.270 as now or hereafter amended.

(2) It is a traffic infraction to fail to surrender within ten days to the department or any authorized agent of the department any certificate, license, or permit after being notified that such certificate, license, or permit has been canceled pursuant to this section. Notice of cancellation may be accomplished by sending a notice by first-class mail using the last known address in department records for the holder of the certificate, license, or permit, and recording the transmittal on an affidavit of first-class mail.

(3) Whenever registrations, licenses, or permits have been paid for by checks that have been dishonored by nonacceptance or nonpayment, a reasonable handling fee may be assessed for each such instrument. Notwithstanding provisions of any other laws, county auditors, agents, and subagents, appointed or approved by the director pursuant to RCW 46.01.140, may collect restitution, and where they have collected restitution may retain the reasonable handling fee. The amount of the reasonable handling fee may be set by rule by the director.

(4) In those counties where the county auditor has been appointed an agent of the director under RCW 46.01.140, the auditor shall continue to process mail-in registration renewals until directed otherwise by legislative authority. Subagents appointed by the director under RCW 46.01.140 have the same authority to mail out registrations and replacement plates to Internet payment option customers as the agents until directed otherwise by legislative authority. The department shall provide separate statements giving notice to Internet payment option customers that: (a) A subagent service fee, as provided in RCW 46.01.140(5)(b), will be collected by a subagent office for providing mail and pick-up services; and (b) a filing fee will be collected on all transactions listed under RCW 46.01.140(4)(a). The statement must include the amount of the fee and be published on the department's Internet web site on the page that lists each department, county auditor, and subagent office, eligible to provide mail or pick-up services for registration renewals and replacement plates. The statements must be published below each office listed.)

(1) The department may accept checks and money orders for the payment of drivers' licenses, certificates of title and vehicle registrations, vehicle excise taxes, gross weight fees, and other fees and taxes collected by the department. Whenever registrations, licenses, or permits have been paid for by checks or money orders that have been dishonored by nonacceptance or nonpayment, the department shall:

(a) Cancel the registration, license, or permit;

(b) Send a notice of cancellation by first-class mail using the last known address in department records for the holder of the certificate, license, or permit, and complete an affidavit of first-class mail; and

(c) Assess a handling fee, set by rule.

(2) It is a traffic infraction to fail to surrender a certificate of title, registration certificate, or permit to the department or to an authorized agent within ten days of being notified that the certificate, registration, or permit has been cancelled.

(3) County auditors, agents, and subagents appointed by the

director may collect restitution for dishonored checks and money orders and keep the handling fee.

(4) A person who has recently acquired a vehicle by purchase, exchange, gift, lease, inheritance, or legal action is not liable or responsible for the payment of uncollected fees and taxes that were paid for by a predecessor's check or money order that was subsequently dishonored. The department may not deny an application to transfer ownership for the uncollected amount.

(5) The director may adopt rules to implement this section. The rules must provide for the public's convenience consistent with sound business practice and encourage annual renewal of vehicle registrations by mail, authorizing checks and money orders for payment.

**NEW SECTION. Sec. 206.** A new section is added to chapter 46.01 RCW to read as follows:

(1) The department shall provide on its internet payment option web site:

(a) That a filing fee will be collected on all transactions subject to a filing fee;

(b) That a subagent service fee will be collected by a subagent office for mail or pick-up licensing services; and

(c) The amount of the filing and subagent service fees.

(2) The filing and subagent service fees must be shown below each office listed.

**Sec. 207.** RCW 46.01.235 and 2004 c 249 s 9 are each amended to read as follows:

The department may adopt necessary rules and procedures to allow use of credit and debit cards for payment of fees and excise taxes to the department and its agents or subagents related to the licensing of drivers, the issuance of identicards, and vehicle and vessel (~~(title)~~) certificates of title and registration. The department may establish a convenience fee to be paid by the credit or debit card user whenever a credit or debit card is chosen as the payment method. The fee must be sufficient to offset the charges imposed on the department and its agents and subagents by credit and debit card companies. In no event may the use of credit or debit cards authorized by this section create a loss of revenue to the state.

The use of a personal credit card does not rely upon the credit of the state as prohibited by Article VIII, section 5 of the state Constitution.

**Sec. 208.** RCW 46.01.260 and 2009 c 276 s 2 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the director (~~(in his or her discretion)~~) may destroy applications for vehicle (~~(licenses)~~) registrations, copies of vehicle (~~(licenses)~~) registrations issued, applications for drivers' licenses, copies of issued drivers' licenses, certificates of title and registration or other documents, and records or supporting papers on file in (~~(his or her office which)~~) the department that have been microfilmed or photographed or are more than five years old. (~~(If the)~~) The director may destroy applications for vehicle (~~(licenses)~~) registrations that are renewal applications (~~(the director may destroy such applications)~~) when the computer record (~~(thereof)~~) of the applications has been updated.

(2)(a) The director shall not destroy records of convictions or adjudications of RCW 46.61.502, 46.61.504, 46.61.520, and 46.61.522, or records of deferred prosecutions granted under RCW 10.05.120 and shall maintain such records permanently on file.

(b) The director shall not, within fifteen years from the date of conviction or adjudication, destroy records if the offense was originally charged as one of the offenses designated in (a) of this subsection, convictions or adjudications of the following offenses: RCW 46.61.500 or 46.61.5249 or any other violation that was

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originally charged as one of the offenses designated in (a) of this subsection.

(c) For purposes of RCW 46.52.101 and 46.52.130, offenses subject to this subsection shall be considered "alcohol-related" offenses.

**Sec. 209.** RCW 46.01.270 and 1991 c 339 s 18 are each amended to read as follows:

~~((The))~~ A county auditor or other agent appointed by the director may destroy applications for vehicle ((licenses)) registrations and any copies of vehicle ((licenses)) registrations or other records issued after ((such)) those records have been on file in the county auditor's or other agent's office for a period of eighteen months, unless otherwise directed by the director.

**Sec. 210.** RCW 46.01.310 and 1987 c 302 s 3 are each amended to read as follows:

No civil suit or action may ever be commenced or prosecuted against the director, the state of Washington, any county auditor or other agents appointed by the director, ((or against)) any other government officer or entity, or against any other person, by reason of any act done or omitted to be done in connection with the titling((, licensing,)) or registration of vehicles or vessels while administering duties and responsibilities imposed on the director or as an agent of the director ((of licensing), or as ((an agent)) a subagent of an agent of the director ((of licensing, pursuant to RCW 46.01.140. However,)). This section does not bar the state of Washington or the director ((of licensing)) from bringing any action, whether civil or criminal, against any ((such)) agent, nor shall it bar a county auditor or other agent of the director from bringing an action against ((his or her)) the agent.

**Sec. 211.** RCW 46.08.066 and 1986 c 158 s 20 are each amended to read as follows:

(1) ~~((Except as provided in subsection (3) of this section.))~~ The department ((of licensing is authorized to)) may issue confidential ((motor vehicle)) license plates to:

(a) Units of local government and ((to)) agencies of the federal government for law enforcement purposes only;

(b) Any state official elected on a statewide basis for use on official business. Only one set of confidential license plates may be issued to these elected officials;

(c) Any other public officer or public employee for the personal security of the officer or employee when recommended by the chief of the Washington state patrol. These confidential license plates may only be used on an unmarked publicly owned or controlled vehicle of the employing government agency for the conduct of official business for the period of time that the personal security of the state official, public officer, or other public employee may require; and

(d) The office of the state treasurer. These confidential license plates may only be used on an unmarked state owned or controlled vehicle when required for the safe transportation of either state funds or negotiable securities to or from the office of the state treasurer.

(2) ~~((Except as provided in subsections (3) and (4) of this section))~~ The use of confidential license plates on other vehicles owned or operated by the state of Washington by any officer or employee ((thereof, shall be)) of the state is limited to confidential, investigative, or undercover work of state law enforcement agencies, confidential public health work, and confidential public assistance fraud or support investigations.

(3) ((Any state official elected on a statewide basis shall be provided on request with one set of confidential plates for use on official business. When necessary for the personal security of any other public officer, or public employee, the chief of the Washington state patrol may recommend that the director issue confidential plates for use on an unmarked publicly owned or controlled vehicle

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of the appropriate governmental unit for the conduct of official business for the period of time that the personal security of such state official, public officer, or other public employee may require. The office of the state treasurer may use an unmarked state owned or controlled vehicle with confidential plates where required for the safe transportation of either state funds or negotiable securities to or from the office of the state treasurer.

(4)) The director ((of licensing)) may ((issue)) adopt rules ((and regulations)) governing applications for, and the use of, ((such)) confidential license plates ((by law enforcement and other public agencies)).

**Sec. 212.** RCW 46.08.150 and 1995 c 384 s 2 are each amended to read as follows:

The director of general administration shall have power to devise and promulgate rules and regulations for the control of vehicular and pedestrian traffic and the parking of motor vehicles on the state capitol grounds. However, the monetary penalty for parking a motor vehicle without a valid special license plate or placard in a parking place reserved for ((physically disabled)) persons with physical disabilities shall be the same as provided in ((RCW 46.16.381)) section 706 of this act. Such rules and regulations shall be promulgated by publication in one issue of a newspaper published at the state capitol and shall be given such further publicity as the director may deem proper.

**Sec. 213.** RCW 46.09.020 and 2007 c 241 s 13 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advisory committee" means the nonhighway and off-road vehicle activities advisory committee established in RCW 46.09.280 (as recodified by this act).

(2) "Board" means the recreation and conservation funding board established in RCW 79A.25.110.

(3) "Dealer" means a person, partnership, association, or corporation engaged in the business of selling off-road vehicles at wholesale or retail in this state.

(4) ~~((("Department" means the department of licensing.))~~ ((5)) "Highway," for the purpose of this chapter only, means the entire width between the boundary lines of every roadway publicly maintained by the state department of transportation or any county or city with funding from the motor vehicle fund. A highway is generally capable of travel by a conventional two-wheel drive passenger automobile during most of the year and in use by such vehicles.

~~((6)) "Motorized vehicle" means a vehicle that derives motive power from an internal combustion engine.~~

~~((7))~~ (5) "Nonhighway road" means any road owned or managed by a public agency or any private road for which the owner has granted an easement for public use for which appropriations from the motor vehicle fund were not used for (a) original construction or reconstruction in the last twenty-five years; or (b) maintenance in the last four years.

~~((8))~~ (6) "Nonhighway road recreation facilities" means recreational facilities that are adjacent to, or accessed by, a nonhighway road and intended primarily for nonhighway road recreational users.

~~((9))~~ (7) "Nonhighway road recreational user" means a person whose purpose for consuming fuel on a nonhighway road or off-road is primarily for nonhighway road recreational purposes, including, but not limited to, hunting, fishing, camping, sightseeing, wildlife viewing, picnicking, driving for pleasure, kayaking/canoeing, and gathering berries, firewood, mushrooms, and other natural products.

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~~((40))~~ (8) "Nonhighway vehicle" means any motorized vehicle including an ORV when used for recreational purposes on nonhighway roads, trails, or a variety of other natural terrain.

Nonhighway vehicle does not include:

(a) Any vehicle designed primarily for travel on, over, or in the water;

(b) Snowmobiles or any military vehicles; or

(c) Any vehicle eligible for a motor vehicle fuel tax exemption or rebate under chapter 82.36 RCW while an exemption or rebate is claimed. This exemption includes but is not limited to farm, construction, and logging vehicles.

~~((41))~~ (9) "Nonmotorized recreational facilities" means recreational trails and facilities that are adjacent to, or accessed by, a nonhighway road and intended primarily for nonmotorized recreational users.

~~((42))~~ (10) "Nonmotorized recreational user" means a person whose purpose for consuming fuel on a nonhighway road or off-road is primarily for nonmotorized recreational purposes including, but not limited to, walking, hiking, backpacking, climbing, cross-country skiing, snowshoeing, mountain biking, horseback riding, and pack animal activities.

((13)) "Off-road vehicle" or "ORV" means any nonstreet licensed vehicle when used for recreational purposes on nonhighway roads, trails, or a variety of other natural terrain. Such vehicles include, but are not limited to, all-terrain vehicles, motorcycles, four-wheel drive vehicles, and dune buggies.

(14) "Operator" means each person who operates, or is in physical control of, any nonhighway vehicle.

~~((15))~~ (11) "Organized competitive event" means any competition, advertised in advance through written notice to organized clubs or published in local newspapers, sponsored by recognized clubs, and conducted at a predetermined time and place.

~~((16))~~ (12) "ORV recreation facilities" include, but are not limited to, ORV trails, trailheads, campgrounds, ORV sports parks, and ORV use areas, designated for ORV use by the managing authority that are intended primarily for ORV recreational users.

~~((17))~~ (13) "ORV recreational user" means a person whose purpose for consuming fuel on nonhighway roads or off-road is primarily for ORV recreational purposes, including but not limited to riding an all-terrain vehicle, motorcycling, or driving a four-wheel drive vehicle or dune buggy.

~~((18))~~ (14) "ORV sports park" means a facility designed to accommodate competitive ORV recreational uses including, but not limited to, motocross racing, four-wheel drive competitions, and flat track racing. Use of ORV sports parks can be competitive or noncompetitive in nature.

~~((19))~~ (15) "ORV trail" means a multiple-use corridor designated by the managing authority and maintained for recreational use by motorized vehicles.

((20)) "ORV use permit" means a permit issued for operation of an off-road vehicle under this chapter.

(21) "Owner" means the person other than the lienholder, having an interest in or title to a nonhighway vehicle, and entitled to the use or possession thereof.

(22) "Person" means any individual, firm, partnership, association, or corporation.)

**NEW SECTION. Sec. 214.** A new section is added to chapter 46.09 RCW under the subchapter heading "general provisions" to read as follows:

The department shall issue a certificate of title to the owner of an off-road vehicle. The owner shall pay the fee established under section 508 of this act. Issuance of the certificate of title does not qualify the vehicle for registration under chapter 46.16 RCW.

**Sec. 215.** RCW 46.09.030 and 1990 c 250 s 23 are each amended to read as follows:

The department shall ~~((provide for the issuance of use permits for off-road vehicles and may appoint agents for collecting fees and issuing permits. The department shall charge each applicant for registration the actual cost of the decal. The department shall make available replacement decals for a fee equivalent to the actual cost of the decals. The provisions of RCW 46.01.130 and 46.01.140 apply to the issuance of use permits for off-road vehicles as they do to the issuance of vehicle licenses, the appointment of agents and the collection of application fees));~~

(1) Issue registrations and temporary ORV use permits for off-road vehicles;

(2) Issue decals for off-road vehicles. The decals serve the same function as license plates for vehicles registered under chapter 46.16 RCW; and

(3) Charge a fee for each decal covering the actual cost of the decal.

**Sec. 216.** RCW 46.09.040 and 1977 ex.s. c 220 s 3 are each amended to read as follows:

Except as provided in this chapter, ~~((no))~~ a person shall not operate ~~((any))~~ an off-road vehicle within this state ~~((after January 1, 1978,))~~ unless the off-road vehicle has been assigned an ORV registration or temporary ORV use permit and displays ~~((a current ORV tag in accordance with the provisions of this chapter. PROVIDED, That registration and display of an unexpired ATV use permit shall be deemed to have complied with this section))~~ current decals and tabs as required under this chapter.

**Sec. 217.** RCW 46.09.050 and 2004 c 105 s 9 are each amended to read as follows:

ORV ~~((use permits))~~ registrations and ~~((ORV tags shall be))~~ decals are required under ~~((the provisions of))~~ this chapter except for the following:

(1) Off-road vehicles owned and operated by the United States, another state, or a political subdivision ~~((thereof))~~ of the United States or another state.

(2) Off-road vehicles owned and operated by this state, ~~((or by any))~~ a municipality, or a political subdivision ~~((thereof))~~ of this state or the municipality.

(3) Off-road vehicles operated on agricultural lands owned or leased by the ~~((ORV))~~ off-road vehicle owner or operator.

(4) Off-road vehicles owned by a resident of another state that have a valid ORV use permit or vehicle ~~((license))~~ registration issued in accordance with the laws of the other state. This exemption ~~((shall apply))~~ applies only to the extent that a similar exemption or privilege is granted under the laws of that state.

(5) Off-road vehicles while being used for search and rescue purposes under the authority or direction of an appropriate search and rescue or law enforcement agency.

(6) Vehicles ~~((which are licensed pursuant to))~~ registered under chapter 46.16 RCW or, in the case of nonresidents, vehicles ~~((which are))~~ validly ~~((licensed))~~ registered for operation over public highways in the jurisdiction of the owner's residence.

**Sec. 218.** RCW 46.09.070 and 2004 c 106 s 1 are each amended to read as follows:

~~((1))~~ Application for annual or temporary ORV use permits shall be made to the department or its authorized agent in such manner and upon such forms as the department shall prescribe and shall state the name and address of each owner of the off-road vehicle.

(2) An application for an annual permit shall be signed by at least one owner, and shall be accompanied by a fee of eighteen dollars. Upon receipt of the annual permit application and the application fee, the off-road vehicle shall be assigned a use permit number tag or decal, which shall be affixed to the off-road vehicle in a manner prescribed by the department. The annual permit is valid for a period of one year and is renewable each year in such manner

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as the department may prescribe for an additional period of one year upon payment of a renewal fee of eighteen dollars.

Any person acquiring an off-road vehicle for which an annual permit has been issued who desires to continue to use the permit must, within fifteen days of the acquisition of the off-road vehicle, make application to the department or its authorized agent for transfer of the permit, and the application shall be accompanied by a transfer fee of five dollars.

(3) A temporary use permit is valid for sixty days. Application for a temporary permit shall be accompanied by a fee of seven dollars. The permit shall be carried on the vehicle at all times during its operation in the state.

(4) Except as provided in RCW 46.09.050, any out-of-state operator of an off-road vehicle shall, when operating in this state, comply with this chapter, and if an ORV use permit is required under this chapter, the operator shall obtain an annual or temporary permit and tag.)

(1) The application for an original ORV registration has the same requirements as described for original vehicle registrations in RCW 46.16.040 (as recodified by this act) and must be accompanied by the annual off-road vehicle license fee required under section 531 of this act, in addition to any other fees or taxes due for the application.

(2) The application for renewal of an ORV registration has the same requirements as described for the renewal of vehicle registrations in RCW 46.16.210 (as recodified by this act) and must be accompanied by the annual off-road vehicle license fee required under section 531 of this act, in addition to any other fees or taxes due for the application.

(3) The annual ORV registration is valid for one year and may be renewed each subsequent year as prescribed by the department.

(4) A person who acquires an off-road vehicle that has an ORV registration must:

(a) Apply to the department, county auditor or other agent, or subagent appointed by the director for a transfer of the ORV registration within fifteen days of taking possession of the off-road vehicle; and

(b) Pay the ORV registration transfer fee required under section 536 of this act, in addition to any other fees or taxes due at the time of application.

(5) The department shall issue an ORV registration, decals, and tabs upon receipt of:

(a) A properly completed application for an original ORV registration; and

(b) The payment of all fees and taxes due at the time of application.

(6) The ORV registration must be carried on the vehicle for which it was issued at all times during its operation in this state.

(7) Off-road vehicle decals must be affixed to the off-road vehicle in a manner prescribed by the department.

(8) Unless exempt under RCW 46.09.050 (as recodified by this act), any out-of-state operator of an off-road vehicle, when operating in this state, must comply with this chapter. If an ORV registration is required under this chapter, the out-of-state operator must obtain an ORV registration and decal or a temporary ORV use permit.

**NEW SECTION. Sec. 219.** A new section is added to chapter 46.09 RCW under the subchapter heading "use permits" to read as follows:

(1) The application for a temporary ORV use permit must be made by the owner or the owner's authorized representative to the department, county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department. The application must contain:

(a) The name and address of each owner of the off-road vehicle; and

(b) Other information that the department may require.

(2) The owner or the owner's authorized representative shall sign the application for a temporary ORV use permit.

(3) The application for a temporary ORV use permit must be accompanied by the temporary ORV use permit fee required under section 535 of this act, in addition to any other fees or taxes due for the application.

(4) A temporary ORV use permit:

(a) Is valid for sixty days; and

(b) Must be carried on the vehicle for which it was issued at all times during its operation in this state.

**Sec. 220.** RCW 46.09.080 and 1990 c 250 s 24 are each amended to read as follows:

(1) Each dealer of off-road vehicles in this state (~~who does not have a current "dealer's plate" for vehicle use pursuant to chapter 46.70 RCW~~) shall obtain either a miscellaneous vehicle dealer license as defined in RCW 46.70.011 or an ((ORV)) off-road vehicle dealer ((permit)) license from the department in ((such)) a manner ((and upon such forms as)) prescribed by the department ((shall prescribe)). Upon receipt of an application for an ((ORV)) off-road vehicle dealer ((permit)) license and the fee described under subsection (2) of this section, the dealer ((shall be registered)) is licensed and an ((ORV)) off-road vehicle dealer ((permit)) license number must be assigned.

(2) The annual fee for ((ORV)) an off-road vehicle dealer ((permits shall be)) license is twenty-five dollars ((per year)), which covers all of the off-road vehicles owned by a dealer and not rented. Off-road vehicles rented on a regular, commercial basis by a dealer ((shall)) must have separate ((use permits)) registrations.

(3) Upon the issuance of an ((ORV)) off-road vehicle dealer ((permit)) license, each dealer may purchase, at a cost to be determined by the department, ((ORV)) off-road vehicle dealer ((number)) license plates of a size and color to be determined by the department ((that)). The off-road vehicle dealer license plates must contain the off-road vehicle dealer ((ORV permit)) license number assigned to the dealer. Each off-road vehicle operated by a dealer, dealer representative, or prospective customer for the purposes of testing or demonstration shall display ((such number)) dealer license plates assigned ((pursuant to the dealer permit provisions in chapter 46.70 RCW or this section, in a manner prescribed)) by the department.

(4) ((No)) A dealer, dealer representative, or prospective customer ((shall use such number)) may only use dealer license plates for ((any purpose other than)) the purposes prescribed in subsection (3) of this section.

(5) ((ORV)) Off-road vehicle dealer ((permit)) license numbers ((shall be)) are nontransferable.

(6) It is unlawful for any dealer to sell any off-road vehicle at wholesale or retail or to test or demonstrate any off-road vehicle within the state unless ((he has a motor vehicle dealers' license pursuant to chapter 46.70 RCW or an ORV dealer permit number in accordance with)) the dealer has either a miscellaneous vehicle dealer license as defined in RCW 46.70.011 or an off-road vehicle dealer license as required under this section.

(7) When an ((ORV)) off-road vehicle is sold by a dealer, the dealer shall apply for a certificate of title in the purchaser's name within fifteen days following the sale.

(8) Except as provided in RCW 46.09.050, it is unlawful for any dealer to sell at retail an off-road vehicle without registration required in RCW 46.09.040.

**Sec. 221.** RCW 46.09.115 and 2006 c 212 s 2 are each amended to read as follows:

(1) Except as otherwise provided in this section, it is lawful to operate an off-road vehicle upon:

(a) A nonhighway road and in parking areas serving designated off-road vehicle areas if the state, federal, local, or private authority

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responsible for the management of the nonhighway road authorizes the use of off-road vehicles; and

(b) A street, road, or highway as authorized under RCW 46.09.180 (as recodified by this act).

(2) Operations of an off-road vehicle on a nonhighway road, or on a street, road, or highway as authorized under RCW 46.09.180 (as recodified by this act), under this section is exempt from ((licensing)) registration requirements of chapter 46.16 RCW ((46.16.010)) and vehicle lighting and equipment requirements of chapter 46.37 RCW.

(3) It is unlawful to operate an off-road vehicle upon a private nonhighway road if the road owner has not authorized the use of off-road vehicles.

(4) Nothing in this section authorizes trespass on private property.

(5) The provisions of RCW 4.24.210(5) shall apply to public landowners who allow members of the public to use public facilities accessed by a highway, street, or nonhighway road for recreational off-road vehicle use.

**Sec. 222.** RCW 46.09.170 and 2009 c 564 s 944 and 2009 c 187 s 2 are each reenacted and amended to read as follows:

(1) From time to time, but at least once each year, the state treasurer shall refund from the motor vehicle fund one percent of the motor vehicle fuel tax revenues collected under chapter 82.36 RCW, based on a tax rate of: (a) Nineteen cents per gallon of motor vehicle fuel from July 1, 2003, through June 30, 2005; (b) twenty cents per gallon of motor vehicle fuel from July 1, 2005, through June 30, 2007; (c) twenty-one cents per gallon of motor vehicle fuel from July 1, 2007, through June 30, 2009; (d) twenty-two cents per gallon of motor vehicle fuel from July 1, 2009, through June 30, 2011; and (e) twenty-three cents per gallon of motor vehicle fuel beginning July 1, 2011, and thereafter, less proper deductions for refunds and costs of collection as provided in RCW 46.68.090.

(2) The treasurer shall place these funds in the general fund as follows:

(a) Thirty-six percent shall be credited to the ORV and nonhighway vehicle account and administered by the department of natural resources solely for acquisition, planning, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities, and information programs and maintenance of nonhighway roads;

(b) Three and one-half percent shall be credited to the ORV and nonhighway vehicle account and administered by the department of fish and wildlife solely for the acquisition, planning, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities and the maintenance of nonhighway roads;

(c) Two percent shall be credited to the ORV and nonhighway vehicle account and administered by the parks and recreation commission solely for the acquisition, planning, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities; and

(d) Fifty-eight and one-half percent shall be credited to the nonhighway and off-road vehicle activities program account to be administered by the board for planning, acquisition, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities and for education, information, and law enforcement programs. The funds under this subsection shall be expended in accordance with the following limitations:

(i) Not more than thirty percent may be expended for education, information, and law enforcement programs under this chapter;

(ii) Not less than seventy percent may be expended for ORV, nonmotorized, and nonhighway road recreation facilities. Except as provided in (d)(iii) of this subsection, of this amount:

(A) Not less than thirty percent, together with the funds the board receives under RCW 46.09.110 (as recodified by this act), may be expended for ORV recreation facilities;

(B) Not less than thirty percent may be expended for nonmotorized recreation facilities. Funds expended under this subsection (2)(d)(ii)(B) shall be known as Ira Spring outdoor recreation facilities funds; and

(C) Not less than thirty percent may be expended for nonhighway road recreation facilities;

(iii) The board may waive the minimum percentage cited in (d)(ii) of this subsection due to insufficient requests for funds or projects that score low in the board's project evaluation. Funds remaining after such a waiver must be allocated in accordance with board policy.

(3) On a yearly basis an agency may not, except as provided in RCW 46.09.110 (as recodified by this act), expend more than ten percent of the funds it receives under this chapter for general administration expenses incurred in carrying out this chapter.

(4) During the 2009-2011 fiscal biennium, the legislature may appropriate such amounts as reflect the excess fund balance in the NOVA account to the department of natural resources to install consistent off-road vehicle signage at department-managed recreation sites, and to implement the recreation opportunities on department-managed lands in the Reiter block and Ahtanum state forest, and to the state parks and recreation commission for maintenance and operation of parks and to improve accessibility for boaters and off-road vehicle users. This appropriation is not required to follow the specific distribution specified in subsection (2) of this section.

**Sec. 223.** RCW 46.09.240 and 2007 c 241 s 17 are each amended to read as follows:

(1) After deducting administrative expenses and the expense of any programs conducted under this chapter, the board shall, at least once each year, distribute the funds it receives under RCW 46.09.110 and 46.09.170 (as recodified by this act) to state agencies, counties, municipalities, federal agencies, nonprofit ((ORV)) off-road vehicle organizations, and Indian tribes. Funds distributed under this section to nonprofit ((ORV)) off-road vehicle organizations may be spent only on projects or activities that benefit ((ORV)) off-road vehicle recreation on lands once publicly owned that come into private ownership in a federally approved land exchange completed between January 1, 1998, and January 1, 2005.

(2) The board shall adopt rules governing applications for funds administered by the recreation and conservation office under this chapter and shall determine the amount of money distributed to each applicant. Agencies receiving funds under this chapter for capital purposes shall consider the possibility of contracting with the state parks and recreation commission, the department of natural resources, or other federal, state, and local agencies to employ the youth development and conservation corps or other youth crews in completing the project.

(3) The board shall require each applicant for acquisition or development funds under this section to comply with the requirements of either the state environmental policy act, chapter 43.21C RCW, or the national environmental policy act (42 U.S.C. Sec. 4321 et seq.).

**Sec. 224.** RCW 46.09.280 and 2007 c 241 s 19 are each amended to read as follows:

(1) The board shall establish the nonhighway and off-road vehicle activities advisory committee to provide advice regarding the administration of this chapter. The committee consists of governmental representatives, land managers, and a proportional representation of persons with recreational experience in areas identified in the most recent fuel use study, including but not limited

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to people with ~~((ORV))~~ off-road vehicle, hiking, equestrian, mountain biking, hunting, fishing, and wildlife viewing experience.

(2) After the advisory committee has made recommendations regarding the expenditure of the fuel tax revenue portion of the nonhighway and off-road vehicle account moneys, the advisory committee's ~~((ORV))~~ off-road vehicle and mountain biking recreationists, governmental representatives, and land managers will make recommendations regarding the expenditure of funds received under RCW 46.09.110 (as recodified by this act).

(3) At least once a year, the board, the department of natural resources, the department of fish and wildlife, and the state parks and recreation commission shall report to the nonhighway and off-road vehicle activities advisory committee on the expenditures of funds received under RCW 46.09.110 and 46.09.170 (as recodified by this act) and must proactively seek the advisory committee's advice regarding proposed expenditures.

(4) The advisory committee shall advise these agencies regarding the allocation of funds received under RCW 46.09.170 (as recodified by this act) to ensure that overall expenditures reflect consideration of the results of the most recent fuel use study.

**Sec. 225.** RCW 46.10.010 and 2005 c 235 s 1 are each amended to read as follows:

((As used in this chapter the words and phrases in this section shall have the designated meanings unless a different meaning is expressly provided or the context otherwise clearly indicated.

(1) "Person" shall mean any individual, firm, partnership, association, or corporation.

(2) "Snowmobile" shall mean any self-propelled vehicle capable of traveling over snow or ice, which utilizes as its means of propulsion an endless belt tread, or cleats, or any combination of these or other similar means of contact with the surface upon which it is operated, and which is steered wholly or in part by skis or sled type runners, and which is not otherwise registered as, or subject to the motor vehicle excise tax in the state of Washington.

(3) "Vintage snowmobile" means a snowmobile manufactured at least thirty years ago.

(4)) The following definitions apply throughout this chapter unless the context clearly requires otherwise.

(1) "All terrain vehicle" ((shall)) means any self-propelled vehicle other than a snowmobile, capable of cross-country travel on or immediately over land, water, snow, ice, marsh, swampland, and other natural terrain, including, but not limited to, four-wheel vehicles, amphibious vehicles, ground effect or air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind; except any vehicle designed primarily for travel on, over, or in the water, farm vehicles, or any military or law enforcement vehicles.

((5)) "Owner" shall mean the person, other than a lienholder, having the property in or title to a snowmobile or all terrain vehicle, and entitled to the use or possession thereof.

(6) "Operator" means each person who operates, or is in physical control of, any snowmobile or all terrain vehicle.

(7)) (2) "Public roadway" ((shall)) means the entire width of the right-of-way of any road or street designed and ordinarily used for travel or parking of motor vehicles, which is controlled by a public authority other than the Washington state department of transportation, and which is open as a matter of right to the general public for ordinary vehicular traffic.

((8)) (3) "Highway((s))" ((shall)) means the entire width of the right-of-way of ((all)) a primary and secondary state highway((s)), including ((all)) any portion((s)) of the interstate highway system.

((9)) (4) "Dealer" means a person, partnership, association, or corporation engaged in the business of selling snowmobiles or all terrain vehicles at wholesale or retail in this state.

~~((10))~~ "Department" shall mean the department of licensing.

(11) "Director" shall mean the director of the department of licensing.

~~((12))~~ (5) "Commission" ((shall)) means the Washington state parks and recreation commission.

~~((13))~~ (6) "Hunt" ((shall)) means any effort to kill, injure, capture, or disturb a wild animal or wild bird.

~~((14))~~ (7) "Committee" means the Washington state parks and recreation commission snowmobile advisory committee.

**Sec. 226.** RCW 46.10.020 and 2008 c 52 s 1 are each amended to read as follows:

(1) Except as provided in this chapter, a person may not operate ~~((any))~~ a snowmobile within this state unless ~~((such))~~ the snowmobile has been registered ~~((in accordance with the provisions of))~~ as required under this chapter.

~~((A registration number shall))~~ Snowmobile decals must be assigned, without the payment of a fee, to snowmobiles owned by the state of Washington or its political subdivisions((and the assigned registration number shall)). The snowmobile decals must be displayed upon each snowmobile in ~~((such manner as provided by))~~ accordance with rules adopted by the department.

**Sec. 227.** RCW 46.10.030 and 1986 c 16 s 1 are each amended to read as follows:

~~((No))~~ Registration ((shall be)) is not required under ((the provisions of)) this chapter for the following ~~((described))~~ snowmobiles:

(1) Snowmobiles owned and operated by the United States, another state, or a political subdivision thereof.

(2) A snowmobile owned by a resident of another state or Canadian province if that snowmobile is registered ~~((in accordance with))~~ under the laws of the state or province in which its owner resides~~((, but only to the extent that a similar exemption or privilege is granted under the laws of that state or province for snowmobiles registered in this state: PROVIDED, That)).~~ This exemption applies only to the extent that a similar exemption or privilege is granted under the laws of that state or province. Any snowmobile ~~((which))~~ that is validly registered in another state or province and ~~((which))~~ that is physically located in this state for a period of more than fifteen consecutive days ~~((shall be))~~ is subject to registration under ~~((the provisions of))~~ this chapter.

**Sec. 228.** RCW 46.10.040 and 2008 c 52 s 2 are each amended to read as follows:

~~((1))~~ Application for registration shall be made to the department in the manner and upon forms the department prescribes, and shall state the name and address of each owner of the snowmobile to be registered, and shall be signed by at least one such owner, and shall be accompanied by an annual registration fee as described in (a) of this subsection.

(a) The annual registration fee for snowmobiles manufactured less than thirty years is thirty dollars. The annual registration fee for vintage snowmobiles is twelve dollars. The department shall design, in cooperation with the commission, a distinct registration decal which shall be issued to vintage snowmobiles upon payment of the annual registration fee.

(b) Upon receipt of the application and the application fee, the snowmobile shall be registered and a registration number assigned, which shall be affixed to the snowmobile in a manner provided in RCW 46.10.070.

(2) The registration provided in this section shall be valid for a period of one year. At the end of the period of registration, every owner of a snowmobile in this state shall renew his or her registration in the manner the department prescribes, for an additional period of one year, upon payment of the annual registration fee.

(3) Any person acquiring a snowmobile already validly

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registered under the provisions of this chapter must, within ten days of the acquisition or purchase of the snowmobile, make application to the department for transfer of the registration, and the application shall be accompanied by a transfer fee of five dollars.

(4) A snowmobile owned by a resident of another state or Canadian province where registration is not required by law may be issued a nonresident registration permit valid for not more than sixty days. Application for the permit shall state the name and address of each owner of the snowmobile to be registered and shall be signed by at least one owner and shall be accompanied by a registration fee of five dollars. The registration permit shall be carried on the vehicle at all times during its operation in this state.

(5) The registration fees provided in this section shall be in lieu of any personal property or excise tax heretofore imposed on snowmobiles by this state or any political subdivision thereof, and no city, county, or other municipality, and no state agency shall hereafter impose any other registration or license fee on any snowmobile in this state.

(6) The department shall make available a pair of uniform decals consistent with the provisions of RCW 46.10.070. In addition to the registration fee provided in this section the department shall charge each applicant for registration the actual cost of the decal. The department shall make available replacement decals for a fee equivalent to the actual cost of the decals.)

(1) The application for an original snowmobile registration has the same requirements as described for original vehicle registrations in RCW 46.16.040 (as recodified by this act) and must be accompanied by the annual snowmobile registration fee required under section 531 of this act, in addition to any other fees and taxes due at the time of application.

(2) The application for renewal of a snowmobile registration has the same requirements as described for the renewal of vehicle registrations in RCW 46.16.210 (as recodified by this act) and must be accompanied by the annual snowmobile registration fee required under section 531 of this act, in addition to any other fees or taxes due at the time of application.

(3) The snowmobile registration is valid for one year and must be renewed each year thereafter as determined by the department.

(4) A person who acquires a snowmobile that has a valid snowmobile registration must:

(a) Apply to the department, county auditor or other agent, or subagent appointed by the director for a transfer of the snowmobile registration within ten days of taking possession of the snowmobile; and

(b) Pay the snowmobile registration transfer fee required under section 537 of this act, in addition to any other fees or taxes due at the time of application.

(5) The department shall issue a snowmobile registration and snowmobile decals upon receipt of:

(a) A properly completed application for an original snowmobile registration; and

(b) The payment of all fees and taxes due at the time of application.

(6) The snowmobile registration must be carried on the vehicle for which it was issued at all times during its operation in this state.

(7) Snowmobile decals must be affixed to the snowmobile as provided in RCW 46.10.070 (as recodified by this act).

(8) Snowmobile registration fees provided in this section and in section 531 of this act are in lieu of any personal property or excise tax imposed on snowmobiles by this state or any political subdivision. A state agency, city, county, or other municipality may not impose other registration fees on a snowmobile in this state.

**NEW SECTION. Sec. 229.** A new section is added to chapter 46.10 RCW under the subchapter heading "registration and permits" to read as follows:

(1) The application for a nonresident temporary snowmobile permit must be made by the snowmobile owner or the owner's authorized representative to the department, county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department. The application must contain:

- (a) The name and address of each owner of the snowmobile; and
- (b) Other information the department may require.

(2) The snowmobile owner or the owner's authorized representative shall sign the application for a nonresident temporary snowmobile permit.

(3) The application for a nonresident temporary snowmobile permit must be accompanied by the nonresident temporary snowmobile permit fee required under section 535 of this act, in addition to any other fees or taxes due at the time of application.

(4) Nonresident temporary snowmobile permits:

(a) Are available for snowmobiles owned by residents of another state or Canadian province where registration is not required by law;

(b) Are valid for not more than sixty days; and

(c) Must be carried on the snowmobile at all times during its operation in this state.

**Sec. 230.** RCW 46.10.043 and 1982 c 17 s 3 are each amended to read as follows:

(Each snowmobile dealer registered pursuant to the provisions of RCW 46.10.050 shall register the snowmobile or, in the event the snowmobile is currently registered, transfer the registration to the new owner prior to delivering the snowmobile to that new owner subsequent to the sale thereof by the dealer. Applications for registration and transfer of registration of snowmobiles shall be made to agents of the department authorized as such in accordance with RCW 46.01.140 and 46.01.150 as now or hereafter amended.

All registrations for snowmobiles must be valid for the current registration period prior to the transfer of any registration, including assignment to a dealer. Upon the sale of a snowmobile by a dealer, the dealer may issue a temporary registration as provided by rules adopted by the department.)

A snowmobile registration must be valid for the current registration period before transfer of the registration, including assignment to a dealer.

**Sec. 231.** RCW 46.10.050 and 1990 c 250 s 26 are each amended to read as follows:

(1) Each dealer of snowmobiles in this state shall ~~((register with))~~ obtain a snowmobile dealer license from the department in ~~((such))~~ a manner ~~((and upon such forms as))~~ prescribed by the department ~~((shall prescribe))~~. Upon receipt of an application for a snowmobile dealer's ~~((application for registration))~~ license and the ~~((registration))~~ fee provided ~~((for))~~ in subsection (2) of this section, ~~((such))~~ the dealer ~~((shall be registered))~~ is licensed and a ~~((registration))~~ snowmobile dealer license number must be assigned.

(2) The ~~((registration))~~ annual license fee for a snowmobile dealer ~~((s shall be))~~ is twenty-five dollars ~~((per year, and such fee shall))~~, which covers all of the snowmobiles offered by a dealer for sale and not rented on a regular, commercial basis ~~((PROVIDED, That))~~. Snowmobiles rented on a regular commercial basis by a snowmobile dealer ~~((shall))~~ must be registered separately under ~~((the provisions of))~~ RCW 46.10.020, 46.10.040, 46.10.060, and 46.10.070 ~~((as recodified by this act))~~.

(3) Upon ~~((registration each dealer))~~ the issuance of a snowmobile dealer license, a snowmobile dealer may purchase, at a cost to be determined by the department, snowmobile dealer ~~((number))~~ license plates of a size and color to be determined by the department ~~((, which shall))~~. The snowmobile dealer license plates must contain the ~~((registration))~~ snowmobile license number assigned to ~~((that))~~ the dealer. Each snowmobile operated by a dealer, dealer representative, or prospective customer for the

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purposes of demonstration or testing shall display ~~((such number))~~ snowmobile dealer license plates in a clearly visible manner.

(4) ~~((No person other than))~~ Only a dealer, dealer representative, or prospective customer ~~((shall))~~ may display a snowmobile dealer ~~((number))~~ plate, and ~~((no))~~ only a dealer, dealer representative, or prospective customer ~~((shall))~~ may use a snowmobile dealer's ~~((number))~~ license plate for ~~((any purpose other than))~~ the purposes described in subsection (3) of this section.

(5) Snowmobile dealer ~~((registration numbers))~~ licenses are nontransferable.

(6) It is unlawful for any snowmobile dealer to sell ~~((any))~~ a snowmobile at wholesale or retail, or to test or demonstrate any snowmobile, within the state, unless ~~((registered in accordance with the provisions of this section))~~ the dealer has a snowmobile dealer license as required under this section.

(7) When a snowmobile is sold by a snowmobile dealer, the dealer:

(a) Shall apply for licensing in the purchaser's name within fifteen days following the sale; and

(b) May issue a temporary license as provided by rules adopted by the department.

**Sec. 232.** RCW 46.10.055 and 1982 c 17 s 4 are each amended to read as follows:

The director may by order deny, suspend, or revoke the ~~((registration))~~ license of any snowmobile dealer or, in lieu thereof or in addition thereto, may by order assess monetary civil penalties not to exceed five hundred dollars per violation, if the director finds that the order is in the public interest and that the applicant or ~~((registrant))~~ licensee, or any partner, officer, director, or owner of ten percent of the assets of the firm, or any employee or agent:

(1) Has failed to comply with the applicable provisions of this chapter or any rules adopted under this chapter; or

(2) Has failed to pay any monetary civil penalty assessed by the director under this section within ten days after the assessment becomes final.

**Sec. 233.** RCW 46.10.060 and 1971 ex.s. c 29 s 6 are each amended to read as follows:

~~((The registration number))~~ (1) Snowmobile decals assigned to a snowmobile in this state at the time of its original registration ~~((shall))~~ must remain with that snowmobile until the ~~((vehicle))~~ snowmobile is destroyed, abandoned, or permanently removed from this state, or until changed or terminated by the department.

(2) The department shall~~((upon assignment of such registration number,))~~ issue and deliver to the snowmobile owner ~~((a certificate of))~~ upon proper application:

(a) A registration certificate, in ~~((such))~~ a form as prescribed by the department ~~((shall prescribe)).~~ The ~~((certificate of))~~ registration ~~((shall))~~ certificate is not ~~((be))~~ valid unless it is signed by the person who signed the application for registration~~((~~

~~—At the time of the original registration, and at the time of each subsequent renewal thereof, the department shall issue to the registrant a date tag or tags indicating the validity of the current registration and the expiration date thereof, which validating date, tag, or tags shall); and~~

(b) License tabs showing the current expiration of the snowmobile registration. The license tabs must be affixed to the snowmobile ~~((in such manner))~~ as prescribed by the department ~~((may prescribe. Notwithstanding the fact that a snowmobile has been assigned a registration number, it shall not be considered as validly registered within the meaning of this section unless a validating date tag and current registration certificate has been issued)).~~

(3) A snowmobile is not properly registered unless license tabs and a current registration certificate have been issued.

**Sec. 234.** RCW 46.10.070 and 1973 1st ex.s. c 128 s 2 are each amended to read as follows:

~~((The registration number))~~ (1) Snowmobile decals assigned to each snowmobile ~~((shall))~~ must be:

(a) Permanently affixed to and displayed upon each snowmobile ~~((in such manner))~~ as provided by rules adopted by the department~~((;))~~; and ~~((shall be))~~

(b) Maintained in a legible condition~~((; except))~~;

(2) Dealer number license plates as provided for in RCW 46.10.050 ~~((as recodified by this act))~~ may be temporarily affixed.

(3) The department shall make available a pair of identical snowmobile decals consistent with subsection (1) of this section. The decals serve the same function as license plates for vehicles registered under chapter 46.16 RCW. The department shall charge each applicant for an original registration the actual cost of the snowmobile decal. The department shall make available replacement snowmobile decals for a fee equivalent to the actual cost of the snowmobile decals.

**Sec. 235.** RCW 46.10.220 and 1994 c 264 s 38 are each amended to read as follows:

(1) There is created in the Washington state parks and recreation commission a snowmobile advisory committee to advise the commission regarding the administration of this chapter.

(2) The purpose of the committee is to assist and advise the commission in the planned development of snowmobile facilities and programs.

(3) The committee shall consist of:

(a) Six interested snowmobilers, appointed by the commission; each such member shall be a resident of one of the six geographical areas throughout this state where snowmobile activity occurs, as defined by the commission;

(b) Three representatives of the nonsnowmobiling public, appointed by the commission; and

(c) One representative of the department of natural resources, one representative of the department of fish and wildlife, and one representative of the Washington state association of counties; each of whom shall be appointed by the director of such department or association.

(4) Terms of the members appointed under subsection (3)(a) and (b) of this section shall commence on October 1st of the year of appointment and shall be for three years or until a successor is appointed, except in the case of appointments to fill vacancies which shall be for the remainder of the unexpired term: PROVIDED, That the first such members shall be appointed for terms as follows: Three members shall be appointed for one year, three members shall be appointed for two years, and three members shall be appointed for three years.

(5) Members of the committee shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Expenditures under this subsection shall be from the snowmobile account created by RCW 46.10.075 ~~((as recodified by this act))~~.

(6) The committee may meet at times and places fixed by the committee. The committee shall meet not less than twice each year and additionally as required by the committee chairman or by majority vote of the committee. One of the meetings shall be coincident with a meeting of the commission at which the committee shall provide a report to the commission. The chairman of the committee shall be chosen under procedures adopted by the committee from those members appointed under subsection (3)(a) and (b) of this section.

(7) The Washington state parks and recreation commission shall serve as recording secretary to the committee. A representative of the department of licensing shall serve as an ex officio member of the committee and shall be notified of all meetings of the committee.

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The recording secretary and the ex officio member shall be nonvoting members.

(8) The committee shall adopt procedures to govern its proceedings.

**NEW SECTION. Sec. 236.** The following acts or parts of acts are each repealed:

(1) RCW 46.09.085 (Selling ORV without use permit) and 2004 c 105 s 10; and

(2) RCW 46.10.080 (Distribution of snowmobile registration fees, civil penalties, and fuel tax moneys) and 1982 c 17 s 7, 1979 ex.s. c 182 s 8, 1975 1st ex.s. c 181 s 2, 1973 1st ex.s. c 128 s 3, 1972 ex.s. c 153 s 22, & 1971 ex.s. c 29 s 8.

### PART III. CERTIFICATES OF TITLE

**Sec. 301.** RCW 46.12.010 and 1997 c 241 s 3 are each amended to read as follows:

(It shall be unlawful for any person to operate any vehicle in this state under a certificate of license registration of this state without securing and having in full force and effect a certificate of ownership therefor that contains the name of the registered owner exactly as it appears on the certificate of license registration and it shall further be unlawful for any person to sell or transfer any vehicle without complying with all the provisions of this chapter relating to certificates of ownership and license registration of vehicles: PROVIDED, No certificate of title need be obtained for a vehicle owned by a manufacturer or dealer and held for sale, even though incidentally moved on the highway or used for purposes of testing and demonstration, or a vehicle used by a manufacturer solely for testing: PROVIDED, That a security interest in a vehicle held as inventory by a manufacturer or dealer shall be perfected in accordance with RCW 62A.9-302(1) and no endorsement on the certificate of title shall be necessary for perfection: AND PROVIDED FURTHER, That nothing in this title shall be construed to prevent any person entitled thereto from securing a certificate of ownership upon a vehicle without securing a certificate of license registration and vehicle license plates, when, in the judgment of the director of licensing, it is proper to do so.))

(1) A person shall not:

(a) Operate a vehicle in this state with a registration certificate issued by the department without having a certificate of title for the vehicle that contains the name of the registered owner exactly as it appears on the registration certificate; or

(b) Sell or transfer a vehicle without complying with the provisions of this chapter relating to certificates of title and vehicle registration.

(2) A certificate of title does not need to be obtained for a vehicle owned by a manufacturer or dealer and held for sale, even though incidentally moved on the highway or used for purposes of testing and demonstration, or for a vehicle used by a manufacturer or dealer solely for testing. A security interest in a vehicle held as inventory by a manufacturer or dealer must be perfected as described in chapter 62A.9A RCW. An endorsement is not required on certificates of title held by a manufacturer or dealer to perfect the security interest. A certificate of title may be issued for any vehicle without the vehicle needing to be registered.

**Sec. 302.** RCW 46.12.030 and 2007 c 420 s 1 are each amended to read as follows:

((1) The application for a certificate of ownership shall be upon a form furnished or approved by the department and shall contain:

(a) A full description of the vehicle, which shall contain the proper vehicle identification number, the number of miles indicated on the odometer at the time of delivery of the vehicle, and any distinguishing marks of identification;

(b) The name and address of the person who is to be the

registered owner of the vehicle and, if the vehicle is subject to a security interest, the name and address of the secured party;

(c) Such other information as the department may require.

(2) The department may in any instance, in addition to the information required on the application, require additional information and a physical examination of the vehicle or of any class of vehicles, or either.

(3)(a) A physical examination of the vehicle is mandatory if (i) it has been rebuilt after surrender of the certificate of ownership to the department under RCW 46.12.070 due to the vehicle's destruction or declaration as a total loss and (ii) it is not retained by the registered owner at the time of the vehicle's destruction or declaration as a total loss. The inspection must verify that the vehicle identification number is genuine and agrees with the number shown on the title and registration certificate. The inspection must be made by a member of the Washington state patrol or other person authorized by the department to make such inspections.

(b)(i) A physical examination of the vehicle is mandatory if the vehicle was declared totaled or salvage under the laws of this state, or the vehicle is presented with documents from another state showing the vehicle was totaled or salvage and has not been reissued a valid registration from that state after the declaration of total loss or salvage.

(ii) The inspection must verify that the vehicle identification number is genuine and agrees with the number shown on the original documents supporting the vehicle purchase or ownership.

(iii) A Washington state patrol VIN specialist must ensure that all major component parts used for the reconstruction of a salvage or rebuildable vehicle were obtained legally. Original invoices for new and used parts must be from a vendor that is registered with the department of revenue for the collection of retail sales or use taxes or comparable agency in the jurisdiction where the major component parts were purchased. The invoices must include the name and address of the business, a description of the part or parts sold, the date of sale, and the amount of sale to include all taxes paid unless exempted by the department of revenue or comparable agency in the jurisdiction where the major component parts were purchased. Original invoices for used parts must be from a vehicle wrecker licensed under chapter 46.80 RCW or a comparable business in the jurisdiction outside Washington state where the major component part was purchased. If the parts or components were purchased from a private individual, the private individual must have title to the vehicle the parts were taken from, except as provided by RCW 46.04.3815, and the bill of sale for the parts must be notarized. The bills of sale must include the names and addresses of the sellers and purchasers, a description of the vehicle, the part or parts being sold, including the make, model, year, and identification or serial number, that date of sale, and the purchase price of the vehicle or part or parts. If the presenter is unable to provide an acceptable release of interest or proof of ownership for a vehicle or major component part as described above, an inspection must be completed for ownership-in-doubt purposes as prescribed by WAC 308- 56A-210.

(iv) A vehicle presented for inspection must have all damaged major component parts replaced or repaired to meet RCW and WAC requirements before inspection of the salvage vehicle by the Washington state patrol.

(4) To the extent that the Washington state patrol has a backlog of vehicle inspections that it is to perform under this section, chapter 420, Laws of 2007 shall not be construed to reduce the vehicle inspection workload of the Washington state patrol.

(5) Rebuilt or salvage vehicles licensed in Washington must meet the requirements found under chapter 46.37 RCW to be driven upon public roadways.

(6) The application shall be subscribed by the person applying

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to be the registered owner and be sworn to by that applicant in the manner described by RCW 9A.72.085. The department shall retain the application in either the original, computer, or photostatic form.)

(1) The application for a certificate of title of a vehicle must be made by the owner or owner's representative to the department, county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department and must contain:

(a) A description of the vehicle, including make, model, vehicle identification number, type of body, and the odometer reading at the time of delivery of the vehicle;

(b) The name and address of the person who is to be the registered owner of the vehicle and, if the vehicle is subject to a security interest, the name and address of the secured party; and

(c) Other information the department may require.

(2) The department may require additional information and a physical examination of the vehicle or of any class of vehicles, or either.

(3) The application for a certificate of title must be signed by the person applying to be the registered owner and be sworn to by that person in the manner described under RCW 9A.72.085. The department shall keep the application in the original, computer, or photostatic form.

(4) The application for an original certificate of title must be accompanied by:

(a) A draft, money order, certified bank check, or cash for all fees and taxes due for the application for certificate of title; and

(b) The most recent certificate of title or other satisfactory evidence of ownership.

(5) Once issued, a certificate of title is not subject to renewal.

**NEW SECTION. Sec. 303.** A new section is added to chapter 46.12 RCW under the subchapter heading "general provisions" to read as follows:

(1)(a) Before accepting an application for a certificate of title, the department, county auditor or other agent, or subagent appointed by the director shall require an applicant to provide a certificate of vehicle inspection completed by the Washington state patrol or other authorized inspector if the vehicle:

(i) Was declared a total loss or salvage vehicle under the laws of this state;

(ii) Has been rebuilt after the certificate of title was returned to the department under RCW 46.12.070 (as recodified by this act) and the vehicle was not kept by the registered owner at the time of the vehicle's destruction or declaration as a total loss; or

(iii) Is presented with documents from another state showing that the vehicle was a total loss or salvage vehicle and has not been reissued a valid registration certificate from that state after the declaration of total loss or salvage.

(b) A vehicle presented for inspection must have all damaged major component parts replaced or repaired to meet all requirements in law and rule before the Washington state patrol will inspect the vehicle. The inspection must verify that the vehicle identification number is genuine and agrees with the number shown on the certificate of title and registration certificate.

(c) A Washington state patrol vehicle identification number specialist must ensure that all major component parts used for the reconstruction of a salvage or rebuilt vehicle were obtained legally, and must securely attach a marking at the driver's door latch pillar indicating the vehicle was previously destroyed or declared a total loss. It is a class C felony for a person to remove the marking indicating that the vehicle was previously destroyed or declared a total loss.

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(2) A person presenting a vehicle for inspection under subsection (1) of this section must provide original invoices for new and used parts from:

(a) A vendor that is registered with the department of revenue or a comparable agency in the jurisdiction where the major component parts were purchased for the collection of retail sales or use taxes. The invoices must include:

(i) The name and address of the business;

(ii) A description of the part or parts sold;

(iii) The date of sale; and

(iv) The amount of sale to include all taxes paid unless exempted by the department of revenue or a comparable agency in the jurisdiction where the major component parts were purchased;

(b) A vehicle wrecker licensed under chapter 46.80 RCW or a comparable business in the jurisdiction outside Washington state where the major component part was purchased; and

(c) Private individuals. The private individual must have the certificate of title to the vehicle where the parts were taken from unless the parts were obtained from a parts car, as defined in RCW 46.04.3815, owned by a collector. Bills of sale for parts must be notarized and include:

(i) The names and addresses of the sellers and purchasers;

(ii) A description of the vehicle and the part or parts being sold, including the make, model, year, and identification or serial number;

(iii) The date of sale; and

(iv) The purchase price of the vehicle part or parts.

(3) A person presenting a vehicle for inspection under this section who is unable to provide an acceptable release of interest or proof of ownership for a vehicle or major component part as described in this section shall apply for an ownership in doubt application described in RCW 46.12.151 (as recodified by this act).

(4)(a) Before accepting an application for a certificate of title, the department, county auditor or other agent, or subagent appointed by the director shall require an applicant to provide a certificate of vehicle inspection completed by the Washington state patrol or other authorized inspector when the application is for a vehicle being titled for the first time as:

(i) Assembled;

(ii) Glider kit;

(iii) Homemade;

(iv) Kit vehicle;

(v) Street rod; or

(vi) Subject to ownership in doubt under RCW 46.12.151 (as recodified by this act).

(b) The inspection must verify that the vehicle identification number is genuine and agrees with the number shown on the certificate of title and registration certificate.

(5)(a) Before accepting an application for a certificate of title, the department, county auditor or other agent, or subagent appointed by the director shall require an applicant to provide a certificate of vehicle inspection completed by the Washington state patrol when the application is for a vehicle with a vehicle identification number that has been:

(i) Altered;

(ii) Defaced;

(iii) Obliterated;

(iv) Omitted;

(v) Removed; or

(vi) Otherwise absent.

(b) The application must include payment of the fee required in section 515 of this act.

(c) The Washington state patrol shall assign a new vehicle identification number to the vehicle and place or stamp the new number in a conspicuous position on the vehicle.

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(d) The department shall use the new vehicle identification number assigned by the Washington state patrol as the official vehicle identification number assigned to the vehicle.

(6) The department may adopt rules as necessary to implement this section.

**Sec. 304.** RCW 46.12.047 and 2002 c 246 s 1 are each amended to read as follows:

The department shall institute software and systems modifications to enable a WACIC/NCIC stolen vehicle search of out-of-state vehicles as part of the application for a certificate of title transaction. During the stolen vehicle search, if the information obtained indicates the vehicle is stolen, ~~((that information))~~ the department shall ((be)) immediately ((reported)) report that the vehicle is stolen to the Washington state patrol and the applicant ~~((shall))~~ must not be issued a certificate of ~~((ownership))~~ title for the vehicle. Vehicles for which the stolen vehicle check is negative ~~((shall))~~ must be issued a certificate of ~~((ownership))~~ title if the department is satisfied that all other requirements have been met.

**Sec. 305.** RCW 46.12.050 and 1996 c 26 s 2 are each amended to read as follows:

((The department, if satisfied from the statements upon the application that the applicant is the legal owner of the vehicle or otherwise entitled to have a certificate of ownership thereof in the applicant's name, shall issue an appropriate electronic record of ownership or a written certificate of ownership, over the director's signature, authenticated by seal, and if required, a new written certificate of license registration if certificate of license registration is required.

The certificates of ownership and the certificates of license registration shall contain upon the face thereof, the date of application, the registration number assigned to the registered owner and to the vehicle, the name and address of the registered owner and legal owner, the vehicle identification number, and such other description of the vehicle and facts as the department shall require, and in addition thereto, if the vehicle described in such certificates shall have ever been licensed and operated as an exempt vehicle or a taxicab, or if it has been rebuilt after becoming a salvage vehicle, such fact shall be clearly shown thereon.

All certificates of ownership of motor vehicles issued after April 30, 1990, shall reflect the odometer reading as provided by the odometer disclosure statement submitted with the title application involving a transfer of ownership.

A blank space shall be provided on the face of the certificate of license registration for the signature of the registered owner.

Upon issuance of the certificate of license registration and certificate of ownership and upon any reissue thereof, the department shall deliver the certificate of license registration to the registered owner and the certificate of ownership to the legal owner, or both to the person who is both the registered owner and legal owner.))

(1) The department shall issue an electronic record of ownership or a written certificate of title if the department is satisfied from the statements on the application that the applicant is the legal owner of the vehicle or otherwise entitled to have a certificate of title in the applicant's name.

(2) Each certificate of title issued by the department must contain:

- (a) The date of application;
- (b) The certificate of title number assigned to the vehicle;
- (c) The name and address of the registered owner and legal owner;

(d) The vehicle identification number;

(e) The mileage reading, if required, as provided by the odometer disclosure statement submitted with the application involving a transfer of ownership;

(f) A notation that the recorded mileage is actual, not actual, or exceeds mechanical limits;

(g) A blank space on the face of the certificate of title for the signature of the registered owner;

(h) Information on whether the vehicle was ever registered and operated as an exempt vehicle or taxicab;

(i) A brand conspicuously shown across its front if indicating that the vehicle has been rebuilt after becoming a salvage vehicle;

(j) The director's signature and the seal of the department; and

(k) Any other description of the vehicle and facts the department may require.

(3) The department shall deliver the registration certificate to the registered owner and the certificate of title to the legal owner, or both to the person who is both the registered owner and legal owner.

**Sec. 306.** RCW 46.12.070 and 2003 c 53 s 235 are each amended to read as follows:

((1) Upon the destruction of any vehicle issued a certificate of ownership under this chapter or a license registration under chapter 46.16 RCW, the registered owner and the legal owner shall forthwith and within fifteen days thereafter forward and surrender the certificate to the department, together with a statement of the reason for the surrender and the date and place of destruction. Failure to notify the department or the possession by any person of any such certificate for a vehicle so destroyed, after fifteen days following its destruction, is prima facie evidence of violation of the provisions of this chapter and constitutes a gross misdemeanor.

(2) Any insurance company settling an insurance claim on a vehicle that has been issued a certificate of ownership under this chapter or a certificate of license registration under chapter 46.16 RCW as a total loss, less salvage value, shall notify the department thereof within fifteen days after the settlement of the claim. Notification shall be provided regardless of where or in what jurisdiction the total loss occurred.

(3) For a motor vehicle having a model year designation at least six years before the calendar year of destruction, the notification to the department must include a statement of whether the retail fair market value of the motor vehicle immediately before the destruction was at least the then market value threshold amount as defined in RCW 46.12.005.))

(1)(a) The registered owner or legal owner shall:

(i) Report the destruction of the vehicle issued a certificate of title or registration certificate to the department within fifteen days of its destruction; and

(ii) Submit the certificate of title or affidavit in lieu of title marked "DESTROYED." The registered owner's name, address, and the date of destruction must be clearly shown on the certificate of title or affidavit in lieu of title.

(b) It is a gross misdemeanor to fail to notify the department and be in possession of a certificate of title of a destroyed vehicle on the sixteenth day after the vehicle is destroyed and each day thereafter.

(2) The insurance company or self-insurer shall report the destruction or total loss of vehicles issued a certificate of title or registration certificate to the department within fifteen days after the settlement claim. The report must be submitted regardless of where or in what jurisdiction the total loss occurred. An insurer shall report total loss vehicles to the department in any of the following manners:

(a) Electronically through the department's online reporting system. An insurer choosing this option must immediately destroy ownership documents after filing the electronic report;

(b) Submitting the certificate of title or affidavit in lieu of title marked "DESTROYED." The insurer's name, address, and the date of loss must be clearly shown on the certificate of title or affidavit in lieu of title; or

(c) Submitting a properly completed total loss claim settlement

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form provided by the department.

(3) The registered owner, legal owner, or insurer reporting the destruction or total loss of a motor vehicle six years old or older must include a statement on whether the fair market value of the motor vehicle immediately before its destruction was at least equal to the market value threshold. The age of the motor vehicle is determined by subtracting the model year from the current calendar year.

(4) Beginning January 1, 2011, the market value threshold is six thousand seven hundred ninety dollars or a greater amount as set by rule of the department. The department shall:

(a) Increase the market value threshold amount:

(i) When the consumer price index for all urban consumers, compiled by the bureau of labor statistics, United States department of labor, or its successor, for the west region, in the expenditure category "used cars and trucks," shows an annual average increase over the previous year;

(ii) By the same percentage increase of the annual average shown in the consumer price index; and

(iii) On July 1st of the year immediately following the year with the increase of the annual average;

(b) Round each increase of the market value threshold to the nearest ten dollars;

(c) Not increase the market value threshold amount if the amount of the increase would be less than fifty dollars; and

(d) Carry forward any unmade increases to succeeding years until the cumulative increase is at least fifty dollars.

**Sec. 307.** RCW 46.12.080 and 2002 c 352 s 4 are each amended to read as follows:

((Any person holding the certificate of ownership for a motorcycle or any vehicle registered by its motor number in which there has been installed a new or different motor than that with which it was issued certificates of ownership and license registration shall forthwith and within five days after such installation forward and surrender such certificates to the department, together with an application for issue of corrected certificates of ownership and license registration and a fee of five dollars, and a statement of the disposition of the former motor. The possession by any person of any such certificates for such vehicle in which a new or different motor has been installed, after five days following such installation, shall be prima facie evidence of a violation of the provisions of this chapter and shall constitute a misdemeanor.))

(1) A person shall apply for a new certificate of title for any motor vehicle registered by its motor number when:

(a) A new or different motor has been installed; and

(b) The most recent certificate of title issued for the motor vehicle has recorded on it the previous motor number.

(2) The application for a new certificate of title required in subsection (1) of this section must:

(a) Be made within five days after installation of the new motor;

(b) Be made by the owner or owner's authorized representative to the department, county auditor or other agent, or subagent;

(c) Require the most recent certificate of title to be returned to the department;

(d) Include a statement of the disposition of the former motor; and

(e) Include the fee required under section 508 of this act in addition to any other fee or tax required by law.

(3) A person who possesses a certificate of title that shows the previous motor number for a motor vehicle in which a new or different motor has been installed, after five days following the installation of the new motor, is in violation of this chapter. A violation of this section constitutes a misdemeanor.

**NEW SECTION. Sec. 308.** A new section is added to chapter 46.12 RCW under the subchapter heading "general provisions" to read as follows:

(1) A local health officer may notify the department that a vehicle has been:

(a) Declared unfit and prohibited from use as authorized in chapter 64.44 RCW if the vehicle has become contaminated as defined in RCW 64.44.010;

(b) Satisfactorily decontaminated and retested according to the written work plan approved by the local health officer.

(2) The department shall brand vehicle records and certificates of title when it receives the notification from a local health officer as provided in subsection (1) of this section.

(3) A person is guilty of a gross misdemeanor if he or she advertises for sale or sells a vehicle that has been declared unfit and prohibited from use by a local health officer if:

(a) The person has knowledge that the local health officer has issued an order declaring the vehicle unfit and prohibiting its use; or

(b) A notification has been placed on the certificate of title under subsection (2) of this section that the vehicle has been declared unfit and prohibited from use.

(4) A person may advertise or sell a vehicle if a release for reuse document has been issued by a local health officer under chapter 64.44 RCW or a notification has been placed on the certificate of title under subsection (2) of this section that the vehicle has been decontaminated and released for reuse.

**Sec. 309.** RCW 46.12.101 and 2008 c 316 s 1 are each amended to read as follows:

((A transfer of ownership in a motor vehicle is perfected by compliance with the requirements of this section.

(1)(a) If an owner transfers his or her interest in a vehicle, other than by the creation, deletion, or change of a security interest, the owner shall, at the time of the delivery of the vehicle, execute an assignment to the transferee and provide an odometer disclosure statement under RCW 46.12.124 on the certificate of ownership or as the department otherwise prescribes, and cause the certificate and assignment to be transmitted to the transferee. The owner shall notify the department or its agents or subagents, in writing, on the appropriate form, of the date of the sale or transfer, the name and address of the owner and of the transferee, the transferee's driver's license number if available, and such description of the vehicle, including the vehicle identification number, as may be required in the appropriate form provided or approved for that purpose by the department. The report of sale will be deemed properly filed if all information required in this section is provided on the form and includes a department-authorized notation that the document was received by the department, its agents, or subagents on or before the fifth day after the sale of the vehicle, excluding Saturdays, Sundays, and state and federal holidays. Agents and subagents shall immediately electronically transmit the seller's report of sale to the department. Reports of sale processed and recorded by the department's agents or subagents may be subject to fees as specified in RCW 46.01.140 (4)(a) or (5)(b). By January 1, 2003, the department shall create a system enabling the seller of a vehicle to transmit the report of sale electronically. The system created by the department must immediately indicate on the department's vehicle record that a seller's report of sale has been filed.

(b) By January 1, 2008, the department shall provide instructions on release of interest forms that allow the seller of a vehicle to release his or her interest in a vehicle at the same time a financial institution, as defined in RCW 30.22.040, releases its lien on the vehicle.

(2) The requirements of subsection (1) of this section to provide an odometer disclosure statement apply to the transfer of vehicles held for lease when transferred to a lessee and then to the lessor at

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the end of the leasehold and to vehicles held in a fleet when transferred to a purchaser.

(3) Except as provided in RCW 46.70.122 the transferee shall within fifteen days after delivery to the transferee of the vehicle, execute the application for a new certificate of ownership in the same space provided therefor on the certificate or as the department prescribes, and cause the certificates and application to be transmitted to the department accompanied by a fee of five dollars in addition to any other fees required.

(4) Upon request of the owner or transferee, a secured party in possession of the certificate of ownership shall, unless the transfer was a breach of its security agreement, either deliver the certificate to the transferee for transmission to the department or, when the secured party receives the owner's assignment from the transferee, it shall transmit the transferee's application for a new certificate, the existing certificate, and the required fee to the department. Compliance with this section does not affect the rights of the secured party.

(5) If a security interest is reserved or created at the time of the transfer, the certificate of ownership shall be retained by or delivered to the person who becomes the secured party, and the parties shall comply with the provisions of RCW 46.12.170.

(6) If the purchaser or transferee fails or neglects to make application to transfer the certificate of ownership and license registration within fifteen days after the date of delivery of the vehicle, he or she shall on making application for transfer be assessed a twenty-five dollar penalty on the sixteenth day and two dollars additional for each day thereafter, but not to exceed one hundred dollars. The director may by rule establish conditions under which the penalty will not be assessed when an application for transfer is delayed for reasons beyond the control of the purchaser. Conditions for not assessing the penalty may be established for but not limited to delays caused by:

- (a) The department requesting additional supporting documents;
- (b) Extended hospitalization or illness of the purchaser;
- (c) Failure of a legal owner to release his or her interest;
- (d) Failure, negligence, or nonperformance of the department, auditor, or subagent;
- (e) The transferee had no knowledge of the filing of the vehicle report of sale and signs an affidavit to the fact.

Failure or neglect to make application to transfer the certificate of ownership and license registration within forty-five days after the date of delivery of the vehicle is a misdemeanor and a continuing offense for each day during which the purchaser or transferee does not make application to transfer the certificate of ownership and license registration. Despite the continuing nature of this offense, it shall be considered a single offense, regardless of the number of days that have elapsed following the forty-five day time period.

(7) Upon receipt of an application for reissue or replacement of a certificate of ownership and transfer of license registration, accompanied by the endorsed certificate of ownership or other documentary evidence as is deemed necessary, the department shall, if the application is in order and if all provisions relating to the certificate of ownership and license registration have been complied with, issue new certificates of title and license registration as in the case of an original issue and shall transmit the fees together with an itemized detailed report to the state treasurer.

(8) Once each quarter the department shall report to the department of revenue a list of those vehicles for which a seller's report has been received but no transfer of title has taken place.)

(1) **Releasing interest.** An owner releasing interest in a vehicle shall:

- (a) Sign the release of interest section provided on the certificate of title or on a release of interest document or form approved by the

department;

(b) Give the certificate of title or most recent evidence of ownership to the person gaining the interest in the vehicle;

(c) Give the person gaining interest in the vehicle an odometer disclosure statement if one is required; and

(d) Report the vehicle sold as provided in subsection (2) of this section.

(2) **Report of sale.** An owner shall notify the department, county auditor or other agent, or subagent appointed by the director in writing within five business days after a vehicle is or has been:

- (a) Sold;
- (b) Given as a gift to another person;
- (c) Traded, either privately or to a dealership;
- (d) Donated to charity;
- (e) Turned over to an insurance company or wrecking yard; or
- (f) Disposed of.

(3) **Report of sale properly filed.** A report of sale is properly filed if it is received by the department, county auditor or other agent, or subagent appointed by the director within five business days after the date of sale or transfer and it includes:

- (a) The date of sale or transfer;
- (b) The owner's name and address;
- (c) The name and address of the person acquiring the vehicle;
- (d) The vehicle identification number and license plate number;
- (e) A date or stamp by the department showing it was received on or before the fifth business day after the date of sale or transfer; and

(f) Payment of the fees required under section 505 of this act if the report of sale is processed by a county auditor or other agent or subagent appointed by the director.

(4) **Report of sale - administration.** The department shall:

- (a) Provide or approve reports of sale forms;
- (b) Provide a system enabling an owner to submit reports of sale electronically;
- (c) Immediately update the department's vehicle record when a report of sale has been filed;
- (d) Provide instructions on release of interest forms that allow the seller of a vehicle to release their interest in a vehicle at the same time a financial institution, as defined in RCW 30.22.040, releases its lien on the vehicle; and

(e) Send a report to the department of revenue that lists vehicles for which a report of sale has been received but no transfer of ownership has taken place. The department shall send the report once each quarter.

(5)(a) **Transferring ownership.** A person who has recently acquired a vehicle by purchase, exchange, gift, lease, inheritance, or legal action shall apply to the department, county auditor or other agent, or subagent appointed by the director for a new certificate of title within fifteen days of delivery of the vehicle. A secured party who has possession of the certificate of title shall either:

(i) Apply for a new certificate of title on behalf of the owner and pay the fee required under section 508 of this act; or

(ii) Provide all required documents to the owner, as long as the transfer was not a breach of its security agreement, to allow the owner to apply for a new certificate of title.

(b) Compliance with this subsection does not affect the rights of the secured party.

(6) **Certificate of title delivered to secured party.** The certificate of title must be kept by or delivered to the person who becomes the secured party when a security interest is reserved or created at the time of the transfer of ownership. The parties must comply with RCW 46.12.170 (as recodified by this act).

(7) **Penalty for late transfer.** A person who has recently acquired a motor vehicle by purchase, exchange, gift, lease, inheritance, or legal action who does not apply for a new certificate

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of title within fifteen calendar days of delivery of the vehicle is charged a penalty, as described in section 512 of this act, when applying for a new certificate of title. It is a misdemeanor to fail or neglect to apply for a transfer of ownership within forty-five days after delivery of the vehicle. The misdemeanor is a single continuing offense for each day that passes regardless of the number of days that have elapsed following the forty-five day time period.

(8) **Penalty for late transfer - exceptions.** The penalty is not charged if the delay in application is due to at least one of the following:

- (a) The department requests additional supporting documents;
- (b) The department, county auditor or other agent, or subagent fails to perform or is neglectful;
- (c) The owner is prevented from applying due to an illness or extended hospitalization;
- (d) The legal owner fails or neglects to release interest;
- (e) The owner did not know of the filing of a report of sale by the previous owner and signs an affidavit to the fact; or
- (f) The department finds other conditions exist that adequately explain the delay.

(9) **Review and issue.** The department shall review applications for certificates of title and issue certificates of title when it has determined that all applicable provisions of law have been complied with.

(10) **Rules.** The department may adopt rules as necessary to implement this section.

**Sec. 310.** RCW 46.12.102 and 2006 c 291 s 3 are each amended to read as follows:

((1) An owner who has made a bona fide sale or transfer of a vehicle and has delivered possession of it to a purchaser shall not by reason of any of the provisions of this title be deemed the owner of the vehicle so as to be subject to civil liability or criminal liability for the operation of the vehicle thereafter by another person when the owner has also fulfilled both of the following requirements:

- (a) When the owner has made proper endorsement and delivery of the certificate of ownership and has delivered the certificate of registration as provided in this chapter;
- (b) When the owner has delivered to the department either a properly filed report of sale that includes all of the information required in RCW 46.12.101(1) and is delivered to the department within five days of the sale of the vehicle excluding Saturdays, Sundays, and state and federal holidays, or appropriate documents for registration of the vehicle pursuant to the sale or transfer.

(2) An owner who has made a bona fide sale or transfer of a vehicle, has delivered possession of it to a purchaser, and has fulfilled the requirements of subsection (1)(a) and (b) of this section is relieved of liability and liability is transferred to the purchaser of the vehicle, for any traffic violation under this title, whether designated as a traffic infraction or classified as a criminal offense, that occurs after the date of the sale or transfer that is based on the vehicle's identification, including, but not limited to, parking infractions, high occupancy toll lane violations, and violations recorded by automated traffic safety cameras.

(3) When a registered tow truck operator submits an abandoned vehicle report to the department for a vehicle sold at an abandoned vehicle auction, any previous owner is relieved of civil or criminal liability for the operation of the vehicle from the date of sale thereafter, and liability is transferred to the purchaser of the vehicle as listed on the abandoned vehicle report.

(4) When a transferee had no knowledge of the filing of the vehicle report of sale, he or she is relieved of civil or criminal liability for the operation of the vehicle, and liability is transferred to the seller shown on the report of sale.)

(1) An owner is relieved of civil or criminal liability for the operation of a vehicle by another person when the owner has:

- (a) Made a bona fide sale or transfer of a vehicle;
- (b) Delivered possession of the vehicle to the person acquiring ownership;
- (c) Released interest in the vehicle and provided the certificate of title and registration certificate to the person acquiring ownership; and

(d) Filed a report of sale that meets all the requirements in RCW 46.12.101(2) (as recodified by this act).

(2) A person acquiring a vehicle assumes civil or criminal liability for any traffic violation under this title, whether designated as a traffic infraction or classified as a criminal offense, that occurs after the date of sale or transfer of ownership based on the vehicle's identification including, but not limited to:

- (a) Parking infractions;
- (b) High occupancy toll lane violations; and
- (c) Violations recorded by automated traffic safety cameras.

(3) A person shown as the buyer of a vehicle on an abandoned vehicle report submitted to the department by a registered tow truck operator assumes liability for the vehicle. Any previous owner is relieved of civil or criminal liability for the operation of the vehicle from the date of sale.

(4) A person who had no knowledge of the filing of the report of sale is relieved of civil or criminal liability for the operation of the vehicle. Liability is then transferred to the seller shown on the report of sale.

**Sec. 311.** RCW 46.12.103 and 2000 c 250 s 9A-823 are each amended to read as follows:

(1) ~~((The purpose of))~~ A transitional ownership record ~~((is to))~~;

(a) Enables a security interest in a motor vehicle to be perfected in a timely manner when the certificate of ~~((ownership))~~ title is not available at the time the security interest is created~~((and to))~~;

(b) Provides for timely notification to security interest holders under chapter 46.55 RCW~~((~~

~~(2) A transitional ownership record); and~~

(c) Is only acceptable as an ownership record for motor vehicles currently stored on the department's computer system and if the certificate of ~~((ownership))~~ title or other authorized proof of ownership for the motor vehicle is not in the possession of the selling vehicle dealer or new security interest holder ~~((at the time))~~ when the transitional ownership record is submitted to the department.

~~((3))~~ (2) A person shall submit the transitional ownership record to the department or to ~~((any of its))~~ the county auditor or other agents or subagents. ~~((Agents and subagents shall immediately electronically transmit the transitional ownership records to the department. A transitional ownership document processed and recorded by an agent or subagent may be subject to fees as specified in RCW 46.01.140 (4)(a) or (5)(b).~~

~~(4)~~ (3) A transitional ownership record~~((~~ means a record ~~containing))~~ must contain all of the following information:

- (a) The date of sale;
- (b) The name and address of each owner of the vehicle;
- (c) The name and address of each security interest holder;
- (d) The priorities of interest if there are multiple security interest holders~~((the priorities of interest if))~~ and the security interest holders do not jointly hold a single security interest;
- (e) The vehicle identification number, the license plate number, if any, the year, make, and model of the vehicle;
- (f) The name of the selling dealer or security interest holder who is submitting the transitional ownership record; and
- (g) The transferee's driver's license number, if available.

~~((5))~~ (4) The report of sale form ~~((prescribed))~~ provided or approved by the department under RCW 46.12.101 ~~((as recodified by this act))~~ may be used by a vehicle dealer as the transitional ownership record.

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~~((6) Compliance with)~~ (5) A security interest is perfected in a motor vehicle on the date the department receives the transitional ownership record when:

(a) The requirements of this section ~~((shall result in perfection of a security interest in the vehicle as of the date the department receives the transitional ownership record))~~ have been met; and

~~(b) Any required fees ((required under subsection (3) of this section)) have been paid.~~

~~(6)(a) The selling dealer or new security interest holder shall submit to the department, within ten days of receipt of the certificate of ((ownership)) title for the vehicle, ((or of)) written confirmation that only an electronic record of ownership exists or that the certificate of ((ownership)) title has been lost or destroyed((, the selling dealer or new security interest holder shall promptly submit the same to the department together)) with:~~

~~(i) An application for a new certificate of ((ownership)) title containing the name and address of the secured party ((and tender)); and~~

~~(ii) Payment of the required fees as provided in ((RCW 46.12.095(1). In the event)) section 507 of this act.~~

(b) A security interest becomes unperfected when a secured party fails to submit an application for a certificate of title within the ten-day time period provided in this subsection (6), ~~((its security interest shall become unperfected,))~~ unless the security interest is perfected otherwise.

**Sec. 312.** RCW 46.12.124 and 1990 c 238 s 6 are each amended to read as follows:

(1) The department, county auditor or other agent, or subagent appointed by the director shall require ~~((an))~~ a written odometer disclosure statement ~~((to accompany))~~ with every application for a certificate of ~~((ownership, unless specifically exempted))~~ title for a motor vehicle. The odometer disclosure statement must be on either the certificate of title or on a separate form approved by the department. A secure odometer disclosure statement is required if the certificate of ((ownership)) title was issued after April 30, 1990((, a secure odometer statement is required, unless specifically exempted)). ((The)) Odometer disclosure statements ((shall)) must include, at a minimum, the following:

(a) The miles shown on the odometer at the time of transfer of ownership, but not to include tenths of miles;

(b) The date of transfer of ownership;

(c) The transferor's printed name, current address, and signature;

(d) The transferee's printed name, current address, and signature;

(e) The identity of the motor vehicle, including its make, model, year, body type, and vehicle identification number;

(f) Information that the odometer statement is required by the federal truth in mileage act of 1986 and that failure to complete the odometer statement or providing false information may result in fines or imprisonment, or both; and

(g) One of the following statements:

(i) The mileage ~~((reflected))~~ shown is actual to the best of transferor's knowledge;

(ii) The odometer reading exceeds the mechanical limits of the odometer to the best of the transferor's knowledge; or

(iii) The odometer reading is not the actual mileage((;)).

If the odometer reading is under one hundred thousand miles, the only options that can be certified are "actual to the best of the transferor's knowledge" or "not the actual mileage." If the odometer reading is one hundred thousand miles or more, the options "actual to the best of the transferor's knowledge" or "not the actual mileage" cannot be used unless the odometer has six digit capability((;)).

~~((d) A complete description of the vehicle, including the:~~

~~—(i) Model year;~~

~~—(ii) Make;~~

~~—(iii) Series and body type (model);~~

~~—(iv) Vehicle identification number;~~

~~—(v) License plate number and state (optional);~~

~~—(e) The name, address, and signature of the transferor, in accordance with the following conditions:~~

~~—(f);~~

~~—(2) The transferee and the transferor shall each sign the odometer disclosure statement. Only one registered owner is required to complete the odometer disclosure statement((;~~

~~—(ii) When the registered owner is a business)) for the transferee, and only one owner is required to complete the odometer disclosure statement for the transferor. When applicable, both the business name and a company representative's name must be shown on the odometer disclosure statement((;~~

~~—(f) The name and address of the transferee and the transferee's signature to acknowledge the transferor's information. If the transferee represents a company, both the company name and the agent's name must be shown on the odometer disclosure statement;~~

~~—(g) A statement that the notice is required by the federal Truth in Mileage Act of 1986; and~~

~~—(h) A statement that failure to complete the odometer disclosure statement or providing false information may result in fines or imprisonment or both.~~

~~—(2)) when the registered owner is a business or the transferee represents a company, or both.~~

~~—(3) The transferee shall return a signed copy of the odometer disclosure statement to the transferor at the time of transfer of ownership.~~

~~((3)) (4) The following vehicles are not subject to ((the)) odometer disclosure requirements at the time of ownership transfer:~~

(a) A motor vehicle having a declared gross vehicle weight of more than sixteen thousand pounds;

(b) A vehicle that is not self-propelled;

(c) A motor vehicle that is ten years old or older;

(d) A motor vehicle sold directly by a manufacturer to a federal agency in conformity with contract specifications; or

(e) A new motor vehicle before its first retail sale.

(5) The requirements of this section also apply to the transfer of a motor vehicle held:

(a) For lease when transferred to a lessee and then to the lessor at the end of the leasehold; and

(b) In a fleet when transferred to a purchaser.

**Sec. 313.** RCW 46.12.130 and 1967 c 140 s 3 are each amended to read as follows:

(1) The department shall file and index certificates of ((ownership)) title when assigned and returned to the department, together with ((subsequently assigned reissues thereof, shall be retained by the department and appropriately filed and indexed)) subsequent transactions so that at all times it will be possible to trace ownership to the vehicle designated ((therein:)) on each certificate of title.

~~((1) If the)) (2)(a) A person who acquires an interest ((of an owner)) in a vehicle ((passes to another)), other than by voluntary transfer, ((the transferee shall, except as provided in subsection (3) of this section, promptly)) shall within fifteen days mail or deliver to the department, county auditor or other agent, or subagent appointed by the director:~~

—(i) The last certificate of ((ownership)) title if available((;);

—(ii) Proof of transfer((, and his)); and

—(iii) An application for a new certificate ((in the form the department prescribes)) of title.

~~((2) If the interest of the owner is terminated or the)) (b) This subsection shall not apply to transactions described in subsection (4) of this section.~~

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(3) A secured party named in the certificate of title who repossesses a vehicle ~~((is sold))~~ under a security agreement ~~((by a secured party named in the certificate of ownership, the transferee))~~ shall ~~((promptly))~~ within fifteen days mail or deliver to the department, county auditor or other agent, or subagent appointed by the director:

(a) The last certificate of ~~((ownership, his))~~ title;

(b) An application for a new certificate ~~((in the form the department prescribes,))~~ of title; and

~~(c) An affidavit made by or on the behalf of the secured party that the vehicle was repossessed and that the interest of the owner was lawfully terminated or sold ((pursuant to))~~ under the terms of the security agreement.

~~((3) If the))~~ (4) A secured party ((succeeds to the interest of the owner and)) named in the certificate of title who holds the vehicle for resale ((he need not secure)) is not required to apply for a new certificate of ((ownership but, upon transfer to another person,)) title. When the vehicle is sold, the secured party shall promptly mail or deliver to the ((transferee)) buyer or to the department, county auditor or other agent, or subagent appointed by the director:

~~(a) The certificate ((affidavit and)) of title;~~

(b) An affidavit made by or on the behalf of the secured party that the vehicle was repossessed and that the interest of the owner was lawfully terminated or sold under the terms of the security agreement; and

~~(c) Any other documents ((and articles)) required to be sent to the department by the ((transferee)) buyer.~~

**Sec. 314.** RCW 46.12.151 and 1990 c 250 s 30 are each amended to read as follows:

(If the department is not satisfied as to the ownership of the vehicle or that there are no undisclosed security interests in it, the department may register the vehicle but shall either:

(1) Withhold issuance of a certificate of ownership for a period of three years or until the applicant presents documents reasonably sufficient to satisfy the department as to the applicant's ownership of the vehicle and that there are no undisclosed security interests in it; or

(2) As a condition of issuing a certificate of ownership, require the applicant to file with the department a bond for a period of three years in the form prescribed by the department and executed by the applicant. The bond shall be in an amount equal to one and one-half times the value of the vehicle as determined by the department and conditioned to indemnify any prior owner and secured party and any subsequent purchaser of the vehicle or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss or damage, including reasonable attorney's fees, by reason of the issuance of the certificate of ownership of the vehicle or on account of any defect in or undisclosed security interest upon the right, title and interest of the applicant in and to the vehicle. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. At the end of three years or prior thereto if the vehicle is no longer registered in this state or when satisfactory evidence of ownership is surrendered to the department, the owner may apply to the department for a replacement certificate of ownership without reference to the bond.)

(1) The department, county auditor or other agent, or subagent appointed by the director may register a vehicle and withhold issuance of a certificate of title or require a bond as a condition of issuing a certificate of title if the department is not satisfied:

(a) As to the ownership of the vehicle; or

(b) That there are no undisclosed security interests in the vehicle.

(2) A person who is unable to provide satisfactory evidence of ownership may:

(a) Apply for ownership in doubt and receive either a:

(i) Registration without a certificate of title for a three-year period; or

(ii) A bonded certificate of title with or without registration as described in subsection (3) of this section; or

(b) Petition any district court or superior court of any county in this state to receive a judgment awarding ownership of the vehicle.

(3) A person who is either required by the department, county auditor or other agent, or subagent appointed by the director to file a bond or wants a certificate of title for a vehicle when ownership is in doubt shall file the bond for a three-year period. The bond must:

(a) Be in the form approved by the department;

(b) Be in an amount equal to one and one-half times the value of the vehicle as determined by the department;

(c) Be signed by the applicant and the bonding agent; and

(d) Offer protection to any previous owner, secured party, future purchaser, or their successors against any expense, loss, or damage, including reasonable attorneys' fees.

(4) A person who has or has held an interest in the vehicle may, during the three-year ownership in doubt period, petition any district court or superior court of any county in this state to receive a judgment either awarding ownership of the vehicle or be compensated for any expense, loss, or damage, including reasonable attorneys' fees. The total claim must not be more than the amount of the bond if a bond has been filed with the department.

(5) A person who has applied for ownership in doubt may apply for a certificate of title at any time during the three-year ownership in doubt period when satisfactory evidence of ownership becomes available. At the end of the three-year ownership in doubt period, the owner must apply to the department, county auditor or other agent, or subagent appointed by the director for a certificate of title. The new certificate of title will not include reference to the bond if a bond was filed with the department.

(6) A person applying for ownership in doubt must have acquired the vehicle by purchase, exchange, gift, lease, or inheritance from the owner of record or interim owner.

(7) Ownership in doubt does not apply to:

(a) Unauthorized vehicles, as defined in RCW 46.55.010;

(b) Abandoned vehicles, as defined in RCW 46.55.010;

(c) Snowmobiles, as defined in section 145 of this act; or

(d) Washington vehicle dealer sales, as defined in RCW 46.70.011.

**Sec. 315.** RCW 46.12.160 and 1994 c 262 s 5 are each amended to read as follows:

~~((#))~~ (1) The department may refuse to issue or may cancel a certificate of title at any time if the department determines ((at any time)) that an applicant for a certificate of ((ownership or for a certificate of license registration for a vehicle is not entitled thereto, the department may refuse to issue such certificate or to license the vehicle and may, for like reason, after notice, and in the exercise of discretion, cancel license registration already acquired or any outstanding certificate of ownership)) title is not entitled to a certificate of title. Notice of cancellation may be accomplished by sending a notice by first-class mail using the last known address in department records for the registered or legal ((vehicle)) owner or owners, and ((recording the transmittal on)) completing an affidavit of first-class mail. It ((shall then be)) is unlawful for any person to remove, drive, or operate the vehicle until a proper certificate of ((ownership or license registration)) title has been issued ((and)), Any person removing, driving, or operating ((such)) a vehicle after the refusal to issue or cancellation of the ((department to issue)) certificate ((s or the revocation thereof shall be)) of title is guilty of a gross misdemeanor.

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(2)(a) The suspension of, revocation of, cancellation of, or refusal to issue a certificate of title or vehicle registration provided for in chapters 46.12 and 46.16 RCW by the director is conclusive unless the person whose registration or certificate is suspended, revoked, canceled, or refused appeals to the superior court of Thurston county or the person's county of residence.

(b) Notice of appeal must be filed within ten days after receipt of the notice of suspension, revocation, cancellation, or refusal. Upon the filing of the notice of appeal, the court shall issue an order to the director to show cause why the registration should not be granted or reinstated and return the order not less than ten days after the date of service of the notice to the director. Service must be in the manner as prescribed for the service of a summons and complaint in other civil actions.

(c) Upon the hearing on the order to show cause, the court shall hear evidence concerning matters with reference to the suspension, revocation, cancellation, or refusal of the registration or certificate and enter judgment either affirming or setting aside the suspension, revocation, cancellation, or refusal.

**Sec. 316.** RCW 46.12.170 and 2007 c 96 s 2 are each amended to read as follows:

((1) If, after a certificate of ownership is issued, a security interest is granted on the vehicle described therein, the registered owner or secured party shall, within ten days thereafter, present an application to the department, to which shall be attached the certificate of ownership last issued covering the vehicle, or such other documentation as may be required by the department, which application shall be upon a form approved by the department and shall be accompanied by a fee of five dollars in addition to all other fees. The department, if satisfied that there should be a reissue of the certificate, shall note such change upon the vehicle records and issue to the secured party a new certificate of ownership.

(2) Whenever there is no outstanding secured obligation and no commitment to make advances and incur obligations or otherwise give value, the secured party must either:

(a) Assign the certificate of ownership to the debtor or the debtor's assignee or transferee, and transmit the certificate to the department with an accompanying fee of five dollars in addition to all other fees; or

(b) Assign the certificate of ownership to the debtor's assignee or transferee together with the debtor's or debtor's assignee's release of interest.

(3) Upon receipt of the certificate of ownership and the debtor's release of interest and required fees as provided in subsection (2)(a) of this section, the department shall issue a new certificate of ownership and transmit it to the registered owner.

(4) If the affected secured party fails to either assign the certificate of ownership to the debtor or the debtor's assignee or transferee or transmit the certificate of ownership to the department within ten days after proper demand, that secured party shall be liable to the debtor or the debtor's assignee or transferee for one hundred dollars, and in addition for any loss caused to the debtor or the debtor's assignee or transferee by such failure.))

(1) A security interest in a vehicle other than one held as inventory by a manufacturer or a dealer and for which a certificate of title is required is perfected only by:

(a) Complying with the requirements of RCW 46.12.103 (as recodified by this act) or this section;

(b) Receipt by the department, county auditor or other agent, or subagent appointed by the director of:

(i) The existing certificate of title, if any;

(ii) An application for a certificate of title containing the name and address of the secured party; and

(iii) Payment of the required fees.

(2) A security interest is perfected when it is created if the

secured party's name and address appear on the most recently issued certificate of title or, if not, it is created when the department, county auditor or other agent, or subagent appointed by the director receives the certificate of title or an application for a certificate of title and the fees required in subsection (1) of this section.

(3) If a vehicle is subject to a security interest when brought into this state, perfection of the security interest is determined by the law of the jurisdiction where the vehicle was when the security interest was attached, subject to the following:

(a) The security interest continues perfected in this state if the name of the secured party is shown on the existing certificate of title issued by that jurisdiction. The name of the secured party must be shown on the certificate of title issued for the vehicle by this state. The security interest continues perfected in this state when the department issues the certificate of title.

(b) If the security interest was not perfected under the law of the jurisdiction where the vehicle was when the security interest was attached, it may be perfected in this state. Perfection begins when the department receives the information and fees required in subsection (1) of this section.

(4)(a) After a certificate of title has been issued, the registered owner or secured party must apply to the department, county auditor or other agent, or subagent appointed by the director for a new certificate of title when a security interest is granted on a vehicle. Within ten days after creating a security agreement, the registered owner or secured party must submit:

(i) An application for a certificate of title;

(ii) The certificate of title last issued for the vehicle, or other documentation required by the department; and

(iii) The fee required in section 508 of this act.

(b) If satisfied that a certificate of title should be reissued, the department shall change the vehicle record and issue a new certificate of title to the secured party.

(5) A secured party shall release the security interest when the conditions within the security agreement have been met and there is no further secured obligation. The secured party must either:

(a) Assign the certificate of title to the registered owner or the registered owner's designee and send the certificate of title to the department, county auditor or other agent, or subagent appointed by the director with the fee required in section 508 of this act; or

(b) Assign the certificate of title to the person acquiring the vehicle from the registered owner with the registered owner's release of interest.

(6) The department shall issue a new certificate of title to the registered owner when the department receives the release of interest and required fees as provided in subsection (5)(a) of this section.

(7) A secured party is liable for one hundred dollars payable to the registered owner or person acquiring the vehicle from the registered owner when:

(a) The secured party fails to either assign the certificate of title to the registered owner or to the person acquiring the vehicle from the registered owner or apply for a new certificate of title; and

(b) The failure of the secured party to act as described in (a) of this subsection results in a loss to the registered owner or person acquiring the vehicle from the registered owner.

**Sec. 317.** RCW 46.12.181 and 2002 c 352 s 6 are each amended to read as follows:

A legal owner or the legal owner's authorized representative may apply for a duplicate certificate of title if a certificate of ~~(ownership)~~ title is lost, stolen, mutilated, or destroyed, or becomes illegible ~~(, the first priority secured party or, if none, the owner or legal representative of the owner named in the certificate, as shown by the records of the department, shall promptly make application for and may obtain a duplicate upon tender of five~~

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~~dollars in addition to all other fees and upon furnishing information satisfactory to the department).~~ The application for a duplicate certificate of title must include information required by the department and be accompanied by the fee required in section 508 of this act. The duplicate certificate of (~~ownership shall~~) title must contain the (~~legend~~) word, "duplicate." It (~~shall~~) must be provided to the first priority secured party named in it or, if none, to the legal owner.

A person recovering (~~an original~~) a certificate of (~~ownership~~) title for which a duplicate has been issued shall promptly (~~surrender~~) return the (~~original~~) certificate of title that has been ~~recovered~~ to the department.

**Sec. 318.** RCW 46.12.190 and 1961 c 12 s 46.12.190 are each amended to read as follows:

~~(The person, firm, copartnership, association or corporation to whom a certificate of ownership shall have been issued shall) A person shown as the legal owner on a certificate of title which has a different person shown as the registered owner does not (~~thereby~~) incur liability (~~or be~~) and is not responsible for damage( ~~or otherwise~~), or any liability resulting from any act or contract made by the registered owner or by any other person acting for, or by or under the authority of (~~such~~), the registered owner.~~

**Sec. 319.** RCW 46.12.210 and 2003 c 53 s 236 are each amended to read as follows:

~~(Any)~~ (1) A person (~~who~~) is guilty of a class B felony if the person:

~~(a) Knowingly makes any false statement of a material fact, either (~~in his or her~~) on an application for (~~the~~) a certificate of (~~ownership~~) title or in any (~~assignment thereof, or who with intent to procure~~) transfer of a certificate of title;~~

~~(b) Intentionally acquires or (~~pass~~) passes ownership (~~to~~) of a vehicle which (~~he or she~~) that person knows or has reason to believe has been stolen(~~;~~);~~

~~(c) Receives or transfers possession of (~~the same~~) a stolen vehicle from or to another (~~or who has in his or her possession~~) person;~~

~~(d) Possesses any vehicle which (~~he or she~~) that person knows or has reason to believe has been stolen(~~, and who is not an officer of the law engaged at the time in the performance of his or her duty as such officer, is guilty of a class B felony and upon conviction shall~~);~~

~~(e) Alters or forges or causes the alteration or forgery of:~~

~~(i) A certificate of title or registration certificate issued by the department;~~

~~(ii) An assignment of a certificate of title or registration certificate; or~~

~~(iii) A release or notice of release of an encumbrance referred to on a certificate of title or registration certificate; or~~

~~(f) Holds or uses a certificate of title, registration certificate, assignment, release, or notice of release, knowing that it has been altered or forged.~~

~~(2) A person convicted of violating subsection (1) of this section must be punished by a fine of not more than five thousand dollars or by imprisonment for not more than ten years, or both such fine and imprisonment. This (~~provision shall~~) subsection does not exclude any other offenses or penalties prescribed by any existing or future law for the larceny or unauthorized taking of a (~~motor~~) vehicle.~~

(3) It is a class C felony for a person to sell or convey a vehicle certificate of title except in conjunction with the sale or transfer of the vehicle for which the certificate was originally issued.

(4) This section does not apply to an officer of the law engaged at the time in the performance of official authorized law enforcement activities.

**Sec. 320.** RCW 46.12.250 and 1969 ex.s. c 125 s 1 are each amended to read as follows:

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((It shall be unlawful for any person under the age of eighteen to be the registered or legal owner of any motor vehicle: PROVIDED, That RCW 46.12.250 through 46.12.270 shall not apply to any person who is on active duty in the United States armed forces nor to any minor who is in effect emancipated: PROVIDED further, That RCW 46.12.250 through 46.12.270 shall not apply to any person who is the registered owner of a motor vehicle prior to August 11, 1969 or who became the registered or legal owner of a motor vehicle while a nonresident of this state.))

(1) A person under the age of eighteen may not be the registered or legal owner of a motor vehicle unless the:

(a) Motor vehicle was previously registered in the person's name in another jurisdiction while a resident of that jurisdiction;

(b) Person is on active military duty with the United States armed forces; or

(c) Person is, in effect, emancipated.

(2) It is unlawful for any person to convey, sell, or transfer the ownership of any motor vehicle to a person under the age of eighteen. This subsection does not apply to a vehicle dealer properly licensed under chapter 46.70 RCW if the minor provides the dealer with a certified copy of an original birth certificate showing that the minor is over eighteen years of age. The vehicle dealer shall submit the certified copy of the original birth certificate with an application for certificate of title to the department, county auditor or other agent, or subagent appointed by the director.

(3) A person is guilty of a misdemeanor punishable by a fine of not more than two hundred fifty dollars or by imprisonment in a county jail for not more than ninety days if that person with actual notice of the prohibition:

(a) Gives, sells, or transfers the ownership of a motor vehicle to a person under the age of eighteen;

(b) Is a registered or legal owner of a motor vehicle in violation of subsection (1) of this section; or

(c) Transfers, sells, or encumbers an interest in a motor vehicle in violation of RCW 46.61.5058.

**Sec. 321.** RCW 46.12.280 and 1979 c 158 s 136 are each amended to read as follows:

((The provisions of chapter 46.12 RCW concerning the registration and titling of vehicles, and the perfection of security interests therein shall apply to campers, as defined in RCW 46.04.085. In addition, the director of licensing shall have the power to adopt such rules and regulations he deems necessary to implement the registration and titling of campers and the perfection of security interests therein.))

A camper is considered a vehicle for the purposes of certificates of title, perfection of security interests, and registrations. The director may adopt rules to implement this section.

**Sec. 322.** RCW 46.12.290 and 2005 c 399 s 4 are each amended to read as follows:

((1) The provisions of chapter 46.12 RCW insofar as they are not inconsistent with the provisions of chapter 231, Laws of 1971 ex. sess. or chapter 65.20 RCW apply to mobile or manufactured homes: PROVIDED, That RCW 46.12.080 and 46.12.250 through 46.12.270 shall not apply to mobile or manufactured homes.

(2) In order to transfer ownership of a mobile home, all registered owners of record must sign the title certificate releasing their ownership. If the mobile home was manufactured before June 15, 1976, the registered owner must sign an affidavit in the form prescribed by the department of licensing that notice was provided to the purchaser of the mobile home that failure of the mobile home to meet federal housing and urban development standards or failure of the mobile home to meet a fire and safety inspection by the department of labor and industries may result in denial by a local jurisdiction of a permit to site the mobile home.

(3) The director of licensing shall have the power to adopt such

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rules as necessary to implement the provisions of this chapter relating to mobile homes.)

(1) **Titling options.** An owner of a manufactured home shall establish ownership in the manufactured home by either:

(a) Applying for a certificate of title as required under this chapter; or

(b) Eliminating the certificate of title under chapter 65.20 RCW.

(2) **Exemption.** This section does not apply to a manufactured home held for resale by a dealer or manufacturer.

(3) **Transferring ownership.** A registered owner of record must sign the certificate of title releasing the owner's interest when transferring ownership of a manufactured home. If the mobile home was manufactured before June 15, 1976, the registered owner must sign an affidavit on a form approved by the department. The affidavit must state that the purchaser was notified that failure of the mobile home to meet federal housing and urban development standards or failure of the mobile home to meet a fire and safety inspection by the department of labor and industries may result in denial by a local jurisdiction of a permit to site the mobile home.

(4) **Evidence of taxes paid.** Before accepting an application for a certificate of title for a manufactured home, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to provide evidence that any taxes due on the sale of the manufactured home under chapters 82.45 and 84.52 RCW have been paid. Acceptable evidence includes a copy of:

(a) The real estate excise tax affidavit that has been stamped by the county treasurer; or

(b) A treasurer certificate that is prepared by the treasurer of the county in which a used manufactured home is located and that states that all property taxes due upon the used manufactured home being sold have been satisfied.

(5) **County assessor notification.** The department shall notify the county assessor of the county where the manufactured home is located when ownership of a manufactured home is transferred. The notification must include the name and address of the former owner and the new owner.

(6) **Title elimination.** The certificate of title for a manufactured home may be eliminated or not issued when the manufactured home is registered under chapter 65.20 RCW. If the certificate of title is eliminated or not issued, the application must be recorded in the county property records of the county where the real property to which the home is affixed is located. All vehicle license fees and taxes applicable to manufactured homes under this chapter are due and must be collected before recording the ownership with the county auditor.

(7) **Rules.** The department may adopt rules as necessary to implement this section.

**Sec. 323.** RCW 46.12.420 and 1996 c 225 s 6 are each amended to read as follows:

((The state patrol shall inspect a street rod vehicle and assign a vehicle identification number in accordance with this chapter.))

A street rod vehicle (~~(shall be titled)~~) must:

(1) Be recorded in department records as the make and year of the vehicle as originally manufactured(~~(—The title shall be)~~); and

(2) Have the certificate of title branded with the designation "street rod."

**Sec. 324.** RCW 46.12.440 and 2009 c 284 s 1 are each amended to read as follows:

((The following procedures must be followed when applying for a certificate of ownership for a kit vehicle:

(1) The vehicle identification number (VIN) of a new vehicle kit and of a body kit will be taken from the manufacturer's certificate of origin belonging to that vehicle. If the VIN is not available, the Washington state patrol shall assign a VIN at the time of inspection.

(2) The department shall use the model year of a manufactured

new vehicle kit and manufactured body kit as the year reflected on the manufacturer's certificate of origin.

(3) The make shall be listed as "KITV," and the series and body designation must describe a discrete vehicle model.

(4) Except for kit vehicles licensed under RCW 46.16.680(5), kit vehicles must comply with chapter 204-10 WAC.)

(1) A person who applies for an original certificate of title for a kit vehicle shall provide:

(a) The manufacturer's certificate of origin or an equivalent document if the kit vehicle is a new manufactured vehicle kit or body kit;

(b) The certificate of title or a certified copy or equivalent document for the frame;

(c) Proof of ownership for all major parts used in the construction of the vehicle. Major parts include the frame, engine, axles, transmission, and any other parts that carry vehicle identification numbers;

(d) Bills of sale or invoices for all major components used in the construction of the vehicle. The bills of sale must be notarized unless the vendor is registered with the department of revenue for the collection of retail sales or use tax and must include:

(i) The names and addresses of the seller and purchaser;

(ii) A description of the vehicle or part being sold, including the make, model, and identification or serial number or the yard number if from a wrecking yard;

(iii) The date of sale; and

(iv) The purchase price of the vehicle or part;

(e) A certificate of vehicle inspection completed by the Washington state patrol or other authorized inspector verifying the vehicle identification number, and year and make when applicable. A Washington state patrol vehicle identification number inspector must ensure that all parts are documented by certificates of title, notarized bills of sale, or business receipts, such as those obtained from a wrecking yard purchase;

(f) A completed declaration of value form to determine the value for excise tax purposes if the purchase cost and year is unknown or incomplete;

(g) Payment of use tax on the frame and all component parts used, unless proof of payment of the sales or use tax is submitted; and

(h) An odometer disclosure statement on all originals and transfers of certificates of title for kit vehicles under ten years old, unless otherwise exempt by law.

(2) If the frame from a donor vehicle is used and the remainder of the donor vehicle is to be sold or destroyed, the certificate of title is required as an ownership document to the buyer. The department may make a certified copy of the certificate of title for documentation of the frame for this transaction.

(3) When accepting an application for an original certificate of title for a kit vehicle, the department, county auditor or other agent, or subagent appointed by the director shall:

(a) Use the vehicle identification number provided on the manufacturer's certificate of origin. If the vehicle identification number is not available, the Washington state patrol shall assign a vehicle identification number at the time of inspection;

(b) Use the actual model year provided on the manufacturer's certificate of origin as the model year. This is not the model year of the vehicle being replicated;

(c) Record the make as "KITV";

(d) Record in the series and body designation a discrete vehicle model; and

(e) Assign a use class identifying the actual use of the vehicle, such as a passenger car or truck.

(4) A kit vehicle may be registered under section 617 of this act as a street rod vehicle if the vehicle is manufactured to have the

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same appearance as a similar vehicle manufactured before 1949. Kit vehicles must comply with chapter 204-10 WAC unless the kit vehicle is registered under section 617 of this act.

(5) A kit vehicle is exempt from the welding requirements under WAC 204-10-022(8) if, upon application for a certificate of (~~ownership~~) title, the owner furnishes documentation from the manufacturer of the vehicle frame that informs the owner that the welding on the frame was not completed by a certified welder and that the structural strength of the frame has not been certified by an engineer as meeting the applicable federal motor vehicle safety standards set under 49 C.F.R. Sec. 571.201, 571.214, 571.216, and 571.220 through 571.224, and the applicable SAE standards.

((5) The application for the certificate of ownership must be accompanied by the following documents:

(a) For a manufactured new vehicle kit, the manufacturer's certificate of origin or equivalent document;

(b)(i) For a manufactured body kit, the manufacturer's certificate of origin or equivalent document; (ii) for the frame, the title or a certified copy or equivalent document;

(c) Bills of sale or invoices for all major components used in the construction of the vehicle. The bills of sale must be notarized unless the vendor is registered with the department of revenue for the collection of retail sales or use tax. The bills of sale must include the names and addresses of the seller and purchaser, a description of the vehicle or part being sold, including the make, model, and identification or serial number, the date of sale, and the purchase price of the vehicle or part;

(d) A statement as defined in WAC 308-56A-150 by an authorized inspector of the Washington state patrol or other person authorized by the department of licensing verifying the vehicle identification number, and year and make when applicable;

(e) A completed declaration of value form (TD 420-737) to determine the value for excise tax if the purchase cost and year is unknown or incomplete.

(6) A Washington state patrol VIN inspector must ensure that all parts are documented by titles, notarized bills of sale, or business receipts such as obtained from a wrecking yard purchase. The bills of sale must contain the VIN of the vehicle the parts came from, or the yard number if from a wrecking yard.

(7)) ~~(6)~~ The department may not deny a certificate of (~~ownership~~) title to an applicant who completes the requisite application, complies with this section, and pays the requisite titling fees and taxes.

**NEW SECTION. Sec. 325.** The following acts or parts of acts are each repealed:

(1) RCW 46.12.005 (Definitions) and 2002 c 245 s 1, 1996 c 26 s 1, & 1967 c 140 s 5;

(2) RCW 46.12.020 (Prerequisite to issuance of vehicle license and plates) and 1989 c 337 s 22;

(3) RCW 46.12.040 (Certificate of ownership--Fees) and 2007 c 420 s 2, 2004 c 200 s 1, 2002 c 352 s 3, 2001 c 125 s 2, 1990 c 238 s 2, 1989 c 110 s 1, 1975 1st ex.s. c 138 s 1, 1974 ex.s. c 128 s 2, & 1961 c 12 s 46.12.040;

(4) RCW 46.12.042 (Emergency medical services fee) and 1997 c 331 s 5;

(5) RCW 46.12.045 (Off-road vehicles, certificate of ownership for title purposes only) and 1986 c 186 s 4;

(6) RCW 46.12.055 (Certificate of ownership--Manufactured homes) and 1989 c 343 s 19;

(7) RCW 46.12.060 (Procedure when identification number altered or obliterated) and 2001 c 125 s 4, 1975 c 25 s 10, 1974 ex.s. c 36 s 1, & 1961 c 12 s 46.12.060;

(8) RCW 46.12.075 (Rebuilt vehicles) and 1996 c 26 s 3 & 1995 c 256 s 24;

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(9) RCW 46.12.095 (Requirements for perfecting security interest) and 2000 c 250 s 9A-822, 1998 c 203 s 10, 1969 ex.s. c 170 s 16, & 1967 c 140 s 6;

(10) RCW 46.12.105 (Transfer of ownership of mobile home, county assessor notified--Evidence of taxes paid) and 1979 ex.s. c 266 s 5, 1979 c 158 s 133, & 1971 ex.s. c 231 s 13;

(11) RCW 46.12.200 (State or director not liable for acts in administering chapter) and 1979 c 158 s 134, 1967 c 32 s 11, & 1961 c 12 s 46.12.200;

(12) RCW 46.12.215 (Unlawful sale of certificate of ownership) and 1995 c 256 s 1;

(13) RCW 46.12.220 (Alteration or forgery--Penalty) and 2003 c 53 s 237, 1967 c 32 s 12, & 1961 c 12 s 46.12.220;

(14) RCW 46.12.230 (Permit to licensed wrecker to junk vehicle-- fee) and 1975 c 25 s 14, 1967 c 32 s 13, & 1961 c 12 s 46.12.230;

(15) RCW 46.12.240 (Appeals to superior court from suspension, revocation, cancellation, or refusal of license or certificate) and 1987 c 388 s 8, 1965 ex.s. c 121 s 42, & 1961 c 12 s 46.20.340;

(16) RCW 46.12.260 (Sale or transfer of motor vehicle ownership to person under eighteen prohibited) and 1979 c 158 s 135 & 1969 ex.s. c 125 s 2;

(17) RCW 46.12.270 (Penalty for violation of RCW 46.12.250 or 46.12.260) and 1994 c 139 s 2, 1993 c 487 s 6, & 1969 ex.s. c 125 s 3;

(18) RCW 46.12.450 (Kit vehicles--Issuance of certificate of ownership or registration) and 1996 c 225 s 9;

(19) RCW 46.12.500 (Commercial vehicle--Compliance statement) and 1999 c 351 s 4; and

(20) RCW 46.12.510 (Donations for organ donation awareness) and 2008 c 139 s 26 & 2003 c 94 s 6.

#### PART IV. REGISTRATION CERTIFICATES

**Sec. 401.** RCW 46.16.004 and 2007 c 419 s 3 are each amended to read as follows:

For the purposes of this chapter unless the context clearly requires otherwise:

(1) "Commercial motor vehicle," for the purposes of requiring a department of transportation number, means the same as defined in RCW 46.25.010(6), or a motor vehicle used in commerce when the motor vehicle: (a) Has a gross vehicle weight rating of 11,794 kilograms or more (26,001 pounds or more) inclusive of a towed unit of a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds or more); (b) has a gross vehicle weight rating of 11,794 kilograms or more (26,001 pounds or more); or (c) is used in the transportation of hazardous materials, as defined in RCW 46.25.010(13);

(2) (~~"Department" means the department of licensing;~~

~~(3))~~ "Department of transportation number" means a department of transportation number from the federal motor carrier safety administration;

~~((4))~~ (3) "Interstate commercial motor vehicle" means a commercial vehicle that operates in more than one state;

~~((5))~~ (4) "Intrastate commercial motor vehicle" means a commercial vehicle that operates exclusively within the state of Washington;

~~((6))~~ (5) "Motor carrier" means a person or entity who has been issued a department of transportation number and who owns a commercial motor vehicle;

(6) "Registration year" means the effective period of a vehicle registration issued by the department. A registration year begins at 12:01 a.m. on the date of the calendar year designated by the department and ends at 12:00 a.m. the same day the following year

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unless otherwise specified;

(7) "Renewal notice" means the notice to renew a vehicle registration sent to the registered owner by the department.

**Sec. 402.** RCW 46.16.006 and 2009 c 159 s 1 are each amended to read as follows:

(1) ((The term "registration year" for the purposes of chapters 46.16, 82.44, and 82.50 RCW means the effective period of a vehicle license issued by the department. Such year commences at 12:01 a.m. on the date of the calendar year designated by the department and ends at 12:01 a.m. on the same date of the next succeeding calendar year.

(a) If a vehicle license previously issued in this state has expired and is renewed with a different registered owner, a new registration year is deemed to commence upon the date the expired license is renewed in order that the renewed license be useable for a full twelve-month period.

(b) A new registration year is deemed to commence upon the date the expired license is renewed in order that the renewed license be useable for a full twelve months when))

The department, county auditor or other agent, or subagent appointed by the director shall assign a new registration year to a vehicle if:

(a) The Washington state vehicle registration has expired and registered ownership to the vehicle is being transferred. The renewed license is valid for a full twelve-month period unless a specific expiration date is required by law, rule, or program; or

(b) The Washington vehicle registration has expired and the registered owner:

- (i) Is a member of the United States armed forces;
- (ii) Was stationed outside of Washington under military orders during the prior vehicle registration year; and
- (iii) Provides the department a copy of the military orders.

(2) Each registration year may be divided into twelve registration months. Each registration month ((commences on the day numerically corresponding to the day of the calendar month on which the registration year begins, and terminates on the numerically corresponding day of the next succeeding calendar month)) begins at 12:01 a.m. on a day of the month assigned by the department and ends at 12:00 a.m. on the same day the following month.

(3) ((Where the term "last day of the month" is used in chapters 46.16, 82.44, and 82.50 RCW in lieu of a specified day of any calendar month it means the last day of such calendar month or months irrespective of the numerical designation of that day.

(4) If) A registration period extends through the end of the next business day when the final day of a registration year or month falls on a Saturday, Sunday, or legal holiday((, such period extends through the end of the next business day)).

**Sec. 403.** RCW 46.16.010 and 2007 c 242 s 2 are each amended to read as follows:

(1) Vehicles must be registered as required by this chapter and must display license plates or decals assigned by the department.

(2) It is unlawful for a person to operate any vehicle ((over and along) on a public highway of this state without ((first having obtained and)) having in full force and effect a current and proper vehicle ((license)) registration and ((display vehicle)) displaying license ((number)) plates ((therefor as by this chapter provided)) on the vehicle.

((2)) (3) Vehicle license plates or registration certificates, whether original issues or duplicates, may not be issued or furnished by the department until the applicant makes satisfactory application for a certificate of title or presents satisfactory evidence that a certificate of title covering the vehicle has been previously issued.

(4) Failure to make initial registration before ((operation)) operating a vehicle on the public highways of this state is a traffic

infraction((, and any)). A person committing this infraction shall pay a penalty of five hundred twenty-nine dollars, ((no part of)) which may not be suspended ((or)), deferred, or reduced.

((3)) (5) Failure to renew an expired registration before ((operation)) operating a vehicle on the public highways of this state is a traffic infraction.

((4) ~~The licensing of~~) (6) It is a gross misdemeanor for a resident, as identified in RCW 46.16.028 (as recodified by this act), to register a vehicle in another state ((by a resident of this state, as defined in RCW 46.16.028)), evading the payment of any tax or vehicle license fee imposed in connection with registration((;)). It is ((a gross misdemeanor)) punishable as follows:

(a) For a first offense, up to one year in the county jail and payment of a fine of five hundred twenty-nine dollars plus twice the amount of delinquent taxes and fees, no part of which may be suspended or deferred;

(b) For a second or subsequent offense, up to one year in the county jail and payment of a fine of five hundred twenty-nine dollars plus four times the amount of delinquent taxes and fees, no part of which may be suspended or deferred;

(c) For fines levied under (b) of this subsection, an amount equal to the avoided taxes and fees owed will be deposited in the vehicle licensing fraud account created in the state treasury;

(d) The avoided taxes and fees shall be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion.

((5) These provisions shall not apply to the following vehicles:

- (a) Motorized foot scooters;
- (b) Electric-assisted bicycles;
- (c) Off-road vehicles operating on nonhighway roads under RCW 46.09.115;

(d) Farm vehicles if operated within a radius of fifteen miles of the farm where principally used or garaged, farm tractors and farm implements including trailers designed as cook or bunk houses used exclusively for animal herding temporarily operating or drawn upon the public highways, and trailers used exclusively to transport farm implements from one farm to another during the daylight hours or at night when such equipment has lights that comply with the law;

(e) Spray or fertilizer applicator rigs designed and used exclusively for spraying or fertilization in the conduct of agricultural operations and not primarily for the purpose of transportation, and nurse rigs or equipment auxiliary to the use of and designed or modified for the fueling, repairing, or loading of spray and fertilizer applicator rigs and not used, designed, or modified primarily for the purpose of transportation;

(f) Fork lifts operated during daylight hours on public highways adjacent to and within five hundred feet of the warehouses which they serve: PROVIDED FURTHER, That these provisions shall not apply to vehicles used by the state parks and recreation commission exclusively for park maintenance and operations upon public highways within state parks;

(g) "Trams" used for transporting persons to and from facilities related to the horse racing industry as regulated in chapter 67.16 RCW, as long as the public right-of-way routes over which the trams operate are not more than one mile from end to end, the public rights-of-way over which the tram operates have an average daily traffic of not more than 15,000 vehicles per day, and the activity is in conformity with federal law. The operator must be a licensed driver and at least eighteen years old. For the purposes of this section, "tram" also means a vehicle, or combination of vehicles linked together with a single mode of propulsion, used to transport persons from one location to another;

(h) "Special highway construction equipment" defined as follows: Any vehicle which is designed and used primarily for grading of highways, paving of highways, earth moving, and other

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construction work on highways and which is not designed or used primarily for the transportation of persons or property on a public highway and which is only incidentally operated or moved over the highway. It includes, but is not limited to, road construction and maintenance machinery so designed and used such as portable air compressors, air drills, asphalt spreaders, bituminous mixers, bucket loaders, track laying tractors, ditchers, leveling graders, finishing machines, motor graders, paving mixers, road rollers, scarifiers, earth moving scrapers and carryalls, lighting plants, welders, pumps, power shovels and draglines, self-propelled and tractor-drawn earth moving equipment and machinery, including dump trucks and tractor-dump trailer combinations which either (i) are in excess of the legal width, or (ii) which, because of their length, height, or unladen weight, may not be moved on a public highway without the permit specified in RCW 46.44.090 and which are not operated laden except within the boundaries of the project limits as defined by the contract, and other similar types of construction equipment, or (iii) which are driven or moved upon a public highway only for the purpose of crossing such highway from one property to another, provided such movement does not exceed five hundred feet and the vehicle is equipped with wheels or pads which will not damage the roadway surface.

Exclusions:

"Special highway construction equipment" does not include any of the following:

Dump trucks originally designed to comply with the legal size and weight provisions of this code notwithstanding any subsequent modification which would require a permit, as specified in RCW 46.44.090, to operate such vehicles on a public highway, including trailers, truck-mounted transit mixers, cranes and shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

(6) The following vehicles, whether operated solo or in combination, are exempt from license registration and displaying license plates as required by this chapter:

(a) A converter gear used to convert a semitrailer into a trailer or a two-axle truck or tractor into a three or more axle truck or tractor or used in any other manner to increase the number of axles of a vehicle. Converter gear includes an auxiliary axle, booster axle, dolly, and jeep axle.

(b) A tow dolly that is used for towing a motor vehicle behind another motor vehicle. The front or rear wheels of the towed vehicle are secured to and rest on the tow dolly that is attached to the towing vehicle by a tow bar.

(c) An off-road vehicle operated on a street, road, or highway as authorized under RCW 46.09.180.

(7)(a) A motor vehicle subject to initial or renewal registration under this section shall not be registered to a natural person unless the person at time of application:

- (i) Presents an unexpired Washington state driver's license; or
- (ii) Certifies that he or she is:

(A) A Washington resident who does not operate a motor vehicle on public roads; or

(B) Exempt from the requirement to obtain a Washington state driver's license under RCW 46.20.025.

(b) For shared or joint ownership, the department will set up procedures to verify that all owners meet the requirements of this subsection.

(c) A person falsifying residency is guilty of a gross misdemeanor punishable only by a fine of five hundred twenty-nine dollars.

(d) The department may adopt rules necessary to implement this subsection, including rules under which a natural person applying for registration may be exempt from the requirements of this subsection where the person provides evidence satisfactory to the

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department that he or she has a valid and compelling reason for not being able to meet the requirements of this subsection.

(8))) (7) A vehicle with an expired registration of more than forty-five days parked on a public street may be impounded by a police officer under RCW 46.55.113(2).

**NEW SECTION. Sec. 404.** A new section is added to chapter 46.16 RCW under the subchapter heading "general provisions" to read as follows:

The following vehicles are not required to be registered under this chapter:

(1) Converter gears used to convert a semitrailer into a trailer or a two-axle truck or tractor into a three or more axle truck or tractor or used in any other manner to increase the number of axles of a vehicle;

(2) Electric-assisted bicycles;

(3)(a) Farm implements, tractors, trailers, and other farm vehicles (i) operated within a radius of fifteen miles of the farm where it is principally used or garaged, including trailers designed as cook or bunk houses, (ii) used exclusively for animal herding, and (iii) temporarily operating or drawn upon the public highways, and (b) trailers used exclusively to transport farm implements from one farm to another during daylight hours or at night when the trailer is equipped with lights that comply with applicable law;

(4) Forklifts operated during daylight hours on public highways adjacent to and within five hundred feet of the warehouses they serve;

(5) Motor vehicles operated solely within a national recreation area that is not accessible by a state highway, including motorcycles, motor homes, passenger cars, and sport utility vehicles. This exemption applies only after initial registration;

(6) Motorized foot scooters;

(7) Nurse rigs or equipment auxiliary for the use of and designed or modified for the fueling, repairing, or loading of spray and fertilizer applicator rigs and not used, designed, or modified primarily for the purpose of transportation;

(8) Off-road vehicles operated on a street, road, or highway as authorized under RCW 46.09.180 (as recodified by this act), or nonhighway roads under RCW 46.09.115 (as recodified by this act);

(9) Special highway construction equipment;

(10) Dump trucks and tractor-dump trailer combinations that are:

(a) Designed and used primarily for construction work on highways;

(b) Not designed or used primarily for the transportation of persons or property on a public highway; and

(c) Only incidentally operated or moved over the highways;

(11) Spray or fertilizer applicator rigs designed and used exclusively for spraying or fertilization in the conduct of agricultural operations and not primarily for the purpose of transportation;

(12) Tow dollies;

(13) Trams used for transporting persons to and from facilities related to the horse racing industry as regulated in chapter 67.16 RCW, as long as the public right-of-way routes over which the trams operate are not more than one mile from end to end, the public rights-of-way over which the tram operates have average daily traffic of not more than fifteen thousand vehicles per day, and the activity is in conformity with federal law. The operator must be a licensed driver and at least eighteen years old. For the purposes of this section, "tram" also means a vehicle, or combination of vehicles linked together with a single mode of propulsion, used to transport persons from one location to another; and

(14) Vehicles used by the state parks and recreation commission exclusively for park maintenance and operations upon public highways within state parks.

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NEW SECTION. Sec. 405. A new section is added to chapter 46.16 RCW under the subchapter heading "general provisions" to read as follows:

(1) The department, county auditor or other agent, or subagent appointed by the director shall not issue an initial or renewal registration certificate for a motor vehicle to a natural person under this chapter unless the natural person at time of application:

- (a) Presents an unexpired Washington state driver's license; or
- (b) Certifies that he or she is:

(i) A Washington state resident who does not operate a motor vehicle on public roads; or

(ii) Exempt from the requirement to obtain a Washington state driver's license under RCW 46.20.025.

(2) The department must set up procedures to verify that all owners meet the requirements of this section.

(3) A person falsifying residency is guilty of a gross misdemeanor punishable only by a fine of five hundred twenty-nine dollars.

(4) The department may adopt rules necessary to implement this section, including rules under which a natural person applying for registration may be exempt from the requirements of this section if the person provides evidence satisfactory to the department that he or she has a valid and compelling reason for not being able to meet the requirements of this section.

**Sec. 406.** RCW 46.16.015 and 2002 c 24 s 1 are each amended to read as follows:

(1) ~~((Neither))~~ The department ((of licensing nor its agents)), county auditor or other agent, or subagent appointed by the director may not issue or renew a motor vehicle ((license for any vehicle)) registration or change the registered owner of a ((licensed)) registered vehicle((-)) for any motor vehicle ((that is)) required to be inspected under chapter 70.120 RCW, unless the application for issuance or renewal is: (a) Accompanied by a valid certificate of compliance or a valid certificate of acceptance issued ((pursuant to)) as required under chapter 70.120 RCW; or (b) ((exempted from this requirement pursuant to)) exempt, as described in subsection (2) of this section. The certificates must have a date of validation ~~((which))~~ that is within ((six)) twelve months of the ((date of application for the vehicle license or license)) assigned registration renewal date. Certificates for fleet or owner tested diesel vehicles may have a date of validation ~~((which))~~ that is within twelve months of the assigned ((license)) registration renewal date.

(2) ~~((Subsection (1) of this section does not apply to the following vehicles:~~

(a) New motor vehicles whose equitable or legal title has never been transferred to a person who in good faith purchases the vehicle for purposes other than resale;

(b) Motor vehicles with a model year of 1967 or earlier;

(c) Motor vehicles that use propulsion units powered exclusively by electricity;

(d) Motor vehicles fueled by propane, compressed natural gas, or liquid petroleum gas, unless it is determined that federal sanctions will be imposed as a result of this exemption;

(e)) The following motor vehicles are exempt from emission test requirements:

(a) Motor vehicles that are less than five years old or more than twenty-five years old;

(b) Motor vehicles that are a 2009 model year or newer;

(c) Motor vehicles powered exclusively by electricity, propane, compressed natural gas, or liquid petroleum gas;

(d) Motorcycles as defined in RCW 46.04.330 and motor-driven cycles as defined in RCW 46.04.332;

~~((#))~~ (e) Farm vehicles as defined in RCW 46.04.181;

~~((#))~~ (f) Used vehicles ((which)) that are offered for sale by a motor vehicle dealer licensed under chapter 46.70 RCW;

~~((#))~~ (g) Classes of motor vehicles exempted by the director of the department of ecology; and

~~((i))~~ Collector cars as identified by the department of licensing under RCW 46.16.305(1);

(j) Beginning January 1, 2000, vehicles that are less than five years old or more than twenty-five years old; or

(k)) (h) Hybrid motor vehicles that obtain a rating by the environmental protection agency of at least fifty miles per gallon of gas during city driving. For purposes of this section, a hybrid motor vehicle is one that uses propulsion units powered by both electricity and gas.

~~((The provisions of (a) of this subsection may not be construed as exempting from the provisions of subsection (1) of this section applications for the renewal of licenses for motor vehicles that are or have been leased.))~~

(3) The department of ecology shall provide information to motor vehicle owners:

(a) Regarding the boundaries of emission contributing areas and restrictions established under this section that apply to vehicles registered in such areas((--In addition the department of ecology shall provide information to motor vehicle owners)); and

(b) On the relationship between motor vehicles and air pollution and steps motor vehicle owners should take to reduce motor vehicle related air pollution. ((The department of licensing shall send to all registered motor vehicle owners affected by the emission testing program notice that they must have an emission test to renew their registration.))

(4) The department of licensing shall:

(a) Notify all registered motor vehicle owners affected by the emission testing program that they must have an emission test to renew their registration;

(b) Adopt rules implementing and enforcing this section, except for subsection (2)(e) of this section, as specified in chapter 34.05 RCW.

(5) A motor vehicle may not be registered, leased, rented, or sold for use in the state, starting with the model year as provided in RCW 70.120A.010, unless the vehicle:

(a) Has seven thousand five hundred miles or more; or

(b)(i) Is consistent with the vehicle emission standards and carbon dioxide equivalent emission standards adopted by the department of ecology; and

(ii) Has a California certification label for all emission standards, and carbon dioxide equivalent emission standards necessary to meet fleet average requirements.

(6) The department of licensing, in consultation with the department of ecology, may adopt rules necessary to implement this section and may provide for reasonable exemptions to these requirements. The department of ecology may exempt public safety vehicles from meeting the standards where the department finds that vehicles necessary to meet the needs of public safety agencies are not otherwise reasonably available.

**Sec. 407.** RCW 46.16.020 and 1986 c 30 s 1 are each amended to read as follows:

(1) The following vehicles are exempt from the payment of vehicle license fees:

(a) Any vehicle owned, rented, or leased by the state of Washington, or by any county, city, town, school district, or other political subdivision of the state of Washington and used exclusively by them((-and all));

(b) Vehicles owned or leased with an option to purchase by the United States government, or by the government of foreign countries, or by international bodies to which the United States government is a signatory by treaty((-or));

(c) Vehicles owned or leased by the governing body of an Indian tribe located within this state and recognized as a

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governmental entity by the United States department of the interior, and used exclusively in its ~~((or their))~~ service ~~((shall be exempt from the payment of license fees for the licensing thereof as in this chapter provided: -PROVIDED, HOWEVER, That such vehicles, except those))~~;

(d) Any bus or vehicle owned and operated by a private school or schools meeting the requirements of RCW 28A.195.010 and used by that school or schools primarily to transport children to and from school or to transport children in connection with school activities. A registration issued by the department for these buses or vehicles is exempt from the motor vehicle excise tax provided in chapter 82.44 RCW;

(e) Vehicles owned and used exclusively by the United States government and ~~((which))~~ are clearly identified by ~~((clearly exhibited))~~ displaying registration numbers or license plates assigned by ~~((an instrumentality of that))~~ the United States government ~~((, shall be))~~ if the vehicle is registered ~~((as prescribed for the license registration of other vehicles and shall))~~ and displays ~~((the vehicle))~~ license ~~((number))~~ plates assigned to it by the United States government; and

(f) Except for payment of the license plate fee required under section 517 of this act, vehicles owned and used exclusively by the United States government and are clearly identified by displaying registration numbers of license plates assigned by the state of Washington if the vehicle is registered and displays license plates assigned to it by the state of Washington.

(2) The department shall assign a license plate or plates to each vehicle or may assign a block of license plates to an agency or political subdivision for further assignment by the agency or political subdivision to individual vehicles registered to it ~~((pursuant to this section))~~. The agency, political subdivision, or Indian tribe, except a foreign government or international body, shall pay ~~((a))~~ the fee ~~((of two dollars))~~ required in section 517 of this act for the license plate or plates for each vehicle.

(3) An Indian tribe located within this state and recognized as a governmental entity by the United States department of the interior is not entitled to ~~((license and))~~ register any tribal government service vehicle under this section if that tribe itself ~~((licenses or))~~ registers any tribal government service vehicles under tribal law.

~~((No))~~ (4) A vehicle ~~((license))~~ registration or license ~~((number))~~ plates ~~((shall))~~ may not be issued to any ~~((such))~~ vehicle under ~~((the provisions of))~~ this section for the transportation of school children unless ~~((and until such))~~ the vehicle ~~((shall have))~~ has been first ~~((personally))~~ inspected by the director or the director's ~~((duly))~~ authorized representative.

**Sec. 408.** RCW 46.16.022 and 1986 c 30 s 2 are each amended to read as follows:

(1) The provisions of this chapter relating to ~~((licensing of))~~ registering vehicles by this state, including the display of ~~((vehicle))~~ license ~~((number))~~ plates and ~~((license))~~ registration certificates, do not apply to vehicles owned or leased by the governing body of an Indian tribe located within this state and recognized as a governmental entity by the United States department of the interior ~~((, only when))~~ if:

(a) The vehicle is used exclusively in tribal government service; ~~((and))~~

(b) The vehicle has been ~~((licensed and))~~ registered under a law adopted by ~~((such))~~ the tribal government; ~~((and))~~

(c) ~~((Vehicle))~~ License ~~((number))~~ plates issued by the tribe showing the initial or abbreviation of the name of the tribe are displayed on the vehicle ~~((substantially as provided therefor))~~ as required in this state; ~~((and))~~

(d) The tribe has not elected to receive ~~((any))~~ Washington state license plates for tribal government service vehicles ~~((pursuant to))~~ as authorized in RCW 46.16.020 ~~((as recodified by this act)); and~~

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(e) If required by the department, the tribe provides the department with vehicle description and ownership information similar to that required for vehicles registered in this state, which may include the model year, make, model series, body type, type of power ~~((gasoline, diesel, or other, VIN)),~~ vehicle identification number, and the license plate number assigned to each government service vehicle ~~((licensed))~~ registered by that tribe.

(2) ~~((The provisions of))~~ This section ~~((are operative as to a vehicle owned or leased by an Indian tribe located within this state and used exclusively in tribal government service only to the extent that under))~~ applies only if the laws of the tribe ~~((like));~~

(a) Allow similar exemptions and privileges ~~((are granted))~~ to all vehicles ~~((duly licensed))~~ registered under the laws of this state ~~((for operation of such vehicles))~~ on all tribal roads within the tribe's reservation ~~((. If under the laws of the tribe.)); and~~

(b) Do not require persons operating vehicles ~~((licensed))~~ registered by this state ~~((are required))~~ to pay a ~~((license or))~~ registration fee or to carry or display ~~((vehicle))~~ license ~~((number))~~ plates or a registration certificate issued by the tribe ~~((, the tribal government shall comply with the provisions of this state's laws relating to the licensing and registration of vehicles operating on the highways of this state)).~~

**Sec. 409.** RCW 46.16.025 and 1979 c 158 s 139 are each amended to read as follows:

(Before any "farm vehicle", as defined in RCW 46.04.181, shall operate on or move along a public highway, there shall be displayed upon it in a conspicuous manner a decal or other device, as may be prescribed by the director of licensing and issued by the department of licensing, which shall describe in some manner the vehicle and identify it as a vehicle exempt from the licensing requirements of this chapter. Application for such identifying devices shall be made to the department on a form furnished for that purpose by the director. Such application shall be made by the owner or lessee of the vehicle, or his duly authorized agent over the signature of such owner or agent, and he shall certify that the statements therein are true to the best of his knowledge. The application must show:

(1) The name and address of the owner of the vehicle;

(2) The trade name of the vehicle, model, year, type of body, the motor number or the identification number thereof if such vehicle be a motor vehicle, or the serial number thereof if such vehicle be a trailer;

(3) The purpose for which said vehicle is to be principally used;

(4) Such other information as shall be required upon such application by the director; and

(5) Place where farm vehicle is principally used or garaged.

A fee of five dollars shall be charged for and submitted with such application for an identification decal as in this section provided as to each farm vehicle which fee shall be deposited in the motor vehicle fund and distributed proportionately as otherwise provided for vehicle license fees under RCW 46.68.030. Only one application need be made as to each such vehicle, and the status as an exempt vehicle shall continue until suspended or revoked for misuse, or when such vehicle no longer is used as a farm vehicle.)

(1) A farmer shall apply to the department, county auditor or other agent, or subagent appointed by the director for a farm exempt decal for a farm vehicle if the farm vehicle is exempt under section 404(3) of this act. The farm exempt decal:

(a) Allows the farm vehicle to be operated within a radius of fifteen miles of the farm where it is principally used or garaged;

(b) Must be displayed on the farm vehicle so that it is clearly visible from outside of the farm vehicle; and

(c) Must identify that the farm vehicle is exempt from the registration requirements of this chapter.

(2) A farmer or the farmer's representative must apply for a farm

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exempt decal on a form furnished or approved by the department. The application must show:

(a) The name and address of the person who is the owner of the vehicle;

(b) A full description of the vehicle, including its make, model, year, the motor number or the vehicle identification number if the vehicle is a motor vehicle, or the serial number if the vehicle is a trailer;

(c) The purpose for which the vehicle is principally used;

(d) The place where the farm vehicle is principally used or garaged; and

(e) Other information as required by the department upon application.

(3) The department, county auditor or other agent, or subagent appointed by the director shall collect the fee required under section 526 of this act when issuing a farm exempt decal.

(4) A farm exempt decal may not be renewed. The status as an exempt vehicle continues until suspended or revoked for misuse, or when the vehicle is no longer used as a farm vehicle.

(5) The department may adopt rules to implement this section.

**Sec. 410.** RCW 46.16.028 and 1997 c 59 s 7 are each amended to read as follows:

(1) For the purposes of vehicle ((license)) registration, a resident is a person who manifests an intent to live or be located in this state on more than a temporary or transient basis. Evidence of residency includes, but is not limited to:

(a) Becoming a registered voter in this state; ((or))

(b) Receiving benefits under one of the Washington public assistance programs; or

(c) Declaring ((that he or she is a resident)) residency for the purpose of obtaining a state license or tuition fees at resident rates.

(2) ((The term)) A natural person may be a resident of this state even though that person has or claims residency or domicile in another state or intends to leave this state at some future time. A natural person is presumed a resident if the natural person meets at least two of the following conditions:

(a) Maintains a residence in this state for personal use;

(b) Has a Washington state driver's license or a Washington state resident hunting or fishing license;

(c) Uses a Washington state address for federal income tax or state tax purposes;

(d) Has previously maintained a residence in this state for personal use and has not established a permanent residence outside the state of Washington, such as a person who retires and lives in a motor home or vessel that is not permanently attached to any property;

(e) Claims this state as his or her residence for obtaining eligibility to hold a public office or for judicial actions;

(f) Is a custodial parent with a child attending public schools in this state.

(3) "Washington public assistance programs," as referred to in subsection (1)(b) of this section, includes only public assistance programs for which more than fifty percent of the combined costs of benefits and administration are paid from state funds. ((Programs which are not included within the term)) "Washington public assistance programs" ((pursuant to the above criteria)) does not include((-but are not limited to)): The food stamp program under the federal food stamp act of 1964; programs under the child nutrition act of 1966, 42 U.S.C. Secs. 1771 through 1788; and temporary assistance for needy families.

((3)) (4) A resident of the state shall apply for a certificate of title under chapter 46.12 RCW and register under this chapter ((s 46.12 and 46.16 RCW)) a vehicle to be operated on the highways of the state. New Washington residents ((shall be)) are allowed thirty days from the date they become residents as defined in this section

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to ((procure)) obtain Washington registration for their vehicles. This thirty-day period ((shall)) may not be combined with any other period of reciprocity provided for in this chapter or chapter 46.85 RCW.

**Sec. 411.** RCW 46.16.029 and 1987 c 142 s 2 are each amended to read as follows:

((It is unlawful to)) A person may not purchase a vehicle ((bearing)) displaying foreign license plates without removing and destroying the license plates unless:

(1) The out-of-state vehicle is sold to a Washington resident by a resident of a jurisdiction where the license plates follow the owner ((or)):

(2) The out-of-state license plates may be returned to the jurisdiction of issuance by the owner for refund purposes; or

(3) For ((such)) other reasons as determined by the department ((may deem appropriate)) by rule.

**Sec. 412.** RCW 46.16.030 and 1991 c 163 s 2 are each amended to read as follows:

((Except as is herein provided for foreign businesses,)) (1) The provisions ((relative)) of this chapter relating to the ((licensing)) registration of vehicles and display of ((vehicle)) license ((number)) plates and ((license)) registration certificates ((shall)) do not apply to ((any)) vehicles owned by nonresidents of this state if:

(a) The owner ((thereof)) has complied with the law requiring the ((licensing)) registration of vehicles in the names of the owners ((thereof)) in force in the state, foreign country, territory, or federal district of ((his or her)) residence; and

(b) The ((vehicle)) license ((number)) plate showing the initial or abbreviation of the name of ((such)) the state, foreign country, territory, or federal district(;) is displayed on ((such)) the vehicle substantially as ((is provided therefor)) required in this state. ((The provisions of this section shall be operative as to a vehicle owned by a nonresident of this state only to the extent that under the laws of the state, foreign country, territory or federal district of his or her residence, like))

(2) This section applies only if the laws of the state, foreign country, territory, or federal district of the nonresident's residence allow similar exemptions and privileges ((are granted)) to vehicles ((duly licensed)) registered under the laws of ((and owned by residents of this state. If under the laws of such)) the foreign state, ((foreign)) country, territory, or federal district((-vehicles owned by residents of this state, operating upon the highways of such state, foreign country, territory or federal district, are required to pay the license fee and carry the vehicle license number plates of such state, foreign country, territory or federal district, the vehicles owned by residents of such state, foreign country, territory or federal district, and operating upon the highways of this state, shall comply with the provisions of this state relating to the licensing of vehicles)).

(3) Foreign businesses owning, maintaining, or operating places of business in this state and using vehicles in connection with ((such)) those places of business(;) shall comply with ((the provisions relating to the licensing of vehicles insofar as vehicles used in connection with such places of business are concerned)) this chapter. Under provisions of the international registration plan, the nonmotor vehicles of member and nonmember jurisdictions ((which)) that are properly based and ((licensed)) registered in such jurisdictions ((are granted)) have reciprocity in this state as provided in RCW 46.87.070((2)).

(4) The director ((is empowered to make)) may adopt and enforce rules ((and regulations)) for the ((licensing)) registration of nonresident vehicles ((upon)) on a reciprocal basis and with respect to any character or class of operation.

**Sec. 413.** RCW 46.16.040 and 1987 c 244 s 2 are each amended to read as follows:

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((Application for original vehicle license shall be made on [a] form furnished for the purpose by the department. Such application shall be made by the owner of the vehicle or duly authorized agent over the signature of such owner or agent, and the applicant shall certify that the statements therein are true to the best of the applicant's knowledge. The application must show:

(1) Name and address of the owner of the vehicle and, if the vehicle is subject to a security agreement, the name and address of the secured party;

(2) Trade name of the vehicle, model, year, type of body, the identification number thereof;

(3) The power to be used--whether electric, steam, gas or other power;

(4) The purpose for which said vehicle is to be used and the nature of the license required;

(5) The licensed gross weight for such vehicle which in the case of for hire vehicles and auto stages with seating capacity of more than six shall be the adult seating capacity thereof, including the operator, as provided for in RCW 46.16.111. In the case of motor trucks, tractors, and truck tractors, the licensed gross weight shall be the gross weight declared by the applicant pursuant to the provisions of RCW 46.16.111;

(6) The unladen weight of such vehicle, if it be a motor truck or trailer, which shall be the shipping weight thereof as given by the manufacturer thereof unless another weight is shown by weight slip verified by a certified weighmaster, which slip shall be attached to the original application;

(7) Such other information as shall be required upon such application by the department.))

(1) An owner or the owner's authorized representative must apply for an original vehicle registration to the department, county auditor or other agent, or subagent appointed by the director on a form furnished by the department. The application must contain:

(a) A description of the vehicle, including its make, model, vehicle identification number, type of body, and power to be used;

(b) The name and address of the person who is the registered owner of the vehicle and, if the vehicle is subject to a security interest, the name and address of the secured party;

(c) The purpose for which the vehicle is to be used;

(d) The licensed gross weight for the vehicle, which is:

(i) The adult seating capacity, including the operator, as provided for in RCW 46.16.070(1) (as recodified by this act) if the vehicle will be operated as a for hire vehicle or auto stage and has a seating capacity of more than six; or

(ii) The gross weight declared by the applicant as required in RCW 46.16.070(2) (as recodified by this act) if the vehicle will be operated as a motor truck, tractor, or truck tractor;

(e) The empty scale weight of the vehicle; and

(f) Other information that the department may require.

(2) The registered owner or the registered owner's authorized representative shall sign the application for an original vehicle registration and certify that the statements on the application are true to the best of the applicant's knowledge.

(3) The application for an original vehicle registration must be accompanied by a draft, money order, certified bank check, or cash for all fees and taxes due for the application for an original vehicle registration.

**NEW SECTION. Sec. 414.** A new section is added to chapter 46.16 RCW under the subchapter heading "general provisions" to read as follows:

(1) The department may refuse to issue or may cancel a registration at any time when the department determines that an applicant for registration is not entitled to one. Notice of cancellation may be accomplished by sending a notice by first-class mail using the last known address in department records for the

registered or legal owner or owners, and completing an affidavit of first-class mail. It is unlawful for any person to remove, drive, or operate the vehicle until a proper registration certificate has been issued. A person removing, driving, or operating a vehicle after the refusal to issue or cancellation of the registration is guilty of a gross misdemeanor.

(2) The suspension, revocation, cancellation, or refusal by the director of a registration certificate provided under this chapter is conclusive unless the person whose registration or certificate is suspended, revoked, canceled, or refused appeals to the superior court of Thurston county or the person's county of residence.

(a) Notice of appeal must be filed within ten days after receipt of the notice of suspension, revocation, cancellation, or refusal. Upon the filing of the notice of appeal, the court shall issue an order to the director to show cause why the registration should not be granted or reinstated and return the order not less than ten days after the date of service to the director. Service must be in the same manner as prescribed for the service of a summons and complaint in other civil actions.

(b) Upon the hearing on the order to show cause, the court shall hear evidence concerning matters with reference to the suspension, revocation, cancellation, or refusal of the registration and shall enter judgment either affirming or setting aside the suspension, revocation, cancellation, or refusal.

**Sec. 415.** RCW 46.16.045 and 2008 c 51 s 1 are each amended to read as follows:

(1) ((The department in its discretion may grant a temporary permit to operate a vehicle for which application for registration has been made, where such application is accompanied by the proper fee pending action upon said application by the department.

(2))) The department may authorize vehicle dealers properly licensed (pursuant to) under chapters 46.09, 46.10, and 46.70 RCW to issue temporary permits to operate vehicles under ((such)) rules ((and regulations as)) adopted by the department ((deems appropriate)).

((~~(3)~~)) (2) The ((fee)) department, county auditor or other agent, or subagent appointed by the director shall collect the fee required under section 535(1)(a) of this act for each temporary permit application ((distributed)) sold to an authorized vehicle dealer ((shall be fifteen dollars, five dollars of which shall be credited to the payment of registration fees at the time application for registration is made. The remainder shall be deposited to the state patrol highway account)).

((~~(4)~~)) (3) The payment of ((the registration)) vehicle license fees to an authorized dealer is considered payment to the state of Washington.

((~~(5) By July 1, 2009,~~)) (4) The department shall provide access to a secure system that allows temporary permits issued by vehicle dealers properly licensed ((pursuant to)) under chapters 46.09, 46.10, and 46.70 RCW to be generated and printed on demand. By July 1, 2011, all such permits must be generated using the designated system.

**Sec. 416.** RCW 46.16.047 and 1961 c 12 s 46.16.047 are each amended to read as follows:

((Forms for such temporary permits shall be prescribed and furnished by the department. Temporary permits shall bear consecutive numbers, shall show the name and address of the applicant, trade name of the vehicle, model, year, type of body, identification number and date of application, and shall be such as may be affixed to the vehicle at the time of issuance, and remain on such vehicle only during the period of such registration and until the receipt of permanent license plates. The application shall be registered in the office of the person issuing the permit and shall be forwarded by him to the department each day together with the fee accompanying it.

A fee of fifty cents shall be charged by the person authorized to issue such permit which shall be accounted for in the same manner as the other fees collected by such officers, provided that such fees collected by county auditors or their agents shall be paid to the county treasurer in the same manner as other fees collected by the county auditor and credited to the county current expense fund.)

(1) The department, county auditor or other agent, or subagent appointed by the director may grant a temporary permit to operate a vehicle for which an application for registration has been made. The application for a temporary permit must be made by the owner or the owner's representative to the department, county auditor or other agent, or subagent appointed by the director on a form furnished by the department and must contain:

- (a) A full description of the vehicle, including its make, model, vehicle identification number, and type of body;
- (b) The name and address of the applicant;
- (c) The date of application; and
- (d) Other information that the department may require.

(2) Temporary permits must:

- (a) Be consecutively numbered;
- (b) Be displayed where it is visible from outside of the vehicle, such as on the inside left side of the rear window; and
- (c) Remain on the vehicle only until the receipt of permanent license plates.

(3) The application must be accompanied by the fee required under section 535(1)(b) of this act.

**Sec. 417.** RCW 46.16.048 and 1977 c 25 s 2 are each amended to read as follows:

The department (~~in its discretion~~) may issue a temporary letter of authority authorizing the movement of an (~~unlicensed~~) unregistered vehicle or the temporary (~~usage~~) use of a special plate for the purpose of promoting or participating in an event such as a parade, pageant, fair, convention, or other special community activity. The letter of authority may not be issued to or used by anyone for personal gain, but public identification of the sponsor or owner of the donated vehicle shall not be considered to be personal gain.

**Sec. 418.** RCW 46.16.068 and 1998 c 321 s 32 are each amended to read as follows:

(Trailing units which are subject to RCW 82.44.020(4) shall, upon application, be issued a permanent license plate that is valid until the vehicle is sold, permanently removed from the state, or otherwise disposed of by the registered owner. The fee for this license plate is thirty-six dollars. Upon the sale, permanent removal from the state, or other disposition of a trailing unit bearing a permanent license plate the registered owner is required to return the license plate and registration certificate to the department. Violations of this section or misuse of a permanent license plate may subject the registered owner to prosecution or denial, or both, of future permanent registration of any trailing units. This section does not apply to any trailing units subject to the annual excise taxes prescribed in RCW 82.44.020. The department is authorized to adopt rules to implement this section for leased vehicles and other applications as necessary.)

(1) Trailers that are towed in combination with a truck, motor truck, truck tractor, road tractor, or tractor and used to transport loads in excess of forty thousand pounds combined gross weight may be issued a permanent license plate and registration. The permanent license plate and registration is valid until the trailer is sold, permanently removed from the state, or otherwise disposed of by the registered owner. The owner of the trailer shall:

- (a) Apply for the permanent license plate and registration with the department, county auditor or other agent; and
- (b) Pay the combination trailer license plate fee required under section 516 of this act in addition to any other fee or taxes due by

law; and

(c) Return the license plate and registration certificate to the department if the trailer is sold, permanently removed from the state, or otherwise disposed of.

(2) The permanent license plate and registration authorized in subsection (1) of this section may not be issued to trailers that haul logs.

(3) A violation of this section or misuse of a permanent license plate may subject the registered owner to prosecution or denial, or both, of future permanent registration of any trailer.

(4) The department may adopt rules to implement this section for leased vehicles and other applications as necessary.

**Sec. 419.** RCW 46.16.070 and 2005 c 314 s 204 are each amended to read as follows:

((1) In lieu of all other vehicle licensing fees, unless specifically exempt, and in addition to the mileage fees prescribed for buses and stages in RCW 46.16.125, there shall be paid and collected annually for each truck, motor truck, truck tractor, road tractor, tractor, bus, auto stage, or for hire vehicle with seating capacity of more than six, based upon the declared combined gross weight or declared gross weight under chapter 46.44 RCW, the following licensing fees by weight:

WEIGHT	SCHEDULE A	SCHEDULE B
4,000 lbs. ....	\$ 40.00	\$ 40.00
6,000 lbs. ....	\$ 50.00	\$ 50.00
8,000 lbs. ....	\$ 60.00	\$ 60.00
10,000 lbs. ....	\$ 62.00	\$ 62.00
12,000 lbs. ....	\$ 79.00	\$ 79.00
14,000 lbs. ....	\$ 90.00	\$ 90.00
16,000 lbs. ....	\$ 102.00	\$ 102.00
18,000 lbs. ....	\$ 154.00	\$ 154.00
20,000 lbs. ....	\$ 171.00	\$ 171.00
22,000 lbs. ....	\$ 185.00	\$ 185.00
24,000 lbs. ....	\$ 200.00	\$ 200.00
26,000 lbs. ....	\$ 211.00	\$ 211.00
28,000 lbs. ....	\$ 249.00	\$ 249.00
30,000 lbs. ....	\$ 287.00	\$ 287.00
32,000 lbs. ....	\$ 346.00	\$ 346.00
34,000 lbs. ....	\$ 368.00	\$ 368.00
36,000 lbs. ....	\$ 399.00	\$ 399.00
38,000 lbs. ....	\$ 438.00	\$ 438.00
40,000 lbs. ....	\$ 501.00	\$ 501.00
42,000 lbs. ....	\$ 521.00	\$ 611.00

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44,000 lbs. ....	\$ 532.00 .....	\$ 622.00
46,000 lbs. ....	\$ 572.00 .....	\$ 662.00
48,000 lbs. ....	\$ 596.00 .....	\$ 686.00
50,000 lbs. ....	\$ 647.00 .....	\$ 737.00
52,000 lbs. ....	\$ 680.00 .....	\$ 770.00
54,000 lbs. ....	\$ 734.00 .....	\$ 824.00
56,000 lbs. ....	\$ 775.00 .....	\$ 865.00
58,000 lbs. ....	\$ 806.00 .....	\$ 896.00
60,000 lbs. ....	\$ 859.00 .....	\$ 949.00
62,000 lbs. ....	\$ 921.00 .....	\$ 1,011.00
64,000 lbs. ....	\$ 941.00 .....	\$ 1,031.00
66,000 lbs. ....	\$ 1,048.00 .....	\$ 1,138.00
68,000 lbs. ....	\$ 1,093.00 .....	\$ 1,183.00
70,000 lbs. ....	\$ 1,177.00 .....	\$ 1,267.00
72,000 lbs. ....	\$ 1,259.00 .....	\$ 1,349.00
74,000 lbs. ....	\$ 1,368.00 .....	\$ 1,458.00
76,000 lbs. ....	\$ 1,478.00 .....	\$ 1,568.00
78,000 lbs. ....	\$ 1,614.00 .....	\$ 1,704.00
80,000 lbs. ....	\$ 1,742.00 .....	\$ 1,832.00
82,000 lbs. ....	\$ 1,863.00 .....	\$ 1,953.00
84,000 lbs. ....	\$ 1,983.00 .....	\$ 2,073.00
86,000 lbs. ....	\$ 2,104.00 .....	\$ 2,194.00
88,000 lbs. ....	\$ 2,225.00 .....	\$ 2,315.00
90,000 lbs. ....	\$ 2,346.00 .....	\$ 2,436.00
92,000 lbs. ....	\$ 2,466.00 .....	\$ 2,556.00
94,000 lbs. ....	\$ 2,587.00 .....	\$ 2,677.00
96,000 lbs. ....	\$ 2,708.00 .....	\$ 2,798.00
98,000 lbs. ....	\$ 2,829.00 .....	\$ 2,919.00
100,000 lbs. ....	\$ 2,949.00 .....	\$ 3,039.00
102,000 lbs. ....	\$ 3,070.00 .....	\$ 3,160.00
104,000 lbs. ....	\$ 3,191.00 .....	\$ 3,281.00
105,500 lbs. ....	\$ 3,312.00 .....	\$ 3,402.00

((Schedule A applies to vehicles either used exclusively for hauling logs or that do not tow trailers. Schedule B applies to

vehicles that tow trailers and are not covered under Schedule A.

Every truck, motor truck, truck tractor, and tractor exceeding 6,000 pounds empty scale weight registered under chapter 46.16, 46.87, or 46.88 RCW shall be licensed for not less than one hundred fifty percent of its empty weight unless the amount would be in excess of the legal limits prescribed for such a vehicle in RCW 46.44.041 or 46.44.042, in which event the vehicle shall be licensed for the maximum weight authorized for such a vehicle or unless the vehicle is used only for the purpose of transporting any well drilling machine, air compressor, rock crusher, conveyor, hoist, donkey engine, cook house, tool house, bunk house, or similar machine or structure attached to or made a part of such vehicle.

The following provisions apply when increasing gross or combined gross weight for a vehicle licensed under this section:

(a) The new license fee will be one-twelfth of the fee listed above for the new gross weight, multiplied by the number of months remaining in the period for which licensing fees have been paid, including the month in which the new gross weight is effective.

(b) Upon surrender of the current certificate of registration or cab card, the new licensing fees due shall be reduced by the amount of the licensing fees previously paid for the same period for which new fees are being charged.

(2) The proceeds from the fees collected under subsection (1) of this section shall be distributed in accordance with RCW 46.68.035.

(3) In lieu of the gross weight fee under subsection (1) of this section, farm vehicles may be licensed upon payment of the fee in effect under subsection (1) of this section on May 1, 2005. In order to qualify for the reduced fee under this subsection, the farm vehicle must be exempt from property taxes in accordance with RCW 84.36.630. The applicant must submit copies of the forms required under RCW 84.36.630. The application for the reduced fee under this subsection shall require the applicant to attest that the vehicle shall be used primarily for farming purposes. The department shall provide licensing agents and subagents with a schedule of the appropriate licensing fees for farm vehicles.)

(1) **Auto stage, bus, for hire vehicle - more than six seats.** The declared gross weight for an auto stage, bus, or for hire vehicle, except taxicabs, with a seating capacity of more than six is determined by:

(a) Multiplying the number of seats, including the driver, times one hundred fifty pounds per seat;

(b) Adding the scale weight to the product derived in (a) of this subsection; and

(c) Locating the sum derived in (b) of this subsection in the registration fee based on declared gross weight table provided in section 530 of this act and rounding up to the next greater weight.

(2) **Motor truck, road tractor, truck, truck tractor - sufficient declared gross weight required.** The declared gross weight for a motor truck, road tractor, truck, or truck tractor must have a sufficient declared gross weight, as required under chapter 46.44 RCW, to cover:

(a) Its empty scale weight plus the maximum load it will carry; and

(b) The empty scale weight of any trailer it will tow and the maximum load that the trailer will carry. The declared gross weight of the motor vehicle does not need to include the trailer if:

(i) The empty scale weight of the trailer and the maximum load the trailer will carry does not exceed four thousand pounds; or

(ii) The trailer is for personal use, such as a horse trailer, travel trailer, or utility trailer.

(3) **Motor truck, road tractor, truck, and truck tractor - exceeding six thousand pounds empty scale weight.** Every truck, motor truck, truck tractor, and tractor exceeding six thousand pounds empty scale weight registered under chapter 46.16 or 46.87 RCW must be licensed for not less than one hundred fifty percent of

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its empty weight unless:

(a) The amount would exceed the legal limits described in RCW 46.44.041 or 46.44.042, in which event the vehicle must be licensed for the maximum weight authorized for the vehicle; or

(b) The vehicle is a fixed load vehicle.

(4) **Increasing declared gross weight.** The following provisions apply when increasing declared gross weight for a motor vehicle licensed under this section:

(a) The declared gross weight must be increased to the end of the current registration year when the declared gross weight remains at 12,000 pounds or less.

(b) For motor vehicles increasing to a declared gross weight of 14,000 pounds or more, the declared gross weight must be increased, at a minimum, to the expiration of the current declared gross weight license.

(c) The new license fee is one-twelfth of the annual license fee listed in section 530 of this act for each of the number of months remaining in the registration period. The department shall:

(i) Apply credit to any gross weight license fees already paid for the full months remaining in the registration period;

(ii) Charge the monthly declared gross weight license fee required under section 532 of this act, in addition to any other fees or taxes due; and

(iii) Not apply credit to monthly declared gross weight license fees already used.

(d) (c) of this subsection does not apply to motor vehicles described in (a) of this subsection.

(e) Upon surrender of the current registration certificate or cab card, credit must be applied as described in (c) of this subsection.

(5) **Monthly license--Authorized.** The annual license fees required in section 530 of this act for any motor vehicle or combination of vehicles having a declared gross weight of twelve thousand one pounds or more may be paid for any full registration month or months at one-twelfth of the annual license fee plus the monthly declared gross weight license fee required in section 532 of this act. This sum must be multiplied by the number of full months for which the fees are paid if for less than a full year.

(6) **Monthly license--Penalty.** Operation of a vehicle registered under subsection (5) of this section by any person upon the public highways after the expiration of the monthly license is a traffic infraction. The person shall pay a license fee for the vehicle involved covering an entire registration year's operation, less the fees for any registration month or months of the registration year already paid. If, within five days, a license fee for a full registration year has not been paid as required, the Washington state patrol, county sheriff, or city police shall impound the vehicle until the fees have been paid.

(7) **Camper, school bus--Exemptions.** (a) The weight of a camper must not be included when determining declared gross weight.

(b) Motor vehicles used for the transportation of school children or teachers to and from school and other school activities are exempt from subsection (1) of this section and the seating capacity fee provided in section 529 of this act. If the motor vehicle is used for any other purpose, it must be appropriately registered as required under this chapter.

(8) **Credit for unused license fee.** A registered owner of a motor vehicle with a declared gross weight of more than twelve thousand pounds may obtain credit for the unused portion of the license fee paid or transfer the credit to a new owner under the following conditions:

(a) The motor vehicle must have been recently sold or transferred to another owner, is no longer in the possession of the owner, or is reported destroyed under RCW 46.12.070 (as recodified by this act);

(b) The available credit must be fifteen dollars or more;

(c) Credit will be given for any unused months of the declared gross weight license already purchased at the rate of one-twelfth for each full or partial month of registration;

(d) Credit only applies to license fees due under section 530 of this act for the registration year for which it was purchased;

(e) Credit as used in this section may not be refunded.

**Sec. 420.** RCW 46.16.076 and 2009 c 512 s 1 are each amended to read as follows:

((1)(a) Except as otherwise provided in this section, the department shall collect from the owners of vehicles registered under RCW 46.16.0621 and vehicles licensed under RCW 46.16.070 with a declared gross weight of ten thousand pounds or less a voluntary donation of five dollars at the time of initial or renewal registration. The donation must be deposited in the state parks renewal and stewardship account established in RCW 79A.05.215 to be used for the operation and maintenance of state parks.

(b) The donation required under this section may not be collected from any vehicle owner actively opting not to participate in the donation program. The department shall ensure that the opt-out donation under this section shall be clear, visible, and prominently displayed in both paper and online vehicle registration renewals. Notification of intent to not participate in the donation program must be provided annually at the time of vehicle registration renewal.

(2) This section applies to registrations due or to become due on or after September 1, 2009.)

(1) The department, county auditor or other agent, or subagent appointed by the director shall provide an opportunity for a vehicle owner to make a voluntary donation as provided in this section when applying for an initial or renewal vehicle registration.

(2)(a) A vehicle owner who registers a vehicle under this chapter may donate one dollar or more to the organ and tissue donation awareness account to promote the donation of organs and tissues under the uniform anatomical gift act as described in chapter 68.64 RCW. The donation of one or more dollars is voluntary and may be refused by the vehicle owner.

(b) The department, county auditor or other agent, or subagent appointed by the director shall:

(i) Ask a vehicle owner applying for a vehicle registration if the owner would like to donate one dollar or more;

(ii) Inform a vehicle owner of the option for organ and tissue donations as required under RCW 46.20.113; and

(iii) Make information booklets or other informational material available regarding the importance of organ and tissue donations to vehicle owners.

(c) All reasonable costs associated with the creation of the donation program created under this section must be paid proportionally or by another agreement by a participating Washington state organ procurement organization established for organ and tissue donation awareness purposes by the Washington state organ procurement organizations. For the purposes of this section, "reasonable costs" and "Washington state organ procurement organization" have the same meaning as in RCW 68.64.010.

(3) The department shall collect from a vehicle owner who pays a vehicle license fee under section 531(1) (a), (d), (e), (g), (h), (j), (n), (o), or (g) of this act or who registers a vehicle under RCW 46.16.070 (as recodified by this act) with a declared gross weight of ten thousand pounds or less a voluntary donation of five dollars. The donation may not be collected from any vehicle owner actively opting not to participate in the donation program. The department shall ensure that the opt-out donation under this section is clear, visible, and prominently displayed in both paper and online vehicle

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registration renewals. Notification of intent to not participate in the donation program must be provided annually at the time of vehicle registration renewal. The donation must be deposited in the state parks renewal and stewardship account established in RCW 79A.05.215 to be used for the operation and maintenance of state parks.

**Sec. 421.** RCW 46.16.086 and 2006 c 337 s 2 are each amended to read as follows:

(In lieu of the license tab fees provided in RCW 46.16.0621, private use single-axle trailers of two thousand pounds scale weight or less may be licensed upon the payment of a license fee in the sum of fifteen dollars, but only if) Private use single-axle trailers of two thousand pounds scale weight or less may qualify for a reduced vehicle license fee described in section 531(1)(k) of this act. To qualify for the reduced vehicle license fee:

(1) The trailer ((is)) **must be** operated upon public highways(.);

(2) The **vehicle** license fee must be collected annually for each registration year or fraction of a registration year(. This reduced license fee applies only to); **and**

(3) The trailer(s) **must be** operated for personal use of the owner(s,) and not ((trailers)) held for rental to the public or used in any commercial or business endeavor. ((The proceeds from the fees collected under this section shall be distributed in accordance with RCW 46.68.035(2).))

**NEW SECTION. Sec. 422.** A new section is added to chapter 46.16 RCW under the subchapter heading "general provisions" to read as follows:

(1) **Design.** All license plates may be obtained by the director from the metal working plant of a state correctional facility or from any source in accordance with existing state of Washington purchasing procedures. License plates:

(a) May vary in background, color, and design;

(b) Must be legible and clearly identifiable as a Washington state license plate;

(c) Must designate the name of the state of Washington without abbreviation;

(d) Must be treated with fully reflectorized materials designed to increase visibility and legibility at night;

(e) Must be of a size and color and show the registration period as determined by the director; and

(f) May display a symbol or artwork approved by the special license plate review board and the legislature.

(2) **Exceptions to reflectorized materials.** License plates issued before January 1, 1968, are not required to be treated with reflectorized materials.

(3) **Dealer license plates.** License plates issued to a dealer must contain an indication that the license plates have been issued to a vehicle dealer.

(4)(a) **Furnished.** The director shall furnish to all persons making satisfactory application for a vehicle registration:

(i) Two identical license plates each containing the license plate number; or

(ii) One license plate if the vehicle is a trailer, semitrailer, camper, moped, collector vehicle, horseless carriage, or motorcycle.

(b) The director may adopt types of license plates to be used as long as the license plates are legible.

(5)(a) **Display.** License plates must be:

(i) Attached conspicuously at the front and rear of each vehicle if two license plates have been issued;

(ii) Attached to the rear of the vehicle if one license plate has been issued;

(iii) Kept clean and be able to be plainly seen and read at all times; and

(iv) Attached in a horizontal position at a distance of not more than four feet from the ground.

(b) The Washington state patrol may grant exceptions to this subsection if the body construction of the vehicle makes compliance with this section impossible.

(6) **Change of license classification.** A person who has altered a vehicle that makes the current license plate or plates invalid for the vehicle's use shall:

(a) Surrender the current license plate or plates to the department, county auditor or other agent, or subagent appointed by the director;

(b) Apply for a new license plate or plates; and

(c) Pay a change of classification fee required under section 523 of this act.

(7) **Unlawful acts.** It is unlawful to:

(a) Display a license plate or plates on the front or rear of any vehicle that were not issued by the director for the vehicle;

(b) Display a license plate or plates on any vehicle that have been changed, altered, or disfigured, or have become illegible;

(c) Use holders, frames, or other materials that change, alter, or make a license plate or plates illegible. License plate frames may be used on license plates only if the frames do not obscure license tabs or identifying letters or numbers on the plates and the license plates can be plainly seen and read at all times;

(d) Operate a vehicle unless a valid license plate or plates are attached as required under this section;

(e) Transfer a license plate or plates issued under this chapter between two or more vehicles without first making application to transfer the license plates. A violation of this subsection (7)(e) is a traffic infraction subject to a fine not to exceed five hundred dollars. Any law enforcement agency that determines that a license plate or plates have been transferred between two or more vehicles shall confiscate the license plate or plates and return them to the department for nullification along with full details of the reasons for confiscation. Each vehicle identified in the transfer will be issued a new license plate or plates upon application by the owner or owners and the payment of full fees and taxes; or

(f) Fail, neglect, or refuse to endorse the registration certificate and deliver the license plate or plates to the purchaser or transferee of the vehicle, except as authorized under this section.

(8) **Transfer.** (a) Standard issue license plates follow the vehicle when ownership of the vehicle changes unless the registered owner wishes to retain the license plates and transfer them to a replacement vehicle of the same use. A registered owner wishing to keep standard issue license plates shall pay the license plate transfer fee required under section 518(1)(c) of this act when applying for license plate transfer.

(b) Special license plates may be treated in the same manner as described in (a) of this subsection unless otherwise limited by law.

(c) License plates issued to the state or any county, city, town, school district, or other political subdivision entitled to exemption as provided by law may be treated in the same manner as described in (a) of this subsection.

(9) **Replacement.** (a) An owner or the owner's authorized representative shall apply for a replacement license plate or plates if the current license plate or plates assigned to the vehicle have been lost, defaced, or destroyed, or if one or both plates have become so illegible or are in such a condition as to be difficult to distinguish. An owner or the owner's authorized representative may apply for a replacement license plate or plates at any time the owner chooses.

(b) The application for a replacement license plate or plates must:

(i) Be on a form furnished or approved by the director; and

(ii) Be accompanied by the fee required under section 518(1)(a) of this act.

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(c) The department shall not require the payment of any fee to replace a license plate or plates for vehicles owned, rented, or leased by foreign countries or international bodies to which the United States government is a signatory by treaty.

(10)(a) **Periodic replacement.** License plates must be replaced periodically to ensure maximum legibility and reflectivity. The department shall:

(i) Use empirical studies documenting the longevity of the reflective materials used to make license plates;

(ii) Determine how frequently license plates must be replaced; and

(iii) Offer to owners the option of retaining the current license plate number when obtaining replacement license plates for the fee required in section 518(1)(b) of this act.

(b) Commercial motor vehicles with a gross weight in excess of twenty-six thousand pounds are exempt from periodic license plate replacement.

(11) **Periodic replacement--exceptions.** The following license plates are not required to be periodically replaced as required in subsection (10) of this section:

(a) Horseless carriage license plates issued under section 623 of this act before January 1, 1987;

(b) Congressional Medal of Honor license plates issued under section 618 of this act;

(c) License plates for commercial motor vehicles with a gross weight greater than twenty-six thousand pounds.

(12) **Rules.** The department may adopt rules to implement this section.

(13) **Tags or emblems.** The director may issue tags or emblems to be attached to license plates or elsewhere on the vehicle to signify initial registration and renewals. Renewals become effective when tags or emblems have been issued and properly displayed on license plates.

**Sec. 423.** RCW 46.16.090 and 1989 c 156 s 3 are each amended to read as follows:

(Motor trucks, truck tractors, and tractors may be specially licensed based on the declared gross weight thereof for the various amounts set forth in the schedule provided in RCW 46.16.070 less twenty-three dollars; divide the difference by two and add twenty-three dollars, when such vehicles are owned and operated by farmers, but only if the following condition or conditions exist:

(1) When such vehicles are to be used for the transportation of the farmer's own farm, orchard, or dairy products, or the farmer's own private sector cultured aquatic products as defined in RCW 15.85.020, from point of production to market or warehouse, and of supplies to be used on the farmer's farm. Fish other than those that are such private sector cultured aquatic products and forestry products are not considered as farm products; and/or

(2) When such vehicles are to be used for the infrequent or seasonal transportation by one farmer for another farmer in the farmer's neighborhood of products of the farm, orchard, dairy, or aquatic farm owned by the other farmer from point of production to market or warehouse, or supplies to be used on the other farm, but only if transportation for another farmer is for compensation other than money. Farmers shall be permitted an allowance of an additional eight thousand pounds, within the legal limits, on such vehicles, when used in the transportation of the farmer's own farm machinery between the farmer's own farm or farms and for a distance of not more than thirty-five miles from the farmer's farm or farms.

The department shall prepare a special form of application to be used by farmers applying for licenses under this section, which form shall contain a statement to the effect that the vehicle concerned will be used subject to the limitations of this section. The department shall prepare special insignia which shall be placed upon all such

vehicles to indicate that the vehicle is specially licensed, or may, in its discretion, substitute a special license plate for such vehicle for such designation.

Operation of such a specially licensed vehicle in transportation upon public highways in violation of the limitations of this section is a traffic infraction.)

(1) Motor trucks, truck tractors, and tractors owned and operated by farmers may receive a reduction in gross weight license fees as described in section 527 of this act only if the vehicle is used exclusively to transport:

(a) The farmer's own farm, orchard, dairy, or private sector cultured aquatic products as defined in RCW 15.85.020, from point of production to market or warehouse. Fish other than private sector cultured aquatic products or forestry products are not considered farm products;

(b) Supplies used on the farmer's farm; or

(c) Products owned by the farm as listed in (a) of this subsection for another farmer in the neighborhood on a seasonal or infrequent basis. This may only be for compensation other than money.

(2) Farm vehicles that meet the requirements provided in subsection (1)(a) through (c) of this section may receive a reduction in gross weight license fees if the farm is exempt from property taxes under RCW 84.36.630. The reduction is the reduced gross weight license fee provided in section 527 of this act. To qualify for the additional gross weight license fee reduction, the farmer must submit copies of the forms as required under RCW 84.36.630.

(3) An additional eight thousand pounds gross weight within the legal limits on farm vehicles may be used if the farmer is transporting the farmer's own farm machinery between the farmer's own farm or farms and for a distance of not more than thirty-five miles.

(4) The application for a reduced gross weight license fee must be made by the farmer or the farmer's authorized representative to the department, county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department and must contain a statement that the vehicle will be used subject to the limitations of this section.

(5) The department, county auditor or other agent, or subagent appointed by the director shall issue a unique series of license tags for farm vehicles registered under this section. Farm tags must be placed on all farm vehicles registered under this section to indicate that the vehicle is registered as a farm vehicle. The department may substitute a special license plate for farm vehicles.

(6) It is a traffic infraction to operate a farm vehicle registered under this section on the public highways in violation of the limitations of this section.

**Sec. 424.** RCW 46.16.125 and 1997 c 215 s 2 are each amended to read as follows:

In addition to the license fees required ~~((by))~~ under section 530 of this act for registering vehicles under RCW 46.16.070 (as recodified by this act), operators of auto stages with seating capacity over six shall pay, at the time they file gross earning returns with the utilities and transportation commission, the sum of fifteen cents for each one hundred vehicle miles operated by each auto stage over the public highways of this state. However, in the case of each auto stage propelled by steam, electricity, natural gas, diesel oil, butane, or propane, the payment required in this section is twenty cents per one hundred miles of such operation. The commission shall transmit all sums so collected to the state treasurer, who shall deposit the same in the motor vehicle fund. Any person failing to make any payment required by this section is subject to a penalty of one hundred percent of the payment due in this section, in addition to any penalty provided for failure to submit a report. Any penalties so collected shall be credited to the public service revolving fund.

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**Sec. 425.** RCW 46.16.160 and 2007 c 419 s 6 are each amended to read as follows:

((1) The owner of a vehicle which under reciprocal relations with another jurisdiction would be required to obtain a license registration in this state or an unlicensed vehicle which would be required to obtain a license registration for operation on public highways of this state may, as an alternative to such license registration, secure and operate such vehicle under authority of a trip permit issued by this state in lieu of a Washington certificate of license registration, and licensed gross weight if applicable. The licensed gross weight may not exceed eighty thousand pounds for a combination of vehicles nor forty thousand pounds for a single unit vehicle with three or more axles. Trip permits are required for movement of mobile homes or park model trailers and may only be issued if property taxes are paid in full. For the purpose of this section, a vehicle is considered unlicensed if the licensed gross weight currently in effect for the vehicle or combination of vehicles is not adequate for the load being carried. Vehicles registered under RCW 46.16.135 shall not be operated under authority of trip permits in lieu of further registration within the same registration year.

(2) Each trip permit shall authorize the operation of a single vehicle at the maximum legal weight limit for such vehicle for a period of three consecutive days commencing with the day of first use. No more than three such permits may be used for any one vehicle in any period of thirty consecutive days, except that in the case of a recreational vehicle as defined in RCW 43.22.335, no more than two trip permits may be used for any one vehicle in a one-year period. Every permit shall identify, as the department may require, the vehicle for which it is issued and shall be completed in its entirety and signed by the operator before operation of the vehicle on the public highways of this state. Correction of data on the permit such as dates, license number, or vehicle identification number invalidates the permit. The trip permit shall be displayed on the vehicle to which it is issued as prescribed by the department.

(3) Vehicles operating under authority of trip permits are subject to all laws, rules, and regulations affecting the operation of like vehicles in this state.

(4) Prorate operators operating commercial vehicles on trip permits in Washington shall retain the customer copy of such permit for four years.

(5) Trip permits may be obtained from field offices of the department of transportation, department of licensing, or other agents appointed by the department. The fee for each trip permit is twenty dollars. Five dollars from every twenty-dollar trip permit fee shall be deposited into the state patrol highway account and must be used for commercial motor vehicle inspections. For each permit issued, the fee includes a filing fee as provided by RCW 46.01.140 and an excise tax of one dollar. The remaining portion of the trip permit fee must be deposited to the credit of the motor vehicle fund as an administrative fee. If the filing fee amount of three dollars as prescribed in RCW 46.01.140 is increased or decreased after July 1, 2002, the administrative fee must be increased or decreased by the same amount so that the total trip permit would be adjusted equally to compensate. These fees and taxes are in lieu of all other vehicle license fees and taxes. No exchange, credits, or refunds may be given for trip permits after they have been purchased.

(6) The department may appoint county auditors or businesses as agents for the purpose of selling trip permits to the public. County auditors or businesses so appointed may retain the filing fee collected for each trip permit to defray expenses incurred in handling and selling the permits.

(7) Commercial motor vehicles that are owned by a motor carrier subject to RCW 46.32.080, must not be operated on trip permits authorized by RCW 46.16.160 or 46.16.162 if the motor

carrier's department of transportation number has been placed out of service by the Washington state patrol. A violation of or a failure to comply with this subsection is a gross misdemeanor, subject to a minimum monetary penalty of two thousand five hundred dollars for the first violation and five thousand dollars for each subsequent violation.

(8) Except as provided in subsection (7) of this section, a violation of or a failure to comply with any provision of this section is a gross misdemeanor.

(9) The department of licensing may adopt rules as it deems necessary to administer this section.

(10) A surcharge of five dollars is imposed on the issuance of trip permits. The portion of the surcharge paid by motor carriers must be deposited in the motor vehicle fund for the purpose of supporting vehicle weigh stations, weigh-in-motion programs, and the commercial vehicle information systems and networks program. The remaining portion of the surcharge must be deposited in the motor vehicle fund for the purpose of supporting congestion relief programs. All other administrative fees and excise taxes collected under the provisions of this chapter shall be forwarded by the department with proper identifying detailed report to the state treasurer who shall deposit the administrative fees to the credit of the motor vehicle fund and the excise taxes to the credit of the general fund. Filing fees will be forwarded and reported to the state treasurer by the department as prescribed in RCW 46.01.140.)

(1)(a) A vehicle owner may operate an unregistered vehicle on public highways under the authority of a trip permit issued by this state. For purposes of trip permits, a vehicle is considered unregistered if:

(i) Under reciprocal relations with another jurisdiction, the owner would be required to register the vehicle in this state;

(ii) The license tabs have expired; or

(iii) The current gross weight license is insufficient for the load being carried. The licensed gross weight may not exceed eighty thousand pounds for a combination of vehicles or forty thousand pounds for a single unit vehicle with three or more axles.

(b) Trip permits are required to move mobile homes or park model trailers and may only be issued if property taxes are paid in full.

(2) Trip permits may not be:

(a) Issued to vehicles registered under RCW 46.16.070(5) (as recodified by this act) in lieu of further registration within the same registration year; or

(b) Used for commercial motor vehicles owned by a motor carrier subject to RCW 46.32.080 if the motor carrier's department of transportation number has been placed out of service by the Washington state patrol. A violation of or a failure to comply with this subsection is a gross misdemeanor, subject to a minimum monetary penalty of two thousand five hundred dollars for the first violation and five thousand dollars for each subsequent violation.

(3)(a) Each trip permit authorizes the operation of a single vehicle at the maximum legal weight limit for the vehicle for a period of three consecutive days beginning with the day of first use. No more than three trip permits may be used for any one vehicle in any thirty consecutive day period. No more than two trip permits may be used for any one recreational vehicle, as defined in RCW 43.22.335, in a one- year period. Every trip permit must:

(i) Identify the vehicle for which it is issued;

(ii) Be completed in its entirety;

(iii) Be signed by the operator before operation of the vehicle on the public highways of this state;

(iv) Not be altered or corrected. Altering or correcting data on the trip permit invalidates the trip permit; and

(v) Be displayed on the vehicle for which it is issued as required by the department.

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(b) Vehicles operating under the authority of trip permits are subject to all laws, rules, and regulations affecting the operation of similar vehicles in this state.

(4) Prorate operators operating commercial vehicles on trip permits in Washington shall retain the customer copy of each permit for four years.

(5) Trip permits may be obtained from field offices of the department of transportation, department of licensing, county auditors or other agents, and subagents appointed by the department for the fee provided in section 535(1)(h) of this act. Exchanges, credits, or refunds may not be given for trip permits after they have been purchased.

(6) Except as provided in subsection (2)(b) of this section, a violation of or a failure to comply with this section is a gross misdemeanor.

(7) The department may adopt rules necessary to administer this section.

**Sec. 426.** RCW 46.16.162 and 2009 c 452 s 1 are each amended to read as follows:

(1) The owner of a farm vehicle (~~(licensed)~~) registered under RCW 46.16.090 purchasing a monthly (~~(license)~~) registration under RCW (~~(46.16.135)~~) 46.16.070(5) (as recodified by this act) may (~~(;~~ as an alternative to the) operate the farm vehicle under the authority of a farm vehicle trip permit if:

(a) There is less than one full month remaining in the first ((partial)) month of the ((license)) registration((; secure and operate the vehicle under authority of a farm vehicle trip permit issued by this state)); or

(b) A previously issued monthly registration has expired.

(2) A vehicle operating under the authority of a farm vehicle trip permit is subject to all laws and rules affecting the operation of similar vehicles in this state. The licensed gross weight of a vehicle operating under a farm vehicle trip permit may not exceed eighty thousand pounds for a combination of vehicles (~~((or))~~) or forty thousand pounds for a single unit vehicle with three or more axles.

~~((2))~~ If a monthly license previously issued has expired, the owner of a farm vehicle may, as an alternative to purchasing a full monthly license, secure and operate the vehicle under authority of a farm vehicle trip permit issued by this state. The licensed gross weight may not exceed eighty thousand pounds for a combination of vehicles nor forty thousand pounds for a single unit vehicle with three or more axles.)

(3) Each farm vehicle trip permit (~~((shall))~~) authorizes the operation of a single vehicle at the maximum legal weight limit for the vehicle for thirty days, (~~((commencing))~~) beginning with the day of first use. No more than four (~~((such))~~) farm vehicle trip permits may be used for any one vehicle in any twelve-month period. Every farm vehicle trip permit ((shall)) must:

(a) Identify((; as the department may require,)) the vehicle for which it is issued ((and shall));

(b) Be completed in its entirety ((and));

(c) Be signed by the operator before operation of the vehicle on the public highways of this state((; Correction of data on the permit such as dates, license number, or vehicle identification number));

(d) Not be altered or corrected. Altering or correcting data on the farm vehicle trip permit invalidates the permit((; The farm vehicle trip permit shall)); and

(e) Be displayed on the vehicle to which it is issued as ((prescribed)) required by the department.

(4) (Vehicles operating under authority of farm vehicle trip permits are subject to all laws, rules, and regulations affecting the operation of like vehicles in this state.

(5)) Farm vehicle trip permits may be obtained from the department ((of licensing)), county auditors or other agents ((and)), or subagents appointed by the ((department)) director for the fee

provided in section 535(1)(c) of this act. ((The fee for each farm vehicle trip permit is six dollars and twenty-five cents. Farm vehicle trip permits sold by the department's agents or subagents are subject to fees specified in RCW 46.01.140 (4)(a), (5)(b), or (6).

(6) The proceeds from farm vehicle trip permits received by the director shall be forwarded to the state treasurer to be distributed as provided in RCW 46.68.035(2).

(7) No)) Exchanges, credits, or refunds may not be given for farm vehicle trip permits after they have been purchased.

~~((8))~~ (5) The department ((of licensing)) may adopt rules as it deems necessary to administer this section.

**NEW SECTION. Sec. 427.** A new section is added to chapter 46.16 RCW under the subchapter heading "permits and uses" to read as follows:

The owner of a commercial vehicle properly registered in another state may apply to the department, county auditor or other agent, or subagent appointed by the director for an out-of-state commercial vehicle intrastate permit when operating the commercial vehicle in Washington state for periods less than one year. The permit may be issued for a thirty, sixty, or ninety-day period. For each thirty-day period, the cost of each permit is one-twelfth of the fees required under chapter 82.44 RCW if the vehicle is subject to locally imposed motor vehicle excise taxes and (1) under section 530(1) of this act if the vehicle is a motor vehicle or (2) under section 531(1)(c) of this act if the vehicle is a commercial trailer.

**Sec. 428.** RCW 46.16.210 and 2001 c 206 s 1 are each amended to read as follows:

~~((1))~~ Upon receipt of the application and proper fee for original vehicle license, the director shall make a recheck of the application and in the event that there is any error in the application it may be returned to the county auditor or other agent to effectively secure the correction of such error, who shall return the same corrected to the director.

(2) Application for the renewal of a vehicle license shall be made to the director or his agents, including county auditors, by the registered owner on a form prescribed by the director. The application must be accompanied by the payment of such license fees and excise tax as may be required by law. Such application shall be handled in the same manner and the fees transmitted to the state treasurer in the same manner as in the case of an original application. Any such application which upon validation becomes a renewal certificate need not have entered upon it the name of the lien holder, if any, of the vehicle concerned.

(3) Persons expecting to be out of the state during the normal renewal period of a vehicle license may secure renewal of such vehicle license and have license plates or tabs preissued by making application to the director or his agents upon forms prescribed by the director. The application must be accompanied by such license fees, and excise tax as may be required by law.

(4) Application for the annual renewal of a vehicle license number plate to the director or the director's agents shall not be required for those vehicles owned, rented, or leased by the state of Washington, or by any county, city, town, school district, or other political subdivision of the state of Washington or a governing body of an Indian tribe located within this state and recognized as a governmental entity by the United States department of the interior.))

(1) A registered owner or the registered owner's authorized representative must apply for a renewal vehicle registration to the department, county auditor or other agent, or subagent appointed by the director on a form approved by the director. The application for a renewal vehicle registration must be accompanied by a draft, money order, certified bank check, or cash for all fees and taxes required by law for the application for a renewal vehicle registration.

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(2) An application and the fees and taxes for a renewal vehicle registration must be handled in the same manner as an original vehicle registration application. The registration does not need to show the name of the lien holder when the application for renewal vehicle registration becomes the renewal registration upon validation.

(3) A person expecting to be out of state during the normal renewal period of a vehicle registration may renew a vehicle registration and have license plates or tabs preissued by applying for a renewal as described in subsection (1) of this section. A vehicle registration may be renewed for the subsequent registration year up to eighteen months before the current expiration date and must be displayed from the date of issue or from the day of the expiration of the current registration year, whichever date is later.

(4) An application for a renewal vehicle registration is not required for those vehicles owned, rented, or leased by:

(a) The state of Washington, or by any county, city, town, school district, or other political subdivision of the state of Washington; or

(b) A governing body of an Indian tribe located within this state and recognized as a governmental entity by the United States department of the interior.

**Sec. 429.** RCW 46.16.212 and 1989 c 353 s 10 are each amended to read as follows:

The department (~~(of licensing)~~) shall notify ~~((the public))~~ motor vehicle owners of the liability insurance requirements ~~((of))~~ described in RCW 46.30.020 through 46.30.040 at the time of ~~((new))~~ issuance of an original motor vehicle registration and when the department sends a motor vehicle registration renewal notice.

**Sec. 430.** RCW 46.16.216 and 2004 c 231 s 4 are each amended to read as follows:

((1)) To renew a vehicle license, an applicant shall satisfy all listed standing, stopping, and parking violations, and other infractions issued under RCW 46.63.030(1)(d) for the vehicle incurred while the vehicle was registered in the applicant's name and forwarded to the department pursuant to RCW 46.20.270(3). For the purposes of this section, "listed" standing, stopping, and parking violations, and other infractions issued under RCW 46.63.030(1)(d) include only those violations for which notice has been received from state or local agencies or courts by the department one hundred twenty days or more before the date the vehicle license expires and that are placed on the records of the department. Notice of such violations received by the department later than one hundred twenty days before that date that are not satisfied shall be considered by the department in connection with any applications for license renewal in any subsequent license year. The renewal application may be processed by the department or its agents only if the applicant:

(a) Presents a preprinted renewal application showing no listed standing, stopping, or parking violations, or other infractions issued under RCW 46.63.030(1)(d), or in the absence of such presentation, the agent verifies the information that would be contained on the preprinted renewal application; or

(b) If listed standing, stopping, or parking violations, or other infractions issued under RCW 46.63.030(1)(d) exist, presents proof of payment and pays a fifteen dollar surcharge.

(2) The surcharge shall be allocated as follows:

(a) Ten dollars shall be deposited in the motor vehicle fund to be used exclusively for the administrative costs of the department of licensing; and

(b) Five dollars shall be retained by the agent handling the renewal application to be used by the agent for the administration of this section.

(3) If there is a change in the registered owner of the vehicle, the department shall forward the information regarding the change to the state or local charging jurisdiction and release any hold on the

renewal of the vehicle license resulting from parking violations or other infractions issued under RCW 46.63.030(1)(d) incurred while the certificate of license registration was in a previous registered owner's name.

(4) The department shall send to all registered owners of vehicles who have been reported to have outstanding listed parking violations or other infractions issued under RCW 46.63.030(1)(d), at the time of renewal, a statement setting out the dates and jurisdictions in which the violations occurred as well as the amounts of unpaid fines and penalties relating to them and the surcharge to be collected.)

(1) Each court and government agency located in this state having jurisdiction over standing, stopping, and parking violations, the use of a photo enforcement system under RCW 46.63.160, and the use of automated traffic safety cameras under RCW 46.63.170 may forward to the department any outstanding:

(a) Standing, stopping, and parking violations;

(b) Photo enforcement infractions issued under RCW 46.63.030(1)(d); and

(c) Automated traffic safety camera infractions issued under RCW 46.63.030(1)(e).

(2) Violations and infractions described in subsection (1) of this section must be reported to the department in the manner described in RCW 46.20.270(3).

(3) The department shall:

(a) Record the violations and infractions on the matching vehicle records; and

(b) Send notice approximately one hundred twenty days in advance of the current vehicle registration expiration date to the registered owner listing the dates and jurisdictions in which the violations occurred, the amounts of unpaid fines and penalties, and the surcharge to be collected. Only those violations and infractions received by the department one hundred twenty days or more before the current vehicle registration expiration date will be included in the notice. Violations and infractions received by the department later than one hundred twenty days before the current vehicle registration expiration date that are not satisfied will be delayed until the next vehicle registration expiration date.

(4) The department, county auditor or other agent, or subagent appointed by the director shall not renew a vehicle registration if there are any outstanding standing, stopping, and parking violations, and other infractions issued under RCW 46.63.030(1)(d) for the vehicle unless:

(a) The outstanding, standing, or parking violations were received by the department within one hundred twenty days before the current vehicle registration expiration;

(b) There is a change in registered ownership; or

(c) The registered owner presents proof of payment of each violation and infraction provided in this section and the registered owner pays the surcharge required under section 504 of this act.

(5) The department shall:

(a) Forward a change in registered ownership information to the court or government agency who reported the outstanding violations or infractions; and

(b) Remove the outstanding violations and infractions from the vehicle record.

**Sec. 431.** RCW 46.16.225 and 1986 c 18 s 15 are each amended to read as follows:

~~((Notwithstanding any provision of law to the contrary.))~~ The department may by rule extend or ~~((diminish))~~ reduce vehicle ~~((license))~~ registration periods for the purpose of staggering renewal periods. ~~((Such extension or diminishment of a vehicle license registration period shall be by rule of the department adopted in accordance with the provisions of chapter 34.05 RCW.))~~ The rules may ~~((provide for the omission of))~~ exclude any classes or

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classifications of vehicles from the staggered renewal system and may provide for the gradual introduction of classes or classifications of vehicles into the system. The rules shall provide for the collection of proportionately increased or decreased vehicle license (~~registration~~) fees and of excise or property taxes required to be paid at the time of registration.

It is the intent of the legislature that there shall be neither a significant net gain nor loss of revenue to the state general fund or the motor vehicle fund as the result of implementing and maintaining a staggered vehicle registration system.

**Sec. 432.** RCW 46.16.260 and 1986 c 18 s 16 are each amended to read as follows:

~~(1) A registration certificate ((of license registration to be valid must have endorsed thereon the signature of)) must be:~~

~~(a) Signed by the registered owner, or ((if a firm or corporation, the signature of one of its officers or other ((duly)) authorized agent((and must be)), to be valid;~~

~~(b) Carried in the vehicle for which it is issued((, at all times in the manner prescribed by the department)); and~~

~~(c) Provided to law enforcement and the department by the operator of the vehicle upon demand.~~

~~(2) It ((shall be)) is unlawful for any person to operate or ((have)) be in ((his)) possession of a vehicle without carrying ((thereon such certificate of license)) a registration certificate for the vehicle. Any person in charge of ((such)) a vehicle shall, upon demand of any of the local authorities or of any police officer or of any representative of the department, permit an inspection of ((such certificate of license)) the vehicle registration certificate. This section does not apply to a vehicle for which ((annual renewal of its license plates)) registration is not required to be renewed annually and ((which)) is a publicly owned vehicle marked ((in accordance with the provisions of)) as required under RCW 46.08.065.~~

**Sec. 433.** RCW 46.16.265 and 1997 c 241 s 6 are each amended to read as follows:

A registered owner or the registered owner's authorized representative shall promptly apply for a duplicate registration certificate if a registration certificate ((of license registration)) is lost, stolen, mutilated, or destroyed, or becomes illegible((, the registered owner or owners, as shown by the records of the department, shall promptly make application for and may obtain a duplicate upon tender of one dollar and twenty five cents in addition to all other fees and upon furnishing information satisfactory to the department)). The application for a duplicate registration certificate must include information required by the department and be accompanied by the fee required in section 525 of this act. The duplicate ((of the license)) registration ((shall)) certificate must contain the ((legend)) word, "duplicate."

A person recovering ((an original)) a registration certificate ((of license registration)) for which a duplicate has been issued shall promptly ((surrender)) return the ((original)) recovered registration certificate to the department.

**NEW SECTION. Sec. 434.** A new section is added to chapter 46.16 RCW under the subchapter heading "general provisions" to read as follows:

The registration certificate for a commercial vehicle must include a statement that the owner or person operating a commercial vehicle must be in compliance with the requirements of the United States department of transportation federal motor carrier safety regulations contained in 49 C.F.R. Part 382.

**Sec. 435.** RCW 46.16.460 and 1979 c 158 s 141 are each amended to read as follows:

(Upon the payment of a fee of ten dollars therefor, the department of licensing shall issue a temporary motor vehicle license for a motor vehicle in this state for a period of forty-five days when such motor vehicle has been or is being purchased by a

nonresident member of the armed forces of the United States and an application, accompanied with prepayment of required fees, for out of state registration has been made by the purchaser.))

(1) A nonresident member of the armed forces of the United States may apply to the department, county auditor or other agent, or subagent appointed by the director for a temporary permit for a recently purchased motor vehicle. The permit:

(a) Allows the motor vehicle to be used in Washington state while the owner applies for out-of-state registration;

(b) Is valid for forty-five days; and

(c) Must be carried on the motor vehicle so that it is clearly visible from outside of the motor vehicle.

(2) A person applying for the forty-five day permit provided in subsection (1) of this section is not subject to sales and use taxes or motor vehicle excise taxes during or after the forty-five day period of the permit unless the motor vehicle is:

(a) Still in Washington state after the forty-five day period of the permit; or

(b) Returned to Washington state within one year after the forty-five day permit has expired.

(3) The department, county auditor or other agent, or subagent appointed by the director shall collect the fee required under section 535(1)(d) of this act when issuing the forty-five day permit described in this section.

(4) The department shall adopt rules to implement this section. Those rules may require proof that the nonresident member of the armed forces of the United States qualifies for the forty-five day permit before the permit may be issued.

**Sec. 436.** RCW 46.16.500 and 1980 c 104 s 3 are each amended to read as follows:

~~((Whenever an)) Both a person operating a vehicle with the express or implied permission of the owner and the owner of the vehicle are responsible for any act or omission that is declared ((to be)) unlawful in this chapter ((46.16 RCW, if the operator of the vehicle is not the owner or lessee of such vehicle, but is so operating or moving the vehicle with the express or implied permission of the owner or lessee, then the operator and/or owner or lessee are both subject to the provisions of this chapter with the primary responsibility to be that of the owner or lessee)). The primary responsibility is the owner's.~~

If the person operating the vehicle at the time of the unlawful act or omission is not the owner ((or lessee)) of the vehicle, ((such person is fully authorized to)) the operator may accept the citation and execute the promise to appear on behalf of the owner ((or lessee)).

**NEW SECTION. Sec. 437.** A new section is added to chapter 46.16 RCW under the subchapter heading "specific vehicles" to read as follows:

This chapter applies to the following:

(1) Campers are considered vehicles for the purposes of vehicle registration and license plate display, except for campers held as part of a manufacturer's or dealer's inventory that:

(a) Are unoccupied at all times;

(b) Have been issued a dated demonstration permit that is valid for no more than seventy-two hours. The permit must be carried in the vehicle on which the camper is mounted; and

(c) Are mounted on a properly registered vehicle.

(2) Mopeds are considered vehicles for the purposes of vehicle registration and license plate display. Mopeds are exempt from personal property taxes and vehicle excise taxes imposed under chapter 82.44 RCW.

(3) Wheelchair conveyances are considered vehicles for the purposes of vehicle registration and license plate display. Wheelchair conveyances that do not meet braking equipment

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requirements described in RCW 46.37.340 must be registered as mopeds.

**NEW SECTION. Sec. 438.** The following acts or parts of acts are each repealed:

(1) RCW 46.16.0105 (Exemption--Vehicles in national recreation areas) and 2005 c 79 s 1;

(2) RCW 46.16.016 (Emission control inspections--Rules for licensing requirements) and 1979 ex.s. c 163 s 15;

(3) RCW 46.16.017 (Emission standards--Compliance required to register, lease, rent, or sell vehicles--Exemptions) and 2005 c 295 s 7;

(4) RCW 46.16.023 (Ride-sharing vehicles--Special plates--Gross misdemeanor) and 2004 c 223 s 2, 1993 c 488 s 5, & 1987 c 175 s 2;

(5) RCW 46.16.035 (Exemptions--Private school buses) and 1990 c 33 s 584 & 1980 c 88 s 1;

(6) RCW 46.16.0621 (License fee) and 2003 c 1 s 2, 2002 c 352 s 7, & 2000 1st sp.s. c 1 s 1;

(7) RCW 46.16.063 (Additional fee for recreational vehicles) and 1996 c 237 s 1 & 1980 c 60 s 2;

(8) RCW 46.16.071 (Additional fees) and 1996 c 315 s 4;

(9) RCW 46.16.079 (Fixed load motor vehicle equipped for lifting or towing--Capacity fee in addition to and in lieu) and 1986 c 18 s 5, 1975 c 25 s 16, & 1963 c 18 s 1;

(10) RCW 46.16.085 (Commercial trailers, pole trailers--Fee in lieu) and 1991 c 163 s 3, 1989 c 156 s 2, 1987 c 244 s 4, 1986 c 18 s 8, & 1985 c 380 s 16;

(11) RCW 46.16.088 (Transfer of license plates--Penalty) and 1986 c 18 s 9 & 1985 c 380 s 17;

(12) RCW 46.16.111 (Gross weight, how computed) and 1987 c 244 s 5, 1986 c 18 s 11, 1971 ex.s. c 231 s 1, 1969 ex.s. c 170 s 6, & 1967 ex.s. c 83 s 57;

(13) RCW 46.16.121 (Seating capacity fees on stages, for hire vehicles) and 1967 ex.s. c 83 s 58;

(14) RCW 46.16.135 (Monthly license fee--Penalty) and 1986 c 18 s 12, 1985 c 380 s 19, 1979 ex.s. c 136 s 46, 1979 c 134 s 1, 1975-76 2nd ex.s. c 64 s 3, 1975 1st ex.s. c 118 s 6, 1969 ex.s. c 170 s 7, & 1961 c 12 s 46.16.135;

(15) RCW 46.16.150 (School buses exempt from load and seat capacity fees) and 1961 c 12 s 46.16.150;

(16) RCW 46.16.200 (Applications to agents--Transmittal to director) and 1961 c 12 s 46.16.200;

(17) RCW 46.16.220 (Time of renewal of licenses--Duration) and 1997 c 241 s 9, 1991 c 339 s 20, 1975 1st ex.s. c 118 s 9, 1969 ex.s. c 170 s 9, & 1961 c 12 s 46.16.220;

(18) RCW 46.16.230 (License plates furnished) and 1992 c 7 s 41, 1975 c 25 s 19, & 1961 c 12 s 46.16.230;

(19) RCW 46.16.233 (Standard background--Periodic replacement--Retention of current plate number) and 2003 c 361 s 501, 2003 c 196 s 401, 2000 c 37 s 1, & 1997 c 291 s 2;

(20) RCW 46.16.235 (State name not abbreviated) and 1965 ex.s. c 78 s 2;

(21) RCW 46.16.237 (Reflectorized materials--Fee) and 2005 c 314 s 301, 1987 c 52 s 1, & 1967 ex.s. c 145 s 60;

(22) RCW 46.16.240 (Attachment of plates to vehicles--Violations enumerated) and 2006 c 326 s 1;

(23) RCW 46.16.270 (Replacement of plates--Fee) and 2005 c 314 s 302, 1997 c 291 s 3, 1990 c 250 s 32, & 1987 c 178 s 2;

(24) RCW 46.16.280 (Sale, loss, or destruction of commercial vehicle--Credit for unused fee--Change in license classification) and 1987 c 244 s 7, 1986 c 18 s 17, 1967 c 32 s 20, & 1961 c 12 s 46.16.280;

(25) RCW 46.16.290 (Disposition of license plates, certificate on vehicle transfer) and 2004 c 223 s 3, 1997 c 291 s 4, 1986 c 18 s 18, 1983 c 27 s 2, & 1961 c 12 s 46.16.290;

(26) RCW 46.16.295 (Returned plates--Reuse) and 2003 c 359 s 1;

(27) RCW 46.16.305 (Special license plates--Continuance of earlier issues--Conditions for current issues) and 2008 c 72 s 1;

(28) RCW 46.16.307 (Collectors' vehicles--Use restrictions) and 1996 c 225 s 11;

(29) RCW 46.16.30901 (Professional firefighters and paramedics plate) and 2004 c 35 s 1;

(30) RCW 46.16.30902 (Washington State Council of Firefighters benevolent fund) and 2004 c 35 s 4;

(31) RCW 46.16.30903 (Helping Kids Speak plate) and 2004 c 48 s 1;

(32) RCW 46.16.30904 ("Helping Kids Speak" account) and 2004 c 48 s 4;

(33) RCW 46.16.30905 (Law enforcement memorial plate) and 2004 c 221 s 1;

(34) RCW 46.16.30906 (Law enforcement memorial account) and 2004 c 221 s 4;

(35) RCW 46.16.30907 (Washington's Wildlife plate collection) and 2005 c 42 s 1;

(36) RCW 46.16.30908 (Washington's Wildlife license plate collection--Definition) and 2005 c 42 s 2;

(37) RCW 46.16.30909 (Washington state parks and recreation commission plate) and 2005 c 44 s 1;

(38) RCW 46.16.30910 (Washington state parks and recreation commission special license plate--Definition) and 2005 c 44 s 2;

(39) RCW 46.16.30911 ("Washington Lighthouses" plate) and 2005 c 48 s 1;

(40) RCW 46.16.30912 (Lighthouse environmental programs account) and 2005 c 48 s 4;

(41) RCW 46.16.30913 ("Keep Kids Safe" plate) and 2005 c 53 s 1;

(42) RCW 46.16.30914 ("We love our pets" plate) and 2005 c 71 s 1;

(43) RCW 46.16.30915 (We love our pets account) and 2005 c 71 s 4;

(44) RCW 46.16.30916 (Gonzaga University alumni association plate) and 2005 c 85 s 1;

(45) RCW 46.16.30917 (Gonzaga University alumni association account) and 2005 c 85 s 4;

(46) RCW 46.16.30918 ("Washington's National Park Fund" plate) and 2005 c 177 s 1;

(47) RCW 46.16.30919 ("Washington's National Park Fund" account) and 2005 c 177 s 4;

(48) RCW 46.16.30920 (Armed forces plate collection) and 2008 c 183 s 1 & 2005 c 216 s 1;

(49) RCW 46.16.30921 (Armed forces license plate collection--Definition--No free issuance) and 2008 c 183 s 2 & 2005 c 216 s 2;

(50) RCW 46.16.30923 ("Ski & Ride Washington" account) and 2005 c 220 s 4;

(51) RCW 46.16.30924 (Wild On Washington plate) and 2005 c 224 s 1;

(52) RCW 46.16.30925 (Wild On Washington license plates--Definition) and 2005 c 224 s 2;

(53) RCW 46.16.30926 (Endangered Wildlife plate) and 2005 c 225 s 1;

(54) RCW 46.16.30927 (Endangered Wildlife license plates--Definition) and 2005 c 225 s 2;

(55) RCW 46.16.30928 ("Share the Road" plate) and 2005 c 426 s 1;

(56) RCW 46.16.30929 ("Share the Road" account) and 2005 c 426 s 4;

(57) RCW 46.16.313 (Special license plates--Fees) and 2005 c 426 s 3, 2005 c 225 s 3, 2005 c 224 s 3, 2005 c 220 s 3, 2005 c 216 s

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3, 2005 c 177 s 3, 2005 c 85 s 3, 2005 c 71 s 3, 2005 c 53 s 3, 2005 c 48 s 3, 2005 c 44 s 3, & 2005 c 42 s 3;

(58) RCW 46.16.316 (Special license plates--Transfer of vehicle-- Replacement plates) and 2005 c 210 s 2;

(59) RCW 46.16.333 (Cooper Jones emblems) and 2005 c 426 s 5 & 2002 c 264 s 3;

(60) RCW 46.16.335 (Special license plates and emblems--Rules) and 1990 c 250 s 10;

(61) RCW 46.16.340 (Amateur radio operator plates--Information furnished to various agencies) and 1995 c 391 s 8, 1986 c 266 s 49, 1985 c 7 s 112, 1974 ex.s. c 171 s 43, 1967 c 32 s 23, & 1961 c 12 s 46.16.340;

(62) RCW 46.16.350 (Amateur radio operator plates--Expiration or revocation of radio license--Penalty) and 1997 c 291 s 11, 1990 c 250 s 11, 1979 ex.s. c 136 s 49, 1967 c 32 s 24, & 1961 c 12 s 46.16.350;

(63) RCW 46.16.371 (Special plates for honorary consul, foreign government representative) and 1987 c 237 s 1;

(64) RCW 46.16.374 (Taipei Economic and Cultural Office--Special plates) and 2001 c 64 s 5 & 1996 c 139 s 1;

(65) RCW 46.16.376 (Taipei Economic and Cultural Office--Fee exemption) and 1996 c 139 s 2;

(66) RCW 46.16.381 (Special parking for persons with disabilities-- Penalties--Enforcement--Definition) and 2007 c 262 s 1, 2007 c 44 s 1, 2006 c 357 s 2, 2005 c 390 s 2, 2004 c 222 s 2, 2003 c 371 s 1, 2002 c 175 s 33, 2001 c 67 s 1, 1999 c 136 s 1, 1998 c 294 s 1, 1995 c 384 s 1, 1994 c 194 s 6, 1993 c 106 s 1, 1992 c 148 s 1, 1991 c 339 s 21, 1990 c 24 s 1, 1986 c 96 s 1, & 1984 c 154 s 2;

(67) RCW 46.16.385 (Versions of special plates for persons with disabilities) and 2005 c 390 s 3, 2005 c 210 s 3, & 2004 c 222 s 1;

(68) RCW 46.16.470 (Temporary license--Display) and 1967 c 202 s 5;

(69) RCW 46.16.480 (Nonresident members of armed forces--Exemption from sales, use, or motor vehicle excise taxes--Extent of exemption) and 1967 c 202 s 6;

(70) RCW 46.16.490 (Nonresident members of armed forces--Rules and regulations--Proof) and 1979 c 158 s 142 & 1967 c 202 s 7;

(71) RCW 46.16.505 (Campers--License and plates--Application--Fee) and 1975 1st ex.s. c 118 s 11, 1975 c 41 s 1, & 1971 ex.s. c 231 s 7;

(72) RCW 46.16.560 (Personalized license plates--Defined) and 1975 c 59 s 1 & 1973 1st ex.s. c 200 s 2;

(73) RCW 46.16.565 (Personalized license plates--Application) and 1985 c 173 s 1, 1983 c 27 s 4, 1975 c 59 s 2, & 1973 1st ex.s. c 200 s 3;

(74) RCW 46.16.570 (Personalized license plates--Design) and 2005 c 210 s 4, 1986 c 108 s 1, 1983 1st ex.s. c 24 s 1, 1975 c 59 s 3, & 1973 1st ex.s. c 200 s 4;

(75) RCW 46.16.575 (Personalized license plates--Issuance to registered owner only) and 1973 1st ex.s. c 200 s 5;

(76) RCW 46.16.580 (Personalized license plates--Application requirements) and 1973 1st ex.s. c 200 s 6;

(77) RCW 46.16.585 (Personalized license plates--Fees--Renewal-- Penalty) and 1979 ex.s. c 136 s 51, 1975 c 59 s 4, & 1973 1st ex.s. c 200 s 7;

(78) RCW 46.16.590 (Personalized license plates--Transfer fees) and 2004 c 223 s 5, 1975 c 59 s 5, & 1973 1st ex.s. c 200 s 8;

(79) RCW 46.16.595 (Personalized license plates--Transfer or surrender upon sale or release of vehicle--Penalty) and 1979 ex.s. c 136 s 52, 1975 c 59 s 6, & 1973 1st ex.s. c 200 s 9;

(80) RCW 46.16.600 (Personalized license plates--Rules and regulations) and 2005 c 210 s 5, 1979 c 158 s 143, & 1973 1st ex.s. c 200 s 10;

(81) RCW 46.16.601 (Personalized special plates) and 2005 c 210 s 1;

(82) RCW 46.16.605 (Personalized license plates--Disposition of fees--Costs) and 1988 c 36 s 27, 1983 1st ex.s. c 24 s 2, 1983 c 3 s 118, 1979 c 158 s 144, & 1973 1st ex.s. c 200 s 11;

(83) RCW 46.16.606 (Personalized license plates--Additional fee) and 2007 c 246 s 2 & 1991 sp.s. c 7 s 13;

(84) RCW 46.16.630 (Moped registration) and 2002 c 352 s 9, 1997 c 241 s 11, & 1979 ex.s. c 213 s 5;

(85) RCW 46.16.640 (Wheelchair conveyances) and 1983 c 200 s 2;

(86) RCW 46.16.670 (Boat trailers--Fee for freshwater aquatic weeds account) and 1991 c 302 s 3;

(87) RCW 46.16.680 (Kit vehicles) and 2009 c 284 s 2 & 1996 c 225 s 10;

(88) RCW 46.17.010 (Vehicle weight fee--Motor vehicles, except motor homes) and 2006 c 337 s 9 & 2005 c 314 s 201; and

(89) RCW 46.17.020 (Vehicle weight fee--Motor homes) and 2005 c 314 s 202.

## PART V. FEES

### A. FILING AND SERVICE FEES

NEW SECTION. **Sec. 501.** A new section is added to chapter 46.17 RCW to read as follows:

(1) A person who applies for a vehicle registration or for any other right to operate a vehicle on the highways of this state shall pay a three dollar filing fee in addition to any other fees and taxes required by law.

(2) A person who applies for a certificate of title shall pay a four dollar filing fee in addition to any other fees and taxes required by law.

(3) The filing fees established in this section must be distributed under section 819 of this act.

NEW SECTION. **Sec. 502.** A new section is added to chapter 46.17 RCW to read as follows:

(1) A person who applies for a vehicle registration or for any other right to operate a vehicle on the highways of this state shall pay a twenty-five cent license plate technology fee in addition to any other fees and taxes required by law. The license plate technology fee must be distributed under RCW 46.16.685 (as recodified by this act).

(2) A vehicle registered under RCW 46.16.070 (as recodified by this act) or section 527 of this act is not subject to the license plate technology fee.

NEW SECTION. **Sec. 503.** A new section is added to chapter 46.17 RCW to read as follows:

(1) A person who applies for a vehicle registration or for any other right to operate a vehicle on the highways of this state shall pay a fifty cent license service fee in addition to any other fees and taxes required by law. The license service fee must be distributed under RCW 46.68.220.

(2) A vehicle registered under RCW 46.16.070 (as recodified by this act) or section 527 of this act is not subject to the license service fee.

NEW SECTION. **Sec. 504.** A new section is added to chapter 46.17 RCW to read as follows:

The department, county auditor or other agent, or subagent appointed by the director shall require a person who applies for a vehicle registration for a vehicle subject to RCW 46.16.216 (as recodified by this act) to pay a fifteen dollar parking ticket surcharge. The fifteen dollar surcharge must be distributed under section 816 of this act.

NEW SECTION. **Sec. 505.** A new section is added to chapter 46.17 RCW to read as follows:

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Before accepting a report of sale filed under RCW 46.12.101(2) (as recodified by this act), the county auditor or other agent or subagent appointed by the director shall require the applicant to pay:

(1) The filing fee under section 501(1) of this act, the license plate technology fee under section 502 of this act, and the license service fee under section 503 of this act to the county auditor or other agent; and

(2) The subagent service fee under section 506(2) of this act to the subagent.

**NEW SECTION. Sec. 506.** A new section is added to chapter 46.17 RCW to read as follows:

A subagent appointed by the director shall collect a service fee of:

(1) Ten dollars for changes in a certificate of title, with or without registration renewal, or for verification of record and preparation of an affidavit of lost title other than at the time of the certificate of title application or transfer; and

(2) Four dollars for a registration renewal, issuing a transit permit, or any other service under this section.

**NEW SECTION. Sec. 507.** A new section is added to chapter 46.17 RCW to read as follows:

Before accepting a transitional ownership record filed under RCW 46.12.103 (as recodified by this act), the county auditor or other agent or subagent appointed by the director shall require the applicant to pay:

(1) The filing fee under section 501(1) of this act, the license plate technology fee under section 502 of this act, and the license service fee under section 503 of this act to the county auditor or other agent; and

(2) The subagent service fee under section 506(2) of this act to the subagent.

## B. CERTIFICATE OF TITLE FEES

**NEW SECTION. Sec. 508.** A new section is added to chapter 46.17 RCW to read as follows:

Before accepting an application for a certificate of title as required in this title, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a five dollar application fee in addition to any other fees and taxes required by law. The certificate of title application fee must be distributed under RCW 46.68.020.

**NEW SECTION. Sec. 509.** A new section is added to chapter 46.17 RCW to read as follows:

(1) Before accepting an application for a certificate of title for a motor vehicle as required in this title, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a six dollar and fifty cent emergency medical services fee for the following transactions:

(a) All retail sales or leases of any new or used motor vehicles; and

(b) Original and transfer certificate of title transactions.

(2) The emergency medical services fee:

(a) Is not considered a violation of RCW 46.70.180(2);

(b) Does not apply to motor vehicles declared a total loss by an insurer or self-insurer unless an application for certificate of title is made to the department, county auditor or other agent, or subagent appointed by the director after the declaration of total loss; and

(c) Must be distributed under section 820 of this act.

**NEW SECTION. Sec. 510.** A new section is added to chapter 46.17 RCW to read as follows:

Before accepting an application for a transfer of certificate of title for a new or used manufactured home as required in this title and chapter 65.20 RCW, the department, county auditor or other agent, or subagent appointed by the director shall require the

applicant to pay a fifteen dollar fee in addition to any other fees and taxes required by law. The fifteen dollar fee must be forwarded to the state treasurer, who shall deposit the fee in the manufactured housing account created in RCW 59.22.070.

**NEW SECTION. Sec. 511.** A new section is added to chapter 46.17 RCW to read as follows:

(1) Before accepting an application for a certificate of title for an original or transfer manufactured home transaction as required in this title or chapter 65.20 RCW, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a one hundred dollar fee in addition to any other fees and taxes required by law if the manufactured home:

(a) Is located in a mobile home park;

(b) Is one year old or older;

(c) Is new or ownership changes, excluding changes that involve adding or deleting spouse or domestic partner coregistered owners or legal owners; and

(d) Sales price is five thousand dollars or more.

(2) The one hundred dollar fee must be forwarded to the state treasurer, who shall deposit the fee in the mobile home park relocation fund created in RCW 59.21.050.

(3) The department and the state treasurer may adopt rules necessary to carry out this section.

**NEW SECTION. Sec. 512.** A new section is added to chapter 46.17 RCW to read as follows:

The penalty for a late transfer under RCW 46.12.101(7) (as recodified by this act) is twenty-five dollars assessed on the sixteenth day after the date of delivery and two dollars for each additional day thereafter, but the total penalty must not exceed one hundred dollars. The penalty must be distributed under RCW 46.68.020.

**NEW SECTION. Sec. 513.** A new section is added to chapter 46.17 RCW to read as follows:

Before accepting an application for a certificate of title for a vehicle previously registered in any other state or country, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a fee of fifteen dollars. The fifteen dollar fee must be distributed under RCW 46.68.020.

**NEW SECTION. Sec. 514.** A new section is added to chapter 46.17 RCW to read as follows:

Before accepting an application for a certificate of title, the department, county auditor or other agent, or subagent appointed by the director shall require an applicant to pay a sixty-five dollar inspection fee if an inspection of the vehicle was completed by the Washington state patrol. The inspection fee must be distributed under RCW 46.68.020.

**NEW SECTION. Sec. 515.** A new section is added to chapter 46.17 RCW to read as follows:

Before accepting an application for a certificate of title, the department, county auditor or other agent, or subagent appointed by the director shall require an applicant to pay a five dollar vehicle identification number reassignment fee if the Washington state patrol has reassigned an identification number as authorized under section 303 of this act. The reassignment fee must be deposited in the motor vehicle fund created in RCW 46.68.070.

## C. LICENSE PLATE FEES

**NEW SECTION. Sec. 516.** A new section is added to chapter 46.17 RCW to read as follows:

Before accepting an application for a combination trailer license plate authorized under RCW 46.16.068 (as recodified by this act), the department, county auditor or other agent, or subagent appointed by the director shall require an applicant to pay a thirty-six dollar

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license plate fee. The thirty-six dollar license plate fee must be deposited and distributed under RCW 46.68.035.

personalized license plate fee must be distributed as provided in section 821 of this act.

**NEW SECTION. Sec. 517.** A new section is added to chapter 46.17 RCW to read as follows:

**NEW SECTION. Sec. 521.** A new section is added to chapter 46.17 RCW to read as follows:

State agencies, political subdivisions, Indian tribes, and the United States government, except foreign governments or international bodies, shall pay a fee of two dollars for a license plate or plates for each vehicle when the department assigns license plates for further assignment by the entity.

(1) In addition to all fees and taxes required to be paid upon application for a vehicle registration in chapter 46.16 RCW, the holder of a special license plate shall pay the appropriate special license plate fee as listed in this section.

**NEW SECTION. Sec. 518.** A new section is added to chapter 46.17 RCW to read as follows:

PLATE TYPE	INITIAL FEE	RENEWAL FEE	DISTRIBUTED UNDER
(a) Amateur radio license	\$ 5.00	N/A	RCW 46.68.070
(b) Armed forces	\$ 40.00	\$ 30.00	Section 810 of this act
(c) Baseball stadium	\$ 40.00	\$ 30.00	Subsection (2) of this section
(d) Collector vehicle	\$ 35.00	N/A	RCW 46.68.030
(e) Collegiate	\$ 40.00	\$ 30.00	Section 811 of this act
(f) Endangered wildlife	\$ 40.00	\$ 30.00	Section 810 of this act
(g) Gonzaga University alumni	\$ 40.00	\$ 30.00	Section 809 of this act
(h) Helping kids speak	\$ 40.00	\$ 30.00	Section 809 of this act
(i) Horseless carriage	\$ 35.00	N/A	RCW 46.68.030
(j) Keep kids safe	\$ 45.00	\$ 30.00	Section 810 of this act
(k) Law enforcement memorial	\$ 40.00	\$ 30.00	Section 809 of this act
(l) Military affiliate radio system	\$ 5.00	N/A	RCW 46.68.070
(m) Professional firefighters and paramedics	\$ 40.00	\$ 30.00	Section 809 of this act
(n) Ride share	\$ 25.00	N/A	RCW 46.68.030
(o) Share the road	\$ 40.00	\$ 30.00	Section 809 of this act
(p) Ski and ride Washington	\$ 40.00	\$ 30.00	Section 809 of this act
(q) Square dancer	\$ 40.00	N/A	RCW 46.68.070
(r) Washington lighthouses	\$ 40.00	\$ 30.00	Section 809 of this act
(s) Washington state parks	\$ 40.00	\$ 30.00	Section 810 of this act
(t) Washington's national parks	\$ 40.00	\$ 30.00	Section 809 of this act
(u) Washington's wildlife collection	\$ 40.00	\$ 30.00	Section 810 of this act

(1) In addition to all other fees and taxes required by law, the department, county auditor or other agent, or subagent appointed by the director shall charge:

(a) The following license plate fees for each license plate, unless the owner or type of vehicle is exempt from payment:

FEE TYPE	FEE	DISTRIBUTION
Reflectivity	\$ 2.00	RCW 46.68.070
Replacement	\$ 10.00	RCW 46.68.070
Replacement, motorcycle	\$ 2.00	RCW 46.68.070

(b) A license plate retention fee, as required under section 422(10)(a)(iii) of this act, of twenty dollars if the owner wishes to retain the current license plate number upon license plate replacement, unless the owner or type of vehicle is exempt from payment. The twenty dollar fee must be deposited in the multimodal transportation account created in RCW 47.66.070.

(c) A ten dollar license plate transfer fee, as required under section 422(8)(a) of this act, when transferring standard issue license plates from one vehicle to another, unless the owner or type of vehicle is exempt from payment. The ten dollar license plate transfer fee must be deposited in the motor vehicle fund created in RCW 46.68.070.

(d) Former prisoner of war license plates, as described in section 619 of this act, may be transferred to a replacement vehicle upon payment of a five dollar license plate fee, in addition to any other fee required by law.

(2) The department may, upon request, provide license plates that have been used and returned to the department to individuals for nonvehicular use. The department may charge a fee of up to five dollars per license plate to cover costs or recovery for postage and handling. The department may waive the fee for license plates used in educational projects and may, by rule, provide standards for the fee waiver and restrictions on the number of license plates provided to any one person. The fee must be deposited in the motor vehicle fund created in RCW 46.68.070.

**NEW SECTION. Sec. 519.** A new section is added to chapter 46.17 RCW to read as follows:

Before accepting an application for a replacement license tab, the department, county auditor or other agent, or subagent appointed by the director shall charge a one dollar fee for each pair of tabs or windshield emblem. The license tab or windshield emblem replacement fee must be deposited in the motor vehicle fund created in RCW 46.68.070.

**NEW SECTION. Sec. 520.** A new section is added to chapter 46.17 RCW to read as follows:

In addition to all fees and taxes required to be paid upon application for a vehicle registration under chapter 46.16 RCW, the holder of a personalized license plate shall pay an initial fee of forty-two dollars and thirty-two dollars for each renewal. The

(v) We love our pets	\$ 40.00	\$ 30.00	Section 809 of this act
(w) Wild on Washington	\$ 40.00	\$ 30.00	Section 810 of this act

addition to any other fees and taxes required by law. The five dollar fee must be deposited in the motor vehicle fund created in RCW 46.68.070.

**NEW SECTION. Sec. 527.** A new section is added to chapter 46.17 RCW to read as follows:

(1) In lieu of the vehicle license fee required under section 531 of this act and before accepting an application for a vehicle registration for farm vehicles described in RCW 46.16.090 (as recodified by this act), the department, county auditor or other agent, or subagent appointed by the director shall require the applicant, unless specifically exempt, to pay the following farm vehicle reduced gross weight license fee by weight:

(2) After deducting administration and collection expenses for the sale of baseball stadium license plates, the remaining proceeds must be distributed to a county for the purpose of paying the principal and interest payments on bonds issued by the county to construct a baseball stadium, as defined in RCW 82.14.0485, including reasonably necessary preconstruction costs, while the taxes are being collected under RCW 82.14.360. After this date, the state treasurer shall credit the funds to the state general fund.

**D. VEHICLE LICENSE FEES**

**NEW SECTION. Sec. 522.** A new section is added to chapter 46.17 RCW to read as follows:

Before accepting an application for a vehicle registration for a boat trailer, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a three dollar aquatic weed fee in addition to any other fees and taxes required by law. The three dollar fee must be deposited in the freshwater aquatic weeds account created in RCW 43.21A.650.

**NEW SECTION. Sec. 523.** A new section is added to chapter 46.17 RCW to read as follows:

Before accepting an application for a change of class as required under section 422(6) of this act, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a one dollar fee. The one dollar fee must be deposited in the motor vehicle fund created in RCW 46.68.070.

**NEW SECTION. Sec. 524.** A new section is added to chapter 46.17 RCW to read as follows:

(1) Before accepting an application for a motor vehicle base plated in the state of Washington that is subject to highway inspections and compliance reviews under RCW 46.32.080 or the international registration plan if base plated in a foreign jurisdiction, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a sixteen dollar commercial vehicle safety enforcement fee in addition to any other fees and taxes required by law. The sixteen dollar fee:

- (a) Must be apportioned for those vehicles operating interstate and registered under the international registration plan;
- (b) Does not apply to trailers; and
- (c) Is not refundable when the motor vehicle is no longer subject to RCW 46.32.080.

(2) The department may deduct an amount equal to the cost of administering the program. All remaining fees must be deposited with the state treasurer and credited to the state patrol highway account of the motor vehicle fund created in RCW 46.68.070.

**NEW SECTION. Sec. 525.** A new section is added to chapter 46.17 RCW to read as follows:

Before accepting an application for a duplicate registration as required under RCW 46.16.265 (as recodified by this act), the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a one dollar and twenty-five cent fee in addition to any other fees and taxes required by law. The one dollar and twenty-five cent fee must be deposited in the motor vehicle fund created in RCW 46.68.070.

**NEW SECTION. Sec. 526.** A new section is added to chapter 46.17 RCW to read as follows:

Before accepting an application for a farm exempt decal as required under RCW 46.16.025 (as recodified by this act), the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a five dollar fee in

WEIGHT	SCHEDULE A	SCHEDULE B
4,000 pounds	\$24.50	\$24.50
6,000 pounds	\$24.50	\$24.50
8,000 pounds	\$24.50	\$24.50
10,000 pounds	\$40.50	\$40.50
12,000 pounds	\$49.00	\$49.00
14,000 pounds	\$54.50	\$54.50
16,000 pounds	\$60.50	\$60.50
18,000 pounds	\$86.50	\$86.50
20,000 pounds	\$95.00	\$95.00
22,000 pounds	\$102.00	\$102.00
24,000 pounds	\$109.50	\$109.50
26,000 pounds	\$115.00	\$115.00
28,000 pounds	\$134.00	\$134.00
30,000 pounds	\$153.00	\$153.00
32,000 pounds	\$182.50	\$182.50
34,000 pounds	\$193.50	\$193.50
36,000 pounds	\$209.00	\$209.00
38,000 pounds	\$228.50	\$228.50
40,000 pounds	\$260.00	\$260.00
42,000 pounds	\$270.00	\$315.00
44,000 pounds	\$275.50	\$320.50
46,000 pounds	\$295.50	\$340.50
48,000 pounds	\$307.50	\$352.50
50,000 pounds	\$333.00	\$378.00
52,000 pounds	\$349.50	\$394.50

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54,000 pounds	\$376.50	\$421.50
56,000 pounds	\$397.00	\$442.00
58,000 pounds	\$412.50	\$457.50
60,000 pounds	\$439.00	\$484.00
62,000 pounds	\$470.00	\$515.00
64,000 pounds	\$480.00	\$525.00
66,000 pounds	\$533.50	\$578.50
68,000 pounds	\$556.00	\$601.00
70,000 pounds	\$598.00	\$643.00
72,000 pounds	\$639.00	\$684.00
74,000 pounds	\$693.50	\$738.50
76,000 pounds	\$748.50	\$793.50
78,000 pounds	\$816.50	\$861.50
80,000 pounds	\$880.50	\$925.50
82,000 pounds	\$941.00	\$986.00
84,000 pounds	\$1,001.00	\$1,046.00
86,000 pounds	\$1,061.50	\$1,106.50
88,000 pounds	\$1,122.00	\$1,167.00
90,000 pounds	\$1,182.50	\$1,127.50
92,000 pounds	\$1,242.50	\$1,287.50
94,000 pounds	\$1,303.00	\$1,348.00
96,000 pounds	\$1,363.50	\$1,408.50
98,000 pounds	\$1,424.00	\$1,469.00
100,00 pounds	\$1,484.00	\$1,529.00
102,000 pounds	\$1,544.50	\$1,589.50
104,000 pounds	\$1,605.00	\$1,650.00
105,500 pounds	\$1,665.50	\$1,710.50

(5) The farm vehicle reduced gross weight license fee as provided in subsection (1) of this section must be distributed under RCW 46.68.030.

NEW SECTION. Sec. 528. A new section is added to chapter 46.17 RCW to read as follows:

Before accepting an application for a fixed load motor vehicle registration, the department, county auditor or other agent, or subagent appointed by the director shall require an applicant to pay:

(1) The license fee based on declared gross weight as provided in section 530 of this act. The declared gross weight must be equal to the scale weight of the motor vehicle, rounded up to the next higher amount in the schedule provided in section 530 of this act, up to the legal limit provided in chapter 46.44 RCW; or

(2) A twenty-five dollar capacity fee if the vehicle is equipped for lifting or towing any abandoned, disabled, or impounded vehicle or parts of vehicles. The twenty-five dollar capacity fee is in lieu of the license fee based on declared gross weight as provided in section 530 of this act and must be deposited under RCW 46.68.030.

NEW SECTION. Sec. 529. A new section is added to chapter 46.17 RCW to read as follows:

(1) Before accepting an application for a vehicle registration for a for hire vehicle or auto stage with a seating capacity of six or less, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a fifteen dollar seating capacity fee. The seating capacity fee must be deposited in the motor vehicle fund created in RCW 46.68.070.

(2) The for hire vehicle and auto stage seating capacity fee imposed in subsection (1) of this section does not apply to taxicabs.

NEW SECTION. Sec. 530. A new section is added to chapter 46.17 RCW to read as follows:

(1) In lieu of the vehicle license fee required under section 531 of this act and before accepting an application for a vehicle registration for motor vehicles described in RCW 46.16.070 (as recodified by this act), the department, county auditor or other agent, or subagent appointed by the director shall require the applicant, unless specifically exempt, to pay the following license fee by weight:

WEIGHT	SCHEDULE A	SCHEDULE B
4,000 pounds	\$ 38.00	\$ 38.00
6,000 pounds	\$ 48.00	\$ 48.00
8,000 pounds	\$ 58.00	\$ 58.00
10,000 pounds	\$ 60.00	\$ 60.00
12,000 pounds	\$ 77.00	\$ 77.00
14,000 pounds	\$ 88.00	\$ 88.00
16,000 pounds	\$ 100.00	\$ 100.00
18,000 pounds	\$ 152.00	\$ 152.00
20,000 pounds	\$ 169.00	\$ 169.00
22,000 pounds	\$ 183.00	\$ 183.00
24,000 pounds	\$ 198.00	\$ 198.00
26,000 pounds	\$ 209.00	\$ 209.00
28,000 pounds	\$ 247.00	\$ 247.00

(2) Schedule A applies to vehicles either used exclusively for hauling logs or that do not tow trailers. Schedule B applies to vehicles that tow trailers and are not covered under Schedule A.

(3) If the resultant gross weight is not listed in the table provided in subsection (1) of this section, it must be increased to the next higher weight.

(4) The farm vehicle reduced gross weight license fees provided in subsection (1) of this section are in addition to the filing fee required under section 501 of this act and any other fee or tax required by law.

30,000 pounds	\$ 285.00	\$ 285.00
32,000 pounds	\$ 344.00	\$ 344.00
34,000 pounds	\$ 366.00	\$ 366.00
36,000 pounds	\$ 397.00	\$ 397.00
40,000 pounds	\$ 499.00	\$ 499.00
42,000 pounds	\$ 519.00	\$ 609.00
44,000 pounds	\$ 530.00	\$ 620.00
46,000 pounds	\$ 570.00	\$ 660.00
48,000 pounds	\$ 594.00	\$ 684.00
50,000 pounds	\$ 645.00	\$ 735.00
52,000 pounds	\$ 678.00	\$ 768.00
54,000 pounds	\$ 732.00	\$ 822.00
56,000 pounds	\$ 773.00	\$ 863.00
58,000 pounds	\$ 804.00	\$ 894.00
60,000 pounds	\$ 857.00	\$ 947.00
62,000 pounds	\$ 919.00	\$ 1,009.00
64,000 pounds	\$ 939.00	\$ 1,029.00
66,000 pounds	\$ 1,046.00	\$ 1,136.00
68,000 pounds	\$ 1,091.00	\$ 1,181.00
70,000 pounds	\$ 1,175.00	\$ 1,265.00
72,000 pounds	\$ 1,257.00	\$ 1,347.00
74,000 pounds	\$ 1,366.00	\$ 1,456.00
76,000 pounds	\$ 1,476.00	\$ 1,566.00
78,000 pounds	\$ 1,612.00	\$ 1,702.00
80,000 pounds	\$ 1,740.00	\$ 1,830.00
82,000 pounds	\$ 1,861.00	\$ 1,951.00
84,000 pounds	\$ 1,981.00	\$ 2,071.00
86,000 pounds	\$ 2,102.00	\$ 2,192.00
88,000 pounds	\$ 2,223.00	\$ 2,313.00
90,000 pounds	\$ 2,344.00	\$ 2,434.00
92,000 pounds	\$ 2,464.00	\$ 2,554.00
94,000 pounds	\$ 2,585.00	\$ 2,675.00
96,000 pounds	\$ 2,706.00	\$ 2,796.00

(2) Schedule A applies to vehicles either used exclusively for hauling logs or that do not tow trailers. Schedule B applies to vehicles that tow trailers and are not covered under Schedule A.

(3) If the resultant gross weight is not listed in the table provided in subsection (1) of this section, it must be increased to the next higher weight.

(4) The license fees provided in subsection (1) of this section are in addition to the filing fee required under section 501 of this act and any other fee or tax required by law.

(5) The license fee based on declared gross weight as provided in subsection (1) of this section must be distributed under RCW 46.68.035.

**NEW SECTION. Sec. 531.** A new section is added to chapter 46.17 RCW to read as follows:

(1) Before accepting an application for a vehicle registration, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant, unless specifically exempt, to pay the following vehicle license fee by vehicle type:

VEHICLE TYPE	INITIAL FEE	RENEWAL FEE	DISTRIBUTED UNDER
(a) Auto stage, six seats or less	\$ 30.00	\$ 30.00	RCW 46.68.030
(b) Camper	\$ 4.90	\$ 3.50	RCW 46.68.030
(c) Commercial trailer	\$ 34.00	\$ 30.00	RCW 46.68.035
(d) For hire vehicle, six seats or less	\$ 30.00	\$ 30.00	RCW 46.68.030
(e) Mobile home (if registered)	\$ 30.00	\$ 30.00	RCW 46.68.030
(f) Moped	\$ 30.00	\$ 30.00	RCW 46.68.030
(g) Motor home	\$ 30.00	\$ 30.00	RCW 46.68.030
(h) Motorcycle	\$ 30.00	\$ 30.00	RCW 46.68.030
(i) Off-road vehicle	\$ 18.00	\$ 18.00	Section 822 of this act
(j) Passenger car	\$ 30.00	\$ 30.00	RCW 46.68.030
(k) Private use single-axle trailer	\$ 15.00	\$ 15.00	RCW 46.68.035(2)
(l) Snowmobile	\$ 30.00	\$ 30.00	Section 823 of this act
(m) Snowmobile, vintage	\$ 12.00	\$ 12.00	Section 823 of this act

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(n) Sport utility vehicle	\$ 30.00	\$ 30.00	RCW 46.68.030
(o) Tow truck	\$ 30.00	\$ 30.00	RCW 46.68.030
(p) Trailer, over 2000 pounds	\$ 30.00	\$ 30.00	RCW 46.68.030
(q) Travel trailer	\$ 30.00	\$ 30.00	RCW 46.68.030

PERMIT TYPE	FEE	AUTHORITY	DISTRIBUTION
(a) Dealer temporary	\$15.00	RCW 46.16.045 (as recodified by this act)	RCW 46.68.030
(b) Department temporary	\$.50	RCW 46.16.047 (as recodified by this act)	Section 814 of this act
(c) Farm vehicle trip	\$6.25	RCW 46.16.162 (as recodified by this act)	RCW 46.68.035
(d) Nonresident military	\$10.00	RCW 46.16.460 (as recodified by this act)	RCW 46.68.070
(e) Nonresident temporary snowmobile	\$5.00	Section 229 of this act	Section 823 of this act
(f) Special fuel trip	\$25.00	RCW 82.38.100	Section 817 of this act
(g) Temporary ORV use	\$7.00	Section 219 of this act	Section 822 of this act
(h) Vehicle trip	\$25.00	RCW 46.16.160 (as recodified by this act)	Section 815 of this act

(2) The vehicle license fee required in subsection (1) of this section is in addition to the filing fee required under section 501 of this act, and any other fee or tax required by law.

**NEW SECTION. Sec. 532.** A new section is added to chapter 46.17 RCW to read as follows:

A person applying for a monthly declared gross weight license as authorized in RCW 46.16.070 (as recodified by this act) shall pay an additional two dollars for each month of the declared gross weight license, plus an additional two dollars. These two dollar fees must be deposited in the motor vehicle fund created in RCW 46.68.070.

**NEW SECTION. Sec. 533.** A new section is added to chapter 46.17 RCW to read as follows:

(1) A person applying for a motor vehicle registration and paying the vehicle license fee required in section 531(1)(a), (d), (e), (h), (j), (n), and (o) of this act shall pay a motor vehicle weight fee in addition to all other fees and taxes required by law. The motor vehicle weight fee:

- (a) Must be based on the motor vehicle scale weight;
- (b) Is the difference determined by subtracting the vehicle license fee required in section 531 of this act from the license fee in Schedule B of section 530 of this act, plus two dollars; and
- (c) Must be distributed under section 813 of this act.

(2) A person applying for a motor home vehicle registration shall, in lieu of the motor vehicle weight fee required in subsection (1) of this section, pay a motor home vehicle weight fee of seventy-five dollars in addition to all other fees and taxes required by law. The motor home vehicle weight fee must be distributed under section 813 of this act.

(3) The department shall:

- (a) Rely on motor vehicle empty scale weights provided by vehicle manufacturers, or other sources defined by the department, to determine the weight of each motor vehicle; and
- (b) Adopt rules for determining weight for vehicles without manufacturer empty scale weights.

**NEW SECTION. Sec. 534.** A new section is added to chapter 46.17 RCW to read as follows:

(1) Before accepting an application for registration for a recreational vehicle, the department, county auditor or other agent, or subagent appointed by the director shall require an applicant to pay a three dollar fee in addition to any other fees and taxes required by law. The recreational vehicle sanitary disposal fee must be deposited in the RV account created in RCW 46.68.170.

(2) For the purposes of this section, "recreational vehicle" means a camper, motor home, or travel trailer.

**E. PERMIT AND TRANSFER FEES**

**NEW SECTION. Sec. 535.** A new section is added to chapter 46.17 RCW to read as follows:

(1) Before accepting an application for one of the following permits, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay the following permit fee by permit type in addition to any other fee or tax required by law:

(2) Permit fees as provided in subsection (1) of this section are in addition to the filing fee required under section 501 of this act, except an additional filing fee may not be charged for:

- (a) Dealer temporary permits;
- (b) Special fuel trip permits; and
- (c) Vehicle trip permits.

(3) Five dollars of the fifteen dollar dealer temporary permit fee provided in subsection (1)(a) of this section must be credited to the payment of vehicle license fees at the time application for registration is made. The remainder must be deposited to the state patrol highway account created in RCW 46.68.030.

(4) A surcharge of five dollars must be collected when issuing a special fuel trip permit or vehicle trip permit as provided in subsection (1) of this section and must be distributed as follows:

- (a) Under section 817 of this act for special fuel trip permits; and
- (b) Under section 815 of this act for vehicle trip permits.

**NEW SECTION. Sec. 536.** A new section is added to chapter 46.17 RCW to read as follows:

Before accepting an application for a transfer of an off-road vehicle registration as required under RCW 46.09.070 (as recodified by this act), the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a five dollar off-road vehicle registration transfer fee. The five dollar off-road vehicle registration transfer fee must be distributed under RCW 46.68.020.

**NEW SECTION. Sec. 537.** A new section is added to chapter 46.17 RCW to read as follows:

Before accepting an application for a transfer of a snowmobile registration as required under RCW 46.10.040 (as recodified by this act), the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a five dollar snowmobile registration transfer fee. The five dollar snowmobile registration transfer fee must be distributed under RCW 46.10.075 (as recodified by this act).

**PART VI. SPECIAL LICENSE PLATES**  
**A. REVIEW BOARD**

**Sec. 601.** RCW 46.16.700 and 2003 c 196 s 1 are each amended to read as follows:

The legislature has seen an increase in the demand from constituent groups seeking recognition and funding through the establishment of commemorative or special license plates. The high cost of implementing a new special license plate series coupled with the uncertainty of the state's ability to recoup its costs(€) has led the legislature to delay the implementation of new special license plates. In order to address these issues, it is the intent of the legislature to create a mechanism that will allow for the evaluation of special license plate requests and establish a funding policy that will alleviate the financial burden currently placed on the state. Using these two strategies, the legislature will be better equipped to efficiently process special license plate legislation.

**Sec. 602.** RCW 46.16.705 and 2005 c 319 s 117 are each amended to read as follows:

(1) The special license plate review board is created.

(2) The board will consist of seven members: One member appointed by the governor (~~(and)~~) who will serve as chair of the board; four members of the legislature, one from each caucus of the house of representatives and the senate; a department of licensing representative appointed by the director; and a Washington state patrol representative appointed by the chief.

(3) Members shall serve terms of four years, except that four of the members initially appointed will be appointed for terms of two years. (~~(No)~~) A member may not be appointed for more than three consecutive terms.

(4) The respective appointing authority may remove members from the board before the expiration of their terms only for cause based upon a determination of incapacity, incompetence, neglect of duty, or malfeasance in office as ordered by the Thurston county superior court, upon petition and show cause proceedings brought for that purpose in that court and directed to the board member in question.

**Sec. 603.** RCW 46.16.715 and 2005 c 319 s 118 are each amended to read as follows:

(1) The board shall meet periodically at the call of the chair, but must meet at least (~~(one-time))~~ once each year within ninety days before an upcoming regular session of the legislature. The board may adopt its own rules and may establish its own procedures. It shall act collectively in harmony with recorded resolutions or motions adopted by a majority vote of the members, and it must have a quorum present to take a vote on a special license plate application.

(2) The board will be compensated from the general appropriation for the department (~~(of licensing))~~ in accordance with RCW 43.03.250. Each board member will be compensated in accordance with RCW 43.03.250 and reimbursed for actual necessary traveling and other expenses in going to, attending, and returning from meetings of the board or that are incurred in the discharge of duties requested by the chair. However, (~~(in no event may))~~) a board member may not be compensated in any year for more than one hundred twenty days, except the chair may be compensated for not more than one hundred fifty days. Service on the board does not qualify as a service credit for the purposes of a public retirement system.

(3) The board shall keep proper records and is subject to audit by the state auditor or other auditing entities.

(4) The department (~~(of licensing))~~ shall provide administrative support to the board, which must include at least the following:

(a) Provide general staffing to meet the administrative needs of the board;

(b) Report to the board on the reimbursement status of any new special license plate series for which the state had to pay the start-up costs;

(c) Process special license plate applications and confirm that the sponsoring organization has submitted all required documentation. If an incomplete application is received, the department must return it to the sponsoring organization; and

(d) Compile the annual financial reports submitted by sponsoring organizations with active special license plate series and present those reports to the board for review and approval.

**Sec. 604.** RCW 46.16.725 and 2009 c 470 s 710 are each amended to read as follows:

(1) The creation of the board does not in any way preclude the authority of the legislature to independently propose and enact special license plate legislation.

(2) The board must review and either approve or reject special license plate applications submitted by sponsoring organizations.

(3) Duties of the board include but are not limited to the following:

(a) Review and approve the annual financial reports submitted by sponsoring organizations with active special license plate series and present those annual financial reports to the senate and house transportation committees;

(b) Report annually to the senate and house of representatives transportation committees on the special license plate applications that were considered by the board;

(c) Issue approval and rejection notification letters to sponsoring organizations, the department, the chairs of the senate and house of representatives transportation committees, and the legislative sponsors identified in each application. The letters must be issued within seven days of making a determination on the status of an application;

(d) Review annually the number of plates sold for each special license plate series created after January 1, 2003. The board may submit a recommendation to discontinue a special plate series to the chairs of the senate and house of representatives transportation committees; and

(e) Provide policy guidance and directions to the department concerning the adoption of rules necessary to limit the number of special license plates (~~(that))~~ for which an organization or a governmental entity may apply (~~(for))~~.

(4) Except as provided in (~~(chapter 72, Laws of 2008))~~ section 621 of this act, in order to assess the effects and impact of the proliferation of special license plates, the legislature declares a temporary moratorium on the issuance of any additional plates until July 1, 2011. During this period of time, the special license plate review board created in RCW 46.16.705 (as recodified by this act) and the department (~~(of licensing))~~ are prohibited from accepting, reviewing, processing, or approving any applications. Additionally, (~~(no))~~ a special license plate may not be enacted by the legislature during the moratorium, unless the proposed license plate has been approved by the board before February 15, 2005.

**B. REQUIREMENTS AND PROCEDURES**

**Sec. 605.** RCW 46.16.735 and 2004 c 222 s 3 are each amended to read as follows:

(1) For an organization to qualify for a special license plate under the special license plate approval program created in (~~(RCW 46.16.705 through 46.16.765))~~ this chapter, the sponsoring organization must submit documentation in conjunction with the application to the department that verifies(~~(€~~—~~(a))~~) that the organization is;

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(a) A nonprofit organization, as defined in 26 U.S.C. Sec. 501(c)(3). The department may request a copy of an Internal Revenue Service ruling to verify an organization's nonprofit status; and

(b) ((That the organization is)) Located in Washington state and has registered as a charitable organization with the secretary of state's office as required by law.

(2) For a governmental body to qualify for a special license plate under the special license plate approval program created in ((RCW 46.16.705 through 46.16.765)) this chapter, a governmental body must be:

(a) A political subdivision((s)) including, but not limited to, any county, city, town, municipal corporation, or special purpose taxing district that has the express permission of the political subdivision's executive body to sponsor a special license plate;

(b) A federally recognized tribal government that has received the approval of the executive body of that government to sponsor a special license plate;

(c) A state agency that has received approval from the director of the agency or the department head; or

(d) A community or technical college that has the express permission of the college's board of trustees to sponsor a special license plate.

**Sec. 606.** RCW 46.16.745 and 2005 c 210 s 8 are each amended to read as follows:

(1) A sponsoring organization meeting the requirements of RCW 46.16.735 (as recodified by this act), applying for the creation of a special license plate to the special license plate review board must, on an application supplied by the department, provide the minimum application requirements in subsection (2) of this section.

(2) The sponsoring organization shall:

(a) Submit prepayment of all start-up costs associated with the creation and implementation of the special license plate in an amount determined by the department. The department shall place this money into the special license plate applicant trust account created under ((RCW 46.16.755(4))) section 808 of this act;

(b) Provide a proposed license plate design;

(c) Provide a marketing strategy outlining short and long-term marketing plans for each special license plate and a financial analysis outlining the anticipated revenue and the planned expenditures of the revenues derived from the sale of the special license plate;

(d) Provide a signature of a legislative sponsor and proposed legislation creating the special license plate;

(e) Provide proof of organizational qualifications as determined by the department as provided for in RCW 46.16.735 (as recodified by this act);

(f) Provide signature sheets that include signatures from individuals who intend to purchase the special license plate and the number of plates each individual intends to purchase. The sheets must reflect a minimum of three thousand five hundred intended purchases of the special license plate.

(3) After an application is approved by the special license plate review board, the application need not be reviewed again by the board for a period of three years.

**Sec. 607.** RCW 46.16.755 and 2004 c 222 s 4 are each amended to read as follows:

(1)((a)) Revenues generated from the sale of special license plates for those sponsoring organizations who used the application process in RCW 46.16.745((3)) (as recodified by this act) must be deposited into the motor vehicle ((account)) fund created in RCW 46.68.070 until the department determines that the state's implementation costs have been fully reimbursed. ((The department shall apply the application fee required under RCW 46.16.745(3)(a) towards those costs.

—(b)) (2) When it is determined that the state has been fully reimbursed the department must notify the house of representatives and senate transportation committees, the sponsoring organization, and the state treasurer, and ((commence the distribution of)) begin distributing the revenue as otherwise provided by law.

((2)) (3) If reimbursement does not occur within two years from the date the special license plate is first offered for sale to the public, the special license plate series must be placed in probationary status for a period of one year from that date. If the state is still not fully reimbursed for its implementation costs after the one-year probation, the special license plate series must be discontinued immediately. Special license plates issued before discontinuation are valid until replaced under ((RCW 46.16.233)) section 422(10) of this act.

((3)) (4) The special license plate applicant trust account is created in the custody of the state treasurer. All receipts from special license plate applicants((—except the application fee as provided in RCW 46.16.745(3),)) must be deposited into the account. Only the director of the department or the director's designee may authorize disbursements from the account. The account is not subject to the allotment procedures under chapter 43.88 RCW, nor is an appropriation required for disbursements.

((4)) (5) The department shall:

(a) Provide the special license plate applicant with a written receipt for the payment((—

—(5) The department shall); and

(b) Maintain a record of each special license plate applicant trust account deposit((s)) including, but not limited to, the name and address of each special license plate applicant whose funds are being deposited, the amount paid, and the date of the deposit.

(6) After the department receives written notice that the special license plate applicant's application has been((—

—(a)) approved by the legislature, the director shall request that the money be transferred to the motor vehicle ((account;

—(b)) fund created in RCW 46.68.070.

(7) After the department receives written notice that the special license plate applicant's application has been denied by the special license plate review board or the legislature, the director shall provide a refund to the applicant within thirty days((—or

—(e)).

(8) After the department receives written notice that the special license plate applicant's application has been withdrawn by the special license plate applicant, the director shall provide a refund to the applicant within thirty days.

**Sec. 608.** RCW 46.16.765 and 2003 c 196 s 303 are each amended to read as follows:

(1) Within thirty days of legislative enactment of a new special license plate series for a qualifying organization meeting the requirements of RCW 46.16.735(1) (as recodified by this act), the department shall enter into a written agreement with the organization that sponsored the special license plate. The agreement must identify the services to be performed by the sponsoring organization. The agreement must be consistent with all applicable state law and include the following provision:

"No portion of any funds disbursed under the agreement may be used, directly or indirectly, for any of the following purposes:

(a) Attempting to influence: (i) The passage or defeat of legislation by the legislature of the state of Washington, by a county, city, town, or other political subdivision of the state of Washington, or by the Congress; or (ii) the adoption or rejection of a rule, standard, rate, or other legislative enactment of a state agency;

(b) Making contributions reportable under chapter 42.17 RCW; or

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(c) Providing a: (i) Gift; (ii) honoraria; or (iii) travel, lodging, meals, or entertainment to a public officer or employee."

(2) The sponsoring organization must submit an annual financial report by September 30th of each year to the department detailing actual revenues and expenditures of the revenues received from sales of the special license plate. Consistent with the agreement under subsection (1) of this section, the sponsoring organization must expend the revenues generated from the sale of the special license plate series for the benefit of the public, and it must be spent within this state. Disbursement of the revenue generated from the sale of the special license plate to the sponsoring organization is contingent upon the organization meeting all reporting and review requirements as required by the department.

(3) If the sponsoring organization ceases to exist or the purpose of the special license plate series ceases to exist, revenues generated from the sale of the special license plates must be deposited into the motor vehicle ~~((account))~~ fund created in RCW 46.68.070.

(4) A sponsoring organization may not seek to redesign its special license plate series until ~~((all-of))~~ the entire inventory is sold or purchased by the organization itself. All costs for the redesign of a special license plate series must be paid by the sponsoring organization.

**Sec. 609.** RCW 46.16.775 and 2003 c 196 s 304 are each amended to read as follows:

(1) A special license plate series created by the legislature after January 1, 2004, that has not been reviewed and approved by the special license plate review board is subject to the following requirements:

(a) The organization sponsoring the license plate series shall, within thirty days of enactment of the legislation creating the special license plate series, submit prepayment of all start-up costs associated with the creation and implementation of the special license plate in an amount determined by the department. The prepayment will be credited to the motor vehicle fund created in RCW 46.68.070. The creation and implementation of the special license plate series may not ~~((commence))~~ begin until payment is received by the department.

(b) If the sponsoring organization is not able to meet the prepayment requirements in (a) of this subsection and can demonstrate this fact to the satisfaction of the department, the revenues generated from the sale of the special license plates must be deposited in the motor vehicle ~~((account))~~ fund created in RCW 46.68.070 until the department determines that the state's portion of the implementation costs have been fully reimbursed. When it ~~((is))~~ has determined that the state has been fully reimbursed, the department must notify the treasurer to commence distribution of the revenue according to statutory provisions.

(c) The sponsoring organization must provide a proposed special license plate design to the department within thirty days of enactment of the legislation creating the special license plate series.

(2) The state must be reimbursed for its portion of the implementation costs within two years from the date the new special license plate series goes on sale to the public. If the reimbursement does not occur within the two-year time frame, the special license plate series must be placed in probationary status for a period of one year from that date. If the state is still not fully reimbursed for its implementation costs after the one-year probation, the special license plate series must be discontinued immediately. Those special license plates issued before discontinuation are valid until replaced under ~~((RCW 46.16.233))~~ section 422(10) of this act.

(3) If the sponsoring organization ceases to exist or the purpose of the special license plate series ceases to exist, revenues generated from the sale of the special license plates must be deposited into the motor vehicle ~~((account))~~ fund created in RCW 46.68.070.

(4) A sponsoring organization may not seek to redesign ~~((their))~~ its special license plate series until ~~((all-of))~~ the entire existing inventory is sold or purchased by the organization itself. All costs for the redesign of a special license plate series must be paid by the sponsoring organization.

**Sec. 610.** RCW 46.16.690 and 2005 c 210 s 6 are each amended to read as follows:

The department shall offer special license plate design services to organizations that are sponsoring a new special license plate series ~~((or-are))~~ and organizations seeking to redesign the appearance of an existing special license plate series that they sponsored. In providing this service, the department must work with the requesting organization in determining the specific qualities of the new special license plate design and must provide full design services to the organization. The department shall collect from the requesting organization a fee of two hundred dollars for providing special license plate design services. This fee includes one original special license plate design and up to five additional renditions of the original design. If the organization requests the department to provide further renditions, in addition to the five renditions provided for under the original fee, the department shall collect an additional fee of one hundred dollars per rendition. All revenue collected under this section must be deposited into the multimodal transportation account created in RCW 47.66.070.

**C. PLATE TYPES, DECALS, AND EMBLEMS**

NEW SECTION. **Sec. 611.** (1) The legislature recognizes that the special license plate review board established in RCW 46.16.705 (as recodified by this act) reviews and approves applications for special license plate series.

(2) Special license plate series reviewed and approved by the special license plate review board:

(a) May be issued in lieu of standard issue or personalized license plates for vehicles required to display one and two license plates unless otherwise specified;

(b) Must be issued under terms and conditions established by the department;

(c) Must not be issued for vehicles registered under chapter 46.87 RCW; and

(d) Must display a symbol or artwork approved by the special license plate review board.

(3) The special license plate review board approves, and the department shall issue, the following special license plates:

LICENSE PLATE	DESCRIPTION, SYMBOL, OR ARTWORK
Armed forces collection	Recognizes the contribution of veterans, active duty military personnel, reservists, and members of the national guard, and includes six separate designs, each containing a symbol representing a different branch of the armed forces to include army, navy, air force, marine corps, coast guard, and national guard.
Endangered wildlife	Displays a symbol or artwork, approved by the special license plate review board and the legislature.
Gonzaga University alumni	Recognizes the Gonzaga University alumni association.

Helping kids speak	Recognizes an organization that supports programs that provide no-cost speech pathology programs to children.	(d) Marine corps; (e) National guard; or (f) Navy.
Keep kids safe	Recognizes efforts to prevent child abuse and neglect.	(2) Armed forces license plates may be purchased by: (a) Active duty military personnel; (b) Families of veterans and service members; (c) Members of the national guard; (d) Reservists; or (e) Veterans, as defined in RCW 41.04.007.
Law enforcement memorial	Honors law enforcement officers in Washington killed in the line of duty.	(3) A person who applies for special armed forces license plates shall provide: (a) DD-214 or discharge papers if the applicant is a veteran; (b) A military identification card or retired military identification card; or (c) A declaration of fact attesting to the applicant's eligibility as required under this section.
Professional firefighters and paramedics	Recognizes professional firefighters and paramedics who are members of the Washington state council of firefighters.	(4) For the purposes of this section: (a) "Child" includes stepchild, adopted child, foster child, grandchild, or son or daughter-in-law. (b) "Family" or "families" includes an individual's spouse, child, parent, sibling, aunt, uncle, or cousin. (c) "Parent" includes stepparent, grandparent, or in-laws. (d) "Sibling" includes brother, half brother, stepbrother, sister, half sister, stepsister, or brother or sister-in-law.
Share the road	Recognizes an organization that promotes bicycle safety and awareness education.	(5) Armed forces license plates are not free of charge to disabled veterans, former prisoners of war, or spouses or domestic partners of deceased former prisoners of war under section 619 of this act.
Ski & ride Washington	Recognizes the Washington snowsports industry.	<u>NEW SECTION. Sec. 613.</u> (1) The department must make available, upon request by a purchaser of special armed forces license plates, at no additional cost, a decal indicating the purchaser's military status. The list of available decals must include, but is not limited to: (a) Active duty; (b) Disabled veteran; (c) Reservist; (d) Retiree; (e) Veteran; or (f) Other decals established in cooperation with the department of veterans affairs.
Washington lighthouses	Recognizes an organization that supports selected Washington state lighthouses and provides environmental education programs.	(2) Armed forces decals must be made available only for standard six-inch by twelve-inch license plates. The department may specify where the decal may be placed on the license plate.
Washington state parks	Recognizes Washington state parks as premier destinations of uncommon quality that preserve significant natural, cultural, historical, and recreational resources.	(3) The department of veterans affairs must enter into an agreement with the department to reimburse the department for the costs associated with providing military status decals described in this section.
Washington's national park fund	Builds awareness of Washington's national parks and supports priority park programs and projects in Washington's national parks, such as enhancing visitor experience, promoting volunteerism, engaging communities, and providing educational opportunities related to Washington's national parks.	<u>Sec. 614.</u> RCW 46.16.301 and 1997 c 291 s 5 are each amended to read as follows: The department shall create, design, and issue a special baseball stadium license plate that may be used in lieu of <del>((regular))</del> <u>standard issue</u> or personalized license plates for motor vehicles required to display two <del>((motor vehicle))</del> license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. The special <u>license plates</u> <del>((shall))</del> commemorate the construction of a baseball stadium, as defined in RCW 82.14.0485. The department shall also issue to each recipient of a special baseball stadium license plate a certificate of participation in the construction of the baseball stadium.
Washington's wildlife collection	Recognizes Washington's wildlife.	<u>Sec. 615.</u> RCW 46.16.324 and 1994 c 194 s 3 are each amended to read as follows: <del>((Effective January 1, 1995,))</del> <u>A</u> state university, regional university, or state college as defined in RCW 28B.10.016 may apply to the department, in a form <del>((prescribed))</del> <u>approved</u> by the department <del>((s))</del> and request the department to issue a series of collegiate license plates, <u>for display on motor vehicles</u> , depicting the
We love our pets	Recognizes an organization that assists local member agencies of the federation of animal welfare and control agencies to promote and perform spay/neuter surgery on Washington state pets to reduce pet overpopulation.	
Wild on Washington	Symbolizes wildlife viewing in Washington state.	

(4) Applicants for initial and renewal professional firefighters and paramedics special license plates must show proof eligibility by providing a certificate of current membership from the Washington state council of firefighters.

NEW SECTION. Sec. 612. (1) A registered owner may apply to the department for special armed forces license plates for motor vehicles representing the following:

- (a) Air force;
- (b) Army;
- (c) Coast guard;

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name and mascot or symbol of the college or university, as submitted and approved for use by the requesting institution.

**NEW SECTION. Sec. 616.** (1) A registered owner may apply to the department for special license plates showing the official amateur radio call letters assigned by the federal communications commission. The amateur radio operator must:

(a) Provide a copy of the current valid federal communications commission amateur radio license;

(b) Pay the amateur radio license plate fee required under section 521(1)(a) of this act, in addition to any other fees and taxes due; and

(c) Be recorded as the registered owner of the vehicle on which the amateur radio license plates will be displayed.

(2) Amateur radio license plates must be issued only for motor vehicles owned by persons who have a valid official radio operator license issued by the federal communications commission.

(3) The department shall not issue or may refuse to issue amateur radio license plates that display the consecutive letters "WSP."

(4) A person who has been issued amateur radio operator license plates as provided in this section must:

(a) Notify the department within thirty days after the federal communications commission license assigned is canceled or expires, and return the amateur radio license plates; and

(b) Provide a copy of the renewed federal communications commission license to the department after it is renewed.

(5) Amateur radio license plates may be transferred from one motor vehicle to another motor vehicle owned by the amateur radio operator upon application to the department, county auditor or other agent, or subagent appointed by the director.

(6) Facilities of official amateur radio stations may be utilized to the fullest extent in the work of governmental agencies. The director shall furnish the state military department, the department of commerce, the Washington state patrol, and all county sheriffs a list of the names, addresses, and license plate or official amateur radio call letters of each person possessing the amateur radio license plates.

(7) Failure to return the amateur radio license plates as required under subsection (4) of this section is a traffic infraction.

**NEW SECTION. Sec. 617.** (1) A registered owner may apply to the department, county auditor or other agent, or subagent appointed by the director for a collector vehicle license plate for a motor vehicle that is at least thirty years old. The motor vehicle must be operated primarily as a collector vehicle and be in good running order. The applicant for the collector vehicle license plate shall:

(a) Purchase a registration for the motor vehicle as required under chapters 46.16 and 46.17 RCW; and

(b) Pay the special license plate fee established under section 521(1)(d) of this act, in addition to any other fees or taxes required by law.

(2) A person applying for a collector vehicle license plate may:

(a) Receive a collector vehicle license plate assigned by the department; or

(b) Provide a Washington state issued license plate designated for general use in the year of the vehicle's manufacture.

(3) Collector vehicle license plates:

(a) Are valid for the life of the motor vehicle;

(b) Are not required to be renewed; and

(c) Must be displayed on the rear of the motor vehicle.

(4) A collector vehicle registered under this section may only be used for participation in club activities, exhibitions, tours, parades, and occasional pleasure driving.

(5) Collector vehicle license plates may be transferred from one motor vehicle to another motor vehicle described in subsection (1)

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of this section upon application to the department, county auditor or other agent, or subagent appointed by the director.

**NEW SECTION. Sec. 618.** (1) A registered owner who has been awarded the Congressional Medal of Honor may apply to the department for special license plates for use on a passenger vehicle. The Congressional Medal of Honor recipient must:

(a) Provide proof from the Washington state department of veterans affairs showing receipt of the medal; and

(b) Be recorded as the registered owner of the vehicle on which the Congressional Medal of Honor license plates will be displayed.

(2) Congressional Medal of Honor license plates must be issued:

(a) Only for a personal passenger motor vehicle owned by persons who have received the Congressional Medal of Honor; and

(b) Without payment of vehicle license fees, license plate fees, and motor vehicle excise taxes.

(3) Congressional Medal of Honor license plates must be replaced, free of charge, if the license plates become lost, stolen, damaged, defaced, or destroyed.

(4) Congressional Medal of Honor license plates may be transferred, free of charge, from one motor vehicle to another motor vehicle owned by the Congressional Medal of Honor recipient upon application to the department, county auditor or other agent, or subagent appointed by the director.

**NEW SECTION. Sec. 619.** (1) A registered owner who is a veteran, as defined in RCW 41.04.007, may apply to the department for disabled American veteran or former prisoner of war license plates, for use on one personal use motor vehicle. The veteran must be recorded as the registered owner of the vehicle on which the disabled American veteran or former prisoner of war license plates will be displayed and:

(a) Provide certification from the veterans administration or the military service from which the veteran was discharged that the veteran has a service-connected disability rating;

(b) Have lost the use of both hands or one foot;

(c) Have been captured and incarcerated by an enemy of the United States during a period of war with the United States and have received a prisoner of war medal;

(d) Have become blind in both eyes as the result of military service; or

(e) Be rated by the veterans administration or the military service from which the veteran was discharged and be receiving service-connected compensation at the one hundred percent rate that is expected to exist for more than one year.

(2) The special license plates under this section must:

(a) Display distinguishing marks, letters, or numerals indicating that the registered owner is a disabled American veteran or former prisoner of war; and

(b) Be issued for one personal use vehicle without the payment of any vehicle license fees, license plate fees, or excise taxes.

(3) A registered owner who is a veteran, as defined in RCW 41.04.007, may, in lieu of applying for the special license plates under this section, apply for regular issue or any qualifying special license plate and receive the full benefit of the vehicle license fee and excise tax exemption provided in subsection (2)(b) of this section.

(4) The department may periodically verify the one hundred percent rate as described in subsection (1)(e) of this section.

(5) A veteran who has been issued disabled American veteran or former prisoner of war license plates under this section before July 1, 1983, continues to be eligible for the vehicle license fee and excise tax exemption described in subsection (2)(b) of this section.

(6) Disabled American veteran and former prisoner of war license plates may be transferred from one motor vehicle to another motor vehicle owned by the veteran upon application to the

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department, county auditor or other agent, or subagent appointed by the director.

(7) For the purposes of this section:

(a) "Blind" means the definition of "blind" used by the state of Washington in determining eligibility for financial assistance to the blind under Title 74 RCW; and

(b) "Special license plates" does not include any plate from the armed forces license plate collection established in section 611(3) of this act.

(8) Any unauthorized use of a special license plate under this section is a gross misdemeanor.

**NEW SECTION. Sec. 620.** (1) A registered owner who is an officer of the Taipei economic and cultural office may apply to the department for special license plates for a motor vehicle owned or leased by the officer. The special license plates must:

(a) Be issued for passenger vehicles having a manufacturer's rated carrying capacity of one ton or less;

(b) Show the words "Foreign Organization";

(c) Be in a distinguishing color and a separate numerical series;

(d) Be returned to the department when no longer in use or when the owner or lessee is relieved of his or her duties as a representative of the recognized foreign organization; and

(e) Be removed from the vehicle when the officer of the Taipei economic and cultural office transfers or assigns the interest or certificate of title in the motor vehicle for which the special license plates were issued.

(2) Motor vehicles described in subsection (1) of this section are exempt from the vehicle license fees under section 531 of this act.

(3) Foreign organization license plates may be transferred from one motor vehicle to another motor vehicle owned by the officer as described in subsection (1) of this section upon application to the department, county auditor or other agent, or subagent appointed by the director.

(4) The Taipei economic and cultural office shall bear the entire cost of production of the special license plates described in subsection (1) of this section.

**NEW SECTION. Sec. 621.** (1) A registered owner who is the mother or father of a member of the United States armed forces who died while in service to his or her country, or as a result of his or her service, may apply to the department for special gold star license plates for use on a motor vehicle. The registered owner must:

(a) Be a resident of this state;

(b) Provide certification from the Washington state department of veterans affairs that the registered owner qualifies for the special license plate under this section;

(c) Be recorded as the registered owner of the motor vehicle on which the gold star license plates will be displayed; and

(d) Pay all fees and taxes required by law for registering the motor vehicle.

(2) Gold star license plates must be issued:

(a) Only for motor vehicles owned by qualifying applicants; and

(b) Without payment of any license plate fee.

(3) Gold star license plates must be replaced, free of charge, if the license plates become lost, stolen, damaged, defaced, or destroyed.

(4) Gold star license plates may be transferred from one motor vehicle to another motor vehicle owned by the mother or father, as described in subsection (1) of this section, upon application to the department, county auditor or other agent, or subagent appointed by the director.

**NEW SECTION. Sec. 622.** (1) A registered owner who is an honorary consul or official representative of any foreign government may apply to the department for special license plates for a motor vehicle owned or leased by the honorary consul or official representative. The honorary consul or official

representative must be a citizen of the United States, pay all required vehicle license fees and taxes, and either (a) provide a copy of the honorary consul identification card or (b) show the exequatur issued by the United States department of state.

(2) The special honorary consul license plates must be:

(a) A distinguishing color and separate numerical series;

(b) Returned to the department when no longer in use or when the honorary consul or official representative is relieved of his or her official duties; and

(c) Removed from the vehicle when the honorary consul or official representative transfers or assigns the interest or certificate of title in the motor vehicle for which the special license plates were issued.

(3) The special honorary consul license plates may be transferred to a replacement vehicle. The honorary consul or official representative shall immediately notify the department of the transfer of the special license plates.

**NEW SECTION. Sec. 623.** (1) A registered owner may apply to the department, county auditor or other agent, or subagent appointed by the director for a horseless carriage license plate for a motor vehicle that is at least forty years old. The motor vehicle must be operated primarily as a collector vehicle and be in good running order. The applicant for the horseless carriage license plate shall:

(a) Purchase a registration for the motor vehicle as required under chapters 46.16 and 46.17 RCW; and

(b) Pay the special license plate fee established under section 521(1)(i) of this act, in addition to any other fees or taxes required by law.

(2) Horseless carriage license plates:

(a) Are valid for the life of the motor vehicle;

(b) Are not required to be renewed;

(c) Are not transferrable to any other motor vehicle; and

(d) Must be displayed on the rear of the motor vehicle.

**NEW SECTION. Sec. 624.** (1) A registered owner who has a valid military affiliate radio system station license may apply to the department for special license plates for use on only one motor vehicle owned by the qualified applicant. The applicant must:

(a) Be a resident of this state;

(b) Provide a copy of the current official military affiliate radio system station license authorized by the department of defense and issued by the United States army, air force, navy, or marine corps;

(c) Be recorded as the registered owner of the motor vehicle on which the military affiliate radio system license plates will be displayed; and

(d) Pay the military affiliate radio system license plate fee required under section 521(1)(l) of this act, in addition to any other fees or taxes required by law.

(2) A person who has been issued military affiliate radio system license plates as provided in this section must:

(a) Notify the department if the military affiliate radio system station license assigned is canceled or expires; and

(b) Provide a copy of the renewed military affiliate radio system station license to the department when it is renewed.

(3) Military affiliate radio system license plates:

(a) Are not available for motorcycles; and

(b) May be transferred from one motor vehicle to another motor vehicle owned by the military affiliate radio system operator upon application to the department, county auditor or other agent, or subagent appointed by the director.

**NEW SECTION. Sec. 625.** (1) A registered owner who has survived the attack on Pearl Harbor on December 7, 1941, may apply to the department for special license plates for use on only one motor vehicle owned by the qualified applicant. The applicant must:

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(a) Be a resident of this state;

(b) Have been a member of the United States armed forces on December 7, 1941;

(c) Have been on station on December 7, 1941, between the hours of 7:55 a.m. and 9:45 a.m. Hawaii time at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three miles;

(d) Have received an honorable discharge from the United States armed forces;

(e) Provide certification by a Washington state chapter of the Pearl Harbor survivors association showing that qualifications in (c) of this subsection have been met;

(f) Be recorded as the registered owner of the vehicle on which the Pearl Harbor survivor license plates will be displayed; and

(g) Pay all fees and taxes required by law for registering the motor vehicle.

(2) Pearl Harbor survivor license plates must be issued without the payment of any license plate fee.

(3) Pearl Harbor survivor license plates must be replaced, free of charge, if the license plates have become lost, stolen, damaged, defaced, or destroyed.

(4) Pearl Harbor survivor license plates may be issued to the surviving spouse or domestic partner of a Pearl Harbor survivor who met the requirements in subsection (1) of this section. The surviving spouse or domestic partner must be a resident of this state. If the surviving spouse remarries or the surviving domestic partner marries or enters into a new domestic partnership, he or she must return the special plates to the department within fifteen days and apply for regular license plates or another type of special license plate.

(5) Pearl Harbor survivor license plates may be transferred from one motor vehicle to another motor vehicle owned by the Pearl Harbor survivor or the surviving spouse or domestic partner as described in subsection (4) of this section upon application to the department, county auditor or other agent, or subagent appointed by the director.

**NEW SECTION. Sec. 626.** (1) A registered owner may apply to the department for a personalized license plate for any vehicle required to display one or two vehicle license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. The application for personalized license plates must contain the combination of letters or numbers, or both, requested by the registered owner.

(2) Personalized license plates must:

(a) Be the same design as standard issue license plates;

(b) Consist of numbers or letters or any combination of numbers or letters;

(c) Not exceed seven positions unless proposed by the department and approved by the Washington state patrol; and

(d) Not contain less than one character.

(3) A person who purchased personalized license plates containing three letters and three digits on or between the dates of August 9, 1971, and November 6, 1973, is not required to pay the additional annual renewal fee described in section 520 of this act.

(4) The department shall not issue or may refuse to issue personalized license plates that:

(a) Duplicate or conflict with an existing or projected vehicle license plate series or other numbering systems for records kept by the department; or

(b) May carry connotations offensive to good taste and decency or which would be misleading.

(5) Personalized license plates must be issued only to the registered owner of the vehicle on which they are to be displayed. The registered owner must:

(a) Pay the personalized license plate fee required under section 520 of this act, in addition to any other fee or taxes due;

(b) Renew personalized license plates annually, regardless of whether or not the vehicle on which the personalized license plates are displayed will be driven on the public highways;

(c) Surrender personalized license plates that have not been renewed to the department. The failure to surrender expired personalized license plates is a traffic infraction; and

(d) Immediately report to the department when personalized license plates have been transferred to another vehicle or another owner.

(6) The department may establish rules as necessary to carry out this section including, but not limited to, identifying the maximum number of positions on personalized license plates for motorcycles.

**NEW SECTION. Sec. 627.** (1) A registered owner may purchase personalized license plates with a special license plate background for any vehicle required to display one or two vehicle license plates, excluding:

(a) Amateur radio license plates;

(b) Collector vehicle license plates;

(c) Disabled American veteran license plates;

(d) Former prisoner of war license plates;

(e) Horseless carriage license plates;

(f) Congressional Medal of Honor license plates;

(g) Military affiliate radio system license plates;

(h) Pearl Harbor survivor license plates;

(i) Restored license plates; and

(j) Vehicles registered under chapter 46.87 RCW.

(2) Personalized special license plates issued under this section must:

(a) Consist of numbers or letters or any combination of numbers or letters;

(b) Not exceed seven characters; and

(c) Not contain less than one character.

(3) The department may not issue or may refuse to issue personalized special license plates that:

(a) Duplicate or conflict with existing or projected vehicle license plate series or other numbering systems for records kept by the department; or

(b) May carry connotations offensive to good taste and decency or which would be misleading.

(4) Personalized special license plates must be issued only to the registered owner of the vehicle on which they are to be displayed. The registered owner must:

(a) Pay both the personalized license plate fee required under section 520 of this act and the special license plate fee required under the applicable special license plate provision, in addition to any other fee or taxes due. License plate fees must be distributed as provided in chapter 46.68 RCW;

(b) Renew personalized special license plates annually, regardless of whether or not the vehicle on which the personalized special license plates are displayed will be driven on the public highways;

(c) Surrender personalized special license plates that have not been renewed to the department. The failure to surrender expired personalized special license plates is a traffic infraction; and

(d) Immediately report to the department when personalized special license plates have been transferred to another vehicle or another owner.

(5) The department may establish rules as necessary to carry out this section including, but not limited to, identifying the maximum number of positions on personalized special license plates for motorcycles.

**NEW SECTION. Sec. 628.** (1) A registered owner who has been awarded a Purple Heart medal by any branch of the United States armed forces, including the merchant marines and the women's air forces service pilots may apply to the department for

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special license plates for use on only one motor vehicle owned by the qualified applicant. The applicant must:

- (a) Be a resident of this state;
- (b) Have been wounded during one of this nation's wars or conflicts identified in RCW 41.04.005;
- (c) Have received an honorable discharge from the United States armed forces;
- (d) Provide a copy of the armed forces document showing the recipient was awarded the Purple Heart medal;
- (e) Be recorded as the registered owner of the vehicle on which the Purple Heart survivor license plates will be displayed; and
- (f) Pay all fees and taxes required by law for registering the motor vehicle.

(2) Purple Heart license plates must be issued without the payment of any special license plate fee.

(3) Purple Heart license plates may be issued to the surviving spouse or domestic partner of a Purple Heart recipient who met the requirements in subsection (1) of this section. The surviving spouse or domestic partner must be a resident of this state. If the surviving spouse remarries or the surviving domestic partner marries or enters into a new domestic partnership, he or she must return the special plates to the department within fifteen days and apply for regular license plates or another type of special license plate.

(4) Purple Heart license plates may be transferred from one motor vehicle to another motor vehicle owned by the Purple Heart recipient or the surviving spouse or domestic partner as described in subsection (3) of this section upon application to the department, county auditor or other agent, or subagent appointed by the director.

**NEW SECTION. Sec. 629.** A registered owner who uses a passenger motor vehicle for commuter ride sharing or ride sharing for persons with special transportation needs, as defined in RCW 46.74.010, shall apply to the director, county auditor or other agent, or subagent appointed by the director for special ride share license plates. The registered owner must qualify for the tax exemptions provided in RCW 82.08.0287, 82.12.0282, or 82.44.015, and pay the special ride share license plate fee required under section 521(1)(n) of this act when the special ride share license plates are initially issued.

(2) The special ride share license plates:

- (a) Must be of a distinguishing separate numerical series or design as defined by the department;
- (b) Must be returned to the department when no longer in use or when the registered owner no longer qualifies for the tax exemptions provided in subsection (1) of this section; and
- (c) Are not required to be renewed annually for motor vehicles described in RCW 46.16.020 (as recodified by this act).

(3) Special ride share license plates may be transferred from one motor vehicle to another motor vehicle as described in subsection (1) of this section upon application to the department, county auditor or other agent, or subagent appointed by the director.

(4) Any person who knowingly makes a false statement of a material fact in the application for a special license plate under subsection (1) of this section is guilty of a gross misdemeanor.

**NEW SECTION. Sec. 630.** A registered owner may apply to the department, county auditor or other agent, or subagent appointed by the director for a square dancer license plate. The registered owner shall pay the special license plate fee required under section 521(1)(q) of this act, in addition to any other fee or tax required by law. The square dancer license plate may be issued in lieu of standard issue or personalized license plates for vehicles required to display two license plates, but may not be issued for vehicles registered under chapter 46.87 RCW.

#### D. MISCELLANEOUS

**Sec. 631.** RCW 46.16.335 and 1990 c 250 s 10 are each amended to read as follows:

The director shall adopt rules to implement (~~RCW 46.16.301 through 46.16.332~~) chapter 46... RCW (the new chapter created in section 1224 of this act), including setting of fees.

#### PART VII. SPECIAL PARKING PRIVILEGES FOR PERSONS WITH DISABILITIES

**NEW SECTION. Sec. 701.** (1) A natural person who has a disability that meets one of the following criteria may apply for special parking privileges:

- (a) Cannot walk two hundred feet without stopping to rest;
- (b) Is severely limited in ability to walk due to arthritic, neurological, or orthopedic condition;
- (c) Has such a severe disability that the person cannot walk without the use of or assistance from a brace, cane, another person, prosthetic device, wheelchair, or other assistive device;
- (d) Uses portable oxygen;
- (e) Is restricted by lung disease to an extent that forced expiratory respiratory volume, when measured by spirometry, is less than one liter per second or the arterial oxygen tension is less than sixty mm/hg on room air at rest;
- (f) Impairment by cardiovascular disease or cardiac condition to the extent that the person's functional limitations are classified as class III or IV under standards accepted by the American heart association;
- (g) Has a disability resulting from an acute sensitivity to automobile emissions that limits or impairs the ability to walk. The personal physician, advanced registered nurse practitioner, or physician assistant of the applicant shall document that the disability is comparable in severity to the others listed in this subsection;
- (h) Has limited mobility and has no vision or whose vision with corrective lenses is so limited that the person requires alternative methods or skills to do efficiently those things that are ordinarily done with sight by persons with normal vision;
- (i) Has an eye condition of a progressive nature that may lead to blindness; or
- (j) Is restricted by a form of porphyria to the extent that the applicant would significantly benefit from a decrease in exposure to light.

(2) The disability must be determined by either:

- (a) A licensed physician;
- (b) An advanced registered nurse practitioner licensed under chapter 18.79 RCW; or
- (c) A physician assistant licensed under chapter 18.71A or 18.57A RCW.

(3) The application for special parking privileges for persons with disabilities must contain:

(a) The following statement immediately below the physician's, advanced registered nurse practitioner's, or physician assistant's signature: "A parking permit for a person with disabilities may be issued only for a medical necessity that severely affects mobility or involves acute sensitivity to light (section 701 of this act). Knowingly providing false information on this application is a gross misdemeanor. The penalty is up to one year in jail and a fine of up to \$5,000 or both"; and

(b) Other information as required by the department.

(4) A natural person who has a disability described in subsection (1) of this section and is expected to improve within six months may be issued a temporary placard for a period not to exceed six months. If the disability exists after six months, a new temporary placard must be issued upon receipt of a new application with certification

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from the person's physician. Special license plates for persons with disabilities may not be issued to a person with a temporary disability.

(5) A natural person who qualifies for special parking privileges under this section must receive an identification card showing the name and date of birth of the person to whom the parking privilege has been issued and the serial number of the placard.

(6) A natural person who qualifies for permanent special parking privileges under this section may receive one of the following:

(a) Up to two parking placards;

(b) One set of special license plates for persons with disabilities if the person with the disability is the registered owner of the vehicle on which the license plates will be displayed;

(c) One parking placard and one set of special license plates for persons with disabilities if the person with the disability is the registered owner of the vehicle on which the license plates will be displayed; or

(d) One special parking year tab for persons with disabilities and one parking placard.

(7) Parking placards and identification cards described in this section must be issued free of charge.

(8) The parking placard and identification card must be immediately returned to the department upon the placard holder's death.

**NEW SECTION. Sec. 702.** (1) The following organizations may apply for special parking privileges:

(a) Public transportation authorities;

(b) Nursing homes licensed under chapter 18.51 RCW;

(c) Boarding homes licensed under chapter 18.20 RCW;

(d) Senior citizen centers;

(e) Private nonprofit corporations, as defined in RCW 24.03.005; and

(f) Cabulance companies that regularly transport persons with disabilities who have been determined eligible for special parking privileges under this section and who are registered with the department under chapter 46.72 RCW.

(2) An organization that qualifies for special parking privileges may receive, upon application, parking license plates or placards, or both, for persons with disabilities as defined by the department.

(3) Public transportation authorities, nursing homes, boarding homes, senior citizen centers, private nonprofit corporations, and cabulance services are responsible for ensuring that the special placards and license plates are not used improperly and are responsible for all fines and penalties for improper use.

(4) The department shall adopt rules to determine organization eligibility.

**NEW SECTION. Sec. 703.** (1) Parking privileges for persons with disabilities must be renewed at least every five years, as required by the director, by satisfactory proof of the right to continued use of the privileges.

(2) The department shall match and purge its database of parking permits issued to persons with disabilities with available death record information at least every twelve months.

(3) The department shall adopt rules to administer the parking privileges for persons with disabilities program.

**NEW SECTION. Sec. 704.** (1) The department shall design special license plates for persons with disabilities, parking placards, and year tabs displaying the international symbol of access.

(2) Special license plates for persons with disabilities must be displayed on the motor vehicle as standard issue license plates as described in section 422 of this act.

(3) Parking placards must be displayed when the motor vehicle is parked by suspending it from the rearview mirror. In the absence

of a rearview mirror, the parking placard must be displayed on the dashboard.

(4) Special year tabs for persons with disabilities must be displayed on license plates as defined by the department.

(5) Persons who have been issued special license plates for persons with disabilities, parking placards, or special license plates with a special year tab for persons with disabilities may park in places reserved for persons with physical disabilities.

**NEW SECTION. Sec. 705.** (1) An additional fee may not be charged for special license plates for persons with disabilities except for any other fees and taxes required to be paid upon registration of a motor vehicle.

(2) A registered owner who qualifies for special parking privileges as described in section 701 of this act may apply to the department for special license plates for persons with disabilities or special license plates with a special year tab for persons with disabilities. Special license plates with a special year tab for persons with disabilities are available on the following special license plate designs:

PLATE TYPE	ISSUED UNDER
Armed forces collection	Section 612 of this act
Baseball stadium	RCW 46.16.301 (as recodified by this act)
Collegiate	RCW 46.16.324 (as recodified by this act)
Disabled American veteran	Section 619 of this act
Endangered wildlife	Section 611 of this act
Former prisoner of war	Section 619 of this act
Helping kids speak	Section 611 of this act
Keep kids safe	Section 611 of this act
Law enforcement memorial	Section 611 of this act
Pearl Harbor survivor	Section 625 of this act
Personalized	Section 626 of this act
Professional firefighters and paramedics	Section 611 of this act
Purple Heart	Section 628 of this act
Share the road	Section 611 of this act
Ski & ride Washington	Section 611 of this act
Square dancer	Section 630 of this act
Washington lighthouses	Section 611 of this act
Washington's national park fund	Section 611 of this act
Washington state parks	Section 611 of this act
Washington's wildlife collection	Section 611 of this act
We love our pets	Section 611 of this act
Wild on Washington	Section 611 of this act

(3) A registered owner who chooses to purchase special license plates as described in subsection (2) of this section shall pay the applicable special license plate fee, in addition to any other fees or taxes required for registering a motor vehicle.

(4) Special license plates for persons with disabilities or special license plates with a special year tab for persons with disabilities must be renewed in the same manner and at the time required for the renewal of standard motor vehicle license plates under chapter 46.16 RCW.

(5) Special license plates for persons with disabilities or special license plates with a special year tab for persons with disabilities may be transferred from one motor vehicle to another motor vehicle owned by the person with the parking privilege upon application to the department, county auditor or other agent, or subagent appointed by the director.

(6) Special license plates for persons with disabilities or special license plates with a special year tab for persons with disabilities must be removed from the motor vehicle when the person with disabilities transfers or assigns his or her interest in the motor vehicle.

**NEW SECTION. Sec. 706. (1) False information.** Knowingly providing false information in conjunction with the application for special parking privileges for persons with disabilities is a gross misdemeanor punishable under chapter 9A.20 RCW.

(2) **Unauthorized use.** Any unauthorized use of the special placard, special license, or identification card issued under this chapter is a traffic infraction with a monetary penalty of two hundred fifty dollars.

(3) **Inaccessible access.** It is a parking infraction, with a monetary penalty of two hundred fifty dollars, for a person to make inaccessible the access aisle located next to a space reserved for persons with physical disabilities. The clerk of the court shall report all violations related to this subsection to the department.

(4) **Parking without placard/plate.** It is a parking infraction, with a monetary penalty of two hundred fifty dollars, for any person to park a vehicle in a parking place provided on private property without charge or on public property reserved for persons with physical disabilities without a placard or special license plate issued under this chapter. If a person is charged with a violation, the person will not be determined to have committed an infraction if the person produces in court or before the court appearance the placard or special license plate issued under this chapter as required under this chapter. A local jurisdiction providing nonmetered, on-street parking places reserved for persons with physical disabilities may impose by ordinance time restrictions of no less than four hours on the use of these parking places.

(5) **Time restrictions.** A local jurisdiction may impose by ordinance time restrictions of no less than four hours on the use of nonreserved, on-street parking spaces by vehicles displaying the special parking placards or special license plates issued under this chapter. All time restrictions must be clearly posted.

(6) **Use of funds - reimbursement.** Funds from the penalties imposed under subsections (3) and (4) of this section must be used by that local jurisdiction exclusively for law enforcement. The court may also impose an additional penalty sufficient to reimburse the local jurisdiction for any costs that it may have incurred in the removal and storage of the improperly parked vehicle.

(7) **Illegal obtainment.** Except as provided in subsection (1) of this section, it is a traffic infraction with a monetary penalty of two hundred fifty dollars for any person willfully to obtain a special license plate, placard, or identification card issued under this chapter in a manner other than that established under this chapter.

(8) **Volunteer appointment.** A law enforcement agency authorized to enforce parking laws may appoint volunteers, with a limited commission, to issue notices of infractions for violations of sections 701 and 704 of this act or RCW 46.61.581. Volunteers must be at least twenty-one years of age. The law enforcement agency appointing volunteers may establish any other qualifications that the agency deems desirable.

(a) An agency appointing volunteers under this section must provide training to the volunteers before authorizing them to issue notices of infractions.

(b) A notice of infraction issued by a volunteer appointed under this subsection has the same force and effect as a notice of infraction issued by a police officer for the same offense.

(c) A police officer or a volunteer may request a person to show the person's identification card or special parking placard when investigating the possibility of a violation of this section. If the request is refused, the person in charge of the vehicle may be issued a notice of infraction for a violation of this section.

(9) **Community restitution.** For second or subsequent violations of this section, in addition to a monetary penalty, the violator must complete a minimum of forty hours of:

(a) Community restitution for a nonprofit organization that serves persons with disabilities or disabling diseases; or

(b) Any other community restitution that may sensitize the violator to the needs and obstacles faced by persons with disabilities.

(10) **Fine suspension.** The court may not suspend more than one-half of any fine imposed under subsection (2), (3), (4), or (7) of this section.

**Sec. 707.** RCW 46.16.390 and 2005 c 390 s 4 are each amended to read as follows:

A special license plate or card issued by another state or country that indicates that an occupant of ~~((the)) a~~ vehicle has disabilities~~((s))~~ entitles the vehicle on or in which it is displayed and being used to transport the person with disabilities to lawfully park in a parking place reserved for persons with physical disabilities pursuant to chapter 70.92 RCW ~~((or authority implemental thereof)).~~

**PART VIII. FEE DISTRIBUTION**

**Sec. 801.** RCW 46.68.010 and 2003 c 53 s 248 are each amended to read as follows:

((1) Whenever any license fee, paid under the provisions of this title, has been erroneously paid, either wholly or in part, the payor is entitled to have refunded the amount so erroneously paid.

(2) A license fee is refundable in one or more of the following circumstances: (a) If the vehicle for which the renewal license was purchased was destroyed before the beginning date of the registration period for which the renewal fee was paid; (b) if the vehicle for which the renewal license was purchased was permanently removed from the state before the beginning date of the registration period for which the renewal fee was paid; (c) if the vehicle license was purchased after the owner has sold the vehicle; (d) if the vehicle is currently licensed in Washington and is subsequently licensed in another jurisdiction, in which case any full months of Washington fees between the date of license application in the other jurisdiction and the expiration of the Washington license are refundable; or (e) if the vehicle for which the renewal license was purchased is sold before the beginning date of the registration period for which the renewal fee was paid, and the payor returns the new, unused, never affixed license renewal tabs to the department before the beginning of the registration period for which the registration was purchased.

(3) Upon the refund being certified to the state treasurer by the director as correct and being claimed in the time required by law the state treasurer shall mail or deliver the amount of each refund to the

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person entitled thereto. No claim for refund shall be allowed for such erroneous payments unless filed with the director within three years after such claimed erroneous payment was made.

(4) If due to error a person has been required to pay a vehicle license fee under this title and an excise tax under Title 82 RCW that amounts to an overpayment of ten dollars or more, that person shall be entitled to a refund of the entire amount of the overpayment, regardless of whether a refund of the overpayment has been requested.

(5) If due to error the department or its agent has failed to collect the full amount of the license fee and excise tax due and the underpayment is in the amount of ten dollars or more, the department shall charge and collect such additional amount as will constitute full payment of the tax and fees.

(6) Any person who makes a false statement under which he or she obtains a refund to which he or she is not entitled under this section is guilty of a gross misdemeanor.)

(1) A person who has paid all or part of a vehicle license fee under this title is entitled to a refund if the amount was paid in error or if the vehicle:

- (a) Was destroyed before the new registration period began;
- (b) Was permanently removed from Washington state before the new registration period began;
- (c) Registration was purchased after the owner sold the vehicle;
- (d) Was registered in another jurisdiction after the Washington state registration had been purchased. Any full months of Washington vehicle license fees remaining after application for out-of-state registration was made are refundable; or
- (e) Registration was purchased before the vehicle was sold and before the new registration period began. The person who paid the fees must return the unused, never-affixed license tabs to the department before the new registration period begins.

(2) The department shall refund overpayments of vehicle license fees and motor vehicle excise taxes under Title 82 RCW that are ten dollars or more. A request for a refund is not required.

(3) The department shall certify refunds to the state treasurer as correct and being claimed in the time required by law. The state treasurer shall mail or deliver the amount of each refund to the person who is entitled to the refund. The department shall not authorize refunds of fees paid in error unless the request is made within three years after the fees were paid.

(4) If due to error the department, county auditor or other agent, or subagent appointed by the director has failed to collect the full amount of the vehicle license fee and excise tax due and the underpayment is in the amount of ten dollars or more, the department shall charge and collect the additional amount to constitute full payment of the tax and fees.

(5) Any person who makes a false statement under which he or she obtains a refund that he or she is not entitled to under this section is guilty of a gross misdemeanor.

**Sec. 802.** RCW 46.68.020 and 2004 c 200 s 3 are each amended to read as follows:

((The director shall forward all fees for certificates of ownership or other moneys accruing under the provisions of chapter 46.12 RCW to the state treasurer, together with a proper identifying detailed report. The state treasurer shall credit such moneys as follows:

(1) The fees collected under RCW 46.12.040(1) and 46.12.101(6) shall be credited to the multimodal transportation account in RCW 47.66.070.

(2)(a) Beginning July 27, 2003, and until July 1, 2008, the fees collected under RCW 46.12.080, 46.12.101(3), 46.12.170, and 46.12.181 shall be credited as follows:

(i) 58.12 percent shall be credited to a segregated subaccount of the air pollution control account in RCW 70.94.015;

(ii) 16.60 percent shall be credited to the vessel response account created in RCW 90.56.335; and

(iii) The remainder shall be credited into the transportation 2003 account (nickel account).

(b) Beginning July 1, 2008, and thereafter, the fees collected under RCW 46.12.080, 46.12.101(3), 46.12.170, and 46.12.181 shall be credited to the transportation 2003 account (nickel account).

(3) The fees collected under RCW 46.12.040(3) and 46.12.060 shall be credited to the motor vehicle account.)

(1) The director shall forward all fees for certificates of title or other moneys accruing under chapters 46.12 and 46.17 RCW to the state treasurer, together with a proper identifying detailed report. The state treasurer shall credit these moneys as follows:

<u>FEE</u>	<u>REQUIRE</u> <u>D IN</u>	<u>ESTABLISHE</u> <u>D IN</u>	<u>DISTRIBUTIO</u> <u>N</u>
<u>ORV</u> <u>registration</u> <u>fee</u> <u>Original</u> <u>certificate</u> <u>of title</u>	<u>Section 214</u> <u>of this act</u>  <u>RCW</u> <u>46.12.030</u> <u>(as</u> <u>recodified</u> <u>by this act)</u>	<u>Section 508 of</u> <u>this act</u>  <u>Section 508 of</u> <u>this act</u>	<u>RCW 47.66.070</u>   <u>RCW 47.66.070</u>
<u>Penalty for</u> <u>late transfer</u>	<u>RCW</u> <u>46.12.101</u> <u>(as</u> <u>recodified</u> <u>by this act)</u>	<u>Section 512 of</u> <u>this act</u>	<u>RCW 47.66.070</u>
<u>Motor</u> <u>change</u>	<u>RCW</u> <u>46.12.080</u> <u>(as</u> <u>recodified</u> <u>by this act)</u>	<u>Section 508 of</u> <u>this act</u>	<u>RCW 46.68.280</u>
<u>Transfer</u> <u>certificate</u> <u>of title</u>	<u>RCW</u> <u>46.12.101</u> <u>(as</u> <u>recodified</u> <u>by this act)</u>	<u>Section 508 of</u> <u>this act</u>	<u>RCW 46.68.280</u>
<u>Security</u> <u>interest</u> <u>changes</u>	<u>RCW</u> <u>46.12.170</u> <u>(as</u> <u>recodified</u> <u>by this act)</u>	<u>Section 508 of</u> <u>this act</u>	<u>RCW 46.68.280</u>
<u>Duplicate</u> <u>certificate</u> <u>of title</u>	<u>RCW</u> <u>46.12.181</u> <u>(as</u> <u>recodified</u> <u>by this act)</u>	<u>Section 508 of</u> <u>this act</u>	<u>RCW 46.68.280</u>
<u>Stolen</u> <u>vehicle</u> <u>check</u>	<u>RCW</u> <u>46.12.047</u> <u>(as</u> <u>recodified</u> <u>by this act)</u>	<u>Section 513 of</u> <u>this act</u>	<u>RCW 46.68.070</u>
<u>Vehicle</u> <u>identificatio</u> <u>n</u> <u>number</u> <u>assignment</u>	<u>Section 303</u> <u>of this act</u>	<u>Section 515 of</u> <u>this act</u>	<u>RCW 46.68.070</u>

(2) The vehicle identification number inspection fee created in section 514 of this act must be credited as follows:

(a) Fifteen dollars to the state patrol highway account created in RCW 46.68.030; and

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(b) Fifty dollars to the motor vehicle fund created in RCW 46.68.070.

**Sec. 803.** RCW 46.68.030 and 2002 c 352 s 22 are each amended to read as follows:

(Except for proceeds from fees for vehicle licensing for vehicles paying such fees under RCW 46.16.070 and 46.16.085, and as otherwise provided for in chapter 46.16 RCW, all fees received by the director for vehicle licenses under the provisions of chapter 46.16 RCW shall be forwarded to the state treasurer, accompanied by a proper identifying detailed report, and be deposited to the credit of the motor vehicle fund, except that the proceeds from the vehicle license fee and renewal license fee shall be deposited by the state treasurer as hereinafter provided. After July 1, 2002,) (1) The director shall forward all fees for vehicle registrations under chapters 46.16 and 46.17 RCW, unless otherwise specified by law, to the state treasurer with a proper identifying detailed report. The state treasurer shall credit these moneys to the motor vehicle fund created in RCW 46.68.070.

(2) Proceeds from vehicle license fees and renewal vehicle license fees must be deposited by the state treasurer as follows:

(a) \$20.35 of each ((original)) initial or renewal vehicle license fee must be deposited in the state patrol highway account in the motor vehicle fund, hereby created. Vehicle license fees, renewal vehicle license fees, and all other funds in the state patrol highway account ((shall)) must be for the sole use of the Washington state patrol for highway activities of the Washington state patrol, subject to proper appropriations and reappropriations ((therefor)).

(b) \$2.02 of each ((original)) initial vehicle license fee and \$0.93 of each renewal vehicle license fee ((shall)) must be deposited each biennium in the Puget Sound ferry operations account.

(c) Any remaining amounts of vehicle license fees and renewal vehicle license fees that are not distributed otherwise under this section must be deposited in the motor vehicle fund.

**Sec. 804.** RCW 46.68.035 and 2006 c 337 s 1 are each amended to read as follows:

The director shall forward all proceeds from ((combined)) vehicle ((licensing)) license fees received by the director for vehicles ((licensed)) registered under ((RCW 46.16.070 and 46.16.085 shall be forwarded)) sections 530, 531(1)(c) and (k), and 535(1)(c) of this act to the state treasurer to be distributed into accounts according to the following method:

(1) ((The sum of two dollars for each vehicle shall be deposited into the multimodal transportation account, except that for each vehicle registered by a county auditor or agent to a county auditor pursuant to RCW 46.01.140, the sum of two dollars shall be credited to the current county expense fund.

(2) The remainder and the proceeds from the license fee under RCW 46.16.086 and the farm vehicle trip permit under RCW 46.16.162 shall be distributed as follows:

(a)) 22.36 percent ((shall)) must be deposited into the state patrol highway account of the motor vehicle fund;

((b)) (2) 1.375 percent ((shall)) must be deposited into the Puget Sound ferry operations account of the motor vehicle fund;

((c)) (3) 5.237 percent ((shall)) must be deposited into the transportation 2003 account (nickel account);

((d)) (4) 11.533 percent ((shall)) must be deposited into the transportation partnership account created in RCW 46.68.290; and

((e)) (5) The remaining proceeds ((shall)) must be deposited into the motor vehicle fund.

**NEW SECTION. Sec. 805.** A new section is added to chapter 46.68 RCW to read as follows:

At least quarterly, the department shall transmit donations made to the organ and tissue donation awareness account under RCW 46.16.076(2) (as recodified by this act) to the foundation established for organ and tissue donation awareness purposes by the

Washington state organ procurement organizations. All Washington state organ procurement organizations have proportional access to these funds to conduct public education in their service areas.

**NEW SECTION. Sec. 806.** A new section is added to chapter 46.68 RCW to read as follows:

All receipts from the voluntary donation received under RCW 46.16.076(3) (as recodified by this act) must be deposited in the state parks renewal and stewardship account established in RCW 79A.05.215 to be used for the operation and maintenance of state parks.

**Sec. 807.** RCW 46.68.220 and 2009 c 470 s 712 are each amended to read as follows:

The department of licensing services account is created in the motor vehicle fund. All receipts from service fees received under ((RCW 46.01.140(4)(b) shall)) section 503 of this act must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for:

(1) Information and service delivery systems for the department((, and for));

(2) Reimbursement of county licensing activities; and

(3) County auditor or other agent and subagent support including, but not limited to, the replacement of department-owned equipment in the possession of county auditors or other agents and subagents appointed by the director. During the 2007-2009 and 2009-2011 fiscal biennia, the legislature may transfer from the department of licensing services account such amounts as reflect the excess fund balance of the account.

**NEW SECTION. Sec. 808.** A new section is added to chapter 46.68 RCW to read as follows:

(1) The special license plate applicant trust account is created in the custody of the state treasurer. All receipts from special license plate applicants must be deposited into the account. Only the director or the director's designee may authorize disbursements from the account. The account is not subject to the allotment procedures under chapter 43.88 RCW, and an appropriation is not required for disbursements.

(2)(a) Revenues generated from the sale of special license plates for those sponsoring organizations that used the application process in section 606 of this act must be deposited into the motor vehicle fund until the department determines that the state's implementation costs have been fully reimbursed.

(b) When it is determined that the state has been fully reimbursed, the department must notify the house of representatives and senate transportation committees, the sponsoring organization, and the state treasurer, and commence the distribution of the revenue as otherwise provided by law.

(3) If reimbursement does not occur within two years from the date the plate is first offered for sale to the public, the special license plate series must be placed in probationary status for a period of one year from that date. If the state is still not fully reimbursed for its implementation costs after the one-year probation, the plate series must be discontinued immediately. Special license plates issued before discontinuation are valid until replaced under section 422(10) of this act.

**NEW SECTION. Sec. 809.** A new section is added to chapter 46.68 RCW to read as follows:

(1) The department shall:

(a) Collect special license plate fees established under section 521 of this act that were approved by the special license plate review board under section 611 of this act;

(b) Deduct an amount not to exceed twelve dollars for initial issue and two dollars for renewal issue for administration and collection expenses incurred by it; and

(c) Remit the remaining proceeds to the custody of the state treasurer with a proper identifying detailed report.

(2) The state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the special license plate. Upon determination by the department that the state has been reimbursed, the state treasurer shall credit the remaining special license plate fee amounts for each special license plate to the following appropriate account:

ACCOUNT	CONDITIONS FOR USE OF FUNDS
Gonzaga university alumni association	Scholarship funds to needy and qualified students attending or planning to attend Gonzaga university
Helping kids speak	Provide free diagnostic and therapeutic services to families of children who suffer from a delay in language or speech development
Law enforcement memorial	Provide support and assistance to survivors and families of law enforcement officers in Washington killed in the line of duty and to organize, finance, fund, construct, utilize, and maintain a memorial on the state capitol grounds to honor those fallen officers
Lighthouse environmental programs	Support selected Washington state lighthouses that are accessible to the public and staffed by volunteers; provide environmental education programs; provide grants for other Washington lighthouses to assist in funding infrastructure preservation and restoration; encourage and support interpretive programs by lighthouse docents
Share the road	Promote bicycle safety and awareness education in communities throughout Washington
Ski & ride Washington	Promote winter snowsports, such as skiing and snowboarding, and related programs, such as ski and ride safety programs, underprivileged youth ski and ride programs, and active, healthy lifestyle programs
Washington state council of firefighters benevolent fund	Receive and disseminate funds for charitable purposes on behalf of members of the Washington state council of firefighters, their families, and others deemed in need
Washington's national park fund	Build awareness of Washington's national parks and support priority park programs and projects in

Washington's national parks, such as enhancing visitor experience, promoting volunteerism, engaging communities, and providing educational opportunities related to Washington's national parks  
 Support and enable the Washington federation of animal welfare and control agencies to promote and perform spay/neuter surgery of Washington state pets in order to reduce pet population

We love our pets

(3) Only the director or the director's designee may authorize expenditures from the accounts described in subsection (2) of this section. The accounts are subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(4) Funds in the special license plate accounts described in subsection (2) of this section must be disbursed subject to the conditions described in subsection (2) of this section and under contract between the department and qualified nonprofit organizations that provide the services described in subsection (2) of this section.

(5) For the purposes of this section, a "qualified nonprofit organization" means a not-for-profit corporation operating in Washington that has received a determination of tax exempt status under 26 U.S.C. Sec. 501(c)(3). The qualified nonprofit organization must meet all the requirements under RCW 46.16.735(1) (as recodified by this act).

**NEW SECTION. Sec. 810.** A new section is added to chapter 46.68 RCW to read as follows:

(1) The department shall:

(a) Collect special license plate fees established under section 521 of this act that were approved by the special license plate review board under section 611 of this act;

(b) Deduct an amount not to exceed twelve dollars for initial issue and two dollars for renewal issue for administration and collection expenses incurred by it; and

(c) Remit the remaining proceeds to the custody of the state treasurer with a proper identifying detailed report.

(2) The state treasurer shall credit the proceeds to the motor vehicle fund until the department determines that the state has been reimbursed for the cost of implementing the special license plate. Upon determination by the department that the state has been reimbursed, the state treasurer shall credit the remaining special license plate fees to the following accounts by special license plate type:

SPECIAL LICENSE PLATE TYPE	ACCOUNT	CONDITIONS FOR USE OF FUNDS
Armed forces	RCW 43.60A.140	N/A
Endangered wildlife	RCW 77.12.170	Must be used only for the department of fish and wildlife's endangered wildlife program activities
Keep kids safe	RCW 43.121.100	As specified in RCW 43.121.050

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Washington state parks	RCW 79A.05.059	Provide public educational opportunities and enhancement of Washington state parks
Washington's wildlife collection	RCW 77.12.170	Only for the department of fish and wildlife's game species management activities
Wild on Washington	RCW 77.12.170	Dedicated to the department of fish and wildlife's watchable wildlife activities, as defined in RCW 77.32.560

(1) Fifteen dollars to the state patrol highway account created in RCW 46.68.030; and  
 (2) Fifty dollars to the motor vehicle fund created in RCW 46.68.070.

**NEW SECTION. Sec. 813.** A new section is added to chapter 46.68 RCW to read as follows:

(1) The motor vehicle weight fee imposed under section 533(1) of this act must be deposited every July 1st as follows:

(a) Three million dollars to the freight mobility multimodal account created in RCW 46.68.310; and

(b) The remainder to the multimodal transportation account created in RCW 47.66.070.

(2) The motor vehicle weight fee:

(a) Must be used for transportation purposes;

(b) May not be used for the general support of state government; and

(c) Is imposed to provide funds to mitigate the impact of vehicle loads on the state roads and highways and is separate and distinct from other vehicle license fees. Proceeds from the fee may be used for transportation purposes, or for facilities and activities that reduce the number of vehicles or load weights on the state roads and highways.

(3) The motor home vehicle weight fee imposed under section 533(2) of this act must be deposited in the multimodal transportation account created in RCW 47.66.070.

**NEW SECTION. Sec. 814.** A new section is added to chapter 46.68 RCW to read as follows:

The department temporary permit fee imposed under section 535(1)(b) of this act must be distributed as follows:

(1) If collected by the department, the fee must be distributed under RCW 46.68.030; and

(2) If collected by the county auditor or other agent or subagent, the fee must be distributed to the county current expense fund.

**NEW SECTION. Sec. 815.** A new section is added to chapter 46.68 RCW to read as follows:

(1) The vehicle trip permit fee imposed under section 535(1)(h) of this act must be distributed as follows:

(a) Five dollars to the state patrol highway account for commercial motor vehicle inspections;

(b) A one dollar excise tax to the state general fund;

(c) The amount of the filing fee imposed under section 501(1)(a) of this act to be credited as required under section 819 of this act; and

(d) The remainder to the credit of the motor vehicle fund created in RCW 46.68.070 as an administrative fee.

(2) The administrative fee under subsection (1)(d) of this section must be increased or decreased in an equal amount if the amount of the filing fee imposed under section 501(1)(a) of this act increases or decreases, so that the total trip permit fee is adjusted equally to compensate.

(3) The vehicle trip permit surcharge imposed under section 535(4) of this act must be distributed as follows:

(a) The portion of the surcharge paid by motor carriers to the motor vehicle fund created in RCW 46.68.070 for the purpose of supporting vehicle weigh stations, weigh-in-motion programs, and the commercial vehicle information systems and networks program; and

(b) The remainder to the motor vehicle fund created in RCW 46.68.070 for the purpose of supporting congestion relief programs.

**NEW SECTION. Sec. 816.** A new section is added to chapter 46.68 RCW to read as follows:

The parking ticket surcharge imposed under section 504 of this act must be distributed as follows:

**NEW SECTION. Sec. 811.** A new section is added to chapter 46.68 RCW to read as follows:

(1) The department shall:

(a) Collect special license plates fees established under section 521(1) (c) and (e) of this act;

(b) Deduct an amount not to exceed twelve dollars for initial issue and two dollars for renewal issue for administration and collection expenses incurred by it; and

(c) Remit the remaining proceeds to the custody of the state treasurer with a proper identifying detailed report.

(2) The state treasurer shall credit the remaining special license plate fees to the following accounts by special license plate type:

SPECIAL LICENSE PLATE TYPE	ACCOUNT	PURPOSE
Baseball stadium	A county	To pay the principal and interest payments on bonds issued by the county to construct a baseball stadium, as defined in RCW 82.14.0485, including reasonably necessary preconstruction costs, while the taxes are being collected under RCW 82.14.360. After the principal and interest payments on bonds have been made, the state treasurer shall credit the funds to the state general fund
Collegiate	RCW 28B.10.890	Student scholarships

**NEW SECTION. Sec. 812.** A new section is added to chapter 46.68 RCW to read as follows:

The vehicle identification number inspection fee collected under section 514 of this act must be distributed as follows:

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(1) Ten dollars to the motor vehicle fund created in RCW 46.68.070 to be used exclusively for the administrative costs of the department; and

(2) Five dollars to be retained by the department, county auditor or other agent, or subagent appointed by the director handling the renewal application to be used for the administration of the parking ticket program.

**NEW SECTION. Sec. 817.** A new section is added to chapter 46.68 RCW to read as follows:

The special fuel trip permit fee imposed under section 535(1)(f) of this act for special fuel trip permits issued under RCW 82.38.100 must be distributed as follows:

(1) One dollar to be retained by the county auditor or businesses appointed by the department to defray expenses incurred in handling and selling special fuel trip permits;

(2) Five dollars to the state patrol highway account to be used for commercial motor vehicle inspections;

(3) Five dollars to the motor vehicle fund to be distributed as follows:

(a) If paid by motor carriers, to be used for supporting vehicle weigh stations, weigh-in-motion programs, and the commercial vehicle information systems and networks program;

(b) If paid by a person other than a motor carrier, to be used for supporting congestion relief programs; and

(4) Nineteen dollars to the credit of the motor vehicle fund created in RCW 46.68.070.

**Sec. 818.** RCW 46.16.685 and 2009 c 470 s 704 are each amended to read as follows:

The license plate technology account is created in the state treasury. All receipts collected under ~~(RCW 46.01.140(4)(e)(ii))~~ section 502 of this act must be deposited into this account. Expenditures from this account must support current and future license plate technology and systems integration upgrades for both the department and correctional industries. Moneys in the account may be spent only after appropriation. Additionally, the moneys in this account may be used to reimburse the motor vehicle account for any appropriation made to implement the digital license plate system. During the 2009-2011 fiscal biennium, the legislature may transfer from the license plate technology account to the highway safety account such amounts as reflect the excess fund balance of the license plate technology account.

**NEW SECTION. Sec. 819.** A new section is added to chapter 46.68 RCW to read as follows:

A filing fee established in section 501 of this act must be distributed as follows:

(1) If paid to the county auditor or other agent or subagent appointed by the director, the fee must be distributed to the county treasurer and credited to the county current expense fund.

(2) If the fee is paid to another agent of the director, the fee must be used by the agent to defray his or her expenses in handling the application.

(3) If the fee is collected by the state patrol as agent for the director, the fee must be certified to the state treasurer and deposited to the credit of the state patrol highway account.

(4) If the fee is collected by the department of transportation as agent for the director, the fee must be certified to the state treasurer and deposited to the credit of the motor vehicle fund created in RCW 46.68.070.

(5) If the fee is collected by the director or branches of the department, the fee must be certified to the state treasurer and deposited to the credit of the highway safety fund, except that two dollars of the fee must be deposited into the multimodal transportation account if the fee is collected in conjunction with section 530 or 531(1) (c) or (k).

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**NEW SECTION. Sec. 820.** A new section is added to chapter 46.68 RCW to read as follows:

The emergency medical services fee imposed under section 509 of this act must be distributed as follows:

(1) If collected by a vehicle dealer, the vehicle dealer must keep two dollars and fifty cents as an administrative fee and the remainder must be deposited in the emergency medical services and trauma care system trust account created in RCW 70.168.040; and

(2) If not collected by a vehicle dealer, the fee must be deposited in the emergency medical services and trauma care system trust account created in RCW 70.168.040.

**NEW SECTION. Sec. 821.** A new section is added to chapter 46.68 RCW to read as follows:

(1) All revenue derived from personalized license plate fees provided for in section 520 of this act must be forwarded to the state treasurer and deposited as follows:

(a) Ten dollars to the state wildlife account and used for the management of resources associated with the nonconsumptive use of wildlife;

(b) Two dollars to the wildlife rehabilitation account created under RCW 77.12.471; and

(c) The remainder to the state wildlife account to be used for the preservation, protection, perpetuation, and enhancement of nongame species of wildlife including, but not limited to, song birds, raptors, protected wildlife, rare and endangered wildlife, aquatic life, and specialized-habitat types, both terrestrial and aquatic, as well as all unclassified marine fish, shellfish, and marine invertebrates.

(2) Administrative costs incurred by the department as a direct result of administering the personalized license plate program must be appropriated by the legislature from the state wildlife account from those funds deposited in the account resulting from the sale of personalized license plates. If the actual costs incurred by the department are less than that which has been appropriated by the legislature, the remainder must revert to the state wildlife account.

**Sec. 822.** RCW 46.09.110 and 2007 c 241 s 14 are each amended to read as follows:

The moneys collected by the department for ORV registrations, temporary ORV use permits, decals, and tabs under this chapter ~~((shall))~~ and chapter 46.17 RCW must be distributed from time to time, but at least once a year, in the following manner:

~~(1) The department shall retain enough money to cover expenses incurred in the administration of this chapter~~ ~~((PROVIDED, That such retention shall))~~. The amount kept by the department must never exceed eighteen percent of fees collected.

~~(2) The remaining moneys~~ ~~((shall))~~ must be distributed ~~((ORV))~~ off-road vehicle recreation facilities by the board in accordance with RCW 46.09.170(2)(d)(ii)(A) (as recodified by this act).

**Sec. 823.** RCW 46.10.075 and 1991 sp.s. c 13 s 9 are each amended to read as follows:

~~((There is created a))~~ (1) The snowmobile account is created within the state treasury. Snowmobile registration fees, monetary civil penalties from snowmobile dealers, and snowmobile fuel tax moneys collected under this chapter and chapter 46.17 RCW and in excess of the amounts fixed for the administration of the registration and fuel tax provisions of this chapter ~~((shall))~~ must be deposited ~~((in))~~ into the ~~((snowmobile))~~ account and ~~((shall))~~ must be appropriated only to the state parks and recreation commission for the administration and coordination of this chapter.

(2) The moneys collected by the department as snowmobile registration fees, monetary civil penalties from snowmobile dealers, and fuel tax moneys placed into the account must be distributed in the following manner:

(a) Actual expenses not to exceed three percent for each year must be retained by the department to cover expenses incurred in the

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administration of the registration and fuel tax provisions of this chapter; and

(b) The remainder of funds each year must be remitted to the state treasurer to be deposited into the snowmobile account of the general fund and must be appropriated only to the commission to be expended for snowmobile purposes. Purposes may include, but not necessarily be limited to, the administration, acquisition, development, operation, and maintenance of snowmobile facilities and development and implementation of snowmobile safety, enforcement, and education programs.

(3) This section is not intended to discourage any public agency in this state from developing and implementing snowmobile programs. The commission may award grants to public agencies and contract with any public or private agency or person for the purpose of developing and implementing snowmobile programs, as long as the programs are not inconsistent with the rules adopted by the commission.

### PART IX. TAXES

**Sec. 901.** RCW 35.95A.090 and 2002 c 248 s 10 are each amended to read as follows:

(1) Every authority has the power to fix and impose a fee, not to exceed one hundred dollars per vehicle, for each vehicle that is subject to relicensing tab fees under ~~((RCW 46.16.062+))~~ section 531(1) (a), (c), (d), (e), (g), (h), (j), or (n) through (q) of this act and for each vehicle that is subject to ~~((RCW 46.16.070))~~ section 530 of this act with ~~((an unladen))~~ a scale weight of six thousand pounds or less, and that is determined by the department of licensing to be registered within the boundaries of the authority area. The department of licensing must provide an exemption from the fee for any vehicle the owner of which demonstrates is not operated within the authority area.

(2) The department of licensing will administer and collect the fee. The department will deduct a percentage amount, as provided by contract, not to exceed two percent of the taxes collected, for administration and collection expenses incurred by it. The remaining proceeds will be remitted to the custody of the state treasurer for monthly distribution to the authority.

(3) The authority imposing this fee will delay the effective date at least six months from the date the fee is approved by the qualified voters of the authority area to allow the department of licensing to implement administration and collection of the fee.

(4) Before any authority may impose any of the fees authorized under this section, the authorization for imposition of the fees must be approved by a majority of the qualified electors of the authority area voting.

**Sec. 902.** RCW 35.95A.130 and 2002 c 248 s 14 are each amended to read as follows:

The special excise tax imposed under RCW 35.95A.080(1) will be collected at the same time and in the same manner as relicensing tab fees under ~~((RCW 46.16.062+))~~ section 531(1) (a), (c), (d), (e), (g), (h), (j), and (n) through (q) of this act and RCW 35.95A.090. Every year on January 1st, April 1st, July 1st, and October 1st the department of licensing shall remit special excise taxes collected on behalf of an authority, back to the authority, at no cost to the authority. Valuation of motor vehicles for purposes of the special excise tax imposed under RCW 35.95A.080(1) must be consistent with chapter 82.44 RCW.

**Sec. 903.** RCW 81.104.160 and 2009 c 280 s 4 are each amended to read as follows:

An agency and high capacity transportation corridor area may impose a sales and use tax solely for the purpose of providing high capacity transportation service, in addition to the tax authorized by RCW 82.14.030, upon retail car rentals within the applicable

jurisdiction that are taxable by the state under chapters 82.08 and 82.12 RCW. The rate of tax shall not exceed 2.172 percent. The base of the tax shall be the selling price in the case of a sales tax or the rental value of the vehicle used in the case of a use tax.

Any motor vehicle excise tax previously imposed under the provisions of RCW 81.104.160(1) shall be repealed, terminated, and expire on December 5, 2002, except for a motor vehicle excise tax for which revenues have been contractually pledged to repay a bonded debt issued before December 5, 2002, as determined by *Pierce County et al. v. State*, 159 Wn.2d 16, 148 P.3d 1002 (2006). In the case of bonds that were previously issued, the motor vehicle excise tax must comply with chapter 82.44 RCW as it existed on January 1, 1996.

**Sec. 904.** RCW 82.12.045 and 2003 c 361 s 303 are each amended to read as follows:

(1) In the collection of the use tax on ~~((motor))~~ vehicles, the department of revenue may designate the county auditors of the several counties of the state as its collecting agents. Upon such designation, it shall be the duty of each county auditor to collect the tax at the time an applicant applies for ~~((the registration of, and))~~ transfer of certificate of title to ~~((the))~~ the ~~((motor))~~ vehicle, except ~~((in the following instances))~~ when the applicant:

(a) ~~((Where the applicant))~~ Exhibits a dealer's report of sale showing that the retail sales tax has been collected by the dealer;

(b) ~~((Where the application is for the renewal of registration; (c) Where the applicant))~~ Presents a written statement signed by the department of revenue, or its duly authorized agent showing that no use tax is legally due; or

~~((d) Where the applicant))~~ (c) Presents satisfactory evidence showing that the retail sales tax or the use tax has been paid by the applicant on the vehicle in question.

(2) ~~((The term "motor vehicle," as used in this section means and includes all motor vehicles, trailers and semitrailers used, or of a type designed primarily to be used, upon the public streets and highways, for the convenience or pleasure of the owner, or for the conveyance, for hire or otherwise, of persons or property, including fixed loads, facilities for human habitation, and vehicles carrying exempt licenses))~~ As used in this section, "vehicle" has the same meaning as in RCW 46.04.670.

(3) It shall be the duty of every applicant for registration and transfer of certificate of title who is subject to payment of tax under this section to declare upon the application the value of the vehicle for which application is made, which shall consist of the consideration paid or contracted to be paid therefor.

(4) Each county auditor who acts as agent of the department of revenue shall at the time of remitting vehicle license fee receipts on ~~((motor))~~ vehicles subject to the provisions of this section pay over and account to the state treasurer for all use tax revenue collected under this section, after first deducting as a collection fee the sum of two dollars for each motor vehicle upon which the tax has been collected. All revenue received by the state treasurer under this section shall be credited to the general fund. The auditor's collection fee shall be deposited in the county current expense fund. A duplicate of the county auditor's transmittal report to the state treasurer shall be forwarded forthwith to the department of revenue.

(5) Any applicant who has paid use tax to a county auditor under this section may apply to the department of revenue for refund thereof if he or she has reason to believe that such tax was not legally due and owing. No refund shall be allowed unless application therefor is received by the department of revenue within the statutory period for assessment of taxes, penalties, or interest prescribed by RCW 82.32.050~~((3))~~ (4). Upon receipt of an application for refund the department of revenue shall consider the same and issue its order either granting or denying it and if refund is

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denied the taxpayer shall have the right of appeal as provided in RCW 82.32.170, 82.32.180, and 82.32.190.

(6) The provisions of this section shall be construed as cumulative of other methods prescribed in chapters 82.04 ~~((to))~~ through 82.32 RCW, inclusive, for the collection of the tax imposed by this chapter. The department of revenue shall have power to promulgate such rules as may be necessary to administer the provisions of this section. Any duties required by this section to be performed by the county auditor may be performed by the director of licensing but no collection fee shall be deductible by said director in remitting use tax revenue to the state treasurer.

(7) The use tax revenue collected on the rate provided in RCW 82.08.020(3) shall be deposited in the multimodal transportation account under RCW 47.66.070.

**Sec. 905.** RCW 82.12.0254 and 2009 c 503 s 2 are each amended to read as follows:

(1) The provisions of this chapter do not apply in respect to the use of:

(a) Any airplane used primarily in (i) conducting interstate or foreign commerce or (ii) providing intrastate air transportation by a commuter air carrier as defined in RCW 82.08.0262;

(b) Any locomotive, railroad car, or watercraft used primarily in conducting interstate or foreign commerce by transporting therein or therewith property and persons for hire or used primarily in commercial deep sea fishing operations outside the territorial waters of the state;

(c) Tangible personal property that becomes a component part of any such airplane, locomotive, railroad car, or watercraft in the course of repairing, cleaning, altering, or improving the same; and

(d) Labor and services rendered in respect to such repairing, cleaning, altering, or improving.

(2) The provisions of this chapter do not apply in respect to the use by a nonresident of this state of any ~~((motor))~~ vehicle ~~((or trailer))~~ used exclusively in transporting persons or property across the boundaries of this state and in intrastate operations incidental thereto when such ~~((motor))~~ vehicle ~~((or trailer))~~ is registered ~~((and licensed))~~ in a foreign state and in respect to the use by a nonresident of this state of any ~~((motor))~~ vehicle ~~((or trailer))~~ so registered ~~((and licensed))~~ and used within this state for a period not exceeding fifteen consecutive days under such rules as the department must adopt. However, under circumstances determined to be justifiable by the department a second fifteen day period may be authorized consecutive with the first fifteen day period; and for the purposes of this exemption the term "nonresident" as used herein includes a user who has one or more places of business in this state as well as in one or more other states, but the exemption for nonresidents applies only to those vehicles which are most frequently dispatched, garaged, serviced, maintained, and operated from the user's place of business in another state.

(3) The provisions of this chapter do not apply in respect to the use by the holder of a carrier permit issued by the interstate commerce commission or its successor agency of any ~~((motor))~~ vehicle ~~((or trailer))~~ whether owned by or leased with or without driver to the permit holder and used in substantial part in the normal and ordinary course of the user's business for transporting therein persons or property for hire across the boundaries of this state; and in respect to the use of any ~~((motor))~~ vehicle ~~((or trailer))~~ while being operated under the authority of a ~~((one transit))~~ trip permit issued by the director of licensing pursuant to RCW 46.16.160 (as recodified by this act) and moving upon the highways from the point of delivery in this state to a point outside this state; and in respect to the use of tangible personal property which becomes a component part of any ~~((motor))~~ vehicle ~~((or trailer))~~ used by the holder of a carrier permit issued by the interstate commerce commission or its successor agency authorizing transportation by motor vehicle across

the boundaries of this state whether such ~~((motor))~~ vehicle ~~((or trailer))~~ is owned by or leased with or without driver to the permit holder, in the course of repairing, cleaning, altering, or improving the same; also the use of labor and services rendered in respect to such repairing, cleaning, altering, or improving.

**Sec. 906.** RCW 82.36.280 and 1998 c 176 s 36 are each amended to read as follows:

Any person who uses any motor vehicle fuel for the purpose of operating any internal combustion engine not used on or in conjunction with any motor vehicle ~~((licensed))~~ registered to be operated ~~((over and along))~~ on any of the public highways, and as the motive power thereof, upon which motor vehicle fuel excise tax has been paid, shall be entitled to and shall receive a refund of the amount of the motor vehicle fuel excise tax paid on each gallon of motor vehicle fuel so used, whether such motor vehicle excise tax has been paid either directly to the vendor from whom the motor vehicle fuel was purchased or indirectly by adding the amount of such excise tax to the price of such fuel. No refund shall be made for motor vehicle fuel consumed by any motor vehicle as herein defined that is required to be registered ~~((and licensed))~~ as provided in chapter 46.16 RCW; and is operated ~~((over and along))~~ on any public highway except that a refund shall be allowed for motor vehicle fuel consumed:

(1) In a motor vehicle owned by the United States that is operated off the public highways for official use; and

(2) By auxiliary equipment not used for motive power, provided such consumption is accurately measured by a metering device that has been specifically approved by the department or is established by either of the following formulae:

(a) For fuel used in pumping fuel or heating oils by a power take-off unit on a delivery truck, refund shall be allowed claimant for tax paid on fuel purchased at the rate of three-fourths of one gallon for each one thousand gallons of fuel delivered: PROVIDED, That claimant when presenting his or her claim to the department in accordance with the provisions of this chapter, shall provide to said claim, invoices of fuel oil delivered, or such other appropriate information as may be required by the department to substantiate his or her claim; or

(b) For fuel used in operating a power take-off unit on a cement mixer truck or load compactor on a garbage truck, claimant shall be allowed a refund of twenty-five percent of the tax paid on all fuel used in such a truck; and

(c) The department is authorized to establish by rule additional formulae for determining fuel usage when operating other types of equipment by means of power take-off units when direct measurement of the fuel used is not feasible. The department is also authorized to adopt rules regarding the usage of on board computers for the production of records required by this chapter.

**Sec. 907.** RCW 82.38.100 and 2007 c 515 s 25 and 2007 c 419 s 17 are each reenacted and amended to read as follows:

(1) Any special fuel user operating a motor vehicle ~~((into))~~ in this state for commercial purposes may ~~((make application))~~ apply for a special fuel trip permit ~~((that shall be))~~. The permit:

(a) Is good for a period of three consecutive days beginning and ending on the dates ~~((specified))~~ shown on the face of the permit issued~~((and))~~;

(b) Is valid only for the vehicle for which it is issued~~((and))~~;

(2) Every permit shall;

(c) Must identify, as the department may require, the vehicle for which it is issued; and ~~((shall))~~

(d) Must be completed in its entirety, signed, and dated by the operator before operation of the vehicle on the public highways of this state.

(2) Correction of data on the permit such as dates, vehicle license number, or vehicle identification number invalidates the permit. A

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violation of, or a failure to comply with, this subsection is a gross misdemeanor.

(3) (For each permit issued, there shall be collected a filing fee of one dollar, an administrative fee of fifteen dollars, and an excise tax of nine dollars. Such fees and tax shall be in lieu of the special fuel tax otherwise assessable against the permit holder for importing and using special fuel in a motor vehicle on the public highways of this state, and no report of mileage shall be required with respect to such vehicle. Trip permits will not be issued if the applicant has outstanding fuel taxes, penalties, or interest owing to the state or has had a special fuel license revoked for cause and the cause has not been removed. Five dollars from every fifteen-dollar administration fee shall be deposited into the state patrol highway account and must be used for commercial motor vehicle inspections.

(4)) Blank special fuel trip permits may be obtained from field offices of the department of transportation, department of licensing, county auditors or other agents, or subagents appointed by the department for the fee provided in section 535 (1)(f) and (4) of this act. ((The department may appoint county auditors or businesses as agents for the purpose of selling trip permits to the public. County auditors or businesses so appointed may retain the filing fee collected for each trip permit to defray expenses incurred in handling and selling the permits.

(5) A surcharge of five dollars is imposed on the issuance of trip permits. The portion of the surcharge paid by motor carriers must be deposited in the motor vehicle fund for the purpose of supporting vehicle weigh stations, weigh-in-motion programs, and the commercial vehicle information systems and networks program. The remaining portion of the surcharge must be deposited in the motor vehicle fund for the purpose of supporting congestion relief programs. All other fees and excise taxes collected by the department for trip permits shall be credited and deposited in the same manner as the special fuel tax collected under this chapter and shall not be subject to exchange, refund, or credit.) The fee is in lieu of the special fuel tax otherwise assessable against the permit holder for importing and using special fuel in a motor vehicle on the public highways of this state. A report of mileage may not be required with respect to the motor vehicle. Special fuel trip permits may not be issued if the applicant has outstanding fuel taxes, penalties, or interest owing to the state or has had a special fuel license revoked for cause and the cause has not been removed.

(4) Special fuel trip permits are not subject to exchange, refund, or credit.

NEW SECTION. Sec. 908. A new section is added to chapter 82.44 RCW to read as follows:

(1) The motor vehicle excise tax authorized under this chapter applies to the following vehicles:

- (a) Commercial trailers, as defined in section 110 of this act;
- (b) Farm trucks registered under RCW 46.16.090 (as recodified by this act);
- (c) Fixed load vehicles, as defined in section 116 of this act;
- (d) Motor homes, as defined in RCW 46.04.305;
- (e) Motor trucks, as defined in RCW 46.04.310, with a scale weight greater than six thousand pounds;
- (f) Motor vehicles, as defined in RCW 46.04.320; and
- (g) Trailers, as defined in RCW 46.04.620.

(2) The motor vehicle excise tax authorized under this chapter does not apply to the following vehicles:

- (a) Campers, as defined in RCW 46.04.085;
- (b) Dock and warehouse tractors and their cars or trailers;
- (c) Equipment not designed primarily for use on public highways;
- (d) Exempt registered vehicles;
- (e) Lumber carriers of the type known as spiders;
- (f) Mobile homes, as defined in RCW 46.04.302;

- (g) Passenger motor vehicles, as described in RCW 82.44.015;
- (h) Travel trailers, as defined in RCW 46.04.623;
- (i) Vehicles not used on the public highways; and
- (j) Vehicles owned by nonresident military personnel of the armed forces of the United States stationed in the state of Washington if the nonresident military member was a nonresident of this state when enlisted into military service.

**Sec. 909.** RCW 82.44.015 and 1996 c 244 s 7 are each amended to read as follows:

((For the purposes of this chapter, in addition to the exclusions under RCW 82.44.010, "motor vehicle" shall not include))

(1) Passenger motor vehicles used primarily for commuter ride sharing and ride sharing for persons with special transportation needs, as defined in RCW 46.74.010((~~The registered owner of one of these vehicles shall notify the department of licensing upon termination of primary use of the vehicle in commuter ride sharing or ride sharing for persons with special transportation needs and shall be liable for the tax imposed by this chapter, prorated on the remaining months for which the vehicle is licensed~~)), are not subject to the motor vehicle excise tax authorized under this chapter.

(2) To qualify for the motor vehicle excise tax exemption, ((those)) passenger motor vehicles ((with)) must:

(a) Have a seating capacity of five or six passengers, including the driver((:));

(b) Be used for commuter ride-sharing((~~must~~));

(c) Be operated either within:

(i) The state's eight largest counties that are required to develop commute trip reduction plans as directed by chapter 70.94 RCW; or

(ii) In other counties, or cities and towns within those counties, that elect to adopt and implement a commute trip reduction plan((~~Additional~~)); and

(d) Meet at least one of the following conditions ((~~must apply~~)):

((+)) (i) The vehicle must be operated by a public transportation agency for the general public; ((~~or (2)~~))

(ii) The vehicle must be used by a major employer, as defined in RCW 70.94.524 as an element of its commute trip reduction program for their employees; or ((+))

(iii) The vehicle must be owned and operated by individual employees and must be registered either with the employer as part of its commute trip reduction program or with a public transportation agency serving the area where the employees live or work. Individual employee owned and operated motor vehicles will require certification that the vehicle is registered with a major employer or a public transportation agency. Major employers who own and operate motor vehicles for their employees must certify that the commuter ride-sharing arrangement conforms to a carpool/vanpool element contained within their commute trip reduction program.

(3) The registered owner of a passenger motor vehicle described in subsection (2) of this section:

(a) Shall notify the department upon the termination of the primary use of the vehicle in commuter ride sharing or ride sharing for persons with special transportation needs; and

(b) Is liable for the motor vehicle excise tax imposed under this chapter, prorated on the remaining months for which the vehicle is registered.

**Sec. 910.** RCW 82.44.035 and 2006 c 318 s 1 are each amended to read as follows:

(1) For the purpose of determining any locally imposed motor vehicle excise tax, the value of a truck(~~(type power or trailing unit))~~ or trailer shall be the latest purchase price of the vehicle, excluding applicable federal excise taxes, state and local sales or use taxes, transportation or shipping costs, or preparatory or delivery costs, multiplied by the following percentage based on year of service of

the vehicle since last sale. The latest purchase year shall be considered the first year of service.

determined in this subsection (3)(a) shall be divided by the applicable percentage listed in (b) of this subsection (3) to establish a value equivalent to a manufacturer's base suggested retail price and this value shall be multiplied by eighty-five percent.

YEAR OF SERVICE	PERCENTAGE
1	100
2	81
3	67
4	55
5	45
6	37
7	30
8	25
9	20
10	16
11	13
12	11
13	9
14	7
15	3
16 or older	0

(b) The year the vehicle is offered for sale as a new vehicle shall be considered the first year of service.

YEAR OF SERVICE	PERCENTAGE
1	100
2	81
3	72
4	63
5	55
6	47
7	41
8	36
9	32
10	27
11	26
12	24
13	23
14	21
15	16
16 or older	10

(2) The reissuance of a certificate of title and registration certificate for a truck(~~(type power or trailing unit)) or trailer~~ because of the installation of body or special equipment shall be treated as a sale, and the value of the truck(~~(type power or trailing unit)) or trailer~~ at that time, as determined by the department from such information as may be available, shall be considered the latest purchase price.

(4) For purposes of this chapter, value shall exclude value attributable to modifications of a ((motor)) vehicle and equipment that are designed to facilitate the use or operation of the ((motor)) vehicle by a person with a disability.

(3) For the purpose of determining any locally imposed motor vehicle excise tax, the value of a ((motor)) vehicle other than a truck(~~(type power or trailing unit)) or trailer~~ shall be eighty-five percent of the manufacturer's base suggested retail price of the vehicle when first offered for sale as a new vehicle, excluding any optional equipment, applicable federal excise taxes, state and local sales or use taxes, transportation or shipping costs, or preparatory or delivery costs, multiplied by the applicable percentage listed in this subsection (3) based on year of service of the vehicle.

**Sec. 911.** RCW 82.44.060 and 2006 c 318 s 3 are each amended to read as follows:

(1) Any locally imposed excise tax ((shall be));  
(a) Is due ((and payable to the department or its agents)) at the time of registration of a ((motor)) vehicle((. Whenever an application is made to the department or its agents for a license for a motor vehicle there shall be collected,));

If the manufacturer's base suggested retail price is unavailable or otherwise unascertainable at the time of initial registration in this state, the department shall determine a value equivalent to a manufacturer's base suggested retail price as follows:

(b) Must be paid in full before any registration certificate or license tab may be issued;

(a) The department shall determine a value using any information that may be available, including any guidebook, report, or compendium of recognized standing in the automotive industry or the selling price and year of sale of the vehicle. The department may use an appraisal by the county assessor. In valuing a vehicle for which the current value or selling price is not indicative of the value of similar vehicles of the same year and model, the department shall establish a value that more closely represents the average value of similar vehicles of the same year and model. The value

(c) Is in addition to ((the amount of the license fee or renewal license fee, the amount of any locally imposed excise tax, and no dealer's license or license plates, and no license or license plates for a motor vehicle shall be issued unless such tax is paid in full. Locally imposed excise taxes shall)) any other vehicle license fees required by law;

(d) Must be collected by the department, county auditor or other agent, or subagent appointed by the director of licensing before issuing the registration certificate;

(e) Must be collected for each registration year((. Any locally imposed excise tax upon a motor vehicle licensed for the first time in this state shall)); and

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(f) Must be levied for one full registration year ((commencing)) beginning on the date of the calendar year designated by the department and ending on the same date of the next succeeding calendar year. For vehicles registered under chapter 46.87 RCW, proportional registration, and for vehicle dealer plates issued under chapter 46.70 RCW, the registration year is the period provided in those chapters. However, the tax shall in no case be less than two dollars except for proportionally registered vehicles.

(2) A ((motor)) vehicle ((shall be)) is deemed ((licensed)) registered for the first time in this state when ((such)) the vehicle was not previously ((licensed)) registered by this state for the registration year immediately preceding the registration year in which the application for ((license)) registration is made or when the vehicle has been registered in another jurisdiction subsequent to any prior registration in this state.

((No)) (3) An additional tax ((shall)) may not be imposed under this chapter ((upon)) on any vehicle ((upon the transfer of ownership thereof)) when the certificate of title is being transferred if the tax ((imposed with respect to such vehicle)) has already been paid for the registration year or fraction of a registration year in which transfer of ownership occurs.

**Sec. 912.** RCW 82.44.065 and 2006 c 318 s 5 are each amended to read as follows:

If the department determines a value for a ((motor)) vehicle equivalent to a manufacturer's base suggested retail price or the value of a truck ((type power or trailing unit)) or trailer under RCW 82.44.035, any person who pays a locally imposed tax for that vehicle may appeal the valuation to the department under chapter 34.05 RCW. If the taxpayer is successful on appeal, the department shall refund the excess tax in the manner provided in RCW 82.44.120.

**Sec. 913.** RCW 82.44.090 and 2006 c 318 s 6 are each amended to read as follows:

It ((shall be)) is unlawful for the county auditor or any other person to issue a dealer's license or dealer's license plates or a ((license)) registration or identification plates with respect to any motor vehicle without collecting, with the required vehicle license fee, the amount of any locally imposed motor vehicle excise tax due. Any violation of this section shall constitute a gross misdemeanor.

**Sec. 914.** RCW 82.44.100 and 2006 c 318 s 7 are each amended to read as follows:

The department, county auditor or other agent, or subagent appointed by the director of licensing shall give to each person paying a locally imposed motor vehicle excise tax a receipt ((therefor which shall sufficiently designate and identify)) identifying the vehicle ((with respect to)) for which the tax is paid. The receipt may be incorporated in the receipt given for the ((motor)) vehicle license fee or dealer's license fee paid.

**Sec. 915.** RCW 82.44.120 and 2006 c 318 s 8 are each amended to read as follows:

((1)) Whenever any person has paid a motor vehicle license fee, and together therewith has paid a locally imposed excise tax, and the director determines that the payor is entitled to a refund of the entire amount of the license fee as provided by law, then the payor shall also be entitled to a refund of the entire excise tax collected under the provisions of this chapter. In case the director determines that any person is entitled to a refund of only a part of the license fee so paid, the payor shall be entitled to a refund of the difference, if any, between the excise tax collected and that which should have been collected.

(2) In case no claim is to be made for the refund of the license fee or any part thereof, but claim is made by any person that he or she has paid an erroneously excessive amount of excise tax, the department shall determine in the manner generally provided in this chapter the amount of such excess, if any, that has been paid and

shall certify to the state treasurer that such person is entitled to a refund in such amount.

(3) In any case where due to error, a person has been required to pay an excise tax pursuant to this chapter and a vehicle license fee pursuant to Title 46 RCW which amounts to an overpayment of ten dollars or more, such person shall be entitled to a refund of the entire amount of such overpayment, regardless of whether or not a refund of the overpayment has been requested. Conversely, if due to error, the department or its agents has failed to collect the full amount of the license fee and excise tax due, which underpayment is in the amount of ten dollars or more, the department shall charge and collect such additional amount as will constitute full payment of the tax.

(4) Any claim for refund of an erroneously excessive amount of excise tax or overpayment of excise tax with a motor vehicle license fee must be filed with the director within three years after the claimed erroneous payment was made.

(5) If the department approves the claim it shall notify the state treasurer to that effect, and the treasurer shall make such approved refunds from the general fund and shall mail or deliver the same to the person entitled thereto.

(6) Any person making any false statement under which he or she obtains any amount of refund to which he or she is not entitled under the provisions of this section is guilty of a gross misdemeanor.

(7)) (1) Refunds of locally imposed motor vehicle excise taxes must be handled in the same manner and under the same terms and conditions as provided in RCW 46.68.010.

(2) A claim for a refund may be made by a person who:

(a) Is not seeking a full refund; and

(b) Believes the amount of the locally imposed motor vehicle excise tax paid was incorrect or too much.

(3) When a claim for a refund is made as provided in subsection (2) of this section, the department shall:

(a) Determine the amount of the locally imposed motor vehicle excise tax that had been greater than the amount actually due, if any; and

(b) Certify to the state treasurer the amount of the partial refund due.

(4) Before a local government subject to this chapter may impose a motor vehicle excise tax, the local government shall contract with the department for reimbursement for any refunds paid to a person by the treasurer.

**Sec. 916.** RCW 82.80.130 and 2006 c 318 s 4 are each amended to read as follows:

(1) Public transportation benefit areas authorized to implement passenger-only ferry service under RCW 36.57A.200 whose boundaries (a) are on the Puget Sound, but (b) do not include an area where a regional transit authority has been formed, may submit an authorizing proposition to the voters and, if approved, may levy and collect an excise tax, at a rate approved by the voters, but not exceeding four-tenths of one percent on the value of every motor vehicle owned by a resident of the taxing district, solely for the purpose of providing passenger-only ferry service. The tax must be collected only at the time of vehicle ((license)) registration renewal under chapter 46.16 RCW. The tax will be imposed on vehicles previously registered in another state or nation when they are initially registered in this state. The tax will not be imposed at the time of sale by a licensed vehicle dealer. In a county imposing a motor vehicle excise tax surcharge under RCW 81.100.060, the maximum tax rate under this section must be reduced to a rate equal to four-tenths of one percent on the value less the equivalent motor vehicle excise tax rate of the surcharge imposed under RCW 81.100.060. This rate does not apply to vehicles ((licensed)) registered under RCW 46.16.070 (as recodified by this act) with ((an-unladen)) a scale weight more than six thousand pounds, or to

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vehicles (~~licensed~~) registered under (~~RCW 46.16.079, 46.16.085, or~~) section 528 of this act, section 531(1)(c) of this act, or RCW 46.16.090 (as recodified by this act).

(2) The department of licensing shall administer and collect the tax in accordance with chapter 82.44 RCW. The department shall deduct a percentage amount, as provided by contract, not to exceed one percent of the taxes collected, for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer for monthly distribution to the public transportation benefit area.

(3) The public transportation benefit area imposing this tax shall delay the effective date at least six months from the date the fee is approved by the qualified voters of the authority area to allow the department of licensing to implement administration and collection of the tax.

(4) Before an authority may impose a tax authorized under this section, the authorization for imposition of the tax must be approved by a majority of the qualified electors of the authority area voting on that issue.

**Sec. 917.** RCW 82.80.140 and 2007 c 329 s 2 are each amended to read as follows:

(1) Subject to the provisions of RCW 36.73.065, a transportation benefit district under chapter 36.73 RCW may fix and impose an annual vehicle fee, not to exceed one hundred dollars per vehicle registered in the district, for each vehicle subject to vehicle license (~~tab~~) fees under (~~RCW 46.16.0621~~) section 531(1) (a), (c), (d), (e), (g), (h), (j), or (n) through (q) of this act and for each vehicle subject to gross weight license fees under (~~RCW 46.16.070~~) section 530 of this act with (~~an unladen~~) a scale weight of six thousand pounds or less.

(2)(a) A district that includes all the territory within the boundaries of the jurisdiction, or jurisdictions, establishing the district may impose by a majority vote of the governing board of the district up to twenty dollars of the vehicle fee authorized in subsection (1) of this section. If the district is countywide, the revenues of the fee shall be distributed to each city within the county by interlocal agreement. The interlocal agreement is effective when approved by the county and sixty percent of the cities representing seventy-five percent of the population of the cities within the county in which the countywide fee is collected.

(b) A district may not impose a fee under this subsection (2):

(i) For a passenger-only ferry transportation improvement unless the vehicle fee is first approved by a majority of the voters within the jurisdiction of the district; or

(ii) That, if combined with the fees previously imposed by another district within its boundaries under RCW 36.73.065(4)(a)(i), exceeds twenty dollars.

If a district imposes or increases a fee under this subsection (2) that, if combined with the fees previously imposed by another district within its boundaries, exceeds twenty dollars, the district shall provide a credit for the previously imposed fees so that the combined vehicle fee does not exceed twenty dollars.

(3) The department of licensing shall administer and collect the fee. The department shall deduct a percentage amount, as provided by contract, not to exceed one percent of the fees collected, for administration and collection expenses incurred by it. The department shall remit remaining proceeds to the custody of the state treasurer. The state treasurer shall distribute the proceeds to the district on a monthly basis.

(4) No fee under this section may be collected until six months after approval under RCW 36.73.065.

(5) The vehicle fee under this section applies only when renewing a vehicle registration, and is effective upon the registration renewal date as provided by the department of licensing.

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(6) The following vehicles are exempt from the fee under this section:

(a) Campers, as defined in RCW 46.04.085;

(b) Farm tractors or farm vehicles, as defined in RCW 46.04.180 and 46.04.181;

~~((b))~~ (c) Mopeds, as defined in RCW 46.04.304;

(d) Off-road and nonhighway vehicles, as defined in ((RCW 46.09.020)) section 127 of this act;

~~((e))~~ (e) Private use single-axle trailer, as defined in section 132 of this act;

(f) Snowmobiles, as defined in section 145 of this act; and

(g) Vehicles registered under chapter 46.87 RCW and the international registration plan(~~and~~

~~(d) Snowmobiles as defined in RCW 46.10.010)).~~

## PART X. VESSELS A. GENERAL PROVISIONS

**Sec. 1001.** RCW 88.02.010 and 1983 c 7 s 14 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Vessel" means every watercraft used or capable of being used as a means of transportation on the water, other than a seaplane.

(2) "Owner" means a person who has a lawful right to possession of a vessel by purchase, exchange, gift, lease, inheritance, or legal action whether or not the vessel is subject to a security interest, and means registered owner where the reference to owner may be construed as either to registered or legal owner.

(3) "Dealer" means a person, partnership, association, or corporation engaged in the business of selling vessels at wholesale or retail in this state.

(4) "Department" means the department of licensing.

(5) "Director" means the director of the department of licensing.

(6) "Person" has the same meaning as in RCW 46.04.405.

(7) "Waters of this state" means any waters within the territorial limits of this state as described in 43 U.S.C. Sec. 1312.

**NEW SECTION. Sec. 1002.** A new section is added to chapter 88.02 RCW under the subchapter heading "general provisions" to read as follows:

The department:

(1) Shall provide for the issuance of vessel certificates of title and registration certificates;

(2) May appoint county auditors or other agents or subagents under chapter 46.01 RCW for collecting fees and issuing vessel registration certificates, numbers, and decals; and

(3) May adopt rules under chapter 34.05 RCW to implement this chapter.

**Sec. 1003.** RCW 88.02.035 and 1991 c 339 s 32 are each amended to read as follows:

(1) The department may issue confidential vessel registrations (~~for law enforcement purposes only~~) to units of local government and to agencies of the federal government for law enforcement purposes only.

(2) The department shall limit confidential vessel registrations owned or operated by the state of Washington or by any officer or employee (~~thereof~~) of the state, to confidential, investigative, or undercover work of state law enforcement agencies.

(3) The director may adopt rules governing applications for and the use of confidential vessel registrations (~~by law enforcement and other public agencies~~).

**NEW SECTION. Sec. 1004.** A new section is added to chapter 88.02 RCW under the subchapter heading "general provisions" to read as follows:

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(1) Any person charged with the enforcement of this chapter may inspect the registration certificate of a vessel to ascertain the legal and registered ownership of the vessel. A vessel owner or operator who fails to provide the registration certificate for inspection upon the request of any person charged with enforcement of this chapter is a class 2 civil infraction.

(2) The department may require the inspection of vessels that are brought into this state from another state and for which a certificate of title has not been issued and for any other vessel if the department determines that inspection of the vessel will help to verify the accuracy of the information set forth on the application.

**Sec. 1005.** RCW 88.02.055 and 2003 c 53 s 413 are each amended to read as follows:

((1) Whenever any license fee paid under this chapter has been erroneously paid, in whole or in part, the person paying the fee, upon satisfactory proof to the director of licensing, is entitled to a refund of the amount erroneously paid.

(2) A license fee is refundable in one or more of the following circumstances: (a) If the vessel for which the renewal license was purchased was destroyed before the beginning date of the registration period for which the renewal fee was paid; (b) if the vessel for which the renewal license was purchased was permanently removed from the state before the beginning date of the registration period for which the renewal fee was paid; (c) if the vessel license was purchased after the owner has sold the vessel; (d) if the vessel is currently licensed in Washington and is subsequently licensed in another jurisdiction, in which case any full months of Washington fees between the date of license application in the other jurisdiction and the expiration of the Washington license are refundable; or (e) if the vessel for which the renewal license was purchased is sold before the beginning date of the registration period for which the renewal fee was paid, and the payor returns the new, unused, never affixed license renewal decal to the department before the beginning of the registration period for which the registration was purchased.

(3) Upon the refund being certified as correct to the state treasurer by the director and being claimed in the time required by law, the state treasurer shall mail or deliver the amount of each refund to the person entitled to the refund.

(4) A claim for refund shall not be allowed for erroneous payments unless the claim is filed with the director within three years after such payment was made.

(5) If due to error a person has been required to pay a license fee under this chapter and excise tax which amounts to an overpayment of ten dollars or more, the person is entitled to a refund of the entire amount of the overpayment, regardless of whether a refund of the overpayment has been requested. If due to error the department or its agents has failed to collect the full amount of the license fee and excise tax due, which underpayment is in the amount of ten dollars or more, the department shall charge and collect the additional amount as will constitute full payment of the tax and fees.)

(1) A person who has paid all or part of a vessel registration fee under this chapter is entitled to a refund if the amount was paid in error or if the vessel:

- (a) Was destroyed before the new registration period began;
- (b) Was permanently removed from Washington state before the new registration period began;
- (c) Registration was purchased after the owner sold the vessel;
- (d) Was registered in another jurisdiction after the Washington state registration had been purchased. Any full months of Washington state registration fees remaining after the application for out-of- state registration was made are refundable; or
- (e) Registration was purchased before the vessel was sold and before the new registration period began. The person who paid the fee must return the unused, never-affixed decals to the department

before the new registration period begins.

(2) The department shall refund overpayments of registration fees and watercraft excise tax under chapter 82.49 RCW that are ten dollars or more. A request for a refund is not required.

(3) The department shall certify refunds to the state treasurer as correct and being claimed in the time required by law. The state treasurer shall mail or deliver the amount of each refund to the person who is entitled to the refund.

(4) The department shall not authorize refunds of fees paid in error unless the claim is filed with the director within three years after the fees were paid.

(5) If, due to error, the department, county auditor or other agent, or subagent appointed by the director has failed to collect the full amount of the registration fee and watercraft excise tax due, and the underpayment is in the amount of ten dollars or more, the department shall charge and collect the additional amount to constitute full payment of the tax and fee.

(6) Any person who makes a false statement under which he or she obtains a refund to which he or she is not entitled under this section is guilty of a gross misdemeanor.

**Sec. 1006.** RCW 88.02.110 and 2006 c 29 s 3 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, a violation of this chapter and the rules adopted by the department (~~pursuant to these statutes~~) is a misdemeanor punishable only by a fine not to exceed one hundred dollars per vessel for the first violation. Subsequent violations in the same year are subject to the following fines:

(a) For the second violation, a fine of two hundred dollars per vessel;

(b) For the third and successive violations, a fine of four hundred dollars per vessel.

(2) A violation designated in this chapter as a civil infraction (~~shall~~) must be punished accordingly pursuant to chapter 7.80 RCW.

(3) After the subtraction of court costs and administrative collection fees, moneys collected under this section (~~shall~~) must be credited to the current expense fund of the arresting jurisdiction.

(4) All law enforcement officers (~~shall have the authority to~~) may enforce this chapter(~~(s)~~) and the rules adopted by the department (~~pursuant to these statutes~~) within their respective jurisdictions(~~(- PROVIDED, That)~~). A city, town, or county may contract with a fire protection district for (~~such~~) enforcement of this chapter, and fire protection districts (~~are authorized to~~) may engage in (~~such~~) enforcement activities.

**Sec. 1007.** RCW 88.02.118 and 2003 c 53 s 414 are each amended to read as follows:

(1) It is a gross misdemeanor punishable as provided under chapter 9A.20 RCW for any person owning a vessel subject to taxation under chapter 82.49 RCW to:

(a) Register a vessel in another state to avoid Washington state vessel excise tax required under chapter 82.49 RCW; or (~~(to)~~)

(b) Obtain a vessel dealer's (~~registration~~) license for the purpose of evading excise tax on vessels under chapter 82.49 RCW.

(2) For a second or subsequent offense, the person convicted is also subject to a fine equal to four times the amount of avoided taxes and fees, (~~no part of~~) which may not be suspended or deferred.

(3) Excise taxes owed and fines assessed (~~with~~) must be deposited in the manner provided under RCW 46.16.010(~~(4)~~) (6).

**Sec. 1008.** RCW 88.02.200 and 1985 c 258 s 11 are each amended to read as follows:

(~~No~~) A suit or action (~~shall ever~~) may not be commenced or prosecuted against the department (~~of licensing~~) or the state of Washington by reason of any act done or omitted to be done in the

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administration of the duties and responsibilities imposed upon the department under this chapter (~~(88.02 RCW)~~).

## B. CERTIFICATES OF TITLE

**Sec. 1009.** RCW 88.02.120 and 1985 c 258 s 1 are each amended to read as follows:

It is the intention of the legislature:

~~(1) To establish a system of certificates of title for vessels (and watercraft) similar to that in existence for motor vehicles (- It is the goal of this legislation that the title) under chapter 46.12 RCW;~~

~~(2) That certificates of title become ((prima facie)) sufficient evidence of ownership of the vessel it describes so that persons may rely upon that certificate; and~~

~~(3) That security interest in vessels be perfected solely by notation of a secured party upon the ((title)) certificate of title. ((However, there are title certificates issued prior to June 30, 1985, which may not indicate security interests in the certificated vessel. The establishment of a more reliable system will require implementation over several years, as the existing security interests are either satisfied or their perfection is not continued. During this interim period of five years from June 30, 1985, two different classes, class A and class B, of title certificates will be in existence and issued by the department of licensing. The establishment and operation of the system for watercraft and vessels should be patterned upon the system established and operating for motor vehicles and the department of licensing is hereby authorized and directed to adopt the regulations and procedures necessary and desirable to establish such a similar system, excepting only as the same may be inconsistent with this chapter.))~~

**Sec. 1010.** RCW 88.02.070 and 1996 c 315 s 5 are each amended to read as follows:

(1) ((The department shall provide for the issuance of vessel certificates of title. Applications for certificates may be made through the agents appointed under RCW 88.02.040. The fee for a vessel certificate of title is five dollars. Fees required for licensing agents under RCW 46.01.140 are in addition to the vessel certificate of title fee. Fees for vessel certificates of title shall be deposited in the general fund.)) Security interests in vessels subject to the requirements of this chapter ((and attaching after July 1, 1983, shall)) must be perfected only by indication upon the vessel's ((title)) certificate of title. The provisions of chapters 46.12 and 46.16 RCW relating to ((motor)) vehicle ((certificates of)) registration certificates, certificates of title(s), certificate issuance, ownership transfer, and perfection of security interests, and other provisions ((which)) that may be applied to vessels subject to this chapter, may be so applied by rule of the department if they are not inconsistent with this chapter.

(2) ((Whenever a vessel is to be registered for the first time as required by this chapter, except for a vessel having a valid marine document as a vessel of the United States, application shall be made at the same time for a certificate of title. Any person who purchases or otherwise obtains majority ownership of any vessel subject to the provisions of this chapter, except for a vessel having a valid marine document as a vessel of the United States, shall within fifteen days thereof apply for a new certificate of title which shows the vessel's change of ownership.

(3)) Security interests may be released or acted upon as provided by the law under which they arose or were perfected. ((No)) A new security interest or renewal or extension of an existing security interest is not affected except as provided under the terms of this chapter and RCW 46.12.095.

((4)) Notice shall be given to the issuing authority by the owner indicated on the certificate of registration within fifteen days of the occurrence of any of the following: Any change of address of

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owner; destruction, loss, abandonment, theft, or recovery of the vessel; or loss or destruction of a valid certificate of registration on the vessel.

(5) Within five days, excluding Saturdays, Sundays, and state and federal holidays, the owner shall notify the department in writing, on the appropriate form, of the date of the sale or transfer, the name and address of the owner and of the transferee, and such description of the vessel, including the hull identification number, the vessel decal number, or both, as may be required by the department.))

**NEW SECTION. Sec. 1011.** A new section is added to chapter 88.02 RCW under the subchapter heading "certificates of title" to read as follows:

(1) An application for a certificate of title must be made at the same time when a vessel is registered for the first time as required under this chapter.

(2) A person who purchases or otherwise obtains majority ownership of any vessel subject to this chapter shall, within fifteen days of purchase or obtainment, apply for a new certificate of title that shows the vessel's change of ownership.

(3) This section does not apply to a vessel that has a valid marine document as a vessel of the United States.

**Sec. 1012.** RCW 88.02.180 and 1985 c 258 s 6 are each amended to read as follows:

((Each)) (1) The application for a ((title)) certificate ((shall require)) of title of a vessel must be made by the owner or the owner's representative to the department, county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department and must contain:

(a) A description of the vessel, including make, model, hull identification number, and type of body;

(b) The name and address of the person who is to be the registered owner of the vessel and, if the vessel is subject to a security interest, the name and address of the secured party; and

(c) Other information the department may require.

(2) The application for a certificate of title must be signed by the person applying to be ((designated as)) the registered owner ((to swear)) and be sworn to by that person under penalty of the perjury laws of this state that ((he)):

(a) The applicant is the owner or an authorized agent of the owner of the vessel((- and that it)); and

(b) The vessel is free of any claim of lien, mortgage, conditional sale, or other security interest of any person except the person or persons ((set forth in)) on the application as secured parties.

(3) The application for a certificate of title must be accompanied by:

(a) A draft, money order, certified bank check, or cash for all fees and taxes due for the application for the certificate of title; and

(b) The most recent certificate of title or other satisfactory evidence of ownership.

**NEW SECTION. Sec. 1013.** A new section is added to chapter 88.02 RCW under the subchapter heading "certificates of title" to read as follows:

A vessel owner shall notify the department within fifteen days of any of the following:

(1) A change of address of the owner;

(2) Destruction, loss, abandonment, theft, or recovery of the vessel; or

(3) Loss or destruction of a valid registration certificate issued for the vessel.

**NEW SECTION. Sec. 1014.** A new section is added to chapter 88.02 RCW under the subchapter heading "certificates of title" to read as follows:

(1) A vessel owner shall notify the department in writing within five business days after a vessel is or has been:

(a) Sold;

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- (b) Given as a gift to another person;
- (c) Traded, either privately or to a vessel dealer;
- (d) Donated to charity;
- (e) Turned over to an insurance company or wrecking yard; or
- (f) Disposed of.

(2) A report of sale is properly filed if it is received by the department within five business days after the date of sale or transfer and it includes:

- (a) The date of sale or transfer;
- (b) The owner's name and address;
- (c) The name and address of the person acquiring the vessel;
- (d) The vessel hull identification number and vessel registration number; and

(e) A date stamp by the department showing it was received on or before the fifth business day after the date of sale or transfer.

**Sec. 1015.** RCW 88.02.075 and 1997 c 241 s 12 are each amended to read as follows:

((1) If a certificate of ownership, a certificate of registration, or a pair of decals is lost, stolen, mutilated, or destroyed or becomes illegible, the first priority secured party or, if none, the owner or legal representative of the owner named in the certificate, as shown by the records of the department, shall promptly apply for and may obtain a duplicate certificate or replacement decals upon payment of one dollar and twenty-five cents and furnishing information satisfactory to the department.

(a) An application for a duplicate certificate of title shall be accompanied by an affidavit of loss or destruction in a form approved by the department and signed by the first secured party or, if none, the owner or legal representative of the owner.

(b) An application for a duplicate certificate of registration or replacement decals shall be accompanied by an affidavit of loss or destruction in a form approved by the department and signed by the registered owner or legal representative of the owner.

(2) The duplicate certificate of ownership or registration shall contain the legend, "duplicate." It shall be mailed to the first priority secured party named in it or, if none, to the owner.

(3) A person recovering an original certificate of ownership, certificate of registration, or decal for which a duplicate or replacement has been issued shall promptly surrender the original to the department.)

(1) A legal owner or the legal owner's authorized representative shall promptly apply for a duplicate certificate of title if a certificate of title is lost, stolen, mutilated, or destroyed, or becomes illegible. The application for a duplicate certificate of title must:

- (a) Include information required by the department;
- (b) Be accompanied by an affidavit of loss or destruction;
- (c) Be accompanied by the fee required in section 1028(1)(j) of this act.

(2) The duplicate certificate of title must contain the word "duplicate." It must be mailed to the first priority secured party named in it or, if none, to the registered owner.

(3) A person recovering a certificate of title for which a duplicate has been issued shall promptly return the certificate of title that has been recovered to the department.

**NEW SECTION. Sec. 1016.** A new section is added to chapter 88.02 RCW under subchapter heading "certificates of title" to read as follows:

(1) A local health officer may notify the department that a vessel has been:

(a) Declared unfit and prohibited from use as authorized in chapter 64.44 RCW if the vessel has become contaminated as defined in RCW 64.44.010;

(b) Satisfactorily decontaminated and the vessel has been retested according to the written work plan approved by the local health officer.

(2) The department shall brand vessel records and certificates of title when it receives the notification from a local health officer as provided in subsection (1) of this section.

(3) A person is guilty of a gross misdemeanor if he or she advertises for sale or sells a vessel that has been declared unfit and prohibited from use by a local health officer if:

(a) The person has knowledge that the local health officer has issued an order declaring the vessel unfit and prohibiting its use; or

(b) A notification has been placed on the certificate of title under subsection (2) of this section that the vessel has been declared unfit and prohibited from use.

(4) A person may advertise or sell a vessel if a release for reuse document has been issued by a local health officer under chapter 64.44 RCW or a notification has been placed on the certificate of title under subsection (2) of this section that the vessel has been decontaminated and released for reuse.

**C. REGISTRATION CERTIFICATES**

**Sec. 1017.** RCW 88.02.020 and 2006 c 29 s 1 are each amended to read as follows:

(1) Except as provided in this chapter, ((no)) a person may not own or operate any vessel, including a rented vessel, on the waters of this state unless the vessel has been registered and displays a registration number and a valid decal in accordance with this chapter((except that)). A vessel ((which)) that has or is required to have a valid marine document as a vessel of the United States is only required to display a valid decal. A violation of this section is a class 2 civil infraction.

(2) A vessel numbered in this state under the federal boat safety act of 1971 (85 Stat. 213, 46 U.S.C. 4301 et seq.) is not required to be registered under this chapter until the certificate of number issued for the vessel under the federal boat safety act expires. When registering under this chapter, this type of vessel is subject to the amount of excise tax due under chapter 82.49 RCW that would have been due under chapter 82.49 RCW if the vessel had been registered at the time otherwise required under this chapter.

**Sec. 1018.** RCW 88.02.030 and 2007 c 22 s 3 are each amended to read as follows:

Vessel registration is required under this chapter except for the following:

(1) A military ((or public)) vessel((s of)) owned by the United States((, except recreational type public vessels; —(2) Vessels)) government;

(2) A public vessel owned by the United States government, unless the vessel is a type used for recreation;

(3) A vessel clearly identified as being:

(a) Owned by a state ((or subdivision thereof)), county, or city; and

(b) Used ((principally)) primarily for governmental purposes ((and clearly identifiable as such));

((3)) (4) A vessel((s)) either (a) registered or numbered under the laws of a country other than the United States((;)) or (b) having a valid United States customs service cruising license issued pursuant to 19 C.F.R. Sec. 4.94. Either vessel is exempt from registration only for the first sixty days of use on Washington state waters. On or before the sixty-first day of use ((in the)) on Washington state waters, any vessel in the state under this subsection ((shall)) must obtain ((an identification document from the department of licensing, its agents, or subagents indicating when the vessel first came into the state. At the time of any issuance of an identification document, a thirty dollar identification document fee shall be paid by the vessel owner to the department of licensing for the cost of providing the identification document by the department of licensing. Five dollars from each such transaction must be

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~~deposited in the derelict vessel removal account created in RCW 79.100.100. Any moneys remaining from the fee after the payment of costs and the deposit to the derelict vessel removal account shall be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.045. The department of licensing shall adopt rules to implement its duties under this subsection, including issuing and displaying the identification document and collecting the thirty dollar fee) a vessel visitor permit as required under section 1026 of this act;~~

~~((4)) (5) A vessel(s) that (have been issued) is currently registered or numbered under the laws of the state of principal operation or that has been issued a valid number under federal law ((or by an approved issuing authority of the state of principal operation. However, a vessel that is validly registered in another state but that is removed to this state for principal use is subject to registration under this chapter. The issuing authority for this state shall recognize the validity of the numbers previously issued for a period of sixty days after arrival in this state)). However, either vessel must be registered in Washington state if the state of principal operation changes to Washington state by the sixty-first day after the vessel arrives in Washington state;~~

~~((5)) (6) A vessel(s) owned by a nonresident if:~~

~~(a) The vessel is located upon the waters of this state exclusively for repairs, alteration, or reconstruction, or any testing related to ((the repair, alteration, or reconstruction conducted in this state if) these services;~~

~~(b) An employee of the ((repair, alteration, or construction) facility providing these services is on board the vessel during any testing((. However, any vessel owned by a nonresident is located upon the waters of this state exclusively for repairs, alteration, reconstruction, or testing for a period longer than sixty days, that)); and~~

~~(c) The nonresident ((shall) files an affidavit with the department of revenue by the sixty-first day verifying that the vessel is located upon the waters of this state for ((repair, alteration, reconstruction, or testing and) these services.~~

~~The nonresident shall continue to file ((such) an affidavit every sixty days thereafter, ((while) as long as the vessel is located upon the waters of this state exclusively for repairs, alteration, reconstruction, or testing;~~

~~((6)) (7) A vessel(s) equipped with propulsion machinery of less than ten horsepower that:~~

~~(a) ((Are) Is owned by the owner of a vessel for which a valid vessel number has been issued;~~

~~(b) Displays the number of that numbered vessel followed by the suffix "1" in the manner prescribed by the department; and~~

~~(c) ((Are) Is used as a tender for direct transportation between ((that) the numbered vessel and the shore and for no other purpose;~~

~~((7)) (8) A vessel(s) under sixteen feet in overall length ((which have) that has no propulsion machinery of any type or ((which are) that is not used on waters subject to the jurisdiction of the United States or on the high seas beyond the territorial seas for vessels owned in the United States and are powered by propulsion machinery of ten or less horsepower;~~

~~((8)) (9) A vessel(s) with no propulsion machinery of any type for which the primary mode of propulsion is human power;~~

~~((9)) (10) A vessel(s) primarily engaged in commerce ((which have or are) that has or is required to have a valid marine document as a vessel of the United States. A commercial vessel((s which) that the department of revenue determines ((have) has the external appearance of a vessel((s which) that would otherwise be required to register under this chapter, must display decals issued annually by the department of revenue that indicate the vessel's exempt status;~~

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~~((10)) (11) A vessel(s) primarily engaged in commerce ((which are) that is owned by a resident of a country other than the United States;~~

~~((11)) (12) A vessel(s) owned by a nonresident ((individual) natural person brought into the state for ((his or her) use or enjoyment while temporarily within the state for not more than six months in any continuous twelve-month period((- unless the vessel is used in conducting a nontransitory business activity within the state. However, the vessel must have) that (a) is currently registered or numbered under the laws of the state of principal use or (b) has been issued a valid number under federal law ((or by an approved issuing authority of the state of principal operation)). This type of vessel is exempt from registration only for the first sixty days of use on Washington state waters. On or before the sixty-first day of use ((in the) on Washington state waters, any vessel ((temporarily in the state) under this subsection ((shall) must obtain ((an identification document from the department of licensing, its agents, or subagents indicating when the vessel first came into the state. An identification document shall be valid for a period of two months. At the time of any issuance of an identification document, a twenty five dollar identification document fee shall be paid by the vessel owner to the department of licensing for the cost of providing the identification document by the department of licensing. Any moneys remaining from the fee after payment of costs shall be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.045. The department of licensing shall adopt rules to implement its duties under this subsection, including issuing and displaying the identification document and collecting the twenty five dollar fee) a nonresident vessel permit as required under section 1027 of this act; ((and~~

~~((12)) (13) A vessel(s) used in this state by a nonresident individual possessing a valid use permit issued under RCW 82.08.700 or 82.12.700; and~~

~~(14) A vessel held for sale by any licensed dealer.~~

**Sec. 1019.** RCW 88.02.050 and 2007 c 342 s 5 are each amended to read as follows:

(1) An application for ((a) vessel registration ((shall) must be made by the owner or the owner's authorized representative to the department ((or its authorized agent in the manner and upon forms prescribed), county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department. The application ((shall state) must contain:

(a) The name and address of each owner of the vessel ((and such);

(b) Other information ((as may be required by) the department((- shall be signed by) may require; and

(c) The signature of at least one owner((- and shall be accompanied by a vessel registration fee of ten dollars and fifty cents per year and the excise tax imposed under chapter 82.49 RCW.

(2) Five additional dollars must be collected annually from every vessel registration application. These moneys must be distributed in the following manner:

(a) Two dollars must be deposited into the derelict vessel removal account established in RCW 79.100.100. If the department of natural resources indicates that the balance of the derelict vessel removal account, not including any transfer or appropriation of funds into the account or funds deposited into the account collected under RCW 88.02.270, reaches one million dollars as of March 1st of any year, the collection of the two dollar fee must be suspended for the following fiscal year.

(b) One dollar and fifty cents must be deposited in the aquatic invasive species prevention account created in RCW 77.12.879.

(c) One dollar must be deposited into the freshwater aquatic

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~~algae control account created in RCW 43.21A.667.~~

~~(d) Fifty cents must be deposited into the aquatic invasive species enforcement account created in RCW 43.43.400.~~

~~(3) Any fees required for licensing agents under RCW 46.01.140 shall be in addition to the ten dollar and fifty cent annual registration fee and the five dollar fee created in subsection (2) of this section).~~

~~((4)) (2) The application for vessel registration must be accompanied by the:~~

(a) Vessel registration fee required under section 1028(1)(h) of this act;

(b) Derelict vessel and invasive species removal fee and derelict vessel removal surcharge required under section 1028(3)(a) of this act;

(c) Filing fee required under section 1028(1)(d) of this act;

(d) License plate technology fee required under section 1028(1)(e) of this act;

(e) License service fee required under section 1028(1)(f) of this act; and

(f) Watercraft excise tax required under chapter 82.49 RCW.

(3) Upon receipt of ~~((the))~~ an application for vessel registration and the ~~((registration))~~ required fees and taxes, the department shall assign a registration number and issue a decal for ~~((each))~~ the vessel. The registration number and decal ~~((shall))~~ must be issued and affixed to the vessel in a manner prescribed by the department consistent with the standard numbering system for vessels ~~((set forth in volume 33, part 174, of the code of federal regulations))~~ required in 33 C.F.R. Part 174. A valid decal affixed as prescribed shall indicate compliance with the annual registration requirements of this chapter.

~~((5) The)~~ (4) Vessel registrations and decals are valid for a period of one year, except that the director ~~((of licensing))~~ may extend or diminish vessel registration periods~~((:))~~ and ~~((the))~~ vessel decals ~~((therefor,))~~ for the purpose of staggered renewal periods. For registration periods of more or less than one year, the department may collect prorated annual registration fees and excise taxes based upon the number of months in the registration period.

(5) Vessel registrations are renewable every year in a manner prescribed by the department upon payment of the ~~((vessel registration fee, excise tax, and the derelict vessel fee))~~ fees and taxes described in subsection (2) of this section. Upon renewing a vessel registration, the department shall issue a new decal to be affixed as prescribed by the department.

(6) When the department issues either a notice to renew a vessel registration or a decal for a new or renewed vessel registration, it shall also provide information on the location of marine oil recycling tanks and sewage holding tank pumping stations. This information will be provided to the department by the state parks and recreation commission in a form ready for distribution. The form ~~((will))~~ must be developed and prepared by the state parks and recreation commission with the cooperation of the department of ecology. The department, the state parks and recreation commission, and the department of ecology shall enter into a memorandum of agreement to implement this process.

(7) A person acquiring a vessel from a dealer or a vessel already validly registered under this chapter shall, within fifteen days of the acquisition or purchase of the vessel, apply to the department ~~((or its authorized agent)), county auditor or other agent, or subagent appointed by the director~~ for transfer of the vessel registration, and the application ~~((shall))~~ must be accompanied by a transfer fee ~~((of one dollar))~~ as required in section 1028(1)(k) of this act.

Sec. 1020. RCW 88.02.050 and 2007 c 342 s 6 are each amended to read as follows:

(1) An application for a vessel registration ~~((shall))~~ must be made by the owner or the owner's authorized representative to the department

~~((or its authorized agent in the manner and upon forms prescribed)),~~ county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department. The application ~~((shall state))~~ must contain:

~~(a) The name and address of each owner of the vessel ((and such));~~

~~(b) Other information ((as may be required by))~~ the department ~~((shall be signed by))~~ may require; and

~~(c) The signature of at least one owner((, and shall be accompanied by a vessel registration fee of ten dollars and fifty cents per year and the excise tax imposed under chapter 82.49 RCW. In addition, two additional dollars must be collected annually from every vessel registration application. These moneys must be deposited into the derelict vessel removal account established in RCW 79.100.100. If the department of natural resources indicates that the balance of the derelict vessel removal account, not including any transfer or appropriation of funds into the account or funds deposited into the account collected under RCW 88.02.270, reaches one million dollars as of March 1st of any year, the collection of the two dollar fee must be suspended for the following fiscal year. Any fees required for licensing agents under RCW 46.01.140 shall be in addition to the ten dollar and fifty cent annual registration fee and the two dollar derelict vessel fee).)~~

(2) The application for vessel registration must be accompanied by the:

(a) Vessel registration fee required under section 1028(1)(h) of this act;

(b) Derelict vessel and invasive species removal fee and derelict vessel removal surcharge required under section 1028(3)(b) of this act;

(c) Filing fee required under section 1028(1)(d) of this act;

(d) License plate technology fee required under section 1028(1)(e) of this act;

(e) License service fee required under section 1028(1)(f) of this act; and

(f) Watercraft excise tax required under chapter 82.49 RCW.

(3) Upon receipt of ~~((the))~~ an application ~~((and the))~~ for vessel registration and the required fees and taxes, the department shall assign a registration number and issue a decal for each vessel. The registration number and decal ~~((shall))~~ must be issued and affixed to the vessel in a manner prescribed by the department consistent with the standard numbering system for vessels ~~((set forth in volume 33, part 174, of the code of federal regulations))~~ required in 33 C.F.R. Part 174. A valid decal affixed as prescribed ~~((shall))~~ must indicate compliance with the annual registration requirements of this chapter.

~~((The))~~ (4) Vessel registrations and decals are valid for a period of one year, except that the director ~~((of licensing))~~ may extend or diminish vessel registration periods~~((:))~~ and ~~((the))~~ vessel decals ~~((therefor,))~~ for the purpose of staggered renewal periods. For registration periods of more or less than one year, the department may collect prorated annual registration fees and excise taxes based upon the number of months in the registration period.

(5) Vessel registrations are renewable every year in a manner prescribed by the department upon payment of the ~~((vessel registration fee, excise tax, and the derelict vessel fee))~~ fees and taxes described in subsection (2) of this section. Upon renewing a vessel registration, the department shall issue a new decal to be affixed as prescribed by the department.

(6) When the department issues either a notice to renew a vessel registration or a decal for a new or renewed vessel registration, it shall also provide information on the location of marine oil recycling tanks and sewage holding tank pumping stations. This information ~~((will))~~ must be provided to the department by the state parks and recreation commission in a form ready for distribution.

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The form ~~((will))~~ must be developed and prepared by the state parks and recreation commission with the cooperation of the department of ecology. The department, the state parks and recreation commission, and the department of ecology shall enter into a memorandum of agreement to implement this process.

(7) A person acquiring a vessel from a dealer or a vessel already validly registered under this chapter shall, within fifteen days of the acquisition or purchase of the vessel, apply to the department ~~((or its authorized agent)), county auditor or other agent, or subagent appointed by the director~~ for transfer of the vessel registration, and the application ~~((shall))~~ must be accompanied by a transfer fee ~~((of one dollar))~~ as required in section 1028(1)(k) of this act.

**NEW SECTION. Sec. 1021.** A new section is added to chapter 88.02 RCW under the subchapter heading "registration certificates" to read as follows:

(1) A registered owner or the registered owner's authorized representative shall promptly apply for a duplicate registration certificate when a registration certificate is lost, stolen, mutilated, or destroyed, or becomes illegible. The application for a duplicate registration certificate must:

(a) Be accompanied by an affidavit of loss or destruction;

(b) Include information required by the department; and

(c) Be accompanied by the fee required in section 1028(1)(c) of this act, in addition to any other fees or taxes required for the transaction.

(2) A person recovering a registration certificate for which a duplicate has been issued shall promptly return the registration certificate that has been recovered to the department.

**NEW SECTION. Sec. 1022.** A new section is added to chapter 88.02 RCW under the subchapter heading "registration certificates" to read as follows:

(1) A registered owner or the registered owner's authorized representative shall promptly apply for a pair of replacement decals when the decals are lost, stolen, mutilated, or destroyed, or become illegible. The application for replacement decals must:

(a) Be accompanied by an affidavit of loss or destruction;

(b) Include information required by the department;

(c) Be accompanied by the fee required in section 1028(1)(i) of this act, in addition to any other fees or taxes required for the transaction.

(2) A person recovering decals for which a replacement has been issued shall promptly return the decals that have been recovered to the department.

**Sec. 1023.** RCW 88.02.052 and 1996 c 3 s 1 are each amended to read as follows:

~~((In conjunction with the registration of vessels under this chapter.))~~ The department shall provide an opportunity for each person registering a vessel under this chapter to make a voluntary donation to support the maritime historic restoration and preservation activities of the Grays Harbor Historical Seaport and the Steamer Virginia V Foundation. All voluntary donations collected under this section ~~((shall))~~ must be deposited in the maritime historic restoration and preservation account created under RCW 88.02.053 (as recodified by this act).

**Sec. 1024.** RCW 88.02.250 and 2006 c 140 s 2 are each amended to read as follows:

~~((1))~~ Any new or used motor driven boat or vessel, as that term is defined in RCW 79A.60.010, other than a personal watercraft, sold within this state must display a carbon monoxide warning sticker developed by the department on the interior of the vessel.

(2) For vessels sold by a dealer, the dealer shall ensure that the warning sticker has been affixed prior to completing a transaction.

(3) For a vessel sold by an individual, the department shall include the sticker in the registration materials provided to the new owner, and the department shall notify the new owner that the

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sticker must be affixed as described in subsection (1) of this section.

(4) A warning sticker already developed by a vessel manufacturer may satisfy the requirements of this section if it has been approved by the department. The department shall approve a carbon monoxide warning sticker that has been approved by the United States coast guard for similar uses in other states.)

(1) The department shall:

(a) Develop and approve a carbon monoxide warning sticker;

(b) Approve a carbon monoxide warning sticker that has been approved by the United States coast guard for similar uses in other states;

(c) Provide the carbon monoxide warning sticker when an application for a certificate of title is made and the ownership of the vessel is transferred between natural persons; and

(d) Notify the new vessel owner described in (c) of this subsection that the carbon monoxide sticker must be affixed to the vessel as described in subsection (2) of this section.

(2) A new or used motor driven vessel, as defined in RCW 79A.60.010, other than a personal watercraft, as defined in RCW 79A.60.010, sold within this state must display a carbon monoxide warning sticker as provided in subsection (1) of this section.

(3) A vessel dealer shall ensure that a carbon monoxide warning sticker has been affixed to any vessel sold by the dealer before completing the sale.

(4) A carbon monoxide warning sticker already developed by a vessel manufacturer satisfies the requirements of this section if it has been approved by the department.

**Sec. 1025.** RCW 88.02.260 and 2006 c 140 s 3 are each amended to read as follows:

The department shall include an informational brochure about the dangers of carbon monoxide poisoning and vessels and the warning stickers required ~~((by))~~ under RCW 88.02.250 (as recodified by this act) as part of the registration materials mailed by the department for two consecutive years for registrations that are due or become due on or after January 1, 2007, ~~((and thereafter))~~ upon recommendation by the director ~~((of the department)).~~ The materials ~~((shall))~~ must instruct the vessel owner to affix the stickers as required ~~((by))~~ under RCW 88.02.250 (as recodified by this act).

#### D. PERMITS

**NEW SECTION. Sec. 1026.** A new section is added to chapter 88.02 RCW under the subchapter heading "permits" to read as follows:

(1) A vessel owner shall apply for a vessel visitor permit if the vessel is:

(a) Currently registered or numbered under the laws of a country other than the United States or has a valid United States customs service cruising license issued under 19 C.F.R. Sec. 4.94; and

(b) Being used on Washington state waters for the personal use of the owner for more than sixty days.

(2) A vessel visitor permit:

(a) May be obtained from the department, county auditor or other agent, or subagent appointed by the director;

(b) Must show the date the vessel first came into Washington state; and

(c) Is valid as long as the vessel remains currently registered or numbered under the laws of a country other than the United States or the United States customs service cruising license remains valid.

(3) The department, county auditor or other agent, or subagent appointed by the director shall collect the fee required in section 1028(1)(l) of this act when issuing a vessel visitor permit.

(4) The department shall adopt rules to implement this section, including rules on issuing and displaying the vessel visitor permit.

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**NEW SECTION. Sec. 1027.** A new section is added to chapter 88.02 RCW under the subchapter heading "permits" to read as follows:

(1) A vessel owner who is a nonresident natural person shall apply for a nonresident vessel permit on or before the sixty-first day of use in Washington state if the vessel:

(a) Is currently registered or numbered under the laws of the state of principal operation or has been issued a valid number under federal law; and

(b) Has been brought into Washington state for personal use for not more than six months in any continuous twelve-month period.

(2) A nonresident vessel permit:

(a) May be obtained from the department, county auditor or other agent, or subagent appointed by the director;

(b) Must show the date the vessel first came into Washington state; and

(c) Is valid for two months.

(3) The department, county auditor or other agent, or subagent appointed by the director shall collect the fee required in section 1028(1)(g) of this act when issuing nonresident vessel permits.

(4) A nonresident vessel permit is not required under this section if the vessel is used in conducting temporary business activity within Washington state.

(5) The department shall adopt rules to implement this section, including rules on issuing and displaying the nonresident vessel permit.

**E. TITLE/REGISTRATION FEES AND DISTRIBUTION**

**NEW SECTION. Sec. 1028.** A new section is added to chapter 88.02 RCW under the subchapter heading "title/registration fees and distribution" to read as follows:

(1) In addition to any other fees and taxes required by law, the department, county auditor or other agent, or subagent appointed by the director shall charge the following vessel fees:

FEE	AMOUNT	AUTHORITY	DISTRIBUTION
(a) Dealer temporary permit	\$5.00	RCW 88.02.184(2) (as recodified by this act)	General fund
(b) Derelict vessel and invasive species removal	Subsection (3) of this section	Subsections (3) and (4) of this section	Subsection (3) of this section
(c) Duplicate registration	\$1.25	Section 1021(1)(c) of this act	General fund
(d) Filing	Section 501 of this act	Section 501 of this act	Section 820 of this act
(e) License plate technology	Section 502 of this act	Section 502 of this act	Section 819 of this act
(f) License service	Section 503 of this act	Section 503 of this act	RCW 46.68.220
(g) Nonresident vessel permit	\$25.00	Section 1027(3) of this act	Subsection (6) of this section

(h) Registration	\$10.50	RCW 88.02.050(2) (as recodified by this act)	General fund
(i) Replacement decal	\$1.25	Section 1022(1)(c) of this act	General fund
(j) Title application	\$5.00	RCW 88.02.180 (as recodified by this act)	General fund
(k) Transfer	\$1.00	RCW 88.02.050(7) (as recodified by this act)	General fund
(l) Vessel visitor permit	\$30.00	Section 1026(3) of this act	General fund

(2) The five dollar dealer temporary permit fee required in subsection (1) of this section must be credited to the payment of registration fees at the time application for registration is made.

(3)(a) Until June 30, 2012, the derelict vessel and invasive species removal fee required in subsection (1) of this section is five dollars and must be distributed as follows:

(i) One dollar and fifty cents must be deposited in the aquatic invasive species prevention account created in RCW 77.12.879;

(ii) One dollar must be deposited into the freshwater aquatic algae control account created in RCW 43.21A.667;

(iii) Fifty cents must be deposited into the aquatic invasive species enforcement account created in RCW 43.43.400; and

(iv) Two dollars must be deposited in the derelict vessel removal account created in RCW 79.100.100.

(b) On and after June 30, 2012, the derelict vessel and invasive species removal fee is two dollars and must be deposited into the derelict vessel removal account created in RCW 79.100.100. If the department of natural resources indicates that the balance of the derelict vessel removal account, not including any transfer or appropriation of funds into the account or funds deposited into the account collected under subsection (5) of this section reaches one million dollars as of March 1st of any year, the collection of the two dollar derelict vessel and invasive species removal fee must be suspended for the following fiscal year.

(4) Until January 1, 2014, an annual derelict vessel removal surcharge of one dollar must be charged with each vessel registration. The surcharge:

(a) Is to address the significant backlog of derelict vessels accumulated in Washington state waters that pose a threat to the health and safety of the people and to the environment;

(b) Is to be used only for the removal of vessels that are less than seventy-five feet in length; and

(c) Must be deposited into the derelict vessel removal account created in RCW 79.100.100.

(5) The twenty-five dollar nonresident vessel permit fee must be paid by the vessel owner to the department for the cost of providing the identification document by the department. Any moneys remaining from the fee after the payment of costs must be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.045 (as recodified by this act).

(6) The thirty dollar vessel visitor permit fee must be distributed as follows:

(a) Five dollars must be deposited in the derelict vessel removal account created in RCW 79.100.100;

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(b) The department may keep an amount to cover costs for providing the vessel visitor permit;

(c) Any moneys remaining must be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.045 (as recodified by this act); and

(d) Any fees required for licensing agents under section 501 of this act are in addition to any other fee or tax due for the titling and registration of vessels.

**Sec. 1029.** RCW 88.02.040 and 2002 c 286 s 14 are each amended to read as follows:

(The department shall provide for the issuance of vessel registrations and may appoint agents for collecting fees and issuing registration numbers and decals.) General fees for vessel registrations collected by the director ((shall) must be deposited in the general fund(: PROVIDED, That)). Any amount above one million one hundred thousand dollars per fiscal year ((shall) must be allocated to counties by the state treasurer for boating safety/education and law enforcement programs ((and the fee collected specifically for the removal and disposal of derelict vessels must be deposited in the derelict vessel removal account created in RCW 79.100.100)). Eligibility for boating safety/education and law enforcement program allocations ((shall be)) is contingent upon approval of the local boating safety program by the state parks and recreation commission. Fund allocation ((shall) must be based on the numbers of registered vessels by county of moorage. Each benefitting county ((shall be)) is responsible for equitable distribution of such allocation to other jurisdictions with approved boating safety programs within ((said) the county. Any fees not allocated to counties due to the absence of an approved boating safety program(, shall) must be allocated to the state parks and recreation commission for awards to local governments to offset law enforcement and boating safety impacts of boaters recreating in jurisdictions other than where registered.

**Sec. 1030.** RCW 88.02.045 and 1993 c 244 s 40 are each amended to read as follows:

Jurisdictions receiving funds under RCW 88.02.040 (as recodified by this act) shall deposit ((~~such~~) the) funds into an account dedicated solely for supporting the jurisdiction's boating safety programs. These funds ((shall) may not ((~~supplant~~) replace) existing local funds used for boating safety programs.

**Sec. 1031.** RCW 88.02.053 and 1996 c 3 s 2 are each amended to read as follows:

(1) The maritime historic restoration and preservation account is created in the custody of the state treasurer. All receipts from the voluntary donations made simultaneously with the registration of vessels under this chapter ((~~88.02 RCW shall~~) must be deposited into this account. These deposits are not public funds and are not subject to allotment procedures under chapter 43.88 RCW.

(2) At the end of each fiscal year, the state treasurer shall pay from this account to the department ((~~of licensing~~) an amount equal to the reasonable administrative expenses of that agency for that fiscal year for collecting the voluntary donations and transmitting them to the state treasurer and shall pay to the state treasurer an amount equal to the reasonable administrative expenses of that agency for that fiscal year for maintaining the account and disbursing funds from the account.

(3) At the end of each fiscal year, the state treasurer shall pay one-half of the balance of the funds in the account after payment of the administrative costs provided in subsection (2) of this section, to the Grays Harbor historical seaport or its corporate successor and the remainder to the Steamer Virginia V foundation or its corporate successor.

(4) If either the Grays Harbor historical seaport and its corporate successors or the Steamer Virginia V foundation and its corporate successors legally ceases to exist, the state treasurer shall, at the end

of each fiscal year, pay the balance of the funds in the account to the remaining organization.

(5) If both the Grays Harbor historical seaport and its corporate successors and the Steamer Virginia V foundation and its corporate successors legally cease to exist, the department ((~~of licensing~~) shall discontinue the collection of the voluntary donations in conjunction with the registration of vessels under RCW 88.02.052 (as recodified by this act), and the balance of the funds in the account escheat to the state. If funds in the account escheat to the state, one-half of the fund balance ((shall) must be provided to the ((~~office~~) department) of archaeology and historic preservation, and the remainder ((shall) must be deposited into the parks renewal and stewardship account.

(6) The secretary of state, the directors of the state historical societies, the director of the ((~~office~~) department) of archaeology and historic preservation within the department of ((~~community, trade, and economic development~~) commerce), and two members representing the recreational boating community appointed by the secretary of state, shall review the success of the voluntary donation program for maritime historic restoration and preservation established under RCW 88.02.052 ((~~and report their findings to the appropriate legislative committees by January 31, 1998. The findings must include the progress of the program and the potential to expand the voluntary funding to other historic vessels~~) (as recodified by this act).

## F. DEALER REGISTRATION

**Sec. 1032.** RCW 88.02.060 and 1987 c 149 s 1 are each amended to read as follows:

((1) Each vessel dealer in this state shall register with the department in the manner and upon forms prescribed by the department, in accordance with rules adopted under chapter 34.05 RCW. After the completed vessel dealer application has been satisfactorily filed and the applicant is eligible as determined by the department's rules, the department shall, if no denial proceeding is in effect, issue the vessel dealer's registration on the basis of staggered annual expiration dates.

(2) Before issuing a vessel dealer's registration, the department shall require the applicant to file with the department a surety bond in the amount of five thousand dollars, running to the state of Washington, and executed by a surety company authorized to do business in the state of Washington. The bond shall be approved by the attorney general as to form and conditioned that the dealer shall conduct his business in conformity with the provisions of this chapter. Any vessel consignor or purchaser who has suffered any loss or damage by reason of any act or omission by a dealer that constitutes a violation of this chapter may institute an action for recovery against the dealer and the surety upon the bond. Successive recoveries against the bond shall be permitted, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. Upon exhaustion of the penalty of the bond or cancellation of the bond by the surety, the vessel dealer registration shall automatically be deemed canceled.

(3) Vessel dealers selling fifteen vessels or fewer per year having a retail value of no more than two thousand dollars each shall not be subject to the provisions of subsection (2).

(4) For the fiscal biennium from July 1, 1987, through June 30, 1989, the registration fee for dealers shall be fifty dollars per year for an original registration, and twenty-five dollars for any subsequent renewal. In addition, a fee of twenty-five dollars shall be collected for the first decal, fifteen dollars for each additional decal, and fifteen dollars for each vessel dealer display decal replacement. In ensuing biennia, the director shall establish the amount of such fees at a sufficient level to defray the costs of administering the vessel

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dealer registration program. All such fees shall be fixed by rule adopted by the director in accordance with the Administrative Procedure Act, chapter 34.05 RCW. All fees collected under this section shall be deposited with the state treasurer and credited to the general fund.)

(1) Each vessel dealer in this state shall:

(a) Obtain a vessel dealer license from the department in a manner prescribed by the department in accordance with rules adopted under chapter 34.05 RCW;

(b) File a surety bond in the amount of five thousand dollars, running to the state of Washington. The surety bond must be:

(i) Issued by a surety company authorized to do business in the state of Washington;

(ii) Approved by the attorney general as to form; and

(iii) Conditioned that the vessel dealer shall conduct business as required under this chapter; and

(c) Pay the vessel dealer license and vessel dealer display decal fees as provided by rules adopted by the department. All vessel dealer license and vessel dealer display decal fees collected under this section must be deposited with the state treasurer and credited to the general fund.

(2) A vessel dealer selling fewer than sixteen vessels per year having a retail value of no more than two thousand dollars each is not required to file a bond as provided in subsection (1)(b) of this section.

(3) The director shall establish by rule vessel dealer license and vessel dealer display decal fees at a sufficient level to defray the costs of administering the vessel dealer license program.

(4) The department shall issue vessel dealer licenses with staggered annual expiration dates when:

(a) The completed vessel dealer application has been satisfactorily filed;

(b) The department determines that the applicant is eligible as determined by department rules; and

(c) No denial proceeding is in effect.

(5) A vessel consignor or purchaser who has suffered any loss or damage by reason of an act or omission by a vessel dealer that constitutes a violation of this chapter may institute an action for recovery against the vessel dealer and the surety upon the bond. Successive recoveries against the bond are permitted, but the aggregate liability of the surety to all persons may not exceed the amount of the bond. Upon exhaustion of the penalty of the bond or cancellation of the bond by the surety, the vessel dealer license must automatically be deemed canceled.

(6) Vessel dealer license numbers are not transferable.

**Sec. 1033.** RCW 88.02.230 and 2007 c 378 s 1 are each amended to read as follows:

(1) The department may exempt from compliance with the vessel dealer requirements of this chapter, any person who is engaged in the business of selling in this state at wholesale or retail, human-powered watercraft (~~which~~) that is: (a) Under sixteen feet in length; (b) unable to be powered by propulsion machinery or wind propulsion as designed by the manufacturer; and (c) not designed for use on commonly-used navigable waters.

(2) Any person engaged in the business of selling at wholesale or retail, exempt and nonexempt watercraft under this section (~~shall~~) is only (~~be~~) required to comply with (~~the provisions of~~) this chapter in regard to the sale of nonexempt watercraft.

(3) An auction company licensed under chapter 18.11 RCW and licensed as a motor vehicle dealer under chapter 46.70 RCW may sell at auction, without (~~registering~~) being licensed as a vessel dealer, all vessels that a vessel dealer is authorized to sell, so long as the sale of vessels is incidental to the auction company's primary source of business and the length of any vessel being sold is no greater than twenty-five feet. The auction company shall comply

with all other vessel dealer requirements of this chapter and rules adopted (~~under this chapter~~) by the department if the (~~registration~~) vessel dealer license fees and surety bond requirements in RCW 88.02.060 (as recodified by this act) are (~~waived~~) determined to not be due.

**Sec. 1034.** RCW 88.02.078 and 1987 c 149 s 2 are each amended to read as follows:

(1) A vessel dealer (~~shall~~) must have and maintain an office in which to conduct business at the business address of the dealer.

(2) The vessel dealer's place of business (~~shall~~) must be identified by an exterior sign with the business name. In the absence of other identifiers that the business conducted is a marine business, the sign must identify the nature of the business, such as marine sales, service, repair, or manufacturing.

**Sec. 1035.** RCW 88.02.188 and 1987 c 149 s 12 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, the director may by order deny, suspend, or revoke (~~the registration of any~~) a vessel dealer license, or in lieu (~~there~~) of or in addition (~~there~~) to, may by order assess monetary penalties of a civil nature not to exceed one thousand dollars per violation, if the director finds that the applicant or (~~registrant~~) licensee:

(~~(1)~~) (a) Is applying for a dealer's (~~registration~~) license or has obtained a dealer's (~~registration~~) license for the purpose of evading excise taxes on vessels; (~~or~~

~~(2)~~) (b) Has been adjudged guilty of a felony that directly relates to marine trade and the time elapsed since the adjudication is less than ten years. For purposes of this section, "adjudged guilty" means, in addition to a final conviction in court, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt regardless of whether the sentence is deferred or the penalty is suspended; (~~or~~

~~(3)~~) (c) Has failed to comply with the trust account requirements of this chapter; (~~or~~

~~(4)~~) (d) Has failed to transfer a certificate of title to a purchaser as required in this chapter; (~~or~~

~~(5)~~) (e) Has misrepresented the facts at the time of application for registration or renewal; or

(~~(6)~~) (f) Has failed to comply with applicable provisions of this chapter or any rules adopted under it.

(2) The director may deny a vessel dealer license under this chapter if the application is a subterfuge that conceals the real person in interest whose vessel dealer license has been denied, suspended, or revoked for cause under this chapter and (a) the terms have not been fulfilled or a civil penalty has not been paid or (b) the director finds that the application was not filed in good faith. This subsection does not prevent the department from taking an action against a current vessel dealer licensee.

**Sec. 1036.** RCW 88.02.112 and 1987 c 149 s 3 are each amended to read as follows:

Any person engaging in vessel dealer activities without first obtaining a (~~registration certificate~~) vessel dealer license is guilty of a gross misdemeanor.

**Sec. 1037.** RCW 88.02.115 and 1987 c 149 s 6 are each amended to read as follows:

(1) In addition to other penalties imposed (~~by~~) under this chapter for unauthorized or personal use of vessel dealer display decals, the director may:

~~(a)~~ Confiscate all vessel dealer display decals for (~~such~~) a period (~~as~~) that the director deems appropriate (~~and in addition, or in lieu of other sanctions, the director may~~); and

~~(b)~~ Impose a monetary penalty not exceeding twice the amount of excise tax that should have been paid to properly register each vessel (~~properly~~). (~~(A)~~) The monetary penalty (~~assessment~~);

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~~(i) May be in addition to or in lieu of other sanctions; and~~  
~~(ii) Is in addition to any fees owing to properly register each vessel (properly).~~

(2) Any monetary penalty imposed or vessel dealer display decals confiscated ~~((shall))~~ must be done in accordance with chapter 34.05 RCW. Any monetary penalty imposed by the director and the delinquent excise taxes collected ~~((shall))~~ must be deposited in the general fund.

**Sec. 1038.** RCW 88.02.189 and 1997 c 58 s 863 are each amended to read as follows:

The department shall immediately suspend the vessel registration or vessel dealer's ~~((registration))~~ license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order ~~((or a residential or visitation order))~~. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the registration ~~((shall))~~ must be automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

**Sec. 1039.** RCW 88.02.220 and 1991 c 339 s 33 are each amended to read as follows:

(1) A vessel dealer who receives cash or a negotiable instrument of deposit in excess of one thousand dollars, or a deposit of any amount that will be held for more than fourteen calendar days, shall place the funds in a separate trust account.

~~((+))~~ The cash or negotiable instrument must be:

~~(a) Set aside immediately upon receipt for the trust account, or endorsed to ((such a)) the trust account immediately upon receipt(~~

~~— (2) The cash or negotiable instrument must be); and~~

~~(b) Deposited in the trust account by the close of banking hours on the day following the receipt.~~

~~((3))~~ (2) After delivery of the purchaser's vessel, the vessel dealer shall remove the deposited funds from the trust account.

~~((4))~~ (3) The dealer shall not commingle the purchaser's funds with any other funds at any time.

~~((5))~~ (4) The funds ~~((shall))~~ must remain in the trust account until the delivery of the purchased vessel. However, upon written agreement from the purchaser, the vessel dealer may remove and release trust funds before delivery.

**Sec. 1040.** RCW 88.02.210 and 1987 c 149 s 10 are each amended to read as follows:

(1) A vessel dealer shall complete and maintain for a period of at least three years a record of the purchase and sale of all vessels purchased or consigned and sold by the vessel dealer. Records ~~((shall))~~ must be made available for inspection by the department during normal business hours.

(2) Before renewal of the vessel dealer ~~((registration))~~ license, the department shall require, on the forms prescribed, a record of the number of vessels sold during the ~~((registration))~~ license year. Vessel dealers who assert that they qualify for the exemption provided in RCW 88.02.060~~((3))~~ (2) ~~(as recodified by this act)~~ shall also record, on forms prescribed, the highest retail value of any vessel sold in the ~~((registration))~~ license year.

**Sec. 1041.** RCW 88.02.023 and 1987 c 149 s 4 are each amended to read as follows:

(1) Vessel dealer display decals ~~((shall))~~ must only be used:

~~((+))~~ (a) To demonstrate vessels held for sale when operated by a prospective customer holding a dated demonstration permit~~(, and shall)~~. The demonstration permit must be carried in the vessel at all times when it is being operated by ~~((such individual))~~ a prospective customer;

~~((2))~~ (b) On vessels owned or consigned for sale that are ~~((in fact))~~ available for sale and being used only for vessel dealer business purposes by an officer of the corporation, a partner, a

proprietor, or by a bona fide employee of the firm ~~((#))~~. A card ~~((se))~~ identifying ~~((any such))~~ the individual ~~((is))~~ as described in this section must be carried in the vessel at all times it is ~~((se))~~ being operated.

(2) A vessel held for sale by a licensed vessel dealer is not required to be registered and display a registration number and a valid vessel decal.

**Sec. 1042.** RCW 88.02.184 and 1987 c 149 s 9 are each amended to read as follows:

(1) The department may authorize vessel dealers properly ~~((registered pursuant to))~~ licensed under this chapter to issue temporary permits to operate vessels under ~~((such))~~ rules ~~((as))~~ adopted by the department ~~((adopts))~~.

(2) The ~~((fee))~~ department, county auditor or other agent, or subagent appointed by the director shall collect the fee required under section 1028(1)(a) of this act for each temporary permit application ~~((distributed))~~ sold to an authorized vessel dealer ~~((shall be five dollars, which shall be credited to the payment of registration fees at the time application for registration is made))~~.

**Sec. 1043.** RCW 88.02.125 and 1994 c 262 s 27 are each amended to read as follows:

(1) A vessel dealer ~~((s))~~ shall possess a certificate of ~~((ownership))~~ title, a manufacturer's statement of origin, a carpenter's certificate, or a factory invoice or other evidence of ownership approved by the department for each vessel in the vessel dealer's inventory unless the vessel for sale is consigned or subject to an inventory security agreement. Evidence of ownership ~~((shall))~~ must be either in the name of the dealer or in the name of the dealer's immediate vendor properly assigned.

(2) A vessel dealer may display and sell consigned vessels or vessels subject to an inventory security agreement if there is a written and signed consignment agreement for each vessel or an inventory security agreement covering all inventory vessels. The consignment agreement ~~((shall))~~ must include verification by the vessel dealer that evidence of ownership by the consignor exists and its location, the name and address of the registered owner, and the legal owner, if any. Vessels that are subject to an inventory security interest ~~((shall))~~ must be supported with evidence of ownership that is in the dealer's possession or the possession of the inventory security party. Upon payment of the debt secured for that vessel, the secured party shall deliver the ownership document, appropriately released, to the dealer. It is the vessel dealer's responsibility to ensure that ownership documents are available for ownership transfer upon the sale of the vessel.

(3) Following the retail sale of any vessel, the dealer shall promptly make application and execute the assignment and warranty of the certificate of ~~((ownership))~~ title. ~~((Such))~~ The assignment ~~((shall))~~ must show any secured party holding a security interest created at the time of sale. The dealer shall deliver the certificate of ~~((ownership))~~ of title and application for registration to the department, county auditor or other agent, or subagent appointed by the director.

## G. WATERCRAFT EXCISE TAX

**Sec. 1044.** RCW 82.49.010 and 2000 c 229 s 5 are each amended to read as follows:

(1) An excise tax is imposed for the privilege of using a vessel upon the waters of this state, except vessels exempt under RCW 82.49.020. The annual amount of the excise tax is one-half of one percent of fair market value, as determined under this chapter, or five dollars, whichever is greater. Violation of this subsection is a misdemeanor.

(2) Persons who are required under chapter 88.02 RCW to register a vessel in this state and who register the vessel in another

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state or foreign country and avoid the Washington watercraft excise tax are guilty of a gross misdemeanor and are liable for such unpaid excise tax. The department of revenue may assess and collect the unpaid excise tax under chapter 82.32 RCW, including the penalties and interest provided in chapter 82.32 RCW.

(3) The excise tax upon a vessel registered for the first time in this state shall be imposed for a twelve-month period, including the month in which the vessel is registered, unless the director of licensing extends or diminishes vessel registration periods for the purpose of staggered renewal periods under RCW 88.02.050 (as recodified by this act). A vessel is registered for the first time in this state when the vessel was not registered in this state for the immediately preceding registration year, or when the vessel was registered in another jurisdiction for the immediately preceding year. ~~((The excise tax on vessels required to be registered in this state on June 30, 1983, shall be paid by June 30, 1983.))~~

**Sec. 1045.** RCW 82.49.030 and 2000 c 103 s 18 are each amended to read as follows:

(1) The excise tax imposed under this chapter is due and payable to the department of licensing ~~((or its agents)), county auditor or other agent, or subagent appointed by the director of the department of licensing~~ at the time of registration of a vessel. The department of licensing shall not issue or renew a registration for a vessel until the tax is paid in full.

(2) The excise tax collected under this chapter ~~((shall))~~ must be deposited in the general fund.

**Sec. 1046.** RCW 82.49.065 and 2003 c 53 s 405 are each amended to read as follows:

~~((1))~~ Whenever any person has paid a vessel license fee, and with the fee has paid an excise tax imposed under this chapter, and the director of licensing determines that the payor is entitled to a refund of the entire amount of the license fee as provided by law, then the payor shall also be entitled to a refund of the entire excise tax collected under this chapter together with interest at the rate specified in RCW 82.32.060. If the director determines that any person is entitled to a refund of only a part of the license fee paid, the payor shall be entitled to a refund of the difference, if any, between the excise tax collected and that which should have been collected together with interest at the rate specified in RCW 82.32.060. The state treasurer shall determine the amount of such refund by reference to the applicable excise tax schedule prepared by the department of revenue in cooperation with the department of licensing.

(2) If no claim is to be made for the refund of the license fee, or any part of the fee, but claim is made by any person that he or she has paid an erroneously excessive amount of excise tax, the department of licensing shall determine in the manner generally provided in this chapter the amount of such excess, if any, that has been paid and shall certify to the state treasurer that the person is entitled to a refund in that amount together with interest at the rate specified in RCW 82.32.060.

(3) If due to error a person has been required to pay an excise tax pursuant to this chapter and a license fee under chapter 88.02 RCW which amounts to an overpayment of ten dollars or more, such person shall be entitled to a refund of the entire amount of such overpayment, together with interest at the rate specified in RCW 82.32.060, regardless of whether a refund of the overpayment has been requested. If due to error the department or its agents has failed to collect the full amount of the license fee and excise tax due, which underpayment is in the amount of ten dollars or more, the department shall charge and collect such additional amount as will constitute full payment of the tax and any penalties or interest at the rate specified in RCW 82.32.050.

(4) If the department approves the claim, it shall notify the state treasurer to that effect and the treasurer shall make such approved

refunds and the other refunds provided for in this section from the general fund and shall mail or deliver the same to the person entitled to the refund.

(5) Any person who makes a false statement under which he or she obtains a refund to which he or she is not entitled under this section is guilty of a gross misdemeanor.)

(1) Refunds of the excise tax imposed under this chapter must be handled in the same manner and under the same terms and conditions as provided in RCW 88.02.055 (as recodified by this act).

(2) The excise tax imposed under this chapter may be refunded to the person who paid the excise tax at the same time the registration fee under chapter 88.02 RCW was paid. The amount of the excise tax that may be refunded includes:

(a) The entire amount of the excise tax, if the entire amount of the registration fee is also refunded; or

(b) Any amount that was greater than the amount due.

(3) Excise tax refunds include interest at the rate specified in RCW 82.32.060.

## H. MISCELLANEOUS

NEW SECTION. **Sec. 1047.** The following acts or parts of acts are each repealed:

(1) RCW 88.02.025 (Registration of vessels numbered under the federal boat safety act) and 1984 c 250 s 3;

(2) RCW 88.02.028 (Registration of rented vessels--Dealer's vessels--Dealer registration numbers not transferable) and 1987 c 149 s 5;

(3) RCW 88.02.090 (Inspection of registration--Violation of chapter--Penalty) and 2006 c 29 s 2 & 1983 c 7 s 21;

(4) RCW 88.02.100 (Rule-making authority) and 1983 c 7 s 20;

(5) RCW 88.02.130 (Class A title certificates) and 1985 c 258 s 7;

(6) RCW 88.02.140 (Issuance of class A title certificates--Required evidence) and 1985 c 258 s 8;

(7) RCW 88.02.150 (Issuance of class A title certificates--Limitation) and 1985 c 258 s 9;

(8) RCW 88.02.160 (Class B title certificates) and 1985 c 258 s 2;

(9) RCW 88.02.170 (Class A and class B title certificates to have apparent distinctions--Class B certificate to bear legend) and 1985 c 258 s 5;

(10) RCW 88.02.190 (Inspection of vessels) and 1985 c 258 s 10;

(11) RCW 88.02.235 (Denial of license) and 1997 c 432 s 3; and

(12) RCW 88.02.270 (Derelict vessel removal surcharge) and 2007 c 342 s 7.

## PART XI. MISCELLANEOUS I

**Sec. 1101.** RCW 19.116.050 and 2000 c 171 s 71 are each amended to read as follows:

A dealer engages in an act of unlawful transfer of ownership interest in motor vehicles when all of the following circumstances are met:

(1) The dealer does not pay off any balance due to the secured party on a vehicle acquired by the dealer, no later than the close of the second business day after the acquisition date of the vehicle; and

(2) The dealer does not obtain a certificate of ~~((ownership))~~ title under RCW 46.70.124 for each used vehicle kept in his or her possession unless that certificate is in the possession of the person holding a security interest in the dealer's inventory; and

(3) The dealer does not transfer the certificate of ~~((ownership))~~ title after the transferee has taken possession of the motor vehicle.

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**Sec. 1102.** RCW 28B.10.890 and 1994 c 194 s 7 are each amended to read as follows:

A collegiate license plate fund is established in the custody of the state treasurer for each college or university with a collegiate license plate program approved by the department ~~((of licensing))~~ of licensing under RCW 46.16.324 (as recodified by this act). All receipts from collegiate license plates authorized under ~~((RCW 46.16.301 shall))~~ section 521 of this act must be deposited in the appropriate local college or university nonappropriated, nonallotted fund. Expenditures from the funds may be used only for student scholarships. Only the president of the college or university or the president's designee may authorize expenditures from the fund.

**Sec. 1103.** RCW 29A.04.037 and 2003 c 111 s 107 are each amended to read as follows:

"Disabled voter" means any registered voter who qualifies for special parking privileges under ~~((RCW 46.16.384))~~ section 701 of this act, or who is defined as blind under RCW 74.18.020, or who qualifies to require assistance with voting under RCW 29A.44.240.

**Sec. 1104.** RCW 35A.46.010 and 1967 ex.s. c 119 s 35A.46.010 are each amended to read as follows:

The provisions of Title 46 ~~((of the Revised Code of Washington))~~ RCW relating to regulation of motor vehicles shall be applicable to code cities~~((s))~~ and its officers and employees to the same extent as such provisions grant powers and impose duties upon cities of any class~~((s))~~ and their officers and agents, including without limitation the following: (1) Authority to provide for angle parking on certain city streets designated as forming a route of a primary state highway as authorized in RCW 46.61.575; (2) application of city police regulations to port districts as authorized by RCW 53.08.230; (3) authority to establish local regulations relating to city streets forming a part of the state highway system as authorized by RCW 46.44.080; (4) ~~((authority to install and operate a station for the inspection of vehicle equipment in conformity with rules, regulations, procedure and standards prescribed by the Washington state patrol as authorized under RCW 46.32.030; (5)))~~ exemption from the payment of vehicle license fees for city owned vehicles as authorized by RCW 46.16.020 (as recodified by this act) and ~~((46.16.290))~~ section 422(8) of this act; ~~((6))~~ (5) authority to establish traffic schools as provided by chapter 46.83 RCW; and ~~((7))~~ (6) authority to enforce the provisions of RCW 81.48.050 relating to railroad crossings.

**Sec. 1105.** RCW 41.04.007 and 2007 c 448 s 1 are each amended to read as follows:

"Veteran" includes every person, who at the time he or she seeks the benefits of section 613 of this act, section 619 of this act, or RCW ((46.16.30920;)) 72.36.030, 41.04.010, 73.04.090, ((73.04.110;)) 73.08.010, 73.08.070, 73.08.080, or 43.180.250 has received an honorable discharge or received a discharge for medical reasons with an honorable record, where applicable, and who has served in at least one of the following capacities:

- (1) As a member in any branch of the armed forces of the United States, including the national guard and armed forces reserves, and has fulfilled his or her initial military service obligation;
- (2) As a member of the women's air forces service pilots;
- (3) As a member of the armed forces reserves, national guard, or coast guard, and has been called into federal service by a presidential select reserve call up for at least one hundred eighty cumulative days;
- (4) As a civil service crewmember with service aboard a U.S. army transport service or U.S. naval transportation service vessel in oceangoing service from December 7, 1941, through December 31, 1946;
- (5) As a member of the Philippine armed forces/scouts during the period of armed conflict from December 7, 1941, through August 15, 1945; or

(6) A United States documented merchant mariner with service aboard an oceangoing vessel operated by the department of defense, or its agents, from both June 25, 1950, through July 27, 1953, in Korean territorial waters and from August 5, 1964, through May 7, 1975, in Vietnam territorial waters, and who received a military commendation.

**Sec. 1106.** RCW 43.60A.140 and 2008 c 183 s 3 are each amended to read as follows:

(1) The veterans stewardship account is created in the custody of the state treasurer. Disbursements of funds must be on the authorization of the director or the director's designee, and only for the purposes stated in subsection (4) of this section. In order to maintain an effective expenditure and revenue control, funds are subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditure of the funds.

(2) The department may request and accept nondedicated contributions, grants, or gifts in cash or otherwise, including funds generated by the issuance of the armed forces license plate collection under chapter ~~((46.16))~~ 46... RCW (the new chapter created in section 1224 of this act).

(3) All receipts~~((, except as provided in RCW 46.16.313(20)(a) and (b);))~~ from the sale of armed forces license plates as required under section 521(1)(b) of this act must be deposited into the veterans stewardship account.

(4) All moneys deposited into the veterans stewardship account must be used by the department for activities that benefit veterans or their families, including but not limited to, providing programs and services for homeless veterans; establishing memorials honoring veterans; and maintaining a future state veterans' cemetery. Funds from the account may not be used to supplant existing funds received by the department.

**Sec. 1107.** RCW 46.01.030 and 1990 c 250 s 14 are each amended to read as follows:

The department ~~((shall be))~~ is responsible for administering and recommending the improvement of the motor vehicle laws of this state relating to:

- (1) Driver examining and licensing;
- (2) Driver improvement;
- (3) Driver records;
- (4) Financial responsibility;
- (5) Certificates of ((ownership)) title;
- (6) ~~((certificates of license))~~ Vehicle registration certificates and license plates;
- (7) Proration and reciprocity;
- (8) Liquid fuel tax collections;
- (9) Licensing of dealers, motor vehicle transporters, motor vehicle wreckers, for hire vehicles, and drivers' schools;
- (10) General highway safety promotion in cooperation with the Washington state patrol and traffic safety commission; and
- (11) Such other activities as the legislature may provide.

**Sec. 1108.** RCW 46.01.040 and 1983 c 3 s 117 are each amended to read as follows:

The department ~~((of licensing))~~ is vested with all powers, functions, and duties with respect to and including the following:

- (1) The motor vehicle fuel excise tax as provided in chapter 82.36 RCW;
- (2) The special fuel tax as provided in chapter 82.38 RCW;
- (3) The motor vehicle excise tax as provided in chapter 82.44 RCW;
- (4) The ~~((house trailer))~~ travel trailers and campers excise tax as provided in chapter 82.50 RCW;
- (5) All general powers and duties relating to motor vehicles as provided in chapter 46.08 RCW;
- (6) Certificates of ((ownership)) title and registration certificates as provided in chapters 46.12 and 46.16 RCW;

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(7) The registration (~~and licensing~~) of motor vehicles as provided in chapter ~~(s 46.12 and)~~ 46.16 RCW;

(8) Dealers' licenses as provided in chapter 46.70 RCW;

(9) The licensing of motor vehicle transporters as provided in chapter 46.76 RCW;

(10) The licensing of (~~motor~~) vehicle wreckers as provided in chapter 46.80 RCW;

(11) The administration of the laws relating to reciprocal or proportional registration of motor vehicles as provided in chapter 46.85 RCW;

(12) The licensing of passenger vehicles for hire as provided in chapter 46.72 RCW;

(13) (~~Operators~~) Drivers' licenses as provided in chapter 46.20 RCW;

(14) Commercial driver training schools as provided in chapter 46.82 RCW;

(15) Financial responsibility as provided in chapter 46.29 RCW;

(16) Accident reporting as provided in chapter 46.52 RCW;

(17) Disposition of revenues as provided in chapter 46.68 RCW; and

(18) The administration of all other laws relating to motor vehicles vested in the director of licenses on June 30, 1965.

**Sec. 1109.** RCW 46.01.160 and 1965 c 156 s 16 are each amended to read as follows:

The director shall prescribe and provide suitable forms of applications, certificates of (~~ownership~~) title and registration certificates, drivers' licenses, and all other forms and licenses requisite or deemed necessary to carry out the provisions of this title (~~46 RCW~~) and any other laws the enforcement and administration of which are vested in the department.

**Sec. 1110.** RCW 46.01.320 and 2005 c 319 s 115 are each amended to read as follows:

The title and registration advisory committee is created within the department. The committee consists of the director or a designee, who shall serve as chair, the assistant director for vehicle services, the administrator of title and registration services, two members from each of the house and senate transportation committees, two county auditors nominated by the Washington association of county officials, and two representatives of subagents nominated by an association of vehicle subagents. The committee shall meet at least twice a year, and may meet as often as is necessary.

The committee's purpose is to foster communication between the legislature, the department, county auditors, and subagents. The committee shall make recommendations about revisions to fee structures, implications of fee revisions on cost sharing, and the development of standard contracts provided for in RCW 46.01.140(~~(3)~~) (1)(a) and (4)(a).

**Sec. 1111.** RCW 46.08.010 and 1990 c 42 s 207 are each amended to read as follows:

The provisions of this title relating to (~~the~~) certificates of (~~ownership~~) title, (~~certificate of license~~) registration certificates, vehicle licenses, vehicle license plates, and (~~vehicle operator's~~) drivers' licenses shall be exclusive and no political subdivision of the state of Washington shall require or issue any licenses or certificates for the same or a similar purpose (~~except as provided in RCW 82.80.020~~), nor shall any city or town in this state impose a tax, license, or other fee upon vehicles operating exclusively between points outside of such city or town limits, and to points therein.

**Sec. 1112.** RCW 46.08.150 and 1995 c 384 s 2 are each amended to read as follows:

The director of general administration shall have power to devise and promulgate rules and regulations for the control of vehicular and pedestrian traffic and the parking of motor vehicles on

the state capitol grounds. However, the monetary penalty for parking a motor vehicle without a valid special license plate or placard in a parking place reserved for (~~physically disabled~~) persons with physical disabilities shall be the same as provided in (~~RCW 46.16.381~~) section 706 of this act. Such rules and regulations shall be promulgated by publication in one issue of a newspaper published at the state capitol and shall be given such further publicity as the director may deem proper.

**Sec. 1113.** RCW 46.20.025 and 1999 c 6 s 6 are each amended to read as follows:

The following persons may operate a motor vehicle on a Washington highway without a valid Washington driver's license:

(1) A member of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, or in the service of the National Guard of this state or any other state, if licensed by the military to operate an official motor vehicle in such service;

(2) A nonresident driver who is at least:

(a) Sixteen years of age and has immediate possession of a valid driver's license issued to the driver by his or her home state; or

(b) Fifteen years of age with:

(i) A valid instruction permit issued to the driver by his or her home state; and

(ii) A licensed driver who has had at least five years of driving experience occupying a seat beside the driver; or

(c) Sixteen years of age and has immediate possession of a valid driver's license issued to the driver by his or her home country. A nonresident driver may operate a motor vehicle in this state under this subsection (2)(c) for up to one year;

(3) Any person operating special highway construction equipment as defined in (~~RCW 46.16.010~~) section 144 of this act;

(4) Any person while driving or operating any farm tractor or implement of husbandry that is only incidentally operated or moved over a highway; or

(5) An operator of a locomotive upon rails, including a railroad crossing over a public highway. A locomotive operator is not required to display a driver's license to any law enforcement officer in connection with the operation of a locomotive or train within this state.

**Sec. 1114.** RCW 46.29.605 and 1981 c 309 s 6 are each amended to read as follows:

(1) Whenever the involvement in a motor vehicle accident in this state results in the driving privilege of a person being suspended for failure to pay a judgment or deposit security, the department shall suspend the Washington registration of the motor vehicle if the person driving at the time of the accident was also the registered owner of the motor vehicle.

(2) A notice of suspension shall be mailed by first-class mail to the owner's last known address of record in the department and shall be effective notwithstanding the owner's failure to receive the notice.

(3) Upon suspension of the registration of a motor vehicle, the registered owner shall surrender all vehicle license plates registered to the vehicle. The department shall destroy the license plates and, upon reinstatement of the registration, shall issue new vehicle license plates as provided in (~~RCW 46.16.270~~) section 422(9) of this act.

(4) Failure to surrender license plates under subsection (3) of this section is a misdemeanor punishable by imprisonment for not less than one day nor more than five days and by a fine of not less than fifty dollars nor more than two hundred fifty dollars.

(5) No vehicle license plates (~~or~~), certificate of (~~ownership~~) title, or registration certificate for a motor vehicle may be issued, and no vehicle (~~license~~) registration may be renewed during the time the registration of the motor vehicle is suspended.

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(6) Any person who operates a vehicle in this state while the registration of the vehicle is suspended is guilty of a gross misdemeanor and upon conviction thereof shall be imprisoned for not less than two days nor more than five days and fined not less than one hundred dollars nor more than five hundred dollars.

**Sec. 1115.** RCW 46.30.020 and 2003 c 221 s 1 are each amended to read as follows:

(1)(a) No person may operate a motor vehicle subject to registration under chapter 46.16 RCW in this state unless the person is insured under a motor vehicle liability policy with liability limits of at least the amounts provided in RCW 46.29.090, is self-insured as provided in RCW 46.29.630, is covered by a certificate of deposit in conformance with RCW 46.29.550, or is covered by a liability bond of at least the amounts provided in RCW 46.29.090. Written proof of financial responsibility for motor vehicle operation must be provided on the request of a law enforcement officer in the format specified under RCW 46.30.030.

(b) A person who drives a motor vehicle that is required to be registered in another state that requires drivers and owners of vehicles in that state to maintain insurance or financial responsibility shall, when requested by a law enforcement officer, provide evidence of financial responsibility or insurance as is required by the laws of the state in which the vehicle is registered.

(c) When asked to do so by a law enforcement officer, failure to display an insurance identification card as specified under RCW 46.30.030 creates a presumption that the person does not have motor vehicle insurance.

(d) Failure to provide proof of motor vehicle insurance is a traffic infraction and is subject to penalties as set by the supreme court under RCW 46.63.110 or community restitution.

(2) If a person cited for a violation of subsection (1) of this section appears in person before the court or a violations bureau and provides written evidence that at the time the person was cited, he or she was in compliance with the financial responsibility requirements of subsection (1) of this section, the citation shall be dismissed and the court or violations bureau may assess court administrative costs of twenty-five dollars at the time of dismissal. In lieu of personal appearance, a person cited for a violation of subsection (1) of this section may, before the date scheduled for the person's appearance before the court or violations bureau, submit by mail to the court or violations bureau written evidence that at the time the person was cited, he or she was in compliance with the financial responsibility requirements of subsection (1) of this section, in which case the citation shall be dismissed without cost, except that the court or violations bureau may assess court administrative costs of twenty-five dollars at the time of dismissal.

(3) The provisions of this chapter shall not govern:

(a) The operation of a motor vehicle registered under (~~RCW 46.16.305(1))~~ section 623 of this act, governed by RCW 46.16.020 (as recodified by this act), or registered with the Washington utilities and transportation commission as common or contract carriers; or

(b) The operation of a motorcycle as defined in RCW 46.04.330, a motor-driven cycle as defined in RCW 46.04.332, or a moped as defined in RCW 46.04.304.

(4) RCW 46.29.490 shall not be deemed to govern all motor vehicle liability policies required by this chapter but only those certified for the purposes stated in chapter 46.29 RCW.

**Sec. 1116.** RCW 46.32.100 and 2009 c 46 s 4 are each amended to read as follows:

(1)(a) In addition to all other penalties provided by law, and except as provided otherwise in (a)(i), (ii), or (iii) of this subsection, a commercial motor vehicle that is subject to compliance reviews under this chapter and an officer, agent, or employee of a company operating a commercial motor vehicle who violates or who procures, aids, or abets in the violation of this title or any order or

rule of the state patrol is liable for a penalty of one hundred dollars for each violation.

(i) It is a violation of this chapter for a person operating a commercial motor vehicle to fail to comply with the requirements of 49 C.F.R. Pt. 382, controlled substances and alcohol use and testing, 49 C.F.R. Sec. 391.15, disqualification of drivers, and 49 C.F.R. Sec. 396.9(c)(2), moving a vehicle placed out of service before the out of service defects have been satisfactorily repaired. For each violation the person is liable for a penalty of five hundred dollars.

(ii) The driver of a commercial motor vehicle who violates an out-of-service order is liable for a penalty of at least one thousand one hundred dollars but not more than two thousand seven hundred fifty dollars for each violation.

(iii) An employer who allows a driver to operate a commercial motor vehicle when there is an out-of-service order is liable for a penalty of at least two thousand seven hundred fifty dollars but not more than eleven thousand dollars for each violation.

(iv) Each violation under this subsection (1)(a) is a separate and distinct offense, and in case of a continuing violation every day's continuance is a separate and distinct violation.

(b) In addition to all other penalties provided by law, any motor carrier, company, or any officer or agent of a motor carrier or company operating a commercial motor vehicle subject to compliance reviews under this chapter who refuses entry or to make the required records, documents, and vehicles available to a duly authorized agent of the state patrol is liable for a penalty of at least five thousand dollars as well as an out-of-service order being placed on the department of transportation number, as defined in RCW 46.16.004 (as recodified by this act), and vehicle registration to operate. Each violation is a separate and distinct offense, and in case of a continuing violation every day's continuance is a separate and distinct violation.

(c) A motor carrier operating a commercial motor vehicle after receiving a final unsatisfactory rating or being placed out of service is liable for a penalty of not more than eleven thousand dollars for each violation. Each violation is a separate and distinct offense, and in case of a continuing violation every day's continuance is a separate and distinct violation.

(d) A high-risk carrier is liable for double the amount of the penalty of a prior violation if the high-risk carrier repeats the same violation during a follow-up compliance review. Each repeat violation is a separate and distinct offense, and in case of a repeat continuing violation every day's continuance is a separate and distinct violation.

(2) The Washington state patrol may place an out-of-service order on a department of transportation number, as defined in RCW 46.16.004 (as recodified by this act), for violations of this chapter or for nonpayment of any monetary penalties assessed by the state patrol or the utilities and transportation commission, as a result of compliance reviews, or for violations of cease and desist orders issued by the utilities and transportation commission. The state patrol shall notify the department of licensing when an out-of-service order has been placed on a motor carrier's department of transportation number. The state patrol shall notify the motor carrier when there has been an out-of-service order placed on the motor carrier's department of transportation number and the vehicle registrations have been revoked by sending a notice by first-class mail using the last known address for the registered or legal owner or owners, and recording the transmittal on an affidavit of first-class mail. Notices under this section fulfill the requirements of RCW 46.12.160 (as recodified by this act). Motor carriers may not be eligible for a new department of transportation number, vehicle registration, or temporary permits to operate unless the violations that resulted in the out-of-service order have been corrected.

(3) Any penalty provided in this section is due and payable when the person incurring it receives a notice in writing from the state patrol describing the violation and advising the person that the penalty is due.

(a)(i) Any motor carrier who incurs a penalty as provided in this section, except for a high-risk carrier that incurs a penalty for a repeat violation during a follow-up compliance review, may, upon written application, request that the state patrol mitigate the penalty. An application for mitigation must be received by the state patrol within twenty days of the receipt of notice.

(ii) The state patrol may decline to consider any application for mitigation.

(b) Any motor carrier who incurs a penalty as provided in this section has a right to an administrative hearing under chapter 34.05 RCW to contest the violation or the penalty imposed, or both. In all such hearings, the procedure and rules of evidence are as specified in chapter 34.05 RCW except as otherwise provided in this chapter. Any request for an administrative hearing must be made in writing and must be received by the state patrol within twenty days after the later of (i) receipt of the notice imposing the penalty, or (ii) disposition of a request for mitigation, or the right to a hearing is waived.

(c) All penalties recovered under this section shall be paid into the state treasury and credited to the state patrol highway account of the motor vehicle fund.

Sec. 1117. RCW 46.44.0941 and 2004 c 109 s 1 are each amended to read as follows:

The following fees, in addition to the regular license and tonnage fees, shall be paid for all movements under special permit made upon state highways. All funds collected, except the amount retained by authorized agents of the department as provided in RCW 46.44.096, shall be forwarded to the state treasury and shall be deposited in the motor vehicle fund:

All overlegal loads, except overweight, single trip \$ 10.00

Continuous operation of overlegal loads having either overwidth or overheight features only, for a period not to exceed thirty days \$ 20.00

Continuous operations of overlegal loads having overlength features only, for a period not to exceed thirty days \$ 10.00

Continuous operation of a combination of vehicles having one trailing unit that exceeds fifty-three feet and is not more than fifty-six feet in length, for a period of one year \$ 100.00

Continuous operation of a combination of vehicles having two trailing units which together exceed sixty-one feet and are not more than sixty-eight feet in length, for a period of one year \$ 100.00

Continuous operation of a three-axle fixed load vehicle having less than 65,000 pounds gross weight, for a period not to exceed thirty days \$ 70.00

Continuous operation of a four-axle fixed load vehicle meeting the requirements of RCW 46.44.091(1) and weighing less than 86,000 pounds gross weight, not to exceed thirty days \$ 90.00

Continuous movement of a mobile home or manufactured home having nonreducible features not to exceed eighty-five feet in total length and fourteen feet in width, for a period of

one year \$ 150.00

Continuous operation of a class C tow truck or a class E tow truck with a class C rating while performing emergency and nonemergency tows of oversize or overweight, or both, vehicles and vehicle combinations, under rules adopted by the transportation commission, for a period of one year \$ 150.00

Continuous operation of a class B tow truck or a class E tow truck with a class B rating while performing emergency and nonemergency tows of oversize or overweight, or both, vehicles and vehicle combinations, under rules adopted by the transportation commission, for a period of one year \$ 75.00

Continuous operation of a two or three-axle collection truck, actually engaged in the collection of solid waste or recyclables, or both, under chapter 81.77 or 35.21 RCW or by contract under RCW 36.58.090, for one year with an additional six thousand pounds more than the weight authorized in RCW 46.16.070 (as recodified by this act) on the rear axle of a two-axle truck or eight thousand pounds for the tandem axles of a three-axle truck. RCW 46.44.041 and 46.44.091 notwithstanding, the tire limits specified in RCW 46.44.042 apply, but none of the excess weight is valid or may be permitted on any part of the federal interstate highway system \$ 42.00 per thousand pounds

The department may issue any of the above-listed permits that involve height, length, or width for an expanded period of consecutive months, not to exceed one year.

Continuous operation of farm implements under a permit issued as authorized by RCW 46.44.140 by:

- (1) Farmers in the course of farming activities, for any three-month period \$ 10.00
- (2) Farmers in the course of farming activities, for a period not to exceed one year \$ 25.00
- (3) Persons engaged in the business of the sale, repair, or maintenance of such farm implements, for any three-month period \$ 25.00
- (4) Persons engaged in the business of the sale, repair, or maintenance of such farm implements, for a period not to exceed one year \$ 100.00

Overweight Fee Schedule

Excess weight over legal capacity, as provided in RCW 46.44.041.	Cost per mile.
0- 9,999 pounds .....	\$ .07
10,000-14,999 pounds .....	\$ .14
15,000-19,999 pounds .....	\$ .21
20,000-24,999 pounds .....	\$ .28
25,000-29,999 pounds .....	\$ .35
30,000-34,999 pounds .....	\$ .49

35,000-39,999 pounds .....	\$ .63
40,000-44,999 pounds .....	\$ .79
45,000-49,999 pounds .....	\$ .93
50,000-54,999 pounds .....	\$ 1.14
55,000-59,999 pounds .....	\$ 1.35
60,000-64,999 pounds .....	\$ 1.56
65,000-69,999 pounds .....	\$ 1.77
70,000-74,999 pounds .....	\$ 2.12
75,000-79,999 pounds .....	\$ 2.47
80,000-84,999 pounds .....	\$ 2.82
85,000-89,999 pounds .....	\$ 3.17
90,000-94,999 pounds .....	\$ 3.52
95,000-99,999 pounds .....	\$ 3.87
100,000 pounds .....	\$ 4.25

The fee for weights in excess of 100,000 pounds is \$4.25 plus fifty cents for each 5,000 pound increment or portion thereof exceeding 100,000 pounds.

PROVIDED: (a) The minimum fee for any overweight permit shall be \$14.00, (b) the fee for issuance of a duplicate permit shall be \$14.00, (c) when computing overweight fees prescribed in this section or in RCW 46.44.095 that result in an amount less than even dollars the fee shall be carried to the next full dollar if fifty cents or over and shall be reduced to the next full dollar if forty-nine cents or under.

The fees levied in this section and RCW 46.44.095 do not apply to vehicles owned and operated by the state of Washington, a county within the state, a city or town or metropolitan municipal corporation within the state, or the federal government.

**Sec. 1118.** RCW 46.44.170 and 2005 c 399 s 1 are each amended to read as follows:

(1) Any person moving a mobile home as defined in RCW 46.04.302 or a park model trailer as defined in RCW 46.04.622 upon public highways of the state must obtain:

(a) A special permit from the department of transportation and local authorities pursuant to RCW 46.44.090 and 46.44.093 and shall pay the proper fee as prescribed by RCW 46.44.0941 and 46.44.096; and

(b) For mobile homes constructed before June 15, 1976, and already situated in the state: (i) A certification from the department of labor and industries that the mobile home was inspected for fire safety; or (ii) an affidavit in the form prescribed by the department of ~~((community, trade, and economic development))~~ commerce signed by the owner at the county treasurer's office at the time of the application for the movement permit stating that the mobile home is being moved by the owner for his or her continued occupation or use; or (iii) a copy of the certificate of ~~((ownership or))~~ title together with an affidavit signed under penalty of perjury by the certified owner stating that the mobile home is being transferred to a wrecking yard or similar facility for disposal. In addition, the destroyed mobile home must be removed from the assessment rolls of the county and any outstanding taxes on the destroyed mobile home must be removed by the county treasurer.

(2) A special permit issued as provided in subsection (1) of this section for the movement of any mobile home or a park model trailer that is assessed for purposes of property taxes shall not be valid until the county treasurer of the county in which the mobile home or park model trailer is located shall endorse or attach his or her certificate that all property taxes which are a lien or which are delinquent, or both, upon the mobile home or park model trailer being moved have been satisfied. Further, any mobile home or park model trailer required to have a special movement permit under this section shall display an easily recognizable decal. However, endorsement or certification by the county treasurer and the display of the decal is not required:

(a) When a mobile home or park model trailer is to enter the state or is being moved from a manufacturer or distributor to a retail sales outlet or directly to the purchaser's designated location or between retail and sales outlets;

(b) When a signed affidavit of destruction is filed with the county assessor and the mobile home or park model trailer is being moved to a disposal site by a landlord as defined in RCW 59.20.030 after (i) the mobile home or park model trailer has been abandoned as defined in RCW 59.20.030; or (ii) a final judgment for restitution of the premises under RCW 59.18.410 has been executed in favor of the landlord with regard to the mobile home or park model trailer. The mobile home or park model trailer will be removed from the tax rolls and, upon notification by the assessor, any outstanding taxes on the destroyed mobile home or park model trailer will be removed by the county treasurer; or

(c) When a signed affidavit of destruction is filed with the county assessor by any mobile home or park model trailer owner or any property owner with an abandoned mobile home or park model trailer, the same shall be removed from the tax rolls and upon notification by the assessor, any outstanding taxes on the destroyed mobile home or park model trailer shall be removed by the county treasurer.

(3) If the landlord of a mobile home park takes ownership of a mobile home or park model trailer with the intent to resell or rent the same under RCW 59.20.030 after (a) the mobile home or park model trailer has been abandoned as defined in RCW 59.20.030; or (b) a final judgment for restitution of the premises under RCW 59.18.410 has been executed in favor of the landlord with regard to the mobile home or park model trailer, the outstanding taxes become the responsibility of the landlord.

(4) It is the responsibility of the owner of the mobile home or park model trailer subject to property taxes or the agent to obtain the endorsement and decal from the county treasurer before a mobile home or park model trailer is moved.

(5) This section does not prohibit the issuance of vehicle license plates for a mobile home or park model trailer subject to property taxes, but plates shall not be issued unless the mobile home or park model trailer subject to property taxes for which plates are sought has been listed for property tax purposes in the county in which it is principally located and the appropriate fee for the license has been paid.

(6) The department of transportation, the department of labor and industries, and local authorities are authorized to adopt reasonable rules for implementing the provisions of this section. The department of transportation shall adopt rules specifying the design, reflective characteristics, annual coloration, and for the uniform implementation of the decal required by this section. ~~((By January 1, 2006,))~~ The department of labor and industries shall ~~((also))~~ adopt procedures for notifying destination local jurisdictions concerning the arrival of mobile homes that failed safety inspections.

**Sec. 1119.** RCW 46.55.105 and 2002 c 279 s 10 are each amended to read as follows:

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(1) The abandonment of any vehicle creates a prima facie presumption that the last registered owner of record is responsible for the abandonment and is liable for costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction.

(2) If an unauthorized vehicle is found abandoned under subsection (1) of this section and removed at the direction of law enforcement, the last registered owner of record is guilty of the traffic infraction of "littering--abandoned vehicle," unless the vehicle is redeemed as provided in RCW 46.55.120. In addition to any other monetary penalty payable under chapter 46.63 RCW, the court shall not consider all monetary penalties as having been paid until the court is satisfied that the person found to have committed the infraction has made restitution in the amount of the deficiency remaining after disposal of the vehicle under RCW 46.55.140.

(3) A vehicle theft report filed with a law enforcement agency relieves the last registered owner of liability under subsection (2) of this section for failure to redeem the vehicle. However, the last registered owner remains liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle under subsection (1) of this section. Nothing in this section limits in any way the registered owner's rights in a civil action or as restitution in a criminal action against a person responsible for the theft of the vehicle.

(4) Properly filing a report of sale or transfer regarding the vehicle involved in accordance with RCW 46.12.101 (1) through (3) (as recodified by this act) relieves the last registered owner of liability under subsections (1) and (2) of this section. If the date of sale as indicated on the report of sale is on or before the date of impoundment, the buyer identified on the latest properly filed report of sale with the department is assumed liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction. If the date of sale is after the date of impoundment, the previous registered owner is assumed to be liable for such costs. A licensed vehicle dealer is not liable under subsections (1) and (2) of this section if the dealer, as transferee or assignee of the last registered owner of the vehicle involved, has complied with the requirements of RCW 46.70.122 upon selling or otherwise disposing of the vehicle, or if the dealer has timely filed a transitional ownership record or report of sale under RCW 46.12.103 (as recodified by this act). In that case the person to whom the licensed vehicle dealer has sold or transferred the vehicle is assumed liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction.

(5) For the purposes of reporting notices of traffic infraction to the department under RCW 46.20.270 and 46.52.101, and for purposes of reporting notices of failure to appear, respond, or comply regarding a notice of traffic infraction to the department under RCW 46.63.070(6), a traffic infraction under subsection (2) of this section is not considered to be a standing, stopping, or parking violation.

(6) A notice of infraction for a violation of this section may be filed with a court of limited jurisdiction organized under Title 3, 35, or 35A RCW, or with a violations bureau subject to the court's jurisdiction.

**Sec. 1120.** RCW 46.55.113 and 2007 c 242 s 1 and 2007 c 86 s 1 are each reenacted and amended to read as follows:

(1) Whenever the driver of a vehicle is arrested for a violation of RCW 46.61.502, 46.61.504, 46.20.342, or 46.20.345, the vehicle is subject to summary impoundment, pursuant to the terms and conditions of an applicable local ordinance or state agency rule at the direction of a law enforcement officer.

(2) In addition, a police officer may take custody of a vehicle, at his or her discretion, and provide for its prompt removal to a place of safety under any of the following circumstances:

(a) Whenever a police officer finds a vehicle standing upon the roadway in violation of any of the provisions of RCW 46.61.560, the officer may provide for the removal of the vehicle or require the driver or other person in charge of the vehicle to move the vehicle to a position off the roadway;

(b) Whenever a police officer finds a vehicle unattended upon a highway where the vehicle constitutes an obstruction to traffic or jeopardizes public safety;

(c) Whenever a police officer finds an unattended vehicle at the scene of an accident or when the driver of a vehicle involved in an accident is physically or mentally incapable of deciding upon steps to be taken to protect his or her property;

(d) Whenever the driver of a vehicle is arrested and taken into custody by a police officer;

(e) Whenever a police officer discovers a vehicle that the officer determines to be a stolen vehicle;

(f) Whenever a vehicle without a special license plate, placard, or decal indicating that the vehicle is being used to transport a person with disabilities under (~~RCW 46.16.381~~) section 701 of this act is parked in a stall or space clearly and conspicuously marked under RCW 46.61.581 which space is provided on private property without charge or on public property;

(g) Upon determining that a person is operating a motor vehicle without a valid and, if required, a specially endorsed driver's license or with a license that has been expired for ninety days or more;

(h) When a vehicle is illegally occupying a truck, commercial loading zone, restricted parking zone, bus, loading, hooded-meter, taxi, street construction or maintenance, or other similar zone where, by order of the director of transportation or chiefs of police or fire or their designees, parking is limited to designated classes of vehicles or is prohibited during certain hours, on designated days or at all times, if the zone has been established with signage for at least twenty-four hours and where the vehicle is interfering with the proper and intended use of the zone. Signage must give notice to the public that a vehicle will be removed if illegally parked in the zone;

(i) When a vehicle with an expired registration of more than forty-five days is parked on a public street.

(3) When an arrest is made for a violation of RCW 46.20.342, if the vehicle is a commercial vehicle and the driver of the vehicle is not the owner of the vehicle, before the summary impoundment directed under subsection (1) of this section, the police officer shall attempt in a reasonable and timely manner to contact the owner of the vehicle and may release the vehicle to the owner if the owner is reasonably available, as long as the owner was not in the vehicle at the time of the stop and arrest and the owner has not received a prior release under this subsection or RCW 46.55.120(1)(a)(ii).

(4) Nothing in this section may derogate from the powers of police officers under the common law. For the purposes of this section, a place of safety may include the business location of a registered tow truck operator.

**Sec. 1121.** RCW 46.55.140 and 1995 c 360 s 8 are each amended to read as follows:

(1) A registered tow truck operator who has a valid and signed impoundment authorization has a lien upon the impounded vehicle for services provided in the towing and storage of the vehicle, unless the impoundment is determined to have been invalid. The lien does not apply to personal property in or upon the vehicle that is not permanently attached to or is not an integral part of the vehicle except for items of personal property registered or titled with the department. The registered tow truck operator also has a deficiency claim against the registered owner of the vehicle for services

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provided in the towing and storage of the vehicle not to exceed the sum of five hundred dollars after deduction of the amount bid at auction, and for vehicles of over ten thousand pounds gross vehicle weight, the operator has a deficiency claim of one thousand dollars after deduction of the amount bid at auction, unless the impound is determined to be invalid. The limitation on towing and storage deficiency claims does not apply to an impound directed by a law enforcement officer. In no case may the cost of the auction or a buyer's fee be added to the amount charged for the vehicle at the auction, the vehicle's lien, or the overage due. A registered owner who has completed and filed with the department the ((seller's)) report of sale as provided for ((by)) in RCW 46.12.101 (as recodified by this act) and has timely and properly filed the ((seller's)) report of sale is relieved of liability under this section. The person named as the new owner of the vehicle on the timely and properly filed ((seller's)) report of sale shall assume liability under this section.

(2) Any person who tows, removes, or otherwise disturbs any vehicle parked, stalled, or otherwise left on privately owned or controlled property, and any person owning or controlling the private property, or either of them, are liable to the owner or operator of a vehicle, or each of them, for consequential and incidental damages arising from any interference with the ownership or use of the vehicle which does not comply with the requirements of this chapter.

**Sec. 1122.** RCW 46.55.240 and 1994 c 176 s 2 are each amended to read as follows:

(1) A city, town, or county that adopts an ordinance or resolution concerning unauthorized, abandoned, or impounded vehicles shall include the applicable provisions of this chapter.

(a) A city, town, or county may, by ordinance, authorize other impound situations that may arise locally upon the public right-of-way or other publicly owned or controlled property.

(b) A city, town, or county ordinance shall contain language that establishes a written form of authorization to impound, which may include a law enforcement notice of infraction or citation, clearly denoting the agency's authorization to impound.

(c) A city, town, or county may, by ordinance, provide for release of an impounded vehicle by means of a promissory note in lieu of immediate payment, if at the time of redemption the legal or registered owner requests a hearing on the validity of the impoundment. If the municipal ordinance directs the release of an impounded vehicle before the payment of the impoundment charges, the municipality is responsible for the payment of those charges to the registered tow truck operator within thirty days of the hearing date.

(d) The hearing specified in RCW 46.55.120(2) and in this section may be conducted by an administrative hearings officer instead of in the district court. A decision made by an administrative hearing officer may be appealed to the district court for final judgment.

(2) A city, town, or county may adopt an ordinance establishing procedures for the abatement and removal as public nuisances of junk vehicles or parts thereof from private property. Costs of removal may be assessed against the registered owner of the vehicle if the identity of the owner can be determined, unless the owner in the transfer of ownership of the vehicle has complied with RCW 46.12.101 (as recodified by this act), or the costs may be assessed against the owner of the property on which the vehicle is stored. A city, town, or county may also provide for the payment to the tow truck operator or wrecker as a part of a neighborhood revitalization program.

(3) Ordinances pertaining to public nuisances shall contain:

(a) A provision requiring notice to the last registered owner of record and the property owner of record that a hearing may be

requested and that if no hearing is requested, the vehicle will be removed;

(b) A provision requiring that if a request for a hearing is received, a notice giving the time, location, and date of the hearing on the question of abatement and removal of the vehicle or part thereof as a public nuisance shall be mailed, by certified mail, with a five-day return receipt requested, to the owner of the land as shown on the last equalized assessment roll and to the last registered and legal owner of record unless the vehicle is in such condition that identification numbers are not available to determine ownership;

(c) A provision that the ordinance shall not apply to (i) a vehicle or part thereof that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property or (ii) a vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer and is fenced according to RCW 46.80.130;

(d) A provision that the owner of the land on which the vehicle is located may appear in person at the hearing or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with his reasons for the denial. If it is determined at the hearing that the vehicle was placed on the land without the consent of the landowner and that he has not subsequently acquiesced in its presence, then the local agency shall not assess costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect the cost from the owner;

(e) A provision that after notice has been given of the intent of the city, town, or county to dispose of the vehicle and after a hearing, if requested, has been held, the vehicle or part thereof shall be removed at the request of a law enforcement officer with notice to the Washington state patrol and the department of licensing that the vehicle has been wrecked. The city, town, or county may operate such a disposal site when its governing body determines that commercial channels of disposition are not available or are inadequate, and it may make final disposition of such vehicles or parts, or may transfer such vehicle or parts to another governmental body provided such disposal shall be only as scrap.

(4) A registered disposer under contract to a city or county for the impounding of vehicles shall comply with any administrative regulations adopted by the city or county on the handling and disposing of vehicles.

**Sec. 1123.** RCW 46.61.581 and 2005 c 390 s 1 are each amended to read as follows:

A parking space or stall for a person with a disability shall be indicated by a vertical sign with the international symbol of access, whose colors are white on a blue background, described under RCW 70.92.120. The sign may include additional language such as, but not limited to, an indication of the amount of the monetary penalty defined in ((RCW 46.16.381)) section 706 of this act for parking in the space without a valid permit.

Failure of the person owning or controlling the property where required parking spaces are located to erect and maintain the sign is a class 2 civil infraction under chapter 7.80 RCW for each parking space that should be so designated. The person owning or controlling the property where the required parking spaces are located shall ensure that the parking spaces are not blocked or made inaccessible, and failure to do so is a class 2 civil infraction.

**Sec. 1124.** RCW 46.61.582 and 1991 c 339 s 25 are each amended to read as follows:

Any person who meets the criteria for special parking privileges under ((RCW 46.16.381)) section 701 of this act shall be allowed free of charge to park a vehicle being used to transport that person for unlimited periods of time in parking zones or areas including zones or areas with parking meters which are otherwise restricted as

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to the length of time parking is permitted. This section does not apply to those zones or areas in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles. The person shall obtain and display a special placard or license plate under ~~((RCW 46.16.384))~~ section 701 of this act to be eligible for the privileges under this section.

**Sec. 1125.** RCW 46.63.020 and 2009 c 485 s 6 are each amended to read as follows:

Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

(1) RCW 46.09.120(2) (as recodified by this act) relating to the operation of a nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance;

(2) RCW 46.09.130 (as recodified by this act) relating to operation of nonhighway vehicles;

(3) RCW 46.10.090(2) (as recodified by this act) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;

(4) RCW 46.10.130 (as recodified by this act) relating to the operation of snowmobiles;

(5) Chapter 46.12 RCW relating to certificates of ~~((ownership and))~~ title, registration certificates, and markings indicating that a vehicle has been destroyed or declared a total loss;

(6) RCW 46.16.010 (as recodified by this act) and section 405(3) of this act relating to the nonpayment of taxes and fees by failure to register a vehicle and falsifying residency when registering a motor vehicle;

(7) RCW 46.16.011 (as recodified by this act) relating to permitting unauthorized persons to drive;

(8) RCW 46.16.160 (as recodified by this act) relating to vehicle trip permits;

(9) ~~((RCW 46.16.381(2)))~~ Section 706 of this act relating to knowingly providing false information in conjunction with an application for a special placard or license plate for disabled persons' parking;

(10) RCW 46.20.005 relating to driving without a valid driver's license;

(11) RCW 46.20.091 relating to false statements regarding a driver's license or instruction permit;

(12) RCW 46.20.0921 relating to the unlawful possession and use of a driver's license;

(13) RCW 46.20.342 relating to driving with a suspended or revoked license or status;

(14) RCW 46.20.345 relating to the operation of a motor vehicle with a suspended or revoked license;

(15) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license, temporary restricted driver's license, or ignition interlock driver's license;

(16) RCW 46.20.740 relating to operation of a motor vehicle without an ignition interlock device in violation of a license notation that the device is required;

(17) RCW 46.20.750 relating to circumventing an ignition interlock device;

(18) RCW 46.25.170 relating to commercial driver's licenses;

(19) Chapter 46.29 RCW relating to financial responsibility;

(20) RCW 46.30.040 relating to providing false evidence of financial responsibility;

(21) RCW 46.35.030 relating to recording device information;

~~((22))~~ RCW 46.37.435 relating to wrongful installation of sunscreening material;

~~((23))~~ RCW 46.37.650 relating to the sale, resale, distribution, or installation of a previously deployed air bag;

~~((24))~~ RCW 46.37.671 through 46.37.675 relating to signal preemption devices;

~~((25))~~ RCW 46.44.180 relating to operation of mobile home pilot vehicles;

~~((26))~~ RCW 46.48.175 relating to the transportation of dangerous articles;

~~((27))~~ RCW 46.52.010 relating to duty on striking an unattended car or other property;

~~((28))~~ RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;

~~((29))~~ RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;

~~((30))~~ RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company, an employer, and an alcohol/drug assessment or treatment agency;

~~((31))~~ RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;

~~((32))~~ RCW 46.55.035 relating to prohibited practices by tow truck operators;

~~((33))~~ RCW 46.55.300 relating to vehicle immobilization;

~~((34))~~ RCW 46.61.015 relating to obedience to police officers, flaggers, or firefighters;

~~((35))~~ RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;

~~((36))~~ RCW 46.61.022 relating to failure to stop and give identification to an officer;

~~((37))~~ RCW 46.61.024 relating to attempting to elude pursuing police vehicles;

~~((38))~~ RCW 46.61.500 relating to reckless driving;

~~((39))~~ RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;

~~((40))~~ RCW 46.61.503 relating to a person under age twenty-one driving a motor vehicle after consuming alcohol;

~~((41))~~ RCW 46.61.520 relating to vehicular homicide by motor vehicle;

~~((42))~~ RCW 46.61.522 relating to vehicular assault;

~~((43))~~ RCW 46.61.5249 relating to first degree negligent driving;

~~((44))~~ RCW 46.61.527(4) relating to reckless endangerment of roadway workers;

~~((45))~~ RCW 46.61.530 relating to racing of vehicles on highways;

~~((46))~~ RCW 46.61.655(7) (a) and (b) relating to failure to secure a load;

~~((47))~~ RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;

~~((48))~~ RCW 46.61.740 relating to theft of motor vehicle fuel;

~~((49))~~ RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;

~~((50))~~ RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;

~~((51))~~ Chapter 46.65 RCW relating to habitual traffic offenders;

~~((52))~~ RCW 46.68.010 relating to false statements made to obtain a refund;

~~((53))~~ RCW 46.35.030 relating to recording device information;))

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(53) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;

(54) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;

(55) RCW 46.72A.060 relating to limousine carrier insurance;

(56) RCW 46.72A.070 relating to operation of a limousine without a vehicle certificate;

(57) RCW 46.72A.080 relating to false advertising by a limousine carrier;

(58) Chapter 46.80 RCW relating to motor vehicle wreckers;

(59) Chapter 46.82 RCW relating to driver's training schools;

(60) RCW 46.87.260 relating to alteration or forgery of a cab card, letter of authority, or other temporary authority issued under chapter 46.87 RCW;

(61) RCW 46.87.290 relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW.

**Sec. 1126.** RCW 46.63.160 and 2009 c 272 s 1 are each amended to read as follows:

(1) This section applies only to infractions issued under RCW 46.61.690 for toll collection evasion.

(2) Nothing in this section prohibits a law enforcement officer from issuing a notice of traffic infraction to a person in control of a vehicle at the time a violation occurs under RCW 46.63.030(1) (a), (b), or (c).

(3) Toll collection systems include manual cash collection, electronic toll collection, and photo enforcement systems.

(4) "Electronic toll collection system" means a system of collecting tolls or charges that is capable of charging the account of the toll patron the appropriate toll or charge by electronic transmission from the motor vehicle to the toll collection system, which information is used to charge the appropriate toll or charge to the patron's account.

(5) "Photo enforcement system" means a vehicle sensor installed to work in conjunction with an electronic toll collection system that automatically produces one or more photographs, one or more microphotographs, a videotape, or other recorded images of a vehicle operated in violation of an infraction under this chapter.

(6) The use of a toll collection system is subject to the following requirements:

(a) The department of transportation shall adopt rules that allow an open standard for automatic vehicle identification transponders used for electronic toll collection to be compatible with other electronic payment devices or transponders from the Washington state ferry system, other public transportation systems, or other toll collection systems to the extent that technology permits. The rules must also allow for multiple vendors providing electronic payment devices or transponders as technology permits.

(b) The department of transportation may not sell, distribute, or make available in any way, the names and addresses of electronic toll collection system account holders.

(7) The use of a photo enforcement system for issuance of notices of infraction is subject to the following requirements:

(a) Photo enforcement systems may take photographs, digital photographs, microphotographs, videotapes, or other recorded images of the vehicle and vehicle license plate only.

(b) A notice of infraction must be mailed to the registered owner of the vehicle or to the renter of a vehicle within sixty days of the violation. The law enforcement officer issuing the notice of infraction shall include with it a certificate or facsimile thereof, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by a photo enforcement system, stating the facts supporting the notice of infraction. This certificate or facsimile is prima facie evidence of the facts contained in it and is admissible in a proceeding charging a

violation under this chapter. The photographs, digital photographs, microphotographs, videotape, or other recorded images evidencing the violation must be available for inspection and admission into evidence in a proceeding to adjudicate the liability for the infraction.

(c) Notwithstanding any other provision of law, all photographs, digital photographs, microphotographs, videotape, or other recorded images prepared under this chapter are for the exclusive use of the tolling agency and law enforcement in the discharge of duties under this section and are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation under this chapter. No photograph, digital photograph, microphotograph, videotape, or other recorded image may be used for any purpose other than enforcement of violations under this chapter nor retained longer than necessary to enforce this chapter or verify that tolls are paid.

(d) All locations where a photo enforcement system is used must be clearly marked by placing signs in locations that clearly indicate to a driver that he or she is entering a zone where traffic laws are enforced by a photo enforcement system.

(8) Infractions detected through the use of photo enforcement systems are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of photo enforcement systems under this section shall be processed in the same manner as parking infractions, including for the purposes of RCW 3.50.100, 35.20.220, 46.16.216 (as recodified by this act), and 46.20.270(3).

(9) The penalty for an infraction detected through the use of a photo enforcement system shall be forty dollars plus an additional toll penalty. The toll penalty is equal to three times the cash toll for a standard passenger car during peak hours. The toll penalty may not be reduced. The court shall remit the toll penalty to the department of transportation or a private entity under contract with the department of transportation for deposit in the statewide account in which tolls are deposited for the tolling facility at which the violation occurred. If the driver is found not to have committed an infraction under this section, the driver shall pay the toll due at the time the photograph was taken, unless the toll has already been paid.

(10) If the registered owner of the vehicle is a rental car business the department of transportation or a law enforcement agency shall, before a notice of infraction being issued under this section, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within eighteen days of the mailing of the written notice, provide to the issuing agency by return mail:

(a) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred; or

(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred because the vehicle was stolen at the time of the infraction. A statement provided under this subsection must be accompanied by a copy of a filed police report regarding the vehicle theft; or

(c) In lieu of identifying the vehicle operator, the rental car business may pay the applicable toll and fee.

Timely mailing of this statement to the issuing law enforcement agency relieves a rental car business of any liability under this chapter for the notice of infraction.

**Sec. 1127.** RCW 46.63.170 and 2009 c 470 s 714 are each amended to read as follows:

(1) The use of automated traffic safety cameras for issuance of notices of infraction is subject to the following requirements:

(a) The appropriate local legislative authority must first enact an ordinance allowing for their use to detect one or more of the following: Stoplight, railroad crossing, or school speed zone

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violations. At a minimum, the local ordinance must contain the restrictions described in this section and provisions for public notice and signage. Cities and counties using automated traffic safety cameras before July 24, 2005, are subject to the restrictions described in this section, but are not required to enact an authorizing ordinance.

(b) Use of automated traffic safety cameras is restricted to two-arterial intersections, railroad crossings, and school speed zones only.

(c) During the 2009-2011 fiscal biennium, automated traffic safety cameras may be used to detect speed violations for the purposes of section 201(2), chapter 470, Laws of 2009 if the local legislative authority first enacts an ordinance authorizing the use of cameras to detect speed violations.

(d) Automated traffic safety cameras may only take pictures of the vehicle and vehicle license plate and only while an infraction is occurring. The picture must not reveal the face of the driver or of passengers in the vehicle.

(e) A notice of infraction must be mailed to the registered owner of the vehicle within fourteen days of the violation, or to the renter of a vehicle within fourteen days of establishing the renter's name and address under subsection (3)(a) of this section. The law enforcement officer issuing the notice of infraction shall include with it a certificate or facsimile thereof, based upon inspection of photographs, microphotographs, or electronic images produced by an automated traffic safety camera, stating the facts supporting the notice of infraction. This certificate or facsimile is prima facie evidence of the facts contained in it and is admissible in a proceeding charging a violation under this chapter. The photographs, microphotographs, or electronic images evidencing the violation must be available for inspection and admission into evidence in a proceeding to adjudicate the liability for the infraction. A person receiving a notice of infraction based on evidence detected by an automated traffic safety camera may respond to the notice by mail.

(f) The registered owner of a vehicle is responsible for an infraction under RCW 46.63.030(1)(e) unless the registered owner overcomes the presumption in RCW 46.63.075, or, in the case of a rental car business, satisfies the conditions under subsection (3) of this section. If appropriate under the circumstances, a renter identified under subsection (3)(a) of this section is responsible for an infraction.

(g) Notwithstanding any other provision of law, all photographs, microphotographs, or electronic images prepared under this section are for the exclusive use of law enforcement in the discharge of duties under this section and are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation under this section. No photograph, microphotograph, or electronic image may be used for any purpose other than enforcement of violations under this section nor retained longer than necessary to enforce this section.

(h) All locations where an automated traffic safety camera is used must be clearly marked by placing signs in locations that clearly indicate to a driver that he or she is entering a zone where traffic laws are enforced by an automated traffic safety camera.

(i) If a county or city has established an authorized automated traffic safety camera program under this section, the compensation paid to the manufacturer or vendor of the equipment used must be based only upon the value of the equipment and services provided or rendered in support of the system, and may not be based upon a portion of the fine or civil penalty imposed or the revenue generated by the equipment.

(2) Infractions detected through the use of automated traffic safety cameras are not part of the registered owner's driving record

under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of automated traffic safety cameras under this section shall be processed in the same manner as parking infractions, including for the purposes of RCW 3.50.100, 35.20.220, 46.16.216 (as recodified by this act), and 46.20.270(3). However, the amount of the fine issued for an infraction generated through the use of an automated traffic safety camera shall not exceed the amount of a fine issued for other parking infractions within the jurisdiction.

(3) If the registered owner of the vehicle is a rental car business, the law enforcement agency shall, before a notice of infraction being issued under this section, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within eighteen days of receiving the written notice, provide to the issuing agency by return mail:

(a) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred; or

(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred because the vehicle was stolen at the time of the infraction. A statement provided under this subsection must be accompanied by a copy of a filed police report regarding the vehicle theft; or

(c) In lieu of identifying the vehicle operator, the rental car business may pay the applicable penalty.

Timely mailing of this statement to the issuing law enforcement agency relieves a rental car business of any liability under this chapter for the notice of infraction.

(4) Nothing in this section prohibits a law enforcement officer from issuing a notice of traffic infraction to a person in control of a vehicle at the time a violation occurs under RCW 46.63.030(1) (a), (b), or (c).

(5) For the purposes of this section, "automated traffic safety camera" means a device that uses a vehicle sensor installed to work in conjunction with an intersection traffic control system, a railroad grade crossing control system, or a speed measuring device, and a camera synchronized to automatically record one or more sequenced photographs, microphotographs, or electronic images of the rear of a motor vehicle at the time the vehicle fails to stop when facing a steady red traffic control signal or an activated railroad grade crossing control signal, or exceeds a speed limit in a school speed zone as detected by a speed measuring device. During the 2009-2011 fiscal biennium, an automated traffic safety camera includes a camera used to detect speed violations for the purposes of section 201(2), chapter 470, Laws of 2009.

(6) During the 2009-2011 fiscal biennium, this section does not apply to automated traffic safety cameras for the purposes of section 218(2), chapter 470, Laws of 2009.

**Sec. 1128.** RCW 46.68.080 and 2006 c 337 s 12 are each amended to read as follows:

(1) ~~((Motor))~~ Vehicle license fees collected under ~~((RCW 46.16.0621 and 46.16.070))~~ sections 530 and 531 of this act and fuel taxes collected under RCW 82.36.025(1) and 82.38.030(1) and directly or indirectly paid by the residents of those counties composed entirely of islands and which have neither a fixed physical connection with the mainland nor any state highways on any of the islands of which they are composed, shall be paid into the motor vehicle fund of the state of Washington and shall monthly, as they accrue, and after deducting therefrom the expenses of issuing such licenses and the cost of collecting such vehicle fuel tax, be paid to the county treasurer of each such county to be by him or her disbursed as hereinafter provided.

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(2) One-half of the ~~((motor))~~ vehicle license fees collected under ~~((RCW 46.16.0621 and 46.16.070))~~ sections 530 and 531 of this act and one-half of the fuel taxes collected under RCW 82.36.025(1) and 82.38.030(1) and directly or indirectly paid by the residents of those counties composed entirely of islands and which have either a fixed physical connection with the mainland or state highways on any of the islands of which they are composed, shall be paid into the motor vehicle fund of the state of Washington and shall monthly, as they accrue, and after deducting therefrom the expenses of issuing such licenses and the cost of collecting such motor vehicle fuel tax, be paid to the county treasurer of each such county to be by him or her disbursed as hereinafter provided.

(3) All funds paid to the county treasurer of the counties of either class referred to in subsections (1) and (2) of this section, shall be by such county treasurer distributed and credited to the several road districts of each such county and paid to the city treasurer of each incorporated city and town within each such county, in the direct proportion that the assessed valuation of each such road district and incorporated city and town shall bear to the total assessed valuation of each such county.

(4) The amount of motor vehicle fuel tax paid by the residents of those counties composed entirely of islands shall, for the purposes of this section, be that percentage of the total amount of motor vehicle fuel tax collected in the state that the ~~((motor))~~ vehicle license fees paid by the residents of counties composed entirely of islands bears to the total ~~((motor))~~ vehicle license fees paid by the residents of the state.

(5)(a) An amount of fuel taxes shall be deposited into the Puget Sound ferry operations account. This amount shall equal the difference between the total amount of fuel taxes collected in the state under RCW 82.36.020 and 82.38.030 less the total amount of fuel taxes collected in the state under RCW 82.36.020(1) and 82.38.030(1) and be multiplied by a fraction. The fraction shall equal the amount of ~~((motor))~~ vehicle license fees collected under ~~((RCW 46.16.0621 and 46.16.070))~~ sections 530 and 531 of this act from counties described in subsection (1) of this section divided by the total amount of ~~((motor))~~ vehicle license fees collected in the state under ~~((RCW 46.16.0621 and 46.16.070))~~ sections 530 and 531 of this act.

(b) An additional amount of fuel taxes shall be deposited into the Puget Sound ferry operations account. This amount shall equal the difference between the total amount of fuel taxes collected in the state under RCW 82.36.020 and 82.38.030 less the total amount of fuel taxes collected in the state under RCW 82.36.020(1) and 82.38.030(1) and be multiplied by a fraction. The fraction shall equal the amount of ~~((motor))~~ vehicle license fees collected under ~~((RCW 46.16.0621 and 46.16.070))~~ sections 530 and 531 of this act from counties described in subsection (2) of this section divided by the total amount of ~~((motor))~~ vehicle license fees collected in the state under ~~((RCW 46.16.0621 and 46.16.070))~~ sections 530 and 531 of this act, and this shall be multiplied by one-half.

**Sec. 1129.** RCW 46.68.250 and 1996 c 184 s 6 are each amended to read as follows:

The vehicle licensing fraud account is created in the state treasury. From penalties and fines imposed under RCW 46.16.010 (as recodified by this act), 47.68.255, and 88.02.118 (as recodified by this act), an amount equal to the taxes and fees owed shall be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for vehicle license fraud enforcement and collections by the Washington state patrol and the department of revenue.

**Sec. 1130.** RCW 46.70.011 and 2006 c 364 s 1 are each amended to read as follows:

As used in this chapter:

(1) "Vehicle" means and includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(2) "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, and which is required to be registered and titled under this title ~~((46 RCW, Motor Vehicles))~~.

(3) "Recreational vehicle" means a travel trailer, motor home, truck camper, or camping trailer that is primarily designed and used as temporary living quarters, is either self-propelled or mounted on or drawn by another vehicle, is transient, is not occupied as a primary residence, and is not immobilized or permanently affixed to a mobile home lot.

(4) "Vehicle dealer" means any person, firm, association, corporation, or trust, not excluded by subsection (5) of this section, engaged in the business of buying, selling, listing, exchanging, offering, brokering, leasing with an option to purchase, auctioning, soliciting, or advertising the sale of new or used vehicles, or arranging or offering or attempting to solicit or negotiate on behalf of others, a sale, purchase, or exchange of an interest in new or used motor vehicles, irrespective of whether the motor vehicles are owned by that person. Vehicle dealers shall be classified as follows:

(a) A "motor vehicle dealer" is a vehicle dealer that deals in new or used motor vehicles, or both;

(b) A "mobile home and travel trailer dealer" is a vehicle dealer that deals in mobile homes, park trailers, or travel trailers, or more than one type of these vehicles;

(c) A "miscellaneous vehicle dealer" is a vehicle dealer that deals in motorcycles or vehicles other than motor vehicles or mobile homes and travel trailers or any combination of such vehicles;

(d) A "recreational vehicle dealer" is a vehicle dealer that deals in travel trailers, motor homes, truck campers, or camping trailers that are primarily designed and used as temporary living quarters, are either self-propelled or mounted on or drawn by another vehicle, are transient, are not occupied as a primary residence, and are not immobilized or permanently affixed to a mobile home lot.

(5) ~~((The term))~~ "Vehicle dealer" does not include, nor do the licensing requirements of RCW 46.70.021 apply to, the following persons, firms, associations, or corporations:

(a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by, or acting under a judgment or order of, any court; or

(b) Public officers while performing their official duties; or

(c) Employees of vehicle dealers who are engaged in the specific performance of their duties as such employees; or

(d) Any person engaged in an isolated sale of a vehicle in which that person is the registered or legal owner, or both, thereof; or

(e) Any person, firm, association, corporation, or trust, engaged in the selling of equipment other than vehicles, subject to registration, used for agricultural or industrial purposes; or

(f) A real estate broker licensed under chapter 18.85 RCW, or an affiliated licensee, who, on behalf of another negotiates the purchase, sale, lease, or exchange of a manufactured or mobile home in conjunction with the purchase, sale, exchange, rental, or lease of the land upon which the manufactured or mobile home is, or will be, located; or

(g) Owners who are also operators of ~~((the))~~ special highway construction equipment, as defined in section 144 of this act, or of the highway construction equipment for which a vehicle license and display vehicle license number plate is required ~~((as defined in RCW 46.16.010))~~; or

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(h) Any bank, trust company, savings bank, mutual savings bank, savings and loan association, credit union, and any parent, subsidiary, or affiliate thereof, authorized to do business in this state under state or federal law with respect to the sale or other disposition of a motor vehicle owned and used in their business; or with respect to the acquisition and sale or other disposition of a motor vehicle in which the entity has acquired an interest as a lessor, lessee, or secured party; or

(i) Any person who is regularly engaged in the business of acquiring leases or installment contracts by assignment, with respect to the acquisition and sale or other disposition of a motor vehicle in which the person has acquired an interest as a result of the business.

(6) "Vehicle salesperson" means any person who for any form of compensation sells, auctions, leases with an option to purchase, or offers to sell or to so lease vehicles on behalf of a vehicle dealer.

(7) "Department" means the department of licensing, which shall administer and enforce the provisions of this chapter.

(8) "Director" means the director of licensing.

(9) "Manufacturer" means any person, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new and unused vehicles or remanufactures vehicles in whole or in part and further includes the terms:

(a) "Distributor," which means any person, firm, association, corporation, or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new and unused vehicle to vehicle dealers or who maintains factory representatives.

(b) "Factory branch," which means a branch office maintained by a manufacturer for the purpose of selling or offering for sale, vehicles to a distributor, wholesaler, or vehicle dealer, or for directing or supervising in whole or in part factory or distributor representatives, and further includes any sales promotion organization, whether a person, firm, or corporation, which is engaged in promoting the sale of new and unused vehicles in this state of a particular brand or make to vehicle dealers.

(c) "Factory representative," which means a representative employed by a manufacturer, distributor, or factory branch for the purpose of making or promoting for the sale of their vehicles or for supervising or contracting with their dealers or prospective dealers.

(10) "Established place of business" means a location meeting the requirements of RCW 46.70.023(1) at which a vehicle dealer conducts business in this state.

(11) "Principal place of business" means that dealer firm's business location in the state, which place the dealer designates as their principal place of business.

(12) "Subagency" means any place of business of a vehicle dealer within the state, which place is physically and geographically separated from the principal place of business of the firm or any place of business of a vehicle dealer within the state, at which place the firm does business using a name other than the principal name of the firm, or both.

(13) "Temporary subagency" means a location other than the principal place of business or subagency within the state where a licensed vehicle dealer may secure a license to conduct the business and is licensed for a period of time not to exceed ten days for a specific purpose such as auto shows, shopping center promotions, tent sales, exhibitions, or similar merchandising ventures. No more than six temporary subagency licenses may be issued to a licensee in any twelve-month period.

(14) "Wholesale vehicle dealer" means a vehicle dealer who buys and sells other than at retail.

(15) "Retail vehicle dealer" means a vehicle dealer who may buy and sell at both wholesale and retail.

(16) "Listing dealer" means a used mobile home dealer who makes contracts with sellers who will compensate the dealer for obtaining a willing purchaser for the seller's mobile home.

(17) "Auction" means a transaction conducted by means of exchanges between an auctioneer and the members of the audience, constituting a series of oral invitations for offers for the purchase of vehicles made by the auctioneer, offers to purchase by members of the audience, and the acceptance of the highest or most favorable offer to purchase.

(18) "Auction company" means a sole proprietorship, partnership, corporation, or other legal or commercial entity licensed under chapter 18.11 RCW that only sells or offers to sell vehicles at auction or only arranges or sponsors auctions.

(19) "Buyer's agent" means any person, firm, partnership, association, limited liability company, limited liability partnership, or corporation retained or employed by a consumer to arrange for or to negotiate, or both, the purchase or lease of a new motor vehicle on behalf of the consumer, and who is paid a fee or receives other compensation from the consumer for its services.

(20) "New motor vehicle" means any motor vehicle that is self-propelled and is required to be registered and titled under this title (~~46 RCW~~), has not been previously titled to a retail purchaser or lessee, and is not a "used vehicle" as defined under RCW 46.04.660.

**Sec. 1131.** RCW 46.70.051 and 2001 c 272 s 4 are each amended to read as follows:

(1) After the application has been filed, the fee paid, and bond posted, if required, the department shall, if no denial order is in effect and no proceeding is pending under RCW 46.70.101, issue the appropriate license, which license, in the case of a vehicle dealer, shall designate the classification of the dealer. Nothing prohibits a vehicle dealer from obtaining licenses for more than one classification, and nothing prevents any vehicle dealer from dealing in other classes of vehicles on an isolated basis.

(2) An auction company licensed under chapter 18.11 RCW may sell at auction all classifications of vehicles under a motor vehicle dealer's license issued under this chapter including motor vehicles, miscellaneous type vehicles, and mobile homes and travel trailers.

(3) At the time the department issues a vehicle dealer license, the department shall provide to the dealer a current, up-to-date vehicle dealer manual that may be provided electronically setting forth the various statutes and rules applicable to vehicle dealers. In addition, at the time any such license is renewed under RCW 46.70.083, the department shall provide the dealer with any updates or current revisions to the vehicle dealer manual. These updates or current revisions may be provided electronically.

(4) The department may contract with responsible private parties to provide them elements of the vehicle database on a regular basis. The private parties may only disseminate this information to licensed vehicle dealers.

(a) Subject to the disclosure agreement provisions of RCW 46.12.380 (as recodified by this act) and the requirements of Executive Order 97- 01, the department may provide to the contracted private parties the following information:

(i) All vehicle and title data necessary to accurately disclose known title defects, brands, or flags and odometer discrepancies;

(ii) All registered and legal owner information necessary to determine true ownership of the vehicle and the existence of any recorded liens, including but not limited to liens of the department of social and health services or its successor; and

(iii) Any data in the department's possession necessary to calculate the motor vehicle excise tax, license, and registration fees including information necessary to determine the applicability of regional transit authority excise and use tax surcharges.

(b) The department may provide this information in any form the contracted private party and the department agree upon, but if the data is to be transmitted over the Internet or similar public

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network from the department to the contracted private party, it must be encrypted.

(c) The department shall give these contracted private parties advance written notice of any change in the information referred to in (a)(i), (ii), or (iii) of this subsection, including information pertaining to the calculation of motor vehicle excise taxes.

(d) The department shall revoke a contract made under this subsection (4) with a private party who disseminates information from the vehicle database to anyone other than a licensed vehicle dealer. A private party who obtains information from the vehicle database under a contract with the department and disseminates any of that information to anyone other than a licensed vehicle dealer is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW.

(e) Nothing in this subsection (4) authorizes a vehicle dealer or any other organization or entity not otherwise appointed as a vehicle licensing subagent under RCW 46.01.140 to perform any of the functions of a vehicle licensing subagent so appointed.

**Sec. 1132.** RCW 46.70.101 and 2001 c 272 s 6 are each amended to read as follows:

The director may by order deny, suspend, or revoke the license of any vehicle dealer or vehicle manufacturer or, in lieu thereof or in addition thereto, may by order assess monetary penalties of a civil nature not to exceed one thousand dollars per violation, if the director finds that the order is in the public interest and that the applicant or licensee:

(1) In the case of a vehicle dealer:

(a) The applicant or licensee, or any partner, officer, director, owner of ten percent or more of the assets of the firm, or managing employee:

(i) Was the holder of a license issued pursuant to this chapter, which was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of the suspension have not been fulfilled or which license was assessed a civil penalty and the assessed amount has not been paid;

(ii) Has been adjudged guilty of a crime which directly relates to the business of a vehicle dealer and the time elapsed since the adjudication is less than ten years, or suffering any judgment within the preceding five years in any civil action involving fraud, misrepresentation, or conversion. For the purposes of this section, "adjudged guilty" (~~shall~~) means in addition to a final conviction in either a state or municipal court, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt regardless of whether the sentence is deferred or the penalty is suspended;

(iii) Has knowingly or with reason to know made a false statement of a material fact in his or her application for license or any data attached thereto, or in any matter under investigation by the department;

(iv) Has knowingly, or with reason to know, provided the department with false information relating to the number of vehicle sales transacted during the past one year in order to obtain a vehicle dealer license plate;

(v) Does not have an established place of business as required in this chapter;

(vi) Refuses to allow representatives or agents of the department to inspect during normal business hours all books, records, and files maintained within this state;

(vii) Sells, exchanges, offers, brokers, auctions, solicits, or advertises a new or current model vehicle to which a factory new vehicle warranty attaches and fails to have a valid, written service agreement as required by this chapter, or having such agreement refuses to honor the terms of such agreement within a reasonable time or repudiates the same, except for sales by wholesale motor vehicle auction dealers to franchise motor vehicle dealers of the

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same make licensed under this title (~~46 RCW~~) or franchise motor vehicle dealers of the same make licensed by any other state;

(viii) Is insolvent, either in the sense that their liabilities exceed their assets, or in the sense that they cannot meet their obligations as they mature;

(ix) Fails to pay any civil monetary penalty assessed by the director pursuant to this section within ten days after such assessment becomes final;

(x) Fails to notify the department of bankruptcy proceedings in the manner required by RCW 46.70.183;

(xi) Knowingly, or with reason to know, allows a salesperson employed by the dealer, or acting as their agent, to commit any of the prohibited practices set forth in subsection (1)(a) of this section and RCW 46.70.180;

(xii) Fails to have a current certificate or registration with the department of revenue.

(b) The applicant or licensee, or any partner, officer, director, owner of ten percent of the assets of the firm, or any employee or agent:

(i) Has failed to comply with the applicable provisions of chapter 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted thereunder;

(ii) Has defrauded or attempted to defraud the state, or a political subdivision thereof of any taxes or fees in connection with the sale, lease, or transfer of a vehicle;

(iii) Has forged the signature of the registered or legal owner on a certificate of title;

(iv) Has purchased, sold, disposed of, or has in his or her possession any vehicle which he or she knows or has reason to know has been stolen or appropriated without the consent of the owner;

(v) Has willfully failed to deliver to a purchaser or owner a certificate of (~~ownership~~) title to a vehicle which he or she has sold or leased;

(vi) Has committed any act in violation of RCW 46.70.090 relating to vehicle dealer license plates or manufacturer license plates;

(vii) Has committed any act in violation of RCW 46.70.180 relating to unlawful acts and practices;

(viii) Has engaged in practices inimical to the health or safety of the citizens of the state of Washington including but not limited to failure to comply with standards set by the state of Washington or the federal government pertaining to the construction or safety of vehicles, except for sales by wholesale motor vehicle auction dealers to motor vehicle dealers and vehicle wreckers licensed under this title (~~46 RCW~~) or motor vehicle dealers licensed by any other state;

(ix) Has aided or assisted an unlicensed dealer or salesperson in unlawful activity through active or passive participation in sales, allowing use of facilities, dealer license number, or by any other means;

(x) Converts or appropriates, whether temporarily or permanently, property or funds belonging to a customer, dealer, or manufacturer, without the consent of the owner of the property or funds; or

(xi) Has sold any vehicle with actual knowledge that:

(A) It has any of the following brands on the title: "SALVAGE/REBUILT," "JUNK," or "DESTROYED"; or

(B) It has been declared totaled out by an insurance carrier and then rebuilt; or

(C) The vehicle title contains the specific comment that the vehicle is "rebuilt";

without clearly disclosing that brand or comment in writing.

(c) The licensee or any partner, officer, director, or owner of ten percent or more of the assets of the firm holds or has held any such

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position in any other vehicle dealership licensed pursuant to this chapter which is subject to final proceedings under this section.

(2) In the case of a manufacturer, or any partner, officer, director, or majority shareholder:

(a) Was or is the holder of a license issued pursuant to this chapter which was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of the suspension have not been fulfilled, or which license was assessed a civil penalty and the assessed amount has not been paid;

(b) Has knowingly or with reason to know, made a false statement of a material fact in his or her application for license, or any data attached thereto, or in any matter under investigation by the department;

(c) Has failed to comply with the applicable provisions of chapter 46.12 or 46.16 RCW or this chapter or any rules and regulations adopted thereunder;

(d) Has defrauded or attempted to defraud the state or a political subdivision thereof, of any taxes or fees in connection with the sale, lease, or transfer of a vehicle;

(e) Has purchased, sold, leased, disposed of, or has in his or her possession, any vehicle which he or she knows or has reason to know has been stolen or appropriated without the consent of the owner;

(f) Has committed any act in violation of RCW 46.70.090 relating to vehicle dealer license plates and manufacturer license plates;

(g) Has committed any act in violation of RCW 46.70.180 relating to unlawful acts and practices;

(h) Sells or distributes in this state or transfers into this state for resale or for lease, any new or unused vehicle to which a warranty attaches or has attached and refuses to honor the terms of such warranty within a reasonable time or repudiates the same;

(i) Fails to maintain one or more resident employees or agents to provide service or repairs to vehicles located within the state of Washington only under the terms of any warranty attached to new or unused vehicles manufactured and which are or have been sold or distributed in this state or transferred into this state for resale or for lease unless such manufacturer requires warranty service to be performed by all of its dealers pursuant to a current service agreement on file with the department;

(j) Fails to reimburse within a reasonable time any vehicle dealer within the state of Washington who in good faith incurs reasonable obligations in giving effect to warranties that attach or have attached to any new or unused vehicle sold, leased, or distributed in this state or transferred into this state for resale or for lease by any such manufacturer;

(k) Engaged in practices inimical to the health and safety of the citizens of the state of Washington including, but not limited to, failure to comply with standards set by the state of Washington or the federal government pertaining to the construction and safety of vehicles;

(l) Is insolvent either in the sense that his or her liabilities exceed his or her assets or in the sense that he or she cannot meet his or her obligations as they mature;

(m) Fails to notify the department of bankruptcy proceedings in the manner required by RCW 46.70.183.

**Sec. 1133.** RCW 46.70.122 and 2001 c 272 s 8 are each amended to read as follows:

(1) If the purchaser or transferee is a dealer he or she shall, on selling, leasing, or otherwise disposing of the vehicle, promptly execute the assignment and warranty of title, in such form as the director shall prescribe.

(2) The assignment and warranty shall show any secured party holding a security interest created or reserved at the time of resale or lease, to which shall be attached the assigned certificate(s) of

(~~ownership~~) title and (~~license~~) registration certificate received by the dealer. The dealer shall mail or deliver them to the department with the transferee's application for the issuance of new certificate(s) of (~~ownership~~) title and (~~license~~) registration certificate. The (~~title~~) certificate of title issued for a vehicle possessed by a dealer and subject to a security interest shall be delivered to the secured party who upon request of the dealer's transferee shall, unless the transfer was a breach of the security agreement, either deliver the certificate to the transferee for transmission to the department, or upon receipt from the transferee of the owner's bill of sale or sale document, the transferee's application for a new certificate and the required fee, mail or deliver to the department. Failure of a dealer to deliver the (~~title~~) certificate of title to the secured party does not affect perfection of the security interest.

**Sec. 1134.** RCW 46.70.124 and 1994 c 262 s 11 are each amended to read as follows:

A vehicle dealer(s) shall possess a separate certificate of (~~ownership~~) title or other evidence of ownership approved by the department for each used vehicle kept in the dealer's possession. Evidence of ownership shall be either in the name of the dealer or in the name of the dealer's immediate vendor properly assigned. In the case of consigned vehicles, the vehicle dealer may possess a completed consignment contract that includes a guaranteed title from the seller in lieu of the required certificate of (~~ownership~~) title.

**Sec. 1135.** RCW 46.70.135 and 1994 c 284 s 11 are each amended to read as follows:

Mobile home manufacturers and mobile home dealers who sell mobile homes to be assembled on site and used as residences in this state shall conform to the following requirements:

(1) No new manufactured home may be sold unless the purchaser is provided with a manufacturer's written warranty for construction of the home in compliance with the Magnuson-Moss Warranty Act (88 Stat. 2183; 15 U.S.C. Sec. 47 et seq.; 15 U.S.C. Sec. 2301 et seq.).

(2) No new manufactured home may be sold unless the purchaser is provided with a dealer's written warranty for all installation services performed by the dealer.

(3) The warranties required by subsections (1) and (2) of this section shall be valid for a minimum of one year measured from the date of delivery and shall not be invalidated by resale by the original purchaser to a subsequent purchaser or by the certificate of (~~ownership~~) title being eliminated or not issued as described in chapter 65.20 RCW. Copies of the warranties shall be given to the purchaser upon signing a purchase agreement and shall include an explanation of remedies available to the purchaser under state and federal law for breach of warranty, the name and address of the federal department of housing and urban development and the state departments of licensing and labor and industries, and a brief description of the duties of these agencies concerning mobile homes.

(4) Warranty service shall be completed within forty-five days after the owner gives written notice of the defect unless there is a bona fide dispute between the parties. Warranty service for a defect affecting health or safety shall be completed within seventy-two hours of receipt of written notice. Warranty service shall be performed on site and a written work order describing labor performed and parts used shall be completed and signed by the service agent and the owner. If the owner's signature cannot be obtained, the reasons shall be described on the work order. Work orders shall be retained by the dealer or manufacturer for a period of three years.

(5) Before delivery of possession of the home to the purchaser, an inspection shall be performed by the dealer or his or her agent and

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by the purchaser or his or her agent which shall include a test of all systems of the home to insure proper operation, unless such systems test is delayed pursuant to this subsection. At the time of the inspection, the purchaser shall be given copies of all documents required by state or federal agencies to be supplied by the manufacturer with the home which have not previously been provided as required under subsection (3) of this section, and the dealer shall complete any required purchaser information card and forward the card to the manufacturer. A purchaser is deemed to have taken delivery of the manufactured home when all three of the following events have occurred: (a) The contractual obligations between the purchaser and the seller have been met; (b) the inspection of the home is completed; and (c) the systems test of the home has been completed subsequent to the installation of the home, or fifteen days has elapsed since the transport of the home to the site where it will be installed, whichever is earlier. Occupancy of the manufactured home shall only occur after the systems test has occurred and all required utility connections have been approved after inspection.

(6) Manufacturer and dealer advertising which states the dimensions of a home shall not include the length of the draw bar assembly in a listed dimension, and shall state the square footage of the actual floor area.

**Sec. 1136.** RCW 46.70.180 and 2009 c 123 s 1 and 2009 c 49 s 1 are each reenacted and amended to read as follows:

Each of the following acts or practices is unlawful:

(1) To cause or permit to be advertised, printed, displayed, published, distributed, broadcasted, televised, or disseminated in any manner whatsoever, any statement or representation with regard to the sale, lease, or financing of a vehicle which is false, deceptive, or misleading, including but not limited to the following:

(a) That no down payment is required in connection with the sale of a vehicle when a down payment is in fact required, or that a vehicle may be purchased for a smaller down payment than is actually required;

(b) That a certain percentage of the sale price of a vehicle may be financed when such financing is not offered in a single document evidencing the entire security transaction;

(c) That a certain percentage is the amount of the service charge to be charged for financing, without stating whether this percentage charge is a monthly amount or an amount to be charged per year;

(d) That a new vehicle will be sold for a certain amount above or below cost without computing cost as the exact amount of the factory invoice on the specific vehicle to be sold;

(e) That a vehicle will be sold upon a monthly payment of a certain amount, without including in the statement the number of payments of that same amount which are required to liquidate the unpaid purchase price.

(2)(a)(i) To incorporate within the terms of any purchase and sale or lease agreement any statement or representation with regard to the sale, lease, or financing of a vehicle which is false, deceptive, or misleading, including but not limited to terms that include as an added cost to the selling price or capitalized cost of a vehicle an amount for licensing or transfer of title of that vehicle which is not actually due to the state, unless such amount has in fact been paid by the dealer prior to such sale.

(ii) However, an amount not to exceed the applicable amount provided in (iii)(A) and (B) of this subsection (2)(a) per vehicle sale or lease may be charged by a dealer to recover administrative costs for collecting motor vehicle excise taxes, licensing and registration fees and other agency fees, verifying and clearing titles, transferring titles, perfecting, releasing, or satisfying liens or other security interests, and other administrative and documentary services rendered by a dealer in connection with the sale or lease of a vehicle

and in carrying out the requirements of this chapter or any other provisions of state law.

(iii) A dealer may charge under (a)(ii) of this subsection:

(A) As of July 26, 2009, through June 30, 2014, an amount not to exceed one hundred fifty dollars; and

(B) As of July 1, 2014, an amount not to exceed fifty dollars.

(b) A dealer may charge the documentary service fee in (a) of this subsection under the following conditions:

(i) The documentary service fee is disclosed in writing to a prospective purchaser or lessee before the execution of a purchase and sale or lease agreement;

(ii) The dealer discloses to the purchaser or lessee in writing that the documentary service fee is a negotiable fee. The disclosure must be written in a typeface that is at least as large as the typeface used in the standard text of the document that contains the disclosure and that is bold faced, capitalized, underlined, or otherwise set out from the surrounding material so as to be conspicuous. The dealer shall not represent to the purchaser or lessee that the fee or charge is required by the state to be paid by either the dealer or prospective purchaser or lessee;

(iii) The documentary service fee is separately designated from the selling price or capitalized cost of the vehicle and from any other taxes, fees, or charges; and

(iv) Dealers disclose in any advertisement that a documentary service fee in an amount provided in (iv)(A) and (B) of this subsection (2)(b) may be added to the sale price or the capitalized cost:

(A) As of July 26, 2009, through June 30, 2014, an amount up to one hundred fifty dollars; and

(B) As of July 1, 2014, an amount up to fifty dollars.

For the purposes of this subsection (2), the term "documentary service fee" means the optional amount charged by a dealer to provide the services specified in (a) of this subsection.

(3) To set up, promote, or aid in the promotion of a plan by which vehicles are to be sold or leased to a person for a consideration and upon further consideration that the purchaser or lessee agrees to secure one or more persons to participate in the plan by respectively making a similar purchase and in turn agreeing to secure one or more persons likewise to join in said plan, each purchaser or lessee being given the right to secure money, credits, goods, or something of value, depending upon the number of persons joining the plan.

(4) To commit, allow, or ratify any act of "bushing" which is defined as follows: Entering into a written contract, written purchase order or agreement, retail installment sales agreement, note and security agreement, or written lease agreement, hereinafter collectively referred to as contract or lease, signed by the prospective buyer or lessee of a vehicle, which:

(a) Is subject to any conditions or the dealer's or his or her authorized representative's future acceptance, and the dealer fails or refuses within four calendar days, exclusive of Saturday, Sunday, or legal holiday, and prior to any further negotiations with said buyer or lessee to inform the buyer or lessee either: (i) That the dealer unconditionally accepts the contract or lease, having satisfied, removed, or waived all conditions to acceptance or performance, including, but not limited to, financing, assignment, or lease approval; or (ii) that the dealer rejects the contract or lease, thereby automatically voiding the contract or lease, as long as such voiding does not negate commercially reasonable contract or lease provisions pertaining to the return of the subject vehicle and any physical damage, excessive mileage after the demand for return of the vehicle, and attorneys' fees authorized by law, and tenders the refund of any initial payment or security made or given by the buyer or lessee, including, but not limited to, any down payment, and tenders return of the trade-in vehicle, key, other trade-in, or

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certificate of title to a trade-in. Tender may be conditioned on return of the subject vehicle if previously delivered to the buyer or lessee.

The provisions of this subsection (4)(a) do not impair, prejudice, or abrogate the rights of a dealer to assert a claim against the buyer or lessee for misrepresentation or breach of contract and to exercise all remedies available at law or in equity, including those under chapter 62A.9A RCW, if the dealer, bank, or other lender or leasing company discovers that approval of the contract or financing or approval of the lease was based upon material misrepresentations made by the buyer or lessee, including, but not limited to, misrepresentations regarding income, employment, or debt of the buyer or lessee, as long as the dealer, or his or her staff, has not, with knowledge of the material misrepresentation, aided, assisted, encouraged, or participated, directly or indirectly, in the misrepresentation. A dealer shall not be in violation of this subsection (4)(a) if the buyer or lessee made a material misrepresentation to the dealer, as long as the dealer, or his or her staff, has not, with knowledge of the material misrepresentation, aided, assisted, encouraged, or participated, directly or indirectly, in the misrepresentation.

When a dealer informs a buyer or lessee under this subsection (4)(a) regarding the unconditional acceptance or rejection of the contract, lease, or financing by an electronic mail message, the dealer must also transmit the communication by any additional means:

(b) Permits the dealer to renegotiate a dollar amount specified as trade-in allowance on a vehicle delivered or to be delivered by the buyer or lessee as part of the purchase price or lease, for any reason except:

(i) Failure to disclose that the vehicle's certificate of ~~(ownership)~~ title has been branded for any reason, including, but not limited to, status as a rebuilt vehicle as provided in RCW 46.12.050 (as recodified by this act) and ~~((46.12.075))~~ section 303 of this act; or

(ii) Substantial physical damage or latent mechanical defect occurring before the dealer took possession of the vehicle and which could not have been reasonably discoverable at the time of the taking of the order, offer, or contract; or

(iii) Excessive additional miles or a discrepancy in the mileage. "Excessive additional miles" means the addition of five hundred miles or more, as reflected on the vehicle's odometer, between the time the vehicle was first valued by the dealer for purposes of determining its trade-in value and the time of actual delivery of the vehicle to the dealer. "A discrepancy in the mileage" means (A) a discrepancy between the mileage reflected on the vehicle's odometer and the stated mileage on the signed odometer statement; or (B) a discrepancy between the mileage stated on the signed odometer statement and the actual mileage on the vehicle; or

(c) Fails to comply with the obligation of any written warranty or guarantee given by the dealer requiring the furnishing of services or repairs within a reasonable time.

(5) To commit any offense relating to odometers, as such offenses are defined in RCW 46.37.540, 46.37.550, 46.37.560, and 46.37.570. A violation of this subsection is a class C felony punishable under chapter 9A.20 RCW.

(6) For any vehicle dealer or vehicle salesperson to refuse to furnish, upon request of a prospective purchaser or lessee, for vehicles previously registered to a business or governmental entity, the name and address of the business or governmental entity.

(7) To commit any other offense under RCW 46.37.423, 46.37.424, or 46.37.425.

(8) To commit any offense relating to a dealer's temporary license permit, including but not limited to failure to properly complete each such permit, or the issuance of more than one such

permit on any one vehicle. However, a dealer may issue a second temporary permit on a vehicle if the following conditions are met:

(a) The lienholder fails to deliver the vehicle title to the dealer within the required time period;

(b) The dealer has satisfied the lien; and

(c) The dealer has proof that payment of the lien was made within two calendar days, exclusive of Saturday, Sunday, or a legal holiday, after the sales contract has been executed by all parties and all conditions and contingencies in the sales contract have been met or otherwise satisfied.

(9) For a dealer, salesperson, or mobile home manufacturer, having taken an instrument or cash "on deposit" from a purchaser or lessee prior to the delivery of the bargained-for vehicle, to commingle the "on deposit" funds with assets of the dealer, salesperson, or mobile home manufacturer instead of holding the "on deposit" funds as trustee in a separate trust account until the purchaser or lessee has taken delivery of the bargained-for vehicle. Delivery of a manufactured home shall be deemed to occur in accordance with RCW 46.70.135(5). Failure, immediately upon receipt, to endorse "on deposit" instruments to such a trust account, or to set aside "on deposit" cash for deposit in such trust account, and failure to deposit such instruments or cash in such trust account by the close of banking hours on the day following receipt thereof, shall be evidence of intent to commit this unlawful practice: PROVIDED, HOWEVER, That a motor vehicle dealer may keep a separate trust account which equals his or her customary total customer deposits for vehicles for future delivery. For purposes of this section, "on deposit" funds received from a purchaser of a manufactured home means those funds that a seller requires a purchaser to advance before ordering the manufactured home, but does not include any loan proceeds or moneys that might have been paid on an installment contract.

(10) For a dealer or manufacturer to fail to comply with the obligations of any written warranty or guarantee given by the dealer or manufacturer requiring the furnishing of goods and services or repairs within a reasonable period of time, or to fail to furnish to a purchaser or lessee, all parts which attach to the manufactured unit including but not limited to the undercarriage, and all items specified in the terms of a sales or lease agreement signed by the seller and buyer or lessee.

(11) For a vehicle dealer to pay to or receive from any person, firm, partnership, association, or corporation acting, either directly or through a subsidiary, as a buyer's agent for consumers, any compensation, fee, purchase moneys or funds that have been deposited into or withdrawn out of any account controlled or used by any buyer's agent, gratuity, or reward in connection with the purchase, sale, or lease of a new motor vehicle.

(12) For a buyer's agent, acting directly or through a subsidiary, to pay to or to receive from any motor vehicle dealer any compensation, fee, gratuity, or reward in connection with the purchase, sale, or lease of a new motor vehicle. In addition, it is unlawful for any buyer's agent to engage in any of the following acts on behalf of or in the name of the consumer:

(a) Receiving or paying any purchase moneys or funds into or out of any account controlled or used by any buyer's agent;

(b) Signing any vehicle purchase orders, sales contracts, leases, odometer statements, or title documents, or having the name of the buyer's agent appear on the vehicle purchase order, sales contract, lease, or title; or

(c) Signing any other documentation relating to the purchase, sale, lease, or transfer of any new motor vehicle.

It is unlawful for a buyer's agent to use a power of attorney obtained from the consumer to accomplish or effect the purchase, sale, lease, or transfer of ownership documents of any new motor vehicle by any means which would otherwise be prohibited under

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(a) through (c) of this subsection. However, the buyer's agent may use a power of attorney for physical delivery of motor vehicle license plates to the consumer.

Further, it is unlawful for a buyer's agent to engage in any false, deceptive, or misleading advertising, disseminated in any manner whatsoever, including but not limited to making any claim or statement that the buyer's agent offers, obtains, or guarantees the lowest price on any motor vehicle or words to similar effect.

(13) For a buyer's agent to arrange for or to negotiate the purchase, or both, of a new motor vehicle through an out-of-state dealer without disclosing in writing to the customer that the new vehicle would not be subject to chapter 19.118 RCW. This subsection also applies to leased vehicles. In addition, it is unlawful for any buyer's agent to fail to have a written agreement with the customer that: (a) Sets forth the terms of the parties' agreement; (b) discloses to the customer the total amount of any fees or other compensation being paid by the customer to the buyer's agent for the agent's services; and (c) further discloses whether the fee or any portion of the fee is refundable.

(14) Being a manufacturer, other than a motorcycle manufacturer governed by chapter 46.93 RCW, to:

(a) Coerce or attempt to coerce any vehicle dealer to order or accept delivery of any vehicle or vehicles, parts or accessories, or any other commodities which have not been voluntarily ordered by the vehicle dealer: PROVIDED, That recommendation, endorsement, exposition, persuasion, urging, or argument are not deemed to constitute coercion;

(b) Cancel or fail to renew the franchise or selling agreement of any vehicle dealer doing business in this state without fairly compensating the dealer at a fair going business value for his or her capital investment which shall include but not be limited to tools, equipment, and parts inventory possessed by the dealer on the day he or she is notified of such cancellation or termination and which are still within the dealer's possession on the day the cancellation or termination is effective, if: (i) The capital investment has been entered into with reasonable and prudent business judgment for the purpose of fulfilling the franchise; and (ii) the cancellation or nonrenewal was not done in good faith. Good faith is defined as the duty of each party to any franchise to act in a fair and equitable manner towards each other, so as to guarantee one party freedom from coercion, intimidation, or threats of coercion or intimidation from the other party: PROVIDED, That recommendation, endorsement, exposition, persuasion, urging, or argument are not deemed to constitute a lack of good faith;

(c) Encourage, aid, abet, or teach a vehicle dealer to sell or lease vehicles through any false, deceptive, or misleading sales or financing practices including but not limited to those practices declared unlawful in this section;

(d) Coerce or attempt to coerce a vehicle dealer to engage in any practice forbidden in this section by either threats of actual cancellation or failure to renew the dealer's franchise agreement;

(e) Refuse to deliver any vehicle publicly advertised for immediate delivery to any duly licensed vehicle dealer having a franchise or contractual agreement for the retail sale or lease of new and unused vehicles sold or distributed by such manufacturer within sixty days after such dealer's order has been received in writing unless caused by inability to deliver because of shortage or curtailment of material, labor, transportation, or utility services, or by any labor or production difficulty, or by any cause beyond the reasonable control of the manufacturer;

(f) To provide under the terms of any warranty that a purchaser or lessee of any new or unused vehicle that has been sold or leased, distributed for sale or lease, or transferred into this state for resale or lease by the vehicle manufacturer may only make any warranty

claim on any item included as an integral part of the vehicle against the manufacturer of that item.

Nothing in this section may be construed to impair the obligations of a contract or to prevent a manufacturer, distributor, representative, or any other person, whether or not licensed under this chapter, from requiring performance of a written contract entered into with any licensee hereunder, nor does the requirement of such performance constitute a violation of any of the provisions of this section if any such contract or the terms thereof requiring performance, have been freely entered into and executed between the contracting parties. This paragraph and subsection (14)(b) of this section do not apply to new motor vehicle manufacturers governed by chapter 46.96 RCW.

(15) Unlawful transfer of an ownership interest in a motor vehicle as defined in RCW 19.116.050.

(16) To knowingly and intentionally engage in collusion with a registered owner of a vehicle to repossess and return or resell the vehicle to the registered owner in an attempt to avoid a suspended license impound under chapter 46.55 RCW. However, compliance with chapter 62A.9A RCW in repossessing, selling, leasing, or otherwise disposing of the vehicle, including providing redemption rights to the debtor, is not a violation of this section.

(17)(a) For a dealer to enter into a new motor vehicle sales contract without disclosing in writing to a buyer of the new motor vehicle, or to a dealer in the case of an unregistered motor vehicle, any known damage and repair to the new motor vehicle if the damage exceeds five percent of the manufacturer's suggested retail price as calculated at the dealer's authorized warranty rate for labor and parts, or one thousand dollars, whichever amount is greater. A manufacturer or new motor vehicle dealer is not required to disclose to a dealer or buyer that glass, tires, bumpers, or cosmetic parts of a new motor vehicle were damaged at any time if the damaged item has been replaced with original or comparable equipment. A replaced part is not part of the cumulative damage required to be disclosed under this subsection.

(b) A manufacturer is required to provide the same disclosure to a dealer of any known damage or repair as required in (a) of this subsection.

(c) If disclosure of any known damage or repair is not required under this section, a buyer may not revoke or rescind a sales contract due to the fact that the new motor vehicle was damaged and repaired before completion of the sale.

(d) As used in this section:

(i) "Cosmetic parts" means parts that are attached by and can be replaced in total through the use of screws, bolts, or other fasteners without the use of welding or thermal cutting, and includes windshields, bumpers, hoods, or trim panels.

(ii) "Manufacturer's suggested retail price" means the retail price of the new motor vehicle suggested by the manufacturer, and includes the retail delivered price suggested by the manufacturer for each accessory or item of optional equipment physically attached to the new motor vehicle at the time of delivery to the new motor vehicle dealer that is not included within the retail price suggested by the manufacturer for the new motor vehicle.

**Sec. 1137.** RCW 46.72.060 and 1961 c 12 s 46.72.060 are each amended to read as follows:

Every person having a cause of action for damages against any person, firm, or corporation receiving a permit under the provisions of this chapter, for injury, damages or wrongful death caused by any careless, negligent or unlawful act of any such person, firm, or corporation or his, their, or its agents or employees in conducting or carrying on said business or in operating any motor propelled vehicle for the carrying and transporting of passengers (~~over and along~~) on any public street, road or highway shall have a cause of action against the principal and surety upon the bond or the

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insurance company and the insured for all damages sustained, and in any such action the full amount of damages sustained may be recovered against the principal, but the recovery against the surety shall be limited to the amount of the bond.

**Sec. 1138.** RCW 46.80.010 and 1999 c 278 s 1 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter.

(1) "Vehicle wrecker" means every person, firm, partnership, association, or corporation engaged in the business of buying, selling, or dealing in vehicles of a type required to be ~~((licensed))~~ registered under the laws of this state, for the purpose of wrecking, dismantling, disassembling, or substantially changing the form of a vehicle, or who buys or sells integral secondhand parts of component material thereof, in whole or in part, or who deals in secondhand vehicle parts.

(2) "Core" means a major component part received by a vehicle wrecker in exchange for a like part sold by the vehicle wrecker, is not resold as a major component part except for scrap metal value or for remanufacture, and the vehicle wrecker maintains records for three years from the date of acquisition to identify the name of the person from whom the core was received.

(3) "Established place of business" means a building or enclosure which the vehicle wrecker occupies either continuously or at regular periods and where his books and records are kept and business is transacted and which must conform with zoning regulations.

(4) "Interim owner" means the owner of a vehicle who has the original certificate of ~~((ownership))~~ title for the vehicle, which certificate has been released by the person named on the certificate and assigned to the person offering to sell the vehicle to the wrecker.

(5) "Major component part" includes at least each of the following vehicle parts: (a) Engines and short blocks; (b) frame; (c) transmission and/or transfer case; (d) cab; (e) door; (f) front or rear differential; (g) front or rear clip; (h) quarter panel; (i) truck bed or box; (j) seat; (k) hood; (l) bumper; (m) fender; and (n) airbag. The director may supplement this list by rule.

(6) "Wrecked vehicle" means a vehicle which is disassembled or dismantled or a vehicle which is acquired with the intent to dismantle or disassemble and never again to operate as a vehicle, or a vehicle which has sustained such damage that its cost to repair exceeds the fair market value of a like vehicle which has not sustained such damage, or a damaged vehicle whose salvage value plus cost to repair equals or exceeds its fair market value, if repaired, or a vehicle which has sustained such damage or deterioration that it may not lawfully operate upon the highways of this state for which the salvage value plus cost to repair exceeds its fair market value, if repaired; further, it is presumed that a vehicle is a wreck if it has sustained such damage or deterioration that it may not lawfully operate upon the highways of this state.

**Sec. 1139.** RCW 46.80.090 and 1999 c 278 s 3 are each amended to read as follows:

Within thirty days after acquiring a vehicle, the vehicle wrecker shall furnish a written report to the department. This report shall be in such form as the department shall prescribe and shall be accompanied by evidence of ownership as determined by the department. No vehicle wrecker may acquire a vehicle, including a vehicle from an interim owner, without first obtaining evidence of ownership as determined by the department. For a vehicle from an interim owner, the evidence of ownership may not require that a title be issued in the name of the interim owner as required by RCW 46.12.101 (as recodified by this act). The vehicle wrecker shall furnish a monthly report of all acquired vehicles. This report shall be made on forms prescribed by the department and contain such information as the department may require. This statement shall be

signed by the vehicle wrecker or an authorized representative and the facts therein sworn to before a notary public, or before an officer or employee of the department designated by the director to administer oaths or acknowledge signatures, pursuant to RCW 46.01.180.

**Sec. 1140.** RCW 46.87.010 and 2005 c 194 s 1 are each amended to read as follows:

This chapter applies to proportional registration and reciprocity granted under the provisions of the International Registration Plan (IRP). This chapter shall become effective and be implemented beginning with the 1988 registration year.

(1) Provisions and terms of the IRP prevail unless given a different meaning in chapter 46.04 RCW, this chapter, or in rules adopted under the authority of this chapter.

(2) The director may adopt and enforce rules deemed necessary to implement and administer this chapter.

(3) Owners having a fleet of apportionable vehicles operating in two or more IRP member jurisdictions may elect to proportionally register the vehicles of the fleet under the provisions of the IRP and this chapter in lieu of full or temporary registration as provided for in chapter ~~((s))~~ 46.16 ~~((or 46.88))~~ RCW.

(4) If a due date or an expiration date established under authority of this chapter falls on a Saturday, Sunday, or a state legal holiday, such period is automatically extended through the end of the next business day.

**Sec. 1141.** RCW 46.87.020 and 2005 c 194 s 2 are each amended to read as follows:

Terms used in this chapter have the meaning given to them in the International Registration Plan (IRP), in chapter 46.04 RCW, or as otherwise defined in this section. Definitions given to terms by the IRP prevail unless given a different meaning in this chapter or in rules adopted under authority of this chapter.

(1) "Apportionable vehicle" has the meaning given by the IRP, except that it does not include vehicles with a declared gross weight of twelve thousand pounds or less. Apportionable vehicles include trucks, tractors, truck tractors, road tractors, and buses, each as separate and licensable vehicles.

(2) "Cab card" is a certificate of registration issued for a vehicle upon which is disclosed the jurisdictions and registered gross weights in such jurisdictions for which the vehicle is registered.

(3) "Credentials" means cab cards, apportioned plates (for Washington-based fleets), and validation tabs issued for proportionally registered vehicles.

(4) "Declared combined gross weight" means the total unladen weight of any combination of vehicles plus the weight of the maximum load to be carried on the combination of vehicles as set by the registrant in the application pursuant to chapter 46.44 RCW and for which registration fees have been or are to be paid.

(5) "Declared gross weight" means the total unladen weight of any vehicle plus the weight of the maximum load to be carried on the vehicle as set by the registrant in the application pursuant to chapter 46.44 RCW and for which registration fees have been or are to be paid. In the case of a bus, auto stage, or a passenger-carrying for hire vehicle with a seating capacity of more than six, the declared gross weight shall be determined by multiplying the average load factor of one hundred and fifty pounds by the number of seats in the vehicle, including the driver's seat, and add this amount to the unladen weight of the vehicle. If the resultant gross weight is not listed in ~~((RCW 46.16.070))~~ section 530 of this act, it will be increased to the next higher gross weight so listed pursuant to chapter 46.44 RCW.

(6) "Department" means the department of licensing.

(7) "Fleet" means one or more apportionable vehicles in the IRP.

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(8) "In-jurisdiction miles" means the total miles accumulated in a jurisdiction during the preceding year by vehicles of the fleet while they were a part of the fleet.

(9) "IRP" means the International Registration Plan.

(10) "Jurisdiction" means and includes a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a foreign country, and a state or province of a foreign country.

(11) "Motor carrier" means an entity engaged in the transportation of goods or persons. The term includes a for-hire motor carrier, private motor carrier, contract motor carrier, or exempt motor carrier. The term includes a registrant licensed under this chapter, a motor vehicle lessor, and a motor vehicle lessee.

(12) "Owner" means a person or business firm who holds the legal title to a vehicle, or if a vehicle is the subject of an agreement for its conditional sale with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee, or if a vehicle is subject to a lease, contract, or other legal arrangement vesting right of possession or control, for security or otherwise, or if a mortgagor of a vehicle is entitled to possession, then the owner is deemed to be the person or business firm in whom is vested right of possession or control.

(13) "Preceding year" means the period of twelve consecutive months immediately before July 1st of the year immediately before the commencement of the registration or license year for which apportioned registration is sought.

(14) "Prorate percentage" is the factor that is applied to the total proratable fees and taxes to determine the apportionable or prorate fees required for registration in a particular jurisdiction. It is determined by dividing the in-jurisdiction miles for a particular jurisdiction by the total miles. This term is synonymous with the term "mileage percentage."

(15) "Registrant" means a person, business firm, or corporation in whose name or names a vehicle or fleet of vehicles is registered.

(16) "Registration year" means the twelve-month period during which the registration plates issued by the base jurisdiction are valid according to the laws of the base jurisdiction.

(17) "Total miles" means the total number of miles accumulated in all jurisdictions during the preceding year by all vehicles of the fleet while they were a part of the fleet. Mileage accumulated by vehicles of the fleet that did not engage in interstate operations is not included in the fleet miles.

**Sec. 1142.** RCW 46.87.030 and 2005 c 194 s 3 are each amended to read as follows:

(1) When application to register an apportionable vehicle is made, the Washington prorated fees may be reduced by one-twelfth for each full registration month that has elapsed at the time a temporary authorization permit (TAP) was issued or if no TAP was issued, at such time as an application for registration is received in the department. If a vehicle is being added to a currently registered fleet, the prorate percentage previously established for the fleet for such registration year shall be used in the computation of the proportional fees and taxes due.

(2) If any vehicle is withdrawn from a proportionally registered fleet during the period for which it is registered under this chapter, the registrant of the fleet shall notify the department on appropriate forms prescribed by the department. The department may require the registrant to surrender credentials that were issued to the vehicle. If a motor vehicle is permanently withdrawn from a proportionally registered fleet because it has been destroyed, sold, or otherwise completely removed from the service of the fleet registrant, the unused portion of the ((licensing)) license fee paid under ((RCW 46.16.070)) section 530 of this act with respect to the vehicle reduced by one-twelfth for each calendar month and fraction

thereof elapsing between the first day of the month of the current registration year in which the vehicle was registered and the date the notice of withdrawal, accompanied by such credentials as may be required, is received in the department, shall be credited to the fleet proportional registration account of the registrant. Credit shall be applied against the ((licensing)) license fee liability for subsequent additions of motor vehicles to be proportionally registered in the fleet during such registration year or for additional ((licensing)) license fees due under ((RCW 46.16.070)) section 530 of this act or to be due upon audit under RCW 46.87.310. If any credit is less than fifteen dollars, no credit will be entered. In lieu of credit, the registrant may choose to transfer the unused portion of the ((licensing)) license fee for the motor vehicle to the new owner, in which case it shall remain with the motor vehicle for which it was originally paid. In no event may any amount be credited against fees other than those for the registration year from which the credit was obtained nor is any amount subject to refund.

**Sec. 1143.** RCW 46.87.140 and 2005 c 194 s 9 are each amended to read as follows:

(1) Any owner engaged in interstate operations of one or more fleets of apportionable vehicles may, in lieu of registration of the vehicles under chapter 46.16 RCW, register and license the vehicles of each fleet under this chapter by filing a proportional registration application for each fleet with the department. The application shall contain the following information and such other information pertinent to vehicle registration as the department may require:

(a) A description and identification of each vehicle of the fleet.

(b) The member jurisdictions in which registration is desired and such other information as member jurisdictions require.

(c) An original or renewal application shall also be accompanied by a mileage schedule for each fleet.

(d) The USDOT number issued to the registrant and the USDOT number of the motor carrier responsible for the safety of the vehicle, if different.

(e) A completed Motor Carrier Identification Report (MCS-150) at the time of fleet renewal or at the time of vehicle registration, if required by the department.

(f) The Taxpayer Identification Number of the registrant and the motor carrier responsible for the safety of the vehicle, if different.

(2) Each application shall, at the time and in the manner required by the department, be supported by payment of a fee computed as follows:

(a) Divide the in-jurisdiction miles by the total miles and carry the answer to the nearest thousandth of a percent (three places beyond the decimal, e.g. 10.543%). This factor is known as the prorate percentage.

(b) Determine the total proratable fees and taxes required for each vehicle in the fleet for which registration is requested, based on the regular annual fees and taxes or applicable fees and taxes for the unexpired portion of the registration year under the laws of each jurisdiction for which fees or taxes are to be calculated.

Applicable fees and taxes for vehicles of Washington-based fleets are those prescribed under ((RCW 46.16.070)) section 530 of this act, ((46.16.085)) section 531(1)(c) of this act, and RCW 82.38.075, as applicable. If, during the registration period, the lessor of an apportioned vehicle changes and the vehicle remains in the fleet of the registrant, the department shall only charge those fees prescribed for the issuance of new apportioned license plates, validation tabs, and cab card.

(c) Multiply the total, proratable fees or taxes for each motor vehicle by the prorate percentage applicable to the desired jurisdiction and round the results to the nearest cent.

(d) Add the total fees and taxes determined in (c) of this subsection for each vehicle to the nonproratable fees required under the laws of the jurisdiction for which fees are being calculated.

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Nonproratable fees required for vehicles of Washington-based fleets are the administrative fee required by RCW 82.38.075, if applicable, and the vehicle transaction fee pursuant to the provisions of RCW 46.87.130.

(e) The amount due and payable for the application is the sum of the fees and taxes calculated for each member jurisdiction in which registration of the fleet is desired.

(3) All assessments for proportional registration fees are due and payable in United States funds on the date presented or mailed to the registrant at the address listed in the proportional registration records of the department. The registrant may petition for reassessment of the fees or taxes due under this section within thirty days of the date of original service as provided for in this chapter.

**Sec. 1144.** RCW 46.87.220 and 1987 c 244 s 35 are each amended to read as follows:

The gross weight in the case of a motor truck, tractor, or truck tractor is the scale weight of the motor truck, tractor, or truck tractor, plus the scale weight of any trailer, semitrailer, converter gear, or pole trailer to be towed by it, to which shall be added the weight of the maximum load to be carried on it or towed by it as set forth by the licensee in the application providing it does not exceed the weight limitations prescribed by chapter 46.44 RCW.

The gross weight in the case of a bus, auto stage, or for hire vehicle, except a taxicab, with a seating capacity over six, is the scale weight of the bus, auto stage, or for hire vehicle plus the seating capacity, including the operator's seat, computed at one hundred and fifty pounds per seat.

If the resultant gross weight, according to this section, is not listed in (~~RCW 46.16.070~~) section 530 of this act, it will be increased to the next higher gross weight so listed pursuant to chapter 46.44 RCW.

A motor vehicle or combination of vehicles found to be loaded beyond the licensed gross weight of the motor vehicle registered under this chapter shall be cited and handled under RCW 46.16.140 and 46.16.145 (as recodified by this act).

**NEW SECTION. Sec. 1145.** A new section is added to chapter 47.06 RCW to read as follows:

(1) The department of transportation may increase the recreational vehicle sanitary disposal fee charged under section 534 of this act as authorized in RCW 43.135.055 by a percentage that exceeds the fiscal growth factor. After consultation with citizen representatives of the recreational vehicle user community, the department of transportation may implement RV account fee adjustments no more than once every four years. RV account fee adjustments must be preceded by an evaluation of the following factors:

- (a) Maintenance of a self-supporting program;
- (b) Levels of service at existing recreational vehicle sanitary disposal facilities;
- (c) Identified needs for improved recreational vehicle service at safety rest areas statewide;
- (d) Sewage treatment costs; and
- (e) Inflation.

(2) If the department of transportation chooses to adjust the RV account fee, it shall notify the department of licensing six months before implementation of the fee increase. Adjustments in the RV account fee must be in increments of no more than fifty cents per biennium.

**Sec. 1146.** RCW 47.10.704 and 1961 c 13 s 47.10.704 are each amended to read as follows:

In order to facilitate vehicular traffic through and between the cities of Tacoma, Seattle, and Everett and to remove the present handicaps and hazards (~~over and along~~) on primary state highway No. 1 as presently established, the state highway commission is authorized to realign, redesign, and reconstruct primary state

highway No. 1 upon a newly located right-of-way or upon portions of existing right-of-way through and between the cities of Tacoma, Seattle, and Everett and as an additional alternate route bypassing Seattle east of Lake Washington. The route of the proposed project is established as follows: Beginning in the vicinity of Ponders Corner, thence in a general northeasterly and northerly direction through the cities of Tacoma and Seattle to a point in the vicinity of the city of Everett and as an additional alternate route bypassing Seattle east of Lake Washington.

**Sec. 1147.** RCW 47.68.255 and 2003 c 53 s 266 are each amended to read as follows:

A person who is required to register an aircraft under this chapter and who registers an aircraft in another state or foreign country evading the Washington aircraft excise tax is guilty of a gross misdemeanor. For a second or subsequent offense, the person convicted is also subject to a fine equal to four times the amount of avoided taxes and fees, no part of which may be suspended or deferred. Excise taxes owed and fines assessed will be deposited in the manner provided under RCW 46.16.010(~~(4)~~) (6) (as recodified by this act).

**Sec. 1148.** RCW 48.22.110 and 2003 c 248 s 10 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this section and RCW 48.22.115 through 48.22.135.

(1) "Borrower" means a person who receives a loan or enters into a retail installment contract under chapter 63.14 RCW to purchase a motor vehicle or vessel in which the secured party holds an interest.

(2) "Motor vehicle" means a motor vehicle in this state subject to registration under chapter 46.16 RCW, except motor vehicles governed by RCW 46.16.020 (as recodified by this act) or registered with the Washington utilities and transportation commission as common or contract carriers.

(3) "Secured party" means a person, corporation, association, partnership, or venture that possesses a bona fide security interest in a motor vehicle or vessel.

(4) "Vendor single-interest" or "collateral protection coverage" means insurance coverage insuring primarily or solely the interest of a secured party but which may include the interest of the borrower in a motor vehicle or vessel serving as collateral and obtained by the secured party or its agent after the borrower has failed to obtain or maintain insurance coverage required by the financing agreement for the motor vehicle or vessel. Vendor single-interest or collateral protection coverage does not include insurance coverage purchased by a secured party for which the borrower is not charged.

(5) "Vessel" means a vessel as defined in RCW 88.02.010 (as recodified by this act) and includes personal watercraft as defined in RCW 79A.60.010.

**Sec. 1149.** RCW 59.21.050 and 2002 c 257 s 4 are each amended to read as follows:

(1) The existence of the mobile home park relocation fund in the custody of the state treasurer is affirmed. Expenditures from the fund may be used only for relocation assistance awarded under this chapter. Only the director or the director's designee may authorize expenditures from the fund. All relocation payments to tenants shall be made from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

(2) A park tenant is eligible for assistance under this chapter only after an application is submitted by that tenant or an organization acting on the tenant's account under RCW 59.21.021(4) on a form approved by the director which shall include:

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(a) For those persons who maintained ownership of and relocated their homes or removed their homes from the park: (i) A copy of the notice from the park-owner, or other adequate proof, that the tenancy is terminated due to closure of the park or its conversion to another use; (ii) a copy of the rental agreement then in force, or other proof that the applicant was a tenant at the time of notice of closure; (iii) a copy of the contract for relocating the home which includes the date of relocation, or other proof of actual relocation expenses incurred on a date certain; and (iv) a statement of any other available assistance;

(b) For those persons who sold their homes and incurred no relocation expenses: (i) A copy of the notice from the park-owner, or other adequate proof, that the tenancy is terminated due to closure of the park or its conversion to another use; (ii) a copy of the rental agreement then in force, or other proof that the applicant was a tenant at the time of notice of closure; and (iii) a copy of the record of title transfer issued by the department of licensing when the tenant sold the home rather than relocate it due to park closure or conversion.

(3) The department may deduct a percentage amount of the fee collected under (~~RCW 59.21.055~~) section 511 of this act, not to exceed five percent of the fees received, for administration expenses incurred by the department.

**Sec. 1150.** RCW 59.22.020 and 2009 c 565 s 48 are each reenacted and amended to read as follows:

The following definitions shall apply throughout this chapter unless the context clearly requires otherwise:

(1) "Account" means the manufactured housing account created under RCW 59.22.070.

(2) "Affordable" means that, where feasible, low-income residents should not pay more than thirty percent of their monthly income for housing costs.

(3) "Conversion costs" includes the cost of acquiring the mobile home park, the costs of planning and processing the conversion, the costs of any needed repairs or rehabilitation, and any expenditures required by a government agency or lender for the project.

(4) "Department" means the department of commerce.

(5) "Fee" means the mobile home title transfer fee imposed under (~~RCW 59.22.080~~) section 510 of this act.

(6) "Fund" or "park purchase account" means the mobile home park purchase account created pursuant to RCW 59.22.030.

(7) "Housing costs" means the total cost of owning, occupying, and maintaining a mobile home and a lot or space in a mobile home park.

(8) "Individual interest in a mobile home park" means any interest which is fee ownership or a lesser interest which entitles the holder to occupy a lot or space in a mobile home park for a period of not less than either fifteen years or the life of the holder. Individual interests in a mobile home park include, but are not limited to, the following:

(a) Ownership of a lot or space in a mobile home park or subdivision;

(b) A membership or shares in a stock cooperative, or a limited equity housing cooperative; or

(c) Membership in a nonprofit mutual benefit corporation which owns, operates, or owns and operates the mobile home park.

(9) "Landlord" shall have the same meaning as it does in RCW 59.20.030.

(10) "Low-income resident" means an individual or household who resided in the mobile home park prior to application for a loan pursuant to this chapter and with an annual income at or below eighty percent of the median income for the county of standard metropolitan statistical area of residence. Net worth shall be considered in the calculation of income with the exception of the resident's mobile/home which is used as their primary residence.

(11) "Low-income spaces" means those spaces in a mobile home park operated by a resident organization which are occupied by low-income residents.

(12) "Manufactured housing" means residences constructed on one or more chassis for transportation, and which bear an insignia issued by a state or federal regulatory agency indication compliance with all applicable construction standards of the United States department of housing and urban development.

(13) "Mobile home" shall have the same meaning as it does in RCW 46.04.302.

(14) "Mobile home lot" shall have the same meaning as it does in RCW 59.20.030.

(15) "Mobile home park" means a mobile home park, as defined in RCW 59.20.030(10), or a manufactured home park subdivision as defined by RCW 59.20.030(12) created by the conversion to resident ownership of a mobile home park.

(16) "Resident organization" means a group of mobile home park residents who have formed a nonprofit corporation, cooperative corporation, or other entity or organization for the purpose of acquiring the mobile home park in which they reside and converting the mobile home park to resident ownership. The membership of a resident organization shall include at least two-thirds of the households residing in the mobile home park at the time of application for assistance from the department.

(17) "Resident ownership" means, depending on the context, either the ownership, by a resident organization, as defined in this section, of an interest in a mobile home park which entitles the resident organization to control the operations of the mobile home park for a term of no less than fifteen years, or the ownership of individual interests in a mobile home park, or both.

(18) "Tenant" means a person who rents a mobile home lot for a term of one month or longer and owns the mobile home on the lot.

**Sec. 1151.** RCW 62A.9A-311 and 2001 c 32 s 25 are each amended to read as follows:

(a) **Security interest subject to other law.** Except as otherwise provided in subsection (d) of this section, the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(1) A statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt RCW 62A.9A-310(a);

(2) ~~RCW ((46.12.095)) 46.12.170~~ or 88.02.070 (as recodified by this act), or chapter 65.12 RCW; or

(3) A certificate-of-title statute of another jurisdiction which provides for a security interest to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

(b) **Compliance with other law.** Compliance with the requirements of a statute, regulation, or treaty described in subsection (a) of this section for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under this Article. Except as otherwise provided in subsection (d) of this section, RCW 62A.9A-313, and 62A.9A-316 (d) and (e) for goods covered by a certificate of title, a security interest in property subject to a statute, regulation, or treaty described in subsection (a) of this section may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

(c) **Duration and renewal of perfection.** Except as otherwise provided in subsection (d) of this section and RCW 62A.9A-316 (d) and (e), duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation, or treaty described in subsection (a) of this

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section are governed by the statute, regulation, or treaty. In other respects, the security interest is subject to this Article.

(d) **Inapplicability to certain inventory.** During any period in which collateral subject to RCW 46.12.095 or 88.02.070 (as recodified by this act), or chapter 65.12 RCW is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person.

**Sec. 1152.** RCW 63.14.010 and 2009 c 334 s 11 are each reenacted and amended to read as follows:

In this chapter, unless the context otherwise requires:

(1) "Financial institution" means any bank or trust company, mutual savings bank, credit union, or savings and loan association organized pursuant to the laws of any one of the United States of America or the United States of America, or the laws of a foreign country if also qualified to conduct business in any one of the United States of America or pursuant to the laws of the United States of America;

(2) "Goods" means all chattels personal when purchased primarily for personal, family, or household use and not for commercial or business use, but not including money or, except as provided in the next sentence, things in action. The term includes but is not limited to merchandise certificates or coupons, issued by a retail seller, to be used in their face amount in lieu of cash in exchange for goods or services sold by such a seller and goods which, at the time of sale or subsequently, are to be so affixed to real property as to become a part thereof, whether or not severable therefrom;

(3) "Lender credit card" means a card or device under a lender credit card agreement pursuant to which the issuer gives to a cardholder residing in this state the privilege of obtaining credit from the issuer or other persons in purchasing or leasing property or services, obtaining loans, or otherwise, and the issuer of which is not: (a) Principally engaged in the business of selling goods; or (b) a financial institution;

(4) "Lender credit card agreement" means an agreement entered into or performed in this state prescribing the terms of retail installment transactions pursuant to which the issuer may, with the buyer's consent, purchase or acquire one or more retail sellers' indebtedness of the buyer under a sales slip or memorandum evidencing the purchase, lease, loan, or otherwise to be paid in accordance with the agreement. The issuer of a lender credit card agreement shall not be principally engaged in the business of selling goods or be a financial institution;

(5) "Official fees" means the amount of the fees prescribed by law and payable to the state, county, or other governmental agency for filing, recording, or otherwise perfecting, and releasing or satisfying, a retained title, lien, or other security interest created by a retail installment transaction;

(6) "Person" means an individual, partnership, joint venture, corporation, association, or any other group, however organized;

(7) "Principal balance" means the sale price of the goods or services which are the subject matter of a retail installment contract less the amount of the buyer's down payment in money or goods or both, plus the amounts, if any, included therein, if a separate identified charge is made therefor and stated in the contract, for insurance, any vehicle dealer administrative fee, any vehicle dealer documentary service fee, and official fees; and the amount actually paid or to be paid by the retail seller pursuant to an agreement with the buyer to discharge a security interest or lien on like-kind goods traded in or lease interest in the circumstance of a lease for like goods being terminated in conjunction with the sale pursuant to a retail installment contract;

(8) "Rate" means the percentage which, when multiplied times the outstanding balance for each month or other installment period, yields the amount of the service charge for such month or period;

(9) "Retail buyer" or "buyer" means a person who buys or agrees to buy goods or obtain services or agrees to have services rendered or furnished, from a retail seller;

(10) "Retail charge agreement," "revolving charge agreement," or "charge agreement" means an agreement between a retail buyer and a retail seller that is entered into or performed in this state and that prescribes the terms of retail installment transactions with one or more sellers which may be made thereunder from time to time and under the terms of which a service charge, as defined in this section, is to be computed in relation to the buyer's unpaid balance from time to time;

(11) "Retail installment contract" or "contract" means a contract, other than a retail charge agreement, a lender credit card agreement, or an instrument reflecting a sale made pursuant thereto, entered into or performed in this state for a retail installment transaction. The term "retail installment contract" may include a chattel mortgage, a conditional sale contract, and a contract in the form of a bailment or a lease if the bailee or lessee contracts to pay as compensation for their use a sum substantially equivalent to or in excess of the value of the goods sold and if it is agreed that the bailee or lessee is bound to become, or for no other or a merely nominal consideration, has the option of becoming the owner of the goods upon full compliance with the provisions of the bailment or lease. The term "retail installment contract" does not include: (a) A "consumer lease," heretofore or hereafter entered into, as defined in RCW 63.10.020; (b) a lease which would constitute such "consumer lease" but for the fact that: (i) It was entered into before April 29, 1983; (ii) the lessee was not a natural person; (iii) the lease was not primarily for personal, family, or household purposes; or (iv) the total contractual obligations exceeded twenty-five thousand dollars; or (c) a lease-purchase agreement under chapter 63.19 RCW;

(12) "Retail installment transaction" means any transaction in which a retail buyer purchases goods or services from a retail seller pursuant to a retail installment contract, a retail charge agreement, or a lender credit card agreement, as defined in this section, which provides for a service charge, as defined in this section, and under which the buyer agrees to pay the unpaid principal balance in one or more installments or which provides for no service charge and under which the buyer agrees to pay the unpaid balance in more than four installments;

(13) "Retail seller" or "seller" means a person engaged in the business of selling goods or services to retail buyers;

(14) "Sale price" means the price for which the seller would have sold or furnished to the buyer, and the buyer would have bought or obtained from the seller, the goods or services which are the subject matter of a retail installment transaction. The sale price may include any taxes, registration and vehicle license fees, the cost of a guaranteed asset protection waiver, any vehicle dealer administrative fee, any vehicle dealer documentary service fee, and charges for transferring vehicle titles, delivery, installation, servicing, repairs, alterations, or improvements;

(15) "Service charge" however denominated or expressed, means the amount which is paid or payable for the privilege of purchasing goods or services to be paid for by the buyer in installments over a period of time. It does not include the amount, if any, charged for insurance premiums, delinquency charges, attorneys' fees, court costs, any vehicle dealer administrative fee under (~~RCW 46.12.042~~) section 820(1) of this act, any vehicle dealer documentary service fee under RCW 46.70.180(2), or official fees;

(16) "Services" means work, labor, or services of any kind when purchased primarily for personal, family, or household use and not

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for commercial or business use whether or not furnished in connection with the delivery, installation, servicing, repair, or improvement of goods and includes repairs, alterations, or improvements upon or in connection with real property, but does not include services for which the price charged is required by law to be determined or approved by or to be filed, subject to approval or disapproval, with the United States or any state, or any department, division, agency, officer, or official of either as in the case of transportation services;

(17) "Time balance" means the principal balance plus the service charge.

**Sec. 1153.** RCW 63.14.130 and 2003 c 368 s 3 are each amended to read as follows:

The service charge shall be inclusive of all charges incident to investigating and making the retail installment contract or charge agreement and for the privilege of making the installment payments thereunder and no other fee, expense or charge whatsoever shall be taken, received, reserved, or contracted therefor from the buyer, except for any vehicle dealer administrative fee under ((RCW 46.12.042)) section 820(1) of this act or for any vehicle dealer documentary service fee under RCW 46.70.180(2).

(1) The service charge, in a retail installment contract, shall not exceed the dollar amount or rate agreed to by contract and disclosed under RCW 63.14.040(1)(h).

(2) The service charge in a retail charge agreement, revolving charge agreement, lender credit card agreement, or charge agreement, shall not exceed the schedule or rate agreed to by contract and disclosed under RCW 63.14.120(1). If the service charge so computed is less than one dollar for any month, then one dollar may be charged.

**Sec. 1154.** RCW 65.20.020 and 1989 c 343 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Affixed" means that the manufactured home is installed in accordance with the installation standards in state law.

(2) "Department" means the department of licensing.

(3) "Eliminating the title" means to cancel an existing certificate of title issued by this state or a foreign jurisdiction or to waive the certificate of ((ownership)) title required ((by)) in chapter 46.12 RCW and recording the appropriate documents in the county real property records pursuant to this chapter.

(4) "Homeowner" means the owner of a manufactured home.

(5) "Land" means real property excluding the manufactured home.

(6) "Manufactured home" or "mobile home" means a structure, designed and constructed to be transportable in one or more sections and is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities that include plumbing, heating, and electrical systems contained therein. The structure must comply with the national mobile home construction and safety standards act of 1974 as adopted by chapter 43.22 RCW if applicable. "Manufactured home" does not include a modular home. A structure which met the definition of a "manufactured home" at the time of manufacture is still considered to meet this definition notwithstanding that it is no longer transportable.

(7) "Owner" means, when referring to a manufactured home that is titled, the person who is the registered owner. When referring to a mobile home that is untitled pursuant to this chapter, the owner is the person who owns the land. When referring to land, the person may have fee simple title, have a leasehold estate of thirty-five years or more, or be purchasing the property on a real estate contract. Owners include joint tenants, tenants in common, holders of legal life estates, and holders of remainder interests.

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(8) "Person" means any individual, trustee, partnership, corporation, or other legal entity. "Person" may refer to more than one individual or entity.

(9) "Secured party" means the legal owner when referring to a titled mobile home, or the lender securing a loan through a mortgage, deed of trust, or real estate contract when referring to land or land containing an untitled manufactured home pursuant to this chapter.

(10) "Security interest" means an interest in property to secure payment of a loan made by a secured party to a borrower.

(11) "Title" or "titled" means a certificate of ((ownership)) title issued pursuant to chapter 46.12 RCW.

**Sec. 1155.** RCW 65.20.040 and 1989 c 343 s 4 are each amended to read as follows:

If a manufactured home is affixed to land that is owned by the homeowner, the homeowner may apply to the department to have the title to the manufactured home eliminated. The application package shall consist of the following:

(1) An affidavit, in the form prescribed by the department, signed by all the owners of the manufactured home and containing:

(a) The date;

(b) The names of all of the owners of record of the manufactured home;

(c) The legal description of the real property;

(d) A description of the manufactured home including model year, make, width, length, and vehicle identification number;

(e) The names of all secured parties in the manufactured home; and

(f) A statement that the owner of the manufactured home owns the real property to which it is affixed;

(2) Certificate of ((ownership)) title for the manufactured home, or the manufacturer's statement of origin in the case of a new manufactured home. Where title is held by the secured party as legal owner, the consent of the secured party must be indicated by the legal owner releasing his or her security interest;

(3) A certification by the local government indicating that the manufactured home is affixed to the land;

(4) Payment of all ((licensing)) vehicle license fees, excise tax, use tax, real estate tax, recording fees, and proof of payment of all property taxes then due; and

(5) Any other information the department may require.

**Sec. 1156.** RCW 68.64.010 and 2008 c 139 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Adult" means an individual who is at least eighteen years old.

(2) "Agent" means an individual:

(a) Authorized to make health care decisions on the principal's behalf by a power of attorney for health care; or

(b) Expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.

(3) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education.

(4) "Decedent" means a deceased individual whose body or part is or may be the source of an anatomical gift.

(5) "Disinterested witness" means a witness other than the spouse or state registered domestic partner, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift. The term does not include a person to which an anatomical gift could pass under RCW 68.64.100.

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(6) "Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver's license, identification card, or donor registry.

(7) "Donor" means an individual whose body or part is the subject of an anatomical gift.

(8) "Donor registry" means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts.

(9) "Driver's license" means a license or permit issued by the department of licensing to operate a vehicle, whether or not conditions are attached to the license or permit.

(10) "Eye bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.

(11) "Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term does not include a guardian ad litem.

(12) "Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

(13) "Identification card" means an identification card issued by the department of licensing.

(14) "Know" means to have actual knowledge.

(15) "Minor" means an individual who is less than eighteen years old.

(16) "Organ procurement organization" means a person designated by the secretary of the United States department of health and human services as an organ procurement organization.

(17) "Parent" means a parent whose parental rights have not been terminated.

(18) "Part" means an organ, an eye, or tissue of a human being. The term does not include the whole body.

(19) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(20) "Physician" means an individual licensed or otherwise authorized to practice medicine and surgery or osteopathic medicine and surgery under the law of any state.

(21) "Procurement organization" means an eye bank, organ procurement organization, or tissue bank.

(22) "Prospective donor" means an individual whose death is imminent and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education. "Prospective donor" does not include an individual who has made a refusal.

(23) "Reasonable costs" include: (a) Programming and software installation and upgrades; (b) employee training that is specific to the organ and tissue donor registry or the donation program created in RCW ((46.12.510)) 46.16.076(2) (as recodified by this act); (c) literature that is specific to the organ and tissue donor registry or the donation program created in RCW ((46.12.510)) 46.16.076(2) (as recodified by this act); and (d) hardware upgrades or other issues important to the organ and tissue donor registry or the donation program created in RCW ((46.12.510)) 46.16.076(2) (as recodified by this act) that have been mutually agreed upon in advance by the department of licensing and the Washington state organ procurement organizations.

(24) "Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

(25) "Recipient" means an individual into whose body a decedent's part has been or is intended to be transplanted.

(26) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(27) "Refusal" means a record created under RCW 68.64.060 that expressly states an intent to bar other persons from making an anatomical gift of an individual's body or part.

(28) "Sign" means, with the present intent to authenticate or adopt a record:

(a) To execute or adopt a tangible symbol; or

(b) To attach to or logically associate with the record an electronic symbol, sound, or process.

(29) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(30) "Technician" means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law. The term includes an enucleator.

(31) "Tissue" means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education.

(32) "Tissue bank" means a person that is licensed to conduct business in this state, accredited, and regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

(33) "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

(34) "Washington state organ procurement organization" means an organ procurement organization that has been designated by the United States department of health and human services to coordinate organ procurement activities for any portion of Washington state.

**Sec. 1157.** RCW 68.64.210 and 2003 c 94 s 7 are each amended to read as follows:

(1) The organ and tissue donation awareness account is created in the custody of the state treasurer. All receipts from donations made under RCW ((46.12.510)) 46.16.076(2) (as recodified by this act), and other contributions and appropriations specifically made for the purposes of organ and tissue donor awareness, shall be deposited into the account. Except as provided in subsection (2) of this section, expenditures from the account may be authorized by the director of the department of licensing or the director's designee and do not require an appropriation.

(2) The department of licensing shall submit a funding request to the legislature covering the reasonable costs associated with the ongoing maintenance associated with the electronic transfer of the donor information to the organ and tissue donor registry and the donation program established in RCW ((46.12.510)) 46.16.076(2) (as recodified by this act). The legislature shall appropriate to the department of licensing an amount it deems reasonable from the organ and tissue donation awareness account to the department of licensing for these purposes.

(3) At least quarterly, the department of licensing shall transmit any remaining moneys in the organ and tissue donation awareness account to the foundation established in RCW ((46.12.510)) 46.16.076(2) (as recodified by this act) for the costs associated with educating the public about the organ and tissue donor registry and related organ and tissue donation education programs.

(4) Funding for donation awareness programs must be proportional across the state regardless of which Washington state organ procurement organization may be designated by the United

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States department of health and human services to serve a particular geographic area. No funds from the account may be used to fund activities outside Washington state.

**Sec. 1158.** RCW 70.168.040 and 2002 c 371 s 922 are each amended to read as follows:

The emergency medical services and trauma care system trust account is hereby created in the state treasury. Moneys shall be transferred to the emergency medical services and trauma care system trust account from the public safety education account or other sources as appropriated, and as collected under RCW 46.63.110~~((6))~~ (7) and ~~((46.12.042))~~ section 820 of this act. Disbursements shall be made by the department subject to legislative appropriation. Expenditures may be made only for the purposes of the state trauma care system under this chapter, including emergency medical services, trauma care services, rehabilitative services, and the planning and development of related services under this chapter and for reimbursement by the department of social and health services for trauma care services provided by designated trauma centers. ~~((During the 2001-2003 fiscal biennium, the legislature may transfer from the emergency medical services and trauma care system trust account to the state general fund such amounts as reflect the excess fund balance of the account.))~~

**Sec. 1159.** RCW 73.04.115 and 2008 c 6 s 511 are each amended to read as follows:

(1) The department shall issue to the surviving spouse or surviving domestic partner of any deceased former prisoner of war described in ~~((RCW 73.04.110(1)(b)))~~ section 619(1)(c) of this act, one set of regular or special license plates for use on a personal passenger vehicle registered to that person.

(2) The plates shall be issued without the payment of any license fees or excise tax on the vehicle. Whenever any person who has been issued license plates under this section applies to the department for transfer of the plates to a subsequently acquired motor vehicle, a transfer fee of five dollars shall be charged in addition to all other appropriate fees. If the surviving spouse remarries or the surviving domestic partner registers in a new domestic partnership, he or she shall return the special plates to the department within fifteen days and apply for regular license plates.

(3) For purposes of this section, the term "special license plates" does not include any plate from the armed forces license plate collection established in ~~((RCW 46.16.30920))~~ section 611(3) of this act.

**Sec. 1160.** RCW 77.12.471 and 2007 c 246 s 3 are each amended to read as follows:

The wildlife rehabilitation account is created in the state treasury. All receipts from moneys directed to the account from ~~((RCW 46.16.606))~~ section 821 of this act must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the support of the wildlife rehabilitation program created under RCW 77.12.467.

**Sec. 1161.** RCW 79.100.100 and 2007 c 342 s 4 are each amended to read as follows:

(1) The derelict vessel removal account is created in the state treasury. All receipts from RCW 79.100.050 and 79.100.060 and those moneys specified in ~~((RCW 88.02.030 and 88.02.050))~~ section 1028 of this act must be deposited into the account. The account is authorized to receive fund transfers and appropriations from the general fund, deposits from the derelict vessel removal surcharge under ~~((RCW 88.02.270))~~ section 1028(4) of this act, as well as gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of this chapter and expend the same or any income according to the terms of the gifts, grants, or

endowments provided those terms do not conflict with any provisions of this section or any guidelines developed to prioritize reimbursement of removal projects associated with this chapter. Moneys in the account may only be spent after appropriation. Expenditures from the account ~~((shall))~~ must be used by the department to reimburse authorized public entities for up to ninety percent of the total reasonable and auditable administrative, removal, disposal, and environmental damage costs of abandoned or derelict vessels when the previous owner is either unknown after a reasonable search effort or insolvent. Reimbursement ~~((shall))~~ may not be made unless the department determines that the public entity has made reasonable efforts to identify and locate the party responsible for the vessel, regardless of the title of owner of the vessel. Funds in the account resulting from transfers from the general fund or from the deposit of funds from the watercraft excise tax as provided for under RCW 82.49.030 ~~((shall))~~ must be used to reimburse one hundred percent of these costs and should be prioritized for the removal of large vessels. Costs associated with removal and disposal of an abandoned or derelict vessel under the authority granted in RCW 53.08.320 also qualify for reimbursement from the derelict vessel removal account. In each biennium, up to twenty percent of the expenditures from the account may be used for administrative expenses of the department of licensing and department of natural resources in implementing this chapter.

(2) If the balance of the account reaches one million dollars as of March 1st of any year, exclusive of any transfer or appropriation of funds into the account or funds deposited into the account collected under ~~((RCW 88.02.270))~~ section 1028(5) of this act, the department must notify the department of licensing and the collection of any fees associated with this account must be suspended for the following fiscal year.

(3) Priority for use of this account is for the removal of derelict and abandoned vessels that are in danger of sinking, breaking up, or blocking navigation channels, or that present environmental risks such as leaking fuel or other hazardous substances. The department must develop criteria, in the form of informal guidelines, to prioritize removal projects associated with this chapter, but may not consider whether the applicant is a state or local entity when prioritizing. The guidelines must also include guidance to the authorized public entities as to what removal activities and associated costs are reasonable and eligible for reimbursement.

(4) The department must keep all authorized public entities apprized of the balance of the derelict vessel removal account and the funds available for reimbursement. The guidelines developed by the department must also be made available to the other authorized public entities. This subsection (4) must be satisfied by utilizing the least costly method, including maintaining the information on the department's internet web site, or any other cost-effective method.

(5) An authorized public entity may contribute its ten percent of costs that are not eligible for reimbursement by using in-kind services, including the use of existing staff, equipment, and volunteers.

(6) This chapter does not guarantee reimbursement for an authorized public entity. Authorized public entities seeking certainty in reimbursement prior to taking action under this chapter may first notify the department of their proposed action and the estimated total costs. Upon notification by an authorized public entity, the department must make the authorized public entity aware of the status of the fund and the likelihood of reimbursement being available. The department may offer technical assistance and assure reimbursement for up to two years following the removal action if an assurance is appropriate given the balance of the fund and the details of the proposed action.

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**Sec. 1162.** RCW 79A.05.059 and 2005 c 44 s 4 are each amended to read as follows:

The state parks education and enhancement account is created in the custody of the state treasurer. All receipts from the sale of Washington state parks and recreation commission special license plates, after the deductions permitted by ~~((RCW 46.16.313(13)))~~ section 810 of this act, must be deposited into the account. Expenditures from the account may only be used to provide public educational opportunities and enhancement of Washington state parks. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**Sec. 1163.** RCW 79A.05.065 and 2008 c 238 s 1 are each amended to read as follows:

(1)(a) The commission shall grant to any person who meets the eligibility requirements specified in this section a senior citizen's pass which shall: (i) Entitle such a person, and members of his or her camping unit, to a fifty percent reduction in the campsite rental fee prescribed by the commission; and (ii) entitle such a person to free admission to any state park.

(b) The commission shall grant a senior citizen's pass to any person who applies for the senior citizen's pass and who meets the following requirements:

(i) The person is at least sixty-two years of age;

(ii) The person is a domiciliary of the state of Washington and meets reasonable residency requirements prescribed by the commission; and

(iii) The person and his or her spouse have a combined income that would qualify the person for a property tax exemption pursuant to RCW 84.36.381. The financial eligibility requirements of this subsection (1)(b)(iii) apply regardless of whether the applicant for a senior citizen's pass owns taxable property or has obtained or applied for such property tax exemption.

(c) Each senior citizen's pass granted pursuant to this section is valid as long as the senior citizen meets the requirements of (b)(ii) of this subsection. A senior citizen meeting the eligibility requirements of this section may make a voluntary donation for the upkeep and maintenance of state parks.

(d) A holder of a senior citizen's pass shall surrender the pass upon request of a commission employee when the employee has reason to believe the holder fails to meet the criteria in (b) of this subsection. The holder shall have the pass returned upon providing proof to the satisfaction of the director that the holder meets the eligibility criteria for obtaining the senior citizen's pass.

(2)(a) Any resident of Washington who is disabled as defined by the social security administration and who receives social security benefits for that disability, or any other benefits for that disability from any other governmental or nongovernmental source, or who is entitled to benefits for permanent disability under RCW 71A.10.020(3) due to unemployability full time at the minimum wage, or who is legally blind or profoundly deaf, or who has been issued a card, decal, or special license plate for a permanent disability under RCW 46.16.381 shall be entitled to receive, regardless of age and upon making application therefor, a disability pass at no cost to the holder. The pass shall: (i) Entitle such a person, and members of his or her camping unit, to a fifty percent reduction in the campsite rental fee prescribed by the commission; and (ii) entitle such a person to free admission to any state park.

(b) A card, decal, or special license plate issued for a permanent disability under ~~((RCW 46.16.381))~~ section 701 of this act may serve as a pass for the holder to entitle that person and members of the person's camping unit to a fifty percent reduction in the campsite rental fee prescribed by the commission, and to allow the holder free admission to state parks.

(3) Any resident of Washington who is a veteran and has a service-connected disability of at least thirty percent shall be entitled to receive a lifetime veteran's disability pass at no cost to the holder. The pass shall: (a) Entitle such a person, and members of his or her camping unit, to free use of any campsite within any state park; (b) entitle such a person to free admission to any state park; and (c) entitle such a person to an exemption from any reservation fees.

(4)(a) Any Washington state resident who provides out-of-home care to a child, as either a licensed foster-family home or a person related to the child, is entitled to a foster home pass.

(b) An applicant for a foster home pass must request a pass in the manner required by the commission. Upon receipt of a properly submitted request, the commission shall verify with the department of social and health services that the applicant qualifies under (a) of this subsection. Once issued, a foster home pass is valid for the period, which may not be less than one year, designated by the commission.

(c) When accompanied by a child receiving out-of-home care from the pass holder, a foster home pass: (i) Entitles such a person, and members of his or her camping unit, to free use of any campsite within any state park; and (ii) entitles such a person to free admission to any state park.

(d) For the purposes of this subsection (4):

(i) "Out-of-home care" means placement in a foster-family home or with a person related to the child under the authority of chapter 13.32A, 13.34, or 74.13 RCW;

(ii) "Foster-family home" has the same meaning as defined in RCW 74.15.020; and

(iii) "Person related to the child" means those persons referred to in RCW 74.15.020(2)(a) (i) through (vi).

(5) All passes issued pursuant to this section are valid at all parks any time during the year. However, the pass is not valid for admission to concessionaire operated facilities.

(6) The commission shall negotiate payment and costs, to allow holders of a foster home pass free access and usage of park campsites, with the following nonoperated, nonstate-owned parks: Central Ferry, Chief Timothy, Crow Butte, and Lyons Ferry. The commission shall seek state general fund reimbursement on a biennial basis.

(7) The commission may deny or revoke any Washington state park pass issued under this section for cause, including but not limited to the following:

(a) Residency outside the state of Washington;

(b) Violation of laws or state park rules resulting in eviction from a state park;

(c) Intimidating, obstructing, or assaulting a park employee or park volunteer who is engaged in the performance of official duties;

(d) Fraudulent use of a pass;

(e) Providing false information or documentation in the application for a state parks pass;

(f) Refusing to display or show the pass to park employees when requested; or

(g) Failing to provide current eligibility information upon request by the agency or when eligibility ceases or changes.

(8) This section shall not affect or otherwise impair the power of the commission to continue or discontinue any other programs it has adopted for senior citizens.

(9) The commission may engage in a mutually agreed upon reciprocal or discounted program for all or specific pass programs with other outdoor recreation agencies.

(10) The commission shall adopt those rules as it finds appropriate for the administration of this section. Among other things, the rules shall prescribe a definition of "camping unit" which will authorize a reasonable number of persons traveling with the

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person having a pass to stay at the campsite rented by such a person, a minimum Washington residency requirement for applicants for a senior citizen's pass, and an application form to be completed by applicants for a senior citizen's pass.

**Sec. 1164.** RCW 79A.05.215 and 2007 c 340 s 2 are each amended to read as follows:

The state parks renewal and stewardship account is created in the state treasury. Except as otherwise provided in this chapter, all receipts from user fees, concessions, leases, donations collected under RCW 46.16.076(3) (as recodified by this act), and other state park-based activities shall be deposited into the account. Expenditures from the account may be used for operating state parks, developing and renovating park facilities, undertaking deferred maintenance, enhancing park stewardship, and other state park purposes. Expenditures from the account may be made only after appropriation by the legislature.

**Sec. 1165.** RCW 82.08.0264 and 2007 c 135 s 1 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of motor vehicles, trailers, or campers to nonresidents of this state for use outside of this state, even when delivery is made within this state, but only if:

(a) The motor vehicles, trailers, or campers will be taken from the point of delivery in this state directly to a point outside this state under the authority of a vehicle trip permit issued by the department of licensing pursuant to ~~((the provisions of))~~ RCW 46.16.160 (as recodified by this act), or any agency of another state that has authority to issue similar permits; or

(b) The motor vehicles, trailers, or campers will be registered and licensed immediately under the laws of the state of the buyer's residence, will not be used in this state more than three months, and will not be required to be registered and licensed under the laws of this state.

(2) For the purposes of this section, the seller of a motor vehicle, trailer, or camper is not required to collect and shall not be found liable for the tax levied by RCW 82.08.020 on the sale if the tax is not collected and the seller retains the following documents, which must be made available upon request of the department:

(a) A copy of the buyer's currently valid out-of-state driver's license or other official picture identification issued by a jurisdiction other than Washington state;

(b) A copy of any one of the following documents, on which there is an out-of-state address for the buyer:

- (i) A current residential rental agreement;
- (ii) A property tax statement from the current or previous year;
- (iii) A utility bill, dated within the previous two months;
- (iv) A state income tax return from the previous year;
- (v) A voter registration card;
- (vi) A current credit report; or
- (vii) Any other document determined by the department to be acceptable;

(c) A witnessed declaration in the form designated by the department, signed by the buyer, and stating that the buyer's purchase meets the requirements of this section; and

(d) A seller's certification, in the form designated by the department, that either a vehicle trip permit was issued or the vehicle was immediately registered and licensed in another state as required under subsection (1) of this section.

(3) If the department has information indicating the buyer is a Washington resident, or if the addresses for the buyer shown on the documentation provided under subsection (2) of this section are not the same, the department may contact the buyer to verify the buyer's eligibility for the exemption provided under this section. This subsection does not prevent the department from contacting a buyer

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as a result of information obtained from a source other than the seller's records.

(4)(a) Any person making fraudulent statements, which includes the offer of fraudulent identification or fraudulently procured identification to a seller, in order to purchase a motor vehicle, trailer, or camper without paying retail sales tax is guilty of perjury under chapter 9A.72 RCW.

(b) Any person making tax exempt purchases under this section by displaying proof of identification not his or her own, or counterfeit identification, with intent to violate the provisions of this section, is guilty of a misdemeanor and, in addition, is liable for the tax and subject to a penalty equal to the greater of one hundred dollars or the tax due on such purchases.

(5)(a) Any seller that makes sales without collecting the tax to a person who does not provide the documents required under subsection (2) of this section, and any seller who fails to retain the documents required under subsection (2) of this section for the period prescribed by RCW 82.32.070, is personally liable for the amount of tax due.

(b) Any seller that makes sales without collecting the retail sales tax under this section and who has actual knowledge that the buyer's documentation required by subsection (2) of this section is fraudulent is guilty of a misdemeanor and, in addition, is liable for the tax and subject to a penalty equal to the greater of one thousand dollars or the tax due on such sales. In addition, both the buyer and the seller are liable for any penalties and interest assessable under chapter 82.32 RCW.

(6) For purposes of this section, ~~((the term))~~ "buyer" does not include cosigners or financial guarantors, unless those parties are listed as a registered owner on the vehicle title.

**Sec. 1166.** RCW 82.44.010 and 1990 c 42 s 301 are each amended to read as follows:

For the purposes of this chapter, unless ~~((the))~~ the context otherwise requires:

(1) "Department" means the department of licensing.

(2) "Motor vehicle" means all motor vehicles, trailers and semitrailers used, or of the type designed primarily to be used, upon the public streets and highways, for the convenience or pleasure of the owner, or for the conveyance, for hire or otherwise, of persons or property, including fixed loads and facilities for human habitation; but shall not include (a) vehicles carrying exempt licenses, (b) dock and warehouse tractors and their cars or trailers, lumber carriers of the type known as spiders, and all other automotive equipment not designed primarily for use upon public streets, or highways, (c) motor vehicles or their trailers used entirely upon private property, (d) mobile homes and travel trailers as defined in RCW 82.50.010, or (e) motor vehicles owned by nonresident military personnel of the armed forces of the United States stationed in the state of Washington provided personnel were also nonresident at the time of their entry into military service.

(3) "Truck-type power or trailing unit" means any vehicle that is subject to the fees under ~~((RCW 46.16.070))~~ section 530 of this act, except vehicles with an unladen weight of six thousand pounds or less, ~~((RCW 46.16.079, 46.16.080, 46.16.085))~~ section 528 of this act, section 531(1)(c) of this act, or RCW 46.16.090 (as recodified by this act).

**Sec. 1167.** RCW 84.37.070 and 2007 sp.s. c 2 s 7 are each amended to read as follows:

Whenever a person's special assessment or real property tax obligation, or both, is deferred under ~~((the provisions of))~~ this chapter, the amount deferred and required to be paid pursuant to RCW 84.38.120 shall become a lien in favor of the state upon his or her property and shall have priority as provided in chapters 35.50 and 84.60 RCW: PROVIDED, That the interest of a mortgage or purchase contract holder who requires an accumulation of reserves

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out of which real estate taxes are paid shall have priority to said deferred lien. This lien may accumulate up to forty percent of the amount of the claimant's equity value in said property and the rate of interest shall be an average of the federal short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points. The rate set for each new year shall be computed by taking an arithmetical average to the nearest percentage point of the federal short-term rate, compounded annually. That average shall be calculated using the rates from four months: January, April, and July of the calendar year immediately preceding the new year, and October of the previous preceding year. The interest shall be calculated from the time it could have been paid before delinquency until said obligation is paid. In the case of a mobile home, the department of licensing shall show the state's lien on the certificate of ((ownership)) title for the mobile home. In the case of all other property, the department of revenue shall file a notice of the deferral with the county recorder or auditor.

**Sec. 1168.** RCW 84.38.100 and 2006 c 275 s 1 are each amended to read as follows:

Whenever a person's special assessment and/or real property tax obligation is deferred under the provisions of this chapter, the amount deferred and required to be paid pursuant to RCW 84.38.120 shall become a lien in favor of the state upon his or her property and shall have priority as provided in chapters 35.50 and 84.60 RCW: PROVIDED, That the interest of a mortgage or purchase contract holder who is required to cosign a declaration of deferral under RCW 84.38.090, shall have priority to said deferred lien. This lien may accumulate up to eighty percent of the amount of the claimant's equity value in said property and shall bear interest at the rate of five percent per year from the time it could have been paid before delinquency until said obligation is paid: PROVIDED, That when taxes are deferred as provided in RCW 84.64.050, the amount shall bear interest at the rate of five percent per year from the date the declaration is filed until the obligation is paid. In the case of a mobile home, the department of licensing shall show the state's lien on the certificate of ((ownership)) title for the mobile home. In the case of all other property, the department of revenue shall file a notice of the deferral with the county recorder or auditor.

**NEW SECTION. Sec. 1169.** The following acts or parts of acts are each repealed:

- (1) RCW 46.04.144 (Cooper Jones Act license plate emblems) and 2002 c 264 s 2;
- (2) RCW 46.32.090 (Fees) and 2009 c 46 s 3, 2007 c 419 s 11, 1996 c 86 s 1, & 1995 c 272 s 2;
- (3) RCW 46.88.010 (Commercial vehicles registered in another state--Permits for intrastate operations) and 1986 c 18 s 25, 1979 c 158 s 202, & 1969 ex.s. c 281 s 32;
- (4) RCW 59.21.055 (Fee imposed on transfer of title--Circumstances--Deposit--Rules) and 2002 c 257 s 3;
- (5) RCW 59.22.080 (Transfer of title--Fee--Department of licensing--Rules) and 1991 c 327 s 1;
- (6) RCW 59.22.085 (Transfer of title--Fee supersedes other fee) and 1991 c 327 s 7;
- (7) RCW 64.44.045 (Vehicle and vessel titles--Notice of contamination or decontamination--Penalty) and 2008 c 201 s 2; and
- (8) RCW 73.04.110 (Free license plates for veterans with disabilities, prisoners of war--Penalty) and 2008 c 183 s 4 & 2005 c 216 s 6.

## PART XII. MISCELLANEOUS II

**NEW SECTION. Sec. 1201.** The senate and house of representatives transportation committees, in consultation with the office of the code reviser, shall prepare legislation for the 2011

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regular legislative session that reconciles and conforms amendments made during the 2010 legislative session in this act.

**NEW SECTION. Sec. 1202.** RCW 46.09.010, 46.09.020, 46.09.080, 46.09.140, 46.09.180, 46.09.200, 46.09.250, and 46.09.280 are each recodified as sections in chapter 46.09 RCW with the subchapter heading of "general provisions."

**NEW SECTION. Sec. 1203.** RCW 46.09.030, 46.09.040, 46.09.050, and 46.09.070 are each recodified as sections in chapter 46.09 RCW with the subchapter heading of "registrations."

**NEW SECTION. Sec. 1204.** RCW 46.09.115, 46.09.117, 46.09.120, 46.09.130 and 46.09.190 are each recodified as sections in chapter 46.09 RCW with the subchapter heading of "violations."

**NEW SECTION. Sec. 1205.** RCW 46.09.150, 46.09.165, 46.09.170, and 46.09.240 are each recodified as sections in chapter 46.09 RCW with the subchapter heading of "revenue."

**NEW SECTION. Sec. 1206.** RCW 46.10.010, 46.10.020, 46.10.140, 46.10.180, 46.10.185, 46.10.200, 46.10.210, and 46.10.220 are each recodified as sections in chapter 46.10 RCW with the subchapter heading of "general provisions."

**NEW SECTION. Sec. 1207.** RCW 46.10.030, 46.10.040, 46.10.043, 46.10.050, 46.10.060, and 46.10.070 are each recodified as sections in chapter 46.10 RCW with the subchapter heading of "registration and permits."

**NEW SECTION. Sec. 1208.** RCW 46.10.055, 46.10.090, 46.10.100, 46.10.110, 46.10.120, 46.10.130, and 46.10.190 are each recodified as sections in chapter 46.10 RCW with the subchapter heading of "violations and uses."

**NEW SECTION. Sec. 1209.** RCW 46.10.150, 46.10.160, and 46.10.170 are each recodified as sections in chapter 46.10 RCW with the subchapter heading of "revenue."

**NEW SECTION. Sec. 1210.** RCW 46.12.010, 46.12.030, 46.12.047, 46.12.050, 46.12.070, 46.12.080, 46.12.160, 46.12.181, 46.12.190, 46.12.370, 46.12.380, and 46.12.390 are each recodified as sections in chapter 46.12 RCW with the subchapter heading of "general provisions."

**NEW SECTION. Sec. 1211.** RCW 46.12.101, 46.12.102, 46.12.103, 46.12.124, 46.12.130, 46.12.151, and 46.12.170 are each recodified as sections in chapter 46.12 RCW with the subchapter heading of "vehicle sales, transfers, and security interests."

**NEW SECTION. Sec. 1212.** RCW 46.12.280, 46.12.290, 46.12.420, 46.12.430, and 46.12.440 are each recodified as sections in chapter 46.12 RCW with the subchapter heading of "specific vehicles."

**NEW SECTION. Sec. 1213.** RCW 46.12.300, 46.12.310, 46.12.320, 46.12.330, 46.12.340, and 46.12.350 are each recodified as sections in chapter 46.12 RCW with the subchapter heading of "serial numbers."

**NEW SECTION. Sec. 1214.** RCW 46.12.210 and 46.12.250 are each recodified as sections in chapter 46.12 RCW with the subchapter heading of "violations."

**NEW SECTION. Sec. 1215.** RCW 46.16.004, 46.16.006, 46.16.010, 46.16.015, 46.16.020, 46.16.022, 46.16.028, 46.16.029, 46.16.030, 46.16.040, 46.16.073, 46.16.076, 46.16.210, 46.16.212, 46.16.216, 46.16.225, 46.16.260, 46.16.265, 46.16.276, 46.16.280, 46.16.295, 46.16.327, and 46.16.332 are each recodified as sections in chapter 46.16 RCW with the subchapter heading of "general provisions."

**NEW SECTION. Sec. 1216.** RCW 46.16.045, 46.16.047, 46.16.048, 46.16.160, 46.16.162, and 46.16.460 are each recodified as sections in chapter 46.16 RCW with the subchapter heading of "permits and uses."

**NEW SECTION. Sec. 1217.** RCW 46.16.025, 46.16.068, 46.16.070, 46.16.086, 46.16.090, and 46.16.615 are each recodified as sections in chapter 46.16 RCW with the subchapter heading of "specific vehicles."

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**NEW SECTION. Sec. 1218.** RCW 46.16.011, 46.16.012, 46.16.140, 46.16.145, 46.16.180, and 46.16.500 are each recodified as sections in chapter 46.16 RCW with the subchapter heading of "liability and violations."

**NEW SECTION. Sec. 1219.** Sections 501 through 507 of this act are each added to chapter 46.17 RCW and codified with the subchapter heading of "filing and service fees."

**NEW SECTION. Sec. 1220.** Sections 508 through 515 of this act are each added to chapter 46.17 RCW and codified with the subchapter heading of "certificate of title fees."

**NEW SECTION. Sec. 1221.** Sections 516 through 521 of this act are each added to chapter 46.17 RCW and codified with the subchapter heading of "license plate fees."

**NEW SECTION. Sec. 1222.** Sections 522 through 534 of this act are each added to chapter 46.17 RCW and codified with the subchapter heading of "vehicle license fees."

**NEW SECTION. Sec. 1223.** Sections 535 through 537 of this act are each added to chapter 46.17 RCW and codified with the subchapter heading of "permit and transfer fees."

**NEW SECTION. Sec. 1224.** Sections 611 through 613 and 616 through 630 of this act constitute a new chapter in Title 46 RCW and are codified under the subchapter heading "plate types, decals, and emblems."

**NEW SECTION. Sec. 1225.** RCW 46.16.309, 46.16.314, 46.16.335, and 46.16.390 are each recodified as sections in the new chapter created under section 1224 of this act with the subchapter heading of "general provisions."

**NEW SECTION. Sec. 1226.** RCW 46.16.700, 46.16.705, 46.16.715, and 46.16.725 are each recodified as sections in the new chapter created under section 1224 of this act with the subchapter heading of "review board."

**NEW SECTION. Sec. 1227.** RCW 46.16.690, 46.16.735, 46.16.745, 46.16.755, 46.16.765, and 46.16.775 are each recodified as sections in the new chapter created under section 1224 of this act with the subchapter heading of "requirements and procedures."

**NEW SECTION. Sec. 1228.** RCW 46.16.301, 46.16.319, and 46.16.324 are each recodified as sections in the new chapter created under section 1224 of this act with the subchapter heading of "plate types, decals, and emblems."

**NEW SECTION. Sec. 1229.** Sections 701 through 706 of this act constitute a new chapter in Title 46 RCW.

**NEW SECTION. Sec. 1230.** RCW 46.09.110, 46.10.075, and 46.16.685 are each recodified as sections in chapter 46.68 RCW.

**NEW SECTION. Sec. 1231.** RCW 88.02.010, 88.02.035, 88.02.055, 88.02.110, 88.02.118, and 88.02.200 are each recodified as sections in chapter 88.02 RCW with the subchapter heading of "general provisions."

**NEW SECTION. Sec. 1232.** RCW 88.02.070, 88.02.075, 88.02.120, and 88.02.180 are each recodified as sections in chapter 88.02 RCW with the subchapter heading of "certificates of title."

**NEW SECTION. Sec. 1233.** RCW 88.02.020, 88.02.030, 88.02.050, 88.02.052, 88.02.250, and 88.02.260 are each recodified as sections in chapter 88.02 RCW with the subchapter heading of "registration certificates."

**NEW SECTION. Sec. 1234.** RCW 88.02.040, 88.02.045, and 88.02.053 are each recodified as sections in chapter 88.02 RCW with the subchapter heading of "title/registration fees and distribution."

**NEW SECTION. Sec. 1235.** RCW 88.02.023, 88.02.060, 88.02.078, 88.02.112, 88.02.115, 88.02.125, 88.02.184, 88.02.188, 88.02.189, 88.02.210, 88.02.220, and 88.02.230 are each recodified as sections in chapter 88.02 RCW with the subchapter heading of "dealer registration."

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**NEW SECTION. Sec. 1236.** RCW 46.16.125 is recodified as a section in chapter 81.24 RCW.

**NEW SECTION. Sec. 1237.** RCW 46.16.450 is decodified.

**NEW SECTION. Sec. 1238.** Except for section 1020 of this act, this act takes effect July 1, 2011.

**NEW SECTION. Sec. 1239.** Section 1020 of this act takes effect June 30, 2012.

**NEW SECTION. Sec. 1240.** Section 1019 of this act expires June 30, 2012."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Haugen moved that the Senate concur in the House amendment(s) to Senate Bill No. 6379.

Senators Haugen and Swecker spoke in favor of passage of the motion.

The President declared the question before the Senate to be the motion by Senator Haugen that the Senate concur in the House amendment(s) to Senate Bill No. 6379.

The motion by Senator Haugen carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6379 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6379, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6379, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SENATE BILL NO. 6379, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 2, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6208 with the following amendment(s): 6208-S AMH TR H5429.1 6208-S AMH TR H5429.1,

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 47.42.020 and 2005 c 398 s 2 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter.

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(1) "Department" means the Washington state department of transportation.

(2) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(3) "Interstate system" means any state highway which is or does become part of the national system of interstate and defense highways as described in section 103(d) of title 23, United States Code.

(4) "Maintain" means to allow to exist.

(5) "Person" means this state or any public or private corporation, firm, partnership, association, as well as any individual or individuals.

(6) "Primary system" means any state highway which is or does become part of the federal-aid primary system as described in section 103(b) of title 23, United States Code.

(7) "Scenic system" means (a) any state highway within any public park, federal forest area, public beach, public recreation area, or national monument, (b) any state highway or portion thereof outside the boundaries of any incorporated city or town designated by the legislature as a part of the scenic system, or (c) any state highway or portion thereof outside the boundaries of any incorporated city or town designated by the legislature as a part of the scenic and recreational highway system except for the sections of highways specifically excluded in RCW 47.42.025 or located within areas zoned by the governing county for predominantly commercial and industrial uses, and having development visible to the highway, as determined by the department.

(8) "Sign" means any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing that is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main-traveled way of the interstate system or other state highway. "Sign" does not include a display authorized under RCW 47.36.030(3) promoting a local agency sponsored event that does not include advertising.

(9) "Commercial and industrial areas" means any area zoned commercial or industrial by a county or municipal code, or if unzoned or zoned for general uses by a county or municipal code, that area occupied by three or more separate and distinct commercial or industrial activities, or any combination thereof, within a space of five hundred feet and the area within five hundred feet of such activities on both sides of the highway. The area shall be measured from the outer edges of the regularly used buildings, parking lots, or storage or processing areas of the commercial or industrial activity and not from the property lines of the parcels upon which the activities are located. Measurements shall be along or parallel to the edge of the main traveled way of the highway. The following shall not be considered commercial or industrial activities:

(a) Agricultural, forestry, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands;

(b) Transient or temporary activities;

(c) Railroad tracks and minor sidings;

(d) Signs;

(e) Activities more than six hundred and sixty feet from the nearest edge of the right-of-way;

(f) Activities conducted in a building principally used as a residence.

If any commercial or industrial activity that has been used in defining or delineating an unzoned area ceases to operate for a period of six continuous months, any signs located within the former unzoned area become nonconforming and shall not be maintained by any person.

(10) "Roadside area information panel or display" means a panel or display located so as not to be readable from the main traveled way, erected in a safety rest area, scenic overlook, or similar roadside area, for providing motorists with information in the specific interest of the traveling public.

(11) "Temporary agricultural directional sign" means a sign on private property adjacent to a state highway right-of-way, or on a state highway right-of-way, to provide directional information to places of business offering for sale seasonal agricultural products on the property where the sale is taking place.

**Sec. 2.** RCW 47.42.120 and 1999 c 276 s 1 are each amended to read as follows:

Notwithstanding any other provisions of this chapter, no sign except a sign of type 1 or 2 or those type 3 signs that advertise activities conducted upon the properties where the signs are located, may be erected or maintained without a permit issued by the department. Application for a permit shall be made to the department on forms furnished by it. The forms shall contain a statement that the owner or lessee of the land in question has consented thereto. For type 8 signs (temporary agricultural directional signs), when the land in question is owned by the department, the consent statement must be reviewed and, if the sign does not create a safety concern, be approved within ten days of application by the department. The application shall be accompanied by a fee established by department rule to be deposited with the state treasurer to the credit of the motor vehicle fund. Permits shall be for the remainder of the calendar year in which they are issued, and accompanying fees shall not be prorated for fractions of the year. Permits must be renewed annually through a certification process established by department rule. Advertising copy may be changed at any time without the payment of an additional fee. Assignment of permits in good standing is effective only upon receipt of written notice of assignment by the department. A permit may be revoked after hearing if the department finds that any statement made in the application or annual certification process was false or misleading, or that the sign covered is not in good general condition and in a reasonable state of repair, or is otherwise in violation of this chapter, if the false or misleading information has not been corrected and the sign has not been brought into compliance with this chapter or rules adopted under it within thirty days after written notification."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Haugen moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6208.

Senator Haugen spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Haugen that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6208.

The motion by Senator Haugen carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6208 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6208, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6208, as amended by the House, and the bill

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passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6208, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

#### SECOND READING

SENATE BILL NO. 6143, by Senator Prentice

Relating to revenue and taxation. Revised for 1st Substitute: Modifying excise tax laws to preserve funding for public schools, colleges, and universities, as well as other public systems essential for the safety, health, and security of all Washingtonians.

#### MOTION

Senator Prentice moved that Substitute Senate Bill No. 6143 be substituted for Senate Bill No. 6143 and the substitute bill be placed on the second reading and read the second time.

#### POINT OF ORDER

Senator Benton: "Thank you Mr. President. Senate Rule 25 requires that no bill contain more than one subject. I believe that this bill is not properly before the Senate as it appears to have more than one subject and should not be placed on the second reading calendar. I offer the following arguments for your consideration. Senate Rule 25 is based on Article II, Section 19 of the Washington State Constitution. It has been interpreted on a number of occasions by our State Supreme Court. This provision is placed in the Constitution and appears in Senate Rule 25 to prevent a practice known as 'log rolling.' Defined in Webster's Dictionary 'log rolling' is the exchanging of a assistance or favors specifically the training of votes by legislation to secure..."

#### REPLY BY THE PRESIDENT

President Owen: "Senator Benton, you may give a brief explanation, not the history. Just a brief explanation to your point please."

#### POINT OF ORDER

Senator Benton: "Our Supreme Court has repeatedly stated Mr. President, that one of the purposes of Article II, Section 19 is to prevent the combining of different bills or policies but could not pass on their own. This bill contains twenty-one different taxes and I don't believe that each of these could stand on its own.

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For these reasons, I believe the bill is improperly before us under Rule 25 of the Rules of the Senate and ask that you rule thereon."

Senator Eide spoke against the point of order.

#### RULING BY THE PRESIDENT

President Owen: "In ruling on the point of order raised by Senator Benton, Rule 25 essentially requires that the subject matter of the bill be reflected in the title of the bill. This title refers to the modification of excise tax laws, and each of the different matters contained in the bill fits within the broad title. The title properly reflects the contents of the bill.

For these reasons, Sen. Benton's Point is not well taken."

The President declared the question before the Senate to be the motion by Senator Prentice that Substitute Senate Bill No. 6143 be substituted for Senate Bill No. 6143 and the substitute bill be placed on the second reading calendar.

The motion by Senator Prentice carried and the substitute bill was substituted.

#### MOTION

Senator Schoesler moved that the following amendment by Senator Schoesler be adopted:

On page 12, line 27, after "(3)," strike "(4), (5), (6), (7), (8), (9), and (12)" and insert "(5), (6), (7), (8), (9), (10), and (13)"

On page 12, line 34, after "82.04.260" strike "(13)" and insert "(14)"

On page 12, line 37, after "82.04.260" strike "(13)" and insert "(14)"

Beginning on page 31, after line 33, strike all of Part IV Renumber the remaining parts and sections consecutively and correct any internal references accordingly.

On page 112, line 5, strike "406,"

On page 112, after line 9, strike all of sections 2210 and 2211 Renumber the remaining sections consecutively.

On page 1, beginning on line 6 of the title, after "82.04.423," strike all material through "48.14.080," on line 8

On page 1, line 14 of the title, after "82.45.010," strike all material through "82.04.440,"

Senator Schoesler spoke in favor of adoption of the amendment.

Senator Tom spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Schoesler on page 12, line 27 to Substitute Senate Bill No. 6143.

The motion by Senator Schoesler failed and the amendment was not adopted by voice vote.

#### MOTION

Senator Regala moved that the following amendment by Senators Regala and Zarelli be adopted:

On page 14, line 31, beginning with "as existing" strike everything through page 14, line 33, "section." And insert " and includes eligible assets as defined by Rule 3Aa-7 of the Investment Company Act, as the law and rule existing on the effective date of this section or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section."

Renumber the sections consecutively and correct any internal references accordingly.

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Senators Regala and Zarelli spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Regala and Zarelli on page 14, line 31 to Substitute Senate Bill No. 6143.

The motion by Senator Regala carried and the amendment was adopted by voice vote.

MOTION

Senator Benton moved that the following amendment by Senator Benton be adopted:

On page 15, beginning on line 1, strike everything through page 20 line 3 and insert the following:

**"NEW SECTION. Sec. 201.** A new section is added to chapter 82.32 RCW to read as follows:

(1) Unless otherwise specifically provided in statute, the department must respect the form of a transaction.-

(2) The following transactions are considered to be "specified tax avoidance transactions:"

(a) Joint venture arrangements between construction contractors and the owner/developer of construction projects that are in essence guaranteed payments for the purchase of construction services specifically characterized by a failure of the joint venture agreements to provide for the contractor to share substantial profits and bear significant risk in the venture;

(b) A transaction, related series of transactions or other arrangement without a valid business purpose that result in a person avoiding tax on the receipt of income that would otherwise without such planning be subject to taxation in Washington provided that such income derives from a transaction with a person that is not affiliated with the taxpayer; and

(c) For purposes of this subsection, "affiliated" means under common control. "Control" means the possession, directly or indirectly, of more than fifty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise.

(3) Solely for purposes of denying the tax benefit that would otherwise result on specified tax avoidance transactions, the department may take any reasonable steps necessary to deny the tax benefit that would otherwise arise as a result of the specified tax avoidance transaction.—

(3) The department must by rule provide guidance on specified tax transactions. The adoption of a rule as required under this subsection is not a condition precedent for the department to use the authority provided in this section to correct specified tax avoidance transactions. The rule adopted under this section must include examples of specified tax avoidance transactions.

**NEW SECTION. Sec. 202.** A new section is added to chapter 82. RCW to read as follows:

(1)(a) The department may not use section 201 of this act to disregard any transaction, plan, or arrangement initiated before April 1, 2010.

**Sec. 203.** RCW 82.32.090 and 2006 c 256 s 6 are each amended to read as follows:

(1) If payment of any tax due on a return to be filed by a taxpayer is not received by the department of revenue by the due date, there ~~((shall be))~~ is assessed a penalty of five percent of the amount of the tax; and if the tax is not received on or before the last day of the month following the due date, there ~~((shall be))~~ is assessed a total penalty of fifteen percent of the amount of the tax under this subsection; and if the tax is not received on or before the last day of the second month following the due date, there ~~((shall be))~~ is assessed a total penalty of twenty-five percent of the amount

of the tax under this subsection. No penalty so added shall be less than five dollars.

(2) If the department of revenue determines that any tax has been substantially underpaid, there ~~((shall be))~~ is assessed a penalty of five percent of the amount of the tax determined by the department to be due. If payment of any tax determined by the department to be due is not received by the department by the due date specified in the notice, or any extension thereof, there ~~((shall be))~~ is assessed a total penalty of fifteen percent of the amount of the tax under this subsection; and if payment of any tax determined by the department to be due is not received on or before the thirtieth day following the due date specified in the notice of tax due, or any extension thereof, there ~~((shall be))~~ is assessed a total penalty of twenty-five percent of the amount of the tax under this subsection. No penalty so added ~~((shall))~~ may be less than five dollars. As used in this section, "substantially underpaid" means that the taxpayer has paid less than eighty percent of the amount of tax determined by the department to be due for all of the types of taxes included in, and for the entire period of time covered by, the department's examination, and the amount of underpayment is at least one thousand dollars.

(3) If a warrant ~~((be))~~ is issued by the department ~~((of revenue))~~ for the collection of taxes, increases, and penalties, there ~~((shall be))~~ is added thereto a penalty of ten percent of the amount of the tax, but not less than ten dollars.

(4) If the department finds that a person has engaged in any business or performed any act upon which a tax is imposed under this title and that person has not obtained from the department a registration certificate as required by RCW 82.32.030, the department ~~((shall))~~ must impose a penalty of five percent of the amount of tax due from that person for the period that the person was not registered as required by RCW 82.32.030. The department ~~((shall))~~ may not impose the penalty under this subsection (4) if a person who has engaged in business taxable under this title without first having registered as required by RCW 82.32.030, prior to any notification by the department of the need to register, obtains a registration certificate from the department.

(5) If the department finds that all or any part of a deficiency resulted from the disregard of specific written instructions as to reporting or tax liabilities, the department ~~((shall))~~ must add a penalty of ten percent of the amount of the additional tax found due because of the failure to follow the instructions. A taxpayer disregards specific written instructions when the department ~~((of revenue))~~ has informed the taxpayer in writing of the taxpayer's tax obligations and the taxpayer fails to act in accordance with those instructions unless the department has not issued final instructions because the matter is under appeal pursuant to this chapter or departmental regulations. The department ~~((shall))~~ may not assess the penalty under this section upon any taxpayer who has made a good faith effort to comply with the specific written instructions provided by the department to that taxpayer. Specific written instructions may be given as a part of a tax assessment, audit, determination, or closing agreement, provided that such specific written instructions ~~((shall))~~ apply only to the taxpayer addressed or referenced on such documents. Any specific written instructions by the department ~~((of revenue shall))~~ must be clearly identified as such and ~~((shall))~~ must inform the taxpayer that failure to follow the instructions may subject the taxpayer to the penalties imposed by this subsection.

(6) If the department finds that all or any part of a deficiency resulted from engaging in a specified tax avoidance transaction, as described in section 201(2) of this act, the department must assess a penalty of thirty-five percent of the additional tax found to be due as a result of engaging in the specified tax avoidance transaction. The penalty provided in this subsection may be assessed together with any other applicable penalties provided in this section on the same

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tax found to be due, except for the evasion penalty provided in subsection (7) of this section. The department may not assess the penalty under this subsection if, before the department discovers the taxpayer's use of the specified tax avoidance transaction, the taxpayer discloses its participation in the transaction to the department.

~~(7)~~ (7) If the department finds that all or any part of the deficiency resulted from an intent to evade the tax payable (~~(hereunder)~~), a further penalty of fifty percent of the additional tax found to be due (~~(shall)~~) must be added.

~~((7))~~ (8) The penalties imposed under subsections (1) through (4) of this section can each be imposed on the same tax found to be due. This subsection does not prohibit or restrict the application of other penalties authorized by law.

~~((8))~~ (9) The department (~~(of revenue)~~) may not impose both the evasion penalty and the penalty for disregarding specific written instructions or the penalty provided in subsection (6) of this section on the same tax found to be due.

~~((9))~~ (10) For the purposes of this section, "return" means any document a person is required by the state of Washington to file to satisfy or establish a tax or fee obligation that is administered or collected by the department (~~(of revenue)~~), and that has a statutorily defined due date.

**NEW SECTION. Sec. 204.** (1) The legislature finds that this state's tax policy with respect to the taxation of transactions between affiliated entities and the income derived from such transactions (intercompany transactions) has motivated some taxpayers to engage in transactions designed solely or primarily to minimize the tax effects of intercompany transactions. The legislature further finds that some intercompany transactions result from taxpayers that are required to establish affiliated entities to comply with regulatory mandates and that transactions between such affiliates effectively increases the tax burden in this state on the affiliated group of entities. The legislature also finds that certain legal doctrines available in other jurisdictions may be beneficial in administering state excise taxes.

(2) Therefore, the department of revenue is directed to conduct a review of the state's tax policy with respect to the taxation of intercompany transactions. The review must include the impacts of such transactions under the state's business and occupation tax and state and local sales and use taxes. The department may include other taxes in the review as it deems appropriate. The department shall also study the necessity for and desirability of adopting certain interpretive and judicial doctrines in administering excise taxes.

(3) In conducting the review, the department must examine how this state's tax policy compares to the tax policy of other states with respect to the taxation of intercompany transactions and the use of certain interpretive doctrines. The department's review must include an analysis of potential alternatives to the current policy of taxing intercompany transactions, including their estimated revenue impacts if practicable.

(4) In conducting this review, the department must seek input from members of the business community and others as it deems appropriate.

(5) The department must report its findings to the fiscal committees of the house of representatives and senate by December 1, 2010. However, if the department has not completed its review by December 1, 2010, the department must provide the fiscal committees of the legislature with a brief status report by December 1, 2010, and the final report by December 1, 2011."

On page 111, beginning on line 14, strike everything through page 111, line 22.

Renumber the sections consecutively and correct any internal references accordingly.

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Senators Benton, Delvin, Honeyford, Pflug, Carrell and Roach spoke in favor of adoption of the amendment.

Senators Tom, Rockefeller and Murray spoke against adoption of the amendment.

POINT OF ORDER

Senator Roach: "I object."

REPLY BY THE PRESIDENT

President Owen: "I don't know what you're objecting to."

POINT OF ORDER

Senator Roach: "Because there was not one mention of any state employee and I'm being criticized for criticizing employees. I did not do that."

REPLY BY THE PRESIDENT

President Owen: "Senator Roach. Senator Roach. Continue (to previous speaker)."

The President declared the question before the Senate to be the adoption of the amendment by Senator Benton on page 15, line 1 to Substitute Senate Bill No. 6143.

The motion by Senator Benton failed and the amendment was not adopted by voice vote.

MOTION

Senator Stevens moved that the following amendment by Senator Stevens be adopted:

On page 31, line 3, after "(1)" strike "Prior to July 1, 2010, t" and insert "T"

Senators Stevens and Pflug spoke in favor of adoption of the amendment.

Senators Tom and Keiser spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Stevens on page 31, line 3 to Substitute Senate Bill No. 6143.

The motion by Senator Stevens failed and the amendment was not adopted by voice vote.

MOTION

Senator Benton moved that the following amendment by Senator Benton be adopted:

Beginning on page 61, after line 13, strike all of Part VI

Renumber the remaining parts and sections consecutively and correct any internal references accordingly.

On page 111, after line 27, strike all of section 2207

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 1, beginning on line 9 of the title, strike "82.45.010, 82.45.080,"

Senator Benton spoke in favor of adoption of the amendment. Senator Tom spoke against adoption of the amendment.

POINT OF ORDER

Senator Benton: "Mr. President."

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## REPLY BY THE PRESIDENT

President Owen: "Senator Benton, he did not insult you or--as far as I can tell. I think we're being a little sensitive about the remarks of people out here referencing as he did... Well, you may have and you can correct that when you close debate. That would be a better way of dealing with it I believe. Thank you, Senator Tom."

Senators Carrell, Pflug and Stevens spoke in favor of adoption of the amendment.

Senator Schoesler demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Benton on page 61, after line 13 to Substitute Senate Bill No. 6143.

## ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Benton and the amendment was adopted by the following vote: Yeas, 22; Nays, 26; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Hobbs, Holmquist, Honeyford, Kauffman, Kilmer, King, Marr, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

Excused: Senator McCaslin

## MOTION

On motion of Senator Eide, Rule 15 was suspended for the remainder of the day for the purpose of allowing continued floor action.

EDITOR'S NOTE: Senate Rule 15 establishes the floor schedule and calls for a lunch and dinner break of 90 minutes each per day during regular daily sessions.

## MOTION

Senator Hewitt moved that the following amendment by Senator Hewitt be adopted:

On page 66, beginning on line 27, after "(3)" strike all material through "liability" on line 32 and insert "Liability"

Senators Hewitt, Zarelli, Swecker, Carrell, Pflug, Schoesler, Benton and Roach spoke in favor of adoption of the amendment.

Senators Tom, Eide and Murray spoke against adoption of the amendment.

## POINT OF ORDER

Senator Brown: "The Senator used the words 'vindictive' and 'predatory' and I'm wondering to whom she is attributing the vindictiveness and the predatory nature because it is the rules of the Senate that members motives shall not be impugned. I believe it is verging on insulting people's character to talk about vindictiveness and predatory."

## REPLY BY THE PRESIDENT

President Owen: "Senator Roach, let her finish. Senator Roach."

## POINT OF ORDER

Senator Brown: "Mr. President, I believe the rules of the Senate indicate that we discuss policy. A piece of paper cannot be predatory. An individual or an animal can be predatory so I would just like to point out, once again, that the rules of decorum of the Senate indicate that we speak to policy and the pros and cons of policy. Not to motives or attributing character issues to individuals who may be makers of bills or who may be voting for bills."

## REPLY BY THE PRESIDENT

President Owen: "Senator Brown, you are correct. However those remarks and, let the President remind you and others that this seems to come from both sides. Alright. Now the remarks accordingly to the rules as the President reads them must be directed at a member or even if it's hidden directed at a member. In a more general state, I'm not convinced that the remarks were directed at a specific member or a specific member's motives. However, the President would once again remind members to be very careful about your remarks and that they are relative to the subject matter at hand and not pointed at any members."

## POINT OF ORDER

Senator Pflug: "Thank you Mr. President. You know, an objection may not be used to, to impugn either."

Senator Honeyford spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Hewitt on page 66, line 27 to Substitute Senate Bill No. 6143.

The motion by Senator Hewitt failed and the amendment was not adopted by voice vote.

## WITHDRAWAL OF AMENDMENT

On motion of Senator Parlette, the amendment by Senator Parlette on page 69, after line 17 to Substitute Senate Bill No. 6143 was withdrawn.

Senator Parlette spoke on the amendment.

## MOTION

Senator Carrell moved that the following amendment by Senator Carrell be adopted:

Beginning on page 82, after line 14, strike all of Part XIII

Renumber the remaining parts and sections consecutively and correct any internal references accordingly.

On page 1, line 10 of the title, after "82.14.230," strike "82.16.110,

Senators Carrell, Schoesler and Honeyford spoke in favor of adoption of the amendment.

Senator Rockefeller spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Carrell on page 82, after line 14 to Substitute Senate Bill No. 6143.

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The motion by Senator Carrell failed and the amendment was not adopted by voice vote.

MOTION

Senator Regala moved that the following amendment by Senators Regala and Zarelli be adopted:

On page 77, starting on line 1, strike all of sections 1201 and 1202.

Renumber the sections consecutively and correct any internal references accordingly.

On page 1, line 10 of the title, after "82.12.037," strike "82.12.010, 82.14.230,"

Senator Regala spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Regala and Zarelli on page 77, line 1 to Substitute Senate Bill No. 6143.

The motion by Senator Regala carried and the amendment was adopted by voice vote.

MOTION

Senator Carrell moved that the following amendment by Senator Carrell be adopted:

Beginning on page 84, line 1, strike all of part XIV.

Renumber the sections consecutively and correct any internal references accordingly.

On page 1, line 10 of the title, strike "82.08.890, 82.12.890"

Senators Carrell and Schoesler spoke in favor of adoption of the amendment.

Senator Tom spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Carrell on page 87, line 28 to Substitute Senate Bill No. 6143.

The motion by Senator Carrell failed and the amendment was not adopted by voice vote.

MOTION

Senator Brandland moved that the following amendment by Senators Brandland, Fraser and Swecker be adopted:

On page 87, beginning on line 28, strike everything through page, 88, line 4 and insert the following:

"**Sec. 1601.** RCW 82.08.811 and 1997 c 368 s 4 are each amended to read as follows:

(1) For the purposes of this section:

(a) "Air pollution control facilities" means any treatment works, control devices and disposal systems, machinery, equipment, structure, property, property improvements, and accessories, that are installed or acquired for the primary purpose of reducing, controlling, or disposing of industrial waste that, if released to the outdoor atmosphere, could cause air pollution, or that are required to meet regulatory requirements applicable to their construction, installation, or operation; and

(b) "Generation facility" means a coal-fired thermal electric generation facility placed in operation after December 3, 1969, and before July 1, 1975.

(2) Beginning January 1, 1999, the tax levied by RCW 82.08.020 does not apply to sales of coal used to generate electric power at a generation facility operated by a business if the following conditions are met:

(a) The owners must make an application to the department of revenue for a tax exemption;

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(b) The owners must make a demonstration to the department of ecology that the owners have made reasonable initial progress to install air pollution control facilities to meet applicable regulatory requirements established under state or federal law, including the Washington clean air act, chapter 70.94 RCW;

(c) Continued progress must be made on the development of air pollution control facilities to meet the requirements of the permit; and

(d) The generation facility must emit no more than ten thousand tons of sulfur dioxide during a previous consecutive twelve-month period.

(e) Beginning July 1, 2010, the owners must make an annual demonstration to the department of ecology that the owners are acting in good faith to make reasonable progress to decrease the use of coal or replace coal as a fuel for generating electricity in accordance with Section 1(d) of Executive Order 09-05.

(f) By July 1, 2012, the owners must have installed and operate controls specifically designed to reduce mercury emissions. The owners must report mercury emissions data to the department of ecology and the appropriate air pollution control authority on at least a quarterly basis. The mercury emissions data must be accessible to the public upon request.

(3) During a consecutive twelve-month period, if the generation facility is found to be in violation of excessive sulfur dioxide emissions from a regional air pollution control authority or the department of ecology, the department of ecology shall notify the department of revenue and the owners of the generation facility shall lose their tax exemption under this section. The owners of a generation facility may reapply for the tax exemption when they have once again met the conditions of subsection (2)(d) of this section.

(4) RCW 82.32.393 applies to this section.

(5) This section expires on January 1, 2025.

**Sec. 2302.** RCW 82.12.811 and 1997 c 368 s 6 are each amended to read as follows:

(1) For the purposes of this section:

(a) "Air pollution control facilities" means any treatment works, control devices and disposal systems, machinery, equipment, structure, property, property improvements, and accessories, that are installed or acquired for the primary purpose of reducing, controlling, or disposing of industrial waste that, if released to the outdoor atmosphere, could cause air pollution, or that are required to meet regulatory requirements applicable to their construction, installation, or operation; and

(b) "Generation facility" means a coal-fired thermal electric generation facility placed in operation after December 3, 1969, and before July 1, 1975.

(2) Beginning January 1, 1999, the provisions of this chapter do not apply in respect to the use of coal to generate electric power at a generation facility operated by a business if the following conditions are met:

(a) The owners must make an application to the department of revenue for a tax exemption;

(b) The owners must make a demonstration to the department of ecology that the owners have made reasonable initial progress to install air pollution control facilities to meet applicable regulatory requirements established under state or federal law, including the Washington clean air act, chapter 70.94 RCW;

(c) Continued progress must be made on the development of air pollution control facilities to meet the requirements of the permit; and

(d) The generation facility must emit no more than ten thousand tons of sulfur dioxide during a previous consecutive twelve-month period.

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(e) Beginning July 1, 2010, the owners must make an annual demonstration to the department of ecology that the owners are acting in good faith to make reasonable progress to decrease the use of coal or replace coal as a fuel for generating electricity in accordance with Section 1(d) of Executive Order 09-05.

(f) By July 1, 2012, the owners must have installed and operate controls specifically designed to reduce mercury emissions. The owners must report mercury emissions data to the department of ecology and the appropriate air pollution control authority on at least a quarterly basis. The mercury emissions data must be accessible to the public upon request.

(3) During a consecutive twelve-month period, if the generation facility is found to be in violation of excessive sulfur dioxide emissions from a regional air pollution control authority or the department of ecology, the department of ecology shall notify the department of revenue and the owners of the generation facility shall lose their tax exemption under this section. The owners of a generation facility may reapply for the tax exemption when they have once again met the conditions of subsection (2)(d) of this section.

(4) This section expires on January 1, 2025."

Re-number the sections consecutively and correct any internal references accordingly.

On page 1, line 13 of the title, after "67.28.181", insert "82.08.811, 82.12.811"

Senators Brandland, Swecker, King, Sheldon and Benton, spoke in favor of adoption of the amendment.

Senators Gordon, Franklin and Brown spoke against adoption of the amendment.

REMARKS BY SENATOR HEWITT

Senator Hewitt: "Thank you Mr. President. Well, I would ask all the members that we not direct comments to each other and we keep the debate to the policy. I ask that to both sides of the aisle today. Thank you Mr. President."

Senators Pflug, Schoesler, Zarelli, Carrell, Honeyford and Stevens spoke in favor of adoption of the amendment.

Senators Rockefeller, Marr, Regala and McDermott spoke against adoption of the amendment.

Senator Schoesler demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

POINT OF ORDER

Senator Schoesler: "Thank you Mr. President. You have suggested earlier to the body that we contain our remarks. Only recently the Minority Leader asked, not interrupting suggesting that we keep our remarks in tone. Talking about McCarthyism I think is taking this in a direction the President has asked us not to go and I would ask the gentleman from the Thirty-Seventh District to stay on the subject as you've requested."

REPLY BY THE PRESIDENT

President Owen: "Senator Schoesler, I have no idea where he was going with that remark until he makes the remark. And I think that would have been appropriate but you might take this as a warning of where we might go, should you drift, Senator Kline."

Senator Kline spoke against the adoption of the amendment.

PERSONAL PRIVILEGE

Senator Franklin: "Mr. President, I'm getting a headache. Could we continue and try to get this business over with?"

MOTION

On motion of Senator Hatfield, Senator Shin was excused.

The President declared the question before the Senate to be the adoption of the amendment by Senators Brandland, Fraser and Swecker on page 87, line 28 to Substitute Senate Bill No. 6143.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senators Brandland, Fraser and Swecker and the amendment was not adopted by the following vote: Yeas, 20; Nays, 26; Absent, 1; Excused, 2.

Voting yea: Senators Becker, Benton, Brandland, Carrell, Delvin, Fraser, Hewitt, Holmquist, Honeyford, King, Morton, Parlette, Pflug, Pridemore, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Gordon, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Ranker, Regala, Rockefeller and Tom

Absent: Senator Hargrove

Excused: Senators McCaslin and Shin

MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford be adopted:

Beginning on page 88, after line 4, strike all of Part XVII Re-number the remaining parts and sections consecutively and correct any internal references accordingly.

On page 1, line 11 of the title, after "54.28.011," strike "82.08.962, 82.12.962,"

Senators Honeyford and Carrell spoke in favor of adoption of the amendment.

Senator Rockefeller spoke against adoption of the amendment.

Senator Schoesler demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 88, after line 4 to Substitute Senate Bill No. 6143.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Honeyford and the amendment was not adopted by the following vote: Yeas, 23; Nays, 24; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Brandland, Carrell, Delvin, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Kilmer, King, Morton, Parlette, Pflug, Pridemore, Ranker, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Haugen, Jacobsen, Kastama,

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Kauffman, Keiser, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Regala, Rockefeller and Tom

Excused: Senators McCaslin and Shin

## MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford be adopted:

Beginning on page 93, after line 31, strike all of Part XVIII

Renumber the remaining parts and sections consecutively and correct any internal references accordingly.

On page 1, line 18 of the title, after "82.08.811," strike all material through "82.04.394" and insert "and 82.12.811"

Senator Honeyford spoke in favor of adoption of the amendment.

Senators Tom and Marr spoke against adoption of the amendment.

Senator Schoesler demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 93, after line 31 to Substitute Senate Bill No. 6143.

## ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Honeyford and the amendment was adopted by the following vote: Yeas, 23; Nays, 24; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Brandland, Carrell, Delvin, Gordon, Hewitt, Hobbs, Holmquist, Honeyford, Kilmer, King, Marr, Morton, Parlette, Pflug, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Jacobsen, Kastama, Kauffman, Keiser, Kline, Kohl-Welles, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala and Tom

Excused: Senators McCaslin and Shin

## MOTION

Senator Zarelli moved that the following amendment by Senators Zarelli, Carrell and Schoesler be adopted:

On page 93, after line 36, insert the following:

"**Sec. 1802.** RCW 82.04.394 and 1998 c 338 s 2 are each amended to read as follows:

(1) This chapter does not apply to amounts received by a property management company from the owner of a property for gross wages and benefits paid directly to or on behalf of on-site personnel from property management trust accounts that are required to be maintained under RCW (~~(18.85.310)~~) 18.85.285.

(2) As used in this section, "on-site personnel" means a person who meets all of the following conditions: (a) The person works primarily at the owner's property; (b) the person's duties include leasing property units, maintaining the property, collecting rents, or similar activities; and (c) under a written property management agreement: (i) The person's compensation is the ultimate obligation of the property owner and not the property manager; (ii) the property manager is liable for payment only as agent of the owner; and (iii) the property manager is the agent of the owner with respect to the on-site personnel and that all actions, including, but not limited to, hiring, firing, compensation, and conditions of

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employment, taken by the property manager with respect to the on-site personnel are subject to the approval of the property owner.

On page 112, line 5, after "406," insert "1802,"

On page 112, after line 18, insert the following:

"**NEW SECTION. Sec. 2214.** Section 1802 of this act takes effect June 1, 2015."

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 1, line 11 of the title, after "82.12.962," insert "82.04.394"

Senators Zarelli and King spoke in favor of adoption of the amendment.

Senator Tom spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Zarelli, Carrel and Schoesler on page 93, after line 36 to Substitute Senate Bill No. 6143.

The motion by Senator Zarelli failed and the amendment was not adopted by a rising vote.

## MOTION

Senator Carrell moved that the following amendment by Senator Carrell be adopted:

Beginning on page 94, line 1, strike all of Part XIX

Renumber the remaining parts and sections consecutively and correct any internal references accordingly.

On page 1, line 11 of the title, after "82.12.962," strike "82.08.0293, 82.12.0293,"

On page 1, beginning on line 16 of the title, after "chapter 82.32 RCW;" strike all material through "82.12 RCW;" on line 17

Senators Carrell and King spoke in favor of adoption of the amendment.

Senator Tom spoke against adoption of the amendment.

## POINT OF INQUIRY

Senator Honeyford: "Would Senator Tom yield to a question? Definition of bottled water. Is it defined? and so is that also include five gallon containers that we use in our water dispensers throughout the Capitol and all the government buildings?"

Senator Tom: "Thank you Senator from the Fifteenth. It is my understanding that it does include that. I do believe that there is an exemption in here for people who do not have potable water so we have that taken into consideration."

Senators Benton and Honeyford spoke in favor of adoption of the amendment.

Senator Keiser spoke against adoption of the amendment.

## POINT OF INQUIRY

Senator Delvin: "Would Senator Tom yield to a question?"

Senator Tom: "No."

The President declared the question before the Senate to be the adoption of the amendment by Senator Carrell on page 94, line 1 to Substitute Senate Bill No. 6143.

The motion by Senator Carrell failed and the amendment was not adopted by a rising vote.

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## MOTION

Senators Zarelli and Pflug spoke against adoption of the amendment.

Senator Haugen moved that the following amendment by Senator Haugen be adopted:

On page 98, after line 14, insert the following:

**NEW SECTION. Sec. 1.** A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax levied by RCW 82.08.020 shall not apply to sales of bottled water for human use to persons who do not otherwise have a readily available source of potable water and who provide the seller with an exemption certificate in a form and manner prescribed by the department. The seller shall retain a copy of the certificate for the seller's files.

(2) The department may waive the requirement for an exemption certificate in the event of disaster or similar circumstance.

**NEW SECTION. Sec. 2.** A new section is added to chapter 82.12 RCW to read as follows:

The provisions of this chapter shall not apply in respect to the use of bottled water for human use by persons who do not otherwise have a readily available source of potable water."

Renumber the sections consecutively and correct any internal references accordingly.

On page 1, line 16 of the title, strike "adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW", insert "adding new sections to chapter 82.08; adding new sections to chapter 82.12 RCW"

Senators Haugen and Honeyford spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Haugen on page 98, after line 14 to Substitute Senate Bill No. 6143.

The motion by Senator Haugen carried and the amendment was adopted by voice vote.

## MOTION

Senator Becker moved that the following amendment by Senator Becker be adopted:

Beginning on page 98, after line 14, strike all of Part XX

Renumber the remaining parts and sections consecutively and correct any internal references accordingly.

On page 1, at the beginning of line 12 of the title, strike "82.04.4451, 82.32.045,"

Senators Becker, Carrell, Zarelli, Parlette, King, Holmquist, Pflug and Sheldon spoke in favor of adoption of the amendment.

Senators Tom, Hargrove and Gordon spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Becker on page 98, after line 14 to Substitute Senate Bill No. 6143.

The motion by Senator Becker failed and the amendment was not adopted by a rising vote.

## MOTION

Senator Ranker moved that the following amendment by Senators Ranker and Brandland be adopted:

On page 98, line 23, strike "82.04.255"

Renumber the sections consecutively and correct any internal references accordingly.

Senator Ranker spoke in favor of adoption of the amendment.

## POINT OF INQUIRY

Senator Sheldon: "Would Senator Ranker yield to a question? The amendment you've offered I see the effect section here. It says, 'eliminates real estate brokers from the increase B & O tax. Does this amendment eliminate real estate agents from the tax?'"

Senator Ranker: "Yes, actually, I got a clarification on that this morning. I had the same question when I saw the intent language or the effect language. My understanding is that agents are under brokers. It is an umbrella the way the commission works and it splits between the two and the RCW which is 82.04.255, specifically goes into detail there. So my understanding from our Ways & Means staff is yes, in fact it does. This would voting in favor of this amendment would remove brokers and agents from the B & O tax."

The President declared the question before the Senate to be the adoption of the amendment by Senators Ranker and Brandland on page 98, line 23 to Substitute Senate Bill No. 6143.

The motion by Senator Ranker failed and the amendment was not adopted by voice vote.

## MOTION

Senator Franklin moved that the following amendment by Senators Franklin and Kastama be adopted:

On page 98, beginning on line 29, strike "the additional tax rate under section 2001 of this act" and insert "tax under RCW's 82.04.290(2)(a), 82.04.255, and 82.04.285"

On page 98, beginning on line 32, strike "subject to the additional tax rate under section 2001 of this act" and insert "subject to the tax under RCW's 82.04.290(2)(a), 82.04.255, and 82.04.285"

On page 100, beginning on line 4, strike "additional rate under section 2001 of this act," and insert "tax under RCW's 82.04.290(2)(a), 82.04.255, and 82.04.285"

Renumber the sections consecutively and correct any internal references accordingly.

Senator Franklin spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Franklin and Kastama on page 98, line 29 to Substitute Senate Bill No. 6143.

The motion by Senator Franklin carried and the amendment was adopted by voice vote.

## MOTION

Senator Holmquist moved that the following amendment by Senator Holmquist be adopted:

Beginning on page 100, after line 12, strike all of Part XXI

Renumber the remaining parts and sections consecutively and correct any internal references accordingly.

On page 112, line 5, after "406," strike "2103,"

On page 112, after line 18, strike all of sections 2214 and 2215

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 1, beginning on line 12 of the title, after "82.04.4451," strike all material through "82.14.410" on line 13 and insert "and 82.32.045"

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On page 1, line 14 of the title, after "82.04.440," strike all material through "82.08.064" and insert "and 82.04.360"

On page 1, beginning on line 18 of the title, after "82.04.394;" strike "making an appropriation;"

Senators Holmquist, Schoesler and Benton spoke in favor of adoption of the amendment.

Senators Brown, Murray and Hargrove spoke against adoption of the amendment.

Senator Delvin spoke on adoption of the amendment.

Senator Pflug spoke in favor of adoption of the amendment.

#### POINT OF ORDER

Senator Eide: "I guess I'm confused, I'm confused Mr. President. I thought we were talking about an amendment. We're not talking about the overall bill that's before us. I guess I'm confused."

#### REPLY BY THE PRESIDENT

President Owen: "Senator Eide is correct and members have been swaying way away from the amendment but until a person makes a point of order that's what going to happen. She's made the point of order, please talk to the amendment."

Senator McAuliffe spoke against adoption of the amendment.

Senator Carrell spoke in favor of adoption of the amendment.

#### POINT OF ORDER

Senator Eide: "We are not discussing 960. We are discussing the revenue before us."

#### REPLY BY THE PRESIDENT

President Owen: "Senator Carrell, she is correct. You are to speak to the amendment."

#### REMARKS BY SENATOR CARRELL

Senator Carrell: "I understand, but I'm trying, Mr. President, to help this body understand the frustration that the people in my district are feeling about the actions being taken here today. I'm not impugning anybody's motives, I don't see why this is a problem."

#### REPLY BY THE PRESIDENT

President Owen: "Well, Senator, the rule requires that you speak to the merits and demerits of the amendment itself."

Senator Keiser spoke against adoption of the amendment.

Senators Roach, Sheldon and Honeyford spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Holmquist on page 100, after line 12 to Substitute Senate Bill No. 6143.

The motion by Senator Holmquist failed and the amendment was not adopted by voice vote.

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Brown, the amendment by Senator Shin on page 101, line 15 to Substitute Senate Bill No. 6143 was withdrawn.

#### MOTION

Senator Zarelli moved that the following amendment by Senator Zarelli be adopted:

On page 102, line 26, after "price.", insert "During any period in which the tax in this subsection (5) is imposed beyond June 30, 2013, no member of the legislature shall receive any allowances for expenses under Title 44 RCW, including per diem expenses and quarterly expense allowances."

On page 102, after line 36, insert the following:

"**Sec. 2104.** RCW 44.04.120 and 2009 c 549 s 6002 are each amended to read as follows:

Except as provided in RCW 82.08.020(5), each member of the senate or house of representatives when serving on official legislative business shall be entitled to receive, in lieu of per diem or any other payment, for each day or major portion thereof in which he or she is actually engaged in legislative business or business of the committee, commission, or council, notwithstanding any laws to the contrary, an allowance in an amount fixed by the secretary of the senate and chief clerk of the house, respectively, in accordance with applicable rules and resolutions of each body. Such allowance shall be reasonably calculated to reimburse expenses, exclusive of mileage, which are ordinary and necessary in the conduct of legislative business, recognizing cost variances which are encountered in different locales. The allowance authorized shall not exceed the greater of forty-four dollars per day or the maximum daily amount determined under RCW 43.03.050, as now or hereafter amended. In addition, a mileage allowance shall be paid at the rate per mile provided for in RCW 43.03.060, as now or hereafter amended, when authorized by the house, committee, commission, or council of which he or she is a member and on the business of which he or she is engaged."

Renumber the sections consecutively and correct internal references accordingly.

On page 1, line 12 of the title, after "82.08.020," insert "44.04.120,"

Senators Zarelli and Tom spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Zarelli on page 102, line 26 to Substitute Senate Bill No. 6143.

The motion by Senator Zarelli carried and the amendment was adopted by voice vote.

#### MOTION

Senator Brown moved that the following amendment by Senators Brown and Zarelli be adopted:

On page 103, line 1, strike all of section 2104.

On page 106, line 14, strike all of section 2107.

Renumber the sections consecutively and correct any internal references accordingly.

On page 1, line 12 of the title, after "82.08.0206,", strike "43.135.035,"

Senators Brown and Zarelli spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Brown and Zarelli on page 103, line 1 to Substitute Senate Bill No. 6143.

The motion by Senator Brown carried and the amendment was adopted by voice vote.

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MOTION

Senator Holmquist moved that the following amendment by Senators Holmquist and Benton be adopted:

On page 112, beginning on line 1, strike all material through line 9.

Renumber the sections consecutively and correct any internal references accordingly.

On page 113, after line 6, insert the following:

**"NEW SECTION. Sec. 2219.** The secretary of state shall submit this act to the people for their adoption and ratification, or rejection, at the next general election to be held in this state, in accordance with Article II, section 1 of the state Constitution and the laws adopted to facilitate its operation."

On page 1, line 20 of the title, after "and", strike the remainder of the title and insert "providing for submission of this act to a vote of the people."

Senator Holmquist spoke in favor of adoption of the amendment.

POINT OF ORDER

Senator Eide: "I believe that we are discussing an amendment before us not polls and 960 again. I don't even know what she's talking about I guess."

REPLY BY THE PRESIDENT

President Owen: "Senator Eide, the President believes that her remarks are appropriate in the fact that both of them are a ballot issue placing these revenues on the ballot. Senator Holmquist please continue."

Senator Benton spoke in favor of adoption of the amendment.

Senators Tom and Jacobsen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Holmquist and Benton on page 112, line 1 to Substitute Senate Bill No. 6143.

The motion by Senator Holmquist failed and the amendment was not adopted by a rising vote.

MOTION

Senator Carrell moved that the following amendment by Senator Carrell be adopted:

0)On page 112, line 5, after "406," insert "1901, 1902, 1903, 1904,"

On page 112, after line 24, insert the following:

**"NEW SECTION. Sec. 2217.** Sections 1901, 1902, 1903, and 1904 take effect at such time the national streamline sales tax agreement is amended to allow for the sales tax to apply to bottled water."

Renumber the remaining sections consecutively and correct any internal references accordingly.

WITHDRAWAL OF AMENDMENT

On motion of Senator Carrell, the amendment by Senator Carrell on page 112, line 5 to Substitute Senate Bill No. 6143 was withdrawn.

MOTION

Senator Hatfield moved that the following amendment by Senator Hatfield be adopted:

On page 112, on line 24, strike "2015" and insert "2013"  
Renumber the sections consecutively and correct any internal references accordingly.

Senator Hatfield spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Hatfield on page 112, line 24 to Substitute Senate Bill No. 6143.

The motion by Senator Hatfield carried and the amendment was adopted by voice vote.

MOTION

Senator Brown moved that the following striking amendment by Senator Shin be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that the economic crisis has impacted the many Washington families which do not earn enough annually to keep pace with increasing health care, child care, and work-related expenses. The legislature further finds that revenues are insufficient to maintain necessary funding for education, public safety, health care, and safety net services for elderly, disabled, and vulnerable people during the unprecedented economic crisis in the 2009-2011 fiscal biennium. Therefore, it is the intent of the legislature to provide a means to stabilize revenue collections by imposing a temporary sales and use tax. It is also the legislature's intent to provide relief to lower-income working families in Washington in the form of a sales and use tax exemption.

**Sec. 2.** RCW 82.08.020 and 2009 c 469 s 802 are each amended to read as follows:

(1) There is levied and ~~((there shall be))~~ collected a tax on each retail sale in this state equal to six and five-tenths percent of the selling price.

(2) There is levied and ~~((there shall be))~~ collected an additional tax on each retail car rental, regardless of whether the vehicle is licensed in this state, equal to five and nine-tenths percent of the selling price. The revenue collected under this subsection ~~((shall))~~ **must** be deposited in the multimodal transportation account created in RCW 47.66.070.

(3) Beginning July 1, 2003, there is levied and collected an additional tax of three-tenths of one percent of the selling price on each retail sale of a motor vehicle in this state, other than retail car rentals taxed under subsection (2) of this section. The revenue collected under this subsection ~~((shall))~~ **must** be deposited in the multimodal transportation account created in RCW 47.66.070.

(4) For purposes of subsection (3) of this section, "motor vehicle" has the meaning provided in RCW 46.04.320, but does not include farm tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181, off-road and nonhighway vehicles as defined in RCW 46.09.020, and snowmobiles as defined in RCW 46.10.010.

(5)(a) From June 1, 2010, until June 30, 2013, in addition to the tax imposed upon each retail sale in this state set forth in subsection (1) of this section, there is imposed a tax in an amount equal to one percent of the selling price.

(b)(i) When the state's unemployment rate decreases to six and five-tenths percent for four continuous months, the rate of one percent in this subsection (5) must be reduced to one-half of one percent.

(ii) When the state's unemployment rate decreases to five percent for four continuous months, no additional tax may be imposed under this subsection (5).

(6) Beginning on December 8, 2005, 0.16 percent of the taxes collected under subsection (1) of this section ~~((shall))~~ **must** be

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dedicated to funding comprehensive performance audits required under RCW 43.09.470. The revenue identified in this subsection ~~((shall))~~ must be deposited in the performance audits of government account created in RCW 43.09.475.

~~((6))~~ (7) The taxes imposed under this chapter ~~((shall))~~ apply to successive retail sales of the same property.

~~((7))~~ (8)(a) Until January 1, 2011, the tax imposed in subsection (3) of this section and the dedication of revenue provided for in subsection ~~((5))~~ (6) of this section ~~((;))~~ do not apply with respect to the sales of new passenger cars, light duty trucks, and medium duty passenger vehicles, which utilize hybrid technology and have a United States environmental protection agency estimated highway gasoline mileage rating of at least forty miles per gallon.

(b) As used in this subsection, "hybrid technology" means propulsion units powered by both electricity and gasoline.

~~((8))~~ (9) The rates provided in this section apply to taxes imposed under chapter 82.12 RCW as provided in RCW 82.12.020.

**Sec. 3.** RCW 82.08.020 and 2006 c 1 s 3 are each amended to read as follows:

(1) There is levied and ~~((there shall be))~~ collected a tax on each retail sale in this state equal to six and five-tenths percent of the selling price.

(2) There is levied and ~~((there shall be))~~ collected an additional tax on each retail car rental, regardless of whether the vehicle is licensed in this state, equal to five and nine-tenths percent of the selling price. The revenue collected under this subsection ~~((shall))~~ must be deposited in the multimodal transportation account created in RCW 47.66.070.

(3) Beginning July 1, 2003, there is levied and collected an additional tax of three-tenths of one percent of the selling price on each retail sale of a motor vehicle in this state, other than retail car rentals taxed under subsection (2) of this section. The revenue collected under this subsection ~~((shall))~~ must be deposited in the multimodal transportation account created in RCW 47.66.070.

(4) For purposes of subsection (3) of this section, "motor vehicle" has the meaning provided in RCW 46.04.320, but does not include farm tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181, off-road and nonhighway vehicles as defined in RCW 46.09.020, and snowmobiles as defined in RCW 46.10.010.

(5)(a) From June 1, 2010, until June 30, 2013, in addition to the tax imposed upon each retail sale in this state set forth in subsection (1) of this section, there is imposed a tax in an amount equal to one percent of the selling price.

(b)(i) When the state's unemployment rate decreases to six and five-tenths percent for four continuous months, the rate of one percent in this subsection (5) must be reduced to one-half of one percent.

(ii) When the state's unemployment rate decreases to five percent for four continuous months, no additional tax may be imposed under this subsection (5).

(6) Beginning on December 8, 2005, 0.16 percent of the taxes collected under subsection (1) of this section ~~((shall))~~ must be dedicated to funding comprehensive performance audits required under RCW 43.09.470. The revenue identified in this subsection ~~((shall))~~ must be deposited in the performance audits of government account created in RCW 43.09.475.

~~((6))~~ (7) The taxes imposed under this chapter ~~((shall))~~ apply to successive retail sales of the same property.

~~((7))~~ (8) The rates provided in this section apply to taxes imposed under chapter 82.12 RCW as provided in RCW 82.12.020.

**Sec. 4.** RCW 82.08.0206 and 2008 c 325 s 2 are each amended to read as follows:

(1) A working families' tax exemption, in the form of a remittance tax due under this chapter and chapter 82.12 RCW, is

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provided to eligible low-income persons for sales taxes paid under this chapter after ~~((January 1, 2008))~~ June 1, 2010.

(2) For purposes of the exemption in this section, an eligible low-income person is:

(a) An individual, or an individual and that individual's spouse if they file a federal joint income tax return;

(b) ~~((An individual who))~~ An individual who is eligible for, and is granted, the credit provided in ~~((Title))~~ 26 U.S.C. Sec. 32 of the federal internal revenue code; and

(c) ~~((An individual who))~~ An individual who properly files a federal income tax return as a Washington resident, and has been a resident of the state of Washington more than one hundred eighty days of the year for which the exemption is claimed.

(3)(a) For remittances made in ~~((2009 and 2010))~~ 2011, the working families' tax exemption for the prior year is a retail sales tax exemption equal to the greater of twenty-five dollars or five percent of the credit granted as a result of ~~((Title))~~ 26 U.S.C. Sec. 32 of the federal internal revenue code in the most recent year for which data is available ~~((or twenty-five dollars)), adjusted by a proportionate amount reflecting the seven months of increased tax imposed in sections 2 and 3 of this act in calendar year 2010.~~

(b) For remittances made in 2012, the working families' tax exemption for the prior year is a retail sales tax exemption equal to the greater of five percent of the credit granted as a result of 26 U.S.C. Sec. 32 of the federal internal revenue code in the most recent year for which data is available or twenty-five dollars.

(c) For ~~((2011))~~ 2013 and thereafter, the working families' tax exemption for the prior year is equal to the greater of ten percent of the credit granted as a result of ~~((Title))~~ 26 U.S.C. Sec. 32 of the federal internal revenue code in the most recent year for which data is available or fifty dollars.

(4) For any fiscal period, the working families' tax exemption authorized under this section ~~((shall))~~ must be approved by the legislature in the state omnibus appropriations act before persons may claim the exemption during the fiscal period.

(5) The working families' tax exemption ~~((shall))~~ must be administered as provided in this subsection.

(a) An eligible low-income person claiming an exemption under this section must pay the tax imposed under chapters 82.08, 82.12, and 82.14 RCW in the year for which the exemption is claimed. The eligible low-income person may then apply to the department for the remittance as calculated under subsection (3) of this section.

(b) Application ~~((shall))~~ must be made to the department in a form and manner determined by the department, ~~((but the))~~ except for the following:

(i) The department must provide alternative filing methods for applicants who do not have access to electronic filing; and

(ii) The department must allow joint filing for exemptions claimed under this section in 2012 and thereafter with the federal joint income tax return.

(c) Application for the exemption remittance under this section must be made in the year following the year for which the federal return was filed, but in no case may any remittance be provided for any period before ~~((January 1, 2008))~~ June 1, 2010. The department may use the best available data to process the exemption remittance. The department ~~((shall))~~ must begin accepting applications ~~((October 1, 2009))~~ January 1, 2011.

(d) The department ~~((shall))~~ must review the application and determine eligibility for the working families' tax exemption based on information provided by the applicant and through audit and other administrative records, including, when it deems it necessary, verification through internal revenue service data.

(e) The department ~~((shall))~~ must remit the exempted amounts to eligible low-income persons who submitted applications.

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Remittances may be made by electronic funds transfer or other means.

(f) The department may, in conjunction with other agencies or organizations, design and implement a public information campaign to inform potentially eligible persons of the existence of and requirements for this exemption.

(g) The department may contact persons who appear to be eligible low-income persons as a result of information received from the internal revenue service under such conditions and requirements as the internal revenue service may by law require.

(6) The provisions of chapter 82.32 RCW apply to the exemption in this section.

(7) The department may adopt rules necessary to implement this section.

(8) For the remittances provided in fiscal year 2015 and thereafter, the department ((shall)) must limit its ongoing costs ((for)) to administer the exemption program to ((the initial start up costs to implement the program. The state omnibus appropriations act shall specify funding to be used for the ongoing administrative costs of the program. These ongoing administrative costs include, but are not limited to, costs for: The processing of internet and mail applications, verification of application claims, compliance and collections, additional full-time employees at the department's call center, processing warrants, updating printed materials and web information, media advertising, and support and maintenance of computer systems)) no more than five percent of the total exemptions provided each year.

**Sec. 5.** RCW 82.08.064 and 2003 c 361 s 304 and 2003 c 168 s 205 are each reenacted and amended to read as follows:

(1) A sales and use tax rate change under this chapter or chapter 82.12 RCW shall be imposed (a) no sooner than seventy-five days after its enactment into law and (b) only on the first day of January, April, July, or October.

(2) Subsection (1) of this section does not apply to the tax rate change in section 301, chapter 361, Laws of 2003 or to the tax rate changes in sections 2 and 3 of this act.

(3)(a) A sales and use tax rate increase under this chapter or chapter 82.12 RCW imposed on services applies to the first billing period starting on or after the effective date of the increase.

(b) A sales and use tax rate decrease under this chapter or chapter 82.12 RCW imposed on services applies to bills rendered on or after the effective date of the decrease.

(c) For the purposes of this subsection (3), "services" means retail services such as installing and constructing and retail services such as telecommunications, but does not include services such as tattooing.

NEW SECTION. **Sec. 6.** Section 2 of this act expires January 1, 2011.

NEW SECTION. **Sec. 7.** Section 3 of this act takes effect January 1, 2011.

NEW SECTION. **Sec. 8.** Except for section 3 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 1, 2010."

Renumber the sections consecutively and correct any internal references accordingly.

On page 1, line 4 of the title, after "amending RCW", strike through page 1 line 20 "declaring an emergency.", and insert "82.08.020, 82.08.020, 82.08.0206; reenacting and amending 82.08.064; creating a new section; providing effective dates; providing an expiration date; and declaring an emergency."

Senator Brown spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Shin to Engrossed Substitute Senate Bill No. 6143.

The motion by Senator Brown failed and the striking amendment was not adopted by voice vote.

MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute Senate Bill No. 6143 was deferred and the bill held its place on the days calendar.

MOTION

At 3:50 p.m., on motion of Senator McDermott, the Senate adjourned until 12:00 noon, Sunday, March 7, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

FIFTY SIXTH DAY

NOON SESSION

Senate Chamber, Olympia, Sunday, March 7, 2010

The Senate was called to order at 12:00 noon, by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Holmquist, McCaslin and Pflug.

The Sergeant at Arms Color Guard consisting of Senate Interns Victor Kim and Sheryl McCrary, presented the Colors. Senator Shin offered the prayer.

MOTION

On motion of Senator Eide the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

March 5, 2010

SB 6578 Prime Sponsor, Senator Swecker: Creating an optional multiagency permitting team. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 6578 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, the measure listed on the Standing Committee report was referred to the committee as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

March 6, 2010

MR. PRESIDENT:  
The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

- ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1149,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1317,
- ENGROSSED SUBSTITUTE HOUSE BILL 1714,

ENGROSSED SUBSTITUTE HOUSE BILL 1956,  
SECOND SUBSTITUTE HOUSE BILL 2016,  
HOUSE BILL 2460,  
SUBSTITUTE HOUSE BILL 2466,  
SECOND SUBSTITUTE HOUSE BILL 2481.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 6, 2010

MR. PRESIDENT:  
The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

- SUBSTITUTE HOUSE BILL 1679,
  - SUBSTITUTE HOUSE BILL 2533,
  - SECOND SUBSTITUTE HOUSE BILL 2603,
  - ENGROSSED SUBSTITUTE HOUSE BILL 2747,
  - SUBSTITUTE HOUSE BILL 2775,
  - SUBSTITUTE HOUSE BILL 2801,
  - ENGROSSED HOUSE BILL 2805,
  - ENGROSSED SUBSTITUTE HOUSE BILL 3040.
- and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 6, 2010

MR. PRESIDENT:  
The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

- HOUSE BILL 1966,
  - SUBSTITUTE HOUSE BILL 2402,
  - SUBSTITUTE HOUSE BILL 2420,
  - ENGROSSED SUBSTITUTE HOUSE BILL 2464,
  - SUBSTITUTE HOUSE BILL 2503,
  - ENGROSSED SUBSTITUTE HOUSE BILL 2538,
  - SUBSTITUTE HOUSE BILL 2657,
  - HOUSE BILL 2734.
- and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 6, 2010

MR. PRESIDENT:  
The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

- SUBSTITUTE HOUSE BILL 2527,
- SUBSTITUTE HOUSE BILL 2533,
- ENGROSSED SUBSTITUTE HOUSE BILL 2541,
- SECOND SUBSTITUTE HOUSE BILL 2551,
- SUBSTITUTE HOUSE BILL 2593,
- SECOND SUBSTITUTE HOUSE BILL 2603,
- HOUSE BILL 2621,
- SUBSTITUTE HOUSE BILL 2686,
- ENGROSSED SUBSTITUTE HOUSE BILL 2747,
- ENGROSSED SUBSTITUTE HOUSE BILL 2752,

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ENGROSSED SUBSTITUTE HOUSE BILL 2777,  
 SUBSTITUTE HOUSE BILL 2841,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2986,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
 3141.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

ESHB 3209 by House Committee on Transportation (originally sponsored by Representatives Clibborn, Rolfes, Seaquist and Morris)

AN ACT Relating to managing costs of the ferry system; amending RCW 47.60.355, 47.60.365, 47.60.375, 47.60.385, 47.28.030, 47.64.120, 47.64.170, 47.64.200, 47.64.270, 47.64.280, 47.64.320, and 41.80.020; amending 2010 c . . . (ESSB 6381) ss 222 and 306 (uncodified); adding new sections to chapter 47.60 RCW; creating new sections; repealing RCW 47.61.010, 47.61.020, 47.61.030, 47.61.040, 47.61.050, 47.61.060, 47.61.070, 47.61.080, 47.61.090, 47.61.100, 47.61.110, 47.60.395, 47.60.649, 47.60.652, 47.60.654, 47.60.658, 47.60.770, 47.60.772, 47.60.774, 47.60.776, 47.60.778, 47.60.780, and 47.64.220; providing contingent effective dates; providing expiration dates; and declaring an emergency.

MOTION

On motion of Senator Eide, under suspension of the rules Engrossed Substitute House Bill No. 3209 was placed on the second reading calendar.

MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

MOTION

Senator Hewitt moved adoption of the following resolution:

SENATE RESOLUTION  
 8713

By Senators Hewitt, King, Schoesler, Holmquist, and Honeyford

WHEREAS, Pacific Power & Light, known today as Pacific Power, was incorporated June 16, 1910, with the combination of small utilities in four Northwest communities, including Walla Walla and Yakima, Washington; and

WHEREAS, Pacific Power celebrates its centennial anniversary of serving the Pacific Northwest in 2010; and

WHEREAS, Pacific Power employs more than 200 full-time employees with family wage jobs in the State of Washington; and

WHEREAS, Pacific Power provides reliable electric service to more than 120,000 Washington customers in Walla Walla, Yakima,

Dayton, Waitsburg, Pomeroy, Prescott, Sunnyside, College Place, Mabton, Wapato, and Naches; and

WHEREAS, Pacific Power owns more than 800 megawatts of clean, renewable wind and hydroelectric generation facilities in the State of Washington; and

WHEREAS, Pacific Power, together with its parent company, MidAmerican Energy Holdings Company, is the largest utility owner of wind generation in the country; and

WHEREAS, Pacific Power is the provider of the nationally acclaimed Blue Sky renewable program for customers, named Green Power Program of the Year in 2007 by the U.S. Environmental Protection Agency and the U.S. Department of Energy; and

WHEREAS, The company's philanthropic arm, the Pacific Power Foundation, has provided more than 2.3 million dollars in grants to Washington organizations and communities since 1989; and

WHEREAS, Pacific Power and its employees have a strong history of community involvement, including support and leadership of numerous civic and economic development organizations; and

WHEREAS, Pacific Power was the first utility in the nation to offer its customers zero-interest loans to finance residential weatherization improvements, and continues to offer energy efficiency programs for its residential and commercial customers; and

WHEREAS, Pacific Power's strong commitment to economic development has led to the recruitment of new businesses to the state, and support that has helped existing businesses to expand and operate more efficiently;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate hereby acknowledge and honor Pacific Power, in celebration of its 100th year in operation; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Pacific Power's field offices in Walla Walla and Yakima, Washington, and to its corporate offices in Portland, Oregon.

Senators Hewitt and King spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8713.

The motion by Senator Hewitt carried and the resolution was adopted by voice vote.

MOTION TO LIMIT DEBATE

Senator Eide: "Mr. President, I move that the members of the Senate be allowed to speak but once on each question before the Senate, that such speech be limited to three minutes and that members be prohibited from yielding their time, however, the maker of a motion shall be allowed to open and close debate. This motion shall be in effect through March 7, 2010."

The President declared the question before the Senate to be the motion by Senator Eide to limit debate.

The motion by Senator Eide carried and debate was limited through March 7, 2010 by voice vote.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

March 4, 2010

MR. PRESIDENT:

The House passed ENGROSSED SENATE BILL NO. 6261 with the following amendment(s): 6261.E AMH ENGR H5381.E 6261.E AMH ENGR H5381.E

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 35.21.217 and 1998 c 285 s 1 are each amended to read as follows:

(1) Prior to furnishing utility services, a city or town may require a deposit to guarantee payment for services. However, failure to require a deposit does not affect the validity of any lien authorized by RCW 35.21.290 or 35.67.200. A city or town may determine how to apply partial payments on past due accounts.

(2) A city or town may provide a real property owner or the owner's designee with duplicates of tenant utility service bills, or may notify an owner or the owner's designee that a tenant's utility account is delinquent. However, if an owner or the owner's designee notifies the city or town in writing that a property served by the city or town is a residential rental property, asks to be notified of a tenant's delinquency, and has provided, in writing, a complete and accurate mailing address, the city or town shall notify the owner or the owner's designee of a residential tenant's delinquency at the same time and in the same manner the city or town notifies the tenant of the tenant's delinquency or by mail, and the city or town is prohibited from collecting from the owner or the owner's designee any charges for electric light or power services more than four months past due. When a city or town provides a real property owner or the owner's designee with duplicates of residential tenant utility service bills or notice that a tenant's utility account is delinquent, the city or town shall notify the tenant that it is providing the duplicate bills or delinquency notice to the owner or the owner's designee.

(3) After ((January 1, 1999)) August 1, 2010, if a city or town fails to notify the owner of a tenant's delinquency after receiving a written request to do so and after receiving the other information required by this subsection, the city or town shall have no lien against the premises for the residential tenant's delinquent and unpaid charges and is prohibited from collecting the tenant's delinquent and unpaid charges for electric light or power services from the owner or the owner's designee.

(4) When a utility account is in a tenant's name, the owner or the owner's designee shall notify the city or town in writing within fourteen days of the termination of the rental agreement and vacation of the premises. If the owner or the owner's designee fails to provide this notice, a city or town providing electric light or power services is not limited to collecting only up to four months of a tenant's delinquent charges from the owner or the owner's designee, provided that the city or town has complied with the notification requirements of subsection (3) of this section.

(5)(a) If an occupied multiple residential rental unit receives utility service through a single utility account, if the utility account's billing address is not the same as the service address of a residential rental property, or if the city or town has been notified that a tenant resides at the service address, the city or town shall make a good faith and reasonable effort to provide written notice to the service address of pending disconnection of electric power and light or water service for nonpayment at least seven calendar days prior to disconnection. The purpose of this notice is to provide any affected tenant an opportunity to resolve the delinquency with his or her landlord or to arrange for continued service. If requested, a city or town shall provide electric power and light or water services to an affected tenant on the same terms and conditions as other residential utility customers, without requiring that he or she pay delinquent amounts for services billed directly to the property owner or a previous tenant except as otherwise allowed by law and only where

the city or town offers the opportunity for the affected tenant to set up a reasonable payment plan for the delinquent amounts legally due. If a landlord fails to pay for electric power and light or water services, any tenant who requests that the services be placed in his or her name may deduct from the rent due all reasonable charges paid by the tenant to the city or town for such services. A landlord may not take or threaten to take reprisals or retaliatory action as defined in RCW 59.18.240 against a tenant who deducts from his or her rent payments made to a city or town as provided in this subsection.

(b) Nothing in this subsection (5) affects the validity of any lien authorized by RCW 35.21.290 or 35.67.200. Furthermore, a city or town that provides electric power and light or water services to a residential tenant in these circumstances shall retain the right to collect from the property owner, previous tenant, or both, any delinquent amounts due for service previously provided to the service address if the city or town has complied with the notification requirements of subsection (3) of this section when applicable.

Sec. 2. RCW 35.21.290 and 1965 c 7 s 35.21.290 are each amended to read as follows:

Except as provided in RCW 35.21.217(4), cities and towns owning their own waterworks, or electric light or power plants shall have a lien against the premises to which water, electric light, or power services were furnished for four months charges therefor due or to become due, but not for any charges more than four months past due(= PROVIDED, That the owner of the premises or the owner of a delinquent mortgage thereon may give written notice to the superintendent or other head of such works or plant to cut off service to such premises accompanied by payment or tender of payment of the then delinquent and unpaid charges for such service against the premises together with the cut off charge, whereupon the city or town shall have no lien against the premises for charges for such service thereafter furnished, nor shall the owner of the premises or the owner of a delinquent mortgage thereon be held for the payment thereof)."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Marr moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 6261.

Senator Marr spoke in favor of the motion.

MOTION

On motion of Senator Brandland, Senators Holmquist, McCaslin and Pflug were excused.

MOTION

On motion of Senator Kauffman, Senators Brown and Pridemore were excused.

The President declared the question before the Senate to be the motion by Senator Marr that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 6261.

The motion by Senator Marr carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 6261 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6261, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6261, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Holmquist, McCaslin and Pflug

ENGROSSED SENATE BILL NO. 6261, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 3, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6346 with the following amendment(s): 6346-S AMH TR H5432.1 6346-S AMH TR H5432.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.04.295 and 2007 c 510 s 2 are each amended to read as follows:

"Medium-speed electric vehicle" means a self-propelled, electrically powered four-wheeled motor vehicle, equipped with a roll cage or crush-proof body design, whose speed attainable in one mile is more than ~~((thirty))~~ twenty-five miles per hour but not more than thirty-five miles per hour and otherwise meets or exceeds the federal regulations set forth in 49 C.F.R. Sec. 571.500.

Sec. 2. RCW 46.61.723 and 2007 c 510 s 3 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section, a person may operate a medium-speed electric vehicle upon a highway of this state having a speed limit of thirty-five miles per hour or less, or forty-five miles per hour or less as provided in subsection (4) of this section, if:

(a) The person does not operate a medium-speed electric vehicle upon state highways that are listed in chapter 47.17 RCW;

(b) The person does not operate a medium-speed electric vehicle upon a highway of this state without first having obtained and having in full force and effect a current and proper vehicle license and display vehicle license number plates in compliance with chapter 46.16 RCW. The department must track medium-speed electric vehicles in a separate registration category for reporting purposes;

(c) The person does not operate a medium-speed electric vehicle upon a highway of this state without first obtaining a valid driver's license issued to Washington residents in compliance with chapter 46.20 RCW;

(d) The person does not operate a medium-speed electric vehicle subject to registration under chapter 46.16 RCW on a highway of this state unless the person is insured under a motor vehicle liability policy in compliance with chapter 46.30 RCW; and

(e) The person operating a medium-speed electric vehicle does not cross a roadway with a speed limit in excess of thirty-five miles per hour, or forty-five miles per hour as provided in subsection (4) of this section, unless the crossing begins and ends on a roadway with a speed limit of thirty-five miles per hour or less, or forty-five

miles per hour or less as provided in subsection (4) of this section, and occurs at an intersection of approximately ninety degrees, except that the operator of a medium-speed electric vehicle must not cross an uncontrolled intersection of streets and highways that are part of the state highway system subject to Title 47 RCW unless that intersection has been authorized by local authorities under subsection (3) of this section.

(2) Any person who violates this section commits a traffic infraction.

(3) This section does not prevent local authorities, with respect to streets and highways under their jurisdiction and within the reasonable exercise of their police power, from regulating the operation of medium-speed electric vehicles on streets and highways under their jurisdiction by resolution or ordinance of the governing body, if the regulation is consistent with this title, except that:

(a) Local authorities may not authorize the operation of medium-speed electric vehicles on streets and highways that are part of the state highway system subject to Title 47 RCW;

(b) Local authorities may not prohibit the operation of medium-speed electric vehicles upon highways of this state having a speed limit of thirty-five miles per hour or less; and

(c) Local authorities may not establish requirements for the registration and licensing of medium-speed electric vehicles.

(4) In counties consisting of islands whose only connection to the mainland are ferry routes, a person may operate a medium-speed electric vehicle upon a highway of this state having a speed limit of forty-five miles per hour or less. A person operating a medium-speed electric vehicle as authorized under this subsection must not cross a roadway with a speed limit in excess of forty-five miles per hour, unless the crossing begins and ends on a roadway with a speed limit of forty-five miles per hour or less and occurs at an intersection of approximately ninety degrees, except that the operator of a medium-speed electric vehicle must not cross an uncontrolled intersection of streets and highways that are part of the state highway system subject to Title 47 RCW unless that intersection has been authorized by local authorities under subsection (3) of this section.

(5) Accidents must be recorded and tracked in compliance with chapter 46.52 RCW. An accident report must indicate and be tracked separately when any of the vehicles involved are a medium-speed electric vehicle.

Sec. 3. RCW 46.61.725 and 2003 c 353 s 3 are each amended to read as follows:

(1) Absent prohibition by local authorities authorized under this section and except as prohibited elsewhere in this section, a person may operate a neighborhood electric vehicle upon a highway of this state having a speed limit of thirty-five miles per hour or less, or forty-five miles per hour or less as provided in subsection (4) of this section, if:

(a) The person does not operate a neighborhood electric vehicle upon state highways that are listed in chapter 47.17 RCW;

(b) The person does not operate a neighborhood electric vehicle upon a highway of this state without first having obtained and having in full force and effect a current and proper vehicle license and display vehicle license number plates in compliance with chapter 46.16 RCW. The department must track neighborhood electric vehicles in a separate registration category for reporting purposes;

(c) The person does not operate a neighborhood electric vehicle upon a highway of this state without first obtaining a valid driver's license issued to Washington residents in compliance with chapter 46.20 RCW;

(d) The person does not operate a neighborhood electric vehicle subject to registration under chapter 46.16 RCW on a highway of

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this state unless the person is insured under a motor vehicle liability policy in compliance with chapter 46.30 RCW; and

(e) The person operating a neighborhood electric vehicle does not cross a roadway with a speed limit in excess of thirty-five miles per hour, or forty-five miles per hour as provided in subsection (4) of this section, unless the crossing begins and ends on a roadway with a speed limit of thirty-five miles per hour or less, or forty-five miles per hour or less as provided in subsection (4) of this section, and occurs at an intersection of approximately ninety degrees, except that the operator of a neighborhood electric vehicle must not cross an uncontrolled intersection of streets and highways that are part of the state highway system subject to Title 47 RCW unless that intersection has been authorized by local authorities provided elsewhere in this section.

(2) Any person who violates this section commits a traffic infraction.

(3) This section does not prevent local authorities, with respect to streets and highways under their jurisdiction and within the reasonable exercise of their police power, from regulating the operation of neighborhood electric vehicles on streets and highways under their jurisdiction by resolution or ordinance of the governing body, if the regulation is consistent with the provisions of this title, except that:

(a) Local authorities may not authorize the operation of neighborhood electric vehicles on streets and highways that are part of the state highway system subject to the provisions of Title 47 RCW;

(b) Local authorities may not prohibit the operation of neighborhood electric vehicles upon highways of this state having a speed limit of twenty-five miles per hour or less; and

(c) Local authorities are prohibited from establishing any requirements for the registration and licensing of neighborhood electric vehicles.

(4) In counties consisting of islands whose only connection to the mainland are ferry routes, a person may operate a neighborhood electric vehicle upon a highway of this state having a speed limit of forty-five miles per hour or less. A person operating a neighborhood electric vehicle as authorized under this subsection must not cross a roadway with a speed limit in excess of forty-five miles per hour, unless the crossing begins and ends on a roadway with a speed limit of forty-five miles per hour or less and occurs at an intersection of approximately ninety degrees, except that the operator of a neighborhood electric vehicle must not cross an uncontrolled intersection of streets and highways that are part of the state highway system subject to Title 47 RCW unless that intersection has been authorized by local authorities under subsection (3) of this section.

(5) Accidents must be recorded and tracked in compliance with chapter 46.52 RCW. An accident report must indicate and be tracked separately when any of the vehicles involved are a neighborhood electric vehicle."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Ranker moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6346.

Senator Ranker spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Ranker that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6346.

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The motion by Senator Ranker carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6346 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6346, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6346, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Holmquist, McCaslin and Pflug

SUBSTITUTE SENATE BILL NO. 6346, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, the Senate advanced to the seventh order of business.

#### THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 6143, by Senate Committee on Ways & Means (originally sponsored by Senator Prentice).

Relating to revenue and taxation. Revised for 1st Substitute: Modifying excise tax laws to preserve funding for public schools, colleges, and universities, as well as other public systems essential for the safety, health, and security of all Washingtonians.

The bill was read on Third Reading.

Senators Eide, Hargrove, Keiser, Shin, Kohl-Welles, Gordon, Franklin, Brown, Murray and Rockefeller spoke in favor of passage of the bill.

Senator Hewitt spoke on final passage of the bill.

Senators King, Carrell, Benton, Stevens, Schoesler, Brandland, Roach, Honeyford, Sheldon, Pflug, Parlette, Tom, Holmquist, Zarelli and Becker spoke against passage of the bill.

#### MOTION

Senator Benton, pursuant to Rule 31, moved that the question be divided and that each proposition contained within Engrossed Substitute Senate Bill No. 6143 be considered separately.

#### POINT OF ORDER

Senator Eide: "Looking at Rule 31 and it's regarding the subject so distinct that one being taken away and substantive proposition shall remain the decision at the Senate. Now, yesterday we had, I think we had about four hours worth of debate

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and amendments and the title, we had a ruling on it earlier regarding the separate subjects and you did do the ruling back that it was in fact the title revenue and taxation covered everything at that point. So, I'm asking you to rule in saying that Senator Benton's point of order is out of order."

REPLY BY THE PRESIDENT

President Owen: "Senator Eide, the President is going to have to leave the rostrum in order to deal with this so... Whatever you would like to do but he is about to do that. So, if you either want to go to ease or just mill around."

RULING BY THE PRESIDENT

President Owen: "In ruling upon the call by Senator Benton to divide the underlying measure into discrete parts for an individual vote, the President finds and rules as follows:

The President begins by observing that the actual question of Third Reading cannot be divided, as the single and only question presented is the final passage of the bill. The remaining issue is whether a bill, itself, may be divided into separate parts.

Senate Rule 31 clearly allows any member to divide any question before the Senate, but it comes with a very important limitation: the individual sections divided out must be substantively and procedurally able to function on their own, independent of each other and irrespective of how the whole matter is ultimately decided.

Division may therefore properly be used to break out the individual parts of a motion with multiple restrictions or purposes—for example, a motion to go to the Ninth Order for a particular purpose could be divided into a question to go to that order and another to limit the purpose once there. Each part of the question could stand on its own.

Similarly, division may properly be used to separate out discrete sections of amendments in some cases, because any parts ultimately adopted will be incorporated into a full bill at some point. Reed's Rules anticipate dividing amendments in sections 151 and 152, but there is no similar provision for dividing a bill in its entirety. The reason for this seems clear: unlike an amendment, a bill may not properly be divided, because it is not possible to achieve any reasonable division which would allow each part to function independent of the others. Indeed, Reed's section 151's last sentence anticipates the problem, stating, 'A division between a clause and its proviso could not be had, for instance, because the proviso standing alone would mean nothing.'

Every measure needs, for example, a title and an enacting clause. It is not reasonable or possible to divide these among the sections of a bill and still ensure that each division could separately function on its own. Moreover, there is the very real potential for great confusion to arise among the body and the public were bills to be allowed to be divided in this manner. The ensuing logistical chaos and uncertainty as to the ultimate disposition of a measure would be considerable. Avoiding the confusion that could result from such a division is of paramount importance, and thus the President ends with where he began by holding that the question contemplated for division in this case is the final passage of the bill, which—like the individual parts of a bill itself—cannot be divided.

For these reasons, Senator Benton's call is not in order and the bill may not be divided into separate parts for individual consideration."

MOTION

Senator Benton moved that the vote on final passage of Engrossed Substitute Senate Bill No. 6143 be laid upon the table.

Senator Eide spoke against the motion.  
Senator Benton spoke in favor of the motion.

Senator Schoesler demanded a roll call.  
The President declared that one-sixth of the members supported the demand. The demand is sustained.

The President declared the question before the Senate to be the motion by Senator Benton that the final passage of Engrossed Substitute Senate Bill No. 6143 be laid upon the table.

ROLL CALL

The Secretary called the roll on the motion by Senator Benton and the motion failed by the following vote: Yeas, 17; Nays, 31; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, Morton, Parlette, Pflug, Roach, Schoesler, Stevens, Swecker and Zarelli

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin and Tom

Excused: Senator McCaslin

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6143.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6143 and the bill passed the Senate by the following vote: Yeas, 25; Nays, 23; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller and Shin

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Hobbs, Holmquist, Honeyford, Kauffman, Kilmer, King, Marr, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6143, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, Engrossed Substitute Senate Bill No. 6143 was immediately transmitted to the House of Representatives.

MOTION

At 2:26 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 3:22 p.m. by President Owen.

MOTION

BARBARA BAKER, Chief Clerk

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

March 3, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6356 with the following amendment(s): 6356-S AMH TR H5431.1 6356-S AMH TR H5431.1,

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** It is the intent of the legislature to protect the public to ensure that only federal, state, and local law enforcement and emergency personnel, public or private, or other entities authorized by law to use emergency equipment have access to emergency equipment and vehicles.

**Sec. 2.** RCW 46.37.195 and 1990 c 94 s 2 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a public agency, business, entity, or person shall not sell or give emergency vehicle lighting equipment or other equipment to a person who may not lawfully operate the lighting equipment or other equipment on the public streets and highways. Prior to selling or giving an emergency vehicle to a person or entity that is not a public law enforcement or emergency agency within or outside the state, public law enforcement or emergency agency in another country, or private ambulance business within or outside the state, the seller or donor must remove all emergency lighting as defined in rules by the Washington state patrol, radios, and any other emergency equipment from the vehicle, except for reflective stripes and paint on fire trucks, that was not originally installed by the original vehicle manufacturer and that visibly identifies the vehicle as an emergency vehicle from the exterior, including spotlights and confinement or rear seat safety cages. If the equipment is not retained or transferred to another public law enforcement or emergency agency within or outside the state, public law enforcement or emergency agency in another country, or private ambulance business within or outside the state, the equipment must be dismantled with the individual parts being recycled or destroyed prior to being disposed of. The agency must also remove all decals, state and local designated law enforcement colors, and stripes that were not installed by the original vehicle manufacturer.

(2) The sale or donation to a broker specializing in the resale of emergency vehicles, or a charitable organization, intending to deliver the vehicle or equipment to a public law enforcement or emergency agency within or outside the state, public law enforcement or emergency agency in another country, or private ambulance business within or outside the state, is allowed with the emergency equipment still installed and intact. If the broker or charitable organization sells or donates the emergency vehicle to a person or entity that is not a public law enforcement or emergency agency, or private ambulance business, the broker or charitable organization must remove the equipment and designations and is accountable and responsible for the removal of the equipment and designations not installed on the vehicle by the original vehicle manufacturer. Equipment not sold or donated to a public law enforcement or emergency agency, or a private ambulance business, must be removed and transferred, destroyed, or recycled in accordance with subsection (1) of this section."

Correct the title.  
and the same are herewith transmitted.

MOTION

Senator Kilmer moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6356.  
Senator Kilmer spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kilmer that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6356.

The motion by Senator Kilmer carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6356 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6356, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6356, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6356, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 4, 2010

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6359 with the following amendment(s): 6359-S.E AMH APPE H5441.1 ,

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that Washington's community and technical college system consists of thirty-four two-year institutions geographically dispersed across the state to encourage and enable student access and participation. The legislature also finds that, compared with other states, Washington's two-year public participation rate is ranked as high as fifth in the nation. The legislature further finds that Washington's community and technical colleges have been making and are continuing to make great progress towards system efficiencies and coordination of their efforts through such things as common course numbering, the student achievement initiative, associate transfer degrees, eLearning and integrated basic education, skills training, and some common administrative systems. While maintaining Washington's recognized leadership in community and technical college education, the legislature intends to provide mechanisms to encourage further efficiencies that will provide cost savings to be used to enhance student access and success, strengthen academic

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programs, and develop and retain high quality faculty through cost-effective partnerships and coordination between institutions, including shared services and increased complementary programming, as well as structural administrative efficiencies.

**Sec. 2.** RCW 28B.50.020 and 2009 c 64 s 2 are each amended to read as follows:

The purpose of this chapter is to provide for the dramatically increasing number of students requiring high standards of education either as a part of the continuing higher education program or for occupational education and training, or for adult basic skills and literacy education, by creating a new, independent system of community and technical colleges which will:

(1) Offer an open door to every citizen, regardless of his or her academic background or experience, at a cost normally within his or her economic means;

(2) Ensure that each college district, in coordination with adjacent college districts, shall offer thoroughly comprehensive educational, training, and service programs to meet the needs of both the communities and students served by combining high standards of excellence in academic transfer courses; realistic and practical courses in occupational education, both graded and ungraded; community services of an educational, cultural, and recreational nature; and adult education, including basic skills and general, family, and workforce literacy programs and services;

(3) Provide for basic skills and literacy education, and occupational education and technical training (~~at technical colleges~~) in order to prepare students for careers in a competitive workforce;

(4) Provide or coordinate related and supplemental instruction for apprentices at community and technical colleges;

(5) Provide administration by state and local boards which will avoid unnecessary duplication of facilities (~~and~~), programs, student services, or administrative functions; and which will encourage efficiency in operation and creativity and imagination in education, training, and service to meet the needs of the community and students;

(6) Allow for the growth, improvement, flexibility and modification of the community colleges and their education, training, and service programs as future needs occur; and

(7) Establish firmly that, except on a pilot basis as provided under RCW 28B.50.810, community colleges are, for purposes of academic training, two year institutions, and are an independent, unique, and vital section of our state's higher education system, separate from both the common school system and other institutions of higher learning, and never to be considered for conversion into four-year liberal arts colleges.

**Sec. 3.** RCW 28B.50.090 and 2009 c 64 s 4 are each amended to read as follows:

The college board shall have general supervision and control over the state system of community and technical colleges. In addition to the other powers and duties imposed upon the college board by this chapter, the college board shall be charged with the following powers, duties and responsibilities:

(1) Review the budgets prepared by the boards of trustees, prepare a single budget for the support of the state system of community and technical colleges and adult education, and submit this budget to the governor as provided in RCW 43.88.090;

(2) Establish guidelines for the disbursement of funds; and receive and disburse such funds for adult education and maintenance and operation and capital support of the college districts in conformance with the state and district budgets, and in conformance with chapter 43.88 RCW;

(3) Ensure, through the full use of its authority:

(a) That each college district, in coordination with colleges, within a regional area, shall offer thoroughly comprehensive

educational, training, and service programs to meet the needs of both the communities and students served by combining high standards of excellence in academic transfer courses; realistic and practical courses in occupational education, both graded and ungraded; and community services of an educational, cultural, and recreational nature; and adult education, including basic skills and general, family, and workforce literacy programs and services;

(b) That each college district shall maintain an open-door policy, to the end that no student will be denied admission because of the location of the student's residence or because of the student's educational background or ability; that, insofar as is practical in the judgment of the college board, curriculum offerings will be provided to meet the educational and training needs of the community generally and the students thereof; and that all students, regardless of their differing courses of study, will be considered, known and recognized equally as members of the student body: PROVIDED, That the administrative officers of a community or technical college may deny admission to a prospective student or attendance to an enrolled student if, in their judgment, the student would not be competent to profit from the curriculum offerings of the college, or would, by his or her presence or conduct, create a disruptive atmosphere within the college not consistent with the purposes of the institution. This subsection (3)(b) shall not apply to competency, conduct, or presence associated with a disability in a person twenty-one years of age or younger attending a technical college;

(4) Prepare a comprehensive master plan for the development of community and technical college education and training in the state; and assist the office of financial management in the preparation of enrollment projections to support plans for providing adequate college facilities in all areas of the state. The master plan shall include implementation of the vision, goals, priorities, and strategies in the statewide strategic master plan for higher education under RCW 28B.76.200 based on the community and technical college system's role and mission. The master plan shall also contain measurable performance indicators and benchmarks for gauging progress toward achieving the goals and priorities;

(5) Define and administer criteria and guidelines for the establishment of new community and technical colleges or campuses within the existing districts;

(6) Establish criteria and procedures for modifying district boundary lines and consolidating district structures to form multiple campus districts consistent with the purposes set forth in RCW 28B.50.020 as now or hereafter amended and in accordance therewith make such changes as it deems advisable;

(7) Establish minimum standards to govern the operation of the community and technical colleges with respect to:

(a) Qualifications and credentials of instructional and key administrative personnel, except as otherwise provided in the state plan for vocational education,

(b) Internal budgeting, accounting, auditing, and financial procedures as necessary to supplement the general requirements prescribed pursuant to chapter 43.88 RCW,

(c) The content of the curriculums and other educational and training programs, and the requirement for degrees and certificates awarded by the colleges,

(d) Standard admission policies,

(e) Eligibility of courses to receive state fund support;

(8) Establish and administer criteria and procedures for all capital construction including the establishment, installation, and expansion of facilities within the various college districts;

(9) Encourage innovation in the development of new educational and training programs and instructional methods; coordinate research efforts to this end; and disseminate the findings thereof;

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(10) Exercise any other powers, duties and responsibilities necessary to carry out the purposes of this chapter;

(11) Authorize the various community and technical colleges to offer programs and courses in other districts when it determines that such action is consistent with the purposes set forth in RCW 28B.50.020 as now or hereafter amended;

(12) Notwithstanding any other law or statute regarding the sale of state property, sell or exchange and convey any or all interest in any community and technical college real and personal property, except such property as is received by a college district in accordance with RCW 28B.50.140(8), when it determines that such property is surplus or that such a sale or exchange is in the best interests of the community and technical college system;

(13) In order that the treasurer for the state board for community and technical colleges appointed in accordance with RCW 28B.50.085 may make vendor payments, the state treasurer will honor warrants drawn by the state board providing for an initial advance on July 1, 1982, of the current biennium and on July 1 of each succeeding biennium from the state general fund in an amount equal to twenty-four percent of the average monthly allotment for such budgeted biennium expenditures for the state board for community and technical colleges as certified by the office of financial management; and at the conclusion of such initial month and for each succeeding month of any biennium, the state treasurer will reimburse expenditures incurred and reported monthly by the state board treasurer in accordance with chapter 43.88 RCW: PROVIDED, That the reimbursement to the state board for actual expenditures incurred in the final month of each biennium shall be less the initial advance made in such biennium;

(14) Notwithstanding the provisions of subsection (12) of this section, may receive such gifts, grants, conveyances, devises, and bequests of real or personal property from private sources as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the community and technical college programs and may sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof according to the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits and income thereof; and

(15) The college board shall have the power of eminent domain.

**NEW SECTION. Sec. 4.** A new section is added to chapter 28B.50 RCW to read as follows:

(1) The state board for community and technical colleges, in collaboration with the boards of trustees for the community and technical colleges, shall identify potential administrative efficiencies, complementary administrative functions, and complementary academic programs based upon consultation with colleges within a regional area. To study and identify potential administrative efficiencies and complementary administrative functions and programs, colleges within the regional area shall work with stakeholders including faculty and staff representatives appointed by their respective unions. Factors to be considered include, but are not limited to:

(a) The economic feasibility and cost savings anticipated from the proposed changes;

(b) The extent to which the changes will contribute to student access to academic programs and services, including greater flexibility for students to transfer credits and obtain degrees and certificates from other colleges within the regional area; and

(c) The extent to which the changes contribute to the vision, goals, priorities, and statewide strategies in the comprehensive master plan and the statewide strategic master plan for higher education.

(2) The state board for community and technical colleges shall develop and adopt a detailed plan for the implementation of any

identified changes that would result in cost savings while maintaining or enhancing student access and achievement. If educational programs are identified that would provide cost savings if consolidated, the faculty and staff of those programs shall be convened to assist in the development of the part of the plan that will impact their programs and collective bargaining agreements. The plan must establish a time frame within which any proposed changes must be accomplished and must include any agreements, approved by the state board for community and technical colleges, between colleges within a regional area to provide complementary academic programs or coordinate administrative functions. The implementation plan shall take effect upon approval by the state board for community and technical colleges. The state board shall submit a preliminary report on the plan to the appropriate legislative committees and the governor December 1, 2010, and shall submit a final report December 1, 2011.

(3) Any cost savings realized as a result of the implementation of administrative efficiencies, complementary administrative functions, and complementary academic programming under the plan shall be retained by the respective districts to be used for enhancing student access and success, and the retention and recruitment of high quality faculty, including but not limited to, full-time faculty, faculty development, and academic programs.

(4) The college board, using the criteria and processes established in this section and in consultation with the boards of trustees for the community and technical colleges, shall identify adjacent college districts that can feasibly be consolidated or whose boundaries can feasibly be modified to form a multiple campus district. The primary considerations shall be the extent to which the changes will: (a) Affect student access to academic programs and services, (b) affect the retention and recruitment of high quality faculty, and (c) result in financial efficiencies.

(5) By December 1, 2012, the college board, in consultation with local boards of trustees, shall evaluate any proposed district consolidations or boundary changes identified in subsection (4) of this section as it deems advisable and shall submit any required supporting legislative changes to the governor and appropriate committees of the legislature."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Kilmer moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6359.

Senator Kilmer spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kilmer that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6359.

The motion by Senator Kilmer carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6359 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6359, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6359, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6359, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

#### SECOND READING

SENATE BILL NO. 6874, by Senators Tom, Keiser and Kohl-Welles

Providing funding for the basic health plan by increasing the taxes on certain tobacco products and facilitating the funding within the state expenditure limit. Revised for 1st Substitute: Providing funding for the basic health plan by increasing the taxes on cigarettes and facilitating the funding within the state expenditure limit.

#### MOTIONS

On motion of Senator Tom, Substitute Senate Bill No. 6874 was substituted for Senate Bill No. 6874 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Tom, the rules were suspended, Substitute Senate Bill No. 6874 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Tom, Keiser, Marr and McDermott spoke in favor of passage of the bill.

Senator Hewitt spoke on final passage of the bill.

Senators Carrell, Pflug and Schoesler spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6874.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6874 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 19; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Prentice, Ranker, Regala, Rockefeller and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, Parlette, Pflug, Pridemore, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6874, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 3:52 p.m., on motion of Senator Eide, the Senate adjourned until 9:00 a.m. Monday, March 8, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

FIFTY SEVENTH DAY

MORNING SESSION

Senate Chamber, Olympia, Monday, March 8, 2010

The Senate was called to order at 9:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Fairley, Holmquist and McCaslin.

The Sergeant at Arms Color Guard consisting of Pages Miranda Barkley and Kade Wilford, presented the Colors. Reverend Jim Erlanson of Community of Christ Church of Olympia offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

MOTION

Senator Becker moved adoption of the following resolution:

SENATE RESOLUTION  
8679

By Senators Becker, Haugen, Hatfield, Berkey, Swecker, Morton, Marr, King, Sheldon, Kauffman, Shin, and Ranker

WHEREAS, It is a tradition of the Washington State Senate to honor the towns of Washington State; and

WHEREAS, The Town of Eatonville celebrated its 100th birthday, its centennial, on October 28, 2009; and

WHEREAS, The Town of Eatonville was founded by Thomas Cobb (T.C.) Van Eaton after being led to the present site fifty miles south of Seattle and thirty-one miles southeast of Tacoma by a Nisqually Indian named Soo-too-lik; and

WHEREAS, The major industry that fed Eatonville's growth was logging; the town was officially incorporated after Eatonville Lumber Company brought more people to work at its mill; and

WHEREAS, In 1924 the Town of Eatonville barely escaped catastrophe after a huge forest fire surrounded the town; and

WHEREAS, The 1954 closure of the Eatonville Lumber Company threatened to devastate the Town of Eatonville, but has since grown stronger by community spirit and good will; and

WHEREAS, Eatonville is now home to more industries, such as a Concrete manufacturing plant, Nybo Concrete, and other successful companies such as Rainier Connect; and

WHEREAS, Through its long history, Eatonville has steadily prospered, flourished, and overcome disasters and challenges such as fires, earthquakes, and economic recessions; and

WHEREAS, The people of Eatonville and surrounding areas celebrate Eatonville's modern-day role as a thriving town with a high quality of life; and

WHEREAS, Eatonville is recognized as the gateway to Paradise on Mount Rainier and home to the world-famous Northwest Trek; and

WHEREAS, Citizens, elected officials, and community leaders celebrated Eatonville's historic centennial with a weekend-long celebration on October 16, 17, and 18, 2009;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate commemorate the Town of Eatonville and its citizens on the occasion of its centennial; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Eatonville Mayor Tom Smallwood and to Eatonville Council members Rich Adams, Bruce Rath, Brenden Pierce, Bobbie Allison, and James Valentine.

Senator Becker spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8679.

The motion by Senator Becker carried and the resolution was adopted by voice vote.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced the Mayor of Eatonville, The Honorable Ray Harper and town members who were seated in the gallery.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

March 2, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6459 with the following amendment(s): 6459-S AMH JUDI BARC 071,

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 59.18.030 and 2008 c 278 s 12 are each amended to read as follows:

As used in this chapter:

(1) "Distressed home" has the same meaning as in RCW 61.34.020.

(2) "Distressed home conveyance" has the same meaning as in RCW 61.34.020.

(3) "Distressed home purchaser" has the same meaning as in RCW 61.34.020.

(4) "Dwelling unit" is a structure or that part of a structure which is used as a home, residence, or sleeping place by one person or by two or more persons maintaining a common household, including but not limited to single family residences and units of multiplexes, apartment buildings, and mobile homes.

(5) "In danger of foreclosure" means any of the following:

(a) The homeowner has defaulted on the mortgage and, under the terms of the mortgage, the mortgagee has the right to accelerate full payment of the mortgage and repossess, sell, or cause to be sold the property;

(b) The homeowner is at least thirty days delinquent on any loan that is secured by the property; or

(c) The homeowner has a good faith belief that he or she is likely to default on the mortgage within the upcoming four months due to a lack of funds, and the homeowner has reported this belief to:

(i) The mortgagee;

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(ii) A person licensed or required to be licensed under chapter 19.134 RCW;

(iii) A person licensed or required to be licensed under chapter 19.146 RCW;

(iv) A person licensed or required to be licensed under chapter 18.85 RCW;

(v) An attorney-at-law;

(vi) A mortgage counselor or other credit counselor licensed or certified by any federal, state, or local agency; or

(vii) Any other party to a distressed property conveyance.

(6) "Landlord" means the owner, lessor, or sublessor of the dwelling unit or the property of which it is a part, and in addition means any person designated as representative of the landlord.

(7) "Mortgage" is used in the general sense and includes all instruments, including deeds of trust, that are used to secure an obligation by an interest in real property.

(8) "Person" means an individual, group of individuals, corporation, government, or governmental agency, business trust, estate, trust, partnership, or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(9) "Owner" means one or more persons, jointly or severally, in whom is vested:

(a) All or any part of the legal title to property; or

(b) All or part of the beneficial ownership, and a right to present use and enjoyment of the property.

(10) "Premises" means a dwelling unit, appurtenances thereto, grounds, and facilities held out for the use of tenants generally and any other area or facility which is held out for use by the tenant.

(11) "Rental agreement" means all agreements which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit.

(12) A "single family residence" is a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it shall be deemed a single family residence if it has direct access to a street and shares neither heating facilities nor hot water equipment, nor any other essential facility or service, with any other dwelling unit.

(13) A "tenant" is any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement.

(14) "Reasonable attorney's fees", where authorized in this chapter, means an amount to be determined including the following factors: The time and labor required, the novelty and difficulty of the questions involved, the skill requisite to perform the legal service properly, the fee customarily charged in the locality for similar legal services, the amount involved and the results obtained, and the experience, reputation and ability of the lawyer or lawyers performing the services.

(15) "Gang" means a group that: (a) Consists of three or more persons; (b) has identifiable leadership or an identifiable name, sign, or symbol; and (c) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

(16) "Gang-related activity" means any activity that occurs within the gang or advances a gang purpose.

(17) "Certificate of inspection" means an unsworn statement, declaration, verification, or certificate made in accordance with the requirements of RCW 9A.72.085 by a qualified inspector that states that the landlord has not failed to fulfill any substantial obligation imposed under RCW 59.18.060 that endangers or impairs the health or safety of a tenant, including (a) structural members that are of insufficient size or strength to carry imposed loads with safety, (b) exposure of the occupants to the weather, (c) plumbing and sanitation defects that directly expose the occupants to the risk of illness or injury, (d) not providing facilities adequate to supply heat and water and hot water as reasonably required by the tenant, (e)

providing heating or ventilation systems that are not functional or are hazardous, (f) defective, hazardous, or missing electrical wiring or electrical service, (g) defective or hazardous exits that increase the risk of injury to occupants, and (h) conditions that increase the risk of fire.

(18) "Property" or "rental property" means all dwelling units on a contiguous quantity of land managed by the same landlord as a single, rental complex.

(19) "Qualified inspector" means a United States department of housing and urban development certified inspector; a Washington state licensed home inspector; an American society of home inspectors certified inspector; a private inspector certified by the national association of housing and redevelopment officials, the American association of code enforcement, or other comparable professional association as approved by the local municipality; a municipal code enforcement officer; a Washington licensed structural engineer; or a Washington licensed architect.

NEW SECTION. Sec. 2. A new section is added to chapter 59.18 RCW to read as follows:

(1) Local municipalities may require that landlords provide a certificate of inspection as a business license condition. A local municipality does not need to have a business license or registration program in order to require that landlords provide a certificate of inspection. A certificate of inspection does not preclude or limit inspections conducted pursuant to the tenant remedy as provided for in RCW 59.18.115, at the request or consent of the tenant, or pursuant to a warrant.

(2) A qualified inspector who is conducting an inspection under this section may only investigate a rental property as needed to provide a certificate of inspection.

(3) A local municipality may only require a certificate of inspection on a rental property once every three years.

(4)(a) A rental property that has received a certificate of occupancy within the last four years and has had no code violations reported on the property during that period is exempt from inspection under this section.

(b) A rental property inspected by a government agency or other qualified inspector within the previous twenty-four months may provide proof of that inspection which the local municipality may accept in lieu of a certificate of inspection. If any additional inspections of the rental property are conducted, a copy of the findings of these inspections may also be required by the local municipality.

(5) A rental property owner may choose to inspect one hundred percent of the units on the rental property and provide only the certificate of inspection for all units to the local municipality. However, if a rental property owner chooses to inspect only a sampling of the units, the owner must send written notice of the inspection to all units at the property. The notice must advise tenants that some of the units at the property will be inspected and that the tenants whose units need repairs or maintenance should send written notification to the landlord as provided in RCW 59.18.070. The notice must also advise tenants that if the landlord fails to adequately respond to the request for repairs or maintenance, the tenants may contact local municipality officials. A copy of the notice must be provided to the inspector upon request on the day of inspection.

(6)(a) If a rental property has twenty or fewer dwelling units, no more than four dwelling units at the rental property may be selected by the local municipality to provide a certificate of inspection as long as the initial inspection reveals that no conditions exist that endanger or impair the health or safety of a tenant.

(b) If a rental property has twenty-one or more units, no more than twenty percent of the units, rounded up to the next whole number, on the rental property, and up to a maximum of fifty units at

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any one property, may be selected by the local municipality to provide a certificate of inspection as long as the initial inspection reveals that no conditions exist that endanger or impair the health or safety of a tenant.

(c) If a rental property is asked to provide a certificate of inspection for a sample of units on the property and a selected unit fails the initial inspection, the local municipality may require up to one hundred percent of the units on the rental property to provide a certificate of inspection.

(d) If a rental property has had conditions that endanger or impair the health or safety of a tenant reported since the last required inspection, the local municipality may require one hundred percent of the units on the rental property to provide a certificate of inspection.

(e) If a rental property owner chooses to hire a qualified inspector other than a municipal housing code enforcement officer, and a selected unit of the rental property fails the initial inspection, both the results of the initial inspection and any certificate of inspection must be provided to the local municipality.

(7)(a) The landlord shall provide written notification of his or her intent to enter an individual unit for the purposes of providing a local municipality with a certificate of inspection in accordance with RCW 59.18.150(6). The written notice must indicate the date and approximate time of the inspection and the company or person performing the inspection, and that the tenant has the right to see the inspector's identification before the inspector enters the individual unit. A copy of this notice must be provided to the inspector upon request on the day of inspection.

(b) A tenant who continues to deny access to his or her unit is subject to RCW 59.18.150(8).

(8) If a rental property owner does not agree with the findings of an inspection performed by a local municipality under this section, the local municipality shall offer an appeals process.

(9) A penalty for noncompliance under this section may be assessed by a local municipality. A local municipality may also notify the landlord that until a certificate of inspection is provided, it is unlawful to rent or to allow a tenant to continue to occupy the dwelling unit.

(10) Any person who knowingly submits or assists in the submission of a falsified certificate of inspection, or knowingly submits falsified information upon which a certificate of inspection is issued, is, in addition to the penalties provided for in subsection (9) of this section, guilty of a gross misdemeanor and must be punished by a fine of not more than five thousand dollars.

(11) As of the effective date of this section, a local municipality may not enact an ordinance requiring a certificate of inspection unless the ordinance complies with this section. This prohibition does not preclude any amendments made to ordinances adopted before the effective date of this section.

**Sec. 3.** RCW 59.18.150 and 2002 c 263 s 1 are each amended to read as follows:

(1) The tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, alterations, or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workers, or contractors.

(2) Upon written notice of intent to seek a search warrant, when a tenant or landlord denies a fire official the right to search a dwelling unit, a fire official may immediately seek a search warrant and, upon a showing of probable cause specific to the dwelling unit sought to be searched that criminal fire code violations exist in the dwelling unit, a court of competent jurisdiction shall issue a warrant allowing a search of the dwelling unit.

Upon written notice of intent to seek a search warrant, when a landlord denies a fire official the right to search the common areas of the rental building other than the dwelling unit, a fire official may immediately seek a search warrant and, upon a showing of probable cause specific to the common area sought to be searched that a criminal fire code violation exists in those areas, a court of competent jurisdiction shall issue a warrant allowing a search of the common areas in which the violation is alleged.

The superior court and courts of limited jurisdiction organized under Titles 3, 35, and 35A RCW have jurisdiction to issue such search warrants. Evidence obtained pursuant to any such search may be used in a civil or administrative enforcement action.

(3) As used in this section:

(a) "Common areas" means a common area or those areas that contain electrical, plumbing, and mechanical equipment and facilities used for the operation of the rental building.

(b) "Fire official" means any fire official authorized to enforce the state or local fire code.

(4)(a) A search warrant may be issued by a judge of a superior court or a court of limited jurisdiction under Titles 3, 35, and 35A RCW to a code enforcement official of the state or of any county, city, or other political subdivision for the purpose of allowing the inspection of any specified dwelling unit and premises to determine the presence of an unsafe building condition or a violation of any building regulation, statute, or ordinance.

(b) A search warrant must only be issued upon application of a designated officer or employee of a county or city prosecuting or regulatory authority supported by an affidavit or declaration made under oath or upon sworn testimony before the judge, establishing probable cause that a violation of a state or local law, regulation, or ordinance regarding rental housing exists and endangers the health or safety of the tenant or adjoining neighbors. In addition, the affidavit must contain a statement that consent to inspect has been sought from the owner and the tenant but could not be obtained because the owner or the tenant either refused or failed to respond within five days, or a statement setting forth facts or circumstances reasonably justifying the failure to seek such consent. A landlord may not take or threaten to take reprisals or retaliatory action as defined in RCW 59.18.240 against a tenant who gives consent to a code enforcement official of the state or of any county, city, or other political subdivision to inspect his or her dwelling unit to determine the presence of an unsafe building condition or a violation of any building regulation, statute, or ordinance.

(c) In determining probable cause, the judge is not limited to evidence of specific knowledge, but may also consider any of the following:

- (i) The age and general condition of the premises;
- (ii) Previous violations or hazards found present in the premises;
- (iii) The type of premises;
- (iv) The purposes for which the premises are used; or

(v) The presence of hazards or violations in and the general condition of premises near the premises sought to be inspected.

(d) Before issuing an inspection warrant, the judge shall find that the applicant has: (i) Provided written notice of the date, approximate time, and court in which the applicant will be seeking the warrant to the owner and, if the applicant reasonably believes the dwelling unit or rental property to be inspected is in the lawful possession of a tenant, to the tenant; and (ii) posted a copy of the notice on the exterior of the dwelling unit or rental property to be inspected. The judge shall also allow the owner and any tenant who appears during consideration of the application for the warrant to defend against or in support of the issuance of the warrant.

(e) All warrants must include at least the following:

(i) The name of the agency and building official requesting the warrant and authorized to conduct an inspection pursuant to the

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warrant;

(ii) A reasonable description of the premises and items to be inspected; and

(iii) A brief description of the purposes of the inspection.

(f) An inspection warrant is effective for the time specified in the warrant, but not for a period of more than ten days unless it is extended or renewed by the judge who signed and issued the original warrant upon satisfying himself or herself that the extension or renewal is in the public interest. The inspection warrant must be executed and returned to the judge by whom it was issued within the time specified in the warrant or within the extended or renewed time. After the expiration of the time specified in the warrant, the warrant, unless executed, is void.

(g) An inspection pursuant to a warrant must not be made:

(i) Between 7:00 p.m. of any day and 8:00 a.m. of the succeeding day, on Saturday or Sunday, or on any legal holiday, unless the owner or, if occupied, the tenant specifies a preference for inspection during such hours or on such a day;

(ii) Without the presence of an owner or occupant over the age of eighteen years or a person designated by the owner or occupant unless specifically authorized by a judge upon a showing that the authority is reasonably necessary to effectuate the purpose of the search warrant; or

(iii) By means of forcible entry, except that a judge may expressly authorize a forcible entry when:

(A) Facts are shown that are sufficient to create a reasonable suspicion of a violation of a state or local law or rule relating to municipal or county building, fire, safety, environmental, animal control, land use, plumbing, electrical, health, minimum housing, or zoning standards that, if the violation existed, would be an immediate threat to the health or safety of the tenant; or

(B) Facts are shown establishing that reasonable attempts to serve a previous warrant have been unsuccessful.

(h) Immediate execution of a warrant is prohibited, except when necessary to prevent loss of life or property.

(i) Any person who willfully refuses to permit inspection, obstructs inspection, or aids in the obstruction of an inspection of property authorized by warrant issued pursuant to this section is subject to remedial and punitive sanctions for contempt of court under chapter 7.21 RCW. Such conduct may also be subject to a civil penalty imposed by local ordinance that takes into consideration the facts and circumstances and the severity of the violation.

(5) The landlord may enter the dwelling unit without consent of the tenant in case of emergency or abandonment.

~~((5))~~ (6) The landlord shall not abuse the right of access or use it to harass the tenant. Except in the case of emergency or if it is impracticable to do so, the landlord shall give the tenant at least two days' notice of his or her intent to enter and shall enter only at reasonable times. The tenant shall not unreasonably withhold consent to the landlord to enter the dwelling unit at a specified time where the landlord has given at least one day's notice of intent to enter to exhibit the dwelling unit to prospective or actual purchasers or tenants. A landlord shall not unreasonably interfere with a tenant's enjoyment of the rented dwelling unit by excessively exhibiting the dwelling unit.

~~((6))~~ (7) The landlord has no other right of access except by court order, arbitrator or by consent of the tenant.

~~((7))~~ (8) A landlord or tenant who continues to violate the rights of the tenant or landlord with respect to the duties imposed on the other as set forth in this section after being served with one written notification alleging in good faith violations of this section listing the date and time of the violation shall be liable for up to one hundred dollars for each violation after receipt of the notice. The prevailing landlord or tenant may recover costs of the suit or

arbitration under this section, and may also recover reasonable attorneys' fees.

~~((8))~~ (9) Nothing in this section is intended to (a) abrogate or modify in any way any common law right or privilege or (b) affect the common law as it relates to a local municipality's right of entry under emergency or exigent circumstances.

NEW SECTION. **Sec. 4.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hobbs moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6459.

Senator Hobbs spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hobbs that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6459.

The motion by Senator Hobbs carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6459 by voice vote.

MOTION

On motion of Senator Brandland, Senators Holmquist and McCaslin were excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6459, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6459, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 38; Nays, 8; Absent, 1; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Marr, McAuliffe, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom and Zarelli

Voting nay: Senators Kline, Kohl-Welles, McDermott, Morton, Murray, Oemig, Regala and Swecker

Absent: Senator Fairley

Excused: Senators Holmquist and McCaslin

SUBSTITUTE SENATE BILL NO. 6459, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Marr, Senator Fairley was excused.

MESSAGE FROM THE HOUSE

March 3, 2010

MR. PRESIDENT:

FIFTY SEVENTH DAY, MARCH 8, 2010

The House passed SUBSTITUTE SENATE BILL NO. 6207 with the following amendment(s): 6207-S AMH TR H5457.1,

Strike everything after the enacting clause and insert the following:

**Sec. 1.** RCW 46.04.320 and 2007 c 510 s 1 are each amended to read as follows:

"Motor vehicle" means every vehicle that is self-propelled and every vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails. "Motor vehicle" includes a neighborhood electric vehicle as defined in RCW 46.04.357. "Motor vehicle" includes a medium-speed electric vehicle as defined in RCW 46.04.295. An electric personal assistive mobility device is not considered a motor vehicle. A power wheelchair is not considered a motor vehicle. A golf cart is not considered a motor vehicle, except for the purposes of chapter 46.61 RCW.

**Sec. 2.** RCW 46.04.670 and 2003 c 141 s 6 are each amended to read as follows:

"Vehicle" includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, including bicycles. The term does not include power wheelchairs or devices other than bicycles moved by human or animal power or used exclusively upon stationary rails or tracks. Mopeds shall not be considered vehicles or motor vehicles for the purposes of chapter 46.70 RCW. Bicycles shall not be considered vehicles for the purposes of chapter 46.12, 46.16, or 46.70 RCW. Electric personal assistive mobility devices are not considered vehicles or motor vehicles for the purposes of chapter 46.12, 46.16, 46.29, 46.37, or 46.70 RCW. A golf cart is not considered a vehicle, except for the purposes of chapter 46.61 RCW.

**NEW SECTION. Sec. 3.** A new section is added to chapter 46.04 RCW to read as follows:

"Golf cart" means a gas-powered or electric-powered four-wheeled vehicle originally designed and manufactured for operation on a golf course for sporting purposes and has a speed attainable in one mile of not more than twenty miles per hour. A golf cart is not a nonhighway vehicle or off-road vehicle as defined in RCW 46.09.020.

**NEW SECTION. Sec. 4.** A new section is added to chapter 46.08 RCW to read as follows:

(1) The legislative authority of a city or county may by ordinance or resolution create a golf cart zone, for the purposes of permitting the incidental operation of golf carts, as defined in section 3 of this act, upon a street or highway of this state having a speed limit of twenty-five miles per hour or less.

(2) Every person operating a golf cart as authorized under this section is granted all rights and is subject to all duties applicable to the driver of a vehicle under chapter 46.61 RCW.

(3) Every person operating a golf cart as authorized under this section must be at least sixteen years of age and must have completed a driver education course or have previous experience driving as a licensed driver.

(4) A person who has a revoked license under RCW 46.20.285 may not operate a golf cart as authorized under this section.

(5) The legislative authority of a city or county may prohibit any person from operating a golf cart as authorized under this section at any time from a half hour after sunset to a half hour before sunrise.

(6) The legislative authority of a city or county may require a decal or other identifying device to be displayed on golf carts authorized on the streets and highways of this state under this section. The city or county may charge a fee for the decal or other identifying device.

(7) The legislative authority of a city or county may prohibit the operation of golf carts in designated bicycle lanes that are within a golf cart zone.

(8) Golf carts must be equipped with reflectors, seat belts, and rearview mirrors when operated upon streets and highways as authorized under this section.

(9) A city or county that creates a golf cart zone under this section must clearly identify the zone by placing signage at the beginning and end of the golf cart zone on a street or road that is part of the golf cart zone. The signage must be in compliance with the department of transportation's manual on uniform traffic control devices for streets and highways.

(10) Accidents that involve golf carts operated upon streets and highways as authorized under this section must be recorded and tracked in compliance with chapter 46.52 RCW. The accident report must indicate that a golf cart operating within a golf cart zone is involved in the accident.

**Sec. 5.** RCW 46.16.010 and 2007 c 242 s 2 are each amended to read as follows:

(1) It is unlawful for a person to operate any vehicle over and along a public highway of this state without first having obtained and having in full force and effect a current and proper vehicle license and display vehicle license number plates therefor as by this chapter provided.

(2) Failure to make initial registration before operation on the highways of this state is a traffic infraction, and any person committing this infraction shall pay a penalty of five hundred twenty-nine dollars, no part of which may be suspended or deferred.

(3) Failure to renew an expired registration before operation on the highways of this state is a traffic infraction.

(4) The licensing of a vehicle in another state by a resident of this state, as defined in RCW 46.16.028, evading the payment of any tax or license fee imposed in connection with registration, is a gross misdemeanor punishable as follows:

(a) For a first offense, up to one year in the county jail and payment of a fine of five hundred twenty-nine dollars plus twice the amount of delinquent taxes and fees, no part of which may be suspended or deferred;

(b) For a second or subsequent offense, up to one year in the county jail and payment of a fine of five hundred twenty-nine dollars plus four times the amount of delinquent taxes and fees, no part of which may be suspended or deferred;

(c) For fines levied under (b) of this subsection, an amount equal to the avoided taxes and fees owed will be deposited in the vehicle licensing fraud account created in the state treasury;

(d) The avoided taxes and fees shall be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion.

(5) These provisions shall not apply to the following vehicles:

(a) Motorized foot scooters;

(b) Electric-assisted bicycles;

(c) Off-road vehicles operating on nonhighway roads under RCW 46.09.115;

(d) Farm vehicles if operated within a radius of fifteen miles of the farm where principally used or garaged, farm tractors and farm implements including trailers designed as cook or bunk houses used exclusively for animal herding temporarily operating or drawn upon the public highways, and trailers used exclusively to transport farm implements from one farm to another during the daylight hours or at night when such equipment has lights that comply with the law;

(e) Spray or fertilizer applicator rigs designed and used exclusively for spraying or fertilization in the conduct of agricultural operations and not primarily for the purpose of transportation, and nurse rigs or equipment auxiliary to the use of and designed or modified for the fueling, repairing, or loading of spray and fertilizer

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applicator rigs and not used, designed, or modified primarily for the purpose of transportation;

(f) Fork lifts operated during daylight hours on public highways adjacent to and within five hundred feet of the warehouses which they serve: PROVIDED FURTHER, That these provisions shall not apply to vehicles used by the state parks and recreation commission exclusively for park maintenance and operations upon public highways within state parks;

(g) "Trams" used for transporting persons to and from facilities related to the horse racing industry as regulated in chapter 67.16 RCW, as long as the public right-of-way routes over which the trams operate are not more than one mile from end to end, the public rights-of-way over which the tram operates have an average daily traffic of not more than 15,000 vehicles per day, and the activity is in conformity with federal law. The operator must be a licensed driver and at least eighteen years old. For the purposes of this section, "tram" also means a vehicle, or combination of vehicles linked together with a single mode of propulsion, used to transport persons from one location to another;

(h) "Special highway construction equipment" defined as follows: Any vehicle which is designed and used primarily for grading of highways, paving of highways, earth moving, and other construction work on highways and which is not designed or used primarily for the transportation of persons or property on a public highway and which is only incidentally operated or moved over the highway. It includes, but is not limited to, road construction and maintenance machinery so designed and used such as portable air compressors, air drills, asphalt spreaders, bituminous mixers, bucket loaders, track laying tractors, ditchers, leveling graders, finishing machines, motor graders, paving mixers, road rollers, scarifiers, earth moving scrapers and carryalls, lighting plants, welders, pumps, power shovels and draglines, self-propelled and tractor-drawn earth moving equipment and machinery, including dump trucks and tractor-dump trailer combinations which either (i) are in excess of the legal width, or (ii) which, because of their length, height, or unladen weight, may not be moved on a public highway without the permit specified in RCW 46.44.090 and which are not operated laden except within the boundaries of the project limits as defined by the contract, and other similar types of construction equipment, or (iii) which are driven or moved upon a public highway only for the purpose of crossing such highway from one property to another, provided such movement does not exceed five hundred feet and the vehicle is equipped with wheels or pads which will not damage the roadway surface.

Exclusions:

"Special highway construction equipment" does not include any of the following:

Dump trucks originally designed to comply with the legal size and weight provisions of this code notwithstanding any subsequent modification which would require a permit, as specified in RCW 46.44.090, to operate such vehicles on a public highway, including trailers, truck-mounted transit mixers, cranes and shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached; and

(i) Golf carts, as defined in section 3 of this act, operating within a designated golf cart zone as described in section 4 of this act.

(6) The following vehicles, whether operated solo or in combination, are exempt from license registration and displaying license plates as required by this chapter:

(a) A converter gear used to convert a semitrailer into a trailer or a two-axle truck or tractor into a three or more axle truck or tractor or used in any other manner to increase the number of axles of a vehicle. Converter gear includes an auxiliary axle, booster axle, dolly, and jeep axle.

(b) A tow dolly that is used for towing a motor vehicle behind another motor vehicle. The front or rear wheels of the towed vehicle are secured to and rest on the tow dolly that is attached to the towing vehicle by a tow bar.

(c) An off-road vehicle operated on a street, road, or highway as authorized under RCW 46.09.180.

(7)(a) A motor vehicle subject to initial or renewal registration under this section shall not be registered to a natural person unless the person at time of application:

(i) Presents an unexpired Washington state driver's license; or

(ii) Certifies that he or she is:

(A) A Washington resident who does not operate a motor vehicle on public roads; or

(B) Exempt from the requirement to obtain a Washington state driver's license under RCW 46.20.025.

(b) For shared or joint ownership, the department will set up procedures to verify that all owners meet the requirements of this subsection.

(c) A person falsifying residency is guilty of a gross misdemeanor punishable only by a fine of five hundred twenty-nine dollars.

(d) The department may adopt rules necessary to implement this subsection, including rules under which a natural person applying for registration may be exempt from the requirements of this subsection where the person provides evidence satisfactory to the department that he or she has a valid and compelling reason for not being able to meet the requirements of this subsection.

(8) A vehicle with an expired registration of more than forty-five days parked on a public street may be impounded by a police officer under RCW 46.55.113(2).

**Sec. 6.** RCW 46.37.010 and 2006 c 306 s 1 and 2006 c 212 s 5 are each reenacted and amended to read as follows:

(1) It is a traffic infraction for any person to drive or move, or for a vehicle owner to cause or knowingly permit to be driven or moved, on any highway any vehicle or combination of vehicles that:

(a) Is in such unsafe condition as to endanger any person;

(b) Is not at all times equipped with such lamps and other equipment in proper working condition and adjustment as required by this chapter or by rules issued by the Washington state patrol;

(c) Contains any parts in violation of this chapter or rules issued by the Washington state patrol.

(2) It is a traffic infraction for any person to do any act forbidden or fail to perform any act required under this chapter or rules issued by the Washington state patrol.

(3) Nothing contained in this chapter or the state patrol's regulations shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter or the state patrol's regulations.

(4) The provisions of the chapter and the state patrol's regulations with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers, or farm tractors except as herein made applicable.

(5) No owner or operator of a farm tractor, self-propelled unit of farm equipment, or implement of husbandry shall be guilty of a crime or subject to penalty for violation of RCW 46.37.160 as now or hereafter amended unless such violation occurs on a public highway.

(6) It is a traffic infraction for any person to sell or offer for sale vehicle equipment which is required to be approved by the state patrol as prescribed in RCW 46.37.005 unless it has been approved by the state patrol.

(7) The provisions of this chapter with respect to equipment required on vehicles shall not apply to:

(a) Motorcycles or motor-driven cycles except as herein made applicable;

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(b) Golf carts, as defined in section 3 of this act, operating within a designated golf cart zone as described in section 4 of this act, except as provided in section 4(8) of this act.

(8) This chapter does not apply to off-road vehicles used on nonhighway roads or used on streets, roads, or highways as authorized under RCW 46.09.180.

(9) This chapter does not apply to vehicles used by the state parks and recreation commission exclusively for park maintenance and operations upon public highways within state parks.

(10) Notices of traffic infraction issued to commercial drivers under the provisions of this chapter with respect to equipment required on commercial motor vehicles shall not be considered for driver improvement purposes under chapter 46.20 RCW.

(11) Whenever a traffic infraction is chargeable to the owner or lessee of a vehicle under subsection (1) of this section, the driver shall not be arrested or issued a notice of traffic infraction unless the vehicle is registered in a jurisdiction other than Washington state, or unless the infraction is for an offense that is clearly within the responsibility of the driver.

(12) Whenever the owner or lessee is issued a notice of traffic infraction under this section the court may, on the request of the owner or lessee, take appropriate steps to make the driver of the vehicle, or any other person who directs the loading, maintenance, or operation of the vehicle, a codefendant. If the codefendant is held solely responsible and is found to have committed the traffic infraction, the court may dismiss the notice against the owner or lessee.

**Sec. 7.** RCW 46.61.687 and 2007 c 510 s 4 are each amended to read as follows:

(1) Whenever a child who is less than sixteen years of age is being transported in a motor vehicle that is in operation and that is required by RCW 46.37.510 to be equipped with a safety belt system in a passenger seating position, or is being transported in a neighborhood electric vehicle or medium-speed electric vehicle that is in operation, the driver of the vehicle shall keep the child properly restrained as follows:

(a) A child must be restrained in a child restraint system, if the passenger seating position equipped with a safety belt system allows sufficient space for installation, until the child is eight years old, unless the child is four feet nine inches or taller. The child restraint system must comply with standards of the United States department of transportation and must be secured in the vehicle in accordance with instructions of the vehicle manufacturer and the child restraint system manufacturer.

(b) A child who is eight years of age or older or four feet nine inches or taller shall be properly restrained with the motor vehicle's safety belt properly adjusted and fastened around the child's body or an appropriately fitting child restraint system.

(c) The driver of a vehicle transporting a child who is under thirteen years old shall transport the child in the back seat positions in the vehicle where it is practical to do so.

(2) Enforcement of subsection (1) of this section is subject to a visual inspection by law enforcement to determine if the child restraint system in use is appropriate for the child's individual height, weight, and age. The visual inspection for usage of a child restraint system must ensure that the child restraint system is being used in accordance with the instruction of the vehicle and the child restraint system manufacturers. The driver of a vehicle transporting a child who is under thirteen years old shall transport the child in the back seat positions in the vehicle where it is practical to do so.

(3) A person violating subsection (1) of this section may be issued a notice of traffic infraction under chapter 46.63 RCW. If the person to whom the notice was issued presents proof of acquisition of an approved child passenger restraint system or a

child booster seat, as appropriate, within seven days to the jurisdiction issuing the notice and the person has not previously had a violation of this section dismissed, the jurisdiction shall dismiss the notice of traffic infraction.

(4) Failure to comply with the requirements of this section shall not constitute negligence by a parent or legal guardian. Failure to use a child restraint system shall not be admissible as evidence of negligence in any civil action.

(5) This section does not apply to: (a) For hire vehicles, (b) vehicles designed to transport sixteen or less passengers, including the driver, operated by auto transportation companies, as defined in RCW 81.68.010, (c) vehicles providing customer shuttle service between parking, convention, and hotel facilities, and airport terminals, ~~(and)~~ (d) golf carts, as defined in section 3 of this act, operating within a designated golf cart zone as described in section 4 of this act, and (e) school buses.

(6) As used in this section, "child restraint system" means a child passenger restraint system that meets the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213.

(7) The requirements of subsection (1) of this section do not apply in any seating position where there is only a lap belt available and the child weighs more than forty pounds.

(8)(a) Except as provided in (b) of this subsection, a person who has a current national certification as a child passenger safety technician and who in good faith provides inspection, adjustment, or educational services regarding child passenger restraint systems is not liable for civil damages resulting from any act or omission in providing the services, other than acts or omissions constituting gross negligence or willful or wanton misconduct.

(b) The immunity provided in this subsection does not apply to a certified child passenger safety technician who is employed by a retailer of child passenger restraint systems and who, during his or her hours of employment and while being compensated, provides inspection, adjustment, or educational services regarding child passenger restraint systems."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Haugen moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6207.

Senator Haugen spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Haugen that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6207.

The motion by Senator Haugen carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6207 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6207, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6207, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 1; Absent, 1; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles,

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Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Eide

Absent: Senator Regala

Excused: Senators Fairley, Holmquist and McCaslin

SUBSTITUTE SENATE BILL NO. 6207, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 3, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6373 with the following amendment(s): 6373-S AMH UPTH H5528.2;

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 70.235.010 and 2008 c 14 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Carbon dioxide equivalents" means a metric measure used to compare the emissions from various greenhouse gases based upon their global warming potential.

(2) "Climate advisory team" means the stakeholder group formed in response to executive order 07-02.

(3) "Climate impacts group" means the University of Washington's climate impacts group.

(4) "Department" means the department of ecology.

(5) ("Direct emissions" means emissions of greenhouse gases from sources of emissions, including stationary combustion sources, mobile combustion emissions, process emissions, and fugitive emissions.

(6)) "Director" means the director of the department.

~~((7))~~ (6) "Greenhouse gas" and "greenhouse gases" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, ~~((and))~~ sulfur hexafluoride, and any other gas or gases designated by the department by rule.

~~((8))~~ (8) "Indirect emissions" means emissions of greenhouse gases associated with the purchase of electricity, heating, cooling, or steam.

(9)) (7) "Person" means an individual, partnership, franchise holder, association, corporation, a state, a city, a county, or any subdivision or instrumentality of the state.

~~((10))~~ (8) "Program" means the department's climate change program.

~~((11))~~ "Total emissions of greenhouse gases" means all direct emissions and all indirect emissions.

~~((12))~~ (9) "Western climate initiative" means the collaboration of states, Canadian provinces, Mexican states, and tribes to design a multisector market-based mechanism as directed under the western regional climate action initiative signed by the governor on February 22, 2007.

**Sec. 2.** RCW 70.94.151 and 2008 c 14 s 5 are each amended to read as follows:

(1) The board of any activated authority or the department, may classify air contaminant sources, by ordinance, resolution, rule or regulation, which in its judgment may cause or contribute to air pollution, according to levels and types of emissions and other characteristics which cause or contribute to air pollution, and may require registration or reporting or both for any such class or classes. Classifications made pursuant to this section may be for application to the area of jurisdiction of such authority, or the state as a whole or

to any designated area within the jurisdiction, and shall be made with special reference to effects on health, economic and social factors, and physical effects on property.

(2) Except as provided in subsection (3) of this section, any person operating or responsible for the operation of air contaminant sources of any class for which the ordinances, resolutions, rules or regulations of the department or board of the authority, require registration or reporting shall register therewith and make reports containing information as may be required by such department or board concerning location, size and height of contaminant outlets, processes employed, nature of the contaminant emission and such other information as is relevant to air pollution and available or reasonably capable of being assembled. In the case of emissions of greenhouse gases as defined in RCW 70.235.010 the department shall adopt rules requiring reporting of those emissions. The department or board may require that such registration or reporting be accompanied by a fee, and may determine the amount of such fee for such class or classes: PROVIDED, That the amount of the fee shall only be to compensate for the costs of administering such registration or reporting program which shall be defined as initial registration and annual or other periodic reports from the source owner providing information directly related to air pollution registration, on-site inspections necessary to verify compliance with registration requirements, data storage and retrieval systems necessary for support of the registration program, emission inventory reports and emission reduction credits computed from information provided by sources pursuant to registration program requirements, staff review, including engineering or other reliable analysis for accuracy and currentness, of information provided by sources pursuant to registration program requirements, clerical and other office support provided in direct furtherance of the registration program, and administrative support provided in directly carrying out the registration program: PROVIDED FURTHER, That any such registration made with either the board or the department shall preclude a further registration and reporting with any other board or the department, except that emissions of greenhouse gases as defined in RCW 70.235.010 must be reported as required under subsection (5) of this section.

All registration program and reporting fees collected by the department shall be deposited in the air pollution control account. All registration program fees collected by the local air authorities shall be deposited in their respective treasuries.

(3) If a registration or report has been filed for a grain warehouse or grain elevator as required under this section, registration, reporting, or a registration program fee shall not, after January 1, 1997, again be required under this section for the warehouse or elevator unless the capacity of the warehouse or elevator as listed as part of the license issued for the facility has been increased since the date the registration or reporting was last made. If the capacity of the warehouse or elevator listed as part of the license is increased, any registration or reporting required for the warehouse or elevator under this section must be made by the date the warehouse or elevator receives grain from the first harvest season that occurs after the increase in its capacity is listed in the license.

This subsection does not apply to a grain warehouse or grain elevator if the warehouse or elevator handles more than ten million bushels of grain annually.

(4) For the purposes of subsection (3) of this section:

(a) A "grain warehouse" or "grain elevator" is an establishment classified in standard industrial classification (SIC) code 5153 for wholesale trade for which a license is required and includes, but is not limited to, such a licensed facility that also conducts cleaning operations for grain;

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(b) A "license" is a license issued by the department of agriculture licensing a facility as a grain warehouse or grain elevator under chapter 22.09 RCW or a license issued by the federal government licensing a facility as a grain warehouse or grain elevator for purposes similar to those of licensure for the facility under chapter 22.09 RCW; and

(c) "Grain" means a grain or a pulse.

(5)(a) ~~The department shall adopt rules requiring ((the reporting of)) persons to report emissions of greenhouse gases as defined in RCW 70.235.010((The rules must include a de minimis amount of emissions below which reporting will not be required for both indirect and direct emissions. The rules must require that emissions of greenhouse gases resulting from the burning of fossil fuels be reported separately from emissions of greenhouse gases resulting from the burning of biomass. Except as provided in (b) of this subsection, the department shall, under the authority granted in subsection (1) of this section, adopt rules requiring any owner or operator: (i) Of a fleet of on road motor vehicles that as a fleet emit at least twenty five hundred metric tons of greenhouse gas annually in the state to report the emissions of greenhouse gases generated from or emitted by that fleet; or (ii) of a source or combination of sources that emit at least ten thousand metric tons of greenhouse gas annually in the state to report their total annual emissions of greenhouse gases. In calculating emissions of greenhouse gases for purposes of determining whether or not reporting is required, only direct emissions shall be included. For purposes of reporting emissions of greenhouse gases in chapter 14, Laws of 2008, "source" means any stationary source as defined in RCW 70.94.030, or mobile source used for transportation of people or cargo. The emissions of greenhouse gases must be reported as carbon dioxide equivalents. The rules must require that persons report 2009 emissions starting in 2010. The rules must establish an annual reporting schedule that takes into account the time needed to allow the owner or operator reporting emissions of greenhouse gases to gather the information needed and to verify the emissions being reported. However, in no event may reports be submitted later than October 31st of the year in which the report is due. The department may phase in the reporting requirements for sources or combinations of sources under (a)(ii) of this subsection until the reporting threshold is met, which must be met by January 1, 2012. The department may from time to time amend the rules to include other persons that emit less than the annual greenhouse gas emissions levels set out in this subsection if necessary to comply with any federal reporting requirements for emissions of greenhouse gases.~~

~~(b) In its rules, the department may defer the reporting requirement under (a) of this subsection for emissions associated with interstate and international commercial aircraft, rail, truck, or marine vessels until (i) there is a federal requirement to report these emissions; or (ii) the department finds that there is a generally accepted reporting protocol for determining interstate emissions from these sources.) where those emissions from a single facility, source, or site, or from fossil fuels sold in Washington by a single supplier meet or exceed ten thousand metric tons of carbon dioxide equivalent annually. The department may phase in the requirement to report greenhouse gas emissions until the reporting threshold in this subsection is met, which must occur by January 1, 2012. In addition, the rules must require that:~~

~~(i) Emissions of greenhouse gases resulting from the combustion of fossil fuels be reported separately from emissions of greenhouse gases resulting from the combustion of biomass;~~

~~(ii) Reporting will start in 2010 for 2009 emissions. Each annual report must include emissions data for the preceding calendar year and must be submitted to the department by October 31st of the year in which the report is due. However, starting in~~

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2011, a person who is required to report greenhouse gas emissions to the United States environmental protection agency under 40 C.F.R. Part 98, as adopted on September 22, 2009, must submit the report required under this section to the department concurrent with the submission to the United States environmental protection agency. Except as otherwise provided in this section, the data for emissions in Washington and any corrections thereto that are reported to the United States environmental protection agency must be the emissions data reported to the department; and

(iii) Emissions of carbon dioxide associated with the complete combustion or oxidation of liquid motor vehicle fuel, special fuel, or aircraft fuel that is sold in Washington where the annual emissions associated with that combustion or oxidation equal or exceed ten thousand metric tons be reported to the department. Each person who is required to file periodic tax reports of motor vehicle fuel sales under RCW 82.36.031 or special fuel sales under RCW 82.38.150, or each distributor of aircraft fuel required to file periodic tax reports under RCW 82.42.040 must report to the department the annual emissions of carbon dioxide from the complete combustion or oxidation of the fuels listed in those reports as sold in the state of Washington. The department shall not require suppliers to use additional data to calculate greenhouse gas emissions other than the data the suppliers report to the department of licensing. The rules may allow this information to be aggregated when reported to the department. The department and the department of licensing shall enter into an interagency agreement to ensure proprietary and confidential information is protected if the departments share reported information. Any proprietary or confidential information exempt from disclosure when reported to the department of licensing is exempt from disclosure when shared by the department of licensing with the department under this provision.

(b)(i) Except as otherwise provided in this subsection, the rules adopted by the department under (a) of this subsection must be consistent with the regulations adopted by the United States environmental protection agency in 40 C.F.R. Part 98 on September 22, 2009.

(ii) The department may by rule include additional gases to the definition of "greenhouse gas" in RCW 70.235.010 only if the gas has been designated as a greenhouse gas by the United States congress or by the United States environmental protection agency. Prior to including additional gases to the definition of "greenhouse gas" in RCW 70.235.010, the department shall notify the appropriate committees of the legislature. Decisions to amend the rule to include additional gases must be made prior to December 1st of any year and the amended rule may not take effect before the end of the regular legislative session in the next year.

(iii) The department may by rule exempt persons who are required to report greenhouse gas emissions to the United States environmental protection agency and who emit less than ten thousand metric tons carbon dioxide equivalent annually.

(iv) The department must establish a methodology for persons who are not required to report under this section to voluntarily report their greenhouse gas emissions.

(c) The department shall review and if necessary update its rules whenever the United States environmental protection agency adopts final amendments to 40 C.F.R. Part 98 to ensure consistency with federal reporting requirements for emissions of greenhouse gases. However, the department shall not amend its rules in a manner that conflicts with (a) of this subsection.

(d) The department shall share any reporting information reported to it with the local air authority in which the ((owner or operator)) person reporting under the rules adopted by the department operates.

((d)) (e) The fee provisions in subsection (2) of this section apply to reporting of emissions of greenhouse gases. ((Owners and

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~~operators~~) Persons required to report under (a) of this subsection who fail to report or pay the fee required in subsection (2) of this section are subject to enforcement penalties under this chapter. The department shall enforce the reporting rule requirements unless it approves a local air authority's request to enforce the requirements for ~~((sources))~~ persons operating within the authority's jurisdiction. However, neither the department nor a local air authority approved under this section are authorized to assess enforcement penalties on persons required to report under (a) of this subsection until six months after the department adopts its reporting rule in 2010.

~~((e))~~ (f) The energy facility site evaluation council shall, simultaneously with the department, adopt rules that impose greenhouse gas reporting requirements in site certifications on owners or operators of a facility permitted by the energy facility site evaluation council. The greenhouse gas reporting requirements imposed by the energy facility site evaluation council must be the same as the greenhouse gas reporting requirements imposed by the department. The department shall share any information reported to it from facilities permitted by the energy facility site evaluation council with the council, including notice of a facility that has failed to report as required. The energy facility site evaluation council shall contract with the department to monitor the reporting requirements adopted under this section.

((f) In developing its rules, the department shall, with the assistance of the department of transportation, identify a mechanism to report an aggregate estimate of the annual emissions of greenhouse gases generated from or emitted by otherwise unreported on-road motor vehicles.)

(g) The inclusion or failure to include any person, source, classes of persons or sources, or types of emissions of greenhouse gases into the department's rules for reporting under this section does not indicate whether such a person, source, or category is appropriate for inclusion in ~~((the multisector market based system designed under RCW 70.235.020))~~ state, regional, or national greenhouse gas reduction programs or strategies. Furthermore, aircraft fuel purchased in the state may not be considered equivalent to aircraft fuel combusted in the state.

(h) ((Should the federal government adopt rules sufficient to track progress toward the emissions reductions required by chapter 14, Laws of 2008 governing the reporting of greenhouse gases, the department shall amend its rules, as necessary, to seek consistency with the federal rules to ensure duplicate reporting is not required. Nothing in this section requires the department to increase the reporting threshold established in (a) of this subsection or otherwise require the department's rules be identical to the federal rules in scope.)) (i) The definitions in RCW 70.235.010 apply throughout this subsection (5) unless the context clearly requires otherwise.

(ii) For the purpose of this subsection (5), the term "supplier" includes: (A) A motor vehicle fuel supplier or a motor vehicle fuel importer, as those terms are defined in RCW 82.36.010; (B) a special fuel supplier or a special fuel importer, as those terms are defined in RCW 82.38.020; and (C) a distributor of aircraft fuel, as those terms are defined in RCW 82.42.010.

(iii) For the purpose of this subsection (5), the term "person" includes: (A) An owner or operator, as those terms are defined by the United States environmental protection agency in its mandatory greenhouse gas reporting regulation in 40 C.F.R. Part 98, as adopted on September 22, 2009; and (B) a supplier."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Ranker moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6373.

Senators Ranker and Honeyford spoke in favor of the motion.

MOTION

On motion of Senator Marr, Senators Brown, Gordon, Regala and Rockefeller were excused.

The President declared the question before the Senate to be the motion by Senator Ranker that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6373.

The motion by Senator Ranker carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6373 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6373, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6373, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 41; Nays, 4; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Carrell, Delvin, King and Morton

Excused: Senators Brown, Fairley, Holmquist and McCaslin

SUBSTITUTE SENATE BILL NO. 6373, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 4, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6557 with the following amendment(s): 6557-S AMH ENGR H5436.E,

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that:

(1) Brake friction material is an essential component of motor vehicle brakes and is critically important to transportation safety and public safety in general;

(2) Debris from brake friction material containing copper and its compounds is generated and released to the environment during normal operation of motor vehicle brakes;

(3) Thousands of pounds of copper and other substances released from brake friction material enter Washington state's streams, rivers, and marine environment every year; and

(4) Copper is toxic to many aquatic organisms, including salmon.

NEW SECTION. Sec. 2. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Accredited laboratory" means a laboratory that is:

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(a) Qualified and equipped for testing of products, materials, equipment, and installations in accordance with national or international standards; and

(b) Accredited by a third-party organization approved by the department to accredit laboratories for purposes of this chapter.

(2) "Alternative brake friction material" means brake friction material that:

(a) Does not contain:

(i) More than 0.5 percent copper or its compounds by weight;

(ii) The constituents identified in section 3 of this act at or above the concentrations specified; and

(iii) Other materials determined by the department to be more harmful to human health or the environment than existing brake friction material;

(b) Enables motor vehicle brakes to meet applicable federal safety standards, or if no federal safety standard exists, a widely accepted industry standard;

(c) Is available at a cost and quantity that does not cause significant financial hardship across the majority of brake friction material and vehicle manufacturing industries; and

(d) Is available to enable brake friction material and vehicle manufacturers to produce viable products meeting consumer expectations regarding braking noise, shuddering, and durability.

(3) "Brake friction material" means that part of a motor vehicle brake designed to retard or stop the movement of a motor vehicle through friction against a rotor made of more durable material.

(4) "Committee" means the brake friction material advisory committee.

(5) "Department" means the department of ecology.

(6)(a) "Motor vehicle" has the same meaning as defined in RCW 46.04.320 that are subject to licensing requirements under RCW 46.16.010.

(b) "Motor vehicle" does not include:

(i) Motorcycles as defined in RCW 46.04.330;

(ii) Motor vehicles employing internal closed oil immersed motor vehicle brakes or similar brake systems that are fully contained and emit no debris or fluid under normal operating conditions;

(iii) Military combat vehicles;

(iv) Race cars, dual-sport vehicles, or track day vehicles, whose primary use is for off-road purposes and are permitted under RCW 46.16.160; or

(v) Collector vehicles, as defined in RCW 46.04.126.

(7)(a) "Motor vehicle brake" means an energy conversion mechanism used to retard or stop the movement of a motor vehicle.

(b) "Motor vehicle brake" does not include brakes designed primarily to hold motor vehicles stationary and not for use while motor vehicles are in motion.

(8) "Original equipment service" means brake friction material provided as service parts originally designed for and using the same brake friction material formulation sold with a new motor vehicle.

(9) "Small volume motor vehicle manufacturer" means a manufacturer of motor vehicles with Washington annual sales of less than one thousand new passenger cars, light-duty trucks, medium-duty vehicles, heavy-duty vehicles, and heavy-duty engines based on the average number of vehicles sold for the three previous consecutive model years.

**NEW SECTION. Sec. 3.** (1) Beginning January 1, 2014, no manufacturer, wholesaler, retailer, or distributor may sell or offer for sale brake friction material in Washington state containing any of the following constituents in an amount exceeding the specified concentrations:

(a) Asbestiform fibers, 0.1 percent by weight.

(b) Cadmium and its compounds, 0.01 percent by weight.

(c) Chromium(VI)-salts, 0.1 percent by weight.

(d) Lead and its compounds, 0.1 percent by weight.

(e) Mercury and its compounds, 0.1 percent by weight.

(2) Beginning January 1, 2021, no manufacturer, wholesaler, retailer, or distributor may sell or offer for sale brake friction material in Washington state containing more than five percent copper and its compounds by weight.

(3) Brake friction material manufactured prior to 2015 is exempt from subsection (1) of this section for the purposes of clearing inventory. This exemption expires January 1, 2025.

(4) Brake friction material manufactured prior to 2021 is exempt from subsection (2) of this section for the purposes of clearing inventory. This exemption expires January 1, 2031.

(5) Brake friction material manufactured as part of an original equipment service contract for vehicles manufactured prior to January 1, 2015, is exempt from subsection (1) of this section.

(6) Brake friction material manufactured as part of an original equipment service contract for vehicles manufactured prior to January 1, 2021, is exempt from subsection (2) of this section.

**NEW SECTION. Sec. 4.** (1) By December 1, 2015, the department shall review risk assessments, scientific studies, and other relevant analyses regarding alternative brake friction material and determine whether the material may be available. The department shall consider any new science with regard to the bioavailability and toxicity of copper.

(2) If the department finds that alternative brake friction material may be available, it shall convene a brake friction material advisory committee. The committee shall include, but is not limited to:

(a) A representative of the department, who will chair the committee;

(b) The chief of the Washington state patrol, or the chief's designee;

(c) A representative of manufacturers of brake friction material;

(d) A representative of manufacturers of motor vehicles;

(e) A representative of a nongovernmental organization concerned with motor vehicle safety;

(f) A representative of the national highway traffic safety administration; and

(g) A representative of a nongovernmental organization concerned with the environment.

(3) If convened pursuant to subsection (2) of this section, the committee shall separately assess alternative brake friction material for passenger vehicles, light-duty vehicles, and heavy-duty vehicles. The committee shall make different recommendations to the department as to whether alternative brake friction material is available or unavailable for passenger vehicles, light-duty vehicles, and heavy-duty vehicles. For purposes of this section, "heavy-duty vehicle" means a vehicle used for commercial purposes with a gross vehicle weight rating above twenty-six thousand pounds. The committee shall also consider appropriate exemptions including original equipment service and brake friction material manufactured prior to the dates specified in section 5 of this act. The department shall consider the committee's recommendations and make a finding as to whether alternative brake friction material is available or unavailable.

(4) If, pursuant to subsection (3) of this section, the department finds that alternative brake friction material:

(a) Is available, it shall comply with section 5 of this act;

(b) Is not available, it shall periodically evaluate the finding and, if it determines that alternative brake friction material may be available, comply with subsections (2) and (3) of this section. If the department finds that alternative brake friction material is available, it shall comply with section 5 of this act.

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**NEW SECTION. Sec. 5.** If, pursuant to section 4 of this act, the department finds that alternative brake friction material is available:

(1)(a) By December 31st of the year in which the finding is made, the department shall publish the information required by section 4 of this act in the Washington State Register and present it in a report to the appropriate committees of the legislature; and

(b) The report must include recommendations for exemptions on original equipment service and brake friction material manufactured prior to dates specified in this section and may include recommendations for other exemptions.

(2) Beginning eight years after the report in subsection (1) of this section is published in the Washington State Register, no manufacturer, wholesaler, retailer, or distributor may sell or offer for sale brake friction material in Washington state containing more than 0.5 percent copper and its compounds by weight, as specified in the report.

(3) The department shall adopt rules to implement this section.

**NEW SECTION. Sec. 6.** Any motor vehicle manufacturer or brake friction material manufacturer may apply to the department for an exemption from this chapter for brake friction material intended for a specific motor vehicle model or class of motor vehicles based on special needs or characteristics of the motor vehicles for which the brake friction material is intended. Exemptions may only be issued for small volume motor vehicle manufacturers, specific motor vehicle models, or special classes of vehicles, such as fire trucks, police cars, and heavy or wide-load equipment hauling, provided the manufacturer can demonstrate that complying with the requirements of this chapter is not feasible, does not allow compliance with safety standards, or causes significant financial hardship. Exemptions are valid for no less than one year and may be renewed automatically as needed or the exemption may be permanent for as long as the vehicle is used in the manner described in the application.

**NEW SECTION. Sec. 7.** (1) By January 1, 2013, and at least every three years thereafter, manufacturers of brake friction material sold or offered for sale in Washington state shall provide data to the department adequate to enable the department to determine concentrations of antimony, copper, nickel, and zinc and their compounds in brake friction material sold or offered for sale in Washington state.

(2) Using data provided pursuant to subsection (1) of this section and other data as needed, and in consultation with the brake friction material manufacturing industry, the department must:

(a) By July 1, 2013, establish baseline concentration levels for constituents identified in subsection (1) of this section in brake friction material; and

(b) Track progress toward reducing the use of copper and its compounds and ensure that concentration levels of antimony, nickel, or zinc and their compounds do not increase by more than fifty percent above baseline concentration levels.

(3) If concentration levels of antimony, nickel, or zinc and their compounds in brake friction material increase by more than fifty percent above baseline concentration levels, the department shall review scientific studies to determine the potential impact of the constituent on human health and the environment. If scientific studies demonstrate the need for controlling the use of the constituent in brake friction material, the department may consider recommending limits on concentration levels of the constituent in the material.

(4) Confidential business information otherwise protected under RCW 43.21A.160 or chapter 42.56 RCW is exempt from public disclosure.

**NEW SECTION. Sec. 8.** (1) Manufacturers of brake friction material offered for sale in Washington state must certify

compliance with the requirements of this chapter and mark proof of certification on the brake friction material in accordance with criteria developed under this section.

(2) By December 1, 2012, the department must, after consulting with interested parties, develop compliance criteria to meet the requirements of this chapter. Compliance criteria includes, but is not limited to:

(a) Self-certification of compliance by brake friction material manufacturers using accredited laboratories; and

(b) Marked proof of certification, including manufacture date, on brake friction material and product packaging. Marked proof of certification must appear by January 1, 2015. Brake friction material manufactured or packaged prior to January 1, 2015, is exempt from this subsection (2)(b).

(3) Beginning January 1, 2021, manufacturers of new motor vehicles offered for sale in Washington state must ensure that motor vehicles are equipped with brake friction material certified to be compliant with the requirements of this chapter.

**NEW SECTION. Sec. 9.** (1) The department shall enforce this chapter. The department may periodically purchase and test brake friction material sold or offered for sale in Washington state to verify that the material complies with this chapter.

(2) Enforcement of this chapter by the department must rely on notification and information exchange between the department and manufacturers, distributors, and retailers. The department shall issue one warning letter by certified mail to a manufacturer, distributor, or retailer that sells or offers to sell brake friction material in violation of this chapter, and offer information or other appropriate assistance regarding compliance with this chapter. Once a warning letter has been issued to a distributor or retailer for violations under subsections (3) and (5) of this section, the department need not provide warning letters for subsequent violations by that distributor or retailer. For the purposes of subsection (6) of this section, a warning letter serves as notice of the violation. If compliance is not achieved, the department may assess penalties under this section.

(3) A brake friction material distributor or retailer that violates this chapter is subject to a civil penalty not to exceed ten thousand dollars for each violation. Brake friction material distributors or retailers that sell brake friction material that is packaged consistent with section 8(2)(b) of this act are not in violation of this chapter. However, if the department conclusively proves that the brake friction material distributor or retailer was aware that the brake friction material being sold violates section 3 or 5 of this act, the brake friction material distributor or retailer is subject to civil penalties according to this section.

(4) A brake friction material manufacturer that knowingly violates this chapter shall recall the brake friction material and reimburse the brake friction distributor, retailer, or any other purchaser for the material and any applicable shipping and handling charges for returning the material. A brake friction material manufacturer that violates this chapter is subject to a civil penalty not to exceed ten thousand dollars for each violation.

(5) A motor vehicle distributor or retailer that violates this chapter is subject to a civil penalty not to exceed ten thousand dollars for each violation. A motor vehicle distributor or retailer is not in violation of this chapter for selling a vehicle that was previously sold at retail and that contains brake friction material failing to meet the requirements of this chapter. However, if the department conclusively proves that the motor vehicle distributor or retailer installed brake friction material that violates section 3, 5, or 8(2)(b) of this act on the vehicle being sold and was aware that the brake friction material violates section 3, 5, or 8(2)(b) of this act, the motor vehicle distributor or retailer is subject to civil penalties under this section.

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(6) A motor vehicle manufacturer that violates this chapter must notify the registered owner of the vehicle within six months of knowledge of the violation and must replace at no cost to the owner the noncompliant brake friction material with brake friction material that complies with this chapter. A motor vehicle manufacturer that fails to provide the required notification to registered owners of the affected vehicles within six months of knowledge of the violation is subject to a civil penalty not to exceed one hundred thousand dollars. A motor vehicle manufacturer that fails to provide the required notification to registered owners of the affected vehicles after twelve months of knowledge of the violation is subject to a civil penalty not to exceed ten thousand dollars per vehicle. For purposes of this section, "motor vehicle manufacturer" does not include a vehicle dealer defined under RCW 46.70.011 and required to be licensed as a vehicle dealer under chapter 46.70 RCW.

(7) Before the effective date of the prohibitions in section 3 or 5 of this act, the department shall prepare and distribute information about the prohibitions to manufacturers, distributors, and retailers to the maximum extent practicable.

(8) All penalties collected under this chapter must be deposited in the state toxics control account created in RCW 70.105D.070.

NEW SECTION. Sec. 10. The department may adopt rules necessary to implement this chapter.

NEW SECTION. Sec. 11. Sections 1 through 10 and 12 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 12. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Ranker moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6557.

Senator Ranker spoke in favor of the motion.

Senator Honeyford spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Ranker that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6557.

The motion by Senator Ranker carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6557 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6557, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6557, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 40; Nays, 6; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Carrell, Delvin, Honeyford, Morton, Schoesler and Stevens

Excused: Senators Fairley, Holmquist and McCaslin  
SUBSTITUTE SENATE BILL NO. 6557, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

February 28, 2010

MR. PRESIDENT:

The House passed ENGROSSED SENATE BILL NO. 6221 with the following amendment(s): 6221.E AMH SGTA MADS 179,

On page 4, line 6, after "designee," strike "authorized officer of a school district."  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Prentice moved that the Senate refuse to concur in the House amendment(s) to Engrossed Senate Bill No. 6221 and ask the House to recede therefrom.

Senators Prentice spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Prentice that the Senate refuse to concur in the House amendment(s) to Engrossed Senate Bill No. 6221 and ask the House to recede therefrom.

The motion by Senator Prentice carried and the Senate refused to concur in the House amendment(s) to Engrossed Senate Bill No. 6221 and asked the House to recede therefrom by voice vote.

#### MESSAGE FROM THE HOUSE

February 28, 2010

MR. PRESIDENT:

The House passed SENATE BILL NO. 6243 with the following amendment(s): 6243 AMH SGTA OBRT 114,

On page 13, after line 4, insert the following:

"NEW SECTION. Sec. 10. A new section is added to chapter 42.17 RCW to read as follows: The filing of campaign finance reports required under this chapter with the commission shall be sufficient to satisfy local government requirements where the local government requires the same information from a political committee."

Renumber the sections consecutively and correct any internal references accordingly.

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator McDermott moved that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 6243 and ask the House to recede therefrom.

Senators McDermott spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator McDermott that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 6243 and ask the House to recede therefrom.

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The motion by Senator McDermott carried and the Senate refused to concur in the House amendment(s) to Senate Bill No. 6243 and asked the House to recede therefrom by voice vote.

Bill No. 6293 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

MESSAGE FROM THE HOUSE

February 28, 2010

March 4, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6293 with the following amendment(s): 6293-S AMH OBRI H5566.1,

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9A.76.060 and 1975 1st ex.s. c 260 s 9A.76.060 are each amended to read as follows:

As used in RCW 9A.76.070 and 9A.76.080, "juvenile relative" means a person:

(1) Who was under the age of eighteen at the time of the offense;

(2) Who is related as husband or wife, brother or sister, parent or grandparent, child or grandchild, stepchild or stepparent to the person to whom criminal assistance is rendered; and

~~((2))~~ (3) Who does not render criminal assistance to another person in one or more of the means defined in ~~((subsections (4), (5), or (6) of))~~ RCW 9A.76.050 (4), (5), or (6).

**Sec. 2.** RCW 9A.76.070 and 2003 c 53 s 83 are each amended to read as follows:

(1) A person is guilty of rendering criminal assistance in the first degree if he or she renders criminal assistance to a person who has committed or is being sought for murder in the first degree or any class A felony or equivalent juvenile offense.

(2)(a) Except as provided in (b) of this subsection, rendering criminal assistance in the first degree is a class C felony.

(b) Rendering criminal assistance in the first degree is a gross misdemeanor if it is established by a preponderance of the evidence that the actor is a juvenile relative as defined in RCW 9A.76.060.

**Sec. 3.** RCW 9A.76.080 and 2003 c 53 s 84 are each amended to read as follows:

(1) A person is guilty of rendering criminal assistance in the second degree if he or she renders criminal assistance to a person who has committed or is being sought for a class B or class C felony or an equivalent juvenile offense or to someone being sought for violation of parole, probation, or community supervision.

(2)(a) Except as provided in (b) of this subsection, rendering criminal assistance in the second degree is a gross misdemeanor.

(b) Rendering criminal assistance in the second degree is a misdemeanor if it is established by a preponderance of the evidence that the actor is a juvenile relative as defined in RCW 9A.76.060.

NEW SECTION. **Sec. 4.** This act may be known and cited as Randy's law."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Brandland moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6293 and ask the House to recede therefrom.

Senators Brandland and Kline spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Brandland that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6293 and ask the House to recede therefrom.

The motion by Senator Brandland carried and the Senate refused to concur in the House amendment(s) to Substitute Senate

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5295 with the following amendment: 5295-S AMH SGTA H5213.2,

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 70.05.170 and 2009 c 134 s 1 are each amended to read as follows:

(1)(a) The legislature finds that the mortality rate in Washington state among infants and children less than eighteen years of age is unacceptably high, and that such mortality may be preventable. The legislature further finds that, through the performance of child mortality reviews, preventable causes of child mortality can be identified and addressed, thereby reducing the infant and child mortality in Washington state.

(b) It is the intent of the legislature to encourage the performance of child death reviews by local health departments by providing necessary legal protections to the families of children whose deaths are studied, local health department officials and employees, and health care professionals participating in child mortality review committee activities.

(2) As used in this section, "child mortality review" means a process authorized by a local health department as such department is defined in RCW 70.05.010 for examining factors that contribute to deaths of children less than eighteen years of age. The process may include a systematic review of medical, clinical, and hospital records; home interviews of parents and caretakers of children who have died; analysis of individual case information; and review of this information by a team of professionals in order to identify modifiable medical, socioeconomic, public health, behavioral, administrative, educational, and environmental factors associated with each death.

(3) Local health departments are authorized to conduct child mortality reviews. In conducting such reviews, the following provisions shall apply:

(a) ((All medical records, reports, and statements procured by, furnished to, or maintained by a local health department pursuant to chapter 70.02 RCW for purposes of a child mortality review are confidential insofar as the identity of an individual child and his or her adoptive or natural parents is concerned. Such records may be used solely by local health departments for the purposes of the review. This section does not prevent a local health department from publishing statistical compilations and reports related to the child mortality review, if such compilations and reports do not identify individual cases and sources of information.

(b) Any records or documents supplied or maintained for the purposes of a child mortality review are not subject to discovery or subpoena in any administrative, civil, or criminal proceeding related to the death of a child reviewed. This provision shall not restrict or limit the discovery or subpoena from a health care provider of records or documents maintained by such health care provider in the ordinary course of business, whether or not such records or documents may have been supplied to a local health department pursuant to this section.

(c) Any summaries or analyses of records, documents, or records of interviews prepared exclusively for purposes of a child mortality review are not subject to discovery, subpoena, or introduction into evidence in any administrative, civil, or criminal proceeding related to the death of a child reviewed.) All health care information collected as part of a child mortality review is

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confidential, subject to the restrictions on disclosure provided for in chapter 70.02 RCW. When documents are collected as part of a child mortality review, the records may be used solely by local health departments for the purposes of the review;

(b) No identifying information related to the deceased child, the child's guardians, or anyone interviewed as part of the child mortality review may be disclosed. Any such information shall be redacted from any records produced as part of the review;

(c) Any witness statements or documents collected from witnesses, or summaries or analyses of those statements or records prepared exclusively for purposes of a child mortality review, are not subject to public disclosure, discovery, subpoena, or introduction into evidence in any administrative, civil, or criminal proceeding related to the death of a child reviewed. This provision does not restrict or limit the discovery or subpoena from a health care provider of records or documents maintained by such health care provider in the ordinary course of business, whether or not such records or documents may have been supplied to a local health department pursuant to this section. This provision shall not restrict or limit the discovery or subpoena of documents from such witnesses simply because a copy of a document was collected as part of a child mortality review;

(d) No local health department official or employee, and no members of technical committees established to perform case reviews of selected child deaths may be examined in any administrative, civil, or criminal proceeding as to the existence or contents of documents assembled, prepared, or maintained for purposes of a child mortality review.

(e) This section shall not be construed to prohibit or restrict any person from reporting suspected child abuse or neglect under chapter 26.44 RCW nor to limit access to or use of any records, documents, information, or testimony in any civil or criminal action arising out of any report made pursuant to chapter 26.44 RCW.

(4) The department shall assist local health departments to collect the reports of any child mortality reviews conducted by local health departments and assist with entering the reports into a database to the extent that the data is not protected under subsection (3) of this section. Notwithstanding subsection (3) of this section, the department shall respond to any requests for data from the database to the extent permitted for health care information under chapter 70.02 RCW. In addition, the department shall provide technical assistance to local health departments and child death review coordinators conducting child mortality reviews and encourage communication among child death review teams. The department shall conduct these activities using only federal and private funding.

(5) This section does not prevent a local health department from publishing statistical compilations and reports related to the child mortality review. Any portions of such compilations and reports that identify individual cases and sources of information must be redacted.

**Sec. 2.** RCW 42.56.380 and 2009 c 33 s 37 are each amended to read as follows:

The following information relating to agriculture and livestock is exempt from disclosure under this chapter:

(1) Business-related information under RCW 15.86.110;

(2) Information provided under RCW 15.54.362;

(3) Production or sales records required to determine assessment levels and actual assessment payments to commodity boards and commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.115, 15.100, 15.89, and 16.67 RCW or required by the department of agriculture to administer these chapters or the department's programs;

(4) Consignment information contained on phytosanitary certificates issued by the department of agriculture under chapters

15.13, 15.49, and 15.17 RCW or federal phytosanitary certificates issued under 7 C.F.R. 353 through cooperative agreements with the animal and plant health inspection service, United States department of agriculture, or on applications for phytosanitary certification required by the department of agriculture;

(5) Financial and commercial information and records supplied by persons (a) to the department of agriculture for the purpose of conducting a referendum for the potential establishment of a commodity board or commission; or (b) to the department of agriculture or commodity boards or commissions formed under chapter 15.24, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.115, 15.100, 15.89, or 16.67 RCW with respect to domestic or export marketing activities or individual producer's production information;

(6) ((Except under RCW 15.19.080, information obtained regarding the purchases, sales, or production of an individual American ginseng grower or dealer;

(7) Information that can be identified to a particular business and that is collected under RCW 15.17.140(2) and 15.17.143 for certificates of compliance;

(8) Financial statements provided under RCW 16.65.030(1)(d);) Information obtained regarding the purchases, sales, or production of an individual American ginseng grower or dealer, except for providing reports to the United States fish and wildlife service under RCW 15.19.080;

(7) Information collected regarding packers and shippers of fruits and vegetables for the issuance of certificates of compliance under RCW 15.17.140(2) and 15.17.143;

(8) Financial statements obtained under RCW 16.65.030(1)(d) for the purposes of determining whether or not the applicant meets the minimum net worth requirements to construct or operate a public livestock market;

(9) Information submitted by an individual or business for the purpose of participating in a state or national animal identification system. Disclosure to local, state, and federal officials is not public disclosure. This exemption does not affect the disclosure of information used in reportable animal health investigations under chapter 16.36 RCW once they are complete; and

(10) Results of testing for animal diseases not required to be reported under chapter 16.36 RCW that is done at the request of the animal owner or his or her designee that can be identified to a particular business or individual.

**Sec. 3.** RCW 42.56.360 and 2009 c 1 s 24 (Initiative Measure No. 1000) and 2008 c 136 s 5 are each reenacted and amended to read as follows:

(1) The following health care information is exempt from disclosure under this chapter:

(a) Information obtained by the board of pharmacy as provided in RCW 69.45.090;

(b) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420;

(c) Information and documents created specifically for, and collected and maintained by a quality improvement committee under RCW 43.70.510, 70.230.080, or 70.41.200, or by a peer review committee under RCW 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640 or 18.20.390, or by a hospital, as defined in RCW 43.70.056, for reporting of health care-associated infections under RCW 43.70.056, a notification of an incident under RCW 70.56.040(5), and reports regarding adverse events under RCW 70.56.020(2)(b), regardless of which agency is in possession of the information and documents;

(d)(i) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided

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to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310;

(ii) If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this subsection (1)(d) as exempt from disclosure;

(iii) If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality;

(e) Records of the entity obtained in an action under RCW 18.71.300 through 18.71.340;

(f) ((Except for published statistical compilations and reports relating to the infant mortality review studies that do not identify individual cases and sources of information, any records or documents obtained, prepared, or maintained by the local health department for the purposes of an infant mortality review conducted by the department of health under RCW 70.05.170;

(g)) Complaints filed under chapter 18.130 RCW after July 27, 1997, to the extent provided in RCW 18.130.095(1);

((~~h~~)) (g) Information obtained by the department of health under chapter 70.225 RCW; (~~and~~

~~h~~) (h) Information collected by the department of health under chapter 70.245 RCW except as provided in RCW 70.245.150; and

(i) All documents, including completed forms, received pursuant to a wellness program under RCW 41.04.362, but not statistical reports that do not identify an individual.

(2) Chapter 70.02 RCW applies to public inspection and copying of health care information of patients.

(3)(a) Documents related to infant mortality reviews conducted pursuant to RCW 70.05.170 are exempt from disclosure as provided for in RCW 70.05.170(3).

(b)(i) If an agency provides copies of public records to another agency that are exempt from public disclosure under this subsection (3), those records remain exempt to the same extent the records were exempt in the possession of the originating entity.

(ii) For notice purposes only, agencies providing exempt records under this subsection (3) to other agencies may mark any exempt records as "exempt" so that the receiving agency is aware of the exemption, however whether or not a record is marked exempt does not affect whether the record is actually exempt from disclosure.

**Sec. 4.** RCW 41.04.362 and 1987 c 248 s 2 are each amended to read as follows:

(1) ((~~The~~)) Directors of ((the department of personnel)) state and local entities, in consultation with applicable state agencies and employee organizations, may develop and administer a voluntary state employee wellness program.

(2) ((~~The~~)) A director may:

(a) Develop and implement state employee wellness policies, procedures, and activities;

(b) Disseminate wellness educational materials to ((state)) agencies and employees;

(c) Encourage the establishment of wellness activities in ((state)) agencies;

(d) Provide technical assistance and training to agencies conducting wellness activities for their employees;

(e) Develop standards by which agencies sponsoring specific wellness activities may impose a fee to participating employees to help defray the cost of those activities;

(f) Monitor and evaluate the effectiveness of this program, including the collection, analysis, and publication of relevant statistical information; and

(g) Perform other duties and responsibilities as necessary to carry out the purpose of this section.

(3) No wellness program or activity that involves or requires organized or systematic physical exercise may be implemented or conducted during normal working hours.

**NEW SECTION. Sec. 5.** RCW 41.04.364 (State employee wellness program--Confidentiality of individually identifiable information) and 1987 c 248 s 3 are each repealed.

**Sec. 6.** RCW 28C.18.020 and 1991 c 238 s 3 are each amended to read as follows:

(1) There is hereby created the workforce training and education coordinating board as a state agency and as the successor agency to the state board for vocational education. Once the coordinating board has convened, all references to the state board for vocational education in the Revised Code of Washington shall be construed to mean the workforce training and education coordinating board, except that reference to the state board for vocational education in RCW 49.04.030 shall mean the state board for community and technical colleges.

(2)(a) The board shall consist of nine voting members appointed by the governor with the consent of the senate, as follows: Three representatives of business, three representatives of labor, and, serving as ex officio members, the superintendent of public instruction, the executive director of the state board for community and technical colleges, and the commissioner of the employment security department. The chair of the board shall be a nonvoting member selected by the governor with the consent of the senate, and shall serve at the pleasure of the governor. In selecting the chair, the governor shall seek a person who understands the future economic needs of the state and nation and the role that the state's training system has in meeting those needs. Each voting member of the board may appoint a designee to function in his or her place with the right to vote. In making appointments to the board, the governor shall seek to ensure geographic, ethnic, and gender diversity and balance. The governor shall also seek to ensure diversity and balance by the appointment of persons with disabilities.

(b) The business representatives shall be selected from among nominations provided by a statewide business organization representing a cross-section of industries. However, the governor may request, and the organization shall provide, an additional list or lists from which the governor shall select the business representatives. The nominations and selections shall reflect the cultural diversity of the state, including women, people with disabilities, and racial and ethnic minorities, and diversity in sizes of businesses.

(c) The labor representatives shall be selected from among nominations provided by statewide labor organizations. However, the governor may request, and the organizations shall provide, an additional list or lists from which the governor shall select the labor representatives. The nominations and selections shall reflect the cultural diversity of the state, including women, people with disabilities, and racial and ethnic minorities.

(d) Each business member may cast a proxy vote or votes for any business member who is not present and who authorizes in writing the present member to cast such vote.

(e) Each labor member may cast a proxy vote for any labor member who is not present and who authorizes in writing the present member to cast such vote.

(f) The chair shall appoint to the board one nonvoting member to represent racial and ethnic minorities, women, and people with disabilities. The nonvoting member appointed by the chair shall

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serve for a term of four years with the term expiring on June 30th of the fourth year of the term.

(g) The business members of the board shall serve for terms of four years, the terms expiring on June 30th of the fourth year of the term except that in the case of initial members, one shall be appointed to a two-year term and one appointed to a three-year term.

(h) The labor members of the board shall serve for terms of four years, the terms expiring on June 30th of the fourth year of the term except that in the case of initial members, one shall be appointed to a two-year term and one appointed to a three-year term.

(i) Any vacancies among board members representing business or labor shall be filled by the governor with nominations provided by statewide organizations representing business or labor, respectively.

(j) The board shall adopt bylaws and shall meet at least bimonthly and at such other times as determined by the chair who shall give reasonable prior notice to the members or at the request of a majority of the voting members.

(k) Members of the board shall be compensated in accordance with RCW 43.03.040 and shall receive travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(l) The board shall be formed and ready to assume its responsibilities under this chapter by October 1, 1991.

(m) The director of the board shall be appointed by the governor from a list of three names submitted by a committee made up of the business and labor members of the board. However, the governor may request, and the committee shall provide, an additional list or lists from which the governor shall select the director. ~~((The lists compiled by the committee shall not be subject to public disclosure.))~~ The governor may dismiss the director only with the approval of a majority vote of the board. The board, by a majority vote, may dismiss the director with the approval of the governor.

(3) The state board for vocational education is hereby abolished and its powers, duties, and functions are hereby transferred to the workforce training and education coordinating board. All references to the director or the state board for vocational education in the Revised Code of Washington shall be construed to mean the director or the workforce training and education coordinating board.

**Sec. 7.** RCW 79A.25.150 and 2007 c 241 s 51 are each amended to read as follows:

When requested by the board, members employed by the state shall furnish assistance to the board from their departments for the analysis and review of proposed plans and projects, and such assistance shall be a proper charge against the appropriations to the several agencies represented on the board. Assistance may be in the form of money, personnel, or equipment and supplies, whichever is most suitable to the needs of the board.

The director of the recreation and conservation office shall be appointed by, and serve at the pleasure of, the governor. The governor shall select the director from a list of three candidates submitted by the board. However, the governor may request and the board shall provide an additional list or lists from which the governor may select the director. ~~((The lists compiled by the board shall not be subject to public disclosure.))~~ The director shall have background and experience in the areas of recreation and conservation management and policy. The director shall be paid a salary to be fixed by the governor in accordance with the provisions of RCW 43.03.040. The director shall appoint such personnel as may be necessary to carry out the duties of the office. Not more than three employees appointed by the director shall be exempt from the provisions of chapter 41.06 RCW.

**Sec. 8.** RCW 42.56.330 and 2008 c 200 s 6 are each amended to read as follows:

The following information relating to public utilities and transportation is exempt from disclosure under this chapter:

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(1) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095;

(2) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers, except that this information may be released to the division of child support or the agency or firm providing child support enforcement for another state under Title IV-D of the federal social security act, for the establishment, enforcement, or modification of a support order;

(3) The names, residential addresses, residential telephone numbers, and other individually identifiable records held by an agency in relation to a vanpool, carpool, or other ride-sharing program or service; however, these records may be disclosed to other persons who apply for ride-matching services and who need that information in order to identify potential riders or drivers with whom to share rides;

(4) The personally identifying information of current or former participants or applicants in a paratransit or other transit service operated for the benefit of persons with disabilities or elderly persons;

(5) The personally identifying information of persons who acquire and use transit passes and other fare payment media including, but not limited to, stored value smart cards and magnetic strip cards, except that an agency may disclose this information to a person, employer, educational institution, or other entity that is responsible, in whole or in part, for payment of the cost of acquiring or using a transit pass or other fare payment media for the purpose of preventing fraud, or to the news media when reporting on public transportation or public safety. ~~((This information may also be disclosed at the agency's discretion to governmental agencies or groups concerned with public transportation or public safety))~~

(a) This information may be disclosed in aggregate form if the data does not contain any personally identifying information.

(b) Personally identifying information may be released to law enforcement agencies if the request is accompanied by a court order;

(6) Any information obtained by governmental agencies that is collected by the use of a motor carrier intelligent transportation system or any comparable information equipment attached to a truck, tractor, or trailer; however, the information may be given to other governmental agencies or the owners of the truck, tractor, or trailer from which the information is obtained. As used in this subsection, "motor carrier" has the same definition as provided in RCW 81.80.010;

(7) The personally identifying information of persons who acquire and use transponders or other technology to facilitate payment of tolls. This information may be disclosed in aggregate form as long as the data does not contain any personally identifying information. For these purposes aggregate data may include the census tract of the account holder as long as any individual personally identifying information is not released. Personally identifying information may be released to law enforcement agencies only for toll enforcement purposes. Personally identifying information may be released to law enforcement agencies for other purposes only if the request is accompanied by a court order; and

(8) The personally identifying information of persons who acquire and use a driver's license or identocard that includes a radio frequency identification chip or similar technology to facilitate border crossing. This information may be disclosed in aggregate form as long as the data does not contain any personally identifying information. Personally identifying information may be released to law enforcement agencies only for United States customs and border protection enforcement purposes. Personally identifying

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information may be released to law enforcement agencies for other purposes only if the request is accompanied by a court order.

ROLL CALL

**Sec. 9.** RCW 42.56.250 and 2006 c 209 s 6 are each amended to read as follows:

The following employment and licensing information is exempt from public inspection and copying under this chapter:

(1) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination;

(2) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant;

(3) The residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, social security numbers, and emergency contact information of employees or volunteers of a public agency, and the names, dates of birth, residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, social security numbers, and emergency contact information of dependents of employees or volunteers of a public agency that are held by any public agency in personnel records, public employment related records, or volunteer rosters, or are included in any mailing list of employees or volunteers of any public agency. For purposes of this subsection, "employees" includes independent provider home care workers as defined in RCW 74.39A.240;

(4) Information that identifies a person who, while an agency employee: (a) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (b) requests his or her identity or any identifying information not be disclosed;

(5) Investigative records compiled by an employing agency conducting ~~((a current))~~ an active and ongoing investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment; ~~((and))~~

(6) ~~((Except as provided in RCW 47.64.220, salary and employee benefit information collected under RCW 47.64.220(1) and described in RCW 47.64.220(2).))~~ Criminal history records checks for board staff finalist candidates conducted pursuant to RCW 43.33A.025; and

(7) Except as provided in RCW 47.64.220, salary and benefit information for maritime employees collected from private employers under RCW 47.64.220(1) and described in RCW 47.64.220(2)."

Correct the title.  
and the same are herewith transmitted

BARBARA BAKER, Chief Clerk

MOTION

Senator Kline moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5295.

Senator Kline spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kline that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5295.

The motion by Senator Kline carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5295 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5295, as amended by the House.

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5295, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley and McCaslin

SUBSTITUTE SENATE BILL NO. 5295, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 3, 2010

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5529 with the following amendment(s): 5529-S.E AMH APPG H3086.1,

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 18.08.310 and 1985 c 37 s 2 are each amended to read as follows:

(1) It is unlawful for any person to practice or offer to practice architecture in this state, ((architecture,)) or to use in connection with his or her name or otherwise assume, use, or advertise any title or description including the word "architect," "architecture," "architectural," or language tending to imply that he or she is an architect, unless the person is registered or authorized to practice in the state of Washington under this chapter.

(2) An architect or architectural firm registered in any other jurisdiction recognized by the board may offer to practice architecture in this state if:

(a) It is clearly and prominently stated in such an offer that the architect or firm is not registered to practice architecture in the state of Washington; and

(b) Prior to practicing architecture or signing a contract to provide architectural services, the architect or firm must be registered to practice architecture in this state.

(3) A person who has an accredited architectural degree may use the title "intern architect" when enrolled in a structured intern program recognized by the board and working under the direct supervision of an architect.

(4) The provisions of this section shall not affect the use of the words "architect," "architecture," or "architectural" where a person does not practice or offer to practice architecture.

**Sec. 2.** RCW 18.08.320 and 1985 c 37 s 3 are each amended to read as follows:

~~((Unless the context clearly requires otherwise,))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Accredited architectural degree" means a professional degree from an institution of higher education accredited by the national architectural accreditation board or an equivalent degree in architecture as determined by the board.

(2) "Administration of the construction contract" means the periodic observation of materials and work to observe the general

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compliance with the construction contract documents, and does not include responsibility for supervising construction methods and processes, site conditions, equipment operations, personnel, or safety on the work site.

~~((2))~~ (3) "Architect" means an individual who is registered under this chapter to practice architecture.

~~((3))~~ (4) "Board" means the state board ~~((of registration))~~ for architects.

~~((4))~~ (5) "Certificate of authorization" means a certificate issued by the director to a ~~((corporation or partnership))~~ business entity that authorizes the entity to practice architecture.

~~((5))~~ (6) "Certificate of registration" means the certificate issued by the director to newly registered architects.

~~((6))~~ (7) "Department" means the department of licensing.

~~((7))~~ (8) "Director" means the director of licensing.

~~((8))~~ (9) "Engineer" means an individual who is registered as an engineer under chapter 18.43 RCW.

~~((9))~~ (10) "Person" means any individual, partnership, professional service corporation, corporation, joint stock association, joint venture, or any other entity authorized to do business in the state.

~~((10))~~ (11) "Practice of architecture" means the rendering of services in connection with the art and science of building design for construction of any structure or grouping of structures and the use of space within and surrounding the structures or the design for construction of alterations or additions to the structures, including but not specifically limited to pre design services, schematic design, design development, preparation of construction contract documents, and administration of the construction contract.

~~((11))~~ (12) "Prototypical documents" means drawings or specifications, prepared by a person registered as an architect in any state or as otherwise approved by the board, that are not intended as final and complete technical submissions for a building project, but rather are to serve as a prototype for a building or buildings to be adapted by an architect for construction in more than one location.

(13) "Registered" means holding a currently valid certificate of registration or certificate of authorization issued by the director authorizing the practice of architecture.

~~((12))~~ (14) "Structure" means any construction consisting of load-bearing members such as the foundation, roof, floors, walls, columns, girders, and beams or a combination of any number of these parts, with or without other parts or appurtenances.

(15) "Review" means a process of examination and evaluation, of the documents, for compliance with applicable laws, codes, and regulations affecting the built environment that includes the ability to control the final product.

(16) "Registered professional design firm" means a business entity registered in Washington to offer and provide architectural services under RCW 18.08.420.

(17) "Managers" means the members of a limited liability company in which management of its business is vested in the members, and the managers of a limited liability company in which management of its business is vested in one or more managers.

**Sec. 3.** RCW 18.08.330 and 1985 c 37 s 4 are each amended to read as follows:

There is ~~((hereby))~~ created a state board ~~((of registration))~~ for architects consisting of seven members who shall be appointed by the governor. Six members shall be registered architects who are residents of the state and have at least eight years' experience in the practice of architecture as registered architects in responsible charge of architectural work or responsible charge of architectural teaching. One member shall be a public member, who is not and has never been a registered architect and who does not employ and is not employed by or professionally or financially associated with an architect.

The terms of each newly appointed member shall be six years. ~~((The members of the board of registration for architects serving on July 28, 1985, shall serve out the remainders of their existing five-year terms. The term of the public member shall coincide with the term of an architect.))~~

Every member of the board shall receive a certificate of appointment from the governor. On the expiration of the term of each member, the governor shall appoint a successor to serve for a term of six years or until the next successor has been appointed.

The governor may remove any member of the board for cause. Vacancies in the board for any reason shall be filled by appointment for the unexpired term.

The board shall elect a ~~((chairman))~~ chair, a ~~((vice chairman))~~ vice-chair, and a secretary. The secretary may delegate his or her authority to the executive ~~((secretary))~~ director.

Members of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

**Sec. 4.** RCW 18.08.340 and 2002 c 86 s 201 are each amended to read as follows:

(1) The board may adopt such rules under chapter 34.05 RCW as are necessary for the proper performance of its duties under this chapter.

(2) The director shall employ an executive ~~((secretary))~~ director subject to approval by the board.

**Sec. 5.** RCW 18.08.350 and 1997 c 169 s 1 are each amended to read as follows:

(1) A certificate of registration shall be granted by the director to all qualified applicants who are certified by the board as having passed the required examination and as having given satisfactory proof of completion of the required experience.

(2) Applications for examination shall be filed as the board prescribes by rule. The application and examination fees shall be determined by the director under RCW 43.24.086.

(3) An applicant for registration as an architect shall be of a good moral character, at least eighteen years of age, and shall possess ~~((either))~~ one of the following qualifications:

(a) Have an accredited architectural degree and at least three years' practical architectural work experience ~~((and have completed the requirements of))~~ in a structured intern training program approved by the board; or

(b) Have ~~((eight years' practical architectural work experience, which may include designing buildings as a principal activity, and have completed the requirements of a structured intern training program approved by the board. Each year spent in an accredited architectural education program approved by the board shall be considered one year of practical experience. At least four years' practical work experience shall be under the direct supervision of an architect))~~ a high school diploma or equivalent and at least nine years of practical architectural work experience, including the completion of a structured intern training program under the direct supervision of an architect as determined by the board. Prior to applying to enroll in a structured intern training program, the applicant must have at least six years of work experience, of which three years must be under the direct supervision of an architect. This work experience may include designing buildings as a principal activity and postsecondary education as determined by the board. The board may approve up to four years of practical architectural work experience for postsecondary education courses in architecture, architectural technology, or a related field, as determined by the board, including courses completed in a community or technical college if the courses are equivalent to courses in an accredited architectural degree program.

**Sec. 6.** RCW 18.08.360 and 1985 c 37 s 7 are each amended to read as follows:

(1) The examination for an architect's certificate of registration shall be held at least annually at such time and place as the board determines.

(2) The board shall determine the content, scope, and grading process of the examination. The board may adopt an appropriate national examination and grading procedure.

(3) Applicants who fail to pass any section of the examination shall be permitted to retake the parts failed as prescribed by the board. Applicants have five years from the date of the first passed examination section to pass all remaining sections. If the entire examination is not successfully completed within five years, ~~(a retake of the entire examination shall be required)~~ any sections that were passed more than five years prior must be retaken. If a candidate fails to pass all remaining sections within the initial five-year period, the candidate is given a new five-year period from the date of the second oldest passed section. All sections of the examination must be passed within a single five-year period for the applicant to be deemed to have passed the complete examination.

(4) Applicants for registration who have an accredited architectural degree may begin taking the examination upon enrollment in a structured intern training program as approved by the board. Applicants who do not possess an accredited architectural degree may take the examination only after completing the experience and intern training requirements of this chapter.

**Sec. 7.** RCW 18.08.370 and 1985 c 37 s 8 are each amended to read as follows:

(1) The director shall issue a certificate of registration to any applicant who has, to the satisfaction of the board, met all the requirements for registration upon payment of the registration fee as provided in this chapter. All certificates of registration shall show the full name of the registrant, have the registration number, and shall be signed by the ~~((chairman))~~ chair of the board and by the director. The issuance of a certificate of registration by the director is prima facie evidence that the person named therein is entitled to all the rights and privileges of a registered architect.

(2) Each registrant shall obtain a seal of the design authorized by the board bearing the architect's name, registration number, the legend "Registered Architect," and the name of this state. ~~((Drawings prepared by the registrant shall be sealed and signed by the registrant when filed with public authorities.))~~ All technical submissions prepared by an architect and filed with public authorities must be sealed and signed by the architect. It is unlawful to seal and sign a document after a registrant's certificate of registration or authorization has expired, been revoked, or is suspended.

(3) An architect may seal and sign technical submissions under the following conditions:

(a) An architect may seal and sign technical submissions that are: Prepared by the architect; prepared by the architect's regularly employed subordinates; prepared in part by an individual or firm under a direct subcontract with the architect; or prepared in collaboration with an architect who is licensed in a jurisdiction recognized by the board, provided there is a contractual agreement between the architects.

(b) An architect may seal and sign technical submissions based on prototypical documents provided: The architect obtains written permission from the architect who prepared or sealed the prototypical documents, and from the legal owner to adapt the prototypical documents; the architect thoroughly analyzes the prototypical documents, makes necessary revisions, and adds all required elements and design information, including the design services of engineering consultants, if warranted, so that the prototypical documents become suitable complete technical submissions, in compliance with applicable codes, regulations, and site-specific requirements.

(c) An architect who seals and signs the technical submissions under this subsection (3) is responsible to the same extent as if the technical submissions were prepared by the architect.

**Sec. 8.** RCW 18.08.410 and 1985 c 37 s 12 are each amended to read as follows:

This chapter shall not affect or prevent:

(1) The practice of naval architecture, landscape architecture as authorized in chapter 18.96 RCW, engineering as authorized in chapter 18.43 RCW, or the provision of space planning~~((s))~~ or interior design~~((, or any legally recognized profession or trade by persons not registered as architects))~~ services not affecting public health or safety;

(2) Drafters, clerks, project managers, superintendents, and other employees of architects~~((, engineers, naval architects, or landscape architects))~~ from acting under the instructions, control, or supervision of ~~((their employers))~~ an architect;

(3) The construction, alteration, or supervision of construction of buildings or structures by contractors registered under chapter 18.27 RCW or superintendents employed by contractors or the preparation of shop drawings in connection therewith;

(4) Owners or contractors registered under chapter 18.27 RCW from engaging persons who are not architects to observe and supervise construction of a project;

(5) Any person from doing design work including preparing construction contract documents and administration of the construction contract for the erection, enlargement, repair, or alteration of a structure or any appurtenance to a structure regardless of size, if the structure is to be used for a residential building of up to and including four dwelling units or a farm building or is a structure used in connection with or auxiliary to such residential building or farm building such as a garage, barn, shed, or shelter for animals or machinery;

(6) Except as otherwise provided in this section, any person from doing design work including preparing construction contract documents and administering the contract for construction, erection, enlargement, alteration, or repairs of or to a building of any occupancy up to a total building size of four thousand square feet ~~((of construction));~~ or

(7) ~~((Design-build construction by registered general contractors if the structural design services are performed by a registered engineer;~~

(8) Any person from designing buildings or doing other design work for any structure prior to the time of filing for a building permit; or

(9) Any person from designing buildings or doing other design work for structures larger than those exempted under subsections (5) and (6) of this section, if the plans, which may include such design work, are stamped by a registered engineer or architect)) Any person from doing design work, including preparing construction contract documents and administration of the contract, for alteration of or repairs to a building where the project size is not more than four thousand square feet in a building greater than four thousand square feet and when the work contemplated by the design does not affect the life safety or structural systems of the building. The combined square footage of simultaneous projects allowed under this subsection (7) may not exceed four thousand square feet .

**Sec. 9.** RCW 18.08.420 and 2002 c 86 s 203 are each amended to read as follows:

(1) ~~((An architect or architects may organize a corporation formed either as a business corporation under the provisions of Title 23B RCW or as a professional corporation under the provisions of chapter 18.100 RCW. For an architect or architects to practice architecture through a corporation or joint stock association organized by any person under Title 23B RCW, the corporation or joint stock association shall file with the board:~~

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(a) The application for certificate of authorization upon a form to be prescribed by the board and containing information required to enable the board to determine whether the corporation is qualified under this chapter to practice architecture in this state;

(b) Its notices of incorporation and bylaws and a certified copy of a resolution of the board of directors of the corporation that designates individuals registered under this chapter as responsible for the practice of architecture by the corporation in this state and that provides that full authority to make all final architectural decisions on behalf of the corporation with respect to work performed by the corporation in this state shall be granted and delegated by the board of directors to the individuals designated in the resolution. The filing of the resolution shall not relieve the corporation of any responsibility or liability imposed upon it by law or by contract; and

(c) A designation in writing setting forth the name or names of the person or persons registered under this chapter who are responsible for the architecture of the firm. If there is a change in the person or persons responsible for the architecture of the firm, the changes shall be designated in writing and filed with the board within thirty days after the effective date of the changes.) Any business entity, including a sole proprietorship, offering architecture services in Washington state must register with the board, regardless of its business structure. A business entity shall file with the board a list of individuals registered under this chapter as responsible for the practice of architecture by the business entity in this state and provides that full authority to make all final architectural decisions on behalf of the business entity with respect to work performed by the business entity in this state. Further, the person having the practice of architecture in his/her charge is himself/herself a general partner (if a partnership or limited liability partnership), or a manager (if a limited liability company), or a director (if a business corporation or professional service corporation) and is registered to practice architecture in this state.

(2) The business entity shall furnish the board with such information about its organization and activities as the board shall require by rule.

(3) Upon the filing with the board of the application for certificate of authorization, the certified copy of the resolution, and the information specified in subsection (1) of this section, the board shall authorize the director to issue to the ((corporation)) business entity a certificate of authorization to practice architecture in this state ((upon a determination by the board that:

~~—(a) The bylaws of the corporation contain provisions that all architectural decisions pertaining to any project or architectural activities in this state shall be made by the specified architects responsible for the project or architectural activities, or other responsible architects under the direction or supervision of the architects responsible for the project or architectural activities;~~

~~—(b) The applicant corporation has the ability to provide, through qualified personnel, professional services or creative work requiring architectural experience, and with respect to the architectural services that the corporation undertakes or offers to undertake, the personnel have the ability to apply special knowledge to the professional services or creative work such as consultation, investigation, evaluation, planning, design, and administration of the construction contract in connection with any public or private structures, buildings, equipment, processes, works, or projects;~~

~~—(c) The application for certificate of authorization contains the professional records of the designated person or persons who are responsible;~~

~~—(d) The application for certificate of authorization states the experience of the corporation, if any, in furnishing architectural services during the preceding five year period;~~

~~—(e) The applicant corporation meets such other requirements~~

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~~related to professional competence in the furnishing of architectural services as may be established and promulgated by the board in furtherance of the purposes of this chapter; and~~

~~—(f) The applicant corporation is possessed of the ability and competence to furnish architectural services in the public interest.~~

~~—(3) Upon recommendation of the board to impose action as authorized in RCW 18.235.110, the director may impose the recommended action upon a certificate of authorization to a corporation if the board finds that any of the officers, directors, incorporators, or the stockholders holding a majority of stock of the corporation have committed an act prohibited under RCW 18.08.440 or 18.235.130 or have been found personally responsible for misconduct under subsection (6) or (7) of this section.~~

~~—(4) In the event a corporation, organized solely by a group of architects each registered under this chapter, applies for a certificate of authorization, the board may, in its discretion, grant a certificate of authorization to that corporation based on a review of the professional records of such incorporators, in lieu of the required qualifications set forth in subsections (1) and (2) of this section. In the event the ownership of such corporation is altered, the corporation shall apply for a revised certificate of authorization, based upon the professional records of the owners if exclusively architects, under the qualifications required by subsections (1) and (2) of this section).~~

~~((5)) (4) Any ((corporation)) business entity practicing or offering to practice architecture, whether or not it is authorized to practice architecture under this chapter, ((together with its directors and officers for their own individual acts, are)) shall be jointly and severally responsible to the same degree as an individual registered architect and shall conduct their business without misconduct or malpractice in the practice of architecture as defined in this chapter.~~

~~((6)) (5) Any ((corporation)) business entity that has been certified under this chapter and has engaged in the practice of architecture may have its certificate of authorization either suspended or revoked by the board if, after a proper hearing, the board finds that the ((corporation)) business entity has committed misconduct or malpractice under RCW 18.08.440 or 18.235.130. In such a case, any individual architect registered under this chapter who is involved in such misconduct or malpractice is also subject to disciplinary measures provided in this chapter and RCW 18.235.110.~~

~~((7) All plans, specifications, designs, and reports when issued in connection with work performed by a corporation under its certificate of authorization shall be prepared by or under the direction of the designated architects and shall be signed by and stamped with the official seal of the designated architects in the corporation authorized under this chapter.~~

~~(8)) (6) For each certificate of authorization issued under this section there shall be paid a certification fee and an annual certification renewal fee as prescribed by the director under RCW 43.24.086.~~

~~((9) This chapter shall not affect the practice of architecture as a professional service corporation under chapter 18.100 RCW.))~~

**Sec. 10.** RCW 18.08.430 and 1985 c 37 s 14 are each amended to read as follows:

(1) The renewal date for certificates of registration shall be set by the director in accordance with RCW 43.24.086. Registrants who fail to pay the renewal fee within thirty days of the due date shall pay all delinquent fees plus a penalty fee equal to one-third of the renewal fee. A registrant who fails to pay a renewal fee for a period of five years may be reinstated under such circumstances as the board determines. The renewal and penalty fees and the frequency of renewal assessment shall be authorized under this chapter. Renewal date for certificates of authorization shall be the anniversary of the date of authorization.

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(2) Any registrant in good standing may withdraw from the practice of architecture by giving written notice to the director, and may within five years thereafter resume active practice upon payment of the then-current renewal fee. A registrant may be reinstated after a withdrawal of more than five years under such circumstances as the board determines.

(3) A registered architect must demonstrate professional development since the architect's last renewal or initial registration, as the case may be. The board shall by rule describe professional development activities acceptable to the board and the form of documentation of the activities required by the board. The board may decline to renew a registration if the architect's professional development activities do not meet the standards set by the board by rule. When adopting rules under the authority of this subsection, the board shall strive to ensure that the rules are consistent with the continuing professional education requirements and systems in use by national professional organizations representing architects and in use by other states.

(a) A registered architect shall, as part of his or her license renewal, certify that he or she has completed the required continuing professional development required by this section.

(b) The board may adopt reasonable exemptions from the requirements of this section.

**NEW SECTION. Sec. 11.** Sections 7 through 10 of this act take effect July 1, 2011.

**NEW SECTION. Sec. 12.** Section 5 of this act takes effect July 1, 2012, and all persons enrolled in an intern training program as approved by the board before July 1, 2012, shall be governed by the statute in effect at the time of enrollment in the program." and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5529.

Senators Kohl-Welles and Holmquist spoke in favor of passage of the motion.

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5529.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5529 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5529, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5529, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 42; Nays, 5; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Becker, Carrell, Holmquist, Honeyford and Stevens

Excused: Senators Fairley and McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 5529, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

February 28, 2010

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5704 with the following amendment: 5704-S.E AMH LGH H5379.1,

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 85.38.090 and 1991 c 349 s 12 are each amended to read as follows:

(1) Whenever the governing body of a special district has more than three members, the governing body shall be reduced to three members as of January 1, 1986, by eliminating the positions of those district governing body members with the shortest remaining terms of office. The remaining three governing body members shall have staggered terms with the one having the shortest remaining term having his or her position filled at the 1987 special district general election, the one with the next shortest remaining term having his or her position filled at the 1989 special district general election, and the one with the longest remaining term having his or her position filled at the 1992 special district general election. If any of these remaining three governing body members have identical remaining terms of office, the newly calculated remaining terms of these persons shall be determined by lot with the county auditor who assists the special district in its elections managing such lot procedure. The newly established terms shall be recorded by the county auditor.

(2) However, whenever five or more special districts have consolidated under chapter 85.36 RCW and the consolidated district has five members in its governing body on July 28, 1985, the consolidated district may adopt a resolution retaining a five-member governing body. At any time thereafter, such a district may adopt a resolution and reduce the size of the governing body to three members with the reduction occurring as provided in subsection (1) of this section, but the years of the effective dates shall be extended so that the reduction occurs at the next January 1st occurring after the date of the adoption of the resolution. Whenever a special district is so governed by a five-member governing body, two members shall be elected at each of two consecutive special district general elections, and one member shall be elected at the following special district general election, each to serve a six-year staggered term.

(3) Nothing in this section permits the governing body of a flood control district that is subject to section 2 of this act to reduce the size of its governing body.

**NEW SECTION. Sec. 2.** A new section is added to chapter 85.38 RCW to read as follows:

The following provisions apply to the governing bodies of flood control districts that, upon creation, have territory in three or more counties:

(1) The governing body shall include one member from each county with territory in the district, and two additional members selected as provided by this section. No more than two governing members may be from the same county.

(2) The initial members of the governing body must be chosen by each county legislative authority within which the district resides,

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with each county choosing one member, and the two counties with the largest populations within the district choosing one additional member each. The initial governing body members shall serve until their successors are elected and qualified at the next special district general election.

(3) At this first election, the members receiving the two greatest number of votes shall serve six-year terms, the members receiving the third and fourth greatest number of votes shall serve four-year terms, and the remaining members shall serve two-year terms of office.

(4) The requirements for the filing period, method for filing declarations of candidacy, and the arrangement of candidate names on the ballot for all special district general elections conducted after the initial election in the district shall be the same as the requirements for the initial election in the district. No primary elections may be held for the governing body of a flood control district that, upon creation, has territory in three or more counties.

(5) A vacancy occurs upon the death, resignation, or incapacity of a governing body member, or whenever the governing body member ceases to be a registered voter of the district.

(6)(a) Whenever a vacancy occurs in the governing body, the legislative authority of the county within which the largest geographic portion of the district is located shall appoint a registered voter to serve until a person is elected, at the next special district general election occurring sixty or more days after the vacancy has occurred, to serve the remainder of the unexpired term. The person so elected shall take office immediately when qualified as defined in RCW 29A.04.133.

(b) If an election for the position that became vacant would otherwise have been held at this special district general election, only one election shall be held and the person elected to fill the succeeding term for that position shall take office immediately when qualified as defined in RCW 29A.04.133 and shall serve both the remainder of the unexpired term and the succeeding term.

(7) An elected or appointed member of the governing body, or a candidate for the governing body, must be a registered voter of the flood control district who has resided within the district for period of not less than thirty days before the election. In accordance with RCW 85.38.127, land ownership is not a requirement for serving on the governing body of the district." and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Swecker moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5704.

Senator Swecker spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Swecker that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5704.

The motion by Senator Swecker carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5704 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5704, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5704, as amended by the

House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley and McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 5704, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 2, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6214 with the following amendment(s): 6214-S AMH LGH H5378,

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 36.70A.110 and 2009 c 342 s 1 and 2009 c 121 s 1 are each reenacted and amended to read as follows:

(1) Each county that is required or chooses to plan under RCW 36.70A.040 shall designate an urban growth area or areas within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature. Each city that is located in such a county shall be included within an urban growth area. An urban growth area may include more than a single city. An urban growth area may include territory that is located outside of a city only if such territory already is characterized by urban growth whether or not the urban growth area includes a city, or is adjacent to territory already characterized by urban growth, or is a designated new fully contained community as defined by RCW 36.70A.350.

(2) Based upon the growth management population projection made for the county by the office of financial management, the county and each city within the county shall include areas and densities sufficient to permit the urban growth that is projected to occur in the county or city for the succeeding twenty-year period, except for those urban growth areas contained totally within a national historical reserve. As part of this planning process, each city within the county must include areas sufficient to accommodate the broad range of needs and uses that will accompany the projected urban growth including, as appropriate, medical, governmental, institutional, commercial, service, retail, and other nonresidential uses.

Each urban growth area shall permit urban densities and shall include greenbelt and open space areas. In the case of urban growth areas contained totally within a national historical reserve, the city may restrict densities, intensities, and forms of urban growth as determined to be necessary and appropriate to protect the physical, cultural, or historic integrity of the reserve. An urban growth area determination may include a reasonable land market supply factor and shall permit a range of urban densities and uses. In determining this market factor, cities and counties may consider local circumstances. Cities and counties have discretion in their comprehensive plans to make many choices about accommodating growth.

Within one year of July 1, 1990, each county that as of June 1, 1991, was required or chose to plan under RCW 36.70A.040, shall begin consulting with each city located within its boundaries and each city shall propose the location of an urban growth area.

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Within sixty days of the date the county legislative authority of a county adopts its resolution of intention or of certification by the office of financial management, all other counties that are required or choose to plan under RCW 36.70A.040 shall begin this consultation with each city located within its boundaries. The county shall attempt to reach agreement with each city on the location of an urban growth area within which the city is located. If such an agreement is not reached with each city located within the urban growth area, the county shall justify in writing why it so designated the area an urban growth area. A city may object formally with the department over the designation of the urban growth area within which it is located. Where appropriate, the department shall attempt to resolve the conflicts, including the use of mediation services.

(3) Urban growth should be located first in areas already characterized by urban growth that have adequate existing public facility and service capacities to serve such development, second in areas already characterized by urban growth that will be served adequately by a combination of both existing public facilities and services and any additional needed public facilities and services that are provided by either public or private sources, and third in the remaining portions of the urban growth areas. Urban growth may also be located in designated new fully contained communities as defined by RCW 36.70A.350.

(4) In general, cities are the units of local government most appropriate to provide urban governmental services. In general, it is not appropriate that urban governmental services be extended to or expanded in rural areas except in those limited circumstances shown to be necessary to protect basic public health and safety and the environment and when such services are financially supportable at rural densities and do not permit urban development.

(5) On or before October 1, 1993, each county that was initially required to plan under RCW 36.70A.040(1) shall adopt development regulations designating interim urban growth areas under this chapter. Within three years and three months of the date the county legislative authority of a county adopts its resolution of intention or of certification by the office of financial management, all other counties that are required or choose to plan under RCW 36.70A.040 shall adopt development regulations designating interim urban growth areas under this chapter. Adoption of the interim urban growth areas may only occur after public notice; public hearing; and compliance with the state environmental policy act, chapter 43.21C RCW, and under this section. Such action may be appealed to the ((appropriate)) growth management hearings board under RCW 36.70A.280. Final urban growth areas shall be adopted at the time of comprehensive plan adoption under this chapter.

(6) Each county shall include designations of urban growth areas in its comprehensive plan.

(7) An urban growth area designated in accordance with this section may include within its boundaries urban service areas or potential annexation areas designated for specific cities or towns within the county.

(8)(a) Except as provided in (b) of this subsection, the expansion of an urban growth area is prohibited into the one hundred year floodplain of any river or river segment that: (i) Is located west of the crest of the Cascade mountains; and (ii) has a mean annual flow of one thousand or more cubic feet per second as determined by the department of ecology.

(b) Subsection (8)(a) of this section does not apply to:

(i) Urban growth areas that are fully contained within a floodplain and lack adjacent buildable areas outside the floodplain;

(ii) Urban growth areas where expansions are precluded outside floodplains because:

(A) Urban governmental services cannot be physically provided to serve areas outside the floodplain; or

(B) Expansions outside the floodplain would require a river or estuary crossing to access the expansion; or

(iii) Urban growth area expansions where:

(A) Public facilities already exist within the floodplain and the expansion of an existing public facility is only possible on the land to be included in the urban growth area and located within the floodplain; or

(B) Urban development already exists within a floodplain as of July 26, 2009, and is adjacent to, but outside of, the urban growth area, and the expansion of the urban growth area is necessary to include such urban development within the urban growth area; or

(C) The land is owned by a jurisdiction planning under this chapter or the rights to the development of the land have been permanently extinguished, and the following criteria are met:

(I) The permissible use of the land is limited to one of the following: Outdoor recreation; environmentally beneficial projects, including but not limited to habitat enhancement or environmental restoration; storm water facilities; flood control facilities; or underground conveyances; and

(II) The development and use of such facilities or projects will not decrease flood storage, increase storm water runoff, discharge pollutants to fresh or salt waters during normal operations or floods, or increase hazards to people and property.

(c) For the purposes of this subsection (8), "one hundred year floodplain" means the same as "special flood hazard area" as set forth in WAC 173-158-040 as it exists on July 26, 2009.

**Sec. 2.** RCW 36.70A.130 and 2009 c 479 s 23 are each amended to read as follows:

(1)(a) Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted them. Except as otherwise provided, a county or city shall take legislative action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of this chapter according to the time periods specified in subsection (4) of this section.

(b) Except as otherwise provided, a county or city not planning under RCW 36.70A.040 shall take action to review and, if needed, revise its policies and development regulations regarding critical areas and natural resource lands adopted according to this chapter to ensure these policies and regulations comply with the requirements of this chapter according to the time periods specified in subsection (4) of this section. Legislative action means the adoption of a resolution or ordinance following notice and a public hearing indicating at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefor.

(c) The review and evaluation required by this subsection may be combined with the review required by subsection (3) of this section. The review and evaluation required by this subsection shall include, but is not limited to, consideration of critical area ordinances and, if planning under RCW 36.70A.040, an analysis of the population allocated to a city or county from the most recent ten-year population forecast by the office of financial management.

(d) Any amendment of or revision to a comprehensive land use plan shall conform to this chapter. Any amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan.

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program consistent with RCW 36.70A.035 and 36.70A.140 that identifies procedures and schedules whereby updates, proposed amendments, or revisions of the comprehensive plan are considered by the governing body of

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the county or city no more frequently than once every year. "Updates" means to review and revise, if needed, according to subsection (1) of this section, and the time periods specified in subsection (4) of this section or in accordance with the provisions of subsections (5) and (8) of this section. Amendments may be considered more frequently than once per year under the following circumstances:

(i) The initial adoption of a subarea plan that does not modify the comprehensive plan policies and designations applicable to the subarea;

(ii) The adoption or amendment of a shoreline master program under the procedures set forth in chapter 90.58 RCW;

(iii) The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget;

(iv) Until June 30, 2006, the designation of recreational lands under RCW 36.70A.1701. A county amending its comprehensive plan pursuant to this subsection (2)(a)(iv) may not do so more frequently than every eighteen months; and

(v) The adoption of comprehensive plan amendments necessary to enact a planned action under RCW 43.21C.031(2), provided that amendments are considered in accordance with the public participation program established by the county or city under this subsection (2)(a) and all persons who have requested notice of a comprehensive plan update are given notice of the amendments and an opportunity to comment.

(b) Except as otherwise provided in (a) of this subsection, all proposals shall be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained. However, after appropriate public participation a county or city may adopt amendments or revisions to its comprehensive plan that conform with this chapter whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with ((a)) the growth management hearings board or with the court.

(3)(a) Each county that designates urban growth areas under RCW 36.70A.110 shall review, at least every ten years, its designated urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas.

(b) The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period. The review required by this subsection may be combined with the review and evaluation required by RCW 36.70A.215.

(4) The department shall establish a schedule for counties and cities to take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter. Except as provided in subsections (5) and (8) of this section, the schedule established by the department shall provide for the reviews and evaluations to be completed as follows:

(a) On or before December 1, 2004, and every seven years thereafter, for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the cities within those counties;

(b) On or before December 1, 2005, and every seven years thereafter, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties and the cities within those counties;

(c) On or before December 1, 2006, and every seven years thereafter, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and the cities within those counties; and

(d) On or before December 1, 2007, and every seven years thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(5)(a) Nothing in this section precludes a county or city from conducting the review and evaluation required by this section before the time limits established in subsection (4) of this section. Counties and cities may begin this process early and may be eligible for grants from the department, subject to available funding, if they elect to do so.

(b) A county that is subject to a schedule established by the department under subsection (4)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the thirty-six months following the date established in the applicable schedule: The county has a population of less than fifty thousand and has had its population increase by no more than seventeen percent in the ten years preceding the date established in the applicable schedule as of that date.

(c) A city that is subject to a schedule established by the department under subsection (4)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the thirty-six months following the date established in the applicable schedule: The city has a population of no more than five thousand and has had its population increase by the greater of either no more than one hundred persons or no more than seventeen percent in the ten years preceding the date established in the applicable schedule as of that date.

(d) State agencies are encouraged to provide technical assistance to the counties and cities in the review of critical area ordinances, comprehensive plans, and development regulations.

(6) A county or city subject to the time periods in subsection (4)(a) of this section that, pursuant to an ordinance adopted by the county or city establishing a schedule for periodic review of its comprehensive plan and development regulations, has conducted a review and evaluation of its comprehensive plan and development regulations and, on or after January 1, 2001, has taken action in response to that review and evaluation shall be deemed to have conducted the first review required by subsection (4)(a) of this section. Subsequent review and evaluation by the county or city of its comprehensive plan and development regulations shall be conducted in accordance with the time periods established under subsection (4)(a) of this section.

(7) The requirements imposed on counties and cities under this section shall be considered "requirements of this chapter" under the terms of RCW 36.70A.040(1). Only those counties and cities: (a) Complying with the schedules in this section; (b) demonstrating substantial progress towards compliance with the schedules in this section for development regulations that protect critical areas; or (c) complying with the extension provisions of subsection (5)(b) or (c) of this section may receive grants, loans, pledges, or financial guarantees under chapter 43.155 or 70.146 RCW. A county or city that is fewer than twelve months out of compliance with the schedules in this section for development regulations that protect critical areas is making substantial progress towards compliance. Only those counties and cities in compliance with the schedules in this section may receive preference for grants or loans subject to the provisions of RCW 43.17.250.

(8) Except as provided in subsection (5)(b) and (c) of this section:

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(a) Counties and cities required to satisfy the requirements of this section according to the schedule established by subsection (4)(b) through (d) of this section may comply with the requirements of this section for development regulations that protect critical areas one year after the dates established in subsection (4)(b) through (d) of this section;

(b) Counties and cities complying with the requirements of this section one year after the dates established in subsection (4)(b) through (d) of this section for development regulations that protect critical areas shall be deemed in compliance with the requirements of this section; and

(c) This subsection (8) applies only to the counties and cities specified in subsection (4)(b) through (d) of this section, and only to the requirements of this section for development regulations that protect critical areas that must be satisfied by December 1, 2005, December 1, 2006, and December 1, 2007.

(9) Notwithstanding subsection (8) of this section and the substantial progress provisions of subsections (7) and (10) of this section, only those counties and cities complying with the schedule in subsection (4) of this section, or the extension provisions of subsection (5)(b) or (c) of this section, may receive preferences for grants, loans, pledges, or financial guarantees under chapter 43.155 or 70.146 RCW.

(10) Until December 1, 2005, and notwithstanding subsection (7) of this section, a county or city subject to the time periods in subsection (4)(a) of this section demonstrating substantial progress towards compliance with the schedules in this section for its comprehensive land use plan and development regulations may receive grants, loans, pledges, or financial guarantees under chapter 43.155 or 70.146 RCW. A county or city that is fewer than twelve months out of compliance with the schedules in this section for its comprehensive land use plan and development regulations is deemed to be making substantial progress towards compliance.

**Sec. 3.** RCW 36.70A.172 and 1995 c 347 s 105 are each amended to read as follows:

(1) In designating and protecting critical areas under this chapter, counties and cities shall include the best available science in developing policies and development regulations to protect the functions and values of critical areas. In addition, counties and cities shall give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries.

(2) If it determines that advice from scientific or other experts is necessary or will be of substantial assistance in reaching its decision, ((a)) the growth management hearings board may retain scientific or other expert advice to assist in reviewing a petition under RCW 36.70A.290 that involves critical areas.

**Sec. 4.** RCW 36.70A.250 and 1994 c 249 s 29 are each amended to read as follows:

((1)) There are hereby created three growth management hearings boards for the state of Washington. The boards shall be established as follows:

(a) An Eastern Washington board with jurisdictional boundaries including all counties that are required to or choose to plan under RCW 36.70A.040 and are located east of the crest of the Cascade mountains;

(b) A Central Puget Sound board with jurisdictional boundaries including King, Pierce, Snohomish, and Kitsap counties; and

(c) A Western Washington board with jurisdictional boundaries including all counties that are required or choose to plan under RCW 36.70A.040 and are located west of the crest of the Cascade mountains and are not included in the Central Puget Sound board jurisdictional boundaries. Skamania county, should it be required or choose to plan under RCW 36.70A.040, may elect to be included within the jurisdictional boundaries of either the Western or Eastern board.

(2) Each board shall only hear matters pertaining to the cities and counties located within its jurisdictional boundaries.)) (1) A growth management hearings board for the state of Washington is created. The board shall consist of seven members qualified by experience or training in matters pertaining to land use law or land use planning and who have experience in the practical application of those matters. All seven board members shall be appointed by the governor, two each residing respectively in the Central Puget Sound, Eastern Washington, and Western Washington regions, plus one board member residing within the state of Washington. At least three members of the board shall be admitted to practice law in this state, one each residing respectively in the Central Puget Sound, Eastern Washington, and Western Washington regions. At least three members of the board shall have been a city or county elected official, one each residing respectively in the Central Puget Sound, Eastern Washington, and Western Washington regions. After expiration of the terms of board members on the previously existing three growth management hearings boards, no more than four members of the seven-member board may be members of the same major political party. No more than two members at the time of their appointment or during their term may reside in the same county.

(2) Each member of the board shall be appointed for a term of six years. A vacancy shall be filled by appointment by the governor for the unexpired portion of the term in which the vacancy occurs. Members of the previously existing three growth management hearings boards appointed before the effective date of this section shall complete their staggered, six-year terms as members of the growth management hearings board created under subsection (1) of this section. The reduction from nine board members on the previously existing three growth management hearings boards to seven total members on the growth management hearings board shall be made through attrition, voluntary resignation, or retirement.

**Sec. 5.** RCW 36.70A.260 and 1994 c 249 s 30 are each amended to read as follows:

((1)) Each growth management hearings board shall consist of three members qualified by experience or training in matters pertaining to land use planning and residing within the jurisdictional boundaries of the applicable board. At least one member of each board must be admitted to practice law in this state and at least one member must have been a city or county elected official. Each board shall be appointed by the governor and not more than two members at the time of appointment or during their term shall be members of the same political party. No more than two members at the time of appointment or during their term shall reside in the same county.

(2) Each member of a board shall be appointed for a term of six years. A vacancy shall be filled by appointment by the governor for the unexpired portion of the term in which the vacancy occurs. The terms of the first three members of a board shall be staggered so that one member is appointed to serve until July 1, 1994, one member until July 1, 1996, and one member until July 1, 1998.)) (1) Each petition for review that is filed with the growth management hearings board shall be heard and decided by a regional panel of growth management hearings board members. Regional panels shall be constituted as follows:

(a) Central Puget Sound Region. A three-member Central Puget Sound panel shall be selected to hear matters pertaining to cities and counties located within the region comprised of King, Pierce, Snohomish, and Kitsap counties.

(b) Eastern Washington Region. A three-member Eastern Washington panel shall be selected to hear matters pertaining to cities and counties that are required or choose to plan under RCW 36.70A.040 and are located east of the crest of the Cascade

mountains.

(c) Western Washington Region. A three-member Western Washington panel shall be selected to hear matters pertaining to cities and counties that are required or choose to plan under RCW 36.70A.040, are located west of the crest of the Cascade mountains, and are not included in the Central Puget Sound Region. Skamania county, if it is required or chooses to plan under RCW 36.70A.040, may elect to be included within either the Western Washington Region or the Eastern Washington Region.

(2)(a) Each regional panel selected to hear and decide cases shall consist of three board members, at least a majority of whom shall reside within the region in which the case arose, unless such members cannot sit on a particular case because of recusal or disqualification, or unless the board administrative officer determines that there is an emergency including, but not limited to, the unavailability of a board member due to illness, absence, vacancy, or significant workload imbalance. The presiding officer of each case shall reside within the region in which the case arose, unless the board administrative officer determines that there is an emergency.

(b) Except as provided otherwise in this subsection (2)(b), each regional panel must: (i) include one member admitted to practice law in this state; (ii) include one member who has been a city or county elected official; and (iii) reflect the political composition of the board. The requirements of this subsection (2)(b) may be waived by the board administrative officer due to member unavailability, significant workload imbalances, or other reasons.

**Sec. 6.** RCW 36.70A.270 and 1997 c 429 s 11 are each amended to read as follows:

~~(Each)~~ The growth management hearings board shall be governed by the following rules on conduct and procedure:

(1) Any board member may be removed for inefficiency, malfeasance, and misfeasance in office, under specific written charges filed by the governor. The governor shall transmit such written charges to the member accused and the chief justice of the supreme court. The chief justice shall thereupon designate a tribunal composed of three judges of the superior court to hear and adjudicate the charges. Removal of any member of ~~((a))~~ the board by the tribunal shall disqualify such member for reappointment.

(2) Each board member shall receive reimbursement for travel expenses incurred in the discharge of his or her duties in accordance with RCW 43.03.050 and 43.03.060. ~~((If it is determined that the review boards shall operate on a full time basis,))~~ Each member shall receive an annual salary to be determined by the governor pursuant to RCW 43.03.040. ~~((If it is determined that a review board shall operate on a part time basis, each member shall receive compensation pursuant to RCW 43.03.250, provided such amount shall not exceed the amount that would be set if they were a full time board member.))~~ The principal office of ~~((each))~~ the board shall be located ~~((by the governor within the jurisdictional boundaries of each board. The boards shall operate on either a part time or full time basis, as determined by the governor))~~ in Olympia.

(3) Each board member shall not: (a) Be a candidate for or hold any other public office or trust; (b) engage in any occupation or business interfering with or inconsistent with his or her duty as a board member; and (c) for a period of one year after the termination of his or her board membership, act in a representative capacity before the board on any matter.

(4) A majority of ~~((each))~~ the board shall constitute a quorum for ~~((making orders or decisions,))~~ adopting rules necessary for the conduct of its powers and duties~~((,))~~ or transacting other official business, and may act even though one position of the board is vacant. One or more members may hold hearings and take testimony to be reported for action by the board when authorized by

rule or order of the board. The board shall perform all the powers and duties specified in this chapter or as otherwise provided by law.

(5) The board may appoint one or more hearing examiners to assist the board in its hearing function, to make conclusions of law and findings of fact and, if requested by the board, to make recommendations to the board for decisions in cases before the board. Such hearing examiners must have demonstrated knowledge of land use planning and law. The board~~((s))~~ shall specify in ~~((their joint))~~ its rules of practice and procedure, as required by subsection (7) of this section, the procedure and criteria to be employed for designating hearing examiners as a presiding officer. Hearing examiners selected by ~~((a))~~ the board shall meet the requirements of subsection (3) of this section. The findings and conclusions of the hearing examiner shall not become final until they have been formally approved by the board. This authorization to use hearing examiners does not waive the requirement of RCW 36.70A.300 that final orders be issued within one hundred eighty days of board receipt of a petition.

~~((Each))~~ The board shall make findings of fact and prepare a written decision in each case decided by it, and such findings and decision shall be effective upon being signed by two or more members of the ~~((board))~~ regional panel deciding the particular case and upon being filed at the board's principal office, and shall be open for public inspection at all reasonable times.

(7) All proceedings before the board, any of its members, or a hearing examiner appointed by the board shall be conducted in accordance with such administrative rules of practice and procedure as the board~~((s jointly))~~ prescribes. ~~((All three))~~ The board~~((s))~~ shall ~~((jointly meet to))~~ develop and adopt ~~((joint))~~ rules of practice and procedure, including rules regarding expeditious and summary disposition of appeals and the assignment of cases to regional panels. The board~~((s))~~ shall publish such rules and decisions ~~((they))~~ it renders and arrange for the reasonable distribution of the rules and decisions. Except as it conflicts with specific provisions of this chapter, the administrative procedure act, chapter 34.05 RCW, and specifically including the provisions of RCW 34.05.455 governing ex parte communications, shall govern the practice and procedure of the board~~((s)).~~

(8) A board member or hearing examiner is subject to disqualification under chapter 34.05 RCW. The ~~((joint))~~ rules of practice of the board~~((s))~~ shall establish procedures by which a party to a hearing conducted before the board may file with the board a motion to disqualify, with supporting affidavit, against a board member or hearing examiner assigned to preside at the hearing.

(9) ~~((The))~~ All members of the board~~((s))~~ shall meet ~~((jointly))~~ on at least an annual basis with the objective of sharing information that promotes the goals and purposes of this chapter.

(10) The board shall annually elect one of its members to be the board administrative officer. The duties and responsibilities of the administrative officer include handling day-to-day administrative, budget, and personnel matters on behalf of the board, together with making case assignments to board members in accordance with the board's rules of procedure in order to achieve a fair and balanced workload among all board members. The administrative officer of the board may carry a reduced caseload to allow time for performing the administrative work functions.

**Sec. 7.** RCW 36.70A.280 and 2008 c 289 s 5 are each amended to read as follows:

(1) ~~((A))~~ The growth management hearings board shall hear and determine only those petitions alleging either:

(a) That, except as provided otherwise by this subsection, a state agency, county, or city planning under this chapter is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption of shoreline master programs or amendments thereto, or chapter 43.21C RCW as it relates to plans,

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development regulations, or amendments, adopted under RCW 36.70A.040 or chapter 90.58 RCW. Nothing in this subsection authorizes ((a)) the board to hear petitions alleging noncompliance with RCW 36.70A.5801; or

(b) That the twenty-year growth management planning population projections adopted by the office of financial management pursuant to RCW 43.62.035 should be adjusted.

(2) A petition may be filed only by: (a) The state, or a county or city that plans under this chapter; (b) a person who has participated orally or in writing before the county or city regarding the matter on which a review is being requested; (c) a person who is certified by the governor within sixty days of filing the request with the board; or (d) a person qualified pursuant to RCW 34.05.530.

(3) For purposes of this section "person" means any individual, partnership, corporation, association, state agency, governmental subdivision or unit thereof, or public or private organization or entity of any character.

(4) To establish participation standing under subsection (2)(b) of this section, a person must show that his or her participation before the county or city was reasonably related to the person's issue as presented to the board.

(5) When considering a possible adjustment to a growth management planning population projection prepared by the office of financial management, ((a)) the board shall consider the implications of any such adjustment to the population forecast for the entire state.

The rationale for any adjustment that is adopted by ((a)) the board must be documented and filed with the office of financial management within ten working days after adoption.

If adjusted by ((a)) the board, a county growth management planning population projection shall only be used for the planning purposes set forth in this chapter and shall be known as ((a)) the "board adjusted population projection." None of these changes shall affect the official state and county population forecasts prepared by the office of financial management, which shall continue to be used for state budget and planning purposes.

**Sec. 8.** RCW 36.70A.290 and 1997 c 429 s 12 are each amended to read as follows:

(1) All requests for review to ((a)) the growth management hearings board shall be initiated by filing a petition that includes a detailed statement of issues presented for resolution by the board. The board shall render written decisions articulating the basis for its holdings. The board shall not issue advisory opinions on issues not presented to the board in the statement of issues, as modified by any prehearing order.

(2) All petitions relating to whether or not an adopted comprehensive plan, development regulation, or permanent amendment thereto, is in compliance with the goals and requirements of this chapter or chapter 90.58 or 43.21C RCW must be filed within sixty days after publication by the legislative bodies of the county or city.

(a) Except as provided in (c) of this subsection, the date of publication for a city shall be the date the city publishes the ordinance, or summary of the ordinance, adopting the comprehensive plan or development regulations, or amendment thereto, as is required to be published.

(b) Promptly after adoption, a county shall publish a notice that it has adopted the comprehensive plan or development regulations, or amendment thereto.

Except as provided in (c) of this subsection, for purposes of this section the date of publication for a county shall be the date the county publishes the notice that it has adopted the comprehensive plan or development regulations, or amendment thereto.

(c) For local governments planning under RCW 36.70A.040, promptly after approval or disapproval of a local government's

shoreline master program or amendment thereto by the department of ecology as provided in RCW 90.58.090, the local government shall publish a notice that the shoreline master program or amendment thereto has been approved or disapproved by the department of ecology. For purposes of this section, the date of publication for the adoption or amendment of a shoreline master program is the date the local government publishes notice that the shoreline master program or amendment thereto has been approved or disapproved by the department of ecology.

(3) Unless the board dismisses the petition as frivolous or finds that the person filing the petition lacks standing, or the parties have filed an agreement to have the case heard in superior court as provided in RCW 36.70A.295, the board shall, within ten days of receipt of the petition, set a time for hearing the matter.

(4) The board shall base its decision on the record developed by the city, county, or the state and supplemented with additional evidence if the board determines that such additional evidence would be necessary or of substantial assistance to the board in reaching its decision.

(5) The board, shall consolidate, when appropriate, all petitions involving the review of the same comprehensive plan or the same development regulation or regulations.

**Sec. 9.** RCW 36.70A.295 and 1997 c 429 s 13 are each amended to read as follows:

(1) The superior court may directly review a petition for review filed under RCW 36.70A.290 if all parties to the proceeding before the board have agreed to direct review in the superior court. The agreement of the parties shall be in writing and signed by all of the parties to the proceeding or their designated representatives. The agreement shall include the parties' agreement to proper venue as provided in RCW 36.70A.300(5). The parties shall file their agreement with the board within ten days after the date the petition is filed, or if multiple petitions have been filed and the board has consolidated the petitions pursuant to RCW 36.70A.300, within ten days after the board serves its order of consolidation.

(2) Within ten days of receiving the timely and complete agreement of the parties, the board shall file a certificate of agreement with the designated superior court and shall serve the parties with copies of the certificate. The superior court shall obtain exclusive jurisdiction over a petition when it receives the certificate of agreement. With the certificate of agreement the board shall also file the petition for review, any orders entered by the board, all other documents in the board's files regarding the action, and the written agreement of the parties.

(3) For purposes of a petition that is subject to direct review, the superior court's subject matter jurisdiction shall be equivalent to that of the board. Consistent with the requirements of the superior court civil rules, the superior court may consolidate a petition subject to direct review under this section with a separate action filed in the superior court.

(4)(a) Except as otherwise provided in (b) and (c) of this subsection, the provisions of RCW 36.70A.280 through 36.70A.330, which specify the nature and extent of board review, shall apply to the superior court's review.

(b) The superior court:

(i) Shall not have jurisdiction to directly review or modify an office of financial management population projection;

(ii) Except as otherwise provided in RCW 36.70A.300(2)(b), shall render its decision on the petition within one hundred eighty days of receiving the certification of agreement; and

(iii) Shall give a compliance hearing under RCW 36.70A.330(2) the highest priority of all civil matters before the court.

(c) An aggrieved party may secure appellate review of a final judgment of the superior court under this section by the supreme

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court or the court of appeals. The review shall be secured in the manner provided by law for review of superior court decisions in other civil cases.

(5) If, following a compliance hearing, the court finds that the state agency, county, or city is not in compliance with the court's prior order, the court may use its remedial and contempt powers to enforce compliance.

(6) The superior court shall transmit a copy of its decision and order on direct review to the board, the department, and the governor. If the court has determined that a county or city is not in compliance with the provisions of this chapter, the governor may impose sanctions against the county or city in the same manner as if ((\*) the board had recommended the imposition of sanctions as provided in RCW 36.70A.330.

(7) After the court has assumed jurisdiction over a petition for review under this section, the superior court civil rules shall govern a request for intervention and all other procedural matters not specifically provided for in this section.

**Sec. 10.** RCW 36.70A.302 and 1997 c 429 s 16 are each amended to read as follows:

(1) ((A)) The board may determine that part or all of a comprehensive plan or development regulations are invalid if the board:

(a) Makes a finding of noncompliance and issues an order of remand under RCW 36.70A.300;

(b) Includes in the final order a determination, supported by findings of fact and conclusions of law, that the continued validity of part or parts of the plan or regulation would substantially interfere with the fulfillment of the goals of this chapter; and

(c) Specifies in the final order the particular part or parts of the plan or regulation that are determined to be invalid, and the reasons for their invalidity.

(2) A determination of invalidity is prospective in effect and does not extinguish rights that vested under state or local law before receipt of the board's order by the city or county. The determination of invalidity does not apply to a completed development permit application for a project that vested under state or local law before receipt of the board's order by the county or city or to related construction permits for that project.

(3)(a) Except as otherwise provided in subsection (2) of this section and (b) of this subsection, a development permit application not vested under state or local law before receipt of the board's order by the county or city vests to the local ordinance or resolution that is determined by the board not to substantially interfere with the fulfillment of the goals of this chapter.

(b) Even though the application is not vested under state or local law before receipt by the county or city of the board's order, a determination of invalidity does not apply to a development permit application for:

(i) A permit for construction by any owner, lessee, or contract purchaser of a single-family residence for his or her own use or for the use of his or her family on a lot existing before receipt by the county or city of the board's order, except as otherwise specifically provided in the board's order to protect the public health and safety;

(ii) A building permit and related construction permits for remodeling, tenant improvements, or expansion of an existing structure on a lot existing before receipt of the board's order by the county or city; and

(iii) A boundary line adjustment or a division of land that does not increase the number of buildable lots existing before receipt of the board's order by the county or city.

(4) If the ordinance that adopts a plan or development regulation under this chapter includes a savings clause intended to revive prior policies or regulations in the event the new plan or regulations are determined to be invalid, the board shall determine under subsection

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(1) of this section whether the prior policies or regulations are valid during the period of remand.

(5) A county or city subject to a determination of invalidity may adopt interim controls and other measures to be in effect until it adopts a comprehensive plan and development regulations that comply with the requirements of this chapter. A development permit application may vest under an interim control or measure upon determination by the board that the interim controls and other measures do not substantially interfere with the fulfillment of the goals of this chapter.

(6) A county or city subject to a determination of invalidity may file a motion requesting that the board clarify, modify, or rescind the order. The board shall expeditiously schedule a hearing on the motion. At the hearing on the motion, the parties may present information to the board to clarify the part or parts of the comprehensive plan or development regulations to which the final order applies. The board shall issue any supplemental order based on the information provided at the hearing not later than thirty days after the date of the hearing.

(7)(a) If a determination of invalidity has been made and the county or city has enacted an ordinance or resolution amending the invalidated part or parts of the plan or regulation or establishing interim controls on development affected by the order of invalidity, after a compliance hearing, the board shall modify or rescind the determination of invalidity if it determines under the standard in subsection (1) of this section that the plan or regulation, as amended or made subject to such interim controls, will no longer substantially interfere with the fulfillment of the goals of this chapter.

(b) If the board determines that part or parts of the plan or regulation are no longer invalid as provided in this subsection, but does not find that the plan or regulation is in compliance with all of the requirements of this chapter, the board, in its order, may require periodic reports to the board on the progress the jurisdiction is making towards compliance.

**Sec. 11.** RCW 36.70A.310 and 1994 c 249 s 32 are each amended to read as follows:

A request for review by the state to ((\*) the growth management hearings board may be made only by the governor, or with the governor's consent the head of an agency, or by the commissioner of public lands as relating to state trust lands, for the review of whether: (1) A county or city that is required or chooses to plan under RCW 36.70A.040 has failed to adopt a comprehensive plan or development regulations, or county-wide planning policies within the time limits established by this chapter; or (2) a county or city that is required or chooses to plan under this chapter has adopted a comprehensive plan, development regulations, or county-wide planning policies, that are not in compliance with the requirements of this chapter.

**Sec. 12.** RCW 36.70A.3201 and 1997 c 429 s 2 are each amended to read as follows:

~~((In amending RCW 36.70A.320(3) by section 20(3), chapter 429, Laws of 1997,))~~ The legislature intends that the board((s apply)) applies a more deferential standard of review to actions of counties and cities than the preponderance of the evidence standard provided for under existing law. In recognition of the broad range of discretion that may be exercised by counties and cities consistent with the requirements of this chapter, the legislature intends for the board((s)) to grant deference to counties and cities in how they plan for growth, consistent with the requirements and goals of this chapter. Local comprehensive plans and development regulations require counties and cities to balance priorities and options for action in full consideration of local circumstances. The legislature finds that while this chapter requires local planning to take place within a framework of state goals and requirements, the ultimate burden and responsibility for planning, harmonizing the planning

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goals of this chapter, and implementing a county's or city's future rests with that community.

**Sec. 13.** RCW 36.70A.345 and 1994 c 249 s 33 are each amended to read as follows:

The governor may impose a sanction or sanctions specified under RCW 36.70A.340 on: (1) A county or city that fails to designate critical areas, agricultural lands, forest lands, or mineral resource lands under RCW 36.70A.170 by the date such action was required to have been taken; (2) a county or city that fails to adopt development regulations under RCW 36.70A.060 protecting critical areas or conserving agricultural lands, forest lands, or mineral resource lands by the date such action was required to have been taken; (3) a county that fails to designate urban growth areas under RCW 36.70A.110 by the date such action was required to have been taken; and (4) a county or city that fails to adopt its comprehensive plan or development regulations when such actions are required to be taken.

Imposition of a sanction or sanctions under this section shall be preceded by written findings by the governor, that either the county or city is not proceeding in good faith to meet the requirements of the act; or that the county or city has unreasonably delayed taking the required action. The governor shall consult with and communicate his or her findings to the ~~((appropriate))~~ growth management hearings board prior to imposing the sanction or sanctions. For those counties or cities that are not required to plan or have not opted in, the governor in imposing sanctions shall consider the size of the jurisdiction relative to the requirements of this chapter and the degree of technical and financial assistance provided.

**Sec. 14.** RCW 90.58.190 and 2003 c 321 s 4 are each amended to read as follows:

(1) The appeal of the department's decision to adopt a master program or amendment pursuant to RCW 90.58.070(2) or 90.58.090(5) is governed by RCW 34.05.510 through 34.05.598.

(2)(a) The department's decision to approve, reject, or modify a proposed master program or amendment adopted by a local government planning under RCW 36.70A.040 shall be appealed to the growth management hearings board ~~((with jurisdiction over the local government))~~. The appeal shall be initiated by filing a petition as provided in RCW 36.70A.250 through 36.70A.320.

(b) If the appeal to the growth management hearings board concerns shorelines, the growth management hearings board shall review the proposed master program or amendment solely for compliance with the requirements of this chapter, the policy of RCW 90.58.020 and the applicable guidelines, the internal consistency provisions of RCW 36.70A.070, 36.70A.040(4), 35.63.125, and 35A.63.105, and chapter 43.21C RCW as it relates to the adoption of master programs and amendments under chapter 90.58 RCW.

(c) If the appeal to the growth management hearings board concerns a shoreline of statewide significance, the board shall uphold the decision by the department unless the board, by clear and convincing evidence, determines that the decision of the department is inconsistent with the policy of RCW 90.58.020 and the applicable guidelines.

(d) The appellant has the burden of proof in all appeals to the growth management hearings board under this subsection.

(e) Any party aggrieved by a final decision of ~~((a))~~ the growth management hearings board under this subsection may appeal the decision to superior court as provided in RCW 36.70A.300.

(3)(a) The department's decision to approve, reject, or modify a proposed master program or master program amendment by a local government not planning under RCW 36.70A.040 shall be appealed to the shorelines hearings board by filing a petition within thirty days of the date of the department's written notice to the local

government of the department's decision to approve, reject, or modify a proposed master program or master program amendment as provided in RCW 90.58.090(2).

(b) In an appeal relating to shorelines, the shorelines hearings board shall review the proposed master program or master program amendment and, after full consideration of the presentations of the local government and the department, shall determine the validity of the local government's master program or amendment in light of the policy of RCW 90.58.020 and the applicable guidelines.

(c) In an appeal relating to shorelines of statewide significance, the shorelines hearings board shall uphold the decision by the department unless the board determines, by clear and convincing evidence that the decision of the department is inconsistent with the policy of RCW 90.58.020 and the applicable guidelines.

(d) Review by the shorelines hearings board shall be considered an adjudicative proceeding under chapter 34.05 RCW, the Administrative Procedure Act. The aggrieved local government shall have the burden of proof in all such reviews.

(e) Whenever possible, the review by the shorelines hearings board shall be heard within the county where the land subject to the proposed master program or master program amendment is primarily located. The department and any local government aggrieved by a final decision of the hearings board may appeal the decision to superior court as provided in chapter 34.05 RCW.

(4) A master program amendment shall become effective after the approval of the department or after the decision of the shorelines hearings board to uphold the master program or master program amendment, provided that the board may remand the master program or master program adjustment to the local government or the department for modification prior to the final adoption of the master program or master program amendment.

**Sec. 15.** RCW 34.05.518 and 2003 c 393 s 16 are each amended to read as follows:

(1) The final decision of an administrative agency in an adjudicative proceeding under this chapter may, except as otherwise provided in chapter 43.21L RCW, be directly reviewed by the court of appeals either (a) upon certification by the superior court pursuant to this section or (b) if the final decision is from an environmental board as defined in subsection (3) of this section, upon acceptance by the court of appeals after a certificate of appealability has been filed by the environmental board that rendered the final decision.

(2) For direct review upon certification by the superior court, an application for direct review must be filed with the superior court within thirty days of the filing of the petition for review in superior court. The superior court may certify a case for direct review only if the judicial review is limited to the record of the agency proceeding and the court finds that:

(a) Fundamental and urgent issues affecting the future administrative process or the public interest are involved which require a prompt determination;

(b) Delay in obtaining a final and prompt determination of such issues would be detrimental to any party or the public interest;

(c) An appeal to the court of appeals would be likely regardless of the determination in superior court; and

(d) The appellate court's determination in the proceeding would have significant precedential value.

Procedures for certification shall be established by court rule.

(3)(a) For the purposes of direct review of final decisions of environmental boards, environmental boards include those boards identified in RCW 43.21B.005 and the growth management hearings board(s) as identified in RCW 36.70A.250.

(b) An environmental board may issue a certificate of appealability if it finds that delay in obtaining a final and prompt determination of the issues would be detrimental to any party or the public interest and either:

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(i) Fundamental and urgent statewide or regional issues are raised; or

(ii) The proceeding is likely to have significant precedential value.

(4) The environmental board shall state in the certificate of appealability which criteria it applied, explain how that criteria was met, and file with the certificate a copy of the final decision.

(5) For an appellate court to accept direct review of a final decision of an environmental board, it shall consider the same criteria outlined in subsection (3) of this section, except as otherwise provided in chapter 43.21L RCW.

(6) The procedures for direct review of final decisions of environmental boards include:

(a) Within thirty days after filing the petition for review with the superior court, a party may file an application for direct review with the superior court and serve the appropriate environmental board and all parties of record. The application shall request the environmental board to file a certificate of appealability.

(b) If an issue on review is the jurisdiction of the environmental board, the board may file an application for direct review on that issue.

(c) The environmental board shall have thirty days to grant or deny the request for a certificate of appealability and its decision shall be filed with the superior court and served on all parties of record.

(d) If a certificate of appealability is issued, the parties shall have fifteen days from the date of service to file a notice of discretionary review in the superior court, and the notice shall include a copy of the certificate of appealability and a copy of the final decision.

(e) If the appellate court accepts review, the certificate of appealability shall be transmitted to the court of appeals as part of the certified record.

(f) If a certificate of appealability is denied, review shall be by the superior court. The superior court's decision may be appealed to the court of appeals.

**Sec. 16.** RCW 34.12.020 and 2002 c 354 s 226 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Office" means the office of administrative hearings.

(2) "Administrative law judge" means any person appointed by the chief administrative law judge to conduct or preside over hearings as provided in this chapter.

(3) "Hearing" means an adjudicative proceeding within the meaning of RCW 34.05.010(1) conducted by a state agency under RCW 34.05.413 through 34.05.476.

(4) "State agency" means any state board, commission, department, or officer authorized by law to make rules or to conduct adjudicative proceedings, except those in the legislative or judicial branches, the growth management hearings board((s)), the utilities and transportation commission, the pollution control hearings board, the shorelines hearings board, the forest practices appeals board, the environmental hearings office, the board of industrial insurance appeals, the Washington personnel resources board, the public employment relations commission, and the board of tax appeals.

**NEW SECTION. Sec. 17.** (1) The three growth management hearings boards are abolished and their powers, duties, and functions are transferred to the growth management hearings board.

(2) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the three growth management hearings boards must be delivered to the custody of the growth management hearings board. All office furnishings, office equipment, motor vehicles, and other tangible property in the

possession of the three growth management hearings boards must be made available to the growth management hearings board.

(3) All funds, credits, or other assets held by the three growth management hearings boards must, on the effective date of this section, be transferred to the growth management hearings board. Any appropriations made to the three growth management hearings boards must, on the effective date of this section, be transferred and credited to the growth management hearings board. If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(4) All employees of the three growth management hearings boards are transferred to the growth management hearings board. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the growth management hearings board to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(5) This section may not be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the public employment relations commission as provided by law.

(6) All rules and pending business before the three growth management hearings boards must be continued and acted upon by the growth management hearings board. All existing contracts and obligations remain in full force and must be performed by the growth management hearings board.

(7) The transfer of the powers, duties, functions, and personnel of the three growth management hearings boards to the growth management hearings board does not affect the validity of any act performed before the effective date of this section.

(8) All cases decided and all orders previously issued by the three growth management hearings boards remain in full force and effect and are not affected by this act.

**NEW SECTION. Sec. 18.** This act takes effect July 1, 2010."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Haugen moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6214.

Senator Haugen spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Haugen that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6214.

The motion by Senator Haugen carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6214 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6214, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6214, as amended by the House, and the bill

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passed the Senate by the following vote: Yeas, 43; Nays, 4; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Benton, Honeyford, Roach and Stevens

Excused: Senators Fairley and McCaslin

SUBSTITUTE SENATE BILL NO. 6214, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 3, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6248 with the following amendment(s): 6248-S AMH ENVH MADS 187,

On page 1, after line 11, insert the following:

"(3) "Sports bottle" means a resealable, reusable container, sixty-four ounces or less in size, that is designed or intended primarily to be filled with a liquid or beverage for consumption from the container, and is sold or distributed at retail without containing any liquid or beverage."

On page 1, line 12, after "Sec. 2." insert "(1)"

On page 1, line 14, after "state" strike "any of the following: Any" and insert ", any"

On page 2, after line 3, insert the following:

"(2) Beginning July 1, 2012, no manufacturer, wholesaler, or retailer may manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use in this state, sports bottles that contain bisphenol A."

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Keiser moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6248.

Senators Keiser and Marr spoke in favor of passage of the motion.

Senator Pflug spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Keiser that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6248.

The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6248 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6248, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6248, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 38; Nays, 9; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Eide, Franklin, Fraser, Gordon, Hargrove, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Becker, Delvin, Hatfield, Holmquist, Honeyford, Morton, Pflug, Schoesler and Stevens

Excused: Senators Fairley and McCaslin

SUBSTITUTE SENATE BILL NO. 6248, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

Pursuant to Rule 46, on motion of Senator Eide, and without objection, the Committee on Ways & Means was granted special leave to meet during the day's floor session.

MOTION

At 10:06 a.m., on motion of Senator Eide, the Senate was recessed until 2:00 p.m.

AFTERNOON SESSION

The Senate was called to order at 2:00 p.m. by President Owen.

MOTION

At 2:02 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 4:07 p.m. by President Owen.

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SUBSTITUTE SENATE BILL 5543,  
 SUBSTITUTE SENATE BILL 6208,  
 ENGROSSED SENATE BILL 6261,  
 SUBSTITUTE SENATE BILL 6346,  
 SUBSTITUTE SENATE BILL 6356,  
 ENGROSSED SUBSTITUTE SENATE BILL 6359,  
 SUBSTITUTE SENATE BILL 6361,  
 SENATE BILL 6379,  
 SENATE BILL 6540.

MESSAGE FROM THE HOUSE

March 5, 2010

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5902 with the following amendment(s): 5902-S.E AMH ENGR H5391.E,

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that when people who have disabilities are welcomed and included as members of our communities and provided with equal access to the opportunities available to others, their participation enriches those communities, enhances the strength of those communities' diversity,

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and contributes toward the economic vitality of those communities. The legislature further finds that more than nine hundred thousand Washington state residents with disabilities continue to face barriers to full participation that could be easily eliminated.

**NEW SECTION. Sec. 2.** (1) The accessible communities account is created in the custody of the state treasurer. One hundred dollars of the assessment imposed under RCW 46.16.381 (7), (8), and (9) must be deposited into the account. Any reduction in the penalty or fine and assessment imposed under section 6 of this act shall be applied proportionally between the penalty or fine and the assessment.

(2) The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Only the commissioner may authorize expenditures from the account.

(3) Expenditures from the account may be used for promoting greater awareness of disability issues and improved access for and inclusion and acceptance of persons with disabilities in communities in the state of Washington, including:

(a) Reimbursing travel, per diem, and reasonable accommodation for county accessible community advisory committee meetings and committee sponsored activities including, but not limited to, supporting the involvement of people with disabilities and disability organization in emergency planning and emergency preparedness activities;

(b) Establishing and maintaining an accessible communities web site;

(c) Providing training or technical assistance for county accessible community advisory committees;

(d) A grant program for funding proposals developed and submitted by county accessible community advisory committees to promote greater awareness of disability issues and acceptance, inclusion, and access for persons with disabilities within the community;

(e) Reimbursing the state agency that provides administrative support to the governor's committee on disability issues and employment for costs associated with implementing this act; and

(f) Programming changes to the judicial information system accounting module required for disbursement of funds to this account.

**NEW SECTION. Sec. 3.** A new section is added to chapter 50.40 RCW to read as follows:

(1) To the extent allowed by funds available from the accessible communities account created in section 2 of this act, the governor's committee on disability issues and employment shall:

(a) Determine eligibility of accessible community advisory committees for reimbursement or for grant funding according to section 4 of this act; and

(b) Solicit proposals from active accessible community advisory committees for projects to improve disability awareness and access for persons with disabilities, and shall select projects for funding from moneys available in the accessible communities account.

(2) The commissioner shall adopt rules to administer this section.

(3) To the extent allowed by funds available from the accessible communities account created in section 2 of this act, the governor's committee on disability issues and employment shall establish an accessible communities web site to provide the following information: Guidance, technical assistance, reference materials, and resource identification for local governments, accessible community advisory committees, and public accommodations; examples of best practices for local initiatives and activities to promote greater awareness of disability issues and access for persons with disabilities within the community; and a searchable

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listing of local public accommodations that have taken steps to be more disability friendly, including information on the specific access features provided.

**NEW SECTION. Sec. 4.** A new section is added to chapter 36.01 RCW to read as follows:

(1) A county has the option to expand the scope of an advisory committee established and maintained under RCW 29A.46.260 to that of an accessible community advisory committee, or to create an accessible community advisory committee.

(2) A county that has an active accessible community advisory committee may be reimbursed within available funds from the accessible communities account created in section 2 of this act for travel, per diem, and reasonable accommodation expenses for the participation of that committee's members in committee meetings and sponsored activities.

(3) A county establishes that it has an active accessible community advisory committee by submitting biennial assurances to the governor's committee on disability issues and employment that:

(a) The decision to establish an accessible community advisory committee was made by the county legislative authority, or by agents or officers acting under that authority.

(b) If an accessible community advisory committee is established by expanding the advisory committee established and maintained under RCW 29A.46.260, the county auditor supports that expansion.

(c) Committee members include persons with a diverse range of disabilities who are knowledgeable in identifying and eliminating attitudinal, programmatic, communication, and physical barriers encountered by persons with disabilities.

(d) The committee is actively involved in the following activities: Advising on addressing the needs of persons with disabilities in emergency plans; advising the county and other local governments within the county on access to programs services and activities, new construction or renovation projects, sidewalks, other pedestrian routes of travel, and disability parking enforcement; and developing local initiatives and activities to promote greater awareness of disability issues, and acceptance, involvement, and access for persons with disabilities within the community.

(4) Counties may form joint accessible community advisory committees, as long as no more than one of the participating counties has a population greater than seventy thousand.

**Sec. 5.** RCW 29A.46.260 and 2006 c 207 s 7 are each amended to read as follows:

(1) The legislature finds that the elimination of polling places resulting from the transition to vote by mail creates barriers that restrict the ability of many voters with disabilities from achieving the independence and privacy in voting provided by the accessible voting devices required under the help America vote act. Counties adopting a vote by mail system must take appropriate steps to mitigate these impacts and to address the obligation to provide voters with disabilities an equal opportunity to vote independently and privately, to the extent that this can be achieved without incurring undue administrative and financial burden.

(2) Each county shall establish and maintain an advisory committee that includes persons with diverse disabilities and persons with expertise in providing accommodations for persons with disabilities. The committee shall assist election officials in developing a plan to identify and implement changes to improve the accessibility of elections for voters with disabilities. The plan shall include recommendations for the following:

(a) The number of polling places that will be maintained in order to ensure that people with disabilities have reasonable access

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to accessible voting devices, and a written explanation for how the determination was made;

(b) The locations of polling places, drop-off facilities, voting centers, and other election-related functions necessary to maximize accessibility to persons with disabilities;

(c) Outreach to voters with disabilities on the availability of disability accommodation, including in-person disability access voting;

(d) Transportation of voting devices to locations convenient for voters with disabilities in order to ensure reasonable access for voters with disabilities; and

(e) Implementation of the provisions of the help America vote act related to persons with disabilities.

Counties must update the plan at least annually. The election review staff of the secretary of state shall review and evaluate the plan in conformance with the review procedure identified in RCW 29A.04.570.

(3) Counties may form a joint advisory committee to develop the plan identified in subsection (2) of this section if ~~((the total population of the joining counties does not exceed thirty thousand, and the counties are geographically adjacent))~~ no more than one of the participating counties has a population greater than seventy thousand.

**Sec. 6.** RCW 46.16.381 and 2007 c 262 s 1 and 2007 c 44 s 1 are each reenacted and amended to read as follows:

(1) The director shall grant special parking privileges to any person who has a disability that limits or impairs the ability to walk or involves acute sensitivity to light and meets one of the following criteria, as determined by a licensed physician, an advanced registered nurse practitioner licensed under chapter 18.79 RCW, or a physician assistant licensed under chapter 18.71A or 18.57A RCW:

(a) Cannot walk two hundred feet without stopping to rest;

(b) Is severely limited in ability to walk due to arthritic, neurological, or orthopedic condition;

(c) Has such a severe disability, that the person cannot walk without the use of or assistance from a brace, cane, another person, prosthetic device, wheelchair, or other assistive device;

(d) Uses portable oxygen;

(e) Is restricted by lung disease to such an extent that forced expiratory respiratory volume, when measured by spirometry is less than one liter per second or the arterial oxygen tension is less than sixty mm/hg on room air at rest;

(f) Impairment by cardiovascular disease or cardiac condition to the extent that the person's functional limitations are classified as class III or IV under standards accepted by the American Heart Association;

(g) Has a disability resulting from an acute sensitivity to automobile emissions which limits or impairs the ability to walk. The personal physician, advanced registered nurse practitioner, or physician assistant of the applicant shall document that the disability is comparable in severity to the others listed in this subsection;

(h) Is legally blind and has limited mobility; or

(i) Is restricted by a form of porphyria to the extent that the applicant would significantly benefit from a decrease in exposure to light.

(2) The applications for parking permits for persons with disabilities and parking permits for persons with temporary disabilities are official state documents. Knowingly providing false information in conjunction with the application is a gross misdemeanor punishable under chapter 9A.20 RCW. The following statement must appear on each application form immediately below the physician's, advanced registered nurse practitioner's, or physician assistant's signature and immediately below the applicant's signature: "A parking permit for a person

with disabilities may be issued only for a medical necessity that severely affects mobility or involves acute sensitivity to light (RCW 46.16.381). Knowingly providing false information on this application is a gross misdemeanor. The penalty is up to one year in jail and a fine of up to \$5,000 or both."

(3) Persons who qualify for special parking privileges are entitled to receive from the department of licensing a removable windshield placard bearing the international symbol of access and an individual serial number, along with a special identification card bearing the name and date of birth of the person to whom the placard is issued, and the placard's serial number. The special identification card shall be issued to all persons who are issued parking placards, including those issued for temporary disabilities, and special parking license plates for persons with disabilities. The department shall design the placard to be displayed when the vehicle is parked by suspending it from the rearview mirror, or in the absence of a rearview mirror the card may be displayed on the dashboard of any vehicle used to transport the person with disabilities. Instead of regular motor vehicle license plates, persons with disabilities are entitled to receive special license plates under this section or RCW 46.16.385 bearing the international symbol of access for one vehicle registered in the name of the person with disabilities. Persons with disabilities who are not issued the special license plates are entitled to receive a second special placard upon submitting a written request to the department. Persons who have been issued the parking privileges and who are using a vehicle or are riding in a vehicle displaying the placard or special license plates issued under this section or RCW 46.16.385 may park in places reserved for persons with physical disabilities. The director shall adopt rules providing for the issuance of special placards and license plates to public transportation authorities, nursing homes licensed under chapter 18.51 RCW, boarding homes licensed under chapter 18.20 RCW, senior citizen centers, private nonprofit agencies as defined in chapter 24.03 RCW, and vehicles registered with the department as cabulances that regularly transport persons with disabilities who have been determined eligible for special parking privileges provided under this section. The director may issue special license plates for a vehicle registered in the name of the public transportation authority, nursing home, boarding home, senior citizen center, private nonprofit agency, or cabulance service if the vehicle is primarily used to transport persons with disabilities described in this section. Public transportation authorities, nursing homes, boarding homes, senior citizen centers, private nonprofit agencies, and cabulance services are responsible for insuring that the special placards and license plates are not used improperly and are responsible for all fines and penalties for improper use.

(4) Whenever the person with disabilities transfers or assigns his or her interest in the vehicle, the special license plates shall be removed from the motor vehicle. If another vehicle is acquired by the person with disabilities and the vehicle owner qualifies for a special plate, the plate shall be attached to the vehicle, and the director shall be immediately notified of the transfer of the plate. If another vehicle is not acquired by the person with disabilities, the removed plate shall be immediately surrendered to the director.

(5) The special license plate shall be renewed in the same manner and at the time required for the renewal of regular motor vehicle license plates under this chapter. No special license plate may be issued to a person who is temporarily disabled. A person who has a condition expected to improve within six months may be issued a temporary placard for a period not to exceed six months. If the condition exists after six months a new temporary placard shall be issued upon receipt of a new certification from the person's physician. The permanent parking placard and identification card of a person with disabilities shall be renewed at least every five years, as required by the director, by satisfactory proof of the right to

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continued use of the privileges. In the event of the permit holder's death, the parking placard and identification card must be immediately surrendered to the department. The department shall match and purge its database of parking permits issued to persons with disabilities with available death record information at least every twelve months.

(6) Additional fees shall not be charged for the issuance of the special placards or the identification cards. No additional fee may be charged for the issuance of the special license plates except the regular motor vehicle registration fee and any other fees and taxes required to be paid upon registration of a motor vehicle.

(7) Any unauthorized use of the special placard, special license plate issued under this section or RCW 46.16.385, or identification card is a ~~((traffic))~~ parking infraction with a monetary penalty of two hundred fifty dollars. In addition to any penalty or fine imposed under this subsection, two hundred dollars shall be assessed.

(8) It is a parking infraction, with a monetary penalty of two hundred fifty dollars for a person to park in, block, or otherwise make inaccessible the access aisle located next to a space reserved for persons with physical disabilities. In addition to any penalty or fine imposed under this subsection, two hundred dollars shall be assessed. The clerk of the court shall report all violations related to this subsection to the department.

(9) It is a parking infraction, with a monetary penalty of two hundred fifty dollars for any person to park a vehicle in a parking place provided on private property without charge or on public property reserved for persons with physical disabilities without a placard or special license plate issued under this section or RCW 46.16.385. In addition to any penalty or fine imposed under this subsection, two hundred dollars shall be assessed. If a person is charged with a violation, the person shall not be determined to have committed an infraction if the person produces in court or before the court appearance the placard or special license plate issued under this section or RCW 46.16.385 required under this section. A local jurisdiction providing nonmetered, on-street parking places reserved for persons with physical disabilities may impose by ordinance time restrictions of no less than four hours on the use of these parking places. A local jurisdiction may impose by ordinance time restrictions of no less than four hours on the use of nonreserved, on-street parking spaces by vehicles displaying the special parking placards or special license plates issued under this section or RCW 46.16.385. All time restrictions must be clearly posted.

(10) ~~((The penalties))~~ (a) Two hundred dollars from each full penalty imposed under subsections (7), (8), and (9) of this section shall be allocated as follows:

(i) One hundred dollars shall be deposited in the accessible communities account created in section 2 of this act; and

(ii) One hundred dollars shall be deposited in the multimodal transportation account under RCW 47.66.070 for the sole purpose of supplementing a grant program for special needs transportation provided by transit agencies and nonprofit providers of transportation that is administered by the department of transportation.

(b) When a reduced penalty is imposed under subsection (7), (8), or (9) of this section, the amount deposited in the accounts identified in (a) of this subsection shall be reduced equally and proportionally. The remaining penalty amounts shall be used by that local jurisdiction exclusively for law enforcement. The court may also impose an additional penalty sufficient to reimburse the local jurisdiction for any costs it may have incurred in removal and storage of the improperly parked vehicle.

(11) Except as provided by subsection (2) of this section, it is a traffic infraction with a monetary penalty of two hundred fifty dollars for any person willfully to obtain a special license plate issued under this section or RCW 46.16.385, placard, or

identification card in a manner other than that established under this section.

(12)(a) A law enforcement agency authorized to enforce parking laws may appoint volunteers, with a limited commission, to issue notices of infractions for violations of this section or RCW 46.61.581. Volunteers must be at least twenty-one years of age. The law enforcement agency appointing volunteers may establish any other qualifications the agency deems desirable.

(b) An agency appointing volunteers under this section must provide training to the volunteers before authorizing them to issue notices of infractions.

(c) A notice of infraction issued by a volunteer appointed under this subsection has the same force and effect as a notice of infraction issued by a police officer for the same offense.

(d) A police officer or a volunteer may request a person to show the person's identification card or special parking placard when investigating the possibility of a violation of this section. If the request is refused, the person in charge of the vehicle may be issued a notice of infraction for a violation of this section.

(13) For second or subsequent violations of this section, in addition to a monetary fine, the violator must complete a minimum of forty hours of:

(a) Community restitution for a nonprofit organization that serves persons having disabilities or disabling diseases; or

(b) Any other community restitution that may sensitize the violator to the needs and obstacles faced by persons who have disabilities.

(14) The court may not suspend more than one-half of any fine imposed under subsection (7), (8), (9), or (11) of this section.

(15) For the purposes of this section, "legally blind" means a person who: (a) Has no vision or whose vision with corrective lenses is so limited that the individual requires alternative methods or skills to do efficiently those things that are ordinarily done with sight by individuals with normal vision; or (b) has an eye condition of a progressive nature which may lead to blindness.

**Sec. 7.** RCW 43.79A.040 and 2009 c 87 s 4 are each amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the accessible communities account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the students with dependents grant account, the basic health plan self-insurance reserve account, the contract harvesting

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revolving account, the Washington state combined fund drive account, the commemorative works account, the Washington international exchange scholarship endowment fund, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the grain inspection revolving fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account), the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, and the reading achievement account. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the city and county advance right-of-way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Pridemore moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5902 and request of the House a conference thereon.

Senator Pridemore spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Pridemore that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5902 and request of the House a conference thereon.

The motion by Senator Pridemore carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5902 and requested of the House a conference thereon by voice vote.

MESSAGE FROM THE HOUSE

March 3, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5798 with the following amendment(s): 5798-S AMH CODY KNUT 160; 5798-S AMH ERIC KNUT 159,

On page 3, line 30, after "(6)" insert "For an authorization of marijuana use written on or after the effective date of this act."

On page 3, beginning on line 32, after "professional," strike all material through "records" on line 33 and insert "((or a copy of the qualifying patient's pertinent medical records)) written on a tamper-resistant paper approved by the Board of Pharmacy pursuant to RCW 18.64.500"

On page 3, line 35, after "marijuana;" insert "and"

On page 3, beginning on line 37, after "RCW 46.20.035" strike all material through "original" on page 4, line 3 and insert "((and

(c) A copy of the physician statement described in (a) of this subsection shall have the same force and effect as the signed original))"

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Keiser moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5798 and request of the House a conference thereon.

Senators Keiser, Pflug and Kohl-Welles spoke in favor of passage of the motion.

The President declared the question before the Senate to be motion by Senator Keiser that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5798 and request of the House a conference thereon.

The motion by Senator Keiser carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 5798 and requested of the House a conference thereon by voice vote.

MESSAGE FROM THE HOUSE

March 5, 2010

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6774 with the following amendment(s): 6774-S.E AMH ENGR H5430.E,

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 36.73.020 and 2009 c 515 s 14 are each amended to read as follows:

(1) The legislative authority of a county or city, or a public transportation benefit area as provided under subsection (2) of this section. may establish a transportation benefit district within the county or city area or within the area specified in subsection (2) of this section, for the purpose of acquiring, constructing, improving, providing, and funding a transportation improvement within the district that is consistent with any existing state, regional, ~~((and))~~ or local transportation plans and necessitated by existing or reasonably foreseeable congestion levels. The transportation improvements shall be owned by the county of jurisdiction if located in an unincorporated area, by the city of jurisdiction if located in an incorporated area, or by the state in cases where the transportation improvement is or becomes a state highway. However, if deemed appropriate by the governing body of the transportation benefit district, a transportation improvement may be owned by a participating port district or transit district, unless otherwise prohibited by law. Transportation improvements shall be administered and maintained as other public streets, roads,

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highways, and transportation improvements. To the extent practicable, the district shall consider the following criteria when selecting transportation improvements:

- (a) Reduced risk of transportation facility failure and improved safety;
- (b) Improved travel time;
- (c) Improved air quality;
- (d) Increases in daily and peak period trip capacity;
- (e) Improved modal connectivity;
- (f) Improved freight mobility;
- (g) Cost-effectiveness of the investment;
- (h) Optimal performance of the system through time;
- (i) Improved accessibility for, or other benefits to, persons with special transportation needs as defined in RCW 47.06B.012; and
- (j) Other criteria, as adopted by the governing body.

~~((Subject to subsection (6) of this section, the))~~ (a) The legislative authority of a public transportation benefit area under chapter 36.57A RCW with boundaries that encompass all or part of a county having a population of more than six hundred thousand may establish a transportation benefit district within the full boundaries of the public transportation benefit area. An authorized public transportation benefit area must, except as otherwise provided in subsection (2) of this section, comply with all requirements of this chapter. A district may be formed by majority vote of the public transportation benefit area's governing body, and the governing body of the benefit area is not required to obtain agreement of the jurisdictions having territory within the boundaries of the public transportation benefit area.

(b) The transportation improvements shall be owned by the public transportation benefit area unless otherwise agreed to or prohibited by law.

(c) The authority of a public transportation benefit area to establish a transportation benefit district or to impose or collect an authorized tax, charge, or fee under this chapter or under RCW 82.80.140 expires on June 30, 2015. Any contract entered into by the transportation benefit district for the collection of taxes, charges, or fees on its behalf must include a provision establishing that the collection of any such taxes, charges, or fees is not authorized after June 30, 2015. The benefit district shall dissolve itself and cease to exist no later than July 31, 2015.

(3) Except as otherwise provided in subsection (2) of this section, a district may include area within more than one county, city, port district, county transportation authority, or public transportation benefit area, if the legislative authority of each participating jurisdiction has agreed to the inclusion as provided in an interlocal agreement adopted pursuant to chapter 39.34 RCW. However, the boundaries of the district need not include all territory within the boundaries of the participating jurisdictions comprising the district.

~~((3))~~ (4) The members of the legislative authority proposing to establish the district, acting ex officio and independently, shall constitute the governing body of the district: PROVIDED, That, except as otherwise provided in subsection (2) of this section, where a district includes area within more than one jurisdiction under subsection (2) of this section, the district shall be governed under an interlocal agreement adopted pursuant to chapter 39.34 RCW ~~((However)), with the governing body ((shall be)) being composed of (a) at least five members including at least one elected official from the legislative authority of each participating jurisdiction or (b) the governing body of the metropolitan planning organization serving the district, but only if the district boundaries are identical to the boundaries of the metropolitan planning organization serving the district. However, only those members of the governing body of a metropolitan planning organization that are elected officials may determine whether the district will impose or seek voter approval of~~

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any authorized taxes, charges, or fees. Members that are not elected officials are ex officio, nonvoting members of the district's governing body for purposes of making decisions to impose or seek approval of taxes, charges, or fees.

~~((4))~~ (5) The treasurer of the jurisdiction proposing to establish the district shall act as the ex officio treasurer of the district, unless an interlocal agreement states otherwise.

~~((5))~~ (6) The electors of the district shall all be registered voters residing within the district.

~~((6))~~ Prior to December 1, 2007, the authority under this section, regarding the establishment of or the participation in a district, shall not apply to:

(a) Counties with a population greater than one million five hundred thousand persons and any adjoining counties with a population greater than five hundred thousand persons;

(b) Cities with any area within the counties under (a) of this subsection; and

(c) Other jurisdictions with any area within the counties under (a) of this subsection.)"

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Marr moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6774 and ask the House to recede therefrom.

Senators Marr and Swecker spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Marr that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6774 and ask the House to recede therefrom.

The motion by Senator Marr carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6774 and asked the House to recede therefrom by voice vote.

#### MESSAGE FROM THE HOUSE

February 28, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6280 with the following amendment(s): 6280-S AMH HCW MORI 070,

On page 7, at the beginning of line 1, strike "unless the patient signs a written waiver acknowledging the risks associated with failure to pursue treatment from a primary health care provider. The requirements of the waiver shall be established by the secretary in rule"

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Keiser moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6280 and ask the House to recede therefrom.

Senators Keiser and Pflug spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Keiser that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6280 and ask the House to recede therefrom.

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The motion by Senator Keiser carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 6280 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

February 28, 2010

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6538 with the following amendments: 6538-S.E AMH BAIL H5490.1; 6538-S.E AMH HCW KNUT 152,

On page 9, after line 28, insert the following:

"NEW SECTION. Sec. 4. This act takes effect one hundred and eighty days after the date the insurance commissioner certifies to the secretary of the senate, the chief clerk of the house of representatives, and the code reviser's office that federal legislation has been signed into law by the President of the United States that includes guaranteed issue for individuals who purchase health coverage through the individual or small group markets."

Correct the title.

On page 9, after line 28, insert the following:

"NEW SECTION. Sec. 4. If federal legislation that includes guaranteed issue for individuals who purchase health coverage through the individual or small group market has not been signed by the president of the United States by December 31, 2010, this act is null and void."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Keiser moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6538 and ask the House to recede therefrom.

Senators Keiser and Pflug spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Keiser that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6538 and ask the House to recede therefrom.

The motion by Senator Keiser carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6538 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

March 5, 2010

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6696 with the following amendment(s): 6696-S2.E AMH ENGR H5458.E,

Strike everything after the enacting clause and insert the following:

**"PART I  
ACCOUNTABILITY FRAMEWORK**

NEW SECTION. Sec. 101. The legislature finds that it is the state's responsibility to create a coherent and effective accountability framework for the continuous improvement for all schools and districts. This system must provide an excellent and equitable education for all students; an aligned federal/state accountability

system; and the tools necessary for schools and districts to be accountable. These tools include the necessary accounting and data reporting systems, assessment systems to monitor student achievement, and a system of general support, targeted assistance, and if necessary, intervention.

The office of the superintendent of public instruction is responsible for developing and implementing the accountability tools to build district capacity and working within federal and state guidelines. The legislature assigned the state board of education responsibility and oversight for creating an accountability framework. This framework provides a unified system of support for challenged schools that aligns with basic education, increases the level of support based upon the magnitude of need, and uses data for decisions. Such a system will identify schools and their districts for recognition as well as for additional state support. For a specific group of challenged schools, defined as persistently lowest-achieving schools, and their districts, it is necessary to provide a required action process that creates a partnership between the state and local district to target funds and assistance to turn around the identified lowest-achieving schools.

Phase I of this accountability system will recognize schools that have done an exemplary job of raising student achievement and closing the achievement gaps using the state board of education's accountability index. The state board of education shall have ongoing collaboration with the achievement gap oversight and accountability committee regarding the measures used to measure the closing of the achievement gaps and the recognition provided to the school districts for closing the achievement gaps. Phase I will also target the lowest five percent of persistently lowest-achieving schools defined under federal guidelines to provide federal funds and federal intervention models through a voluntary option in 2010, and for those who do not volunteer and have not improved student achievement, a required action process beginning in 2011.

Phase II of this accountability system will work toward implementing the state board of education's accountability index for identification of schools in need of improvement, including those that are not Title I schools, and the use of state and local intervention models and state funds through a required action process beginning in 2013, in addition to the federal program. Federal approval of the state board of education's accountability index must be obtained or else the federal guidelines for persistently lowest-achieving schools will continue to be used.

The expectation from implementation of this accountability system is the improvement of student achievement for all students to prepare them for postsecondary education, work, and global citizenship in the twenty-first century.

NEW SECTION. Sec. 102. (1) Beginning in 2010, and each year thereafter, by December 1st, the superintendent of public instruction shall annually identify schools as one of the state's persistently lowest-achieving schools if the school is a Title I school, or a school that is eligible for but does not receive Title I funds, that is among the lowest-achieving five percent of Title I or Title I eligible schools in the state.

(2) The criteria for determining whether a school is among the persistently lowest-achieving five percent of Title I schools, or Title I eligible schools, under subsection (1) of this section shall be established by the superintendent of public instruction. The criteria must meet all applicable requirements for the receipt of a federal school improvement grant under the American recovery and reinvestment act of 2009 and Title I of the elementary and secondary education act of 1965, and take into account both:

(a) The academic achievement of the "all students" group in a school in terms of proficiency on the state's assessment, and any alternative assessments, in reading and mathematics combined; and

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(b) The school's lack of progress on the mathematics and reading assessments over a number of years in the "all students" group.

**NEW SECTION. Sec. 103.** (1) Beginning in January 2011, the superintendent of public instruction shall annually recommend to the state board of education school districts for designation as required action districts. A district with at least one school identified as a persistently lowest-achieving school shall be designated as a required action district if it meets the criteria developed by the superintendent of public instruction. However, a school district shall not be recommended for designation as a required action district if the district was awarded a federal school improvement grant by the superintendent in 2010 and for three consecutive years following receipt of the grant implemented a federal school intervention model at each school identified for improvement. The state board of education may designate a district that received a school improvement grant in 2010 as a required action district if after three years of voluntarily implementing a plan the district continues to have a school identified as persistently lowest-achieving and meets the criteria for designation established by the superintendent of public instruction.

(2) The superintendent of public instruction shall provide a school district superintendent with written notice of the recommendation for designation as a required action district by certified mail or personal service. A school district superintendent may request reconsideration of the superintendent of public instruction's recommendation. The reconsideration shall be limited to a determination of whether the school district met the criteria for being recommended as a required action district. A request for reconsideration must be in writing and served on the superintendent of public instruction within ten days of service of the notice of the superintendent's recommendation.

(3) The state board of education shall annually designate those districts recommended by the superintendent in subsection (1) of this section as required action districts. A district designated as a required action district shall be required to notify all parents of students attending a school identified as a persistently lowest-achieving school in the district of the state board of education's designation of the district as a required action district and the process for complying with the requirements set forth in sections 104 through 110 of this act.

**NEW SECTION. Sec. 104.** (1) The superintendent of public instruction shall contract with an external review team to conduct an academic performance audit of the district and each persistently lowest-achieving school in a required action district to identify the potential reasons for the school's low performance and lack of progress. The review team must consist of persons under contract with the superintendent who have expertise in comprehensive school and district reform and may not include staff from the agency, the school district that is the subject of the audit, or members or staff of the state board of education.

(2) The audit must be conducted based on criteria developed by the superintendent of public instruction and must include but not be limited to an examination of the following:

- (a) Student demographics;
- (b) Mobility patterns;
- (c) School feeder patterns;
- (d) The performance of different student groups on assessments;
- (e) Effective school leadership;
- (f) Strategic allocation of resources;
- (g) Clear and shared focus on student learning;
- (h) High standards and expectations for all students;
- (i) High level of collaboration and communication;
- (j) Aligned curriculum, instruction, and assessment to state standards;

(k) Frequency of monitoring of learning and teaching;

(l) Focused professional development;

(m) Supportive learning environment;

(n) High level of family and community involvement;

(o) Alternative secondary schools best practices; and

(p) Any unique circumstances or characteristics of the school or district.

(3) Audit findings must be made available to the local school district, its staff, the community, and the state board of education.

**NEW SECTION. Sec. 105.** (1) The local district superintendent and local school board of a school district designated as a required action district must submit a required action plan to the state board of education for approval. Unless otherwise required by subsection (3) of this section, the plan must be submitted under a schedule as required by the state board. A required action plan must be developed in collaboration with administrators, teachers, and other staff, parents, unions representing any employees within the district, students, and other representatives of the local community. The superintendent of public instruction shall provide a district with assistance in developing its plan if requested. The school board must conduct a public hearing to allow for comment on a proposed required action plan. The local school district shall submit the plan first to the office of the superintendent of public instruction to review and approve that the plan is consistent with federal guidelines. After the office of the superintendent of public instruction has approved that the plan is consistent with federal guidelines, the local school district must submit its required action plan to the state board of education for approval.

(2) A required action plan must include all of the following:

(a) Implementation of one of the four federal intervention models required for the receipt of a federal school improvement grant, for those persistently lowest-achieving schools that the district will be focusing on for required action. However, a district may not establish a charter school under a federal intervention model without express legislative authority. The intervention models are the turnaround, restart, school closure, and transformation models. The intervention model selected must address the concerns raised in the academic performance audit and be intended to improve student performance to allow a school district to be removed from the list of districts designated as a required action district by the state board of education within three years of implementation of the plan;

(b) Submission of an application for a federal school improvement grant or a grant from other federal funds for school improvement to the superintendent of public instruction;

(c) A budget that provides for adequate resources to implement the federal model selected and any other requirements of the plan;

(d) A description of the changes in the district's or school's existing policies, structures, agreements, processes, and practices that are intended to attain significant achievement gains for all students enrolled in the school and how the district intends to address the findings of the academic performance audit; and

(e) Identification of the measures that the school district will use in assessing student achievement at a school identified as a persistently lowest-achieving school, which include improving mathematics and reading student achievement and graduation rates as defined by the office of the superintendent of public instruction that enable the school to no longer be identified as a persistently lowest-achieving school.

(3)(a) For any district designated for required action, the parties to any collective bargaining agreement negotiated, renewed, or extended under chapter 41.59 or 41.56 RCW after the effective date of this section must reopen the agreement, or negotiate an addendum, if needed, to make changes to terms and conditions of employment that are necessary to implement a required action plan.

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(b) If the school district and the employee organizations are unable to agree on the terms of an addendum or modification to an existing collective bargaining agreement, the parties, including all labor organizations affected under the required action plan, shall request the public employment relations commission to, and the commission shall, appoint an employee of the commission to act as a mediator to assist in the resolution of a dispute between the school district and the employee organizations. Beginning in 2011, and each year thereafter, mediation shall commence no later than April 15th. All mediations held under this section shall include the employer and representatives of all affected bargaining units.

(c) If the executive director of the public employment relations commission, upon the recommendation of the assigned mediator, finds that the employer and any affected bargaining unit are unable to reach agreement following a reasonable period of negotiations and mediation, but by no later than May 15th of the year in which mediation occurred, the executive director shall certify any disputed issues for a decision by the superior court in the county where the school district is located. The issues for determination by the superior court must be limited to the issues certified by the executive director.

(d) The process for filing with the court in this subsection (3)(d) must be used in the case where the executive director certifies issues for a decision by the superior court.

(i) The school district shall file a petition with the superior court, by no later than May 20th of the same year in which the issues were certified, setting forth the following:

(A) The name, address, and telephone number of the school district and its principal representative;

(B) The name, address, and telephone number of the employee organizations and their principal representatives;

(C) A description of the bargaining units involved;

(D) A copy of the unresolved issues certified by the executive director for a final and binding decision by the court; and

(E) The academic performance audit that the office of the superintendent of public instruction completed for the school district.

(ii) Within seven days after the filing of the petition, each party shall file with the court the proposal it is asking the court to order be implemented in a required action plan for the district for each issue certified by the executive director. Contemporaneously with the filing of the proposal, a party must file a brief with the court setting forth the reasons why the court should order implementation of its proposal in the final plan.

(iii) Following receipt of the proposals and briefs of the parties, the court must schedule a date and time for a hearing on the petition. The hearing must be limited to argument of the parties or their counsel regarding the proposals submitted for the court's consideration. The parties may waive a hearing by written agreement.

(iv) The court must enter an order selecting the proposal for inclusion in a required action plan that best responds to the issues raised in the school district's academic performance audit, and allows for the award of a federal school improvement grant or a grant from other federal funds for school improvement to the district from the office of the superintendent of public instruction to implement one of the four federal intervention models. The court's decision must be issued no later than June 15th of the year in which the petition is filed and is final and binding on the parties; however the court's decision is subject to appeal only in the case where it does not allow the school district to implement a required action plan consistent with the requirements for the award of a federal school improvement grant or other federal funds for school improvement by the superintendent of public instruction.

(e) Each party shall bear its own costs and attorneys' fees incurred under this statute.

(f) Any party that proceeds with the process in this section after knowledge that any provision of this section has not been complied with and who fails to state its objection in writing is deemed to have waived its right to object.

(4) All contracts entered into between a school district and an employee must be consistent with this section and allow school districts designated as required action districts to implement one of the four federal models in a required action plan.

**NEW SECTION. Sec. 106.** A required action plan developed by a district's school board and superintendent must be submitted to the state board of education for approval. The state board must accept for inclusion in any required action plan the final decision by the superior court on any issue certified by the executive director of the public employment relations commission under the process in section 105 of this act. The state board of education shall approve a plan proposed by a school district only if the plan meets the requirements in section 105 of this act and provides sufficient remedies to address the findings in the academic performance audit to improve student achievement. Any addendum or modification to an existing collective bargaining agreement, negotiated under section 105 of this act or by agreement of the district and the exclusive bargaining unit, related to student achievement or school improvement shall not go into effect until approval of a required action plan by the state board of education. If the state board does not approve a proposed plan, it must notify the local school board and local district's superintendent in writing with an explicit rationale for why the plan was not approved. Nonapproval by the state board of education of the local school district's initial required action plan submitted is not intended to trigger any actions under section 108 of this act. With the assistance of the office of the superintendent of public instruction, the superintendent and school board of the required action district shall either: (a) Submit a new plan to the state board of education for approval within forty days of notification that its plan was rejected, or (b) submit a request to the required action plan review panel established under section 107 of this act for reconsideration of the state board's rejection within ten days of the notification that the plan was rejected. If federal funds are not available, the plan is not required to be implemented until such funding becomes available. If federal funds for this purpose are available, a required action plan must be implemented in the immediate school year following the district's designation as a required action district.

**NEW SECTION. Sec. 107.** (1) A required action plan review panel shall be established to offer an objective, external review of a request from a school district for reconsideration of the state board of education's rejection of the district's required action plan. The review and reconsideration by the panel shall be based on whether the state board of education gave appropriate consideration to the unique circumstances and characteristics identified in the academic performance audit of the local school district whose required action plan was rejected.

(2)(a) The panel shall be composed of five individuals with expertise in school improvement, school and district restructuring, or parent and community involvement in schools. Two of the panel members shall be appointed by the speaker of the house of representatives; two shall be appointed by the president of the senate; and one shall be appointed by the governor.

(b) The speaker of the house of representatives, president of the senate, and governor shall solicit recommendations for possible panel members from the Washington association of school administrators, the Washington state school directors' association, the association of Washington school principals, the achievement gap oversight and accountability committee, and associations

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representing certificated teachers, classified school employees, and parents.

(c) Members of the panel shall be appointed no later than December 1, 2010, but the superintendent of public instruction shall convene the panel only as needed to consider a school district's request for reconsideration. Appointments shall be for a four-year term, with opportunity for reappointment. Reappointments in the case of a vacancy shall be made expeditiously so that all requests are considered in a timely manner.

(3) The required action plan review panel may reaffirm the decision of the state board of education, recommend that the state board reconsider the rejection, or recommend changes to the required action plan that should be considered by the district and the state board of education to secure approval of the plan. The state board of education shall consider the recommendations of the panel and issue a decision in writing to the local school district and the panel. If the school district must submit a new required action plan to the state board of education, the district must submit the plan within forty days of the board's decision.

(4) The state board of education and superintendent of public instruction must develop timelines and procedures for the deliberations under this section so that school districts can implement a required action plan within the time frame required under section 106 of this act.

**NEW SECTION. Sec. 108.** The state board of education may direct the superintendent of public instruction to require a school district that has not submitted a final required action plan for approval, or has submitted but not received state board of education approval of a required action plan by the beginning of the school year in which the plan is intended to be implemented, to redirect the district's Title I funds based on the academic performance audit findings.

**NEW SECTION. Sec. 109.** A school district must implement a required action plan upon approval by the state board of education. The office of superintendent of public instruction must provide the required action district with technical assistance and federal school improvement grant funds or other federal funds for school improvement, if available, to implement an approved plan. The district must submit a report to the superintendent of public instruction that provides the progress the district is making in meeting the student achievement goals based on the state's assessments, identifying strategies and assets used to solve audit findings, and establishing evidence of meeting plan implementation benchmarks as set forth in the required action plan.

**NEW SECTION. Sec. 110.** (1) The superintendent of public instruction must provide a report twice per year to the state board of education regarding the progress made by all school districts designated as required action districts.

(2) The superintendent of public instruction must recommend to the state board of education that a school district be released from the designation as a required action district after the district implements a required action plan for a period of three years; has made progress, as defined by the superintendent of public instruction, in reading and mathematics on the state's assessment over the past three consecutive years; and no longer has a school within the district identified as persistently lowest achieving. The state board shall release a school district from the designation as a required action district upon confirmation that the district has met the requirements for a release.

(3) If the state board of education determines that the required action district has not met the requirements for release, the district remains in required action and must submit a new or revised plan under the process in section 105 of this act.

**Sec. 111.** RCW 28A.305.225 and 2009 c 548 s 503 are each amended to read as follows:

(1) The state board of education shall continue to refine the development of an accountability framework that creates a unified system of support for challenged schools, that aligns with basic education, increases the level of support based upon the magnitude of need, and uses data for decisions.

(2) The state board of education shall develop an accountability index to identify schools and districts for recognition, for continuous improvement, and for additional state support. The index shall be based on criteria that are fair, consistent, and transparent. Performance shall be measured using multiple outcomes and indicators including, but not limited to, graduation rates and results from statewide assessments. The index shall be developed in such a way as to be easily understood by both employees within the schools and districts, as well as parents and community members. It is the legislature's intent that the index provide feedback to schools and districts to self-assess their progress, and enable the identification of schools with exemplary student performance and those that need assistance to overcome challenges in order to achieve exemplary student performance. ~~((Once the accountability index has identified schools that need additional help, a more thorough analysis will be done to analyze specific conditions in the district including but not limited to the level of state resources a school or school district receives in support of the basic education system, achievement gaps for different groups of students, and community support.~~

~~—(3) Based on the accountability index and in consultation with the superintendent of public instruction, the state board of education shall develop a proposal and timeline for implementation of a comprehensive system of voluntary support and assistance for schools and districts. The timeline must take into account and accommodate capacity limitations of the K-12 educational system. Changes that have a fiscal impact on school districts, as identified by a fiscal analysis prepared by the office of the superintendent of public instruction, shall take effect only if formally authorized by the legislature through the omnibus appropriations act or other enacted legislation.~~

~~—(4)(a) The state board of education shall develop a proposal and implementation timeline for a more formalized comprehensive system improvement targeted to challenged schools and districts that have not demonstrated sufficient improvement through the voluntary system. The timeline must take into account and accommodate capacity limitations of the K-12 educational system. The proposal and timeline shall be submitted to the education committees of the legislature by December 1, 2009, and shall include recommended legislation and recommended resources to implement the system according to the timeline developed.~~

~~—(b) The proposal shall outline a process for addressing performance challenges that will include the following features: (i) An academic performance audit using peer review teams of educators that considers school and community factors in addition to other factors in developing recommended specific corrective actions that should be undertaken to improve student learning; (ii) a requirement for the local school board plan to develop and be responsible for implementation of corrective action plan taking into account the audit findings, which plan must be approved by the state board of education at which time the plan becomes binding upon the school district to implement; and (iii) monitoring of local district progress by the office of the superintendent of public instruction. The proposal shall take effect only if formally authorized by the legislature through the omnibus appropriations act or other enacted legislation.~~

~~—(5))~~ (3) The state board of education, in cooperation with the office of the superintendent of public instruction, shall annually recognize schools for exemplary performance as measured on the state board of education accountability index. The state board of

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education shall have ongoing collaboration with the achievement gap oversight and accountability committee regarding the measures used to measure the closing of the achievement gaps and the recognition provided to the school districts for closing the achievement gaps.

(4) In coordination with the superintendent of public instruction, the state board of education shall seek approval from the United States department of education for use of the accountability index and the state system of support, assistance, and intervention, to replace the federal accountability system under P.L. 107-110, the no child left behind act of 2001.

~~((6))~~ (5) The state board of education shall work with the education data center established within the office of financial management and the technical working group established in section 112, chapter 548, Laws of 2009 to determine the feasibility of using the prototypical funding allocation model as not only a tool for allocating resources to schools and districts but also as a tool for schools and districts to report to the state legislature and the state board of education on how the state resources received are being used.

**NEW SECTION. Sec. 112.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "All students group" means those students in grades three through eight and high school who take the state's assessment in reading and mathematics required under 20 U.S.C. Sec. 6311(b)(3).

(2) "Title I" means Title I, part A of the federal elementary and secondary education act of 1965 (ESEA) (20 U.S.C. Secs. 6311-6322).

**NEW SECTION. Sec. 113.** The superintendent of public instruction and the state board of education may each adopt rules in accordance with chapter 34.05 RCW as necessary to implement this chapter.

**NEW SECTION. Sec. 114.** (1) The legislature finds that a unified and equitable system of education accountability must include expectations and benchmarks for improvement, along with support for schools and districts to make the necessary changes that will lead to success for all students. Such a system must also clearly address the consequences for persistent lack of improvement. Establishing a process for school districts to prepare and implement a required action plan is one such consequence. However, to be truly accountable to students, parents, the community, and taxpayers, the legislature must also consider what should happen if a required action district continues not to make improvement after an extended period of time. Without an answer to this significant question, the state's system of education accountability is incomplete. Furthermore, accountability must be appropriately shared among various levels of decision makers, including in the building, in the district, and at the state.

(2)(a) A joint select committee on education accountability is established beginning no earlier than May 1, 2012, with the following members:

(i) The president of the senate shall appoint two members from each of the two largest caucuses of the senate.

(ii) The speaker of the house of representatives shall appoint two members from each of the two largest caucuses of the house of representatives.

(b) The committee shall choose its cochairs from among its membership.

(3) The committee shall:

(a) Identify and analyze options for a complete system of education accountability, particularly consequences in the case of persistent lack of improvement by a required action district;

(b) Identify and analyze appropriate decision-making responsibilities and accompanying consequences at the building, district, and state level within such an accountability system;

(c) Examine models and experiences in other states;

(d) Identify the circumstances under which significant state action may be required; and

(e) Analyze the financial, legal, and practical considerations that would accompany significant state action.

(4) Staff support for the committee must be provided by the senate committee services and the house of representatives office of program research.

(5) The committee shall submit an interim report to the education committees of the legislature by September 1, 2012, and a final report with recommendations by September 1, 2013.

(6) This section expires June 30, 2014.

## PART II EVALUATIONS

**Sec. 201.** RCW 28A.150.230 and 2006 c 263 s 201 are each amended to read as follows:

(1) It is the intent and purpose of this section to guarantee that each common school district board of directors, whether or not acting through its respective administrative staff, be held accountable for the proper operation of their district to the local community and its electorate. In accordance with the provisions of Title 28A RCW, as now or hereafter amended, each common school district board of directors shall be vested with the final responsibility for the setting of policies ensuring quality in the content and extent of its educational program and that such program provide students with the opportunity to achieve those skills which are generally recognized as requisite to learning.

(2) In conformance with the provisions of Title 28A RCW, as now or hereafter amended, it shall be the responsibility of each common school district board of directors to adopt policies to:

(a) Establish performance criteria and an evaluation process for its superintendent, classified staff, certificated personnel, including administrative staff, and for all programs constituting a part of such district's curriculum. Each district shall report annually to the superintendent of public instruction the following for each employee group listed in this subsection (2)(a): (i) Evaluation criteria and rubrics; (ii) a description of each rating; and (iii) the number of staff in each rating;

(b) Determine the final assignment of staff, certificated or classified, according to board enumerated classroom and program needs and data, based upon a plan to ensure that the assignment policy: (i) Supports the learning needs of all the students in the district; and (ii) gives specific attention to high-need schools and classrooms;

(c) Provide information to the local community and its electorate describing the school district's policies concerning hiring, assigning, terminating, and evaluating staff, including the criteria for evaluating teachers and principals;

(d) Determine the amount of instructional hours necessary for any student to acquire a quality education in such district, in not less than an amount otherwise required in RCW 28A.150.220, or rules of the state board of education;

~~((d))~~ (e) Determine the allocation of staff time, whether certificated or classified;

~~((e))~~ (f) Establish final curriculum standards consistent with law and rules of the superintendent of public instruction, relevant to the particular needs of district students or the unusual characteristics of the district, and ensuring a quality education for each student in the district; and

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((#)) (g) Evaluate teaching materials, including text books, teaching aids, handouts, or other printed material, in public hearing upon complaint by parents, guardians or custodians of students who consider dissemination of such material to students objectionable.

**Sec. 202.** RCW 28A.405.100 and 1997 c 278 s 1 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, the superintendent of public instruction shall establish and may amend from time to time minimum criteria for the evaluation of the professional performance capabilities and development of certificated classroom teachers and certificated support personnel. For classroom teachers the criteria shall be developed in the following categories: Instructional skill; classroom management, professional preparation and scholarship; effort toward improvement when needed; the handling of student discipline and attendant problems; and interest in teaching pupils and knowledge of subject matter.

(b) Every board of directors shall, in accordance with procedure provided in RCW 41.59.010 through 41.59.170, 41.59.910 and 41.59.920, establish evaluative criteria and procedures for all certificated classroom teachers and certificated support personnel. The evaluative criteria must contain as a minimum the criteria established by the superintendent of public instruction pursuant to this section and must be prepared within six months following adoption of the superintendent of public instruction's minimum criteria. The district must certify to the superintendent of public instruction that evaluative criteria have been so prepared by the district.

(2)(a) Pursuant to the implementation schedule established in subsection (7)(b) of this section, every board of directors shall, in accordance with procedures provided in RCW 41.59.010 through 41.59.170, 41.59.910, and 41.59.920, establish revised evaluative criteria and a four-level rating system for all certificated classroom teachers.

(b) The minimum criteria shall include: (i) Centering instruction on high expectations for student achievement; (ii) demonstrating effective teaching practices; (iii) recognizing individual student learning needs and developing strategies to address those needs; (iv) providing clear and intentional focus on subject matter content and curriculum; (v) fostering and managing a safe, positive learning environment; (vi) using multiple student data elements to modify instruction and improve student learning; (vii) communicating and collaborating with parents and school community; and (viii) exhibiting collaborative and collegial practices focused on improving instructional practice and student learning.

(c) The four-level rating system used to evaluate the certificated classroom teacher must describe performance along a continuum that indicates the extent to which the criteria have been met or exceeded. When student growth data, if available and relevant to the teacher and subject matter, is referenced in the evaluation process it must be based on multiple measures that can include classroom-based, school-based, district-based, and state-based tools. As used in this subsection, "student growth" means the change in student achievement between two points in time.

(3)(a) Except as provided in subsection ((#)) (10) of this section, it shall be the responsibility of a principal or his or her designee to evaluate all certificated personnel in his or her school. During each school year all classroom teachers and certificated support personnel(~~(, hereinafter referred to as "employees" in this section.)~~) shall be observed for the purposes of evaluation at least twice in the performance of their assigned duties. Total observation time for each employee for each school year shall be not less than sixty minutes. An employee in the third year of provisional status as defined in RCW 28A.405.220 shall be

observed at least three times in the performance of his or her duties and the total observation time for the school year shall not be less than ninety minutes. Following each observation, or series of observations, the principal or other evaluator shall promptly document the results of the observation in writing, and shall provide the employee with a copy thereof within three days after such report is prepared. New employees shall be observed at least once for a total observation time of thirty minutes during the first ninety calendar days of their employment period.

(b) As used in this subsection and subsection (4) of this section, "employees" means classroom teachers and certificated support personnel.

(4)(a) At any time after October 15th, an employee whose work is not judged (~~(unsatisfactory)~~) satisfactory based on district evaluation criteria shall be notified in writing of the specific areas of deficiencies along with a reasonable program for improvement. During the period of probation, the employee may not be transferred from the supervision of the original evaluator. Improvement of performance or probable cause for nonrenewal must occur and be documented by the original evaluator before any consideration of a request for transfer or reassignment as contemplated by either the individual or the school district. A probationary period of sixty school days shall be established. The establishment of a probationary period does not adversely affect the contract status of an employee within the meaning of RCW 28A.405.300. The purpose of the probationary period is to give the employee opportunity to demonstrate improvements in his or her areas of deficiency. The establishment of the probationary period and the giving of the notice to the employee of deficiency shall be by the school district superintendent and need not be submitted to the board of directors for approval. During the probationary period the evaluator shall meet with the employee at least twice monthly to supervise and make a written evaluation of the progress, if any, made by the employee. The evaluator may authorize one additional certificated employee to evaluate the probationer and to aid the employee in improving his or her areas of deficiency; such additional certificated employee shall be immune from any civil liability that might otherwise be incurred or imposed with regard to the good faith performance of such evaluation. The probationer may be removed from probation if he or she has demonstrated improvement to the satisfaction of the principal in those areas specifically detailed in his or her initial notice of deficiency and subsequently detailed in his or her improvement program. Lack of necessary improvement during the established probationary period, as specifically documented in writing with notification to the probationer and shall constitute grounds for a finding of probable cause under RCW 28A.405.300 or 28A.405.210.

(b) Immediately following the completion of a probationary period that does not produce performance changes detailed in the initial notice of deficiencies and improvement program, the employee may be removed from his or her assignment and placed into an alternative assignment for the remainder of the school year. This reassignment may not displace another employee nor may it adversely affect the probationary employee's compensation or benefits for the remainder of the employee's contract year. If such reassignment is not possible, the district may, at its option, place the employee on paid leave for the balance of the contract term.

((#)) (5) Every board of directors shall establish evaluative criteria and procedures for all superintendents, principals, and other administrators. It shall be the responsibility of the district superintendent or his or her designee to evaluate all administrators. Except as provided in subsection (6) of this section, such evaluation shall be based on the administrative position job description. Such criteria, when applicable, shall include at least the following categories: Knowledge of, experience in, and training in

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recognizing good professional performance, capabilities and development; school administration and management; school finance; professional preparation and scholarship; effort toward improvement when needed; interest in pupils, employees, patrons and subjects taught in school; leadership; and ability and performance of evaluation of school personnel.

((3)) (6)(a) Pursuant to the implementation schedule established by subsection (7)(b) of this section, every board of directors shall establish revised evaluative criteria and a four-level rating system for principals.

(b) The minimum criteria shall include: (i) Creating a school culture that promotes the ongoing improvement of learning and teaching for students and staff; (ii) demonstrating commitment to closing the achievement gap; (iii) providing for school safety; (iv) leading the development, implementation, and evaluation of a data-driven plan for increasing student achievement, including the use of multiple student data elements; (v) assisting instructional staff with alignment of curriculum, instruction, and assessment with state and local district learning goals; (vi) monitoring, assisting, and evaluating effective instruction and assessment practices; (vii) managing both staff and fiscal resources to support student achievement and legal responsibilities; and (viii) partnering with the school community to promote student learning.

(c) The four-level rating system used to evaluate the principal must describe performance along a continuum that indicates the extent to which the criteria have been met or exceeded. When available, student growth data that is referenced in the evaluation process must be based on multiple measures that can include classroom-based, school-based, district-based, and state-based tools. As used in this subsection, "student growth" means the change in student achievement between two points in time.

(7)(a) The superintendent of public instruction, in collaboration with state associations representing teachers, principals, administrators, and parents, shall create models for implementing the evaluation system criteria, student growth tools, professional development programs, and evaluator training for certificated classroom teachers and principals. Human resources specialists, professional development experts, and assessment experts must also be consulted. Due to the diversity of teaching assignments and the many developmental levels of students, classroom teachers and principals must be prominently represented in this work. The models must be available for use in the 2011-12 school year.

(b) A new certificated classroom teacher evaluation system that implements the provisions of subsection (2) of this section and a new principal evaluation system that implements the provisions of subsection (6) of this section shall be phased-in beginning with the 2010-11 school year by districts identified in (c) of this subsection and implemented in all school districts beginning with the 2013-14 school year.

(c) A set of school districts shall be selected by the superintendent of public instruction to participate in a collaborative process resulting in the development and piloting of new certificated classroom teacher and principal evaluation systems during the 2010-11 and 2011-12 school years. These school districts must be selected based on: (i) The agreement of the local associations representing classroom teachers and principals to collaborate with the district in this developmental work and (ii) the agreement to participate in the full range of development and implementation activities, including: Development of rubrics for the evaluation criteria and ratings in subsections (2) and (6) of this section; identification of or development of appropriate multiple measures of student growth in subsections (2) and (6) of this section; development of appropriate evaluation system forms; participation in professional development for principals and classroom teachers regarding the content of the new evaluation system; participation in

evaluator training; and participation in activities to evaluate the effectiveness of the new systems and support programs. The school districts must submit to the office of the superintendent of public instruction data that is used in evaluations and all district-collected student achievement, aptitude, and growth data regardless of whether the data is used in evaluations. If the data is not available electronically, the district may submit it in nonelectronic form. The superintendent of public instruction must analyze the districts' use of student data in evaluations, including examining the extent that student data is not used or is underutilized. The superintendent of public instruction must also consult with participating districts and stakeholders, recommend appropriate changes, and address statewide implementation issues. The superintendent of public instruction shall report evaluation system implementation status, evaluation data, and recommendations to appropriate committees of the legislature and governor by July 1, 2011, and at the conclusion of the development phase by July 1, 2012. In the July 1, 2011 report, the superintendent shall include recommendations for whether a single statewide evaluation model should be adopted, whether modified versions developed by school districts should be subject to state approval, and what the criteria would be for determining if a school district's evaluation model meets or exceeds a statewide model. The report shall also identify challenges posed by requiring a state approval process.

(8) Each certificated (~~employee~~) classroom teacher and certificated support personnel shall have the opportunity for confidential conferences with his or her immediate supervisor on no less than two occasions in each school year. Such confidential conference shall have as its sole purpose the aiding of the administrator in his or her assessment of the employee's professional performance.

((4)) (9) The failure of any evaluator to evaluate or supervise or cause the evaluation or supervision of certificated (~~employees~~) classroom teachers and certificated support personnel or administrators in accordance with this section, as now or hereafter amended, when it is his or her specific assigned or delegated responsibility to do so, shall be sufficient cause for the nonrenewal of any such evaluator's contract under RCW 28A.405.210, or the discharge of such evaluator under RCW 28A.405.300.

((5)) (10) After (~~an employee~~) a certificated classroom teacher or certificated support personnel has four years of satisfactory evaluations under subsection (1) of this section or has received one of the two top ratings for four years under subsection (2) of this section, a school district may use a short form of evaluation, a locally bargained evaluation emphasizing professional growth, an evaluation under subsection (1) or (2) of this section, or any combination thereof. The short form of evaluation shall include either a thirty minute observation during the school year with a written summary or a final annual written evaluation based on the criteria in subsection (1) or (2) of this section and based on at least two observation periods during the school year totaling at least sixty minutes without a written summary of such observations being prepared. A locally bargained short-form evaluation emphasizing professional growth must provide that the professional growth activity conducted by the certificated classroom teacher be specifically linked to one or more of the certificated classroom teacher evaluation criteria. However, the evaluation process set forth in subsection (1) or (2) of this section shall be followed at least once every three years unless this time is extended by a local school district under the bargaining process set forth in chapter 41.59 RCW. The employee or evaluator may require that the evaluation process set forth in subsection (1) or (2) of this section be conducted in any given school year. No evaluation other than the evaluation authorized under subsection (1) or (2) of this section may be used as a basis for determining that an employee's work is (~~unsatisfactory~~)

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not satisfactory under subsection (1) or (2) of this section or as probable cause for the nonrenewal of an employee's contract under RCW 28A.405.210 unless an evaluation process developed under chapter 41.59 RCW determines otherwise.

**Sec. 203.** RCW 28A.405.220 and 2009 c 57 s 2 are each amended to read as follows:

(1) Notwithstanding the provisions of RCW 28A.405.210, every person employed by a school district in a teaching or other nonsupervisory certificated position shall be subject to nonrenewal of employment contract as provided in this section during the first ~~((two))~~ three years of employment by such district, unless: (a) The employee has previously completed at least two years of certificated employment in another school district in the state of Washington, in which case the employee shall be subject to nonrenewal of employment contract pursuant to this section during the first year of employment with the new district; or (b) the school district superintendent may make a determination to remove an employee from provisional status if the employee has received one of the top two evaluation ratings during the second year of employment by the district. Employees as defined in this section shall hereinafter be referred to as "provisional employees(("))."

(2) In the event the superintendent of the school district determines that the employment contract of any provisional employee should not be renewed by the district for the next ensuing term such provisional employee shall be notified thereof in writing on or before May 15th preceding the commencement of such school term, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 15th, which notification shall state the reason or reasons for such determination. Such notice shall be served upon the provisional employee personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein. The determination of the superintendent shall be subject to the evaluation requirements of RCW 28A.405.100.

(3) Every such provisional employee so notified, at his or her request made in writing and filed with the superintendent of the district within ten days after receiving such notice, shall be given the opportunity to meet informally with the superintendent for the purpose of requesting the superintendent to reconsider his or her decision. Such meeting shall be held no later than ten days following the receipt of such request, and the provisional employee shall be given written notice of the date, time and place of meeting at least three days prior thereto. At such meeting the provisional employee shall be given the opportunity to refute any facts upon which the superintendent's determination was based and to make any argument in support of his or her request for reconsideration.

(4) Within ten days following the meeting with the provisional employee, the superintendent shall either reinstate the provisional employee or shall submit to the school district board of directors for consideration at its next regular meeting a written report recommending that the employment contract of the provisional employee be nonrenewed and stating the reason or reasons therefor. A copy of such report shall be delivered to the provisional employee at least three days prior to the scheduled meeting of the board of directors. In taking action upon the recommendation of the superintendent, the board of directors shall consider any written communication which the provisional employee may file with the secretary of the board at any time prior to that meeting.

(5) The board of directors shall notify the provisional employee in writing of its final decision within ten days following the meeting at which the superintendent's recommendation was considered. The decision of the board of directors to nonrenew the contract of a provisional employee shall be final and not subject to appeal.

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(6) This section applies to any person employed by a school district in a teaching or other nonsupervisory certificated position after June 25, 1976. This section provides the exclusive means for nonrenewing the employment contract of a provisional employee and no other provision of law shall be applicable thereto, including, without limitation, RCW 28A.405.210 and chapter 28A.645 RCW.

**NEW SECTION. Sec. 204.** A new section is added to chapter 28A.405 RCW to read as follows:

(1) Representatives of the office of the superintendent of public instruction and statewide associations representing administrators, principals, human resources specialists, and certificated classroom teachers shall analyze how the evaluation systems in RCW 28A.405.100 (2) and (6) affect issues related to a change in contract status.

(2) The analysis shall be conducted during each of the phase-in years of the certificated classroom teacher and principal evaluation systems. The analysis shall include: Procedures, timelines, probationary periods, appeal procedures, and other items related to the timely exercise of employment decisions and due process provisions for certificated classroom teachers and principals.

**NEW SECTION. Sec. 205.** A new section is added to chapter 28A.405 RCW to read as follows:

If funds are provided for professional development activities designed specifically for first through third-year teachers, the funds shall be allocated first to districts participating in the evaluation systems in RCW 28A.405.100 (2) and (6) before the required implementation date under that section.

### PART III PRINCIPAL PERFORMANCE

**NEW SECTION. Sec. 301.** The legislature finds that the presence of highly effective principals in schools has never been more important than it is today. To enable students to meet high academic standards, principals must lead and encourage teams of teachers and support staff to work together, align curriculum and instruction, use student data to target instruction and intervention strategies, and serve as the chief school officer with parents and the community. Greater responsibility should come with greater authority over personnel, budgets, resource allocation, and programs. But greater responsibility also comes with greater accountability for outcomes. Washington is putting into place an updated and rigorous system of evaluating principal performance, one that will measure what matters. This system will never be truly effective unless the results are meaningfully used.

**NEW SECTION. Sec. 302.** A new section is added to chapter 28A.405 RCW to read as follows:

(1) Any certificated employee of a school district under this section who is first employed as a principal after the effective date of this section shall be subject to transfer as provided under this section, at the expiration of the term of his or her employment contract, to any subordinate certificated position within the school district. "Subordinate certificated position" as used in this section means any administrative or nonadministrative certificated position for which the annual compensation is less than the position currently held by the administrator. This section applies only to school districts with an annual average student enrollment of more than thirty-five thousand full-time equivalent students.

(2) During the first three consecutive school years of employment as a principal by the school district, or during the first full school year of such employment in the case of a principal who has been previously employed as a principal by another school district in the state for three or more consecutive school years, the transfer of the principal to a subordinate certificated position may be

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made by a determination of the superintendent that the best interests of the school district would be served by the transfer.

(3) Commencing with the fourth consecutive school year of employment as a principal, or the second consecutive school year of such employment in the case of a principal who has been previously employed as a principal by another school district in the state for three or more consecutive school years, the transfer of the principal to a subordinate certificated position shall be based on the superintendent's determination that the results of the evaluation of the principal's performance using the evaluative criteria and rating system established under RCW 28A.405.100 provide a valid reason for the transfer without regard to whether there is probable cause for the transfer. If a valid reason is shown, it shall be deemed that the transfer is reasonably related to the principal's performance. No probationary period is required. However, provision of support and an attempt at remediation of the performance of the principal, as defined by the superintendent, are required for a determination by the superintendent under this subsection that the principal should be transferred to a subordinate certificated position.

(4) Any superintendent transferring a principal under this section to a subordinate certificated position shall notify that principal in writing on or before May 15th before the beginning of the school year of that determination, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 15th. The notification shall state the reason or reasons for the transfer and shall identify the subordinate certificated position to which the principal will be transferred. The notification shall be served upon the principal personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein.

(5) Any principal so notified may request to the president or chair of the board of directors of the district, in writing and within ten days after receiving notice, an opportunity to meet informally with the board of directors in an executive session for the purpose of requesting the board to reconsider the decision of the superintendent, and shall be given such opportunity. The board, upon receipt of such request, shall schedule the meeting for no later than the next regularly scheduled meeting of the board, and shall give the principal written notice at least three days before the meeting of the date, time, and place of the meeting. At the meeting the principal shall be given the opportunity to refute any evidence upon which the determination was based and to make any argument in support of his or her request for reconsideration. The principal and the board may invite their respective legal counsel to be present and to participate at the meeting. The board shall notify the principal in writing of its final decision within ten days following its meeting with the principal. No appeal to the courts shall lie from the final decision of the board of directors to transfer a principal to a subordinate certificated position.

(6) This section provides the exclusive means for transferring a certificated employee first employed by a school district under this section as a principal after the effective date of this section to a subordinate certificated position at the expiration of the term of his or her employment contract.

**Sec. 303.** RCW 28A.405.210 and 2009 c 57 s 1 are each amended to read as follows:

No teacher, principal, supervisor, superintendent, or other certificated employee, holding a position as such with a school district, hereinafter referred to as "employee", shall be employed except by written order of a majority of the directors of the district at a regular or special meeting thereof, nor unless he or she is the holder of an effective teacher's certificate or other certificate required by law or the Washington professional educator standards board for the position for which the employee is employed.

The board shall make with each employee employed by it a written contract, which shall be in conformity with the laws of this state, and except as otherwise provided by law, limited to a term of not more than one year. Every such contract shall be made in duplicate, one copy to be retained by the school district superintendent or secretary and one copy to be delivered to the employee. No contract shall be offered by any board for the employment of any employee who has previously signed an employment contract for that same term in another school district of the state of Washington unless such employee shall have been released from his or her obligations under such previous contract by the board of directors of the school district to which he or she was obligated. Any contract signed in violation of this provision shall be void.

In the event it is determined that there is probable cause or causes that the employment contract of an employee should not be renewed by the district for the next ensuing term such employee shall be notified in writing on or before May 15th preceding the commencement of such term of that determination, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 15th, which notification shall specify the cause or causes for nonrenewal of contract. Such determination of probable cause for certificated employees, other than the superintendent, shall be made by the superintendent. Such notice shall be served upon the employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. Every such employee so notified, at his or her request made in writing and filed with the president, chair or secretary of the board of directors of the district within ten days after receiving such notice, shall be granted opportunity for hearing pursuant to RCW 28A.405.310 to determine whether there is sufficient cause or causes for nonrenewal of contract: PROVIDED, That any employee receiving notice of nonrenewal of contract due to an enrollment decline or loss of revenue may, in his or her request for a hearing, stipulate that initiation of the arrangements for a hearing officer as provided for by RCW 28A.405.310(4) shall occur within ten days following July 15 rather than the day that the employee submits the request for a hearing. If any such notification or opportunity for hearing is not timely given, the employee entitled thereto shall be conclusively presumed to have been reemployed by the district for the next ensuing term upon contractual terms identical with those which would have prevailed if his or her employment had actually been renewed by the board of directors for such ensuing term.

This section shall not be applicable to "provisional employees" as so designated in RCW 28A.405.220; transfer to a subordinate certificated position as that procedure is set forth in RCW 28A.405.230 or section 302 of this act shall not be construed as a nonrenewal of contract for the purposes of this section.

**Sec. 304.** RCW 28A.405.230 and 2009 c 57 s 3 are each amended to read as follows:

Any certificated employee of a school district employed as an assistant superintendent, director, principal, assistant principal, coordinator, or in any other supervisory or administrative position, hereinafter in this section referred to as "administrator", shall be subject to transfer, at the expiration of the term of his or her employment contract, to any subordinate certificated position within the school district. "Subordinate certificated position" as used in this section, shall mean any administrative or nonadministrative certificated position for which the annual compensation is less than the position currently held by the administrator.

Every superintendent determining that the best interests of the school district would be served by transferring any administrator to a subordinate certificated position shall notify that administrator in

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writing on or before May 15th preceding the commencement of such school term of that determination, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 15th, which notification shall state the reason or reasons for the transfer, and shall identify the subordinate certificated position to which the administrator will be transferred. Such notice shall be served upon the administrator personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein.

Every such administrator so notified, at his or her request made in writing and filed with the president or chair, or secretary of the board of directors of the district within ten days after receiving such notice, shall be given the opportunity to meet informally with the board of directors in an executive session thereof for the purpose of requesting the board to reconsider the decision of the superintendent. Such board, upon receipt of such request, shall schedule the meeting for no later than the next regularly scheduled meeting of the board, and shall notify the administrator in writing of the date, time and place of the meeting at least three days prior thereto. At such meeting the administrator shall be given the opportunity to refute any facts upon which the determination was based and to make any argument in support of his or her request for reconsideration. The administrator and the board may invite their respective legal counsel to be present and to participate at the meeting. The board shall notify the administrator in writing of its final decision within ten days following its meeting with the administrator. No appeal to the courts shall lie from the final decision of the board of directors to transfer an administrator to a subordinate certificated position: **PROVIDED**, That in the case of principals such transfer shall be made at the expiration of the contract year and only during the first three consecutive school years of employment as a principal by a school district; except that if any such principal has been previously employed as a principal by another school district in the state of Washington for three or more consecutive school years the provisions of this section shall apply only to the first full school year of such employment.

This section applies to any person employed as an administrator by a school district on June 25, 1976, and to all persons so employed at any time thereafter, except that section 302 of this act applies to persons first employed after the effective date of this section as a principal by a school district meeting the criteria of section 302 of this act. This section provides the exclusive means for transferring an administrator subject to this section to a subordinate certificated position at the expiration of the term of his or her employment contract.

**Sec. 305.** RCW 28A.405.300 and 1990 c 33 s 395 are each amended to read as follows:

In the event it is determined that there is probable cause or causes for a teacher, principal, supervisor, superintendent, or other certificated employee, holding a position as such with the school district, hereinafter referred to as "employee", to be discharged or otherwise adversely affected in his or her contract status, such employee shall be notified in writing of that decision, which notification shall specify the probable cause or causes for such action. Such determinations of probable cause for certificated employees, other than the superintendent, shall be made by the superintendent. Such notices shall be served upon that employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. Every such employee so notified, at his or her request made in writing and filed with the president, chair of the board or secretary of the board of directors of the district within ten days after receiving such notice, shall be granted opportunity for a hearing pursuant to RCW

28A.405.310 to determine whether or not there is sufficient cause or causes for his or her discharge or other adverse action against his or her contract status.

In the event any such notice or opportunity for hearing is not timely given, or in the event cause for discharge or other adverse action is not established by a preponderance of the evidence at the hearing, such employee shall not be discharged or otherwise adversely affected in his or her contract status for the causes stated in the original notice for the duration of his or her contract.

If such employee does not request a hearing as provided herein, such employee may be discharged or otherwise adversely affected as provided in the notice served upon the employee.

Transfer to a subordinate certificated position as that procedure is set forth in RCW 28A.405.230 or section 302 of this act shall not be construed as a discharge or other adverse action against contract status for the purposes of this section.

#### **PART IV ENCOURAGING INNOVATIONS**

**Sec. 401.** RCW 28A.400.200 and 2002 c 353 s 2 are each amended to read as follows:

(1) Every school district board of directors shall fix, alter, allow, and order paid salaries and compensation for all district employees in conformance with this section.

(2)(a) Salaries for certificated instructional staff shall not be less than the salary provided in the appropriations act in the statewide salary allocation schedule for an employee with a baccalaureate degree and zero years of service; and

(b) Salaries for certificated instructional staff with a master's degree shall not be less than the salary provided in the appropriations act in the statewide salary allocation schedule for an employee with a master's degree and zero years of service;

(3)(a) The actual average salary paid to certificated instructional staff shall not exceed the district's average certificated instructional staff salary used for the state basic education allocations for that school year as determined pursuant to RCW 28A.150.410.

(b) Fringe benefit contributions for certificated instructional staff shall be included as salary under (a) of this subsection only to the extent that the district's actual average benefit contribution exceeds the amount of the insurance benefits allocation provided per certificated instructional staff unit in the state operating appropriations act in effect at the time the compensation is payable. For purposes of this section, fringe benefits shall not include payment for unused leave for illness or injury under RCW 28A.400.210; employer contributions for old age survivors insurance, workers' compensation, unemployment compensation, and retirement benefits under the Washington state retirement system; or employer contributions for health benefits in excess of the insurance benefits allocation provided per certificated instructional staff unit in the state operating appropriations act in effect at the time the compensation is payable. A school district may not use state funds to provide employer contributions for such excess health benefits.

(c) Salary and benefits for certificated instructional staff in programs other than basic education shall be consistent with the salary and benefits paid to certificated instructional staff in the basic education program.

(4) Salaries and benefits for certificated instructional staff may exceed the limitations in subsection (3) of this section only by separate contract for additional time, for additional responsibilities, ~~((or))~~ for incentives, or for implementing specific measurable innovative activities, including professional development, specified by the school district to: (a) Close one or more achievement gaps, (b) focus on development of science, technology, engineering, and

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mathematics (STEM) learning opportunities, or (c) provide arts education. Beginning September 1, 2011, school districts shall annually provide a brief description of the innovative activities included in any supplemental contract to the office of the superintendent of public instruction. The office of the superintendent of public instruction shall summarize the district information and submit an annual report to the education committees of the house of representatives and the senate. Supplemental contracts shall not cause the state to incur any present or future funding obligation. Supplemental contracts shall be subject to the collective bargaining provisions of chapter 41.59 RCW and the provisions of RCW 28A.405.240, shall not exceed one year, and if not renewed shall not constitute adverse change in accordance with RCW 28A.405.300 through 28A.405.380. No district may enter into a supplemental contract under this subsection for the provision of services which are a part of the basic education program required by Article IX, section 3 of the state Constitution.

(5) Employee benefit plans offered by any district shall comply with RCW 28A.400.350 and 28A.400.275 and 28A.400.280.

**PART V**

**EXPANDING PROFESSIONAL PREPARATION OPTIONS AND WORKFORCE INFORMATION**

NEW SECTION. Sec. 501. A new section is added to chapter 28A.410 RCW to read as follows:

(1) Beginning with the 2011-12 school year, all professional educator standards board-approved teacher preparation programs must administer to all preservice candidates the evidence-based assessment of teaching effectiveness adopted by the professional educator standards board. The professional educator standards board shall adopt rules that establish a date during the 2012-13 school year after which candidates completing teacher preparation programs must successfully pass this assessment. Assessment results from persons completing each preparation program must be reported annually by the professional educator standards board to the governor and the education and fiscal committees of the legislature by December 1st.

(2) The professional educator standards board and the superintendent of public instruction, as determined by the board, may contract with one or more third parties for:

(a) The administration, scoring, and reporting of scores of the assessment under this section;

(b) Related clerical and administrative activities; or

(c) Any combination of the purposes of this subsection (2).

(3) Candidates for residency certification who are required to successfully complete the assessment under this section, and who are charged a fee for the assessment by a third party contracted with under this section, shall pay the fee charged by the contractor directly to the contractor. Such fees shall be reasonably related to the actual costs of the contractor in providing the assessment.

NEW SECTION. Sec. 502. A new section is added to chapter 28A.410 RCW to read as follows:

(1) By September 30, 2010, the professional educator standards board shall review and revise teacher and administrator preparation program approval standards and proposal review procedures at the residency certificate level to ensure they are rigorous and appropriate standards for an expanded range of potential providers, including community college and nonhigher education providers. All approved providers must adhere to the same standards and comply with the same requirements.

(2) Beginning September 30, 2010, the professional educator standards board must accept proposals for community college and nonhigher education providers of educator preparation programs.

Proposals must be processed and considered by the board as expeditiously as possible.

(3) By September 1, 2011, all professional educator standards board-approved residency teacher preparation programs at institutions of higher education as defined in RCW 28B.10.016 not currently a partner in an alternative route program approved by the professional educator standards board must submit to the board a proposal to offer one or more of the alternative route programs that meet the requirements of RCW 28A.660.020 and 28A.660.040.

**Sec. 503.** RCW 28A.660.020 and 2006 c 263 s 816 are each amended to read as follows:

(1) ~~(Each)~~ The professional educator standards board shall transition the alternative route partnership grant program from a separate competitive grant program to a preparation program model to be expanded among approved preparation program providers. Alternative routes are partnerships between professional educator standards board-approved preparation programs, Washington school districts, and other partners as appropriate.

(2) Each prospective teacher preparation program provider, in cooperation with a Washington school district or consortia of school districts applying ~~((for the))~~ to operate alternative route certification program shall ~~((submit a))~~ include in its proposal to the Washington professional educator standards board ~~((specifying))~~:

(a) The route or routes the partnership program intends to offer and a detailed description of how the routes will be structured and operated by the partnership;

(b) The estimated number of candidates that will be enrolled per route;

(c) An identification, indication of commitment, and description of the role of approved teacher preparation programs ~~((that are))~~ and partnering ~~((with the))~~ district or consortia of districts;

(d) An assurance ~~((of))~~ that the district ~~((provision of))~~ or approved preparation program provider will provide adequate training for mentor teachers ((either through participation in a state mentor training academy or district provided training that meets state established mentor training standards)) specific to the mentoring of alternative route candidates;

(e) An assurance that significant time will be provided for mentor teachers to spend with the alternative route teacher candidates throughout the internship. Partnerships must provide each candidate with intensive classroom mentoring until such time as the candidate demonstrates the competency necessary to manage the classroom with less intensive supervision and guidance from a mentor;

(f) A description of the rigorous screening process for applicants to alternative route programs, including entry requirements specific to each route, as provided in RCW 28A.660.040; ~~((and))~~

(g) A summary of procedures that provide flexible completion opportunities for candidates to achieve a residency certificate; and

(h) The design and use of a teacher development plan for each candidate. The plan shall specify the alternative route coursework and training required of each candidate and shall be developed by comparing the candidate's prior experience and coursework with the state's new performance-based standards for residency certification and adjusting any requirements accordingly. The plan may include the following components:

(i) A minimum of one-half of a school year, and an additional significant amount of time if necessary, of intensive mentorship during field experience, starting with full-time mentoring and progressing to increasingly less intensive monitoring and assistance as the intern demonstrates the skills necessary to take over the classroom with less intensive support. ~~((For route one and two candidates.))~~ Before the supervision is diminished, the mentor of the teacher candidate at the school and the supervisor of the teacher candidate from the ~~((higher education))~~ teacher preparation program

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must both agree that the teacher candidate is ready to manage the classroom with less intensive supervision (~~For route three and four candidates, the mentor of the teacher candidate shall make the decision~~);

(ii) Identification of performance indicators based on the knowledge and skills standards required for residency certification by the Washington professional educator standards board;

(iii) Identification of benchmarks that will indicate when the standard is met for all performance indicators;

(iv) A description of strategies for assessing candidate performance on the benchmarks;

(v) Identification of one or more tools to be used to assess a candidate's performance once the candidate has been in the classroom for about one-half of a school year; ~~(and)~~

(vi) A description of the criteria that would result in residency certification after about one-half of a school year but before the end of the program; and

(vii) A description of how the district intends for the alternative route program to support its workforce development plan and how the presence of alternative route interns will advance its school improvement plans.

~~((2))~~ (3) To the extent funds are appropriated for this purpose, ~~((districts))~~ alternative route programs may apply for program funds to pay stipends to trained mentor teachers of interns during the mentored internship. The per intern amount of mentor stipend provided by state funds shall not exceed five hundred dollars.

**Sec. 504.** RCW 28A.660.040 and 2009 c 192 s 1 and 2009 c 166 s 1 are each reenacted and amended to read as follows:

~~((Partnership grants funded))~~ Alternative route programs under this chapter shall operate one to four specific route programs. Successful completion of the program shall make a candidate eligible for residency teacher certification. ~~((For route one and two candidates.))~~ The mentor of the teacher candidate at the school and the supervisor of the teacher candidate from the ((higher education)) teacher preparation program must both agree that the teacher candidate has successfully completed the program. ((For route three and four candidates, the mentor of the teacher candidate shall make the determination that the candidate has successfully completed the program.))

(1) ~~((Partnership grant programs seeking funds to operate))~~ Alternative route programs operating route one programs shall enroll currently employed classified instructional employees with transferable associate degrees seeking residency teacher certification with endorsements in special education, bilingual education, or English as a second language. It is anticipated that candidates enrolled in this route will complete both their baccalaureate degree and requirements for residency certification in two years or less, including a mentored internship to be completed in the final year. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) District or building validation of qualifications, including one year of successful student interaction and leadership as a classified instructional employee;

(b) Successful passage of the statewide basic skills exam(~~(when available)~~); and

(c) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers.

(2) ~~((Partnership grant programs seeking funds to operate))~~ Alternative route programs operating route two programs shall enroll currently employed classified staff with baccalaureate degrees seeking residency teacher certification in subject matter shortage areas and areas with shortages due to geographic location. Candidates enrolled in this route must complete a mentored internship complemented by flexibly scheduled training and coursework offered at a local site, such as a school or educational

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service district, or online or via video-conference over the K-20 network, in collaboration with the partnership program's higher education partner. In addition, partnership grant programs shall uphold entry requirements for candidates that include:

(a) District or building validation of qualifications, including one year of successful student interaction and leadership as classified staff;

(b) A baccalaureate degree from a regionally accredited institution of higher education. The individual's college or university grade point average may be considered as a selection factor;

(c) Successful completion of the ~~((content test, once the state content test is available))~~ subject matter assessment required by RCW 28A.410.220(3);

(d) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(e) Successful passage of the statewide basic skills exam(~~(when available)~~).

(3) ~~((Partnership grant))~~ Alternative route programs seeking funds to operate route three programs shall enroll individuals with baccalaureate degrees, who are not employed in the district at the time of application. When selecting candidates for certification through route three, districts and approved preparation program providers shall give priority to individuals who are seeking residency teacher certification in subject matter shortage areas or shortages due to geographic locations. ~~((For route three only, the districts may include additional candidates in nonshortage subject areas if the candidates are seeking endorsements with a secondary grade level designation as defined by rule by the professional educator standards board. The districts shall disclose to candidates in nonshortage subject areas available information on the demand in those subject areas.))~~ Cohorts of candidates for this route shall attend an intensive summer teaching academy, followed by a full year employed by a district in a mentored internship, followed, if necessary, by a second summer teaching academy. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) A baccalaureate degree from a regionally accredited institution of higher education. The individual's grade point average may be considered as a selection factor;

(b) Successful completion of the ~~((content test, once the state content test is available))~~ subject matter assessment required by RCW 28A.410.220(3);

(c) External validation of qualifications, including demonstrated successful experience with students or children, such as reference letters and letters of support from previous employers;

(d) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(e) Successful passage of statewide basic skills exam(~~(when available)~~).

(4) ~~((Partnership grant programs seeking funds to operate))~~ Alternative route programs operating route four programs shall enroll individuals with baccalaureate degrees, who are employed in the district at the time of application, or who hold conditional teaching certificates or emergency substitute certificates. Cohorts of candidates for this route shall attend an intensive summer teaching academy, followed by a full year employed by a district in a mentored internship. If employed on a conditional certificate, the intern may serve as the teacher of record, supported by a well-trained mentor. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) A baccalaureate degree from a regionally accredited institution of higher education. The individual's grade point average may be considered as a selection factor;

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(b) Successful completion of the ~~((content test, once the state content test is available))~~ subject matter assessment required by RCW 28A.410.220(3);

(c) External validation of qualifications, including demonstrated successful experience with students or children, such as reference letters and letters of support from previous employers;

(d) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(e) Successful passage of statewide basic skills exam ~~((s, when available))~~.

(5) Applicants for alternative route programs who are eligible veterans or national guard members and who meet the entry requirements for the alternative route program for which application is made shall be given preference in admission.

**Sec. 505.** RCW 28A.660.050 and 2009 c 539 s 3 and 2009 c 192 s 2 are each reenacted and amended to read as follows:

Subject to the availability of amounts appropriated for these purposes, the conditional scholarship programs in this chapter are created under the following guidelines:

(1) The programs shall be administered by the higher education coordinating board. In administering the programs, the higher education coordinating board has the following powers and duties:

(a) To adopt necessary rules and develop guidelines to administer the programs;

(b) To collect and manage repayments from participants who do not meet their service obligations; and

(c) To accept grants and donations from public and private sources for the programs.

(2) Requirements for participation in the conditional scholarship programs are as provided in this subsection (2).

(a) The alternative route conditional scholarship program is limited to interns of ~~((the partnership grant))~~ professional educator standards board-approved alternative routes to teaching programs under RCW 28A.660.040. For fiscal year 2011, priority must be given to fiscal year 2010 participants in the alternative route partnership program. In order to receive conditional scholarship awards, recipients shall:

(i) Be accepted and maintain enrollment in alternative certification routes through ~~((the partnership grant))~~ a professional educator standards board-approved program;

(ii) Continue to make satisfactory progress toward completion of the alternative route certification program and receipt of a residency teaching certificate; and

(iii) Receive no more than the annual amount of the scholarship, not to exceed eight thousand dollars, for the cost of tuition, fees, and educational expenses, including books, supplies, and transportation for the alternative route certification program in which the recipient is enrolled. The board may adjust the annual award by the average rate of resident undergraduate tuition and fee increases at the state universities as defined in RCW 28B.10.016.

(b) The pipeline for paraeducators conditional scholarship program is limited to qualified paraeducators as provided by RCW 28A.660.042. In order to receive conditional scholarship awards, recipients shall:

(i) Be accepted and maintain enrollment at a community and technical college for no more than two years and attain an associate of arts degree;

(ii) Continue to make satisfactory progress toward completion of an associate of arts degree. This progress requirement is a condition for eligibility into a route one program of the alternative routes to teacher certification program for a mathematics, special education, or English as a second language endorsement; and

(iii) Receive no more than the annual amount of the scholarship, not to exceed four thousand dollars, for the cost of tuition, fees, and educational expenses, including books, supplies, and transportation

for the alternative route certification program in which the recipient is enrolled. The board may adjust the annual award by the average rate of tuition and fee increases at the state community and technical colleges.

(c) The retooling to teach mathematics and science conditional scholarship program is limited to current K-12 teachers ((and individuals having an elementary education certificate but who are not employed in positions requiring an elementary education certificate as provided by RCW 28A.660.045)). In order to receive conditional scholarship awards:

(i) Individuals currently employed as teachers shall pursue a middle level mathematics or science, or secondary mathematics or science endorsement; or

(ii) Individuals who are certificated with an elementary education endorsement ~~((, but not employed in positions requiring an elementary education certificate.))~~ shall pursue an endorsement in middle level mathematics or science, or both; and

(iii) Individuals shall use one of the pathways to endorsement processes to receive a mathematics or science endorsement, or both, which shall include passing a mathematics or science endorsement test, or both tests, plus observation and completing applicable coursework to attain the proper endorsement; and

(iv) Individuals shall receive no more than the annual amount of the scholarship, not to exceed three thousand dollars, for the cost of tuition, test fees, and educational expenses, including books, supplies, and transportation for the endorsement pathway being pursued.

(3) The Washington professional educator standards board shall select individuals to receive conditional scholarships. In selecting recipients, preference shall be given to eligible veterans or national guard members.

(4) For the purpose of this chapter, a conditional scholarship is a loan that is forgiven in whole or in part in exchange for service as a certificated teacher employed in a Washington state K-12 public school. The state shall forgive one year of loan obligation for every two years a recipient teaches in a public school. Recipients who fail to continue a course of study leading to residency teacher certification or cease to teach in a public school in the state of Washington in their endorsement area are required to repay the remaining loan principal with interest.

(5) Recipients who fail to fulfill the required teaching obligation are required to repay the remaining loan principal with interest and any other applicable fees. The higher education coordinating board shall adopt rules to define the terms for repayment, including applicable interest rates, fees, and deferments.

(6) The higher education coordinating board may deposit all appropriations, collections, and any other funds received for the program in this chapter in the future teachers conditional scholarship account authorized in RCW 28B.102.080.

**NEW SECTION. Sec. 506.** A new section is added to chapter 28A.410 RCW to read as follows:

Beginning with the 2010 school year and annually thereafter, each educational service district, in cooperation with the professional educator standards board, must convene representatives from school districts within that region and professional educator standards board-approved educator preparation programs to review district and regional educator workforce data, make biennial projections of certificate staffing needs, and identify how recruitment and enrollment plans in educator preparation programs reflect projected need.

**Sec. 507.** RCW 28B.76.335 and 2007 c 396 s 17 are each amended to read as follows:

As part of the state needs assessment process conducted by the board in accordance with RCW 28B.76.230, the board shall in collaboration with the professional educator standards board, assess

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the need for additional (~~baccalaureate~~) degree and certificate programs in Washington that specialize in teacher preparation (~~in mathematics, science, and technology~~) to meet regional or subject area shortages. If the board determines that there is a need for additional programs, then the board shall encourage the appropriate institutions of higher education or institutional sectors to create such a program.

**NEW SECTION. Sec. 508.** A new section is added to chapter 28B.76 RCW to read as follows:

(1) The board must establish boundaries for service regions for institutions of higher education as defined in RCW 28B.10.016 implementing professional educator standards board-approved educator preparation programs. Regions shall be established to encourage and support, not exclude, the reach of public institutions of higher education across the state.

(2) Based on the data in the assessment in RCW 28B.76.230 and 28B.76.335, the board shall determine whether reasonable teacher preparation program access for prospective teachers is available in each region. If access is determined to be inadequate in a region, the institution of higher education responsible for the region shall submit a plan for meeting the access need to the board.

(3) Partnerships with other teacher preparation program providers and the use of appropriate technology shall be considered. The board shall review the plan and, as appropriate, assist the institution in developing support and resources for implementing the plan.

**NEW SECTION. Sec. 509.** In conjunction with the regional needs assessments in sections 506 through 508 of this act, the council of presidents shall convene an interinstitutional work group to implement the plans developed under section 601, chapter 564, Laws of 2009 to increase the number of mathematics and science teacher endorsements and certificates. The work group must collaborate in evaluating regional needs and identifying strategies to meet those needs. The council of presidents shall report to the education and higher education committees of the legislature on demonstrated progress toward achieving outcomes identified in the plans no later than December 31, 2011.

**NEW SECTION. Sec. 510.** The following acts or parts of acts are each repealed:

(1) RCW 28A.660.010 (Partnership grant program) and 2004 c 23 s 1 & 2001 c 158 s 2;

(2) RCW 28A.415.100 (Student teaching centers--Legislative recognition--Intent) and 1991 c 258 s 1;

(3) RCW 28A.415.105 (Definitions) and 2006 c 263 s 811, 1995 c 335 s 403, & 1991 c 258 s 2;

(4) RCW 28A.415.125 (Network of student teaching centers) and 2006 c 263 s 812 & 1991 c 258 s 6;

(5) RCW 28A.415.130 (Allocation of funds for student teaching centers) and 2006 c 263 s 813 & 1991 c 258 s 7;

(6) RCW 28A.415.135 (Alternative means of teacher placement) and 1991 c 258 s 8;

(7) RCW 28A.415.140 (Field experiences) and 1991 c 258 s 9;

(8) RCW 28A.415.145 (Rules) and 2006 c 263 s 814 & 1991 c 258 s 10; and

(9) RCW 28A.660.030 (Partnership grants--Selection--Administration) and 2004 c 23 s 3, 2003 c 410 s 2, & 2001 c 158 s 4.

## PART VI COMMON CORE STANDARDS

**NEW SECTION. Sec. 601.** A new section is added to chapter 28A.655 RCW to read as follows:

(1) By August 2, 2010, the superintendent of public instruction may revise the state essential academic learning requirements

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authorized under RCW 28A.655.070 for mathematics, reading, writing, and communication by provisionally adopting a common set of standards for students in grades kindergarten through twelve. The revised state essential academic learning requirements may be substantially identical with the standards developed by a multistate consortium in which Washington participated, must be consistent with the requirements of RCW 28A.655.070, and may include additional standards if the additional standards do not exceed fifteen percent of the standards for each content area. However, the superintendent of public instruction shall not take steps to implement the provisionally adopted standards until the education committees of the house of representatives and the senate have an opportunity to review the standards.

(2) By January 1, 2011, the superintendent of public instruction shall submit to the education committees of the house of representatives and the senate:

(a) A detailed comparison of the provisionally adopted standards and the state essential academic learning requirements as of the effective date of this section, including the comparative level of rigor and specificity of the standards and the implications of any identified differences; and

(b) An estimated timeline and costs to the state and to school districts to implement the provisionally adopted standards, including providing necessary training, realignment of curriculum, adjustment of state assessments, and other actions.

(3) The superintendent may implement the revisions to the essential academic learning requirements under this section after the 2011 legislative session unless otherwise directed by the legislature.

## PART VII PARENTS AND COMMUNITY

**NEW SECTION. Sec. 701.** A new section is added to chapter 28A.605 RCW to read as follows:

School districts are encouraged to strengthen family, school, and community partnerships by creating spaces in school buildings, if space is available, where students and families can access the services they need, such as after-school tutoring, dental and health services, counseling, or clothing and food banks.

**NEW SECTION. Sec. 702.** A new section is added to chapter 28A.655 RCW to read as follows:

(1) Beginning with the 2010-11 school year, each school shall conduct outreach and seek feedback from a broad and diverse range of parents, other individuals, and organizations in the community regarding their experiences with the school. The school shall summarize the responses in its annual report under RCW 28A.655.110.

(2) The office of the superintendent of public instruction shall create a working group with representatives of organizations representing parents, teachers, and principals as well as diverse communities. The working group shall also include a representative from the achievement gap oversight and accountability committee. By September 1, 2010, the working group shall develop model feedback tools and strategies that school districts may use to facilitate the feedback process required in subsection (1) of this section. The model tools and strategies are intended to provide assistance to school districts. School districts are encouraged to adapt the models or develop unique tools and strategies that best fit the circumstances in their communities.

**Sec. 703.** RCW 28A.655.110 and 1999 c 388 s 303 are each amended to read as follows:

(1) Beginning with the 1994-95 school year, to provide the local community and electorate with access to information on the educational programs in the schools in the district, each school shall publish annually a school performance report and deliver the report

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to each parent with children enrolled in the school and make the report available to the community served by the school. The annual performance report shall be in a form that can be easily understood and be used by parents, guardians, and other members of the community who are not professional educators to make informed educational decisions. As data from the assessments in RCW 28A.655.060 becomes available, the annual performance report should enable parents, educators, and school board members to determine whether students in the district's schools are attaining mastery of the student learning goals under RCW 28A.150.210, and other important facts about the schools' performance in assisting students to learn. The annual report shall make comparisons to a school's performance in preceding years (~~and shall include school level goals under RCW 28A.655.050~~), student performance relative to the goals and the percentage of students performing at each level of the assessment, a comparison of student performance at each level of the assessment to the previous year's performance, and information regarding school-level plans to achieve the goals.

(2) The annual performance report shall include, but not be limited to: (a) A brief statement of the mission of the school and the school district; (b) enrollment statistics including student demographics; (c) expenditures per pupil for the school year; (d) a summary of student scores on all mandated tests; (e) a concise annual budget report; (f) student attendance, graduation, and dropout rates; (g) information regarding the use and condition of the school building or buildings; (h) a brief description of the learning improvement plans for the school; (i) a summary of the feedback from parents and community members obtained under section 702 of this act; and ~~((h))~~ (j) an invitation to all parents and citizens to participate in school activities.

(3) The superintendent of public instruction shall develop by June 30, 1994, and update periodically, a model report form, which shall also be adapted for computers, that schools may use to meet the requirements of subsections (1) and (2) of this section. In order to make school performance reports broadly accessible to the public, the superintendent of public instruction, to the extent feasible, shall make information on each school's report available on or through the superintendent's internet web site.

NEW SECTION. Sec. 704. A new section is added to chapter 28A.300 RCW to read as follows:

There is a sizeable body of research positively supporting the involvement of parents taking an engaged and active role in their child's education. Therefore, the legislature intends to provide state recognition by the center for the improvement of student learning within the office of the superintendent of public instruction for schools that increase the level of direct parental involvement with their child's education. By September 1, 2010, the center for the improvement of student learning shall determine measures that can be used to evaluate the level of parental involvement in a school. The center for the improvement of student learning shall collaborate with school district family and community outreach programs and educational service districts to identify and highlight successful models and practices of parent involvement.

### PART VIII COLLECTIVE BARGAINING

**Sec. 801.** RCW 41.56.100 and 1989 c 45 s 1 are each amended to read as follows:

(1) A public employer shall have the authority to engage in collective bargaining with the exclusive bargaining representative and no public employer shall refuse to engage in collective bargaining with the exclusive bargaining representative(= PROVIDED, That nothing contained herein shall require any)). However, a public employer is not required to bargain collectively

with any bargaining representative concerning any matter which by ordinance, resolution, or charter of said public employer has been delegated to any civil service commission or personnel board similar in scope, structure, and authority to the board created by chapter 41.06 RCW.

(2) Upon the failure of the public employer and the exclusive bargaining representative to conclude a collective bargaining agreement, any matter in dispute may be submitted by either party to the commission. This subsection does not apply to negotiations and mediations conducted between a school district employer and an exclusive bargaining representative under section 105 of this act.

(3) If a public employer implements its last and best offer where there is no contract settlement, allegations that either party is violating the terms of the implemented offer shall be subject to grievance arbitration procedures if and as such procedures are set forth in the implemented offer, or, if not in the implemented offer, if and as such procedures are set forth in the parties' last contract.

NEW SECTION. Sec. 802. A new section is added to chapter 41.56 RCW to read as follows:

All collective bargaining agreements entered into between a school district employer and school district employees under this chapter after the effective date of this section, as well as bargaining agreements existing on the effective date of this section but renewed or extended after the effective date of this section, shall be consistent with section 105 of this act.

NEW SECTION. Sec. 803. A new section is added to chapter 41.59 RCW to read as follows:

All collective bargaining agreements entered into between a school district employer and school district employees under this chapter after the effective date of this section, as well as bargaining agreements existing on the effective date of this section but renewed or extended after the effective date of this section, shall be consistent with section 105 of this act.

**Sec. 804.** RCW 41.59.120 and 1975 1st ex.s. c 288 s 13 are each amended to read as follows:

(1) Either an employer or an exclusive bargaining representative may declare that an impasse has been reached between them in collective bargaining and may request the commission to appoint a mediator for the purpose of assisting them in reconciling their differences and resolving the controversy on terms which are mutually acceptable. If the commission determines that its assistance is needed, not later than five days after the receipt of a request therefor, it shall appoint a mediator in accordance with rules and regulations for such appointment prescribed by the commission. The mediator shall meet with the parties or their representatives, or both, forthwith, either jointly or separately, and shall take such other steps as he may deem appropriate in order to persuade the parties to resolve their differences and effect a mutually acceptable agreement. The mediator, without the consent of both parties, shall not make findings of fact or recommend terms of settlement. The services of the mediator, including, if any, per diem expenses, shall be provided by the commission without cost to the parties. Nothing in this subsection (1) shall be construed to prevent the parties from mutually agreeing upon their own mediation procedure, and in the event of such agreement, the commission shall not appoint its own mediator unless failure to do so would be inconsistent with the effectuation of the purposes and policy of this chapter.

(2) If the mediator is unable to effect settlement of the controversy within ten days after his or her appointment, either party, by written notification to the other, may request that their differences be submitted to fact-finding with recommendations, except that the time for mediation may be extended by mutual agreement between the parties. Within five days after receipt of the aforesaid written request for fact-finding, the parties shall select a person to serve as fact finder and obtain a commitment from that

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person to serve. If they are unable to agree upon a fact finder or to obtain such a commitment within that time, either party may request the commission to designate a fact finder. The commission, within five days after receipt of such request, shall designate a fact finder in accordance with rules and regulations for such designation prescribed by the commission. The fact finder so designated shall not be the same person who was appointed mediator pursuant to subsection (1) of this section without the consent of both parties.

The fact finder, within five days after his appointment, shall meet with the parties or their representatives, or both, either jointly or separately, and make inquiries and investigations, hold hearings, and take such other steps as he may deem appropriate. For the purpose of such hearings, investigations and inquiries, the fact finder shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence. If the dispute is not settled within ten days after his appointment, the fact finder shall make findings of fact and recommend terms of settlement within thirty days after his appointment, which recommendations shall be advisory only.

(3) Such recommendations, together with the findings of fact, shall be submitted in writing to the parties and the commission privately before they are made public. Either the commission, the fact finder, the employer, or the exclusive bargaining representative may make such findings and recommendations public if the dispute is not settled within five days after their receipt from the fact finder.

(4) The costs for the services of the fact finder, including, if any, per diem expenses and actual and necessary travel and subsistence expenses, and any other incurred costs, shall be borne by the commission without cost to the parties.

(5) Nothing in this section shall be construed to prohibit an employer and an exclusive bargaining representative from agreeing to substitute, at their own expense, their own procedure for resolving impasses in collective bargaining for that provided in this section or from agreeing to utilize for the purposes of this section any other governmental or other agency or person in lieu of the commission.

(6) Any fact finder designated by an employer and an exclusive representative or the commission for the purposes of this section shall be deemed an agent of the state.

(7) This section does not apply to negotiations and mediations conducted under section 105 of this act.

## PART IX CLOSING THE ACHIEVEMENT GAP

**Sec. 901.** RCW 28A.300.136 and 2009 c 468 s 2 are each amended to read as follows:

(1) An achievement gap oversight and accountability committee is created to synthesize the findings and recommendations from the 2008 achievement gap studies into an implementation plan, and to recommend policies and strategies to the superintendent of public instruction, the professional educator standards board, and the state board of education to close the achievement gap.

(2) The committee shall recommend specific policies and strategies in at least the following areas:

(a) Supporting and facilitating parent and community involvement and outreach;

(b) Enhancing the cultural competency of current and future educators and the cultural relevance of curriculum and instruction;

(c) Expanding pathways and strategies to prepare and recruit diverse teachers and administrators;

(d) Recommending current programs and resources that should be redirected to narrow the gap;

(e) Identifying data elements and systems needed to monitor progress in closing the gap;

(f) Making closing the achievement gap part of the school and school district improvement process; and

(g) Exploring innovative school models that have shown success in closing the achievement gap.

(3) Taking a multidisciplinary approach, the committee may seek input and advice from other state and local agencies and organizations with expertise in health, social services, gang and violence prevention, substance abuse prevention, and other issues that disproportionately affect student achievement and student success.

(4) The achievement gap oversight and accountability committee shall be composed of the following members:

(a) The chairs and ranking minority members of the house and senate education committees, or their designees;

(b) One additional member of the house of representatives appointed by the speaker of the house and one additional member of the senate appointed by the president of the senate;

(c) A representative of the office of the education ombudsman;

(d) A representative of the center for the improvement of student learning in the office of the superintendent of public instruction;

(e) A representative of federally recognized Indian tribes whose traditional lands and territories lie within the borders of Washington state, designated by the federally recognized tribes; and

(f) Four members appointed by the governor in consultation with the state ethnic commissions, who represent the following populations: African-Americans, Hispanic Americans, Asian Americans, and Pacific Islander Americans.

(5) The governor and the tribes are encouraged to designate members who have experience working in and with schools.

(6) The committee may convene ad hoc working groups to obtain additional input and participation from community members. Members of ad hoc working groups shall serve without compensation and shall not be reimbursed for travel or other expenses.

(7) The chair or cochairs of the committee shall be selected by the members of the committee. Staff support for the committee shall be provided by the center for the improvement of student learning. Members of the committee shall serve without compensation but must be reimbursed as provided in RCW 43.03.050 and 43.03.060. Legislative members of the committee shall be reimbursed for travel expenses in accordance with RCW 44.04.120.

(8) The superintendent of public instruction, the state board of education, the professional educator standards board, and the quality education council shall work collaboratively with the achievement gap oversight and accountability committee to close the achievement gap.

**Sec. 902.** RCW 28A.290.010 and 2009 c 548 s 114 are each amended to read as follows:

(1) The quality education council is created to recommend and inform the ongoing implementation by the legislature of an evolving program of basic education and the financing necessary to support such program. The council shall develop strategic recommendations on the program of basic education for the common schools. The council shall take into consideration the capacity report produced under RCW 28A.300.172 and the availability of data and progress of implementing the data systems required under RCW 28A.655.210. Any recommendations for modifications to the program of basic education shall be based on evidence that the programs effectively support student learning. The council shall update the statewide strategic recommendations every four years. The recommendations of the council are intended to:

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(a) Inform future educational policy and funding decisions of the legislature and governor;

(b) Identify measurable goals and priorities for the educational system in Washington state for a ten-year time period, including the goals of basic education and ongoing strategies for coordinating statewide efforts to eliminate the achievement gap and reduce student dropout rates; ~~(and)~~

(c) Enable the state of Washington to continue to implement an evolving program of basic education; and

(d) Two nonlegislative representatives from the achievement gap oversight and accountability committee established under RCW 28A.300.136, to be selected by the members of the committee.

(2) The council may request updates and progress reports from the office of the superintendent of public instruction, the state board of education, the professional educator standards board, and the department of early learning on the work of the agencies as well as educational working groups established by the legislature.

(3) The chair of the council shall be selected from the councilmembers. The council shall be composed of the following members:

(a) Four members of the house of representatives, with two members representing each of the major caucuses and appointed by the speaker of the house of representatives;

(b) Four members of the senate, with two members representing each of the major caucuses and appointed by the president of the senate; and

(c) One representative each from the office of the governor, office of the superintendent of public instruction, state board of education, professional educator standards board, and department of early learning.

(4) In the 2009 fiscal year, the council shall meet as often as necessary as determined by the chair. In subsequent years, the council shall meet no more than four times a year.

(5)(a) The council shall submit an initial report to the governor and the legislature by January 1, 2010, detailing its recommendations, including recommendations for resolving issues or decisions requiring legislative action during the 2010 legislative session, and recommendations for any funding necessary to continue development and implementation of chapter 548, Laws of 2009.

(b) The initial report shall, at a minimum, include:

(i) Consideration of how to establish a statewide beginning teacher mentoring and support system;

(ii) Recommendations for a program of early learning for at-risk children;

(iii) A recommended schedule for the concurrent phase-in of the changes to the instructional program of basic education and the implementation of the funding formulas and allocations to support the new instructional program of basic education as established under chapter 548, Laws of 2009. The phase-in schedule shall have full implementation completed by September 1, 2018; and

(iv) A recommended schedule for phased-in implementation of the new distribution formula for allocating state funds to school districts for the transportation of students to and from school, with phase-in beginning no later than September 1, 2013.

(6) The council shall submit a report to the governor and the legislature by December 1, 2010, that at a minimum includes:

(a) Recommendations for specific strategies, programs, and funding, including funding allocations through the funding distribution formula in RCW 28A.150.260, that are designed to close the achievement gap and increase the high school graduation rate in Washington public schools. The council shall consult with the achievement gap oversight and accountability committee and the building bridges work group in developing its recommendations; and

(b) Recommendations for assuring adequate levels of state-funded classified staff to support essential school and district services.

(7) The council shall be staffed by the office of the superintendent of public instruction and the office of financial management. Additional staff support shall be provided by the state entities with representatives on the committee. Senate committee services and the house of representatives office of program research may provide additional staff support.

~~((7))~~ (8) Legislative members of the council shall serve without additional compensation but may be reimbursed for travel expenses in accordance with RCW 44.04.120 while attending sessions of the council or on official business authorized by the council. Nonlegislative members of the council may be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

**PART X**

**EDUCATION REFORM FINANCE**

NEW SECTION. **Sec. 1001.** (1) An essential aspect of overall education reform is reform in state financing for basic education, both in the way that funds are distributed and the overall level of state support to school districts. Chapter 548, Laws of 2009, took a significant step in this aspect of education reform by creating a framework for new funding distribution formulas and directing further work on this topic and recommendations from the quality education council and technical working groups. It is the legislature's intent to continue implementation of the education reforms in chapter 548, Laws of 2009, by adopting the technical details of a new distribution formula for the instructional program of basic education and authorizing a phase-in of implementation of a new distribution formula for pupil transportation, both to take effect September 1, 2011. Unless otherwise stated, the numeric values adopted in section 1002 of this act represent the translation of 2009-2010 state funding levels for the basic education act into the funding factors of the prototypical school funding formula, based on the expert advice and extensive work of the funding formula technical working group established by the legislature for this purpose. The legislature intends to continue to review and revise the formulas and may make revisions as necessary for technical purposes and consistency in the event of mathematical or other technical errors.

(2) The legislature intends that per-pupil basic education funding for a school district shall not be decreased as a result of the transition of basic education funding formulas in effect during the 2009-2011 biennium to the new funding formulas under RCW 28A.150.260 that take effect September 1, 2011.

(3) It is also the legislature's intent to adopt an implementation schedule for phasing-in additional education finance reforms and enhancements to the baseline funding levels of 2009-10 beginning in the 2011-12 school year for pupil transportation, class size allocations for grades kindergarten through three, full-day kindergarten, and allocations for maintenance, supplies, and operating costs.

(4) Finally, it is the legislature's intent to adjust the timelines for other working groups so that their expertise and advice can be received as soon as possible and to make technical adjustments to certain provisions of chapter 548, Laws of 2009.

**Sec. 1002.** RCW 28A.150.260 and 2009 c 548 s 106 are each amended to read as follows:

The purpose of this section is to provide for the allocation of state funding that the legislature deems necessary to support school districts in offering the minimum instructional program of basic

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education under RCW 28A.150.220. The allocation shall be determined as follows:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula for the distribution of a basic education instructional allocation for each common school district.

(2) The distribution formula under this section shall be for allocation purposes only. Except as may be required under chapter 28A.155, 28A.165, 28A.180, or ((28A.155)) 28A.185 RCW, or federal laws and regulations, nothing in this section requires school districts to use basic education instructional funds to implement a particular instructional approach or service. Nothing in this section requires school districts to maintain a particular classroom teacher-to-student ratio or other staff-to-student ratio or to use allocated funds to pay for particular types or classifications of staff. Nothing in this section entitles an individual teacher to a particular teacher planning period.

(3)(a) To the extent the technical details of the formula have been adopted by the legislature and except when specifically provided as a school district allocation, the distribution formula for the basic education instructional allocation shall be based on minimum staffing and nonstaff costs the legislature deems necessary to support instruction and operations in prototypical schools serving high, middle, and elementary school students as provided in this section. The use of prototypical schools for the distribution formula does not constitute legislative intent that schools should be operated or structured in a similar fashion as the prototypes. Prototypical schools illustrate the level of resources needed to operate a school of a particular size with particular types and grade levels of students using commonly understood terms and inputs, such as class size, hours of instruction, and various categories of school staff. It is the intent that the funding allocations to school districts be adjusted from the school prototypes based on the actual number of annual average full-time equivalent students in each grade level at each school in the district and not based on the grade-level configuration of the school to the extent that data is available. The allocations shall be further adjusted from the school prototypes with minimum allocations for small schools and to reflect other factors identified in the omnibus appropriations act.

(b) For the purposes of this section, prototypical schools are defined as follows:

(i) A prototypical high school has six hundred average annual full-time equivalent students in grades nine through twelve;

(ii) A prototypical middle school has four hundred thirty-two average annual full-time equivalent students in grades seven and eight; and

(iii) A prototypical elementary school has four hundred average annual full-time equivalent students in grades kindergarten through six.

((e)) (4)(a) The minimum allocation for each level of prototypical school shall be based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours under RCW 28A.150.220 and provide at least one teacher planning period per school day, and based on ((a)) the following general education average class size ((as specified in the omnibus appropriations act.)) of full-time equivalent students per teacher:

General education average class size	
Grades K-3	25.23
Grade 4	27.00
Grades 5-6	27.00

Grades 7-8	28.53
Grades 9-12	28.74

(b) Beginning in the 2011-12 school year and beginning with schools with the highest percentage of students eligible for free and reduced-price meals in the prior school year, the general education average class size for grades K-3 shall be reduced until the average class size funded under this subsection (4) is no more than 17.0 full-time equivalent students per teacher beginning in the 2015-16 school year.

(c) The minimum allocation for each prototypical middle and high school shall also provide for full-time equivalent classroom teachers based on the following number of full-time equivalent students per teacher in career and technical education:

Career and technical education average class size	
Approved career and technical education offered at the middle school and high school level	6.57
Skill center programs meeting the standards established by the office of the superintendent of public instruction	22.76

(d) In addition, the omnibus appropriations act shall at a minimum specify:

(i) ~~((Basic average class size; (ii) Basic))~~ A high-poverty average class size in schools where more than fifty percent of the students are eligible for free and reduced-price meals; and

~~((iii)) (ii) A specialty average class size for ((exploratory and preparatory career and technical education.))~~ laboratory science, advanced placement, and international baccalaureate courses ~~((; and (iv) Average class size in grades kindergarten through three)).~~

~~((4)) (5)~~ The minimum allocation for each level of prototypical school shall include allocations for the following types of staff in addition to classroom teachers:

((i) Principals, including assistant principals, and other certificated building-level administrators;

(ii) Teacher librarians, performing functions including information literacy, technology, and media to support school library media programs;

(iii) Student health services, a function that includes school nurses, whether certificated instructional or classified employee, and social workers;

(iv) Guidance counselors, performing functions including parent outreach and graduation advisor;

(v) Professional development coaches;

(vi) Teaching assistance, which includes any aspect of educational instructional services provided by classified employees;

(vii) Office support, technology support, and other noninstructional aides;

(viii) Custodians, warehouse, maintenance, laborer, and professional and technical education support employees; and

(ix) Classified staff providing student and staff safety.

(4)(a))

	<u>Elem</u> <u>ntary</u> <u>Schoo</u> <u>l</u>	<u>Mi</u> <u>ddl</u> <u>e</u> <u>Sch</u> <u>ool</u>	<u>Hig</u> <u>h</u> <u>Sch</u> <u>ool</u>
<u>Principals, assistant principals, and other certificated building-level administrators</u> .....	<u>1.253</u>	<u>1.3</u>	<u>1.8</u>
<u>Teacher librarians, a function that includes information literacy,</u>	<u>0.663</u>	<u>0.5</u>	<u>0.5</u>

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<u>technology, and media to support school library media programs.....</u>	<u>19</u>	<u>23</u>	
<u>Health and social services:</u>			
School nurses.....	0.076	0.0	0.0
		60	96
Social workers.....	0.042	0.0	0.0
		06	15
Psychologists.....	0.017	0.0	0.0
		02	07
Guidance counselors, a function that includes parent outreach and graduation advising.....	0.493	1.1	1.9
		16	09
Teaching assistance, including any aspect of educational instructional services provided by classified employees ...	0.936	0.7	0.6
		00	52
Office support and other noninstructional aides.....	2.012	2.3	3.2
		25	69
Custodians.....	1.657	1.9	2.9
		42	65
Classified staff providing student and staff safety.....	0.079	0.0	0.1
		92	41

(6)(a) The minimum staffing allocation for each school district to provide district-wide support services shall be allocated per one thousand annual average full-time equivalent students in grades K-12 as follows:

Staff per 1,000 K-12 students	
Technology	0.628
Facilities, maintenance, and grounds	1.813
Warehouse, laborers, and mechanics	0.332

(b) The minimum allocation of staff units for each school district to support certificated and classified staffing of central administration shall be 5.30 percent of the staff units generated under subsections (4)(a) and (b) and (5) of this section and (a) of this subsection.

(7) The distribution formula shall include staffing allocations to school districts for career and technical education and skill center administrative and other school-level certificated staff, as specified in the omnibus appropriations act.

(8)(a) Except as provided in (b) of this subsection, the minimum allocation for each school district shall include allocations per annual average full-time equivalent student for the following materials, supplies, and operating costs, to be adjusted for inflation from the 2008-09 school year: ~~((Student technology; utilities; curriculum, textbooks, library materials, and instructional supplies; instructional professional development for both certificated and classified staff; other building level costs including maintenance, custodial, and security; and central office administration.))~~

Per annual average full-time equivalent student in grades K-12	
Technology	\$54.43
Utilities and insurance	\$147.90
Curriculum and textbooks	\$58.44
Other supplies and library materials	\$124.07
Instructional professional development for certified and classified staff	\$9.04
Facilities maintenance	\$73.27
Security and central office	\$50.76

(b) ~~((The annual average full-time equivalent student amounts in (a) of this subsection shall be enhanced))~~ Beginning in the 2011-12 school year, the minimum allocation for maintenance, supplies, and operating costs shall be increased annually until the following allocations, adjusted for inflation from the 2007-08 school

year, are provided in the 2014-15 school year, after which the allocations shall be adjusted annually for inflation as specified in the omnibus appropriations act:

Per annual average full-time equivalent student in grades K-12	
Technology.....	\$113.80
Utilities and insurance.....	\$309.21
Curriculum and textbooks.....	\$122.17
Other supplies and library materials.....	\$259.39
Instructional professional development for certificated and classified staff.....	\$18.89
Facilities maintenance.....	\$153.18
Security and central office administration.....	\$106.12

(9) In addition to the amounts provided in subsection (8) of this section, the omnibus appropriations act shall provide an amount based on full-time equivalent student enrollment in each of the following:

- (a) Exploratory career and technical education courses for students in grades seven through twelve;
- (b) Laboratory science courses for students in grades nine through twelve;
- (c) Preparatory career and technical education courses for students in grades nine through twelve offered in a high school; and
- (d) Preparatory career and technical education courses for students in grades eleven and twelve offered through a skill center.

~~(((5)))~~ (10) In addition to the allocations otherwise provided under ((subsections (3) and (4) of)) this section ((shall be enhanced as follows to provide additional allocations for classroom teachers and maintenance, supplies, and operating costs)), amounts shall be provided to support the following programs and services:

(a) To provide supplemental instruction and services for underachieving students through the learning assistance program under RCW 28A.165.005 through 28A.165.065, allocations shall be based on the ~~((percent))~~ district percentage of students in ~~((each school))~~ grades K-12 who ~~((are))~~ were eligible for free ~~((and))~~ or reduced-price meals in the prior school year. The minimum allocation for the ~~((learning assistance))~~ program shall provide ~~((an extended school day and extended school year))~~ for each level of prototypical school ~~((and a per student allocation for maintenance, supplies, and operating costs))~~ resources to provide, on a statewide average, 1.5156 hours per week in extra instruction with a class size of fifteen learning assistance program students per teacher.

(b) To provide supplemental instruction and services for students whose primary language is other than English, allocations shall be based on the head count number of students in each school who are eligible for and enrolled in the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080. The minimum allocation for each level of prototypical school shall provide ~~((for supplemental instruction based on percent of the school day a student is assumed to receive supplemental instruction and a per student allocation for maintenance, supplies, and operating costs))~~ resources to provide, on a statewide average, 4.7780 hours per week in extra instruction with fifteen transitional bilingual instruction program students per teacher.

~~(((6) The allocations provided under subsections (3) and (4) of this section shall be enhanced))~~ (c) To provide additional allocations to support programs for highly capable students under RCW 28A.185.010 through 28A.185.030, allocations shall be based on two and three hundred fourteen one-thousandths percent of each school district's full-time equivalent basic education enrollment. The minimum allocation for the programs shall provide ((an extended school day and extended school year for each level of prototypical school and a per student allocation for maintenance,

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~~supplies, and operating costs)) resources to provide, on a statewide average, 2.1590 hours per week in extra instruction with fifteen highly capable program students per teacher.~~

~~((7)) (11)~~ The allocations under subsections ~~((3)) (4)(a) and (b), ((e)(i), and (d), (4), (5), (6) and (8) of this section shall be enhanced as provided under RCW 28A.150.390 on an excess cost basis to provide supplemental instructional resources for students with disabilities.~~

~~((8)~~ The distribution formula shall include allocations to school districts to support certificated and classified staffing of central office administration. The minimum allocation shall be calculated as a percentage, identified in the omnibus appropriations act, of the total allocations for staff under subsections (3) and (6) of this section for all schools in the district.

~~(9)) (12)(a)~~ For the purposes of allocations for prototypical high schools and middle schools under subsections ~~((3)) (4) and ((5)) (10)~~ of this section that are based on the percent of students in the school who are eligible for free and reduced-price meals, the actual percent of such students in a school shall be adjusted by a factor identified in the omnibus appropriations act to reflect underreporting of free and reduced-price meal eligibility among middle and high school students.

~~(b)~~ Allocations or enhancements provided under subsections ~~((3) and (4), (7), and (9) of this section for exploratory and preparatory career and technical education courses shall be provided only for courses approved by the office of the superintendent of public instruction under chapter 28A.700 RCW.~~

~~((4)) (13)(a)~~ This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature.

~~(b)~~ In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect.

~~(c)~~ The enrollment of any district shall be the annual average number of full-time equivalent students and part-time students as provided in RCW 28A.150.350, enrolled on the first school day of each month, including students who are in attendance pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district. The definition of full-time equivalent student shall be determined by rules of the superintendent of public instruction and shall be included as part of the superintendent's biennial budget request. The definition shall be based on the minimum instructional hour offerings required under RCW 28A.150.220. Any revision of the present definition shall not take effect until approved by the house ways and means committee and the senate ways and means committee.

~~(d)~~ The office of financial management shall make a monthly review of the superintendent's reported full-time equivalent students in the common schools in conjunction with RCW 43.62.050.

**Sec. 1003.** RCW 28A.150.390 and 2009 c 548 s 108 are each amended to read as follows:

(1) The superintendent of public instruction shall submit to each regular session of the legislature during an odd-numbered year a programmed budget request for special education programs for students with disabilities. Funding for programs operated by local school districts shall be on an excess cost basis from appropriations provided by the legislature for special education programs for students with disabilities and shall take account of state funds accruing through RCW 28A.150.260 ~~((3)(b), (e)(i), and (d), (4), and (8) and federal medical assistance and private funds accruing under RCW 74.09.5249 through 74.09.5253 and 74.09.5254 through 74.09.5256)) (4)(a) and (b), (5), (6), and (8).~~

(2) The excess cost allocation to school districts shall be based on the following:

(a) A district's annual average headcount enrollment of students ages birth through four and those five year olds not yet enrolled in kindergarten who are eligible for and enrolled in special education, multiplied by the district's base allocation per full-time equivalent student, multiplied by 1.15; and

(b) A district's annual average full-time equivalent basic education enrollment, multiplied by the district's funded enrollment percent, multiplied by the district's base allocation per full-time equivalent student, multiplied by 0.9309.

(3) As used in this section:

(a) "Base allocation" means the total state allocation to all schools in the district generated by the distribution formula under RCW 28A.150.260 ~~((3)(b), (e)(i), and (d), (4), and (8)) (4)(a) and (b), (5), (6), and (8), to be divided by the district's full-time equivalent enrollment.~~

(b) "Basic education enrollment" means enrollment of resident students including nonresident students enrolled under RCW 28A.225.225 and students from nonhigh districts enrolled under RCW 28A.225.210 and excluding students residing in another district enrolled as part of an interdistrict cooperative program under RCW 28A.225.250.

(c) "Enrollment percent" means the district's resident special education annual average enrollment, excluding students ages birth through four and those five year olds not yet enrolled in kindergarten, as a percent of the district's annual average full-time equivalent basic education enrollment.

(d) "Funded enrollment percent" means the lesser of the district's actual enrollment percent or twelve and seven-tenths percent.

**Sec. 1004.** RCW 28A.150.315 and 2009 c 548 s 107 are each amended to read as follows:

(1) Beginning with the 2007-08 school year, funding for voluntary all-day kindergarten programs shall be phased-in beginning with schools with the highest poverty levels, defined as those schools with the highest percentages of students qualifying for free and reduced-price lunch support in the prior school year. Beginning with the 2011-12 school year, funding shall continue to be phased-in incrementally each year until full statewide implementation of all-day kindergarten is achieved in the 2017-18 school year. Once a school receives funding for the all-day kindergarten program, that school shall remain eligible for funding in subsequent school years regardless of changes in the school's percentage of students eligible for free and reduced-price lunches as long as other program requirements are fulfilled. Additionally, schools receiving all-day kindergarten program support shall agree to the following conditions:

(a) Provide at least a one thousand-hour instructional program;

(b) Provide a curriculum that offers a rich, varied set of experiences that assist students in:

(i) Developing initial skills in the academic areas of reading, mathematics, and writing;

(ii) Developing a variety of communication skills;

(iii) Providing experiences in science, social studies, arts, health and physical education, and a world language other than English;

(iv) Acquiring large and small motor skills;

(v) Acquiring social and emotional skills including successful participation in learning activities as an individual and as part of a group; and

(vi) Learning through hands-on experiences;

(c) Establish learning environments that are developmentally appropriate and promote creativity;

(d) Demonstrate strong connections and communication with early learning community providers; and

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(e) Participate in kindergarten program readiness activities with early learning providers and parents.

(2) Subject to funds appropriated for this purpose, the superintendent of public instruction shall designate one or more school districts to serve as resources and examples of best practices in designing and operating a high-quality all-day kindergarten program. Designated school districts shall serve as lighthouse programs and provide technical assistance to other school districts in the initial stages of implementing an all-day kindergarten program. Examples of topics addressed by the technical assistance include strategic planning, developing the instructional program and curriculum, working with early learning providers to identify students and communicate with parents, and developing kindergarten program readiness activities.

**Sec. 1005.** 2009 c 548 s 112 (uncodified) is amended to read as follows:

(1) The legislature intends to continue to redefine the instructional program of education under RCW 28A.150.220 that fulfills the obligations and requirements of Article IX of the state Constitution. The funding formulas under RCW 28A.150.260 to support the instructional program shall be implemented to the extent the technical details of the formula have been established and according to an implementation schedule to be adopted by the legislature. The object of the schedule is to assure that any increases in funding allocations are timely, predictable, and occur concurrently with any increases in program or instructional requirements. It is the intent of the legislature that no increased programmatic or instructional expectations be imposed upon schools or school districts without an accompanying increase in resources as necessary to support those increased expectations.

(2) The office of financial management, with assistance and support from the office of the superintendent of public instruction, shall convene a technical working group to:

(a) Develop the details of the funding formulas under RCW 28A.150.260;

(b) Recommend to the legislature an implementation schedule for phasing-in any increased program or instructional requirements concurrently with increases in funding for adoption by the legislature; and

(c) Examine possible sources of revenue to support increases in funding allocations and present options to the legislature and the quality education council created in (~~section 114 of this act~~) RCW 28A.290.010 for consideration.

(3) The working group shall include representatives of the legislative evaluation and accountability program committee, school district and educational service district financial managers, the Washington association of school business officers, the Washington education association, the Washington association of school administrators, the association of Washington school principals, the Washington state school directors' association, the public school employees of Washington, and other interested stakeholders with expertise in education finance. The working group may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders.

(4) The working group shall be monitored and overseen by the legislature and the quality education council established in (~~section 114 of this act~~) RCW 28A.290.010. The working group shall submit its recommendations to the legislature by December 1, 2009.

(5) After the 2009 report to the legislature, the office of financial management and the office of the superintendent of public instruction shall periodically reconvene the working group to monitor and provide advice on further development and implementation of the funding formulas under RCW 28A.150.260 and provide technical assistance to the ongoing work of the quality education council.

**Sec. 1006.** 2009 c 548 s 302 (uncodified) is amended to read as follows:

(1) Beginning (~~(July)~~) April 1, 2010, the office of financial management, with assistance and support from the office of the superintendent of public instruction, shall convene a technical working group to develop options for a new system of supplemental school funding through local school levies and local effort assistance.

(2) The working group shall consider the impact on overall school district revenues of the new basic education funding system established under (~~this act~~) chapter 548, Laws of 2009 and shall recommend a phase-in plan that ensures that no school district suffers a decrease in funding from one school year to the next due to implementation of the new system of supplemental funding.

(3) The working group shall also:

(a) Examine local school district capacity to address facility needs associated with phasing-in full-day kindergarten across the state and reducing class size in kindergarten through third grade; and

(b) Provide the quality education council with analysis on the potential use of local funds that may become available for redeployment and redirection as a result of increased state funding allocations for pupil transportation and maintenance, supplies, and operating costs.

(4) The working group shall be composed of representatives from the department of revenue, the legislative evaluation and accountability program committee, school district and educational service district financial managers, and representatives of the Washington association of school business officers, the Washington education association, the Washington association of school administrators, the association of Washington school principals, the Washington state school directors' association, the public school employees of Washington, and other interested stakeholders with expertise in education finance. The working group may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders.

(~~(4)~~) (5) The local funding working group shall be monitored and overseen by the legislature and by the quality education council created in (~~section 114 of this act~~) RCW 28A.290.010. The working group shall report to the legislature (~~(December 1)~~) June 30, 2011.

**Sec. 1007.** RCW 43.41.398 and 2009 c 548 s 601 are each amended to read as follows:

(1) The legislature recognizes that providing students with the opportunity to access a world-class educational system depends on our continuing ability to provide students with access to world-class educators. The legislature also understands that continuing to attract and retain the highest quality educators will require increased investments. The legislature intends to enhance the current salary allocation model and recognizes that changes to the current model cannot be imposed without great deliberation and input from teachers, administrators, and classified employees. Therefore, it is the intent of the legislature to begin the process of developing an enhanced salary allocation model that is collaboratively designed to ensure the rationality of any conclusions regarding what constitutes adequate compensation.

(2) Beginning July 1, 2011, the office of the superintendent of public instruction, in collaboration with the office of financial management, shall convene a technical working group to recommend the details of an enhanced salary allocation model that aligns state expectations for educator development and certification with the compensation system and establishes recommendations for a concurrent implementation schedule. In addition to any other details the technical working group deems necessary, the technical working group shall make recommendations on the following:

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(a) How to reduce the number of tiers within the existing salary allocation model;

(b) How to account for labor market adjustments;

(c) How to account for different geographic regions of the state where districts may encounter difficulty recruiting and retaining teachers;

(d) The role of and types of bonuses available;

(e) Ways to accomplish salary equalization over a set number of years; and

(f) Initial fiscal estimates for implementing the recommendations including a recognition that staff on the existing salary allocation model would have the option to grandfather in permanently to the existing schedule.

(3) As part of its work, the technical working group shall conduct or contract for a preliminary comparative labor market analysis of salaries and other compensation for school district employees to be conducted and shall include the results in any reports to the legislature. For the purposes of this subsection, "salaries and other compensation" includes average base salaries, average total salaries, average employee basic benefits, and retirement benefits.

(4) The analysis required under subsection (1) of this section must:

(a) Examine salaries and other compensation for teachers, other certificated instructional staff, principals, and other building-level certificated administrators, and the types of classified employees for whom salaries are allocated;

(b) Be calculated at a statewide level that identifies labor markets in Washington through the use of data from the United States bureau of the census and the bureau of labor statistics; and

(c) Include a comparison of salaries and other compensation to the appropriate labor market for at least the following subgroups of educators: Beginning teachers and types of educational staff associates.

(5) The working group shall include representatives of the department of personnel, the professional educator standards board, the office of the superintendent of public instruction, the Washington education association, the Washington association of school administrators, the association of Washington school principals, the Washington state school directors' association, the public school employees of Washington, and other interested stakeholders with appropriate expertise in compensation related matters. The working group may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders.

(6) The working group shall be monitored and overseen by the legislature and the quality education council created in RCW 28A.290.010. The working group shall make an initial report to the legislature by ~~((December 1))~~ June 30, 2012, and shall include in its report recommendations for whether additional further work of the group is necessary.

**Sec. 1008.** RCW 28A.160.192 and 2009 c 548 s 311 are each amended to read as follows:

(1) The superintendent of public instruction shall phase-in the implementation of the distribution formula under this chapter for allocating state funds to school districts for the transportation of students to and from school. The phase-in shall ~~((be according to the implementation schedule adopted by the legislature and shall))~~ begin no later than the ~~((2013-14))~~ 2011-12 school year and be fully implemented by the 2013-14 school year.

(a) The formula must be developed and revised on an ongoing basis using the major cost factors in student transportation, including basic and special student loads, school district land area, average distance to school, roadway miles, and number of locations served. Factors must include all those site characteristics that are statistically

significant after analysis of the data required by the revised reporting process.

(b) The formula must allocate funds to school districts based on the average predicted costs of transporting students to and from school, using a regression analysis.

(2) During the phase-in period, funding provided to school districts for student transportation operations shall be distributed on the following basis:

(a) Annually, each school district shall receive the lesser of the previous school year's pupil transportation operations allocation, or the total of allowable pupil transportation expenditures identified on the previous school year's final expenditure report to the state plus district indirect expenses using the state recovery rate identified by the superintendent; and

(b) Annually, any funds appropriated by the legislature in excess of the maintenance level funding amount for student transportation shall be distributed among school districts on a prorated basis using the difference between the amount identified in (a) of this subsection and the amount determined under the formula in RCW 28A.160.180.

~~((3))~~ The superintendent shall develop, implement, and provide a copy of the rules specifying the student transportation reporting requirements to the legislature and school districts no later than December 1, 2009.

(4) Beginning in December 2009, and continuing until December 2014, the superintendent shall provide quarterly updates and progress reports to the fiscal committees of the legislature on the implementation and testing of the distribution formula.))

NEW SECTION. Sec. 1009. A new section is added to chapter 28A.160 RCW to read as follows:

(1) The superintendent of public instruction shall develop, implement, and provide a copy of the rules specifying the student transportation reporting requirements to the legislature and school districts no later than December 1, 2010.

(2) Beginning in December 2010, and continuing until December 2014, the superintendent shall provide quarterly updates and progress reports to the fiscal committees of the legislature on the implementation and testing of the distribution formula.

(3) This section expires June 30, 2015.

**Sec. 1010.** RCW 28A.150.410 and 2007 c 403 s 1 are each amended to read as follows:

(1) The legislature shall establish for each school year in the appropriations act a statewide salary allocation schedule, for allocation purposes only, to be used to distribute funds for basic education certificated instructional staff salaries under RCW 28A.150.260. For the purposes of this section, the staff allocations for classroom teachers, teacher librarians, guidance counselors, and health and social services staff under RCW 28A.150.260 are considered allocations for certificated instructional staff.

(2) Salary allocations for state-funded basic education certificated instructional staff shall be calculated by the superintendent of public instruction by determining the district's average salary for certificated instructional staff, using the statewide salary allocation schedule and related documents, conditions, and limitations established by the omnibus appropriations act.

(3) Beginning January 1, 1992, no more than ninety college quarter-hour credits received by any employee after the baccalaureate degree may be used to determine compensation allocations under the state salary allocation schedule and LEAP documents referenced in the omnibus appropriations act, or any replacement schedules and documents, unless:

(a) The employee has a master's degree; or

(b) The credits were used in generating state salary allocations before January 1, 1992.

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(4) Beginning in the 2007-08 school year, the calculation of years of service for occupational therapists, physical therapists, speech-language pathologists, audiologists, nurses, social workers, counselors, and psychologists regulated under Title 18 RCW may include experience in schools and other nonschool positions as occupational therapists, physical therapists, speech-language pathologists, audiologists, nurses, social workers, counselors, or psychologists. The calculation shall be that one year of service in a nonschool position counts as one year of service for purposes of this chapter, up to a limit of two years of nonschool service. Nonschool years of service included in calculations under this subsection shall not be applied to service credit totals for purposes of any retirement benefit under chapter 41.32, 41.35, or 41.40 RCW, or any other state retirement system benefits.

**Sec. 1011.** RCW 28A.175.010 and 2005 c 207 s 3 are each amended to read as follows:

Each school district shall account for the educational progress of each of its students. To achieve this, school districts shall be required to report annually to the superintendent of public instruction:

(1) For students enrolled in each of a school district's high school programs:

- (a) The number of students who graduate in fewer than four years;
- (b) The number of students who graduate in four years;
- (c) The number of students who remain in school for more than four years but who eventually graduate and the number of students who remain in school for more than four years but do not graduate;
- (d) The number of students who transfer to other schools;
- (e) The number of students in the ninth through twelfth grade who drop out of school over a four-year period; and
- (f) The number of students whose status is unknown.

(2) Dropout rates of students in each of the grades seven through twelve.

(3) Dropout rates for student populations in each of the grades seven through twelve by:

- (a) Ethnicity;
- (b) Gender;
- (c) Socioeconomic status; and
- (d) Disability status.

(4) The causes or reasons, or both, attributed to students for having dropped out of school in grades seven through twelve.

(5) The superintendent of public instruction shall adopt rules under chapter 34.05 RCW to assure uniformity in the information districts are required to report under subsections (1) through (4) of this section. In developing rules, the superintendent of public instruction shall consult with school districts, including administrative and counseling personnel, with regard to the methods through which information is to be collected and reported.

(6) In reporting on the causes or reasons, or both, attributed to students for having dropped out of school, school building officials shall, to the extent reasonably practical, obtain such information directly from students. In lieu of obtaining such information directly from students, building principals and counselors shall identify the causes or reasons, or both, based on their professional judgment.

(7) The superintendent of public instruction shall report annually to the legislature the information collected under subsections (1) through (4) of this section.

(8) The Washington state institute for public policy shall calculate an annual estimate of the savings to taxpayers resulting from any improvement compared to the prior school year in the extended graduation rate, as calculated by the superintendent of public instruction. The superintendent shall include the estimate from the

institute in an appendix of the report required under subsection (7) of this section, beginning with the 2010 report.

**NEW SECTION. Sec. 1012.** A new section is added to chapter 28A.300 RCW to read as follows:

The office of the superintendent of public instruction shall implement and maintain an internet-based portal that provides ready public access to the state's prototypical school funding model for basic education under RCW 28A.150.260. The portal must provide citizens the opportunity to view, for each local school building, the staffing levels and other prototypical school funding elements that are assumed under the state funding formula. The portal must also provide a matrix displaying how individual school districts are deploying those same state resources through their allocation of staff and other resources to school buildings, so that citizens are able to compare the state assumptions to district allocation decisions for each local school building.

**Sec. 1013.** RCW 28A.150.100 and 1990 c 33 s 103 are each amended to read as follows:

(1) For the purposes of this section and RCW 28A.150.410 and 28A.400.200, "basic education certificated instructional staff" (~~shall~~) means all full-time equivalent classroom teachers, teacher librarians, guidance counselors, health and social services staff, and other certificated instructional staff in the following programs as defined for statewide school district accounting purposes: Basic education, secondary vocational education, general instructional support, and general supportive services.

(2) (~~In the 1988-89 school year and thereafter,~~) Each school district shall maintain a ratio of at least forty-six basic education certificated instructional staff to one thousand annual average full time equivalent students.

**Sec. 1014.** 2009 c 548 s 710 (uncodified) is amended to read as follows:

(1) RCW 28A.150.030 (School day) and 1971 ex.s. c 161 s 1 & 1969 ex.s. c 223 s 28A.01.010;

(2) RCW 28A.150.060 (Certificated employee) and 2005 c 497 s 212, 1990 c 33 s 102, 1977 ex.s. c 359 s 17, 1975 1st ex.s. c 288 s 21, & 1973 1st ex.s. c 105 s 1;

(3) (~~RCW 28A.150.100 (Basic education certificated instructional staff--Definition--Ratio to students) and 1990 c 33 s 103 & 1987 1st ex.s. c 2 s 203;~~

(4)) RCW 28A.150.040 (School year--Beginning--End) and 1990 c 33 s 101, 1982 c 158 s 5, 1977 ex.s. c 286 s 1, 1975-76 2nd ex.s. c 118 s 22, & 1969 ex.s. c 223 s 28A.01.020;

(~~(5))~~ (4) RCW 28A.150.370 (Additional programs for which legislative appropriations must or may be made) and 1995 c 335 s 102, 1995 c 77 s 5, 1990 c 33 s 114, 1982 1st ex.s. c 24 s 1, & 1977 ex.s. c 359 s 7; and

(~~(6))~~ (5) RCW 28A.155.180 (Safety net funds--Application--Technical assistance--Annual survey) and 2007 c 400 s 8.

**Sec. 1015.** 2009 c 548 s 805 (uncodified) is amended to read as follows:

Sections 304 through 311 of this act take effect September 1, (~~2013~~) 2011.

## PART XI MISCELLANEOUS PROVISIONS

**NEW SECTION. Sec. 1101.** RCW 28A.305.225 is recodified as a section in the chapter created in section 1102 of this act.

**NEW SECTION. Sec. 1102.** Sections 101 through 110 and 112 through 114 of this act constitute a new chapter in Title 28A RCW.

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**NEW SECTION. Sec. 1103.** 2009 c 548 s 112, as amended by section 1005 of this act, is codified as a section in chapter 28A.290 RCW.

**NEW SECTION. Sec. 1104.** RCW 43.41.398 is recodified as a section in chapter 28A.400 RCW.

**NEW SECTION. Sec. 1105.** Sections 1002, 1003, 1004, 1008, 1010, 1013, and 1014 of this act take effect September 1, 2011.

**NEW SECTION. Sec. 1106.** Section 1006 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### POINT OF ORDER

Senator King: "I challenge the scope and object of the house amendment. In previous rulings the President has found that the body of the underlying bill is what determines the scope and object. When an amendment is placed on the bill by the House the President may review it to determine if the amendment is outside the scope and object of the bill when it passed the Senate. In this case, the amendatory language concerning the prototypical funding formula model found in part ten of the striking amendment passed by the House is neither within the scope nor the object of the underlying bill. Engrossed Second Substitute Senate Bill No. 6696 as it passed the Senate had the purpose of implementing changes necessary to make Washington State more competitive for federal 'Race to the Top' grant funds. It focused on the substantive policy changes needed to help directly impact and improve student learning in the class room and in areas that would help earn Washington State points on its grant application. The Senate bill as it left Senate did not in any way have a purpose of furthering the technical implementation requirements for the funding formula adopted last year in House Bill No. 2261. Separate legislation was introduced this session to deal with that issue and those bills continue to work their way through the legislative process. In terms of scope of the bill that passed the Senate, it is true that the bill addressed many aspects of Washington's educational system. However, each subject in the underlying bill is directly tied to improving student learning in our classrooms by focusing on teacher evaluations, new accountability procedures to help turn around struggling schools, increasing parent involvement in the classroom and creating new standards on which are curriculum will be based. Part ten sections through 10..."

#### REMARKS BY THE PRESIDENT

President Owen: "Senator King, the President's going to have to stop you. The President allows for brief explanation on each. I think you've laid the ground work and you've got it written out there and we'll read it. Thank you."

#### MOTION

On motion of Senator Eide, further consideration of Engrossed Second Substitute Senate Bill No. 6696 was deferred and the bill held its place on the calendar.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced the Mayor of Itamar, Israel, The Honorable Moshe Goldsmith and wife Lea Goldsmith accompanied by Tani Zarelli, wife of Senator Zarelli, who were seated in the gallery.

#### MOTION

On motion of Senator Marr, Senators Brown and Hargrove were excused.

#### MESSAGE FROM THE HOUSE

March 2, 2010

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6392 with the following amendment(s): 6392-S.E AMH ENGR H5374.E,

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature recognizes that during the 2009 legislative session tolling was authorized on the state route number 520 corridor. As such, it is the intent of the legislature that tolling commences in the spring of 2011 on the existing state route number 520 bridge.

The legislature further recognizes that tolling of the state route number 520 corridor is integrally related to the issuance of a final project design resulting from the supplemental draft environmental impact statement for the state route number 520 bridge replacement and HOV program released in January 2010. It is the intent of the legislature that the department of transportation work with affected neighborhoods and local governments, including the mayor of the city of Seattle and the Seattle city council, to refine the preferred alternative design in the supplemental draft environmental impact statement so that the final design of the state route number 520 bridge replacement and HOV program will, to the extent required by state and federal law, include reasonable assurance that project impacts will be mitigated as much as practicable to protect against further adverse impacts on neighborhood environmental quality. Within the cost constraints identified in section 1, chapter 472, Laws of 2009, and consistent with an opening date to vehicular traffic of 2014, it is further the intent of the legislature that any final design of the state route number 520 bridge replacement and HOV program accommodate effective connections for transit, including high capacity transit, including, but not limited to, effective connections for transit to the university link light rail line, consistent with the requirements of RCW 47.01.408, and ensure the effective, efficient, and feasible coordination of bus services and light rail services throughout the state route number 520 corridor, consistent with the requirements of RCW 47.01.410. The legislature further intends that any cost savings applicable to the state route number 520 bridge replacement and HOV program stay within the program.

**Sec. 2.** RCW 47.56.870 and 2009 c 472 s 2 are each amended to read as follows:

(1) The initial imposition of tolls on the state route number 520 corridor is authorized, the state route number 520 corridor is designated an eligible toll facility, and toll revenue generated in the corridor must only be expended as allowed under RCW 47.56.820.

(2) The state route number 520 corridor consists of that portion of state route number 520 between the junctions of Interstate 5 and state route number 202. The toll imposed by this section shall be charged only for travel on the floating bridge portion of the state route number 520 corridor.

(3)(a) In setting the toll rates for the corridor pursuant to RCW 47.56.850, the tolling authority shall set a variable schedule of toll rates to maintain travel time, speed, and reliability on the corridor

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and generate the necessary revenue as required under (b) of this subsection.

(b) The tolling authority shall initially set the variable schedule of toll rates, which the tolling authority may adjust at least annually to reflect inflation as measured by the consumer price index or as necessary to meet the redemption of bonds and interest payments on the bonds, to generate revenue sufficient to provide for:

(i) The issuance of general obligation bonds, authorized in RCW 47.10.879, first payable from toll revenue and then excise taxes on motor vehicle and special fuels pledged for the payment of those bonds in the amount necessary to fund the ~~((replacement state route number 520 floating bridge and necessary landings))~~ state route number 520 bridge replacement and HOV program, subject to subsection (4) of this section; and

(ii) Costs associated with the project designated in subsection (4) of this section that are eligible under RCW 47.56.820.

(4)(a) The proceeds of the bonds designated in subsection (3)(b)(i) of this section, ~~((which together with other appropriated and identified state and federal funds is sufficient to pay for the replacement of the floating bridge segment and necessary landings of state route number 520,))~~ must be used only to fund the ~~((construction of the replacement state route number 520 floating bridge and necessary landings))~~ state route number 520 bridge replacement and HOV program; however, two hundred million dollars of bond proceeds, in excess of the proceeds necessary to complete the floating bridge segment and necessary landings, must be used only to fund the state route number 520, Interstate 5 to Medina bridge replacement and HOV project segment of the program, as identified in applicable environmental impact statements, and may be used to fund effective connections for high occupancy vehicles and transit for state route number 520, but only to the extent those connections benefit or improve the operation of state route number 520.

(b) The program must include the following elements within the cost constraints identified in section 1, chapter 472, Laws of 2009, consistent with the legislature's intent that cost savings applicable to the program stay within the program and that the bridge open to vehicular traffic in 2014:

(i) A project design, consistent with RCW 47.01.408, that includes high occupancy vehicle lanes with a minimum carpool occupancy requirement of three-plus persons on state route number 520;

(ii) High occupancy vehicle lane performance standards for the state route number 520 corridor established by the department. The department shall report to the transportation committees of the legislature when average transit speeds in the two lanes that are for high occupancy vehicle travel fall below forty-five miles per hour at least ten percent of the time during peak hours;

(iii) A work group convened by the mayor and city council of the city of Seattle to include sound transit, King county metro, the Seattle department of transportation, the department, the University of Washington, and other persons or organizations as designated by the mayor or city council to study and make recommendations of alternative connections for transit, including bus routes and high capacity transit, to the university link light rail line. The work group must consider such techniques as grade separation, additional stations, and pedestrian lids to effect these connections. The recommendations must be alternatives to the transit connections identified in the supplemental draft environmental impact statement for the state route number 520 bridge replacement and HOV program released in January 2010, and must meet the requirements under RCW 47.01.408, including accommodating effective connections for transit. The recommendations must be within the scope of the supplemental draft environmental impact statement. For the purposes of this section, "effective connections for transit"

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means a connection that connects transit stops, including high capacity transit stops, that serve the state route number 520/Montlake interchange vicinity to the university link light rail line, with a connection distance of less than one thousand two hundred feet between the stops and the light rail station. The city of Seattle shall submit the recommendations by October 1, 2010, to the governor and the transportation committees of the legislature. However, if the city of Seattle does not convene the work group required under this subsection before July 1, 2010, or does not submit recommendations to the governor and the transportation committees of the legislature by October 1, 2010, the department must convene the work group required under this subsection and meet all the requirements of this subsection that are described as requirements of the city of Seattle by November 30, 2010;

(iv) A work group convened by the department to include sound transit and King county metro to study and make recommendations regarding options for planning and financing high capacity transit through the state route number 520 corridor. The department shall submit the recommendations by January 1, 2011, to the governor and the transportation committees of the legislature;

(v) A plan to address mitigation as a result of the state route number 520 bridge replacement and HOV program at the Washington park arboretum. As part of its process, the department shall consult with the governing board of the Washington park arboretum, the Seattle city council and mayor, and the University of Washington to identify all mitigation required by state and federal law resulting from the state route number 520 bridge replacement and HOV program's impact on the arboretum, and to develop a project mitigation plan to address these impacts. The department shall submit the mitigation plan by December 31, 2010, to the governor and the transportation committees of the legislature. Wetland mitigation required by state and federal law as a result of the state route number 520 bridge replacement and HOV program's impacts on the arboretum must, to the greatest extent practicable, include on-site wetland mitigation at the Washington park arboretum, and must enhance the Washington park arboretum. This subsection (4)(b)(v) does not preclude any other mitigation planned for the Washington park arboretum as a result of the state route number 520 bridge replacement and HOV program;

(vi) A work group convened by the department to include the mayor of the city of Seattle, the Seattle city council, the Seattle department of transportation, and other persons or organizations as designated by the Seattle city council and mayor to study and make recommendations regarding design refinements to the preferred alternative selected by the department in the supplemental draft environmental impact statement process for the state route number 520 bridge replacement and HOV program. To accommodate a timely progression of the state route number 520 bridge replacement and HOV program, the design refinements recommended by the work group must be consistent with the current environmental documents prepared by the department for the supplemental draft environmental impact statement. The department shall submit the recommendations to the legislature and governor by December 31, 2010, and the recommendations must inform the final environmental impact statement prepared by the department; and

(vii) An account, created in section 5 of this act, into which civil penalties generated from the nonpayment of tolls on the state route number 520 corridor are deposited to be used to fund any project within the program, including mitigation. However, this subsection (4)(b)(vii) is contingent on the enactment by June 30, 2010, of either chapter . . . (Engrossed Substitute Senate Bill No. 6499), Laws of 2010 or chapter . . . (Substitute House Bill No. 2897), Laws of 2010, but if the enacted bill does not designate the department as the toll penalty adjudicating agency, this subsection (4)(b)(vii) is null and void.

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(5) The department may carry out the ~~((construction and))~~ improvements designated in subsection (4) of this section and administer the tolling program on the state route number 520 corridor.

**Sec. 3.** RCW 47.01.408 and 2008 c 270 s 2 are each amended to read as follows:

(1) The state route number 520 bridge replacement and HOV project shall be designed to provide six total lanes, with two lanes that are for transit and high-occupancy vehicle travel, and four general purpose lanes.

(2) The state route number 520 bridge replacement and HOV project shall be designed to accommodate effective connections for transit, including high capacity transit, to the light rail station at the University of Washington.

(3) The state route number 520 bridge replacement and HOV project shall be designed to provide a total height from the water to the top of the bridge rail on the floating bridge portion of the project of no more than twenty feet if any portion of the project is funded by revenue generated from tolling the state route number 520 corridor.

**Sec. 4.** RCW 47.56.875 and 2009 c 472 s 4 are each amended to read as follows:

A special account to be known as the state route number 520 corridor account is created in the state treasury.

(1) Deposits to the account must include:

(a) All proceeds of bonds issued for ~~((construction of the replacement state route number 520 floating bridge and necessary landings))~~ the state route number 520 bridge replacement and HOV program, including any capitalized interest;

(b) ~~Except as provided in RCW 47.56.870(4)(b)(vii),~~ all of the tolls and other revenues received from the operation of the state route number 520 corridor as a toll facility, to be deposited at least monthly;

(c) Any interest that may be earned from the deposit or investment of those revenues;

(d) Notwithstanding RCW 47.12.063, proceeds from the sale of any surplus real property acquired for the ~~((purpose of building the replacement state route number 520 floating bridge and necessary landings))~~ state route number 520 bridge replacement and HOV program; and

(e) All damages, liquidated or otherwise, collected under any contract involving the ~~((construction of the replacement state route number 520 floating bridge and necessary landings))~~ state route number 520 bridge replacement and HOV program.

(2) Subject to the covenants made by the state in the bond proceedings authorizing the issuance and sale of bonds for the ~~((replacement state route number 520 floating bridge and necessary landings))~~ state route number 520 bridge replacement and HOV program, toll charges, other revenues, and interest received from the operation of the state route number 520 corridor as a toll facility may be used to:

(a) Pay any required costs allowed under RCW 47.56.820; and

(b) Repay amounts to the motor vehicle fund as required.

(3) When repaying the motor vehicle fund, the state treasurer shall transfer funds from the state route number 520 corridor account to the motor vehicle fund on or before each debt service date for bonds issued for the ~~((replacement state route number 520 floating bridge project and necessary landings))~~ state route number 520 bridge replacement and HOV program in an amount sufficient to repay the motor vehicle fund for amounts transferred from that fund to the highway bond retirement fund to provide for any bond principal and interest due on that date. The state treasurer may establish subaccounts for the purpose of segregating toll charges, bond sale proceeds, and other revenues.

**NEW SECTION. Sec. 5.** A new section is added to chapter 47.56 RCW to read as follows:

(1) A special account to be known as the state route number 520 civil penalties account is created in the state treasury. All state route number 520 bridge replacement and HOV program civil penalties generated from the nonpayment of tolls on the state route number 520 corridor must be deposited into the account, as provided under RCW 47.56.870(4)(b)(vii). Moneys in the account may be spent only after appropriation. Expenditures from the account may be used to fund any project within the state route number 520 bridge replacement and HOV program, including mitigation.

(2) This section is contingent on the enactment by June 30, 2010, of either chapter . . . (Engrossed Substitute Senate Bill No. 6499), Laws of 2010 or chapter . . . (Substitute House Bill No. 2897), Laws of 2010, but if the enacted bill does not designate the department as the toll penalty adjudicating agency, this section is null and void.

**Sec. 6.** RCW 43.84.092 and 2009 c 479 s 31, 2009 c 472 s 5, and 2009 c 451 s 8 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the budget stabilization account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing

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services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the health system capacity account, the personal health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety account, the high occupancy toll lanes operations account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public transportation systems account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puyallup tribal settlement account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the urban arterial trust account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan

2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Haugen moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6392.

Senators Haugen and Swecker spoke in favor of passage of the motion.

The President declared the question before the Senate to be the motion by Senator Haugen that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6392.

The motion by Senator Haugen carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6392 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6392, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6392, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 37; Nays, 10; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Marr, McAuliffe, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Swecker and Tom

Voting nay: Senators Benton, Delvin, Kline, Kohl-Welles, McDermott, Morton, Murray, Roach, Stevens and Zarelli

Excused: Senators Hargrove and McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6392, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 5, 2010

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MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6673 with the following amendment(s): 6673-S AMH ENGR H5380.E,

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature intends to appoint a panel of experts to study bail practices and procedures. The bail system must be examined in a comprehensive and well-considered manner from all aspects including, but not limited to, judicial discretion, bail amounts and procedures, public safety, variations in county practices, constitutional restraints, and cost to local government. The variety of practices and procedures requires that a panel of experts study the issue and report its recommendation to the legislature.

**NEW SECTION. Sec. 2.** (1)(a) A work group on bail practices is established within existing resources. The work group must consist of the following members:

(i) One member from each of the two largest caucuses of the senate, appointed by the president of the senate;

(ii) One member from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives;

(iii) The chief justice of the Washington state supreme court or the chief justice's designee;

(iv) A superior court judge, appointed by the superior court judges' association;

(v) A district or municipal court judge, appointed by the district and municipal court judges' association;

(vi) The governor or the governor's designee;

(vii) The secretary of the Washington state department of corrections or the secretary's designee;

(viii) The director of the Washington state department of licensing or the director's designee;

(ix) The Washington state insurance commissioner or the commissioner's designee;

(x) Two prosecutors, appointed by the Washington association of prosecuting attorneys or designees of the prosecutors;

(xi) Two attorneys selected by separate associations of attorneys whose members have practices that focus on representing criminal defendants;

(xii) One police officer and one deputy sheriff, selected by a statewide association of such officers and deputies;

(xiii) A representative of a statewide association of city governments, selected by the association;

(xiv) A representative of a statewide association of counties, selected by the association;

(xv) A representative employed as an adult corrections officer, selected by a statewide association of such officers;

(xvi) A representative from an entity representing corrections officers at a local county jail in which adult offenders are in custody and located in any county with a population in excess of one million persons, selected by the entity;

(xvii) A representative of a statewide organization concerned primarily with the protection of individual liberties, selected by the organization;

(xviii) A representative of a statewide association of advocates who work on behalf of victims and survivors of violent crimes, selected by the association;

(xix) A representative of the bail bond enforcement industry, chosen by a statewide association of bail bond enforcement agents;

(xx) A representative of the bail bond industry, selected by a statewide association of bail companies; and

(xxi) A representative of a statewide consumer advocacy organization with at least thirty thousand members, selected by the organization.

(b) The work group shall choose its cochairs from among its legislative membership. The legislative cochairs shall convene the initial meeting of the work group.

(2) The work group shall review, at a minimum, the following issues:

(a) All aspects of bail, paying particular attention to legislation affecting bail and pretrial release introduced during the 2010 legislative session;

(b) A validated risk assessment tool that measures or predicts the likelihood that an offender will exhibit violent behavior if released and whether judges should use this tool at bail hearings;

(c) Bail practices by county, including the processes used to seek and grant bail as well as the standards by which bail is granted;

(d) Whether, or to what extent, uniformity of bail practices should be required by state law;

(e) The characteristics of the federal system;

(f) The benefits of competitive freedom of government regulation in the pricing of bail bonds;

(g) The interests of crime victims in being notified of a person's release on bail;

(h) The interests of counties and cities that maintain municipal courts;

(i) Legal and constitutional constraints in granting or denying bail;

(j) Whether the existing regulatory, judicial, or statutory constraints on bail should be revised; and

(k) The pretrial release system.

(3) The work group shall use staff from senate committee services and the house of representatives office of program research and meet in state facilities that do not charge for use.

(4) Legislative members of the work group must be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(5) The work group may organize itself in a manner and adopt rules of procedure that it determines are most conducive to the timely completion of its charge.

(6) The work group shall report its findings and recommendations to the Washington state supreme court, the governor, and appropriate committees of the legislature by December 1, 2010.

(7) This section expires December 31, 2010."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kline moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6673.

Senator Kline spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kline that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6673.

The motion by Senator Kline carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6673 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6673, as amended by the House.

ROLL CALL

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The Secretary called the roll on the final passage of Substitute Senate Bill No. 6673, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Absent: Senator Tom  
Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6673, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

February 28, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6332 with the following amendment(s): 6332-S AMH CL KILG 012,

On page 3, line 28, after "integrate" strike all material through "contain" on line 30 and insert "information on assisting victims of human trafficking in posters and brochures, as deemed appropriate by the department. The information shall include" and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6332.

Senator Kohl-Welles spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6332.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6332 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6332, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6332, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6332, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

February 28, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6340 with the following amendment(s): 6340-S AMH PSEP H5399.1,

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.103.040 and 1995 c 398 s 5 are each amended to read as follows:

The council shall consist of (~~twelve~~) thirteen members who shall be selected as follows: One county coroner; one county prosecutor; one county prosecutor who also serves as ex officio county coroner; one county medical examiner; one county sheriff; one chief of police; the chief of the state patrol; two members of a county legislative authority; one pathologist who is currently in private practice; (~~and~~) two members of a city legislative authority; and one attorney whose practice of law includes significant experience representing clients charged with criminal offenses.

The governor shall appoint members to the council from among the nominees submitted for each position as follows: The Washington association of county officials shall submit two nominees each for the coroner position and the medical examiner position; the Washington state association of counties shall submit two nominees each for the two county legislative authority positions; the association of Washington cities shall submit two nominees each for the two city legislative authority positions; the Washington association of prosecuting attorneys shall submit two nominees each for the county prosecutor-ex officio county coroner and for the county prosecutor position; the Washington association of sheriffs and police chiefs shall submit two nominees each for the county sheriff position and the chief of police position; (~~and~~) the Washington association of pathologists shall submit two nominees for the private pathologist position; and the Washington association of criminal defense lawyers and the Washington defender association shall jointly submit two nominees for the criminal defense attorney position, one of whom must actively manage or have significant experience in managing a public or private criminal defense agency or association, the other must have experience in cases involving DNA or other forensic evidence."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kline moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6340.

Senator Kline spoke in favor of the motion.

MOTION

On motion of Senator Brandland, Senator Pflug was excused.

The President declared the question before the Senate to be the motion by Senator Kline that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6340.

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The motion by Senator Kline carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6340 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6340, as amended by the House.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6340, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Honeyford

Excused: Senators McCaslin and Pflug

SUBSTITUTE SENATE BILL NO. 6340, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## RULING BY THE PRESIDENT

President Owen: "In ruling on the Point of Order raised by Senator King as to whether the House amendments to Engrossed Second Substitute Senate Bill 6696 fit within the scope and object of the underlying bill, the President finds and rules as follows:

The underlying bill as it left the Senate made a number of substantive policy changes to education statutes, but it is fair to characterize them as all relating to making our state more competitive for federal 'Race to the Top' funds. By contrast, the House amendments include a number of changes having little connection to the 'Race to the Top' program, such as adjusting the formula by which state money is allocated to school districts. Whatever the merits of these changes, the House amendments impermissibly broaden the subject matter of the bill.

For these reasons, the President finds that the House amendments are beyond the scope and object of the committee amendment, and Senator King's point is well-taken."

## MOTION

Senator King moved that the Senate refuse to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6696 and ask the House to recede therefrom.

The President declared the question before the Senate to be motion by Senator King that the Senate refuse to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6696 and ask the House to recede therefrom.

The motion by Senator King carried and the Senate refused to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6696 and asked the House to recede therefrom by voice vote.

## MESSAGE FROM THE HOUSE

March 3, 2010

MR. PRESIDENT:

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The House passed SUBSTITUTE SENATE BILL NO. 6342 with the following amendment(s): 6342-S AMH SGTA REIL 093,

On page 1, beginning on line 16, strike all of subsections (4) and (5) and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

Senator Swecker moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6342.

Senators Swecker and Becker spoke in favor of passage of the motion.

The President declared the question before the Senate to be the motion by Senator Swecker that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6342.

The motion by Senator Swecker carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6342 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6342, as amended by the House.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6342, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators McCaslin and Pflug

SUBSTITUTE SENATE BILL NO. 6342, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Brandland, Senator Delvin was excused.

## MESSAGE FROM THE HOUSE

March 5, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6343 with the following amendment(s): 6343-S AMH ENGR H5408.E,

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds that:

(a) A number of governmental agencies and programs of the state share goals and missions relating to food, nutrition, agriculture, health, education, and economic development through sustained agricultural production and improved access to nutritious foods;

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(b) The food and agriculture industry generates forty-two billion dollars annually, employs one hundred sixty thousand people, and contributes thirteen percent to the state's economy;

(c) Agriculture is a leading employer in the state, produces over three hundred different crops, and is composed of many diverse types of agricultural endeavors;

(d) Washington state continues to lose approximately seventy thousand acres of farmland every year to nonfarming uses and the average age of farmers in the state is fifty-seven;

(e) Washington is currently ranked twenty-eighth in the nation for very low food security with one hundred twelve thousand households experiencing hunger, a twenty-four percent increase from 2008;

(f) According to data average for the years 2004 through 2008, nearly sixty-one percent of Washington adults are either obese or overweight;

(g) Obesity contributes substantially to the burden of preventable illnesses and premature death, which are estimated to cost Washington almost two billion dollars annually; and

(h) The current food system in Washington state is complex and directly affected by the activities and policies of multiple nongovernmental organizations, state agencies, and local governments, and a coordinated, systemic approach is necessary to improve the health of Washington's citizens and improve the economic viability of agriculture.

(2) The legislature recognizes the need to understand the impacts of governmental rules and regulations on the viability of the agricultural sector and on the ability of citizens of all backgrounds to obtain sufficient, high quality foods for themselves and their families.

(3) The purpose of this act is to provide for the establishment of a forum whereby state food policy, food-related programs, and food-related issues can be examined, improved, and better integrated to accomplish the overarching public goals. It is the intent of the legislature to place the state in a favorable position to qualify for available federal funds, moneys from foundations, and other sources to fund the activities of the forum.

**NEW SECTION. Sec. 2.** (1) The Washington food policy forum is established. The purpose of the forum is to develop recommendations to advance the following food system goals:

(a) To increase production, sales, and consumption of Washington-grown foods;

(b) To develop and promote programs that bring healthy Washington grown foods to Washington residents, including increased state purchasing of local food products for school, adult care programs, and other state-funded food programs;

(c) To review and develop programs that support providing proper nutrition and avoid burdens of obesity and chronic diet-related diseases;

(d) To protect the land and water resources needed for sustained local food production;

(e) To examine ways to encourage retention of an adequate number of farmers, the educational needs for an adequate agricultural workforce, and to provide for the continued economic viability of local food production, processing, and distribution in the state; and

(f) To reduce food insecurity and hunger in the state and ensure that the benefits of a healthy Washington food system are shared with families at all income levels, and particularly with vulnerable children, the elderly, people with disabilities, and communities of color.

(2) Recommendations shall include benchmarks and criteria for measuring progress in achieving each goal.

(3) Recommendations shall consider, but not be limited to, ways in which the following may help achieve each of the five goals:

(a) Increased collaboration and communication between state agencies;

(b) Increased collaboration and communication between local, state, and federal agencies;

(c) Innovative public-private partnerships that can leverage private and public market influence such as through institutional purchasing and contracts;

(d) A review of (i) the future of farming study that was coordinated by the department of agriculture with regard to the goals established in this section, (ii) reports issued by the office of farmland preservation with regard to the goals established in this section, and (iii) data and analysis of food insecurity across the state as reported by the department of health behavioral risk factors surveillance surveys;

(e) Improvements to state or federal laws or regulations relevant to the food system and food security in the state;

(f) Improvements in state or federal program implementation relevant to the food system and food security in the state;

(g) Identifying additional federal, state, local, and private investments needed to accomplish the recommendations.

(4) In developing its recommendations, the forum:

(a) Shall coordinate with the office of farmland preservation to avoid duplication of effort;

(b) Shall solicit public input through public hearings or informational sessions;

(c) May conduct research and analysis as needed within financial resources available to the forum; and

(d) Shall invite additional stakeholder participation through an advisory committee created to address issues identified by the forum as requiring study or particular expertise.

(5) The forum may establish advisory committees to address specific issue areas.

**NEW SECTION. Sec. 3.** (1) All members of the Washington food policy forum are voting members.

(2) The following are invited to participate as ex officio members of the Washington food policy forum convened under section 4(1) of this act:

(a) The director of the department of agriculture or the director's designee;

(b) The secretary of the department of health or the secretary's designee;

(c) The superintendent of public instruction or the superintendent's designee;

(d) The director of the department of commerce or the director's designee;

(e) The secretary of the department of social and health services or the secretary's designee;

(f) The dean of the college of agricultural, human, and natural resource sciences at Washington State University or the dean's designee;

(g) The director of the department of ecology or the director's designee;

(h) A representative from the state conservation commission office of farmland preservation; and

(i) A representative from the University of Washington who has expertise in food systems or nutrition appointed by the president of the University of Washington.

(3) The following members shall be appointed by the director of the department of agriculture to the food policy forum:

(a) Five farmer representatives. The director of the department of agriculture shall endeavor to ensure that geographic diversity, size of operation, and farmer age are balanced among the five farmer representatives, and shall select the farmer representatives from persons nominated by established agricultural organizations;

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(b) One representative who represents food distribution, processing, and marketing interests;

(c) One representative who represents direct-to-consumer marketing efforts;

(d) One representative who represents community-based efforts to address nutrition and public health;

(e) One representative who represents nongovernmental statewide anti-hunger efforts;

(f) One representative who represents food banks;

(g) One representative who represents nongovernmental statewide efforts to protect the state's land, air, and water;

(h) One representative from a labor union that represents workers in the food industry;

(i) One representative from the international trade sector with expertise in the trade of food products;

(j) One person representing retail grocers who own a single store or a regional chain with less than ten million five hundred thousand dollars in gross revenue per location annually, nominated by an established food industry association;

(k) One representative from the restaurant sector; and

(l) One representative from the commercial fishing sector.

(4) The fourteen appointed members shall be appointed for terms of three years or until a successor is appointed. Members are eligible to be reappointed.

(5) The chair of the forum shall be elected by the members of the forum for a term not to exceed two years.

(6) The public members of the forum shall serve without compensation from state funds. The ex officio members of the forum shall serve without additional compensation of state funds. Members of the forum may receive reimbursement from the forum for travel expenses as provided in RCW 43.03.050 and 43.03.060 if funds for forum operations are available as determined by the director of the office of financial management.

**NEW SECTION. Sec. 4.** (1) The director of the state conservation commission shall appoint a person to convene an organizational meeting of the food policy forum. At its first meeting, the forum must, at a minimum, (a) elect a forum chair from among its members, (b) identify funding sources for the forum, and (c) begin the development of a work plan.

(2) No state agency or state university may be compelled to incur expenses in connection with the operation of the forum.

(3) The forum shall report its initial findings and recommendations by December 1st of the year following the date of the second meeting of the forum. Thereafter, the forum shall submit an annual report that includes recommendations and progress on benchmarks by December 1st each year. These reports shall be submitted to the office of the governor and to the offices of the chief clerk of the house of representatives and the secretary of the senate.

**NEW SECTION. Sec. 5.** This chapter expires July 1, 2015.

**NEW SECTION. Sec. 6.** Sections 1 through 5 of this act constitute a new chapter in Title 15 RCW."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Hatfield moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6343.

Senator Hatfield spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hatfield that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6343.

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The motion by Senator Hatfield carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6343 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6343, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6343, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 3; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Holmquist, Honeyford and Stevens

Excused: Senators Delvin, McCaslin and Pflug

SUBSTITUTE SENATE BILL NO. 6343, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

February 28, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6590 with the following amendment(s): 6590-S AMH PSEP H5397.1,

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 43.101 RCW to read as follows:

It is the policy of the state of Washington that all commissioned, appointed, and elected law enforcement personnel comply with their oath of office and agency policies regarding the duty to be truthful and honest in the conduct of their official business."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Kline moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6590.

Senator Kline spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kline that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6590.

The motion by Senator Kline carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6590 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6590, as amended by the House.

#### ROLL CALL

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The Secretary called the roll on the final passage of Substitute Senate Bill No. 6590, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yeas: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Delvin, McCaslin and Pflug

SUBSTITUTE SENATE BILL NO. 6590, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 4, 2010

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6724 with the following amendment(s): 6724-S.E AMH WAYS H5479.1,

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 41.04.665 and 2008 c 36 s 3 are each amended to read as follows:

(1) An agency head may permit an employee to receive leave under this section if:

(a)(i) The employee suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature;

(ii) The employee has been called to service in the uniformed services;

(iii) A state of emergency has been declared anywhere within the United States by the federal or any state government and the employee has needed skills to assist in responding to the emergency or its aftermath and volunteers his or her services to either a governmental agency or to a nonprofit organization engaged in humanitarian relief in the devastated area, and the governmental agency or nonprofit organization accepts the employee's offer of volunteer services; or

(iv) The employee is a victim of domestic violence, sexual assault, or stalking;

(b) The illness, injury, impairment, condition, call to service, emergency volunteer service, or consequence of domestic violence, sexual assault, or stalking has caused, or is likely to cause, the employee to:

(i) Go on leave without pay status; or

(ii) Terminate state employment;

(c) The employee's absence and the use of shared leave are justified;

(d) The employee has depleted or will shortly deplete his or her:

(i) Annual leave and sick leave reserves if he or she qualifies under (a)(i) of this subsection;

(ii) Annual leave and paid military leave allowed under RCW 38.40.060 if he or she qualifies under (a)(ii) of this subsection; or

(iii) Annual leave if he or she qualifies under (a)(iii) or (iv) of this subsection;

(e) The employee has abided by agency rules regarding:

(i) Sick leave use if he or she qualifies under (a)(i) or (iv) of this subsection; or

(ii) Military leave if he or she qualifies under (a)(ii) of this subsection; and

(f) The employee has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW if he or she qualifies under (a)(i) of this subsection.

(2) The agency head shall determine the amount of leave, if any, which an employee may receive under this section. However, an employee shall not receive a total of more than ~~((two hundred sixty one))~~ five hundred twenty-two days of leave, except that, a supervisor may authorize leave in excess of five hundred twenty-two days in extraordinary circumstances for an employee qualifying for the shared leave program because he or she is suffering from an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature. Shared leave received under the uniformed service shared leave pool in RCW 41.04.685 is not included in this total.

(3) An employee may transfer annual leave, sick leave, and his or her personal holiday, as follows:

(a) An employee who has an accrued annual leave balance of more than ten days may request that the head of the agency for which the employee works transfer a specified amount of annual leave to another employee authorized to receive leave under subsection (1) of this section. In no event may the employee request a transfer of an amount of leave that would result in his or her annual leave account going below ten days. For purposes of this subsection (3)(a), annual leave does not accrue if the employee receives compensation in lieu of accumulating a balance of annual leave.

(b) An employee may transfer a specified amount of sick leave to an employee requesting shared leave only when the donating employee retains a minimum of one hundred seventy-six hours of sick leave after the transfer.

(c) An employee may transfer, under the provisions of this section relating to the transfer of leave, all or part of his or her personal holiday, as that term is defined under RCW 1.16.050, or as such holidays are provided to employees by agreement with a school district's board of directors if the leave transferred under this subsection does not exceed the amount of time provided for personal holidays under RCW 1.16.050.

(4) An employee of an institution of higher education under RCW 28B.10.016, school district, or educational service district who does not accrue annual leave but does accrue sick leave and who has an accrued sick leave balance of more than twenty-two days may request that the head of the agency for which the employee works transfer a specified amount of sick leave to another employee authorized to receive leave under subsection (1) of this section. In no event may such an employee request a transfer that would result in his or her sick leave account going below twenty-two days. Transfers of sick leave under this subsection are limited to transfers from employees who do not accrue annual leave. Under this subsection, "sick leave" also includes leave accrued pursuant to RCW 28A.400.300(2) or 28A.310.240(1) with compensation for illness, injury, and emergencies.

(5) Transfers of leave made by an agency head under subsections (3) and (4) of this section shall not exceed the requested amount.

(6) Leave transferred under this section may be transferred from employees of one agency to an employee of the same agency or, with the approval of the heads of both agencies, to an employee of another state agency. ~~((However, leave transferred to or from employees of school districts or educational service districts is limited to transfers to or from employees within the same employing district.))~~

(7) While an employee is on leave transferred under this section, he or she shall continue to be classified as a state employee and shall

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receive the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued annual leave or sick leave.

(a) All salary and wage payments made to employees while on leave transferred under this section shall be made by the agency employing the person receiving the leave. The value of leave transferred shall be based upon the leave value of the person receiving the leave.

(b) In the case of leave transferred by an employee of one agency to an employee of another agency, the agencies involved shall arrange for the transfer of funds and credit for the appropriate value of leave.

(i) Pursuant to rules adopted by the office of financial management, funds shall not be transferred under this section if the transfer would violate any constitutional or statutory restrictions on the funds being transferred.

(ii) The office of financial management may adjust the appropriation authority of an agency receiving funds under this section only if and to the extent that the agency's existing appropriation authority would prevent it from expending the funds received.

(iii) Where any questions arise in the transfer of funds or the adjustment of appropriation authority, the director of financial management shall determine the appropriate transfer or adjustment.

(8) Leave transferred under this section shall not be used in any calculation to determine an agency's allocation of full time equivalent staff positions.

(9) The value of any leave transferred under this section which remains unused shall be returned at its original value to the employee or employees who transferred the leave when the agency head finds that the leave is no longer needed or will not be needed at a future time in connection with the illness or injury for which the leave was transferred or for any other qualifying condition. Before the agency head makes a determination to return unused leave in connection with an illness or injury, or any other qualifying condition, he or she must receive from the affected employee a statement from the employee's doctor verifying that the illness or injury is resolved. To the extent administratively feasible, the value of unused leave which was transferred by more than one employee shall be returned on a pro rata basis.

(10) An employee who uses leave that is transferred to him or her under this section may not be required to repay the value of the leave that he or she used.

(11) The director of personnel may adopt rules as necessary to implement subsection (2)(a) through (c) of this section.

**NEW SECTION. Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Kilmer moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6724.

Senators Kilmer and Becker spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kilmer that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6724.

The motion by Senator Kilmer carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6724 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6724, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6724, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yeas: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Delvin, McCaslin and Pflug

ENGROSSED SUBSTITUTE SENATE BILL NO. 6724, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 3, 2010

MR. PRESIDENT:

The House passed ENGROSSED SENATE BILL NO. 6764 with the following amendment(s): 6764.E AMH JUDI JONR 025,

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 4.56.110 and 2004 c 185 s 2 are each amended to read as follows:

Interest on judgments shall accrue as follows:

(1) Judgments founded on written contracts, providing for the payment of interest until paid at a specified rate, shall bear interest at the rate specified in the contracts: PROVIDED, That said interest rate is set forth in the judgment.

(2) All judgments for unpaid child support that have accrued under a superior court order or an order entered under the administrative procedure act shall bear interest at the rate of twelve percent.

(3) ~~(a) Individuals or other entities, whether acting in their personal or representative capacities,~~ (a) a "public agency" as defined in RCW 42.30.020 shall bear interest from the date of entry at two percentage points above the equivalent coupon issue yield, as published by the board of governors of the federal reserve system, of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted during the calendar month immediately preceding the date of entry. In any case where a court is directed on review to enter judgment on a verdict or in any case where a judgment entered on a verdict is wholly or partly affirmed on review, interest on the judgment or on that portion of the judgment affirmed shall date back to and shall accrue from the date the verdict was rendered.

(b) Except as provided in subsection (3)(a) of this section, judgments founded on the tortious conduct of individuals or other entities, whether acting in their personal or representative capacities, shall bear interest from the date of entry at two percentage points above the prime rate, as published by the board of governors of the federal reserve system on the first business day of the calendar month immediately preceding the date of entry. In any case where a court is directed on review to enter judgment on a verdict or in any

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case where a judgment entered on a verdict is wholly or partly affirmed on review, interest on the judgment or on that portion of the judgment affirmed shall date back to and shall accrue from the date the verdict was rendered.

(4) Except as provided under subsections (1), (2), and (3) of this section, judgments shall bear interest from the date of entry at the maximum rate permitted under RCW 19.52.020 on the date of entry thereof. In any case where a court is directed on review to enter judgment on a verdict or in any case where a judgment entered on a verdict is wholly or partly affirmed on review, interest on the judgment or on that portion of the judgment affirmed shall date back to and shall accrue from the date the verdict was rendered. The method for determining an interest rate prescribed by this subsection is also the method for determining the "rate applicable to civil judgments" for purposes of RCW 10.82.090.

**NEW SECTION. Sec. 2.** The rate of interest required by RCW 4.56.110 3(a) and (b) applies to the accrual of interest:

(1) As of the date of entry of judgment with respect to a judgment that is entered on or after the effective date of this section; and

(2) As of the effective date of this section with respect to a judgment that was entered before the effective date of this section and that is still accruing interest on the effective date of this section." and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Gordon moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 6764.

Senators Gordon and Carrell spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Gordon that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 6764.

The motion by Senator Gordon carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 6764 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6764, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6764, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 39; Nays, 8; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Shin, Swecker and Tom

Voting nay: Senators Becker, Holmquist, Honeyford, Prolatte, Schoesler, Sheldon, Stevens and Zarelli

Excused: Senators McCaslin and Pflug

ENGROSSED SENATE BILL NO. 6764, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Kohl-Welles: "Yes, during debate on Substitute House Bill No. 2546, during the debate a few days ago on Substitute House Bill No. 2546, extending the hours for electrical trainees, the good Senator from the Second District asked me a question and I said that I would attain the information and provide it to her. And that had to do with statistics on electrical safety concerns. So, at a national level an estimated twenty-eight thousand three hundred residential building electrical fires occur annually and cause three-hundred sixty civilian deaths, one thousand civilian injuries and nine hundred ninety-five million dollars in direct loss accordingly to the United States Fire Administration. Contact with an electrical current is the fourth leading cause of deaths of construction workers according to the American Journal of Industrial Medicine and four hundred eleven people died from electrocutions in the United States in 2000 according to United States Consumer Protect Safety. So, I just wanted to provide that information."

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2935, by House Committee on General Government Appropriations (originally sponsored by Representatives Van De Wege, Sells, Blake, Takko, Darneille, Walsh, Hinkle and Kessler)

Regarding environmental and land use hearings boards and making more uniform the timelines for filing appeals with those boards. Revised for 1st Substitute: Regarding environmental and land use hearings boards and making more uniform the timelines for filing appeals with those boards. (REVISED FOR PASSED LEGISLATURE: Regarding environmental and land use hearings boards.)

The measure was read the second time.

MOTION

Senator Prentice moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** It is the intent of the legislature to reduce and consolidate the number of state boards that conduct administrative review of environmental and land use decisions and to make more uniform the timelines for filing appeals with such boards. The legislature intends to eliminate the hydraulics appeals board and the forest practices appeals board by transferring their duties to the pollution control hearings board. The legislature further intends to eliminate certain preliminary informal appeals heard internally by agencies. The legislature also intends to consolidate administratively and physically collocate the growth management hearings boards into the environmental and land use hearings office by July 1, 2011.

**Sec. 2.** RCW 43.21B.001 and 2004 c 204 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Business days" means Monday through Friday exclusive of any state or federal holiday.

(2) "Date of receipt" means:

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(a) Five business days after the date of mailing; or

(b) The date of actual receipt, when the actual receipt date can be proven by a preponderance of the evidence. The recipient's sworn affidavit or declaration indicating the date of receipt, which is unchallenged by the agency, shall constitute sufficient evidence of actual receipt. The date of actual receipt, however, may not exceed forty-five days from the date of mailing.

(3) "Department" means the department of ecology.

(4) "Director" means the director of ecology.

(5) "Environmental boards" means the pollution control hearings board created in RCW 43.21B.010 and the shorelines hearings board created in RCW 90.58.170.

(6) "Land use board" means the growth management hearings board created in RCW 36.70A.250.

**Sec. 3.** RCW 43.21B.005 and 2003 c 393 s 18 and 2003 c 39 s 22 are each reenacted and amended to read as follows:

(1) There is created an environmental hearings office of the state of Washington. The environmental hearings office (~~shall~~) consists of the pollution control hearings board created in RCW 43.21B.010, (~~the forest practices appeals board created in RCW 76.09.210;~~) the shorelines hearings board created in RCW 90.58.170, and the environmental and land use hearings board created in chapter 43.21L RCW (~~and the hydraulic appeals board created in RCW 77.55.170~~). The chair of the pollution control hearings board shall be the chief executive officer of the environmental hearings office. Membership, powers, functions, and duties of the pollution control hearings board (~~and the forest practices appeals board~~) and the shorelines hearings board (~~and the hydraulic appeals board~~) shall be as provided by law.

(2) The chief executive officer of the environmental hearings office may appoint an administrative appeals judge who shall possess the powers and duties conferred by the administrative procedure act, chapter 34.05 RCW, in cases before the boards comprising the office. The administrative appeals judge shall have a demonstrated knowledge of environmental law, and shall be admitted to the practice of law in the state of Washington. Additional administrative appeals judges may also be appointed by the chief executive officer on the same terms. Administrative appeals judges shall not be subject to chapter 41.06 RCW.

(3) The administrative appeals judges appointed under subsection (2) of this section are subject to discipline and termination, for cause, by the chief executive officer. Upon written request by the person so disciplined or terminated, the chief executive officer shall state the reasons for such action in writing. The person affected has a right of review by the superior court of Thurston county on petition for reinstatement or other remedy filed within thirty days of receipt of such written reasons.

(4) The chief executive officer may appoint, discharge, and fix the compensation of such administrative or clerical staff as may be necessary.

(5) The chief executive officer may also contract for required services.

**Sec. 4.** RCW 43.21B.005 and 2003 c 393 s 18 and 2003 c 39 s 22 are each reenacted and amended to read as follows:

(1) There is created an environmental and land use hearings office of the state of Washington. The environmental and land use hearings office (~~shall~~) consists of the pollution control hearings board created in RCW 43.21B.010, (~~the forest practices appeals board created in RCW 76.09.210;~~) the shorelines hearings board created in RCW 90.58.170, (~~the environmental and land use hearings board created in chapter 43.21L RCW, and the hydraulic appeals board created in RCW 77.55.170.~~ The chair of the ~~pollution control hearings board shall be the chief executive officer of the environmental hearings office~~) and the growth management hearings board created in RCW 36.70A.250. The governor shall

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designate one of the members of the pollution control hearings board or growth management hearings board to be the director of the environmental and land use hearings office during the term of the governor. Membership, powers, functions, and duties of the pollution control hearings board, (~~the forest practices appeals board,~~) the shorelines hearings board, and the (~~hydraulic appeals~~) growth management hearings board shall be as provided by law.

(2) The (~~chief executive officer~~) director of the environmental and land use hearings office may appoint (~~an~~) one or more administrative appeals judges (~~who shall possess the powers and duties conferred by the administrative procedure act, chapter 34.05 RCW;~~) in cases before the environmental boards and, with the consent of the chair of the growth management hearings board, one or more hearing examiners in cases before the land use board comprising the office. The administrative appeals judges shall possess the powers and duties conferred by the administrative procedure act, chapter 34.05 RCW, have a demonstrated knowledge of environmental law, and shall be admitted to the practice of law in the state of Washington. (~~Additional administrative appeals judges may also be appointed by the chief executive officer on the same terms. Administrative appeals judges shall not be subject to chapter 41.06 RCW.~~) The hearing examiners possess the powers and duties provided for in RCW 36.70A.270.

(3) Administrative appeals judges are not subject to chapter 41.06 RCW. The administrative appeals judges appointed under subsection (2) of this section are subject to discipline and termination, for cause, by the (~~chief executive officer~~) director of the environmental and land use hearings office. Upon written request by the person so disciplined or terminated, the (~~chief executive officer~~) director of the environmental and land use hearings office shall state the reasons for such action in writing. The person affected has a right of review by the superior court of Thurston county on petition for reinstatement or other remedy filed within thirty days of receipt of such written reasons.

(4) The (~~chief executive officer~~) director of the environmental and land use hearings office may appoint, discharge, and fix the compensation of such administrative or clerical staff as may be necessary.

(5) The (~~chief executive officer~~) director of the environmental and land use hearings office may also contract for required services.

**Sec. 5.** RCW 43.21B.010 and 1979 ex.s. c 47 s 3 are each amended to read as follows:

There is hereby created within the environmental hearings office a pollution control hearings board of the state of Washington.

The purpose of the pollution control hearings board is to provide for a more expeditious and efficient disposition of designated environmental appeals (~~with respect to the decisions and orders of the department and director and with respect to all decisions of air pollution control boards or authorities established pursuant to chapter 70.94 RCW~~) as provided for in RCW 43.21B.110.

**Sec. 6.** RCW 43.21B.010 and 1979 ex.s. c 47 s 3 are each amended to read as follows:

There is hereby created within the environmental and land use hearings office a pollution control hearings board of the state of Washington.

The purpose of the pollution control hearings board is to provide for a more expeditious and efficient disposition of designated environmental appeals (~~with respect to the decisions and orders of the department and director and with respect to all decisions of air pollution control boards or authorities established pursuant to chapter 70.94 RCW~~) as provided for in RCW 43.21B.110.

**Sec. 7.** RCW 43.21B.110 and 2009 c 456 s 16, 2009 c 332 s 18, and 2009 c 183 s 17 are each reenacted and amended to read as follows:

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(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, ~~((and))~~ the air pollution control boards or authorities as established pursuant to chapter 70.94 RCW, ~~((or))~~ local health departments, the department of natural resources, the department of fish and wildlife, and the parks and recreation commission:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, ~~76.09.170, 77.55.291, 78.44.250,~~ 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, and 90.56.330.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

(c) A final decision by the department or director made under chapter 183, Laws of 2009.

(d) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70.95.300.

(e) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(f) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080.

(g) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70.95.205.

(h) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026.

(i) Any other decision by the department or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(j) Decisions of the department of natural resources, the department of fish and wildlife, and the department that are reviewable under chapter 76.09 RCW, and the department of natural resources' appeals of county, city, or town objections under RCW 76.09.050(7).

(k) Forest health hazard orders issued by the commissioner of public lands under RCW 76.06.180.

(l) Decisions of the department of fish and wildlife to issue, deny, condition, or modify a hydraulic project approval permit under chapter 77.55 RCW.

(m) Decisions of the department of natural resources that are reviewable under RCW 78.44.270.

(n) Decisions of a state agency that is an authorized public entity under RCW 79.100.010 to take temporary possession or custody of a vessel or to contest the amount of reimbursement owed that are reviewable under RCW 79.100.120.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

(c) Appeals of decisions by the department under RCW 90.03.110 and 90.44.220.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(e) Appeals of decisions by the department as provided in chapter 43.21L RCW.

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

**Sec. 8.** RCW 43.21B.110 and 2009 c 456 s 16 and 2009 c 332 s 18 are each reenacted and amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, ~~((and))~~ the air pollution control boards or authorities as established pursuant to chapter 70.94 RCW, ~~((or))~~ local health departments, the department of natural resources, the department of fish and wildlife, and the parks and recreation commission:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, ~~76.09.170, 77.55.291, 78.44.250,~~ 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, and 90.56.330.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70.95.300.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080.

(f) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70.95.205.

(g) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026.

(h) Any other decision by the department or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(i) Decisions of the department of natural resources, the department of fish and wildlife, and the department that are reviewable under chapter 76.09 RCW, and the department of natural resources' appeals of county, city, or town objections under RCW 76.09.050(7).

(j) Forest health hazard orders issued by the commissioner of public lands under RCW 76.06.180.

(k) Decisions of the department of fish and wildlife to issue, deny, condition, or modify a hydraulic project approval permit under chapter 77.55 RCW.

(l) Decisions of the department of natural resources that are reviewable under RCW 78.44.270.

(m) Decisions of a state agency that is an authorized public entity under RCW 79.100.010 to take temporary possession or

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custody of a vessel or to contest the amount of reimbursement owed that are reviewable under RCW 79.100.120.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

(c) Appeals of decisions by the department under RCW 90.03.110 and 90.44.220.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(e) Appeals of decisions by the department as provided in chapter 43.21L RCW.

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

**NEW SECTION. Sec. 9.** A new section is added to chapter 43.21B RCW to read as follows:

In all appeals, upon request of one or more parties and with the consent of all parties, the environmental hearings boards may schedule a conference for the purpose of attempting to mediate the case. Mediation must be conducted by an administrative appeals judge or other duly authorized agent of the board who has received training in dispute resolution techniques or has a demonstrated history of successfully resolving disputes, as determined by the board. A person who mediates in a particular appeal may not participate in a hearing on that appeal and may not write the decision and order in the appeal. The mediator may not communicate with board members regarding the mediation other than to inform them of the pendency of the mediation and whether the case settled. Mediation provided by the environmental hearings boards must be conducted pursuant to the provisions of the uniform mediation act, chapter 7.07 RCW.

**Sec. 10.** RCW 43.21B.180 and 1994 c 253 s 6 are each amended to read as follows:

~~(Judicial review of)~~ Any party aggrieved by a final decision and order of the pollution control hearings board may ((be obtained only pursuant to)) obtain judicial review of the final decision and order as provided in RCW 34.05.510 through 34.05.598. The ((director)) state or local agency that issued the decision appealed to the board shall have the same right of review from a decision made pursuant to RCW 43.21B.110 as does any person.

**Sec. 11.** RCW 43.21B.230 and 2004 c 204 s 3 are each amended to read as follows:

~~((Consistent with RCW 43.21B.110, any person having received notice of denial of a petition, a notice of determination, or notice of an order made by the department may appeal to the hearings board, within thirty days from the date of receipt of the notice of such denial, order, or determination by the appealing party.))~~ (1) Unless otherwise provided by law, any person with standing may commence an appeal to the pollution control hearings board by filing a notice of appeal with the board within thirty days from the date of receipt of the decision being appealed.

(2) The appeal ((shall be perfected by serving a copy of the notice of appeal upon the department or air pollution authority established pursuant to chapter 70.94 RCW, as the case may be, within the time specified herein and by filing the original thereof with)) is timely if it is filed with the board and served upon the state or local agency whose action is being appealed within the same thirty-day period. Proof of service must be filed with the clerk of the hearings board to perfect the appeal.

(3) The appeal must contain the following in accordance with the rules of the hearings board:

(a) The appellant's name and address;

(b) The date and docket number of the order, permit, license, or decision appealed;

(c) A copy of the order, permit, license, or decision that is the subject of the appeal;

(d) A clear, separate, and concise statement of every error alleged to have been committed;

(e) A clear and concise statement of facts upon which the requester relies to sustain his or her statements of error; and

(f) A statement setting forth the relief sought.

**Sec. 12.** RCW 43.21B.300 and 2009 c 456 s 17 and 2009 c 178 s 2 are each reenacted and amended to read as follows:

(1) Any civil penalty provided in RCW 18.104.155, 70.94.431, 70.95.315, 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, and 90.56.330 and chapter 90.76 RCW shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the department or the local air authority, describing the violation with reasonable particularity. For penalties issued by local air authorities, within thirty days after the notice is received, the person incurring the penalty may apply in writing to ((the department or)) the authority for the remission or mitigation of the penalty. Upon receipt of the application, the ((department or)) authority may remit or mitigate the penalty upon whatever terms ((the department or)) the authority in its discretion deems proper. The ((department or the)) authority may ascertain the facts regarding all such applications in such reasonable manner and under such rules as it may deem proper and shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(2) Any penalty imposed under this section may be appealed to the pollution control hearings board in accordance with this chapter if the appeal is filed with the hearings board and served on the department or authority thirty days after the date of receipt by the person penalized of the notice imposing the penalty or thirty days after the date of receipt of the notice of disposition by a local air authority of the application for relief from penalty.

(3) A penalty shall become due and payable on the later of:

(a) Thirty days after receipt of the notice imposing the penalty;

(b) Thirty days after receipt of the notice of disposition by a local air authority on application for relief from penalty, if such an application is made; or

(c) Thirty days after receipt of the notice of decision of the hearings board if the penalty is appealed.

(4) If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the attorney general, upon request of the department, shall bring an action in the name of the state of Washington in the superior court of Thurston county, or of any county in which the violator does business, to recover the penalty. If the amount of the penalty is not paid to the authority within thirty days after it becomes due and payable, the authority may bring an action to recover the penalty in the superior court of the county of the authority's main office or of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(5) All penalties recovered shall be paid into the state treasury and credited to the general fund except those penalties imposed pursuant to RCW 18.104.155, which shall be credited to the reclamation account as provided in RCW 18.104.155(7), RCW 70.94.431, the disposition of which shall be governed by that provision, RCW 70.105.080, which shall be credited to the hazardous waste control and elimination account created by RCW 70.105.180, RCW 90.56.330, which shall be credited to the coastal protection fund created by RCW 90.48.390, and RCW 90.76.080,

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which shall be credited to the underground storage tank account created by RCW 90.76.100.

**Sec. 13.** RCW 43.21B.310 and 2009 c 456 s 18 and 2009 c 178 s 3 are each reenacted and amended to read as follows:

(1) ((Except as provided in RCW 90.03.210(2), any order issued by the department or local air authority pursuant to RCW 43.27A.190, 70.94.211, 70.94.332, 70.95.315, 70.105.095, 86.16.020, 88.46.070, 90.46.250, or 90.48.120(2) or any provision enacted after July 26, 1987, or any permit, certificate, or license issued by the department may be appealed to the pollution control hearings board if the appeal is filed with the board and served on the department or authority within thirty days after the date of receipt of the order. Except as provided under chapter 70.105D RCW and RCW 90.03.210(2), this is the exclusive means of appeal of such an order.

(2) The department or the authority)) The issuing agency in its discretion may stay the effectiveness of ((an) any order that has been appealed to the board during the pendency of such an appeal.

((3)) (2) At any time during the pendency of an appeal of such an order to the board, the appellant may apply pursuant to RCW 43.21B.320 to the hearings board for a stay of the order or for the removal thereof.

((4) Any appeal must contain the following in accordance with the rules of the hearings board:

(a) The appellant's name and address;

(b) The date and docket number of the order, permit, or license appealed;

(c) A description of the substance of the order, permit, or license that is the subject of the appeal;

(d) A clear, separate, and concise statement of every error alleged to have been committed;

(e) A clear and concise statement of facts upon which the requester relies to sustain his or her statements of error; and

(f) A statement setting forth the relief sought.

(5)) (3) Upon failure to comply with any final order of the department, the attorney general, on request of the department, may bring an action in the superior court of the county where the violation occurred or the potential violation is about to occur to obtain such relief as necessary, including injunctive relief, to ((insure)) ensure compliance with the order. The air authorities may bring similar actions to enforce their orders.

((6)) (4) An appealable decision or order shall be identified as such and shall contain a conspicuous notice to the recipient that it may be appealed only by filing an appeal with the hearings board and serving it on the ((department)) issuing agency within thirty days of the date of receipt.

**Sec. 14.** RCW 43.21B.320 and 1987 c 109 s 7 are each amended to read as follows:

(1) A person appealing to the hearings board an order ((of the department or an authority)), not stayed by the issuing agency, may obtain a stay of the effectiveness of that order only as set forth in this section.

(2) An appealing party may request a stay by including such a request in the appeal document, in a subsequent motion, or by such other means as the rules of the hearings board shall prescribe. The request must be accompanied by a statement of grounds for the stay and evidence setting forth the factual basis upon which request is based. The hearings board shall hear the request for a stay as soon as possible. The hearing on the request for stay may be consolidated with the hearing on the merits.

(3) The applicant may make a prima facie case for stay if the applicant demonstrates either a likelihood of success on the merits of the appeal or irreparable harm. Upon such a showing, the hearings board shall grant the stay unless the ((department or authority)) issuing agency demonstrates either (a) a substantial

probability of success on the merits or (b) likelihood of success on the merits and an overriding public interest which justifies denial of the stay.

(4) Unless otherwise stipulated by the parties, the hearings board, after granting or denying an application for a stay, shall expedite the hearing and decision on the merits.

(5) Any party or other person aggrieved by the grant or denial of a stay by the hearings board may petition the superior court for Thurston county for review of that decision pursuant to chapter 34.05 RCW pending the appeal on the merits before the board. The superior court shall expedite its review of the decision of the hearings board.

NEW SECTION. **Sec. 15.** A new section is added to chapter 36.70A RCW to read as follows:

(1) On July 1, 2011, the growth management hearings board is administratively consolidated into the environmental and land use hearings office created in RCW 43.21B.005.

(2) Not later than July 1, 2012, the growth management hearings board consists of seven members qualified by experience or training in matters pertaining to land use law or land use planning, except that the governor may reduce the board to six members if warranted by the board's caseload. All board members must be appointed by the governor, two each residing respectively in the central Puget Sound, eastern Washington, and western Washington regions and shall continue to meet the qualifications set out in RCW 36.70A.260. The reduction from seven board members to six board members must be made through attrition, voluntary resignation, or retirement.

**Sec. 16.** RCW 36.70A.270 and 1997 c 429 s 11 are each amended to read as follows:

Each growth management hearings board shall be governed by the following rules on conduct and procedure:

(1) Any board member may be removed for inefficiency, malfeasance, and misfeasance in office, under specific written charges filed by the governor. The governor shall transmit such written charges to the member accused and the chief justice of the supreme court. The chief justice shall thereupon designate a tribunal composed of three judges of the superior court to hear and adjudicate the charges. Removal of any member of a board by the tribunal shall disqualify such member for reappointment.

(2) Each board member shall receive reimbursement for travel expenses incurred in the discharge of his or her duties in accordance with RCW 43.03.050 and 43.03.060. If it is determined that the review boards shall operate on a full-time basis, each member shall receive an annual salary to be determined by the governor pursuant to RCW 43.03.040. If it is determined that a review board shall operate on a part-time basis, each member shall receive compensation pursuant to RCW 43.03.250, provided such amount shall not exceed the amount that would be set if they were a full-time board member. The principal office of each board shall be located by the governor within the jurisdictional boundaries of each board. The boards shall operate on either a part-time or full-time basis, as determined by the governor.

(3) Each board member shall not: (a) Be a candidate for or hold any other public office or trust; (b) engage in any occupation or business interfering with or inconsistent with his or her duty as a board member; and (c) for a period of one year after the termination of his or her board membership, act in a representative capacity before the board on any matter.

(4) A majority of each board shall constitute a quorum for making orders or decisions, adopting rules necessary for the conduct of its powers and duties, or transacting other official business, and may act even though one position of the board is vacant. One or more members may hold hearings and take testimony to be reported for action by the board when authorized by rule or order of the

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board. The board shall perform all the powers and duties specified in this chapter or as otherwise provided by law.

(5) The board may ~~((appoint))~~ use one or more hearing examiners to assist the board in its hearing function, to make conclusions of law and findings of fact and, if requested by the board, to make recommendations to the board for decisions in cases before the board. Such hearing examiners must have demonstrated knowledge of land use planning and law. The boards shall specify in their joint rules of practice and procedure, as required by subsection (7) of this section, the procedure and criteria to be employed for designating hearing examiners as a presiding officer. Hearing examiners ~~((selected))~~ used by a board shall meet the requirements of subsection (3) of this section. The findings and conclusions of the hearing examiner shall not become final until they have been formally approved by the board. This authorization to use hearing examiners does not waive the requirement of RCW 36.70A.300 that final orders be issued within one hundred eighty days of board receipt of a petition.

(6) Each board shall make findings of fact and prepare a written decision in each case decided by it, and such findings and decision shall be effective upon being signed by two or more members of the board and upon being filed at the board's principal office, and shall be open for public inspection at all reasonable times.

(7) All proceedings before the board, any of its members, or a hearing examiner appointed by the board shall be conducted in accordance with such administrative rules of practice and procedure as the boards jointly prescribe. All three boards shall jointly meet to develop and adopt joint rules of practice and procedure, including rules regarding expeditious and summary disposition of appeals. The boards shall publish such rules and decisions they render and arrange for the reasonable distribution of the rules and decisions. Except as it conflicts with specific provisions of this chapter, the administrative procedure act, chapter 34.05 RCW, and specifically including the provisions of RCW 34.05.455 governing ex parte communications, shall govern the practice and procedure of the boards.

(8) A board member or hearing examiner is subject to disqualification under chapter 34.05 RCW. The joint rules of practice of the boards shall establish procedures by which a party to a hearing conducted before the board may file with the board a motion to disqualify, with supporting affidavit, against a board member or hearing examiner assigned to preside at the hearing.

(9) The members of the boards shall meet jointly on at least an annual basis with the objective of sharing information that promotes the goals and purposes of this chapter.

**Sec. 17.** RCW 70.95.094 and 1989 c 431 s 8 are each amended to read as follows:

(1) The department and local governments preparing plans are encouraged to work cooperatively during plan development. Each county and city preparing a comprehensive solid waste management plan shall submit a preliminary draft plan to the department for technical review. The department shall review and comment on the draft plan within one hundred twenty days of receipt. The department's comments shall state specific actions or revisions that must be completed for plan approval.

(2) Each final draft solid waste management plan shall be submitted to the department for approval. The department will limit its comments on the final draft plans to those issues identified during its review of the draft plan and any other changes made between submittal of the preliminary draft and final draft plans. Disapproval of the local comprehensive solid waste management plan shall be supported by specific findings. A final draft plan shall be deemed approved if the department does not disapprove it within forty-five days of receipt.

(3) If the department disapproves a plan or any plan amendments, the submitting entity may appeal the decision ~~((under the procedures of Part IV of chapter 34.05 RCW. An administrative law judge shall preside over the appeal))~~ to the pollution control hearings board as provided in RCW 43.21B.230. The appeal shall be limited to review of the specific findings which supported the disapproval under subsection (2) of this section.

**Sec. 18.** RCW 76.06.180 and 2007 c 480 s 7 are each amended to read as follows:

(1) Prior to issuing a forest health hazard warning or forest health hazard order, the commissioner shall consider the findings and recommendations of the forest health technical advisory committee and shall consult with county government officials, forest landowners and forest land managers, consulting foresters, and other interested parties to gather information on the threat, opportunities or constraints on treatment options, and other information they may provide. The commissioner, or a designee, shall conduct a public hearing in a county within the geographical area being considered.

(2) The commissioner of public lands may issue a forest health hazard warning when he or she deems such action is necessary to manage the development of a threat to forest health or address an existing threat to forest health. A decision to issue a forest health hazard warning may be based on existing forest stand conditions and:

(a) The presence of an uncharacteristic insect or disease outbreak that has or is likely to (i) spread to multiple forest ownerships and cause extensive damage to forests; or (ii) significantly increase forest fuel that is likely to further the spread of uncharacteristic fire;

(b) When, due to extensive physical damage from wind or ice storm or other cause, there are (i) insect populations building up to large scale levels; or (ii) significantly increased forest fuels that are likely to further the spread of uncharacteristic fire; or

(c) When otherwise determined by the commissioner to be appropriate.

(3) The commissioner of public lands may issue a forest health hazard order when he or she deems such action is necessary to address a significant threat to forest health. A decision to issue a forest health hazard order may be based on existing forest stand conditions and:

(a) The presence of an uncharacteristic insect or disease outbreak that has (i) spread to multiple forest ownerships and has caused and is likely to continue to cause extensive damage to forests; or (ii) significantly increased forest fuels that are likely to further the spread of uncharacteristic fire;

(b) When, due to extensive physical damage from wind or ice storm or other cause (i) insect populations are causing extensive damage to forests; or (ii) significantly increased forest fuels are likely to further the spread of uncharacteristic fire;

(c) Insufficient landowner action under a forest health hazard warning; or

(d) When otherwise determined by the commissioner to be appropriate.

(4) A forest health hazard warning or forest health hazard order shall be issued by use of a commissioner's order. General notice of the commissioner's order shall be published in a newspaper of general circulation in each county within the area covered by the order and on the department's web site. The order shall specify the boundaries of the area affected, including federal and tribal lands, the forest stand conditions that would make a parcel subject to the provisions of the order, and the actions landowners or land managers should take to reduce the hazard.

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(5) Written notice of a forest health hazard warning or forest health hazard order shall be provided to forest landowners of specifically affected property.

(a) The notice shall set forth:

(i) The reasons for the action;

(ii) The boundaries of the area affected, including federal and tribal lands;

(iii) Suggested actions that should be taken by the forest landowner under a forest health hazard warning or the actions that must be taken by a forest landowner under a forest health hazard order;

(iv) The time within which such actions should or must be taken;

(v) How to obtain information or technical assistance on forest health conditions and treatment options;

(vi) The right to request mitigation under subsection (6) of this section and appeal under subsection (7) of this section;

(vii) These requirements are advisory only for federal and tribal lands.

(b) The notice shall be served by personal service or by mail to the latest recorded real property owner, as shown by the records of the county recording officer as defined in RCW 65.08.060. Service by mail is effective on the date of mailing. Proof of service shall be by affidavit or declaration under penalty of perjury.

(6) Forest landowners who have been issued a forest health hazard order under subsection (5) of this section may apply to the department for the remission or mitigation of such order. The application shall be made to the department within fifteen days after notice of the order has been served. Upon receipt of the application, the department may remit or mitigate the order upon whatever terms the department in its discretion deems proper, provided the department deems the remission or mitigation to be in the best interests of carrying out the purposes of this chapter. The department may ascertain the facts regarding all such applications in such reasonable manner and under such rule as it deems proper.

(7) Forest landowners who have been issued a forest health hazard order under subsection (5) of this section may appeal the order to the ~~((forest practices appeals))~~ pollution control hearings board.

~~((a))~~ The appeal shall be filed within thirty days after notice of the order has been served, unless application for mitigation has been made to the department. When such an application for mitigation is made, such appeal shall be filed within thirty days after notice of the disposition of the application for mitigation has been served as provided in RCW 43.21B.230.

~~((b))~~ The appeal must set forth:

(i) The name and mailing address of the appellant;

(ii) The name and mailing address of the appellant's attorney, if any;

(iii) A duplicate copy of the forest health hazard order;

(iv) A separate and concise statement of each error alleged to have been committed;

(v) A concise statement of facts upon which the appellant relies to sustain the statement of error; and

(vi) A statement of the relief requested.)

(8) A forest health hazard order issued under subsection (5) of this section is effective thirty days after date of service unless application for remission or mitigation is made or an appeal is filed. When an application for remission or mitigation is made, the order is effective thirty days after notice setting forth the disposition of the application is served unless an appeal is filed from such disposition. Whenever an appeal of the order is filed, the order shall become effective only upon completion of all administrative and judicial review proceedings and the issuance of a final decision confirming the order in whole or in part.

(9) Upon written request, the department may certify as adequate a forest health management plan developed by a forest landowner, before or in response to a forest health hazard warning or forest health hazard order, if the plan is likely to achieve the desired result and the terms of the plan are being diligently followed by the forest landowner. The certification of adequacy shall be determined by the department in its sole discretion, and be provided to the requestor in writing.

**Sec. 19.** RCW 76.09.020 and 2009 c 354 s 5 and 2009 c 246 s 4 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Adaptive management" means reliance on scientific methods to test the results of actions taken so that the management and related policy can be changed promptly and appropriately.

(2) "Appeals board" means the ~~((forest practices appeals))~~ pollution control hearings board created by RCW ~~((76.09.210))~~ 43.21B.010.

(3) "Application" means the application required pursuant to RCW 76.09.050.

(4) "Aquatic resources" includes water quality, salmon, other species of the vertebrate classes Cephalaspidomorphi and Osteichthyes identified in the forests and fish report, the Columbia torrent salamander (*Rhyacotriton kezeri*), the Cascade torrent salamander (*Rhyacotriton cascadae*), the Olympic torrent salamander (*Rhyacotriton olympian*), the Dunn's salamander (*Plethodon dunni*), the Van Dyke's salamander (*Plethodon vandyke*), the tailed frog (*Ascaphus truei*), and their respective habitats.

(5) "Board" means the forest practices board created in RCW 76.09.030.

(6) "Commissioner" means the commissioner of public lands.

(7) "Contiguous" means land adjoining or touching by common corner or otherwise. Land having common ownership divided by a road or other right-of-way shall be considered contiguous.

(8) "Conversion to a use other than commercial timber operation" means a bona fide conversion to an active use which is incompatible with timber growing and as may be defined by forest practices rules.

(9) "Department" means the department of natural resources.

(10) "Fish passage barrier" means any artificial instream structure that impedes the free passage of fish.

(11) "Forest land" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing. Forest land does not include agricultural land that is or was enrolled in the conservation reserve enhancement program by contract if such agricultural land was historically used for agricultural purposes and the landowner intends to continue to use the land for agricultural purposes in the future. As it applies to the operation of the road maintenance and abandonment plan element of the forest practices rules on small forest landowners, the term "forest land" excludes:

(a) Residential home sites, which may include up to five acres; and

(b) Cropfields, orchards, vineyards, pastures, feedlots, fish pens, and the land on which appurtenances necessary to the production, preparation, or sale of crops, fruit, dairy products, fish, and livestock exist.

(12) "Forest landowner" means any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner. However, any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest landowner" unless such lessee or other

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person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

(13) "Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

- (a) Road and trail construction;
- (b) Harvesting, final and intermediate;
- (c) Precommercial thinning;
- (d) Reforestation;
- (e) Fertilization;
- (f) Prevention and suppression of diseases and insects;
- (g) Salvage of trees; and
- (h) Brush control.

"Forest practice" shall not include preparatory work such as tree marking, surveying and road flagging, and removal or harvesting of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber, or public resources.

(14) "Forest practices rules" means any rules adopted pursuant to RCW 76.09.040.

(15) "Forest road," as it applies to the operation of the road maintenance and abandonment plan element of the forest practices rules on small forest landowners, means a road or road segment that crosses land that meets the definition of forest land, but excludes residential access roads.

(16) "Forest trees" does not include hardwood trees cultivated by agricultural methods in growing cycles shorter than fifteen years if the trees were planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees. "Forest trees" includes Christmas trees, but does not include Christmas trees that are cultivated by agricultural methods, as that term is defined in RCW 84.33.035.

(17) "Forests and fish report" means the forests and fish report to the board dated April 29, 1999.

(18) "Operator" means any person engaging in forest practices except an employee with wages as his or her sole compensation.

(19) "Person" means any individual, partnership, private, public, or municipal corporation, county, the department or other state or local governmental entity, or association of individuals of whatever nature.

(20) "Public resources" means water, fish and wildlife, and in addition shall mean capital improvements of the state or its political subdivisions.

(21) "Small forest landowner" has the same meaning as defined in RCW 76.09.450.

(22) "Timber" means forest trees, standing or down, of a commercial species, including Christmas trees. However, "timber" does not include Christmas trees that are cultivated by agricultural methods, as that term is defined in RCW 84.33.035.

(23) "Timber owner" means any person having all or any part of the legal interest in timber. Where such timber is subject to a contract of sale, "timber owner" shall mean the contract purchaser.

(24) "Unconfined channel migration zone" means the area within which the active channel of an unconfined stream is prone to move and where the movement would result in a potential near-term loss of riparian forest adjacent to the stream. Sizeable islands with productive timber may exist within the zone.

(25) "Unconfined stream" means generally fifth order or larger waters that experience abrupt shifts in channel location, creating a complex floodplain characterized by extensive gravel bars, disturbance species of vegetation of variable age, numerous side channels, wall-based channels, oxbow lakes, and wetland complexes. Many of these streams have dikes and levees that may temporarily or permanently restrict channel movement.

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(26) "Date of receipt" has the same meaning as defined in RCW 43.21B.001.

**Sec. 20.** RCW 76.09.050 and 2005 c 146 s 1003 are each amended to read as follows:

(1) The board shall establish by rule which forest practices shall be included within each of the following classes:

Class I: Minimal or specific forest practices that have no direct potential for damaging a public resource and that may be conducted without submitting an application or a notification except that when the regulating authority is transferred to a local governmental entity, those Class I forest practices that involve timber harvesting or road construction within "urban growth areas," designated pursuant to chapter 36.70A RCW, are processed as Class IV forest practices, but are not subject to environmental review under chapter 43.21C RCW;

Class II: Forest practices which have a less than ordinary potential for damaging a public resource that may be conducted without submitting an application and may begin five calendar days, or such lesser time as the department may determine, after written notification by the operator, in the manner, content, and form as prescribed by the department, is received by the department. However, the work may not begin until all forest practice fees required under RCW 76.09.065 have been received by the department. Class II shall not include forest practices:

(a) On lands platted after January 1, 1960, as provided in chapter 58.17 RCW or on lands that have or are being converted to another use;

(b) Which require approvals under the provisions of the hydraulics act, RCW 77.55.021;

(c) Within "shorelines of the state" as defined in RCW 90.58.030;

(d) Excluded from Class II by the board; or

(e) Including timber harvesting or road construction within "urban growth areas," designated pursuant to chapter 36.70A RCW, which are Class IV;

Class III: Forest practices other than those contained in Class I, II, or IV. A Class III application must be approved or disapproved by the department within thirty calendar days from the date the department receives the application. However, the applicant may not begin work on that forest practice until all forest practice fees required under RCW 76.09.065 have been received by the department;

Class IV: Forest practices other than those contained in Class I or II: (a) On lands platted after January 1, 1960, as provided in chapter 58.17 RCW, (b) on lands that have or are being converted to another use, (c) on lands which, pursuant to RCW 76.09.070 as now or hereafter amended, are not to be reforested because of the likelihood of future conversion to urban development, (d) involving timber harvesting or road construction on lands that are contained within "urban growth areas," designated pursuant to chapter 36.70A RCW, except where the forest landowner provides: (i) A written statement of intent signed by the forest landowner not to convert to a use other than commercial forest product operations for ten years, accompanied by either a written forest management plan acceptable to the department or documentation that the land is enrolled under the provisions of chapter 84.33 RCW; or (ii) a conversion option harvest plan approved by the local governmental entity and submitted to the department as part of the application, and/or (e) which have a potential for a substantial impact on the environment and therefore require an evaluation by the department as to whether or not a detailed statement must be prepared pursuant to the state environmental policy act, chapter 43.21C RCW. Such evaluation shall be made within ten days from the date the department receives the application: PROVIDED, That nothing herein shall be construed to prevent any local or regional governmental entity from

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determining that a detailed statement must be prepared for an action pursuant to a Class IV forest practice taken by that governmental entity concerning the land on which forest practices will be conducted. A Class IV application must be approved or disapproved by the department within thirty calendar days from the date the department receives the application, unless the department determines that a detailed statement must be made, in which case the application must be approved or disapproved by the department within sixty calendar days from the date the department receives the application, unless the commissioner of public lands, through the promulgation of a formal order, determines that the process cannot be completed within such period. However, the applicant may not begin work on that forest practice until all forest practice fees required under RCW 76.09.065 have been received by the department.

Forest practices under Classes I, II, and III are exempt from the requirements for preparation of a detailed statement under the state environmental policy act.

(2) Except for those forest practices being regulated by local governmental entities as provided elsewhere in this chapter, no Class II, Class III, or Class IV forest practice shall be commenced or continued after January 1, 1975, unless the department has received a notification with regard to a Class II forest practice or approved an application with regard to a Class III or Class IV forest practice containing all information required by RCW 76.09.060 as now or hereafter amended. However, in the event forest practices regulations necessary for the scheduled implementation of this chapter and RCW 90.48.420 have not been adopted in time to meet such schedules, the department shall have the authority to regulate forest practices and approve applications on such terms and conditions consistent with this chapter and RCW 90.48.420 and the purposes and policies of RCW 76.09.010 until applicable forest practices regulations are in effect.

(3) Except for those forest practices being regulated by local governmental entities as provided elsewhere in this chapter, if a notification or application is delivered in person to the department by the operator or the operator's agent, the department shall immediately provide a dated receipt thereof. In all other cases, the department shall immediately mail a dated receipt to the operator.

(4) Except for those forest practices being regulated by local governmental entities as provided elsewhere in this chapter, forest practices shall be conducted in accordance with the forest practices regulations, orders and directives as authorized by this chapter or the forest practices regulations, and the terms and conditions of any approved applications.

(5) Except for those forest practices being regulated by local governmental entities as provided elsewhere in this chapter, the department of natural resources shall notify the applicant in writing of either its approval of the application or its disapproval of the application and the specific manner in which the application fails to comply with the provisions of this section or with the forest practices regulations. Except as provided otherwise in this section, if the department fails to either approve or disapprove an application or any portion thereof within the applicable time limit, the application shall be deemed approved and the operation may be commenced: PROVIDED, That this provision shall not apply to applications which are neither approved nor disapproved pursuant to the provisions of subsection (7) of this section: PROVIDED, FURTHER, That if seasonal field conditions prevent the department from being able to properly evaluate the application, the department may issue an approval conditional upon further review within sixty days: PROVIDED, FURTHER, That the department shall have until April 1, 1975, to approve or disapprove an application involving forest practices allowed to continue to April 1, 1975, under the provisions of subsection (2) of this section. Upon receipt

of any notification or any satisfactorily completed application the department shall in any event no later than two business days after such receipt transmit a copy to the departments of ecology and fish and wildlife, and to the county, city, or town in whose jurisdiction the forest practice is to be commenced. Any comments by such agencies shall be directed to the department of natural resources.

(6) For those forest practices regulated by the board and the department, if the county, city, or town believes that an application is inconsistent with this chapter, the forest practices regulations, or any local authority consistent with RCW 76.09.240 as now or hereafter amended, it may so notify the department and the applicant, specifying its objections.

(7) For those forest practices regulated by the board and the department, the department shall not approve portions of applications to which a county, city, or town objects if:

(a) The department receives written notice from the county, city, or town of such objections within fourteen business days from the time of transmittal of the application to the county, city, or town, or one day before the department acts on the application, whichever is later; and

(b) The objections relate to lands either:

(i) Platted after January 1, 1960, as provided in chapter 58.17 RCW; or

(ii) On lands that have or are being converted to another use.

The department shall either disapprove those portions of such application or appeal the county, city, or town objections to the appeals board. If the objections related to subparagraphs (b)(i) and (ii) of this subsection are based on local authority consistent with RCW 76.09.240 as now or hereafter amended, the department shall disapprove the application until such time as the county, city, or town consents to its approval or such disapproval is reversed on appeal. The applicant shall be a party to all department appeals of county, city, or town objections. Unless the county, city, or town either consents or has waived its rights under this subsection, the department shall not approve portions of an application affecting such lands until the minimum time for county, city, or town objections has expired.

(8) For those forest practices regulated by the board and the department, in addition to any rights under the above paragraph, the county, city, or town may appeal any department approval of an application with respect to any lands within its jurisdiction. The appeals board may suspend the department's approval in whole or in part pending such appeal where there exists potential for immediate and material damage to a public resource.

(9) For those forest practices regulated by the board and the department, appeals under this section shall be made to the appeals board in the manner and time provided in ~~((RCW 76.09.220(8)))~~ section 24 of this act. In such appeals there shall be no presumption of correctness of either the county, city, or town or the department position.

(10) For those forest practices regulated by the board and the department, the department shall, within four business days notify the county, city, or town of all notifications, approvals, and disapprovals of an application affecting lands within the county, city, or town, except to the extent the county, city, or town has waived its right to such notice.

(11) For those forest practices regulated by the board and the department, a county, city, or town may waive in whole or in part its rights under this section, and may withdraw or modify any such waiver, at any time by written notice to the department.

(12) Notwithstanding subsections (2) through (5) of this section, forest practices applications or notifications are not required for exotic insect and disease control operations conducted in accordance with RCW 76.09.060(8) where eradication can reasonably be expected.

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**Sec. 21.** RCW 76.09.080 and 1989 c 175 s 163 are each amended to read as follows:

(1) The department shall have the authority to serve upon an operator a stop work order which shall be a final order of the department if:

- (a) There is any violation of the provisions of this chapter or the forest practices regulations; or
- (b) There is a deviation from the approved application; or
- (c) Immediate action is necessary to prevent continuation of or to avoid material damage to a public resource.

(2) The stop work order shall set forth:

- (a) The specific nature, extent, and time of the violation, deviation, damage, or potential damage;
- (b) An order to stop all work connected with the violation, deviation, damage, or potential damage;
- (c) The specific course of action needed to correct such violation or deviation or to prevent damage and to correct and/or compensate for damage to public resources which has resulted from any violation, unauthorized deviation, or willful or negligent disregard for potential damage to a public resource; and/or those courses of action necessary to prevent continuing damage to public resources where the damage is resulting from the forest practice activities but has not resulted from any violation, unauthorized deviation, or negligence; and

(d) The right of the operator to a hearing before the appeals board.

The department shall immediately file a copy of such order with the appeals board and mail a copy thereof to the timber owner and forest land owner at the addresses shown on the application. The operator, timber owner, or forest land owner may commence an appeal to the appeals board within ~~((fifteen))~~ thirty days ~~((after service upon))~~ from the date of receipt of the order by the operator. If such appeal is commenced, a hearing shall be held not more than twenty days after copies of the notice of appeal were filed with the appeals board. Such proceeding shall be an adjudicative proceeding within the meaning of chapter 34.05 RCW, the administrative procedure act. The operator shall comply with the order of the department immediately upon being served, but the appeals board if requested shall have authority to continue or discontinue in whole or in part the order of the department under such conditions as it may impose pending the outcome of the proceeding.

**Sec. 22.** RCW 76.09.090 and 1975 1st ex.s. c 200 s 6 are each amended to read as follows:

If a violation, a deviation, material damage or potential for material damage to a public resource has occurred and the department determines that a stop work order is unnecessary, then the department shall issue and serve upon the operator or land owner a notice, which shall clearly set forth:

(1)(a) The specific nature, extent, and time of failure to comply with the approved application; or identifying the damage or potential damage; and/or

(b) The relevant provisions of this chapter or of the forest practice regulations relating thereto;

(2) The right of the operator or land owner to a hearing before the department; and

(3) The specific course of action ordered by the department to be followed by the operator to correct such failure to comply and to prevent, correct and/or compensate for material damage to public resources which resulted from any violation, unauthorized deviation, or willful or negligent disregard for potential damage to a public resource; and/or those courses of action necessary to prevent continuing damage to public resources where the damage is resulting from the forest practice activities but has not resulted from any violation, unauthorized deviation, or negligence.

The department shall mail a copy thereof to the forest land owner and the timber owner at the addresses shown on the application, showing the date of service upon the operator. Such notice to comply shall become a final order of the department: **PROVIDED**, That no direct appeal to the appeals board will be allowed from such final order. Such operator shall undertake the course of action so ordered by the department unless, within fifteen days after the date of service of such notice to comply, the operator, forest land owner, or timber owner, shall request the department in writing to schedule a hearing. If so requested, the department shall schedule a hearing on a date not more than twenty days after receiving such request. Within ten days after such hearing, the department shall issue a final order either withdrawing its notice to comply or clearly setting forth the specific course of action to be followed by such operator. Such operator shall undertake the course of action so ordered by the department unless within thirty days after the date of receipt of such final order, the operator, forest land owner, or timber owner appeals such final order to the appeals board.

No person shall be under any obligation under this section to prevent, correct, or compensate for any damage to public resources which occurs more than one year after the date of completion of the forest practices operations involved exclusive of reforestation, unless such forest practices were not conducted in accordance with forest practices rules and regulations: **PROVIDED**, That this provision shall not relieve the forest land owner from any obligation to comply with forest practices rules and regulations pertaining to providing continuing road maintenance. No action to recover damages shall be taken under this section more than two years after the date the damage involved occurs.

**Sec. 23.** RCW 76.09.170 and 1999 sp.s. c 4 s 803 are each amended to read as follows:

(1) Every person who violates any provision of RCW 76.09.010 through 76.09.280 or of the forest practices rules, or who converts forest land to a use other than commercial timber operation within three years after completion of the forest practice without the consent of the county, city, or town, shall be subject to a penalty in an amount of not more than ten thousand dollars for every such violation. Each and every such violation shall be a separate and distinct offense. In case of a failure to comply with a stop work order, every day's continuance shall be a separate and distinct violation. Every person who through an act of commission or omission procures, aids or abets in the violation shall be considered to have violated the provisions of this section and shall be subject to the penalty in this section. No penalty shall be imposed under this section upon any governmental official, an employee of any governmental department, agency, or entity, or a member of any board or advisory committee created by this chapter for any act or omission in his or her duties in the administration of this chapter or of any rule adopted under this chapter.

(2) The department shall develop and recommend to the board a penalty schedule to determine the amount to be imposed under this section. The board shall adopt by rule, pursuant to chapter 34.05 RCW, such penalty schedule to be effective no later than January 1, 1994. The schedule shall be developed in consideration of the following:

(a) Previous violation history;

(b) Severity of the impact on public resources;

(c) Whether the violation of this chapter or its rules was intentional;

(d) Cooperation with the department;

(e) Repairability of the adverse effect from the violation; and

(f) The extent to which a penalty to be imposed on a forest landowner for a forest practice violation committed by another should be reduced because the owner was unaware of the violation

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and has not received substantial economic benefits from the violation.

(3) The penalty in this section shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the department describing the violation with reasonable particularity. Within fifteen days after the notice is received, the person incurring the penalty may apply in writing to the department for the remission or mitigation of such penalty. Upon receipt of the application, that department may remit or mitigate the penalty upon whatever terms that department in its discretion deems proper, provided the department deems such remission or mitigation to be in the best interests of carrying out the purposes of this chapter. The department shall have authority to ascertain the facts regarding all such applications in such reasonable manner and under such rule as it may deem proper.

(4) Any person incurring a penalty under this section may appeal the penalty to the ~~((forest practices))~~ appeals board. Such appeals shall be filed within thirty days ~~((of))~~ after the date of receipt of ~~((notice imposing any))~~ the penalty unless an application for remission or mitigation is made to the department. When such an application for remission or mitigation is made, such appeals shall be filed within thirty days of receipt of notice from the department setting forth the disposition of the application for remission or mitigation.

(5) The penalty imposed under this section shall become due and payable thirty days after receipt of a notice imposing the same unless application for remission or mitigation is made or an appeal is filed. When such an application for remission or mitigation is made, any penalty incurred under this section shall become due and payable thirty days after receipt of notice setting forth the disposition of such application unless an appeal is filed from such disposition. Whenever an appeal of the penalty incurred is filed, the penalty shall become due and payable only upon completion of all administrative and judicial review proceedings and the issuance of a final decision confirming the penalty in whole or in part.

(6) If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the attorney general, upon the request of the department, shall bring an action in the name of the state of Washington in the superior court of Thurston county or of any county in which such violator may do business, to recover such penalty, interest, costs, and attorneys' fees. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise provided in this chapter ~~((provided))~~. In addition to or as an alternative to seeking enforcement of penalties in superior court, the department may bring an action in district court as provided in Title 3 RCW, to collect penalties, interest, costs, and attorneys' fees.

(7) Penalties imposed under this section for violations associated with a conversion to a use other than commercial timber operation shall be a lien upon the real property of the person assessed the penalty and the department may collect such amount in the same manner provided in chapter 60.04 RCW for mechanics' liens.

(8) Any person incurring a penalty imposed under this section is also responsible for the payment of all costs and attorneys' fees incurred in connection with the penalty and interest accruing on the unpaid penalty amount.

**NEW SECTION. Sec. 24.** A new section is added to chapter 76.09 RCW to read as follows:

A person aggrieved by the approval or disapproval of an application to conduct a forest practice or the approval or disapproval of any landscape plan or permit or watershed analysis may seek review from the appeals board by filing a request for the same within thirty days from the date of receipt of the decision.

Concurrently with the filing of any request for review with the appeals board as provided in this section, the requestor must file a copy of his or her request with the department and the attorney general. The attorney general may intervene to protect the public interest and ensure that the provisions of this chapter are complied with.

**Sec. 25.** RCW 76.09.310 and 1987 c 95 s 4 are each amended to read as follows:

(1) The department shall send a notice to all forest landowners, both public and private, within the geographic area selected for review, stating that the department intends to study the area as part of the hazard-reduction program.

(2) The department shall prepare a proposed plan for each geographic area studied. The department shall provide the proposed plan to affected landowners, Indian tribes, interested parties, and to the advisory committee, if established pursuant to RCW 76.09.305.

(3) Any aggrieved landowners, agencies, tribes, and other persons who object to any or all of the proposed hazard-reduction plan may, within thirty days of issuance of the plan, request the department in writing to schedule a conference. If so requested, the department shall schedule a conference on a date not more than thirty days after receiving such request.

(4) Within ten days after such a conference, the department shall either amend the proposed plan or respond in writing indicating why the objections were not incorporated into the plan.

(5) Within one hundred twenty days following the issuance of the proposed plan as provided in subsection (2) of this section, the department shall distribute a final hazard-reduction plan designating those sites for which hazard-reduction measures are recommended and those sites where no action is recommended. For each hazard-reduction measure recommended, a description of the work and cost estimate shall be provided.

(6) Any aggrieved landowners, agencies, tribes, and other persons are entitled to appeal the final hazard-reduction plan to the ~~((forest practices))~~ appeals board if, within thirty days of the issuance of the final plan, the party transmits a notice of appeal to the ~~((forest practices))~~ appeals board and to the department.

(7) A landowner's failure to object to the recommendations or to appeal the final hazard-reduction plan shall not be deemed an admission that the hazard-reduction recommendations are appropriate.

(8) The department shall provide a copy of the final hazard-reduction plan to the department of ecology and to each affected county.

**Sec. 26.** RCW 77.55.011 and 2009 c 549 s 1028 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Bed" means the land below the ordinary high water lines of state waters. This definition does not include irrigation ditches, canals, storm water runoff devices, or other artificial watercourses except where they exist in a natural watercourse that has been altered artificially.

(2) "Board" means the ~~((hydraulic appeals))~~ pollution control hearings board created in chapter 43.21B RCW ((77.55.304)).

(3) "Commission" means the state fish and wildlife commission.

(4) "Department" means the department of fish and wildlife.

(5) "Director" means the director of the department of fish and wildlife.

(6) "Emergency" means an immediate threat to life, the public, property, or of environmental degradation.

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(7) "Hydraulic project" means the construction or performance of work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or freshwaters of the state.

(8) "Imminent danger" means a threat by weather, water flow, or other natural conditions that is likely to occur within sixty days of a request for a permit application.

(9) "Marina" means a public or private facility providing boat moorage space, fuel, or commercial services. Commercial services include but are not limited to overnight or live-aboard boating accommodations.

(10) "Marine terminal" means a public or private commercial wharf located in the navigable water of the state and used, or intended to be used, as a port or facility for the storing, handling, transferring, or transporting of goods to and from vessels.

(11) "Ordinary high water line" means the mark on the shores of all water that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in ordinary years as to mark upon the soil or vegetation a character distinct from the abutting upland. Provided, that in any area where the ordinary high water line cannot be found, the ordinary high water line adjoining saltwater is the line of mean higher high water and the ordinary high water line adjoining fresh water is the elevation of the mean annual flood.

(12) "Permit" means a hydraulic project approval permit issued under this chapter.

(13) "Sandbars" includes, but is not limited to, sand, gravel, rock, silt, and sediments.

(14) "Small scale prospecting and mining" means the use of only the following methods: Pans; nonmotorized sluice boxes; concentrators; and minirocker boxes for the discovery and recovery of minerals.

(15) "Spartina," "purple loosestrife," and "aquatic noxious weeds" have the same meanings as defined in RCW 17.26.020.

(16) "Streambank stabilization" means those projects that prevent or limit erosion, slippage, and mass wasting. These projects include, but are not limited to, bank resloping, log and debris relocation or removal, planting of woody vegetation, bank protection using rock or woody material or placement of jetties or groins, gravel removal, or erosion control.

(17) "Tide gate" means a one-way check valve that prevents the backflow of tidal water.

(18) "Waters of the state" and "state waters" means all salt and fresh waters waterward of the ordinary high water line and within the territorial boundary of the state.

(19) "Date of receipt" has the same meaning as defined in RCW 43.21B.001.

**Sec. 27.** RCW 77.55.021 and 2008 c 272 s 1 are each amended to read as follows:

(1) Except as provided in RCW 77.55.031, 77.55.051, and 77.55.041, in the event that any person or government agency desires to undertake a hydraulic project, the person or government agency shall, before commencing work thereon, secure the approval of the department in the form of a permit as to the adequacy of the means proposed for the protection of fish life.

(2) A complete written application for a permit may be submitted in person or by registered mail and must contain the following:

(a) General plans for the overall project;

(b) Complete plans and specifications of the proposed construction or work within the mean higher high water line in saltwater or within the ordinary high water line in freshwater;

(c) Complete plans and specifications for the proper protection of fish life; and

(d) Notice of compliance with any applicable requirements of the state environmental policy act, unless otherwise provided for in this chapter.

(3)(a) Protection of fish life is the only ground upon which approval of a permit may be denied or conditioned. Approval of a permit may not be unreasonably withheld or unreasonably conditioned. Except as provided in this subsection and subsections (8), (10), and (12) of this section, the department has forty-five calendar days upon receipt of a complete application to grant or deny approval of a permit. The forty-five day requirement is suspended if:

(i) After ten working days of receipt of the application, the applicant remains unavailable or unable to arrange for a timely field evaluation of the proposed project;

(ii) The site is physically inaccessible for inspection;

(iii) The applicant requests a delay; or

(iv) The department is issuing a permit for a storm water discharge and is complying with the requirements of RCW 77.55.161(3)(b).

(b) Immediately upon determination that the forty-five day period is suspended, the department shall notify the applicant in writing of the reasons for the delay.

(c) The period of forty-five calendar days may be extended if the permit is part of a multiagency permit streamlining effort and all participating permitting agencies and the permit applicant agree to an extended timeline longer than forty-five calendar days.

(4) If the department denies approval of a permit, the department shall provide the applicant a written statement of the specific reasons why and how the proposed project would adversely affect fish life.

(a) Except as provided in (b) of this subsection, issuance, denial, conditioning, or modification of a permit shall be appealable to ((the department or)) the board ((as specified in RCW 77.55.301)) within thirty days from the date of receipt of the ((notice of)) decision as provided in RCW 43.21B.230.

(b) Issuance, denial, conditioning, or modification of a permit may be informally appealed to the department within thirty days from the date of receipt of the decision. Requests for informal appeals must be filed in the form and manner prescribed by the department by rule. A permit decision that has been informally appealed to the department is appealable to the board within thirty days from the date of receipt of the department's decision on the informal appeal.

(5)(a) The permittee must demonstrate substantial progress on construction of that portion of the project relating to the permit within two years of the date of issuance.

(b) Approval of a permit is valid for a period of up to five years from the date of issuance, except as provided in (c) of this subsection and in RCW 77.55.151.

(c) A permit remains in effect without need for periodic renewal for hydraulic projects that divert water for agricultural irrigation or stock watering purposes and that involve seasonal construction or other work. A permit for streambank stabilization projects to protect farm and agricultural land as defined in RCW 84.34.020 remains in effect without need for periodic renewal if the problem causing the need for the streambank stabilization occurs on an annual or more frequent basis. The permittee must notify the appropriate agency before commencing the construction or other work within the area covered by the permit.

(6) The department may, after consultation with the permittee, modify a permit due to changed conditions. The modification ((becomes effective unless appealed to the department or the board as specified in RCW 77.55.301 within thirty days from the notice of the proposed modification)) is appealable as provided in subsection (4) of this section. For hydraulic projects that divert water for agricultural irrigation or stock watering purposes, or when the

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hydraulic project or other work is associated with streambank stabilization to protect farm and agricultural land as defined in RCW 84.34.020, the burden is on the department to show that changed conditions warrant the modification in order to protect fish life.

(7) A permittee may request modification of a permit due to changed conditions. The request must be processed within forty-five calendar days of receipt of the written request. A decision by the department (~~(may be appealed to the board within thirty days of the notice of the decision))~~ is appealable as provided in subsection (4) of this section. For hydraulic projects that divert water for agricultural irrigation or stock watering purposes, or when the hydraulic project or other work is associated with streambank stabilization to protect farm and agricultural land as defined in RCW 84.34.020, the burden is on the permittee to show that changed conditions warrant the requested modification and that such a modification will not impair fish life.

(8)(a) The department, the county legislative authority, or the governor may declare and continue an emergency. If the county legislative authority declares an emergency under this subsection, it shall immediately notify the department. A declared state of emergency by the governor under RCW 43.06.010 shall constitute a declaration under this subsection.

(b) The department, through its authorized representatives, shall issue immediately, upon request, oral approval for a stream crossing, or work to remove any obstructions, repair existing structures, restore streambanks, protect fish life, or protect property threatened by the stream or a change in the stream flow without the necessity of obtaining a written permit prior to commencing work. Conditions of the emergency oral permit must be established by the department and reduced to writing within thirty days and complied with as provided for in this chapter.

(c) The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection.

(9) All state and local agencies with authority under this chapter to issue permits or other authorizations in connection with emergency water withdrawals and facilities authorized under RCW 43.83B.410 shall expedite the processing of such permits or authorizations in keeping with the emergency nature of such requests and shall provide a decision to the applicant within fifteen calendar days of the date of application.

(10) The department or the county legislative authority may determine an imminent danger exists. The county legislative authority shall notify the department, in writing, if it determines that an imminent danger exists. In cases of imminent danger, the department shall issue an expedited written permit, upon request, for work to remove any obstructions, repair existing structures, restore banks, protect fish resources, or protect property. Expedited permit requests require a complete written application as provided in subsection (2) of this section and must be issued within fifteen calendar days of the receipt of a complete written application. Approval of an expedited permit is valid for up to sixty days from the date of issuance. The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection.

(11)(a) For any property, except for property located on a marine shoreline, that has experienced at least two consecutive years of flooding or erosion that has damaged or has threatened to damage a major structure, water supply system, septic system, or access to any road or highway, the county legislative authority may determine that a chronic danger exists. The county legislative authority shall notify the department, in writing, when it determines that a chronic danger exists. In cases of chronic danger, the department shall issue a permit, upon request, for work necessary to abate the chronic

danger by removing any obstructions, repairing existing structures, restoring banks, restoring road or highway access, protecting fish resources, or protecting property. Permit requests must be made and processed in accordance with subsections (2) and (3) of this section.

(b) Any projects proposed to address a chronic danger identified under (a) of this subsection that satisfies the project description identified in RCW 77.55.181(1)(a)(ii) are not subject to the provisions of the state environmental policy act, chapter 43.21C RCW. However, the project is subject to the review process established in RCW 77.55.181(3) as if it were a fish habitat improvement project.

(12) The department may issue an expedited written permit in those instances where normal permit processing would result in significant hardship for the applicant or unacceptable damage to the environment. Expedited permit requests require a complete written application as provided in subsection (2) of this section and must be issued within fifteen calendar days of the receipt of a complete written application. Approval of an expedited permit is valid for up to sixty days from the date of issuance. The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection.

**Sec. 28.** RCW 77.55.141 and 2005 c 146 s 501 are each amended to read as follows:

(1) In order to protect the property of marine waterfront shoreline owners it is necessary to facilitate issuance of permits for bulkheads or rockwalls under certain conditions.

(2) The department shall issue a permit with or without conditions within forty-five days of receipt of a complete and accurate application which authorizes commencement of construction, replacement, or repair of a marine beach front protective bulkhead or rockwall for single-family type residences or property under the following conditions:

(a) The waterward face of a new bulkhead or rockwall shall be located only as far waterward as is necessary to excavate for footings or place base rock for the structure and under no conditions shall be located more than six feet waterward of the ordinary high water line;

(b) Any bulkhead or rockwall to replace or repair an existing bulkhead or rockwall shall be placed along the same alignment as the bulkhead or rockwall it is replacing. However, the replaced or repaired bulkhead or rockwall may be placed waterward of and directly abutting the existing structure only in cases where removal of the existing bulkhead or rockwall would result in environmental degradation or removal problems related to geological, engineering, or safety considerations; and

(c) Construction of a new bulkhead or rockwall, or replacement or repair of an existing bulkhead or rockwall waterward of the existing structure shall not result in the permanent loss of critical food fish or shellfish habitats; and

(d) Timing constraints shall be applied on a case-by-case basis for the protection of critical habitats, including but not limited to migration corridors, rearing and feeding areas, and spawning habitats, for the proper protection of fish life.

(3) Any bulkhead or rockwall construction, replacement, or repair not meeting the conditions in this section shall be processed under this chapter in the same manner as any other application.

(4) Any person aggrieved by the approval, denial, conditioning, or modification of a permit under this section may ~~((formally))~~ appeal the decision ((to the board pursuant to this chapter)) as provided in RCW 77.55.021(4).

**Sec. 29.** RCW 77.55.181 and 2005 c 146 s 505 are each amended to read as follows:

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(1) In order to receive the permit review and approval process created in this section, a fish habitat enhancement project must meet the criteria under (a) and (b) of this subsection:

(a) A fish habitat enhancement project must be a project to accomplish one or more of the following tasks:

(i) Elimination of human-made fish passage barriers, including culvert repair and replacement;

(ii) Restoration of an eroded or unstable streambank employing the principle of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or

(iii) Placement of woody debris or other instream structures that benefit naturally reproducing fish stocks.

The department shall develop size or scale threshold tests to determine if projects accomplishing any of these tasks should be evaluated under the process created in this section or under other project review and approval processes. A project proposal shall not be reviewed under the process created in this section if the department determines that the scale of the project raises concerns regarding public health and safety; and

(b) A fish habitat enhancement project must be approved in one of the following ways:

(i) By the department pursuant to chapter 77.95 or 77.100 RCW;

(ii) By the sponsor of a watershed restoration plan as provided in chapter 89.08 RCW;

(iii) By the department as a department-sponsored fish habitat enhancement or restoration project;

(iv) Through the review and approval process for the jobs for the environment program;

(v) Through the review and approval process for conservation district-sponsored projects, where the project complies with design standards established by the conservation commission through interagency agreement with the United States fish and wildlife service and the natural resource conservation service;

(vi) Through a formal grant program established by the legislature or the department for fish habitat enhancement or restoration; and

(vii) Through other formal review and approval processes established by the legislature.

(2) Fish habitat enhancement projects meeting the criteria of subsection (1) of this section are expected to result in beneficial impacts to the environment. Decisions pertaining to fish habitat enhancement projects meeting the criteria of subsection (1) of this section and being reviewed and approved according to the provisions of this section are not subject to the requirements of RCW 43.21C.030(2)(c).

(3)(a) A permit is required for projects that meet the criteria of subsection (1) of this section and are being reviewed and approved under this section. An applicant shall use a joint aquatic resource permit application form developed by the office of regulatory assistance to apply for approval under this chapter. On the same day, the applicant shall provide copies of the completed application form to the department and to each appropriate local government. Local governments shall accept the application as notice of the proposed project. The department shall provide a fifteen-day comment period during which it will receive comments regarding environmental impacts. Within forty-five days, the department shall either issue a permit, with or without conditions, deny approval, or make a determination that the review and approval process created by this section is not appropriate for the proposed project. The department shall base this determination on identification during the comment period of adverse impacts that cannot be mitigated by the conditioning of a permit. If the

department determines that the review and approval process created by this section is not appropriate for the proposed project, the department shall notify the applicant and the appropriate local governments of its determination. The applicant may reapply for approval of the project under other review and approval processes.

(b) Any person aggrieved by the approval, denial, conditioning, or modification of a permit under this section may ~~((formally))~~ appeal the decision ~~((to the board pursuant to the provisions of this chapter))~~ as provided in RCW 77.55.021(4).

(4) No local government may require permits or charge fees for fish habitat enhancement projects that meet the criteria of subsection (1) of this section and that are reviewed and approved according to the provisions of this section.

**Sec. 30.** RCW 77.55.241 and 2005 c 146 s 602 are each amended to read as follows:

(1) The legislature finds that the construction of hydraulic projects may require mitigation for the protection of fish life, and that the mitigation may be most cost-effective and provide the most benefit to the fish resource if the mitigation is allowed to be applied in locations that are off-site of the hydraulic project location. The department may approve off-site mitigation plans that are submitted by permit applicants.

(2) If a permit applicant proposes off-site mitigation and the department does not approve the permit or conditions the permit in such a manner as to render off-site mitigation unpracticable, the project proponent ~~((must be given the opportunity to submit the permit application to the board for approval))~~ may appeal the decision as provided in RCW 77.55.021(4).

**Sec. 31.** RCW 77.55.291 and 2005 c 146 s 701 are each amended to read as follows:

(1) The department may levy civil penalties of up to one hundred dollars per day for violation of any provisions of RCW 77.55.021. The penalty provided shall be imposed by notice in writing, either by certified mail or personal service to the person incurring the penalty, from the director or the director's designee describing the violation.

~~(2)(a) Except as provided in (b) of this subsection, any person incurring any penalty under this chapter may appeal the same under chapter 34.05 RCW to the ((director)) board. Appeals shall be filed within thirty days from the date of receipt of ((notice imposing any)) the penalty in accordance with RCW 43.21B.230.~~

(b) Issuance of a civil penalty may be informally appealed to the department within thirty days from the date of receipt of the penalty. Requests for informal appeal must be filed in the form and manner prescribed by the department by rule. A civil penalty that has been informally appealed to the department is appealable to the board within thirty days from the date of receipt of the department's decision on the informal appeal.

(3) The penalty imposed shall become due and payable thirty days after receipt of a notice imposing the penalty unless an appeal is filed. Whenever an appeal of any penalty incurred under this chapter is filed, the penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final order confirming the penalty in whole or in part.

(4) If the amount of any penalty is not paid within thirty days after it becomes due and payable, the attorney general, upon the request of the director, shall bring an action in the name of the state of Washington in the superior court of Thurston county or of any county in which such violator may do business, to recover such penalty. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action. All penalties recovered under this section shall be paid into the state's general fund.

**Sec. 32.** RCW 78.44.270 and 1993 c 518 s 35 are each amended to read as follows:

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((Appeals from)) Department determinations under this chapter ((shall be made as follows:

Appeals from department determinations made under this chapter shall be made under the provisions of the Administrative Procedure Act (chapter 34.05 RCW), and shall be considered an adjudicative proceeding within the meaning of the Administrative Procedure Act, chapter 34.05 RCW)) may be appealed to the pollution control hearings board as provided in RCW 43.21B.230. Only a person aggrieved within the meaning of RCW 34.05.530 has standing and can file an appeal.

**Sec. 33.** RCW 78.44.380 and 2007 c 192 s 3 are each amended to read as follows:

(1) The department may issue an order to stop all surface mining to any permit holder, miner, or other person who authorizes, directs, or conducts such activities without a valid surface mine reclamation permit. This order is effective upon issuance unless otherwise stated in the order. Administrative appeal of the order to stop work does not stay the stop work requirement. The department shall notify the local jurisdiction of record when a stop work order has been issued for operating without a valid reclamation permit.

(2) The department may issue an order to stop surface mining occurring outside of any permit area to a permit holder that does not have a legal right to occupy the affected area. This order is effective upon issuance unless otherwise stated in the order. An administrative appeal of the order to stop work does not stay the stop work requirement.

(3) Where a permit holder is conducting surface mining activities outside of its permit boundary, but within land that it has the right to occupy, the department may issue an order to stop surface mining or mining-related activities occurring outside of the authorized area after the permit holder fails to comply with a notice of correction. The notice of correction must specify the corrections necessary as per the violation and provide a reasonable time to do so. This order is effective upon issuance unless otherwise stated in the order. An administrative appeal of the order to stop work does not stay the stop work requirement.

(4) Stop work orders must be in writing, delivered by United States certified mail with return receipt requested, facsimile, or by hand to the permit holder of record. The order must state the facts supporting the violation, the law being violated, and the specific activities being stopped. Stop work orders must be signed by the state geologist or an assistant state geologist. The ((department)) pollution control hearings board shall proceed as quickly as feasible to complete any requested adjudicative proceedings unless the parties stipulate to an appeal timeline or the department's stop work order states that it is not effective until after the administrative review process. If the recipient appeals the order, the recipient may file a motion for stay with the presiding officer, which will be reviewed under ((preliminary injunction standards)) RCW 43.21B.320.

**Sec. 34.** RCW 79.100.120 and 2006 c 153 s 5 are each amended to read as follows:

(1) A person seeking to contest an authorized public entity's decision to take temporary possession or custody of a vessel under this chapter, or to contest the amount of reimbursement owed to an authorized public entity under this chapter, may request a hearing in accordance with this section.

(2)(a) If the contested decision or action was undertaken by a state agency, a written request for a hearing related to the decision or action must be filed with the ((aquatic resources division of the department)) pollution control hearings board and served on the state agency in accordance with RCW 43.21B.230 (2) and (3) within ((twenty)) thirty days of the date the authorized public entity acquires custody of the vessel under RCW 79.100.040, or if the vessel is redeemed before the authorized public entity acquires

custody, the date of redemption, or the right to a hearing is deemed waived and the vessel's owner is liable for any costs owed the authorized public entity. In the event of litigation, the prevailing party is entitled to reasonable attorneys' fees and costs.

(b) Upon receipt of a timely hearing request, the ((department)) pollution control hearings board shall proceed to hear and determine the validity of the decision to take the vessel into temporary possession or custody and the reasonableness of any towing, storage, or other charges permitted under this chapter. Within five business days after the request for a hearing is filed, the ((department)) pollution control hearings board shall notify the vessel owner requesting the hearing and the authorized public entity of the date, time, and location for the hearing. Unless the vessel is redeemed before the request for hearing is filed, the ((department)) pollution control hearings board shall set the hearing on a date that is within ten business days of the filing of the request for hearing. If the vessel is redeemed before the request for a hearing is filed, the ((department)) pollution control hearings board shall set the hearing on a date that is within sixty days of the filing of the request for hearing. A proceeding brought under this subsection may be heard by one member of the pollution control hearings board, whose decision is the final decision of the board.

(3)(a) If the contested decision or action was undertaken by a metropolitan park district, port district, city, town, or county, which has adopted rules or procedures for contesting decisions or actions pertaining to derelict or abandoned vessels, those rules or procedures must be followed in order to contest a decision to take temporary possession or custody of a vessel, or to contest the amount of reimbursement owed.

(b) If the metropolitan park district, port district, city, town, or county has not adopted rules or procedures for contesting decisions or actions pertaining to derelict or abandoned vessels, then a person requesting a hearing under this section must follow the procedure established in RCW 53.08.320(5) for contesting the decisions or actions of moorage facility operators.

**Sec. 35.** RCW 84.33.0775 and 1999 sp.s. c 5 s 1 are each amended to read as follows:

(1) A taxpayer is allowed a credit against the tax imposed under RCW 84.33.041 for timber harvested on and after January 1, 2000, under a forest practices notification filed or application approved under RCW 76.09.050 and subject to enhanced aquatic resources requirements.

(2)(a) For a person other than a small harvester who elects to calculate tax under RCW 84.33.074, the credit is equal to the stumpage value of timber harvested for sale or for commercial or industrial use multiplied by eight-tenths of one percent.

(b) For a small harvester who elects to calculate tax under RCW 84.33.074, the credit is equal to sixteen percent of the tax imposed under this chapter.

(c) The amount of credit claimed by a taxpayer under this section shall be reduced by the amount of any compensation received from the federal government for reduced timber harvest due to enhanced aquatic resource requirements. If the amount of compensation from the federal government exceeds the amount of credit available to a taxpayer in any reporting period, the excess shall be carried forward and applied against credits in future reporting periods. This subsection does not apply to small harvesters as defined in RCW 84.33.073.

(d) Refunds may not be given in place of credits. Credit may not be claimed in excess of tax owed. The department of revenue shall disallow any credits, used or unused, upon written notification from the department of natural resources of a final decision that timber for which credit was claimed was not harvested under a forest practices notification filed or application approved under

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RCW 76.09.050 and subject to enhanced aquatic resources requirements.

(3) As used in this section, a forest (~~(practices)~~) practices notification or application is subject to enhanced aquatic resource requirements if it includes, in whole or in part, riparian area, wetland, or steep or unstable slope from which the operator is limited, by rule adopted under RCW 76.09.055, 34.05.090, 43.21C.250, and 76.09.370, or any federally approved habitat conservation plan or department of natural resources approved watershed analysis, from harvesting timber, or if a road is included within or adjacent to the area covered by such notification or application and the road is covered by a road maintenance plan approved by the department of natural resources under rules adopted under chapter 76.09 RCW, the forest practices act, or a federally approved habitat conservation plan.

(4) For forest practices notification or applications submitted after January 1, 2000, the department of natural resources shall indicate whether the notification or application is subject to enhanced aquatic resource requirements and, unless notified of a contrary determination by the (~~(forest practices appeals board)~~) pollution control hearings board, the department of revenue shall use such indication in determining the credit to be allowed against the tax assessed under RCW 84.33.041. The department of natural resources shall develop revisions to the form of the forest practices notifications and applications to provide a space for the applicant to indicate and the department of natural resources to confirm or not confirm, whether the notification or application is subject to enhanced aquatic resource requirements. For forest practices notifications or applications submitted before January 1, 2000, the applicant may submit the approved notification or application to the department of natural resources for confirmation that the notification or application is subject to enhanced aquatic resource requirements. Upon any such submission, the department of natural resources will within thirty days confirm or deny that the notification or application is subject to enhanced aquatic resource requirements and will forward separate evidence of each confirmation to the department of revenue. Unless notified of a contrary ruling by the (~~(forest practices appeals board)~~) pollution control hearings board, the department of revenue shall use the separate confirmations in determining the credit to be allowed against the tax assessed under RCW 84.33.041.

(5) A refusal by the department of natural resources to confirm that a notification or application is subject to enhanced aquatic resources requirements may be appealed to the (~~(forest practices appeals board under RCW 76.09.220)~~) pollution control hearings board.

(6) A person receiving approval of credit must keep records necessary for the department of revenue to verify eligibility under this section.

**Sec. 36.** RCW 90.58.140 and 1995 c 347 s 309 are each amended to read as follows:

(1) A development shall not be undertaken on the shorelines of the state unless it is consistent with the policy of this chapter and, after adoption or approval, as appropriate, the applicable guidelines, rules, or master program.

(2) A substantial development shall not be undertaken on shorelines of the state without first obtaining a permit from the government entity having administrative jurisdiction under this chapter.

A permit shall be granted:

(a) From June 1, 1971, until such time as an applicable master program has become effective, only when the development proposed is consistent with: (i) The policy of RCW 90.58.020; and (ii) after their adoption, the guidelines and rules of the department;

and (iii) so far as can be ascertained, the master program being developed for the area;

(b) After adoption or approval, as appropriate, by the department of an applicable master program, only when the development proposed is consistent with the applicable master program and this chapter.

(3) The local government shall establish a program, consistent with rules adopted by the department, for the administration and enforcement of the permit system provided in this section. The administration of the system so established shall be performed exclusively by the local government.

(4) Except as otherwise specifically provided in subsection (11) of this section, the local government shall require notification of the public of all applications for permits governed by any permit system established pursuant to subsection (3) of this section by ensuring that notice of the application is given by at least one of the following methods:

(a) Mailing of the notice to the latest recorded real property owners as shown by the records of the county assessor within at least three hundred feet of the boundary of the property upon which the substantial development is proposed;

(b) Posting of the notice in a conspicuous manner on the property upon which the project is to be constructed; or

(c) Any other manner deemed appropriate by local authorities to accomplish the objectives of reasonable notice to adjacent landowners and the public.

The notices shall include a statement that any person desiring to submit written comments concerning an application, or desiring to receive notification of the final decision concerning an application as expeditiously as possible after the issuance of the decision, may submit the comments or requests for decisions to the local government within thirty days of the last date the notice is to be published pursuant to this subsection. The local government shall forward, in a timely manner following the issuance of a decision, a copy of the decision to each person who submits a request for the decision.

If a hearing is to be held on an application, notices of such a hearing shall include a statement that any person may submit oral or written comments on an application at the hearing.

(5) The system shall include provisions to assure that construction pursuant to a permit will not begin or be authorized until twenty-one days from the date (~~(the permit decision was filed)~~) of receipt as provided in subsection (6) of this section; or until all review proceedings are terminated if the proceedings were initiated within twenty-one days from the date of (~~(filing)~~) receipt as defined in subsection (6) of this section except as follows:

(a) In the case of any permit issued to the state of Washington, department of transportation, for the construction and modification of SR 90 (I-90) on or adjacent to Lake Washington, the construction may begin after thirty days from the date of filing, and the permits are valid until December 31, 1995;

(b) Construction may be commenced no sooner than thirty days after the date of the appeal of the board's decision is filed if a permit is granted by the local government and (i) the granting of the permit is appealed to the shorelines hearings board within twenty-one days of the date of (~~(filing)~~) receipt, (ii) the hearings board approves the granting of the permit by the local government or approves a portion of the substantial development for which the local government issued the permit, and (iii) an appeal for judicial review of the hearings board decision is filed pursuant to chapter 34.05 RCW. The appellant may request, within ten days of the filing of the appeal with the court, a hearing before the court to determine whether construction pursuant to the permit approved by the hearings board or to a revised permit issued pursuant to the order of the hearings board should not commence. If, at the conclusion of the hearing,

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the court finds that construction pursuant to such a permit would involve a significant, irreversible damaging of the environment, the court shall prohibit the permittee from commencing the construction pursuant to the approved or revised permit until all review proceedings are final. Construction pursuant to a permit revised at the direction of the hearings board may begin only on that portion of the substantial development for which the local government had originally issued the permit, and construction pursuant to such a revised permit on other portions of the substantial development may not begin until after all review proceedings are terminated. In such a hearing before the court, the burden of proving whether the construction may involve significant irreversible damage to the environment and demonstrating whether such construction would or would not be appropriate is on the appellant;

(c) If the permit is for a substantial development meeting the requirements of subsection (11) of this section, construction pursuant to that permit may not begin or be authorized until twenty-one days from the date ~~((the permit decision was filed))~~ of receipt as provided in subsection (6) of this section.

If a permittee begins construction pursuant to subsections (a), (b), or (c) of this subsection, the construction is begun at the permittee's own risk. If, as a result of judicial review, the courts order the removal of any portion of the construction or the restoration of any portion of the environment involved or require the alteration of any portion of a substantial development constructed pursuant to a permit, the permittee is barred from recovering damages or costs involved in adhering to such requirements from the local government that granted the permit, the hearings board, or any appellant or intervener.

(6) Any decision on an application for a permit under the authority of this section, whether it is an approval or a denial, shall, concurrently with the transmittal of the ruling to the applicant, be ~~((filed with))~~ transmitted to the department and the attorney general. A petition for review of such a decision must be commenced within twenty-one days from the date of receipt of the decision. With regard to a permit other than a permit governed by subsection (10) of this section, "date of ~~((filing))~~ receipt" as used herein ~~((means))~~ refers to the date ~~((of actual receipt by the department))~~ that the applicant receives written notice from the department that the department has received the decision. With regard to a permit for a variance or a conditional use, "date of ~~((filing))~~ receipt" means the date a local government or applicant receives the written decision of the department rendered on the permit pursuant to subsection (10) of this section ~~((is transmitted by the department to the local government. The department shall notify in writing the local government and the applicant of the date of filing)).~~ For the purposes of this subsection, the term "date of receipt" has the same meaning as provided in RCW 43.21B.001.

(7) Applicants for permits under this section have the burden of proving that a proposed substantial development is consistent with the criteria that must be met before a permit is granted. In any review of the granting or denial of an application for a permit as provided in RCW 90.58.180 (1) and (2), the person requesting the review has the burden of proof.

(8) Any permit may, after a hearing with adequate notice to the permittee and the public, be rescinded by the issuing authority upon the finding that a permittee has not complied with conditions of a permit. If the department is of the opinion that noncompliance exists, the department shall provide written notice to the local government and the permittee. If the department is of the opinion that the noncompliance continues to exist thirty days after the date of the notice, and the local government has taken no action to rescind the permit, the department may petition the hearings board for a rescission of the permit upon written notice of the petition to the local government and the permittee if the request by the department

is made to the hearings board within fifteen days of the termination of the thirty-day notice to the local government.

(9) The holder of a certification from the governor pursuant to chapter 80.50 RCW shall not be required to obtain a permit under this section.

(10) Any permit for a variance or a conditional use by local government under approved master programs must be submitted to the department for its approval or disapproval.

(11)(a) An application for a substantial development permit for a limited utility extension or for the construction of a bulkhead or other measures to protect a single family residence and its appurtenant structures from shoreline erosion shall be subject to the following procedures:

(i) The public comment period under subsection (4) of this section shall be twenty days. The notice provided under subsection (4) of this section shall state the manner in which the public may obtain a copy of the local government decision on the application no later than two days following its issuance;

(ii) The local government shall issue its decision to grant or deny the permit within twenty-one days of the last day of the comment period specified in (i) of this subsection; and

(iii) If there is an appeal of the decision to grant or deny the permit to the local government legislative authority, the appeal shall be finally determined by the legislative authority within thirty days.

(b) For purposes of this section, a limited utility extension means the extension of a utility service that:

(i) Is categorically exempt under chapter 43.21C RCW for one or more of the following: Natural gas, electricity, telephone, water, or sewer;

(ii) Will serve an existing use in compliance with this chapter; and

(iii) Will not extend more than twenty-five hundred linear feet within the shorelines of the state.

**Sec. 37.** RCW 90.58.180 and 2003 c 393 s 22 are each amended to read as follows:

(1) Any person aggrieved by the granting, denying, or rescinding of a permit on shorelines of the state pursuant to RCW 90.58.140 may, except as otherwise provided in chapter 43.21L RCW, seek review from the shorelines hearings board by filing a petition for review within twenty-one days of the date of ~~((filing))~~ receipt of the decision as ~~((defined))~~ provided in RCW 90.58.140(6).

Within seven days of the filing of any petition for review with the board as provided in this section pertaining to a final decision of a local government, the petitioner shall serve copies of the petition on the department, the office of the attorney general, and the local government. The department and the attorney general may intervene to protect the public interest and ~~((insure))~~ ensure that the provisions of this chapter are complied with at any time within fifteen days from the date of the receipt by the department or the attorney general of a copy of the petition for review filed pursuant to this section. The shorelines hearings board shall schedule review proceedings on the petition for review without regard as to whether the period for the department or the attorney general to intervene has or has not expired.

(2) The department or the attorney general may obtain review of any final decision granting a permit, or granting or denying an application for a permit issued by a local government by filing a written petition with the shorelines hearings board and the appropriate local government within twenty-one days from the date ~~((the final decision was filed))~~ of receipt as provided in RCW 90.58.140(6).

(3) The review proceedings authorized in subsections (1) and (2) of this section are subject to the provisions of chapter 34.05 RCW pertaining to procedures in adjudicative proceedings.

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Judicial review of such proceedings of the shorelines hearings board is governed by chapter 34.05 RCW. The board shall issue its decision on the appeal authorized under subsections (1) and (2) of this section within one hundred eighty days after the date the petition is filed with the board or a petition to intervene is filed by the department or the attorney general, whichever is later. The time period may be extended by the board for a period of thirty days upon a showing of good cause or may be waived by the parties.

(4) Any person may appeal any rules, regulations, or guidelines adopted or approved by the department within thirty days of the date of the adoption or approval. The board shall make a final decision within sixty days following the hearing held thereon.

(5) The board shall find the rule, regulation, or guideline to be valid and enter a final decision to that effect unless it determines that the rule, regulation, or guideline:

- (a) Is clearly erroneous in light of the policy of this chapter; or
- (b) Constitutes an implementation of this chapter in violation of constitutional or statutory provisions; or
- (c) Is arbitrary and capricious; or
- (d) Was developed without fully considering and evaluating all material submitted to the department during public review and comment; or
- (e) Was not adopted in accordance with required procedures.

(6) If the board makes a determination under subsection (5)(a) through (e) of this section, it shall enter a final decision declaring the rule, regulation, or guideline invalid, remanding the rule, regulation, or guideline to the department with a statement of the reasons in support of the determination, and directing the department to adopt, after a thorough consultation with the affected local government and any other interested party, a new rule, regulation, or guideline consistent with the board's decision.

(7) A decision of the board on the validity of a rule, regulation, or guideline shall be subject to review in superior court, if authorized pursuant to chapter 34.05 RCW. A petition for review of the decision of the shorelines hearings board on a rule, regulation, or guideline shall be filed within thirty days after the date of final decision by the shorelines hearings board.

**Sec. 38.** RCW 90.58.190 and 2003 c 321 s 4 are each amended to read as follows:

(1) The appeal of the department's decision to adopt a master program or amendment pursuant to RCW 90.58.070(2) or 90.58.090(5) is governed by RCW 34.05.510 through 34.05.598.

(2)(a) The department's final decision to approve(☺) or reject(☹ or ~~modify~~) a proposed master program or master program amendment (~~adopted~~) by a local government planning under RCW 36.70A.040 shall be appealed to the growth management hearings board (~~with jurisdiction over the local government. The appeal shall be initiated~~) by filing a petition within sixty days from the date of the department's written notice to the local government of the department's final decision to approve or reject a proposed master program or master program amendment, as provided in RCW (~~36.70A.250 through 36.70A.320~~) 36.70A.290. The department's written notice must conspicuously and plainly state that it is the department's final decision and that there will be no further modifications under RCW 90.58.090(2).

(b) If the appeal to the growth management hearings board concerns shorelines, the growth management hearings board shall review the proposed master program or amendment solely for compliance with the requirements of this chapter, the policy of RCW 90.58.020 and the applicable guidelines, the internal consistency provisions of RCW 36.70A.070, 36.70A.040(4), 35.63.125, and 35A.63.105, and chapter 43.21C RCW as it relates to the adoption of master programs and amendments under chapter 90.58 RCW.

(c) If the appeal to the growth management hearings board concerns a shoreline of statewide significance, the board shall uphold the decision by the department unless the board, by clear and convincing evidence, determines that the decision of the department is inconsistent with the policy of RCW 90.58.020 and the applicable guidelines.

(d) The appellant has the burden of proof in all appeals to the growth management hearings board under this subsection.

(e) Any party aggrieved by a final decision of a growth management hearings board under this subsection may appeal the decision to superior court as provided in RCW 36.70A.300.

(3)(a) The department's final decision to approve(☺) or reject(☹ or ~~modify~~) a proposed master program or master program amendment by a local government not planning under RCW 36.70A.040 shall be appealed to the shorelines hearings board by filing a petition within thirty days of the date of the department's written notice to the local government of the department's final decision to approve(☺) or reject(☹ or ~~modify~~) a proposed master program or master program amendment (~~as provided in RCW 90.58.090(2)~~). The department's written notice must conspicuously and plainly state that it is the department's final decision and that there will be no further modifications under RCW 90.58.090(2).

(b) In an appeal relating to shorelines, the shorelines hearings board shall review the proposed master program or master program amendment and, after full consideration of the presentations of the local government and the department, shall determine the validity of the local government's master program or amendment in light of the policy of RCW 90.58.020 and the applicable guidelines.

(c) In an appeal relating to shorelines of statewide significance, the shorelines hearings board shall uphold the decision by the department unless the board determines, by clear and convincing evidence that the decision of the department is inconsistent with the policy of RCW 90.58.020 and the applicable guidelines.

(d) Review by the shorelines hearings board shall be considered an adjudicative proceeding under chapter 34.05 RCW, the administrative procedure act. The aggrieved local government shall have the burden of proof in all such reviews.

(e) Whenever possible, the review by the shorelines hearings board shall be heard within the county where the land subject to the proposed master program or master program amendment is primarily located. The department and any local government aggrieved by a final decision of the hearings board may appeal the decision to superior court as provided in chapter 34.05 RCW.

(4) A master program amendment shall become effective after the approval of the department or after the decision of the shorelines hearings board to uphold the master program or master program amendment, provided that the board may remand the master program or master program adjustment to the local government or the department for modification prior to the final adoption of the master program or master program amendment.

**Sec. 39.** RCW 90.58.210 and 1995 c 403 s 637 are each amended to read as follows:

(1) Except as provided in RCW 43.05.060 through 43.05.080 and 43.05.150, the attorney general or the attorney for the local government shall bring such injunctive, declaratory, or other actions as are necessary to (~~insure~~) ensure that no uses are made of the shorelines of the state in conflict with the provisions and programs of this chapter, and to otherwise enforce the provisions of this chapter.

(2) Any person who shall fail to conform to the terms of a permit issued under this chapter or who shall undertake development on the shorelines of the state without first obtaining any permit required under this chapter shall also be subject to a civil penalty not to exceed one thousand dollars for each violation. Each

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permit violation or each day of continued development without a required permit shall constitute a separate violation.

(3) The penalty provided for in this section shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the department or local government, describing the violation with reasonable particularity and ordering the act or acts constituting the violation or violations to cease and desist or, in appropriate cases, requiring necessary corrective action to be taken within a specific and reasonable time.

(4) (Within thirty days after the notice is received, the person incurring the penalty may apply in writing to the department for remission or mitigation of such penalty. Upon receipt of the application, the department or local government may remit or mitigate the penalty upon whatever terms the department or local government in its discretion deems proper. ) The person incurring the penalty may appeal within thirty days from the date of receipt of the penalty. The term "date of receipt" has the same meaning as provided in RCW 43.21B.001. Any penalty imposed pursuant to this section by the department shall be subject to review by the shorelines hearings board. Any penalty imposed pursuant to this section by local government shall be subject to review by the local government legislative authority. Any penalty jointly imposed by the department and local government shall be appealed to the shorelines hearings board.

**Sec. 40.** RCW 90.58.560 and 1995 c 403 s 638 are each amended to read as follows:

(1) Except as provided in RCW 43.05.060 through 43.05.080 and 43.05.150, a person who violates RCW 90.58.550, or any rule adopted thereunder, is subject to a penalty in an amount of up to five thousand dollars a day for every such violation. Each and every such violation shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance shall be and be deemed to be a separate and distinct violation. Every act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the penalty provided for in this section.

(2) The penalty shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the director or the director's representative describing such violation with reasonable particularity. ~~((The director or the director's representative may, upon written application therefor received within fifteen days after notice imposing any penalty is received by the person incurring the penalty, and when deemed to carry out the purposes of this chapter, remit or mitigate any penalty provided for in this section upon such terms as he or she deems proper, and shall have authority to ascertain the facts upon all such applications in such manner and under such regulations as he or she may deem proper.))~~

(3) Any person incurring any penalty under this section may appeal the penalty to the hearings board as provided for in chapter 43.21B RCW. Such appeals shall be filed within thirty days from the date of receipt of ((notice imposing any)) the penalty ((unless an application for remission or mitigation is made to the department. When an application for remission or mitigation is made, such appeals shall be filed within thirty days of receipt of notice from the director or the director's representative setting forth the disposition of the application)). Any penalty imposed under this section shall become due and payable thirty days after receipt of a notice imposing the same unless ~~((application for remission or mitigation is made or))~~ an appeal is filed. ~~((When an application for remission or mitigation is made, any penalty incurred hereunder shall become due and payable thirty days after receipt of notice setting forth the disposition of the application unless an appeal is filed from such disposition.))~~ Whenever an appeal of any penalty incurred under

this section is filed, the penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final order confirming the penalty in whole or in part.

(4) If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the attorney general, upon the request of the director, shall bring an action in the name of the state of Washington in the superior court of Thurston county or of any county in which such violator may do business, to recover such penalty. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise provided in this chapter ~~((provided))~~. All penalties recovered under this section shall be paid into the state treasury and credited to the general fund.

NEW SECTION. Sec. 41. The following acts or parts of acts are each repealed:

(1) RCW 43.21B.190 (Judicial review--Appeal from board's order) and 2004 c 204 s 2, 1995 c 382 s 4, 1994 c 253 s 7, 1988 c 202 s 43, & 1970 ex.s. c 62 s 49;

(2) RCW 76.09.210 (Forest practices appeals board--Created--Membership--Terms--Vacancies--Removal) and 1979 ex.s. c 47 s 4 & 1974 ex.s. c 137 s 21;

(3) RCW 76.09.220 (Forest practices appeals board--Compensation--Travel expenses--Chair--Office--Quorum--Powers and duties--Jurisdiction--Review) and 2007 c 480 s 8, 2003 c 393 s 20, 1999 sp.s. c 4 s 902, & 1999 c 90 s 1;

(4) RCW 76.09.230 (Forest practices appeals board--Mediation-- Appeal procedure--Judicial review) and 1994 c 253 s 9, 1992 c 52 s 23, 1989 c 175 s 165, & 1974 ex.s. c 137 s 23;

(5) RCW 77.55.301 (Hydraulic appeals board--Members--Jurisdiction-- Procedures) and 2005 c 146 s 801, 2003 c 393 s 21, 2000 c 107 s 20, 1996 c 276 s 2, 1993 sp.s. c 2 s 37, 1989 c 175 s 160, 1988 c 272 s 3, 1988 c 36 s 37, & 1986 c 173 s 4; and

(6) RCW 77.55.311 (Hydraulic appeals board--Procedures) and 2005 c 146 s 802, 1995 c 382 s 7, 1989 c 175 s 161, & 1986 c 173 s 5.

NEW SECTION. Sec. 42. (1) This act applies prospectively only and not retroactively. It applies only to appeals that are commenced on or after the effective date of this section. The repeals in section 41 of this act do not affect any existing right acquired or liability or obligation incurred under the statutes repealed or under any rule or order adopted under those statutes nor do they affect any proceeding instituted under them.

(2) All pending cases before the forest practices appeals board and the hydraulics appeals board shall be continued and acted upon by those boards. All existing rules of the forest practices appeals board shall remain in effect and be used by the pollution control hearings board until the pollution control hearings board adopts superceding rules for forest practices appeals.

NEW SECTION. Sec. 43. A new section is added to chapter 36.70A RCW to read as follows:

(1) The powers, duties, and functions of the growth management hearings board are hereby transferred to the environmental and land use hearings office.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the growth management hearings board shall be delivered to the custody of the environmental and land use hearings office. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the growth management hearings board shall be made available to the environmental and land use hearings office. All funds, credits, or other assets held by the growth management hearings board shall be assigned to the environmental and land use hearings office.

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(b) Any appropriations made to the growth management hearings board shall, on the effective date of this section, be transferred and credited to the environmental and land use hearings office.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the growth management hearings board are transferred to the jurisdiction of the environmental and land use hearings office. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the environmental and land use hearings office to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All existing rules and all pending cases before the growth management hearings board shall be continued and acted upon by the growth management hearings board located within the environmental and land use hearings office. All pending business, existing contracts, and obligations shall remain in full force and shall be performed by the environmental and land use hearings office.

(5) The transfer of the powers, duties, functions, and personnel of the growth management hearings board shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

**NEW SECTION. Sec. 44.** (1) Sections 1, 3, 5, 7, 9 through 14, and 16 through 42 of this act take effect July 1, 2010.

(2) Sections 2, 4, 6, 15, 43, and 46 of this act take effect July 1, 2011. The chief executive officer of the environmental hearings office may take the necessary steps to ensure that these sections are implemented on their effective date.

(3) Section 8 of this act takes effect June 30, 2019.

**NEW SECTION. Sec. 45.** (1) Sections 3 and 5 of this act expire July 1, 2011.

(2) Section 7 of this act expires June 30, 2019.

**NEW SECTION. Sec. 46.** The following acts or parts of acts are each repealed:

(1) RCW 43.21L.005 (Purpose) and 2003 c 393 s 1;

(2) RCW 43.21L.010 (Definitions) and 2003 c 393 s 2;

(3) RCW 43.21L.020 (Exclusive review process--Exception--Procedural rules) and 2003 c 393 s 3;

(4) RCW 43.21L.030 (Designation as qualifying project--Request for determination--Duties of office of permit assistance) and 2003 c 393 s 4;

(5) RCW 43.21L.040 (Environmental and land use hearings board) and 2003 c 393 s 5;

(6) RCW 43.21L.050 (Review proceedings--Commencement--Rules for filing and service) and 2003 c 393 s 6;

(7) RCW 43.21L.060 (Standing) and 2003 c 393 s 7;

(8) RCW 43.21L.070 (Petition requirements) and 2003 c 393 s 8;

(9) RCW 43.21L.080 (Affidavit certifying applications for permits-- Initial hearing on jurisdictional and preliminary matters) and 2003 c 393 s 9;

(10) RCW 43.21L.090 (Expedited review of petitions) and 2003 c 393 s 10;

(11) RCW 43.21L.100 (Stay or suspension of board action) and 2003 c 393 s 11;

(12) RCW 43.21L.110 (Decision record--Certified copy to board-- Costs) and 2003 c 393 s 12;

(13) RCW 43.21L.120 (Board review of permit decisions--Correction of errors and omissions--Pretrial discovery--Requests for records under chapter 42.56 RCW) and 2005 c 274 s 295 & 2003 c 393 s 13;

(14) RCW 43.21L.130 (Standards for granting relief--Action by board) and 2003 c 393 s 14;

(15) RCW 43.21L.140 (Judicial review) and 2003 c 393 s 15;

(16) RCW 43.21L.900 (Implementation--2003 c 393) and 2003 c 393 s 24; and

(17) RCW 43.21L.901 (Effective date--2003 c 393) and 2003 c 393 s 25."

Senator Prentice spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Substitute House Bill No. 2935.

The motion by Senator Prentice carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "boards;" strike the remainder of the title and insert "amending RCW 43.21B.001, 43.21B.010, 43.21B.010, 43.21B.180, 43.21B.230, 43.21B.320, 36.70A.270, 70.95.094, 76.06.180, 76.09.050, 76.09.080, 76.09.090, 76.09.170, 76.09.310, 77.55.011, 77.55.021, 77.55.141, 77.55.181, 77.55.241, 77.55.291, 78.44.270, 78.44.380, 79.100.120, 84.33.0775, 90.58.140, 90.58.180, 90.58.190, 90.58.210, and 90.58.560; reenacting and amending RCW 43.21B.005, 43.21B.005, 43.21B.110, 43.21B.110, 43.21B.300, 43.21B.310, and 76.09.020; adding a new section to chapter 43.21B RCW; adding new sections to chapter 36.70A RCW; adding a new section to chapter 76.09 RCW; creating new sections; repealing RCW 43.21B.190, 76.09.210, 76.09.220, 76.09.230, 77.55.301, 77.55.311, 43.21L.005, 43.21L.010, 43.21L.020, 43.21L.030, 43.21L.040, 43.21L.050, 43.21L.060, 43.21L.070, 43.21L.080, 43.21L.090, 43.21L.100, 43.21L.110, 43.21L.120, 43.21L.130, 43.21L.140, 43.21L.900, and 43.21L.901; providing effective dates; and providing expiration dates."

#### MOTION

On motion of Senator Prentice, the rules were suspended, Substitute House Bill No. 2935 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2935 as amended by the Senate.

#### ROLL CALL

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The Secretary called the roll on the final passage of Substitute House Bill No. 2935 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Berkey and Honeyford

Excused: Senators McCaslin and Pflug

SUBSTITUTE HOUSE BILL NO. 2935 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6339, by Senators Hobbs and Pridemore

Concerning a sales and use tax exemption for wax and ceramic materials used to create molds for ferrous and nonferrous investment castings.

## MOTION

On motion of Senator Hobbs, Substitute Senate Bill No. 6339 was substituted for Senate Bill No. 6339 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hobbs, the rules were suspended, Substitute Senate Bill No. 6339 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6339.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6339 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 3; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Marr, McAuliffe, McDermott, Morton, Murray, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Kohl-Welles, Oemig and Rockefeller

Excused: Senators McCaslin and Pflug

SUBSTITUTE SENATE BILL NO. 6339, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6578, by Senators Swecker, Jacobsen, Kastama, Pflug, Becker and Fraser

Creating an optional multiagency permitting team. Revised for 2nd Substitute: Concerning the creation of optional multiagency permitting teams.

## MOTION

On motion of Senator Swecker, Second Substitute Senate Bill No. 6578 was substituted for Senate Bill No. 6578 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator Swecker, the rules were suspended, Second Substitute Senate Bill No. 6578 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Swecker and Rockefeller spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6578.

## ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6578 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators McCaslin and Pflug

SECOND SUBSTITUTE SENATE BILL NO. 6578, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6614, by Senators Pridemore, Zarelli, Morton, Delvin and Marr

Clarifying the applicability of business and occupation tax to conservation programs with the Bonneville power administration.

## MOTIONS

On motion of Senator Pridemore, Substitute Senate Bill No. 6614 was substituted for Senate Bill No. 6614 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Pridemore, the rules were suspended, Substitute Senate Bill No. 6614 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6614.

## ROLL CALL

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The Secretary called the roll on the final passage of Substitute Senate Bill No. 6614 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators McCaslin and Pflug

SUBSTITUTE SENATE BILL NO. 6614, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6833, by Senator Tom

Addressing the management of funds and accounts by the state treasurer.

The measure was read the second time.

#### MOTION

On motion of Senator Tom, the rules were suspended, Senate Bill No. 6833 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Tom and Haugen spoke in favor of passage of the bill.

Senator Zarelli spoke against passage of the bill.

#### POINT OF INQUIRY

Senator Benton: "Would Senator Tom yield to a question? Senator Tom, is there any provision in the bill or mechanism that will allow for the interest earned or the value returned on the gas tax portion of these funds to also be returned to transportation purposes?"

Senator Tom: "That is my understanding."

The President declared the question before the Senate to be the final passage of Senate Bill No. 6833.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6833 and the bill passed the Senate by the following vote: Yeas, 31; Nays, 16; Absent, 0; Excused, 2.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, Morton, Parlette, Roach, Schoesler, Stevens, Swecker and Zarelli

Excused: Senators McCaslin and Pflug

SENATE BILL NO. 6833, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6844, by Senator Prentice

Streamlining lottery accounts by transferring local accounts into the treasury custodial accounts, directing transfers of unclaimed prize money, and eliminating obsolete provisions.

#### MOTIONS

On motion of Senator Prentice, Substitute Senate Bill No. 6844 was substituted for Senate Bill No. 6844 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Prentice, the rules were suspended, Substitute Senate Bill No. 6844 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

Senator Zarelli spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6844.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6844 and the bill passed the Senate by the following vote: Yeas, 30; Nays, 17; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Swecker and Tom

Voting nay: Senators Becker, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, Jacobsen, Kastama, King, Morton, Parlette, Roach, Schoesler, Sheldon, Stevens and Zarelli

Excused: Senators McCaslin and Pflug

SUBSTITUTE SENATE BILL NO. 6844, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6609, by Senators Kastama, Delvin, Hobbs, Kilmer, Gordon, Kauffman and Shin

Concerning infrastructure financing for local governments.

#### MOTION

On motion of Senator Kastama, Second Substitute Senate Bill No. 6609 was substituted for Senate Bill No. 6609 and the second substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Kastama moved that the following striking amendment by Senators Kastama and Fraser be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 39.104.020 and 2009 c 270 s 102 are each amended to read as follows:

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The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Annual state contribution limit" means two million five hundred thousand dollars statewide per fiscal year ~~((and)), plus~~ the additional amounts ~~((designated))~~ approved for demonstration projects in RCW 82.14.505.

(2) "Assessed value" means the valuation of taxable real property as placed on the last completed assessment roll.

(3) "Bond" means a bond, a note or other evidence of indebtedness, including but not limited to a lease-purchase agreement or an executory conditional sales contract.

(4) "Department" means the department of revenue.

~~((4))~~ (5) "Fiscal year" means the twelve-month period beginning July 1st and ending the following June 30th.

~~((5))~~ (6) "Local government" means any city, town, county, and port district.

~~((6))~~ (7) "Local property tax allocation revenue" means those tax revenues derived from the receipt of regular property taxes levied on the property tax allocation revenue value and used for local revitalization financing.

~~((7))~~ (8) "Local revitalization financing" means the use of revenues from local public sources, dedicated to pay the principal and interest on bonds authorized under RCW 39.104.110 and public improvement costs within the revitalization area on a pay-as-you-go basis, and revenues received from the local option sales and use tax authorized in RCW 82.14.510, dedicated to pay the principal and interest on bonds authorized under RCW 39.104.110.

~~((8))~~ (9) "Local sales and use tax increment" means the estimated annual increase in local sales and use taxes as determined by the local government in the calendar years following the approval of the revitalization area by the department from taxable activity within the revitalization area.

~~((9))~~ (10) "Local sales and use taxes" means local revenues derived from the imposition of sales and use taxes authorized in RCW 82.14.030.

~~((10))~~ (11) "Ordinance" means any appropriate method of taking legislative action by a local government.

~~((11))~~ (12) "Participating local government" means a local government having a revitalization area within its geographic boundaries that has taken action as provided in RCW 39.104.070(1) to allow the use of all or some of its local sales and use tax increment or other revenues from local public sources dedicated for local revitalization financing.

~~((12))~~ (13) "Participating taxing district" means a ~~((local government having))~~ taxing district that:

(a) Has a revitalization area wholly or partially within its geographic boundaries ~~((that))~~;

(b) Levies or has levied for it regular property taxes as defined in this section; and

(c) Has not taken action as provided in RCW 39.104.060(2).

~~((13))~~ (14) "Property tax allocation revenue base value" means the assessed value of real property located within a revitalization area, less the property tax allocation revenue value.

~~((14))~~ (15)(a)(i) "Property tax allocation revenue value" means seventy-five percent of any increase in the assessed value of real property in a revitalization area resulting from:

(A) The placement of new construction, improvements to property, or both, on the assessment roll, where the new construction and improvements are initiated after the revitalization area is approved by the department;

(B) The cost of new housing construction, conversion, and rehabilitation improvements, when the cost is treated as new construction for purposes of chapter 84.55 RCW as provided in RCW 84.14.020, and the new housing construction, conversion, and

rehabilitation improvements are initiated after the revitalization area is approved by the department;

(C) The cost of rehabilitation of historic property, when the cost is treated as new construction for purposes of chapter 84.55 RCW as provided in RCW 84.26.070, and the rehabilitation is initiated after the revitalization area is approved by the department.

(ii) Increases in the assessed value of real property in a revitalization area resulting from (a)(i)(A) through (C) of this subsection are included in the property tax allocation revenue value in the initial year. These same amounts are also included in the property tax allocation revenue value in subsequent years unless the property becomes exempt from property taxation.

(b) "Property tax allocation revenue value" includes seventy-five percent of any increase in the assessed value of new construction consisting of an entire building in the years following the initial year, unless the building becomes exempt from property taxation.

(c) Except as provided in (b) of this subsection, "property tax allocation revenue value" does not include any increase in the assessed value of real property after the initial year.

(d) There is no property tax allocation revenue value if the assessed value of real property in a revitalization area has not increased as a result of any of the reasons specified in (a)(i)(A) through (C) of this subsection.

(e) For purposes of this subsection, "initial year" means:

(i) For new construction and improvements to property added to the assessment roll, the year during which the new construction and improvements are initially placed on the assessment roll;

(ii) For the cost of new housing construction, conversion, and rehabilitation improvements, when the cost is treated as new construction for purposes of chapter 84.55 RCW, the year when the cost is treated as new construction for purposes of levying taxes for collection in the following year; and

(iii) For the cost of rehabilitation of historic property, when the cost is treated as new construction for purposes of chapter 84.55 RCW, the year when such cost is treated as new construction for purposes of levying taxes for collection in the following year.

~~((15))~~ (16) "Public improvement costs" means the costs of:

(a) Design, planning, acquisition, including land acquisition, site preparation including land clearing, construction, reconstruction, rehabilitation, improvement, and installation of public improvements;

(b) Demolishing, relocating, maintaining, and operating property pending construction of public improvements;

(c) Relocating utilities as a result of public improvements;

(d) Financing public improvements, including interest during construction, legal and other professional services, taxes, insurance, principal and interest costs on general indebtedness issued to finance public improvements, and any necessary reserves for general indebtedness; and

(e) Administrative expenses and feasibility studies reasonably necessary and related to these costs, including related costs that may have been incurred before adoption of the ordinance authorizing the public improvements and the use of local revitalization financing to fund the costs of the public improvements.

~~((16))~~ (17) "Public improvements" means:

(a) Infrastructure improvements within the revitalization area that include:

(i) Street, road, bridge, and rail construction and maintenance;

(ii) Water and sewer system construction and improvements;

(iii) Sidewalks, streetlights, landscaping, and streetscaping;

(iv) Parking, terminal, and dock facilities;

(v) Park and ride facilities of a transit authority;

(vi) Park facilities, recreational areas, and environmental remediation;

(vii) Storm water and drainage management systems;

(viii) Electric, gas, fiber, and other utility infrastructures; and

(b) Expenditures for any of the following purposes:

(i) Providing environmental analysis, professional management, planning, and promotion within the revitalization area, including the management and promotion of retail trade activities in the revitalization area;

(ii) Providing maintenance and security for common or public areas in the revitalization area; or

(iii) Historic preservation activities authorized under RCW 35.21.395.

~~((47))~~ (18) "Real property" has the same meaning as in RCW 84.04.090 and also includes any privately owned improvements located on publicly owned land that are subject to property taxation.

~~((48))~~ (19)(a) "Regular property taxes" means regular property taxes as defined in RCW 84.04.140, except: ~~((49))~~ (i) Regular property taxes levied by public utility districts specifically for the purpose of making required payments of principal and interest on general indebtedness; ~~((50))~~ (ii) regular property taxes levied by the state for the support of common schools under RCW 84.52.065; and ~~((51))~~ (iii) regular property taxes authorized by RCW 84.55.050 that are limited to a specific purpose.

(b) "Regular property taxes" do not include:

(i) Excess property tax levies that are exempt from the aggregate limits for junior and senior taxing districts as provided in RCW 84.52.043; and

(ii) Property taxes that are specifically excluded through an interlocal agreement between the sponsoring local government and a participating taxing district as set forth in RCW 39.104.060(3).

~~((49))~~ (20)(a) "Revenues from local public sources" means:

(i) The local sales and use tax amounts received as a result of interlocal agreement, local sales and use tax amounts from sponsoring local governments based on its local sales and use tax increment, and local property tax allocation revenues, which are dedicated by a sponsoring local government, participating local governments, and participating taxing districts, for payment of bonds under RCW 39.104.110 or public improvement costs within the revitalization area on a pay-as-you-go basis; and

(ii) Any other local revenues, except as provided in (b) of this subsection, including revenues derived from federal and private sources and amounts received by taxing districts as set forth by an interlocal agreement as described in RCW 39.104.060(4), which are dedicated for the payment of bonds under RCW 39.104.110 or public improvement costs within the revitalization area on a pay-as-you-go basis.

(b) Revenues from local public sources do not include any local funds derived from state grants, state loans, or any other state moneys including any local sales and use taxes credited against the state sales and use taxes imposed under chapter 82.08 or 82.12 RCW.

~~((20))~~ (21) "Revitalization area" means the geographic area adopted by a sponsoring local government and approved by the department, from which local sales and use tax increments are estimated and property tax allocation revenues are derived for local revitalization financing.

~~((21))~~ (22) "Sponsoring local government" means a city, town, county, or any combination thereof, that adopts a revitalization area.

~~((22))~~ (23) "State contribution" means the lesser of:

(a) Five hundred thousand dollars;

(b) The project award amount approved by the department as provided in RCW 39.104.100 or 82.14.505; or

(c) The total amount of revenues from local public sources dedicated in the preceding calendar year to the payment of principal and interest on bonds issued under RCW 39.104.110 and public improvement costs within the revitalization area on a pay-as-you-go

basis. Revenues from local public sources dedicated in the preceding calendar year that are in excess of the project award may be carried forward and used in later years for the purpose of this subsection ~~((22))~~ (23)(c).

~~((23))~~ (24) "State property tax increment" means the estimated amount of annual tax revenues estimated to be received by the state from the imposition of property taxes levied by the state for the support of common schools under RCW 84.52.065 on the property tax allocation revenue value, as determined by the sponsoring local government in an application under RCW 39.104.100 and updated periodically as required in RCW 82.32.765.

~~((24))~~ (25) "State sales and use tax increment" means the estimated amount of annual increase in state sales and use taxes to be received by the state from taxable activity within the revitalization area in the years following the approval of the revitalization area by the department as determined by the sponsoring local government in an application under RCW 39.104.100 and updated periodically as required in RCW 82.32.765.

~~((25))~~ (26) "State sales and use taxes" means state retail sales and use taxes under RCW 82.08.020(1) and 82.12.020 at the rate provided in RCW 82.08.020(1), less the amount of tax distributions from all local retail sales and use taxes, other than the local sales and use taxes authorized by RCW 82.14.510 for the applicable revitalization area, imposed on the same taxable events that are credited against the state retail sales and use taxes under RCW 82.08.020(1) and 82.12.020.

~~((26))~~ (27) "Taxing district" means a government entity that levies or has levied for it regular property taxes upon real property located within a proposed or approved revitalization area.

**Sec. 2.** RCW 39.104.040 and 2009 c 270 s 104 are each amended to read as follows:

(1) Before adopting an ordinance creating the revitalization area, a sponsoring local government must:

(a) Provide notice to all taxing districts that levy or have levied for it regular property taxes and local governments with geographic boundaries within the proposed revitalization area of the sponsoring local government's intent to create a revitalization area. Notice must be provided in writing to the governing body of the taxing districts and local governments at least ~~((thirty))~~ sixty days in advance of the public hearing as required by (b) of this subsection. The notice must include at least the following information:

(i) The name of the proposed revitalization area;

(ii) The date for the public hearing as required by (b) of this subsection;

(iii) The earliest anticipated date when the sponsoring local government will take action to adopt the proposed revitalization area; and

(iv) The name of a contact person with phone number of the sponsoring local government and mailing address where a copy of an ordinance adopted under RCW 39.104.050 and 39.104.060 may be sent; and

(b) Hold a public hearing on the proposed financing of the public improvements in whole or in part with local revitalization financing. Notice of the public hearing must be published in a legal newspaper of general circulation within the proposed revitalization area at least ten days before the public hearing and posted in at least six conspicuous public places located in the proposed revitalization area. Notices must describe the contemplated public improvements, estimate the costs of the public improvements, describe the portion of the costs of the public improvements to be borne by local revitalization financing, describe any other sources of revenue to finance the public improvements, describe the boundaries of the proposed revitalization area, and estimate the period during which local revitalization financing is contemplated to be used. The public hearing may be held by either the governing

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body of the sponsoring local government, or a committee of the governing body that includes at least a majority of the whole governing body.

(2) To create a revitalization area, a sponsoring local government must adopt an ordinance establishing the revitalization area that:

(a) Describes the public improvements proposed to be made in the revitalization area;

(b) Describes the boundaries of the revitalization area, subject to the limitations in RCW 39.104.050;

(c) Estimates the cost of the proposed public improvements and the portion of these costs to be financed by local revitalization financing;

(d) Estimates the time during which local property tax allocation revenues, and other revenues from local public sources, such as amounts of local sales and use taxes from participating local governments, are to be used for local revitalization financing;

(e) Provides the date when the use of local property tax allocation revenues will commence and a list of the participating taxing districts (~~(that have not adopted an ordinance as described in RCW 39.104.060 to be removed as a participating taxing district)~~) and the regular property taxes that must be used to calculate property tax allocation revenues;

(f) Finds that all of the requirements in RCW 39.104.030 are met;

(g) Provides the anticipated rate of sales and use tax under RCW 82.14.510 that the local government will impose if awarded a state contribution under RCW 39.104.100;

(h) Provides the anticipated date when the criteria for the sales and use tax in RCW 82.14.510 will be met and the anticipated date when the sales and use tax in RCW 82.14.510 will be imposed.

(3) The sponsoring local government must deliver a certified copy of the adopted ordinance to the county treasurer, county assessor, the governing body of each participating taxing authority and participating taxing district within which the revitalization area is located, and the department.

**Sec. 3.** RCW 39.104.050 and 2009 c 270 s 105 are each amended to read as follows:

The designation of a revitalization area is subject to the following limitations:

(1)(a) Except as provided in (b) of this subsection, no revitalization area may have within its geographic boundaries any part of a hospital benefit zone under chapter 39.100 RCW, any part of a revenue development area created under chapter 39.102 RCW, any part of an increment area under chapter 39.89 RCW, or any part of another revitalization area under this chapter;

(b) A revitalization area's boundaries may include all or a portion of an existing increment area if:

(i) The state of Washington has loaned money for environmental cleanup on such area in order to stimulate redevelopment of brownfields;

(ii) The environmental cleanup, for which the state's loans were intended, has been completed; and

(iii) The sponsoring local government determines the creation of the revitalization area is necessary for redevelopment and protecting the state's investment by increasing property tax revenue;

(2) A revitalization area is limited to contiguous tracts, lots, pieces, or parcels of land without the creation of islands of property not included in the revitalization area;

(3) The boundaries may not be drawn to purposely exclude parcels where economic growth is unlikely to occur;

(4) The public improvements financed through bonds issued under RCW 39.104.110 must be located in the revitalization area;

(5) A revitalization area cannot comprise an area containing more than twenty-five percent of the total assessed value of the

taxable real property within the boundaries of the sponsoring local government at the time the revitalization area is created;

(6) The boundaries of the revitalization area may not be changed for the time period that local property tax allocation revenues, local sales and use taxes of participating local governments, and the local sales and use tax under RCW 82.14.510 are used to pay bonds issued under RCW 39.104.110 and public improvement costs within the revitalization area on a pay-as-you-go basis, as provided under this chapter; and

(7) A revitalization area must be geographically restricted to the location of the public improvement and adjacent locations that the sponsoring local government finds to have a high likelihood of receiving direct positive business and economic impacts due to the public improvement, such as a neighborhood or a block.

**Sec. 4.** RCW 39.104.060 and 2009 c 270 s 106 are each amended to read as follows:

(1) Participating taxing districts must allow the use of all of their local property tax allocation revenues for local revitalization financing.

(2)(a) If a taxing district does not want to allow the use of its property tax revenues for the local revitalization financing of public improvements in a revitalization area, its governing body must adopt an ordinance to remove itself as a participating taxing district and must notify the sponsoring local government.

(b) The taxing district must provide a copy of the adopted ordinance and notice to the sponsoring local government creating the revitalization area before the anticipated date that the sponsoring local government proposes to adopt the ordinance creating the revitalization area as provided in the notice required by RCW 39.104.040(1)(a).

(3) If a taxing district wants to become a participating taxing district by allowing one or more but not all of its regular property tax levies to be used for the calculation of local property tax allocation revenues, it may do so through an interlocal agreement specifying the regular property taxes that will be used for calculating its local property tax allocation revenues. This subsection does not authorize a taxing district to allow the use of only part of one or more of its regular property tax levies by the sponsoring local government.

(4) If a taxing district wants to participate on a partial basis by providing a specified amount of money to a sponsoring local government to be used for local revitalization financing for a specified amount of time, it may do so through an interlocal agreement. However, the taxing district must adopt an ordinance as described in subsection (2) of this section to remove itself as a participating taxing district for purposes of calculating property tax allocation revenues and instead partially participate through an interlocal agreement outlining the specifics of its participation.

**Sec. 5.** RCW 39.104.080 and 2009 c 270 s 201 are each amended to read as follows:

(1) Commencing in the second calendar year following the creation of a revitalization area by a sponsoring local government, the county treasurer (~~(shall)~~) must distribute receipts from regular taxes imposed on real property located in the revitalization area as follows:

(a) Each participating taxing district and the sponsoring local government must receive that portion of its regular property taxes produced by the rate of tax levied by or for the taxing district on the property tax allocation revenue base value for that local revitalization financing project in the taxing district; and

(b) The sponsoring local government must receive an additional portion of the regular property taxes levied by it and by or for each participating taxing district upon the property tax allocation revenue value within the revitalization area. However, if there is no property tax allocation revenue value, the sponsoring local

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government may not receive any additional regular property taxes under this subsection (1)(b). The sponsoring local government may agree to receive less than the full amount of the additional portion of regular property taxes under this subsection (1)(b) as long as bond debt service, reserve, and other bond covenant requirements are satisfied, in which case the balance of these tax receipts shall be allocated to the participating taxing districts that levied regular property taxes, or have regular property taxes levied for them, in the revitalization area for collection that year in proportion to their regular tax levy rates for collection that year. The sponsoring local government may request that the treasurer transfer this additional portion of the property taxes to its designated agent. The portion of the tax receipts distributed to the sponsoring local government or its agent under this subsection (1)(b) may only be expended to finance public improvement costs associated with the public improvements financed in whole or in part by local revitalization financing.

(2) The county assessor (~~(shall)~~ must) determine the property tax allocation revenue value and property tax allocation revenue base value. This section does not authorize revaluations of real property by the assessor for property taxation that are not made in accordance with the assessor's revaluation plan under chapter 84.41 RCW or under other authorized revaluation procedures.

(3) The distribution of local property tax allocation revenue to the sponsoring local government must cease when local property tax allocation revenues are no longer obligated to pay the costs of the public improvements. Any excess local property tax allocation revenues, and earnings on the revenues, remaining at the time the distribution of local property tax allocation revenue terminates, must be returned to the county treasurer and distributed to the participating taxing districts that imposed regular property taxes, or had regular property taxes imposed for it, in the revitalization area for collection that year, in proportion to the rates of their regular property tax levies for collection that year.

(4) The allocation to the revitalization area of that portion of the sponsoring local government's and each participating taxing district's regular property taxes levied upon the property tax allocation revenue value within that revitalization area is declared to be a public purpose of and benefit to the sponsoring local government and each participating taxing district.

(5) The distribution of local property tax allocation revenues under this section may not affect or be deemed to affect the rate of taxes levied by or within any sponsoring local government and participating taxing district or the consistency of any such levies with the uniformity requirement of Article VII, section 1 of the state Constitution.

(6) This section does not apply to a revitalization area that has boundaries that include all or a portion of the boundaries of an increment area created under chapter 39.89 RCW.

**Sec. 6.** RCW 39.104.100 and 2009 c 270 s 401 are each amended to read as follows:

(1) Prior to applying to the department to receive a state contribution, a sponsoring local government shall adopt a revitalization area within the limitations in RCW 39.104.050 and in accordance with RCW 39.104.040.

(2)(a) As a condition to imposing a sales and use tax under RCW 82.14.510, a sponsoring local government must apply to the department and be approved for a project award amount. The application must be in a form and manner prescribed by the department and include, but not be limited to:

((+)) (i) Information establishing that over the period of time that the local sales and use tax will be imposed under RCW 82.14.510, increases in state and local property, sales, and use tax revenues as a result of public improvements in the revitalization area will be equal to or greater than the respective state and local contributions made under this chapter;

((+)) (ii) Information demonstrating that the sponsoring local government will meet the requirements necessary to receive the full amount of state contribution it is requesting on an annual basis;

((+)) (iii) The amount of state contribution it is requesting;

((+)) (iv) The anticipated effective date for imposing the tax under RCW 82.14.510;

((+)) (v) The estimated number of years that the tax will be imposed;

((+)) (vi) The anticipated rate of tax to be imposed under RCW 82.14.510, subject to the rate-setting conditions in RCW 82.14.510(3), should the sponsoring local government be approved for a project award; and

((+)) (vii) The anticipated date when bonds under RCW 39.104.110 will be issued.

(b) The department (~~(shall)~~ must) make available electronic forms to be used for this purpose. As part of the application, each applicant must provide to the department a copy of the adopted ordinance creating the revitalization area as required in RCW 39.104.040, copies of any adopted interlocal agreements from participating local governments, and any notices from taxing districts that elect not to be a participating taxing district.

(3)(a) Project awards must be determined on:

(i) A first-come basis for applications completed in their entirety and submitted electronically;

(ii) The availability of a state contribution;

(iii) Whether the sponsoring local government would be able to generate enough tax revenue under RCW 82.14.510 to generate the amount of project award requested.

(b) The total of all project awards may not exceed the annual state contribution limit.

(c) If the level of available state contribution is less than the amount requested by the next available applicant, the applicant must be given the first opportunity to accept the lesser amount of state contribution but only if the applicant produces a new application within sixty days of being notified by the department and the application describes the impact on the proposed project as a result of the lesser award in addition to new application information outlined in subsection (2) of this section.

(d) Applications that are not approved for a project award due to lack of available state contribution must be retained on file by the department in order of the date of their receipt.

(e) Once total project awards reach the amount of annual state contribution limit, no more applications will be accepted.

(f) If the annual contribution limit is increased by making additional funds available for applicants that apply on a first-come basis, applications will be accepted again beginning sixty days after the effective date of the increase. However, in the time period before any new applications are accepted, all sponsoring local governments with a complete application already on file with the department must be provided an opportunity to either withdraw their application or update the information in the application. The updated application must be for a project that is substantially the same as the project in the original application. The department must consider these applications, in the order originally submitted, for project awards prior to considering any new applications.

(4) The department (~~(shall)~~ must) notify the sponsoring local government of approval or denial of a project award within sixty days of the department's receipt of the sponsoring local government's application. Determination of a project award by the department is final. Notification must include the earliest date when the tax authorized under RCW 82.14.510 may be imposed, subject to conditions in chapter 82.14 RCW. The project award notification must specify the rate requested in the application and any adjustments to the rate that would need to be made based on the project award and rate restrictions in RCW 82.14.510.

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(5) The department must begin accepting applications on September 1, 2009.

**Sec. 7.** RCW 39.104.110 and 2009 c 270 s 701 are each amended to read as follows:

(1) A sponsoring local government creating a revitalization area and authorizing the use of local revitalization financing may incur general indebtedness, ~~((and issue))~~ including issuing general obligation bonds, to finance the public improvements and retire the indebtedness in whole or in part from local revitalization financing it receives, subject to the following requirements:

(a)(i) The ordinance adopted by the sponsoring local government creating the revitalization area and authorizing the use of local revitalization financing indicates an intent to incur this indebtedness and the maximum amount of this indebtedness that is contemplated; and

~~((b))~~ (ii) The sponsoring local government includes this statement of ~~((the))~~ intent in all notices required by RCW 39.104.040; or

(b) The sponsoring local government adopts a resolution, after opportunity for public comment, that indicates an intent to incur this indebtedness and the maximum amount of this indebtedness that is contemplated.

(2) The general indebtedness incurred under subsection (1) of this section may be payable from other tax revenues, the full faith and credit of the sponsoring local government, and nontax income, revenues, fees, and rents from the public improvements, as well as contributions, grants, and nontax money available to the local government for payment of costs of the public improvements or associated debt service on the general indebtedness.

(3) In addition to the requirements in subsection (1) of this section, a sponsoring local government creating a revitalization area and authorizing the use of local revitalization financing may require any nonpublic participants to provide adequate security to protect the public investment in the public improvement within the revitalization area.

(4) Bonds issued under this section must be authorized by ordinance of the sponsoring local government and may be issued in one or more series and must bear a date or dates, be payable upon demand or mature at a time or times, bear interest at a rate or rates, be in a denomination or denominations, be in a form either coupon or registered as provided in RCW 39.46.030, carry conversion or registration privileges, have a rank or priority, be executed in a manner, be payable in a medium of payment, at a place or places, and be subject to terms of redemption with or without premium, be secured in a manner, and have other characteristics, as may be provided by an ordinance or trust indenture or mortgage issued pursuant thereto.

(5) The sponsoring local government may:

~~(a)~~ Annually pay into a special fund to be established for the benefit of bonds issued under this section a fixed proportion or a fixed amount of any local property tax allocation revenues derived from property within the revitalization area containing the public improvements funded by the bonds, the payment to continue until all bonds payable from the fund are paid in full~~((The local government may also))~~;

~~(b)~~ Annually pay into the special fund established ~~((in))~~ pursuant to this section a fixed proportion or a fixed amount of any revenues derived from taxes imposed under RCW 82.14.510, such payment to continue until all bonds payable from the fund are paid in full. Revenues derived from taxes imposed under RCW 82.14.510 are subject to the use restriction in RCW 82.14.515; and

~~(c)~~ Issue revenue bonds payable from any or all revenues deposited in the special fund established pursuant to this section.

(6) In case any of the public officials of the sponsoring local government whose signatures appear on any bonds or any coupons

issued under this chapter cease to be the officials before the delivery of the bonds, the signatures must, nevertheless, be valid and sufficient for all purposes, the same as if the officials had remained in office until the delivery. Any provision of any law to the contrary notwithstanding, any bonds issued under this chapter are fully negotiable.

(7) Notwithstanding subsections (4) through (6) of this section, bonds issued under this section may be issued and sold in accordance with chapter 39.46 RCW.

**Sec. 8.** RCW 82.14.505 and 2009 c 270 s 402 are each amended to read as follows:

(1) Demonstration projects are designated to determine the feasibility of local revitalization financing. For the purpose of this section, "annual state contribution limit" means ~~((two million two hundred fifty))~~ four million two hundred thousand dollars statewide per fiscal year.

~~(a)~~ Notwithstanding RCW 39.104.100, the department ~~((shall))~~ must approve each demonstration project for 2009 as follows:

~~((a))~~ (i) The Whitman county Pullman/Moscow corridor improvement project award ~~((shall))~~ may not exceed two hundred thousand dollars;

~~((b))~~ (ii) The University Place improvement project award ~~((shall))~~ may not exceed five hundred thousand dollars;

~~((c))~~ (iii) The Tacoma international financial services area/Tacoma dome project award ~~((shall))~~ may not exceed five hundred thousand dollars;

~~((d))~~ (iv) The Bremerton downtown improvement project award ~~((shall))~~ may not exceed three hundred thirty thousand dollars;

~~((e))~~ (v) The Auburn downtown redevelopment project award ~~((shall))~~ may not exceed two hundred fifty thousand dollars;

~~((f))~~ (vi) The Vancouver Columbia waterfront/downtown project award ~~((shall))~~ may not exceed two hundred twenty thousand dollars; and

~~((g))~~ (vii) The Spokane University District project award ~~((shall))~~ may not exceed two hundred fifty thousand dollars.

(b) Notwithstanding RCW 39.104.100, the department must approve each demonstration project for 2010 meeting the requirements in subsection (2)(c) of this section as follows:

(i) The Richland revitalization area for industry, science and education project award may not exceed three hundred thirty thousand dollars;

(ii) The Lacey gateway town center project award may not exceed five hundred thousand dollars;

(iii) The Mill Creek east gateway planned urban village revitalization area project award may not exceed three hundred thirty thousand dollars;

(iv) The Puyallup river road revitalization area project award may not exceed two hundred fifty thousand dollars;

(v) The Renton south Lake Washington project award may not exceed five hundred thousand dollars; and

(vi) The New Castle downtown project may not exceed forty thousand dollars.

(2)(a) Local government sponsors of demonstration projects under subsection (1)(a) of this section must submit to the department no later than September 1, 2009, documentation that substantiates that the project has met the conditions, limitations, and requirements provided in chapter 270, Laws of 2009.

(b) Sponsoring local government of demonstration projects under subsection (1)(b) of this section must update and resubmit to the department no later than September 1, 2010, the application already on file with the department to substantiate that the project has met the conditions, limitations, and requirements provided in chapter 270, Laws of 2009 and this act and the project is substantially the same as the project in the original application submitted to the

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department in 2009.

(c) The department must not approve any resubmitted application unless an economic analysis by a qualified researcher at the department of economics at the University of Washington confirms that there is an eighty-five percent probability that the application's assumptions and estimates of jobs created and increased tax receipts will be achieved by the project and determines that net state tax revenue will increase as a result of the project by an amount that equals or exceeds the award authorized in subsection (1)(b) of this section. Prior to submitting the economic analysis to the department, the qualified researcher must consult with the economic development commission established in chapter 43.162 RCW regarding his or her preliminary findings. The final economic analysis must include comments and recommendations of the economic development commission.

(3) Within ~~(sixty)~~ ninety days of such submittal, the economic analysis in subsection (2)(c) of this section must be completed and the department ~~(shall)~~ must either approve demonstration projects that have met these conditions, limitations, and requirements or deny resubmitted applications that have not met these conditions, limitations, and requirements.

(4) Local government sponsors of demonstration projects may elect to decline the project awards as designated in this section, and may elect instead to submit applications according to the process described in RCW 39.104.100.

(5) If a demonstration project listed in subsection (1)(b) of this section does not update and resubmit its application to the department by the deadline specified in subsection (2)(b) of this section or if the demonstration project withdraws its application, the associated dollar amounts may not be approved for another project and may not be considered part of the annual state contribution limit under RCW 39.104.020(1).

**Sec. 9.** RCW 82.14.510 and 2009 c 270 s 601 are each amended to read as follows:

(1) Any city or county that has been approved for a project award under RCW 39.104.100 may impose a sales and use tax under the authority of this section in accordance with the terms of this chapter. Except as provided in this section, the tax is in addition to other taxes authorized by law and must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the taxing jurisdiction of the city or county.

(2) The tax authorized under subsection (1) of this section is credited against the state taxes imposed under RCW 82.08.020(1) and 82.12.020 at the rate provided in RCW 82.08.020(1). The department must perform the collection of such taxes on behalf of the city or county at no cost to the city or county. The taxes must be distributed to cities and counties as provided in RCW 82.14.060.

(3) The rate of tax imposed by a city or county may not exceed the lesser of:

(a) The rate provided in RCW 82.08.020(1), less:

(i) The aggregate rates of all other local sales and use taxes imposed by any taxing authority on the same taxable events;

(ii) The aggregate rates of all taxes under RCW 82.14.465 and 82.14.475 and this section that are authorized but have not yet been imposed on the same taxable events by a city or county that has been approved to receive a state contribution by the department or the community economic revitalization board under chapter 39.104, 39.100, or 39.102 RCW; and

(iii) The percentage amount of distributions required under RCW 82.08.020(5) multiplied by the rate of state taxes imposed under RCW 82.08.020(1); and

(b) The rate, as determined by the city or county in consultation with the department, reasonably necessary to receive the project award under RCW 39.104.100 over ten months.

(4) The department, upon request, must assist a city or county in establishing its tax rate in accordance with subsection (3) of this section. Once the rate of tax is selected through the application process and approved under RCW 39.104.100, it may not be increased.

(5)(a) Except as provided in (c) of this subsection, no tax may be imposed under the authority of this section before:

(i) July 1, 2011;

(ii) July 1st of the second calendar year following the year in which the department approved the application made under RCW 39.104.100;

(iii) The state sales and use tax increment and state property tax increment for the preceding calendar year equal or exceed the amount of the project award approved by the department under RCW 39.104.100; and

(iv) Bonds have been issued according to RCW 39.104.110.

(b) The tax imposed under this section expires the earlier of the date that the bonds issued under the authority of RCW 39.104.110 are retired or twenty-five years after the tax is first imposed.

(c) For a demonstration project described in RCW 82.14.505(1)(a), no tax may be imposed under the authority of this section before:

(i) July 1, 2010; and

(ii) Bonds have been issued according to RCW 39.104.110.

(6) An ordinance or resolution adopted by the legislative authority of the city or county imposing a tax under this section must provide that:

(a) The tax will first be imposed on the first day of a fiscal year;

(b) The cumulative amount of tax received by the city or county, in any fiscal year, may not exceed the amount approved by the department under subsection (10) of this section;

(c) The department must cease distributing the tax for the remainder of any fiscal year in which either:

(i) The amount of tax received by the city or county equals the amount of distributions approved by the department for the fiscal year under subsection (10) of this section; or

(ii) The amount of revenue distributed to all sponsoring and cosponsoring local governments from taxes imposed under this section ~~((by all cities and counties))~~ equals the annual state contribution limit;

(d) The tax will be distributed again, should it cease to be distributed for any of the reasons provided in (c) of this subsection, at the beginning of the next fiscal year, subject to the restrictions in this section; and

(e) The state is entitled to any revenue generated by the tax in excess of the amounts specified in (c) of this subsection.

(7) If a city or county receives approval for more than one revitalization area within its jurisdiction, the city or county may impose a sales and use tax under this section for each revitalization area.

(8) The department must determine the amount of tax receipts distributed to each city and county imposing a sales and use tax under the authority of this section and must advise a city or county when tax distributions for the fiscal year equal the amount determined by the department in subsection (10) of this section. Determinations by the department of the amount of tax distributions attributable to a city or county are not appealable. The department must remit any tax receipts in excess of the amounts specified in subsection (6)(c) of this section to the state treasurer who must deposit the money in the general fund.

(9) If a city or county fails to comply with RCW 82.32.765, no tax may be distributed in the subsequent fiscal year until such time as the city or county complies and the department calculates the state contribution amount according to subsection (10) of this section for the fiscal year.

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(10)(a) For each fiscal year that a city or county imposes the tax under the authority of this section, the department must approve the amount of taxes that may be distributed to the city or county. The amount approved by the department under this subsection is the lesser of:

- (i) The state contribution;
- (ii) The amount of project award granted by the department as provided in RCW 39.104.100; or
- (iii) The total amount of revenues from local public sources dedicated or, in the case of carry forward revenues, deemed dedicated in the preceding calendar year, as reported in the required annual report under RCW 82.32.765.

(b) A city or county may not receive, in any fiscal year, more revenues from taxes imposed under the authority of this section than the amount approved annually by the department.

(11) The amount of tax distributions received from taxes imposed under the authority of this section by all cities and counties is limited annually to not more than the amount of annual state contribution limit.

(12) The definitions in RCW 39.104.020 apply to this section subject to subsection (13) of this section and unless the context clearly requires otherwise.

(13) For purposes of this section, the following definitions apply:

(a) "Local sales and use taxes" means sales and use taxes imposed by cities, counties, public facilities districts, and other local governments under the authority of this chapter, chapter 67.28 or 67.40 RCW, or any other chapter, and that are credited against the state sales and use taxes.

(b) "State sales and use taxes" means the taxes imposed in RCW 82.08.020(1) and 82.12.020.

**Sec. 10.** RCW 82.32.765 and 2009 c 270 s 501 are each amended to read as follows:

(1) A sponsoring local government receiving a project award under RCW 39.104.100 must provide a report to the department by March 1st of each year beginning March 1st after the project award has been approved. The report must contain the following information:

(a) The amounts of local property tax allocation revenues received in the preceding calendar year broken down by sponsoring local government and participating taxing district;

(b) The amount of state property tax allocation revenues estimated to have been received by the state in the preceding calendar year;

(c) The amount of local sales and use tax and other revenue from local public sources dedicated by any participating local government used for the payment of bonds under RCW 39.104.110 and public improvement costs within the revitalization area on a pay-as-you-go basis in the preceding calendar year;

(d) The amount of local sales and use tax dedicated by the sponsoring local government, as it relates to the sponsoring local government's local sales and use tax increment, used for the payment of bonds under RCW 39.104.110 and public improvement costs within the revitalization area on a pay-as-you-go basis;

(e) The amounts, other than those listed in (a) through (d) of this subsection, from local public sources, broken down by type or source, used for payment of bonds under RCW 39.104.110 or public improvement costs within the revitalization area on a pay-as-you-go basis in the preceding calendar year;

(f) The anticipated date when bonds under RCW 39.104.110 are expected to be retired;

(g) The names of any businesses locating within the revitalization area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with local revitalization financing;

(h) An estimate of the cumulative number of permanent jobs created in the revitalization area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with local revitalization financing;

(i) An estimate of the average wages and benefits received by all employees of businesses locating within the revitalization area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with local revitalization financing;

(j) A list of public improvements financed by bonds issued under RCW 39.104.110 and the date on which the bonds are anticipated to be retired;

(k) That the sponsoring local government is in compliance with RCW 39.104.030;

(l) At least once every three years, updated estimates of the amounts of state and local sales and use tax increments estimated to have been received since the approval by the department of the project award under RCW 39.104.100; ~~(and)~~

(m) The amount of revenues from local public sources that (i) were expended in prior years for the payment of bonds under RCW 39.104.110 and public improvement costs within the revitalization area on a pay- as-you-go basis in prior calendar years that were in excess of the project award amount for that year and are carried forward for dedication in future years, (ii) are deemed dedicated to payment of bonds or public improvement costs in the calendar year for which the report is prepared, and (iii) remain available for dedication in future years; and

(n) Any other information required by the department to enable the department to fulfill its duties under this chapter and RCW 82.14.510.

(2) The department ~~(shall)~~ **must** make a report available to the public and the legislature by June 1st of each year. The report ~~(shall)~~ **must** include a summary of the information provided to the department by sponsoring local governments under subsection (1) of this section.

**Sec. 11.** RCW 39.102.020 and 2009 c 267 s 1 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Annual state contribution limit" means seven million five hundred thousand dollars statewide per fiscal year.

(2) "Assessed value" means the valuation of taxable real property as placed on the last completed assessment roll.

(3) "Board" means the community economic revitalization board under chapter 43.160 RCW.

(4) "Demonstration project" means one of the following projects:

- (a) Bellingham waterfront redevelopment project;
- (b) Spokane river district project at Liberty Lake; and
- (c) Vancouver riverwest project.

(5) "Department" means the department of revenue.

(6) "Fiscal year" means the twelve-month period beginning July 1st and ending the following June 30th.

(7) "Local excise tax allocation revenue" means an amount of local excise taxes equal to some or all of the sponsoring local government's local excise tax increment, amounts of local excise taxes equal to some or all of any participating local government's excise tax increment as agreed upon in the written agreement under RCW 39.102.080(1), or both, and dedicated to local infrastructure financing.

(8) "Local excise tax increment" means an amount equal to the estimated annual increase in local excise taxes in each calendar year following the approval of the revenue development area by the board from taxable activity within the revenue development area, as

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set forth in the application provided to the board under RCW 39.102.040, and updated in accordance with RCW 39.102.140(1)(f).

(9) "Local excise taxes" means local revenues derived from the imposition of sales and use taxes authorized in RCW 82.14.030.

(10) "Local government" means any city, town, county, port district, and any federally recognized Indian tribe.

(11) "Local infrastructure financing" means the use of revenues received from local excise tax allocation revenues, local property tax allocation revenues, other revenues from local public sources, and revenues received from the local option sales and use tax authorized in RCW 82.14.475, dedicated to pay either the principal and interest on bonds authorized under RCW 39.102.150 or to pay public improvement costs on a pay-as-you-go basis subject to RCW 39.102.195, or both.

(12) "Local property tax allocation revenue" means those tax revenues derived from the receipt of regular property taxes levied on the property tax allocation revenue value and used for local infrastructure financing.

(13) "Low-income housing" means residential housing for low-income persons or families who lack the means which is necessary to enable them, without financial assistance, to live in decent, safe, and sanitary dwellings, without overcrowding. For the purposes of this subsection, "low income" means income that does not exceed eighty percent of the median family income for the standard metropolitan statistical area in which the revenue development area is located.

(14) "Ordinance" means any appropriate method of taking legislative action by a local government.

(15) "Participating local government" means a local government having a revenue development area within its geographic boundaries that has entered into a written agreement with a sponsoring local government as provided in RCW 39.102.080 to allow the use of all or some of its local excise tax allocation revenues or other revenues from local public sources dedicated for local infrastructure financing.

(16) "Participating taxing district" means a local government having a revenue development area within its geographic boundaries that has entered into a written agreement with a sponsoring local government as provided in RCW 39.102.080 to allow the use of some or all of its local property tax allocation revenues or other revenues from local public sources dedicated for local infrastructure financing.

(17) "Property tax allocation revenue base value" means the assessed value of real property located within a revenue development area less the property tax allocation revenue value.

(18)(a)(i) "Property tax allocation revenue value" means seventy-five percent of any increase in the assessed value of real property in a revenue development area resulting from:

(A) The placement of new construction, improvements to property, or both, on the assessment roll, where the new construction and improvements are initiated after the revenue development area is approved by the board;

(B) The cost of new housing construction, conversion, and rehabilitation improvements, when such cost is treated as new construction for purposes of chapter 84.55 RCW as provided in RCW 84.14.020, and the new housing construction, conversion, and rehabilitation improvements are initiated after the revenue development area is approved by the board;

(C) The cost of rehabilitation of historic property, when such cost is treated as new construction for purposes of chapter 84.55 RCW as provided in RCW 84.26.070, and the rehabilitation is initiated after the revenue development area is approved by the board.

(ii) Increases in the assessed value of real property in a revenue development area resulting from (a)(i)(A) through (C) of this

subsection are included in the property tax allocation revenue value in the initial year. These same amounts are also included in the property tax allocation revenue value in subsequent years unless the property becomes exempt from property taxation.

(b) "Property tax allocation revenue value" includes seventy-five percent of any increase in the assessed value of new construction consisting of an entire building in the years following the initial year, unless the building becomes exempt from property taxation.

(c) Except as provided in (b) of this subsection, "property tax allocation revenue value" does not include any increase in the assessed value of real property after the initial year.

(d) There is no property tax allocation revenue value if the assessed value of real property in a revenue development area has not increased as a result of any of the reasons specified in (a)(i)(A) through (C) of this subsection.

(e) For purposes of this subsection, "initial year" means:

(i) For new construction and improvements to property added to the assessment roll, the year during which the new construction and improvements are initially placed on the assessment roll;

(ii) For the cost of new housing construction, conversion, and rehabilitation improvements, when such cost is treated as new construction for purposes of chapter 84.55 RCW, the year when such cost is treated as new construction for purposes of levying taxes for collection in the following year; and

(iii) For the cost of rehabilitation of historic property, when such cost is treated as new construction for purposes of chapter 84.55 RCW, the year when such cost is treated as new construction for purposes of levying taxes for collection in the following year.

(19) "Public improvement costs" means the cost of: (a) Design, planning, acquisition including land acquisition, site preparation including land clearing, construction, reconstruction, rehabilitation, improvement, and installation of public improvements; (b) demolishing, relocating, maintaining, and operating property pending construction of public improvements; (c) the local government's portion of relocating utilities as a result of public improvements; (d) financing public improvements, including interest during construction, legal and other professional services, taxes, insurance, principal and interest costs on general indebtedness issued to finance public improvements, and any necessary reserves for general indebtedness; (e) assessments incurred in revaluing real property for the purpose of determining the property tax allocation revenue base value that are in excess of costs incurred by the assessor in accordance with the revaluation plan under chapter 84.41 RCW, and the costs of apportioning the taxes and complying with this chapter and other applicable law; (f) administrative expenses and feasibility studies reasonably necessary and related to these costs; and (g) any of the above-described costs that may have been incurred before adoption of the ordinance authorizing the public improvements and the use of local infrastructure financing to fund the costs of the public improvements.

(20) "Public improvements" means:

(a) Infrastructure improvements within the revenue development area that include:

(i) Street, bridge, and road construction and maintenance, including highway interchange construction;

(ii) Water and sewer system construction and improvements, including wastewater reuse facilities;

(iii) Sidewalks, traffic controls, and streetlights;

(iv) Parking, terminal, and dock facilities;

(v) Park and ride facilities of a transit authority;

(vi) Park facilities and recreational areas, including trails; and

(vii) Storm water and drainage management systems;

(b) Expenditures for facilities and improvements that support affordable housing as defined in RCW 43.63A.510.

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(21) "Real property" has the same meaning as in RCW 84.04.090 and also includes any privately owned improvements located on publicly owned land that are subject to property taxation.

(22) "Regular property taxes" means regular property taxes as defined in RCW 84.04.140, except: (a) Regular property taxes levied by public utility districts specifically for the purpose of making required payments of principal and interest on general indebtedness; (b) regular property taxes levied by the state for the support of the common schools under RCW 84.52.065; and (c) regular property taxes authorized by RCW 84.55.050 that are limited to a specific purpose. "Regular property taxes" do not include excess property tax levies that are exempt from the aggregate limits for junior and senior taxing districts as provided in RCW 84.52.043.

(23) "Relocating a business" means the closing of a business and the reopening of that business, or the opening of a new business that engages in the same activities as the previous business, in a different location within a one-year period, when an individual or entity has an ownership interest in the business at the time of closure and at the time of opening or reopening. "Relocating a business" does not include the closing and reopening of a business in a new location where the business has been acquired and is under entirely new ownership at the new location, or the closing and reopening of a business in a new location as a result of the exercise of the power of eminent domain.

(24) "Revenue development area" means the geographic area adopted by a sponsoring local government and approved by the board, from which local excise and property tax allocation revenues are derived for local infrastructure financing.

(25)(a) "Revenues from local public sources" means:

(i) Amounts of local excise tax allocation revenues and local property tax allocation revenues, dedicated by sponsoring local governments, participating local governments, and participating taxing districts, for local infrastructure financing; and

(ii) Any other local revenues, except as provided in (b) of this subsection, including revenues derived from federal and private sources.

(b) Revenues from local public sources do not include any local funds derived from state grants, state loans, or any other state moneys including any local sales and use taxes credited against the state sales and use taxes imposed under chapter 82.08 or 82.12 RCW.

(26) "Small business" has the same meaning as provided in RCW 19.85.020.

(27) "Sponsoring local government" means a city, town, or county, and for the purpose of this chapter a federally recognized Indian tribe or any combination thereof, that adopts a revenue development area and applies to the board to use local infrastructure financing.

(28) "State contribution" means the lesser of:

(a) One million dollars;

(b) The total amount of local excise tax allocation revenues, local property tax allocation revenues, and other revenues from local public sources, that are dedicated by a sponsoring local government, any participating local governments, and participating taxing districts, in the preceding calendar year to the payment of principal and interest on bonds issued under RCW 39.102.150 or to pay public improvement costs on a pay-as-you-go basis subject to RCW 39.102.195, or both; ~~((or))~~

(c) The amount of project award granted by the board in the notice of approval to use local infrastructure financing under RCW 39.102.040; or

(d) The highest amount of state excise tax allocation revenues and state property tax allocation revenues for any one calendar year

as determined by the sponsoring local government and reported to the board and the department as required by RCW 39.102.140.

(29) "State excise tax allocation revenue" means an amount equal to the annual increase in state excise taxes estimated to be received by the state in each calendar year following the approval of the revenue development area by the board, from taxable activity within the revenue development area as set forth in the application provided to the board under RCW 39.102.040 and periodically updated and reported as required in RCW 39.102.140(1)(f).

(30) "State excise taxes" means revenues derived from state retail sales and use taxes under RCW 82.08.020(1) and 82.12.020 at the rate provided in RCW 82.08.020(1), less the amount of tax distributions from all local retail sales and use taxes, other than the local sales and use taxes authorized by RCW 82.14.475 for the applicable revenue development area, imposed on the same taxable events that are credited against the state retail sales and use taxes under chapters 82.08 and 82.12 RCW.

(31) "State property tax allocation revenue" means an amount equal to the estimated tax revenues derived from the imposition of property taxes levied by the state for the support of common schools under RCW 84.52.065 on the property tax allocation revenue value, as set forth in the application submitted to the board under RCW 39.102.040 and updated annually in the report required under RCW 39.102.140(1)(f).

(32) "Taxing district" means a government entity that levies or has levied for it regular property taxes upon real property located within a proposed or approved revenue development area.

**Sec. 12.** RCW 82.14.475 and 2009 c 267 s 8 are each amended to read as follows:

(1) A sponsoring local government, and any cosponsoring local government, that has been approved by the board to use local infrastructure financing may impose a sales and use tax in accordance with the terms of this chapter and subject to the criteria set forth in this section. Except as provided in this section, the tax is in addition to other taxes authorized by law and ~~((shall be))~~ is collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the taxing jurisdiction of the sponsoring local government or cosponsoring local government.

(2) The tax authorized under subsection (1) of this section ~~((shall be))~~ is credited against the state taxes imposed under RCW 82.08.020(1) and 82.12.020 at the rate provided in RCW 82.08.020(1). The department ~~((shall))~~ must perform the collection of such taxes on behalf of the sponsoring local government or cosponsoring local government at no cost to the sponsoring local government or cosponsoring local government and ~~((shall))~~ must remit the taxes as provided in RCW 82.14.060.

(3) The aggregate rate of tax imposed by the sponsoring local government, and any cosponsoring local government, must not exceed the lesser of:

(a) The rate provided in RCW 82.08.020(1) less:

(i) The aggregate rates of all other local sales and use taxes imposed by any taxing authority on the same taxable events;

(ii) The aggregate rates of all taxes under RCW 82.14.465 and this section that are authorized to be imposed on the same taxable events but have not yet been imposed by a sponsoring local government or cosponsoring local government that has been approved by the department or the community economic revitalization board to receive a state contribution under chapter ~~((chapter))~~ chapter 39.100 or 39.102 RCW; and

(iii) The percentage amount of distributions required under RCW 82.08.020(5) multiplied by the rate of state taxes imposed under RCW 82.08.020(1); and

(b) The rate, as determined by the sponsoring local government, and any cosponsoring local government, in consultation with the

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department, reasonably necessary to receive the state contribution over ten months.

(4) Sponsoring local governments that have been approved before October 1, 2008, by the community economic revitalization board for a state contribution must select the rate of tax under this section no later than September 1, 2009.

(5) The department, upon request, must assist a sponsoring local government and cosponsoring local government in establishing their tax rate in accordance with subsection (3) of this section. Once the rate of tax is selected, it may not be increased.

(6)(a) No tax may be imposed under the authority of this section:

(i) ~~((Before July 1, 2008;~~

~~—((ii))~~ Before July 1st of the second calendar year following the year approval by the board under RCW 39.102.040 was made; and

((iii)) Before the state excise tax allocation revenues and state property tax allocation revenues for the preceding calendar year equal or exceed the amount of project award approved by the board under RCW 39.102.040)

(ii) Until a sponsoring local government reports to the board and the department as required by RCW 39.102.140 that the state has benefited through the receipt of state excise tax allocation revenues or state property tax allocation revenues, or both.

(b) The tax imposed under this section ~~((shall))~~ expires when all indebtedness issued under the authority of RCW 39.102.150 is retired and all other contractual obligations relating to the financing of public improvements under chapter 39.102 RCW are satisfied, but not more than twenty-five years after the tax is first imposed.

(7) An ordinance adopted by the legislative authority of a sponsoring local government or cosponsoring local government imposing a tax under this section ~~((shall))~~ must provide that:

(a) The tax ~~((shall))~~ is first ~~((be))~~ imposed on the first day of a fiscal year;

(b) The cumulative amount of tax received by the sponsoring local government, and any cosponsoring local government, in any fiscal year ~~((shall))~~ may not exceed the amount of the state contribution;

(c) The tax ~~((shall))~~ will cease to be distributed for the remainder of any fiscal year in which either:

(i) The amount of tax received by the sponsoring local government, and any cosponsoring local government, equals the amount of the state contribution;

(ii) The amount of revenue from taxes imposed under this section by all sponsoring and cosponsoring local governments equals the annual state contribution limit; or

(iii) The amount of tax received by the sponsoring local government equals the amount of project award granted in the approval notice described in RCW 39.102.040;

(d) Neither the local excise tax allocation revenues nor the local property tax allocation revenues may constitute more than eighty percent of the total local funds as described in RCW 39.102.020(28)(b). This requirement applies beginning January 1st of the fifth calendar year after the calendar year in which the sponsoring local government begins allocating local excise tax allocation revenues under RCW 39.102.110;

(e) The tax ~~((shall))~~ must be distributed again, should it cease to be distributed for any of the reasons provided in (c) of this subsection, at the beginning of the next fiscal year, subject to the restrictions in this section; and

(f) Any revenue generated by the tax in excess of the amounts specified in (c) of this subsection ~~((shall))~~ belongs to the state of Washington.

(8) If a county and city cosponsor a revenue development area, the combined amount of distributions received by both the city and county may not exceed the state contribution.

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(9) The department ~~((shall))~~ must determine the amount of tax receipts distributed to each sponsoring local government, and any cosponsoring local government, imposing sales and use tax under this section and shall advise a sponsoring or cosponsoring local government when tax distributions for the fiscal year equal the amount of state contribution for that fiscal year as provided in subsection (11) of this section. Determinations by the department of the amount of tax distributions attributable to each sponsoring or cosponsoring local government are final and ~~((shall))~~ may not be used to challenge the validity of any tax imposed under this section. The department ~~((shall))~~ must remit any tax receipts in excess of the amounts specified in subsection (7)(c) of this section to the state treasurer who ~~((shall))~~ must deposit the money in the general fund.

(10) If a sponsoring or cosponsoring local government fails to comply with RCW 39.102.140, no tax may be distributed in the subsequent fiscal year until such time as the sponsoring or cosponsoring local government complies and the department calculates the state contribution amount for such fiscal year.

(11) Each year, the amount of taxes approved by the department for distribution to a sponsoring or cosponsoring local government in the next fiscal year ~~((shall))~~ must be equal to the state contribution and ~~((shall))~~ may be no more than the total local funds as described in RCW 39.102.020(28)(b). The department ~~((shall))~~ must consider information from reports described in RCW 39.102.140 when determining the amount of state contributions for each fiscal year. A sponsoring or cosponsoring local government ~~((shall))~~ may not receive, in any fiscal year, more revenues from taxes imposed under the authority of this section than the amount approved annually by the department. The department ~~((shall))~~ may not approve the receipt of more distributions of sales and use tax under this section to a sponsoring or cosponsoring local government than is authorized under subsection (7) of this section.

(12) The amount of tax distributions received from taxes imposed under the authority of this section by all sponsoring and cosponsoring local governments is limited annually to not more than seven million five hundred thousand dollars.

(13) The definitions in RCW 39.102.020 apply to this section unless the context clearly requires otherwise.

(14) If a sponsoring local government is a federally recognized Indian tribe, the distribution of the sales and use tax authorized under this section ~~((shall))~~ must be authorized through an interlocal agreement pursuant to chapter 39.34 RCW.

(15) Subject to RCW 39.102.195, the tax imposed under the authority of this section may be applied either to provide for the payment of debt service on bonds issued under RCW 39.102.150 by the sponsoring local government or to pay public improvement costs on a pay-as-you-go basis, or both.

(16) The tax imposed under the authority of this section ~~((shall))~~ must cease to be imposed if the sponsoring local government or cosponsoring local government fails to issue indebtedness under the authority of RCW 39.102.150, and fails to commence construction on public improvements, by June 30th of the fifth fiscal year in which the local tax authorized under this section is imposed.

(17) For purposes of this section, the following definitions apply:

(a) "Local sales and use taxes" means sales and use taxes imposed by cities, counties, public facilities districts, and other local governments under the authority of this chapter, chapter 67.28 or 67.40 RCW, or any other chapter, and that are credited against the state sales and use taxes.

(b) "State sales and use taxes" means the tax imposed in RCW 82.08.020(1) and the tax imposed in RCW 82.12.020 at the rate provided in RCW 82.08.020(1).

**NEW SECTION. Sec. 13.** Sections 11 and 12 of this act expire June 30, 2039."

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Senator Kastama spoke in favor of adoption of the striking amendment.

Senators Regala, Hargrove, Stevens and Kohl-Welles spoke in favor of passage of the bill.

Senator Carrell spoke against passage of the bill.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kastama and Fraser to Second Substitute Senate Bill No. 6609.

The motion by Senator Kastama carried and the striking amendment was adopted by voice vote.

#### MOTION

On motion of Senator Marr, Senator Kline was excused.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6870.

#### ROLL CALL

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "governments;" strike the remainder of the title and insert "amending RCW 39.104.020, 39.104.040, 39.104.050, 39.104.060, 39.104.080, 39.104.100, 39.104.110, 82.14.505, 82.14.510, 82.32.765, and 82.14.475; reenacting and amending RCW 39.102.020; and providing an expiration date."

The Secretary called the roll on the final passage of Senate Bill No. 6870 and the bill passed the Senate by the following vote: Yeas, 37; Nays, 9; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Benton, Carrell, Delvin, Hewitt, Honeyford, Morton, Roach, Schoesler and Sheldon

Excused: Senators Kline, McCaslin and Pflug

SENATE BILL NO. 6870, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

#### MOTION

On motion of Senator Kastama, the rules were suspended, Engrossed Second Substitute Senate Bill No. 6609 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6609.

#### SECOND READING

#### ROLL CALL

SENATE BILL NO. 6871, by Senators Hargrove and Regala

Supporting judicial branch and criminal justice funding.

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6609 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators McCaslin and Pflug

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6609, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTIONS

On motion of Senator Hargrove, Substitute Senate Bill No. 6871 was substituted for Senate Bill No. 6871 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hargrove, the rules were suspended, Substitute Senate Bill No. 6871 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

Senator Schoesler spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6871.

#### SECOND READING

#### ROLL CALL

SENATE BILL NO. 6870, by Senator Hargrove

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6871 and the bill failed to pass the Senate by the following vote: Yeas, 20; Nays, 26; Absent, 0; Excused, 3.

Containing costs for services to sexually violent predators.

Voting yea: Senators Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Jacobsen, Keiser, Kohl-Welles, McAuliffe, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller and Tom

The measure was read the second time.

#### MOTION

Voting nay: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Kastama, Kauffman, Kilmer, King, Marr, McDermott, Morton, Parlette, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

On motion of Senator Marr, the rules were suspended, Senate Bill No. 6870 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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Excused: Senators Kline, McCaslin and Pflug  
 SUBSTITUTE SENATE BILL NO. 6871, not having  
 received the constitutional majority, was declared lost.

MOTION

At 6:27 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

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The Senate was called to order at 6:48 p.m. by President Owen.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

March 2, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6355 with the following amendment(s): 6355-S AMH WHIT SMIT 289; 6355-S AMH SELL SMIT 286; 6355-S AMH WHIT MASS 095; 6355-S AMH DUNS SNEL 041; 6355-S AMH HE SMIT 275,

On page 5, line 27, after "degrees" insert "; and

(d) Recommendations from the technology transformation task force created in chapter 407, laws of 2009 and institutions of higher education relative to the strategic and operational use of technology in higher education. These and other reports, reviews, and audits shall allow for: The development of enterprise wide digital information technology across educational sectors, systems and delivery methods; the integration and streamlining of administrative tools including but not limited to student information management, financial management, payroll, human resources, data collection, reporting, and analysis; and a determination of the costs of multiple technology platforms, systems, and models"

On page 8, line 5, after "technology" insert "in order to effectively and efficiently share costs, improve the quality of instruction and student, faculty, and administrative services, increase undergraduate and graduate student access, retention and graduation, and enhance transfer capability"

On page 5, line 4, beginning with "significant" strike all material through "centers" and insert "conversion of existing campuses, branches, or centers that would result in a mission change"

On page 5, line 12, after "institutions." insert "Board recommendations regarding proposed major expansion shall be limited to determinations of whether the major expansion is within the scope indicated in the most recent strategic master plan for higher education or most recent system design plan. Recommendations regarding existing capital prioritization processes are not within the scope of the evaluation of major expansion."

On page 8, line 33, after "period." strike all material through "commitment.)" on line 35 and insert "Strong priority will be given to proposals that involve more than one sector of education (~~and to proposals that show substantive institutional commitment~~)."

On page 10, after line 18, insert the following:

"Sec. 9. RCW 43.88D.010 and 2008 c 205 s 2 are each amended to read as follows:

(1) By October 15th of each even-numbered year, the office of financial management shall complete an objective analysis and scoring of all capital budget projects proposed by the public

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four-year institutions of higher education and submit the results of the scoring process to the legislative fiscal committees, the higher education coordinating board, and the four-year institutions (~~except that, for 2008, the office of financial management shall complete the objective analysis and scoring by November 1st~~). Each project must be reviewed and scored within one of the following categories, according to the project's principal purpose. Each project may be scored in only one category. The categories are:

(a) Access-related projects to accommodate enrollment growth at main and branch campuses, at existing or new university centers, or through distance learning. Growth projects should provide significant additional student capacity. Proposed projects must demonstrate that they are based on solid enrollment demand projections, more cost-effectively provide enrollment access than alternatives such as university centers and distance learning, and make cost-effective use of existing and proposed new space;

(b) Projects that replace failing permanent buildings (~~or renovate facilities to restore building life and upgrade space to meet current program requirements~~). Facilities that cannot be economically renovated are considered replacement projects. (~~Renovation projects should represent a complete renovation of a total facility or an isolated wing of a facility. A reasonable renovation project should cost between sixty to eighty percent of current replacement value and restore the renovated area to at least twenty five years of useful life.~~) New space may be programmed for the same or a different use than the space being replaced or renovated and may include additions to improve access and enhance the relationship of program or support space;

(c) Projects that renovate facilities to restore building life and upgrade space to meet current program requirements. Renovation projects should represent a complete renovation of a total facility or an isolated wing of a facility. A reasonable renovation project should cost between sixty to eighty percent of current replacement value and restore the renovated area to at least twenty-five years of useful life. New space may be programmed for the same or a different use than the space being renovated and may include additions to improve access and enhance the relationship of program or support space;

(d) Major stand-alone campus infrastructure projects;

~~((d))~~(e) Projects that promote economic growth and innovation through expanded research activity. The acquisition and installation of specialized equipment is authorized under this category; and

~~((e))~~(f) Other project categories as determined by the office of financial management in consultation with the legislative fiscal committees.

(2) The office of financial management, in consultation with the legislative fiscal committees (~~and the joint legislative audit and review committee~~), shall establish a scoring system and process for each four-year project category that is based on the framework used in the community and technical college system of prioritization. Staff from the state board for community and technical colleges, the higher education coordinating board, and the four-year institutions shall provide technical assistance on the development of a scoring system and process.

(3) The office of financial management shall consult with the legislative fiscal committees in the scoring of four-year institution project proposals, and may also solicit participation by (~~the joint legislative audit and review committee and~~) independent experts.

(a) For each four-year project category, the scoring system must, at a minimum, include an evaluation of enrollment trends, reasonableness of cost, the ability of the project to enhance specific strategic master plan goals, age and condition of the facility if applicable, and impact on space utilization.

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(b) Each four-year project category may include projects at the pre-design, design, or construction funding phase.

(c) To the extent possible, the objective analysis and scoring system of all capital budget projects shall occur within the context of any and all performance agreements between the office of financial management and the governing board of a public, four-year institution of higher education that aligns goals, priorities, desired outcomes, flexibility, institutional mission, accountability, and levels of resources.

(4) In evaluating and scoring four-year institution projects, the office of financial management shall take into consideration project schedules that result in realistic, balanced, and predictable expenditure patterns over the ensuing three biennia.

(5) The office of financial management shall distribute common definitions, the scoring system, and other information required for the project proposal and scoring process as part of its biennial budget instructions (~~(, except that, for the 2009-2011 budget development cycle, this information must be distributed by July 1, 2008).~~). The office of financial management, in consultation with the legislative fiscal committees (~~(and the joint legislative audit and review committee)~~), shall develop common definitions that four-year institutions must use in developing their project proposals and lists under this section.

(6) In developing any scoring system for capital projects proposed by the four-year institutions, the office of financial management:

(a) Shall be provided with all required information by the four-year institutions as deemed necessary by the office of financial management;

(b) May utilize independent services to verify, sample, or evaluate information provided to the office of financial management by the four-year institutions; and

(c) Shall have full access to all data maintained by the higher education coordinating board and the joint legislative audit and review committee concerning the condition of higher education facilities.

(7) By August 15th of each even-numbered year (~~(beginning in 2008.)~~) each public four-year higher education institution shall prepare and submit prioritized lists of the individual projects proposed by the institution for the ensuing six-year period in each category. (~~(On a pilot basis, the office of financial management shall require one research university to prepare two separate prioritized lists for each category, one for the main campus, and one covering all of the institution's branch campuses. The office of financial management shall report to the legislative fiscal committees by December 1, 2009, on the effect of this pilot project on capital project financing for all branch campuses.)~~) The lists must be submitted to the office of financial management and the legislative fiscal committees. The four-year institutions may aggregate minor works project proposals by primary purpose for ranking purposes. Proposed minor works projects must be prioritized within the aggregated proposal, and supporting documentation, including project descriptions and cost estimates, must be provided to the office of financial management and the legislative fiscal committees.

(8) The office of financial management shall convene a group by August 15th of each even-numbered year to rank projects in priority order in a single list to be submitted to the legislature for the ensuing biennium. The group shall consist of one representative of the higher education coordinating board, two representatives of the council of presidents, two representatives of the office of financial management, and one representative of the Washington state economic development commission. The council of presidents' representatives must rotate every two years, with each four-year public baccalaureate research institution representing the council

of presidents once every two biennia and each four-year public baccalaureate nonresearch institution representing the council of presidents once every four biennia. The Washington state economic development representative shall be appointed by the governor and will change every two years. The governor or a designee may participate in determining the prioritized list.

(9) The priorities set by the group shall consider policies for the state's higher education system to achieve growth and manage existing assets in a responsible manner, biennial budget projections for capital expenditures, and biennial budget projections for student full-time equivalent growth."

Correct the title.

On page 10, after line 18, insert the following:

"NEW SECTION. Sec. 9. A new section is added to chapter 28B.20 RCW to read as follows:

(1) This section provides an alternative process for awarding contracts for construction, building, renovation, remodeling, alteration, repair, or improvement of university buildings and facilities in which critical patient care or highly specialized medical research is located. These provisions may be used, in lieu of other procedures to award contracts for such work, when the estimated cost of the work is equal to or less than five million dollars and the project involves construction, renovation, remodeling, or alteration of improvements within a building that is used directly for critical patient care or highly specialized medical research.

(2) The university may create a single critical patient care or specialized medical research facilities roster or may create multiple critical patient care or specialized medical research facilities rosters for different trade specialties or categories of anticipated work. At least once a year, the university shall publish in a newspaper of general circulation a notice of the existence of the roster or rosters and solicit a statement of qualifications from contractors who wish to be on the roster or rosters of prime contractors. In addition, qualified contractors shall be added to the roster or rosters at any time they submit a written request, necessary records, and meet the qualifications established by the university. The university may require eligible contractors desiring to be placed on a roster to keep current records of any applicable licenses, certifications, registrations, bonding, insurance, or other appropriate matters on file with the university as a condition of being placed on a roster or rosters. Placement on a roster shall be on the basis of qualifications.

(3) The public solicitation of qualifications shall include but not be limited to:

(a) A description of the types of projects to be completed and where possible may include programmatic, performance, and technical requirements and specifications;

(b) The reasons for using the critical patient care and specialized medical research roster process;

(c) A description of the qualifications to be required of a contractor, including submission of an accident prevention program;

(d) A description of the process the university will use to evaluate qualifications, including evaluation factors and the relative weight of factors;

(e) The form of the contract to be awarded;

(f) A description of the administrative process by which the required qualifications, evaluation process, and project types may be appealed; and

(g) A description of the administrative process by which decisions of the university may be appealed.

(4) The university shall establish a committee to evaluate the contractors submitting qualifications. Evaluation criteria for selection of the contractor or contractors to be included on a roster shall include, but not be limited to:

(a) Ability of a contractor's professional personnel;

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(b) A contractor's past performance on similar projects, including but not limited to medical facilities, and involving either negotiated work or other public works contracts;

(c) The contractor's ability to meet time and budget requirements;

(d) The contractor's ability to provide preconstruction services, as appropriate;

(e) The contractor's capacity to successfully complete the project;

(f) The contractor's approach to executing projects;

(g) The contractor's approach to safety and the contractor's safety history; and

(h) The contractor's record of performance, integrity, judgment, and skills.

(5) Contractors meeting the evaluation committee's criteria for selection must be placed on the applicable roster or rosters.

(6) When a project is selected for delivery through this roster process, the university must establish a procedure for securing written quotations from all contractors on a roster to assure that a competitive price is established. Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. Plans and specifications must be included in the invitation but may not be detailed. Award of a project must be made to the responsible bidder submitting the lowest responsive bid.

(7) The university shall make an effort to solicit proposals from certified minority or certified woman-owned contractors to the extent permitted by the Washington state civil rights act, RCW 49.60.400.

(8) Beginning in September 2010 and every other year thereafter, the university shall provide a report to the capital projects advisory review board which must, at a minimum, include a list of rosters used, contracts awarded, and a description of outreach to and participation by women and minority-owned businesses.

NEW SECTION. Sec. 10. A new section is added to chapter 43.131 RCW to read as follows:

The alternative process for awarding contracts established in section 9 of this act terminates June 30, 2015, as provided in section 3 of this act.

NEW SECTION. Sec. 11. A new section is added to chapter 43.131 RCW to read as follows:

Section 9 of this act, as now existing or hereinafter amended, is repealed, effective June 30, 2016."

Correct the title and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kilmer moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6355 and ask the House to recede therefrom.

Senators Kilmer spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Kilmer that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6355 and ask the House to recede therefrom.

The motion by Senator Kilmer carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 6355 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

March 4, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6416 with the following amendment(s): 6416-S AMH APPG H5442.1,

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 13.34 RCW to read as follows:

(1) A caregiver of a dependent child may petition the juvenile court to be heard on a decision by the department or supervising agency to remove the child from the caregiver's home if:

(a) The child has been found to be a dependent child under this chapter;

(b) The child was placed with the caregiver by the department or supervising agency and resided in the caregiver's home for twelve or more continuous months prior to the decision to remove, or the removal of, the child;

(c) The child is in the custody of the department or supervising agency at the time the petition to be heard is filed;

(d) The department or supervising agency has made the decision to remove or has already removed the child from the caregiver's home; and

(e) The child is not being returned home or moved to a permanent placement that is consistent with the child's permanency plan approved by the court.

(2) The caregiver may file a petition under this section within not more than ten business days after the date the caregiver receives notice of the removal decision, or the child is removed from the caregiver's home, whichever is later.

(3) If the requirements of subsection (1) of this section are met, the court shall grant the petition to be heard on the sole issue of the placement decision and shall schedule an expedited hearing on the matter.

(4) The caregiver has the right to be represented by counsel, at his or her own expense, at the hearing on the issue of the placement decision.

(5) The granting of a petition to be heard under this section does not grant the caregiver party status in the underlying dependency.

(6) The right to file a petition to be heard under this section does not grant a caregiver the right to further review of the placement decision on which the caregiver petitioned to be heard.

(7) For the purposes of this section, "caregiver" means a licensed foster parent, another suitable person as described in RCW 13.34.130(1)(b), or a relative as defined in RCW 74.15.020(2)(a) who is not the child's parent."

Correct the title and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6416 and ask the House to recede therefrom.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6416 and ask the House to recede therefrom.

The motion by Senator Hargrove carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 6416 and asked the House to recede therefrom by voice vote.

MOTION

On motion of Senator Hewitt, Senator Roach was excused.

MESSAGE FROM THE HOUSE

March 2, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6192 with the following amendment(s): 6192-S AMH HS H5393.1,

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 13.40.190 and 2004 c 120 s 6 are each amended to read as follows:

(1)(a) In its dispositional order, the court shall require the respondent to make restitution to any persons who have suffered loss or damage as a result of the offense committed by the respondent. In addition, restitution may be ordered for loss or damage if the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which, pursuant to a plea agreement, are not prosecuted.

(b) Restitution may include the costs of counseling reasonably related to the offense.

(c) The payment of restitution shall be in addition to any punishment which is imposed pursuant to the other provisions of this chapter.

(d) The court may determine the amount, terms, and conditions of the restitution including a payment plan extending up to ten years if the court determines that the respondent does not have the means to make full restitution over a shorter period. ~~((Restitution may include the costs of counseling reasonably related to the offense.))~~ For the purposes of this section, the respondent shall remain under the court's jurisdiction for a maximum term of ten years after the respondent's eighteenth birthday and, during this period, the restitution portion of the dispositional order may be modified as to amount, terms, and conditions at any time. Prior to the expiration of the ten-year period, the juvenile court may extend the judgment for the payment of restitution for an additional ten years. If the court grants a respondent's petition pursuant to RCW 13.50.050(11), the court's jurisdiction under this subsection shall terminate.

(e) Nothing in this section shall prevent a respondent from petitioning the court pursuant to RCW 13.50.050(11) if the respondent has paid the full restitution amount stated in the court's order and has met the statutory criteria.

(f) If the respondent participated in the crime with another person or other persons, all such participants shall be jointly and severally responsible for the payment of restitution. ~~((For the purposes of this section, the respondent shall remain under the court's jurisdiction for a maximum term of ten years after the respondent's eighteenth birthday. Prior to the expiration of the ten-year period, the juvenile court may extend the judgment for the payment of restitution for an additional ten years.))~~

(g) At any time, the court may determine that the respondent is not required to pay, or may relieve the respondent of the requirement to pay, full or partial restitution to any insurance provider authorized under Title 48 RCW if the respondent reasonably satisfies the court that he or she does not have the means to make full or partial restitution to the insurance provider and could not reasonably acquire the means to pay the insurance provider the restitution over a ten-year period.

(2) Regardless of the provisions of subsection (1) of this section, the court shall order restitution in all cases where the victim is entitled to benefits under the crime victims' compensation act, chapter 7.68 RCW. If the court does not order restitution and the victim of the crime has been determined to be entitled to benefits under the crime victims' compensation act, the department of labor and industries, as administrator of the crime victims' compensation

program, may petition the court within one year of entry of the disposition order for entry of a restitution order. Upon receipt of a petition from the department of labor and industries, the court shall hold a restitution hearing and shall enter a restitution order.

(3) If an order includes restitution as one of the monetary assessments, the county clerk shall make disbursements to victims named in the order. The restitution to victims named in the order shall be paid prior to any payment for other penalties or monetary assessments.

(4) For purposes of this section, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the offense charged. "Victim" may also include a known parent or guardian of a victim who is a minor child or is not a minor child but is incapacitated, incompetent, disabled, or deceased.

(5) A respondent under obligation to pay restitution may petition the court for modification of the restitution order."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Marr moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6192.

Senator Marr spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Marr that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6192.

The motion by Senator Marr carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6192 by voice vote.

MOTION

On motion of Senator Brandland, Senator Benton was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6192, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6192, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Kline, McCaslin and Pflug  
SUBSTITUTE SENATE BILL NO. 6192, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 3, 2010

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MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6202 with the following amendment(s): 6202-S AMH HURS H5420.4,

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 30.22.210 and 1981 c 192 s 21 are each amended to read as follows:

(1) Nothing contained in this chapter shall be deemed to require any financial institution to make any payment from an account to a depositor, or any trust or P.O.D. account beneficiary, or any other person claiming an interest in any funds deposited in the account, if the financial institution has actual knowledge of the existence of a dispute between the depositors, beneficiaries, or other persons concerning their respective rights of ownerships to the funds contained in, or proposed to be withdrawn, or previously withdrawn from the account, or in the event the financial institution is otherwise uncertain as to who is entitled to the funds pursuant to the contract of deposit. In any such case, the financial institution may, without liability, notify, in writing, all depositors, beneficiaries, or other persons claiming an interest in the account of either its uncertainty as to who is entitled to the distributions or the existence of any dispute, and may also, without liability, refuse to disburse any funds contained in the account to any depositor, and/or trust or P.O.D. account beneficiary thereof, and/or other persons claiming an interest therein, until such time as either:

((+)) (a) All such depositors and/or beneficiaries have consented, in writing, to the requested payment; or

((=)) (b) The payment is authorized or directed by a court of proper jurisdiction.

(2) If a financial institution reasonably believes that financial exploitation of a vulnerable adult, as defined in RCW 74.34.020, may have occurred, may have been attempted, or is being attempted, the financial institution may refuse a transaction as permitted under section 3 of this act.

Sec. 2. RCW 74.34.020 and 2007 c 312 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Abandonment" means action or inaction by a person or entity with a duty of care for a vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care.

(2) "Abuse" means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a vulnerable adult. In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse includes sexual abuse, mental abuse, physical abuse, and exploitation of a vulnerable adult, which have the following meanings:

(a) "Sexual abuse" means any form of nonconsensual sexual contact, including but not limited to unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual abuse includes any sexual contact between a staff person, who is not also a resident or client, of a facility or a staff person of a program authorized under chapter 71A.12 RCW, and a vulnerable adult living in that facility or receiving service from a program authorized under chapter 71A.12 RCW, whether or not it is consensual.

(b) "Physical abuse" means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, prodding, or the use of chemical restraints or physical restraints unless the restraints are consistent

with licensing requirements, and includes restraints that are otherwise being used inappropriately.

(c) "Mental abuse" means any willful action or inaction of mental or verbal abuse. Mental abuse includes, but is not limited to, coercion, harassment, inappropriately isolating a vulnerable adult from family, friends, or regular activity, and verbal assault that includes ridiculing, intimidating, yelling, or swearing.

(d) "Exploitation" means an act of forcing, compelling, or exerting undue influence over a vulnerable adult causing the vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the vulnerable adult to perform services for the benefit of another.

(3) "Consent" means express written consent granted after the vulnerable adult or his or her legal representative has been fully informed of the nature of the services to be offered and that the receipt of services is voluntary.

(4) "Department" means the department of social and health services.

(5) "Facility" means a residence licensed or required to be licensed under chapter 18.20 RCW, boarding homes; chapter 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes; chapter 72.36 RCW, soldiers' homes; or chapter 71A.20 RCW, residential habilitation centers; or any other facility licensed by the department.

(6) "Financial exploitation" means the illegal or improper use of the property, income, resources, or trust funds of the vulnerable adult by any person for any person's profit or advantage other than for the vulnerable adult's profit or advantage.

(7) "Financial institution" has the same meaning as in RCW 30.22.040 and 30.22.041. For purposes of this chapter only, "financial institution" also means a "broker-dealer" or "investment adviser" as defined in RCW 21.20.005.

(8) "Incapacitated person" means a person who is at a significant risk of personal or financial harm under RCW 11.88.010(1) (a), (b), (c), or (d).

((=)) (9) "Individual provider" means a person under contract with the department to provide services in the home under chapter 74.09 or 74.39A RCW.

((=)) (10) "Interested person" means a person who demonstrates to the court's satisfaction that the person is interested in the welfare of the vulnerable adult, that the person has a good faith belief that the court's intervention is necessary, and that the vulnerable adult is unable, due to incapacity, undue influence, or duress at the time the petition is filed, to protect his or her own interests.

((=)) (11) "Mandated reporter" is an employee of the department; law enforcement officer; social worker; professional school personnel; individual provider; an employee of a facility; an operator of a facility; an employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agency; county coroner or medical examiner; Christian Science practitioner; or health care provider subject to chapter 18.130 RCW.

((+)) (12) "Neglect" means (a) a pattern of conduct or inaction by a person or entity with a duty of care that fails to provide the goods and services that maintain physical or mental health of a vulnerable adult, or that fails to avoid or prevent physical or mental harm or pain to a vulnerable adult; or (b) an act or omission that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the vulnerable adult's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100.

((+)) (13) "Permissive reporter" means any person, including, but not limited to, an employee of a financial institution, attorney, or

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volunteer in a facility or program providing services for vulnerable adults.

~~((13))~~ (14) "Protective services" means any services provided by the department to a vulnerable adult with the consent of the vulnerable adult, or the legal representative of the vulnerable adult, who has been abandoned, abused, financially exploited, neglected, or in a state of self-neglect. These services may include, but are not limited to case management, social casework, home care, placement, arranging for medical evaluations, psychological evaluations, day care, or referral for legal assistance.

~~((14))~~ (15) "Self-neglect" means the failure of a vulnerable adult, not living in a facility, to provide for himself or herself the goods and services necessary for the vulnerable adult's physical or mental health, and the absence of which impairs or threatens the vulnerable adult's well-being. This definition may include a vulnerable adult who is receiving services through home health, hospice, or a home care agency, or an individual provider when the neglect is not a result of inaction by that agency or individual provider.

~~((15))~~ (16) "Vulnerable adult" includes a person:

- (a) Sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself; or
- (b) Found incapacitated under chapter 11.88 RCW; or
- (c) Who has a developmental disability as defined under RCW 71A.10.020; or
- (d) Admitted to any facility; or
- (e) Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW; or
- (f) Receiving services from an individual provider.

**NEW SECTION. Sec. 3.** A new section is added to chapter 74.34 RCW to read as follows:

(1) Pending an investigation by the financial institution, the department, or law enforcement, if a financial institution reasonably believes that financial exploitation of a vulnerable adult may have occurred, may have been attempted, or is being attempted, the financial institution may, but is not required to, refuse a transaction requiring disbursement of funds contained in the account:

- (a) Of the vulnerable adult;
- (b) On which the vulnerable adult is a beneficiary, including a trust or guardianship account; or
- (c) Of a person suspected of perpetrating financial exploitation of a vulnerable adult.

(2) A financial institution may also refuse to disburse funds under this section if the department, law enforcement, or the prosecuting attorney's office provides information to the financial institution demonstrating that it is reasonable to believe that financial exploitation of a vulnerable adult may have occurred, may have been attempted, or is being attempted.

(3) A financial institution is not required to refuse to disburse funds when provided with information alleging that financial exploitation may have occurred, may have been attempted, or is being attempted, but may use its discretion to determine whether or not to refuse to disburse funds based on the information available to the financial institution.

(4) A financial institution that refuses to disburse funds based on a reasonable belief that financial exploitation of a vulnerable adult may have occurred, may have been attempted, or is being attempted shall:

- (a) Make a reasonable effort to notify all parties authorized to transact business on the account orally or in writing; and
  - (b) Report the incident to the adult protective services division of the department and local law enforcement.
- (5) Any refusal to disburse funds as authorized by this section based on the reasonable belief of a financial institution that financial

exploitation of a vulnerable adult may have occurred, may have been attempted, or is being attempted will expire upon the sooner of:

(a) Ten business days after the date on which the financial institution first refused to disburse the funds if the transaction involved the sale of a security or offer to sell a security, as defined in RCW 21.20.005, unless sooner terminated by an order of a court of competent jurisdiction;

(b) Five business days after the date on which the financial institution first refused to disburse the funds if the transaction did not involve the sale of a security or offer to sell a security, as defined in RCW 21.20.005, unless sooner terminated by an order of a court of competent jurisdiction; or

(c) The time when the financial institution is satisfied that the disbursement will not result in financial exploitation of a vulnerable adult.

(6) A court of competent jurisdiction may enter an order extending the refusal by the financial institution to disburse funds based on a reasonable belief that financial exploitation of a vulnerable adult may have occurred, may have been attempted, or is being attempted. A court of competent jurisdiction may also order other protective relief as authorized by RCW 7.40.010 and 74.34.130.

(7) A financial institution or an employee of a financial institution is immune from criminal, civil, and administrative liability for refusing to disburse funds or disbursing funds under this section and for actions taken in furtherance of that determination if the determination of whether or not to disburse funds was made in good faith.

**Sec. 4.** RCW 74.34.035 and 2003 c 230 s 2 are each amended to read as follows:

(1) When there is reasonable cause to believe that abandonment, abuse, financial exploitation, or neglect of a vulnerable adult has occurred, mandated reporters shall immediately report to the department.

(2) When there is reason to suspect that sexual assault has occurred, mandated reporters shall immediately report to the appropriate law enforcement agency and to the department.

(3) When there is reason to suspect that physical assault has occurred or there is reasonable cause to believe that an act has caused fear of imminent harm:

(a) Mandated reporters shall immediately report to the department; and

(b) Mandated reporters shall immediately report to the appropriate law enforcement agency, except as provided in subsection (4) of this section.

(4) A mandated reporter is not required to report to a law enforcement agency, unless requested by the injured vulnerable adult or his or her legal representative or family member, an incident of physical assault between vulnerable adults that causes minor bodily injury and does not require more than basic first aid, unless:

(a) The injury appears on the back, face, head, neck, chest, breasts, groin, inner thigh, buttock, genital, or anal area;

(b) There is a fracture;

(c) There is a pattern of physical assault between the same vulnerable adults or involving the same vulnerable adults; or

(d) There is an attempt to choke a vulnerable adult.

(5) When there is reason to suspect that the death of a vulnerable adult was caused by abuse, neglect, or abandonment by another person, mandated reporters shall, pursuant to RCW 68.50.020, report the death to the medical examiner or coroner having jurisdiction, as well as the department and local law enforcement, in the most expeditious manner possible. A mandated reporter is not relieved from the reporting requirement provisions of this subsection by the existence of a previously signed death certificate. If abuse, neglect, or abandonment caused or contributed to the death

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of a vulnerable adult, the death is a death caused by unnatural or unlawful means, and the body shall be the jurisdiction of the coroner or medical examiner pursuant to RCW 68.50.010.

(6) Permissive reporters may report to the department or a law enforcement agency when there is reasonable cause to believe that a vulnerable adult is being or has been abandoned, abused, financially exploited, or neglected.

~~((6))~~ (7) No facility, as defined by this chapter, agency licensed or required to be licensed under chapter 70.127 RCW, or facility or agency under contract with the department to provide care for vulnerable adults may develop policies or procedures that interfere with the reporting requirements of this chapter.

~~((7))~~ (8) Each report, oral or written, must contain as much as possible of the following information:

- (a) The name and address of the person making the report;
- (b) The name and address of the vulnerable adult and the name of the facility or agency providing care for the vulnerable adult;
- (c) The name and address of the legal guardian or alternate decision maker;
- (d) The nature and extent of the abandonment, abuse, financial exploitation, neglect, or self-neglect;
- (e) Any history of previous abandonment, abuse, financial exploitation, neglect, or self-neglect;
- (f) The identity of the alleged perpetrator, if known; and
- (g) Other information that may be helpful in establishing the extent of abandonment, abuse, financial exploitation, neglect, or the cause of death of the deceased vulnerable adult.

~~((8))~~ (9) Unless there is a judicial proceeding or the person consents, the identity of the person making the report under this section is confidential.

**NEW SECTION. Sec. 5.** A new section is added to chapter 74.34 RCW to read as follows:

(1) A financial institution shall provide training concerning the financial exploitation of vulnerable adults to the employees specified in subsection (2) of this section within one year of the effective date of this act and shall thereafter provide such training to the new employees specified in subsection (2) of this section within the first three months of their employment.

(2) A financial institution that is a broker-dealer or investment adviser as defined in RCW 21.20.005 shall provide training concerning the financial exploitation of vulnerable adults to employees who are required to be registered in the state of Washington as salespersons or investment adviser representatives under RCW 21.20.040 and who have contact with customers and access to account information on a regular basis and as part of their job. All other financial institutions shall provide training concerning the financial exploitation of vulnerable adults to employees who have contact with customers and access to account information on a regular basis and as part of their job.

(3) The training must include recognition of indicators of financial exploitation of a vulnerable adult, the manner in which employees may report suspected financial exploitation to the department and law enforcement as permissive reporters, and steps employees may take to prevent suspected financial exploitation of a vulnerable adult as authorized by law or agreements between the financial institution and customers of the financial institution. The office of the attorney general and the department shall develop a standardized training that financial institutions may offer, or the financial institution may develop its own training.

(4) A financial institution may provide access to or copies of records that are relevant to suspected financial exploitation or attempted financial exploitation of a vulnerable adult to the department, law enforcement, or the prosecuting attorney's office, either as part of a referral to the department, law enforcement, or the prosecuting attorney's office, or upon request of the department, law

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enforcement, or the prosecuting attorney's office pursuant to an investigation. The records may include historical records as well as records relating to the most recent transaction or transactions that may comprise financial exploitation.

(5) A financial institution or employee of a financial institution participating in good faith in making a report or providing documentation or access to information to the department, law enforcement, or the prosecuting attorney's office under this chapter shall be immune from criminal, civil, or administrative liability."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6202.

Senator Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hargrove that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6202.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6202 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6202, as amended by the House.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6202, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Carrell

Excused: Senators Kline, McCaslin and Pflug

SUBSTITUTE SENATE BILL NO. 6202, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MESSAGE FROM THE HOUSE

March 3, 2010

MR. PRESIDENT:

The House passed SENATE BILL NO. 6206 with the following amendment(s): 6206 AMH FIN H5514.1,

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 82.32.590 and 2009 c 461 s 7 are each amended to read as follows:

(1) If the department finds that the failure of a taxpayer to file an annual survey under RCW 82.32. . . (section 102, chapter . . . , Laws of 2010, (SHB 3066)) or annual report under ((RCW 82.04.4452, 82.32.5351, 82.32.650, 82.32.630, 82.32.610, 82.82.020, 82.32.632,

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or 82.74.040)) RCW 82.32. . . . (section 103, chapter . . . , Laws of 2010, (SHB 3066)) by the due date was the result of circumstances beyond the control of the taxpayer, the department ((shall)) must extend the time for filing the survey or report. ((Such)) The extension ((shall be)) is for a period of thirty days from the date the department issues its written notification to the taxpayer that it qualifies for an extension under this section. The department may grant additional extensions as it deems proper.

(2) In making a determination whether the failure of a taxpayer to file an annual survey or annual report by the due date was the result of circumstances beyond the control of the taxpayer, the department ((shall)) must be guided by rules adopted by the department for the waiver or cancellation of penalties when the underpayment or untimely payment of any tax was due to circumstances beyond the control of the taxpayer.

(3)(a) Subject to the conditions in this subsection (3), a taxpayer who fails to file an annual report or annual survey required under subsection (1) of this section by the due date of the report or survey is entitled to an extension of the due date. A request for an extension under this subsection (3) must be made in writing to the department.

(b) To qualify for an extension under this subsection (3), a taxpayer must have filed all annual reports and surveys, if any, due in prior years under subsection (1) of this section by their respective due dates, beginning with annual reports and surveys due in calendar year 2010.

(c) An extension under this subsection (3) is for ninety days from the original due date of the annual report or survey.

(d) No taxpayer may be granted more than one ninety-day extension under this subsection (3).

NEW SECTION. Sec. 2. Section 1 of this act applies to annual surveys and reports due under any of the statutes listed in RCW 82.32.590(1) in calendar year 2011 and thereafter."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Haugen moved that the Senate concur in the House amendment(s) to Senate Bill No. 6206.

Senator Haugen spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Haugen that the Senate concur in the House amendment(s) to Senate Bill No. 6206.

The motion by Senator Haugen carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6206 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6206, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6206, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmner, King, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach,

Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Kline, McCaslin and Pflug

SENATE BILL NO. 6206, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

February 28, 2010

MR. PRESIDENT:

The House passed SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 5742 with the following amendment(s): 5742-S.E2 AMH JUDI H5275.3,

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. The legislature finds that local governments, landlords, and tenants working together to provide crime-free rental housing is beneficial to the public health, safety, and welfare. The legislature is also concerned about activities and provisions that serve to bar a person with a criminal history from obtaining viable housing regardless of other factors that may indicate rental stability, such as employment, rental references, or time in the community with no further criminal activity. It is therefore the intent of this act to provide certain requirements that a local government must follow in adopting a crime-free rental housing program.

NEW SECTION. Sec. 2. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Crime-free rental housing program" means a crime prevention program designed to reduce crime, drugs, and gangs on rental housing premises under the supervision of the local police department or a crime prevention officer. The program may include, but is not limited to: Property management and crime prevention training classes; crime prevention through environmental design surveys; and community awareness training.

(2) "Criminal activity" means a criminal act defined by statute or ordinance that threatens the health, safety, or welfare of the tenants, owner, guests, occupants, or property manager.

(3) "Local government" means any city, code city, town, or county.

(4) "Premises" has the same meaning as in RCW 59.18.030.

(5) "Rental housing" means any tenancy subject to chapter 59.12, 59.18, or 59.20 RCW.

NEW SECTION. Sec. 3. (1)(a) Except as provided in (b) of this subsection, a local government may adopt and implement a crime-free rental housing program within its jurisdiction in accordance with this chapter.

(b) A crime-free rental housing program adopted and implemented by a county is applicable only to unincorporated areas of the county.

(2) Except as provided in subsection (3) of this section, a crime-free rental housing program must be voluntary.

(3)(a) A local government may require a landlord to participate in a crime-free rental housing program upon exceeding a reasonable threshold of instances of criminal activity on the premises if the landlord has not made a good faith effort to deter the criminal activity.

(b) A good faith effort may include, but is not limited to:

(i) Service of notice on the tenant to comply or quit as allowed by law or the commencement of an unlawful detainer action against the tenant; and

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(ii) Attendance and completion of a landlord training program approved by the local government.

(4)(a) As a prerequisite to subsection (3) of this section, upon the occurrence of criminal activity on the premises, the local police department must send a notice to the landlord setting forth the following:

- (i) The date and location of the occurrence;
- (ii) The nature of the occurrence; and
- (iii) The name of the person who engaged in the occurrence.

(b) Notice is deemed properly delivered when it is either served upon the landlord or a property manager of the rental property, or is delivered by first-class mail to the last known address of the landlord.

(5) This section does not prevent a local government from charging a fee for participation in a crime-free rental housing program.

(6) This section does not affect a local government's authority to enforce existing law in regard to rental housing, except in regard to a crime-free rental housing program.

**NEW SECTION. Sec. 4.** A crime-free rental housing program may not prohibit a landlord from hiring or renting to a person solely because of the person's criminal history.

**NEW SECTION. Sec. 5.** (1) Except as provided in subsection (2) of this section, this chapter supersedes and preempts all rules, regulations, codes, statutes, or ordinances of all local governments regarding the same subject matter. The state preemption created in this section applies to all rules, regulations, codes, statutes, and ordinances pertaining to crime-free rental housing programs at any time.

(2) Section 3 of this act does not apply to rules, regulations, codes, statutes, or ordinances adopted by local governments prior to July 1, 2010, except as required by an order issued by a court of competent jurisdiction pursuant to litigation regarding the rules, regulations, codes, statutes, or ordinances.

**NEW SECTION. Sec. 6.** Sections 1 through 5 of this act constitute a new chapter in Title 35 RCW." and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Second Engrossed Substitute Senate Bill No. 5742.

Senator Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hargrove that the Senate concur in the House amendment(s) to Second Engrossed Substitute Senate Bill No. 5742.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Second Engrossed Substitute Senate Bill No. 5742 by voice vote.

The President declared the question before the Senate to be the final passage of Second Engrossed Substitute Senate Bill No. 5742, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Substitute Senate Bill No. 5742, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon,

Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Kline, McCaslin and Pflug

SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 5742, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 7:10 p.m., on motion of Senator Eide, the Senate adjourned until 9:00 a.m. Tuesday, March 9, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**SENATE JOURNAL**  
**SIXTY-FIRST LEGISLATURE**  
**STATE OF WASHINGTON**

**AT**

**OLYMPIA, THE STATE CAPITOL**

*2010 Regular Session Convened January 11, 2010*

*Adjourned Sine Die March 11, 2010*

*2010 Special Session Convened March 15, 2010*

*Adjourned Sine Die April 12, 2010*

Official Record of All Senate Actions Compiled, Edited and Indexed  
Pursuant to Article II, Section 11 of the Constitution of the State of  
Washington, by Thomas Hoemann, Secretary of the Senate

**Volume 2**



Linda Jansson,  
Minute and Journal Clerk

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Senator Rosa Franklin, *President Pro Tempore*  
Senator Paull Shin, *Vice President Pro Tempore*

**SENATE CAUCUS OFFICERS**

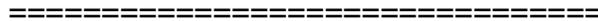
**2010**

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**FIFTY EIGHTH DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Tuesday, March 9, 2010

The Senate was called to order at 9:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Fairley, Holmquist, McCaslin, Oemig and Zarelli.

The Sergeant at Arms Color Guard consisting of Pages Caroline Palmer and Gregory Petschl, presented the Colors. Mr. Adam Cooper, Legislative Assistant to Senator Kohl-Welles offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

March 8, 2010

SB 6364 Prime Sponsor, Senator Fraser: Concerning the capital budget. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6364 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Hewitt; Honeyford; Pflug and Schoesler.

Passed to Committee on Rules for second reading.

March 8, 2010

SB 6518 Prime Sponsor, Senator Oemig: Changing school levy provisions. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 6518 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Hewitt and Honeyford.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Parlette; Pflug and Schoesler.

Passed to Committee on Rules for second reading.

March 8, 2010

SB 6675 Prime Sponsor, Senator Murray: Creating the Washington global health technologies and product development competitiveness program and allowing certain tax credits for program contributions. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 6675 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Parlette; Pridemore; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

March 8, 2010

SB 6712 Prime Sponsor, Senator Hobbs: Extending expiring tax incentives for certain clean alternative fuel vehicles, producers of certain biofuels, and federal aviation regulation part 145 certificated repair stations. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6712 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

March 8, 2010

SB 6789 Prime Sponsor, Senator Prentice: Concerning sales and use tax exemptions for certain equipment and infrastructure contained in data centers. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6789 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Hewitt; Hobbs; Honeyford; Keiser; McDermott; Murray; Parlette; Pridemore and Schoesler.

MINORITY recommendation: Do not pass. Signed by Senators Fraser, Vice Chair, Capital Budget Chair and Rockefeller.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Fairley.

Passed to Committee on Rules for second reading.

March 8, 2010

SB 6855 Prime Sponsor, Senator McDermott: Exempting community centers from property taxation and imposing leasehold excise taxes on such property. Reported by Committee on Ways & Means

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MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Pridemore and Rockefeller.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Brandland; Honeyford; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

March 8, 2010

SB 6872 Prime Sponsor, Senator Keiser: Concerning medicaid nursing facility payments. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6872 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Keiser; Kline; Kohl-Welles; McDermott; Murray; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senator Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Brandland; Honeyford; Parlette and Pflug.

Passed to Committee on Rules for second reading.

March 8, 2010

SB 6881 Prime Sponsor, Senator Fraser: Concerning a new surcharge on certain recorded documents for preservation of local archive documents and the Washington state heritage center. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6881 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Fairley; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Brandland; Hewitt and Parlette.

Passed to Committee on Rules for second reading.

March 8, 2010

HB 2567 Prime Sponsor, Representative Carlyle: Concerning the excise taxation of publicly owned facilities accredited by the association of zoos and aquariums. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Fairley; Hewitt; Hobbs; Keiser;

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Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senator Honeyford.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Parlette and Schoesler.

Passed to Committee on Rules for second reading.

March 8, 2010

2SHB 2782 Prime Sponsor, Committee on Ways & Means: Concerning the security lifeline act. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Honeyford and Pflug.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Brandland; Hewitt; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

March 8, 2010

EHB 2969 Prime Sponsor, Representative Hudgins: Promoting efficiencies in the services provided by the office of the public printer. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pridemore; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

March 8, 2010

ESHB 3178 Prime Sponsor, Committee on Ways & Means: Creating efficiencies in the use of technology in state government. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Fairley; Hewitt; Hobbs; Honeyford; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pridemore; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

## MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

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MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

March 8, 2010

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

- SECOND SUBSTITUTE HOUSE BILL 1761,
  - SUBSTITUTE HOUSE BILL 2179,
  - HOUSE BILL 2681,
  - SECOND SUBSTITUTE HOUSE BILL 2867,
  - ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2961,
  - SUBSTITUTE HOUSE BILL 3016,
  - ENGROSSED SECOND SUBSTITUTE HOUSE BILL 3026,
  - SUBSTITUTE HOUSE BILL 3105.
- and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 8, 2010

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

- HOUSE BILL 1880,
  - SUBSTITUTE HOUSE BILL 2534,
  - HOUSE BILL 2625,
  - SUBSTITUTE HOUSE BILL 2680,
  - SUBSTITUTE HOUSE BILL 2717,
  - SUBSTITUTE HOUSE BILL 2939,
  - ENGROSSED SUBSTITUTE HOUSE JOINT RESOLUTION 4220.
- and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

MOTION

Senator Kohl-Welles moved adoption of the following resolution:

SENATE RESOLUTION  
8715

By Senators Kohl-Welles, Jacobsen, Kline, Keiser, Stevens, Kauffman, Franklin, Fraser, Prentice, Tom, Gordon, Regala, Fairley, Parlette, Brandland, Roach, King, Carrell, Schoesler, and Pflug

WHEREAS, Participation in athletics is one of the most effective ways for girls and women in the United States to develop leadership skills, discipline, initiative, and self-confidence; and

WHEREAS, Sport and fitness activities contribute to girls' and women's emotional and physical well-being; and

WHEREAS, The communication, competition, and cooperation skills learned through athletic experience play a key role in the contributions of athletes to the home, workplace, and society; and

WHEREAS, Early motor skills training and enjoyable experiences of physical activity strongly encourage enduring habits of physical fitness; and

WHEREAS, By a 3 to 1 ratio, female athletes do better in school, do not drop out, and have a better chance to get through college than their peers who do not play sports; and

WHEREAS, Female athletes are more likely to graduate from high school, have higher grades, and score higher on standardized tests than nonathletes; and

WHEREAS, Female athletes are more likely to do well in science classes than their classmates who do not play sports; and

WHEREAS, Female athletes are less likely to smoke cigarettes and use drugs than their nonathletic peers; and

WHEREAS, Adolescent female athletes have lower rates of both sexual activity and pregnancy; and

WHEREAS, Sports participation decreases a young woman's chance of developing heart disease, osteoporosis, and other health-related problems; and

WHEREAS, Female athletes are less likely to be at risk of developing breast cancer; and

WHEREAS, High school female athletes are more likely to experience higher levels of self-esteem and are less likely to suffer from depression; and

WHEREAS, The bonds built among girls and women through athletics help to break down the social barriers of prejudice and discrimination; and

WHEREAS, The National Girls and Women in Sports Coalition, established in 1987, declared February 3, 2010, to be National Girls and Women in Sports Day; and

WHEREAS, High school girls' athletic teams in the state of Washington have achieved many accomplishments that serve as an inspiration to young women to promote the values of teamwork and cooperation; and

WHEREAS, Washington high schools foster outstanding achievements in girls' and women's sports, such as volleyball, soccer, softball, golf, and basketball. These include state volleyball champions: Mead, Bishop Blanchet, Pullman, King's, Colfax, and St. John-Endicott; state soccer champions: Skyline, Columbia River, Archbishop Murphy, Seattle Academy, Orcas Island, and Tacoma Baptist; state softball champions: Kelso, Bainbridge Island, Burlington-Edison, Montesano, Adna, and Colton; state golf champions: Lewis & Clark, Holy Names, Bellingham, Royal, and Life Christian; and state basketball champions: Kentwood, Kennedy, Lynden, Seattle Christian, Colfax, and Colton; and

WHEREAS, The University of Washington Women's Softball Team swept the University of Florida Gators in two games to win the National Championship in 2009; and

WHEREAS, University of Washington's own Danielle Lawrie, who pitched both games, was named U.S.A. Softball Collegiate Player of the Year, Women's College World Series Most Outstanding Player, and Pac-10 Pitcher of the Year; and

WHEREAS, The successes and achievements of University of Washington Volleyball players Tamari Miyashiro and Jill Collymore have qualified them to train with the U.S. National Team; and

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WHEREAS, University of Washington's Katie Follett won her second straight Pac-10 1,500 meter title in cross-country, making her the first UW woman to repeat as a Pac-10 Champion and the second UW woman ever to earn three All-American honors in cross-country; and

WHEREAS, Jamey Gelhar, of Saint Martin's University, made 78 consecutive free-throws in the 2009 season, setting an all-time NCAA women's record, and ultimately making 94 out of 97 free-throws, setting an all-time NCAA all-division single season record; and

WHEREAS, St. Martin's Women's Basketball Team placed second among all Division II schools on the 2009 Academic Top 25 Team Honor Roll by Women's Basketball Coaches Association; and

WHEREAS, Soccer player Corina Gabbert achieved Whitman's most prolific single-season scoring performance in more than two decades with 19 goals and six assists in 17 games; and

WHEREAS, Basketball player Heather Bowman became the West Coast Conference and Gonzaga University's all-time leading scorer; and

WHEREAS, Gonzaga University basketball player Courtney Vandersloot reached the 1,000 point milestone in the 2009 season; and

WHEREAS, Gonzaga University's Women's Rowing Team achieved the first sweep in the school's history at the 2009 Championships; and

WHEREAS, Seattle University's Softball Team won the 2009 National Independent Tournament; and

WHEREAS, Distance runner Jessica Pixler, of Seattle Pacific University, collected her sixth, seventh, eighth, and ninth NCAA Division II championship titles, becoming the first woman at the Division II level to accomplish three straight national championships; and

WHEREAS, Whitworth University ran to its highest women's cross-country finish ever at the NCAA Division III Championships; and

WHEREAS, Western Washington University Women's Rowing Team won their 5th consecutive NCAA Division II national title; and

WHEREAS, Everett Community College's Softball Team made their sixth consecutive appearance at the NWAACC Championship Tournament; and

WHEREAS, Everett Community College's Cross-Country Team won the NWAACC 2009 championship; and

WHEREAS, Olympia's own Women's Roller Derby Team, the Oly Rollers, won the 2009 Women's Flat Track Derby Association championship at the end of an undefeated season; and

WHEREAS, Washington is honored to host the Seattle Storm, the only women's professional basketball team in the Northwest and the first major professional sports team in Seattle to bring home a championship in more than 25 years; and

WHEREAS, Seattle Storm team members Sue Bird, Swin Cash, and Lauren Jackson were voted by fans as starters for the Western Conference at the 2009 All-Star Game; and

WHEREAS, Washington State is proud to have participants at the 2010 Winter Olympic Games in Vancouver, Canada, including Nicole Joraanstad, curler from Kent, Holly Brooks, skier from Seattle, and Karen Thatcher, hockey player from Blaine; and

WHEREAS, These women and many more not mentioned here are sterling examples of what is possible through equal parts of hard work, focus, and determination;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor Washington girls and women in sports on March 9, 2010, and encourage others to observe the day with appropriate ceremonies and activities; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Washington State Senate and all of the aforementioned athletes and their respective institutions.

Senators Kohl-Welles, Benton and Roach spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8715.

The motion by Senator Kohl-Welles carried and the resolution was adopted by voice vote.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced representatives of women and girls involved in sports including the Oly Rollers of Olympia, the Women's Flat Track Derby Association's 2009 National Champions. The President also recognized Staff Counsel to the Senate Democratic Caucus Heather Lewis-Lechner, aka "Connie Pinko," a member of the 2009 flat track championship team.

#### MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

#### SECOND READING

#### CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Rockefeller moved that Gubernatorial Appointment No. 9260, Ted Sturdevant, as Director of the Department of Ecology, be confirmed.

Senator Rockefeller spoke in favor of the motion.

#### MOTION

On motion of Senator Brandland, Senators Holmquist, McCaslin and Zarelli were excused.

#### MOTION

On motion of Senator Marr, Senators Brown and Fairley were excused.

#### APPOINTMENT OF TED STURDEVANT

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9260, Ted Sturdevant as Director of the Department of Ecology.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9260, Ted Sturdevant as Director of the Department of Ecology and the appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Tom

Absent: Senator Oemig

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Excused: Senators Fairley, Holmquist, McCaslin and Zarelli  
 Gubernatorial Appointment No. 9260, Ted Sturdevant, having received the constitutional majority was declared confirmed as Director of the Department of Ecology.

interstate compact for adult offender supervision operates to protect the safety of the people and communities of Washington and other individual states.

NEW SECTION. Sec. 4. A new section is added to chapter 9.94A RCW to read as follows:

SECOND READING  
 CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Kilmer moved that Gubernatorial Appointment No. 9272, Patricia Lantz, as a member of the Parks and Recreation Commission, be confirmed.

Senator Kilmer spoke in favor of the motion.

(1) The department shall identify the states from which it receives adult offenders who need supervision and examine the feasibility and cost of establishing memoranda of understanding with the states that send the highest number of offenders for supervision to Washington state with the goal of achieving more balanced and equitable obligations under the interstate compact for adult offender supervision.

(2) At the next meeting of the interstate compact commission, Washington's representatives on the commission shall seek a resolution by the commission regarding:

(a) Any inequitable distribution of costs, benefits, and obligations affecting Washington under the interstate compact; and

(b) The scope of the mandatory acceptance policy and the authority of the receiving state to determine when it is no longer able to supervise an offender.

(3) The department shall examine the feasibility and cost of withdrawal from the interstate compact for adult offender supervision.

(4) The department shall report to the legislature no later than December 1, 2010, regarding:

(a) The development of memoranda of understanding with states that send the highest numbers of offenders to Washington state for supervision;

(b) The outcome of the resolution process with the interstate commission; and

(c) The feasibility and cost of withdrawal from the interstate compact for adult offender supervision.

NEW SECTION. Sec. 5. RCW 9.94A.745 (Interstate compact for adult offender supervision) and 2001 c 35 s 2 are each repealed.

NEW SECTION. Sec. 6. Sections 3 and 4 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect June 1, 2010.

NEW SECTION. Sec. 7. Section 5 of this act takes effect July 1, 2011."

Correct the title.  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MOTION

Senator Hargrove moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6548 and ask the House to recede therefrom.

Senators Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6548 and ask the House to recede therefrom.

The motion by Senator Hargrove carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 6548 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

February 28, 2010

MESSAGE FROM THE HOUSE

March 3, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6548 with the following amendment(s): 6548-S AMH KELL MERE 166 ,

On page 2, line 35, after "Sec. 2." strike "This" and insert "Section 1 of this"

On page 3, line 1, after "date of" insert "section 1 of"

On page 3, after line 2, insert the following:

NEW SECTION. Sec. 3. The legislature has determined that it is necessary to examine patterns related to the exchange of out-of-state offenders needing supervision. The examination must assess the past action and behavior of other states that send offenders to the state of Washington for supervision to assure that the

MR. PRESIDENT:

FIFTY EIGHTH DAY, MARCH 9, 2010

The House passed SUBSTITUTE SENATE BILL NO. 6485 with the following amendment(s): 6485-S AMH CONW ELGE 176 ,

On page 3, line 35, after "spirits" strike "distilled" and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Marr moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6485.

Senator Marr spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Marr that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6485.

The motion by Senator Marr carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6485 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6485, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6485, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 3; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Hargrove, Haugen and Kauffman

Excused: Senators Fairley, McCaslin and Oemig

SUBSTITUTE SENATE BILL NO. 6485, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 3, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6349 with the following amendment(s): 6349-S AMH ENGR H5570.E ,

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 49.12 RCW to read as follows:

(1) The director shall establish a farm internship pilot project until December 1, 2011, for the employment of farm interns on small farms under special certificates at wages, if any, as authorized by the department and subject to such limitations as to time, number, proportion, and length of service as provided in this section and as prescribed by the department. The pilot project shall consist of two counties, one a county consisting entirely of islands with fewer than fifty thousand residents and one a county that is bordered by the crest of the Cascade mountain range and salt waters with fewer than one hundred fifty thousand residents.

(2) A small farm may employ no more than three interns per year under this section.

(3) A small farm must apply for a special certificate on a form made available by the director. The application must set forth: The name of the farm and a description of the farm seeking the certificate; the type of work to be performed by a farm intern; a description of the internship program; the period of time for which the certificate is sought and the duration of an internship; the number of farm interns for which a special certificate is sought; the wages, if any, that will be paid to the farm intern; any room and board, stipends, and other remuneration the farm will provide to a farm intern; and the total number of workers employed by the farm.

(4) Upon receipt of an application, the department shall review the application and issue a special certificate to the requesting farm within fifteen days if the department finds that:

(a) The farm qualifies as a small farm;

(b) There have been no serious violations of chapter 49.46 RCW or Title 51 RCW that provide reasonable grounds to believe that the terms of an internship agreement may not be complied with;

(c) The issuance of a certificate will not create unfair competitive labor cost advantages nor have the effect of impairing or depressing wage or working standards established for experienced workers for work of a like or comparable character in the industry or occupation at which the intern is to be employed;

(d) A farm intern will not displace an experienced worker; and

(e) The farm demonstrates that the interns will perform work for the farm under an internship program that: (i) Provides a curriculum of learning modules and supervised participation in farm work activities designed to teach farm interns about farming practices and farm enterprises; (ii) is based on the bona fide curriculum of an educational or vocational institution; and (iii) is reasonably designed to provide the intern with vocational knowledge and skills about farming practices and enterprises. In assessing an internship program, the department may consult with relevant college and university departments and extension programs and state and local government agencies involved in the regulation or development of agriculture.

(5) A special certificate issued under this section must specify the terms and conditions under which it is issued, including: The name of the farm; the duration of the special certificate allowing the employment of farm interns and the duration of an internship; the total number of interns authorized under the special certificate; the authorized wage rate, if any; and any room and board, stipends, and other remuneration the farm will provide to the farm intern. A farm worker may be paid at wages specified in the certificate only during the effective period of the certificate and for the duration of the internship.

(6) If the department denies an application for a special certificate, notice of denial must be mailed to the farm. The farm listed on the application may, within fifteen days after notice of such action has been mailed, file with the director a petition for review of the denial, setting forth grounds for seeking such a review. If reasonable grounds exist, the director or the director's authorized representative may grant such a review and, to the extent deemed appropriate, afford all interested persons an opportunity to be heard on such review.

(7) Before employing a farm intern, a farm must submit a statement on a form made available by the director stating that the farm understands: The requirements of the industrial welfare act, chapter 49.12 RCW, that apply to farm interns; that the farm must pay workers' compensation premiums in the assigned intern risk class and must pay workers' compensation premiums for nonintern work hours in the applicable risk class; and that if the farm does not comply with subsection (8) of this section, the director may revoke the special certificate.

(8) The director may revoke a special certificate issued under this section if a farm fails to: Comply with the requirements of the

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industrial welfare act, chapter 49.12 RCW, that apply to farm interns; pay workers' compensation premiums in the assigned intern risk class; or pay workers' compensation premiums in the applicable risk class for nonintern work hours.

(9) Before the start of a farm internship, the farm and the intern must sign a written agreement and send a copy of the agreement to the department. The written agreement must, at a minimum:

(a) Describe the internship program offered by the farm, including the skills and objectives the program is designed to teach and the manner in which those skills and objectives will be taught;

(b) Explicitly state that the intern is not entitled to minimum wages for work and activities conducted pursuant to the internship program for the duration of the internship;

(c) Describe the responsibilities, expectations, and obligations of the intern and the farm, including the anticipated number of hours of farm activities to be performed by the intern per week;

(d) Describe the activities of the farm and the type of work to be performed by the farm intern; and

(e) Describes any wages, room and board, stipends, and other remuneration the farm will provide to the farm intern.

(10) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Farm intern" means an individual who provides services to a small farm under a written agreement and primarily as a means of learning about farming practices and farm enterprises.

(b) "Farm internship program" means an internship program described under subsection (4)(e) of this section.

(c) "Small farm" means a farm:

(i) Organized as a sole proprietorship, partnership, or corporation;

(ii) That reports on the applicant's schedule F of form 1040 or other applicable form filed with the United States internal revenue service annual sales less than two hundred fifty thousand dollars; and

(iii) Where all the owners or partners of the farm provide regular labor to and participate in the management of the farm, and own or lease the productive assets of the farm.

(11) The department shall monitor and evaluate the farm internships authorized by this section and report to the appropriate committees of the legislature by December 31, 2011. The report shall include, but not be limited to: The number of small farms that applied for and received special certificates; the number of interns employed as farm interns; the nature of the educational activities provided to the farm interns; the wages and other remuneration paid to farm interns; the number of and type of workers' compensation claims for farm interns; the employment of farm interns following farm internships; and other matters relevant to assessing farm internships authorized in this section.

**Sec. 2.** RCW 49.46.010 and 2002 c 354 s 231 are each amended to read as follows:

As used in this chapter:

(1) "Director" means the director of labor and industries;

(2) "Wage" means compensation due to an employee by reason of employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges, or allowances as may be permitted by rules of the director;

(3) "Employ" includes to permit to work;

(4) "Employer" includes any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee;

(5) "Employee" includes any individual employed by an employer but shall not include:

(a) Any individual (i) employed as a hand harvest laborer and paid on a piece rate basis in an operation which has been, and is generally and customarily recognized as having been, paid on a piece rate basis in the region of employment; (ii) who commutes daily from his or her permanent residence to the farm on which he or she is employed; and (iii) who has been employed in agriculture less than thirteen weeks during the preceding calendar year;

(b) Any individual employed in casual labor in or about a private home, unless performed in the course of the employer's trade, business, or profession;

(c) Any individual employed in a bona fide executive, administrative, or professional capacity or in the capacity of outside salesman as those terms are defined and delimited by rules of the director. However, those terms shall be defined and delimited by the director of personnel pursuant to chapter 41.06 RCW for employees employed under the director of personnel's jurisdiction;

(d) Any individual engaged in the activities of an educational, charitable, religious, state or local governmental body or agency, or nonprofit organization where the employer-employee relationship does not in fact exist or where the services are rendered to such organizations gratuitously. If the individual receives reimbursement in lieu of compensation for normally incurred out-of-pocket expenses or receives a nominal amount of compensation per unit of voluntary service rendered, an employer-employee relationship is deemed not to exist for the purpose of this section or for purposes of membership or qualification in any state, local government or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(e) Any individual employed full time by any state or local governmental body or agency who provides voluntary services but only with regard to the provision of the voluntary services. The voluntary services and any compensation therefor shall not affect or add to qualification, entitlement or benefit rights under any state, local government, or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(f) Any newspaper vendor or carrier;

(g) Any carrier subject to regulation by Part 1 of the Interstate Commerce Act;

(h) Any individual engaged in forest protection and fire prevention activities;

(i) Any individual employed by any charitable institution charged with child care responsibilities engaged primarily in the development of character or citizenship or promoting health or physical fitness or providing or sponsoring recreational opportunities or facilities for young people or members of the armed forces of the United States;

(j) Any individual whose duties require that he or she reside or sleep at the place of his or her employment or who otherwise spends a substantial portion of his or her work time subject to call, and not engaged in the performance of active duties;

(k) Any resident, inmate, or patient of a state, county, or municipal correctional, detention, treatment or rehabilitative institution;

(l) Any individual who holds a public elective or appointive office of the state, any county, city, town, municipal corporation or quasi municipal corporation, political subdivision, or any instrumentality thereof, or any employee of the state legislature;

(m) All vessel operating crews of the Washington state ferries operated by the department of transportation;

(n) Any individual employed as a seaman on a vessel other than an American vessel;

(o) Any farm intern providing his or her services to a small farm which has a special certificate issued under section 1 of this act;

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(6) "Occupation" means any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which employees are gainfully employed;

(7) "Retail or service establishment" means an establishment seventy-five percent of whose annual dollar volume of sales of goods or services, or both, is not for resale and is recognized as retail sales or services in the particular industry.

**NEW SECTION. Sec. 3.** A new section is added to chapter 51.16 RCW to read as follows:

The department shall adopt rules to provide special workers' compensation risk class or classes for farm interns providing agricultural labor pursuant to a farm internship program. The rules must include any requirements for obtaining a special risk class that must be met by small farms.

**NEW SECTION. Sec. 4.** A new section is added to chapter 50.04 RCW to read as follows:

(1) The term "employment" shall not include service performed in agricultural labor by a farm intern providing his or her services under a farm internship program as established in section 1 of this act.

(2) For purposes of this section, "agricultural labor" means:

(a) Services performed on a farm, in the employ of any person, in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment;

(b) Services performed in packing, packaging, grading, storing, or delivering to storage, or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations. The exclusions from the term "employment" provided in this subsection (2)(b) shall not be deemed to be applicable with respect to commercial packing houses, commercial storage establishments, commercial canning, commercial freezing, or any other commercial processing or with respect to services performed in connection with the cultivation, raising, harvesting and processing of oysters or raising and harvesting of mushrooms; or

(c) Direct local sales of any agricultural or horticultural commodity after its delivery to a terminal market for distribution or consumption.

**NEW SECTION. Sec. 5.** Appropriations made for purposes of this act must be from the state general fund.

**NEW SECTION. Sec. 6.** This act expires December 31, 2011."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Ranker moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6349.

Senator Ranker spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Ranker that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6349.

The motion by Senator Ranker carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6349 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6349, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6349, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 2; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Parlette, Pflug, Prentice, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senators Brown and Pridemore

Excused: Senators Fairley, McCaslin and Oemig

SUBSTITUTE SENATE BILL NO. 6349, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 3, 2010

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6403 with the following amendment(s): 6403-S.E AMH ED H5194.2 ,

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that by preventing one high school student from dropping out the annual savings is approximately ten thousand five hundred dollars, including lost state and local taxes and savings to the temporary assistance to needy families program, food stamps, housing assistance, the criminal justice system, and the health care system.

(2) The legislature further finds that school districts need both accountability and technical assistance to improve high school graduation rates.

(3) The legislature further finds that many vulnerable students fail to graduate from high school without adequate dropout prevention, intervention, and reengagement systems at the school district level.

(4) The legislature further finds that school districts need the support of families, agencies, and organizations in the local community to prevent dropouts. In order to significantly improve statewide high school graduation rates, it is the intent of the legislature to facilitate the development of a collaborative infrastructure at the local, regional, and state level between systems that serve vulnerable youth.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.175 RCW to read as follows:

The definitions in this section apply throughout sections 3 and 4 of this act unless the context clearly requires otherwise.

(1) "Critical community members" means representatives in the local community from among the following agencies and organizations: Student/parent organizations, parents and families, local government, law enforcement, juvenile corrections, any tribal organization in the local school district, the local health district, nonprofit and social service organizations serving youth, and faith organizations.

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(2) "Dropout early warning and intervention data system" means a student information system that provides the data needed to conduct a universal screening to identify students at risk of dropping out, catalog student interventions, and monitor student progress towards graduation.

(3) "K-12 dropout prevention, intervention, and reengagement system" means a system that provides all of the following functions:

(a) Engaging in school improvement planning specifically focused on improving high school graduation rates, including goal-setting and action planning, based on a comprehensive assessment of strengths and challenges;

(b) Providing prevention activities including, but not limited to, emotionally and physically safe school environments, implementation of a comprehensive guidance and counseling model facilitated by certified school counselors, core academic instruction, and career and technical education exploratory and preparatory programs;

(c) Identifying vulnerable students based on a dropout early warning and intervention data system;

(d) Timely academic and nonacademic group and individual interventions for vulnerable students based on a response to intervention model, including planning and sharing of information at critical academic transitions;

(e) Providing graduation coaches, mentors, certified school counselors, and/or case managers for vulnerable students identified as needing a more intensive one-on-one adult relationship;

(f) Establishing and providing staff to coordinate a school/family/community partnership that assists in building a K-12 dropout prevention, intervention, and reengagement system;

(g) Providing retrieval or reentry activities; and

(h) Providing alternative educational programming including, but not limited to, credit retrieval and online learning opportunities.

(4) "School/family/community partnership" means a partnership between a school or schools, families, and the community, that engages critical community members in a formal, structured partnership with local school districts in a coordinated effort to provide comprehensive support services and improve outcomes for vulnerable youth.

(5) "Vulnerable students" means students who are in foster care, involved in the juvenile justice system, receiving special education services under chapter 28A.155 RCW, recent immigrants, homeless, emotionally traumatized, or are facing behavioral health issues, and students deemed at-risk of school failure as identified by a dropout early warning data system or other assessment.

**NEW SECTION. Sec. 3.** By September 15, 2010, the office of the superintendent of public instruction, in collaboration with the work group established in RCW 28A.175.075, shall develop and report recommendations to the quality education council and the legislature for the development of a comprehensive, K-12 dropout reduction initiative designed to integrate multiple tiers of dropout prevention, intervention, and technical assistance provided through federal and state programs and to support a K-12 dropout prevention, intervention, and reengagement system as defined in section 2 of this act.

**Sec. 4.** RCW 28A.175.075 and 2007 c 408 s 7 are each amended to read as follows:

(1) The office of the superintendent of public instruction shall establish a state-level building bridges work group that includes K-12 and state agencies that work with youth who have dropped out or are at risk of dropping out of school. The following agencies shall appoint representatives to the work group: The office of the superintendent of public instruction, the workforce training and education coordinating board, the department of early learning, the employment security department, the state board for community and technical colleges, the department of health, the community

mobilization office, and the children's services and behavioral health and recovery divisions of the department of social and health services. ~~The ((state-level leadership)) work group ((shall)) should also consist of one representative from each of the following agencies and organizations: ((The workforce training and education coordinating board;)) A statewide organization representing career and technical education programs including skill centers; ((relevant divisions of the department of social and health services;)) the juvenile courts or the office of juvenile justice, or both; the Washington association of prosecuting attorneys; the Washington state office of public defense; ((the employment security department;)) accredited institutions of higher education; the educational service districts; the area workforce development councils; parent and educator associations; ((the department of health)) achievement gap oversight and accountability committee; office of the education ombudsman; local school districts; agencies or organizations that provide services to special education students; community organizations serving youth; federally recognized tribes and urban tribal centers; each of the major political caucuses of the senate and house of representatives; and the minority commissions.~~

(2) To assist and enhance the work of the building bridges programs established in RCW ((28A.175.055)) 28A.175.025, the state-level work group shall:

(a) Identify and make recommendations to the legislature for the reduction of fiscal, legal, and regulatory barriers that prevent coordination of program resources across agencies at the state and local level;

(b) Develop and track performance measures and benchmarks for each partner agency or organization across the state including performance measures and benchmarks based on student characteristics and outcomes specified in RCW 28A.175.035(1)(e); and

(c) Identify research-based and emerging best practices regarding prevention, intervention, and retrieval programs.

(3)(a) The work group shall report to the quality education council, appropriate committees of the legislature, and the governor on an annual basis beginning December 1, 2007, with proposed strategies for building K-12 dropout prevention, intervention, and reengagement systems in local communities throughout the state including, but not limited to, recommendations for implementing emerging best practices, needed additional resources, and eliminating barriers.

(b) By September 15, 2010, the work group shall report on:

(i) A recommended state goal and annual state targets for the percentage of students graduating from high school;

(ii) A recommended state goal and annual state targets for the percentage of youth who have dropped out of school who should be reengaged in education and be college and work ready;

(iii) Recommended funding for supporting career guidance and the planning and implementation of K-12 dropout prevention, intervention, and reengagement systems in school districts and a plan for phasing the funding into the program of basic education, beginning in the 2011- 2013 biennium; and

(iv) A plan for phasing in the expansion of the current school improvement planning program to include state-funded, dropout-focused school improvement technical assistance for school districts in significant need of improvement regarding high school graduation rates.

(4) State agencies in the building bridges work group shall work together, wherever feasible, on the following activities to support school/family/community partnerships engaged in building K-12 dropout prevention, intervention, and reengagement systems:

(a) Providing opportunities for coordination and flexibility of program eligibility and funding criteria;

(b) Providing joint funding;

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(c) Developing protocols and templates for model agreements on sharing records and data;

(d) Providing joint professional development opportunities that provide knowledge and training on:

(i) Research-based and promising practices;

(ii) The availability of programs and services for vulnerable youth; and

(iii) Cultural competence.

(5) The building bridges work group shall make recommendations to the governor and the legislature by December 1, 2010, on a state-level and regional infrastructure for coordinating services for vulnerable youth. Recommendations must address the following issues:

(a) Whether to adopt an official conceptual approach or framework for all entities working with vulnerable youth that can support coordinated planning and evaluation;

(b) The creation of a performance-based management system, including outcomes, indicators, and performance measures relating to vulnerable youth and programs serving them, including accountability for the dropout issue;

(c) The development of regional and/or county-level multipartner youth consortia with a specific charge to assist school districts and local communities in building K-12 comprehensive dropout prevention, intervention, and reengagement systems;

(d) The development of integrated or school-based one-stop shopping for services that would:

(i) Provide individualized attention to the neediest youth and prioritized access to services for students identified by a dropout early warning and intervention data system;

(ii) Establish protocols for coordinating data and services, including getting data release at time of intake and common assessment and referral processes; and

(iii) Build a system of single case managers across agencies;

(e) Launching a statewide media campaign on increasing the high school graduation rate; and

(f) Developing a statewide database of available services for vulnerable youth.

**Sec. 5.** RCW 28A.175.010 and 2005 c 207 s 3 are each amended to read as follows:

Each school district shall account for the educational progress of each of its students. To achieve this, school districts shall be required to report annually to the superintendent of public instruction:

(1) For students enrolled in each of a school district's high school programs:

(a) The number of students who graduate in fewer than four years;

(b) The number of students who graduate in four years;

(c) The number of students who remain in school for more than four years but who eventually graduate and the number of students who remain in school for more than four years but do not graduate;

(d) The number of students who transfer to other schools;

(e) The number of students in the ninth through twelfth grade who drop out of school over a four-year period; and

(f) The number of students whose status is unknown.

(2) Dropout rates of students in each of the grades seven through twelve.

(3) Dropout rates for student populations in each of the grades seven through twelve by:

(a) Ethnicity;

(b) Gender;

(c) Socioeconomic status; and

(d) Disability status.

(4) The causes or reasons, or both, attributed to students for having dropped out of school in grades seven through twelve.

(5) The superintendent of public instruction shall adopt rules under chapter 34.05 RCW to assure uniformity in the information districts are required to report under subsections (1) through (4) of this section. In developing rules, the superintendent of public instruction shall consult with school districts, including administrative and counseling personnel, with regard to the methods through which information is to be collected and reported.

(6) In reporting on the causes or reasons, or both, attributed to students for having dropped out of school, school building officials shall, to the extent reasonably practical, obtain such information directly from students. In lieu of obtaining such information directly from students, building principals and counselors shall identify the causes or reasons, or both, based on their professional judgment.

(7) The superintendent of public instruction shall report annually to the legislature the information collected under subsections (1) through (4) of this section.

(8) The Washington state institute for public policy shall calculate an annual estimate of the savings resulting from any change compared to the prior school year in the extended graduation rate. The superintendent shall include the estimate from the institute in an appendix of the report required under subsection (7) of this section, beginning with the 2010 report."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator McAuliffe moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6403.

Senator McAuliffe spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator McAuliffe that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6403.

The motion by Senator McAuliffe carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6403 by voice vote.

#### MOTION

On motion of Senator Marr, Senators Brown and Pridemore were excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6403, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6403, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

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Excused: Senators Fairley, McCaslin and Oemig  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6403, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 2, 2010

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6468 with the following amendment(s): 6468-S.E AMH SHOR KENB 062

On page 8, line 3, after "frequency." insert "the project costs, and" and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kauffman moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6468.

Senator Kauffman spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kauffman that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6468.

The motion by Senator Kauffman carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6468 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6468, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6468, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley and McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6468, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 3, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6470 with the following amendment(s): 6470-S AMH PEDE TANG 126

On page 5, beginning on line 25, after "relationship" strike all material through "child" on line 31 and insert "of an Indian child as defined in 25 U.S.C. Sec. 1903, no termination of parental rights may be ordered in such proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child" and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6470.

Senator Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hargrove that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6470.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6470 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6470, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6470, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley and McCaslin

SUBSTITUTE SENATE BILL NO. 6470, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 3, 2010

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6476 with the following amendment(s): 6476-S.E AMH WAYS H5481.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 13.32A.030 and 2000 c 123 s 2 are each amended to read as follows:

As used in this chapter the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "Abuse or neglect" means the injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child by any person under circumstances which indicate that the child's health, welfare, and safety is harmed, excluding conduct permitted under

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RCW 9A.16.100. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

(2) "Administrator" means the individual who has the daily administrative responsibility of a crisis residential center, or his or her designee.

(3) "At-risk youth" means a juvenile:

(a) Who is absent from home for at least seventy-two consecutive hours without consent of his or her parent;

(b) Who is beyond the control of his or her parent such that the child's behavior endangers the health, safety, or welfare of the child or any other person; or

(c) Who has a substance abuse problem for which there are no pending criminal charges related to the substance abuse.

(4) "Child," "juvenile," and "youth" mean any unemancipated individual who is under the chronological age of eighteen years.

(5) "Child in need of services" means a juvenile:

(a) Who is beyond the control of his or her parent such that the child's behavior endangers the health, safety, or welfare of the child or other person;

(b) Who has been reported to law enforcement as absent without consent for at least twenty-four consecutive hours on two or more separate occasions from the home of either parent, a crisis residential center, an out-of-home placement, or a court-ordered placement; and

(i) Has exhibited a serious substance abuse problem; or

(ii) Has exhibited behaviors that create a serious risk of harm to the health, safety, or welfare of the child or any other person; ~~((or))~~

(c)(i) Who is in need of: (A) Necessary services, including food, shelter, health care, clothing, or education; or (B) services designed to maintain or reunite the family;

(ii) Who lacks access to, or has declined to utilize, these services; and

(iii) Whose parents have evidenced continuing but unsuccessful efforts to maintain the family structure or are unable or unwilling to continue efforts to maintain the family structure; or

(d) Who is a "sexually exploited child".

(6) "Child in need of services petition" means a petition filed in juvenile court by a parent, child, or the department seeking adjudication of placement of the child.

(7) "Crisis residential center" means a secure or semi-secure facility established pursuant to chapter 74.13 RCW.

(8) "Custodian" means the person or entity who has the legal right to the custody of the child.

(9) "Department" means the department of social and health services.

(10) "Extended family member" means an adult who is a grandparent, brother, sister, stepbrother, stepsister, uncle, aunt, or first cousin with whom the child has a relationship and is comfortable, and who is willing and available to care for the child.

(11) "Guardian" means that person or agency that (a) has been appointed as the guardian of a child in a legal proceeding other than a proceeding under chapter 13.34 RCW, and (b) has the right to legal custody of the child pursuant to such appointment. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under chapter 13.34 RCW.

(12) "Multidisciplinary team" means a group formed to provide assistance and support to a child who is an at-risk youth or a child in need of services and his or her parent. The team shall include the parent, a department case worker, a local government representative when authorized by the local government, and when appropriate, members from the mental health and substance abuse disciplines. The team may also include, but is not limited to, the following persons: Educators, law enforcement personnel, probation officers, employers, church persons, tribal members, therapists, medical personnel, social service providers, placement providers, and

extended family members. The team members shall be volunteers who do not receive compensation while acting in a capacity as a team member, unless the member's employer chooses to provide compensation or the member is a state employee.

(13) "Out-of-home placement" means a placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(14) "Parent" means the parent or parents who have the legal right to custody of the child. "Parent" includes custodian or guardian.

(15) "Secure facility" means a crisis residential center, or portion thereof, that has locking doors, locking windows, or a secured perimeter, designed and operated to prevent a child from leaving without permission of the facility staff.

(16) "Semi-secure facility" means any facility, including but not limited to crisis residential centers or specialized foster family homes, operated in a manner to reasonably assure that youth placed there will not run away. Pursuant to rules established by the department, the facility administrator shall establish reasonable hours for residents to come and go from the facility such that no residents are free to come and go at all hours of the day and night. To prevent residents from taking unreasonable actions, the facility administrator, where appropriate, may condition a resident's leaving the facility upon the resident being accompanied by the administrator or the administrator's designee and the resident may be required to notify the administrator or the administrator's designee of any intent to leave, his or her intended destination, and the probable time of his or her return to the center.

(17) "Sexually exploited child" means any person under the age of eighteen who is a victim of the crime of commercial sex abuse of a minor under RCW 9.68A.100, promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102.

(18) "Staff secure facility" means a structured group care facility licensed under rules adopted by the department with a ratio of at least one adult staff member to every two children.

~~((18))~~ (19) "Temporary out-of-home placement" means an out-of-home placement of not more than fourteen days ordered by the court at a fact-finding hearing on a child in need of services petition.

NEW SECTION. **Sec. 2.** Section 1 of this act takes effect July 1, 2011.

NEW SECTION. **Sec. 3.** A new section is added to chapter 13.32A RCW to read as follows:

Within available funding, when a youth who has been diverted under RCW 13.40.070 for an alleged offense of prostitution or prostitution loitering is referred to the department, the department shall connect that child with the services and treatment specified in RCW 74.14B.060 and 74.14B.070.

NEW SECTION. **Sec. 4.** A new section is added to chapter 13.32A RCW to read as follows:

By November 1, 2010, the department shall report to the relevant policy and fiscal committees of the legislature regarding training needed to allow staff of the children's administration and crisis residential centers to work effectively with sexually exploited youth. The report shall identify the evidence-based training programs to be used and the cost of such training.

NEW SECTION. **Sec. 5.** A new section is added to chapter 13.40 RCW to read as follows:

Within available funding, when a youth who has been diverted under RCW 13.40.070 for an alleged offense of prostitution or prostitution loitering is referred to the department, the department

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shall connect that youth with the services and treatment specified in RCW 74.14B.060 and 74.14B.070.

**Sec. 6.** RCW 7.68.070 and 2009 c 38 s 1 are each amended to read as follows:

The right to benefits under this chapter and the amount thereof will be governed insofar as is applicable by the provisions contained in chapter 51.32 RCW except as provided in this section:

(1) The provisions contained in RCW 51.32.015, 51.32.030, 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not applicable to this chapter.

(2) Each victim injured as a result of a criminal act, including criminal acts committed between July 1, 1981, and January 1, 1983, or the victim's family or dependents in case of death of the victim, are entitled to benefits in accordance with this chapter, subject to the limitations under RCW 7.68.015. The rights, duties, responsibilities, limitations, and procedures applicable to a worker as contained in RCW 51.32.010 are applicable to this chapter.

(3)(a) The limitations contained in RCW 51.32.020 are applicable to claims under this chapter. In addition (~~therein~~), no person or spouse, child, or dependent of such person is entitled to benefits under this chapter when the injury for which benefits are sought, was:

~~((a))~~ (i) The result of consent, provocation, or incitement by the victim, unless an injury resulting from a criminal act caused the death of the victim;

~~((b))~~ (ii) Sustained while the crime victim was engaged in the attempt to commit, or the commission of, a felony; or

~~((c))~~ (iii) Sustained while the victim was confined in any county or city jail, federal jail or prison or in any other federal institution, or any state correctional institution maintained and operated by the department of social and health services or the department of corrections, prior to release from lawful custody; or confined or living in any other institution maintained and operated by the department of social and health services or the department of corrections.

(b) A person identified as the "minor" in the charge of commercial sexual abuse of a minor under RCW 9.68A.100, promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102 is considered a victim of a criminal act for the purpose of the right to benefits under this chapter even if the person is also charged with prostitution under RCW 9A.88.030.

(4) The benefits established upon the death of a worker and contained in RCW 51.32.050 shall be the benefits obtainable under this chapter and provisions relating to payment contained in that section shall equally apply under this chapter(~~(--PROVIDED, That)~~). Benefits for burial expenses shall not exceed the amount paid by the department in case of the death of a worker as provided in chapter 51.32 RCW in any claim(~~(--PROVIDED FURTHER, That)~~). If the criminal act results in the death of a victim who was not gainfully employed at the time of the criminal act, and who was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act;

(a) Benefits payable to an eligible surviving spouse, where there are no children of the victim at the time of the criminal act who have survived the victim or where such spouse has legal custody of all of his or her children, shall be limited to burial expenses and a lump sum payment of seven thousand five hundred dollars without reference to number of children, if any;

(b) Where any such spouse has legal custody of one or more but not all of such children, then such burial expenses shall be paid, and such spouse shall receive a lump sum payment of three thousand seven hundred fifty dollars and any such child or children not in the legal custody of such spouse shall receive a lump sum of three

thousand seven hundred fifty dollars to be divided equally among such child or children;

(c) If any such spouse does not have legal custody of any of the children, the burial expenses shall be paid and the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars and any such child or children not in the legal custody of the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars to be divided equally among the child or children;

(d) If no such spouse survives, then such burial expenses shall be paid, and each surviving child of the victim at the time of the criminal act shall receive a lump sum payment of three thousand seven hundred fifty dollars up to a total of two such children and where there are more than two such children the sum of seven thousand five hundred dollars shall be divided equally among such children.

No other benefits may be paid or payable under these circumstances.

(5) The benefits established in RCW 51.32.060 for permanent total disability proximately caused by the criminal act shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter: PROVIDED, That if a victim becomes permanently and totally disabled as a proximate result of the criminal act and was not gainfully employed at the time of the criminal act, the victim shall receive monthly during the period of the disability the following percentages, where applicable, of the average monthly wage determined as of the date of the criminal act pursuant to RCW 51.08.018:

(a) If married at the time of the criminal act, twenty-nine percent of the average monthly wage.

(b) If married with one child at the time of the criminal act, thirty-four percent of the average monthly wage.

(c) If married with two children at the time of the criminal act, thirty-eight percent of the average monthly wage.

(d) If married with three children at the time of the criminal act, forty-one percent of the average monthly wage.

(e) If married with four children at the time of the criminal act, forty-four percent of the average monthly wage.

(f) If married with five or more children at the time of the criminal act, forty-seven percent of the average monthly wage.

(g) If unmarried at the time of the criminal act, twenty-five percent of the average monthly wage.

(h) If unmarried with one child at the time of the criminal act, thirty percent of the average monthly wage.

(i) If unmarried with two children at the time of the criminal act, thirty-four percent of the average monthly wage.

(j) If unmarried with three children at the time of the criminal act, thirty-seven percent of the average monthly wage.

(k) If unmarried with four children at the time of the criminal act, forty percent of the average monthly wage.

(l) If unmarried with five or more children at the time of the criminal act, forty-three percent of the average monthly wage.

(6) The benefits established in RCW 51.32.080 for permanent partial disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section equally apply under this chapter.

(7) The benefits established in RCW 51.32.090 for temporary total disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter(~~(--PROVIDED, That)~~). No person is eligible for temporary total disability benefits under this chapter if such person was not gainfully employed at the time of the criminal act, and was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act.

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(8) The benefits established in RCW 51.32.095 for continuation of benefits during vocational rehabilitation shall be benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter(~~(= PROVIDED, That)~~). Benefits shall not exceed five thousand dollars for any single injury.

(9) The provisions for lump sum payment of benefits upon death or permanent total disability as contained in RCW 51.32.130 apply under this chapter.

(10) The provisions relating to payment of benefits to, for or on behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100, 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and 51.32.210 are applicable to payment of benefits to, for or on behalf of victims under this chapter.

(11) No person or spouse, child, or dependent of such person is entitled to benefits under this chapter where the person making a claim for such benefits has refused to give reasonable cooperation to state or local law enforcement agencies in their efforts to apprehend and convict the perpetrator(s) of the criminal act which gave rise to the claim.

(12) In addition to other benefits provided under this chapter, victims of sexual assault are entitled to receive appropriate counseling. Fees for such counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080. Counseling services may include, if determined appropriate by the department, counseling of members of the victim's immediate family, other than the perpetrator of the assault.

(13) Except for medical benefits authorized under RCW 7.68.080, no more than thirty thousand dollars shall be granted as a result of a single injury or death, except that benefits granted as the result of total permanent disability or death shall not exceed forty thousand dollars.

(14) Notwithstanding other provisions of this chapter and Title 51 RCW, benefits payable for total temporary disability under subsection (7) of this section, shall be limited to fifteen thousand dollars.

(15) Any person who is responsible for the victim's injuries, or who would otherwise be unjustly enriched as a result of the victim's injuries, shall not be a beneficiary under this chapter.

(16) Crime victims' compensation is not available to pay for services covered under chapter 74.09 RCW or Title XIX of the federal social security act, except to the extent that the costs for such services exceed service limits established by the department of social and health services or, during the 1993-95 fiscal biennium, to the extent necessary to provide matching funds for federal medicaid reimbursement.

(17) In addition to other benefits provided under this chapter, immediate family members of a homicide victim may receive appropriate counseling to assist in dealing with the immediate, near-term consequences of the related effects of the homicide. Fees for counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080. Payment of counseling benefits under this section may not be provided to the perpetrator of the homicide. The benefits under this subsection may be provided only with respect to homicides committed on or after July 1, 1992.

(18) A dependent mother, father, stepmother, or stepfather, as defined in RCW 51.08.050, who is a survivor of her or his child's homicide, who has been requested by a law enforcement agency or a prosecutor to assist in the judicial proceedings related to the death of the victim, and who is not domiciled in Washington state at the time of the request, may receive a lump-sum payment upon arrival in this state. Total benefits under this subsection may not exceed seven thousand five hundred dollars. If more than one dependent parent

is eligible for this benefit, the lump-sum payment of seven thousand five hundred dollars shall be divided equally among the dependent parents.

(19) A victim whose crime occurred in another state who qualifies for benefits under RCW 7.68.060(4) may receive appropriate mental health counseling to address distress arising from participation in the civil commitment proceedings. Fees for counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080.

**Sec. 7.** RCW 13.40.070 and 2009 c 252 s 3 are each amended to read as follows:

(1) Complaints referred to the juvenile court alleging the commission of an offense shall be referred directly to the prosecutor. The prosecutor, upon receipt of a complaint, shall screen the complaint to determine whether:

(a) The alleged facts bring the case within the jurisdiction of the court; and

(b) On a basis of available evidence there is probable cause to believe that the juvenile did commit the offense.

(2) If the identical alleged acts constitute an offense under both the law of this state and an ordinance of any city or county of this state, state law shall govern the prosecutor's screening and charging decision for both filed and diverted cases.

(3) If the requirements of subsections (1)(a) and (b) of this section are met, the prosecutor shall either file an information in juvenile court or divert the case, as set forth in subsections (5), (6), and ~~((7))~~ (8) of this section. If the prosecutor finds that the requirements of subsection (1)(a) and (b) of this section are not met, the prosecutor shall maintain a record, for one year, of such decision and the reasons therefor. In lieu of filing an information or diverting an offense a prosecutor may file a motion to modify community supervision where such offense constitutes a violation of community supervision.

(4) An information shall be a plain, concise, and definite written statement of the essential facts constituting the offense charged. It shall be signed by the prosecuting attorney and conform to chapter 10.37 RCW.

(5) Except as provided in RCW 13.40.213 and subsection (7) of this section, where a case is legally sufficient, the prosecutor shall file an information with the juvenile court if:

(a) An alleged offender is accused of a class A felony, a class B felony, an attempt to commit a class B felony, a class C felony listed in RCW 9.94A.411(2) as a crime against persons or listed in RCW 9A.46.060 as a crime of harassment, or a class C felony that is a violation of RCW 9.41.080 or 9.41.040(2)(a)(iii); or

(b) An alleged offender is accused of a felony and has a criminal history of any felony, or at least two gross misdemeanors, or at least two misdemeanors; or

(c) An alleged offender has previously been committed to the department; or

(d) An alleged offender has been referred by a diversion unit for prosecution or desires prosecution instead of diversion; or

(e) An alleged offender has two or more diversion agreements on the alleged offender's criminal history; or

(f) A special allegation has been filed that the offender or an accomplice was armed with a firearm when the offense was committed.

(6) Where a case is legally sufficient the prosecutor shall divert the case if the alleged offense is a misdemeanor or gross misdemeanor or violation and the alleged offense is the offender's first offense or violation. If the alleged offender is charged with a related offense that must or may be filed under subsections (5) and ~~((7))~~ (8) of this section, a case under this subsection may also be filed.

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(7) Where a case is legally sufficient to charge an alleged offender with either prostitution or prostitution loitering and the alleged offense is the offender's first prostitution or prostitution loitering offense, the prosecutor shall divert the case.

(8) Where a case is legally sufficient and falls into neither subsection (5) nor (6) of this section, it may be filed or diverted. In deciding whether to file or divert an offense under this section the prosecutor shall be guided only by the length, seriousness, and recency of the alleged offender's criminal history and the circumstances surrounding the commission of the alleged offense.

~~((8))~~ (9) Whenever a juvenile is placed in custody or, where not placed in custody, referred to a diversion interview, the parent or legal guardian of the juvenile shall be notified as soon as possible concerning the allegation made against the juvenile and the current status of the juvenile. Where a case involves victims of crimes against persons or victims whose property has not been recovered at the time a juvenile is referred to a diversion unit, the victim shall be notified of the referral and informed how to contact the unit.

~~((9))~~ (10) The responsibilities of the prosecutor under subsections (1) through ~~((8))~~ (9) of this section may be performed by a juvenile court probation counselor for any complaint referred to the court alleging the commission of an offense which would not be a felony if committed by an adult, if the prosecutor has given sufficient written notice to the juvenile court that the prosecutor will not review such complaints.

~~((10))~~ (11) The prosecutor, juvenile court probation counselor, or diversion unit may, in exercising their authority under this section or RCW 13.40.080, refer juveniles to mediation or victim offender reconciliation programs. Such mediation or victim offender reconciliation programs shall be voluntary for victims.

**Sec. 8.** RCW 13.40.213 and 2009 c 252 s 2 are each amended to read as follows:

(1) When a juvenile is alleged to have committed the offenses of prostitution or prostitution loitering, and the allegation, if proved, would not be the juvenile's first offense, a prosecutor may divert the offense if the county in which the offense is alleged to have been committed has a comprehensive program that provides:

- (a) Safe and stable housing;
- (b) Comprehensive on-site case management;
- (c) Integrated mental health and chemical dependency services, including specialized trauma recovery services;
- (d) Education and employment training delivered on-site; and
- (e) Referrals to off-site specialized services, as appropriate.

(2) A prosecutor may divert a case for prostitution or prostitution loitering into the comprehensive program described in this section, notwithstanding the filing criteria set forth in RCW 13.40.070(5).

(3) A diversion agreement under this section may extend to twelve months.

(4)(a) The administrative office of the courts shall compile data regarding:

- (i) The number of juveniles whose cases are diverted into the comprehensive program described in this section;
- (ii) Whether the juveniles complete their diversion agreements under this section; and
- (iii) Whether juveniles whose cases have been diverted under this section have been subsequently arrested or committed subsequent offenses.

(b) ~~((A))~~ An annual report of the data compiled shall be provided to the governor and the appropriate committee of the legislature. The first report is due by November 1, 2010.

**NEW SECTION. Sec. 9.** A new section is added to chapter 13.40 RCW to read as follows:

In any proceeding under this chapter related to an arrest for prostitution or prostitution loitering, there is a presumption that the

alleged offender meets the criteria for a certification as a victim of a severe form of trafficking in persons as defined in section 7105 of Title 22 of the United States code, and that the alleged offender is also a victim of commercial sex abuse of a minor.

**NEW SECTION. Sec. 10.** A new section is added to chapter 74.15 RCW to read as follows:

The department shall require that to be licensed or continue to be licensed as a secure or semi-secure crisis residential center or HOPE center that the center has on staff, or otherwise has access to, a person who has been trained to work with the needs of sexually exploited children. For purposes of this section, "sexually exploited child" means that person as defined in RCW 13.32A.030(17).

**Sec. 11.** RCW 9.94A.515 and 2008 c 108 s 23 and 2008 c 38 s 1 are each reenacted and amended to read as follows:

TABLE 2

	CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL
XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055)
	Malicious explosion 1 (RCW 70.74.280(1))
	Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050)
	Trafficking 1 (RCW 9A.40.100(1))
XIII	Malicious explosion 2 (RCW 70.74.280(2))
	Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011)
	Assault of a Child 1 (RCW 9A.36.120)
	Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
	<u>Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101)</u>
	Rape 1 (RCW 9A.44.040)
	Rape of a Child 1 (RCW 9A.44.073)
	Trafficking 2 (RCW 9A.40.100(2))
XI	Manslaughter 1 (RCW 9A.32.060)
	Rape 2 (RCW 9A.44.050)
	Rape of a Child 2 (RCW 9A.44.076)
X	Child Molestation 1 (RCW 9A.44.083)
	Criminal Mistreatment 1 (RCW 9A.42.020)
	Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
	Kidnapping 1 (RCW 9A.40.020)
	Leading Organized Crime (RCW 9A.82.060(1)(a))

- Malicious explosion 3 (RCW 70.74.280(3))
- Sexually Violent Predator Escape (RCW 9A.76.115)
- IX Abandonment of Dependent Person 1 (RCW 9A.42.060)
- Assault of a Child 2 (RCW 9A.36.130)
- Explosive devices prohibited (RCW 70.74.180)
- Hit and Run--Death (RCW 46.52.020(4)(a))
- Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)
- Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
- Malicious placement of an explosive 2 (RCW 70.74.270(2))
- Robbery 1 (RCW 9A.56.200)
- Sexual Exploitation (RCW 9.68A.040)
- Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
- VIII Arson 1 (RCW 9A.48.020)
- Commercial Sexual Abuse of a Minor (RCW 9.68A.100)
- Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)
- Manslaughter 2 (RCW 9A.32.070)
- ~~((Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101))~~
- Promoting Prostitution 1 (RCW 9A.88.070)
- Theft of Ammonia (RCW 69.55.010)
- Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- VII Burglary 1 (RCW 9A.52.020)
- Child Molestation 2 (RCW 9A.44.086)
- Civil Disorder Training (RCW 9A.48.120)
- Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)
- Drive-by Shooting (RCW 9A.36.045)
- Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)
- Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1)(b) and (c))
- Introducing Contraband 1 (RCW 9A.76.140)
- Malicious placement of an explosive 3 (RCW 70.74.270(3))
- Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)
- Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
- Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))
- Use of a Machine Gun in Commission of a Felony (RCW 9.41.225)
- Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
- VI Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
- Bribery (RCW 9A.68.010)
- Incest 1 (RCW 9A.64.020(1))
- Intimidating a Judge (RCW 9A.72.160)
- Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
- Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
- Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct (RCW 9.68A.070)
- Rape of a Child 3 (RCW 9A.44.079)
- Theft of a Firearm (RCW 9A.56.300)
- Unlawful Storage of Ammonia (RCW 69.55.020)
- V Abandonment of Dependent Person 2 (RCW 9A.42.070)
- Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
- Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))
- Child Molestation 3 (RCW 9A.44.089)
- Criminal Mistreatment 2 (RCW 9A.42.030)
- Custodial Sexual Misconduct 1 (RCW 9A.44.160)
- Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145)
- Driving While Under the Influence (RCW 46.61.502(6))
- Extortion 1 (RCW 9A.56.120)
- Extortionate Extension of Credit (RCW 9A.82.020)
- Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
- Incest 2 (RCW 9A.64.020(2))

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- Kidnapping 2 (RCW 9A.40.030)
- Perjury 1 (RCW 9A.72.020)
- Persistent prison misbehavior (RCW 9.94.070)
- Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6))
- Possession of a Stolen Firearm (RCW 9A.56.310)
- Rape 3 (RCW 9A.44.060)
- Rendering Criminal Assistance 1 (RCW 9A.76.070)
- Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
- Sexually Violating Human Remains (RCW 9A.44.105)
- Stalking (RCW 9A.46.110)
- Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)
- IV Arson 2 (RCW 9A.48.030)
- Assault 2 (RCW 9A.36.021)
- Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))
- Assault by Watercraft (RCW 79A.60.060)
- Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
- Cheating 1 (RCW 9.46.1961)
- Commercial Bribery (RCW 9A.68.060)
- Counterfeiting (RCW 9.16.035(4))
- Endangerment with a Controlled Substance (RCW 9A.42.100)
- Escape 1 (RCW 9A.76.110)
- Hit and Run--Injury (RCW 46.52.020(4)(b))
- Hit and Run with Vessel--Injury Accident (RCW 79A.60.200(3))
- Identity Theft 1 (RCW 9.35.020(2))
- Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)
- Influencing Outcome of Sporting Event (RCW 9A.82.070)
- Malicious Harassment (RCW 9A.36.080)
- Residential Burglary (RCW 9A.52.025)
- Robbery 2 (RCW 9A.56.210)
- Theft of Livestock 1 (RCW 9A.56.080)
- Threats to Bomb (RCW 9.61.160)

- Trafficking in Stolen Property 1 (RCW 9A.82.050)
- Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))
- Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))
- Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))
- Unlawful transaction of insurance business (RCW 48.15.023(3))
- Unlicensed practice as an insurance professional (RCW 48.17.063(~~(3)~~) (2))
- Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
- Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)
- Willful Failure to Return from Furlough (RCW 72.66.060)
- III Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3))
- Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))
- Assault of a Child 3 (RCW 9A.36.140)
- Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))
- Burglary 2 (RCW 9A.52.030)
- ~~((Commercial Sexual Abuse of a Minor--(RCW 9.68A.100)))~~
- Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
- Criminal Gang Intimidation (RCW 9A.46.120)
- Custodial Assault (RCW 9A.36.100)
- Cyberstalking (subsequent conviction or threat of death) (RCW 9.61.260(3))
- Escape 2 (RCW 9A.76.120)
- Extortion 2 (RCW 9A.56.130)
- Harassment (RCW 9A.46.020)
- Intimidating a Public Servant (RCW 9A.76.180)
- Introducing Contraband 2 (RCW 9A.76.150)
- Malicious Injury to Railroad Property (RCW 81.60.070)
- Mortgage Fraud (RCW 19.144.080)

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- Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674)
- Organized Retail Theft 1 (RCW 9A.56.350(2))
- Perjury 2 (RCW 9A.72.030)
- Possession of Incendiary Device (RCW 9.40.120)
- Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW 9.41.190)
- Promoting Prostitution 2 (RCW 9A.88.080)
- Retail Theft with Extenuating Circumstances 1 (RCW 9A.56.360(2))
- Securities Act violation (RCW 21.20.400)
- Tampering with a Witness (RCW 9A.72.120)
- Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))
- Theft of Livestock 2 (RCW 9A.56.083)
- Theft with the Intent to Resell 1 (RCW 9A.56.340(2))
- Trafficking in Stolen Property 2 (RCW 9A.82.055)
- Unlawful Imprisonment (RCW 9A.40.040)
- Unlawful possession of firearm in the second degree (RCW 9.41.040(2))
- Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- II Computer Trespass 1 (RCW 9A.52.110)
- Counterfeiting (RCW 9.16.035(3))
- Escape from Community Custody (RCW 72.09.310)
- Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.130(11)(a))
- Health Care False Claims (RCW 48.80.030)
- Identity Theft 2 (RCW 9.35.020(3))
- Improperly Obtaining Financial Information (RCW 9.35.010)
- Malicious Mischief 1 (RCW 9A.48.070)
- Organized Retail Theft 2 (RCW 9A.56.350(3))
- Possession of Stolen Property 1 (RCW 9A.56.150)
- Possession of a Stolen Vehicle (RCW 9A.56.068)
- Retail Theft with Extenuating Circumstances 2 (RCW 9A.56.360(3))
- Theft 1 (RCW 9A.56.030)
- Theft of a Motor Vehicle (RCW 9A.56.065)
- Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(5)(a))
- Theft with the Intent to Resell 2 (RCW 9A.56.340(3))
- Trafficking in Insurance Claims (RCW 48.30A.015)
- Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))
- Unlawful Practice of Law (RCW 2.48.180)
- Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
- Voyeurism (RCW 9A.44.115)
- I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- False Verification for Welfare (RCW 74.08.055)
- Forgery (RCW 9A.60.020)
- Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)
- Malicious Mischief 2 (RCW 9A.48.080)
- Mineral Trespass (RCW 78.44.330)
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Reckless Burning 1 (RCW 9A.48.040)
- Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)
- Theft 2 (RCW 9A.56.040)
- Theft of Rental, Leased, or Lease-purchased Property (valued at two hundred fifty dollars or more but less than one thousand five hundred dollars) (RCW 9A.56.096(5)(b))
- Transaction of insurance business beyond the scope of licensure (RCW 48.17.063(~~((4))~~))
- Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
- Unlawful Possession of Fictitious Identification (RCW 9A.56.320)
- Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320)
- Unlawful Possession of Payment Instruments (RCW 9A.56.320)
- Unlawful Possession of a Personal Identification Device (RCW 9A.56.320)

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- Unlawful Production of Payment Instruments (RCW 9A.56.320)
- Unlawful Trafficking in Food Stamps (RCW 9.91.142)
- Unlawful Use of Food Stamps (RCW 9.91.144)
- Vehicle Prowl 1 (RCW 9A.52.095)

**Sec. 12.** RCW 9A.88.140 and 2009 c 387 s 1 are each amended to read as follows:

(1)(a) Upon an arrest for a suspected violation of patronizing a prostitute, promoting prostitution in the first degree, promoting prostitution in the second degree, promoting travel for prostitution (~~commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, or promoting travel for commercial sexual abuse of a minor~~), the arresting law enforcement officer may impound the person's vehicle if (i) the motor vehicle was used in the commission of the crime; (ii) the person arrested is the owner of the vehicle or the vehicle is a rental car as defined in RCW 46.04.465; and (iii) either (A) the person arrested has previously been convicted of one of the offenses listed in this subsection or (B) the offense was committed within an area designated under (b) of this subsection.

(b) A local governing authority may designate areas within which vehicles are subject to impoundment under this section regardless of whether the person arrested has previously been convicted of any of the offenses listed in (a) of this subsection.

(i) The designation must be based on evidence indicating that the area has a disproportionately higher number of arrests for the offenses listed in (a) of this subsection as compared to other areas within the same jurisdiction.

(ii) The local governing authority shall post signs at the boundaries of the designated area to indicate that the area has been designated under this subsection.

(2) Upon an arrest for a suspected violation of commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, or promoting travel for commercial sexual abuse of a minor, the arresting law enforcement officer shall impound the person's vehicle if (a) the motor vehicle was used in the commission of the crime; and (b) the person arrested is the owner of the vehicle or the vehicle is a rental car as defined in RCW 46.04.465.

(3) Impoundments performed under this section shall be in accordance with chapter 46.55 RCW and the impoundment order must clearly state "prostitution hold."

~~((3))~~ (4)(a) Prior to redeeming the impounded vehicle, and in addition to all applicable impoundment, towing, and storage fees paid to the towing company under chapter 46.55 RCW, the owner of the impounded vehicle must pay a fine ~~((of five hundred dollars))~~ to the impounding agency. The fine shall be five hundred dollars for the offenses specified in subsection (1) of this section, or two thousand five hundred dollars for the offenses specified in subsection (2) of this section. The fine shall be deposited in the prostitution prevention and intervention account established under RCW 43.63A.740.

(b) Upon receipt of the fine paid under (a) of this subsection, the impounding agency shall issue a written receipt to the owner of the impounded vehicle.

~~((4))~~ (5)(a) In order to redeem a vehicle impounded under this section, the owner must provide the towing company with the written receipt issued under subsection ~~((3))~~ (4)(b) of this section.

(b) The written receipt issued under subsection ~~((3))~~ (4)(b) of this section authorizes the towing company to release the impounded vehicle upon payment of all impoundment, towing, and storage fees.

(c) A towing company that relies on a forged receipt to release a vehicle impounded under this section is not liable to the impounding

authority for any unpaid fine under subsection ~~((3))~~ (4)(a) of this section.

~~((5))~~ (6)(a) In any proceeding under chapter 46.55 RCW to contest the validity of an impoundment under this section where the claimant substantially prevails, the claimant is entitled to a full refund of the impoundment, towing, and storage fees paid under chapter 46.55 RCW and the five hundred dollar fine paid under subsection ~~((3))~~ (4) of this section.

(b) If the person is found not guilty at trial for a crime listed under subsection (1) of this section, the person is entitled to a full refund of the impoundment, towing, and storage fees paid under chapter 46.55 RCW and the ~~(five hundred dollar)~~ fine paid under subsection ~~((3))~~ (4) of this section.

(c) All refunds made under this section shall be paid by the impounding agency.

(d) Prior to receiving any refund under this section, the claimant must provide proof of payment.

**Sec. 13.** RCW 9.68A.100 and 2007 c 368 s 2 are each amended to read as follows:

(1) A person is guilty of commercial sexual abuse of a minor if:

(a) He or she pays a fee to a minor or a third person as compensation for a minor having engaged in sexual conduct with him or her;

(b) He or she pays or agrees to pay a fee to a minor or a third person pursuant to an understanding that in return therefore such minor will engage in sexual conduct with him or her; or

(c) He or she solicits, offers, or requests to engage in sexual conduct with a minor in return for a fee.

(2) Commercial sexual abuse of a minor is a class ~~((C))~~ B felony punishable under chapter 9A.20 RCW.

(3) In addition to any other penalty provided under chapter 9A.20 RCW, a person guilty of commercial sexual abuse of a minor is subject to the provisions under RCW 9A.88.130 and 9A.88.140.

(4) For purposes of this section, "sexual conduct" means sexual intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

**Sec. 14.** RCW 9.68A.101 and 2007 c 368 s 4 are each amended to read as follows:

(1) A person is guilty of promoting commercial sexual abuse of a minor if he or she knowingly advances commercial sexual abuse of a minor or profits from a minor engaged in sexual conduct.

(2) Promoting commercial sexual abuse of a minor is a class ~~((B))~~ A felony.

(3) For the purposes of this section:

(a) A person "advances commercial sexual abuse of a minor" if, acting other than as a minor receiving compensation for personally rendered sexual conduct or as a person engaged in commercial sexual abuse of a minor, he or she causes or aids a person to commit or engage in commercial sexual abuse of a minor, procures or solicits customers for commercial sexual abuse of a minor, provides persons or premises for the purposes of engaging in commercial sexual abuse of a minor, operates or assists in the operation of a house or enterprise for the purposes of engaging in commercial sexual abuse of a minor, or engages in any other conduct designed to institute, aid, cause, assist, or facilitate an act or enterprise of commercial sexual abuse of a minor.

(b) A person "profits from commercial sexual abuse of a minor" if, acting other than as a minor receiving compensation for personally rendered sexual conduct, he or she accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he or she participates or will participate in the proceeds of commercial sexual abuse of a minor.

(4) For purposes of this section, "sexual conduct" means sexual intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

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**Sec. 15.** RCW 9.68A.105 and 2007 c 368 s 11 are each amended to read as follows:

(1)(a) In addition to penalties set forth in RCW 9.68A.100, 9.68A.101, and 9.68A.102, a person who is either convicted or given a deferred sentence or a deferred prosecution or who has entered into a statutory or nonstatutory diversion agreement as a result of an arrest for violating RCW 9.68A.100, 9.68A.101, or 9.68A.102, or a comparable county or municipal ordinance shall be assessed a five (~~hundred fifty~~) thousand dollar fee.

(b) The court may not suspend payment of all or part of the fee unless it finds that the person does not have the ability to pay.

(c) When a minor has been adjudicated a juvenile offender or has entered into a statutory or nonstatutory diversion agreement for an offense which, if committed by an adult, would constitute a violation of RCW 9.68A.100, 9.68A.101, or 9.68A.102, or a comparable county or municipal ordinance, the court shall assess the fee under (a) of this subsection. The court may not suspend payment of all or part of the fee unless it finds that the minor does not have the ability to pay the fee.

(2) The fee assessed under subsection (1) of this section shall be collected by the clerk of the court and distributed each month to the state treasurer for deposit in the prostitution prevention and intervention account under RCW 43.63A.740 for the purpose of funding prostitution prevention and intervention activities.

(3) For the purposes of this section:

(a) "Statutory or nonstatutory diversion agreement" means an agreement under RCW 13.40.080 or any written agreement between a person accused of an offense listed in subsection (1) of this section and a court, county or city prosecutor, or designee thereof, whereby the person agrees to fulfill certain conditions in lieu of prosecution.

(b) "Deferred sentence" means a sentence that will not be carried out if the defendant meets certain requirements, such as complying with the conditions of probation.

**NEW SECTION. Sec. 16.** If funds are appropriated specifically for this purpose, the criminal justice training commission, in consultation with the Washington association of sheriffs and police chiefs, shall, by December 1, 2010, develop a model policy on law enforcement officer implementation of the procedures provided in this act relating to contact with a minor who is a "sexually exploited child" as defined in this act or who is a victim of offenses related to commercial sexual abuse of a minor as defined in chapter 9.68A RCW. The commission shall develop a curriculum based on the model policy for inclusion in its basic training academy by January 1, 2011.

**Sec. 17.** RCW 9.68A.110 and 2007 c 368 s 3 are each amended to read as follows:

(1) In a prosecution under RCW 9.68A.040, it is not a defense that the defendant was involved in activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses. Law enforcement and prosecution agencies shall not employ minors to aid in the investigation of a violation of RCW 9.68A.090 or 9.68A.100. This chapter does not apply to lawful conduct between spouses.

(2) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or 9.68A.080, it is not a defense that the defendant did not know the age of the child depicted in the visual or printed matter(~~(= PROVIDED, That)).~~ It is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense the defendant was not in possession of any facts on the basis of which he or she should reasonably have known that the person depicted was a minor.

(3) In a prosecution under RCW 9.68A.040, 9.68A.090, 9.68A.100, 9.68A.101, or 9.68A.102, it is not a defense that the defendant did not know the alleged victim's age(~~(= PROVIDED, That)).~~ It is a defense, which the defendant must prove by a

preponderance of the evidence, that at the time of the offense, the defendant made a reasonable bona fide attempt to ascertain the true age of the minor by requiring production of a driver's license, marriage license, birth certificate, or other governmental or educational identification card or paper and did not rely solely on the oral allegations or apparent age of the minor.

(4) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070, it shall be an affirmative defense that the defendant was a law enforcement officer in the process of conducting an official investigation of a sex-related crime against a minor, or that the defendant was providing individual case treatment as a recognized medical facility or as a psychiatrist or psychologist licensed under Title 18 RCW.

(5) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070, the state is not required to establish the identity of the alleged victim.

**Sec. 18.** RCW 43.63A.740 and 2009 c 387 s 2 are each amended to read as follows:

The prostitution prevention and intervention account is created in the state treasury. All designated receipts from fees under RCW 9.68A.105 and 9A.88.120 and fines collected under RCW 9A.88.140 shall be deposited into the account. Expenditures from the account may be used (~~(only for))~~ in the following order of priority:

(1) Programs that provide mental health and substance abuse counseling, parenting skills training, housing relief, education, and vocational training for youth who have been diverted for a prostitution or prostitution loitering offense pursuant to RCW 13.40.213;

(2) Funding for services provided to sexually exploited children as defined in RCW 13.32A.030 in secure and semi-secure crisis residential centers with access to staff trained to meet their specific needs;

(3) Funding for services specified in RCW 74.14B.060 and 74.14B.070 for sexually exploited children; and

(4) Funding the grant program to enhance prostitution prevention and intervention services under RCW 43.63A.720.

**NEW SECTION. Sec. 19.** The following acts or parts of acts are each repealed: 2009 c 252 s 4 (uncodified)."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Stevens moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6476.

Senator Stevens spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Stevens that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6476.

The motion by Senator Stevens carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6476 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6476, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6476, as amended by the

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House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley and McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6476, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 10:02 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

#### AFTERNOON SESSION

The Senate was called to order at 1:00 p.m. by President Owen.

#### MESSAGE FROM THE HOUSE

March 9, 2010

MR. PRESIDENT:

The House receded from its amendment to SENATE BILL NO. 6243 and passed the bill without the House amendment. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MESSAGE FROM THE HOUSE

March 9, 2010

MR. PRESIDENT:

The House receded from its amendment to SUBSTITUTE SENATE BILL NO. 6350 and passed the bill without the House amendment. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MESSAGE FROM THE HOUSE

February 28, 2010

MR. PRESIDENT:

The House passed SENATE BILL NO. 6481 with the following amendment: 6481 AMH AGNR H5306.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 76.09.240 and 2007 c 236 s 1 and 2007 c 106 s 6 are each reenacted and amended to read as follows:

(1) ((On or before December 31, 2008:))

(a) Counties planning under RCW 36.70A.040 with a population greater than one hundred thousand, and the cities and towns within those counties, where more than a total of twenty-five Class IV forest practices applications, as defined in RCW 76.09.050(1) Class IV (a) through (d), have been filed with the

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department between January 1, 2003, and December 31, 2005, shall adopt and enforce ordinances or regulations as provided in subsection (2) of this section for the following:

(i) Forest practices classified as Class I, II, III, and IV that are within urban growth areas designated under RCW 36.70A.110, except for forest practices on ownerships of contiguous forest land equal to or greater than twenty acres where the forest landowner provides, to the department and the county, a written statement of intent, signed by the forest landowner, not to convert to a use other than growing commercial timber for ten years. This statement must be accompanied by either:

(A) A written forest management plan acceptable to the department; or

(B) Documentation that the land is enrolled as forest land of long-term commercial significance under the provisions of chapter 84.33 RCW; and

(ii) Forest practices classified as Class IV, outside urban growth areas designated under RCW 36.70A.110, involving either timber harvest or road construction, or both on:

(A) Lands platted after January 1, 1960, as provided in chapter 58.17 RCW;

(B) Lands that have or are being converted to another use; or

(C) Lands which, under RCW 76.09.070, are not to be reforested because of the likelihood of future conversion to urban development;

(b) Counties planning under RCW 36.70A.040, and the cities and towns within those counties, not included in (a) of this subsection, may adopt and enforce ordinances or regulations as provided in (a) of this subsection; and

(c) Counties not planning under RCW 36.70A.040, and the cities and towns within those counties, may adopt and enforce ordinances or regulations as provided in subsection (2) of this section for forest practices classified as Class IV involving either timber harvest or road construction, or both on:

(i) Lands platted after January 1, 1960, as provided in chapter 58.17 RCW;

(ii) Lands that have or are being converted to another use; or

(iii) Lands which, under RCW 76.09.070, are not to be reforested because of the likelihood of future conversion to urban development.

(2) Before a county, city, or town may regulate forest practices under subsection (1) of this section, it shall ensure that its critical areas and development regulations are in compliance with RCW 36.70A.130 and, if applicable, RCW 36.70A.215. The county, city, or town shall notify the department and the department of ecology in writing sixty days prior to adoption of the development regulations required in this section. The transfer of jurisdiction shall not occur until the county, city, or town has notified the department, the department of revenue, and the department of ecology in writing of the effective date of the regulations. Ordinances and regulations adopted under subsection (1) of this section and this subsection must be consistent with or supplement development regulations that protect critical areas pursuant to RCW 36.70A.060, and shall at a minimum include:

(a) Provisions that require appropriate approvals for all phases of the conversion of forest lands, including land clearing and grading; and

(b) Procedures for the collection and administration of permit and recording fees.

(3) Activities regulated by counties, cities, or towns as provided in subsections (1) and (2) of this section shall be administered and enforced by those counties, cities, or towns. The department shall not regulate these activities under this chapter.

(4) The board shall continue to adopt rules and the department shall continue to administer and enforce those rules in each county,

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city, or town for all forest practices as provided in this chapter until such a time as the county, city, or town has updated its development regulations as required by RCW 36.70A.130 and, if applicable, RCW 36.70A.215, and has adopted ordinances or regulations under subsections (1) and (2) of this section. However, counties, cities, and towns that have adopted ordinances or regulations regarding forest practices prior to July 22, 2007, are not required to readopt their ordinances or regulations in order to satisfy the requirements of this section.

(5) Upon request, the department shall provide technical assistance to all counties, cities, and towns while they are in the process of adopting the regulations required by this section, and after the regulations become effective.

(6) For those forest practices over which the board and the department maintain regulatory authority no county, city, municipality, or other local or regional governmental entity shall adopt or enforce any law, ordinance, or regulation pertaining to forest practices, except that to the extent otherwise permitted by law, such entities may exercise any:

(a) Land use planning or zoning authority: PROVIDED, That exercise of such authority may regulate forest practices only: (i) Where the application submitted under RCW 76.09.060 as now or hereafter amended indicates that the lands have been or will be converted to a use other than commercial forest product production; or (ii) on lands which have been platted after January 1, 1960, as provided in chapter 58.17 RCW: PROVIDED, That no permit system solely for forest practices shall be allowed; that any additional or more stringent regulations shall not be inconsistent with the forest practices regulations enacted under this chapter; and such local regulations shall not unreasonably prevent timber harvesting;

(b) Taxing powers;

(c) Regulatory authority with respect to public health; and

(d) Authority granted by chapter 90.58 RCW, the "Shoreline Management Act of 1971."

(7) All counties and cities adopting or enforcing regulations or ordinances under this section shall include in the regulation or ordinance a requirement that a verification accompany every permit issued for forest land by that county or city associated with the conversion to a use other than commercial timber operation, as that term is defined in RCW 76.09.020, that verifies that the land in question is not or has not been subject to a notice of conversion to nonforestry uses under RCW 76.09.060 during the six-year period prior to the submission of a permit application.

(8) To improve the administration of the forest excise tax created in chapter 84.33 RCW, a county, city, or town that regulates forest practices under this section shall report permit information to the department of revenue for all approved forest practices permits. The permit information shall be reported to the department of revenue no later than sixty days after the date the permit was approved and shall be in a form and manner agreed to by the county, city, or town and the department of revenue. Permit information includes the landowner's legal name, address, telephone number, and parcel number."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Morton moved that the Senate concur in the House amendment(s) to Senate Bill No. 6481.

Senator Morton spoke in favor of the motion.

MOTION

On motion of Senator Marr, Senators Brown, Fairley, Haugen and Murray were excused.

MOTION

On motion of Senator Brandland, Senators Benton, Carrell and McCaslin were excused.

The President declared the question before the Senate to be the motion by Senator Morton that the Senate concur in the House amendment(s) to Senate Bill No. 6481.

The motion by Senator Morton carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6481 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6481, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6481, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Senators Becker, Berkey, Brandland, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Benton, Brown, Fairley, Haugen, McCaslin and Murray

SENATE BILL NO. 6481, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 2, 2010

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6561 with the following amendment(s): 6561-S2.E AMH ENGR H5336.E

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 13.04.240 and 1961 c 302 s 16 are each amended to read as follows:

An order of court adjudging a child (~~delinquent~~) a juvenile offender or dependent under the provisions of this chapter shall in no case be deemed a conviction of crime.

Sec. 2. RCW 13.50.050 and 2008 c 221 s 1 are each amended to read as follows:

(1) This section governs records relating to the commission of juvenile offenses, including records relating to diversions.

(2) The official juvenile court file of any alleged or proven juvenile offender shall be open to public inspection, unless sealed pursuant to subsection (12) of this section.

(3) All records other than the official juvenile court file are confidential and may be released only as provided in this section, RCW 13.50.010, 13.40.215, and 4.24.550.

(4) Except as otherwise provided in this section and RCW 13.50.010, records retained or produced by any juvenile justice or

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care agency may be released to other participants in the juvenile justice or care system only when an investigation or case involving the juvenile in question is being pursued by the other participant or when that other participant is assigned the responsibility for supervising the juvenile.

(5) Except as provided in RCW 4.24.550, information not in an official juvenile court file concerning a juvenile or a juvenile's family may be released to the public only when that information could not reasonably be expected to identify the juvenile or the juvenile's family.

(6) Notwithstanding any other provision of this chapter, the release, to the juvenile or his or her attorney, of law enforcement and prosecuting attorneys' records pertaining to investigation, diversion, and prosecution of juvenile offenses shall be governed by the rules of discovery and other rules of law applicable in adult criminal investigations and prosecutions.

(7) Upon the decision to arrest or the arrest, law enforcement and prosecuting attorneys may cooperate with schools in releasing information to a school pertaining to the investigation, diversion, and prosecution of a juvenile attending the school. Upon the decision to arrest or the arrest, incident reports may be released unless releasing the records would jeopardize the investigation or prosecution or endanger witnesses. If release of incident reports would jeopardize the investigation or prosecution or endanger witnesses, law enforcement and prosecuting attorneys may release information to the maximum extent possible to assist schools in protecting other students, staff, and school property.

(8) The juvenile court and the prosecutor may set up and maintain a central record-keeping system which may receive information on all alleged juvenile offenders against whom a complaint has been filed pursuant to RCW 13.40.070 whether or not their cases are currently pending before the court. The central record-keeping system may be computerized. If a complaint has been referred to a diversion unit, the diversion unit shall promptly report to the juvenile court or the prosecuting attorney when the juvenile has agreed to diversion. An offense shall not be reported as criminal history in any central record-keeping system without notification by the diversion unit of the date on which the offender agreed to diversion.

(9) Upon request of the victim of a crime or the victim's immediate family, the identity of an alleged or proven juvenile offender alleged or found to have committed a crime against the victim and the identity of the alleged or proven juvenile offender's parent, guardian, or custodian and the circumstance of the alleged or proven crime shall be released to the victim of the crime or the victim's immediate family.

(10) Subject to the rules of discovery applicable in adult criminal prosecutions, the juvenile offense records of an adult criminal defendant or witness in an adult criminal proceeding shall be released upon request to prosecution and defense counsel after a charge has actually been filed. The juvenile offense records of any adult convicted of a crime and placed under the supervision of the adult corrections system shall be released upon request to the adult corrections system.

(11) In any case in which an information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any, and, subject to subsection (23) of this section, order the sealing of the official juvenile court file, the social file, and records of the court and of any other agency in the case.

(12)(a) The court shall not grant any motion to seal records for class A offenses made pursuant to subsection (11) of this section that is filed on or after July 1, 1997, unless ~~(it finds that)~~:

~~((a) For class B offenses other than sex offenses,)) (i) Since the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition, the person has spent five consecutive years in the community without committing any offense or crime that subsequently results in an adjudication or conviction~~((: For class C offenses other than sex offenses, since the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition, the person has spent two consecutive years in the community without committing any offense or crime that subsequently results in conviction. For gross misdemeanors and misdemeanors, since the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition, the person has spent two consecutive years in the community without committing any offense or crime that subsequently results in conviction. For diversions, since completion of the diversion agreement, the person has spent two consecutive years in the community without committing any offense or crime that subsequently results in conviction or diversion));~~~~

~~((b)) (ii) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;~~

~~((c)) (iii) No proceeding is pending seeking the formation of a diversion agreement with that person;~~

~~((d)) (iv) The person has not been convicted of a ~~(class A or)~~ sex offense; and~~

~~((e)) (v) Full restitution has been paid.~~

(b) The court shall not grant any motion to seal records for class B, C, gross misdemeanor and misdemeanor offenses and diversions made under subsection (11) of this section unless:

(i) Since the date of last release from confinement, including full-time residential treatment, if any, entry of disposition, or completion of the diversion agreement, the person has spent two consecutive years in the community without being convicted of any offense or crime;

(ii) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

(iii) No proceeding is pending seeking the formation of a diversion agreement with that person;

(iv) The person has not been convicted of a sex offense; and

(v) Full restitution has been paid.

(13) The person making a motion pursuant to subsection (11) of this section shall give reasonable notice of the motion to the prosecution and to any person or agency whose files are sought to be sealed.

(14) If the court grants the motion to seal made pursuant to subsection (11) of this section, it shall, subject to subsection (23) of this section, order sealed the official juvenile court file, the social file, and other records relating to the case as are named in the order. Thereafter, the proceedings in the case shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events, records of which are sealed. Any agency shall reply to any inquiry concerning confidential or sealed records that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(15) Inspection of the files and records included in the order to seal may thereafter be permitted only by order of the court upon motion made by the person who is the subject of the information or complaint, except as otherwise provided in RCW 13.50.010(8) and subsection (23) of this section.

(16) Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying the sealing order. Any charging of an adult felony subsequent to the sealing has the effect of nullifying the sealing order for the purposes of chapter 9.94A RCW. The administrative office of the courts shall ensure

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that the superior court judicial information system provides prosecutors access to information on the existence of sealed juvenile records.

(17)(a)(i) Subject to subsection (23) of this section, all records maintained by any court or law enforcement agency, including the juvenile court, local law enforcement, the Washington state patrol, and the prosecutor's office, shall be automatically destroyed within ninety days of becoming eligible for destruction. Juvenile records are eligible for destruction when:

(A) The person who is the subject of the information or complaint is at least eighteen years of age;

(B) His or her criminal history consists entirely of one diversion agreement or counsel and release entered on or after June 12, 2008;

(C) Two years have elapsed since completion of the agreement or counsel and release;

(D) No proceeding is pending against the person seeking the conviction of a criminal offense; and

(E) There is no restitution owing in the case.

(ii) No less than quarterly, the administrative office of the courts shall provide a report to the juvenile courts of those individuals whose records may be eligible for destruction. The juvenile court shall verify eligibility and notify the Washington state patrol and the appropriate local law enforcement agency and prosecutor's office of the records to be destroyed. The requirement to destroy records under this subsection is not dependent on a court hearing or the issuance of a court order to destroy records.

(iii) The state and local governments and their officers and employees are not liable for civil damages for the failure to destroy records pursuant to this section.

(b) A person eighteen years of age or older whose criminal history consists entirely of one diversion agreement or counsel and release entered prior to June 12, 2008, may request that the court order the records in his or her case destroyed. The request shall be granted, subject to subsection (23) of this section, if the court finds that two years have elapsed since completion of the agreement or counsel and release.

(c) A person twenty-three years of age or older whose criminal history consists of only referrals for diversion may request that the court order the records in those cases destroyed. The request shall be granted, subject to subsection (23) of this section, if the court finds that all diversion agreements have been successfully completed and no proceeding is pending against the person seeking the conviction of a criminal offense.

(18) If the court grants the motion to destroy records made pursuant to subsection (17)(b) or (c) of this section, it shall, subject to subsection (23) of this section, order the official juvenile court file, the social file, and any other records named in the order to be destroyed.

(19) The person making the motion pursuant to subsection (17)(b) or (c) of this section shall give reasonable notice of the motion to the prosecuting attorney and to any agency whose records are sought to be destroyed.

(20) Any juvenile to whom the provisions of this section may apply shall be given written notice of his or her rights under this section at the time of his or her disposition hearing or during the diversion process.

(21) Nothing in this section may be construed to prevent a crime victim or a member of the victim's family from divulging the identity of the alleged or proven juvenile offender or his or her family when necessary in a civil proceeding.

(22) Any juvenile justice or care agency may, subject to the limitations in subsection (23) of this section and (a) and (b) of this subsection, develop procedures for the routine destruction of records relating to juvenile offenses and diversions.

(a) Records may be routinely destroyed only when the person the subject of the information or complaint has attained twenty-three years of age or older or pursuant to subsection (17)(a) of this section.

(b) The court may not routinely destroy the official juvenile court file or recordings or transcripts of any proceedings.

(23) No identifying information held by the Washington state patrol in accordance with chapter 43.43 RCW is subject to destruction or sealing under this section. For the purposes of this subsection, identifying information includes photographs, fingerprints, palmprints, soleprints, toeprints and any other data that identifies a person by physical characteristics, name, birthdate or address, but does not include information regarding criminal activity, arrest, charging, diversion, conviction or other information about a person's treatment by the criminal justice system or about the person's behavior.

(24) Information identifying child victims under age eighteen who are victims of sexual assaults by juvenile offenders is confidential and not subject to release to the press or public without the permission of the child victim or the child's legal guardian. Identifying information includes the child victim's name, addresses, location, photographs, and in cases in which the child victim is a relative of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator. Information identifying a child victim of sexual assault may be released to law enforcement, prosecutors, judges, defense attorneys, or private or governmental agencies that provide services to the child victim of sexual assault.

**Sec. 3.** RCW 13.50.010 and 2009 c 440 s 1 are each amended to read as follows:

(1) For purposes of this chapter:

(a) "Juvenile justice or care agency" means any of the following: Police, diversion units, court, prosecuting attorney, defense attorney, detention center, attorney general, the legislative children's oversight committee, the office of the family and children's ombudsman, the department of social and health services and its contracting agencies, schools; persons or public or private agencies having children committed to their custody; and any placement oversight committee created under RCW 72.05.415;

(b) "Official juvenile court file" means the legal file of the juvenile court containing the petition or information, motions, memorandums, briefs, findings of the court, and court orders;

(c) "Records" means the official juvenile court file, the social file, and records of any other juvenile justice or care agency in the case;

(d) "Social file" means the juvenile court file containing the records and reports of the probation counselor.

(2) Each petition or information filed with the court may include only one juvenile and each petition or information shall be filed under a separate docket number. The social file shall be filed separately from the official juvenile court file.

(3) It is the duty of any juvenile justice or care agency to maintain accurate records. To this end:

(a) The agency may never knowingly record inaccurate information. Any information in records maintained by the department of social and health services relating to a petition filed pursuant to chapter 13.34 RCW that is found by the court to be false or inaccurate shall be corrected or expunged from such records by the agency;

(b) An agency shall take reasonable steps to assure the security of its records and prevent tampering with them; and

(c) An agency shall make reasonable efforts to insure the completeness of its records, including action taken by other agencies with respect to matters in its files.

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(4) Each juvenile justice or care agency shall implement procedures consistent with the provisions of this chapter to facilitate inquiries concerning records.

(5) Any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency and who has been denied access to those records by the agency may make a motion to the court for an order authorizing that person to inspect the juvenile justice or care agency record concerning that person. The court shall grant the motion to examine records unless it finds that in the interests of justice or in the best interests of the juvenile the records or parts of them should remain confidential.

(6) A juvenile, or his or her parents, or any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency may make a motion to the court challenging the accuracy of any information concerning the moving party in the record or challenging the continued possession of the record by the agency. If the court grants the motion, it shall order the record or information to be corrected or destroyed.

(7) The person making a motion under subsection (5) or (6) of this section shall give reasonable notice of the motion to all parties to the original action and to any agency whose records will be affected by the motion.

(8) The court may permit inspection of records by, or release of information to, any clinic, hospital, or agency which has the subject person under care or treatment. The court may also permit inspection by or release to individuals or agencies, including juvenile justice advisory committees of county law and justice councils, engaged in legitimate research for educational, scientific, or public purposes. ~~((The court may also permit inspection of, or release of information from, records which have been sealed pursuant to RCW 13.50.050(12).))~~ The court shall release to the sentencing guidelines commission records needed for its research and data-gathering functions under RCW 9.94A.850 and other statutes. Access to records or information for research purposes shall be permitted only if the anonymity of all persons mentioned in the records or information will be preserved. Each person granted permission to inspect juvenile justice or care agency records for research purposes shall present a notarized statement to the court stating that the names of juveniles and parents will remain confidential.

(9) Juvenile detention facilities shall release records to the sentencing guidelines commission under RCW 9.94A.850 upon request. The commission shall not disclose the names of any juveniles or parents mentioned in the records without the named individual's written permission.

(10) Requirements in this chapter relating to the court's authority to compel disclosure shall not apply to the legislative children's oversight committee or the office of the family and children's ombudsman.

(11) For the purpose of research only, the administrative office of the courts shall maintain an electronic research copy of all records in the judicial information system related to juveniles. Access to the research copy is restricted to the Washington state center for court research. The Washington state center for court research shall maintain the confidentiality of all confidential records and shall preserve the anonymity of all persons identified in the research copy. The research copy may not be subject to any records retention schedule and must include records destroyed or removed from the judicial information system pursuant to RCW 13.50.050 (17) and (18) and 13.50.100(3).

(12) The court shall release to the Washington state office of public defense records needed to implement the agency's oversight, technical assistance, and other functions as required by RCW

2.70.020. Access to the records used as a basis for oversight, technical assistance, or other agency functions is restricted to the Washington state office of public defense. The Washington state office of public defense shall maintain the confidentiality of all confidential information included in the records.

**Sec. 4.** RCW 13.04.011 and 1997 c 338 s 6 are each amended to read as follows:

For purposes of this title:

(1) "Adjudication" has the same meaning as "conviction" in RCW 9.94A.030, ~~((and the terms must be construed identically and used interchangeably))~~ but only for the purposes of sentencing under chapter 9.94A RCW:

(2) Except as specifically provided in RCW 13.40.020 and chapter 13.24 RCW, "juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years;

(3) "Juvenile offender" and "juvenile offense" have the meaning ascribed in RCW 13.40.020;

(4) "Court" when used without further qualification means the juvenile court judge(s) or commissioner(s);

(5) "Parent" or "parents," except as used in chapter 13.34 RCW, means that parent or parents who have the right of legal custody of the child. "Parent" or "parents" as used in chapter 13.34 RCW, means the biological or adoptive parents of a child unless the legal rights of that person have been terminated by judicial proceedings;

(6) "Custodian" means that person who has the legal right to custody of the child."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6561.

Senator Hargrove spoke in favor of the motion.

Senators Carrell and Roach spoke against passage of the motion.

The President declared the question before the Senate to be the motion by Senator Hargrove that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6561.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6561 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6561, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6561, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 31; Nays, 14; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Berkey, Brandland, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kline, Kohl-Welles, McAuliffe, McDermott, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Stevens, Swecker and Tom

Voting nay: Senators Benton, Carrell, Hewitt, Hobbs, Holmquist, Kilmer, King, Marr, Morton, Parlette, Pflug, Roach, Schoesler and Zarelli

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Excused: Senators Brown, Haugen, McCaslin and Murray  
 ENGROSSED SECOND SUBSTITUTE SENATE BILL  
 NO. 6561, as amended by the House, having received the  
 constitutional majority, was declared passed. There being no  
 objection, the title of the bill was ordered to stand as the title of  
 the act.

## MESSAGE FROM THE HOUSE

March 2, 2010

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL  
 NO. 6604 with the following amendment(s): 6604-S.E AMH  
 ENGR H5401.E

Strike everything after the enacting clause and insert the  
 following:

"Sec. 1. RCW 28A.655.061 and 2009 c 524 s 5 are each  
 amended to read as follows:

(1) The high school assessment system shall include but need  
 not be limited to the Washington assessment of student learning,  
 opportunities for a student to retake the content areas of the  
 assessment in which the student was not successful, and if approved  
 by the legislature pursuant to subsection (10) of this section, one or  
 more objective alternative assessments for a student to demonstrate  
 achievement of state academic standards. The objective alternative  
 assessments for each content area shall be comparable in rigor to the  
 skills and knowledge that the student must demonstrate on the  
 Washington assessment of student learning for each content area.

(2) Subject to the conditions in this section, a certificate of  
 academic achievement shall be obtained by most students at about  
 the age of sixteen, and is evidence that the students have  
 successfully met the state standard in the content areas included in  
 the certificate. With the exception of students satisfying the  
 provisions of RCW 28A.155.045 or 28A.655.0611, acquisition of  
 the certificate is required for graduation from a public high school  
 but is not the only requirement for graduation.

(3) Beginning with the graduating class of 2008, with the  
 exception of students satisfying the provisions of RCW  
 28A.155.045, a student who meets the state standards on the  
 reading, writing, and mathematics content areas of the high school  
 Washington assessment of student learning shall earn a certificate of  
 academic achievement. If a student does not successfully meet the  
 state standards in one or more content areas required for the  
 certificate of academic achievement, then the student may retake the  
 assessment in the content area up to four times at no cost to the  
 student. If the student successfully meets the state standards on a  
 retake of the assessment then the student shall earn a certificate of  
 academic achievement. Once objective alternative assessments are  
 authorized pursuant to subsection (10) of this section, a student may  
 use the objective alternative assessments to demonstrate that the  
 student successfully meets the state standards for that content area if  
 the student has taken the Washington assessment of student learning  
 at least once. If the student successfully meets the state standards  
 on the objective alternative assessments then the student shall earn a  
 certificate of academic achievement.

(4) Beginning no later than with the graduating class of 2013, a  
 student must meet the state standards in science in addition to the  
 other content areas required under subsection (3) of this section on  
 the Washington assessment of student learning or the objective  
 alternative assessments in order to earn a certificate of academic  
 achievement. The state board of education may adopt a rule that  
 implements the requirements of this subsection (4) beginning with a  
 graduating class before the graduating class of 2013, if the state  
 board of education adopts the rule by September 1st of the freshman  
 school year of the graduating class to which the requirements of this

subsection (4) apply. The state board of education's authority under  
 this subsection (4) does not alter the requirement that any change in  
 performance standards for the tenth grade assessment must comply  
 with RCW 28A.305.130.

(5) The state board of education may not require the acquisition  
 of the certificate of academic achievement for students in  
 home-based instruction under chapter 28A.200 RCW, for students  
 enrolled in private schools under chapter 28A.195 RCW, or for  
 students satisfying the provisions of RCW 28A.155.045.

(6) A student may retain and use the highest result from each  
 successfully completed content area of the high school assessment.

(7) School districts must make available to students the  
 following options:

(a) To retake the Washington assessment of student learning up  
 to four times in the content areas in which the student did not meet  
 the state standards if the student is enrolled in a public school; or

(b) To retake the Washington assessment of student learning up  
 to four times in the content areas in which the student did not meet  
 the state standards if the student is enrolled in a high school  
 completion program at a community or technical college. The  
 superintendent of public instruction and the state board for  
 community and technical colleges shall jointly identify means by  
 which students in these programs can be assessed.

(8) Students who achieve the standard in a content area of the  
 high school assessment but who wish to improve their results shall  
 pay for retaking the assessment, using a uniform cost determined by  
 the superintendent of public instruction.

(9) Opportunities to retake the assessment at least twice a year  
 shall be available to each school district.

(10)(a) The office of the superintendent of public instruction  
 shall develop options for implementing objective alternative  
 assessments, which may include an appeals process for students'  
 scores, for students to demonstrate achievement of the state  
 academic standards. The objective alternative assessments shall be  
 comparable in rigor to the skills and knowledge that the student  
 must demonstrate on the Washington assessment of student learning  
 and be objective in its determination of student achievement of the  
 state standards. Before any objective alternative assessments in  
 addition to those authorized in RCW 28A.655.065 or (b) of this  
 subsection are used by a student to demonstrate that the student has  
 met the state standards in a content area required to obtain a  
 certificate, the legislature shall formally approve the use of any  
 objective alternative assessments through the omnibus  
 appropriations act or by statute or concurrent resolution.

(b)(i) A student's score on the mathematics, reading or English,  
 or writing portion of the SAT or the ACT may be used as an  
 objective alternative assessment under this section for demonstrating  
 that a student has met or exceeded the state standards  
 for the certificate of academic achievement. The state board of  
 education shall identify the scores students must achieve on the  
 relevant portion of the SAT or ACT to meet or exceed the state  
 standard in the relevant content area on the Washington assessment  
 of student learning. The state board of education shall identify the  
 first scores by December 1, 2007. After the first scores are  
 established, the state board may increase but not decrease the scores  
 required for students to meet or exceed the state standards.

(ii) Until August 31, 2008, a student's score on the mathematics  
 portion of the PSAT may be used as an objective alternative  
 assessment under this section for demonstrating that a student has  
 met or exceeded the state standard for the certificate of academic  
 achievement. The state board of education shall identify the score  
 students must achieve on the mathematics portion of the PSAT to  
 meet or exceed the state standard in that content area on the  
 Washington assessment of student learning.

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(iii) A student who scores at least a three on the grading scale of one to five for selected AP examinations may use the score as an objective alternative assessment under this section for demonstrating that a student has met or exceeded state standards for the certificate of academic achievement. A score of three on the AP examinations in calculus or statistics may be used as an alternative assessment for the mathematics portion of the Washington assessment of student learning. A score of three on the AP examinations in English language and composition may be used as an alternative assessment for the writing portion of the Washington assessment of student learning. A score of three on the AP examinations in English literature and composition, macroeconomics, microeconomics, psychology, United States history, world history, United States government and politics, or comparative government and politics may be used as an alternative assessment for the reading portion of the Washington assessment of student learning.

(11) By December 15, 2004, the house of representatives and senate education committees shall obtain information and conclusions from recognized, independent, national assessment experts regarding the validity and reliability of the high school Washington assessment of student learning for making individual student high school graduation determinations.

(12) To help assure continued progress in academic achievement as a foundation for high school graduation and to assure that students are on track for high school graduation, each school district shall prepare plans for and notify students and their parents or legal guardians as provided in this subsection ~~((12))~~.

~~((a))~~ Student learning plans are required for eighth ~~((through twelfth))~~ grade students who were not successful on any or all of the content areas of the ~~((Washington))~~ state assessment ~~((for student learning))~~ during the previous school year or who may not be on track to graduate due to credit deficiencies or absences. The parent or legal guardian shall be notified about the information in the student learning plan, preferably through a parent conference and at least annually. To the extent feasible, schools serving English language learner students and their parents shall translate the plan into the primary language of the family. The plan shall include the following information as applicable:

~~((a))~~ (a) The student's results on the ~~((Washington))~~ state assessment ~~((of student learning))~~;

~~((b))~~ (b) If the student is in the transitional bilingual program, the score on his or her Washington language proficiency test II;

~~((c))~~ (c) Any credit deficiencies;

~~((d))~~ (d) The student's attendance rates over the previous two years;

~~((e))~~ (e) The student's progress toward meeting state and local graduation requirements;

~~((f))~~ (f) The courses, competencies, and other steps needed to be taken by the student to meet state academic standards and stay on track for graduation;

~~((g))~~ (g) Remediation strategies and alternative education options available to students, including informing students of the option to continue to receive instructional services after grade twelve or until the age of twenty-one;

~~((h))~~ (h) The alternative assessment options available to students under this section and RCW 28A.655.065;

~~((i))~~ (i) School district programs, high school courses, and career and technical education options available for students to meet graduation requirements; and

~~((j))~~ (j) Available programs offered through skill centers or community and technical colleges, including the college high school diploma options under RCW 28B.50.535.

~~((b))~~ All fifth grade students who were not successful in one or more of the content areas of the fourth grade Washington

assessment of student learning shall have a student learning plan.

(i) The parent or guardian of the student shall be notified, preferably through a parent conference, of the student's results on the Washington assessment of student learning, actions the school intends to take to improve the student's skills in any content area in which the student was unsuccessful, and provide strategies to help them improve their student's skills.

(ii) Progress made on the student plan shall be reported to the student's parents or guardian at least annually and adjustments to the plan made as necessary.)

**Sec. 2.** RCW 28A.225.015 and 1999 c 319 s 6 are each amended to read as follows:

(1) If a parent enrolls a child who is six or seven years of age in a public school, the child is required to attend and that parent has the responsibility to ensure the child attends for the full time that school is in session. An exception shall be made to this requirement for children whose parents formally remove them from enrollment if the child is less than eight years old and a petition has not been filed against the parent under subsection (3) of this section. The requirement to attend school under this subsection does not apply to a child enrolled in a public school part-time for the purpose of receiving ancillary services. A child required to attend school under this subsection may be temporarily excused upon the request of his or her parent for purposes agreed upon by the school district and parent.

(2) If a six or seven year-old child is required to attend public school under subsection (1) of this section and that child has unexcused absences, the public school in which the child is enrolled ~~((shall))~~ may:

(a) Inform the child's custodial parent, parents, or guardian by a notice in writing, by e-mail, or by telephone whenever the child has failed to attend school after one unexcused absence within any month during the current school year;

(b) Request a conference or conferences to be conducted by telephone or in person with the custodial parent, parents, or guardian and child at a time reasonably convenient for all persons included for the purpose of analyzing the causes of the child's absences after two unexcused absences within any month during the current school year. If a regularly scheduled parent-teacher conference day is to take place within thirty days of the second unexcused absence, then the school district may schedule this conference on that day; and

(c) Take steps to eliminate or reduce the child's absences. These steps ~~((shall))~~ may include, where appropriate, adjusting the child's school program or school or course assignment, providing more individualized or remedial instruction, offering assistance in enrolling the child in available alternative schools or programs, or assisting the parent or child to obtain supplementary services that may help eliminate or ameliorate the cause or causes for the absence from school.

(3) If a child required to attend public school under subsection (1) of this section has seven unexcused absences in a month or ten unexcused absences in a school year, the school district ~~((shall))~~ may file a petition for civil action as provided in RCW 28A.225.035 against the parent of the child.

(4) This section does not require a six or seven year old child to enroll in a public or private school or to receive home-based instruction. This section only applies to six or seven year old children whose parents enroll them full time in public school and do not formally remove them from enrollment as provided in subsection (1) of this section.

**Sec. 3.** RCW 28A.225.020 and 2009 c 266 s 1 are each amended to read as follows:

(1) If a child required to attend school under RCW 28A.225.010 fails to attend school without valid justification, the public school in which the child is enrolled shall take the following actions if the

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child is enrolled in the sixth grade or above, and may take the following actions if the child is enrolled in the fifth grade or below:

(a) Inform the child's custodial parent, parents, or guardian by a notice in writing, by e-mail, or by telephone whenever the child has failed to attend school after one unexcused absence within any month during the current school year. School officials shall inform the parent of the potential consequences of additional unexcused absences. If the custodial parent, parents, or guardian is not fluent in English, the preferred practice is to provide this information in a language in which the custodial parent, parents, or guardian is fluent; and

(b) Schedule a conference or conferences to be conducted by telephone or in person with the custodial parent, parents, or guardian and child at a time reasonably convenient for all persons included for the purpose of analyzing the causes of the child's absences after two unexcused absences within any month during the current school year. If a regularly scheduled parent-teacher conference day is to take place within thirty days of the second unexcused absence, then the school district may schedule this conference on that day(~~and~~),

~~((=))~~ (2) The school may also take steps to eliminate or reduce the child's absences. These steps (~~shall~~) may include, where appropriate, adjusting the child's school program or school or course assignment, providing more individualized or remedial instruction, providing appropriate vocational courses or work experience, referring the child to a community truancy board, if available, requiring the child to attend an alternative school or program, or assisting the parent or child to obtain supplementary services that might eliminate or ameliorate the cause or causes for the absence from school. If the child's parent does not attend the scheduled conference, the conference may be conducted with the student and school official. However, the parent shall be notified of the steps to be taken to eliminate or reduce the child's absence.

~~((=))~~ (3) For purposes of this chapter, an "unexcused absence" means that a child:

(a) Has failed to attend the majority of hours or periods in an average school day or has failed to comply with a more restrictive school district policy; and

(b) Has failed to meet the school district's policy for excused absences.

~~((=))~~ (4) If a child transfers from one school district to another during the school year, the receiving school or school district shall include the unexcused absences accumulated at the previous school or from the previous school district for purposes of this section, RCW 28A.225.030, and 28A.225.015.

**Sec. 4.** RCW 28A.225.025 and 2009 c 266 s 2 are each amended to read as follows:

(1) For purposes of this chapter, "community truancy board" means a board composed of members of the local community in which the child attends school. Juvenile courts may establish and operate community truancy boards. If the juvenile court and the school district agree, a school district may establish and operate a community truancy board under the jurisdiction of the juvenile court. Juvenile courts may create a community truancy board or may use other entities that exist or are created, such as diversion units. However, a diversion unit or other existing entity must agree before it is used as a truancy board. Duties of a community truancy board shall include, but not be limited to, recommending methods for improving school attendance such as assisting the parent or the child to obtain supplementary services that might eliminate or ameliorate the causes for the absences or suggesting to the school district that the child enroll in another school, an alternative education program, an education center, a skill center, a dropout prevention program, or another public or private educational program.

(2) The legislature finds that utilization of community truancy boards, or other diversion units that fulfill a similar function, is the preferred means of intervention when preliminary methods of notice and parent conferences and taking appropriate steps to eliminate or reduce unexcused absences have not been effective in securing the child's attendance at school. The legislature intends to encourage and support the development and expansion of community truancy boards and other diversion programs which are effective in promoting school attendance and preventing the need for more intrusive intervention by the court. ~~((Operation of a school truancy board does not excuse a district from the obligation of filing a petition within the requirements of RCW 28A.225.015(3).))~~

**Sec. 5.** RCW 28A.225.030 and 1999 c 319 s 2 are each amended to read as follows:

(1) If a child is required to attend school under RCW 28A.225.010 and ~~((if))~~ ~~((the))~~ ~~((actions taken by a))~~ school district takes actions under RCW 28A.225.020 that are not successful in substantially reducing an enrolled student's absences from public school, not later than the seventh unexcused absence by a child within any month during the current school year, or not later than the tenth unexcused absence during the current school year the school district ~~((shall))~~ may file a petition and supporting affidavit for a civil action with the juvenile court alleging a violation of RCW 28A.225.010: (a) By the parent; (b) by the child; or (c) by the parent and the child. Except as provided in this subsection, no additional documents need be filed with the petition.

(2) The district ~~((shall not later than))~~ may, after the fifth unexcused absence in a month:

(a) Enter into an agreement with a student and parent that establishes school attendance requirements;

(b) Refer a student to a community truancy board, if available, as defined in RCW 28A.225.025. The community truancy board shall enter into an agreement with the student and parent that establishes school attendance requirements and take other appropriate actions to reduce the child's absences; or

(c) File a petition under subsection (1) of this section.

(3) The petition may be filed by a school district employee who is not an attorney.

(4) If the school district ~~((fails to))~~ does not file a petition under this section, the parent of a child with five or more unexcused absences in any month during the current school year or upon the tenth unexcused absence during the current school year may file a petition with the juvenile court alleging a violation of RCW 28A.225.010.

(5) Petitions filed under this section may be served by certified mail, return receipt requested. If such service is unsuccessful, or the return receipt is not signed by the addressee, personal service is required.

**Sec. 6.** RCW 28A.225.151 and 1996 c 134 s 5 are each amended to read as follows:

(1) As required under subsection (2) of this section, ~~((each school))~~ if a school takes additional actions provided in RCW 28A.225.030, it shall document the actions taken ~~((under RCW 28A.225.030))~~ and report this information to the school district superintendent who shall compile the data for all the schools in the district and prepare an annual school district report for each school year and submit the report to the superintendent of public instruction. The reports shall be made upon forms furnished by the superintendent of public instruction and shall be transmitted as determined by the superintendent of public instruction.

(2) The reports under subsection (1) of this section shall include:

(a) The number of enrolled students and the number of unexcused absences;

(b) Documentation of the steps taken by the school district under each subsection of RCW 28A.225.020 at the request of the

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superintendent of public instruction. Each year, by May 1st, the superintendent of public instruction shall select ten school districts to submit the report at the end of the following school year. The ten districts shall represent different areas of the state and be of varied sizes. In addition, the superintendent of public instruction shall require any district that fails to keep appropriate records to submit a full report to the superintendent of public instruction under this subsection. All school districts shall document steps taken under RCW 28A.225.020 in each student's record, and make those records available upon request consistent with the laws governing student records;

(c) The number of enrolled students with ten or more unexcused absences in a school year or five or more unexcused absences in a month during a school year;

(d) A description of any programs or schools developed to serve students who have had five or more unexcused absences in a month or ten in a year including information about the number of students in the program or school and the number of unexcused absences of students during and after participation in the program. The school district shall also describe any placements in an approved private nonsectarian school or program or certified program under a court order under RCW 28A.225.090; and

(e) The number of petitions filed by a school district with the juvenile court.

(3) A report required under this section shall not disclose the name or other identification of a child or parent.

(4) The superintendent of public instruction shall collect these reports from all school districts and prepare an annual report for each school year to be submitted to the legislature no later than December 15th of each year.

**NEW SECTION. Sec. 7.** Sections 2 through 6 of this act take effect July 1, 2010."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator McAuliffe moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6604 and ask the House to recede therefrom.

Senators McAuliffe spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator McAuliffe that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6604 and ask the House to recede therefrom.

The motion by Senator McAuliffe carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6604 and asked the House to recede therefrom by voice vote.

#### MESSAGE FROM THE HOUSE

March 5, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6759 with the following amendment(s): 6759-S AMH GOOD H5594.1

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that a critical factor in the eventual successful outcome of a K-12 education is for students to begin school ready, both intellectually and socially, to learn. The legislature also finds that, due to a variety of factors, some young children need supplemental instruction in preschool to

assure that they have the opportunity to participate meaningfully and reach the necessary levels of achievement in the regular program of basic education. The legislature further finds that children who participate in high quality preschool programs have improved educational and life outcomes and are more likely to graduate from high school and pursue higher education, experience successful employment opportunities, and have increased earnings. Therefore the legislature intends to create a program of early learning that, when fully implemented, shall be an entitlement program for eligible children.

The legislature also finds that the state early childhood education and assistance program was established to help children from low-income families be prepared for kindergarten, and that the program has been a successful model for achieving that goal. Therefore, the legislature intends that the first phase of implementing the entitlement program of early learning shall be accomplished by utilizing the program standards and eligibility criteria in the early childhood education and assistance program. The legislature also intends that the implementation of subsequent phases of the program established by the ready for school act of 2010 will be aligned with the implementation of the state's all-day kindergarten program in order to maximize the gains resulting from investments in the two programs.

**NEW SECTION. Sec. 2. DEFINITIONS.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Community-based early learning providers" includes for-profit and nonprofit licensed providers of child care and preschool programs.

(2) "Program" means the program of early learning established in section 3 of this act for eligible children who are three and four years of age.

**NEW SECTION. Sec. 3. PROGRAM STANDARDS.** (1) Beginning September 1, 2011, an early learning program to provide voluntary preschool opportunities for children three and four years of age shall be implemented according to the funding and implementation plan in section 5 of this act. The program must be a comprehensive program providing early childhood education and family support, options for parental involvement, and health information, screening, and referral services, as family need is determined. Participation in the program is voluntary. On a space available basis, the program may allow enrollment of children who are not otherwise eligible by assessing a fee.

(2) The first phase of the program shall be implemented by utilizing the program standards and eligibility criteria in the early childhood education and assistance program.

(3) Subsequent phases of the program including, but not limited to, program standards and eligibility criteria, shall be defined by the legislature after receiving the recommendations from the director required in section 8 of this act.

(4) The director shall adopt rules for the following program components, as appropriate and necessary during the phased implementation of the program:

(a) Minimum program standards, including lead teacher, assistant teacher, and staff qualifications;

(b) Approval of program providers;

(c) Accountability and adherence to performance standards; and

(d) A method for allowing, on a space available basis, enrollment of children who are not otherwise eligible by assessing fees or copayments.

(5) The department has administrative responsibility for:

(a) Approving and contracting with providers according to rules developed by the director under this section;

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(b) In partnership with school districts, monitoring program quality and assuring the program is responsive to the needs of eligible children;

(c) Assuring that program providers work cooperatively with school districts to coordinate the transition from preschool to kindergarten so that children and their families are well-prepared and supported; and

(d) Providing technical assistance to contracted providers.

**NEW SECTION. Sec. 4. ELIGIBILITY.** (1)(a) During the initial phase of implementation, the standards in RCW 43.215.405(3) used for eligibility determinations in the early childhood education and assistance program shall be used to determine eligibility for the program.

(b) During subsequent phases of implementation, eligibility determinations shall be based on factors adopted by the legislature after receiving recommendations required in subsection (2) of this section.

(2) The director shall develop recommendations for legislative approval regarding eligibility criteria for subsequent phases of implementation of the program.

(3) The director shall report the recommendations required under subsection (2) of this section to the appropriate committees of the legislature not later than December 1, 2010.

**NEW SECTION. Sec. 5. FUNDING AND STATEWIDE IMPLEMENTATION.** (1) Funding for the program of early learning established under this chapter must be appropriated to the department. Allocations must be made on the basis of eligible children enrolled with eligible providers.

(2) The program shall be implemented in phases, so that full implementation is achieved in the 2017-18 school year.

(3) For the initial phase of the early learning program in school years 2011-12 and 2012-13, the legislature shall appropriate funding to the department for implementation of the program in an amount not less than the 2009-2011 enacted budget for the early childhood education and assistance program. The appropriation shall be sufficient to fund an equivalent number of slots as funded in the 2009-2011 enacted budget.

(4) Beginning in the 2013-14 school year, additional funding for the program must be phased in beginning in school districts providing all-day kindergarten programs under RCW 28A.150.315.

(5) Funding shall continue to be phased in incrementally each year until full statewide implementation of the early learning program is achieved in the 2017-18 school year, at which time any eligible child shall be entitled to be enrolled in the program.

(6) The department and the office of financial management shall annually review the caseload forecasts for the program and, beginning December 1, 2012, and annually thereafter, report to the governor and the appropriate committees of the legislature with recommendations for phasing in additional funding necessary to achieve statewide implementation in the 2017-18 school year.

(7) School districts and approved community-based early learning providers may contract with the department to provide services under the program. The department shall collaborate with school districts, community-based providers, and educational service districts to promote an adequate supply of approved providers.

**NEW SECTION. Sec. 6.** A new section is added to chapter 28A.320 RCW to read as follows:

For the program of early learning established in section 3 of this act, school districts:

(1) Shall work cooperatively with program providers to coordinate the transition from preschool to kindergarten so that children and their families are well-prepared and supported; and

(2) May contract with the department of early learning to deliver services under the program.

**Sec. 7.** RCW 43.215.020 and 2007 c 394 s 5 are each amended to read as follows:

(1) The department of early learning is created as an executive branch agency. The department is vested with all powers and duties transferred to it under this chapter and such other powers and duties as may be authorized by law.

(2) The primary duties of the department are to implement state early learning policy and to coordinate, consolidate, and integrate child care and early learning programs in order to administer programs and funding as efficiently as possible. The department's duties include, but are not limited to, the following:

(a) To support both public and private sectors toward a comprehensive and collaborative system of early learning that serves parents, children, and providers and to encourage best practices in child care and early learning programs;

(b) To make early learning resources available to parents and caregivers;

(c) To carry out activities, including providing clear and easily accessible information about quality and improving the quality of early learning opportunities for young children, in cooperation with the nongovernmental private-public partnership;

(d) To administer child care and early learning programs;

(e) To standardize internal financial audits, oversight visits, performance benchmarks, and licensing criteria, so that programs can function in an integrated fashion;

(f) To support the implementation of the nongovernmental private-public partnership and cooperate with that partnership in pursuing its goals including providing data and support necessary for the successful work of the partnership;

(g) To work cooperatively and in coordination with the early learning council;

(h) To collaborate with the K-12 school system at the state and local levels to ensure appropriate connections and smooth transitions between early learning and K-12 programs; ~~((and))~~

(i) To develop and adopt rules for administration of the program of early learning established in section 3 of this act; and

\_\_\_(j) Upon the development of an early learning information system, to make available to parents timely inspection and licensing action information through the internet and other means.

(3) The department's programs shall be designed in a way that respects and preserves the ability of parents and legal guardians to direct the education, development, and upbringing of their children. The department shall include parents and legal guardians in the development of policies and program decisions affecting their children.

**NEW SECTION. Sec. 8. REPORT AND RECOMMENDATIONS.** The director of the department of early learning shall develop recommendations, including proposed legislation as appropriate and necessary, to achieve statewide implementation of the program of early learning established in section 3 of this act for children three and four years of age. The director shall report to the appropriate committees of the legislature by January 1, 2011 regarding:

(1) Program standards for a developmentally appropriate curriculum;

(2) Service standards for family support and health-related services;

(3) A plan for providing technical assistance necessary to support providers delivering services in early childhood education and assistance programs and head start programs in becoming approved providers of the program;

(4) A strategy to optimize phased implementation of the program on a schedule substantially similar to the implementation of full day kindergarten after a review of the locations where early childhood education and assistance programs are operating;

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(5) Options for developing socioeconomically diverse, mixed classrooms; and

(6) Recommendations for naming the program.

**Sec. 9.** RCW 43.215.405 and 2006 c 265 s 210 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903.

(1) "Advisory committee" means the advisory committee under RCW 43.215.420.

(2) "Department" means the department of early learning.

(3) "Eligible child" means a child not eligible for kindergarten whose family income is at or below one hundred ten percent of the federal poverty level, as published annually by the federal department of health and human services, and includes a child whose family is eligible for public assistance, and who is not a participant in a federal or state program providing comprehensive services; a child eligible for special education due to disability under RCW 28A.155.020; and may include children who are eligible under rules adopted by the department if the number of such children equals not more than ten percent of the total enrollment in the early childhood program. Priority for enrollment shall be given to children from families with the lowest income, children in foster care, or to eligible children from families with multiple needs.

(4) "Approved programs" means those state-supported education and special assistance programs which are recognized by the department as meeting the minimum program rules adopted by the department to qualify under RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903 and are designated as eligible for funding by the department under RCW 43.215.430 and 43.215.440.

(5) "Comprehensive" means an assistance program that focuses on the needs of the child and includes education, health, and family support services.

(6) "Family support services" means providing opportunities for parents to:

(a) Actively participate in their child's early childhood program;

(b) Increase their knowledge of child development and parenting skills;

(c) Further their education and training;

(d) Increase their ability to use needed services in the community;

(e) Increase their self-reliance.

**Sec. 10.** RCW 43.215.405 and 2006 c 265 s 210 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903.

(1) "Advisory committee" means the advisory committee under RCW 43.215.420.

(2) "Department" means the department of early learning.

(3) "Eligible child" means a child not eligible for kindergarten whose family income is at or below one hundred ten percent of the federal poverty level, as published annually by the federal department of health and human services, and includes a child whose family is eligible for public assistance, and who is not a participant in a federal or state program providing comprehensive services, ~~and ((may include children who are eligible under rules adopted by the department if the number of such children equals not more than ten percent of the total enrollment in the early childhood program))~~ a child eligible for special education due to disability under RCW 28A.155.020. Priority for enrollment shall be given to children from families with the lowest income, children in foster care, or to eligible children from families with multiple needs.

(4) "Approved programs" means those state-supported education and special assistance programs which are recognized by the department as meeting the minimum program rules adopted by the department to qualify under RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903 and are designated as eligible for funding by the department under RCW 43.215.430 and 43.215.440.

(5) "Comprehensive" means an assistance program that focuses on the needs of the child and includes education, health, and family support services.

(6) "Family support services" means providing opportunities for parents to:

(a) Actively participate in their child's early childhood program;

(b) Increase their knowledge of child development and parenting skills;

(c) Further their education and training;

(d) Increase their ability to use needed services in the community;

(e) Increase their self-reliance.

**NEW SECTION. Sec. 11.** The joint recommendations from the department of early learning, the superintendent of public instruction, and thrive by five, Washington, to the governor in December 2009, and the recommendations from the quality education council to the legislature in January 2010, both supported implementation of a voluntary program of early learning within the overall program of basic education. The legislature intends to direct further examination of these recommendations and Attorney General Opinion Number 8 (2009) through the convening of a working group to prepare a comprehensive plan for implementation of a voluntary, universal preschool program.

**NEW SECTION. Sec. 12.** (1) Beginning April 1, 2010, the department of early learning, in collaboration with the office of the superintendent of public instruction, shall convene a working group to develop recommendations for implementing a voluntary, universal preschool program for children ages three and four. Recognizing the program of early learning established in section 3 of this act, the working group shall prepare a proposal for implementing a voluntary universal prekindergarten program accessible to all three and four year olds in Washington. The working group also shall examine the opportunities and barriers of establishing a program of early learning under the program of basic education.

(2) The working group shall develop recommendations for the phased implementation of a voluntary, universal prekindergarten program, including recommendations relating to the following elements:

(a) Criteria for eligible children;

(b) Program standards for a developmentally appropriate curriculum to include:

(i) Physical well-being, health, and motor development;

(ii) Social and emotional development;

(iii) Cognition and general knowledge; and

(iv) Language, literacy, numeracy, and communication;

(c) Service standards for family support and health-related services to include:

(i) Working with parents to access appropriate medical, dental, and other health screenings for children;

(ii) Providing opportunities for parental involvement, education, and leadership development; and

(iii) Family contact designed to assist the child's family in:

(A) Assessing family strengths and needs;

(B) Setting family goals and reviewing progress;

(C) Accessing community resources; and

(D) Coordinating transitions between the program, child care, home, and kindergarten;

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- (d) Criteria for eligible providers;
- (e) Governance responsibilities for the superintendent of public instruction and the department of early learning;
- (f) Funding necessary for implementation, including professional development, facilities, and technical assistance;
- (g) An implementation timeline;
- (h) The need for transportation services for the program based on an analysis of the transportation services and arrangements being used in early childhood education and assistance programs and the need to address future transportation services;
- (i) Options for developing socioeconomically diverse classrooms; and
- (j) One or more sliding scale fee structures for possible use in the program of early learning established in section 3 of this act, and in the voluntary, universal preschool program for which a comprehensive plan is required under this section.

(3) While developing the plan, the working group shall review early learning programs in Washington, including the early childhood education and assistance program and the federal head start program, as well as voluntary, universal programs in other states.

(4) Membership of the working group shall include:

- (a) One or more representatives from the following: The department of early learning; the office of the superintendent of public instruction; the nongovernmental private-public partnership created in RCW 43.215.070; and the office of the attorney general;
- (b) Two members of the early learning advisory council established in RCW 43.215.090, to be appointed by the council; and
- (c) Additional stakeholders with expertise in early learning to be appointed by the early learning advisory council.

(5) The working group shall consult with the achievement gap oversight and accountability committee established in RCW 28A.300.136, and may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders.

(6) The working group shall submit a brief progress report by July 1, 2011, and final report with the comprehensive plan by October 1, 2011, to the legislature, the governor, the early learning advisory council, and the quality education council established in RCW 28A.290.010.

**NEW SECTION. Sec. 13.** The superintendent of public instruction, the director of the department of early learning, and the director of the office of financial management, or their respective designees, shall report to the appropriate committees of the legislature by January 1, 2012, with recommendations for a budgeting and funding allocation method consistent with the recommendations developed under section 12 of this act.

**Sec. 14.** RCW 43.215.090 and 2007 c 394 s 3 are each amended to read as follows:

(1) The early learning advisory council is established to advise the department on statewide early learning ~~((community needs and progress))~~ issues that would build a comprehensive system of quality early learning programs and services for Washington's children and families by assessing needs and the availability of services, aligning resources, developing plans for data collection and professional development of early childhood educators, and establishing key performance measures.

(2) The council shall work in conjunction with the department to develop a statewide early learning plan that ~~((crosses systems and sectors to promote))~~ guides the department in promoting alignment of private and public sector actions, objectives, and resources, and ((to ensure)) ensuring school readiness.

(3) The council shall include diverse, statewide representation from public, nonprofit, and for-profit entities. Its membership shall

reflect regional, racial, and cultural diversity to adequately represent the needs of all children and families in the state.

(4) Council members shall serve two-year terms. However, to stagger the terms of the council, the initial appointments for twelve of the members shall be for one year. Once the initial one-year to two-year terms expire, all subsequent terms shall be for two years, with the terms expiring on June 30th of the applicable year. The terms shall be staggered in such a way that, where possible, the terms of members representing a specific group do not expire simultaneously.

(5) The council shall consist of not more than ~~((twenty-five))~~ twenty-three members, as follows:

(a) The governor shall appoint at least one representative from each of the following: The department, the office of financial management, the department of social and health services, the department of health, the higher education coordinating board, and the state board for community and technical colleges;

(b) One representative from the office of the superintendent of public instruction, to be appointed by the superintendent of public instruction;

(c) The governor shall appoint ~~((at least))~~ seven leaders in early childhood education, with at least one representative with experience or expertise in each of the areas such as the following ~~((areas))~~: Children with disabilities, the K-12 system, family day care providers, and child care centers;

(d) Two members of the house of representatives, one from each caucus, and two members of the senate, one from each caucus, to be appointed by the speaker of the house of representatives and the president of the senate, respectively;

(e) Two parents, one of whom serves on the department's parent advisory council, to be appointed by the governor;

(f) ~~((Two))~~ One representative~~((s))~~ of the private-public partnership created in RCW 43.215.070, to be appointed by the partnership board;

(g) One representative designated by sovereign tribal governments; and

(h) One representative from the Washington federation of independent schools.

(6) The council shall be cochaired by one representative of a state agency and one nongovernmental member, to be elected by the council for two-year terms.

(7) The council shall appoint two members and stakeholders with expertise in early learning to serve on the working group created in section 12, chapter . . . , Laws of 2010 (section 12 of this act).

(8) Each member of the board shall be compensated in accordance with RCW 43.03.240 and reimbursed for travel expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060.

~~((8))~~ (9) The department shall provide staff support to the council.

**Sec. 15.** RCW 28A.290.010 and 2009 c 548 s 114 are each amended to read as follows:

(1) The quality education council is created to recommend and inform the ongoing implementation by the legislature of an evolving program of basic education and the financing necessary to support such program. The council shall develop strategic recommendations on the program of basic education for the common schools. The council shall take into consideration the capacity report produced under RCW 28A.300.172 and the availability of data and progress of implementing the data systems required under RCW 28A.655.210. Any recommendations for modifications to the program of basic education shall be based on evidence that the programs effectively support student learning. The council shall update the statewide strategic recommendations

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every four years. The recommendations of the council are intended to:

(a) Inform future educational policy and funding decisions of the legislature and governor;

(b) Identify measurable goals and priorities for the educational system in Washington state for a ten-year time period, including the goals of basic education and ongoing strategies for coordinating statewide efforts to eliminate the achievement gap and reduce student dropout rates; and

(c) Enable the state of Washington to continue to implement an evolving program of basic education.

(2) The council may request updates and progress reports from the office of the superintendent of public instruction, the state board of education, the professional educator standards board, and the department of early learning on the work of the agencies as well as educational working groups established by the legislature.

(3) The chair of the council shall be selected from the councilmembers. The council shall be composed of the following members:

(a) Four members of the house of representatives, with two members representing each of the major caucuses and appointed by the speaker of the house of representatives;

(b) Four members of the senate, with two members representing each of the major caucuses and appointed by the president of the senate; and

(c) One representative each from the office of the governor, office of the superintendent of public instruction, state board of education, professional educator standards board, and department of early learning.

(4) In the 2009 fiscal year, the council shall meet as often as necessary as determined by the chair. In subsequent years, the council shall meet no more than four times a year.

(5)(a) The council shall submit an initial report to the governor and the legislature by January 1, 2010, detailing its recommendations, including recommendations for resolving issues or decisions requiring legislative action during the 2010 legislative session, and recommendations for any funding necessary to continue development and implementation of chapter 548, Laws of 2009.

(b) The initial report shall, at a minimum, include:

(i) Consideration of how to establish a statewide beginning teacher mentoring and support system;

(ii) Recommendations for a program of early learning for at-risk children;

(iii) A recommended schedule for the concurrent phase-in of the changes to the instructional program of basic education and the implementation of the funding formulas and allocations to support the new instructional program of basic education as established under chapter 548, Laws of 2009. The phase-in schedule shall have full implementation completed by September 1, 2018; and

(iv) A recommended schedule for phased-in implementation of the new distribution formula for allocating state funds to school districts for the transportation of students to and from school, with phase-in beginning no later than September 1, 2013.

(6) After receiving the comprehensive plan required under section 12, chapter . . ., Laws of 2010 (section 12 of this act), the council shall develop recommendations for incorporating the plan into the strategic recommendations required under subsection (1) of this section and submit a report to the legislature by January 1, 2011.

(7) The council shall be staffed by the office of the superintendent of public instruction and the office of financial management. Additional staff support shall be provided by the state entities with representatives on the ((committee)) council. Senate committee services and the house of representatives office of program research may provide additional staff support.

((7)) (8) Legislative members of the council shall serve without additional compensation but may be reimbursed for travel expenses in accordance with RCW 44.04.120 while attending sessions of the council or on official business authorized by the council. Nonlegislative members of the council may be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 16. Sections 2 through 5 and 19 of this act are each added to chapter 43.215 RCW.

NEW SECTION. Sec. 17. Section 9 of this act expires September 1, 2011.

NEW SECTION. Sec. 18. Section 10 of this act takes effect September 1, 2011.

NEW SECTION. Sec. 19. Sections 1 through 5 of this act may be known as the ready for school act of 2010."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kauffman moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6759 and request of the House a conference thereon.

The President declared the question before the Senate to be motion by Senator Kauffman that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6759 and request conference thereon.

The motion by Senator Kauffman carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 6759 and requested of the House a conference thereon by voice vote.

MESSAGE FROM THE HOUSE

March 2, 2010

MR. PRESIDENT:

The House passed ENGROSSED SENATE BILL NO. 6610 with the following amendment(s): 6610.E AMH DICK MERE 172

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The Washington state institute for public policy shall, in collaboration with the department of social and health services and other applicable entities, undertake a search for validated mental health assessment tools in each of the following areas:

(a) An assessment tool or combination of tools to be used by individuals performing court-ordered competency assessments and level of risk assessments of defendants pursuant to chapter 10.77 RCW; and

(b) An assessment tool or combination of tools to be used by individuals developing recommendations to courts as to the appropriateness of conditional release from inpatient treatment of criminally insane patients pursuant to chapter 10.77 RCW.

(2) This section expires June 30, 2011.

Sec. 2. RCW 10.77.120 and 2000 c 94 s 15 are each amended to read as follows:

(1) The secretary shall ((forthwith)) provide adequate care and individualized treatment to persons found criminally insane at one or several of the state institutions or facilities under ((his or her)) the direction and control ((wherein persons committed as criminally insane may be confined. Such persons shall be under the custody and control of the secretary to the same extent as are other persons who are committed to the secretary's custody, but such provision

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~~shall be made for their control, care, and treatment as is proper in view of their condition) of the secretary.~~ In order that the secretary may adequately determine the nature of the mental illness or developmental disability of the person committed ~~((to him or her))~~ as criminally insane, ~~((and in order for the secretary to place such individuals in a proper facility.))~~ all persons who are committed to the secretary as criminally insane shall be promptly examined by qualified personnel in ~~((such a manner as))~~ order to provide a proper evaluation and diagnosis of such individual. The examinations of all ~~((developmentally disabled))~~ persons with developmental disabilities committed under this chapter shall be performed by developmental disabilities professionals. Any person so committed shall not be released from the control of the secretary ~~((save upon the))~~ except by order of a court of competent jurisdiction made after a hearing and judgment of release.

(2) Whenever there is a hearing which the committed person is entitled to attend, the secretary shall send ~~((him or her))~~ the person in the custody of one or more department employees to the county ~~((where))~~ in which the hearing is to be held at the time the case is called for trial. During the time the person is absent from the facility, ~~((he or she shall))~~ the person may be confined in a facility designated by and arranged for by the department, ~~((and))~~ but shall at all times be deemed to be in the custody of the department employee and provided necessary treatment. If the decision of the hearing remits the person to custody, the department employee shall ~~((forthwith))~~ return the person to such institution or facility designated by the secretary. If the state appeals an order of release, such appeal shall operate as a stay, and the person shall remain in custody ~~((shall so remain))~~ and be ~~((forthwith))~~ returned to the institution or facility designated by the secretary until a final decision has been rendered in the cause.

**Sec. 3.** RCW 10.77.150 and 1998 c 297 s 41 are each amended to read as follows:

(1) Persons examined pursuant to RCW 10.77.140 may make application to the secretary for conditional release. The secretary shall, after considering the reports of experts or professional persons conducting the examination pursuant to RCW 10.77.140, forward to the court of the county which ordered the person's commitment the person's application for conditional release as well as the secretary's recommendations concerning the application and any proposed terms and conditions upon which the secretary reasonably believes the person can be conditionally released. Conditional release may also contemplate partial release for work, training, or educational purposes.

(2) In instances in which persons examined pursuant to RCW 10.77.140 have not made application to the secretary for conditional release, but the secretary, after considering the reports of experts or professional persons conducting the examination pursuant to RCW 10.77.140, reasonably believes the person may be conditionally released, the secretary may submit a recommendation for release to the court of the county which ordered the person's commitment. The secretary's recommendation must include any proposed terms and conditions upon which the secretary reasonably believes the person may be conditionally released. Conditional release may also include partial release for work, training, or educational purposes. Notice of the secretary's recommendation under this subsection must be provided to the person for whom the secretary has made the recommendation for release and to his or her attorney.

(3)(a) The court of the county which ordered the person's commitment, upon receipt of an application or recommendation for conditional release with the secretary's recommendation for conditional release terms and conditions, shall within thirty days schedule a hearing. The court may schedule a hearing on applications recommended for disapproval by the secretary.

(b) The prosecuting attorney shall represent the state at such hearings and shall have the right to have the patient examined by an expert or professional person of the prosecuting attorney's choice. If the committed person is indigent, and he or she so requests, the court shall appoint a qualified expert or professional person to examine the person on his or her behalf.

(c) The issue to be determined at such a hearing is whether or not the person may be released conditionally without substantial danger to other persons, or substantial likelihood of committing criminal acts jeopardizing public safety or security.

(d) The court, after the hearing, shall rule on the secretary's recommendations, and if it disapproves of conditional release, may do so only on the basis of substantial evidence. The court may modify the suggested terms and conditions on which the person is to be conditionally released. Pursuant to the determination of the court after hearing, the committed person shall thereupon be released on such conditions as the court determines to be necessary, or shall be remitted to the custody of the secretary. If the order of conditional release includes a requirement for the committed person to report to a community corrections officer, the order shall also specify that the conditionally released person shall be under the supervision of the secretary of corrections or such person as the secretary of corrections may designate and shall follow explicitly the instructions of the secretary of corrections including reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, and notifying the community corrections officer prior to making any change in the offender's address or employment. If the order of conditional release includes a requirement for the committed person to report to a community corrections officer, the community corrections officer shall notify the secretary or the secretary's designee, if the person is not in compliance with the court-ordered conditions of release.

~~((3))~~(4) If the court determines that receiving regular or periodic medication or other medical treatment shall be a condition of the committed person's release, then the court shall require him or her to report to a physician or other medical or mental health practitioner for the medication or treatment. In addition to submitting any report required by RCW 10.77.160, the physician or other medical or mental health practitioner shall immediately upon the released person's failure to appear for the medication or treatment or upon a change in mental health condition that renders the patient a potential risk to the public report ~~((the failure))~~ to the court, to the prosecuting attorney of the county in which the released person was committed, to the secretary, and to the supervising community corrections officer.

~~((4))~~(5) Any person, whose application for conditional release has been denied, may reapply after a period of six months from the date of denial.

**Sec. 4.** RCW 10.77.160 and 1993 c 31 s 7 are each amended to read as follows:

When a conditionally released person is required by the terms of his or her conditional release to report to a physician, department of corrections community corrections officer, or medical or mental health practitioner on a regular or periodic basis, the physician, department of corrections community corrections officer, medical or mental health practitioner, or other such person shall monthly, for the first six months after release and semiannually thereafter, or as otherwise directed by the court, submit to the court, the secretary, the institution from which released, and to the prosecuting attorney of the county in which the person was committed, a report stating whether the person is adhering to the terms and conditions of his or her conditional release, and detailing any arrests or criminal charges filed and any significant change in the person's mental health condition or other circumstances.

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**Sec. 5.** RCW 10.77.190 and 1998 c 297 s 43 are each amended to read as follows:

(1) Any person submitting reports pursuant to RCW 10.77.160, the secretary, or the prosecuting attorney may petition the court to, or the court on its own motion may schedule an immediate hearing for the purpose of modifying the terms of conditional release if the petitioner or the court believes the released person is failing to adhere to the terms and conditions of his or her conditional release or is in need of additional care and treatment.

(2) If the prosecuting attorney, the secretary of social and health services, the secretary of corrections, or the court, after examining the report filed with them pursuant to RCW 10.77.160, or based on other information received by them, reasonably believes that a conditionally released person is failing to adhere to the terms and conditions of his or her conditional release the court or secretary of social and health services or the secretary of corrections may order that the conditionally released person be apprehended and taken into custody ~~((until such time as a hearing can be scheduled to determine the facts and whether or not the person's conditional release should be revoked or modified))~~. The court shall be notified of the apprehension before the close of the next judicial day ~~((of the apprehension))~~. The court shall schedule a hearing within thirty days to determine whether or not the person's conditional release should be modified or revoked. Both the prosecuting attorney and the conditionally released person shall have the right to request an immediate mental examination of the conditionally released person. If the conditionally released person is indigent, the court or secretary of social and health services or the secretary of corrections or their designees shall, upon request, assist him or her in obtaining a qualified expert or professional person to conduct the examination.

(3) If the hospital or facility designated to provide outpatient care determines that a conditionally released person presents a threat to public safety, the hospital or facility shall immediately notify the secretary of social and health services or the secretary of corrections or their designees. The secretary shall order that the conditionally released person be apprehended and taken into custody.

(4) The court, upon receiving notification of the apprehension, shall promptly schedule a hearing. The issue to be determined is whether the conditionally released person did or did not adhere to the terms and conditions of his or her release, or whether the person presents a threat to public safety. Pursuant to the determination of the court upon such hearing, the conditionally released person shall either continue to be conditionally released on the same or modified conditions or his or her conditional release shall be revoked and he or she shall be committed subject to release only in accordance with provisions of this chapter.

**Sec. 6.** RCW 10.77.200 and 2000 c 94 s 16 are each amended to read as follows:

(1) Upon application by the committed or conditionally released person, the secretary shall determine whether or not reasonable grounds exist for release. In making this determination, the secretary may consider the reports filed under RCW 10.77.060, 10.77.110, 10.77.140, and 10.77.160, and other reports and evaluations provided by professionals familiar with the case. If the secretary approves the release he or she then shall authorize the person to petition the court.

(2) In instances in which persons have not made application for release, but the secretary believes, after consideration of the reports filed under RCW 10.77.060, 10.77.110, 10.77.140, and 10.77.160, and other reports and evaluations provided by professionals familiar with the case, that reasonable grounds exist for release, the secretary may petition the court. If the secretary petitions the court for release under this subsection, notice of the petition must be provided to the person who is the subject of the petition and to his or her attorney.

(3) The petition shall be served upon the court and the prosecuting attorney. The court, upon receipt of the petition for release, shall within forty-five days order a hearing. Continuance of the hearing date shall only be allowed for good cause shown. The prosecuting attorney shall represent the state, and shall have the right to have the petitioner examined by an expert or professional person of the prosecuting attorney's choice. If the petitioner is indigent, and the person so requests, the court shall appoint a qualified expert or professional person to examine him or her. If the petitioner ~~((is developmentally disabled))~~ has a developmental disability, the examination shall be performed by a developmental disabilities professional. The hearing shall be before a jury if demanded by either the petitioner or the prosecuting attorney. The burden of proof shall be upon the petitioner to show by a preponderance of the evidence that the petitioner no longer presents, as a result of a mental disease or defect, a substantial danger to other persons, or a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions.

~~((3))~~ (4) For purposes of this section, a person affected by a mental disease or defect in a state of remission is considered to have a mental disease or defect requiring supervision when the disease may, with reasonable medical probability, occasionally become active and, when active, render the person a danger to others. Upon a finding that the petitioner has a mental disease or defect in a state of remission under this subsection, the court may deny release, or place or continue such a person on conditional release.

(5) Nothing contained in this chapter shall prohibit the patient from petitioning the court for release or conditional release from the institution in which he or she is committed. The issue to be determined on such proceeding is whether the petitioner, as a result of a mental disease or defect, is a substantial danger to other persons, or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions.

(6) Nothing contained in this chapter shall prohibit the committed person from petitioning for release by writ of habeas corpus.

**NEW SECTION. Sec. 7.** A new section is added to chapter 10.77 RCW to read as follows:

(1) The department shall review the costs of the operation of each of the following boards and the rates of recidivism and treatment outcomes for the populations under their jurisdiction as follows:

(a) The Oregon psychiatric security review board's administration of cases involving: (i) Persons judged to be guilty except for insanity; (ii) persons who would have been guilty of a felony or misdemeanor that caused or risked physical injury to another except for insanity; and (iii) persons affected by mental illness and determined to be a substantial danger to others; and

(b) The Virginia community services boards' administration of cases involving persons found not guilty by reason of insanity.

(2) The department shall report the results of its review to the appropriate committees of the legislature by December 15, 2010.

**NEW SECTION. Sec. 8.** A new section is added to chapter 10.77 RCW to read as follows:

For persons who have received court approval for conditional release, the secretary or the secretary's designee shall supervise the person's compliance with the court-ordered conditions of release. The level of supervision provided by the secretary shall correspond to the level of the person's public safety risk. In undertaking supervision of persons under this section, the secretary shall coordinate with any treatment providers designated pursuant to RCW 10.77.150(3), any department of corrections staff designated

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pursuant to RCW 10.77.150(2), and local law enforcement, if appropriate. The secretary shall adopt rules to implement this section."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Hargrove moved that the Senate refuse to concur in the House amendment(s) to Engrossed Senate Bill No. 6610 and ask the House to recede therefrom.

Senators Hargrove and Carrell spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate refuse to concur in the House amendment(s) to Engrossed Senate Bill No. 6610 and ask the House to recede therefrom.

The motion by Senator Hargrove carried and the Senate refused to concur in the House amendment(s) to Engrossed Senate Bill No. 6610 and asked the House to recede therefrom by voice vote.

#### MESSAGE FROM THE HOUSE

March 2, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6730 with the following amendment(s): 6730-S AMH APPH H5340.5

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 13.34.096 and 2009 c 520 s 25 are each amended to read as follows:

(1) The department or supervising agency shall provide the child's foster parents, preadoptive parents, or other caregivers with notice of their right to be heard prior to each proceeding held with respect to the child in juvenile court under this chapter. The rights to notice and to be heard apply only to persons with whom a child has been placed by the department (~~(before shelter care)~~) or other supervising agency and who are providing care to the child at the time of the proceeding. This section shall not be construed to grant party status to any person solely on the basis of such notice and right to be heard.

(2) The department or other supervising agency and the court also shall consider, in any hearing under this chapter regarding a change in the child's placement, written information about the child submitted by persons who provided care to the child within twelve months preceding the hearing and other persons who have a significant relationship with the child.

"**Sec. 2.** RCW 74.13.300 and 2009 c 520 s 77 are each amended to read as follows:

(1) Whenever a child has been placed in a foster family home or in the home of a relative caregiver or other suitable person as described in RCW 13.34.130(1)(b) by the department or supervising agency and the child has thereafter resided in the home for at least ninety consecutive days, the department or supervising agency shall notify the foster family, relative caregiver, or other suitable person at least five days prior to moving the child to another placement, unless:

- (a) A court order has been entered requiring an immediate change in placement;
- (b) The child is being returned home;
- (c) The child's safety is in jeopardy; or
- (d) The child is residing in a receiving home or a group home.

(2) If the child has resided in a foster family home or in the home of a relative caregiver or other suitable person as described in

RCW 13.34.130(1)(b) for less than ninety days or if, due to one or more of the circumstances in subsection (1) of this section, it is not possible to give five days' notification, the department or supervising agency shall notify the foster family, relative caregiver, or suitable person of proposed placement changes as soon as reasonably possible.

(3) This section is intended (~~(solely)~~) to assist in minimizing disruption to the child in changing (~~(foster care)~~) placements. Nothing in this section shall be construed to require that a court hearing be held prior to changing a child's (~~(foster care)~~) placement nor to create any substantive custody rights (~~(in the)~~) for foster parents, relative caregivers, or other suitable persons with whom a child is placed.

(4) Whenever a child has been placed with and resided in the home of a foster family, relative caregiver, or other suitable person as described in RCW 13.34.130(1)(b) for twelve continuous months or longer, the notice required under this section must be in writing and specify the reasons for changing the child's placement. The department shall report annually to the appropriate committees of the legislature regarding changes in placement for children who have resided for twelve continuous months or longer with a foster family, relative caregiver, or other suitable person, including the reasons for changing the placements of those children. The first report is due to the legislature not later than September 1, 2011, and a final report is due September 1, 2015.

**Sec. 3.** RCW 13.34.105 and 2008 c 267 s 13 are each amended to read as follows:

(1) Unless otherwise directed by the court, the duties of the guardian ad litem for a child subject to a proceeding under this chapter, including an attorney specifically appointed by the court to serve as a guardian ad litem, include but are not limited to the following:

(a) To investigate, collect relevant information about the child's situation, and report to the court factual information regarding the best interests of the child;

(b) To meet with, interview, or observe the child, depending on the child's age and developmental status, and report to the court any views or positions expressed by the child on issues pending before the court;

(c) To monitor all court orders for compliance and to bring to the court's attention any change in circumstances that may require a modification of the court's order;

(d) To report to the court information on the legal status of a child's membership in any Indian tribe or band;

(e) Court-appointed special advocates and guardians ad litem may make recommendations based upon an independent investigation regarding the best interests of the child, which the court may consider and weigh in conjunction with the recommendations of all of the parties; and

(f) To represent and be an advocate for the best interests of the child.

(2) When a child, in the course of a guardian ad litem's normal investigation and collection of information for the court, makes a disclosure of abuse or neglect, the guardian ad litem shall make a referral to child protective services pursuant to RCW 26.44.030.

(3) A guardian ad litem shall be deemed an officer of the court for the purpose of immunity from civil liability.

~~((3))~~ (4) Except for information or records specified in RCW 13.50.100(7), the guardian ad litem shall have access to all information available to the state or agency on the case. Upon presentation of the order of appointment by the guardian ad litem, any agency, hospital, school organization, division or department of the state, doctor, nurse, or other health care provider, psychologist, psychiatrist, police department, or mental health clinic shall permit the guardian ad litem to inspect and copy any records relating to the

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child or children involved in the case, without the consent of the parent or guardian of the child, or of the child if the child is under the age of thirteen years, unless such access is otherwise specifically prohibited by law.

~~((4))~~ (5) A guardian ad litem may release confidential information, records, and reports to the office of the family and children's ombudsman for the purposes of carrying out its duties under chapter 43.06A RCW.

~~((5))~~ (6) The guardian ad litem shall release case information in accordance with the provisions of RCW 13.50.100.

NEW SECTION. Sec. 4. If specific funding for the purposes of section 2 of this act, referencing section 2 of this act by bill or chapter number and section number, is not provided by June 30, 2010, in the omnibus appropriations act, section 2 of this act is null and void."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6730 and ask the House to recede therefrom.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6730 and ask the House to recede therefrom.

The motion by Senator Hargrove carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 6730 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

March 3, 2010

MR. PRESIDENT:

The House passed SENATE BILL NO. 6804 with the following amendment(s): 6804 AMH GREE MORI 072

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.20A.890 and 2005 c 369 s 2 are each amended to read as follows:

(1) A program for (a) the prevention and treatment of problem and pathological gambling; and (b) the training of professionals in the identification and treatment of problem and pathological gambling is established within the department of social and health services, to be administered by a qualified person who has training and experience in problem gambling or the organization and administration of treatment services for persons suffering from problem gambling. The department may certify and contract with treatment facilities for any services provided under the program. The department shall track program participation and client outcomes.

(2) To receive treatment under subsection (1) of this section, a person must:

(a) Need treatment for problem or pathological gambling, or because of the problem or pathological gambling of a family member, but be unable to afford treatment; and

(b) Be targeted by the department of social and health services as being most amenable to treatment.

(3) Treatment under this section is available only to the extent of the funds appropriated or otherwise made available to the department of social and health services for this purpose. The

department may solicit and accept for use any gift of money or property made by will or otherwise, and any grant of money, services, or property from the federal government, any tribal government, the state, or any political subdivision thereof or any private source, and do all things necessary to cooperate with the federal government or any of its agencies or any tribal government in making an application for any grant.

(4) The department may adopt rules establishing standards for the review and certification of treatment facilities under this program.

(5) The department of social and health services shall establish an advisory committee to assist it in designing, managing, and evaluating the effectiveness of the program established in this section. The advisory committee shall give due consideration in the design and management of the program that persons who hold licenses or contracts issued by the gambling commission, horse racing commission, and lottery commission are not excluded from, or discouraged from, applying to participate in the program. The committee shall include, at a minimum, persons knowledgeable in the field of problem and pathological gambling and persons representing tribal gambling, privately owned nontribal gambling, and the state lottery.

~~((5))~~ (6) For purposes of this section, "pathological gambling" is a mental disorder characterized by loss of control over gambling, progression in preoccupation with gambling and in obtaining money to gamble, and continuation of gambling despite adverse consequences. "Problem gambling" is an earlier stage of pathological gambling which compromises, disrupts, or damages family or personal relationships or vocational pursuits.

NEW SECTION. Sec. 2. (1) The department of health shall develop recommendations regarding the credentialing of problem and pathological gambling treatment providers who were, prior to July 1, 2010, providing problem and pathological gambling treatment services as registered counselors under chapter 18.19 RCW.

(2) When developing its recommendations, the department shall:

(a) Consider, to the extent practicable, the criteria for sunrise review under RCW 18.120.010(2) and (3); and

(b) Solicit input from stakeholders, including, but not limited to, the department of social and health services, problem and pathological gambling treatment providers, chemical dependency professionals, and any other affected health professions.

(3) The department's recommendations shall, at a minimum, include:

(a) A determination of whether the scope of practice of an existing credential should be expanded to include problem and pathological gambling treatment services or whether a new credential for problem and pathological gambling treatment providers should be created; and

(b) Appropriate training, education, or examination requirements for problem and pathological gambling treatment providers.

(3) The department shall report its recommendations to the appropriate committees of the legislature no later than December 1, 2010.

NEW SECTION. Sec. 3. Section 1 of this act expires December 31, 2012."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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Senator Kohl-Welles moved that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 6804 and ask the House to recede therefrom.

Senators Kohl-Welles spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Kohl-Welles that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 6804 and ask the House to recede therefrom.

The motion by Senator Kohl-Welles carried and the Senate refused to concur in the House amendment(s) to Senate Bill No. 6804 and asked the House to recede therefrom by voice vote.

## MESSAGE FROM THE HOUSE

March 4, 2010

MR. PRESIDENT:

The House passed SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 6508 with the following amendment(s): 6508-S.E2 AMH ENGR H5513.E

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 4.20.020 and 2007 c 156 s 29 are each amended to read as follows:

(1) Every ~~((such))~~ action under RCW 4.20.010 shall be for the benefit of the ~~((wife, husband))~~ spouse, state registered domestic partner, ~~((child))~~ or children, including stepchildren, of the person whose death shall have been so caused. If there ~~((be))~~ is no ~~((wife, husband))~~ spouse, state registered domestic partner, or ~~((such))~~ child ~~((or children, such)),~~ the action may be maintained for the benefit of:

~~(a) The parents(, sisters, or brothers, who may be dependent upon the deceased person for support, and who are resident within the United States at the time of his death))~~ of a deceased adult child if the parents are financially dependent upon the adult child for support or if the parents have had significant involvement in the adult child's life; or

~~(b) Sisters or brothers who are financially dependent upon the decedent for support if there is no spouse, state registered domestic partner, child, or parent.~~

In every such action the jury may ~~((give such))~~ award economic and noneconomic damages as ~~((s))~~ under all circumstances of the case ~~((s))~~ may to them seem just. In an action under RCW 4.20.010 that is based on a parent's significant involvement in an adult child's life, economic damages include any student loan balance that the parent may be obligated to repay as a result of acting as a cosigner or guarantor on the decedent's student loans, except for student loan balances that, under the terms of the loan, are eligible for a complete discharge upon the death of the borrower.

(2) For the purposes of this section:

(a) "Financially dependent for support" means substantial dependence based on the receipt of services that have an economic or monetary value, or substantial dependence based on actual monetary payments or contributions; and

(b) "Significant involvement" means demonstrated support of an emotional, psychological, or financial nature within the relationship, at or reasonably near the time of death, or at or reasonably near the time of the incident causing death. When determining if the parents have had significant involvement in the adult child's life, the court shall consider, but not be limited to, objective evidence of personal, verbal, written, or electronic contact with the adult child, and in-person interaction with the adult child during holidays, birthdays, and other events.

Sec. 2. RCW 4.20.046 and 2008 c 6 s 409 are each amended to read as follows:

(1) All causes of action by a person or persons against another person or persons shall survive to the personal representatives of the

former and against the personal representatives of the latter, whether ~~((such))~~ the actions arise on contract or otherwise, and whether or not ~~((such))~~ the actions would have survived at the common law or prior to the date of enactment of this section ~~((PROVIDED, HOWEVER, That)),~~

(2) In addition to recovering economic losses for the estate, the personal representative ((shall only be)) is entitled to recover on behalf of those beneficiaries identified under RCW 4.20.060 any noneconomic damages for pain and suffering, anxiety, emotional distress, or humiliation personal to and suffered by ((a)) the deceased ((on behalf of those beneficiaries enumerated in RCW 4.20.020, and)) in such amounts as determined by a jury to be just under all the circumstances of the case. Damages under this section are recoverable regardless of whether or not the death was occasioned by the injury that is the basis for the action.

(3) The liability of property of spouses or domestic partners held by them as community property and subject to execution in satisfaction of a claim enforceable against such property so held shall not be affected by the death of either or both spouses or either or both domestic partners; and a cause of action shall remain an asset as though both claiming spouses or both claiming domestic partners continued to live despite the death of either or both claiming spouses or both claiming domestic partners.

~~((2))~~ (4) Where death or an injury to person or property, resulting from a wrongful act, neglect or default, occurs simultaneously with or after the death of a person who would have been liable therefor if his or her death had not occurred simultaneously with such death or injury or had not intervened between the wrongful act, neglect or default and the resulting death or injury, an action to recover damages for such death or injury may be maintained against the personal representative of such person.

Sec. 3. RCW 4.20.060 and 2007 c 156 s 30 are each amended to read as follows:

(1) No action for a personal injury to any person occasioning death shall abate, nor shall ((such)) the right of action ((determine)) terminate, by reason of ((such)) the death(,) if ((such)) the person has a surviving ((spouse, state registered domestic partner, or child living, including stepchildren, or leaving no surviving spouse, state registered domestic partner, or such children, if there is dependent upon the deceased for support and resident within the United States at the time of decedent's death, parents, sisters, or brothers; but such action may be prosecuted, or commenced and prosecuted, by the executor or administrator)) beneficiary in whose favor the action may be brought under subsection (2) of this section.

(2) An action under this section shall be brought by the personal representative of the deceased(,) in favor of ((such)) the surviving spouse or state registered domestic partner(, or in favor of the surviving spouse or state registered domestic partner)) and ((such)) children(, or if), If there is no surviving spouse ((or)) state registered domestic partner, ((in favor of such child)) or children, ((or if no surviving spouse, state registered domestic partner, or such child or children, then)) the action shall be brought in favor of the decedent's:

~~(a) Parents(, sisters, or brothers who may be dependent upon such person for support, and resident in the United States at the time of decedent's death))~~ if the parents are financially dependent upon the decedent for support or if the parents have had significant involvement in the decedent's life; or

~~(b) Sisters or brothers who are financially dependent upon the decedent for support if there is no spouse, state registered domestic partner, child, or parent.~~

(3) In addition to recovering economic losses, the persons identified in subsection (2) of this section are entitled to recover any noneconomic damages personal to and suffered by the decedent including, but not limited to, damages for the decedent's pain and

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suffering, anxiety, emotional distress, or humiliation, in such amounts as determined by a jury to be just under all the circumstances of the case.

(4) For the purposes of this section:

(a) "Financially dependent for support" means substantial dependence based on the receipt of services that have an economic or monetary value, or substantial dependence based on actual monetary payments or contributions; and

(b) "Significant involvement" means demonstrated support of an emotional, psychological, or financial nature within the relationship, at or reasonably near the time of death, or at or reasonably near the time of the incident causing death. When determining if the parents have had significant involvement in the child's life, the court shall consider, but not be limited to, objective evidence of personal, verbal, written, or electronic contact with the child, and in-person interaction with the child during holidays, birthdays, and other events.

**Sec. 4.** RCW 4.24.010 and 1998 c 237 s 2 are each amended to read as follows:

(1) A ~~((mother or father, or both,))~~ parent who has regularly contributed to the support of his or her minor child, ~~((and the mother or father, or both, of a child on whom either, or both, are))~~ or a parent who is financially dependent on a minor child for support or who has had significant involvement in the minor child's life, may maintain or join ~~((as a party))~~ an action as plaintiff for the injury or death of the child.

(2) Each parent, separately from the other parent, is entitled to recover for his or her own loss regardless of marital status, even though this section creates only one cause of action ~~((, but if the parents of the child are not married, are separated, or not married to each other damages may be awarded to each plaintiff separately, as the trier of fact finds just and equitable)).~~

(3) If one parent brings an action under this section and the other parent is not named as a plaintiff, notice of the institution of the suit, together with a copy of the complaint, shall be served upon the other parent: PROVIDED, That notice shall be required only if parentage has been duly established.

Such notice shall be in compliance with the statutory requirements for a summons. Such notice shall state that the other parent must join as a party to the suit within twenty days or the right to recover damages under this section shall be barred. Failure of the other parent to timely appear shall bar such parent's action to recover any part of an award made to the party instituting the suit.

(4) In ~~((such))~~ an action under this section, in addition to damages for medical, hospital, medication expenses, and loss of services and support, damages may be recovered for the loss of love and companionship of the child and for injury to or destruction of the parent-child relationship in such amount as, under all the circumstances of the case, may be just.

(5) For the purposes of this section:

(a) "Financially dependent for support" means substantial dependence based on the receipt of services that have an economic or monetary value, or substantial dependence based on actual monetary payments or contributions; and

(b) "Significant involvement" means demonstrated support of an emotional, psychological, or financial nature within the relationship, at or reasonably near the time of death, or at or reasonably near the time of the incident causing death. When determining if the parents have had significant involvement in the child's life, the court shall consider, but not be limited to, objective evidence of personal, verbal, written, or electronic contact with the child, and in-person interaction with the child during holidays, birthdays, and other events.

**Sec. 5.** RCW 4.92.006 and 2002 c 332 s 10 are each amended to read as follows:

As used in this chapter:

(1) "Office" means the office of financial management.

(2) "Director" means the director of financial management.

(3) "Risk management division" means the division of the office of financial management that carries out the powers and duties under this chapter relating to claim filing, claims administration, and claims payment.

(4) "Risk manager" means the person supervising the risk management division.

(5) "Local government" means every unit of local government, both general purpose and special purpose, and includes, but is not limited to, counties, cities, towns, port districts, public utility districts, irrigation districts, metropolitan municipal corporations, conservation districts, and other political subdivisions, governmental subdivisions, municipal corporations, and quasimunicipal corporations.

**NEW SECTION. Sec. 6.** A new section is added to chapter 4.92 RCW to read as follows:

(1) The local government liability reimbursement account is created as a nonappropriated account in the custody of the state treasurer. Only the state director of risk management or the director's designee may authorize expenditures from the account. Expenditures from the account may be used only to reimburse local governments for judgments, settlements, and reasonable defense costs that are incurred by local governments as a result of this act.

(2) The state director of risk management may authorize expenditures from the local government liability reimbursement account when (a) the head or governing body of a local government certifies to the risk management division that a claim has been settled against a local government under this act; or (b) the clerk of the court has made and forwarded a certified copy of a final judgment in a court of competent jurisdiction and the director of risk management determines that the judgment was entered against a local government in a claim based on this act. Payment of a judgment shall be made to the clerk of the court for the benefit of the judgment creditors. Upon receipt of payment, the clerk shall satisfy the judgment against the local government.

**Sec. 7.** RCW 4.96.020 and 2009 c 433 s 1 are each amended to read as follows:

(1) The provisions of this section apply to claims for damages against all local governmental entities and their officers, employees, or volunteers, acting in such capacity, except that claims involving injuries from health care are governed solely by the procedures set forth in chapter 7.70 RCW and are exempt from this chapter.

(2) The governing body of each local governmental entity shall appoint an agent to receive any claim for damages made under this chapter. The identity of the agent and the address where he or she may be reached during the normal business hours of the local governmental entity are public records and shall be recorded with the auditor of the county in which the entity is located. All claims for damages against a local governmental entity, or against any local governmental entity's officers, employees, or volunteers, acting in such capacity, shall be presented to the agent within the applicable period of limitations within which an action must be commenced. A claim is deemed presented when the claim form is delivered in person or is received by the agent by regular mail, registered mail, or certified mail, with return receipt requested, to the agent or other person designated to accept delivery at the agent's office. The failure of a local governmental entity to comply with the requirements of this section precludes that local governmental entity from raising a defense under this chapter.

(3) For claims for damages presented after July 26, 2009, all claims for damages must be presented on the standard tort claim form that is maintained by the risk management division of the office of financial management, except as allowed under (c) of this

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subsection. The standard tort claim form must be posted on the office of financial management's web site.

(a) The standard tort claim form must, at a minimum, require the following information:

- (i) The claimant's name, date of birth, and contact information;
  - (ii) A description of the conduct and the circumstances that brought about the injury or damage;
  - (iii) A description of the injury or damage;
  - (iv) A statement of the time and place that the injury or damage occurred;
  - (v) A listing of the names of all persons involved and contact information, if known;
  - (vi) A statement of the amount of damages claimed; and
  - (vii) A statement of the actual residence of the claimant at the time of presenting the claim and at the time the claim arose.
- (b) The standard tort claim form must be signed either:
- (i) By the claimant, verifying the claim;
  - (ii) Pursuant to a written power of attorney, by the attorney in fact for the claimant;
  - (iii) By an attorney admitted to practice in Washington state on the claimant's behalf; or
  - (iv) By a court-approved guardian or guardian ad litem on behalf of the claimant.

(c) Local governmental entities shall make available the standard tort claim form described in this section with instructions on how the form is to be presented and the name, address, and business hours of the agent of the local governmental entity. If a local governmental entity chooses to also make available its own tort claim form in lieu of the standard tort claim form, the form:

- (i) May require additional information beyond what is specified under this section, but the local governmental entity may not deny a claim because of the claimant's failure to provide that additional information;
  - (ii) Must not require the claimant's social security number; and
  - (iii) Must include instructions on how the form is to be presented and the name, address, and business hours of the agent of the local governmental entity appointed to receive the claim.
- (d) If any claim form provided by the local governmental entity fails to require the information specified in this section, or incorrectly lists the agent with whom the claim is to be filed, the local governmental entity is deemed to have waived any defense related to the failure to provide that specific information or to present the claim to the proper designated agent.

(e) Presenting either the standard tort claim form or the local government tort claim form satisfies the requirements of this chapter.

(f) The amount of damages stated on the claim form is not admissible at trial.

(4) No action subject to the claim filing requirements of this section shall be commenced against any local governmental entity, or against any local governmental entity's officers, employees, or volunteers, acting in such capacity, for damages arising out of tortious conduct until sixty calendar days have elapsed after the claim has first been presented to the agent of the governing body thereof. The applicable period of limitations within which an action must be commenced shall be tolled during the sixty calendar day period. For the purposes of the applicable period of limitations, an action commenced within five court days after the sixty calendar day period has elapsed is deemed to have been presented on the first day after the sixty calendar day period elapsed.

(5) With respect to the content of claims under this section and all procedural requirements in this section, this section must be liberally construed so that substantial compliance will be deemed satisfactory.

(6) When any claim for damages is filed against a local governmental entity based on this act, within ten days of the filing the local governmental entity must notify the state risk manager of the claim.

**Sec. 8.** RCW 36.18.020 and 2009 c 572 s 4, 2009 c 479 s 21, and 2009 c 417 s 3 are each reenacted and amended to read as follows:

(1) Revenue collected under this section is subject to division with the state under RCW 36.18.025 and with the county or regional law library fund under RCW 27.24.070, except as provided in subsections (5) and (6) of this section.

(2) Clerks of superior courts shall collect the following fees for their official services:

(a) In addition to any other fee required by law, the party filing the first or initial document in any civil action, including, but not limited to an action for restitution, adoption, or change of name, and any party filing a counterclaim, cross-claim, or third-party claim in any such civil action, shall pay, at the time the document is filed, a fee of two hundred dollars except, in an unlawful detainer action under chapter 59.18 or 59.20 RCW for which the plaintiff shall pay a case initiating filing fee of forty-five dollars, or in proceedings filed under RCW 28A.225.030 alleging a violation of the compulsory attendance laws where the petitioner shall not pay a filing fee. The forty-five dollar filing fee under this subsection for an unlawful detainer action shall not include an order to show cause or any other order or judgment except a default order or default judgment in an unlawful detainer action.

(b) Any party, except a defendant in a criminal case, filing the first or initial document on an appeal from a court of limited jurisdiction or any party on any civil appeal, shall pay, when the document is filed, a fee of two hundred dollars.

(c) For filing of a petition for judicial review as required under RCW 34.05.514 a filing fee of two hundred dollars.

(d) For filing of a petition for unlawful harassment under RCW 10.14.040 a filing fee of fifty-three dollars.

(e) For filing the notice of debt due for the compensation of a crime victim under RCW 7.68.120(2)(a) a fee of two hundred dollars.

(f) In probate proceedings, the party instituting such proceedings, shall pay at the time of filing the first document therein, a fee of two hundred dollars.

(g) For filing any petition to contest a will admitted to probate or a petition to admit a will which has been rejected, or a petition objecting to a written agreement or memorandum as provided in RCW 11.96A.220, there shall be paid a fee of two hundred dollars.

(h) Upon conviction or plea of guilty, upon failure to prosecute an appeal from a court of limited jurisdiction as provided by law, or upon affirmance of a conviction by a court of limited jurisdiction, a defendant in a criminal case shall be liable for a fee of two hundred dollars.

(i) With the exception of demands for jury hereafter made and garnishments hereafter issued, civil actions and probate proceedings filed prior to midnight, July 1, 1972, shall be completed and governed by the fee schedule in effect as of January 1, 1972: PROVIDED, That no fee shall be assessed if an order of dismissal on the clerk's record be filed as provided by rule of the supreme court.

(3) No fee shall be collected when a petition for relinquishment of parental rights is filed pursuant to RCW 26.33.080 or for forms and instructional brochures provided under RCW 26.50.030.

(4) No fee shall be collected when an abstract of judgment is filed by the county clerk of another county for the purposes of collection of legal financial obligations.

(5) Until July 1, 2011, in addition to the fees required by this section, clerks of superior courts shall collect the surcharges

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required by this subsection, which shall be remitted to the state treasurer for deposit in the judicial stabilization trust account:

(a) On filing fees under subsection (2)(b) of this section, a surcharge of twenty dollars; and

(b) On all other filing fees required by this section except for filing fees in subsection (2)(d) and (h) of this section, a surcharge of thirty dollars.

(6) In addition to other fees required by this section, until July 1, 2015, clerks of superior courts shall collect an additional surcharge of ten dollars on filing fees under subsection (2)(a) of this section, which shall be remitted to the state treasurer for deposit in the local government liability reimbursement account created in section 6 of this act.

**Sec. 9.** RCW 46.63.110 and 2009 c 479 s 39 are each amended to read as follows:

(1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The monetary penalty for a violation of (a) RCW 46.55.105(2) is two hundred fifty dollars for each offense; (b) RCW 46.61.210(1) is five hundred dollars for each offense. No penalty assessed under this subsection (2) may be reduced.

(3) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(4) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(5) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(6) Whenever a monetary penalty, fee, cost, assessment, or other monetary obligation is imposed by a court under this chapter it is immediately payable. If the court determines, in its discretion, that a person is not able to pay a monetary obligation in full, and not more than one year has passed since the later of July 1, 2005, or the date the monetary obligation initially became due and payable, the court shall enter into a payment plan with the person, unless the person has previously been granted a payment plan with respect to the same monetary obligation, or unless the person is in noncompliance of any existing or prior payment plan, in which case the court may, at its discretion, implement a payment plan. If the court has notified the department that the person has failed to pay or comply and the person has subsequently entered into a payment plan and made an initial payment, the court shall notify the department that the infraction has been adjudicated, and the department shall rescind any suspension of the person's driver's license or driver's privilege based on failure to respond to that infraction. "Payment plan," as used in this section, means a plan that requires reasonable payments based on the financial ability of the person to pay. The person may voluntarily pay an amount at any time in addition to the payments required under the payment plan.

(a) If a payment required to be made under the payment plan is delinquent or the person fails to complete a community restitution program on or before the time established under the payment plan, unless the court determines good cause therefor and adjusts the payment plan or the community restitution plan accordingly, the court shall notify the department of the person's failure to meet the conditions of the plan, and the department shall suspend the person's driver's license or driving privilege until all monetary obligations, including those imposed under subsections (3) and (4) of this section, have been paid, and court authorized community restitution has been completed, or until the department has been notified that the court has entered into a new time payment or community restitution agreement with the person.

(b) If a person has not entered into a payment plan with the court and has not paid the monetary obligation in full on or before the time established for payment, the court shall notify the department of the delinquency. The department shall suspend the person's driver's license or driving privilege until all monetary obligations have been paid, including those imposed under subsections (3) and (4) of this section, or until the person has entered into a payment plan under this section.

(c) If the payment plan is to be administered by the court, the court may assess the person a reasonable administrative fee to be wholly retained by the city or county with jurisdiction. The administrative fee shall not exceed ten dollars per infraction or twenty-five dollars per payment plan, whichever is less.

(d) Nothing in this section precludes a court from contracting with outside entities to administer its payment plan system. When outside entities are used for the administration of a payment plan, the court may assess the person a reasonable fee for such administrative services, which fee may be calculated on a periodic, percentage, or other basis.

(e) If a court authorized community restitution program for offenders is available in the jurisdiction, the court may allow conversion of all or part of the monetary obligations due under this section to court authorized community restitution in lieu of time payments if the person is unable to make reasonable time payments.

(7) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed:

(a) A fee of five dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the emergency medical services and trauma care system trust account under RCW 70.168.040;

(b) A fee of ten dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the Washington auto theft prevention authority account; and

(c) A fee of two dollars per infraction. Revenue from this fee shall be forwarded to the state treasurer for deposit in the traumatic brain injury account established in RCW 74.31.060.

(8)(a) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction other than of RCW 46.61.527 shall be assessed an additional penalty of twenty dollars. The court may not reduce, waive, or suspend the additional penalty unless the court finds the offender to be indigent. If a court authorized community restitution program for offenders is available in the jurisdiction, the court shall allow offenders to offset all or a part of the penalty due under this subsection (8) by participation in the court authorized community restitution program.

(b) Eight dollars and fifty cents of the additional penalty under (a) of this subsection shall be remitted to the state treasurer. The

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remaining revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted under this subsection to the state treasurer must be deposited in the state general fund. The balance of the revenue received by the county or city treasurer under this subsection must be deposited into the county or city current expense fund. Moneys retained by the city or county under this subsection shall constitute reimbursement for any liabilities under RCW 43.135.060.

(9) Until July 1, 2015, in addition to any other penalties imposed under this section, and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed an additional penalty of five dollars. Revenue from this penalty shall be remitted to the state treasurer for deposit in the local government liability reimbursement account created in section 6 of this act.

(10) If a legal proceeding, such as garnishment, has commenced to collect any delinquent amount owed by the person for any penalty imposed by the court under this section, the court may, at its discretion, enter into a payment plan.

~~((10))~~ (11) The monetary penalty for violating RCW 46.37.395 is: (a) Two hundred fifty dollars for the first violation; (b) five hundred dollars for the second violation; and (c) seven hundred fifty dollars for each violation thereafter.

**NEW SECTION. Sec. 10.** This act applies to all causes of action that are based on deaths occurring on or after the effective date of this act.

**NEW SECTION. Sec. 11.** (1) On December 1, 2011, and every December 1st thereafter, the risk management division within the office of financial management shall report to the house of representatives ways and means committee, the house of representatives judiciary committee, the senate ways and means committee, and the senate government operations and elections committee, or successor committees, on the incidents covered by this act that involve state agencies.

(2) On December 1, 2011, and every December 1st thereafter, each local government risk pool or local government risk management division, or the equivalent in local governments, shall report to the legislative body of the local government on the incidents covered by this act that involve the local government.

(3) This section expires December 2, 2016.

**NEW SECTION. Sec. 12.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Fairley moved that the Senate refuse to concur in the House amendment(s) to Second Engrossed Substitute Senate Bill No. 6508 and ask the House to recede therefrom.

#### POINT OF ORDER

Senator Brandland: "Mr. President, I rise to two points of order on Second Engrossed Substitute Senate Bill No. 6508. I believe that the House amendments to Second Engrossed Substitute Senate Bill No. 6508 are beyond the scope and object of the bill as it left the Senate in violation of Senate Rule 66 and I also believe the title of the bill is improper under Rule 25. I have some arguments to offer. It's about three pages, I'd be happy to read them but, if you like, I'll submit them if you like."

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Senator Fairley: "I've asked us not to concur to those amendments so how can you object to them if we're not concurring?"

#### REPLY BY THE PRESIDENT

President Owen: "Senator Fairley, there's two ways of to dispose of amendments. One is, as you stated, ask them to recede and the other is to have them ruled upon as Senator Brandland has requested."

Senator Gordon spoke against the point of order.

#### MOTION

On motion of Senator Eide, further consideration of Second Engrossed Substitute Senate Bill No. 6508 was deferred and the bill held its place on the calendar.

#### MESSAGE FROM THE HOUSE

February 28, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6344 with the following amendment(s): 6344-S AMH SGTA REIL 095

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 42.17.640 and 2006 c 348 s 1 are each amended to read as follows:

(1) The contribution limits in this section apply to:

(a) Candidates for state legislative office;

(b) Candidates for state office other than state legislative office;

(c) Candidates for county office(( in a county that has over two hundred thousand registered voters));

(d) Candidates for special purpose district office if that district is authorized to provide freight and passenger transfer and terminal facilities and that district has over two hundred thousand registered voters;

(e) Candidates for city council office;

(f) Candidates for mayoral office;

(g) Persons holding an office in (a) through ~~((f))~~(f) of this subsection against whom recall charges have been filed or to a political committee having the expectation of making expenditures in support of the recall of a person holding the office;

~~((f))~~ (h) Caucus political committees;

~~((g))~~ (i) Bona fide political parties.

(2) No person, other than a bona fide political party or a caucus political committee, may make contributions to a candidate for a state legislative office, ~~((or))~~ county office, city council office, or mayoral office that in the aggregate exceed ~~((seven))~~ eight hundred dollars or to a candidate for a public office in a special purpose district or a state office other than a state legislative office that in the aggregate exceed one thousand ~~((four))~~ six hundred dollars for each election in which the candidate is on the ballot or appears as a write-in candidate. Contributions to candidates subject to the limits in this section made with respect to a primary may not be made after the date of the primary. However, contributions to a candidate or a candidate's authorized committee may be made with respect to a primary until thirty days after the primary, subject to the following limitations: (a) The candidate lost the primary; (b) the candidate's authorized committee has insufficient funds to pay debts outstanding as of the date of the primary; and (c) the contributions may only be raised and spent to satisfy the outstanding debt.

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Contributions to candidates subject to the limits in this section made with respect to a general election may not be made after the final day of the applicable election cycle.

(3) No person, other than a bona fide political party or a caucus political committee, may make contributions to a state official, a county official, a city official, or a public official in a special purpose district against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the state official, county official, city official, or public official in a special purpose district during a recall campaign that in the aggregate exceed ~~((seven))~~ eight hundred dollars if for a state legislative office, ~~((or))~~ county office, or city office, or one thousand ~~((four))~~ six hundred dollars if for a special purpose district office or a state office other than a state legislative office.

(4)(a) Notwithstanding subsection (2) of this section, no bona fide political party or caucus political committee may make contributions to a candidate during an election cycle that in the aggregate exceed (i) ~~((seventy))~~ eighty cents multiplied by the number of eligible registered voters in the jurisdiction from which the candidate is elected if the contributor is a caucus political committee or the governing body of a state organization, or (ii) ~~((thirty-five))~~ forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No candidate may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed ~~((thirty-five))~~ forty cents times the number of registered voters in the jurisdiction from which the candidate is elected.

(5)(a) Notwithstanding subsection (3) of this section, no bona fide political party or caucus political committee may make contributions to a state official, county official, city official, or a public official in a special purpose district against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the state official, county official, city official, or a public official in a special purpose district during a recall campaign that in the aggregate exceed (i) ~~((seventy))~~ eighty cents multiplied by the number of eligible registered voters in the jurisdiction entitled to recall the state official if the contributor is a caucus political committee or the governing body of a state organization, or (ii) ~~((thirty-five))~~ forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No official holding an office specified in subsection (1) of this section against whom recall charges have been filed, no authorized committee of the official, and no political committee having the expectation of making expenditures in support of the recall of the official may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed ~~((thirty-five))~~ forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected.

(6) For purposes of determining contribution limits under subsections (4) and (5) of this section, the number of eligible registered voters in a jurisdiction is the number at the time of the most recent general election in the jurisdiction.

(7) Notwithstanding subsections (2) through (5) of this section, no person other than an individual, bona fide political party, or

caucus political committee may make contributions reportable under this chapter to a caucus political committee that in the aggregate exceed ~~((seven))~~ eight hundred dollars in a calendar year or to a bona fide political party that in the aggregate exceed ~~((three))~~ four thousand ~~((five-hundred))~~ dollars in a calendar year. This subsection does not apply to loans made in the ordinary course of business.

(8) For the purposes of RCW 42.17.640 through 42.17.790, a contribution to the authorized political committee of a candidate or of an official specified in subsection (1) of this section against whom recall charges have been filed is considered to be a contribution to the candidate or official.

(9) A contribution received within the twelve-month period after a recall election concerning an office specified in subsection (1) of this section is considered to be a contribution during that recall campaign if the contribution is used to pay a debt or obligation incurred to influence the outcome of that recall campaign.

(10) The contributions allowed by subsection (3) of this section are in addition to those allowed by subsection (2) of this section, and the contributions allowed by subsection (5) of this section are in addition to those allowed by subsection (4) of this section.

(11) RCW 42.17.640 through 42.17.790 apply to a special election conducted to fill a vacancy in an office specified in subsection (1) of this section. However, the contributions made to a candidate or received by a candidate for a primary or special election conducted to fill such a vacancy shall not be counted toward any of the limitations that apply to the candidate or to contributions made to the candidate for any other primary or election.

(12) Notwithstanding the other subsections of this section, no corporation or business entity not doing business in Washington state, no labor union with fewer than ten members who reside in Washington state, and no political committee that has not received contributions of ten dollars or more from at least ten persons registered to vote in Washington state during the preceding one hundred eighty days may make contributions reportable under this chapter to a state office candidate, to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the official. This subsection does not apply to loans made in the ordinary course of business.

(13) Notwithstanding the other subsections of this section, no county central committee or legislative district committee may make contributions reportable under this chapter to a candidate specified in subsection (1) of this section, or an official specified in subsection (1) of this section against whom recall charges have been filed, or political committee having the expectation of making expenditures in support of the recall of an official specified in subsection (1) of this section if the county central committee or legislative district committee is outside of the jurisdiction entitled to elect the candidate or recall the official.

(14) No person may accept contributions that exceed the contribution limitations provided in this section.

(15) The following contributions are exempt from the contribution limits of this section:

(a) An expenditure or contribution earmarked for voter registration, for absentee ballot information, for precinct caucuses, for get-out-the-vote campaigns, for precinct judges or inspectors, for sample ballots, or for ballot counting, all without promotion of or political advertising for individual candidates; or

(b) An expenditure by a political committee for its own internal organization or fund raising without direct association with individual candidates."

Correct the title

0)

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator McDermott moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6344.

Senator McDermott spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator McDermott that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6344.

The motion by Senator McDermott carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6344 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6344, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6344, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 35; Nays, 11; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Becker, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, Morton, Roach and Stevens

Excused: Senators Brown, Haugen and McCaslin

SUBSTITUTE SENATE BILL NO. 6344, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 2, 2010

MR. PRESIDENT:

The House passed SENATE BILL NO. 6593 with the following amendment(s): 6593 AMH ELCS H5337.3

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.215.020 and 2007 c 394 s 5 are each amended to read as follows:

(1) The department of early learning is created as an executive branch agency. The department is vested with all powers and duties transferred to it under this chapter and such other powers and duties as may be authorized by law.

(2) The primary duties of the department are to implement state early learning policy and to coordinate, consolidate, and integrate child care and early learning programs in order to administer programs and funding as efficiently as possible. The department's duties include, but are not limited to, the following:

(a) To support both public and private sectors toward a comprehensive and collaborative system of early learning that serves parents, children, and providers and to encourage best practices in child care and early learning programs;

(b) To make early learning resources available to parents and caregivers;

(c) To carry out activities, including providing clear and easily accessible information about quality and improving the quality of early learning opportunities for young children, in cooperation with the nongovernmental private-public partnership;

(d) To administer child care and early learning programs;

(e) To serve as the state lead agency for Part C of the federal individuals with disabilities education act (IDEA);

~~(f)~~ (f) To standardize internal financial audits, oversight visits, performance benchmarks, and licensing criteria, so that programs can function in an integrated fashion;

~~((g))~~ (g) To support the implementation of the nongovernmental private-public partnership and cooperate with that partnership in pursuing its goals including providing data and support necessary for the successful work of the partnership;

~~((h))~~ (h) To work cooperatively and in coordination with the early learning council;

~~((i))~~ (i) To collaborate with the K-12 school system at the state and local levels to ensure appropriate connections and smooth transitions between early learning and K-12 programs; and

~~((j))~~ (j) Upon the development of an early learning information system, to make available to parents timely inspection and licensing action information through the internet and other means.

(3) The department's programs shall be designed in a way that respects and preserves the ability of parents and legal guardians to direct the education, development, and upbringing of their children. The department shall include parents and legal guardians in the development of policies and program decisions affecting their children.

**Sec. 2.** RCW 70.198.020 and 2009 c 381 s 33 are each amended to read as follows:

(1) There is established an advisory council in the department of social and health services for the purpose of advancing the development of a comprehensive and effective statewide system to provide prompt and effective early interventions for children in the state who are deaf or hard of hearing and their families.

(2) Members of the advisory council shall have training, experience, or interest in hearing loss in children. Membership shall include, but not be limited to, the following: Pediatricians; audiologists; teachers of the deaf and hard of hearing; parents of children who are deaf or hard of hearing; a representative from the Washington state center for childhood deafness and hearing loss; and representatives of the ~~((infant toddler early intervention))~~ early support for infants and toddlers program in the department of ~~((social and health services))~~ early learning, the department of health, and the office of the superintendent of public instruction.

**NEW SECTION. Sec. 3.** (1) All powers, duties, and functions of the department of social and health services pertaining to administration of the infant and toddler early intervention program are transferred to the department of early learning. The program shall be renamed the early support for infants and toddlers program.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of social and health services pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of early learning. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of social and health services in carrying out the powers, functions, and duties transferred shall be made available to the department of early learning. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of early learning.

(b) Any appropriations made to the department of social and health services for carrying out the powers, functions, and duties

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transferred shall, on the effective date of this section, be transferred and credited to the department of early learning.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of social and health services engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of early learning. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of early learning to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of social and health services pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of early learning. All existing contracts and obligations shall remain in full force and shall be performed by the department of early learning.

(5) The transfer of the powers, duties, functions, and personnel of the department of social and health services shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of social and health services assigned to the department of early learning under this section whose positions are within an existing bargaining unit description at the department of early learning shall become a part of the existing bargaining unit at the department of early learning and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

**NEW SECTION. Sec. 4.** This act takes effect July 1, 2010."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Gordon moved that the Senate concur in the House amendment(s) to Senate Bill No. 6593.

Senator Gordon spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Gordon that the Senate concur in the House amendment(s) to Senate Bill No. 6593.

The motion by Senator Gordon carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6593 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6593, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6593, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SENATE BILL NO. 6593, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 5, 2010

MR. PRESIDENT:

The House passed SENATE BILL NO. 6308 with the following amendment(s): 6308 AMH KIRB SILV 057

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that there have been ongoing, egregious examples of certain residents of the special commitment center having illegal child pornography, other prohibited pornography, and other banned materials on their computers. The legislature also finds that activities at the special commitment center must be designed and implemented to meet the treatment goals of the special commitment center, and proper and appropriate computer usage is one such activity. The legislature also finds that by linking computer usage to treatment plans, residents are less likely to have prohibited materials on their computers and are more likely to successfully complete their treatment plans. Therefore, the legislature finds that residents' computer usage in compliance with conditions placed on computer usage is essential to achieving their therapeutic goals. If residents' usage of computers is not in compliance or is not related to meeting their treatment goals, computer usage will be limited in order to prevent or reduce residents' access to prohibited materials.

**Sec. 2.** RCW 71.09.080 and 2009 c 409 s 7 are each amended to read as follows:

(1) Any person subjected to restricted liberty as a sexually violent predator pursuant to this chapter shall not forfeit any legal right or suffer any legal disability as a consequence of any actions taken or orders made, other than as specifically provided in this chapter, or as otherwise authorized by law.

(2) (a) Any person committed or detained pursuant to this chapter shall be prohibited from possessing or accessing a personal computer if the resident's individualized treatment plan states that access to a computer is harmful to bringing about a positive response to a specific and certain phase or course of treatment.

(b) A person who is prohibited from possessing or accessing a personal computer under (a) of this subsection (2) shall be permitted to access a limited functioning personal computer capable of word processing and limited data storage on the computer only that does not have: (i) Internet access capability; (ii) an optical drive, external drive, universal serial bus port, or similar drive capability; or (iii) the capability to display photographs, images, videos, or motion pictures, or similar display capability from any drive or port capability listed under (ii) of this subsection (2)(b).

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(3) Any person committed pursuant to this chapter has the right to adequate care and individualized treatment. The department of social and health services shall keep records detailing all medical, expert, and professional care and treatment received by a committed person, and shall keep copies of all reports of periodic examinations made pursuant to this chapter. All such records and reports shall be made available upon request only to: The committed person, his or her attorney, the prosecuting attorney, the court, the protection and advocacy agency, or another expert or professional person who, upon proper showing, demonstrates a need for access to such records.

((3))(4) At the time a person is taken into custody or transferred into a facility pursuant to a petition under this chapter, the professional person in charge of such facility or his or her designee shall take reasonable precautions to inventory and safeguard the personal property of the persons detained or transferred. A copy of the inventory, signed by the staff member making it, shall be given to the person detained and shall, in addition, be open to inspection to any responsible relative, subject to limitations, if any, specifically imposed by the detained person. For purposes of this subsection, "responsible relative" includes the guardian, conservator, attorney, spouse, parent, adult child, or adult brother or sister of the person. The facility shall not disclose the contents of the inventory to any other person without consent of the patient or order of the court.

((4))(5) Nothing in this chapter prohibits a person presently committed from exercising a right presently available to him or her for the purpose of obtaining release from confinement, including the right to petition for a writ of habeas corpus.

((5))(6) No indigent person may be conditionally released or unconditionally discharged under this chapter without suitable clothing, and the secretary shall furnish the person with such sum of money as is required by RCW 72.02.100 for persons without ample funds who are released from correctional institutions. As funds are available, the secretary may provide payment to the indigent persons conditionally released pursuant to this chapter consistent with the optional provisions of RCW 72.02.100 and 72.02.110, and may adopt rules to do so.

((6))(7) If a civil commitment petition is dismissed, or a trier of fact determines that a person does not meet civil commitment criteria, the person shall be released within twenty-four hours of service of the release order on the superintendent of the special commitment center, or later by agreement of the person who is the subject of the petition.

**NEW SECTION. Sec. 3.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Carrell moved that the Senate concur in the House amendment(s) to Senate Bill No. 6308.

Senator Regala spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Carrell that the Senate concur in the House amendment(s) to Senate Bill No. 6308.

The motion by Senator Carrell carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6308 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6308, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6308, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SENATE BILL NO. 6308, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Honeyford, Senator Roach was excused.

#### MESSAGE FROM THE HOUSE

March 2, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6611 with the following amendment(s): 6611-S AMH SIMP MOET 460

On page 2, line 30, after "plan" strike all material through "subarea" on line 31 and insert "~~((that does not modify the comprehensive plan policies and designations applicable to the subarea))~~. Subarea plans adopted under this subsection (2)(a)(i) must clarify, supplement, or implement jurisdiction-wide comprehensive plan policies, and may only be adopted if the cumulative impacts of the proposed plan are addressed by appropriate environmental review under chapter 43.21C RCW" and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Pridemore moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6611 and ask the House to recede therefrom.

Senator Pridemore spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Pridemore that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6611 and ask the House to recede therefrom.

The motion by Senator Pridemore carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 6611 and asked the House to recede therefrom by voice vote.

#### MESSAGE FROM THE HOUSE

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March 3, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6639 with the following amendment(s): 6639-S AMH HS H5394.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9.94A.030 and 2009 c 375 s 4 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed as part of a sentence under this chapter and served in the community subject to controls placed on the offender's movement and activities by the department.

(6) "Community protection zone" means the area within eight hundred eighty feet of the facilities and grounds of a public or private school.

(7) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(8) "Confinement" means total or partial confinement.

(9) "Conviction" means an adjudication of guilt pursuant to Title 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(11) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon.

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated

pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(12) "Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted activities for their mutual aid and protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.

(13) "Criminal street gang associate or member" means any person who actively participates in any criminal street gang and who intentionally promotes, furthers, or assists in any criminal act by the criminal street gang.

(14) "Criminal street gang-related offense" means any felony or misdemeanor offense, whether in this state or elsewhere, that is committed for the benefit of, at the direction of, or in association with any criminal street gang, or is committed with the intent to promote, further, or assist in any criminal conduct by the gang, or is committed for one or more of the following reasons:

(a) To gain admission, prestige, or promotion within the gang;

(b) To increase or maintain the gang's size, membership, prestige, dominance, or control in any geographical area;

(c) To exact revenge or retribution for the gang or any member of the gang;

(d) To obstruct justice, or intimidate or eliminate any witness against the gang or any member of the gang;

(e) To directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage for the gang, its reputation, influence, or membership; or

(f) To provide the gang with any advantage in, or any control or dominance over any criminal market sector, including, but not limited to, manufacturing, delivering, or selling any controlled substance (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88 RCW); human trafficking (RCW 9A.40.100); or promoting pornography (chapter 9.68 RCW).

(15) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(16) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

(17) "Department" means the department of corrections.

(18) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community custody, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(19) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial

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obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(20) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

(21) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(22) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

(23) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(24) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-run injury-accident (RCW 46.52.020(4)), felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(25) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

(26) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

(27) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

(28) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

(29) "Minor child" means a biological or adopted child of the offender who is under age eighteen at the time of the offender's current offense.

(30) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

(v)(i) A prior conviction for indecent liberties under RCW 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997;

(w) Any out-of-state conviction for a felony offense with a finding of sexual motivation if the minimum sentence imposed was ten years or more; provided that the out-of-state felony offense must be comparable to a felony offense under Title 9 or 9A RCW and the out-of-state definition of sexual motivation must be comparable to the definition of sexual motivation contained in this section.

~~((30))~~ (31) "Nonviolent offense" means an offense which is not a violent offense.

~~((31))~~ (32) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior

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court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. In addition, for the purpose of community custody requirements under this chapter, "offender" also means a misdemeanor or gross misdemeanor probationer convicted of an offense included in RCW 9.94A.501(1) and ordered by a superior court to probation under the supervision of the department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

~~((32))~~ (33) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court or home detention has been ordered by the department as part of the parenting program, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention.

~~((33))~~ (34) "Pattern of criminal street gang activity" means:

(a) The commission, attempt, conspiracy, or solicitation of, or any prior juvenile adjudication of or adult conviction of, two or more of the following criminal street gang-related offenses:

(i) Any "serious violent" felony offense as defined in this section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a Child 1 (RCW 9A.36.120);

(ii) Any "violent" offense as defined by this section, excluding Assault of a Child 2 (RCW 9A.36.130);

(iii) Deliver or Possession with Intent to Deliver a Controlled Substance (chapter 69.50 RCW);

(iv) Any violation of the firearms and dangerous weapon act (chapter 9.41 RCW);

(v) Theft of a Firearm (RCW 9A.56.300);

(vi) Possession of a Stolen Firearm (RCW 9A.56.310);

(vii) Malicious Harassment (RCW 9A.36.080);

(viii) Harassment where a subsequent violation or deadly threat is made (RCW 9A.46.020(2)(b));

(ix) Criminal Gang Intimidation (RCW 9A.46.120);

(x) Any felony conviction by a person eighteen years of age or older with a special finding of involving a juvenile in a felony offense under RCW 9.94A.833;

(xi) Residential Burglary (RCW 9A.52.025);

(xii) Burglary 2 (RCW 9A.52.030);

(xiii) Malicious Mischief 1 (RCW 9A.48.070);

(xiv) Malicious Mischief 2 (RCW 9A.48.080);

(xv) Theft of a Motor Vehicle (RCW 9A.56.065);

(xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

(xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);

(xviii) Taking a Motor Vehicle Without Permission 2 (RCW 9A.56.075);

(xix) Extortion 1 (RCW 9A.56.120);

(xx) Extortion 2 (RCW 9A.56.130);

(xxi) Intimidating a Witness (RCW 9A.72.110);

(xxii) Tampering with a Witness (RCW 9A.72.120);

(xxiii) Reckless Endangerment (RCW 9A.36.050);

(xxiv) Coercion (RCW 9A.36.070);

(xxv) Harassment (RCW 9A.46.020); or

(xxvi) Malicious Mischief 3 (RCW 9A.48.090);

(b) That at least one of the offenses listed in (a) of this subsection shall have occurred after July 1, 2008;

(c) That the most recent committed offense listed in (a) of this subsection occurred within three years of a prior offense listed in (a) of this subsection; and

(d) Of the offenses that were committed in (a) of this subsection, the offenses occurred on separate occasions or were committed by two or more persons.

~~((34))~~ (35) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection ~~((34))~~ (35)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

~~((35))~~ (36) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; or (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority.

~~((36))~~ (37) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

~~((37))~~ (38) "Public school" has the same meaning as in RCW 28A.150.010.

~~((38))~~ (39) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

~~((39))~~ (40) "Risk assessment" means the application of the risk instrument recommended to the department by the Washington state

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institute for public policy as having the highest degree of predictive accuracy for assessing an offender's risk of reoffense.

~~((40))~~ (41) "Serious traffic offense" means:

(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

~~((41))~~ (42) "Serious violent offense" is a subcategory of violent offense and means:

- (a)(i) Murder in the first degree;
- (ii) Homicide by abuse;
- (iii) Murder in the second degree;
- (iv) Manslaughter in the first degree;
- (v) Assault in the first degree;
- (vi) Kidnapping in the first degree;
- (vii) Rape in the first degree;
- (viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

~~((42))~~ (43) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.130(12);

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080; or

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

~~((43))~~ (44) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

~~((44))~~ (45) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

~~((45))~~ (46) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

~~((46))~~ (47) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

~~((47))~~ (48) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

~~((48))~~ (49) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition

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training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

~~((49))~~ (50) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

~~((50))~~ (51) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

(ix) Assault of a child in the second degree;

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and

(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

~~((51))~~ (52) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

~~((52))~~ (53) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

~~((53))~~ (54) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

**NEW SECTION. Sec. 2.** A new section is added to chapter 9.94A RCW to read as follows:

(1) An offender is eligible for the parenting sentencing alternative if:

(a) The high end of the standard sentence range for the current offense is greater than one year;

(b) The offender has no prior or current conviction for a felony that is a sex offense or a violent offense;

(c) The offender has not been found by the United States attorney general to be subject to a deportation detainer or order and does not become subject to a deportation order during the period of the sentence;

(d) The offender signs any release of information waivers required to allow information regarding current or prior child welfare cases to be shared with the department and the court; and

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(e) The offender has physical custody of his or her minor child or is a legal guardian or custodian with physical custody of a child under the age of eighteen at the time of the current offense.

(2) To assist the court in making its determination, the court may order the department to complete either a risk assessment report or a chemical dependency screening report as provided in RCW 9.94A.500, or both reports prior to sentencing.

(3) If the court is considering this alternative, the court shall request that the department contact the children's administration of the Washington state department of social and health services to determine if the agency has an open child welfare case or prior substantiated referral of abuse or neglect involving the offender or if the agency is aware of any substantiated case of abuse or neglect with a tribal child welfare agency involving the offender.

(a) If the offender has an open child welfare case, the department will provide the release of information waiver and request that the children's administration or the tribal child welfare agency provide a report to the court. The children's administration shall provide a report within seven business days of the request that includes, at the minimum, the following:

- (i) Legal status of the child welfare case;
- (ii) Length of time the children's administration has been involved with the offender;
- (iii) Legal status of the case and permanent plan;
- (iv) Any special needs of the child;
- (v) Whether or not the offender has been cooperative with services ordered by a juvenile court under a child welfare case; and
- (vi) If the offender has been convicted of a crime against a child.

(b) If a report is required from a tribal child welfare agency, the department shall attempt to obtain information that is similar to what is required for the report provided by the children's administration in a timely manner.

(c) If the offender does not have an open child welfare case with the children's administration or with a tribal child welfare agency but has prior involvement, the department will obtain information from the children's administration on the number and type of past substantiated referrals of abuse or neglect and report that information to the court. If the children's administration has never had any substantiated referrals or an open case with the offender, the department will inform the court.

(4) If the sentencing court determines that the offender is eligible for a sentencing alternative under this section and that the sentencing alternative is appropriate and should be imposed, the court shall waive imposition of a sentence within the standard sentence range and impose a sentence consisting of twelve months of community custody. The court shall consider the offender's criminal history when determining if the alternative is appropriate.

(5) When a court imposes a sentence of community custody under this section:

(a) The court may impose conditions as provided in RCW 9.94A.703 and may impose other affirmative conditions as the court considers appropriate.

(b) The department may impose conditions as authorized in RCW 9.94A.704 that may include, but are not limited to:

- (i) Parenting classes;
- (ii) Chemical dependency treatment;
- (iii) Mental health treatment;
- (iv) Vocational training;
- (v) Offender change programs;
- (vi) Life skills classes.

(c) The department shall report to the court if the offender commits any violations of his or her sentence conditions.

(6) The department shall provide the court with quarterly progress reports regarding the offender's progress in required programming, treatment, and other supervision conditions. When

an offender has an open child welfare case, the department will seek to coordinate services with the children's administration.

(7)(a) The court may bring any offender sentenced under this section back into court at any time during the period of community custody on its own initiative to evaluate the offender's progress in treatment, or to determine if any violations of the conditions of the sentence have occurred.

(b) If the offender is brought back to court, the court may modify the conditions of community custody or impose sanctions under (c) of this subsection.

(c) The court may order the offender to serve a term of total confinement within the standard range of the offender's current offense at any time during the period of community custody, if the offender violates the conditions or requirements of the sentence or if the offender is failing to make satisfactory progress in treatment.

(d) An offender ordered to serve a term of total confinement under (c) of this subsection shall receive credit for any time previously served in confinement under this section.

**Sec. 3.** RCW 9.94A.501 and 2009 c 376 s 2 are each amended to read as follows:

(1) The department shall supervise every offender convicted of a misdemeanor or gross misdemeanor offense who is sentenced to probation in superior court, pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, for an offense included in (a) and (b) of this subsection. The superior court shall order probation for:

(a) Offenders convicted of fourth degree assault, violation of a domestic violence court order pursuant to RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145, and who also have a prior conviction for one or more of the following:

- (i) A violent offense;
- (ii) A sex offense;
- (iii) A crime against a person as provided in RCW 9.94A.411;
- (iv) Fourth degree assault; or
- (v) Violation of a domestic violence court order; and

(b) Offenders convicted of:

- (i) Sexual misconduct with a minor second degree;
- (ii) Custodial sexual misconduct second degree;
- (iii) Communication with a minor for immoral purposes; and
- (iv) Failure to register pursuant to RCW 9A.44.130.

(2) Misdemeanor and gross misdemeanor offenders supervised by the department pursuant to this section shall be placed on community custody.

(3) The department shall supervise every felony offender sentenced to community custody whose risk assessment, conducted pursuant to subsection (6) of this section, classifies the offender as one who is at a high risk to reoffend.

(4) Notwithstanding any other provision of this section, the department shall supervise an offender sentenced to community custody regardless of risk classification if the offender:

(a) Has a current conviction for a sex offense or a serious violent offense as defined in RCW 9.94A.030;

(b) Has been identified by the department as a dangerous mentally ill offender pursuant to RCW 72.09.370;

(c) Has an indeterminate sentence and is subject to parole pursuant to RCW 9.95.017;

(d) Was sentenced under RCW 9.94A.650, 9.94A.660, section 2 of this act, or 9.94A.670; or

(e) Is subject to supervision pursuant to RCW 9.94A.745.

(5) The department is not authorized to, and may not, supervise any offender sentenced to a term of community custody or any probationer unless the offender or probationer is one for whom supervision is required under subsection (1), (2), (3), or (4) of this section.

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(6) The department shall conduct a risk assessment for every felony offender sentenced to a term of community custody who may be subject to supervision under this section.

**Sec. 4.** RCW 9.94A.505 and 2009 c 389 s 1 are each amended to read as follows:

(1) When a person is convicted of a felony, the court shall impose punishment as provided in this chapter.

(2)(a) The court shall impose a sentence as provided in the following sections and as applicable in the case:

(i) Unless another term of confinement applies, a sentence within the standard sentence range established in RCW 9.94A.510 or 9.94A.517;

(ii) RCW 9.94A.701 and 9.94A.702, relating to community custody;

(iii) RCW 9.94A.570, relating to persistent offenders;

(iv) RCW 9.94A.540, relating to mandatory minimum terms;

(v) RCW 9.94A.650, relating to the first-time offender waiver;

(vi) RCW 9.94A.660, relating to the drug offender sentencing alternative;

(vii) RCW 9.94A.670, relating to the special sex offender sentencing alternative;

(viii) Section 2 of this act, relating to the parenting sentencing alternative;

(ix) RCW 9.94A.507, relating to certain sex offenses;

~~((x))~~ (x) RCW 9.94A.535, relating to exceptional sentences;

~~((x))~~ (xi) RCW 9.94A.589, relating to consecutive and concurrent sentences;

~~((xii))~~ (xii) RCW 9.94A.603, relating to felony driving while under the influence of intoxicating liquor or any drug and felony physical control of a vehicle while under the influence of intoxicating liquor or any drug.

(b) If a standard sentence range has not been established for the offender's crime, the court shall impose a determinate sentence which may include not more than one year of confinement; community restitution work; a term of community custody under RCW 9.94A.702 not to exceed one year; and/or other legal financial obligations. The court may impose a sentence which provides more than one year of confinement and a community custody term under RCW 9.94A.701 if the court finds reasons justifying an exceptional sentence as provided in RCW 9.94A.535.

(3) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.

(4) If a sentence imposed includes payment of a legal financial obligation, it shall be imposed as provided in RCW 9.94A.750, 9.94A.753, 9.94A.760, and 43.43.7541.

(5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a court may not impose a sentence providing for a term of confinement or community custody that exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

(6) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

(7) The court shall order restitution as provided in RCW 9.94A.750 and 9.94A.753.

(8) As a part of any sentence, the court may impose and enforce crime-related prohibitions and affirmative conditions as provided in this chapter.

(9) In any sentence of partial confinement, the court may require the offender to serve the partial confinement in work release, in a

program of home detention, on work crew, or in a combined program of work crew and home detention.

**Sec. 5.** RCW 9.94A.701 and 2009 c 375 s 5 are each amended to read as follows:

(1) If an offender is sentenced to the custody of the department for one of the following crimes, the court shall, in addition to the other terms of the sentence, sentence the offender to community custody for three years:

(a) A sex offense not sentenced under RCW 9.94A.507;

(b) A serious violent offense; or

(c) A violation of RCW 9A.44.130(11)(a) committed on or after June 7, 2006, when a court sentences the person to a term of confinement of one year or less.

(2) A court shall, in addition to the other terms of the sentence, sentence an offender to community custody for eighteen months when the court sentences the person to the custody of the department for a violent offense that is not considered a serious violent offense.

(3) A court shall, in addition to the other terms of the sentence, sentence an offender to community custody for one year when the court sentences the person to the custody of the department for:

(a) Any crime against persons under RCW 9.94A.411(2);

(b) An offense involving the unlawful possession of a firearm under RCW 9.41.040, where the offender is a criminal street gang member or associate; or

(c) A felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 2000.

(4) If an offender is sentenced under the drug offender sentencing alternative, the court shall impose community custody as provided in RCW 9.94A.660.

(5) If an offender is sentenced under the special ~~((sexual-[sex]))~~ sex offender sentencing alternative, the court shall impose community custody as provided in RCW 9.94A.670.

(6) If an offender is sentenced to a work ethic camp, the court shall impose community custody as provided in RCW 9.94A.690.

(7) If an offender is sentenced under the parenting sentencing alternative, the court shall impose a term of community custody as provided in section 2 of this act.

(8) If a sex offender is sentenced as a nonpersistent offender pursuant to RCW 9.94A.507, the court shall impose community custody as provided in that section.

~~((8))~~ (9) The term of community custody specified by this section shall be reduced by the court whenever an offender's standard range term of confinement in combination with the term of community custody exceeds the statutory maximum for the crime as provided in RCW 9A.20.021.

**Sec. 6.** RCW 9.94A.728 and 2009 c 455 s 2, 2009 c 441 s 1, and 2009 c 399 s 1 are each reenacted and amended to read as follows:

No person serving a sentence imposed pursuant to this chapter and committed to the custody of the department shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:

(1) An offender may earn early release time as authorized by RCW 9.94A.729;

(2) An offender may leave a correctional facility pursuant to an authorized furlough or leave of absence. In addition, offenders may leave a correctional facility when in the custody of a corrections officer or officers;

(3)(a) The secretary may authorize an extraordinary medical placement for an offender when all of the following conditions exist:

(i) The offender has a medical condition that is serious and is expected to require costly care or treatment;

(ii) The offender poses a low risk to the community because he or she is currently physically incapacitated due to age or the medical condition or is expected to be so at the time of release; and

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(iii) It is expected that granting the extraordinary medical placement will result in a cost savings to the state.

(b) An offender sentenced to death or to life imprisonment without the possibility of release or parole is not eligible for an extraordinary medical placement.

(c) The secretary shall require electronic monitoring for all offenders in extraordinary medical placement unless the electronic monitoring equipment interferes with the function of the offender's medical equipment or results in the loss of funding for the offender's medical care, in which case, an alternative type of monitoring shall be utilized. The secretary shall specify who shall provide the monitoring services and the terms under which the monitoring shall be performed.

(d) The secretary may revoke an extraordinary medical placement under this subsection at any time.

(e) Persistent offenders are not eligible for extraordinary medical placement;

(4) The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances;

(5) No more than the final six months of the offender's term of confinement may be served in partial confinement designed to aid the offender in finding work and reestablishing himself or herself in the community or no more than the final twelve months of the offender's term of confinement may be served in partial confinement as part of the parenting program in section 8 of this act. This is in addition to that period of earned early release time that may be exchanged for partial confinement pursuant to RCW 9.94A.729(5)(d);

(6) The governor may pardon any offender;

(7) The department may release an offender from confinement any time within ten days before a release date calculated under this section;

(8) An offender may leave a correctional facility prior to completion of his or her sentence if the sentence has been reduced as provided in RCW 9.94A.870; and

(9) Notwithstanding any other provisions of this section, an offender sentenced for a felony crime listed in RCW 9.94A.540 as subject to a mandatory minimum sentence of total confinement shall not be released from total confinement before the completion of the listed mandatory minimum sentence for that felony crime of conviction unless allowed under RCW 9.94A.540.

**Sec. 7.** RCW 9.94A.729 and 2009 c 455 s 3 are each amended to read as follows:

(1)(a) The term of the sentence of an offender committed to a correctional facility operated by the department may be reduced by earned release time in accordance with procedures that shall be developed and adopted by the correctional agency having jurisdiction in which the offender is confined. The earned release time shall be for good behavior and good performance, as determined by the correctional agency having jurisdiction. The correctional agency shall not credit the offender with earned release credits in advance of the offender actually earning the credits.

(b) Any program established pursuant to this section shall allow an offender to earn early release credits for presentence incarceration. If an offender is transferred from a county jail to the department, the administrator of a county jail facility shall certify to the department the amount of time spent in custody at the facility and the amount of earned release time. The department may approve a jail certification from a correctional agency that calculates earned release time based on the actual amount of confinement time served by the offender before sentencing when an erroneous calculation of confinement time served by the offender before sentencing appears on the judgment and sentence.

(2) An offender who has been convicted of a felony committed after July 23, 1995, that involves any applicable deadly weapon enhancements under RCW 9.94A.533 (3) or (4), or both, shall not receive any good time credits or earned release time for that portion of his or her sentence that results from any deadly weapon enhancements.

(3) An offender may earn early release time as follows:

(a) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 1990, and before July 1, 2003, the aggregate earned release time may not exceed fifteen percent of the sentence.

(b) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 2003, the aggregate earned release time may not exceed ten percent of the sentence.

(c) An offender is qualified to earn up to fifty percent of aggregate earned release time if he or she:

(i) Is not classified as an offender who is at a high risk to reoffend as provided in subsection (4) of this section;

(ii) Is not confined pursuant to a sentence for:

(A) A sex offense;

(B) A violent offense;

(C) A crime against persons as defined in RCW 9.94A.411;

(D) A felony that is domestic violence as defined in RCW 10.99.020;

(E) A violation of RCW 9A.52.025 (residential burglary);

(F) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(G) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

(iii) Has no prior conviction for the offenses listed in (c)(ii) of this subsection;

(iv) Participates in programming or activities as directed by the offender's individual reentry plan as provided under RCW 72.09.270 to the extent that such programming or activities are made available by the department; and

(v) Has not committed a new felony after July 22, 2007, while under community custody.

(d) In no other case shall the aggregate earned release time exceed one-third of the total sentence.

(4) The department shall perform a risk assessment of each offender who may qualify for earned early release under subsection (3)(c) of this section utilizing the risk assessment tool recommended by the Washington state institute for public policy. Subsection (3)(c) of this section does not apply to offenders convicted after July 1, 2010.

(5)(a) A person who is eligible for earned early release as provided in this section and who is convicted of a sex offense, a violent offense, any crime against persons under RCW 9.94A.411(2), or a felony offense under chapter 69.50 or 69.52 RCW, shall be transferred to community custody in lieu of earned release time;

(b) The department shall, as a part of its program for release to the community in lieu of earned release, require the offender to propose a release plan that includes an approved residence and living arrangement. All offenders with community custody terms eligible for release to community custody in lieu of earned release shall provide an approved residence and living arrangement prior to release to the community;

(c) The department may deny transfer to community custody in lieu of earned release time if the department determines an offender's release plan, including proposed residence location and living arrangements, may violate the conditions of the sentence or

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conditions of supervision, place the offender at risk to violate the conditions of the sentence, place the offender at risk to reoffend, or present a risk to victim safety or community safety. The department's authority under this section is independent of any court-ordered condition of sentence or statutory provision regarding conditions for community custody;

(d) If the department is unable to approve the offender's release plan, the department may do one or more of the following:

(i) Transfer an offender to partial confinement in lieu of earned early release for a period not to exceed three months. The three months in partial confinement is in addition to that portion of the offender's term of confinement that may be served in partial confinement as provided in RCW 9.94A.728(5);

(ii) Provide rental vouchers to the offender for a period not to exceed three months if rental assistance will result in an approved release plan. The voucher must be provided in conjunction with additional transition support programming or services that enable an offender to participate in services including, but not limited to, substance abuse treatment, mental health treatment, sex offender treatment, educational programming, or employment programming;

(e) For each offender who is the recipient of a rental voucher, the department shall include, concurrent with the data that the department otherwise obtains and records, the housing status of the offender for the duration of the offender's supervision.

(6) An offender serving a term of confinement imposed under RCW 9.94A.670(5)(a) is not eligible for earned release credits under this section.

**NEW SECTION. Sec. 8.** A new section is added to chapter 9.94A RCW to read as follows:

For offenders not sentenced under section 2 of this act, but otherwise eligible under this section, no more than the final twelve months of the offender's term of confinement may be served in partial confinement as home detention as part of the parenting program developed by the department.

(1) The secretary may transfer an offender from a correctional facility to home detention in the community if it is determined that the parenting program is an appropriate placement and when all of the following conditions exist:

(a) The offender is serving a sentence in which the high end of the range is greater than one year;

(b) The offender has no current conviction for a felony that is a sex offense or a violent offense;

(c) The offender has not been found by the United States attorney general to be subject to a deportation detainer or order and does not become subject to a deportation order during the period of the sentence;

(d) The offender signs any release of information waivers required to allow information regarding current or prior child welfare cases to be shared with the department and the court;

(e) The offender:

(i) Has physical or legal custody of a minor child;

(ii) Has a proven, established, ongoing, and substantial relationship with his or her minor child that existed prior to the commission of the current offense; or

(iii) Is a legal guardian of a child that was under the age of eighteen at the time of the current offense; and

(f) The department determines that such a placement is in the best interests of the child.

(2) When the department is considering partial confinement as part of the parenting program for an offender, the department shall inquire of the individual and the children's administration with the Washington state department of social and health services whether the agency has an open child welfare case or prior substantiated referral for abuse or neglect involving the offender. If the children's administration or a tribal jurisdiction has an open child welfare case,

the department will seek input from the children's administration or the involved tribal jurisdiction as to: (a) The status of the child welfare case; and (b) recommendations regarding placement of the offender and services required of the department and the court governing the individual's child welfare case. The department and its officers, agents, and employees are not liable for the acts of offenders participating in the parenting program unless the department or its officers, agents, and employees acted with willful and wanton disregard.

(3) All offenders placed on home detention as part of the parenting program shall provide an approved residence and living arrangement prior to transfer to home detention.

(4) While in the community on home detention as part of the parenting program, the department shall:

(a) Require the offender to be placed on electronic home monitoring;

(b) Require the offender to participate in programming and treatment that the department determines is needed;

(c) Assign a community corrections officer who will monitor the offender's compliance with conditions of partial confinement and programming requirements; and

(d) If the offender has an open child welfare case with the children's administration, collaborate and communicate with the identified social worker in the provision of services.

(5) The department has the authority to return any offender serving partial confinement in the parenting program to total confinement if the offender is not complying with sentence requirements.

**Sec. 9.** RCW 9.94A.734 and 2007 c 199 s 9 are each amended to read as follows:

(1) Home detention may not be imposed for offenders convicted of the following offenses, unless imposed as partial confinement in the department's parenting program under section 8 of this act:

(a) A violent offense;

(b) Any sex offense;

(c) Any drug offense;

(d) Reckless burning in the first or second degree as defined in RCW 9A.48.040 or 9A.48.050;

(e) Assault in the third degree as defined in RCW 9A.36.031;

(f) Assault of a child in the third degree;

(g) Unlawful imprisonment as defined in RCW 9A.40.040; or

(h) Harassment as defined in RCW 9A.46.020.

Home detention may be imposed for offenders convicted of possession of a controlled substance under RCW 69.50.4013 or forged prescription for a controlled substance under RCW 69.50.403 if the offender fulfills the participation conditions set forth in this section and is monitored for drug use by a treatment alternatives to street crime program or a comparable court or agency-referred program.

(2) Home detention may be imposed for offenders convicted of burglary in the second degree as defined in RCW 9A.52.030 or residential burglary conditioned upon the offender:

(a) Successfully completing twenty-one days in a work release program;

(b) Having no convictions for burglary in the second degree or residential burglary during the preceding two years and not more than two prior convictions for burglary or residential burglary;

(c) Having no convictions for a violent felony offense during the preceding two years and not more than two prior convictions for a violent felony offense;

(d) Having no prior charges of escape; and

(e) Fulfilling the other conditions of the home detention program.

(3) Home detention may be imposed for offenders convicted of taking a motor vehicle without permission in the second degree as

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defined in RCW 9A.56.075, theft of a motor vehicle as defined under RCW 9A.56.065, or possession of a stolen motor vehicle as defined under RCW 9A.56.068 conditioned upon the offender:

(a) Having no convictions for taking a motor vehicle without permission, theft of a motor vehicle or possession of a stolen motor vehicle during the preceding five years and not more than two prior convictions for taking a motor vehicle without permission, theft of a motor vehicle or possession of a stolen motor vehicle;

(b) Having no convictions for a violent felony offense during the preceding two years and not more than two prior convictions for a violent felony offense;

(c) Having no prior charges of escape; and

(d) Fulfilling the other conditions of the home detention program.

(4) Participation in a home detention program shall be conditioned upon:

(a) The offender obtaining or maintaining current employment or attending a regular course of school study at regularly defined hours, or the offender performing parental duties to offspring or minors normally in the custody of the offender;

(b) Abiding by the rules of the home detention program; and

(c) Compliance with court-ordered legal financial obligations.

The home detention program may also be made available to offenders whose charges and convictions do not otherwise disqualify them if medical or health-related conditions, concerns or treatment would be better addressed under the home detention program, or where the health and welfare of the offender, other inmates, or staff would be jeopardized by the offender's incarceration. Participation in the home detention program for medical or health-related reasons is conditioned on the offender abiding by the rules of the home detention program and complying with court-ordered restitution.

**Sec. 10.** RCW 9.94A.190 and 2009 c 28 s 5 are each amended to read as follows:

(1) A sentence that includes a term or terms of confinement totaling more than one year shall be served in a facility or institution operated, or utilized under contract, by the state, or in home detention pursuant to section 8 of this act. Except as provided in subsection (3) or (5) of this section, a sentence of not more than one year of confinement shall be served in a facility operated, licensed, or utilized under contract, by the county, or if home detention or work crew has been ordered by the court, in the residence of either the offender or a member of the offender's immediate family.

(2) If a county uses a state partial confinement facility for the partial confinement of a person sentenced to confinement for not more than one year, the county shall reimburse the state for the use of the facility as provided in this subsection. The office of financial management shall set the rate of reimbursement based upon the average per diem cost per offender in the facility. The office of financial management shall determine to what extent, if any, reimbursement shall be reduced or eliminated because of funds provided by the legislature to the department for the purpose of covering the cost of county use of state partial confinement facilities. The office of financial management shall reestablish reimbursement rates each even-numbered year.

(3) A person who is sentenced for a felony to a term of not more than one year, and who is committed or returned to incarceration in a state facility on another felony conviction, either under the indeterminate sentencing laws, chapter 9.95 RCW, or under this chapter shall serve all terms of confinement, including a sentence of not more than one year, in a facility or institution operated, or utilized under contract, by the state, consistent with the provisions of RCW 9.94A.589.

(4) Notwithstanding any other provision of this section, a sentence imposed pursuant to RCW 9.94A.660 which has a standard

sentence range of over one year, regardless of length, shall be served in a facility or institution operated, or utilized under contract, by the state.

(5) Sentences imposed pursuant to RCW 9.94A.507 shall be served in a facility or institution operated, or utilized under contract, by the state.

**Sec. 11.** RCW 9.94A.6332 and 2009 c 375 s 14 are each amended to read as follows:

The procedure for imposing sanctions for violations of sentence conditions or requirements is as follows:

(1) If the offender was sentenced under the drug offender sentencing alternative, any sanctions shall be imposed by the department or the court pursuant to RCW 9.94A.660.

(2) If the offender was sentenced under the special (~~sexual~~ ~~[sex]~~) sex offender sentencing alternative, any sanctions shall be imposed by the department or the court pursuant to RCW 9.94A.670.

(3) If the offender was sentenced under the parenting sentencing alternative, any sanctions shall be imposed by the department or by the court pursuant to section 2 of this act.

(4) If a sex offender was sentenced pursuant to RCW 9.94A.507, any sanctions shall be imposed by the board pursuant to RCW 9.95.435.

~~((4))~~ (5) In any other case, if the offender is being supervised by the department, any sanctions shall be imposed by the department pursuant to RCW 9.94A.737. If a probationer is being supervised by the department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, upon receipt of a violation hearing report from the department, the court retains any authority that those statutes provide to respond to a probationer's violation of conditions.

~~((5))~~ (6) If the offender is not being supervised by the department, any sanctions shall be imposed by the court pursuant to RCW 9.94A.6333.

**Sec. 12.** RCW 9.94A.633 and 2009 c 375 s 12 are each amended to read as follows:

(1)(a) An offender who violates any condition or requirement of a sentence may be sanctioned with up to sixty days' confinement for each violation.

(b) In lieu of confinement, an offender may be sanctioned with work release, home detention with electronic monitoring, work crew, community restitution, inpatient treatment, daily reporting, curfew, educational or counseling sessions, supervision enhanced through electronic monitoring, or any other sanctions available in the community.

(2) If an offender was under community custody pursuant to one of the following statutes, the offender may be sanctioned as follows:

(a) If the offender was transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.728(2), the offender may be transferred to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation.

(b) If the offender was sentenced under the drug offender sentencing alternative set out in RCW 9.94A.660, the offender may be sanctioned in accordance with that section.

(c) If the offender was sentenced under the parenting sentencing alternative set out in section 2 of this act, the offender may be sanctioned in accordance with that section.

(d) If the offender was sentenced under the special (~~sexual~~ ~~[sex]~~) sex offender sentencing alternative set out in RCW 9.94A.670, the suspended sentence may be revoked and the offender committed to serve the original sentence of confinement.

~~((4))~~ (e) If the offender was sentenced to a work ethic program pursuant to RCW 9.94A.690, the offender may be reclassified to serve the unexpired term of his or her sentence in total confinement.

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((e)) (f) If a sex offender was sentenced pursuant to RCW 9.94A.507, the offender may be transferred to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation.

(3) If a probationer is being supervised by the department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, the probationer may be sanctioned pursuant to subsection (1) of this section. The department shall have authority to issue a warrant for the arrest of an offender who violates a condition of community custody, as provided in RCW 9.94A.716. Any sanctions shall be imposed by the department pursuant to RCW 9.94A.737. The department shall provide a copy of the violation hearing report to the sentencing court in a timely manner. Nothing in this subsection is intended to limit the power of the sentencing court to respond to a probationer's violation of conditions."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6639.

Senator Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hargrove that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6639.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6639 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6639, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6639, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 1; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Voting nay: Senator Honeyford

Absent: Senator Tom

Excused: Senators McCaslin and Roach

SUBSTITUTE SENATE BILL NO. 6639, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 3, 2010

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 6679 with the following amendment(s): 6679-S2 AMH APPG H5443.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.210.040 and 1998 c 109 s 3 are each amended to read as follows:

(1) The small business export finance assistance center formed under RCW 43.210.020 and 43.210.030 (~~shall have~~) has the powers granted under chapter 24.03 RCW. In exercising such powers, the center may:

(a) Solicit and accept grants, contributions, and any other financial assistance from the federal government, federal agencies, and any other sources to carry out its purposes;

(b) Make loans or provide loan guarantees on loans made by financial institutions to Washington businesses with annual sales of two hundred million dollars or less for the purpose of financing exports of goods or services by those businesses to buyers in foreign countries and for the purpose of financing business growth to accommodate increased export sales. Loans or loan guarantees made under the authority of this section may only be considered upon a financial institution's assurance that such loan or loan guarantee is otherwise not available;

(c) Provide assistance to businesses with annual sales of two hundred million dollars or less in obtaining loans and guarantees of loans made by financial institutions for the purpose of financing export of goods or services from the state of Washington;

((e)) (d) Provide export finance and risk mitigation counseling to Washington exporters with annual sales of two hundred million dollars or less, provided that such counseling is not practicably available from a Washington for-profit business. For such counseling, the center may charge reasonable fees as it determines are necessary;

((d)) (e) Provide assistance in obtaining export credit insurance or alternate forms of foreign risk mitigation to facilitate the export of goods and services from the state of Washington;

((e)) (f) Be available as a teaching resource to both public and private sponsors of workshops and programs relating to the financing and risk mitigation aspects of exporting products and services from the state of Washington;

((f)) (g) Develop a comprehensive inventory of export-financing resources, both public and private, including information on resource applicability to specific countries and payment terms;

((g)) (h) Contract with the federal government and its agencies to become a program administrator for federally provided loan guarantee and export credit insurance programs; and

((h)) (i) Take whatever action may be necessary to accomplish the purposes set forth in this chapter.

(2) The center may not use any Washington state funds or funds which come from the public treasury of the state of Washington to make loans or to make any payment under a loan guarantee agreement. Under no circumstances may the center use any funds received under RCW 43.210.050 to make or assist in making any loan or to pay or assist in paying any amount under a loan guarantee agreement. Debts of the center shall be center debts only and may be satisfied only from the resources of the center. The state of Washington shall not in any way be liable for such debts.

(3) The small business export finance assistance center shall make every effort to seek nonstate funds for its continued operation.

(4) The small business export finance assistance center may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the small business export

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finance assistance center and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments.

**Sec. 2.** RCW 43.210.050 and 1998 c 245 s 84 are each amended to read as follows:

(1) The small business export finance assistance center formed under RCW 43.210.020 and 43.210.030 (~~shall~~) must enter into a contract under this chapter with the department of (~~community, trade, and economic development~~) commerce or its statutory successor.

(2) The contract (~~shall~~) under subsection (1) of this section must:  
(a) Require the center to provide export assistance services(, consistent with RCW 43.210.070 and 43.210.100 through 43.210.120, shall);

(b) Have a duration of two years(, and shall);

(c) Require the center to aggressively seek to fund its continued operation from nonstate funds(, The contract shall also); and

(d) Require the center to report annually to the department on its success in obtaining nonstate funding. (Upon expiration of the contract, any provisions within the contract applicable to the Pacific Northwest export assistance project shall be automatically renewed without change provided the legislature appropriates funds for administration of the small business export assistance center and the Pacific Northwest export assistance project. The provisions of the contract related to the Pacific Northwest export assistance project may be changed at any time if the director of the department of community, trade, and economic development or the president of the small business export finance assistance center present compelling reasons supporting the need for a contract change to the board of directors and a majority of the board of directors agrees to the changes. The department of agriculture shall be included in the contracting negotiations with the department of community, trade, and economic development and the small business export finance assistance center when the Pacific Northwest export assistance project provides export services to industrial sectors within the administrative domain of the Washington state department of agriculture.)

NEW SECTION. Sec. 3. A new section is added to chapter 43.210 RCW to read as follows:

Subject to the availability of amounts appropriated for this specific purpose, the small business export finance assistance center must:

(1) Develop a rural manufacturer export outreach program in conjunction with impact Washington. The program must provide outreach services to rural manufacturers in Washington to inform them of the importance of and opportunities in international trade, and to inform them of the export assistance programs available to assist these businesses to become exporters; and

(2) Develop export loan or loan guarantee programs in conjunction with the Washington economic development finance authority and the appropriate federal and private entities."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kauffman moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6679.

Senator Kauffman spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kauffman that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6679.

The motion by Senator Kauffman carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 6679 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6679, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6679, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators McCaslin and Roach

SECOND SUBSTITUTE SENATE BILL NO. 6679, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

February 28, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6688 with the following amendment(s): 6688-S AMH SGTA OBRT 112

On page 2, line 27, after "within" strike "thirty" and insert "sixty"

On page 2, line 28, after "within" strike "fifteen" and insert "thirty"

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Regala moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6688.

The President declared the question before the Senate to be the motion by Senator Regala that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6688.

The motion by Senator Regala carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6688 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6688, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6688, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 36; Nays, 11; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King,

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Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Becker, Brandland, Carrell, Delvin, Holmquist, Honeyford, Morton, Parlette, Pflug, Schoesler and Stevens

Excused: Senators McCaslin and Roach

SUBSTITUTE SENATE BILL NO. 6688, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

February 28, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6692 with the following amendment(s): 6692-S AMH TEC H5387.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 36.140.010 and 2009 c 281 s 1 are each amended to read as follows:

(1) Any county legislative authority of a county where a public utility district owns and operates a plant or system for the generation, transmission, and distribution of electric energy for sale within the county may construct, purchase, acquire, operate, and maintain ((a)) one facility within the county to generate electricity from biomass energy that is a renewable resource under RCW 19.285.030 or from biomass energy that is produced from lignin in spent pulping liquors or liquors derived from algae and other sources. The county legislative authority has the authority to regulate and control the use, distribution, sale, and price of the electricity produced from the biomass facility authorized under this section.

(2) For the purposes of this section:

(a) "County legislative authority" means the board of county commissioners or the county council; ~~((and))~~

(b) "Plant" means a natural gas-fueled, combined-cycle combustion turbine capable of generating at least two hundred forty megawatts of electricity; and

(c) "Public utility district" means a municipal corporation formed under chapter 54.08 RCW.

Sec. 2. RCW 54.44.020 and 2008 c 198 s 3 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, cities of the first class, public utility districts organized under chapter 54.08 RCW, and joint operating agencies organized under chapter 43.52 RCW, any such cities and public utility districts which operate electric generating facilities or distribution systems and any joint operating agency shall have power and authority to participate and enter into agreements with each other and with electrical companies which are subject to the jurisdiction of the Washington utilities and transportation commission or the public utility commissioner of Oregon, hereinafter called "regulated utilities", and with rural electric cooperatives, including generation and transmission cooperatives for the undivided ownership of any type of electric generating plants and facilities, including, but not limited to, nuclear and other thermal power generating plants and facilities and transmission facilities including, but not limited to, related transmission facilities, hereinafter called "common facilities", and for the planning, financing, acquisition, construction, operation and maintenance thereof. It shall be provided in such agreements that each city, public utility district, or joint operating agency shall own a percentage of any common facility equal to the percentage of the money furnished or the value of property supplied by it for the

acquisition and construction thereof and shall own and control a like percentage of the electrical output thereof.

(2) Cities of the first class, public utility districts organized under chapter 54.08 RCW, and joint operating agencies organized under chapter 43.52 RCW, shall have the power and authority to participate and enter into agreements for the undivided ownership of a coal-fired thermal electric generating plant and facility placed in operation before July 1, 1975, including related common facilities, and for the planning, financing, acquisition, construction, operation, and maintenance of the plant and facility. It shall be provided in such agreements that each city, public utility district, or joint operating agency shall own a percentage of any common facility equal to the percentage of the money furnished or the value of property supplied by the city, district, or agency, for the acquisition and construction of the facility, and shall own and control a like percentage of the electrical output thereof. Cities of the first class, public utility districts, and joint operating agencies may enter into agreements under this subsection with each other, with regulated utilities, with rural electric cooperatives, with electric companies subject to the jurisdiction of the regulatory commission of any other state, and with any power marketer subject to the jurisdiction of the federal energy regulatory commission.

(3)(a) Except as provided in subsections (1) and (2) of this section, cities of the first class, counties with a biomass facility authorized under RCW 36.140.010, public utility districts organized under chapter 54.08 RCW, any cities that operate electric generating facilities or distribution systems, any joint operating agency organized under chapter 43.52 RCW, or any separate legal entity comprising two or more thereof organized under chapter 39.34 RCW shall, either directly or as co-owners of a separate legal entity, have power and authority to participate and enter into agreements described in (b) and (c) of this subsection with each other, and with any of the following, either directly or as co-owners of a separate legal entity:

(i) Any public agency, as that term is defined in RCW 39.34.020;

(ii) Electrical companies that are subject to the jurisdiction of the Washington utilities and transportation commission or the regulatory commission of any state; and

(iii) Rural electric cooperatives and generation and transmission cooperatives or any wholly owned subsidiaries of either rural electric cooperatives or generation and transmission cooperatives.

(b) Except as provided in (b)(i)(B) of this subsection (3), agreements may provide for:

(i)(A) The undivided ownership, or indirect ownership in the case of a separate legal entity, of common facilities that include any type of electric generating plant (~~((powered by))~~) generating an eligible renewable resource, as defined in RCW 19.285.030, and transmission facilities including, but not limited to, related transmission facilities, and for the planning, financing, acquisition, construction, operation, and maintenance thereof;

(B) For counties with a biomass facility authorized under RCW 36.140.010, the provisions in (b)(i)(A) of this subsection (3) are limited to the purposes of RCW 36.140.010; and

(ii) The formation, operation, and ownership of a separate legal entity that may own the common facilities.

(c) Agreements must provide that each city, county, public utility district, or joint operating agency:

(i) Owns a percentage of any common facility or a percentage of any separate legal entity equal to the percentage of the money furnished or the value of property supplied by it for the acquisition and construction thereof; and

(ii) Owns and controls, or has a right to own and control in the case of a separate legal entity, a like percentage of the electrical output thereof.

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(d) Any entity in which a public utility district participates, either directly or as co-owner of a separate legal entity, in constructing or developing a common facility pursuant to this subsection shall comply with the provisions of chapter 39.12 RCW.

(4) Each participant shall defray its own interest and other payments required to be made or deposited in connection with any financing undertaken by it to pay its percentage of the money furnished or value of property supplied by it for the planning, acquisition and construction of any common facility, or any additions or betterments thereto. The agreement shall provide a uniform method of determining and allocating operation and maintenance expenses of the common facility.

(5) Each city, county acting under RCW 36.140.010, public utility district, joint operating agency, regulated utility, and cooperatives participating in the direct or indirect ownership or operation of a common facility described in subsections (1) through (3) of this section shall pay all taxes chargeable to its share of the common facility and the electric energy generated thereby under applicable statutes as now or hereafter in effect, and may make payments during preliminary work and construction for any increased financial burden suffered by any county or other existing taxing district in the county in which the common facility is located, pursuant to agreement with such county or taxing district."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Pridemore moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6692.

Senator Pridemore spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Pridemore that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6692.

The motion by Senator Pridemore carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6692 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6692, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6692, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators McCaslin and Roach

SUBSTITUTE SENATE BILL NO. 6692, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 6702 with the following amendment(s): 6702-S2 AMH DAMM H5567.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. INTENT. The legislature intends to provide for the operation of education programs for juvenile inmates incarcerated in adult jails.

The legislature finds that this chapter fully satisfies any constitutional duty to provide education programs for juvenile inmates in adult jails. The legislature further finds that biennial appropriations for education programs under this chapter amply provide for any constitutional duty to educate juvenile inmates in adult jails.

NEW SECTION. Sec. 2. EDUCATION PROGRAMS FOR JUVENILES IN ADULT JAILS. A program of education shall be made available for juvenile inmates by adult jail facilities and the several school districts of the state for persons under the age of eighteen years who have been incarcerated in any adult jail facilities operated under the authority of chapter 70.48 RCW. Each school district within which there is located an adult jail facility shall, singly or in concert with another school district pursuant to RCW 28A.335.160 and 28A.225.250 or chapter 39.34 RCW, conduct a program of education, including related student activities for inmates in adult jail facilities. School districts are not precluded from contracting with educational service districts, community and technical colleges, four-year institutions of higher education, or other qualified entities to provide all or part of these education programs. The division of duties, authority, and liabilities of the adult jail facilities and the several school districts of the state respecting the educational programs shall be as provided for in this chapter with regard to programs for juveniles in adult jail facilities.

NEW SECTION. Sec. 3. "ADULT JAIL FACILITY"--DEFINED. As used in this chapter, "adult jail facility" means an adult jail operated under the authority of chapter 70.48 RCW.

NEW SECTION. Sec. 4. DUTIES, AUTHORITY, AND RESPONSIBILITIES OF EDUCATION PROVIDER. (1) Except as otherwise provided for by contract under section 7 of this act, the duties and authority of a school district, educational service district, institution of higher education, or private contractor to provide for education programs under this chapter include:

(a) Employing, supervising, and controlling administrators, teachers, specialized personnel, and other persons necessary to conduct education programs, subject to security clearance by the adult jail facilities;

(b) Purchasing, leasing, renting, or providing textbooks, maps, audiovisual equipment paper, writing instruments, physical education equipment, and other instructional equipment, materials, and supplies deemed necessary by the provider of the education programs;

(c) Conducting education programs for inmates under the age of eighteen in accordance with program standards established by the superintendent of public instruction;

(d) Expending funds for the direct and indirect costs of maintaining and operating the program of education that are appropriated by the legislature and allocated by the superintendent of public instruction for the exclusive purpose of maintaining and operating education programs for juvenile inmates incarcerated in adult jail facilities, in addition to funds from federal and private grants, and bequests, and gifts made for the purpose of maintaining and operating the program of education; and

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(e) Providing educational services to juvenile inmates within five school days of receiving notification from an adult jail facility within the district's boundaries that an individual under the age of eighteen has been incarcerated.

(2) The school district, educational service district, institution of higher education, or private contractor shall develop the curricula, instruction methods, and educational objectives of the education programs, subject to applicable requirements of state and federal law. For inmates who are under the age of eighteen when they commence the program and who have not met high school graduation requirements, such courses of instruction and school-related student activities as are provided by the school district for students outside of adult jail facilities shall be provided by the school district for students in adult jail facilities, to the extent that it is practical and judged appropriate by the school district and the administrator of the adult jail facility.

**NEW SECTION. Sec. 5. SCHOOL DISTRICTS--ADDITIONAL AUTHORITY AND LIMITATION.** School districts providing an education program to juvenile inmates in an adult jail facility, may:

(1) Award appropriate diplomas or certificates to juvenile inmates who successfully complete graduation requirements;

(2) Allow students eighteen years of age who have participated in an education program under this chapter to continue in the program, under rules adopted by the superintendent of public instruction; and

(3) Spend only funds appropriated by the legislature and allocated by the superintendent of public instruction for the exclusive purpose of maintaining and operating education programs under this chapter, including direct and indirect costs of maintaining and operating the education programs, and funds from federal and private grants, bequests, and gifts made for that purpose. School districts may not expend excess tax levy proceeds authorized for school district purposes to pay costs incurred under this chapter.

**NEW SECTION. Sec. 6. SUPPORT OF EDUCATION PROGRAMS.** To support each education program under this chapter, the adult jail facility and each superintendent or chief administrator of an adult jail facility shall:

(1) Provide necessary access to existing instructional and exercise spaces for the education program that are safe and secure;

(2) Provide equipment deemed necessary by the adult jail facility to conduct the education program;

(3) Maintain a clean and appropriate classroom environment that is sufficient to meet the program requirements and consistent with security conditions;

(4) Provide appropriate supervision of juvenile inmates consistent with security conditions to safeguard agents of the education providers and juvenile inmates while engaged in educational and related activities conducted under this chapter;

(5) Provide such other support services and facilities deemed necessary by the adult jail facilities to conduct the education program;

(6) Provide the available medical and mental health records necessary to a determination by the school district of the educational needs of the juvenile inmate; and

(7) Notify the school district within which the adult jail facility resides within five school days that an eligible juvenile inmate has been incarcerated in the adult jail facility.

**NEW SECTION. Sec. 7. CONTRACT BETWEEN SCHOOL DISTRICTS AND ADULT JAIL FACILITIES.** Each education provider under this chapter and the adult jail facility shall negotiate and execute a written contract for each school year, or such longer period as may be agreed to, that delineates the manner in which their respective duties and authority will be cooperatively performed and exercised, and any disputes and grievances resolved

through mediation, and if necessary, arbitration. Any such contract may provide for the performance of duties by an education provider in addition to those in this chapter, including duties imposed upon the adult jail facility and its agents under section 6 of this act, if supplemental funding is available to fully pay the direct and indirect costs of these additional duties.

**NEW SECTION. Sec. 8. EDUCATION SITE CLOSURES OR REDUCTION IN SERVICES--NOTICE.** (1) By September 30, 2010, districts must, in coordination with adult jail facilities residing within their boundaries, submit an instructional service plan to the office of the superintendent of public instruction. Service plans must meet requirements stipulated in the rules developed in accordance with section 9 of this act, provided that (a) the rules shall not govern requirements regarding security within the jail facility nor the physical facility of the adult jail, including but not limited to, the classroom space chosen for instruction, and (b) any excess costs to the jails associated with implementing rules shall be negotiated pursuant to the contractual agreements between the education provider and adult jail facility.

(2) Once districts have submitted a plan to the office of the superintendent of public instruction, districts are not required to resubmit their plans unless either districts or adult jail facilities initiate a significant change to their plans.

(3) An adult jail facility shall notify the office of the superintendent of public instruction as soon as practicable upon the closure of any adult jail facility or upon the adoption of a policy that no juvenile shall be held in the adult jail facility.

**NEW SECTION. Sec. 9. ALLOCATION OF MONEY--ACCOUNTABILITY REQUIREMENTS--RULES.** The superintendent of public instruction shall:

(1) Allocate money appropriated by the legislature to administer and provide education programs under this chapter to school districts that have assumed the primary responsibility to administer and provide education programs under this chapter or to the educational service district operating the program under contract; and

(2) Adopt rules that apply to school districts and educational providers in accordance with chapter 34.05 RCW that establish reporting, program compliance, audit, and such other accountability requirements as are reasonably necessary to implement this chapter and related provisions of the omnibus appropriations act effectively. In adopting the rules pursuant to this subsection, the superintendent of public instruction shall collaborate with representatives from the Washington association of sheriffs and police chiefs and shall attempt to negotiate rules that deliver the educational program in the most cost-effective manner while, to the extent practicable, not imposing additional costs on local jail facilities.

**NEW SECTION. Sec. 10.** Sections 1 through 9 of this act constitute a new chapter in Title 28A RCW.

**NEW SECTION. Sec. 11.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator McAuliffe moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6702.  
Senator McAuliffe spoke in favor of the motion.

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The President declared the question before the Senate to be the motion by Senator McAuliffe that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6702.

The motion by Senator McAuliffe carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 6702 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6702, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6702, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 35; Nays, 12; Absent, 0; Excused, 2.

Voting yea: Senators Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Swecker and Tom

Voting nay: Senators Becker, Benton, Brandland, Hewitt, Holmquist, Honeyford, Morton, Parlette, Pflug, Schoesler, Stevens and Zarelli

Excused: Senators McCaslin and Roach

SECOND SUBSTITUTE SENATE BILL NO. 6702, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 5, 2010

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6726 with the following amendment(s): 6726-S.E AMH CONW REIN 180; 6726-S.E AMH CL REIN 171

On page 1, line 18, after "providers," strike "brokers, and representatives of" and insert "language access agencies, brokers, and"

On page 2, line 9, after "improved;" insert "access to services is maintained or improved;"

On page 3, beginning on line 3, after "to:" strike all material through "procedures" on line 7 and insert "(i) Economic compensation, such as the manner and rate of payments; (ii) professional development and training; (iii) labor-management committees; and (iv) grievance procedures"

On page 7, line 36, after "broker," strike "foreign language" and insert "language access"

On page 8, beginning on line 1, strike all of section 4 and insert the following:

"**Sec. 4.** RCW 41.56.113 and 2007 c 184 s 3 are each amended to read as follows:

(1) This subsection (1) applies only if the state makes the payments directly to a provider.

(a) Upon the written authorization of an individual provider, a family child care provider, ~~((or))~~ an adult family home provider, or a language access provider within the bargaining unit and after the certification or recognition of the bargaining unit's exclusive bargaining representative, the state as payor, but not as the employer, shall, subject to (c) of this subsection (~~((3) of this section))~~, deduct from the payments to an individual provider, a family child care provider, ~~((or))~~ an adult family home provider, or a language access provider the monthly amount of dues as certified by

the secretary of the exclusive bargaining representative and shall transmit the same to the treasurer of the exclusive bargaining representative.

~~((2))~~(b) If the governor and the exclusive bargaining representative of a bargaining unit of individual providers, family child care providers, ~~((or))~~ adult family home providers, or language access providers enter into a collective bargaining agreement that:

~~((a))~~(i) Includes a union security provision authorized in RCW 41.56.122, the state as payor, but not as the employer, shall, subject to (c) of this subsection (~~((3) of this section))~~, enforce the agreement by deducting from the payments to bargaining unit members the dues required for membership in the exclusive bargaining representative, or, for nonmembers thereof, a fee equivalent to the dues; or

~~((b))~~(ii) Includes requirements for deductions of payments other than the deduction under (a)(i) of this subsection, the state, as payor, but not as the employer, shall, subject to (c) of this subsection (~~((3) of this section))~~, make such deductions upon written authorization of the individual provider, family child care provider, ~~((or))~~ adult family home provider, or language access provider.

~~((3(a)))~~ (c)(i) The initial additional costs to the state in making deductions from the payments to individual providers, family child care providers, ~~((and))~~ adult family home providers, and language access providers under this section shall be negotiated, agreed upon in advance, and reimbursed to the state by the exclusive bargaining representative.

~~((b))~~(ii) The allocation of ongoing additional costs to the state in making deductions from the payments to individual providers, family child care providers, ~~((or))~~ adult family home providers, or language access providers under this section shall be an appropriate subject of collective bargaining between the exclusive bargaining representative and the governor unless prohibited by another statute. If no collective bargaining agreement containing a provision allocating the ongoing additional cost is entered into between the exclusive bargaining representative and the governor, or if the legislature does not approve funding for the collective bargaining agreement as provided in RCW 74.39A.300, 41.56.028, ~~((or))~~ 41.56.029, or section 2 of this act, as applicable, the ongoing additional costs to the state in making deductions from the payments to individual providers, family child care providers, ~~((or))~~ adult family home providers, or language access providers under this section shall be negotiated, agreed upon in advance, and reimbursed to the state by the exclusive bargaining representative.

~~((4))~~ (d) The governor and the exclusive bargaining representative of a bargaining unit of family child care providers may not enter into a collective bargaining agreement that contains a union security provision unless the agreement contains a process, to be administered by the exclusive bargaining representative of a bargaining unit of family child care providers, for hardship dispensation for license-exempt family child care providers who are also temporary assistance for needy families recipients or WorkFirst participants.

(2) This subsection (2) applies only if the state does not make the payments directly to a provider.

(a) Upon the written authorization of a language access provider within the bargaining unit and after the certification or recognition of the bargaining unit's exclusive bargaining representative, the state shall require through its contracts with third parties that:

(i) The monthly amount of dues as certified by the secretary of the exclusive bargaining representative be deducted from the payments to the language access provider and transmitted to the treasurer of the exclusive bargaining representative; and

(ii) A record showing that dues have been deducted as specified in (a)(i) of this subsection be provided to the state.

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(b) If the governor and the exclusive bargaining representative of the bargaining unit of language access providers enter into a collective bargaining agreement that includes a union security provision authorized in RCW 41.56.122, the state shall enforce the agreement by requiring through its contracts with third parties that:

(i) The monthly amount of dues required for membership in the exclusive bargaining representative as certified by the secretary of the exclusive bargaining representative, or, for nonmembers thereof, a fee equivalent to the dues, be deducted from the payments to the language access provider and transmitted to the treasurer of the exclusive bargaining representative; and

(ii) A record showing that dues or fees have been deducted as specified in (a)(i) of this subsection be provided to the state."

On page 10, beginning on line 18, after "with" strike all material through "providers" on line 19 and insert "~~(interpreters)~~ language access providers, local agencies, or other community resources"

On page 10, beginning on line 21, after "providers" strike all material through "providers" on line 23 and insert "as needed to maintain an adequate pool of providers"

On page 10, line 24, after "(5)" insert the following:  
"The department shall require compliance with RCW 41.56.113(2) through its contracts with third parties.

(6)"

On page 10, line 28, after "~~((5))~~" strike "(6)" and insert "(7)"

On page 11, line 1, after "~~((6))~~" strike "(7)" and insert "(8)"

On page 11, line 6, after "broker" strike "foreign language" and insert "language access" and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Marr moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6726.

Senator Marr spoke in favor of the motion.

Senator Schoesler spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Marr that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6726.

The motion by Senator Marr carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6726 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6726, as amended by the House.

Senators Holmquist, Benton, Pflug, Honeyford and King spoke against passage of the bill.

Senators Marr, Kohl-Welles, Sheldon, Keiser and Kline spoke in favor of passage of the bill.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6726, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 29; Nays, 19; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Rockefeller, Sheldon, Shin and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, Kastama, King, Morton,

Parlette, Pflug, Regala, Roach, Schoesler, Stevens, Swecker and Zarelli

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6726, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE SENATE BILL 5295,  
ENGROSSED SUBSTITUTE SENATE BILL 5529,  
ENGROSSED SUBSTITUTE SENATE BILL 5704,  
SECOND ENGROSSED SUBSTITUTE SENATE BILL 5742,

SUBSTITUTE SENATE BILL 6192,  
SUBSTITUTE SENATE BILL 6202,  
SENATE BILL 6206,  
SUBSTITUTE SENATE BILL 6207,  
SUBSTITUTE SENATE BILL 6214,  
SUBSTITUTE SENATE BILL 6248,  
SUBSTITUTE SENATE BILL 6332,  
SUBSTITUTE SENATE BILL 6340,  
SUBSTITUTE SENATE BILL 6342,  
SUBSTITUTE SENATE BILL 6343,  
SUBSTITUTE SENATE BILL 6373,  
ENGROSSED SUBSTITUTE SENATE BILL 6392,  
SUBSTITUTE SENATE BILL 6459,  
SUBSTITUTE SENATE BILL 6557,  
SUBSTITUTE SENATE BILL 6590,  
SUBSTITUTE SENATE BILL 6673,  
ENGROSSED SUBSTITUTE SENATE BILL 6724,  
ENGROSSED SENATE BILL 6764.

#### MESSAGE FROM THE HOUSE

March 6, 2010

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 3124 and asks the Senate to recede therefrom.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Hargrove moved that the Senate recede from its position in the Senate amendment(s) to Substitute House Bill No. 3124.

Senator Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate recede from its position in the Senate amendment(s) to Substitute House Bill No. 3124.

The motion by Senator Hargrove carried and the Senate receded from its position in the Senate amendment(s) to Substitute House Bill No. 3124 by voice vote.

#### MOTION

On motion of Senator Hargrove, the rules were suspended and Substitute House Bill No. 3124 was returned to second reading for the purposes of amendment.

advanced to third reading, the second reading considered the third and the bill was placed on final passage.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 3124, by House Committee on Early Learning & Children's Services (originally sponsored by Representatives Roberts, Kagi, Simpson and Kenney)

Requiring a report to child protective services when a child is present in the vehicle of a person arrested for driving or being in control of a vehicle while under the influence of alcohol or drugs.

The measure was read the second time.

MOTION

Senator Hargrove moved that the following striking amendment by Senators Hargrove and Stevens be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 46.61 RCW to read as follows:

A law enforcement officer shall promptly notify child protective services whenever a child is present in a vehicle being driven by his or her parent, guardian, or legal custodian and that person is being arrested for a drug or alcohol-related driving offense. This section does not require law enforcement to take custody of the child unless there is no other responsible person, or an agency having the right to physical custody of the child that can be contacted, or the officer has reasonable grounds to believe the child should be taken into custody pursuant to RCW 13.34.050 or 26.44.050. For purposes of this section, "child" means any person under thirteen years of age.

**"NEW SECTION. Sec. 2.** A new section is added to chapter 26.44 RCW to read as follows:

A law enforcement officer shall promptly notify child protective services whenever a child is present in a vehicle being driven by his or her parent, guardian, or legal custodian and that person is being arrested for a drug or alcohol-related driving offense. This section does not require law enforcement to take custody of the child unless there is no other responsible person, or an agency having the right to physical custody of the child that can be contacted, or the officer has reasonable grounds to believe the child should be taken into custody pursuant to RCW 13.34.050 or 26.44.050. For purposes of this section, "child" means any person under thirteen years of age."

Senator Hargrove spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove and Stevens to Substitute House Bill No. 3124.

The motion by Senator Hargrove carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 4 of the title, after "drugs;" strike the remainder of the title and insert "adding a new section to chapter 46.61 RCW; and adding a new section to chapter 26.44 RCW."

MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 3124 as amended by the Senate was

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 3124 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3124 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmner, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Tom

Voting nay: Senator Zarelli

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 3124 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 3, 2010

MR. PRESIDENT:

The House passed SENATE BILL NO. 6826 with the following amendment(s): 6826 AMH CARL H5527.1

On page 5, after line 7, insert the following:

**"NEW SECTION. Sec. 2.** A new section is added to chapter 46.01 RCW to read as follows:

The department must implement a fair, equitable, and objective rotation of public and private entity listings on the department's vehicle licensing and registration web site. The entities to be listed on the rotation are the vehicle licensing subagents and county auditors to assist the public and businesses in locating vehicle licensing offices."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Eide moved that the Senate concur in the House amendment(s) to Senate Bill No. 6826.

Senator Swecker spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Eide that the Senate concur in the House amendment(s) to Senate Bill No. 6826.

The motion by Senator Eide carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6826 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6826, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6826, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 4; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Franklin, Kauffman, Keiser and Stevens

Excused: Senator McCaslin

SENATE BILL NO. 6826, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

February 28, 2010

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6582 with the following amendment(s): 6582-S.E AMH ENGR H5361.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 18.88A.010 and 1991 c 16 s 1 are each amended to read as follows:

(1) The legislature takes special note of the contributions made by nursing assistants in health care facilities whose tasks are arduous and whose working conditions may be contributing to the high and often critical turnover among the principal cadre of health care workers who provide for the basic needs of patients. The legislature also recognizes the growing shortage of nurses as the proportion of the elderly population grows and as the acuity of patients in hospitals and nursing homes becomes generally more severe.

(2) The legislature finds and declares that:

(a) Occupational nursing assistants should have a formal system of educational and experiential qualifications leading to career mobility and advancement. The establishment of such a system should bring about a more stabilized workforce in health care facilities, as well as provide a valuable resource for recruitment into licensed nursing practice.

~~((The legislature finds that))~~ (b) The quality of patient care in health care facilities is dependent upon the competence of the personnel who staff their facilities. To assure the availability of trained personnel in health care facilities the legislature recognizes the need for training programs for nursing assistants.

~~((The legislature declares that))~~ (c) Certified home care aides and medical assistants are a valuable potential source of nursing assistants who will be needed to meet the care needs of the state's growing aging population. To assure continued opportunity for recruitment into licensed nursing practice and career advancement for certified home care aides and medical assistants, nursing assistant training programs should recognize the relevant training and experience obtained by these credentialed professionals. By taking advantage of the authority granted under the federal social security act to certify nursing assistants through a state-approved competency evaluation program as a federally recognized alternative to the state-approved training and competency evaluation program, the legislature intends to increase the potential for

recruitment into licensed nursing practice while maintaining a single standard for competency evaluation of certified nursing assistants.

(d) The registration of nursing assistants and providing for voluntary certification of those who wish to seek higher levels of qualification is in the interest of the public health, safety, and welfare.

**Sec. 2.** RCW 18.88A.020 and 1994 sp.s. c 9 s 708 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of health.

(2) "Secretary" means the secretary of health.

(3) "Commission" means the Washington nursing care quality assurance commission.

(4) "Nursing assistant" means an individual, regardless of title, who, under the direction and supervision of a registered nurse or licensed practical nurse, assists in the delivery of nursing and nursing-related activities to patients in a health care facility. The two levels of nursing assistants are:

(a) "Nursing assistant-certified," an individual certified under this chapter~~(-); and~~

(b) "Nursing assistant-registered," an individual registered under this chapter.

(5) "Approved training program" means a nursing assistant-certified training program approved by the commission to meet the requirements of a state-approved nurse aide training and competency evaluation program consistent with 42 U.S.C. Sec. 1395i-3(e) and (f) of the federal social security act. For community college, vocational-technical institutes, skill centers, and secondary school as defined in chapter 28B.50 RCW, nursing assistant-certified training programs shall be approved by the commission in cooperation with the board for community and technical colleges or the superintendent of public instruction.

(6) "Health care facility" means a nursing home, hospital, hospice care facility, home health care agency, hospice agency, or other entity for delivery of health care services as defined by the commission.

(7) "Competency evaluation" means the measurement of an individual's knowledge and skills as related to safe, competent performance as a nursing assistant.

(8) "Alternative training" means a nursing assistant-certified program meeting criteria adopted by the commission under section 3 of this act to meet the requirements of a state-approved nurse aide competency evaluation program consistent with 42 U.S.C. Sec. 1395i-3(e) and (f) of the federal social security act.

**NEW SECTION. Sec. 3.** A new section is added to chapter 18.88A RCW to read as follows:

(1) The commission shall adopt criteria for evaluating an applicant's alternative training to determine the applicant's eligibility to take the competency evaluation for nursing assistant certification. At least one option adopted by the commission must allow an applicant to take the competency evaluation if he or she:

(a)(i) Is a certified home care aide pursuant to chapter 18.88B RCW; or

(ii) Is a certified medical assistant pursuant to a certification program accredited by a national medical assistant accreditation organization and approved by the commission; and

(b) Has successfully completed twenty-four hours of training that the commission determines is necessary to provide training equivalent to approved training on topics not addressed in the training specified for certification as a home care aide or medical assistant, as applicable. In the commission's discretion, a portion of these hours may include clinical training.

(2)(a) By July 1, 2011, the commission, in consultation with the secretary, the department of social and health services, and

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consumer, employer, and worker representatives, shall adopt rules to implement this section and to provide, beginning January 1, 2012, for a program of credentialing reciprocity to the extent required by this section between home care aide and medical assistant certification and nursing assistant certification. By July 1, 2011, the secretary shall also adopt such rules as may be necessary to implement this section and the credentialing reciprocity program.

(b) Rules adopted under this section must be consistent with requirements under 42 U.S.C. Sec. 1395i-3(e) and (f) of the federal social security act relating to state-approved competency evaluation programs for certified nurse aides.

(3) Beginning December 1, 2012, the secretary, in consultation with the commission, shall report annually by December 1st to the governor and the appropriate committees of the legislature on the progress made in achieving career advancement for certified home care aides and medical assistants into nursing practice.

**Sec. 4.** RCW 18.88A.030 and 1995 1st sp.s. c 18 s 52 are each amended to read as follows:

(1)(a) A nursing assistant may assist in the care of individuals as delegated by and under the direction and supervision of a licensed (registered) nurse or licensed practical nurse.

((2)) (b) A health care facility shall not assign a nursing assistant-registered to provide care until the nursing assistant-registered has demonstrated skills necessary to perform competently all assigned duties and responsibilities.

((3)) (c) Nothing in this chapter shall be construed to confer on a nursing assistant the authority to administer medication unless delegated as a specific nursing task pursuant to this chapter or to practice as a licensed (registered) nurse or licensed practical nurse as defined in chapter 18.79 RCW.

((4)) (2)(a) A nursing assistant employed in a nursing home must have successfully obtained certification through: (i) An approved training program and the competency evaluation within four months after the date of employment; or (ii) alternative training and the competency evaluation prior to employment.

(b) Certification is voluntary for nursing assistants working in health care facilities other than nursing homes unless otherwise required by state or federal law or regulation.

((5)) (3) The commission may adopt rules to implement the provisions of this chapter.

**Sec. 5.** RCW 18.88A.050 and 1991 c 16 s 6 are each amended to read as follows:

In addition to any other authority provided by law, the secretary has the authority to:

(1) Set all nursing assistant certification, registration, and renewal fees in accordance with RCW 43.70.250 and to collect and deposit all such fees in the health professions account established under RCW 43.70.320;

(2) Establish forms, procedures, and ~~((examinations))~~ the competency evaluation necessary to administer this chapter;

(3) Hire clerical, administrative, and investigative staff as needed to implement this chapter;

(4) Issue a nursing assistant registration to any applicant who has met the requirements for registration;

(5) After January 1, 1990, issue a nursing assistant certificate to any applicant who has met the ~~((education;))~~ training, competency evaluation, and conduct requirements for certification under this chapter;

(6) Maintain the official record for the department of all applicants and persons with registrations and certificates under this chapter;

(7) Exercise disciplinary authority as authorized in chapter 18.130 RCW;

(8) Deny registration to any applicant who fails to meet requirement for registration as a nursing assistant;

(9) Deny certification to applicants who do not meet the ~~((education;))~~ training, competency evaluation, and conduct requirements for certification as a nursing assistant.

**Sec. 6.** RCW 18.88A.060 and 1994 sp.s. c 9 s 710 are each amended to read as follows:

In addition to any other authority provided by law, the commission may:

(1) Determine minimum nursing assistant education requirements and approve training programs;

(2) Prepare, grade, and administer, or determine the nature of, and supervise the grading and administration of, ~~((examinations of training and))~~ the competency evaluation for applicants for nursing assistant certification, using the same competency evaluation for all applicants, whether qualifying to take the competency evaluation under an approved training program or alternative training;

(3) ~~((Determine whether alternative methods of training are equivalent to approved training programs, and))~~ Establish forms(,) and procedures(, and criteria)) for evaluation of an applicant's alternative training ~~((to determine the applicant's eligibility to take any qualifying examination for certification))~~ under criteria adopted pursuant to section 3 of this act;

(4) Define and approve any experience requirement for nursing assistant certification;

(5) Adopt rules implementing a continuing competency evaluation program for nursing assistants; and

(6) Adopt rules to enable it to carry into effect the provisions of this chapter.

**Sec. 7.** RCW 18.88A.085 and 2007 c 361 s 9 are each amended to read as follows:

(1) After January 1, 1990, the secretary shall issue a nursing assistant certificate to any applicant who demonstrates to the secretary's satisfaction that the following requirements have been met:

(a) Successful completion of an approved training program or successful completion of ~~((alternate))~~ alternative training meeting established criteria ~~((approved))~~ adopted by the commission under section 3 of this act; and

(b) Successful completion of ~~((a))~~ the competency evaluation.

(2) ~~((The secretary may permit all or a portion of the training hours earned under chapter 74.39A RCW to be applied toward certification under this section.~~

(3)) In addition, applicants shall be subject to the grounds for denial of certification under chapter 18.130 RCW.

**Sec. 8.** RCW 18.88A.090 and 1994 sp.s. c 9 s 713 are each amended to read as follows:

(1) ~~((The date and location of examinations shall be established by the secretary. Applicants who have been found by the secretary to meet the requirements for certification shall be scheduled for the next examination following the filing of the application. The secretary shall establish by rule the examination application deadline.~~

(2)) The commission shall examine each applicant, by a written or oral and a manual component of competency evaluation. ~~((Examinations))~~ The competency evaluation shall be limited to the purpose of determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

((3) The examination papers, all grading of the papers, and the grading of skills demonstration shall be preserved for a period of not less than one year after the commission has made and published the decisions. All examinations shall be conducted under fair and wholly impartial methods.

(4)) (2) Any applicant failing to make the required grade in the first ~~((examination))~~ competency evaluation may take up to three subsequent ~~((examinations))~~ competency evaluations as the applicant desires upon prepaying a fee determined by the secretary

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under RCW 43.70.250 for each subsequent ((examination)) competency evaluation. Upon failing four ((examinations)) competency evaluations, the secretary may invalidate the original application and require such remedial education before the person may take future ((examinations)) competency evaluations.

((5)) The commission may approve ((an examination)) a competency evaluation prepared or administered by a private testing agency or association of licensing agencies for use by an applicant in meeting the credentialing requirements.

**Sec. 9.** RCW 18.88A.110 and 1991 c 16 s 13 are each amended to read as follows:

An applicant holding a credential in another state may be certified by endorsement to practice in this state without ((examination)) the competency evaluation if the secretary determines that the other state's credentialing standards are substantially equivalent to the standards in this state.

**Sec. 10.** RCW 18.88A.140 and 2003 c 140 s 3 are each amended to read as follows:

Nothing in this chapter may be construed to prohibit or restrict:

(1) The practice by an individual licensed, certified, or registered under the laws of this state and performing services within their authorized scope of practice;

(2) The practice by an individual employed by the government of the United States while engaged in the performance of duties prescribed by the laws of the United States;

(3) The practice by a person who is a regular student in an educational program approved by the secretary, and whose performance of services is pursuant to a regular course of instruction or assignments from an instructor and under the general supervision of the instructor;

(4) A nursing assistant, while employed as a personal aide as defined in RCW 74.39.007 or a long-term care worker as defined in chapter 74.39A RCW, from accepting direction from an individual who is self-directing ((their)) his or her care.

**Sec. 11.** RCW 18.88B.040 and 2009 c 580 s 15 are each amended to read as follows:

The following long-term care workers are not required to become a certified home care aide pursuant to this chapter.

(1) Registered nurses, licensed practical nurses, certified nursing assistants or persons who are in an approved training program for certified nursing assistants under chapter 18.88A RCW, medicare- certified home health aides, or other persons who hold a similar health credential, as determined by the secretary of health, or persons with special education training and an endorsement granted by the superintendent of public instruction, as described in RCW 28A.300.010, if the secretary of health determines that the circumstances do not require certification. Individuals exempted by this subsection may obtain certification as a home care aide from the department of health without fulfilling the training requirements in RCW 74.39A.073 but must successfully complete a certification examination pursuant to RCW 18.88B.030.

(2) A person already employed as a long-term care worker prior to January 1, 2011, who completes all of his or her training requirements in effect as of the date he or she was hired, is not required to obtain certification. Individuals exempted by this subsection may obtain certification as a home care aide from the department of health without fulfilling the training requirements in RCW 74.39A.073 but must successfully complete a certification examination pursuant to RCW 18.88B.030.

(3) All long-term care workers employed by supported living providers are not required to obtain certification under this chapter.

(4) An individual provider caring only for his or her biological, step, or adoptive child or parent is not required to obtain certification under this chapter.

(5) Prior to June 30, 2014, a person hired as an individual provider who provides twenty hours or less of care for one person in any calendar month is not required to obtain certification under this chapter.

(6) A long-term care worker exempted by this section from the training requirements contained in RCW 74.39A.073 may not be prohibited from enrolling in training pursuant to that section.

(7) The department of health shall adopt rules by August 1, 2010, to implement this section.

**NEW SECTION. Sec. 12.** RCW 18.88A.115 (Home care aide certification reciprocity) and 2009 c 580 s 16 & 2009 c 2 s 11 (Initiative Measure No. 1029) are each repealed.

**NEW SECTION. Sec. 13.** If any part of this act is found by a federal agency to be in conflict with federal requirements, including requirements related to the medicare and medicaid programs under the federal social security act, that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements, including requirements related to the medicare and medicaid programs under the federal social security act, that are a necessary condition to the receipt of federal funds by the state."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Keiser moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6582.

Senators Keiser and Pflug spoke in favor of passage of the motion.

The President declared the question before the Senate to be the motion by Senator Keiser that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6582.

The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6582 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6582, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6582, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6582, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

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MESSAGE FROM THE HOUSE

February 28, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6647 with the following amendment(s): 6647-S AMH CL H5345.1

On page 1, beginning on line 7, after "discipline" strike all material through "operation" on line 10, and insert ":

(a) A volunteer firefighter or reserve officer because of leave taken related to an alarm of fire or an emergency call; or

(b) A civil air patrol member because of leave taken related to an emergency service operation"

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Honeyford moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6647.

Senator Honeyford spoke in favor of the motion.

MOTION

On motion of Senator Regala, Senator Prentice was excused.

The President declared the question before the Senate to be the motion by Senator Honeyford that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6647.

The motion by Senator Honeyford carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6647 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6647, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6647, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators McCaslin and Prentice

SUBSTITUTE SENATE BILL NO. 6647, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 4, 2010

MR. PRESIDENT:

The House passed SENATE BILL NO. 6401 with the following amendment(s): 6401 AMH HAIG REIL 098

On page 2, line 27, after "proposals." insert "Notice of the public solicitation of proposals must be provided to the office of minority and women's business enterprises."

On page 3, after line 11, insert "(e) The firm's plan for outreach to minority and women-owned businesses;"

Renumber the subsections consecutively and correct any internal references accordingly.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Brandland moved that the Senate concur in the House amendment(s) to Senate Bill No. 6401.

Senator Brandland spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Brandland that the Senate concur in the House amendment(s) to Senate Bill No. 6401.

The motion by Senator Brandland carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6401 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6401, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6401, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators McCaslin and Prentice

SENATE BILL NO. 6401, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 2:58 p.m., on motion of Senator McDermott, the Senate was declared to be at ease subject to the call of the President.

EVENING SESSION

The Senate was called to order at 7:01 p.m. by President Owen.

MESSAGE FROM THE HOUSE

March 9, 2010

MR. PRESIDENT:

The House has passed:

ENGROSSED SECOND SUBSTITUTE SENATE BILL 6609,

SUBSTITUTE SENATE BILL 6614.

second reading considered the third and the bill was placed on final passage.

Senators Prentice and Hewitt spoke in favor of passage of the bill.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 9, 2010

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

SUBSTITUTE HOUSE BILL 2935.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 9, 2010

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

ENGROSSED HOUSE BILL 2519,

SUBSTITUTE HOUSE BILL 2525,

SECOND SUBSTITUTE HOUSE BILL 2742.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 9, 2010

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

ENGROSSED SUBSTITUTE HOUSE BILL 2925,

HOUSE BILL 3030,

SUBSTITUTE HOUSE BILL 3046,

ENGROSSED SUBSTITUTE HOUSE BILL 3179.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2196, by House Committee on Ways & Means (originally sponsored by Representatives Ericks and Ormsby)

Including service credit transferred from the law enforcement officers' and firefighters' retirement system plan 1 in the determination of eligibility for military service credit.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, Substitute House Bill No. 2196 was advanced to third reading, the

MOTION

On motion of Senator Brandland, Senators Benton, McCaslin and Pflug were excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2196.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2196 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 2196, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2758, by House Committee on Finance (originally sponsored by Representatives Hunter, Condotta, Kessler and Orcutt)

Documenting wholesale sales for excise tax purposes. Revised for 1st Substitute: Documenting wholesale sales for excise tax purposes. (REVISED FOR ENGROSSED: )

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, Substitute House Bill No. 2758 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Prentice and Zarelli spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2758.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2758 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King,

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Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

MESSAGE FROM THE HOUSE

March 8, 2010

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 2758, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1597, by House Committee on Finance (originally sponsored by Representatives Springer and Hunter)

Concerning the administration of state and local tax programs. Revised for 2nd Substitute: Improving the administration of state and local tax programs without impacting tax collections by providing greater consistency in numerous tax incentive programs, revising provisions relating to the confidentiality and disclosure of tax information, and amending statutes to improve clarity and consistency, eliminate obsolete provisions, and simplify administration.

The measure was read the second time.

## MOTION

On motion of Senator Prentice, the rules were suspended, Engrossed Second Substitute House Bill No. 1597 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Prentice and Zarelli spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1597.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1597 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1597, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6381 with the following amendment(s): 6381-S.E AMH ENGR H5516.E

Strike everything after the enacting clause and insert the following:

**"2009-11 FISCAL BIENNIUM  
ECONOMIC STIMULUS FUNDING**

**Sec. 1.** 2009 c 8 s 2 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF  
TRANSPORTATION--AMERICAN RECOVERY AND  
REINVESTMENT ACT OF 2009.

Motor Vehicle Account--Federal Appropriation\$341,400,000

The appropriation in this section is subject to the following conditions and limitations:

(1) The entire appropriation in this section is ~~((provided solely))~~ for the projects and amounts listed in ARRA Washington State Project LEAP document 2009, as developed on February 24, 2009. Funds under this section may be reallocated among projects shown in the document to the extent that the department finds it necessary for the purposes of facilitating completion of the projects with the highest priority or to maintain maximum federal funds eligibility.

(2) To achieve the legislative objectives provided in section 1(2) of this act with respect to highway projects, it is the intent of the legislature that the appropriation in this section be used for: Transportation 2003 account (nickel account) projects and transportation partnership account (TPA) projects that would have otherwise been delayed due to decreased revenues, so as to advance project completion dates similar to those envisioned in the enacted 2008 legislative list of projects; projects that preserve or rehabilitate Washington state highways and roads; and projects that modify roadway alignments and conditions to create safer roads for the traveling public.

(3)(a) The department of transportation shall obligate at least fifty percent of the funds no later than one hundred twenty days after surface transportation program funds under the American Recovery and Reinvestment Act of 2009 have been apportioned to the states;

(b) The department shall obligate all funds no later than one year after surface transportation program funds under the American Recovery and Reinvestment Act of 2009 have been apportioned to the states;

(c) The department shall place the first priority for allocating funds on those projects listed as "First Tier" projects on ARRA Washington State Project LEAP document 2009, as developed on February 24, 2009. The department shall place the second priority on projects listed as "Second Tier" projects on the document; and

(d) Within each tier of projects on ARRA Washington State Project LEAP document 2009, as developed on February 24, 2009, the department shall place the highest priority for allocating funds on the transportation 2003 account (nickel account) projects and transportation partnership account (TPA) projects listed to advance their completion. The department shall prioritize funding for other projects within the tier according to how soon the contract for the project could be awarded.

(4) By June 30, 2009, the department of transportation shall report to the legislative standing committees on transportation and the office of financial management on the status of federal stimulus funds including, but not limited to, identifying the projects shown in

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ARRA Washington State Project LEAP document 2009, as developed on February 24, 2009, for which federal stimulus funding has already been obligated, the amount of federal recovery funds estimated to be obligated to the projects, and the completion status of each project. Subsequent status reports are due to the legislative standing committees on transportation and the office of financial management on August 31, 2009, and December 1, 2009.

**GENERAL GOVERNMENT AGENCIES—OPERATING**

**Sec. 101.** 2009 c 470 s 101 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION

Motor Vehicle Account--State Appropriation(~~(\$422,000)~~)

\$413,000

The appropriation in this section is subject to the following conditions and limitations: The entire appropriation is provided solely for staffing costs to be dedicated to state transportation activities. Staff hired to support transportation activities must have practical experience with complex construction projects.

**Sec. 102.** 2009 c 470 s 102 (uncodified) is amended to read as follows:

FOR THE UTILITIES AND TRANSPORTATION COMMISSION

Grade Crossing Protective Account--State

Appropriation.....(~~(\$705,000)~~)

\$702,000

**Sec. 103.** 2009 c 470 s 103 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT

Motor Vehicle Account--State Appropriation.....(~~(\$3,389,000)~~)

\$3,526,000

Puget Sound Ferry Operations Account--State

Appropriation.....(~~(\$100,000)~~)

\$98,000

TOTAL APPROPRIATION (~~(\$3,489,000)~~)

\$3,624,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,699,000 of the motor vehicle account--state appropriation is provided solely for the office of regulatory assistance integrated permitting project.

(2) \$1,004,000 of the motor vehicle account--state appropriation is provided solely for the continued maintenance and support of the transportation executive information system. Of the amount provided in this subsection, \$502,000 is for two existing FTEs at the department of transportation to maintain and support the system.

(3) \$150,000 of the motor vehicle account--state appropriation is provided solely for the office of financial management to contract with the Washington state association of counties for a pilot program to develop and implement a streamlined process for programmatic hydraulic project approvals for multiple, recurring local transportation and public works projects. The pilot program must include the following: (a) Describing, defining, and documenting classes of local transportation and public works projects appropriate for programmatic hydraulic project approvals permits; (b) developing technical permitting requirements and conditions; (c) administratively adopting and implementing programmatic hydraulic project approvals statewide; and (d) piloting, reviewing, updating, and training throughout all Washington counties. For the purpose of this subsection, the contract with the Washington state association of counties is

deemed a revenue generation and auditing activity as that term is construed in section 602(2), chapter 3, Laws of 2010.

**Sec. 104.** 2009 c 470 s 104 (uncodified) is amended to read as follows:

FOR THE MARINE EMPLOYEES COMMISSION

Puget Sound Ferry Operations Account--State

Appropriation.....(~~(\$446,000)~~)

\$440,000

**Sec. 105.** 2009 c 470 s 105 (uncodified) is amended to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION

Motor Vehicle Account--State Appropriation.....(~~(\$986,000)~~)

\$985,000

The appropriation in this section is subject to the following conditions and limitations: The entire appropriation in this section is provided solely for road maintenance purposes.

**Sec. 106.** 2009 c 470 s 106 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF AGRICULTURE

Motor Vehicle Account--State Appropriation.....(~~(\$1,507,000)~~)

\$1,493,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$351,000 of the motor vehicle account--state appropriation is provided solely for costs associated with the motor fuel quality program.

(2) \$1,004,000 of the motor vehicle account--state appropriation is provided solely to test the quality of biofuel. The department must test fuel quality at the biofuel manufacturer, distributor, and retailer.

**Sec. 107.** 2009 c 470 s 107 (uncodified) is amended to read as follows:

FOR THE LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE

Motor Vehicle Account--State Appropriation.....(~~(\$502,000)~~)

\$491,000

**Sec. 108.** 2009 c 470 s 108 (uncodified) is amended to read as follows:

FOR THE JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE

Multimodal Transportation Account--State Appropriation

\$50,000

(1) As part of its 2009-11 fiscal biennium work plan, the joint legislative audit and review committee shall audit the capital cost accounting practices of the Washington state ferries. The audit must review the following and provide a report on its findings and any related recommendations to the legislature by January 2011:

(a) Costs assigned to capital accounts to determine whether they are capital costs that meet the statutory requirements for preservation and improvement activities and whether they are within the scope of legislative appropriations;

(b) Implementation of the life-cycle cost model required under RCW 47.60.345 to determine if it was developed as required and is maintained and updated when asset inspections are made; and

(c) Washington state ferries' implementation of the cost allocation methodology evaluated under section 205, chapter 518, Laws of 2007, assessing whether actual costs are allocated consistently with the methodology, whether there are sufficient internal controls to ensure proper allocation, and the adequacy of staff training.

(2) The joint legislative audit and review committee shall use existing staff and resources to conduct a review of scoping and cost estimates for transportation highway improvement and preservation projects funded in whole, or in part, by transportation partnership account--state and transportation 2003 account (nickel

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account)--state funds, excluding mega-projects. The review will examine whether the scoping and cost estimates guidelines used by the department of transportation are consistent with general construction industry practices and other appropriate standards. The review will include an analysis of a sample of scope and cost estimates for future projects. A report on the committee's findings and recommendations must be submitted to the house of representatives and senate transportation committees by December 2009.

(3) As part of its 2009-11 fiscal biennium work plan, the joint legislative audit and review committee shall conduct an analysis of the cost of credit card payment options at the department of transportation. For programs where a credit card payment option is offered, the review must include:

- (a) An analysis of the direct and indirect cost per transaction to process customer payments using credit cards;
- (b) An analysis of the direct and indirect cost per transaction for other methods of processing customer payments;
- (c) An analysis of the historical and projected total aggregate costs for processing all forms of customer payments;
- (d) Identification of whether there are customer service, administrative, and revenue collection benefits resulting from credit card usage; and
- (e) A review of the use of credit card payment options in other state agencies and in similar transportation programs at other states.

The committee shall provide a report on its findings and any related recommendations to the legislature by January 2010.

(4)(a) As part of its 2009-11 fiscal biennium work plan, the entire appropriation in this section is for the joint legislative audit and review committee to conduct an analysis of the storm water permit requirements issued by the department of ecology in February 2009 to determine the costs and benefits of alternative options for the department of transportation to meet the requirements. However, if the committee does not include the analysis as part of its 2009-11 fiscal biennium work plan by April 15, 2010, the amount provided in this section lapses. The analysis must include, at a minimum, an analysis of the following:

- (i) The department of transportation performing the functions of the permit in house;
- (ii) The functions of the permit being consolidated within the department of ecology or otherwise centralizing efforts for all state agencies; and
- (iii) The use of an external firm or organization to meet the requirements.

(b) The entire appropriation is for a consultant contract to assist the committee with its analysis. For the purpose of this subsection, the consultant contract is deemed an auditing activity as that term is construed in section 602(2), chapter 3, Laws of 2010.

(c) The committee shall provide a report to the legislature by December 2010.

**TRANSPORTATION AGENCIES—OPERATING**

**Sec. 201.** 2009 c 470 s 201 (uncodified) is amended to read as follows:

FOR THE WASHINGTON TRAFFIC SAFETY COMMISSION	
Highway Safety Account--State Appropriation.....	(\$2,542,000)
\$2,532,000	
Highway Safety Account--Federal Appropriation...	(\$16,540,000)
\$34,630,000	
School Zone Safety Account--State Appropriation.....	\$3,340,000
Highway Safety Account--Local Appropriation.....	\$50,000
TOTAL APPROPRIATION.....	(\$22,472,000)
\$40,552,000	

The appropriations in this section are subject to the following conditions and limitations:

(1) (~~(\$2,670,000)~~) \$2,826,000 of the highway safety account--federal appropriation is provided solely for a target zero trooper pilot program, which the commission shall develop and implement in collaboration with the Washington state patrol. The pilot program must demonstrate the effectiveness of intense, high visibility, driving under the influence enforcement in Washington. The commission shall apply to the national highway traffic safety administration for federal highway safety grants to cover the cost of the pilot program. If the pilot program is approved for funding by the national highway traffic safety administration, and sufficient federal grants are received, the commission shall provide grants to the Washington state patrol for the purchase of twenty-one fully equipped patrol vehicles in fiscal year 2010, and up to twenty-four months of salaries and benefits for eighteen troopers and three sergeants beginning in fiscal year (~~(2011)~~) 2010. The legislature anticipates that an additional (~~(\$1,830,000)~~) \$1,673,900 will be appropriated from the highway safety account-- federal in the 2011-13 fiscal biennium to conclude this pilot program.

(2) The commission may oversee pilot projects implementing the use of automated traffic safety cameras to detect speed violations within cities west of the Cascade mountains that have a population over two hundred thousand. For the purposes of pilot projects in this subsection, no more than one automated traffic safety camera may be used to detect speed violations within any one jurisdiction.

(a) The commission shall comply with RCW 46.63.170 in administering the projects.

(b) In order to ensure adequate time in the 2009-11 fiscal biennium to evaluate the effectiveness of the pilot projects, any projects authorized by the commission must be authorized by December 31, 2009.

(c) By January 1, 2011, the commission shall provide a report to the legislature regarding the use, public acceptance, outcomes, and other relevant issues regarding automated traffic safety cameras demonstrated by the projects.

(3) \$18,000,000 of the highway safety account--federal appropriation is for federal funds that may be received during the 2009-11 fiscal biennium. Upon receipt of the funds, the commission shall provide a report on the use of the funds to the transportation committees of the legislature and the office of financial management.

**Sec. 202.** 2009 c 470 s 202 (uncodified) is amended to read as follows:

FOR THE COUNTY ROAD ADMINISTRATION BOARD	
Rural Arterial Trust Account--State Appropriation.....	(\$920,000)
\$896,000	
Motor Vehicle Account--State Appropriation.....	(\$2,129,000)
\$2,084,000	
County Arterial Preservation Account--State	
Appropriation.....	(\$1,423,000)
\$1,396,000	
TOTAL APPROPRIATION.....	(\$4,472,000)
\$4,376,000	

**Sec. 203.** 2009 c 470 s 203 (uncodified) is amended to read as follows:

FOR THE TRANSPORTATION IMPROVEMENT BOARD	
Urban Arterial Trust Account--State Appropriation...	(\$1,824,000)
\$1,793,000	
Transportation Improvement Account--State	
Appropriation.....	(\$1,827,000)
\$1,796,000	
TOTAL APPROPRIATION.....	(\$3,651,000)
\$3,589,000	

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Sec. 204. 2009 c 470 s 204 (uncodified) is amended to read as follows:

FOR THE JOINT TRANSPORTATION COMMITTEE  
 Motor Vehicle Account--State Appropriation.....(~~\$1,901,000~~)  
 \$2,163,000  
 Multimodal Transportation Account--State Appropriation.\$400,000  
 TOTAL APPROPRIATION.....\$2,563,000

The appropriations in this section ((#)) are subject to the following conditions and limitations:

(1) \$236,000 of the motor vehicle account--state appropriation is a reappropriation from the 2007-09 fiscal biennium for a comprehensive analysis of mid-term and long-term transportation funding mechanisms and methods. Elements of the study will include existing data and trends, policy objectives, performance and evaluation criteria, incremental transition strategies, and possibly, scaled testing. Baseline data and methods assessment must be concluded by December 31, 2009. Performance criteria must be developed by June 30, 2010, and recommended planning level alternative funding strategies must be completed by December 31, 2010.

(2) \$200,000 of the motor vehicle account--state appropriation is for the joint transportation committee to convene an independent expert review panel to review the assumptions for toll operations costs used by the department to model financial plans for tolled facilities. The joint transportation committee shall work with staff from the senate and the house of representatives transportation committees to identify the scope of the review and to assure that the work performed meets the needs of the house of representatives and the senate. The joint transportation committee shall provide a report to the house of representatives and senate transportation committees by September 1, 2009.

(3) \$300,000 of the motor vehicle account--state appropriation is for an independent analysis of methodologies to value the reversible lanes on Interstate 90 to be used for high capacity transit pursuant to sound transit proposition 1 approved by voters in November 2008. The independent analysis shall be conducted by sound transit and the department of transportation, using consultant resources deemed appropriate by the secretary of the department, the chief executive officer of sound transit, and the cochairs of the joint transportation committee. It shall be conducted in consultation with the federal transit and federal highway administrations and account for applicable federal laws, regulations, and practices. It shall also account for the 1976 Interstate 90 memorandum of agreement and subsequent 2004 amendment and the 1978 federal secretary of transportation's environmental decision on Interstate 90. The department and sound transit must provide periodic reports to the joint transportation committee, the sound transit board of directors, and the governor, and report final recommendations by November 1, 2009.

(4) The joint transportation committee shall perform a review of the fuel tax refunds for nonhighway or off-road use of gasoline and diesel fuels as listed in RCW 46.09.170, 46.10.150, and 79A.25.070. The review must: Provide an overview of the off-road programs; analyze historical funding and expenditures from the respective treasury accounts; outline and provide process documentation on how the funds are distributed to the treasury accounts; and document future identified off-road, snowmobile, and marine funding needs. A report on the joint transportation committee review must be presented to the house of representatives and senate transportation committees by December 31, 2010.

(5)(a) \$350,000 of the multimodal transportation account--state appropriation is for the joint transportation committee to conduct a study to establish a statewide blueprint for public transportation that will serve to guide state investments in public transportation. At a minimum, the study should include an assessment of unmet

operating and capital needs of public transportation agencies, the state role in funding those unmet needs, and the priorities for state investments. The report should include efficiency and accountability measures that inform future state investment in public transportation to maximize mobility, social, economic, and environmental benefits provided to the state.

(b) The statewide blueprint for public transportation should serve to guide state investments to support public transportation and address unmet needs to improve service, access to public transportation, and connectivity between public transportation providers across jurisdictional boundaries. The blueprint must be consistent with the state's transportation system policy goals provided in RCW 47.04.280 and the statewide transportation plan provided in RCW 47.01.071(4).

(c) To provide input to the study, the joint transportation committee shall convene a public transit advisory panel. The cochairs of the committee shall appoint and convene the advisory panel to be comprised of members as provided in this subsection:

(i) One member from each of the two largest caucuses of the senate;

(ii) One member from each of the two largest caucuses of the house of representatives;

(iii) One representative of the department of transportation's public transportation division;

(iv) Two representatives of users of public transportation systems, one of which must represent persons with special needs;

(v) Three representatives from transit agencies from a list recommended by the Washington state transit association;

(vi) Two representatives from regional transportation planning organizations, one representing eastern Washington and one representing western Washington;

(vii) Three representatives of employers at or owners of major work sites in Washington;

(viii) The chief executive officer, or the chief executive officer's designee, of a regional transit authority;

(ix) Two representatives of organizations that address primarily environmental issues;

(x) One member of a collective bargaining organization that primarily represents the interests of transit agency employees; and

(xi) Other individuals deemed appropriate.

Nonlegislative members of the advisory panel must seek reimbursement for travel and other membership expenses through their respective agencies or organizations. The committee may make exceptions and approve certain expenses for good cause on a case-by- case basis.

(d) The joint transportation committee shall submit a report on the study to the standing transportation committees of the legislature by December 15, 2010.

(6) The joint transportation committee shall work with the department of licensing, the office of the code reviser, staff to the legislative transportation committees, and other stakeholders to evaluate the implementation of Senate Bill No. 6379. At a minimum, the evaluation must identify the unintended impacts of Senate Bill No. 6379 on policy and revenue collection, if any. The joint transportation committee shall issue its evaluation, including corrective draft legislation if needed, by December 1, 2010.

(7) \$125,000 of the motor vehicle account--state appropriation is for the joint transportation committee to evaluate the preparation of state-level transportation plans. The evaluation must include a review of federal planning requirements, the Washington transportation plan and statewide modal plan requirements, and transportation plan requirements for regional and local entities. The evaluation must make recommendations concerning the appropriate responsibilities for preparation of plans, methods to develop plans more efficiently, and the utility of the state-level

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planning documents. The committee shall issue a report of its evaluation, including draft legislation if required, to the house of representatives and senate transportation committees by December 15, 2010.

(8)(a) \$200,000 of the motor vehicle account--state appropriation is for the joint transportation committee to evaluate funding assistance and services provided by the county road administration board, transportation improvement board, freight mobility strategic investment board, and the department of transportation's highway and local programs division. In 2010, the governor recommended consolidating small transportation agencies as part of an overall effort to streamline state government, provide economies of scale, and improve customer service. The evaluation may include recommendations on consolidating the agencies within the department of transportation, within another existing agency, or within a newly created agency. The study may also make recommendations on restructuring grant programs to generate efficiencies or other more efficient ways to distribute associated revenues.

(b) The joint transportation committee shall form a policy work group to oversee the evaluation. The work group must consist of legislators appointed by the joint transportation committee and a member of the governor's staff appointed by the governor.

(c) Any evaluation recommendations must be accompanied by a detailed implementation plan. The plan must include details on the recommended governance structure, accounts and program structure, and transition process and associated costs. The plan must include a proposed organization chart and proposed legislation to enact the recommended changes. A preliminary evaluation must be made to the joint transportation committee by November 15, 2010, and a final evaluation is due on December 15, 2010.

(9) The joint transportation committee shall conduct the following studies by December 15, 2010:

(a) A comparison of medical, time-loss, vocational and disability benefits available to injured workers, and costs payable by the state of Washington and employees, under the federal Jones act and Washington's industrial insurance act. The report must include information regarding the experience of the Alaska marine highway system; and

(b) A comparison of the processing time of grievances and hearings at the personnel relations employment commission and the marine employee commission. The review must also investigate whether the necessary expertise exists at the personnel relations employment commission to administer the grievances and hearings currently administered by the marine employee commission.

(10)(a) \$50,000 of the multimodal transportation account--state appropriation is for the joint transportation committee to conduct an analysis of the storm water permit requirements issued by the department of ecology in February 2009 to determine the costs and benefits of alternative options for the department of transportation to meet the requirements. However, if the committee does not include the analysis as part of its 2009-11 fiscal biennium work plan by April 15, 2010, the amount provided in this subsection lapses. The analysis must include, at a minimum, an analysis of the following:

(i) The department of transportation performing the functions of the permit in house;

(ii) The functions of the permit being consolidated within the department of ecology or otherwise centralizing efforts for all state agencies; and

(iii) The use of an external firm or organization to meet the requirements.

(b) The committee shall provide a report to the legislature by December 2010.

**Sec. 205.** 2009 c 470 s 205 (uncodified) is amended to read as follows:

FOR THE TRANSPORTATION COMMISSION	
Motor Vehicle Account--State Appropriation.....	(\$2,237,000)
\$2,328,000	
Multimodal Transportation Account--State Appropriation	\$112,000
TOTAL APPROPRIATION.....	(\$2,349,000)
\$2,440,000	

The appropriations in this section are subject to the following conditions and limitations:

(1) Pursuant to RCW 43.135.055, during the 2009-11 fiscal biennium, the transportation commission shall periodically review and, if necessary, modify the schedule of fares for the Washington state ferry system. The transportation commission may increase ferry fares, except no fare schedule modifications may be made prior to September 1, 2009. For purposes of this subsection, "modify" includes increases or decreases to the schedule. ~~(The commission may only approve ferry fare rate changes that have the same proportionate change for passengers as for vehicles.)~~

(2) Pursuant to RCW 43.135.055, during the 2009-11 fiscal biennium, the transportation commission shall periodically review and, if necessary, modify a schedule of toll charges applicable to the state route number 167 high occupancy toll lane pilot project, as required under RCW 47.56.403. For purposes of this subsection, "modify" includes increases or decreases to the schedule.

(3) Pursuant to RCW 43.135.055, during the 2009-11 fiscal biennium, the transportation commission shall periodically review and, if necessary, modify the schedule of toll charges applicable to the Tacoma Narrows bridge, taking into consideration the recommendations of the citizen advisory committee created under RCW 47.46.091. For purposes of this subsection, "modify" includes increases or decreases to the schedule.

(4) The commission may name state ferry vessels consistent with its authority to name state transportation facilities under RCW 47.01.420. When naming or renaming state ferry vessels, the commission shall investigate selling the naming rights and shall make recommendations to the legislature regarding this option.

(5) \$350,000 of the motor vehicle account--state appropriation is provided solely for consultant support services to assist the commission in updating the statewide transportation plan. The updated plan must be submitted to the legislature by December 1, 2010.

(6) If the commission considers implementing a ferry fuel surcharge, it must first submit an analysis and business plan to the office of financial management and either the joint transportation committee or the transportation committees of the legislature. The commission may impose a ferry fuel surcharge effective July 1, 2011. When implementing a ferry fuel surcharge, the commission must regard ferry fuel surcharges as fare policy changes and thus, ferry fuel surcharges should be included in all public procedures and processes currently used for fare pricing per RCW 47.60.290.

(7) The commission shall work with the department of transportation's economic partnerships (Program K) in conducting a best practices review of nontoll, public-private partnerships. The purpose of this review is to identify the policies and procedures that would be appropriate for application in Washington state. The commission must report its findings and recommendations, including draft legislation if warranted, to the house of representatives and senate transportation committees by January 2011.

(8) As part of its development of the statewide transportation plan, the commission shall review prioritized projects, including preservation and maintenance projects, from regional transportation and metropolitan planning organizations to identify statewide transportation needs. The review should include a brief description and status of each project along with the funding required and associated timeline from start to completion. The

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commission shall submit the review, along with recommendations, to the house of representatives and senate transportation committees by January 2011.

**Sec. 206.** 2009 c 470 s 206 (uncodified) is amended to read as follows:

FOR THE FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD

Motor Vehicle Account--State Appropriation.....((~~\$695,000~~)) \$688,000

The appropriation in this section is subject to the following conditions and limitations: The freight mobility strategic investment board shall, on a quarterly basis, provide status reports to the office of financial management and the transportation committees of the legislature on the delivery of projects funded by this act.

**Sec. 207.** 2009 c 470 s 207 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL--FIELD OPERATIONS BUREAU

State Patrol Highway Account--State Appropriation.....((~~\$228,024,000~~)) \$227,958,000

State Patrol Highway Account--Federal Appropriation.....((~~\$10,602,000~~)) \$10,903,000

State Patrol Highway Account--Private/Local Appropriation.....((~~\$859,000~~)) \$867,000

TOTAL APPROPRIATION.....((~~\$239,485,000~~)) \$239,728,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Washington state patrol officers engaged in off-duty uniformed employment providing traffic control services to the department of transportation or other state agencies may use state patrol vehicles for the purpose of that employment, subject to guidelines adopted by the chief of the Washington state patrol. The Washington state patrol shall be reimbursed for the use of the vehicle at the prevailing state employee rate for mileage and hours of usage, subject to guidelines developed by the chief of the Washington state patrol, and Cessna pilots funded from the state patrol highway account who are certified to fly the King Airs may pilot those aircraft for general fund purposes with the general fund reimbursing the state patrol highway account an hourly rate to cover the costs incurred during the flights since the aviation section will no longer be part of the Washington state patrol cost allocation system as of July 1, 2009.

(2) The patrol shall not account for or record locally provided DUI cost reimbursement payments as expenditure credits to the state patrol highway account. The patrol shall report the amount of expected locally provided DUI cost reimbursements to the office of financial management and transportation committees of the legislature by September 30th of each year.

(3) During the 2009-11 fiscal biennium, the Washington state patrol shall continue to perform traffic accident investigations on Thurston county roads, and shall work with the county to transition the traffic accident investigations on Thurston county roads to the county by July 1, 2011.

(4) Within existing resources, the Washington state patrol shall make every reasonable effort to increase the enrollment in each academy class that commences during the 2009-11 fiscal biennium to fifty-five cadets.

(5) The Washington state patrol shall collaborate with the Washington traffic safety commission to develop and implement the

target zero trooper pilot program referenced in section 201 of this act.

(6) ((The Washington state patrol shall discuss the implementation of the pilot program described under section 218(2) of this act with any union representing the affected employees.

(7) The Washington state patrol shall assign necessary personnel and equipment to implement and operate the pilot program described under section 218(2) of this act using the portion of the automated traffic safety camera fines deposited into the state patrol highway account, but not to exceed \$370,000. If the fines deposited into the state patrol highway account from automated traffic safety camera infractions do not reach \$370,000, the department of transportation shall remit funds necessary to the Washington state patrol to ensure the completion of the pilot program.) \$370,000 of the state patrol highway account--state appropriation is provided solely for costs associated with the pilot program described under section 218(2) of this act. The Washington state patrol may incur costs related only to the assignment of cadets and necessary computer equipment and to the reimbursement of the Washington state department of transportation for contract costs. The appropriation in this subsection must be funded from the portion of the automated traffic safety camera fines deposited into the state patrol highway account; however, if the fines deposited into the state patrol highway account from automated traffic safety camera infractions do not reach three hundred seventy thousand dollars, the department of transportation shall remit funds necessary to the Washington state patrol to ensure the completion of the pilot program. The Washington state patrol may not incur overtime as a result of this pilot program. The Washington state patrol shall not assign troopers to operate or deploy the pilot program equipment used in the roadway construction zones.

(7) If, as a result of lower than average rate of attrition among troopers, the Washington state patrol postpones the year 2011 training for trooper cadets beyond June 30, 2011, funding provided in section 207, chapter 470, Laws of 2009 for the class must be used to fund the salaries and benefits associated with the existing commissioned Washington state patrol troopers that are funded within the field operations bureau.

(8) \$2,832,000 of the state patrol highway account--state appropriation is provided solely for the aerial traffic enforcement program. The Washington state patrol shall evaluate the costs associated with aerial traffic highway enforcement to determine if the costs are accurately apportioned between the state patrol highway account and the general fund. It is the intent of the legislature that the state patrol highway account incurs costs that result only from highway enforcement activities and that the general fund incurs costs associated with the King Airs. The Washington state patrol shall report the results of the evaluation to the legislature by June 30, 2010.

(9) For the remainder of the 2009-11 fiscal biennium, the Washington state patrol shall continue to work with Island county on traffic accident investigations.

(10) \$3,601,000 of the state patrol highway account--state appropriation is provided solely for the costs associated with a basic trooper class.

**Sec. 208.** 2009 c 470 s 208 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL--INVESTIGATIVE SERVICES BUREAU

State Patrol Highway Account--State Appropriation..((~~\$1,557,000~~)) \$1,648,000

**Sec. 209.** 2009 c 470 s 209 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL--TECHNICAL SERVICES BUREAU

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State	Patrol	Highway	Account--State	\$1,315,000
Appropriation.....				<del>(\$105,680,000)</del>
\$108,560,000				
State Patrol Highway Account--Private/Local				
Appropriation.....				<del>(\$2,008,000)</del>
\$2,510,000				
TOTAL APPROPRIATION.....				<del>(\$107,688,000)</del>
\$111,070,000				

The appropriations in this section are subject to the following conditions and limitations:

(1) The Washington state patrol shall work with the risk management division in the office of financial management in compiling the Washington state patrol's data for establishing the agency's risk management insurance premiums to the tort claims account. The office of financial management and the Washington state patrol shall submit a report to the legislative transportation committees by December 31st of each year on the number of claims, estimated claims to be paid, method of calculation, and the adjustment in the premium.

(2) ~~(\$8,673,000)~~ \$10,425,000 of the total appropriation is provided solely for automobile fuel in the 2009-11 fiscal biennium.

(3) \$7,421,000 of the total appropriation is provided solely for the purchase of pursuit vehicles.

(4) ~~(\$6,328,000)~~ \$6,611,000 of the total appropriation is provided solely for vehicle repair and maintenance costs of vehicles used for highway purposes.

(5) ~~(\$384,000)~~ \$1,724,000 of the total appropriation is provided solely for the purchase of mission vehicles used for highway purposes in the commercial vehicle and traffic investigation sections of the Washington state patrol.

(6) The Washington state patrol may submit information technology- related requests for funding only if the patrol has coordinated with the department of information services as required under section 601 of this act.

(7) \$345,000 of the state patrol highway account--state appropriation is provided solely for the implementation of Engrossed Substitute House Bill No. 1445 (domestic partners/Washington state patrol retirement system). If Engrossed Substitute House Bill No. 1445 is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

**Sec. 210.** 2009 c 470 s 210 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LICENSING**

Marine Fuel Tax Refund Account--State Appropriation.....	\$32,000
Motorcycle Safety Education Account--State	
Appropriation.....	<del>(\$4,373,000)</del>
\$4,356,000	
Wildlife Account--State Appropriation.....	<del>(\$837,000)</del>
\$821,000	
Highway Safety Account--State Appropriation.....	<del>(\$145,085,000)</del>
\$143,660,000	
Highway Safety Account--Federal Appropriation.....	<del>(\$8,000)</del>
\$944,000	
Motor Vehicle Account--State Appropriation.....	<del>(\$78,805,000)</del>
\$77,898,000	
Motor Vehicle Account--Private/Local Appropriation..	\$1,372,000
Motor Vehicle Account--Federal Appropriation.....	\$242,000
Department of Licensing Services Account--State	
Appropriation.....	<del>(\$3,867,000)</del>
\$4,705,000	
Washington State Patrol Highway Account--State	
Appropriation.....	<del>(\$738,000)</del>
\$737,000	
Ignition Interlock Device Revolving Account--State	
Appropriation.....	<del>(\$2,490,000)</del>

TOTAL APPROPRIATION.....	<del>(\$237,849,000)</del>
\$236,082,000	

The appropriations in this section are subject to the following conditions and limitations:

(1)(a) By November 1, 2009, the department of licensing, working with the department of revenue, shall analyze and plan for the transfer by July 1, 2010, of the administration of fuel taxes imposed under chapters 82.36, 82.38, 82.41, and 82.42 RCW and other provisions of law from the department of licensing to the department of revenue. By November 1, 2009, the departments shall report findings and recommendations to the governor and the transportation and fiscal committees of the legislature.

(b) The analysis and planning directed under this subsection must include, but is not limited to, the following:

(i) Outreach to and solicitation of comment from parties affected by the fuel taxes, including taxpayers, industry associations, state and federal agencies, and Indian tribes, and from the transportation and fiscal committees of the legislature; and

(ii) Identification and analysis of relevant factors including, but not limited to:

- (A) Taxpayer reporting and payment processes;
- (B) The international fuel tax agreement;
- (C) Proportional registration under the provisions of the international registration plan and chapter 46.87 RCW;
- (D) Computer systems;
- (E) Best management practices and efficiencies;
- (F) Costs; and
- (G) Personnel matters(;

(iii) Development of recommended actions to accomplish the transfer; and

(iv) An implementation plan and schedule.

(c) The report must include draft legislation, which transfers administration of fuel taxes as described under (a) of this subsection to the department of revenue on July 1, 2010, and amends existing law as needed).

(2) \$55,845,000 of the highway safety account--state appropriation is provided solely for the driver examining program. In order to reduce costs and make the most efficient use of existing resources, the department may consolidate licensing service offices by closing the vehicle services counter at the highways licensing building in Olympia and up to twenty-five licensing service offices.

(a) When closing offices, the department may redistribute staff from consolidated offices to neighboring offices and local community supercenters.

(b) In order to mitigate the effects of office consolidations on customers, the department shall, within existing resources, provide the following enhanced services:

(i) Extended daily and weekend hours in regional supercenter offices;

(ii) Staffed greeter stations to improve office work flow; and

(iii) Self-service stations for online transaction access, including vehicle renewal transactions.

(c) In areas that are not consolidated, the department will work to reduce costs by identifying opportunities to share facilities with subagent offices and state, county, or local government offices and by analyzing hours and days of operation to meet demand.

(d) The department shall work with vehicle licensing subagents regarding potential placement of self-service driver licensing kiosks in communities that will be affected by licensing services offices closures. The department may place kiosks in those subagent offices where both parties agree, and may pay the subagents the fair market value for any space used for kiosks.

(e) The department shall report to the joint transportation committee by November 30, 2009, on the department's

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consolidation implementation to date and its plan for continued implementation.

(3) \$11,688,000 of the highway safety account--state appropriation is provided solely for costs associated with: Issuing enhanced drivers' licenses and identicards at the enhanced licensing services offices; extended hours at those licensing services offices; cross-border tourism education; and other education campaigns. This is the maximum amount the department may expend for this purpose.

(4) ~~(\$2,490,000)~~ \$1,315,000 of the ignition interlock device revolving account--state appropriation is provided solely for the department to assist indigent persons with the costs of installing, removing, and leasing the device, and applicable licensing pursuant to RCW 46.68.340.

(5) By December 31, 2009, the department shall report to the office of financial management and the transportation committees of the legislature a cost-benefit analysis of leasing versus purchasing field office equipment.

(6) By December 31, 2009, the department shall submit to the office of financial management and the transportation committees of the legislature draft legislation that rewrites RCW 46.52.130 (driving record abstracts) in plain language.

(7) The department may seek federal funds to implement a driver's license and identicard biometric matching system pilot program to verify the identity of applicants for, and holders of, drivers' licenses and identicards. If funds are received, the department shall report any benefits or problems identified during the course of the pilot program to the transportation committees of the legislature upon the completion of the program.

(8) The department may submit information technology-related requests for funding only if the department has coordinated with the department of information services as required under section 601 of this act.

(9) Consistent with the authority delegated to the director of licensing under RCW 46.01.100, the department may adopt a new organizational structure that includes the following programs: (a) Driver and vehicle services, which must encompass services relating to driver licensing customers, vehicle industry and fuel tax licensees, and vehicle and vessel licensing and registration; and (b) driver policy and programs, which must encompass policy development for all driver-related programs, including driver examining, driver records, commercial driver's license testing and auditing, driver training schools, motorcycle safety, technical services, hearings, driver special investigations, drivers' data management, central issuance contract management, and state and federal initiatives.

(10) The legislature finds that measuring the performance of the department requires the measurement of quality, timeliness, and unit cost of services delivered to customers. Consequently:

(a) The department shall develop a set of metrics that measure that performance and report to the transportation committees of the house of representatives and the senate and to the office of financial management on the development of these measurements along with recommendations to the 2010 legislature on which measurements must become a part of the next omnibus transportation appropriations act;

(b) The department shall study the process in place at the licensing services office and present to the 2010 legislature recommendations for process changes to improve efficiencies for both the department and the customer; and

(c) The department shall, on a quarterly basis, report to the transportation committees of the legislature the following monthly data by licensing service office locations: (i) Lease costs; (ii) salary and benefit costs; (iii) other costs; (iv) actual FTEs; (v) number of transactions completed, by type of transaction; and (vi) office hours.

(11) \$25,000 of the motor vehicle account--state appropriation is provided solely for the department to provide to at least five hundred limousine chauffeurs an overview of the laws and rules governing limousine carriers.

(12) \$938,000 of the highway safety account--federal appropriation is for federal funds that may be received during the 2009-11 fiscal biennium. Upon receipt of the funds, the department shall provide a report on the use of the funds to the transportation committees of the legislature and the office of financial management.

(13) \$869,000 of the department of licensing services account--state appropriation is provided solely for purchasing equipment for the field licensing service offices and subagent offices.

**Sec. 211.** 2009 c 470 s 211 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--TOLL OPERATIONS AND MAINTENANCE--PROGRAM B**

High Occupancy Toll Lanes Operations Account--State	
Appropriation.....	<del>(\$2,867,000)</del>
\$2,852,000	
Motor Vehicle Account--State Appropriation.....	<del>(\$585,000)</del>
\$575,000	
Tacoma Narrows Toll Bridge Account--State	
Appropriation.....	<del>(\$27,358,000)</del>
\$26,543,000	
State Route Number 520 Corridor Account--State	
Appropriation.....	<del>(\$58,088,000)</del>
\$28,000,000	
State Route Number 520 Civil Penalties	
Account--State Appropriation.....	\$2,130,000
TOTAL APPROPRIATION.....	<del>(\$88,898,000)</del>
\$60,100,000	

The appropriations in this section are subject to the following conditions and limitations:

(1) The department shall make detailed quarterly expenditure reports available to the transportation commission and to the public on the department's web site using current department resources. The reports must include a summary of revenue generated by tolls on the Tacoma Narrows bridge and an itemized depiction of the use of that revenue.

(2) The department shall work with the office of financial management to review insurance coverage, deductibles, and limitations on tolled facilities to assure that the assets are well protected at a reasonable cost. Results from this review must be used to negotiate any future new or extended insurance agreements.

(3) ~~(\$58,088,000)~~ \$28,000,000 of the state route number 520 corridor account--state appropriation is provided solely for the costs directly related to tolling the state route number 520 floating bridge. ~~Of this amount, (\$175,000 is for the immediate costs necessary to pursue a request for proposal to implement variable, open road tolling on the state route number 520 floating bridge. The request for proposal must include tolling infrastructure and signage, customer service centers, collection and billing procedures, and, to the extent practicable, the maintenance and dispensing of transponders by the vendor. The remaining \$57,913,000) \$8,000,000 must be retained in unallotted status, and may only be released by the office of financial management after consultation with the joint transportation committee (following the committee's examination of toll operations costs referenced in section 204(2) of this act. The amount provided in this subsection is contingent on the enactment of (a) Engrossed Substitute House Bill No. 2211 and (b) either Engrossed Substitute House Bill No. 2326 or other legislation authorizing bonds for the state route number 520 corridor projects. If the conditions of this subsection are not satisfied, the amount provided in this subsection shall lapse).~~

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(4) The department shall consider transitioning to all electronic tolling on the Tacoma Narrows bridge toll facility and discontinuing a cash toll option.

(5) \$2,130,000 of the state route number 520 civil penalties account--state appropriation and \$140,000 of the Tacoma Narrows toll bridge account--state appropriation are provided solely for expenditures related to the toll adjudication process. The amount provided in this subsection is contingent on the enactment by June 30, 2010, of either Engrossed Substitute Senate Bill No. 6499 or Substitute House Bill No. 2897; however, if the enacted bill does not specify the department as the toll penalty adjudicating agency, the amounts provided in this subsection lapse.

(6) The department shall review, and revise where appropriate, current signage and ingress/egress locations on the state route number 167 high occupancy toll lanes pilot project. The department shall continue to work with the Washington state patrol on educating the public on the rules of the road related to crossing a double white line. The department shall continue to monitor the performance of the high occupancy toll lanes to ensure that driving conditions for high occupancy vehicles that share these lanes are not significantly changed.

Sec. 212. 2009 c 470 s 212 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--INFORMATION TECHNOLOGY--PROGRAM C Transportation Partnership Account--State	
Appropriation.....	\$2,675,000
Motor Vehicle Account--State Appropriation.....	<del>(\$67,811,000)</del>
	\$68,650,000
Motor Vehicle Account--Federal Appropriation.....	\$240,000
Multimodal Transportation Account--State	
Appropriation.....	\$363,000
Transportation 2003 Account (Nickel Account)--State	
Appropriation.....	\$2,676,000
TOTAL APPROPRIATION.....	<del>(\$73,765,000)</del>
	\$74,604,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The department shall consult with the office of financial management and the department of information services to: (a) Ensure that the department's current and future system development is consistent with the overall direction of other key state systems; and (b) when possible, use or develop common statewide information systems to encourage coordination and integration of information used by the department and other state agencies and to avoid duplication.

(2) \$1,216,000 of the transportation partnership account--state appropriation and \$1,216,000 of the transportation 2003 account (nickel account)--state appropriation are provided solely for the department to develop a project management and reporting system which is a collection of integrated tools for capital construction project managers to use to perform all the necessary tasks associated with project management. The department shall integrate commercial off-the-shelf software with existing department systems and enhanced approaches to data management to provide web-based access for multi-level reporting and improved business work flows and reporting. On a quarterly basis, the department shall report to the office of financial management and the transportation committees of the legislature on the status of the development and integration of the system. At a minimum, the reports shall indicate the status of the work as it compares to the work plan, any discrepancies, and proposed adjustments necessary to bring the project back on schedule or budget if necessary.

(3) The department may submit information technology-related requests for funding only if the department has coordinated with the department of information services as required under section 601 of this act.

(4) \$573,000 of the motor vehicle account--state appropriation is provided solely for the department to maintain the investment in the electronic fare system at Washington's ferry terminals. Investment in the electronic fare system must include the following: Replacement of critical hardware components that are at risk of failure; implementation of software to allow ORCA cards to be used for vehicles; repair of the turnstiles to ensure that the turnstiles properly record ORCA credit and debit card charges; and dedication of a communication line for transmission of ORCA data to the clearinghouse.

Sec. 213. 2009 c 470 s 213 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--FACILITY OPERATIONS AND CONSTRUCTION--PROGRAM D--OPERATING	
Motor Vehicle Account--State Appropriation.....	<del>(\$25,501,000)</del>
	\$25,292,000

Sec. 214. 2009 c 470 s 214 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--AVIATION--PROGRAM F	
Aeronautics Account--State Appropriation.....	<del>(\$6,009,000)</del>
	\$5,960,000
Aeronautics Account--Federal Appropriation.....	\$2,150,000
TOTAL APPROPRIATION.....	<del>(\$8,159,000)</del>
	\$8,110,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$50,000 of the aeronautics account--state appropriation is a reappropriation provided solely to pay any outstanding obligations of the aviation planning council, which expires July 1, 2009.

(2) \$150,000 of the aeronautics account--state appropriation is a reappropriation provided solely to complete runway preservation projects.

(3) Within the amounts provided in this section, the department shall develop guidelines setting forth consultation procedures and a process to assist counties and cities to identify land uses that may be incompatible with airports and aircraft operations, and to encourage and facilitate the adoption and implementation of comprehensive plan policies and development regulations consistent with RCW 36.70.547 and 36.70A.510.

Sec. 215. 2009 c 470 s 215 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--PROGRAM MANAGEMENT AND SUPPORT--PROGRAM H	
Motor Vehicle Account--State Appropriation.....	<del>(\$48,032,000)</del>
	\$49,331,000
Motor Vehicle Account--Federal Appropriation.....	\$500,000
Multimodal Transportation Account--State	
Appropriation.....	\$250,000
(Water Pollution Account--State Appropriation.....)	<del>\$2,000,000)</del>
TOTAL APPROPRIATION.....	<del>(\$50,782,000)</del>
	\$50,081,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The department shall develop a plan for all current and future surplus property parcels based on the recommendations from the surplus property legislative work group that were presented to the senate transportation committee on February 26, 2009. The

plan must include, at a minimum, strategies for maximizing the number of parcels sold, a schedule that optimizes proceeds, a recommended cash discount, a plan to report to the joint transportation committee, a recommendation for regional incentives, and a recommendation for equivalent value exchanges. This plan must accompany the department's 2010 supplemental budget request. If the department determines that all or a portion of real property or an interest in real property that was acquired through condemnation within the previous ten years is no longer necessary for a transportation purpose, the former owner has a right of repurchase as described in this subsection. For the purposes of this subsection, "former owner" means the person or entity from whom the department acquired title. At least ninety days prior to the date on which the property is intended to be sold by the department, the department must mail notice of the planned sale to the former owner of the property at the former owner's last known address or to a forwarding address if that owner has provided the department with a forwarding address. If the former owner of the property's last known address, or forwarding address if a forwarding address has been provided, is no longer the former owner of the property's address, the right of repurchase is extinguished. If the former owner notifies the department within thirty days of the date of the notice that the former owner intends to repurchase the property, the department shall proceed with the sale of the property to the former owner for fair market value and shall not list the property for sale to other owners. If the former owner does not provide timely written notice to the department of the intent to exercise a repurchase right, or if the sale to the former owner is not completed within seven months of the date of notice that the former owner intends to repurchase the property, the right of repurchase is extinguished. By December 1, 2010, the department shall report to the legislative transportation committees on the individuals and entities eligible to receive surplus property provided in RCW 47.12.063 to determine the frequency with which the department transfers property to those individuals and entities and the implications to the department. It is the intent of the legislature that the list of individuals and entities eligible to receive surplus property be periodically evaluated to determine whether the list is appropriate and provides utility to the department.

~~((3))~~ (2) The legislature recognizes that the Dryden pit site (WSDOT Inventory Control (IC) No. 2-04-00103) is unused state-owned real property under the jurisdiction of the department of transportation, and that the public would benefit significantly from the complete enjoyment of the natural scenic beauty and recreational opportunities available at the site. Therefore, pursuant to RCW 47.12.080, the legislature declares that transferring the property to the department of fish and wildlife for recreational use and fish and wildlife restoration efforts is consistent with the public interest in order to preserve the area for the use of the public and the betterment of the natural environment. The department of transportation shall ~~((as soon as is practicable,))~~ work with the department of fish and wildlife, and shall transfer and convey the Dryden pit site to the department of fish and wildlife as is for ~~((adequate consideration in the amount of no less than \$600,000))~~ an adjusted fair market value reflecting site conditions, the proceeds of which must be deposited in the motor vehicle fund. ~~((By July 1, 2009))~~ The department of transportation is not responsible for any costs associated with the cleanup or transfer of this property. By July 1, 2010, and annually thereafter until the entire Dryden pit property has been transferred, the department shall submit a status report regarding the transaction to the chairs of the legislative transportation committees.

~~((5))~~ ~~\$750,000~~ (3) \$3,175,000 of the motor vehicle account--state appropriation is provided solely for the department's compliance with its national pollution discharge elimination system

permit. The department's work may include the completion of system development, reporting, and planning to meet deadlines in the current biennium. The appropriation provided in this subsection is contingent on either the joint legislative audit and review committee or the joint transportation committee including the analysis identified in sections 108(4) and 204 of this act in its respective 2009-11 fiscal biennium work plan by April 15, 2010.

~~((6))~~ (4) The department shall provide updated information on six project milestones for all active projects, funded in part or in whole with 2005 transportation partnership account funds or 2003 nickel account funds, on a quarterly basis in the transportation executive information system (TEIS). The department shall also provide updated information on six project milestones for projects, funded with preexisting funds and that are agreed to by the legislature, office of financial management, and the department, on a quarterly basis in TEIS.

(5) It is the intent of the legislature that the real estate services division of the department will recover the cost of its efforts from future sale proceeds. By January 31, 2011, the department must report to the office of financial management and the legislative transportation committees on the status of surplus property. The report must include: (a) The department's plan for continued disposal of surplus property; (b) a detail of changes from the previous report; and (c) a current list of surplus property by region that includes the acquisition date and price of the property, the status of the surplus property, and estimated value of the property. Except as provided otherwise in this subsection, by June 30, 2010, the department must finalize all pending equal value exchange activity for the construction or improvement of facilities, after which time the department may not pursue any other equal value exchanges for the construction or improvement of facilities. However, the northwest region may pursue an equal value exchange to replace the Mount Baker headquarters office. The exchange may include an exchange for the old Puget Sound energy site, the old Arco site, or any combination of the two.

**Sec. 216.** 2009 c 470 s 216 (uncodified) is amended to read as follows:

FOR	THE	DEPARTMENT	OF
TRANSPORTATION--ECONOMIC			
PARTNERSHIPS--PROGRAM K			
Motor Vehicle Account--State Appropriation.....		<del>((615,000))</del>	
			\$673,000
Multimodal Transportation Account--State Appropriation		\$200,000	
TOTAL APPROPRIATION.....		<del>((815,000))</del>	
			\$873,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$200,000 of the multimodal transportation account--state appropriation is provided solely for the department to develop and implement public private partnerships at high priority terminals as identified in the January 12, 2009, final report on joint development opportunities at Washington state ferries terminals. The department shall first consider a mutually beneficial agreement at the Edmonds terminal.

(2) \$50,000 of the motor vehicle account--state appropriation is provided solely for the department to investigate the potential to generate revenue from web site sponsorships and similar ventures and, if feasible, pursue partnership opportunities.

(3) \$75,000 of the motor vehicle account--state appropriation is provided solely for the implementation of a pilot project allowing advertisements and sponsorships on select web pages. The pilot project must be organized under the partnership model described in the department's web site monetizing feasibility study, which was prepared under subsection (2) of this section. Once operational, the pilot project must operate for at least twelve consecutive months.

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After twelve months of continuous operation, the department shall provide a report with recommendations on whether to continue project operations to the office of financial management and the chairs of the transportation committees. The department may end the pilot project after less than twelve consecutive months of operation if insufficient bids or proposals are received from potential sponsors or advertisers. For the purpose of this subsection, if a consultant contract is warranted, the consultant contract is deemed a revenue generation activity as that term is construed in section 602(2), chapter 3, Laws of 2010.

Sec. 217. 2009 c 470 s 217 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--HIGHWAY MAINTENANCE--PROGRAM M	
Motor Vehicle Account--State Appropriation.....	<del>(\$347,637,000)</del>
	\$347,645,000
Motor Vehicle Account--Federal Appropriation.....	<del>(\$2,000,000)</del>
	\$7,000,000
Motor Vehicle Account--Private/Local Appropriation...	\$5,797,000
((Water Pollution Account--State Appropriation.....	\$12,500,000))
TOTAL APPROPRIATION.....	<del>(\$367,934,000)</del>
	\$360,442,000

The appropriations in this section are subject to the following conditions and limitations:

(1) If portions of the appropriations in this section are required to fund maintenance work resulting from major disasters not covered by federal emergency funds such as fire, flooding, snow, and major slides, supplemental appropriations must be requested to restore state funding for ongoing maintenance activities.

(2) The department shall request an unanticipated receipt for any federal moneys received for emergency snow and ice removal and shall place an equal amount of the motor vehicle account--state into unallotted status. This exchange shall not affect the amount of funding available for snow and ice removal.

(3) The department shall request an unanticipated receipt for any private or local funds received for reimbursements of third party damages that are in excess of the motor vehicle account--private/local appropriation.

(4) ~~(\$2,000,000)~~ \$7,000,000 of the motor vehicle account--federal appropriation is for unanticipated federal funds that may be received during the 2009-11 fiscal biennium. Upon receipt of the funds, the department shall provide a report on the use of the funds to the transportation committees of the legislature and the office of financial management.

(5) The department may incur costs related to the maintenance of the decorative lights on the Tacoma Narrows bridge only if:

(a) The nonprofit corporation, narrows bridge lights organization, maintains an account balance sufficient to reimburse the department for all costs; and

(b) The department is reimbursed from the narrows bridge lights organization within three months from the date any maintenance work is performed. If the narrows bridge lights organization is unable to reimburse the department for any future costs incurred, the lights must be removed at the expense of the narrows bridge lights organization subject to the terms of the contract.

(6) The department may work with the department of corrections to utilize corrections crews for the purposes of litter pickup on state highways.

(7) \$650,000 of the motor vehicle account--state appropriation is provided solely for increased asphalt costs. ~~((If Senate Bill No. 5976 is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.))~~

(8) \$16,800,000 of the motor vehicle account--state appropriation is provided solely for the high priority maintenance

backlog. Addressing the maintenance backlog must result in increased levels of service.

~~((40))~~ (9) \$750,000 of the motor vehicle account--state appropriation is provided solely for the department's compliance with its national pollution discharge elimination system permit.

(10) \$317,000 of the motor vehicle account--state appropriation is provided solely for maintaining a new active traffic management system on Interstate 5, Interstate 90, and SR 520. The department shall track the costs associated with these systems on a corridor basis and report to the legislative transportation committees on the cost and benefits of the system.

(11) \$286,000 of the motor vehicle account--state appropriation is provided solely for storm water assessment fees charged by local governments.

Sec. 218. 2009 c 470 s 218 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--TRAFFIC OPERATIONS--PROGRAM Q-- OPERATING	
Motor Vehicle Account--State Appropriation.....	<del>(\$51,526,000)</del>
	\$51,128,000
Motor Vehicle Account--Federal Appropriation.....	\$2,050,000
Motor Vehicle Account--Private/Local Appropriation.....	\$127,000
TOTAL APPROPRIATION.....	<del>(\$53,703,000)</del>
	\$53,305,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,400,000 of the motor vehicle account--state appropriation is provided solely for low-cost enhancements. The department shall give priority to low-cost enhancement projects that improve safety or provide congestion relief. The department shall prioritize low-cost enhancement projects on a statewide rather than regional basis. By September 1st of each even-numbered year, the department shall provide a report to the legislature listing all low-cost enhancement projects prioritized on a statewide rather than regional basis completed in the prior year.

(2) The department, in consultation with the Washington state patrol, may continue a pilot program for the patrol to issue infractions based on information from automated traffic safety cameras in roadway construction zones on state highways. For the purpose of this pilot program, during the 2009-11 fiscal biennium, a roadway construction zone includes areas where public employees or private contractors are not present but where a driving condition exists that would make it unsafe to drive at higher speeds, such as, when the department is redirecting or realigning lanes on any public roadway pursuant to ongoing construction. The department shall use the following guidelines to administer the program:

(a) Automated traffic safety cameras may only take pictures of the vehicle and vehicle license plate and only while an infraction is occurring. The picture must not reveal the face of the driver or of passengers in the vehicle;

(b) The department shall plainly mark the locations where the automated traffic safety cameras are used by placing signs on locations that clearly indicate to a driver that he or she is entering a roadway construction zone where traffic laws are enforced by an automated traffic safety camera;

(c) Notices of infractions must be mailed to the registered owner of a vehicle within fourteen days of the infraction occurring;

(d) The owner of the vehicle is not responsible for the violation if the owner of the vehicle, within fourteen days of receiving notification of the violation, mails to the patrol, a declaration under penalty of perjury, stating that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person other than the registered owner, or any other extenuating circumstances;

(e) For purposes of the 2009-11 fiscal biennium pilot program, infractions detected through the use of automated traffic safety

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cameras are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of automated traffic safety cameras must be processed in the same manner as parking infractions for the purposes of RCW 3.50.100, 35.20.220, 46.16.216, and 46.20.270(3). However, the amount of the fine issued under this subsection (2) for an infraction generated through the use of an automated traffic safety camera is one hundred thirty-seven dollars. The court shall remit thirty-two dollars of the fine to the state treasurer for deposit into the state patrol highway account; and

(f) If a notice of infraction is sent to the registered owner and the registered owner is a rental car business, the infraction must be dismissed against the business if it mails to the patrol, within fourteen days of receiving the notice, a declaration under penalty of perjury of the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred. If the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred, the business must sign a declaration under penalty of perjury to this effect. The declaration must be mailed to the patrol within fourteen days of receiving the notice of traffic infraction. Timely mailing of this declaration to the issuing agency relieves a rental car business of any liability under this section for the notice of infraction. A declaration form suitable for this purpose must be included with each automated traffic infraction notice issued, along with instructions for its completion and use.

(3) The department shall implement a pilot project to evaluate the benefits of using electronic traffic flagging devices. Electronic traffic flagging devices must be tested by the department at multiple sites and reviewed for efficiency and safety. The department shall report to the transportation committees of the legislature on the best use and practices involving electronic traffic flagging devices, including recommendations for future use, by June 30, 2010.

(4) \$173,000 of the motor vehicle account--state appropriation is provided solely for the department to continue a pilot tow truck incentive program and to expand the program to other areas of the state. The department may provide incentive payments to towing companies that meet clearance goals on accidents that involve heavy trucks. The department shall report to the office of financial management and the transportation committees of the legislature on the effectiveness of the clearance goals and submit recommendations to improve the pilot program with the department's 2010 supplemental omnibus transportation appropriations act submittal. The tow truck incentive program may continue to provide incentives for quick clearance of traffic incidents involving large vehicles. The department shall make recommendations as part of its biennial budget proposal for expanding the use of the incentive program.

(5) \$92,000 of the motor vehicle account--state appropriation is provided solely for operating a new active traffic management system on Interstate 5, Interstate 90, and SR 520. The department shall track the costs associated with these systems on a corridor basis and report to the legislative transportation committees on the cost and benefits of the system.

(6) To the extent practicable, the department shall synchronize traffic lights on state route number 161 in the vicinity of Puyallup.

(7) During the 2009-11 biennium, the department shall implement a pilot program that expands private transportation providers' access to high occupancy vehicle lanes. Under the pilot program, when the department reserves a portion of a highway based on the number of passengers in a vehicle, the following vehicles must be authorized to use the reserved portion of the highway if the vehicle has the capacity to carry eight or more passengers, regardless of the number of passengers in the vehicle:

(a) Auto transportation company vehicles regulated under chapter

81.68 RCW; (b) passenger charter carrier vehicles regulated under chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department rules; (c) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (d) private employer transportation service vehicles. For purposes of this subsection, "private employer transportation service" means regularly scheduled, fixed-route transportation service that is offered by an employer for the benefit of its employees. By June 30, 2011, the department shall report to the transportation committees of the legislature on whether private transportation provider use of high occupancy vehicle lanes under the pilot program reduces the speeds of high occupancy vehicle lanes. Nothing in this subsection is intended to authorize the conversion of public infrastructure to private, for-profit purposes or to otherwise create an entitlement or other claim by private users to public infrastructure.

Sec. 219. 2009 c 470 s 219 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--TRANSPORTATION MANAGEMENT AND SUPPORT--PROGRAM S	
Motor Vehicle Account--State Appropriation.....	(\$29,153,000)
\$28,468,000	
Motor Vehicle Account--Federal Appropriation.....	\$30,000
Multimodal Transportation Account--State Appropriation.....	(\$973,000)
\$971,000	
State Route Number 520 Corridor Account--State Appropriation.....	\$264,000
TOTAL APPROPRIATION.....	(\$30,420,000)
\$29,733,000	

The appropriations in this section are subject to the following conditions and limitations: \$264,000 of the state route number 520 corridor account--state appropriation is provided solely for the costs directly related to tolling the state route number 520 floating bridge. This amount must be retained in unallotted status, and may only be released by the office of financial management after consultation with the joint transportation committee (~~following the committee's examination of toll operations costs referenced in section 204(2) of this act. The amount provided in this section is contingent on the enactment of (1) Engrossed Substitute House Bill No. 2211 and (2) either Engrossed Substitute House Bill No. 2326 or other legislation authorizing bonds for the state route number 520 corridor projects. If the conditions of this section are not satisfied, the amount provided in this section shall lapse~~).

Sec. 220. 2009 c 470 s 220 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--TRANSPORTATION PLANNING, DATA, AND RESEARCH--PROGRAM T	
Motor Vehicle Account--State Appropriation.....	(\$24,724,000)
\$25,955,000	
Motor Vehicle Account--Federal Appropriation....	(\$19,116,000)
\$22,002,000	
Multimodal Transportation Account--State Appropriation.....	(\$696,000)
\$1,090,000	
Multimodal Transportation Account--Federal Appropriation.....	(\$2,809,000)
\$3,287,000	
Multimodal Transportation Account--Private/Local Appropriation.....	(\$100,000)
\$99,000	
TOTAL APPROPRIATION.....	(\$47,445,000)
\$52,433,000	

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The appropriations in this section are subject to the following conditions and limitations:

(1) \$150,000 of the motor vehicle account--federal appropriation is provided solely for the costs to develop an electronic map-based computer application that will enable law enforcement officers and others to more easily locate collisions and other incidents in the field.

(2) \$400,000 of the ~~((motor vehicle account))~~ multimodal transportation account--state appropriation is provided solely for a diesel multiple unit feasibility and initial planning study. The study must evaluate potential service on the Stampede Pass line from Maple Valley to Auburn via Covington. The study must evaluate the potential demand for service, the business model and capital needs for launching and running the line, and the need for improvements in switching, signaling, and tracking. The study must also consider the interconnectivity benefits of, and potential for, future Amtrak Cascades stops in south King county and north Pierce county. As part of its consideration, the department shall conduct a thorough market analysis of the potential for adding or changing stops on the Amtrak Cascades route. The department shall amend the scope, schedule, and budget of the current study process to accommodate the market analysis. A report on the study must be submitted to the legislature by ~~((June))~~ September 30, 2010.

(3) ~~((243,000))~~ \$365,000 of the motor vehicle account--state appropriation and \$81,000 of the motor vehicle account--federal appropriation are provided solely for the development of a freight database to help guide freight investment decisions and track project effectiveness. The database must be based on truck movement tracked through geographic information system technology. For the remainder of the biennium, the department may expand data collection to any highways that have high truck volumes. TransNow shall contribute additional federal funds that are not appropriated in this act. The department shall work with the freight mobility strategic investment board to implement this database.

(4) \$2,000,000 of the motor vehicle account--state appropriation is provided solely for scoping unfunded state highway projects to ensure that a well-vetted project list is available for future program funding discussions.

(a) It is the intent of the legislature that the funding provided in this subsection support the development of transportation solutions that benefit all state residents, including addressing the impacts of traffic diversion from tolled facilities. It is further the intent of the legislature that the buying power of future revenue packages is maximized.

(b) Scoping work must be consistent with achieving transportation system policy goals as stated in RCW 47.04.280.

(c) The department shall provide cost-effective design solutions that achieve the desired functional outcomes. This may be achieved by providing one or more design alternatives for legislative consideration, based on a reasonable range of assumptions about traffic volume and speeds.

(d) Prior to the commencement of the 2011 legislative session, the department shall provide a report to the legislative transportation committees and the office of financial management that includes estimated costs and construction time frames.

(5) \$150,000 of the motor vehicle account--state appropriation is provided solely for a corridor study of state route number 516 from the eastern border of Maple Valley to state route number 167 to determine whether improvements are needed and the costs of any needed improvements.

(6) \$500,000 of the multimodal transportation account--federal appropriation is provided solely for continued support of the International Mobility and Trade Corridor project and for the department to work with the Whatcom council of governments to examine potential improvements to international border freight and

passenger rail movement and the use of diesel multiple units.

(7) \$80,000 of the motor vehicle account--state appropriation is provided solely to continue existing work regarding feasibility of a new interchange between Rochester and Harrison Avenue on Interstate 5.

**Sec. 221.** 2009 c 470 s 222 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--PUBLIC TRANSPORTATION--PROGRAM V

Regional Mobility Grant Program Account--State

Appropriation.....((~~\$54,677,000~~))  
\$65,274,000

Multimodal Transportation Account--State

Appropriation.....((~~\$65,795,000~~))  
\$65,667,000

Multimodal Transportation Account--Federal

Appropriation.....((~~\$2,582,000~~))  
\$2,573,000

Multimodal Transportation Account--Private/Local

Appropriation.....((~~\$1,027,000~~))  
\$1,025,000

TOTAL APPROPRIATION.....((~~\$124,081,000~~))  
\$134,539,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$25,000,000 of the multimodal transportation account--state appropriation is provided solely for a grant program for special needs transportation provided by transit agencies and nonprofit providers of transportation.

(a) \$5,500,000 of the amount provided in this subsection is provided solely for grants to nonprofit providers of special needs transportation. Grants for nonprofit providers shall be based on need, including the availability of other providers of service in the area, efforts to coordinate trips among providers and riders, and the cost effectiveness of trips provided.

(b) \$19,500,000 of the amount provided in this subsection is provided solely for grants to transit agencies to transport persons with special transportation needs. To receive a grant, the transit agency must have a maintenance of effort for special needs transportation that is no less than the previous year's maintenance of effort for special needs transportation. Grants for transit agencies shall be prorated based on the amount expended for demand response service and route deviated service in calendar year 2007 as reported in the "Summary of Public Transportation - 2007" published by the department of transportation. No transit agency may receive more than thirty percent of these distributions.

(2) Funds are provided for the rural mobility grant program as follows:

(a) \$8,500,000 of the multimodal transportation account--state appropriation is provided solely for grants for those transit systems serving small cities and rural areas as identified in the "Summary of Public Transportation - 2007" published by the department of transportation. Noncompetitive grants must be distributed to the transit systems serving small cities and rural areas in a manner similar to past disparity equalization programs.

(b) \$8,500,000 of the multimodal transportation account--state appropriation is provided solely to providers of rural mobility service in areas not served or underserved by transit agencies through a competitive grant process.

(3) \$7,000,000 of the multimodal transportation account--state appropriation is provided solely for a vanpool grant program for: (a) Public transit agencies to add vanpools or replace vans; and (b) incentives for employers to increase employee vanpool use. The grant program for public transit agencies will cover capital costs only; operating costs for public transit agencies are not eligible for

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funding under this grant program. Additional employees may not be hired from the funds provided in this section for the vanpool grant program, and supplanting of transit funds currently funding vanpools is not allowed. The department shall encourage grant applicants and recipients to leverage funds other than state funds. At least \$1,600,000 of this amount must be used for vanpool grants in congested corridors.

(4) \$400,000 of the multimodal transportation account--state appropriation is provided solely for a grant for a flexible carpooling pilot project program to be administered and monitored by the department. Funds are appropriated for one time only. The pilot project program must: Test and implement at least one flexible carpooling system in a high-volume commuter area that enables carpooling without prearrangement; utilize technologies that, among other things, allow for transfer of ride credits between participants; and be a membership system that involves prescreening to ensure safety of the participants. The program must include a pilot project that targets commuter traffic on the state route number 520 bridge. The department shall submit to the legislature by December 2010 a report on the program results and any recommendations for additional flexible carpooling programs.

(5) \$3,318,000 of the multimodal transportation account--state appropriation and \$21,248,000 of the regional mobility grant program account--state appropriation are reappropriated and provided solely for the regional mobility grant projects identified on the LEAP Transportation Document 2007-B, as developed April 20, 2007, or the LEAP Transportation Document 2006-D, as developed March 8, 2006. The department shall continue to review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. The department shall promptly close out grants when projects have been completed, and any remaining funds available to the office of transit mobility must be used only to fund projects on the LEAP Transportation Document 2006-D, as developed March 8, 2006; the LEAP Transportation Document 2007-B, as developed April 20, 2007; or the LEAP Transportation Document 2009-B, as developed April 24, 2009. It is the intent of the legislature to appropriate funds through the regional mobility grant program only for projects that will be completed on schedule. However, the Chuckanut park and ride project (101100G) is recognized as a crucial investment in the transportation system. For this reason, the department shall not close out the grant for the Chuckanut park and ride project until Skagit transit has exhausted all other pending opportunities for federal and local funds. If additional funds cannot be secured, the department shall consider this project a priority in the 2011-13 grant process. The department shall make every effort to advance the Chuckanut park and ride project within existing resources.

(6) \$33,429,000 of the regional mobility grant program account-- state appropriation is provided solely for the regional mobility grant projects identified in LEAP Transportation Document 2009-B, as developed April 24, 2009. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award, must be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and any remaining funds available to the office of transit mobility must be used only to fund projects identified in LEAP Transportation Document 2009-B, as developed April 24, 2009. The department shall provide annual status reports on December 15, 2009, and December 15, 2010, to the office of financial management and the transportation committees of the legislature regarding the projects

receiving the grants. It is the intent of the legislature to appropriate funds through the regional mobility grant program only for projects that will be completed on schedule.

(7) \$10,596,768 of the regional mobility grant program account-- state appropriation must be obligated no later than December 31, 2010, and is provided solely for the following recommended contingency regional mobility grant projects identified in the 2009-11 omnibus transportation appropriations act, LEAP Transportation Document 2009-B, as developed April 24, 2009, as follows:

(a) \$4,000,000 is provided solely for the Rainier/Jackson transit priority corridor improvements;

(b) \$2,100,000 is provided solely for the state route number 522 west city limits to Northeast 180th stage 2A (91st Ave NE to west of 96th Ave NE) project; and

(c) \$4,496,768 is provided solely for the sound transit express bus expansion - Snohomish to King county project.

(8) \$300,000 of the multimodal transportation account--state appropriation is provided solely for a transportation demand management program, developed by the Whatcom council of governments, to further reduce drive-alone trips and maximize the use of sustainable transportation choices. The community-based program must focus on all trips, not only commute trips, by providing education, assistance, and incentives to four target audiences: (a) Large work sites; (b) employees of businesses in downtown areas; (c) school children; and (d) residents of Bellingham.

~~((8))~~ (9) \$130,000 of the multimodal transportation account--state appropriation is provided solely to the department to distribute to support Engrossed Substitute House Bill No. 2072 (special needs transportation).

(a) \$80,000 of the amount provided in this subsection is provided solely for implementation of the work group related to federal requirements in section 1, chapter . . . (Engrossed Substitute House Bill No. 2072), Laws of 2009.

(b) \$50,000 of the amount provided in this subsection is provided solely to support the pilot project to be developed or implemented by the local coordinating coalition comprised of a single county, described in sections 9, 10, and 11, chapter . . . (Engrossed Substitute House Bill No. 2072), Laws of 2009. The department shall assist the local coordinating coalition to seek funding sufficient to fully fund the pilot project from a variety of sources including, but not limited to, the regional transit authority serving the county, the regional transportation planning organization serving the county, and other appropriate state and federal agencies and grants. Development or implementation of the pilot project is contingent on securing funding sufficient to fully fund the pilot project.

(c) If Engrossed Substitute House Bill No. 2072 is not enacted by June 30, 2009, the amount provided in this subsection ~~((8))~~ (9) lapses. If Engrossed Substitute House Bill No. 2072 is enacted by June 30, 2009, but a commitment from other sources to fully fund the pilot project described in (b) of this subsection has not been obtained by September 30, 2009, the amount provided in (b) of this subsection lapses.

~~((9))~~ (10) Funds provided for the commute trip reduction program may also be used for the growth and transportation efficiency center program.

~~((10))~~ (11) An affected urban growth area that has not previously implemented a commute trip reduction program is exempt from the requirements in RCW 70.94.527 if a solution to address the state highway deficiency that exceeds the person hours of delay threshold has been funded and is in progress during the 2009-11 fiscal biennium.

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~~((44))~~ (12) \$2,309,000 of the multimodal transportation account-- state appropriation is provided solely for the tri-county connection service for Island, Skagit, and Whatcom transit agencies. (13) During the 2009-11 biennium, the department shall implement a pilot project that expands opportunities for private transportation providers' use of high occupancy vehicle lanes, transit-only lanes, and certain park and ride facilities. Nothing in this subsection is intended to authorize the conversion of public infrastructure to private, for-profit purposes or to otherwise create an entitlement or other claim by private users to public infrastructure. The pilot project must establish that to receive grant funding from a program administered by the public transportation office of the department during the 2009-11 biennium, the local jurisdiction in which the applicant is located must be able to show that it has in place an application process for the reasonable use by private transportation providers of high occupancy vehicle lanes, transit-only lanes, and certain park and ride facilities that are regulated by the local jurisdiction. If a private transportation provider clearly demonstrates that the local jurisdiction failed to consider an application in good faith, the department may not award the jurisdiction any grant funding. Reasonable use exists if the private transportation provider has applied for the use of: (a) High occupancy vehicle or transit-only lanes, and such use will not interfere with the safety of public transportation operations and not reduce the speed of the lanes more than five percent during peak hours; and (b) a park and ride lot (i) during peak hours at a lot that is below ninety percent capacity during peak hours or (ii) during off-peak hours only. A transit agency may require that a private transportation provider enter into an agreement for use of the park and ride lot, and may include provisions to recover actual costs for the use of the lot and its related facilities. For purposes of this subsection: A "private transportation provider" means an auto transportation company regulated under chapter 81.68 RCW; a passenger charter carrier regulated under chapter 81.70 RCW; a private nonprofit transportation provider regulated under chapter 81.66 RCW; or a private employer transportation service provider; and "private employer transportation service" means regularly scheduled, fixed-route transportation service that is offered by an employer for the benefit of its employees.

Sec. 222. 2009 c 470 s 223 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF  
 TRANSPORTATION--MARINE--PROGRAM X  
 Puget Sound Ferry Operations Account--State

Appropriation.....(~~\$400,592,000~~)  
 \$425,922,000

The appropriation in this section is subject to the following conditions and limitations:

(1) (~~\$53,140,560~~) \$78,754,952 of the Puget Sound ferry operations account--state appropriation is provided solely for auto ferry vessel operating fuel in the 2009-11 fiscal biennium. This appropriation is contingent upon the enactment of sections 716 and 701 of this act. All fuel purchased by the Washington state ferries at Harbor Island truck terminal for the operation of the Washington state ferries diesel powered vessels must be a minimum of five percent biodiesel blend so long as the per gallon price of diesel containing a five percent biodiesel blend level does not exceed the per gallon price of diesel by more than five percent.

(2) To protect the waters of Puget Sound, the department shall investigate nontoxic alternatives to fuel additives and other commercial products that are used to operate, maintain, and preserve vessels.

(3) If, after the department's review of fares and pricing policies, the department proposes a fuel surcharge, the department must evaluate other cost savings and fuel price stabilization strategies that

would be implemented before the imposition of a fuel surcharge. The department shall report to the legislature and transportation commission on its progress of implementing new fuel forecasting and budgeting practices, price hedging contracts for fuel purchases, and fuel conservation strategies by November 30, 2010.

(4) The department shall strive to significantly reduce the number of injuries suffered by Washington state ferries employees. By December 15, 2009, the department shall submit to the office of financial management and the transportation committees of the legislature its implementation plan to reduce such injuries.

(5) The department shall continue to provide service to Sidney, British Columbia. The department may place a Sidney terminal departure surcharge on fares for out of state residents riding the Washington state ferry route that runs between Anacortes, Washington and Sidney, British Columbia, if the cost for landing/license fee, taxes, and additional amounts charged for docking are in excess of \$280,000 CDN. The surcharge must be limited to recovering amounts above \$280,000 CDN.

(6) The department shall analyze operational solutions to enhance service on the Bremerton to Seattle ferry run. The Washington state ferries shall report its analysis to the transportation committees of the legislature by December 1, 2009.

(7) The office of financial management budget instructions require agencies to recast enacted budgets into activities. The Washington state ferries shall include a greater level of detail in its 2011-13 omnibus transportation appropriations act request, as determined jointly by the office of financial management, the Washington state ferries, and the legislative transportation committees.

(8) (~~\$3,000,000~~) \$4,794,000 of the Puget Sound ferry operations account--state appropriation is provided solely for commercial insurance for ferry assets. The office of financial management, after consultation with the transportation committees of the legislature, must present a business plan for the Washington state ferry system's insurance coverage to the 2010 legislature. The business plan must include a cost-benefit analysis of Washington state ferries' current commercial insurance purchased for ferry assets and a review of self- insurance for noncatastrophic events.

(9) \$1,100,000 of the Puget Sound ferry operations account--state appropriation is provided solely for a marketing program. The department shall present a marketing program proposal to the transportation committees of the legislature during the 2010 legislative session before implementing this program. Of this amount, \$10,000 is for the city of Port Townsend and \$10,000 is for the town of Coupeville for mitigation expenses related to only one vessel operating on the Port Townsend/Keystone ferry route. The moneys provided to the city of Port Townsend and town of Coupeville are not contingent upon the required marketing proposal.

(10) \$350,000 of the Puget Sound ferry operations account--state appropriation is provided solely for two extra trips per day during the summer of 2009 season, beyond the current schedule, on the Port Townsend/Keystone route.

(11) When purchasing uniforms that are required by collective bargaining agreements, the department shall contract with the lowest cost provider.

(12) The legislature finds that measuring the performance of Washington state ferries requires the measurement of quality, timeliness, and unit cost of services delivered to customers. Consequently, the department must develop a set of metrics that measure that performance and report to the transportation committees of the legislature and to the office of financial management on the development of these measurements along with recommendations to the 2010 legislature on which measurements must become a part of the next omnibus transportation appropriations act.

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(13) As a priority task, the department is directed to propose a comprehensive incident and accident investigation policy and appropriate procedures, and to provide the proposal to the legislature by November 1, 2009, using existing resources and staff expertise. In addition to consulting with ferry system unions and the United States coast guard, the Washington state ferries is encouraged to solicit independent outside expertise on incident and accident investigation best practices as they may be found in other organizations with a similar concern for marine safety. It is the intent of the legislature to enact the policies into law and to publish that law and procedures as a manual for Washington state ferries' accident/incident investigations. Until that time, the Washington state ferry system must exercise particular diligence to assure that any incident or accident investigations are conducted within the spirit of the guidelines of this act. The proposed policy must contain, at a minimum:

(a) The definition of an incident and an accident and the type of investigation that is required by both types of events;

(b) The process for appointing an investigating officer or officers and a description of the authorities and responsibilities of the investigating officer or officers. The investigating officer or officers must:

(i) Have the appropriate training and experience as determined by the policy;

(ii) Not have been involved in the incident or accident so as to avoid any conflict of interest;

(iii) Have full access to all persons, records, and relevant organizations that may have information about or may have contributed to, directly or indirectly, the incident or accident under investigation, in compliance with any affected employee's or employees' respective collective bargaining agreement and state laws and rules regarding public disclosure under chapter 42.56 RCW;

(iv) Be provided with, if requested by the investigating officer or officers, appropriate outside technical expertise; and

(v) Be provided with staff and legal support by the Washington state ferries as may be appropriate to the type of investigation;

(c) The process of working with the affected employee or employees in accordance with the employee's or employees' respective collective bargaining agreement and the appropriate union officials, within protocols afforded to all public employees;

(d) The process by which the United States coast guard is kept informed of, interacts with, and reviews the investigation;

(e) The process for review, approval, and implementation of any approved recommendations within the department; and

(f) The process for keeping the public informed of the investigation and its outcomes, in compliance with any affected employee's or employees' respective collective bargaining agreement and state laws and rules regarding public disclosure under chapter 42.56 RCW.

(14) \$7,300,000 of the Puget Sound ferry operations account--state appropriation is provided solely for the purposes of travel time associated with Washington state ferries employees. However, if Engrossed Substitute House Bill No. 3209 (managing costs of ferry system) is enacted by June 30, 2010, containing an appropriation for purposes of travel time associated with Washington state ferries employees, the amount provided in this subsection lapses.

(15) \$50,000 of the Puget Sound ferry operations account--state appropriation is provided solely to implement a mechanism to report on-time performance statistics.

(a) The department shall conduct a study to identify process changes that would improve on-time performance on a route-by-route basis. The study must include looking into the slowing down of vessels for fuel economy purposes and touch-and-go sailings on peak runs. The department shall report its

findings to the transportation committees of the senate and house of representatives by December 1, 2010.

(b) The department shall, by November 1, 2010, report to the transportation committees of the legislature statistics regarding its on-time arrival and departure status on a route-by-route and month-by-month basis, as well as an annual route-by-route and systemwide basis, weighted by the number of customers on each sailing and distinguishing peak period on-time performance. The statistics must include reasons for any delays over ten minutes from the scheduled time. The statistics must be prominently displayed on the Washington state ferries' web site. Each Washington state ferries vessel and terminal must prominently display the statistics as they relate to their specific route.

(16) The department shall investigate outsourcing the call center functions planned for the ferry reservation system and report its findings to the transportation committees of the senate and house of representatives by December 15, 2010.

(17) By July 1, 2010, the department shall provide to the governor and the transportation committees of the senate and house of representatives a listing of all benefits that Washington state ferries union employees receive that other state employees do not traditionally receive. The listing must include any costs associated with these benefits.

**Sec. 223.** 2009 c 470 s 224 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--RAIL--PROGRAM Y--OPERATING Multimodal Transportation Account--State

Appropriation.....(~~(\$34,933,000)~~)  
\$37,371,000

The appropriation in this section is subject to the following conditions and limitations:

(1) (~~(\$29,091,000)~~) \$31,591,000 of the multimodal transportation account--state appropriation is provided solely for the Amtrak service contract and Talgo maintenance contract associated with providing and maintaining the state-supported passenger rail service. Upon completion of the rail platform project in the city of Stanwood, the department shall provide daily Amtrak Cascades service to the city.

(2) Amtrak Cascade runs may not be eliminated.

(3) The department shall begin planning for a third roundtrip Cascades train between Seattle and Vancouver, B.C. by 2010.

**Sec. 224.** 2009 c 470 s 225 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--LOCAL PROGRAMS--PROGRAM Z-- OPERATING

Motor Vehicle Account--State Appropriation.....(~~(\$8,739,000)~~)  
\$8,621,000

Motor Vehicle Account--Federal Appropriation.....(~~(\$2,567,000)~~)  
\$2,545,000

TOTAL APPROPRIATION.....(~~(\$11,306,000)~~)  
\$11,166,000

**TRANSPORTATION AGENCIES--CAPITAL**

**Sec. 301.** 2009 c 470 s 302 (uncodified) is amended to read as follows:

FOR THE COUNTY ROAD ADMINISTRATION BOARD  
Rural Arterial Trust Account--State

Appropriation.....(~~(\$51,000,000)~~)  
\$73,000,000

Motor Vehicle Account--State Appropriation.....\$1,048,000  
County Arterial Preservation Account--State

Appropriation.....\$31,400,000  
TOTAL APPROPRIATION.....(~~(\$83,448,000)~~)

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\$105,448,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,048,000 of the motor vehicle account--state appropriation may be used for county ferry projects as developed pursuant to RCW 47.56.725(4).

(2) The appropriations in this section include funding to counties to assist them in efforts to recover from federally declared emergencies, by providing capitalization advances and local match for federal emergency funding as determined by the county road administration board. The county road administration board shall specifically identify any such selected projects and shall include information concerning such selected projects in its next annual report to the legislature.

(3) \$22,000,000 of the rural arterial trust account--state appropriation is provided solely for additional grants for county road projects as approved by the county road administration board.

Sec. 302. 2009 c 470 s 303 (uncodified) is amended to read as follows:

FOR THE TRANSPORTATION IMPROVEMENT BOARD

Small City Pavement and Sidewalk Account--State  
Appropriation.....(((\$5,779,000))

\$3,927,000

Urban Arterial Trust Account--State  
Appropriation.....(((\$122,400,000))

\$123,900,000

Transportation Improvement Account--State  
Appropriation.....(((\$85,643,000))

\$81,643,000

TOTAL APPROPRIATION.....(((\$213,822,000))

\$209,470,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The transportation improvement account--state appropriation includes up to \$7,143,000 in proceeds from the sale of bonds authorized in RCW 47.26.500.

(2) The urban arterial trust account--state appropriation includes up to (((\$15,000,000)) \$7,143,000 in proceeds from the sale of bonds authorized in RCW 47.26.420.

Sec. 303. 2009 c 470 s 306 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--IMPROVEMENTS--PROGRAM I

Multimodal Transportation Account--State  
Appropriation.....(((\$1,000))

\$98,000

Transportation Partnership Account--State  
Appropriation.....(((\$1,723,834,000))

\$1,665,644,000

Motor Vehicle Account--State Appropriation.....(((\$80,735,000))

\$85,534,000

Motor Vehicle Account--Federal Appropriation....(((\$410,341,000))

\$570,107,000

Motor Vehicle Account--Private/Local  
Appropriation.....(((\$65,494,000))

\$70,714,000

Special Category C Account--State  
Appropriation...(((\$24,549,000))

\$25,221,000

Transportation 2003 Account (Nickel Account)--State  
Appropriation.....(((\$703,708,000))

\$713,205,000

Freight Mobility Multimodal Account--State  
Appropriation.....(((\$4,422,000))

\$4,574,000

Tacoma Narrows Toll Bridge Account--State  
Appropriation.....(((\$788,000))

\$789,000

State Route Number 520 Corridor Account--State  
Appropriation.....(((\$106,000,000))

\$231,763,000

State Route Number 520 Civil Penalties Account--State  
Appropriation.....\$1,190,000

TOTAL APPROPRIATION.....(((\$3,119,872,000))

\$3,368,839,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Except as provided otherwise in this section, the entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document ((2009-4)) 2010-1 as developed ((April 24, 2009)) March 8, 2010, Program - Highway Improvement Program (I). However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 603 of this act.

(2) ((As a result of economic changes since the initial development of the improvement program budget for the 2009-11 fiscal biennium, the department has received bids on construction contracts over the last several months that are favorable with respect to current estimates of project costs. National economic forecasts indicate that inflationary pressures are likely to remain lower than previously expected for the next several years. As a result, the nominal project cost totals shown in LEAP Transportation Document 2009-1 in aggregate for the 2009-11 fiscal biennium and the 2011-13 fiscal biennium are expected to exceed the likely amount necessary to deliver the projects listed within those biennia by \$63,500,000 in the 2009-11 fiscal biennium and \$52,700,000 in the 2011-13 fiscal biennium. The appropriations provided in this section for the projects in those biennia are therefore \$63,500,000 less in the 2009-11 fiscal biennium and \$52,700,000 less in the 2011-13 fiscal biennium than the aggregate total of project costs listed. It is the intent of the legislature that the department shall deliver the projects listed in LEAP Transportation Document 2009-1 within the time, scope, and budgets identified in that document, provided that the prices of commodities used in transportation projects do not differ significantly from those assumed for the 2009-11 and 2011-13 fiscal biennia in the March 2009 forecast of the economic and revenue forecast council.

(3) \$162,900,000)) \$163,385,000 of the transportation partnership account--state appropriation and (((\$106,000,000)) \$231,763,000 of the state route number 520 corridor account--state appropriation are provided solely for the state route number 520 bridge replacement and HOV project. The department shall submit an application for the eastside transit and HOV project to the supplemental discretionary grant program for regionally significant projects as provided in the American Recovery and Reinvestment Act of 2009. ((Eastside state route number 520 improvements shall be designed and constructed to accommodate a future full interchange at 124th Avenue Northeast. Concurrent with the eastside transit and HOV project, the department shall conduct engineering design of a full interchange at 124th Avenue Northeast. The amount provided in this subsection from the state route number 520 corridor account--state appropriation is contingent on the enactment of (a) Engrossed Substitute House Bill No. 2211 and (b) either Engrossed Substitute House Bill No. 2326 or other legislation authorizing bonds for the state route number 520 corridor projects. If the conditions of this subsection are not satisfied, the state route number 520 corridor account--state appropriation shall lapse.

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(4)) (3) As required under section 305(6), chapter 518, Laws of 2007, the department shall report by January 2010 to the transportation committees of the legislature on the findings of the King county noise reduction solutions pilot project.

((5)) (4) Funding allocated for mitigation costs is provided solely for the purpose of project impact mitigation, and shall not be used to develop or otherwise participate in the environmental assessment process.

((6)) (5) The department shall apply for surface transportation program (STP) enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in Programs I and P including, but not limited to, the SR 518, SR 520, Columbia river crossing, and Alaskan Way viaduct projects.

((7)) (6) The department shall, on a quarterly basis beginning July 1, 2009, provide to the office of financial management and the legislature reports providing the status on each active project funded in part or whole by the transportation 2003 account (nickel account) or the transportation partnership account. Funding provided at a programmatic level for transportation partnership account and transportation 2003 account (nickel account) projects relating to bridge rail, guard rail, fish passage barrier removal, and roadside safety projects should be reported on a programmatic basis. Projects within this programmatic level funding should be completed on a priority basis and scoped to be completed within the current programmatic budget. ~~((The department shall work with the office of financial management and the transportation committees of the legislature to agree on report formatting and elements. Elements must include, but not be limited to, project scope, schedule, and costs. For) Report formatting and elements must be consistent with the October 2009 quarterly project report. On a representative sample of new construction contracts valued at fifteen million dollars or more, the department must also use an earned value method of project monitoring. ((The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information systems (TEIS)).~~

—(8)) (7) The transportation 2003 account (nickel account)—state appropriation includes up to ~~((628,000,000))~~ \$653,630,000 in proceeds from the sale of bonds authorized by RCW 47.10.861.

((9)) (8) The transportation partnership account—state appropriation includes up to ~~((1,360,528,000))~~ \$1,347,939,000 in proceeds from the sale of bonds authorized in RCW 47.10.873.

((10)) (9) The special category C account—state appropriation includes up to ~~((22,127,000))~~ \$25,221,000 in proceeds from the sale of bonds authorized in RCW 47.10.812.

((11)) (10) The motor vehicle account—state appropriation includes up to ~~((31,500,000))~~ \$43,000,000 in proceeds from the sale of bonds authorized in RCW 47.10.843.

(11) The state route number 520 corridor account—state appropriation includes up to \$231,763,000 in proceeds from the sale of bonds authorized in RCW 47.10.879.

(12) The department must prepare a tolling study for the Columbia river crossing project. While conducting the study, the department must coordinate with the Oregon department of transportation to perform the following activities:

(a) Evaluate the potential diversion of traffic from Interstate 5 to other parts of the transportation system when tolls are implemented on Interstate 5 in the vicinity of the Columbia river;

(b) Evaluate the most advanced tolling technology to maintain travel time speed and reliability for users of the Interstate 5 bridge;

(c) Evaluate available active traffic management technology to determine the most effective options for technology that could maintain travel time speed and reliability on the Interstate 5 bridge;

(d) Confer with the project sponsor's council, as well as local and regional governing bodies adjacent to the Interstate 5 Columbia

river crossing corridor and the Interstate 205 corridor regarding the implementation of tolls, the impacts that the implementation of tolls might have on the operation of the corridors, the diversion of traffic to local streets, and potential mitigation measures;

(e) Regularly report to the Washington transportation commission regarding the progress of the study for the purpose of guiding the commission's potential toll setting on the facility;

(f) Research and evaluate options for a potential toll-setting framework between the Oregon and Washington transportation commissions;

(g) Conduct public work sessions and open houses to provide information to citizens, including users of the bridge and business and freight interests, regarding implementation of tolls on the Interstate 5 and to solicit citizen views on the following items:

(i) Funding a portion of the Columbia river crossing project with tolls;

(ii) Implementing variable tolling as a way to reduce congestion on the facility; and

(iii) Tolling Interstate 205 separately as a management tool for the broader state and regional transportation system; and

(h) Provide a report to the governor and the legislature by January 2010.

(13)(a) By January 2010, the department must prepare a traffic and revenue study for Interstate 405 in King county and Snohomish county that includes funding for improvements and high occupancy toll lanes, as defined in RCW 47.56.401, for traffic management. The department must develop a plan to operate up to two high occupancy toll lanes in each direction on Interstate 405.

(b) For the facility listed in (a) of this subsection, the department must:

(i) Confer with the mayors and city councils of jurisdictions in the vicinity of the project regarding the implementation of high occupancy toll lanes and the impacts that the implementation of these high occupancy toll lanes might have on the operation of the corridor and adjacent local streets;

(ii) Conduct public work sessions and open houses to provide information to citizens regarding implementation of high occupancy toll lanes and to solicit citizen views;

(iii) Regularly report to the Washington transportation commission regarding the progress of the study for the purpose of guiding the commission's toll setting on the facility; and

(iv) Provide a report to the governor and the legislature by January 2010.

(14)~~((—\$9,199,985))~~ \$6,488,000 of the motor vehicle account—state appropriation ~~((is))~~ and \$5,000 of the motor vehicle account—federal appropriation are provided solely for project 1002241, ~~((as identified in the LEAP transportation document in subsection (1) of this section.))~~ US 2 high priority safety project. Expenditure of these funds is for safety projects on state route number 2 between Monroe and Gold Bar, which may include median rumble strips, traffic cameras, and electronic message signs.

(15) Expenditures for the state route number 99 Alaskan Way viaduct replacement project must be made in conformance with Engrossed Substitute Senate Bill No. 5768.

(16) The department shall conduct a public outreach process to identify and respond to community concerns regarding the Belfair bypass. The process must include representatives from Mason county, the legislature, area businesses, and community members. The department shall use this process to consider and develop design alternatives that alter the project's scope so that the community's needs are met within the project budget. The department shall provide a report on the process and outcomes to the legislature by June 30, 2010.

(17) The legislature is committed to the timely completion of R8A which supports the construction of sound transit's east link.

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Following the completion of the independent analysis of the methodologies to value the reversible lanes on Interstate 90 which may be used for high capacity transit as directed in section 204 of this act, the department shall complete the process of negotiations with sound transit. Such agreement shall be completed no later than December 1, 2009.

(18) \$250,000 of the motor vehicle account--state appropriation is provided solely for the design and construction of a right turn lane to improve visibility and traffic flow on state route number 195 and Cheney-Spokane Road (project L1000001).

(19) ~~(\$846,700)~~ \$730,000 of the motor vehicle account--federal appropriation and ~~(\$17,280)~~ \$16,000 of the motor vehicle account-- state appropriation are provided solely for the Westview school noise wall (project WESTV).

(20) ~~(\$1,360)~~ \$2,000 of the motor vehicle account--state appropriation and ~~(\$35,786)~~ \$131,000 of the motor vehicle account-- federal appropriation are provided solely for interchange design and planning work on US 12 at A Street and Tank Farm Road (project PASCO).

(21) ~~(\$20,011,125)~~ \$21,566,000 of the transportation partnership account--state appropriation, ~~(\$2,550)~~ \$26,000 of the motor vehicle account--state appropriation, ~~(\$30,003,473)~~ \$30,000,000 of the motor vehicle account--private/local appropriation, and ~~(\$1,482,066)~~ \$4,334,000 of the motor vehicle account--federal appropriation are provided solely for project 400506A, the I-5/Columbia river crossing/Vancouver project. The funding described in this subsection includes a ~~(\$30,003,473)~~ \$30,000,000 contribution from the state of Oregon.

(22) It is important that the public and policymakers have accurate and timely access to information related to the Alaskan Way viaduct replacement project as it proceeds to, and during, the construction of all aspects of the project including, but not limited to, information regarding costs, schedules, contracts, project status, and neighborhood impacts. Therefore, it is the intent of the legislature that the state, city, and county departments of transportation establish a single source of accountability for integration, coordination, tracking, and information of all requisite components of the replacement project, which must include, at a minimum:

(a) A master schedule of all subprojects included in the full replacement project or program; and

(b) A single point of contact for the public, media, stakeholders, and other interested parties.

(23) ~~((The state route number 520 corridor account--state appropriation includes up to \$106,000,000 in proceeds from the sale of bonds authorized in Engrossed Substitute House Bill No. 2326 or in legislation authorizing bonds for the state route number 520 corridor projects. If Engrossed Substitute House Bill No. 2326, or legislation authorizing bonds for the state route number 520 corridor projects, is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.~~

~~(24))~~ The department shall evaluate a potential deep bore culvert for the state route number 305/Bjorgen creek fish barrier project identified as project 330514A in LEAP Transportation Document ALL PROJECTS 2009-2, as developed April 24, 2009. The department shall evaluate whether a deep bore culvert will be a less costly alternative than a traditional culvert since a traditional culvert would require extensive road detours during construction.

~~((25))~~ (24) Project number 330215A in the LEAP transportation document described in subsection (1) of this section is expanded to include safety and congestion improvements from the Key Peninsula Highway to the vicinity of Purdy. The department shall consult with the Washington traffic safety commission to ensure that this project includes improvements at intersections and

along the roadway to reduce the frequency and severity of collisions related to roadway conditions and traffic congestion.

~~((26) \$10,600,000)~~ (25) \$8,890,000 of the transportation partnership account--state appropriation is provided solely for project 109040Q, the Interstate 90 Two Way Transit and HOV Improvements--Stage 2 and 3 project, as indicated in the LEAP transportation document referenced in subsection (1) of this section. ~~((Funds shall be used solely for preliminary engineering on stages 2 and 3 of this project.~~

~~---(27))~~ (26) The department shall continue to work with the local partners in developing transportation solutions necessary for the economic growth in the Red Mountain American Viticulture Area of Benton county.

~~((28))~~ (27) For highway construction projects where the department considers agricultural lands of long-term commercial significance, as defined in RCW 36.70A.030, in reviewing and selecting sites to meet environmental mitigation requirements under the national environmental policy act (42 U.S.C. Sec. 4321 et seq.) and the state environmental policy act (chapter 43.21C RCW), the department shall, to the greatest extent possible, consider using public land first. If public lands are not available that meet the required environmental mitigation needs, the department may use other sites while making every effort to avoid any net loss of agricultural lands that have a designation of long-term commercial significance.

~~((29))~~ (28) Within the motor vehicle account--state appropriation and motor vehicle account--federal appropriation, the department may transfer funds between programs I and P, except for funds that are otherwise restricted in this act.

~~((30))~~ (29) Within the amounts provided in this section, \$200,000 of the transportation partnership account--state appropriation is provided solely for the department to prepare a comprehensive tolling study of the state route number 167 corridor to determine the feasibility of administering tolls within the corridor, identified as project number 316718A in the LEAP transportation document described in subsection (1) of this section. The department shall report to the joint transportation committee by September 30, 2010. The department shall regularly report to the Washington transportation commission regarding the progress of the study for the purpose of guiding the commission's potential toll setting on the facility. The elements of the study must include, at a minimum:

(a) The potential for value pricing to generate revenues for needed transportation facilities within the corridor;

(b) Maximizing the efficient operation of the corridor; and

(c) Economic considerations for future system investments.

~~((31))~~ (30) Within the amounts provided in this section, \$200,000 of the transportation partnership account--state appropriation is provided solely for the department to prepare a comprehensive tolling study of the state route number 509 corridor to determine the feasibility of administering tolls within the corridor, identified as project number 850901F in the LEAP transportation document described in subsection (1) of this section. The department shall report to the joint transportation committee by September 30, 2010. The department shall regularly report to the Washington transportation commission regarding the progress of the study for the purpose of guiding the commission's potential toll setting on the facility. The elements of the study must include, at a minimum:

(a) The potential for value pricing to generate revenues for needed transportation facilities within the corridor;

(b) Maximizing the efficient operation of the corridor; and

(c) Economic considerations for future system investments.

~~((32))~~ (31) Within the amounts provided in this section, \$28,000,000 of the transportation partnership account--state

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appropriation is for project 600010A, as identified in the LEAP transportation document in subsection (1) of this section: NSC-North Spokane corridor design and right-of-way - new alignment. Expenditure of these funds is for preliminary engineering and right-of-way purchasing to prepare for four lanes to be built from where existing construction ends at Francis Avenue for three miles to the Spokane river. Additionally, any savings realized on project 600001A, as identified in the LEAP transportation document in subsection (1) of this section: US 395/NSC-Francis Avenue to Farwell Road - New Alignment, must be applied to project 600010A.

~~((33))~~ (32) \$400,000 of the motor vehicle account--state appropriation is provided solely for the department to conduct a state route number 2 route development plan (project L2000016) that will identify essential improvements needed between the port of Everett/Naval station and approaching the state route number 9 interchange near the city of Snohomish.

~~((34))~~ (33) If the SR 26 - Intersection and Illumination Improvements are not completed by June 30, 2009, the department shall ensure that the improvements are completed as soon as practicable after June 30, 2009, and shall submit monthly progress reports on the improvements beginning July 1, 2009.

~~((35))~~ (34) \$200,000 of the transportation partnership account-- state appropriation, identified on project number 400506A in the LEAP transportation document described in subsection (1) of this section, is provided solely for the department to work with the department of archaeology and historic preservation to ensure that the cultural resources investigation is properly conducted on the Columbia river crossing project. This project must be conducted with active archaeological management and result in one report that spans the single cultural area in Oregon and Washington. Additionally, the department shall establish a scientific peer review of independent archaeologists that are knowledgeable about the region and its cultural resources.

~~((36))~~ (35) The department shall work with the department of archaeology and historic preservation to ensure that the cultural resources investigation is properly conducted on all mega-highway projects and large ferry terminal projects. These projects must be conducted with active archaeological management. Additionally, the department shall establish a scientific peer review of independent archaeologists that are knowledgeable about the region and its cultural resources.

~~((37))~~ (36) Within the amounts provided in this section, \$1,500,000 of the motor vehicle account--state appropriation is provided solely for necessary work along the south side of SR 532, identified as project number 053255C in the LEAP transportation document described in subsection (1) of this section.

~~((38))~~ (37) \$10,000,000 of the transportation partnership account--state appropriation is provided solely for the Spokane street viaduct portion of project 809936Z, SR 99/Alaskan Way Viaduct - Replacement project as indicated in the LEAP transportation document referenced in subsection (1) of this section.

~~((39))~~ (38) The department shall conduct a public outreach process to identify and respond to community concerns regarding the portion of John's Creek Road that connects state route number 3 and state route number 101. The process must include representatives from Mason county, the legislature, area businesses, and community members. The department shall use this process to consider, develop, and design a project scope so that the community's needs are met for the lowest cost. The department shall provide a report on the process and outcomes to the legislature by June 30, 2010.

~~((40))~~ (39) The department shall apply for the competitive portion of federal transit administration funds for eligible transit-related costs of the state route number 520 bridge replacement and

HOV project and the Columbia river crossing project. The federal funds described in this subsection must not include those federal transit administration funds distributed by formula. The department shall provide a report regarding this effort to the legislature by January 1, 2010.

(40) \$5,500,000 of the motor vehicle account--federal appropriation is provided solely for the Alaskan Way Viaduct - Automatic Shutdown project, identified as project L1000034.

(41) \$2,244,000 of the motor vehicle account--federal appropriation and \$122,000 of the motor vehicle account--state appropriation are provided solely for the US 12/Nine Mile Hill to Woodward Canyon Vic - Build New Highway project, identified as project 501210T.

(42) \$790,000 of the motor vehicle account--federal appropriation is provided solely for the Express Lanes System Concept Study project, identified as project 800020A. As part of this project, the department shall prepare a comprehensive tolling study of the Interstate 5 express lanes to determine the feasibility of administering tolls within the corridor. The department shall regularly report to the Washington transportation commission regarding the progress of the study. The elements of the study must include, at a minimum:

(i) The potential for value pricing to generate revenues for needed transportation facilities;

(ii) Maximizing the efficient operation of the corridor;

(iii) Economic considerations for future system investments; and

(iv) An analysis of the impacts to the regional transportation system.

(b) The department shall submit a final report on the study to the joint transportation committee by June 30, 2011.

(43) Any redistributed federal funds received by the department must, to the greatest extent possible, be first applied to offset planned expenditures of state funds, and second to offset planned expenditures of federal funds, on projects as identified in the LEAP transportation documents described in this act. If the redistributed federal funds cannot be used in this manner, the department must consult with the joint transportation committee prior to obligating any redistributed federal funds.

(44) \$226,000 of the motor vehicle account--federal appropriation and \$9,000 of the motor vehicle account--state appropriation are provided solely for the SR 16/Rosedale Street NW Vicinity - Frontage Road project (301639C). These funds must not be expended before an agreement stating that the city of Gig Harbor will take ownership of the road has been signed. The frontage road must be built for driving speeds of no more than thirty-five miles per hour.

(45) The department shall work with the Washington state transportation commission, the Oregon state department of transportation, and the Oregon state transportation commission to analyze and review potential options for a bistate, toll setting framework. As part of the analysis, the department shall undertake the following actions: Review statutory provisions and the governance structures of toll facilities in the United States that are located within two or more states; review relevant federal law regarding transportation facilities that are located within two or more states; consult with the state treasurers in Washington and Oregon regarding the appropriate structure for the issuance of debt for toll facilities that are located within two states; report findings and recommendations to the Columbia river project sponsor's council by October 1, 2010; and provide a final report to the governor and the legislature by June 30, 2011.

(46) \$750,000 of the motor vehicle account--state appropriation is provided solely for improvements from Allan Road to state route number 12 (501207Z).

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(47) \$500,000 of the motor vehicle account--state appropriation is provided solely for a traffic signal at the intersection of state route number 7 and state route number 702 (300738A).

(48) \$750,000 of the motor vehicle account--state appropriation is provided solely for environmental work on the Belfair Bypass (project 300344C).

(49) The legislature finds that state route number 522 corridor provides an important link between Interstates 5 and 405 and will be impacted by diversion from tolling elsewhere in the region. State route number 522 must be reviewed as part of the scoping work conducted under section 220(4) of this act. As such, the legislature intends to provide additional funding for the corridor as a priority in the next revenue package. The state will work with the affected cities and the federal government to secure the necessary resources to address the needs of this critical corridor.

(50) \$500,000 of the motor vehicle account--state appropriation is provided solely for the US 12/SR 122/Mossyrock - Intersection project (401212R) for safety improvements.

(51) \$200,000 of the motor vehicle account--federal appropriation is provided solely for project US 97A/North of Wenatchee - Wildlife Fence (209790B), and an offsetting reduction is anticipated in the 2011-13 biennium.

(52) If a planned roundabout in the vicinity of state route number 526 and 84th Street SW would divert commercial traffic onto neighborhood streets, the department may not proceed with improvements at state route number 526 and 84th Street SW until the traffic impacts in the vicinity of state route number 526 and 40th Avenue West are addressed.

(53) The department shall conduct a collision analysis corridor study on state route number 167 from milepost 0 to milepost 5 and report to the transportation committees of the legislature on the analysis results by December 1, 2010.

(54) \$2,600,000 of the motor vehicle account--federal appropriation is provided solely for the ITS Advanced Traveler Information System project in Whatcom county (100589B).

(55) \$900,000 of the motor vehicle account--federal appropriation is provided solely for the US 97/Cameron Lake Road intersection improvements project in Okanogan county (209700W).

(56) \$400,000 of the motor vehicle account--federal appropriation and \$100,000 of the motor vehicle account--state appropriation are provided solely for the SR 9/SR 204 Intersection Improvement project (L2000040).

(57) The legislature finds that the state route number 12 widening from state route number 124 to Walla Walla is an important east-west corridor in the southeast region of the state. Widening the highway to four lanes will increase safety and improve freight mobility. Therefore, the legislature intends for the department to use up to two million dollars in future redistributed federal obligation authority that may be received by the department for right-of-way purchase for the US 12/Nine Mile Hill to Woodward Canyon Vicinity - Phase 7-A project (501210T).

Sec. 304. 2009 c 470 s 307 (uncodified) is amended to read as follows:

FOR	THE	DEPARTMENT	OF
TRANSPORTATION--PRESERVATION--PROGRAM P			
Transportation Partnership Account--State			
Appropriation.....			(((\$103,077,000))
\$75,305,000			
Motor Vehicle Account--State Appropriation.....			(((\$88,142,000))
\$96,884,000			
Motor Vehicle Account--Federal Appropriation....			(((\$524,954,000))
			\$556,705,000
Motor Vehicle Account--Private/Local			
Appropriation..			(((\$6,417,000))
			\$18,768,000

Transportation 2003 Account (Nickel Account)--State  
Appropriation.....(((\$7,237,000))  
\$6,328,000

Puyallup Tribal Settlement Account--State  
Appropriation.....(((\$6,500,000))  
\$6,636,000

TOTAL APPROPRIATION.....(((\$736,327,000))  
\$760,626,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Except as provided otherwise in this section, the entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document ((2009-4)) 2010-1 as developed ((April 24, 2009)) March 8, 2010, Program - Highway Preservation Program (P). However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 603 of this act.

(2) (((\$544,639)) \$542,000 of the motor vehicle account--federal appropriation and (((\$455,361)) \$453,000 of the motor vehicle account-- state appropriation are provided solely for project 602110F, ((as identified in the LEAP transportation document in subsection (1) of this section)) SR 21/Keller ferry boat - Preservation. Funds are provided solely for preservation work on the existing vessel, the Martha S.

(3) The department shall apply for surface transportation program (STP) enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in Programs I and P.

(4) (((\$6,500,000)) \$6,636,000 of the Puyallup tribal settlement account--state appropriation is provided solely for ((mitigation)) costs associated with the Murray Morgan/11th Street bridge ((demolition. The department may negotiate with the city of Tacoma for the purpose of transferring ownership of the Murray Morgan/11th Street bridge to the city. If the city agrees to accept ownership of the bridge, the department)) project. The city of Tacoma may use the Puyallup tribal settlement account appropriation and other appropriated funds for bridge rehabilitation, bridge replacement, bridge demolition, and related mitigation. The department's participation, including prior expenditures, may not exceed (((\$39,953,000)) \$40,270,000. ((Funds may not be expended unless)) The city of Tacoma ((agrees to take)) has taken ownership of the bridge in its entirety, and ((provides that)) the payment of these funds extinguishes any real or implied agreements regarding future bridge expenditures.

(5) The department and the city of Tacoma must present to the legislature an agreement on the timing of the transfer of ownership of the Murray Morgan/11th Street bridge and any additional necessary state funding required to achieve the transfer and rehabilitation of the bridge by January 1, 2010.

(6) The department shall, on a quarterly basis beginning July 1, 2009, provide to the office of financial management and the legislature reports providing the status on each active project funded in part or whole by the transportation 2003 account (nickel account) or the transportation partnership account. Funding provided at a programmatic level for transportation partnership account projects relating to seismic bridges should be reported on a programmatic basis. Projects within this programmatic level funding should be completed on a priority basis and scoped to be completed within the current programmatic budget. The department shall work with the office of financial management and the transportation committees of the legislature to agree on report formatting and elements. Elements must include, but not be limited to, project scope,

schedule, and costs. For new construction contracts valued at fifteen million dollars or more, the department must also use an earned value method of project monitoring. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information systems (TEIS).

(7) The department of transportation shall continue to implement the lowest life cycle cost planning approach to pavement management throughout the state to encourage the most effective and efficient use of pavement preservation funds. Emphasis should be placed on increasing the number of roads addressed on time and reducing the number of roads past due.

(8)(a) The department shall conduct an analysis of state highway pavement replacement needs for the next ten years. The report must include:

(i) The current backlog of asphalt and concrete pavement preservation projects;

(ii) The level of investment needed to reduce or eliminate the backlog and resume the lowest life-cycle cost;

(iii) Strategies for addressing the recent rapid escalation of asphalt prices, including alternatives to using hot mix asphalt;

(iv) Criteria for determining which type of pavement will be used for specific projects, including annualized cost per mile, traffic volume per lane mile, and heavy truck traffic volume per lane mile; and

(v) The use of recycled asphalt and concrete in state highway construction and the effect on highway pavement replacement needs.

(b) Additionally, the department shall work with the department of ecology, the county road administration board, and the transportation improvement board to explore and explain the potential use of permeable asphalt and concrete pavement in state highway construction as an alternative method of storm water mitigation and the potential effects on highway pavement replacement needs.

(c) The department shall submit the report to the office of financial management and the transportation committees of the legislature by ~~((December))~~ September 1, 2010, in order to inform the development of the 2011-13 omnibus transportation appropriations act.

(9) ~~((\$1,722))~~ \$299,000 of the motor vehicle account--state appropriation, ~~((\$9,608,115))~~ \$23,425,000 of the motor vehicle account--federal appropriation, and ~~((\$272,144))~~ \$373,000 of the transportation partnership account--state appropriation are provided solely for the SR 104/Hood Canal bridge - replace east half project, identified as project 310407B in the LEAP transportation document described in subsection (1) of this section.

(10) Within the motor vehicle account--state appropriation and motor vehicle account--federal appropriation, the department may transfer funds between programs I and P, except for funds that are otherwise restricted in this act.

(11) Within the amounts provided in this section, \$1,510,000 of the motor vehicle account--state appropriation is provided solely to complete the rehabilitation of the SR 532/84th Avenue NW bridge deck.

(12) ~~((\$1,500,000))~~ \$1,440,000 of the motor vehicle account--federal appropriation ~~((is))~~ and \$60,000 of the motor vehicle account-- state appropriation are provided solely for the environmental impact statement and preliminary planning for the replacement of the state route number 9 Snohomish river bridge (project L2000018).

(13) \$12,503,000 of the motor vehicle account--federal appropriation and \$497,000 of the motor vehicle account--state appropriation are provided solely for the SR 410/Nile Valley Landslide - Establish Interim Detour project (541002R).

(14) \$4,239,000 of the motor vehicle account--federal appropriation and \$662,000 of the motor vehicle account--state appropriation are provided solely for the SR 410/Nile Valley Landslide - Reconstruct Route project (541002T).

(15) Any redistributed federal funds received by the department must, to the greatest extent possible, be first applied to offset planned expenditures of state funds, and second, to offset planned expenditures of federal funds, on projects as identified in the LEAP transportation documents described in this act. If the redistributed federal funds cannot be used in this manner, the department must consult with the joint transportation committee prior to obligating any redistributed federal funds.

(16) The legislature anticipates a report in September 2010 that will outline the department's recommendation for developing a Keller Ferry replacement at the lowest cost. The legislature supports the request to the federal government for federal aid for a replacement vessel and intends to provide reasonable matching amounts as necessary.

(17) \$2,100,000 of the motor vehicle account--federal appropriation is provided solely for the SR 21/Kettle River to Malo paving project in Ferry county (602117A).

**Sec. 305.** 2009 c 470 s 308 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--TRAFFIC OPERATIONS--PROGRAM Q-- CAPITAL

Motor Vehicle Account--State Appropriation.....	<del>((<u>\$6,394,000</u>))</del>
\$8,158,000	
Motor Vehicle Account--Federal Appropriation.....	<del>((<u>\$9,262,000</u>))</del>
\$18,037,000	
Motor Vehicle Account--Private/Local Appropriation.....	\$173,000
TOTAL APPROPRIATION.....	<del>((<u>\$15,656,000</u>))</del>
	\$26,368,000

**Sec. 306.** 2009 c 470 s 309 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--WASHINGTON STATE FERRIES CONSTRUCTION--PROGRAM W

Puget Sound Capital Construction Account--State	
Appropriation.....	<del>((<u>\$118,752,000</u>))</del>
126,824,000	
Puget Sound Capital Construction Account--Federal	
Appropriation.....	<del>((<u>\$38,306,000</u>))</del>
\$60,364,000	
Puget Sound Capital Construction Account--Local	
Appropriation.....	<del>((<u>\$8,492,000</u>))</del>
\$200,000	
Transportation 2003 Account (Nickel Account)--State	
Appropriation.....	\$51,734,000
Transportation Partnership Account--State	
Appropriation.....	<del>((<u>\$67,234,000</u>))</del>
\$66,879,000	
Multimodal Transportation Account--State	
Appropriation.....	<del>((<u>\$170,000</u>))</del>
\$149,000	
TOTAL APPROPRIATION.....	<del>((<u>\$284,688,000</u>))</del>
	\$306,150,000

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~((\$118,752,000))~~ \$126,824,000 of the Puget Sound capital construction account--state appropriation, ~~((\$38,306,000))~~ \$60,364,000 of the Puget Sound capital construction account--federal appropriation, ~~((\$8,492,000))~~ \$200,000 of the Puget Sound capital construction account--local appropriation, ~~((\$67,234,000))~~ \$66,879,000 of the transportation partnership account--state appropriation, \$51,734,000 of the transportation 2003

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account (nickel account)--state appropriation, and ~~((\$170,000))~~ \$149,000 of the multimodal transportation account-- state appropriation are provided solely for ferry capital projects, project support, and administration as listed in LEAP Transportation Document ALL PROJECTS ~~((2009-2))~~ 2010-2 as developed ~~((April 24, 2009))~~ March 8, 2010, Program - Ferries Construction Program (W). Of the total appropriation, a maximum of \$10,627,000 may be used for administrative support, a maximum of \$8,184,000 may be used for terminal project support, and a maximum of \$4,497,000 may be used for vessel project support. Of the total appropriation, \$5,851,000 is provided solely for a reservation system and associated communications projects.

(2) \$51,734,000 of the transportation 2003 account (nickel account)--state appropriation ~~((and))~~, \$63,100,000 of the transportation partnership account--state appropriation, and \$10,164,000 of the Puget Sound capital construction account--state appropriation are provided solely for the acquisition of three new Island Home class ferry vessels subject to the conditions of RCW 47.56.780. The department shall pursue a contract for the second and third Island Home class ferry vessels with an option to purchase a fourth Island Home class ferry vessel. However, if sufficient resources are available to build one 144-auto vessel prior to exercising the option to build the fourth Island Home class ferry vessel, procurement of the fourth Island Home class ferry vessel will be postponed and the department shall pursue procurement of a 144-auto vessel.

(a) The first two Island Home class ferry vessels must be placed on the Port Townsend-Keystone route.

(b) The department may add additional passenger capacity to one of the Island Home class ferry vessels to make it more flexible within the system in the future, if doing so does not require additional staffing on the vessel.

(c) Cost savings from the following initiatives will be included in the funding of these vessels: The department's review and update of the vessel life-cycle cost model as required under this section; and the implementation of technology efficiencies as required under section 602 of this act.

(3) ~~((\$2,450,000 of the Puget Sound capital construction account-- state appropriation is provided solely for contingencies associated with closing out the existing contract for the technical design of the 144-auto vessel and the storage and maintenance of vessel owner- furnished equipment already procured. The department shall use as much of the already procured equipment as is practicable on the Island Home class ferry vessel if it is likely to be obsolete before it is used in procured 144-auto vessels.))~~ (a) \$8,450,000 of the Puget Sound capital construction account--state appropriation and \$2,450,000 of the transportation partnership account--state appropriation are provided solely for the following projects related to the design of a 144- vehicle vessel class: (i) \$1,380,000 is provided solely for completion of the contract for owner-furnished equipment; (ii) \$8,320,000 is provided solely for completion of the technical design, detail design, and production drawings, all of which must plan for an aluminum superstructure; (iii) \$480,000 is provided solely for the storage of owner-furnished equipment; and (iv) a maximum of \$720,000 is for construction engineering. In completing the contract for owner- furnished equipment, the department shall use as much of the already procured equipment as is practicable on the Island Home class ferry vessels if it is likely to be obsolete before it is used in procured 144-vehicle vessels.

(b) The department shall conduct a cost-benefit study on alternative furnishings and fittings for the 144-vehicle vessel class. The study must review the proposed interior furnishings and fittings for the long-term maintenance and out-of-service vessel costs and, if appropriate, propose alternative interior furnishings and fittings that

will decrease long-term maintenance and out-of-service vessel costs. The study must include a projection of out-of-service time and a life- cycle cost analysis of planned out-of-service time, including the impact on fleet size. The department must submit the study to the joint transportation committee by August 1, 2010.

(c) The department shall identify costs for any additional detail design and production drawings costs related to incorporating the aluminum superstructure and any changes in the proposed furnishings and fittings.

(4) \$6,300,000 of the Puget Sound capital construction account-- state appropriation is provided solely for emergency capital costs.

(5) ~~((The Anacortes terminal may be replaced if additional federal funds are sought and received by the department. If federal funds received are not sufficient to replace the terminal, only usable, discrete phases of the project, up to the amount of federal funds received, may be constructed with the funds.))~~ \$3,000,000 of the Puget Sound capital construction account--federal appropriation is provided solely for completing the Anacortes terminal design up to the maximum allowable construction cost phase. Beyond preparing environmental work, these funds may be spent only after the following conditions have been met: (a) A value engineering process is conducted on the existing design and the concept of a terminal building smaller than preferred alternative; (b) the office of financial management participates in the value engineering process; (c) the office of financial management concurs with the recommendations of the value engineering process; and (d) the office of financial management gives its approval to proceed with the design work.

(6) \$3,965,000 of the Puget Sound capital construction account-- state appropriation is provided solely for the following vessel projects: Waste heat recovery pilot project for the Issaquah; jumbo Mark 1 class steering gear ventilation pilot project; and ((a new propulsion system for the MV Yakima)) improvements to the Yakima and Kaleetan propulsion controls to allow for two engine operation. Before beginning these projects, the Washington state ferries must ensure the vessels' out-of-service time does not negatively impact service to the system.

(7) The department shall pursue purchasing a foreign-flagged vessel for service on the Anacortes, Washington to Sidney, British Columbia ferry route.

(8) The department shall provide to the office of financial management and the legislature quarterly reports providing the status on each project listed in this section and in the project lists submitted pursuant to this act and on any additional projects for which the department has expended funds during the 2009-11 fiscal biennium. Elements must include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection via the transportation executive information systems (TEIS). The quarterly report regarding the status of projects identified on the list referenced in subsection (1) of this section must be developed according to an earned value method of project monitoring.

(9) The department shall review and adjust its capital program staffing levels to ensure staffing is at the most efficient level necessary to implement the capital program in the omnibus transportation appropriations act. The Washington state ferries shall report this review and adjustment to the office of financial management and the house and senate transportation committees of the legislature by July 2009.

(10) ~~((\$3,763,000 of the total appropriation is provided solely for the Washington state ferries to develop a reservation system. The department shall complete a predesign study and present the study to the joint transportation committee by November 1, 2009. This analysis must include an evaluation of the compatibility of the~~

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Washington state ferries' electronic fare system, proposed reservation system, and the implementation of smart card. The department may not implement a statewide reservation system until the department is authorized to do so in the 2010 supplemental omnibus transportation appropriations act.

(11))) \$1,200,000 of the total appropriation is provided solely for improving the toll booth configuration at the Port Townsend and Keystone ferry terminals.

~~((12) \$3,249,915))~~ (11) \$2,636,000 of the total appropriation is provided solely for continued permitting ~~((and archaeological work in order to determine the feasibility of relocating))~~ work on the Mukilteo ferry terminal. ~~((In order to ensure that the cultural resources investigation is properly conducted in a coordinated fashion, the department shall work with the department of archaeology and historic preservation and shall conduct work with active archaeological management.))~~ The department shall seek additional federal funding for this project.

~~((13))~~ (12) The department shall develop a proposed ferry vessel maintenance, preservation, and improvement program and present it to the transportation committees of the legislature by July 1, 2010. The proposal must:

(a) Improve the basis for budgeting vessel maintenance, preservation, and improvement costs and for projecting those costs into a sixteen-year financial plan;

(b) Limit the amount of planned out-of-service time to the greatest extent possible, including options associated with department staff as well as commercial shipyards. At a minimum, the department shall consider the following:

(i) The costs compared to benefits of Eagle Harbor repair and maintenance facility operations options to include staffing costs and benefits in terms of reduced out-of-service time;

(ii) The maintenance requirements for on-vessel staff, including the benefits of a systemwide standard;

(iii) The costs compared to benefits of staff performing preservation or maintenance work, or both, while the vessel is underway, tied up between sailings, or not deployed;

(iv) A review of the department's vessel maintenance, preservation, and improvement program contracting process and contractual requirements;

(v) The costs compared to benefits of allowing for increased costs associated with expedited delivery;

(vi) A method for comparing the anticipated out-of-service time of proposed projects and other projects planned during the same construction period;

(vii) Coordination with required United States coast guard dry dockings;

(viii) A method for comparing how proposed projects relate to the service requirements of the route on which the vessel normally operates; and

(ix) A method for evaluating the ongoing maintenance and preservation costs associated with proposed improvement projects; and

(c) Be based on the service plan in the capital plan, recognizing that vessel preservation and improvement needs may vary by route.

~~((14))~~ (13) \$247,000 of the Puget Sound capital construction account--state appropriation is provided solely for the Washington state ferries to review and update its vessel life-cycle cost model and report the results to the house of representatives and senate transportation committees of the legislature by ~~((December 1, 2009))~~ March 15, 2010. This review will evaluate the impact of the planned out-of-service periods scheduled for each vessel on the ability of the overall system to deliver uninterrupted service and will assess the risk of service disruption from unscheduled maintenance or longer than planned maintenance periods.

~~((15))~~ (14) The department shall work with the department of archaeology and historic preservation to ensure that the cultural resources investigation is properly conducted on all large ferry terminal projects. These projects must be conducted with active archaeological management. Additionally, the department shall establish a scientific peer review of independent archaeologists that are knowledgeable about the region and its cultural resources.

~~((16))~~ (15) The Puget Sound capital construction account--state appropriation includes up to ~~((118,000,000))~~ \$114,000,000 in proceeds from the sale of bonds authorized in RCW 47.10.843.

(16) The Puget Sound capital construction account--state appropriation reflects the reduction of three terminal positions due to decreased terminal activity and funding.

Sec. 307. 2009 c 470 s 310 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--RAIL--PROGRAM Y--CAPITAL Essential Rail Assistance Account--State

Appropriation.....~~((675,000))~~ \$333,000

Transportation Infrastructure Account--State Appropriation.....~~((13,100,000))~~ \$13,184,000

Multimodal Transportation Account--State Appropriation.....~~((68,530,000))~~ \$102,202,000

Multimodal Transportation Account--Federal Appropriation.....~~((16,054,000))~~ \$619,527,000

Multimodal Transportation Account--Private/Local Appropriation.....\$81,000

TOTAL APPROPRIATION.....~~((98,440,000))~~ \$735,327,000

The appropriations in this section are subject to the following conditions and limitations:

(1)(a) Except as provided otherwise in this section, the entire appropriations in this section are provided solely for the projects and activities as listed by ~~((fund))~~ project(s) and amount in LEAP Transportation Document ALL PROJECTS ~~((2009-2))~~ 2010-2 as developed ~~((April 24, 2009))~~ March 8, 2010, Program - Rail Capital Program (Y). ~~((However, limited transfers of specific line item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 603 of this act.))~~

(b)(i) Within the amounts provided in this section, \$116,000 of the transportation infrastructure account--state appropriation is for a low-interest loan through the freight rail investment bank program to the Port of Ephrata (BIN 722710A) for rehabilitation of a rail spur.

(ii) Within the amounts provided in this section, \$1,200,000 of the transportation infrastructure account--state appropriation is for a low-interest loan through the freight rail investment bank program to the Port of Everett (BIN 722810A) for a new rail track to connect a cement loading facility to the mainline.

(iii) ~~((Within the amounts provided in this section, \$3,684,000 of the transportation infrastructure account--state appropriation is for a low-interest loan through the freight rail investment bank program to the Port of Quincy for construction of a rail loop.))~~

(iv)) The department shall issue the loans referenced in this subsection (1)(b) with a repayment period of no more than ten years, and only so much interest as is necessary to recoup the department's costs to administer the loans.

(c)(i) Within the amounts provided in this section, ~~((1,712,022))~~ \$1,713,000 of the multimodal transportation

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account--state appropriation and ~~(((\$175,000))~~ \$333,000 of the essential rail assistance account--state appropriation are for statewide - emergent freight rail assistance projects as follows: Port of Ephrata/Ephrata - additional spur rehabilitation (BIN 722710A) ~~(((\$362,746))~~ \$363,000; Tacoma Rail/Tacoma - new refinery spur tracks (BIN 711010A) \$420,000; CW Line/Lincoln County - grade crossing rehabilitation (BIN 700610A) ~~(((\$370,650))~~ \$371,000; ~~((Clark County))~~ Chelatchie Prairie owned railroad/Vancouver - track rehabilitation (BIN 710110A) ~~(((\$366,813))~~ \$367,000; Tacoma Rail/Tacoma - improved locomotive facility (BIN 711010B) ~~(((\$366,813))~~ \$525,000.

(ii) (Within the amounts provided in this section, \$500,000 of the essential rail assistance account--state appropriation and \$25,000 of the multimodal transportation account--state appropriation are for a statewide - emergent freight rail assistance project grant for the Tacoma Rail/Roy - new connection to BNSF and Yelm (BIN 711310A) project, provided that the grantee first executes a written instrument that imposes on the grantee the obligation to repay the grant within thirty days in the event that the grantee discontinues or significantly diminishes service along the line within a period of five years from the date that the grant is awarded.

(iii)) Within the amounts provided in this section, ~~(((\$337,978))~~ \$338,000 of the multimodal transportation account--state appropriation is for a statewide - emergent freight rail assistance project grant for the Lincoln County PDA/Creston - new rail spur (BIN 710510A) project, provided that the grantee first documents to the satisfaction of the department sufficient commitments from the new shipper or shippers to locate in the publicly owned industrial park west of Creston to ensure that the net present value of the public benefits of the project is greater than the grant amount.

(d) Within the amounts provided in this section, ~~(((\$8,100,000))~~ \$8,115,000 of the transportation infrastructure account--state appropriation is for grants to any intergovernmental entity or local rail district to which the department of transportation assigns the management and oversight responsibility for the business and economic development elements of existing operating leases on the Palouse River and Coulee City (PCC) rail lines. \$300,000 of the transportation infrastructure account--state appropriation is provided solely for the fence line replacement project on the CW line. The PCC rail line system is made up of the CW, P&L, and PV Hooper rail lines. Business and economic development elements include such items as levels of service and business operating plans, but must not include the state's oversight of railroad regulatory compliance, rail infrastructure condition, or real property management issues. The PCC rail system must be managed in a self-sustaining manner and best efforts must be used to ensure that it does not require state capital or operating subsidy beyond the level of state funding expended on it to date. The assignment of the stated responsibilities to an intergovernmental entity or rail district must be on terms and conditions as the department of transportation and the intergovernmental entity or rail district mutually agree. The grant funds may be used only to refurbish the rail lines. It is the intent of the legislature to make the funds appropriated in this section available as grants to an intergovernmental entity or local rail district for the purposes stated in this section at least until June 30, 2012, and to reappropriate as necessary any portion of the appropriation in this section that is not used by June 30, 2011.

(2)(a) The department shall issue a call for projects for the freight rail investment bank program and the emergent freight rail assistance program, and shall evaluate the applications according to the cost benefit methodology developed during the 2008 interim using the legislative priorities specified in (c) of this subsection. By November 1, 2010, the department shall submit a prioritized list of recommended projects to the office of financial management and the transportation committees of the legislature.

(b) When the department identifies a prospective rail project that may have strategic significance for the state, or at the request of a proponent of a prospective rail project or a member of the legislature, the department shall evaluate the prospective project according to the cost benefit methodology developed during the 2008 interim using the legislative priorities specified in (c) of this subsection. The department shall report its cost benefit evaluation of the prospective rail project, as well as the department's best estimate of an appropriate construction schedule and total project costs, to the office of financial management and the transportation committees of the legislature.

(c) The legislative priorities to be used in the cost benefit methodology are, in order of relative importance:

(i) Economic, safety, or environmental advantages of freight movement by rail compared to alternative modes;

(ii) Self-sustaining economic development that creates family-wage jobs;

(iii) Preservation of transportation corridors that would otherwise be lost;

(iv) Increased access to efficient and cost-effective transport to market for Washington's agricultural and industrial products;

(v) Better integration and cooperation within the regional, national, and international systems of freight distribution; and

(vi) Mitigation of impacts of increased rail traffic on communities.

(3) The department is directed to seek the use of unprogrammed federal rail crossing funds to be expended in lieu of or in addition to state funds for eligible costs of projects in program Y.

(4) At the earliest possible date, the department shall apply, and assist ports and local jurisdictions in applying, for any federal funding that may be available for any projects that may qualify for such federal funding. State projects must be (a) currently identified on the project list referenced in subsection (1)(a) of this section or (b) projects for which no state match is required to complete the project. Local or port projects must not require additional state funding in order to complete the project, with the exception of (c) state funds currently appropriated for such project if currently identified on the project list referenced in subsection (1)(a) of this section or (d) potential grants awarded in the competitive grant process for the essential rail assistance program. If the department receives any federal funding, the department is authorized to obligate and spend the federal funds in accordance with federal law. To the extent permissible by federal law, federal funds may be used (e) in addition to state funds appropriated for projects currently identified on the project list referenced in subsection (1)(a) of this section in order to advance funding from future biennia for such project(s) or (f) in lieu of state funds; however, the state funds must be redirected within the rail capital program to advance funding for other projects currently identified on the project list referenced in subsection (1)(a) of this section. State funds may be redirected only upon consultation with the transportation committees of the legislature and the office of financial management, and approval by the director of the office of financial management. The department shall spend the federal funds before the state funds, and shall consult the office of financial management and the transportation committees of the legislature regarding project scope changes.

(5) The department shall provide quarterly reports to the office of financial management and the transportation committees of the legislature regarding applications that the department submits for federal funds ~~((;))~~ and the status of such applications ~~((; and the status of projects identified on the list referenced in subsection (1)(a) of this section. The quarterly report regarding the status of projects identified on the list referenced in subsection (1)(a) of this section must be developed according to an earned value method of project monitoring)).~~

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(6) The department shall, on a quarterly basis, provide to the office of financial management and the legislature reports providing the status on active projects identified in the LEAP transportation document described in subsection (1)(a) of this section. Report formatting and elements must be consistent with the October 2009 quarterly project report.

(7) The multimodal transportation account--state appropriation includes up to (~~(\$20,000,000)~~) \$48,000,000 in proceeds from the sale of bonds authorized in RCW 47.10.867.

~~((7))~~ (8) When the balance of that portion of the miscellaneous program account apportioned to the department for the grain train program reaches \$1,180,000, the department shall acquire twenty-nine additional grain train railcars.

(9) \$590,000,000 of the multimodal transportation account--federal appropriation is provided solely for high-speed rail projects awarded to Washington state from the high-speed intercity passenger rail program under the American recovery and reinvestment act. Funding will allow for two additional round trips between Seattle and Portland, and other rail improvements.

(10) \$2,200,000 of the multimodal transportation account--state appropriation is provided solely for expenditures related to the capital high-speed passenger rail grant that are not federally reimbursable.

(11) The Burlington Northern Santa Fe Skagit river bridge is an integral part of the rail system. Constructed in 1916, the bridge does not meet current design standards and is at risk during flood events that occur on the Skagit river. The department shall work with Burlington Northern Santa Fe and local jurisdictions to secure federal funding for the Skagit river bridge and to develop an appropriate replacement plan and schedule.

(12) \$1,000,000 of the multimodal transportation account--state appropriation is provided solely for additional expenditures along the Chelatchie Prairie railroad (LN2000025).

**Sec. 308.** 2009 c 470 s 311 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--LOCAL PROGRAMS--PROGRAM Z-- CAPITAL**

Highway Infrastructure Account--State Appropriation.....	\$207,000
Highway Infrastructure Account--Federal	
Appropriation.....	\$1,602,000
Freight Mobility Investment Account--State	
Appropriation.....	<del>(\$13,548,000)</del>
\$13,848,000	
Transportation Partnership Account--State	
Appropriation.....	\$8,863,000
Motor Vehicle Account--State Appropriation.....	<del>(\$12,954,000)</del>
\$14,068,000	
Motor Vehicle Account--Federal Appropriation.....	<del>(\$39,572,000)</del>
\$43,835,000	
Freight Mobility Multimodal Account--State	
Appropriation.....	<del>(\$14,920,000)</del>
\$15,620,000	
Freight Mobility Multimodal Account--Local	
Appropriation.....	<del>(\$3,135,000)</del>
\$3,258,000	
Multimodal Transportation Account--Federal	
Appropriation.....	<del>(\$2,098,000)</del>
\$2,118,000	
Multimodal Transportation Account--State	
Appropriation.....	<del>(\$28,262,000)</del>
\$28,855,000	
Transportation 2003 Account (Nickel Account)--State	
Appropriation.....	<del>(\$709,000)</del>
\$2,709,000	
Passenger Ferry Account--State Appropriation.....	\$2,879,000

**Puyallup Tribal Settlement Account--State**

Appropriation.....	\$5,895,000
TOTAL APPROPRIATION.....	<del>(\$128,749,000)</del>
\$143,757,000	

The appropriations in this section are subject to the following conditions and limitations:

(1) The department shall, on a quarterly basis, provide status reports to the legislature on the delivery of projects as outlined in the project lists incorporated in this section. For projects funded by new revenue in the 2003 and 2005 transportation packages, reporting elements shall include, but not be limited to, project scope, schedule, and costs. Other projects may be reported on a programmatic basis. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information system (TEIS).

(2) \$2,729,000 of the passenger ferry account--state appropriation is provided solely for near and long-term costs of capital improvements in a business plan approved by the governor for passenger ferry service.

(3) \$150,000 of the passenger ferry account--state appropriation is provided solely for the Port of Kingston for a one-time operating subsidy needed to retain a federal grant.

(4) \$3,000,000 of the motor vehicle account--federal appropriation is provided solely for the Coal Creek parkway project (L1000025).

(5) The department shall seek the use of unprogrammed federal rail crossing funds to be expended in lieu of or in addition to state funds for eligible costs of projects in local programs, program Z capital.

(6) The department shall apply for surface transportation program (STP) enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in local programs, program Z capital.

(7) Federal funds may be transferred from program Z to programs I and P and state funds shall be transferred from programs I and P to program Z to replace those federal funds in a dollar-for-dollar match. Fund transfers authorized under this subsection shall not affect project prioritization status. Appropriations shall initially be allotted as appropriated in this act. The department may not transfer funds as authorized under this subsection without approval of the office of financial management. The department shall submit a report on those projects receiving fund transfers to the office of financial management and the transportation committees of the legislature by December 1, 2009, and December 1, 2010.

(8) The city of Winthrop may utilize a design-build process for the Winthrop bike path project. Of the amount appropriated in this section for this project, \$500,000 of the multimodal transportation account-- state appropriation is contingent upon the state receiving from the city of Winthrop \$500,000 in federal funds awarded to the city of Winthrop by its local planning organization.

(9) ~~(\$18,182,113)~~ \$18,289,000 of the multimodal transportation account--state appropriation, ~~(\$8,753,895)~~ \$8,810,000 of the motor vehicle account--federal appropriation, and \$4,000,000 of the transportation partnership account--state appropriation are provided solely for the pedestrian and bicycle safety program projects and safe routes to schools program projects identified in LEAP Transportation Document 2009-A, pedestrian and bicycle safety program projects and safe routes to schools program projects, as developed March 30, 2009, LEAP Transportation Document 2007-A, pedestrian and bicycle safety program projects and safe routes to schools program projects, as developed April 20, 2007, and LEAP Transportation Document 2006-B, pedestrian and bicycle safety program projects and safe routes to schools program projects, as developed March 8, 2006.

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Projects must be allocated funding based on order of priority. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award must be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and identify where unused grant funds remain because actual project costs were lower than estimated in the grant award.

(10) Except as provided otherwise in this section, the entire appropriations in this section are provided solely for the projects and activities as listed by ~~((fund))~~ project~~(s)~~ and amount in LEAP Transportation Document ALL PROJECTS ~~((2009-2))~~ 2010-2 as developed ~~((April 24, 2009))~~ March 8, 2010, Program~~(s)~~ - Local Program (Z).

(11) For the 2009-11 project appropriations, unless otherwise provided in this act, the director of financial management may authorize a transfer of appropriation authority between projects managed by the freight mobility strategic investment board in order for the board to manage project spending and efficiently deliver all projects in the respective program.

(12) \$913,386 of the motor vehicle account--state appropriation and ~~((2,858,216))~~ \$2,858,000 of the motor vehicle account--federal appropriation are provided solely for completion of the US 101 northeast peninsula safety rest area and associated roadway improvements east of Port Angeles at the Deer Park scenic view point. The department must surplus any right-of-way previously purchased for this project near Sequim. Approval to proceed with construction is contingent on surplus of previously purchased right-of-way. \$865,000 of the motor vehicle account--state appropriation is to be placed into unallotted status until such time as the right-of-way sale is completed.

(13) \$5,894,000 of the Puyallup tribal settlement account--state appropriation is provided solely for costs associated with the Murray Morgan/11th Street bridge project. The city of Tacoma may use the Puyallup tribal settlement account appropriation and other appropriated funds for bridge rehabilitation, bridge replacement, bridge demolition, and bridge mitigation. The department's participation, including prior expenditures, may not exceed \$40,270,000. The city of Tacoma has taken ownership of the bridge in its entirety, and the payment of these funds extinguishes any real or implied agreements regarding future bridge expenditures.

(14) Up to \$3,702,000 of the motor vehicle account--federal appropriation and \$75,000 of the motor vehicle account--state appropriation are provided solely to reimburse the cities of Kirkland and Redmond for pavement and bridge deck rehabilitation on state route number 908 (project ILP611A). These funds may not be expended unless the cities sign an agreement stating that the cities agree to take ownership of state route number 908 in its entirety and agree that the payment of these funds represents the entire state commitment to the cities for state route number 908 expenditures. The amount provided in this subsection is contingent on the enactment by June 30, 2010, of Senate Bill No. 6555.

(15) The department shall consider the condition of the Broadway bridge in the city of Everett when prioritizing bridge projects.

(16) In order to make the Hood Canal bridge safe for cyclists, the department must work with stakeholders to review bicycle safety needs on the bridge, including consideration of accident data and improvements already made to this project.

(17) \$250,000 of the multimodal transportation account--state appropriation is provided solely for the Shell Valley emergency access road and bicycle/pedestrian path.

(18) \$500,000 of the motor vehicle account--state appropriation is provided solely for improvements to the 150th and Murray Road intersection in the city of Lakewood.

(19) \$250,000 of the motor vehicle account--state appropriation is provided solely for flood reduction solutions on state route number 522 caused by the lower McAleer and Lyon creek basins.

(20) \$200,000 of the motor vehicle account--state appropriation is provided solely for improvements to the intersection of 39th Ave SE and state route number 96 in Snohomish county.

**TRANSFERS AND DISTRIBUTIONS**

**Sec. 401.** 2009 c 470 s 401 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALES DISCOUNTS AND DEBT TO BE PAID BY MOTOR VEHICLE ACCOUNT AND TRANSPORTATION FUND REVENUE

Highway Bond Retirement Account Appropriation	<del>((742,400,000))</del>	
\$733,667,000		
Ferry Bond Retirement Account Appropriation	\$33,771,000	
State Route Number 520 Corridor Account--State		
Appropriation	\$600,000	
Transportation Improvement Board Bond Retirement		
Account--State Appropriation	<del>((22,541,000))</del>	
\$22,962,000		
Nondebt-Limit	Reimbursable	Account
Appropriation		<del>((18,400,000))</del>
\$18,451,000		
Transportation Partnership Account--State		
Appropriation		<del>((8,318,000))</del>
\$4,722,000		
Motor Vehicle Account--State Appropriation		<del>((901,000))</del>
\$732,000		
Transportation 2003 Account (Nickel Account)--State		
Appropriation		<del>((4,116,000))</del>
\$2,182,000		
Special Category C Account--State Appropriation		<del>((148,000))</del>
\$94,000		
Urban Arterial Trust Account--State Appropriation		\$85,000
Transportation Improvement Account--State Appropriation		\$41,000
Multimodal Transportation Account--State		
Appropriation		<del>((283,000))</del>
\$204,000		
TOTAL APPROPRIATION		<del>((831,004,000))</del>
\$817,511,000		

**Sec. 402.** 2009 c 470 s 402 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES AND FISCAL AGENT CHARGES

State Route Number 520 Corridor Account--State	
Appropriation	\$40,000
Transportation Partnership Account--State	
Appropriation	<del>((523,000))</del>
\$787,000	
Motor Vehicle Account--State Appropriation	<del>((57,000))</del>
\$122,000	
Transportation 2003 Account (Nickel Account)--State	
Appropriation	<del>((259,000))</del>
\$364,000	
Special Category C Account--State Appropriation	<del>((10,000))</del>
\$15,000	

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Urban Arterial Trust Account--State Appropriation.....\$5,000  
 Transportation Improvement Account--State Appropriation..\$3,000  
 Multimodal Transportation Account--State  
 Appropriation.....((~~\$18,000~~))  
 \$34,000  
 TOTAL APPROPRIATION.....((~~\$875,000~~))  
 \$1,370,000

**Sec. 403.** 2009 c 470 s 403 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR MVFT BONDS AND TRANSFERS

Motor Vehicle Account--State Appropriation:  
 For transfer to the Puget Sound Capital Construction  
 Account.....((~~\$118,000,000~~))  
 \$114,000,000

The department of transportation is authorized to sell up to ((~~\$118,000,000~~)) \$114,000,000 in bonds authorized by RCW 47.10.843 for vessel and terminal acquisition, major and minor improvements, and long lead-time materials acquisition for the Washington state ferries.

**Sec. 404.** 2009 c 470 s 404 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--STATE REVENUES FOR DISTRIBUTION

Motor Vehicle Account Appropriation for  
 motor vehicle fuel tax distributions to cities  
 and counties.....((~~\$488,843,000~~))  
 \$478,753,000

**Sec. 405.** 2009 c 470 s 405 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--TRANSFERS

Motor Vehicle Account--State  
 Appropriation: For motor vehicle fuel tax  
 refunds and statutory transfers.....((~~\$1,310,279,000~~))  
 \$1,247,260,000

**Sec. 406.** 2009 c 470 s 406 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING--TRANSFERS

Motor Vehicle Account--State  
 Appropriation: For motor vehicle fuel tax  
 refunds and transfers.....((~~\$129,178,000~~))  
 \$120,688,000

**Sec. 407.** 2009 c 470 s 407 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--ADMINISTRATIVE TRANSFERS

(1) Tacoma Narrows Toll Bridge Account--State  
 Appropriation: For transfer to the Motor Vehicle  
 Account--State.....\$5,288,000

(2) Motor Vehicle Account--State Appropriation:  
 For transfer to the Puget Sound Ferry Operations  
 Account--State.....((~~\$17,000,000~~))  
 \$54,000,000

(3) Recreational Vehicle Account--State  
 Appropriation: For transfer to the Motor Vehicle  
 Account--State.....\$2,000,000

(4) License Plate Technology Account--State  
 Appropriation: For transfer to the Highway Safety  
 Account--State.....\$2,750,000

(5) Multimodal Transportation Account--State  
 Appropriation: For transfer to the Puget Sound  
 Ferry Operations Account--State.....\$9,000,000

(6) Highway Safety Account--State Appropriation:

For transfer to the Multimodal Transportation  
 Account--State.....\$18,750,000  
 (7) Department of Licensing Services Account--State  
 Appropriation: For transfer to the Motor Vehicle  
 Account--State.....((~~\$2,000,000~~))  
 \$1,300,000

(8) Advanced Right-of-Way Account: For transfer  
 to the Motor Vehicle Account--State.....\$14,000,000

(9) ((Motor Vehicle Account--State Appropriation:  
 For transfer to the Transportation Partnership  
 Account--State.....\$8,000,000))

(10) State Route Number 520 Civil Penalties  
 Account--State Appropriation: For transfer to the  
 State Route Number 520 Corridor Account--State.....\$190,000.

(11) Advanced Environmental Mitigation Revolving  
 Account--State Appropriation: For transfer to the  
 Motor Vehicle Account--State.....\$5,000,000

(12) Regional Mobility Grant Program Account--State  
 Appropriation: For transfer to the Multimodal  
 Transportation Account--State.....\$4,000,000

(13) Motor Vehicle Account--State Appropriation:  
 For transfer to the State Patrol Highway Account--State\$4,000,000

(14) The transfers identified in this section are subject to the following conditions and limitations:

(a) The amount transferred in subsection (1) of this section represents repayment of operating loans and reserve payments provided to the Tacoma Narrows toll bridge account from the motor vehicle account in the 2005-07 fiscal biennium. However, if Engrossed Substitute Senate Bill No. 6499 is enacted by June 30, 2010, the transfer in subsection (1) of this section shall not occur.

(b) Any cash balance in the waste tire removal account in excess of one million dollars must be transferred to the motor vehicle account for the purpose of road wear-related maintenance on state and local public highways.

(c) The transfer in subsection (10) of this section represents toll revenue collected from toll violations.

**COMPENSATION**

**Sec. 501.** 2009 c 470 s 501 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT--REVISED PENSION CONTRIBUTION RATES

((Aeronautics Account--State.....(\$40,000)  
 Grade Crossing Protective Account--State.....(\$2,000)  
 State Patrol Highway Account--State.....(\$5,593,000)  
 Motorcycle Safety Education Account--State.....(\$18,000)  
 High Occupancy Toll Lanes Operations Account--State.....(\$26,000)  
 Rural Arterial Trust Account--State.....(\$20,000)  
 Wildlife Account--State.....(\$16,000)  
 Highway Safety Account--State.....(\$1,869,000)  
 Highway Safety Account--Federal.....(\$56,000)  
 Motor Vehicle Account--State.....(\$11,348,000)  
 Puget Sound Ferry Operations Account--State.....(\$5,019,000)  
 Urban Arterial Trust Account--State.....(\$26,000)  
 Transportation Improvement Account--State.....(\$26,000)  
 County Arterial Preservation Account--State.....(\$22,000)  
 Department of Licensing Services Account--State.....(\$36,000)  
 Multimodal Transportation Account--State.....(\$220,000)  
 Tacoma Narrows Toll Bridge Account--State.....(\$28,000)  
 Puget Sound Capital Construction Account--State.....(\$459,000)  
 Motor Vehicle Account--Federal.....(\$8,791,000)

Appropriations are adjusted to reflect changes to appropriations to reflect savings resulting from pension funding. The office of financial management shall update agency appropriations schedules

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to reflect the changes to funding levels in this section as identified by agency and fund in LEAP transportation document Z9R-2009. From the applicable accounts, the office of financial management shall adjust allotments to the respective agencies by an amount that conforms with funding adjustments enacted in the 2009-11 omnibus operating appropriations act. Any allotment reductions under this section shall be placed in reserve status and remain unexpended.) Appropriations in this act include agency appropriations to reflect increased employer contribution rates in the public employees' retirement system as a result of the provisions in chapter 430, Laws of 2009 (calculating compensation for public retirement purpose).

**NEW SECTION. Sec. 502. FOR THE OFFICE OF FINANCIAL MANAGEMENT-- REVISED EMPLOYER HEALTH BENEFIT RATES**

Aeronautics Account—State.....	\$3,000
State Patrol Highway Account—State.....	\$618,000
Motorcycle Safety Education Account—State.....	\$2,000
High Occupancy Toll Lanes Operations Account—State.....	\$2,000
Rural Arterial Trust Account—State.....	\$2,000
Wildlife Account—State.....	\$2,000
Highway Safety Account—State.....	\$261,000
Highway Safety Account—Federal.....	\$6,000
Motor Vehicle Account—State.....	\$1,076,000
Puget Sound Ferry Operations Account—State.....	\$527,000
Urban Arterial Trust Account—State.....	\$2,000
Transportation Improvement Account—State.....	\$2,000
County Arterial Preservation Account—State.....	\$2,000
Department of Licensing Services Account—State.....	\$3,000
Multimodal Transportation Account—State.....	\$13,000
Tacoma Narrows Toll Bridge Account—State.....	\$3,000

Appropriations are adjusted to reflect changes to appropriations to reflect changes in the employer cost of providing health benefit coverage. The office of financial management shall update agency appropriations schedules to reflect the changes in funding levels in this section as identified by agency and fund in LEAP transportation document GLB-2010. From the applicable accounts, the office of financial management shall adjust allotments to the respective agencies by an amount that conforms with funding adjustments enacted in the 2010 supplemental omnibus operating appropriations act. Any allotment reductions under this section must be placed in reserve status and remain unexpended.

**Sec. 503.** 2009 c 470 s 503 (uncodified) is amended to read as follows:

**COMPENSATION--INSURANCE BENEFITS.**

Appropriations for state agencies in this act are sufficient for nonrepresented and represented state employee health benefits for state agencies, and are subject to the following conditions and limitations:

(1)(a) Unless otherwise provided in the 2010 supplemental omnibus operating appropriations act, the monthly employer funding rate for insurance benefit premiums, public employees' benefits board administration, and the uniform medical plan, shall not exceed \$745 per eligible employee for fiscal year 2010. For fiscal year 2011, the monthly employer funding rate shall not exceed ~~(\$768)~~ **\$795** per eligible employee.

(b) In order to achieve the level of funding provided for health benefits, the public employees' benefits board shall require any or all of the following: Employee premium copayments; increases in point-of- service cost sharing; the implementation of managed competition; or make other changes to benefits consistent with RCW 41.05.065. During the 2009-11 fiscal biennium, the board may only authorize benefit plans and premium contributions for an employee and the employee's dependents that are the same,

regardless of an employee's status as represented or nonrepresented under the personnel system reform act of 2002.

(c) The health care authority shall deposit any moneys received on behalf of the uniform medical plan as a result of rebates on prescription drugs, audits of hospitals, subrogation payments, or any other moneys recovered as a result of prior uniform medical plan claims payments into the public employees' and retirees' insurance account to be used for insurance benefits. Such receipts shall not be used for administrative expenditures.

(d) The conditions in this section apply to benefits for nonrepresented employees, employees represented by the super coalition, and represented employees outside of the super coalition, including employees represented under chapter 47.64 RCW.

(2) Unless otherwise provided in the 2010 supplemental omnibus operating appropriations act, the health care authority, subject to the approval of the public employees' benefits board, shall provide subsidies for health benefit premiums to eligible retired or disabled public employees and school district employees who are eligible for medicare, pursuant to RCW 41.05.085. From January 1, 2010, through December 31, 2010, the subsidy shall be \$182.89. Beginning January 1, 2011, the subsidy shall be \$182.89 per month.

**IMPLEMENTING PROVISIONS**

**Sec. 601.** 2009 c 470 s 304 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION.** As part of its budget submittal (~~for the 2011-13 fiscal biennium~~), the department shall provide an annual update to the report provided to the legislature and the office of financial management in 2008 that:

(1) Compares the original project cost estimates approved in the 2003 and 2005 project lists to the completed cost of the project, or the most recent legislatively approved budget and total project costs for projects not yet completed;

(2) Identifies highway projects that may be reduced in scope and still achieve a functional benefit;

(3) Identifies highway projects that have experienced scope increases and that can be reduced in scope;

(4) Identifies highway projects that have lost significant local or regional contributions that were essential to completing the project; and

(5) Identifies contingency amounts allocated to projects.

**NEW SECTION. Sec. 602.** Any redistributed federal funds received by the department of transportation must, to the greatest extent possible, be first applied to offset planned expenditures of state funds, and second, to offset planned expenditures of federal funds, on projects as identified in the LEAP transportation documents described in this act. If the redistributed federal funds cannot be used in this manner, the department of transportation must consult with the joint transportation committee prior to obligating any redistributed federal funds.

**Sec. 603.** 2009 c 470 s 603 (uncodified) is amended to read as follows:

**FUND TRANSFERS.** (1) The transportation 2003 projects or improvements and the 2005 transportation partnership projects or improvements are listed in LEAP Transportation Document ~~((2009-1))~~ **2010-1** as developed ~~((April 24, 2009))~~ **March 8, 2010**, which consists of a list of specific projects by fund source and amount over a sixteen year period. Current fiscal biennium funding for each project is a line item appropriation, while the outer year funding allocations represent a sixteen year plan. The department is expected to use the flexibility provided in this section to assist in the delivery and completion of all transportation partnership account and transportation 2003 (nickel) account projects on the LEAP lists referenced in this act. For the 2009-11

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project appropriations, unless otherwise provided in this act, the director of financial management may authorize a transfer of appropriation authority between projects funded with transportation 2003 account (nickel account) appropriations(;) or transportation partnership account appropriations, (~~or multimodal transportation account appropriations,~~) in order to manage project spending and efficiently deliver all projects in the respective program under the following conditions and limitations:

(a) Transfers may only be made within each specific fund source referenced on the respective project list;

(b) Transfers from a project may not be made as a result of the reduction of the scope of a project, nor shall a transfer be made to support increases in the scope of a project;

(c) Each transfer between projects may only occur if the director of financial management finds that any resulting change will not hinder the completion of the projects as approved by the legislature. Until the legislature reconvenes to consider the 2010 supplemental budget, any unexpended 2007-09 appropriation balance as approved by the office of financial management, in consultation with the legislative staff of the house of representatives and senate transportation committees, may be considered when transferring funds between projects;

(d) Transfers from a project may be made if the funds appropriated to the project are in excess of the amount needed to complete the project;

(e) Transfers may not occur to projects not identified on the applicable project list, except for those projects that were expected to be completed in the 2007-09 fiscal biennium; (~~and~~)

(f) Transfers may not be made while the legislature is in session; and

(g) Transfers between projects may be made by the department of transportation until the transfer amount by project exceeds two hundred fifty thousand dollars, or ten percent of the project, whichever is less. These transfers must be reported quarterly to the director of financial management and the chairs of the house of representatives and senate transportation committees.

(2) At the time the department submits a request to transfer funds under this section a copy of the request shall be submitted to the transportation committees of the legislature.

(3) The office of financial management shall work with legislative staff of the house of representatives and senate transportation committees to review the requested transfers.

(4) The office of financial management shall document approved transfers and/or schedule changes in the transportation executive information system (TEIS), compare changes to the legislative baseline funding and schedules identified by project identification number identified in the LEAP lists adopted in this act, and transmit revised project lists to chairs of the transportation committees of the legislature on a quarterly basis.

#### MISCELLANEOUS 2009-11 FISCAL BIENNIUM

**Sec. 701.** RCW 43.19.642 and 2009 c 470 s 716 are each amended to read as follows:

(1) Effective June 1, 2006, for agencies complying with the ultra- low sulfur diesel mandate of the United States environmental protection agency for on-highway diesel fuel, agencies shall use biodiesel as an additive to ultra-low sulfur diesel for lubricity, provided that the use of a lubricity additive is warranted and that the use of biodiesel is comparable in performance and cost with other available lubricity additives. The amount of biodiesel added to the ultra-low sulfur diesel fuel shall be not less than two percent.

(2) Effective June 1, 2009, state agencies are required to use a minimum of twenty percent biodiesel as compared to total volume of all diesel purchases made by the agencies for the operation of the

agencies' diesel-powered vessels, vehicles, and construction equipment.

(3) All state agencies using biodiesel fuel shall, beginning on July 1, 2006, file biannual reports with the department of general administration documenting the use of the fuel and a description of how any problems encountered were resolved.

(4) For the 2009-2011 fiscal biennium, ((the Washington state ferries is required to use a minimum of five percent biodiesel as compared to total volume of all diesel purchases made by the Washington state ferries for the operation of the Washington state ferries diesel- powered vessels)) all fuel purchased by the Washington state ferries at Harbor Island for the operation of the Washington state ferries diesel powered vessels must be a minimum of five percent biodiesel blend so long as the per gallon price of diesel containing a five percent biodiesel blend level does not exceed the per gallon price of diesel by more than five percent. If the per gallon price of diesel containing a five percent biodiesel blend level exceeds the per gallon price of diesel by more than five percent, the requirements of this section do not apply to vessel fuel purchases by the Washington state ferries.

(5) By December 1, 2009, the department of general administration shall:

(a) Report to the legislature on the average true price differential for biodiesel by blend and location; and

(b) Examine alternative fuel procurement methods that work to address potential market barriers for in-state biodiesel producers and report these findings to the legislature.

**Sec. 702.** RCW 46.68.320 and 2006 c 337 s 8 are each amended to read as follows:

(1) The regional mobility grant program account is hereby created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the grants provided under RCW 47.66.030.

(2) Beginning with September 2007, by the last day of September, December, March, and June of each year, the state treasurer shall transfer from the multimodal transportation account to the regional mobility grant program account five million dollars.

(3) Beginning with September 2015, by the last day of September, December, March, and June of each year, the state treasurer shall transfer from the multimodal transportation account to the regional mobility grant program account six million two hundred fifty thousand dollars.

(4) During the 2009-2011 fiscal biennium, the legislature may transfer from the regional mobility grant program account to the multimodal transportation account such amounts as reflect the excess fund balance of the regional mobility grant program account.

**Sec. 703.** RCW 47.12.340 and 1997 c 140 s 3 are each amended to read as follows:

The advanced environmental mitigation revolving account is created in the custody of the treasurer, into which the department shall deposit directly and may expend without appropriation:

(1) An initial appropriation included in the department of transportation's 1997-99 budget, and deposits from other identified sources;

(2) All moneys received by the department from internal and external sources for the purposes of conducting advanced environmental mitigation; and

(3) Interest gained from the management of the advanced environmental mitigation revolving account.

(4) During the 2009-2011 fiscal biennium, the legislature may transfer from the advanced environmental mitigation revolving account to the motor vehicle account such amounts as reflect the excess fund balance of the advanced environmental mitigation revolving account.

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Sec. 704. RCW 70.95.532 and 2009 c 261 s 4 are each amended to read as follows:

(1) All receipts from tire fees imposed under RCW 70.95.510, except as provided in subsection (2) of this section, must be deposited in the waste tire removal account created under RCW 70.95.521. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used for the cleanup of unauthorized waste tire piles and measures that prevent future accumulation of unauthorized waste tire piles.

(2) On September 1st of odd-numbered years, the state treasurer must transfer any cash balance in excess of one million dollars from the waste tire removal account created under RCW 70.95.521 to the motor vehicle account for the purpose of road wear related maintenance on state and local public highways.

(3) During the 2009-2011 fiscal biennium, the legislature may transfer any cash balance in excess of one million dollars from the waste tire removal account to the motor vehicle account for the purpose of road wear-related maintenance on state and local public highways.

NEW SECTION. Sec. 705. 2009 c 470 s 502 is repealed.

MISCELLANEOUS

NEW SECTION. Sec. 801. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 802. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

(End of bill)

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Table listing various sections and their page numbers, including COMPENSATION, INSURANCE BENEFITS, COUNTY ROAD ADMINISTRATION BOARD, DEPARTMENT OF AGRICULTURE, DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION, DEPARTMENT OF LICENSING, TRANSFERS, DEPARTMENT OF TRANSPORTATION, AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, AVIATION--PROGRAM F, ECONOMIC PARTNERSHIPS--PROGRAM K, FACILITIES--PROGRAM D--OPERATING, HIGHWAY MAINTENANCE--PROGRAM M, IMPROVEMENTS--PROGRAM I, INFORMATION TECHNOLOGY--PROGRAM C, LOCAL PROGRAMS--PROGRAM Z--CAPITAL, LOCAL PROGRAMS--PROGRAM Z--OPERATING, MARINE--PROGRAM X, PRESERVATION--PROGRAM P, PROGRAM DELIVERY MANAGEMENT AND SUPPORT--PROGRAM H, PUBLIC TRANSPORTATION--PROGRAM V, RAIL--PROGRAM Y--OPERATING, RAIL--PROGRAM Y--CAPITAL, TOLL OPERATIONS AND MAINTENANCE--PROGRAM B, TRAFFIC OPERATIONS--PROGRAM Q--CAPITAL, TRAFFIC OPERATIONS--PROGRAM Q--OPERATING.

Table listing various sections and their page numbers, including TRANSPORTATION MANAGEMENT AND SUPPORT--PROGRAM S, TRANSPORTATION PLANNING, DATA, AND RESEARCH--PROGRAM T, WASHINGTON STATE FERRIES CONSTRUCTION--PROGRAM W, FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD, JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE, JOINT TRANSPORTATION COMMITTEE, LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE, MARINE EMPLOYEES COMMISSION, OFFICE OF FINANCIAL MANAGEMENT, REVISED EMPLOYER HEALTH BENEFIT RATES, REVISED PENSION CONTRIBUTION RATES, STATE PARKS AND RECREATION COMMISSION, STATE TREASURER, ADMINISTRATIVE TRANSFERS, BOND RETIREMENT AND INTEREST, STATE REVENUES FOR DISTRIBUTION, TRANSFERS, TRANSPORTATION COMMISSION, TRANSPORTATION IMPROVEMENT BOARD, UTILITIES AND TRANSPORTATION COMMISSION, WASHINGTON STATE PATROL, FIELD OPERATIONS BUREAU, TECHNICAL SERVICES BUREAU, WASHINGTON STATE PATROL--INVESTIGATIVE SERVICES BUREAU, WASHINGTON TRAFFIC SAFETY COMMISSION.

Correct the title. and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Haugen moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6381.

Senators Haugen, Marr and Pridemore spoke in favor of passage of the motion.

Senators Zarelli, Benton and Carrell spoke against passage of the motion.

The President declared the question before the Senate to be the motion by Senator Haugen that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6381.

The motion by Senator Haugen carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6381 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6381, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6381, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 37; Nays, 11; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe,

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McDermott, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Swecker and Tom

Voting nay: Senators Benton, Carrell, Delvin, Holmquist, Honeyford, Morton, Pflug, Roach, Schoesler, Stevens and Zarelli

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6381, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### RULING BY THE PRESIDENT

President Owen: "In ruling upon the Points of Order raised by Senator Brandland as to whether the House amendments to Second Engrossed Substitute Senate Bill 6508 violate Senate Rules 25 and 66 by including a subject not reflected in the bill's title and beyond the scope and object of the bill, the President finds and rules as follows.

The bill as it passed the Senate defined the rights and liabilities of various parties with respect to the wrongful death of an adult child. That bill included a joint and several liability provision to limit claims against the state and local governments.

The House amendments remove the joint and several liability limitation altogether, and then add in provisions by which local governments may be reimbursed for certain wrongful death claims by making a claim against a newly-created account. That account is to be funded by the imposition of an additional five dollar charge for traffic infractions and a ten dollar charge for superior court filing fees.

As passed by the Senate, it is fair to say that the Senate version approached the issue of wrongful death liability—and its limitations—by assigning and limiting the rights and liabilities of various private and governmental parties. There was no provision for any funding, and, while government liability would likely arise from claims, such potential claims derive from private lawsuits, not a state program or mandate. Creating an entirely new account and imposing additional fees, as well as a mechanism by which local governments can make claims for reimbursement of payments made in connection with wrongful death lawsuits, goes well beyond merely adjusting the rights and liabilities of the parties to a private lawsuit. For these reasons, the amendments impermissibly broaden the scope of the bill.

Similarly, because the amendments remove the joint and several liability provisions entirely, the title no longer reflects the subject of the bill, which includes the language:

'AN ACT Relating to wrongful death or survival actions .... by limiting the liability of state and local agencies or political subdivisions in those recoveries.'

As a result, the title no longer meets the mandate of Senate Rule 25, which requires that the subject of the bill be described in the title.

For these reasons, the President finds that the House amendments may not be considered for concurrence by this body, and Senator Brandland's points are well-taken."

#### MOTION

Senator Hargrove moved that the Senate insist on its position on the House amendment(s) to Second Engrossed Substitute Senate Bill No. 6508 and ask the House to recede thereon.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate insist on its position on the House amendment(s) to Second Engrossed Substitute Senate Bill No. 6508 and ask the House to recede thereon.

The motion by Senator Hargrove carried and the Senate insisted on its position in the House amendment(s) to Second Engrossed Substitute Senate Bill No. 6508 and asked the House to recede thereon by voice vote.

#### MESSAGE FROM THE HOUSE

March 5, 2010

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 6667 with the following amendment(s): 6667-S2 AMH ENGR H5386.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that small businesses and entrepreneurs are a fundamental source of economic and community vitality for our state. They employ state residents, pay state taxes, purchase goods and services from local and regional companies, and contribute to our communities in many other ways. The legislature finds that small businesses and entrepreneurs need increased access to capital and technical assistance in order to maximize their potential. The legislature intends that the department of commerce and the small business development center each build upon their existing relevant statutory missions and authorities by collaborating on a specific plan to expand services to small businesses and entrepreneurs beginning in the 2011-2013 biennium.

**Sec. 2.** RCW 43.330.060 and 2005 c 136 s 13 are each amended to read as follows:

(1) The department shall (a) assist in expanding the state's role as an international center of trade, culture, and finance; (b) promote and market the state's products and services both nationally and internationally; (c) work in close cooperation with other private and public international trade efforts; (d) act as a centralized location for the assimilation and distribution of trade information; and (e) establish and operate foreign offices promoting overseas trade and commerce.

(2) The department shall identify and work with Washington businesses that can use local, state, and federal assistance to increase domestic and foreign exports of goods and services.

(3) The department shall work generally with small businesses and other employers to facilitate resolution of siting, regulatory, expansion, and retention problems. This assistance shall include but not be limited to assisting in workforce training and infrastructure needs, identifying and locating suitable business sites, and resolving problems with government licensing and regulatory requirements. The department shall identify gaps in needed services and develop steps to address them including private sector support and purchase of these services.

(4) The department shall work to increase the availability of capital to small businesses by developing new and flexible investment tools; by assisting in targeting and improving the efficiency of existing investment mechanisms; and by assisting in the procurement of managerial and technical assistance necessary to attract potential investors.

(5) The department shall assist women and minority-owned businesses in overcoming barriers to entrepreneurial success. The department shall contract with public and private agencies, institutions, and organizations to conduct entrepreneurial training courses for minority and women-owned businesses. The instruction shall be intensive, practical training courses in financing, marketing, managing, accounting, and recordkeeping for a small business, with an emphasis on federal, state, local, or private programs available to assist small businesses. Instruction shall be offered in major population centers throughout the state at times and

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locations that are convenient for minority and women small business owners.

(6)(a) Subject to the availability of amounts appropriated for this specific purpose, by December 1, 2010, the department, in conjunction with the small business development center, must prepare and present to the governor and appropriate legislative committees a specific, actionable plan to increase access to capital and technical assistance to small businesses and entrepreneurs beginning with the 2011-2013 biennium. In developing the plan, the department and the center may consult with the Washington state microenterprise association, and with other government, nonprofit, and private organizations as necessary. The plan must identify:

(i) Existing sources of capital and technical assistance for small businesses and entrepreneurs;

(ii) Critical gaps and barriers to availability of capital and delivery of technical assistance to small businesses and entrepreneurs;

(iii) Workable solutions to filling the gaps and removing barriers identified in (a)(ii) of this subsection; and

(iv) The financial resources and statutory changes necessary to put the plan into effect beginning with the 2011-2013 biennium.

(b) With respect to increasing access to capital, the plan must identify specific, feasible sources of capital and practical mechanisms for expanding access to it.

(c) The department and the center must include, within the analysis and recommendations in (a) of this subsection, any specific gaps, barriers, and solutions related to rural and low-income communities and small manufacturers interested in exporting.

**Sec. 3.** RCW 28B.30.530 and 2009 c 486 s 1 are each amended to read as follows:

(1) The board of regents of Washington State University shall establish the Washington State University small business development center.

(2) The center shall provide management and technical assistance including but not limited to training, counseling, and research services to small businesses throughout the state. The center shall work with the department of ~~((community, trade, and economic development))~~ commerce, the state board for community and technical colleges, the higher education coordinating board, the workforce training and education coordinating board, the employment security department, the Washington state economic development commission, associate development organizations, and workforce development councils to:

(a) Integrate small business development centers with other state and local economic development and workforce development programs;

(b) Target the centers' services to small businesses;

(c) Tailor outreach and services at each center to the needs and demographics of entrepreneurs and small businesses located within the service area;

(d) Establish and expand small business development center satellite offices when financially feasible; and

(e) Coordinate delivery of services to avoid duplication.

(3) The administrator of the center may contract with other public or private entities for the provision of specialized services.

(4) The small business development center may accept and disburse federal grants or federal matching funds or other funds or donations from any source when made, granted, or donated to carry out the center's purposes. When drawing on funds from the business assistance account created in RCW ~~((30.60.010))~~ 28B.30.531, the center must first use the funds to make increased management and technical assistance available to existing small businesses and start-up businesses at satellite offices. The funds may also be used to develop and expand assistance programs such

as small business planning workshops and small business counseling.

(5) ((The legislature directs the small business development center to request United States small business administration approval of a special emphasis initiative, as permitted under 13 C.F.R. 130.340(c) as of April 1, 2009, to target assistance to Washington state's smaller businesses. This initiative would be negotiated and included in the first cooperative agreement application process that occurs after July 26, 2009.

(6))) By ((December 1, 2009, and)) December 1, 2010, ((respectively,)) the center shall provide a written progress report and a final report to the appropriate committees of the legislature with respect to the requirements in subsection((s)) (2) ((and (5))) of this section and the amount and use of funding received through the business assistance account. The reports must also include data on the number, location, staffing, and budget levels of satellite offices; affiliations with community colleges, associate development organizations or other local organizations; the number, size, and type of small businesses assisted; and the types of services provided. The reports must also include information on the outcomes achieved, such as jobs created or retained, private capital invested, and return on the investment of state and federal dollars.

(6)(a) Subject to the availability of amounts appropriated for this specific purpose, by December 1, 2010, the center, in conjunction with the department of commerce, must prepare and present to the governor and appropriate legislative committees a specific, actionable plan to increase access to capital and technical assistance to small businesses and entrepreneurs beginning with the 2011-2013 biennium. In developing the plan, the center and the department may consult with the Washington state microenterprise association, and with other government, nonprofit, and private organizations as necessary. The plan must identify:

(i) Existing sources of capital and technical assistance for small businesses and entrepreneurs;

(ii) Critical gaps and barriers to availability of capital and delivery of technical assistance to small businesses and entrepreneurs;

(iii) Workable solutions to filling the gaps and removing barriers identified in (a)(ii) of this subsection; and

(iv) The financial resources and statutory changes necessary to put the plan into effect beginning with the 2011-2013 biennium.

(b) With respect to increasing access to capital, the plan must identify specific, feasible sources of capital and practical mechanisms for expanding access to it.

(c) The center and the department must include, within the analysis and recommendations in (a) of this subsection, any specific gaps, barriers, and solutions related to rural and low-income communities and small manufacturers interested in exporting."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kauffman moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6667.

Senator Kauffman spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kauffman that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6667.

The motion by Senator Kauffman carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 6667 by voice vote.

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The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6667, as amended by the House.

## ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6667, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 4; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Holmquist, Honeyford, Morton and Stevens

Excused: Senator McCaslin

SECOND SUBSTITUTE SENATE BILL NO. 6667, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MESSAGE FROM THE HOUSE

March 4, 2010

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6267 with the following amendment(s): 6267-S2.E AMH ENGR H5369.E

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** Water is an essential element for economic prosperity and it generates new, family-wage jobs and state revenues. It is the intent of the legislature to provide both water right applicants and the department of ecology with the necessary tools to expedite the processing of water right applications depending on the needs of the project and agency workload.

**NEW SECTION. Sec. 2.** Sufficient resources to support the department of ecology's water resource program are essential for effective and sustainable water management that provides certainty to processed applications. The department of ecology shall review current water resource functions and report to the legislature and the governor by September 1, 2010, on improvements to make the program more self-sustaining and efficient.

**Sec. 3.** RCW 90.03.265 and 2003 c 70 s 6 are each amended to read as follows:

(1)(a) Any applicant for a new withdrawal or a change, transfer, or amendment of a water right pending before the department((s)) may initiate a cost-reimbursement agreement with the department to provide expedited review of the application. A cost-reimbursement agreement may ((only)) be initiated under this section if the applicant agrees to pay for, or as part of a cooperative effort agrees to pay for, the cost of processing his or her application and all other applications from the same source of supply which must be acted upon before the applicant's request because they were filed prior to the date of when the applicant filed.

(b) The requirement to pay for the cost of other applications under (a) of this subsection does not apply to an application for a new appropriation that would not diminish the water available to earlier pending applicants for new appropriations from the same source of supply.

(c) The requirement to pay for the cost of processing other

applications under (a) of this subsection does not apply to an application for a change, transfer, or other amendment that would not diminish the water available to earlier pending applicants for changes or transfers from the same source of supply.

(d) In determining whether an application would not diminish the water available to earlier pending applicants, the department shall consider any water impoundment or other water resource management mitigation technique proposed by the applicant under RCW 90.03.255 or 90.44.055.

(e) The department may enter into cost-reimbursement agreements provided resources are available and shall use the process established under RCW 43.21A.690 for entering into cost-reimbursement agreements. The department's share of work related to a cost-reimbursement application, such as final certificate approval, must be prioritized within the framework of other water right processing needs and as determined by agency rule.

(f) Each individual applicant is responsible for his or her own appeal costs that may result from a water right decision made by the department under this section. In the event that the department's approval of an application under this section is appealed under chapter 43.21B RCW by a third party, the applicant for the water right in question must reimburse the department for the cost of defending the decision before the pollution control hearings board unless otherwise agreed to by the applicant and the department. If an applicant appeals either an approval or a denial made by the department under this section, the applicant is responsible only for its own appeal costs.

(2) In pursuing a cost-reimbursement project, the department must determine the source of water proposed to be diverted or withdrawn from, including the boundaries of the area that delimits the source. The department must determine if any other water right permit applications are pending from the same source. A water source may include surface water only, groundwater only, or surface and groundwater together if the department finds they are hydraulically connected. The department shall consider technical information submitted by the applicant in making its determinations under this subsection. The department may recover from a cost-reimbursement applicant its own costs in making the same source determination under this subsection.

(3) Upon request of the applicant seeking cost-reimbursement processing, the department may elect to initiate a coordinated cost-reimbursement process. To initiate this process, the department must notify in writing all persons who have pending applications on file for a new appropriation, change, transfer, or amendment of a water right from that water source. A water source may include surface water only, groundwater only, or surface and groundwater together if the department determines that they are hydraulically connected. The notice must be posted on the department's web site and published in a newspaper of general circulation in the area where affected properties are located. The notice must also be made individually by way of mail to:

(a) Inform those applicants that cost-reimbursement processing of applications within the described water source is being initiated;

(b) Provide to individual applicants the criteria under which the applications will be examined and determined;

(c) Provide to individual applicants the estimated cost for having an application processed on a cost-reimbursement basis;

(d) Provide an estimate of how long the cost-reimbursement process will take before an application is approved or denied; and

(e) Provide at least sixty days for the applicants to respond in writing regarding the applicant's decision to participate in the cost-reimbursement process.

(4) The applicant initiating the cost-reimbursement request must pay for the cost of the determination under subsections (2) and (3) of this section and other costs necessary for the initial phase of cost-

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reimbursement processing. The cost for each applicant for conducting processing under a coordinated cost-reimbursement agreement must be based primarily on the proportionate quantity of water requested by each applicant. The cost may be adjusted if it appears that an application will require a disproportionately greater amount of time and effort to process due to its complexity.

(5)(a) Only the department may approve or deny a water right application processed under this section, and such a final decision remains solely the responsibility and function of the department. The department retains full authority to amend, refuse, or approve any work product provided by any consultant under this section. The department may recover its costs related to: (i) The review of a consultant to ensure that no conflict of interest exists; (ii) the management of consultant contracts and cost-reimbursement agreements; and (iii) the review of work products provided by participating consultants.

(b) For any cost-reimbursement process initiated under subsection (1) of this section, the applicant may, after consulting with the department, select a prequalified consultant listed by the department under subsection (7) of this section or may be assigned such a prequalified consultant by the department.

(c) For any coordinated cost-reimbursement process initiated under subsection (3) of this section, the applicant may, after consulting with the department, select a prequalified consultant listed by the department under subsection (7) of this section or may be assigned a prequalified consultant by the department.

(d) In lieu of having one or more of the work products performed by a prequalified consultant listed under subsection (7) of this section, the department may, at its discretion, recognize specific work completed by an applicant or an applicant's consultant prior to the initiation of cost-reimbursement processing. The department may also, at its discretion, authorize the use of such a consultant to perform a specific scope of the work that would otherwise be assigned to prequalified consultants listed under subsection (7) of this section.

(e) At any point during the cost-reimbursement process, the department may request or accept technical information, data, and analysis from the applicant or the applicant's consultant to support the cost-reimbursement process or the department's decision on the application.

(6) The department is authorized to adopt rules or guidance providing minimum qualifications and standards for any consultant's submission of work products under this section, including standards for submission of technical information, scientific analysis, work product documentation, review for conflict of interest, and report presentation that such a consultant must meet.

(7) The department must provide notice to potential consultants of the opportunity to be considered for inclusion on the list of cost-reimbursement consultants to whom work assignments will be made. The department must competitively select an appropriate number of consultants who are qualified by training and experience to investigate and make recommendations on the disposition of water right applications. The prequalified consultant list must be renewed at least every six years, though the department may add qualified cost-reimbursement consultants to the list at any time. The department must enter a master contract with each consultant selected and thereafter make work assignments based on availability and qualifications.

(8) The department may remove any consultant from the consultant list for poor performance, malfeasance, or excessive complaints from cost-reimbursement participants. The department may interview any cost-reimbursement consultant to determine whether the person is qualified for this work, and must spot-check the work of consultants to ensure that the public is being competently served.

(9) When a prequalified cost-reimbursement consultant from the department's list described in subsection (7) of this section is assigned or selected to investigate an application or set of applications, the consultant must document its findings and recommended disposition in the form of written draft technical reports and preliminary draft reports of examination. Within two weeks of the department receiving draft technical reports and preliminary draft reports of examination, the department shall provide the applicant such documents for review and comment prior to their completion by the consultant. The department shall consider such comments by the applicant prior to the department's issuance of a draft report of examination. The department may modify the preliminary draft reports of examination submitted by the consultant. The department's decision on a permit application is final unless it is appealed to the pollution control hearings board under chapter 43.21B RCW.

(10) If an applicant elects not to participate in a cost-reimbursement process, the application remains on file with the department, retains its priority date, and may be processed under regular processing, priority processing, expedited processing, coordinated cost-reimbursement processing, cost-reimbursement processing, or through conservancy board processing as authorized under chapter 90.80 RCW.

**NEW SECTION. Sec. 4.** A new section is added to chapter 90.03 RCW to read as follows:

The water rights processing account is created in the state treasury. All receipts from the fees collected under sections 5, 7, and 12 of this act must be deposited into the account. Money in the account may be spent only after appropriation. Expenditures from the account may only be used to support the processing of water right applications for a new appropriation, change, transfer, or amendment of a water right as provided in this chapter and chapters 90.42 and 90.44 RCW or for the examination, certification, and renewal of certification of water right examiners as provided in section 7 of this act.

**NEW SECTION. Sec. 5.** A new section is added to chapter 90.03 RCW to read as follows:

(1) The department may expedite processing of applications within the same source of water on its own volition when there is interest from a sufficient number of applicants or upon receipt of written requests from at least ten percent of the applicants within the same source of water.

(2) If the conditions of subsection (1) of this section have been met and the department determines that the public interest is best served by expediting applications within a water source, the department must notify in writing all persons who have pending applications on file for a new appropriation, change, transfer, or amendment of a water right from that water source. A water source may include surface water only, groundwater only, or surface and groundwater together if the department determines that they are hydraulically connected. The notice must be posted on the department's web site and published in a newspaper of general circulation in the area where affected properties are located. The notice must also be made individually by way of mail to:

(a) Inform those applicants that expedited processing of applications within the described water source is being initiated;

(b) Provide to individual applicants the criteria under which the applications will be examined and determined;

(c) Provide to individual applicants the estimated cost for having an application processed on an expedited basis;

(d) Provide an estimate of how long the expedited process will take before an application is approved or denied; and

(e) Provide at least sixty days for the applicants to respond in writing regarding the applicant's decision to participate in the expedited processing of their applications.

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(3) In addition to the application fees provided in RCW 90.03.470, the department must recover the full cost of processing all the applications from applicants who elect to participate within the water source through expedited processing fees. The department must calculate an expedited processing fee based primarily on the proportionate quantity of water requested by each applicant and may adjust the fee if it appears that the application will require a disproportionately greater amount of time and effort to process due to its complexity. Any application fees that were paid by the applicant under RCW 90.03.470 must be credited against the applicant's share of the cost of processing applications under the provisions of this section.

(4) The expedited processing fee must be collected by the department prior to the expedited processing of an application. Revenue collected from these fees must be deposited into the water rights processing account created in section 4 of this act. An applicant who has stated in writing that he or she wants his or her application processed using the expedited procedures in this section must transmit the processing fee within sixty days of the written request. Failure to do so will result in the applicant not being included in expedited processing for that water source.

(5) If an applicant elects not to participate in expedited processing, the application remains on file with the department, the applicant retains his or her priority date, and the application may be processed through regular processing, priority processing, expedited processing, coordinated cost-reimbursement processing, cost-reimbursement processing, or through conservancy board processing as authorized under chapter 90.80 RCW. Such an application may not be processed through expedited processing within twelve months after the department's issuance of decisions on participating applications at the conclusion of expedited processing unless the applicant agrees to pay the full proportionate share that would otherwise have been paid during such processing. Any proceeds collected from an applicant under this delayed entry into expedited processing shall be used to reimburse the other applicants who participated in the previous expedited processing of applications, provided sufficient proceeds remain to fully cover the department's cost of processing the delayed entry application and the department's estimated administrative costs to reimburse the previously expedited applicants.

**NEW SECTION. Sec. 6.** A new section is added to chapter 90.03 RCW to read as follows:

The department must post notice on its web site and provide additional electronic notice and opportunity for comment to affected federally recognized tribal governments concurrently when providing notice to applicants under RCW 90.03.265 and sections 5 and 12 of this act.

**NEW SECTION. Sec. 7.** A new section is added to chapter 90.03 RCW to read as follows:

(1) The department shall establish and maintain a list of certified water right examiners. Certified water right examiners on the list are eligible to perform final proof examinations of permitted water uses leading to the issuance of a water right certificate under RCW 90.03.330. The list must be updated annually and must be made available to the public through written and electronic media.

(2) In order to qualify, an individual must be registered in Washington as a professional engineer, professional land surveyor, or registered hydrogeologist, or an individual must demonstrate at least five years of applicable experience to the department, or be a board member of a water conservancy board. Qualified individuals must also pass a written examination prior to being certified by the department. Such an examination must be administered by either the department or an entity formally approved by the department. Each certified water right examiner must demonstrate knowledge and competency regarding:

- (a) Water law in the state of Washington;
- (b) Measurement of the flow of water through open channels and enclosed pipes;
- (c) Water use and water level reporting;
- (d) Estimation of the capacity of reservoirs and ponds;
- (e) Irrigation crop water requirements;
- (f) Aerial photo interpretation;
- (g) Legal descriptions of land parcels;
- (h) Location of land and water infrastructure through the use of maps and global positioning;
- (i) Proper construction and sealing of well bores; and
- (j) Other topics related to the preparation and certification of water rights in Washington state.

(3) Except as provided in subsection (9) of this section, upon completion of a water appropriation and putting water to beneficial use, in order to receive a final water right certificate, the permit holder must secure the services of a certified water right examiner who has been tested and certified by the department. The examiner shall carry out a final examination of the project to verify its completion and to determine and document for the permit holder and the department the amount of water that has been appropriated for beneficial use, the location of diversion or withdrawal and conveyance facilities, and the actual place of use. The examiner shall take measurements or make estimates of the maximum diversion or withdrawal, the capacity of water storage facilities, the acreage irrigated, the type and number of residences served, the type and number of stock watered, and other information relevant to making a final determination of the amount of water beneficially used. The examiner shall take photographs of the facilities to document the use or uses of water and the photographs must be submitted with the examiner's report to the department. The department shall specify the format and required content of the reports and may provide a form for that purpose.

(4) The department may suspend or revoke a certification based on poor performance, malfeasance, failure to acquire continuing education credits, or excessive complaints from the examiner's customers. The department may require the retesting of an examiner. The department may interview any examiner to determine whether the person is qualified for this work. The department shall spot-check the work of examiners to ensure that the public is being competently served. Any person aggrieved by an order of the department including the granting, denial, revocation, or suspension of a certificate issued by the department under this chapter may appeal pursuant to chapter 43.21B RCW.

(5) The decision regarding whether to issue a final water right certificate is solely the responsibility and function of the department.

(6) The department shall make its final decision under RCW 90.03.330 within sixty days of the date of receipt of the proof of examination from the certified water right examiner, unless otherwise requested by the applicant or returned for correction by the department. The department may return an initial proof of examination for correction within thirty days of the department's receipt of such initial proof from a certified water right examiner. Such proof must be returned to both the certified water right examiner and the applicant. Within thirty days of the department's receipt of such returned proof from the certified water right examiner, the department shall make its final decision under RCW 90.03.330, unless otherwise requested by the applicant.

(7) Each certified water right examiner must complete eight hours annually of qualifying continuing education in the water resources field. The department shall determine and specify the qualifying continuing education and shall inform examiners of the opportunities. The department shall track whether examiners are current in their continuing education and may suspend the

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certification of an examiner who has not complied with the continuing education requirement.

(8) Each certified water right examiner must be bonded for at least fifty thousand dollars.

(9) The department may waive the requirement to secure the services of a certified water right examiner in situations in which the department has already conducted a final proof of examination or finds it unnecessary for purposes of issuing a certificate of water right.

(10) The department shall establish and collect fees for the examination, certification, and renewal of certification of water right examiners. Revenue collected from these fees must be deposited into the water rights processing account created in section 4 of this act. Pursuant to RCW 43.135.055, the department is authorized to set fees for examination, certification, and renewal of certification for water right examiners.

(11) The department may adopt rules appropriate to carry out the purposes of this section.

**Sec. 8.** RCW 90.14.065 and 1987 c 93 s 1 are each amended to read as follows:

(1)(a) Any person or entity, or successor to such person or entity, having a statement of claim on file with the water rights claims registry ~~((on April 20, 1987;))~~ may submit to the department of ecology for filing ~~((;))~~ an amendment to such a statement of claim if the submitted amendment is based on:

~~((1))~~ (i) An error in estimation of the quantity of the applicant's water claim prescribed in RCW 90.14.051 if the applicant provides reasons for the failure to claim such right in the original claim;

~~((2))~~ (ii) A change in circumstances not foreseeable at the time the original claim was filed, if such change in circumstances relates only to the manner of transportation or diversion of the water and not to the use or quantity of such water; or

~~((3))~~ (iii) The amendment is ministerial in nature.

(b) The department shall accept any such submission and file the same in the registry unless the department by written determination concludes that the requirements of (a)(i), (ii), or (iii) of this subsection ~~((1), (2), or (3) of this section))~~ have not been satisfied.

(2) In addition to subsection (1) of this section, a surface water right claim may be changed or transferred in the same manner as a permit or certificate under RCW 90.03.380, and a water right claim for groundwater may be changed or transferred as provided under RCW 90.03.380 and 90.44.100.

(3) Any person aggrieved by a determination of the department may obtain a review thereof by filing a petition for review with the pollution control hearings board within thirty days of the date of the determination by the department. The provisions of RCW 90.14.081 shall apply to any amendment filed or approved under this section.

**Sec. 9.** RCW 90.44.100 and 2009 c 183 s 16 are each amended to read as follows:

(1) After an application to, and upon the issuance by the department of an amendment to the appropriate permit or certificate of groundwater right, the holder of a valid right to withdraw public groundwaters may, without losing the holder's priority of right, construct wells or other means of withdrawal at a new location in substitution for or in addition to those at the original location, or the holder may change the manner or the place of use of the water.

(2) An amendment to construct replacement or a new additional well or wells at a location outside of the location of the original well or wells or to change the manner or place of use of the water shall be issued only after publication of notice of the application and findings as prescribed in the case of an original application. Such amendment shall be issued by the department only on the conditions that: (a) The additional or replacement well or wells shall tap the same body of public groundwater as the original well or wells; (b)

where a replacement well or wells is approved, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) where an additional well or wells is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original permit or certificate; and (d) other existing rights shall not be impaired. The department may specify an approved manner of construction and shall require a showing of compliance with the terms of the amendment, as provided in RCW 90.44.080 in the case of an original permit.

(3) The construction of a replacement or new additional well or wells at the location of the original well or wells shall be allowed without application to the department for an amendment. However, the following apply to such a replacement or new additional well: (a) The well shall tap the same body of public groundwater as the original well or wells; (b) if a replacement well is provided, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) if a new additional well is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original water use permit or certificate; (d) the construction and use of the well shall not interfere with or impair water rights with an earlier date of priority than the water right or rights for the original well or wells; (e) the replacement or additional well shall be located no closer than the original well to a well it might interfere with; (f) the department may specify an approved manner of construction of the well; and (g) the department shall require a showing of compliance with the conditions of this subsection (3).

(4) As used in this section, the "location of the original well or wells" of a water right permit or certificate is the area described as the point of withdrawal in the original public notice published for the application for the water right for the well. The location of the original well or wells of a water right claim filed under chapter 90.14 RCW is the area located within a one-quarter mile radius of the current well or wells.

(5) The development and use of a small irrigation impoundment, as defined in RCW 90.03.370(8), does not constitute a change or amendment for the purposes of this section. The exemption expressly provided by this subsection shall not be construed as requiring an amendment of any existing water right to enable the holder of the right to store water governed by the right.

(6) This section does not apply to a water right involved in an approved local water plan created under RCW 90.92.090 or a banked water right under RCW 90.92.070.

**Sec. 10.** RCW 90.44.100 and 2003 c 329 s 3 are each amended to read as follows:

(1) After an application to, and upon the issuance by the department of an amendment to the appropriate permit or certificate of groundwater right, the holder of a valid right to withdraw public groundwaters may, without losing the holder's priority of right, construct wells or other means of withdrawal at a new location in substitution for or in addition to those at the original location, or the holder may change the manner or the place of use of the water.

(2) An amendment to construct replacement or a new additional well or wells at a location outside of the location of the original well or wells or to change the manner or place of use of the water shall be issued only after publication of notice of the application and findings as prescribed in the case of an original application. Such amendment shall be issued by the department only on the conditions that: (a) The additional or replacement well or wells shall tap the same body of public groundwater as the original well or wells; (b)

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where a replacement well or wells is approved, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) where an additional well or wells is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original permit or certificate; and (d) other existing rights shall not be impaired. The department may specify an approved manner of construction and shall require a showing of compliance with the terms of the amendment, as provided in RCW 90.44.080 in the case of an original permit.

(3) The construction of a replacement or new additional well or wells at the location of the original well or wells shall be allowed without application to the department for an amendment. However, the following apply to such a replacement or new additional well: (a) The well shall tap the same body of public groundwater as the original well or wells; (b) if a replacement well is constructed, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) if a new additional well is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original water use permit or certificate; (d) the construction and use of the well shall not interfere with or impair water rights with an earlier date of priority than the water right or rights for the original well or wells; (e) the replacement or additional well shall be located no closer than the original well to a well it might interfere with; (f) the department may specify an approved manner of construction of the well; and (g) the department shall require a showing of compliance with the conditions of this subsection (3).

(4) As used in this section, the "location of the original well or wells" of a water right permit or certificate is the area described as the point of withdrawal in the original public notice published for the application for the water right for the well. The location of the original well or wells of a water right claim filed under chapter 90.14 RCW is the area located within a one-quarter mile radius of the current well or wells.

(5) The development and use of a small irrigation impoundment, as defined in RCW 90.03.370(8), does not constitute a change or amendment for the purposes of this section. The exemption expressly provided by this subsection shall not be construed as requiring an amendment of any existing water right to enable the holder of the right to store water governed by the right.

**NEW SECTION. Sec. 11.** A new section is added to chapter 90.44 RCW to read as follows:

Applications to appropriate groundwater under a cost-reimbursement agreement must be processed in accordance with RCW 90.03.265 when an applicant requests the assignment of a cost-reimbursement consultant as provided in RCW 43.21A.690.

**NEW SECTION. Sec. 12.** A new section is added to chapter 90.44 RCW to read as follows:

(1) The department may expedite processing of applications within the same source of water on its own volition when there is interest from a sufficient number of applicants or upon receipt of written requests from at least ten percent of the applicants within the same source of water.

(2) If the conditions of subsection (1) of this section have been met and the department determines that the public interest is best served by expediting applications within a water source, the department must notify in writing all persons who have pending applications on file for a new appropriation, change, transfer, or amendment of a water right from that water source. A water source may include surface water only, groundwater only, or surface and

groundwater together if the department determines that they are hydraulically connected. The notice must be posted on the department's web site and published in a newspaper of general circulation in the area where affected properties are located. The notice must also be made individually by way of mail to:

(a) Inform those applicants that expedited processing of applications within the described water source is being initiated;

(b) Provide to individual applicants the criteria under which the applications will be examined and determined;

(c) Provide to individual applicants the estimated cost for having an application processed on an expedited basis;

(d) Provide an estimate of how long the expedited process will take before an application is approved or denied; and

(e) Provide at least sixty days for the applicants to respond in writing regarding the applicant's decision to participate in expedited processing of their applications.

(3) In addition to the application fees provided in RCW 90.03.470, the department must recover the full cost of processing all the applications from applicants who elect to participate within the water source through expedited processing fees. The department must calculate an expedited processing fee based primarily on the proportionate quantity of water requested by each applicant and may adjust the fee if it appears that an application will require a disproportionately greater amount of time and effort to process due to its complexity. Any application fees that were paid by the applicant under RCW 90.03.470 must be credited against the applicant's share of the cost of processing applications under the provisions of this section.

(4) The expedited processing fee must be collected by the department prior to the expedited processing of an application. Revenue collected from these fees must be deposited into the water rights processing account created in section 4 of this act. An applicant who has stated in writing that he or she wants his or her application processed using the expedited procedures in this section must transmit the processing fee within sixty days of the written request. Failure to do so will result in the applicant not being included in expedited processing for that water source.

(5) If an applicant elects not to participate in expedited processing, the application remains on file with the department, the applicant retains his or her priority date, and the application may be processed through regular processing, priority processing, expedited processing, coordinated cost-reimbursement processing, cost-reimbursement processing, or through conservancy board processing as authorized under chapter 90.80 RCW. Such an application may not be processed through expedited processing within twelve months after the department's issuance of decisions on participating applications at the conclusion of expedited processing unless the applicant agrees to pay the full proportionate share that would otherwise have been paid during such processing. Any proceeds collected from an applicant under this delayed entry into expedited processing shall be used to reimburse the other applicants who participated in the previous expedited processing of applications, provided sufficient proceeds remain to fully cover the department's cost of processing the delayed entry application and the department's estimated administrative costs to reimburse the previously expedited applicants.

**NEW SECTION. Sec. 13.** A new section is added to chapter 90.03 RCW to read as follows:

Nothing in this act affects or diminishes the processing of water right applications under any other existing authority, including but not limited to existing authority for the priority processing of applications by the department.

**NEW SECTION. Sec. 14.** Section 9 of this act expires June 30, 2019.

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NEW SECTION. Sec. 15. Section 10 of this act takes effect June 30, 2019.

NEW SECTION. Sec. 16. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 17. A new section is added to chapter 90.03 RCW to read as follows:

The water rights processing and dam safety account is created in the state treasury. All receipts from the fees collected under RCW 90.03.470 must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only to support the processing of water right applications and change applications as provided in this chapter and chapters 90.38, 90.42, and 90.44 RCW and the safety inspection of hydraulic works and plans and specifications for such works.

Sec. 18. RCW 90.03.470 and 2005 c 412 s 2 are each amended to read as follows:

The fees specified in this section shall be collected by the department in advance of the requested action.

(1) ((For the examination of an application for a permit to appropriate water, a minimum fee of fifty dollars must be remitted with the application.

For an amount of water exceeding one-half cubic foot per second, the examination fee shall be assessed at the rate of one dollar per one hundredth cubic foot per second. In no case will the examination fee be less than fifty dollars or more than twenty-five thousand dollars. No fee is required under this subsection (1) for an application filed by a party to a cost-reimbursement agreement made under RCW 90.03.265.)) For the examination of an application for a permit to appropriate water or for an application to change, transfer, or amend an existing water right, an examination fee equal to thirty-five dollars for each one-hundredth of a cubic foot per second must be remitted with the application, but in no case may the examination fee be less than one thousand dollars or more than thirty-five thousand dollars.

(2) The following fees apply for the examination of an application to store water((, a fee of two dollars for each acre foot of storage proposed shall be charged, but a minimum fee of fifty dollars must be remitted with the application. In no case will the examination fee for a storage project be less than fifty dollars or more than twenty-five thousand dollars. No fee is required under this subsection (2) for an application filed by a party to a cost-reimbursement agreement made under RCW 90.03.265)) and for an application to change a storage right:

(a) For storage of less than one hundred acre feet of water, an examination fee of one thousand dollars must be remitted with the application.

(b) For storage of more than one hundred acre feet of water but less than or equal to one thousand acre feet of water, an examination fee of two thousand dollars must be remitted with the application.

(c) For storage of more than one thousand acre feet of water but less than or equal to ten thousand acre feet of water, an examination fee of seven thousand five hundred dollars must be remitted with the application.

(d) For storage of more than ten thousand acre feet of water, an examination fee of fifteen thousand dollars must be remitted with the application.

(3)(a) ((For the examination of an application to transfer, change, or amend a water right certificate, permit, or claim as authorized by RCW 90.44.100, 90.44.105, or 90.03.380, a minimum fee of fifty dollars must be remitted with the application. For an application for change involving an amount of water exceeding one cubic foot per second, the total examination fee shall

be assessed at the rate of fifty cents per one hundredth cubic foot per second. For an application for change of a storage water right, the total examination fee shall be assessed at the rate of one dollar for each acre foot of water involved in the change. The fee shall be based on the amount of water subject to change as proposed in the application, not on the total amount of water reflected in the water right certificate, permit, or claim. In no case will the examination fee charged for a change application be less than fifty dollars or more than twelve thousand five hundred dollars.

(b))) (i) The fee paid to the department for an application for change filed with a water conservancy board under chapter 90.80 RCW must be one-fifth of the amounts provided in subsections (1) and (2) of this section. A conservancy board may charge its own processing fees in accordance with RCW 90.80.060.

(ii) The fees in subsections (1) and (2) of this section do not apply to applicants that have entered into a cost-reimbursement agreement with the department under RCW 90.03.265.

(b) The examination fee for a temporary or seasonal change under RCW 90.03.390 is ((fifty)) two hundred dollars and must be remitted with the application.

(c) No fee is required under this subsection (3) for:

(i) An application to process a change relating to donation of a trust water right to the state; or

(ii) An application to process a change when the department otherwise acquires a trust water right for purposes of improving instream flows or for other public purposes((

~~— (iii) An application filed with a water conservancy board according to chapter 90.80 RCW or for the review of a water conservancy board's record of decision submitted to the department according to chapter 90.80 RCW; or~~

~~— (iv) An application filed by a party to a cost reimbursement agreement made under RCW 90.03.265)).~~

(d) For a change, transfer, or amendment involving a single project operating under more than one water right, including related secondary diversion rights, or involving the consolidation of multiple water rights, only one examination fee and one certificate fee are required to be paid.

(4) ((The fifty-dollar minimum fee payable with the application shall be a credit to the total amount whenever the examination fee totals more than fifty dollars under the schedule specified in subsections (1) through (3) of this section and in such case the further fee due shall be the total computed amount, less the amount previously paid. Within five working days from receipt of an application, the department shall notify the applicant by registered mail of any additional fees due under subsections (1) through (3) of this section.)) (a) The fee amounts specified in this section apply to applications received after the effective date of this section and to all applications that have not been acted on by the department by issuance of a report of examination as of the effective date of this section. For pending applications that were filed prior to the effective date of this section, any fees that were paid under a previous fee schedule must be credited to the amounts required by subsections (1), (2), and (3) of this section. When the department is prepared to take action on an application that was filed prior to the effective date of this section, the department shall notify the applicant that additional fees are due and give the applicant sixty days to remit the additional fees. If the applicant fails to remit the additional fees within the time provided, the department shall cancel the application and inform the applicant of the cancellation.

(b) If the department receives a water right, change, transfer, amendment, or storage application that does not include remittance of the fee amounts required by this section, the department shall return the application to the applicant with instructions on the proper fee amount to be remitted. An application does not establish a priority date until the proper fee is remitted.

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(5) The ~~((fees specified in subsections (1) through (3) of this section do not apply to any filings))~~ fee for filing an emergency withdrawal authorization(s) or temporary drought-related water right change(s) authorized under RCW 43.83B.410 that ~~((are))~~ is received by the department while a drought condition order issued under RCW 43.83B.405 is in effect is one hundred dollars.

(6) For applying for each extension of time for beginning construction work under a permit to appropriate water, for completion of construction work, or for completing application of water to a beneficial use, a fee of two hundred fifty dollars is required. These fees also apply to similar extensions of time requested under a change or transfer authorization.

(7) For the inspection of any hydraulic works to ~~((insure))~~ ensure safety to life and property, a fee based on the actual cost of the inspection, including the expense incident thereto, is required ~~((except as follows: (a) For any hydraulic works less than ten years old, that the department examined and approved the construction plans and specifications as to its safety when required under RCW 90.03.350, there shall be no fee charged; or (b) for any hydraulic works more than ten years old, but less than twenty years old, that the department examined and approved the construction plans and specifications as to its safety when required under RCW 90.03.350, the fee charged shall not exceed the fee for a significant hazard dam)).~~

(8) For the examination of plans and specifications as to safety of controlling works for storage of ten acre feet or more of water, a minimum fee of ~~((ten))~~ five hundred dollars, or a fee equal to the actual cost, is required.

(9) For recording an assignment either of a permit to appropriate water or of an application for such a permit, a fee of ~~((fifty))~~ two hundred dollars is required.

(10) For preparing and issuing all water right certificates, a fee of ~~((fifty))~~ two hundred dollars is required.

(11) For filing and recording a formal protest against granting any application, a fee of fifty dollars is required. No fee is required to submit a comment, by mail or otherwise, regarding an application.

(12) For filing an application to amend a water right claim filed under chapter 90.14 RCW, a fee of ~~((fifty))~~ two hundred dollars is required.

(13)(a) Each person who holds a water right permit application, a reservoir permit application, or a change, transfer, or amendment application that is pending at any time between the effective date of this section and June 30, 2011, must remit a one-time fee of two hundred dollars to the department to retain an application in good standing. The department shall provide written notice by certified mail to each holder of an application for the fees that are due under this section. The notice must require that the fees be paid within sixty days of the date of receipt, but in no case may payment be due later than June 30, 2011. For ease of administration, the department may distribute the issuance of the notices by geographic area. The surcharge paid under this subsection is a credit against the application fees required in this section.

(b) Applications not in good standing must be canceled. The department shall issue an order to any holder of an application who fails to pay the fee within the prescribed time. The order must state that the application is canceled unless payment is received within thirty days.

(c) The department shall advise an applicant and provide an opportunity for an applicant to withdraw their application without further payment of fees if the department determines that the application would not likely be approved. The department shall summarize the basis for its conclusion to the applicant. The department shall further advise that the applicant has the option of providing an amended application that could include storage or

other resource management technique that might make it approvable under RCW 90.03.255 or 90.44.055. The department's advice is not subject to appeal. If the applicant decides to retain the application on file and pays the fee required in this subsection, the department shall maintain the application in good standing until it is able to render a final decision on the application. The final decision is subject to appeal to the pollution control hearings board as provided under chapter 43.21B RCW.

(14) An application or request for an action as provided for under this section is incomplete unless accompanied by the fee or the minimum fee. If no fee or an amount less than the minimum fee accompanies an application or other request for an action as provided under this section, the department shall return the application or request to the applicant with advice as to the fee that must be remitted with the application or request for it to be accepted for processing. If additional fees are due, the department shall provide timely notification by certified mail with return receipt requested to the applicant. No action may be taken by the department until the fee is paid in full. Failure to remit fees within sixty days of the department's notification is grounds for rejecting the application or request or canceling the permit. Cash shall not be accepted. Fees must be paid by check or money order and are nonrefundable.

~~((14))~~ (15) For purposes of calculating fees for groundwater filings, one cubic foot per second shall be regarded as equivalent to four hundred fifty gallons per minute.

~~((15))~~ (15) Eighty percent of the fees collected by the department under this section shall be deposited in the state general fund. Twenty percent of the fees collected by the department under this section shall be deposited in the water rights tracking system account established in RCW 90.14.240.

(16) Except for the fees relating to the inspection of hydraulic works and the examination of plans and specifications of controlling works provided for in subsections (7) and (8) of this section, nothing in this section is intended to grant authority to the department to amend the fees in this section by adoption of rules or otherwise.) (16) The fees collected by the department under this section must be deposited in the water rights processing and dam safety account created in section 17 of this act.

(17)(a) The fees specified in this section are effective until the department adopts rules that modify them in accordance with section 20 of this act, except that the fees required in subsections (7) and (8) of this section may be modified at any time.

(b) When information has been previously obtained that directly relates to the processing of an application in subsections (1) and (2) of this section, the department must proportionately reduce the fees associated with that application as a result of the reduced workload of the department.

NEW SECTION. Sec. 19. A new section is added to chapter 90.03 RCW to read as follows:

(1) The department must establish by rule a program for the distribution of hardship grant money to assist applicants in the payment of fees required in RCW 90.03.470.

(2) The department shall submit the list of hardship applicants that meet the qualifications established by the department in this section along with the applicant's requested grant amount to the office of financial management for consideration in the governor's budget request.

(3) The department shall also provide the list of hardship applicants that meet the qualifications established by the department in this section along with the applicant's requested grant amount to the legislature by October 1st of each year.

NEW SECTION. Sec. 20. A new section is added to chapter 90.03 RCW to read as follows:

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The department may periodically adopt rules to adjust the fees established in RCW 90.03.470. Any subsequent fees adopted by rule supersede those provided in RCW 90.03.470. Before proposing to adopt any changes to the fees, the department shall consult with the policy committees of the legislature that review water resources legislation.

**NEW SECTION. Sec. 21.** A new section is added to chapter 90.03 RCW to read as follows:

(1) The department shall submit a report to the legislature prior to December 31, 2012, and biennially thereafter until December 31, 2020, on the status of the backlog of applications for water right permits, the effectiveness of processing water right permit applications to a conclusion within twelve months, and the appropriateness of the fee amounts.

(2) This section expires January 1, 2021.

**NEW SECTION. Sec. 22.** A new section is added to chapter 90.44 RCW to read as follows:

(1) The department may not require withdrawals of groundwater to be metered or measured for wells authorized under the provisions of RCW 90.44.050 constructed prior to the effective date of this section for single or group domestic uses that do not exceed withdrawing five thousand gallons a day.

(2) This section does not apply to wells the department has required to be metered or measured as of the effective date of this section."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Rockefeller moved that the Senate refuse to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6267 and ask the House to recede therefrom.

#### POINT OF ORDER

Senator Schoesler: "Thank you Mr. President. I raise an objection of scope and object of the bill. Mr. President, the bill that passed the Senate dealt with making improvements to how water right applications are processed. Specifically the bill expanded an existing program to process water right applications through cost reimbursement or expedited processing which is triggered at the applicant's request. I have further remarks, I can continue reading or share with you."

#### REPLY BY THE PRESIDENT

President Owen: "Please share them with us. I assure you we will read them."

#### POINT OF ORDER

Senator Schoesler: "Would you like me to read them all or deliver them to the rostrum?"

#### REPLY BY THE PRESIDENT

President Owen: "No, bring them up."

#### MOTION

On motion of Senator Eide, further consideration of Engrossed Second Substitute Senate Bill No. 6267 was deferred and the bill held its place on the calendar.

#### MESSAGE FROM THE HOUSE

February 28, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6832 with the following amendment(s): 6832-S AMH ELCS H5346.2

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that, based upon the work of the child welfare transformation design committee established pursuant to 2SHB 2106 during the 2009 legislative session, several narrowly based amendments to that legislation need to be made, mainly for clarifying purposes. The legislature further finds that two deadlines need to be extended by six months, the first to allow the department of social and health services additional time to complete the conversion of its contracts to performance-based contracts and the second to allow the department additional time to gradually transfer existing cases to supervising agencies in the demonstration sites. The legislature finds that the addition of a foster youth on the child welfare transformation design committee will greatly assist the committee in its work.

The legislature recognizes that clarifying language regarding Indian tribes should be added regarding the government-to-government relationship the tribes have with the state. The legislature further recognizes that language is needed regarding the department's ability to receive federal funding based upon the recommendations made by the child welfare transformation design committee.

**Sec. 2.** RCW 74.13.368 and 2009 c 520 s 8 are each amended to read as follows:

(1)(a) The child welfare transformation design committee is established, with members as provided in this subsection.

(i) The governor or the governor's designee;

(ii) Four private agencies that, as of May 18, 2009, provide child welfare services to children and families referred to them by the department. Two agencies must be headquartered in western Washington and two must be headquartered in eastern Washington. Two agencies must have an annual budget of at least one million state-contracted dollars and two must have an annual budget of less than one million state-contracted dollars;

(iii) The assistant secretary of the children's administration in the department;

(iv) Two regional administrators in the children's administration selected by the assistant secretary, one from one of the department's administrative regions one or two, and one from one of the department's administrative regions three, four, five, or six;

(v) The administrator for the division of licensed resources in the children's administration;

(vi) Two nationally recognized experts in performance-based contracts;

(vii) The attorney general or the attorney general's designee;

(viii) A representative of the collective bargaining unit that represents the largest number of employees in the children's administration;

(ix) A representative from the office of the family and children's ombudsman;

(x) Four representatives from the Indian policy advisory committee convened by the department's office of Indian policy and support services;

(xi) Two currently elected or former superior court judges with significant experience in dependency matters, selected by the superior court judge's association;

(xii) One representative from partners for our children affiliated with the University of Washington school of social work;

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(xiii) A member of the Washington state racial disproportionality advisory committee;

(xiv) A foster parent; ~~(and)~~

(xv) A youth currently in or a recent alumnus of the Washington state foster care system, to be designated by the cochairs of the committee; and

(xvi) A parent representative who has had personal experience with the dependency system.

(b) The president of the senate and the speaker of the house of representatives shall jointly appoint the members under (a)(ii), (xiv), and ~~((xv))~~ (xvi) of this subsection.

(c) The representative from partners for our children shall convene the initial meeting of the committee no later than June 15, 2009.

(d) The cochairs of the committee shall be the assistant secretary for the children's administration and another member selected by a majority vote of those members present at the initial meeting.

(2) The committee shall establish a transition plan containing recommendations to the legislature and the governor consistent with this section for the provision of child welfare services by supervising agencies pursuant to RCW 74.13.360.

(3) The plan shall include the following:

(a) A model or framework for performance-based contracts to be used by the department that clearly defines:

(i) The target population;

(ii) The referral and exit criteria for the services;

(iii) The child welfare services including the use of evidence-based services and practices to be provided by contractors;

(iv) The roles and responsibilities of public and private agency workers in key case decisions;

(v) Contract performance and outcomes, including those related to eliminating racial disparities in child outcomes;

(vi) That supervising agencies will provide culturally competent service;

(vii) How to measure whether each contractor has met the goals listed in RCW 74.13.360(5); and

(viii) Incentives to meet performance outcomes;

(b) A method by which the department will substantially reduce its current number of contracts for child welfare services;

(c) A method or methods by which clients will access community-based services, how private supervising agencies will engage other services or form local service networks, develop subcontracts, and share information and supervision of children;

(d) Methods to address the effects of racial disproportionality, as identified in the 2008 Racial Disproportionality Advisory Committee Report published by the Washington state institute for public policy in June 2008;

(e) Methods for inclusion of the principles and requirements of the centennial accord executed in November 2001, executed between the state of Washington and federally recognized tribes in Washington state;

(f) Methods for assuring performance-based contracts adhere to the letter and intent of the federal Indian child welfare act;

(g) Contract monitoring and evaluation procedures that will ensure that children and families are receiving timely and quality services and that contract terms are being implemented;

(h) A method or methods by which to ensure that the children's administration has sufficiently trained and experienced staff to monitor and manage performance-based contracts;

(i) A process by which to expand the capacity of supervising and other private agencies to meet the service needs of children and families in a performance-based contractual arrangement;

(j) A method or methods by which supervising and other private agencies can expand services in underserved areas of the state;

(k) The appropriate amounts and procedures for the reimbursement of supervising agencies given the proposed services restructuring;

(l) A method by which to access and enhance existing data systems to include contract performance information;

(m) A financing arrangement for the contracts that examines:

(i) The use of case rates or performance-based fee-for-service contracts that include incentive payments or payment schedules that link reimbursement to outcomes; and

(ii) Ways to reduce a contractor's financial risk that could jeopardize the solvency of the contractor, including consideration of the use of a risk-reward corridor that limits risk of loss and potential profits or the establishment of a statewide risk pool;

(n) A description of how the transition will impact the state's ability to obtain federal funding and examine options to further maximize federal funding opportunities and increased flexibility;

(o) A review of whether current administrative staffing levels in the regions should be continued when the majority of child welfare services are being provided by supervising agencies;

(p) A description of the costs of the transition, the initial start-up costs and the mechanisms to periodically assess the overall adequacy of funds and the fiscal impact of the changes, and the feasibility of the plan and the impact of the plan on department employees during the transition; and

(q) Identification of any statutory and regulatory revisions necessary to accomplish the transition.

(4)(a) The committee, with the assistance of the department, shall select two demonstration sites within which to implement chapter 520, Laws of 2009. One site must be located on the eastern side of the state. The other site must be located on the western side of the state. Neither site must be wholly located in any of the department's administrative regions.

(b) The committee shall develop two sets of performance outcomes to be included in the performance-based contracts the department enters into with supervising agencies. The first set of outcomes shall be used for those cases transferred to a supervising agency over time. The second set of outcomes shall be used for new entrants to the child welfare system.

(c) The committee shall also identify methods for ensuring that comparison of performance between supervising agencies and the existing service delivery system takes into account the variation in the characteristics of the populations being served as well as historical trends in outcomes for those populations.

(5) The committee shall determine the appropriate size of the child and family populations to be provided services under performance-based contracts with supervising agencies. The committee shall also identify the time frame within which cases will be transferred to supervising agencies. The performance-based contracts entered into with supervising agencies shall encompass the provision of child welfare services to enough children and families in each demonstration site to allow for the assessment of whether there are meaningful differences, to be defined by the committee, between the outcomes achieved in the demonstration sites and the comparison sites or populations. To ensure adequate statistical power to assess these differences, the populations served shall be large enough to provide a probability greater than seventy percent that meaningful difference will be detected and a ninety-five percent probability that observed differences are not due to chance alone.

(6) The committee shall also prepare as part of the plan a recommendation as to how to implement chapter 520, Laws of 2009 so that full implementation of chapter 520, Laws of 2009 is achieved no later than ~~(June))~~ December 30, 2012.

(7) The committee shall prepare the plan to manage the delivery of child welfare services in a manner that achieves coordination of the services and programs that deliver primary prevention services.

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(8) Beginning June 30, 2009, the committee shall report quarterly to the governor and the legislative children's oversight committee established in RCW 44.04.220. From June 30, 2012, until January 1, 2015, the committee need only report twice a year. The committee shall report on its progress in meeting its duties under subsections (2) and (3) of this section and on any other matters the committee or the legislative children's oversight committee or the governor deems appropriate. The portion of the plan required in subsection (6) of this section shall be due to the legislative children's oversight committee on or before June 1, 2010. The reports shall be in written form.

(9) The committee, by majority vote, may establish advisory committees as it deems necessary.

(10) All state executive branch agencies and the agencies with whom the department contracts for child welfare services shall cooperate with the committee and provide timely information as the chair or cochairs may request. Cooperation by the children's administration must include developing and scheduling training for supervising agencies to access data and information necessary to implement and monitor the contracts.

(11) It is expected that the administrative costs for the committee will be supported through private funds.

(12) Staff support for the committee shall be provided jointly by partners for our children and legislative staff.

(13) The committee is subject to chapters 42.30 (open public meetings act) and 42.52 (ethics in public service) RCW.

(14) This section expires July 1, 2015.

**Sec. 3.** RCW 74.13.020 and 2009 c 520 s 2 and 2009 c 235 s 3 are each reenacted and amended to read as follows:

For purposes of this chapter:

(1) "Case management" means the management of services delivered to children and families in the child welfare system, including permanency services, caseworker-child visits, family visits, the convening of family group conferences, the development and revision of the case plan, the coordination and monitoring of services needed by the child and family, and the assumption of court-related duties, excluding legal representation, including preparing court reports, attending judicial hearings and permanency hearings, and ensuring that the child is progressing toward permanency within state and federal mandates, including the Indian child welfare act.

(2) "Child" means a person less than eighteen years of age.

(3) "Child protective services" has the same meaning as in RCW 26.44.020.

(4) "Child welfare services" means social services including voluntary and in-home services, out-of-home care, case management, and adoption services which strengthen, supplement, or substitute for, parental care and supervision for the purpose of:

(a) Preventing or remedying, or assisting in the solution of problems which may result in families in conflict, or the neglect, abuse, exploitation, or criminal behavior of children;

(b) Protecting and caring for dependent, abused, or neglected children;

(c) Assisting children who are in conflict with their parents, and assisting parents who are in conflict with their children, with services designed to resolve such conflicts;

(d) Protecting and promoting the welfare of children, including the strengthening of their own homes where possible, or, where needed;

(e) Providing adequate care of children away from their homes in foster family homes or day care or other child care agencies or facilities.

"Child welfare services" does not include child protection services.

(5) "Committee" means the child welfare transformation design committee.

(6) "Department" means the department of social and health services.

(7) "Measurable effects" means a statistically significant change which occurs as a result of the service or services a supervising agency is assigned in a performance-based contract, in time periods established in the contract.

(8) "Out-of-home care services" means services provided after the shelter care hearing to or for children in out-of-home care, as that term is defined in RCW 13.34.030, and their families, including the recruitment, training, and management of foster parents, the recruitment of adoptive families, and the facilitation of the adoption process, family reunification, independent living, emergency shelter, residential group care, and foster care, including relative placement.

(9) "Performance-based contracting" means the structuring of all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes. Contracts shall also include provisions that link the performance of the contractor to the level and timing of reimbursement.

(10) "Permanency services" means long-term services provided to secure a child's safety, permanency, and well-being, including foster care services, family reunification services, adoption services, and preparation for independent living services.

(11) "Primary prevention services" means services which are designed and delivered for the primary purpose of enhancing child and family well-being and are shown, by analysis of outcomes, to reduce the risk to the likelihood of the initial need for child welfare services.

(12) "Supervising agency" means an agency licensed by the state under RCW 74.15.090, or ~~((an))~~ licensed by a federally recognized Indian tribe located in this state under RCW 74.15.190, that has entered into a performance-based contract with the department to provide case management for the delivery and documentation of child welfare services, as defined in this section.

**Sec. 4.** RCW 74.13.360 and 2009 c 520 s 3 are each amended to read as follows:

(1) No later than ~~((January))~~ July 1, 2011, the department shall convert its current contracts with providers of child welfare services into performance-based contracts. In accomplishing this conversion, the department shall decrease the total number of contracts it uses to purchase child welfare services from providers. The conversion of contracts for the provision of child welfare services to performance-based contracts must be done in a manner that does not adversely affect the state's ability to continue to obtain federal funding for child welfare related functions currently performed by the state and with consideration of options to further maximize federal funding opportunities and increase flexibility in the use of such funds, including use for preventive and in-home child welfare services.

(2) No later than ~~((July 1))~~ December 30, 2012:

(a) In the demonstration sites selected under RCW 74.13.368(4)(a), child welfare services shall be provided by supervising agencies with whom the department has entered into performance-based contracts. Supervising agencies may enter into subcontracts with other licensed agencies; and

(b) Except as provided in subsection (4) of this section, and notwithstanding any law to the contrary, the department may not directly provide child welfare services to families and children provided child welfare services by supervising agencies in the demonstration sites selected under RCW 74.13.368(4)(a).

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(3) No later than (~~July 1~~) December 30, 2012, for families and children provided child welfare services by supervising agencies in the demonstration sites selected under RCW 74.13.368(4)(a), the department is responsible for only the following:

(a) Monitoring the quality of services for which the department contracts under this chapter;

(b) Ensuring that the services are provided in accordance with federal law and the laws of this state, including the Indian child welfare act;

(c) Providing child protection functions and services, including intake and investigation of allegations of child abuse or neglect, emergency shelter care functions under RCW 13.34.050, and referrals to appropriate providers; and

(d) Issuing licenses pursuant to chapter 74.15 RCW.

(4) No later than (~~July 1~~) December 30, 2012, for families and children provided child welfare services by supervising agencies in the demonstration sites selected under RCW 74.13.368(4)(a), the department may provide child welfare services only:

(a) For the limited purpose of establishing a control or comparison group as deemed necessary by the child welfare transformation design committee, with input from the Washington state institute for public policy, to implement the demonstration sites selected and defined pursuant to RCW 74.13.368(4)(a) in which the performance in achieving measurable outcomes will be compared and evaluated pursuant to RCW 74.13.370; or

(b) In an emergency or as a provider of last resort. The department shall adopt rules describing the circumstances under which the department may provide those services. For purposes of this section, "provider of last resort" means the department is unable to contract with a private agency to provide child welfare services in a particular geographic area or, after entering into a contract with a private agency, either the contractor or the department terminates the contract.

(5) For purposes of this chapter, on and after September 1, 2010, performance-based contracts shall be structured to hold the supervising agencies accountable for achieving the following goals in order of importance: Child safety; child permanency, including reunification; and child well-being.

(6) A federally recognized tribe located in this state may enter into a performance-based contract with the department to provide child welfare services to Indian children whether or not they reside on a reservation. Nothing in this section prohibits a federally recognized Indian tribe located in this state from providing child welfare services to its members or other Indian children pursuant to existing tribal law, regulation, or custom, or from directly entering into agreements for the provision of such services with the department, if the department continues to otherwise provide such services, or with federal agencies.

**Sec. 5.** RCW 74.13.364 and 2009 c 520 s 5 are each amended to read as follows:

Children whose cases are managed by a supervising agency as defined in RCW 74.13.020 remain under the care and placement authority of the state. The child welfare transformation design committee, in selecting demonstration sites for the provision of child welfare services under RCW 74.13.368(4), shall maintain the placement and care authority of the state over children receiving child welfare services at a level that does not adversely affect the state's ability to continue to obtain federal funding for child welfare related functions currently performed by the state and with consideration of options to further maximize federal funding opportunities and increase flexibility in the use of such funds, including use for preventive and in-home child welfare services.

**Sec. 6.** RCW 74.13.366 and 2009 c 520 s 6 are each amended to read as follows:

(Performance-based contracts with private nonprofit entities who otherwise meet the definition of supervising agency shall receive primary preference. This section does not apply to Indian tribes.) For the purposes of the provision of child welfare services by supervising agencies under this act, the department shall give primary preference for performance-based contracts to private nonprofit entities, including federally recognized Indian tribes located in this state, who otherwise meet the definition of supervising agency under RCW 74.13.020. In any continuation or expansion of delivery of child welfare services purchased through the use of performance-based contracts under the provisions of RCW 74.13.372, when all other elements of the bids are equal, private nonprofit entities, federally recognized Indian tribes located in this state, and state employees shall receive primary preference over private for profit entities."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6832.

Senator Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hargrove that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6832.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6832 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6832, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6832, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridmore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6832, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 6, 2010

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SECOND SUBSTITUTE HOUSE BILL NO. 3076 and asks the Senate to recede therefrom.  
and the same is herewith transmitted.

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BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate recede from its position in the Senate amendment(s) to Second Substitute House Bill No. 3076.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate recede from its position in the Senate amendment(s) to Second Substitute House Bill No. 3076.

The motion by Senator Hargrove carried and the Senate receded from its position in the Senate amendment(s) to Second Substitute House Bill No. 3076 by voice vote.

MOTION

On motion of Senator Hargrove, the rules were suspended and Second Substitute House Bill No. 3076 was returned to second reading for the purposes of amendment.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 3076, by House Committee on Ways & Means (originally sponsored by Representatives Dickerson and Kenney)

Concerning the involuntary treatment act.

The measure was read the second time.

MOTION

Senator Hargrove moved that the following striking amendment by Senators Hargrove and Brandland be adopted:

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. (1) The Washington institute for public policy shall, in collaboration with the department of social and health services and other applicable entities, undertake a search for a validated mental health assessment tool or combination of tools to be used by designated mental health professionals when undertaking assessments of individuals for detention, commitment, and revocation under the involuntary treatment act pursuant to chapter 71.05 RCW.

(2) This section expires June 30, 2011.

Sec. 2. RCW 71.05.212 and 1999 c 214 s 5 are each amended to read as follows:

(1) Whenever a ~~((county))~~ designated mental health professional or professional person is conducting an evaluation under this chapter, consideration shall include all reasonably available information from credible witnesses and records regarding:

~~((1))~~ (a) Prior recommendations for evaluation of the need for civil commitments when the recommendation is made pursuant to an evaluation conducted under chapter 10.77 RCW;

~~((2))~~ (b) Historical behavior, including history of one or more violent acts;

~~((3))~~ (c) Prior determinations of incompetency or insanity under chapter 10.77 RCW; and

~~((4))~~ (d) Prior commitments under this chapter.

(2) Credible witnesses may include family members, landlords, neighbors, or others with significant contact and history of involvement with the person. If the designated mental health professional relies upon information from a credible witness in reaching his or her decision to detain the individual, then he or she

must provide contact information for any such witness to the prosecutor. The designated mental health professional or prosecutor shall provide notice of the date, time, and location of the probable cause hearing to such a witness.

(3) Symptoms and behavior of the respondent which standing alone would not justify civil commitment may support a finding of grave disability or likelihood of serious harm when:

(a) Such symptoms or behavior are closely associated with symptoms or behavior which preceded and led to a past incident of involuntary hospitalization, severe deterioration, or one or more violent acts;

(b) These symptoms or behavior represent a marked and concerning change in the baseline behavior of the respondent; and

(c) Without treatment, the continued deterioration of the respondent is probable.

~~((In addition,))~~ (4) When conducting an evaluation for offenders identified under RCW 72.09.370, the ~~((county))~~ designated mental health professional or professional person shall consider an offender's history of judicially required or administratively ordered antipsychotic medication while in confinement.

Sec. 3. RCW 71.05.245 and 1999 c 13 s 6 are each amended to read as follows:

(1) In making a determination of whether a person is gravely disabled or presents a likelihood of serious harm in a hearing conducted under RCW 71.05.240 or 71.05.320, the court must consider the symptoms and behavior of the respondent in light of all available evidence concerning the respondent's historical behavior.

(2) Symptoms or behavior which standing alone would not justify civil commitment may support a finding of grave disability or likelihood of serious harm when: (a) Such symptoms or behavior are closely associated with symptoms or behavior which preceded and led to a past incident of involuntary hospitalization, severe deterioration, or one or more violent acts; (b) these symptoms or behavior represent a marked and concerning change in the baseline behavior of the respondent; and (c) without treatment, the continued deterioration of the respondent is probable.

(3) In making a determination of whether there is a likelihood of serious harm in a hearing conducted under RCW 71.05.240 or 71.05.320, the court shall give great weight to any evidence before the court regarding whether the person has: ~~((1))~~ (a) A recent history of one or more violent acts; or ~~((2))~~ (b) a recent history of one or more commitments under this chapter or its equivalent provisions under the laws of another state which were based on a likelihood of serious harm. The existence of prior violent acts or commitments under this chapter or its equivalent shall not be the sole basis for determining whether a person presents a likelihood of serious harm.

For the purposes of this ~~((section))~~ subsection "recent" refers to the period of time not exceeding three years prior to the current hearing.

NEW SECTION. Sec. 4. A new section is added to chapter 71.05 RCW to read as follows:

(1) Whenever a person who is the subject of an involuntary commitment order under this chapter is discharged from an evaluation and treatment facility or state hospital, the evaluation and treatment facility or state hospital shall provide notice of the person's discharge to the designated mental health professional office responsible for the initial commitment and the designated mental health professional office that serves the county in which the person is expected to reside. The evaluation and treatment facility or state hospital must also provide these offices with a copy of any less restrictive order or conditional release order entered in conjunction with the discharge of the person, unless the evaluation and treatment facility or state hospital has entered into a memorandum of understanding obligating another entity to provide these documents.

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(2) The notice and documents referred to in subsection (1) of this section shall be provided as soon as possible and no later than one business day following the discharge of the person. Notice is not required under this section if the discharge is for the purpose of transferring the person for continued detention and treatment under this chapter at another treatment facility.

(3) The department shall maintain and make available an updated list of contact information for designated mental health professional offices around the state.

**NEW SECTION. Sec. 5.** Sections 2 and 3 of this act take effect January 1, 2012.

**NEW SECTION. Sec. 6.** A new section is added to chapter 9.94A RCW to read as follows:

(1) Before imposing any legal financial obligations upon a defendant who suffers from a mental health condition, other than restitution or the victim penalty assessment under RCW 7.68.035, a judge must first determine that the defendant, under the terms of this section, has the means to pay such additional sums.

(2) For the purposes of this section, a defendant suffers from a mental health condition when the defendant has been diagnosed with a mental disorder that prevents the defendant from participating in gainful employment, as evidenced by a determination of mental disability as the basis for the defendant's enrollment in a public assistance program, a record of involuntary hospitalization, or by competent expert evaluation.

**NEW SECTION. Sec. 7.** If specific funding for the purposes of sections 1, 2, and 3 of this act, referencing the specific section of this act by section number and by bill or chapter number, is not provided by June 30, 2010, in the omnibus appropriations act, each section not referenced is null and void."

Senator Hargrove spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove and Brandland to Second Substitute House Bill No. 3076.

The motion by Senator Hargrove carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "act;" strike the remainder of the title and insert "amending RCW 71.05.212 and 71.05.245; adding a new section to chapter 71.05 RCW; adding a new section to chapter 9.94A RCW; creating new sections; providing an effective date; and providing an expiration date."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Second Substitute House Bill No. 3076 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 3076 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 3076 as amended by the Senate and the

bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SECOND SUBSTITUTE HOUSE BILL NO. 3076 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 7:56 p.m., on motion of Senator Eide, the Senate adjourned until 9:30 a.m. Wednesday, March 10, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

FIFTY NINTH DAY

MORNING SESSION

Senate Chamber, Olympia, Wednesday, March 10, 2010

The Senate was called to order at 9:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Fairley, Holmquist, McCaslin, Pflug and Roach.

The Sergeant at Arms Color Guard consisting of Pages Ted Hammond and Sarah Smith, presented the Colors. Pastor Mark Van Haitsma of Olympia Christian Reformed Church offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

March 9, 2010

SB 6851 Prime Sponsor, Senator Murray: Concerning the clean water act of 2010 funding cleanup of water pollution and other programs necessary for the health and well-being of Washington citizens through an increase in the tax on hazardous substances. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6851 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Carrell; Hewitt; Parlette; Pflug and Schoesler.

Passed to Committee on Rules for second reading.

March 9, 2010

SHB 2893 Prime Sponsor, Committee on Education Appropriations: Changing school levy provisions. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Carrell; Hewitt; Honeyford; Parlette; Pflug and Schoesler.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the third order of business.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

February 15, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

STEPHEN THARINGER, reappointed February 15, 2010, for the term ending July 15, 2013, as Member of the Salmon Recovery Funding Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Natural Resources, Ocean & Recreation.

MOTION

On motion of Senator Eide, the appointee listed on the Gubernatorial Appointment report was referred to the committee as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

MOTION

Senator Eide moved adoption of the following resolution:

SENATE RESOLUTION

8716

By Senators Eide and Fraser

WHEREAS, Tom Murphy began his career teaching English in Joliet, Illinois, before moving to Washington State to become principal of Redmond High School; and

WHEREAS, In 1988 Tom Murphy started as an Assistant Superintendent in Federal Way, the eighth largest school district in the state, with 23 elementary schools, seven middle schools, five high schools and almost 22,000 students. He was appointed the School Superintendent in 1999; and

WHEREAS, Superintendent Murphy has an outstanding record of accomplishment. Under his leadership Federal Way has undergone a metamorphosis into an award-winning district with several recognized schools. Federal Way was the first school district in the state to provide internet-based instruction and Federal Way High School opened the first Cambridge Program, an academically rigorous high school program affiliated with Cambridge University in England, on the West Coast; and

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WHEREAS, Superintendent Murphy believes that in education, "All Truly Means All" where all children in public schools deserve equal access to a quality education that prepares them for productive, meaningful lives. With Tom Murphy at the helm, the Federal Way School District works to create individual success for every student. Standard and Poor's named Federal Way's Thomas Jefferson and Todd Beamer high schools among 51 schools in the United States that narrowed the achievement gap; and

WHEREAS, Tom and his loving wife, Rosemary, have been married for more than 39 years and blessed with four grown children and four grandchildren; and

WHEREAS, Tom Murphy will retire in 2010 after a 42-year distinguished education career where he earned the respect and support of the Federal Way Public School Board of Directors, staff, teachers, and families. The school district was selected for numerous awards resulting from his leadership and the Communities in Schools of Federal Way renamed its student mentor award to the "Tom Murphy Mentor of the Year Award";

NOW, THEREFORE, BE IT RESOLVED, That the members of the Washington State Senate honor and celebrate the educational achievements of Superintendent Tom Murphy whose dedication, professionalism, and leadership excellence have made Federal Way and the State of Washington proud; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Tom Murphy and the Federal Way School District.

Senators Eide and Tom spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8716.

The motion by Senator Eide carried and the resolution was adopted by voice vote.

#### MOTION

On motion of Senator Eide, the Senate reverted to the sixth order of business.

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Gordon moved that Gubernatorial Appointment No. 9139, Brian Comstock, as a member of the Lottery Commission, be confirmed.

Senator Gordon spoke in favor of the motion.

#### MOTION

On motion of Senator Marr, Senators Brown and Fairley were excused.

#### MOTION

On motion of Senator Brandland, Senators Holmquist, McCaslin, Pflug and Roach were excused.

#### APPOINTMENT OF BRIAN COMSTOCK

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9139, Brian Comstock as a member of the Lottery Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9139, Brian Comstock as a

member of the Lottery Commission and the appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fairley, Holmquist, McCaslin, Pflug and Roach

Gubernatorial Appointment No. 9139, Brian Comstock, having received the constitutional majority was declared confirmed as a member of the Lottery Commission.

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Kauffman moved that Gubernatorial Appointment No. 9273, Ira Sengupta, as a member of the Board of Trustees, Renton Technical College District No. 27, be confirmed.

Senator Kauffman spoke in favor of the motion.

#### APPOINTMENT OF IRA SENGUPTA

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9273, Ira Sengupta as a member of the Board of Trustees, Renton Technical College District No. 27.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9273, Ira Sengupta as a member of the Board of Trustees, Renton Technical College District No. 27 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Kohl-Welles

Excused: Senators Fairley, Holmquist and McCaslin

Gubernatorial Appointment No. 9273, Ira Sengupta, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Renton Technical College District No. 27.

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Eide moved that Gubernatorial Appointment No. 9211, Lorraine Lee, as Office of Administrative Hearings, Chief Administrative Law Judge be confirmed.

Senators Eide and Benton spoke in favor of passage of the motion.

#### APPOINTMENT OF LORRAINE LEE

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The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9211, Lorraine Lee as Office of Administrative Hearings, Chief Administrative Law Judge.

At 10:02 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:44 a.m. by President Owen.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9211, Lorraine Lee as Office of Administrative Hearings, Chief Administrative Law Judge and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

MESSAGE FROM THE HOUSE

March 10, 2010

Excused: Senators Fairley, Holmquist and McCaslin  
Gubernatorial Appointment No. 9211, Lorraine Lee, having received the constitutional majority was declared confirmed as office of Administrative Hearings, Chief Administrative Law Judge.

MR. PRESIDENT:  
The Speaker has signed:  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1149,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1317,  
SUBSTITUTE HOUSE BILL 1679,  
ENGROSSED SUBSTITUTE HOUSE BILL 1714,  
SECOND SUBSTITUTE HOUSE BILL 1761,  
HOUSE BILL 1880,  
ENGROSSED SUBSTITUTE HOUSE BILL 1956,  
HOUSE BILL 1966,  
SECOND SUBSTITUTE HOUSE BILL 2016,  
SUBSTITUTE HOUSE BILL 2179,  
SUBSTITUTE HOUSE BILL 2402,  
SUBSTITUTE HOUSE BILL 2443,  
ENGROSSED SUBSTITUTE HOUSE BILL 2464,  
SUBSTITUTE HOUSE BILL 2466,  
SUBSTITUTE HOUSE BILL 2533,  
SUBSTITUTE HOUSE BILL 2534,  
ENGROSSED SUBSTITUTE HOUSE BILL 2538,  
SUBSTITUTE HOUSE BILL 2593,  
SECOND SUBSTITUTE HOUSE BILL 2603,  
HOUSE BILL 2625,  
SUBSTITUTE HOUSE BILL 2680,  
HOUSE BILL 2681,  
SUBSTITUTE HOUSE BILL 2717,  
HOUSE BILL 2748,  
ENGROSSED SUBSTITUTE HOUSE BILL 2752,  
SUBSTITUTE HOUSE BILL 2775,  
ENGROSSED SUBSTITUTE HOUSE BILL 2777,  
SUBSTITUTE HOUSE BILL 2801,  
ENGROSSED HOUSE BILL 2805,  
SUBSTITUTE HOUSE BILL 2841,  
SECOND SUBSTITUTE HOUSE BILL 2867,  
SUBSTITUTE HOUSE BILL 2939,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2961,  
HOUSE BILL 2973,  
ENGROSSED SUBSTITUTE HOUSE BILL 2986,  
HOUSE BILL 3007,  
SUBSTITUTE HOUSE BILL 3016,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 3026,  
ENGROSSED SUBSTITUTE HOUSE BILL 3040,  
SUBSTITUTE HOUSE BILL 3105,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 3141,  
ENGROSSED SUBSTITUTE HOUSE JOINT RESOLUTION 4220.  
and the same are herewith transmitted.

MOTION

On motion of Senator Marr, Senator Brown was excused.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Kline moved that Gubernatorial Appointment No. 9259, Laura Jennings, as a member of the Board of Regents, Washington State University, be confirmed.

Senators Kline and Marr spoke in favor of passage of the motion.

APPOINTMENT OF LAURA JENNINGS

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9259, Laura Jennings as a member of the Board of Regents, Washington State University.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9259, Laura Jennings as a member of the Board of Regents, Washington State University and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brown, Fairley, Holmquist and McCaslin  
Gubernatorial Appointment No. 9259, Laura Jennings, having received the constitutional majority was declared confirmed as a member of the Board of Regents, Washington State University.

MOTION

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 10, 2010

MR. PRESIDENT:

The Speaker has signed:  
SUBSTITUTE HOUSE BILL 2420,  
HOUSE BILL 2460,  
SECOND SUBSTITUTE HOUSE BILL 2481,  
SUBSTITUTE HOUSE BILL 2503,  
ENGROSSED SUBSTITUTE HOUSE BILL 2518,  
ENGROSSED HOUSE BILL 2519,  
SUBSTITUTE HOUSE BILL 2525,  
SUBSTITUTE HOUSE BILL 2527,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
2539,  
HOUSE BILL 2540,  
ENGROSSED SUBSTITUTE HOUSE BILL 2541,  
SECOND SUBSTITUTE HOUSE BILL 2551,  
HOUSE BILL 2621,  
SUBSTITUTE HOUSE BILL 2657,  
HOUSE BILL 2659,  
SUBSTITUTE HOUSE BILL 2686,  
HOUSE BILL 2697,  
HOUSE BILL 2734,  
HOUSE BILL 2735,  
SECOND SUBSTITUTE HOUSE BILL 2742,  
ENGROSSED SUBSTITUTE HOUSE BILL 2747,  
SUBSTITUTE HOUSE BILL 2990,  
SUBSTITUTE HOUSE BILL 3036.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 9, 2010

MR. PRESIDENT:

The House has passed:  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
2956.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 9, 2010

MR. PRESIDENT:

The House receded from its amendment(s) to ENGROSSED  
SUBSTITUTE SENATE BILL NO. 6538. Under suspension of  
the rules, the bill was returned to second reading for the purpose  
of an amendment. The House adopted the following amendment:  
6538-S.E AMH CODY H5611.3, and passed the bill as amended  
by the House.

Strike everything after the enacting clause and insert the  
following:

"Sec. 1. RCW 48.43.005 and 2008 c 145 s 20 and 2008 c 144  
s 1 are each reenacted and amended to read as follows:

Unless otherwise specifically provided, the definitions in this  
section apply throughout this chapter.

(1) "Adjusted community rate" means the rating method used to  
establish the premium for health plans adjusted to reflect actuarially  
demonstrated differences in utilization or cost attributable to  
geographic region, age, family size, and use of wellness activities.

(2) "Basic health plan" means the plan described under chapter  
70.47 RCW, as revised from time to time.

(3) "Basic health plan model plan" means a health plan as  
required in RCW 70.47.060(2)(e).

(4) "Basic health plan services" means that schedule of covered  
health services, including the description of how those benefits are  
to be administered, that are required to be delivered to an enrollee  
under the basic health plan, as revised from time to time.

(5) "Catastrophic health plan" means:

(a) In the case of a contract, agreement, or policy covering a  
single enrollee, a health benefit plan requiring a calendar year  
deductible of, at a minimum, one thousand seven hundred fifty  
dollars and an annual out-of-pocket expense required to be paid  
under the plan (other than for premiums) for covered benefits of at  
least three thousand five hundred dollars, both amounts to be  
adjusted annually by the insurance commissioner; and

(b) In the case of a contract, agreement, or policy covering more  
than one enrollee, a health benefit plan requiring a calendar year  
deductible of, at a minimum, three thousand five hundred dollars  
and an annual out-of-pocket expense required to be paid under the  
plan (other than for premiums) for covered benefits of at least six  
thousand dollars, both amounts to be adjusted annually by the  
insurance commissioner; or

(c) Any health benefit plan that provides benefits for hospital  
inpatient and outpatient services, professional and prescription  
drugs provided in conjunction with such hospital inpatient and  
outpatient services, and excludes or substantially limits outpatient  
physician services and those services usually provided in an office  
setting.

In July 2008, and in each July thereafter, the insurance  
commissioner shall adjust the minimum deductible and  
out-of-pocket expense required for a plan to qualify as a catastrophic  
plan to reflect the percentage change in the consumer price index for  
medical care for a preceding twelve months, as determined by the  
United States department of labor. The adjusted amount shall  
apply on the following January 1st.

(6) "Certification" means a determination by a review  
organization that an admission, extension of stay, or other health  
care service or procedure has been reviewed and, based on the  
information provided, meets the clinical requirements for medical  
necessity, appropriateness, level of care, or effectiveness under the  
auspices of the applicable health benefit plan.

(7) "Concurrent review" means utilization review conducted  
during a patient's hospital stay or course of treatment.

(8) "Covered person" or "enrollee" means a person covered by a  
health plan including an enrollee, subscriber, policyholder,  
beneficiary of a group plan, or individual covered by any other  
health plan.

(9) "Dependent" means, at a minimum, the enrollee's legal  
spouse and unmarried dependent children who qualify for coverage  
under the enrollee's health benefit plan.

(10) "Employee" has the same meaning given to the term, as of  
January 1, 2008, under section 3(6) of the federal employee  
retirement income security act of 1974.

(11) "Emergency medical condition" means the emergent and  
acute onset of a symptom or symptoms, including severe pain, that  
would lead a prudent layperson acting reasonably to believe that a  
health condition exists that requires immediate medical attention, if  
failure to provide medical attention would result in serious  
impairment to bodily functions or serious dysfunction of a bodily  
organ or part, or would place the person's health in serious jeopardy.

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(12) "Emergency services" means otherwise covered health care services medically necessary to evaluate and treat an emergency medical condition, provided in a hospital emergency department.

(13) "Enrollee point-of-service cost-sharing" means amounts paid to health carriers directly providing services, health care providers, or health care facilities by enrollees and may include copayments, coinsurance, or deductibles.

(14) "Grievance" means a written complaint submitted by or on behalf of a covered person regarding: (a) Denial of payment for medical services or nonprovision of medical services included in the covered person's health benefit plan, or (b) service delivery issues other than denial of payment for medical services or nonprovision of medical services, including dissatisfaction with medical care, waiting time for medical services, provider or staff attitude or demeanor, or dissatisfaction with service provided by the health carrier.

(15) "Health care facility" or "facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health care facilities as defined in RCW 70.175.020, psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed under chapter 70.41 RCW, ambulatory diagnostic, treatment, or surgical facilities licensed under chapter 70.41 RCW, drug and alcohol treatment facilities licensed under chapter 70.96A RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and operated by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations.

(16) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

(17) "Health care service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(18) "Health carrier" or "carrier" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, or a health maintenance organization as defined in RCW 48.46.020.

(19) "Health plan" or "health benefit plan" means any policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care services except the following:

(a) Long-term care insurance governed by chapter 48.84 or 48.83 RCW;

(b) Medicare supplemental health insurance governed by chapter 48.66 RCW;

(c) Coverage supplemental to the coverage provided under chapter 55, Title 10, United States Code;

(d) Limited health care services offered by limited health care service contractors in accordance with RCW 48.44.035;

(e) Disability income;

(f) Coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage and homeowner guest medical;

(g) Workers' compensation coverage;

(h) Accident only coverage;

(i) Specified disease or illness-triggered fixed payment insurance, hospital confinement fixed payment insurance, or other

fixed payment insurance offered as an independent, noncoordinated benefit;

(j) Employer-sponsored self-funded health plans;

(k) Dental only and vision only coverage; and

(l) Plans deemed by the insurance commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner.

(20) "Material modification" means a change in the actuarial value of the health plan as modified of more than five percent but less than fifteen percent.

(21) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

(22) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health plan or the continuance of a health plan. Any assessment or any "membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

(23) "Review organization" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, health care service contractor as defined in RCW 48.44.010, or health maintenance organization as defined in RCW 48.46.020, and entities affiliated with, under contract with, or acting on behalf of a health carrier to perform a utilization review.

(24) "Small employer" or "small group" means any person, firm, corporation, partnership, association, political subdivision, sole proprietor, or self-employed individual that is actively engaged in business that employed an average of at least ~~((two))~~ one but no more than fifty employees, during the previous calendar year and employed at least ~~((two))~~ one employee(s) on the first day of the plan year, is not formed primarily for purposes of buying health insurance, and in which a bona fide employer-employee relationship exists. In determining the number of employees, companies that are affiliated companies, or that are eligible to file a combined tax return for purposes of taxation by this state, shall be considered an employer. Subsequent to the issuance of a health plan to a small employer and for the purpose of determining eligibility, the size of a small employer shall be determined annually. Except as otherwise specifically provided, a small employer shall continue to be considered a small employer until the plan anniversary following the date the small employer no longer meets the requirements of this definition. A self-employed individual or sole proprietor ~~((who is covered as a group of one on the day prior to June 10, 2004, shall also be considered a "small employer" to the extent that individual or group of one is entitled to have his or her coverage renewed as provided in RCW 48.43.035(6))~~ who is covered as a group of one must also: (a) Have been employed by the same small employer or small group for at least twelve months prior to application for small group coverage, and (b) verify that he or she derived at least seventy-five percent of his or her income from a trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, schedule C or F, for the previous taxable year, except a self-employed individual or sole proprietor in an agricultural trade or business, must have derived at least fifty-one percent of his or her income from the trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed

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the appropriate internal revenue service form 1040, for the previous taxable year.

(25) "Utilization review" means the prospective, concurrent, or retrospective assessment of the necessity and appropriateness of the allocation of health care resources and services of a provider or facility, given or proposed to be given to an enrollee or group of enrollees.

(26) "Wellness activity" means an explicit program of an activity consistent with department of health guidelines, such as, smoking cessation, injury and accident prevention, reduction of alcohol misuse, appropriate weight reduction, exercise, automobile and motorcycle safety, blood cholesterol reduction, and nutrition education for the purpose of improving enrollee health status and reducing health service costs.

**Sec. 2.** RCW 48.43.035 and 2004 c 244 s 4 are each amended to read as follows:

For group health benefit plans, the following shall apply:

(1) All health carriers shall accept for enrollment any state resident within the group to whom the plan is offered and within the carrier's service area and provide or assure the provision of all covered services regardless of age, sex, family structure, ethnicity, race, health condition, geographic location, employment status, socioeconomic status, other condition or situation, or the provisions of RCW 49.60.174(2). The insurance commissioner may grant a temporary exemption from this subsection, if, upon application by a health carrier the commissioner finds that the clinical, financial, or administrative capacity to serve existing enrollees will be impaired if a health carrier is required to continue enrollment of additional eligible individuals.

(2) Except as provided in subsection (5) of this section, all health plans shall contain or incorporate by endorsement a guarantee of the continuity of coverage of the plan. For the purposes of this section, a plan is "renewed" when it is continued beyond the earliest date upon which, at the carrier's sole option, the plan could have been terminated for other than nonpayment of premium. The carrier may consider the group's anniversary date as the renewal date for purposes of complying with the provisions of this section.

(3) The guarantee of continuity of coverage required in health plans shall not prevent a carrier from canceling or nonrenewing a health plan for:

(a) Nonpayment of premium;

(b) Violation of published policies of the carrier approved by the insurance commissioner;

(c) Covered persons entitled to become eligible for medicare benefits by reason of age who fail to apply for a medicare supplement plan or medicare cost, risk, or other plan offered by the carrier pursuant to federal laws and regulations;

(d) Covered persons who fail to pay any deductible or copayment amount owed to the carrier and not the provider of health care services;

(e) Covered persons committing fraudulent acts as to the carrier;

(f) Covered persons who materially breach the health plan; or

(g) Change or implementation of federal or state laws that no longer permit the continued offering of such coverage.

(4) The provisions of this section do not apply in the following cases:

(a) A carrier has zero enrollment on a product;

(b) A carrier replaces a product and the replacement product is provided to all covered persons within that class or line of business, includes all of the services covered under the replaced product, and does not significantly limit access to the kind of services covered under the replaced product. The health plan may also allow unrestricted conversion to a fully comparable product;

(c) No sooner than January 1, 2005, a carrier discontinues offering a particular type of health benefit plan offered for groups of

up to two hundred if: (i) The carrier provides notice to each group of the discontinuation at least ninety days prior to the date of the discontinuation; (ii) the carrier offers to each group provided coverage of this type the option to enroll, with regard to small employer groups, in any other small employer group plan, or with regard to groups of up to two hundred, in any other applicable group plan, currently being offered by the carrier in the applicable group market; and (iii) in exercising the option to discontinue coverage of this type and in offering the option of coverage under (c)(ii) of this subsection, the carrier acts uniformly without regard to any health status-related factor of enrolled individuals or individuals who may become eligible for this coverage;

(d) A carrier discontinues offering all health coverage in the small group market or for groups of up to two hundred, or both markets, in the state and discontinues coverage under all existing group health benefit plans in the applicable market involved if: (i) The carrier provides notice to the commissioner of its intent to discontinue offering all such coverage in the state and its intent to discontinue coverage under all such existing health benefit plans at least one hundred eighty days prior to the date of the discontinuation of coverage under all such existing health benefit plans; and (ii) the carrier provides notice to each covered group of the intent to discontinue the existing health benefit plan at least one hundred eighty days prior to the date of discontinuation. In the case of discontinuation under this subsection, the carrier may not issue any group health coverage in this state in the applicable group market involved for a five-year period beginning on the date of the discontinuation of the last health benefit plan not so renewed. This subsection (4) does not require a carrier to provide notice to the commissioner of its intent to discontinue offering a health benefit plan to new applicants when the carrier does not discontinue coverage of existing enrollees under that health benefit plan; or

(e) A carrier is withdrawing from a service area or from a segment of its service area because the carrier has demonstrated to the insurance commissioner that the carrier's clinical, financial, or administrative capacity to serve enrollees would be exceeded.

(5) The provisions of this section do not apply to health plans deemed by the insurance commissioner to be unique or limited or have a short-term purpose, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner.

((6) Notwithstanding any other provision of this section, the guarantee of continuity of coverage applies to a group of one only if:

(a) The carrier continues to offer any other small employer group plan in which the group of one was eligible to enroll on the day prior to June 10, 2004; and (b) the person continues to qualify as a group of one under the criteria in place on the day prior to June 10, 2004.))

**Sec. 3.** RCW 48.44.010 and 2007 c 267 s 2 are each amended to read as follows:

For the purposes of this chapter:

(1) "Health care services" means and includes medical, surgical, dental, chiropractic, hospital, optometric, podiatric, pharmaceutical, ambulance, custodial, mental health, and other therapeutic services.

(2) "Provider" means any health professional, hospital, or other institution, organization, or person that furnishes health care services and is licensed to furnish such services.

(3) "Health care service contractor" means any corporation, cooperative group, or association, which is sponsored by or otherwise intimately connected with a provider or group of providers, who or which not otherwise being engaged in the insurance business, accepts prepayment for health care services from or for the benefit of persons or groups of persons as consideration for providing such persons with any health care services. "Health care service contractor" does not include direct

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patient-provider primary care practices as defined in RCW 48.150.010.

(4) "Participating provider" means a provider, who or which has contracted in writing with a health care service contractor to accept payment from and to look solely to such contractor according to the terms of the subscriber contract for any health care services rendered to a person who has previously paid, or on whose behalf prepayment has been made, to such contractor for such services.

(5) "Enrolled participant" means a person or group of persons who have entered into a contractual arrangement or on whose behalf a contractual arrangement has been entered into with a health care service contractor to receive health care services.

(6) "Commissioner" means the insurance commissioner.

(7) "Uncovered expenditures" means the costs to the health care service contractor for health care services that are the obligation of the health care service contractor for which an enrolled participant would also be liable in the event of the health care service contractor's insolvency and for which no alternative arrangements have been made as provided herein. The term does not include expenditures for covered services when a provider has agreed not to bill the enrolled participant even though the provider is not paid by the health care service contractor, or for services that are guaranteed, insured or assumed by a person or organization other than the health care service contractor.

(8) "Copayment" means an amount specified in a group or individual contract which is an obligation of an enrolled participant for a specific service which is not fully prepaid.

(9) "Deductible" means the amount an enrolled participant is responsible to pay before the health care service contractor begins to pay the costs associated with treatment.

(10) "Group contract" means a contract for health care services which by its terms limits eligibility to members of a specific group. The group contract may include coverage for dependents.

(11) "Individual contract" means a contract for health care services issued to and covering an individual. An individual contract may include dependents.

(12) "Carrier" means a health maintenance organization, an insurer, a health care service contractor, or other entity responsible for the payment of benefits or provision of services under a group or individual contract.

(13) "Replacement coverage" means the benefits provided by a succeeding carrier.

(14) "Insolvent" or "insolvency" means that the organization has been declared insolvent and is placed under an order of liquidation by a court of competent jurisdiction.

(15) "Fully subordinated debt" means those debts that meet the requirements of RCW 48.44.037(3) and are recorded as equity.

(16) "Net worth" means the excess of total admitted assets as defined in RCW 48.12.010 over total liabilities but the liabilities shall not include fully subordinated debt.

(17) "Census date" means the date upon which a health care services contractor offering coverage to a small employer must base rate calculations. For a small employer applying for a health benefit plan through a contractor other than its current contractor, the census date is the date that final group composition is received by the contractor. For a small employer that is renewing its health benefit plan through its existing contractor, the census date is ninety days prior to the effective date of the renewal.

**Sec. 4.** RCW 48.44.023 and 2009 c 131 s 2 are each amended to read as follows:

(1)(a) A health care services contractor offering any health benefit plan to a small employer, either directly or through an association or member-governed group formed specifically for the purpose of purchasing health care, may offer and actively market to the small employer a health benefit plan featuring a limited schedule

of covered health care services. Nothing in this subsection shall preclude a contractor from offering, or a small employer from purchasing, other health benefit plans that may have more comprehensive benefits than those included in the product offered under this subsection. A contractor offering a health benefit plan under this subsection shall clearly disclose all covered benefits to the small employer in a brochure filed with the commissioner.

(b) A health benefit plan offered under this subsection shall provide coverage for hospital expenses and services rendered by a physician licensed under chapter 18.57 or 18.71 RCW but is not subject to the requirements of RCW 48.44.225, 48.44.240, 48.44.245, 48.44.290, 48.44.300, 48.44.310, 48.44.320, 48.44.325, 48.44.330, 48.44.335, 48.44.344, 48.44.360, 48.44.400, 48.44.440, 48.44.450, and 48.44.460.

(2) Nothing in this section shall prohibit a health care service contractor from offering, or a purchaser from seeking, health benefit plans with benefits in excess of the health benefit plan offered under subsection (1) of this section. All forms, policies, and contracts shall be submitted for approval to the commissioner, and the rates of any plan offered under this section shall be reasonable in relation to the benefits thereto.

(3) Premium rates for health benefit plans for small employers as defined in this section shall be subject to the following provisions:

(a) The contractor shall develop its rates based on an adjusted community rate and may only vary the adjusted community rate for:

- (i) Geographic area;
- (ii) Family size;
- (iii) Age; and
- (iv) Wellness activities.

(b) The adjustment for age in (a)(iii) of this subsection may not use age brackets smaller than five-year increments, which shall begin with age twenty and end with age sixty-five. Employees under the age of twenty shall be treated as those age twenty.

(c) The contractor shall be permitted to develop separate rates for individuals age sixty-five or older for coverage for which medicare is the primary payer and coverage for which medicare is not the primary payer. Both rates shall be subject to the requirements of this subsection (3).

(d) The permitted rates for any age group shall be no more than four hundred twenty-five percent of the lowest rate for all age groups on January 1, 1996, four hundred percent on January 1, 1997, and three hundred seventy-five percent on January 1, 2000, and thereafter.

(e) A discount for wellness activities shall be permitted to reflect actuarially justified differences in utilization or cost attributed to such programs. Up to a twenty percent variance may be allowed for small employers that develop and implement a wellness program or activities that directly improve employee wellness. Employers shall document program activities with the carrier and may, after three years of implementation, request a reduction in premiums based on improved employee health and wellness. While carriers may review the employer's claim history when making a determination regarding whether the employer's wellness program has improved employee health, the carrier may not use maternity or prevention services claims to deny the employer's request. Carriers may consider issues such as improved productivity or a reduction in absenteeism due to illness if submitted by the employer for consideration. Interested employers may also work with the carrier to develop a wellness program and a means to track improved employee health.

(f) The rate charged for a health benefit plan offered under this section may not be adjusted more frequently than annually except that the premium may be changed to reflect:

- (i) Changes to the enrollment of the small employer;
- (ii) Changes to the family composition of the employee;

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(iii) Changes to the health benefit plan requested by the small employer; or

(iv) Changes in government requirements affecting the health benefit plan.

(g) On the census date, as defined in RCW 48.44.010, rating factors shall produce premiums for identical groups that differ only by the amounts attributable to plan design, and differences in census date between new and renewal groups, with the exception of discounts for health improvement programs.

(h) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision, provided that the restrictions of benefits to network providers result in substantial differences in claims costs. A carrier may develop its rates based on claims costs due to network provider reimbursement schedules or type of network. This subsection does not restrict or enhance the portability of benefits as provided in RCW 48.43.015.

(i) Adjusted community rates established under this section shall pool the medical experience of all groups purchasing coverage, including the small group participants in the health insurance partnership established in RCW 70.47A.030. However, annual rate adjustments for each small group health benefit plan may vary by up to plus or minus four percentage points from the overall adjustment of a carrier's entire small group pool, such overall adjustment to be approved by the commissioner, upon a showing by the carrier, certified by a member of the American academy of actuaries that: (i) The variation is a result of deductible leverage, benefit design, or provider network characteristics; and (ii) for a rate renewal period, the projected weighted average of all small group benefit plans will have a revenue neutral effect on the carrier's small group pool. Variations of greater than four percentage points are subject to review by the commissioner, and must be approved or denied within sixty days of submittal. A variation that is not denied within sixty days shall be deemed approved. The commissioner must provide to the carrier a detailed actuarial justification for any denial within thirty days of the denial.

(j) For health benefit plans purchased through the health insurance partnership established in chapter 70.47A RCW:

(i) Any surcharge established pursuant to RCW 70.47A.030(2)(e) shall be applied only to health benefit plans purchased through the health insurance partnership; and

(ii) Risk adjustment or reinsurance mechanisms may be used by the health insurance partnership program to redistribute funds to carriers participating in the health insurance partnership based on differences in risk attributable to individual choice of health plans or other factors unique to health insurance partnership participation. Use of such mechanisms shall be limited to the partnership program and will not affect small group health plans offered outside the partnership.

(k) If the rate developed under this section varies the adjusted community rate for the factors listed in (a) of this subsection, the date for determining those factors must be no more than ninety days prior to the effective date of the health benefit plan.

(4) Nothing in this section shall restrict the right of employees to collectively bargain for insurance providing benefits in excess of those provided herein.

(5)(a) Except as provided in this subsection and subsection (3)(g) of this section, requirements used by a contractor in determining whether to provide coverage to a small employer shall be applied uniformly among all small employers applying for coverage or receiving coverage from the carrier.

(b) A contractor shall not require a minimum participation level greater than:

(i) One hundred percent of eligible employees working for groups with three or less employees; and

(ii) Seventy-five percent of eligible employees working for groups with more than three employees.

(c) In applying minimum participation requirements with respect to a small employer, a small employer shall not consider employees or dependents who have similar existing coverage in determining whether the applicable percentage of participation is met.

(d) A contractor may not increase any requirement for minimum employee participation or modify any requirement for minimum employer contribution applicable to a small employer at any time after the small employer has been accepted for coverage.

(e) Minimum participation requirements and employer premium contribution requirements adopted by the health insurance partnership board under RCW 70.47A.110 shall apply only to the employers and employees who purchase health benefit plans through the health insurance partnership.

(6) A contractor must offer coverage to all eligible employees of a small employer and their dependents. A contractor may not offer coverage to only certain individuals or dependents in a small employer group or to only part of the group. A contractor may not modify a health plan with respect to a small employer or any eligible employee or dependent, through riders, endorsements or otherwise, to restrict or exclude coverage or benefits for specific diseases, medical conditions, or services otherwise covered by the plan.

**Sec. 5.** RCW 48.46.020 and 1990 c 119 s 1 are each amended to read as follows:

As used in this chapter, the terms defined in this section shall have the meanings indicated unless the context indicates otherwise.

(1) "Health maintenance organization" means any organization receiving a certificate of registration by the commissioner under this chapter which provides comprehensive health care services to enrolled participants of such organization on a group practice per capita prepayment basis or on a prepaid individual practice plan, except for an enrolled participant's responsibility for copayments and/or deductibles, either directly or through contractual or other arrangements with other institutions, entities, or persons, and which qualifies as a health maintenance organization pursuant to RCW 48.46.030 and 48.46.040.

(2) "Comprehensive health care services" means basic consultative, diagnostic, and therapeutic services rendered by licensed health professionals together with emergency and preventive care, inpatient hospital, outpatient and physician care, at a minimum, and any additional health care services offered by the health maintenance organization.

(3) "Enrolled participant" means a person who or group of persons which has entered into a contractual arrangement or on whose behalf a contractual arrangement has been entered into with a health maintenance organization to receive health care services.

(4) "Health professionals" means health care practitioners who are regulated by the state of Washington.

(5) "Health maintenance agreement" means an agreement for services between a health maintenance organization which is registered pursuant to the provisions of this chapter and enrolled participants of such organization which provides enrolled participants with comprehensive health services rendered to enrolled participants by health professionals, groups, facilities, and other personnel associated with the health maintenance organization.

(6) "Consumer" means any member, subscriber, enrollee, beneficiary, or other person entitled to health care services under terms of a health maintenance agreement, but not including health professionals, employees of health maintenance organizations,

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partners, or shareholders of stock corporations licensed as health maintenance organizations.

(7) "Meaningful role in policy making" means a procedure approved by the commissioner which provides consumers or elected representatives of consumers a means of submitting the views and recommendations of such consumers to the governing board of such organization coupled with reasonable assurance that the board will give regard to such views and recommendations.

(8) "Meaningful grievance procedure" means a procedure for investigation of consumer grievances in a timely manner aimed at mutual agreement for settlement according to procedures approved by the commissioner, and which may include arbitration procedures.

(9) "Provider" means any health professional, hospital, or other institution, organization, or person that furnishes any health care services and is licensed or otherwise authorized to furnish such services.

(10) "Department" means the state department of social and health services.

(11) "Commissioner" means the insurance commissioner.

(12) "Group practice" means a partnership, association, corporation, or other group of health professionals:

(a) The members of which may be individual health professionals, clinics, or both individuals and clinics who engage in the coordinated practice of their profession; and

(b) The members of which are compensated by a prearranged salary, or by capitation payment or drawing account that is based on the number of enrolled participants.

(13) "Individual practice health care plan" means an association of health professionals in private practice who associate for the purpose of providing prepaid comprehensive health care services on a fee-for-service or capitation basis.

(14) "Uncovered expenditures" means the costs to the health maintenance organization of health care services that are the obligation of the health maintenance organization for which an enrolled participant would also be liable in the event of the health maintenance organization's insolvency and for which no alternative arrangements have been made as provided herein. The term does not include expenditures for covered services when a provider has agreed not to bill the enrolled participant even though the provider is not paid by the health maintenance organization, or for services that are guaranteed, insured, or assumed by a person or organization other than the health maintenance organization.

(15) "Copayment" means an amount specified in a subscriber agreement which is an obligation of an enrolled participant for a specific service which is not fully prepaid.

(16) "Deductible" means the amount an enrolled participant is responsible to pay out-of-pocket before the health maintenance organization begins to pay the costs associated with treatment.

(17) "Fully subordinated debt" means those debts that meet the requirements of RCW 48.46.235(3) and are recorded as equity.

(18) "Net worth" means the excess of total admitted assets as defined in RCW 48.12.010 over total liabilities but the liabilities shall not include fully subordinated debt.

(19) "Participating provider" means a provider as defined in subsection (9) of this section who contracts with the health maintenance organization or with its contractor or subcontractor and has agreed to provide health care services to enrolled participants with an expectation of receiving payment, other than copayment or deductible, directly or indirectly, from the health maintenance organization.

(20) "Carrier" means a health maintenance organization, an insurer, a health care services contractor, or other entity responsible for the payment of benefits or provision of services under a group or individual agreement.

(21) "Replacement coverage" means the benefits provided by a succeeding carrier.

(22) "Insolvent" or "insolvency" means that the organization has been declared insolvent and is placed under an order of liquidation by a court of competent jurisdiction.

(23) "Census date" means the date upon which a health maintenance organization offering coverage to a small employer must base rate calculations. For a small employer applying for a health benefit plan through a health maintenance organization other than its current health maintenance organization, the census date is the date that final group composition is received by the health maintenance organization. For a small employer that is renewing its health benefit plan through its existing health maintenance organization, the census date is ninety days prior to the effective date of the renewal.

**Sec. 6.** RCW 48.46.066 and 2009 c 131 s 3 are each amended to read as follows:

(1)(a) A health maintenance organization offering any health benefit plan to a small employer, either directly or through an association or member-governed group formed specifically for the purpose of purchasing health care, may offer and actively market to the small employer a health benefit plan featuring a limited schedule of covered health care services. Nothing in this subsection shall preclude a health maintenance organization from offering, or a small employer from purchasing, other health benefit plans that may have more comprehensive benefits than those included in the product offered under this subsection. A health maintenance organization offering a health benefit plan under this subsection shall clearly disclose all the covered benefits to the small employer in a brochure filed with the commissioner.

(b) A health benefit plan offered under this subsection shall provide coverage for hospital expenses and services rendered by a physician licensed under chapter 18.57 or 18.71 RCW but is not subject to the requirements of RCW 48.46.275, 48.46.280, 48.46.285, 48.46.350, 48.46.355, 48.46.375, 48.46.440, 48.46.480, 48.46.510, 48.46.520, and 48.46.530.

(2) Nothing in this section shall prohibit a health maintenance organization from offering, or a purchaser from seeking, health benefit plans with benefits in excess of the health benefit plan offered under subsection (1) of this section. All forms, policies, and contracts shall be submitted for approval to the commissioner, and the rates of any plan offered under this section shall be reasonable in relation to the benefits thereto.

(3) Premium rates for health benefit plans for small employers as defined in this section shall be subject to the following provisions:

(a) The health maintenance organization shall develop its rates based on an adjusted community rate and may only vary the adjusted community rate for:

- (i) Geographic area;
- (ii) Family size;
- (iii) Age; and
- (iv) Wellness activities.

(b) The adjustment for age in (a)(iii) of this subsection may not use age brackets smaller than five-year increments, which shall begin with age twenty and end with age sixty-five. Employees under the age of twenty shall be treated as those age twenty.

(c) The health maintenance organization shall be permitted to develop separate rates for individuals age sixty-five or older for coverage for which medicare is the primary payer and coverage for which medicare is not the primary payer. Both rates shall be subject to the requirements of this subsection (3).

(d) The permitted rates for any age group shall be no more than four hundred twenty-five percent of the lowest rate for all age groups on January 1, 1996, four hundred percent on January 1,

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1997, and three hundred seventy-five percent on January 1, 2000, and thereafter.

(e) A discount for wellness activities shall be permitted to reflect actuarially justified differences in utilization or cost attributed to such programs. Up to a twenty percent variance may be allowed for small employers that develop and implement a wellness program or activities that directly improve employee wellness. Employers shall document program activities with the carrier and may, after three years of implementation, request a reduction in premiums based on improved employee health and wellness. While carriers may review the employer's claim history when making a determination regarding whether the employer's wellness program has improved employee health, the carrier may not use maternity or prevention services claims to deny the employer's request. Carriers may consider issues such as improved productivity or a reduction in absenteeism due to illness if submitted by the employer for consideration. Interested employers may also work with the carrier to develop a wellness program and a means to track improved employee health.

(f) The rate charged for a health benefit plan offered under this section may not be adjusted more frequently than annually except that the premium may be changed to reflect:

- (i) Changes to the enrollment of the small employer;
- (ii) Changes to the family composition of the employee;
- (iii) Changes to the health benefit plan requested by the small employer; or
- (iv) Changes in government requirements affecting the health benefit plan.

(g) On the census date, as defined in RCW 48.46.020, rating factors shall produce premiums for identical groups that differ only by the amounts attributable to plan design, and differences in census date between new and renewal groups, with the exception of discounts for health improvement programs.

(h) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision, provided that the restrictions of benefits to network providers result in substantial differences in claims costs. A carrier may develop its rates based on claims costs due to network provider reimbursement schedules or type of network. This subsection does not restrict or enhance the portability of benefits as provided in RCW 48.43.015.

(i) Adjusted community rates established under this section shall pool the medical experience of all groups purchasing coverage, including the small group participants in the health insurance partnership established in RCW 70.47A.030. However, annual rate adjustments for each small group health benefit plan may vary by up to plus or minus four percentage points from the overall adjustment of a carrier's entire small group pool, such overall adjustment to be approved by the commissioner, upon a showing by the carrier, certified by a member of the American academy of actuaries that: (i) The variation is a result of deductible leverage, benefit design, or provider network characteristics; and (ii) for a rate renewal period, the projected weighted average of all small group benefit plans will have a revenue neutral effect on the carrier's small group pool. Variations of greater than four percentage points are subject to review by the commissioner, and must be approved or denied within sixty days of submittal. A variation that is not denied within sixty days shall be deemed approved. The commissioner must provide to the carrier a detailed actuarial justification for any denial within thirty days of the denial.

(j) For health benefit plans purchased through the health insurance partnership established in chapter 70.47A RCW:

(i) Any surcharge established pursuant to RCW 70.47A.030(2)(e) shall be applied only to health benefit plans purchased through the health insurance partnership; and

(ii) Risk adjustment or reinsurance mechanisms may be used by the health insurance partnership program to redistribute funds to carriers participating in the health insurance partnership based on differences in risk attributable to individual choice of health plans or other factors unique to health insurance partnership participation. Use of such mechanisms shall be limited to the partnership program and will not affect small group health plans offered outside the partnership.

(k) If the rate developed under this section varies the adjusted community rate for the factors listed in (a) of this subsection, the date for determining those factors must be no more than ninety days prior to the effective date of the health benefit plan.

(4) Nothing in this section shall restrict the right of employees to collectively bargain for insurance providing benefits in excess of those provided herein.

(5)(a) Except as provided in this subsection and subsection (3)(g) of this section, requirements used by a health maintenance organization in determining whether to provide coverage to a small employer shall be applied uniformly among all small employers applying for coverage or receiving coverage from the carrier.

(b) A health maintenance organization shall not require a minimum participation level greater than:

- (i) One hundred percent of eligible employees working for groups with three or less employees; and
- (ii) Seventy-five percent of eligible employees working for groups with more than three employees.

(c) In applying minimum participation requirements with respect to a small employer, a small employer shall not consider employees or dependents who have similar existing coverage in determining whether the applicable percentage of participation is met.

(d) A health maintenance organization may not increase any requirement for minimum employee participation or modify any requirement for minimum employer contribution applicable to a small employer at any time after the small employer has been accepted for coverage.

(e) Minimum participation requirements and employer premium contribution requirements adopted by the health insurance partnership board under RCW 70.47A.110 shall apply only to the employers and employees who purchase health benefit plans through the health insurance partnership.

(6) A health maintenance organization must offer coverage to all eligible employees of a small employer and their dependents. A health maintenance organization may not offer coverage to only certain individuals or dependents in a small employer group or to only part of the group. A health maintenance organization may not modify a health plan with respect to a small employer or any eligible employee or dependent, through riders, endorsements or otherwise, to restrict or exclude coverage or benefits for specific diseases, medical conditions, or services otherwise covered by the plan.

**Sec. 7.** RCW 48.21.045 and 2009 c 131 s 1 are each amended to read as follows:

(1)(a) An insurer offering any health benefit plan to a small employer, either directly or through an association or member-governed group formed specifically for the purpose of purchasing health care, may offer and actively market to the small employer a health benefit plan featuring a limited schedule of covered health care services. Nothing in this subsection shall preclude an insurer from offering, or a small employer from purchasing, other health benefit plans that may have more comprehensive benefits than those included in the product offered under this subsection. An insurer offering a health benefit plan

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under this subsection shall clearly disclose all covered benefits to the small employer in a brochure filed with the commissioner.

(b) A health benefit plan offered under this subsection shall provide coverage for hospital expenses and services rendered by a physician licensed under chapter 18.57 or 18.71 RCW but is not subject to the requirements of RCW 48.21.130, 48.21.140, 48.21.141, 48.21.142, 48.21.144, 48.21.146, 48.21.160 through 48.21.197, 48.21.200, 48.21.220, 48.21.225, 48.21.230, 48.21.235, 48.21.244, 48.21.250, 48.21.300, 48.21.310, or 48.21.320.

(2) Nothing in this section shall prohibit an insurer from offering, or a purchaser from seeking, health benefit plans with benefits in excess of the health benefit plan offered under subsection (1) of this section. All forms, policies, and contracts shall be submitted for approval to the commissioner, and the rates of any plan offered under this section shall be reasonable in relation to the benefits thereto.

(3) Premium rates for health benefit plans for small employers as defined in this section shall be subject to the following provisions:

(a) The insurer shall develop its rates based on an adjusted community rate and may only vary the adjusted community rate for:

- (i) Geographic area;
- (ii) Family size;
- (iii) Age; and
- (iv) Wellness activities.

(b) The adjustment for age in (a)(iii) of this subsection may not use age brackets smaller than five-year increments, which shall begin with age twenty and end with age sixty-five. Employees under the age of twenty shall be treated as those age twenty.

(c) The insurer shall be permitted to develop separate rates for individuals age sixty-five or older for coverage for which medicare is the primary payer and coverage for which medicare is not the primary payer. Both rates shall be subject to the requirements of this subsection (3).

(d) The permitted rates for any age group shall be no more than four hundred twenty-five percent of the lowest rate for all age groups on January 1, 1996, four hundred percent on January 1, 1997, and three hundred seventy-five percent on January 1, 2000, and thereafter.

(e) A discount for wellness activities shall be permitted to reflect actuarially justified differences in utilization or cost attributed to such programs. Up to a twenty percent variance may be allowed for small employers that develop and implement a wellness program or activities that directly improve employee wellness. Employers shall document program activities with the carrier and may, after three years of implementation, request a reduction in premiums based on improved employee health and wellness. While carriers may review the employer's claim history when making a determination regarding whether the employer's wellness program has improved employee health, the carrier may not use maternity or prevention services claims to deny the employer's request. Carriers may consider issues such as improved productivity or a reduction in absenteeism due to illness if submitted by the employer for consideration. Interested employers may also work with the carrier to develop a wellness program and a means to track improved employee health.

(f) The rate charged for a health benefit plan offered under this section may not be adjusted more frequently than annually except that the premium may be changed to reflect:

- (i) Changes to the enrollment of the small employer;
- (ii) Changes to the family composition of the employee;
- (iii) Changes to the health benefit plan requested by the small employer; or
- (iv) Changes in government requirements affecting the health benefit plan.

(g) On the census date, as defined in RCW 48.21.047, rating factors shall produce premiums for identical groups that differ only by the amounts attributable to plan design, and differences in census date between new and renewal groups, with the exception of discounts for health improvement programs.

(h) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision, provided that the restrictions of benefits to network providers result in substantial differences in claims costs. A carrier may develop its rates based on claims costs due to network provider reimbursement schedules or type of network. This subsection does not restrict or enhance the portability of benefits as provided in RCW 48.43.015.

(i) Adjusted community rates established under this section shall pool the medical experience of all small groups purchasing coverage, including the small group participants in the health insurance partnership established in RCW 70.47A.030. However, annual rate adjustments for each small group health benefit plan may vary by up to plus or minus four percentage points from the overall adjustment of a carrier's entire small group pool, such overall adjustment to be approved by the commissioner, upon a showing by the carrier, certified by a member of the American academy of actuaries that: (i) The variation is a result of deductible leverage, benefit design, or provider network characteristics; and (ii) for a rate renewal period, the projected weighted average of all small group benefit plans will have a revenue neutral effect on the carrier's small group pool. Variations of greater than four percentage points are subject to review by the commissioner, and must be approved or denied within sixty days of submittal. A variation that is not denied within sixty days shall be deemed approved. The commissioner must provide to the carrier a detailed actuarial justification for any denial within thirty days of the denial.

(j) For health benefit plans purchased through the health insurance partnership established in chapter 70.47A RCW:

(i) Any surcharge established pursuant to RCW 70.47A.030(2)(e) shall be applied only to health benefit plans purchased through the health insurance partnership; and

(ii) Risk adjustment or reinsurance mechanisms may be used by the health insurance partnership program to redistribute funds to carriers participating in the health insurance partnership based on differences in risk attributable to individual choice of health plans or other factors unique to health insurance partnership participation. Use of such mechanisms shall be limited to the partnership program and will not affect small group health plans offered outside the partnership.

(k) If the rate developed under this section varies the adjusted community rate for the factors listed in (a) of this subsection, the date for determining those factors must be no more than ninety days prior to the effective date of the health benefit plan.

(4) Nothing in this section shall restrict the right of employees to collectively bargain for insurance providing benefits in excess of those provided herein.

(5)(a) Except as provided in this subsection and subsection (3)(g) of this section, requirements used by an insurer in determining whether to provide coverage to a small employer shall be applied uniformly among all small employers applying for coverage or receiving coverage from the carrier.

(b) An insurer shall not require a minimum participation level greater than:

- (i) One hundred percent of eligible employees working for groups with three or less employees; and
- (ii) Seventy-five percent of eligible employees working for groups with more than three employees.

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(c) In applying minimum participation requirements with respect to a small employer, a small employer shall not consider employees or dependents who have similar existing coverage in determining whether the applicable percentage of participation is met.

(d) An insurer may not increase any requirement for minimum employee participation or modify any requirement for minimum employer contribution applicable to a small employer at any time after the small employer has been accepted for coverage.

(e) Minimum participation requirements and employer premium contribution requirements adopted by the health insurance partnership board under RCW 70.47A.110 shall apply only to the employers and employees who purchase health benefit plans through the health insurance partnership.

(6) An insurer must offer coverage to all eligible employees of a small employer and their dependents. An insurer may not offer coverage to only certain individuals or dependents in a small employer group or to only part of the group. An insurer may not modify a health plan with respect to a small employer or any eligible employee or dependent, through riders, endorsements or otherwise, to restrict or exclude coverage or benefits for specific diseases, medical conditions, or services otherwise covered by the plan.

(7) As used in this section, "health benefit plan," "small employer," "adjusted community rate," and "wellness activities" mean the same as defined in RCW 48.43.005.

**Sec. 8.** RCW 48.21.047 and 2005 c 223 s 11 are each amended to read as follows:

(1) An insurer may not offer any health benefit plan to any small employer without complying with RCW 48.21.045(3).

(2) Employers purchasing health plans provided through associations or through member-governed groups formed specifically for the purpose of purchasing health care are not small employers and the plans are not subject to RCW 48.21.045(3).

(3) For purposes of this section, "health benefit plan," "health plan," and "small employer" mean the same as defined in RCW 48.43.005.

(4) For purposes of this section, "census date" has the same meaning as defined in RCW 48.44.010.

NEW SECTION. **Sec. 9.** This act applies to policies issued or renewed on or after January 1, 2011.

NEW SECTION. **Sec. 10.** If federal legislation that includes guaranteed issue for individuals who purchase health coverage through the individual or small group market has not been signed by the President of the United States by December 31, 2010, sections 1 and 2 of this act are null and void.

NEW SECTION. **Sec. 11.** Sections 1 and 2 of this act take effect one hundred eighty days after the date the insurance commissioner certifies to the secretary of the senate, the chief clerk of the house of representatives, and the code reviser's office that federal legislation has been signed into law by the President of the United States that includes guaranteed issue for individuals who purchase health coverage through the individual or small group markets."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Keiser moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6538.

Senator Keiser spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Keiser that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6538.

The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6538 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6538, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6538, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Pflug

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6538, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 5, 2010

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 6575 with the following amendment(s): 6575-S2 AMH ENGR H5533.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 18.27.340 and 1997 c 314 s 17 are each amended to read as follows:

(1) Except as otherwise provided in subsection (3) of this section, a contractor found to have committed an infraction under RCW 18.27.200 shall be assessed a monetary penalty of not less than two hundred dollars and not more than five thousand dollars.

(2) The director may waive collection in favor of payment of restitution to a consumer complainant.

(3) A contractor found to have committed an infraction under RCW 18.27.200 for failure to register shall be assessed a fine of not less than one thousand dollars, nor more than five thousand dollars. For a first offense, the director may reduce the penalty for failure to register, but in no case below five hundred dollars, if the person becomes registered within ten days of receiving a notice of infraction ((and the notice of infraction is for a first offense)); and registers for a department-approved contractor training class under section 2 of this act within ten days of receiving a notice of infraction, completes the class within one hundred twenty days of receiving the notice of infraction, and pays any required class fees upon class registration.

(4) Until July 1, 2011, monetary penalties collected under this chapter shall be deposited in the general fund. Beginning July 1, 2011, monetary penalties and class fees collected under this chapter

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shall be deposited in the contractor registration account created in section 4 of this act.

**NEW SECTION. Sec. 2.** A new section is added to chapter 18.27 RCW to read as follows:

The department will approve or conduct contractor training classes and charge a fee, payable upon class registration, that covers the costs of administering the class. The department may adopt rules relating to the number of classes to be offered by the department, the locations of these classes, class fees, and curriculum. In determining the locations of these classes, the department may consider offering online classes and ensure that classes are reasonably accessible in eastern and western Washington. The department shall deposit all fees in the contractor registration account created in section 4 of this act.

**Sec. 3.** RCW 18.27.070 and 1997 c 314 s 7 are each amended to read as follows:

(1) The department shall charge fees for issuance, renewal, and reinstatement of certificates of registration; and changes of name, address, or business structure. The department shall set the fees by rule.

(2) The entire amount of the fees are to be used solely to cover the full cost of issuing certificates, filing papers and notices, and administering and enforcing this chapter. The costs shall include reproduction, travel, per diem, and administrative and legal support costs.

(3) The department shall deposit all fees in the contractor registration account created in section 4 of this act.

**NEW SECTION. Sec. 4.** A new section is added to chapter 18.27 RCW to read as follows:

The contractor registration account is created in the state treasury. The department shall deposit in the account all moneys from registrations, renewals, or civil penalties assessed and collected under this chapter. Appropriations from the account may be made only for the purposes of administration and enforcement of this chapter, including conducting contractor training classes under section 2 of this act.

**Sec. 5.** RCW 60.28.040 and 2009 c 432 s 7 and 2009 c 219 s 7 are each reenacted and amended to read as follows:

(1) Subject to subsection (5) of this section, the amount of all taxes, increases, and penalties due or to become due under Title 82 RCW, from a contractor or the contractor's successors or assignees with respect to a public improvement contract wherein the contract price is thirty-five thousand dollars or more, shall be a lien prior to all other liens upon the amount of the retained percentage withheld by the disbursing officer under such contract.

(2) Subject to subsection (5) of this section, after payment of all taxes, increases, and penalties due or to become due under Title 82 RCW, from a contractor or the contractor's successors or assignees with respect to a public improvement contract wherein the contract price is ~~((twenty))~~ thirty-five thousand dollars or more, the amount of all other taxes, increases, and penalties under Title 82 RCW, due and owing from the contractor, shall be a lien prior to all other liens upon the amount of the retained percentage withheld by the disbursing officer under such contract.

(3) Subject to subsection (5) of this section, after payment of all taxes, increases, and penalties due or to become due under Title 82 RCW, the amount of all taxes, increases, and penalties due or to become due under Titles 50 and 51 RCW from the contractor or the contractor's successors or assignees with respect to a public improvement contract wherein the contract price is ~~((twenty))~~ thirty-five thousand dollars or more, shall be a lien prior to all other liens upon the amount of the retained percentage withheld by the disbursing officer under such contract.

(4) Subject to subsection (5) of this section, the amount of all other taxes, increases, and penalties due and owing from the

contractor shall be a lien upon the balance of such retained percentage remaining in the possession of the disbursing officer after all other statutory lien claims have been paid.

(5) The employees of a contractor or the contractor's successors or assignees who have not been paid the prevailing wage under such a public improvement contract shall have a first priority lien against the bond or retainage prior to all other liens.

**NEW SECTION. Sec. 6.** Sections 3 and 4 of this act take effect July 1, 2011.

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6575.

Senator Kohl-Welles spoke in favor of the motion.

Senator Schoesler spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6575.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 6575 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6575, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6575, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 36; Nays, 12; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Swecker and Tom

Voting nay: Senators Becker, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, Morton, Schoesler, Stevens and Zarelli

Excused: Senator McCaslin

SECOND SUBSTITUTE SENATE BILL NO. 6575, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 9, 2010

MR. PRESIDENT:

The House receded from its amendment(s) to SUBSTITUTE SENATE BILL NO. 6548. Under suspension of the rules, the bill was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 6548-S AMH KELL MERE 189, and passed the bill as amended by the House.

On page 2, line 35, after "Sec. 2." strike "This" and insert "Section 1 of this"

On page 3, line 1, after "date of" insert "section 1 of"

On page 3, after line 2, insert the following:

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"NEW SECTION. Sec. 3. The legislature has determined that it is necessary to examine patterns related to the exchange of out-of-state offenders needing supervision. The examination must assess the past action and behavior of other states that send offenders to the state of Washington for supervision to assure that the interstate compact for adult offender supervision operates to protect the safety of the people and communities of Washington and other individual states.

NEW SECTION. Sec. 4. A new section is added to chapter 9.94A RCW to read as follows:

(1) The department shall identify the states from which it receives adult offenders who need supervision and examine the feasibility and cost of establishing memoranda of understanding with the states that send the highest number of offenders for supervision to Washington state with the goal of achieving more balanced and equitable obligations under the interstate compact for adult offender supervision.

(2) At the next meeting of the interstate compact commission, Washington's representatives on the commission shall seek a resolution by the commission regarding:

(a) Any inequitable distribution of costs, benefits, and obligations affecting Washington under the interstate compact; and

(b) The scope of the mandatory acceptance policy and the authority of the receiving state to determine when it is no longer able to supervise an offender.

(3) The department shall examine the feasibility and cost of withdrawal from the interstate compact for adult offender supervision.

(4) The department shall report to the legislature no later than December 1, 2010, regarding:

(a) The development of memoranda of understanding with states that send the highest numbers of offenders to Washington state for supervision;

(b) The outcome of the resolution process with the interstate commission; and

(c) The feasibility and cost of withdrawal from the interstate compact for adult offender supervision.

NEW SECTION. Sec. 5. Sections 3 and 4 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect June 1, 2010."

Correct the title. and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6548.

Senator Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hargrove that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6548.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6548 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6548, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6548, as amended by the House, and the bill

passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6548, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 12:01 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 1:38 p.m. by President Owen.

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1149,

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1317,

SUBSTITUTE HOUSE BILL 1679,

ENGROSSED SUBSTITUTE HOUSE BILL 1714,

SECOND SUBSTITUTE HOUSE BILL 1761,

HOUSE BILL 1880,

ENGROSSED SUBSTITUTE HOUSE BILL 1956,

HOUSE BILL 1966,

SUBSTITUTE HOUSE BILL 2420,

HOUSE BILL 2460,

SECOND SUBSTITUTE HOUSE BILL 2481,

SUBSTITUTE HOUSE BILL 2503,

ENGROSSED SUBSTITUTE HOUSE BILL 2518,

ENGROSSED HOUSE BILL 2519,

SUBSTITUTE HOUSE BILL 2525,

SUBSTITUTE HOUSE BILL 2527,

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2539,

HOUSE BILL 2540,

ENGROSSED SUBSTITUTE HOUSE BILL 2541,

SECOND SUBSTITUTE HOUSE BILL 2551,

HOUSE BILL 2621,

SUBSTITUTE HOUSE BILL 2657,

HOUSE BILL 2659,

SUBSTITUTE HOUSE BILL 2686,

HOUSE BILL 2697,

HOUSE BILL 2734,

HOUSE BILL 2735,

SECOND SUBSTITUTE HOUSE BILL 2742,

ENGROSSED SUBSTITUTE HOUSE BILL 2747,

SUBSTITUTE HOUSE BILL 2990,

SUBSTITUTE HOUSE BILL 3036.

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in the Senate amendment(s) to Engrossed Substitute House Bill No. 2424.

The motion by Senator Kline carried and the Senate receded from its position in the Senate amendment(s) to Engrossed Substitute House Bill No. 2424 by voice vote.

MR. PRESIDENT:

The Speaker has signed:

SUBSTITUTE SENATE BILL 5295,  
ENGROSSED SUBSTITUTE SENATE BILL 5529,  
ENGROSSED SUBSTITUTE SENATE BILL 5543,  
ENGROSSED SUBSTITUTE SENATE BILL 5704,  
SECOND ENGROSSED SUBSTITUTE SENATE BILL

5742,

SUBSTITUTE SENATE BILL 6192,  
SUBSTITUTE SENATE BILL 6202,  
SENATE BILL 6206,  
SUBSTITUTE SENATE BILL 6207,  
SUBSTITUTE SENATE BILL 6208,  
SUBSTITUTE SENATE BILL 6214,  
SENATE BILL 6218,  
SENATE BILL 6219,  
SUBSTITUTE SENATE BILL 6248,  
ENGROSSED SENATE BILL 6261,  
SUBSTITUTE SENATE BILL 6329,  
SUBSTITUTE SENATE BILL 6332,  
SUBSTITUTE SENATE BILL 6340,  
SUBSTITUTE SENATE BILL 6342,  
SUBSTITUTE SENATE BILL 6343,  
SUBSTITUTE SENATE BILL 6346,  
SUBSTITUTE SENATE BILL 6356,  
ENGROSSED SUBSTITUTE SENATE BILL 6359,  
SUBSTITUTE SENATE BILL 6361,  
SUBSTITUTE SENATE BILL 6363,  
SUBSTITUTE SENATE BILL 6373,  
SENATE BILL 6379,

ENGROSSED SUBSTITUTE SENATE BILL 6392,  
SENATE BILL 6418,  
SUBSTITUTE SENATE BILL 6459,  
SENATE BILL 6540,  
SUBSTITUTE SENATE BILL 6557,  
SUBSTITUTE SENATE BILL 6590,  
SUBSTITUTE SENATE BILL 6673,  
ENGROSSED SUBSTITUTE SENATE BILL 6724,  
ENGROSSED SENATE BILL 6764,  
SENATE JOINT MEMORIAL 8025.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MESSAGE FROM THE HOUSE

March 8, 2010

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2424 and asks the Senate to recede therefrom.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

Senator Kline moved that the Senate recede from its position in the Senate amendment(s) to Engrossed Substitute House Bill No. 2424.

The President declared the question before the Senate to be motion by Senator Kline that the Senate recede from its position

## MOTION

On motion of Senator Kline, the rules were suspended and Engrossed Substitute House Bill No. 2424 was returned to second reading for the purposes of amendment.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2424, by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives O'Brien, Pearson, Hurst, Takko, Herrera, Chandler, Ross, Rodne, Dammeier, Condotta, Shea, Klippert, Smith, Walsh, Parker, McCune, Campbell, Johnson, Eddy, Morrell, Kelley, Short, Sullivan, Conway, Kagi, Roach, Kristiansen, Bailey, Haler, Schmick, Ericks, Warnick, Ormsby, Moeller and Hope)

Protecting children from sexual exploitation and abuse.

The measure was read the second time.

## MOTION

Senator Kline moved that the following striking amendment by Senator Kline and others be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9.68A.001 and 2007 c 368 s 1 are each amended to read as follows:

The legislature finds that the prevention of sexual exploitation and abuse of children constitutes a government objective of surpassing importance. The care of children is a sacred trust and should not be abused by those who seek commercial gain or personal gratification based on the exploitation of children.

The legislature further finds that the protection of children from sexual exploitation can be accomplished without infringing on a constitutionally protected activity. The definition of "sexually explicit conduct" and other operative definitions demarcate a line between protected and prohibited conduct and should not inhibit legitimate scientific, medical, or educational activities.

The legislature further finds that children engaged in sexual conduct for financial compensation are frequently the victims of sexual abuse. Approximately eighty to ninety percent of children engaged in sexual activity for financial compensation have a history of sexual abuse victimization. It is the intent of the legislature to encourage these children to engage in prevention and intervention services and to hold those who pay to engage in the sexual abuse of children accountable for the trauma they inflict on children.

The legislature further finds that due to the changing nature of technology, offenders are now able to access child pornography in different ways and in increasing quantities. By amending current statutes governing depictions of a minor engaged in sexually explicit conduct, it is the intent of the legislature to ensure that intentional viewing of and dealing in child pornography over the internet is subject to a criminal penalty without limiting the scope of existing prohibitions on the possession of or dealing in child pornography, including the possession of electronic depictions of a minor engaged in sexually explicit conduct. It is also the intent of the legislature to clarify, in response to *State v. Sutherby*, 204 P.3d 916 (2009), the unit of prosecution for the statutes governing

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possession of and dealing in depictions of a minor engaged in sexually explicit conduct. It is the intent of the legislature that the first degree offenses under RCW 9.68A.050, 9.68A.060, and 9.68A.070 have a per depiction or image unit of prosecution, while the second degree offenses under RCW 9.68A.050, 9.68A.060, and 9.68A.070 have a per incident unit of prosecution as established in *State v. Sutherby*, 204 P.3d 916 (2009). Furthermore, it is the intent of the legislature to set a different unit of prosecution for the new offense of viewing of depictions of a minor engaged in sexually explicit conduct such that each separate session of intentionally viewing over the internet of visual depictions or images of a minor engaged in sexually explicit conduct constitutes a separate offense.

**NEW SECTION. Sec. 2.** A new section is added to chapter 9.68A RCW to read as follows:

This chapter does not apply to lawful conduct between spouses.

**Sec. 3.** RCW 9.68A.011 and 2002 c 70 s 1 are each amended to read as follows:

Unless the context clearly indicates otherwise, the definitions in this section apply throughout this chapter.

(1) An "internet session" means a period of time during which an internet user, using a specific internet protocol address, visits or is logged into an internet site for an uninterrupted period of time.

(2) To "photograph" means to make a print, negative, slide, digital image, motion picture, or videotape. A "photograph" means anything tangible or intangible produced by photographing.

~~((2))~~ (3) "Visual or printed matter" means any photograph or other material that contains a reproduction of a photograph.

~~((3))~~ (4) "Sexually explicit conduct" means actual or simulated:

(a) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals;

(b) Penetration of the vagina or rectum by any object;

(c) Masturbation;

(d) Sadomasochistic abuse ((for the purpose of sexual stimulation of the viewer));

(e) ((Exhibition of the genitals or unclothed pubic or rectal areas of any minor, or the unclothed breast of a female minor, for the purpose of sexual stimulation of the viewer;

(f)) Defecation or urination for the purpose of sexual stimulation of the viewer;

(f) Depiction of the genitals or unclothed pubic or rectal areas of any minor, or the unclothed breast of a female minor, for the purpose of sexual stimulation of the viewer. For the purposes of this subsection (4)(f), it is not necessary that the minor know that he or she is participating in the described conduct, or any aspect of it; and

(g) Touching of a person's clothed or unclothed genitals, pubic area, buttocks, or breast area for the purpose of sexual stimulation of the viewer.

~~((4))~~ (5) "Minor" means any person under eighteen years of age.

~~((5))~~ (6) "Live performance" means any play, show, skit, dance, or other exhibition performed or presented to or before an audience of one or more, with or without consideration.

**Sec. 4.** RCW 9.68A.050 and 1989 c 32 s 3 are each amended to read as follows:

((A person who:))

(1)(a) A person commits the crime of dealing in depictions of a minor engaged in sexually explicit conduct in the first degree when he or she:

(i) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells ((any)) a visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e); or

~~((2))~~ (ii) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e).

(b) Dealing in depictions of a minor engaged in sexually explicit conduct in the first degree is ~~((guilty of))~~ a class ~~((C))~~ B felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each depiction or image of visual or printed matter constitutes a separate offense.

(2)(a) A person commits the crime of dealing in depictions of a minor engaged in sexually explicit conduct in the second degree when he or she:

(i) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells any visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g); or

(ii) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g).

(b) Dealing in depictions of a minor engaged in sexually explicit conduct in the second degree is a class C felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each incident of dealing in one or more depictions or images of visual or printed matter constitutes a separate offense.

**Sec. 5.** RCW 9.68A.060 and 1989 c 32 s 4 are each amended to read as follows:

(1)(a) A person ~~((who))~~ commits the crime of sending or bringing into the state depictions of a minor engaged in sexually explicit conduct in the first degree when he or she knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, ~~((any))~~ a visual or printed matter that depicts a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e).

(b) Sending or bringing into the state depictions of a minor engaged in sexually explicit conduct in the first degree is ~~((guilty of))~~ a class ~~((C))~~ B felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each depiction or image of visual or printed matter constitutes a separate offense.

(2)(a) A person commits the crime of sending or bringing into the state depictions of a minor engaged in sexually explicit conduct in the second degree when he or she knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, any visual or printed matter that depicts a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g).

(b) Sending or bringing into the state depictions of a minor engaged in sexually explicit conduct in the second degree is a class C felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each incident of sending or bringing into the state one or more depictions or images of visual or printed matter constitutes a separate offense.

**Sec. 6.** RCW 9.68A.070 and 2006 c 139 s 3 are each amended to read as follows:

(1)(a) A person ~~((who))~~ commits the crime of possession of depictions of a minor engaged in sexually explicit conduct in the first degree when he or she knowingly possesses a visual or printed matter depicting a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e).

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(b) Possession of depictions of a minor engaged in sexually explicit conduct in the first degree is ~~((guilty of))~~ a class B felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each depiction or image of visual or printed matter constitutes a separate offense.

(2)(a) A person commits the crime of possession of depictions of a minor engaged in sexually explicit conduct in the second degree when he or she knowingly possesses any visual or printed matter depicting a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g).

(b) Possession of depictions of a minor engaged in sexually explicit conduct in the second degree is a class C felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each incident of possession of one or more depictions or images of visual or printed matter constitutes a separate offense.

**NEW SECTION. Sec. 7.** A new section is added to chapter 9.68A RCW to read as follows:

(1) A person who intentionally views over the internet visual or printed matter depicting a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e) is guilty of viewing depictions of a minor engaged in sexually explicit conduct in the first degree, a class B felony punishable under chapter 9A.20 RCW.

(2) A person who intentionally views over the internet visual or printed matter depicting a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g) is guilty of viewing depictions of a minor engaged in sexually explicit conduct in the second degree, a class C felony punishable under chapter 9A.20 RCW.

(3) For the purposes of determining whether a person intentionally viewed over the internet a visual or printed matter depicting a minor engaged in sexually explicit conduct in subsection (1) or (2) of this section, the trier of fact shall consider the title, text, and content of the visual or printed matter, as well as the internet history, search terms, thumbnail images, downloading activity, expert computer forensic testimony, number of visual or printed matter depicting minors engaged in sexually explicit conduct, defendant's access to and control over the electronic device and its contents upon which the visual or printed matter was found, or any other relevant evidence. The state must prove beyond a reasonable doubt that the viewing was initiated by the user of the computer where the viewing occurred.

(4) For the purposes of this section, each separate internet session of intentionally viewing over the internet visual or printed matter depicting a minor engaged in sexually explicit conduct constitutes a separate offense.

**Sec. 8.** RCW 9.68A.110 and 2007 c 368 s 3 are each amended to read as follows:

(1) In a prosecution under RCW 9.68A.040, it is not a defense that the defendant was involved in activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses. Law enforcement and prosecution agencies shall not employ minors to aid in the investigation of a violation of RCW 9.68A.090 or 9.68A.100. ~~((This chapter does not apply to lawful conduct between spouses.))~~

(2) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or 9.68A.080, it is not a defense that the defendant did not know the age of the child depicted in the visual or printed matter: PROVIDED, That it is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense the defendant was not in possession of any facts on the basis of

which he or she should reasonably have known that the person depicted was a minor.

(3) In a prosecution under RCW 9.68A.040, 9.68A.090, 9.68A.101, or 9.68A.102, it is not a defense that the defendant did not know the alleged victim's age: PROVIDED, That it is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense, the defendant made a reasonable bona fide attempt to ascertain the true age of the minor by requiring production of a driver's license, marriage license, birth certificate, or other governmental or educational identification card or paper and did not rely solely on the oral allegations or apparent age of the minor.

(4) In a prosecution under RCW 9.68A.050, 9.68A.060, ~~((or))~~ 9.68A.070, or section 7 of this act, it shall be an affirmative defense that the defendant was a law enforcement officer or a person specifically authorized, in writing, to assist a law enforcement officer and acting at the direction of a law enforcement officer in the process of conducting an official investigation of a sex-related crime against a minor, or that the defendant was providing individual case treatment as a recognized medical facility or as a psychiatrist or psychologist licensed under Title 18 RCW. Nothing in this act is intended to in any way affect or diminish the immunity afforded an electronic communication service provider, remote computing service provider, or domain name registrar acting in the performance of its reporting or preservation responsibilities under 18 U.S.C. Secs. 2258a, 2258b, or 2258c.

(5) In a prosecution under RCW 9.68A.050, 9.68A.060, ~~((or))~~ 9.68A.070, or section 7 of this act, the state is not required to establish the identity of the alleged victim.

(6) In a prosecution under RCW 9.68A.070 or section 7 of this act, it shall be an affirmative defense that:

(a) The defendant was employed at or conducting research in partnership or in cooperation with any institution of higher education as defined in RCW 28B.07.020 or 28B.10.016, and:

(i) He or she was engaged in a research activity;

(ii) The research activity was specifically approved prior to the possession or viewing activity being conducted in writing by a person, or other such entity vested with the authority to grant such approval by the institution of higher learning; and

(iii) Viewing or possessing the visual or printed matter is an essential component of the authorized research; or

(b) The defendant was an employee of the Washington state legislature engaged in research at the request of a member of the legislature and:

(i) The request for research is made prior to the possession or viewing activity being conducted in writing by a member of the legislature;

(ii) The research is directly related to a legislative activity; and

(iii) Viewing or possessing the visual or printed matter is an essential component of the requested research and legislative activity.

(c) Nothing in this section authorizes otherwise unlawful viewing or possession of visual or printed matter depicting a minor engaged in sexually explicit conduct.

**Sec. 9.** RCW 9.94A.515 and 2008 c 108 s 23 and 2008 c 38 s 1 are each reenacted and amended to read as follows:

TABLE 2

	CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL
XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055)

	Malicious explosion 1 (RCW 70.74.280(1))		Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
	Murder 1 (RCW 9A.32.030)		
XIV	Murder 2 (RCW 9A.32.050)	VIII	Arson 1 (RCW 9A.48.020)
	Trafficking 1 (RCW 9A.40.100(1))		Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)
XIII	Malicious explosion 2 (RCW 70.74.280(2))		Manslaughter 2 (RCW 9A.32.070)
	Malicious placement of an explosive 1 (RCW 70.74.270(1))		Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101)
XII	Assault 1 (RCW 9A.36.011)		Promoting Prostitution 1 (RCW 9A.88.070)
	Assault of a Child 1 (RCW 9A.36.120)		Theft of Ammonia (RCW 69.55.010)
	Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))		Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
	Rape 1 (RCW 9A.44.040)	VII	Burglary 1 (RCW 9A.52.020)
	Rape of a Child 1 (RCW 9A.44.073)		Child Molestation 2 (RCW 9A.44.086)
	Trafficking 2 (RCW 9A.40.100(2))		Civil Disorder Training (RCW 9A.48.120)
XI	Manslaughter 1 (RCW 9A.32.060)		Dealing in depictions of minor engaged in sexually explicit conduct <u>1</u> (RCW 9.68A.050(1))
	Rape 2 (RCW 9A.44.050)		Drive-by Shooting (RCW 9A.36.045)
	Rape of a Child 2 (RCW 9A.44.076)		Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)
X	Child Molestation 1 (RCW 9A.44.083)		Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1)(b) and (c))
	Criminal Mistreatment 1 (RCW 9A.42.020)		Introducing Contraband 1 (RCW 9A.76.140)
	Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))		Malicious placement of an explosive 3 (RCW 70.74.270(3))
	Kidnapping 1 (RCW 9A.40.020)		Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)
	Leading Organized Crime (RCW 9A.82.060(1)(a))		Sending, bringing into state depictions of minor engaged in sexually explicit conduct <u>1</u> (RCW 9.68A.060(1))
	Malicious explosion 3 (RCW 70.74.280(3))		Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))
	Sexually Violent Predator Escape (RCW 9A.76.115)		Use of a Machine Gun in Commission of a Felony (RCW 9.41.225)
IX	Abandonment of Dependent Person 1 (RCW 9A.42.060)		Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
	Assault of a Child 2 (RCW 9A.36.130)	VI	Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
	Explosive devices prohibited (RCW 70.74.180)		Bribery (RCW 9A.68.010)
	Hit and Run--Death (RCW 46.52.020(4)(a))		Incest 1 (RCW 9A.64.020(1))
	Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)		Intimidating a Judge (RCW 9A.72.160)
	Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))		Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
	Malicious placement of an explosive 2 (RCW 70.74.270(2))		
	Robbery 1 (RCW 9A.56.200)		
	Sexual Exploitation (RCW 9.68A.040)		

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- Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
- Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.070(1))
- Rape of a Child 3 (RCW 9A.44.079)
- Theft of a Firearm (RCW 9A.56.300)
- Unlawful Storage of Ammonia (RCW 69.55.020)
- V Abandonment of Dependent Person 2 (RCW 9A.42.070)
- Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
- Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))
- Child Molestation 3 (RCW 9A.44.089)
- Criminal Mistreatment 2 (RCW 9A.42.030)
- Custodial Sexual Misconduct 1 (RCW 9A.44.160)
- Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.050(2))
- Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145)
- Driving While Under the Influence (RCW 46.61.502(6))
- Extortion 1 (RCW 9A.56.120)
- Extortionate Extension of Credit (RCW 9A.82.020)
- Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
- Incest 2 (RCW 9A.64.020(2))
- Kidnapping 2 (RCW 9A.40.030)
- Perjury 1 (RCW 9A.72.020)
- Persistent prison misbehavior (RCW 9.94.070)
- Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6))
- Possession of a Stolen Firearm (RCW 9A.56.310)
- Rape 3 (RCW 9A.44.060)
- Rendering Criminal Assistance 1 (RCW 9A.76.070)
- Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.060(2))
- Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
- Sexually Violating Human Remains (RCW 9A.44.105)
- Stalking (RCW 9A.46.110)
- Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)
- IV Arson 2 (RCW 9A.48.030)
- Assault 2 (RCW 9A.36.021)
- Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))
- Assault by Watercraft (RCW 79A.60.060)
- Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
- Cheating 1 (RCW 9.46.1961)
- Commercial Bribery (RCW 9A.68.060)
- Counterfeiting (RCW 9.16.035(4))
- Endangerment with a Controlled Substance (RCW 9A.42.100)
- Escape 1 (RCW 9A.76.110)
- Hit and Run--Injury (RCW 46.52.020(4)(b))
- Hit and Run with Vessel--Injury Accident (RCW 79A.60.200(3))
- Identity Theft 1 (RCW 9.35.020(2))
- Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)
- Influencing Outcome of Sporting Event (RCW 9A.82.070)
- Malicious Harassment (RCW 9A.36.080)
- Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68.070(2))
- Residential Burglary (RCW 9A.52.025)
- Robbery 2 (RCW 9A.56.210)
- Theft of Livestock 1 (RCW 9A.56.080)
- Threats to Bomb (RCW 9.61.160)
- Trafficking in Stolen Property 1 (RCW 9A.82.050)
- Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))
- Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))
- Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))
- Unlawful transaction of insurance business (RCW 48.15.023(3))

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Unlicensed practice as an insurance professional (RCW 48.17.063( <del>(4)</del> )) (2)	9.41.190)
Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))	Promoting Prostitution 2 (RCW 9A.88.080)
Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)	Retail Theft with Extenuating Circumstances 1 (RCW 9A.56.360(2))
<u>Viewing of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (section 7(1) of this act)</u>	Securities Act violation (RCW 21.20.400)
Willful Failure to Return from Furlough (RCW 72.66.060)	Tampering with a Witness (RCW 9A.72.120)
III Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3))	Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))
Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))	Theft of Livestock 2 (RCW 9A.56.083)
Assault of a Child 3 (RCW 9A.36.140)	Theft with the Intent to Resell 1 (RCW 9A.56.340(2))
Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))	Trafficking in Stolen Property 2 (RCW 9A.82.055)
Burglary 2 (RCW 9A.52.030)	Unlawful Imprisonment (RCW 9A.40.040)
Commercial Sexual Abuse of a Minor (RCW 9.68A.100)	Unlawful possession of firearm in the second degree (RCW 9.41.040(2))
Communication with a Minor for Immoral Purposes (RCW 9.68A.090)	Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
Criminal Gang Intimidation (RCW 9A.46.120)	Willful Failure to Return from Work Release (RCW 72.65.070)
Custodial Assault (RCW 9A.36.100)	II Computer Trespass 1 (RCW 9A.52.110)
Cyberstalking (subsequent conviction or threat of death) (RCW 9.61.260(3))	Counterfeiting (RCW 9.16.035(3))
Escape 2 (RCW 9A.76.120)	Escape from Community Custody (RCW 72.09.310)
Extortion 2 (RCW 9A.56.130)	Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.130(11)(a))
Harassment (RCW 9A.46.020)	Health Care False Claims (RCW 48.80.030)
Intimidating a Public Servant (RCW 9A.76.180)	Identity Theft 2 (RCW 9.35.020(3))
Introducing Contraband 2 (RCW 9A.76.150)	Improperly Obtaining Financial Information (RCW 9.35.010)
Malicious Injury to Railroad Property (RCW 81.60.070)	Malicious Mischief 1 (RCW 9A.48.070)
Mortgage Fraud (RCW 19.144.080)	Organized Retail Theft 2 (RCW 9A.56.350(3))
Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674)	Possession of Stolen Property 1 (RCW 9A.56.150)
Organized Retail Theft 1 (RCW 9A.56.350(2))	Possession of a Stolen Vehicle (RCW 9A.56.068)
Perjury 2 (RCW 9A.72.030)	Retail Theft with Extenuating Circumstances 2 (RCW 9A.56.360(3))
Possession of Incendiary Device (RCW 9.40.120)	Theft 1 (RCW 9A.56.030)
Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW	Theft of a Motor Vehicle (RCW 9A.56.065)
	Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(5)(a))
	Theft with the Intent to Resell 2 (RCW

9A.56.340(3))

Trafficking in Insurance Claims (RCW 48.30A.015)

Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))

Unlawful Practice of Law (RCW 2.48.180)

Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))

Voyeurism (RCW 9A.44.115)

I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)

False Verification for Welfare (RCW 74.08.055)

Forgery (RCW 9A.60.020)

Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)

Malicious Mischief 2 (RCW 9A.48.080)

Mineral Trespass (RCW 78.44.330)

Possession of Stolen Property 2 (RCW 9A.56.160)

Reckless Burning 1 (RCW 9A.48.040)

Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)

Theft 2 (RCW 9A.56.040)

Theft of Rental, Leased, or Lease-purchased Property (valued at two hundred fifty dollars or more but less than one thousand five hundred dollars) (RCW 9A.56.096(5)(b))

Transaction of insurance business beyond the scope of licensure (RCW 48.17.063((4)))

Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)

Unlawful Possession of Fictitious Identification (RCW 9A.56.320)

Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320)

Unlawful Possession of Payment Instruments (RCW 9A.56.320)

Unlawful Possession of a Personal Identification Device (RCW 9A.56.320)

Unlawful Production of Payment Instruments (RCW 9A.56.320)

Unlawful Trafficking in Food Stamps (RCW 9.91.142)

Unlawful Use of Food Stamps (RCW 9.91.144)

Vehicle Prowl 1 (RCW 9A.52.095)

The court may impose a sentence outside the standard sentence range for an offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence. Facts supporting aggravated sentences, other than the fact of a prior conviction, shall be determined pursuant to the provisions of RCW 9.94A.537.

Whenever a sentence outside the standard sentence range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard sentence range shall be a determinate sentence.

If the sentencing court finds that an exceptional sentence outside the standard sentence range should be imposed, the sentence is subject to review only as provided for in RCW 9.94A.585(4).

A departure from the standards in RCW 9.94A.589 (1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in this section, and may be appealed by the offender or the state as set forth in RCW 9.94A.585 (2) through (6).

(1) Mitigating Circumstances - Court to Consider

The court may impose an exceptional sentence below the standard range if it finds that mitigating circumstances are established by a preponderance of the evidence. The following are illustrative only and are not intended to be exclusive reasons for exceptional sentences.

(a) To a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident.

(b) Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

(c) The defendant committed the crime under duress, coercion, threat, or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

(d) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(e) The defendant's capacity to appreciate the wrongfulness of his or her conduct, or to conform his or her conduct to the requirements of the law, was significantly impaired. Voluntary use of drugs or alcohol is excluded.

(f) The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

(g) The operation of the multiple offense policy of RCW 9.94A.589 results in a presumptive sentence that is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(h) The defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(2) Aggravating Circumstances - Considered and Imposed by the Court

The trial court may impose an aggravated exceptional sentence without a finding of fact by a jury under the following circumstances:

(a) The defendant and the state both stipulate that justice is best served by the imposition of an exceptional sentence outside the standard range, and the court finds the exceptional sentence to be consistent with and in furtherance of the interests of justice and the purposes of the sentencing reform act.

(b) The defendant's prior unscored misdemeanor or prior unscored foreign criminal history results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(c) The defendant has committed multiple current offenses and the defendant's high offender score results in some of the current offenses going unpunished.

Sec. 10. RCW 9.94A.535 and 2008 c 276 s 303 and 2008 c 233 s 9 are each reenacted and amended to read as follows:

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(d) The failure to consider the defendant's prior criminal history which was omitted from the offender score calculation pursuant to RCW 9.94A.525 results in a presumptive sentence that is clearly too lenient.

(3) Aggravating Circumstances - Considered by a Jury -Imposed by the Court

Except for circumstances listed in subsection (2) of this section, the following circumstances are an exclusive list of factors that can support a sentence above the standard range. Such facts should be determined by procedures specified in RCW 9.94A.537.

(a) The defendant's conduct during the commission of the current offense manifested deliberate cruelty to the victim.

(b) The defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance.

(c) The current offense was a violent offense, and the defendant knew that the victim of the current offense was pregnant.

(d) The current offense was a major economic offense or series of offenses, so identified by a consideration of any of the following factors:

(i) The current offense involved multiple victims or multiple incidents per victim;

(ii) The current offense involved attempted or actual monetary loss substantially greater than typical for the offense;

(iii) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time; or

(iv) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(e) The current offense was a major violation of the Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to trafficking in controlled substances, which was more onerous than the typical offense of its statutory definition: The presence of ANY of the following may identify a current offense as a major VUCSA:

(i) The current offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to do so;

(ii) The current offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use;

(iii) The current offense involved the manufacture of controlled substances for use by other parties;

(iv) The circumstances of the current offense reveal the offender to have occupied a high position in the drug distribution hierarchy;

(v) The current offense involved a high degree of sophistication or planning, occurred over a lengthy period of time, or involved a broad geographic area of disbursement; or

(vi) The offender used his or her position or status to facilitate the commission of the current offense, including positions of trust, confidence or fiduciary responsibility (e.g., pharmacist, physician, or other medical professional).

(f) The current offense included a finding of sexual motivation pursuant to RCW 9.94A.835.

(g) The offense was part of an ongoing pattern of sexual abuse of the same victim under the age of eighteen years manifested by multiple incidents over a prolonged period of time.

(h) The current offense involved domestic violence, as defined in RCW 10.99.020, and one or more of the following was present:

(i) The offense was part of an ongoing pattern of psychological, physical, or sexual abuse of the victim manifested by multiple incidents over a prolonged period of time;

(ii) The offense occurred within sight or sound of the victim's or the offender's minor children under the age of eighteen years; or

(iii) The offender's conduct during the commission of the current offense manifested deliberate cruelty or intimidation of the victim.

(i) The offense resulted in the pregnancy of a child victim of rape.

(j) The defendant knew that the victim of the current offense was a youth who was not residing with a legal custodian and the defendant established or promoted the relationship for the primary purpose of victimization.

(k) The offense was committed with the intent to obstruct or impair human or animal health care or agricultural or forestry research or commercial production.

(l) The current offense is trafficking in the first degree or trafficking in the second degree and any victim was a minor at the time of the offense.

(m) The offense involved a high degree of sophistication or planning.

(n) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(o) The defendant committed a current sex offense, has a history of sex offenses, and is not amenable to treatment.

(p) The offense involved an invasion of the victim's privacy.

(q) The defendant demonstrated or displayed an egregious lack of remorse.

(r) The offense involved a destructive and foreseeable impact on persons other than the victim.

(s) The defendant committed the offense to obtain or maintain his or her membership or to advance his or her position in the hierarchy of an organization, association, or identifiable group.

(t) The defendant committed the current offense shortly after being released from incarceration.

(u) The current offense is a burglary and the victim of the burglary was present in the building or residence when the crime was committed.

(v) The offense was committed against a law enforcement officer who was performing his or her official duties at the time of the offense, the offender knew that the victim was a law enforcement officer, and the victim's status as a law enforcement officer is not an element of the offense.

(w) The defendant committed the offense against a victim who was acting as a good samaritan.

(x) The defendant committed the offense against a public official or officer of the court in retaliation of the public official's performance of his or her duty to the criminal justice system.

(y) The victim's injuries substantially exceed the level of bodily harm necessary to satisfy the elements of the offense. This aggravator is not an exception to RCW 9.94A.530(2).

(z)(i)(A) The current offense is theft in the first degree, theft in the second degree, possession of stolen property in the first degree, or possession of stolen property in the second degree; (B) the stolen property involved is metal property; and (C) the property damage to the victim caused in the course of the theft of metal property is more than three times the value of the stolen metal property, or the theft of the metal property creates a public hazard.

(ii) For purposes of this subsection, "metal property" means commercial metal property, private metal property, or nonferrous metal property, as defined in RCW 19.290.010.

(aa) The defendant committed the offense with the intent to directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage to or for a criminal street gang as defined in RCW 9.94A.030, its reputation, influence, or membership.

(bb) The current offense involved paying to view, over the internet in violation of section 7 of this act, depictions of a minor engaged in

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an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (g).

**Sec. 11.** RCW 9.94A.030 and 2009 c 375 s 4 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed as part of a sentence under this chapter and served in the community subject to controls placed on the offender's movement and activities by the department.

(6) "Community protection zone" means the area within eight hundred eighty feet of the facilities and grounds of a public or private school.

(7) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(8) "Confinement" means total or partial confinement.

(9) "Conviction" means an adjudication of guilt pursuant to Title 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(11) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon.

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(12) "Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or

symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted activities for their mutual aid and protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.

(13) "Criminal street gang associate or member" means any person who actively participates in any criminal street gang and who intentionally promotes, furthers, or assists in any criminal act by the criminal street gang.

(14) "Criminal street gang-related offense" means any felony or misdemeanor offense, whether in this state or elsewhere, that is committed for the benefit of, at the direction of, or in association with any criminal street gang, or is committed with the intent to promote, further, or assist in any criminal conduct by the gang, or is committed for one or more of the following reasons:

(a) To gain admission, prestige, or promotion within the gang;

(b) To increase or maintain the gang's size, membership, prestige, dominance, or control in any geographical area;

(c) To exact revenge or retribution for the gang or any member of the gang;

(d) To obstruct justice, or intimidate or eliminate any witness against the gang or any member of the gang;

(e) To directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage for the gang, its reputation, influence, or membership; or

(f) To provide the gang with any advantage in, or any control or dominance over any criminal market sector, including, but not limited to, manufacturing, delivering, or selling any controlled substance (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88 RCW); human trafficking (RCW 9A.40.100); or promoting pornography (chapter 9.68 RCW).

(15) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(16) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

(17) "Department" means the department of corrections.

(18) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community custody, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(19) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

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(20) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

(21) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(22) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

(23) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(24) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-run injury-accident (RCW 46.52.020(4)), felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(25) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

(26) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

(27) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

(28) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

(29) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

(v)(i) A prior conviction for indecent liberties under RCW 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997;

(w) Any out-of-state conviction for a felony offense with a finding of sexual motivation if the minimum sentence imposed was ten years or more; provided that the out-of-state felony offense must be comparable to a felony offense under Title 9 or 9A RCW and the out-of-state definition of sexual motivation must be comparable to the definition of sexual motivation contained in this section.

(30) "Nonviolent offense" means an offense which is not a violent offense.

(31) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. In addition, for the purpose of community custody requirements under this chapter, "offender" also means a misdemeanor or gross misdemeanor probationer convicted of an offense included in RCW 9.94A.501(1) and ordered by a superior court to probation under the supervision of the department pursuant

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to RCW 9.92.060, 9.95.204, or 9.95.210. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(32) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention.

(33) "Pattern of criminal street gang activity" means:

(a) The commission, attempt, conspiracy, or solicitation of, or any prior juvenile adjudication of or adult conviction of, two or more of the following criminal street gang-related offenses:

(i) Any "serious violent" felony offense as defined in this section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a Child 1 (RCW 9A.36.120);

(ii) Any "violent" offense as defined by this section, excluding Assault of a Child 2 (RCW 9A.36.130);

(iii) Deliver or Possession with Intent to Deliver a Controlled Substance (chapter 69.50 RCW);

(iv) Any violation of the firearms and dangerous weapon act (chapter 9.41 RCW);

(v) Theft of a Firearm (RCW 9A.56.300);

(vi) Possession of a Stolen Firearm (RCW 9A.56.310);

(vii) Malicious Harassment (RCW 9A.36.080);

(viii) Harassment where a subsequent violation or deadly threat is made (RCW 9A.46.020(2)(b));

(ix) Criminal Gang Intimidation (RCW 9A.46.120);

(x) Any felony conviction by a person eighteen years of age or older with a special finding of involving a juvenile in a felony offense under RCW 9.94A.833;

(xi) Residential Burglary (RCW 9A.52.025);

(xii) Burglary 2 (RCW 9A.52.030);

(xiii) Malicious Mischief 1 (RCW 9A.48.070);

(xiv) Malicious Mischief 2 (RCW 9A.48.080);

(xv) Theft of a Motor Vehicle (RCW 9A.56.065);

(xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

(xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);

(xviii) Taking a Motor Vehicle Without Permission 2 (RCW 9A.56.075);

(xix) Extortion 1 (RCW 9A.56.120);

(xx) Extortion 2 (RCW 9A.56.130);

(xxi) Intimidating a Witness (RCW 9A.72.110);

(xxii) Tampering with a Witness (RCW 9A.72.120);

(xxiii) Reckless Endangerment (RCW 9A.36.050);

(xxiv) Coercion (RCW 9A.36.070);

(xxv) Harassment (RCW 9A.46.020); or

(xxvi) Malicious Mischief 3 (RCW 9A.48.090);

(b) That at least one of the offenses listed in (a) of this subsection shall have occurred after July 1, 2008;

(c) That the most recent committed offense listed in (a) of this subsection occurred within three years of a prior offense listed in (a) of this subsection; and

(d) Of the offenses that were committed in (a) of this subsection, the offenses occurred on separate occasions or were committed by two or more persons.

(34) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and

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would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection (34)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

(35) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; ~~(iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority; or (iv) a teacher, counselor, volunteer, or other person in authority providing home-based instruction and the victim was a student receiving home-based instruction while under his or her authority or supervision. For purposes of this subsection: (A) "Home-based instruction" has the same meaning as defined in RCW 28A.225.010; and (B) "teacher, counselor, volunteer, or other person in authority" does not include the parent or legal guardian of the victim.~~

(36) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

(37) "Public school" has the same meaning as in RCW 28A.150.010.

(38) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

(39) "Risk assessment" means the application of the risk instrument recommended to the department by the Washington state institute for public policy as having the highest degree of predictive accuracy for assessing an offender's risk of reoffense.

(40) "Serious traffic offense" means:

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(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(41) "Serious violent offense" is a subcategory of violent offense and means:

- (a)(i) Murder in the first degree;
- (ii) Homicide by abuse;
- (iii) Murder in the second degree;
- (iv) Manslaughter in the first degree;
- (v) Assault in the first degree;
- (vi) Kidnapping in the first degree;
- (vii) Rape in the first degree;
- (viii) Assault of a child in the first degree; or
- (ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(42) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.130(12);

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080; or

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(43) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(44) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(45) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

(46) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

(47) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(48) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(49) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(50) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

(ix) Assault of a child in the second degree;

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and

(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(51) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

(52) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(53) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school."

Senator Kline spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Kline and others to Engrossed Substitute House Bill No. 2424.

The motion by Senator Kline carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "abuse;" strike the remainder of the title and insert "amending RCW 9.68A.001, 9.68A.011, 9.68A.050, 9.68A.060, 9.68A.070, 9.68A.110, and 9.94A.030; reenacting and amending RCW 9.94A.515 and 9.94A.535; adding new sections to chapter 9.68A RCW; and prescribing penalties."

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MOTION

SUBSTITUTE SENATE BILL 6832.

On motion of Senator Kline, the rules were suspended, Engrossed Substitute House Bill No. 2424 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2424 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2424 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Jacobsen

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2424 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

The President signed:

- SENATE BILL 6243,
- SENATE BILL 6308,
- SUBSTITUTE SENATE BILL 6344,
- SUBSTITUTE SENATE BILL 6349,
- SUBSTITUTE SENATE BILL 6350,
- ENGROSSED SUBSTITUTE SENATE BILL 6381,
- SENATE BILL 6401,
- ENGROSSED SUBSTITUTE SENATE BILL 6403,
- ENGROSSED SUBSTITUTE SENATE BILL 6468,
- SUBSTITUTE SENATE BILL 6470,
- ENGROSSED SUBSTITUTE SENATE BILL 6476,
- SENATE BILL 6481,
- SUBSTITUTE SENATE BILL 6485,
- ENGROSSED SECOND SUBSTITUTE SENATE BILL 6561,
- ENGROSSED SUBSTITUTE SENATE BILL 6582,
- SENATE BILL 6593,
- ENGROSSED SECOND SUBSTITUTE SENATE BILL 6609,
- SUBSTITUTE SENATE BILL 6614,
- SUBSTITUTE SENATE BILL 6639,
- SUBSTITUTE SENATE BILL 6647,
- SECOND SUBSTITUTE SENATE BILL 6667,
- SECOND SUBSTITUTE SENATE BILL 6679,
- SUBSTITUTE SENATE BILL 6688,
- SUBSTITUTE SENATE BILL 6692,
- SECOND SUBSTITUTE SENATE BILL 6702,
- ENGROSSED SUBSTITUTE SENATE BILL 6726,
- SENATE BILL 6826,

MESSAGE FROM THE HOUSE

March 8, 2010

MR. PRESIDENT:

The Speaker ruled that the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 2596 to be beyond scope & object of the bill. The House refuses to concur in said amendment and asks the Senate to recede therefrom. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate recede from its position on Substitute House Bill No. 2596 and pass the bill without the Senate amendment(s).

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate recede from its position on Substitute House Bill No. 2596 and pass the bill without Senate amendment(s) by voice vote.

The motion by Senator Hargrove carried and the Senate receded from its position on Substitute House Bill No. 2596 and pass the bill without the Senate amendment(s).

MOTION

On motion of Senator Marr, Senators Brown and Prentice were excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2596 without the Senate amendment(s).

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2596, without the Senate amendment(s), and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators McCaslin and Prentice

SUBSTITUTE HOUSE BILL NO. 2596, without the Senate amendment(s), having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 5, 2010

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6504 with the following amendment(s): 6504-S2.E AMH ENGR H5398.E

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Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 7.68.070 and 2009 c 38 s 1 are each amended to read as follows:

The right to benefits under this chapter and the amount thereof will be governed insofar as is applicable by the provisions contained in chapter 51.32 RCW except as provided in this section, provided that no more than fifty thousand dollars shall be paid per claim:

(1) The provisions contained in RCW 51.32.015, 51.32.030, 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not applicable to this chapter.

(2) Each victim injured as a result of a criminal act, including criminal acts committed between July 1, 1981, and January 1, 1983, or the victim's family or dependents in case of death of the victim, are entitled to benefits in accordance with this chapter, subject to the limitations under RCW 7.68.015. The rights, duties, responsibilities, limitations, and procedures applicable to a worker as contained in RCW 51.32.010 are applicable to this chapter.

(3) The limitations contained in RCW 51.32.020 are applicable to claims under this chapter. In addition thereto, no person or spouse, child, or dependent of such person is entitled to benefits under this chapter when the injury for which benefits are sought, was:

(a) The result of consent, provocation, or incitement by the victim, unless an injury resulting from a criminal act caused the death of the victim;

(b) Sustained while the crime victim was engaged in the attempt to commit, or the commission of, a felony; or

(c) Sustained while the victim was confined in any county or city jail, federal jail or prison or in any other federal institution, or any state correctional institution maintained and operated by the department of social and health services or the department of corrections, prior to release from lawful custody; or confined or living in any other institution maintained and operated by the department of social and health services or the department of corrections.

(4) The benefits established upon the death of a worker and contained in RCW 51.32.050 shall be the benefits obtainable under this chapter and provisions relating to payment contained in that section shall equally apply under this chapter(~~(=PROVIDED)~~), except that:

~~(a) Benefits for burial expenses shall not exceed ((the amount paid by the department in case of the death of a worker as provided in chapter 51.32 RCW in any claim: PROVIDED FURTHER, That if the criminal act results in the death of a victim who was not gainfully employed at the time of the criminal act, and who was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act;~~

~~(a) Benefits payable to an eligible surviving spouse, where there are no children of the victim at the time of the criminal act who have survived the victim or where such spouse has legal custody of all of his or her children, shall be limited to burial expenses and a lump sum payment of seven thousand five hundred dollars without reference to number of children, if any;~~

~~(b) Where any such spouse has legal custody of one or more but not all of such children, then such burial expenses shall be paid, and such spouse shall receive a lump sum payment of three thousand seven hundred fifty dollars and any such child or children not in the legal custody of such spouse shall receive a lump sum of three thousand seven hundred fifty dollars to be divided equally among such child or children;~~

~~(c) If any such spouse does not have legal custody of any of the children, the burial expenses shall be paid and the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars and any such child or children not in the legal custody of~~

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~~the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars to be divided equally among the child or children;~~

~~(d) If no such spouse survives, then such burial expenses shall be paid, and each surviving child of the victim at the time of the criminal act shall receive a lump sum payment of three thousand seven hundred fifty dollars up to a total of two such children and where there are more than two such children the sum of seven thousand five hundred dollars shall be divided equally among such children.~~

~~No other benefits may be paid or payable under these circumstances)) five thousand dollars per claim; and~~

(b) An application for benefits relating to payment for burial expenses, pursuant to this subsection, must be received within twelve months of the date upon which the death of the victim is officially recognized as a homicide. If there is a delay in the recovery of remains or the release of remains for burial, application for benefits must be received within twelve months of the date of the release of the remains for burial.

(5) The benefits established in RCW 51.32.060 for permanent total disability proximately caused by the criminal act shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter(~~(=PROVIDED)~~), except that if a victim becomes permanently and totally disabled as a proximate result of the criminal act ((and was not gainfully employed at the time of the criminal act)), the victim shall receive monthly during the period of the disability the following percentages, where applicable, of the average monthly wage determined as of the date of the criminal act pursuant to RCW 51.08.018:

(a) If married at the time of the criminal act, twenty-nine percent of the average monthly wage.

(b) If married with one child at the time of the criminal act, thirty-four percent of the average monthly wage.

(c) If married with two children at the time of the criminal act, thirty-eight percent of the average monthly wage.

(d) If married with three children at the time of the criminal act, forty-one percent of the average monthly wage.

(e) If married with four children at the time of the criminal act, forty-four percent of the average monthly wage.

(f) If married with five or more children at the time of the criminal act, forty-seven percent of the average monthly wage.

(g) If unmarried at the time of the criminal act, twenty-five percent of the average monthly wage.

(h) If unmarried with one child at the time of the criminal act, thirty percent of the average monthly wage.

(i) If unmarried with two children at the time of the criminal act, thirty-four percent of the average monthly wage.

(j) If unmarried with three children at the time of the criminal act, thirty-seven percent of the average monthly wage.

(k) If unmarried with four children at the time of the criminal act, forty percent of the average monthly wage.

(l) If unmarried with five or more children at the time of the criminal act, forty-three percent of the average monthly wage.

(6) The benefits established in RCW 51.32.080 for permanent partial disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section equally apply under this chapter, but shall not exceed seven thousand dollars per claim.

(7) The benefits established in RCW 51.32.090 for temporary total disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter(~~(=PROVIDED)~~), except that no person is eligible for temporary total disability benefits under this chapter if such person was not gainfully employed at the time of the criminal

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act (~~and was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act~~).

(8) The benefits established in RCW 51.32.095 for continuation of benefits during vocational rehabilitation shall be benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter (~~(--PROVIDED--)~~), except that benefits shall not exceed five thousand dollars for any single injury.

(9) The provisions for lump sum payment of benefits upon death or permanent total disability as contained in RCW 51.32.130 apply under this chapter.

(10) The provisions relating to payment of benefits to, for or on behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100, 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and 51.32.210 are applicable to payment of benefits to, for or on behalf of victims under this chapter.

(11) No person or spouse, child, or dependent of such person is entitled to benefits under this chapter where the person making a claim for such benefits has refused to give reasonable cooperation to state or local law enforcement agencies in their efforts to apprehend and convict the perpetrator(s) of the criminal act which gave rise to the claim.

(12) In addition to other benefits provided under this chapter, victims of sexual assault are entitled to receive appropriate counseling. Fees for such counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080. Counseling services may include, if determined appropriate by the department, counseling of members of the victim's immediate family, other than the perpetrator of the assault.

(13) (~~(Except for medical benefits authorized under RCW 7.68.080, no more than thirty thousand dollars shall be granted as a result of a single injury or death, except that benefits granted as the result of total permanent disability or death shall not exceed forty thousand dollars.~~

(14)) Notwithstanding other provisions of this chapter and Title 51 RCW, benefits payable for total temporary disability under subsection (7) of this section, shall be limited to fifteen thousand dollars.

(~~(15))~~ (14) Any person who is responsible for the victim's injuries, or who would otherwise be unjustly enriched as a result of the victim's injuries, shall not be a beneficiary under this chapter.

(~~(16))~~ (15) Crime victims' compensation is not available to pay for services covered under chapter 74.09 RCW or Title XIX of the federal social security act, except to the extent that the costs for such services exceed service limits established by the department of social and health services or, during the 1993-95 fiscal biennium, to the extent necessary to provide matching funds for federal medicaid reimbursement.

(~~(17))~~ (16) In addition to other benefits provided under this chapter, immediate family members of a homicide victim may receive appropriate counseling to assist in dealing with the immediate, near-term consequences of the related effects of the homicide. Fees for counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080. Payment of counseling benefits under this section may not be provided to the perpetrator of the homicide. The benefits under this subsection may be provided only with respect to homicides committed on or after July 1, 1992.

(~~(18))~~ (17) A dependent mother, father, stepmother, or stepfather, as defined in RCW 51.08.050, who is a survivor of her or his child's homicide, who has been requested by a law enforcement agency or a prosecutor to assist in the judicial proceedings related to the death of the victim, and who is not domiciled in Washington state at the time of the request, may receive a lump-sum payment

upon arrival in this state. Total benefits under this subsection may not exceed seven thousand five hundred dollars. If more than one dependent parent is eligible for this benefit, the lump-sum payment of seven thousand five hundred dollars shall be divided equally among the dependent parents.

(~~(19))~~ (18) A victim whose crime occurred in another state who qualifies for benefits under RCW 7.68.060(4) may receive appropriate mental health counseling to address distress arising from participation in the civil commitment proceedings. Fees for counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080.

(19) A victim is not eligible for benefits under this act if such victim:

(a) Has been convicted of a felony offense within five years preceding the criminal act for which they are applying where the felony offense is a violent offense under RCW 9.94A.030 or a crime against persons under RCW 9.94A.411, or is convicted of such a felony offense after applying; and

(b) Has not completely satisfied all legal financial obligations owed prior to applying for benefits.

**Sec. 2.** RCW 7.68.085 and 2009 c 479 s 9 are each amended to read as follows:

(1) This section has no force or effect from the effective date of this section until July 1, 2015.

(2) The director of labor and industries shall institute a cap on medical benefits of one hundred fifty thousand dollars per injury or death. Payment for medical services in excess of the cap shall be made available to any innocent victim under the same conditions as other medical services and if the medical services are:

((4)) (a) Necessary for a previously accepted condition;

((2)) (b) Necessary to protect the victim's life or prevent deterioration of the victim's previously accepted condition; and

((3)) (c) Not available from an alternative source.

For the purposes of this section, an individual will not be required to use his or her assets other than funds recovered as a result of a civil action or criminal restitution, for medical expenses or pain and suffering, in order to qualify for an alternative source of payment.

The director shall, in cooperation with the department of social and health services, establish by October 1, 1989, a process to aid crime victims in identifying and applying for appropriate alternative benefit programs, if any, administered by the department of social and health services.

**NEW SECTION. Sec. 3.** A new section is added to chapter 7.68 RCW to read as follows:

The crime victims' compensation account is created in the custody of the state treasurer. Expenditures from the account may be used only for the crime victims' compensation program under this chapter. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**Sec. 4.** RCW 9A.82.110 and 2009 c 479 s 11 are each amended to read as follows:

(1) In an action brought by the attorney general on behalf of the state under RCW 9A.82.100(1)(b)(i) in which the state prevails, any payments ordered in excess of the actual damages sustained shall be deposited in the ((state general fund)) crime victims' compensation account provided in section 3 of this act.

(2)(a) The county legislative authority may establish an antiprofitteering revolving fund to be administered by the county prosecuting attorney under the conditions and for the purposes provided by this subsection. Disbursements from the fund shall be on authorization of the county prosecuting attorney. No appropriation is required for disbursements.

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(b) Any prosecution and investigation costs, including attorney's fees, recovered for the state by the county prosecuting attorney as a result of enforcement of civil and criminal statutes pertaining to any offense included in the definition of criminal profiteering, whether by final judgment, settlement, or otherwise, shall be deposited, as directed by a court of competent jurisdiction, in the fund established by this subsection. In an action brought by a prosecuting attorney on behalf of the county under RCW 9A.82.100(1)(b)(i) in which the county prevails, any payments ordered in excess of the actual damages sustained shall be deposited in the ~~((state general fund))~~ crime victims' compensation account provided in section 3 of this act.

(c) The county legislative authority may prescribe a maximum level of moneys in the antiprofitteering revolving fund. Moneys exceeding the prescribed maximum shall be transferred to the county current expense fund.

(d) The moneys in the fund shall be used by the county prosecuting attorney for the investigation and prosecution of any offense, within the jurisdiction of the county prosecuting attorney, included in the definition of criminal profiteering, including civil enforcement.

(e) If a county has not established an antiprofitteering revolving fund, any payments or forfeitures ordered to the county under this chapter shall be deposited to the county current expense fund.

**Sec. 5.** RCW 72.09.111 and 2009 c 479 s 60 are each amended to read as follows:

(1) The secretary shall deduct taxes and legal financial obligations from the gross wages, gratuities, or workers' compensation benefits payable directly to the inmate under chapter 51.32 RCW, of each inmate working in correctional industries work programs, or otherwise receiving such wages, gratuities, or benefits. The secretary shall also deduct child support payments from the gratuities of each inmate working in class II through class IV correctional industries work programs. The secretary shall develop a formula for the distribution of offender wages, gratuities, and benefits. The formula shall not reduce the inmate account below the indigency level, as defined in RCW 72.09.015.

(a) The formula shall include the following minimum deductions from class I gross wages and from all others earning at least minimum wage:

(i) Five percent to the ~~((state general fund))~~ crime victims' compensation account provided in section 3 of this act;

(ii) Ten percent to a department personal inmate savings account;

(iii) Twenty percent to the department to contribute to the cost of incarceration; and

(iv) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court.

(b) The formula shall include the following minimum deductions from class II gross gratuities:

(i) Five percent to the ~~((state general fund))~~ crime victims' compensation account provided in section 3 of this act;

(ii) Ten percent to a department personal inmate savings account;

(iii) Fifteen percent to the department to contribute to the cost of incarceration;

(iv) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court; and

(v) Fifteen percent for any child support owed under a support order.

(c) The formula shall include the following minimum deductions from any workers' compensation benefits paid pursuant to RCW 51.32.080:

(i) Five percent to the ~~((state general fund))~~ crime victims' compensation account provided in section 3 of this act;

(ii) Ten percent to a department personal inmate savings account;

(iii) Twenty percent to the department to contribute to the cost of incarceration; and

(iv) An amount equal to any legal financial obligations owed by the inmate established by an order of any Washington state superior court up to the total amount of the award.

(d) The formula shall include the following minimum deductions from class III gratuities:

(i) Five percent for the ~~((state general fund))~~ crime victims' compensation account provided in section 3 of this act; and

(ii) Fifteen percent for any child support owed under a support order.

(e) The formula shall include the following minimum deduction from class IV gross gratuities:

(i) Five percent to the department to contribute to the cost of incarceration; and

(ii) Fifteen percent for any child support owed under a support order.

(2) Any person sentenced to life imprisonment without possibility of release or parole under chapter 10.95 RCW or sentenced to death shall be exempt from the requirement under subsection (1)(a)(ii), (b)(ii), or (c)(ii).

(3)(a) The department personal inmate savings account, together with any accrued interest, shall only be available to an inmate at the following times:

(i) The time of his or her release from confinement;

(ii) Prior to his or her release from confinement in order to secure approved housing; or

(iii) When the secretary determines that an emergency exists for the inmate.

(b) If funds are made available pursuant to (a)(ii) or (iii) of this subsection, the funds shall be made available to the inmate in an amount determined by the secretary.

(c) The management of classes I, II, and IV correctional industries may establish an incentive payment for offender workers based on productivity criteria. This incentive shall be paid separately from the hourly wage/gratuity rate and shall not be subject to the specified deduction for cost of incarceration.

(4)(a) Subject to availability of funds for the correctional industries program, the expansion of inmate employment in class I and class II correctional industries shall be implemented according to the following schedule:

(i) Not later than June 30, 2005, the secretary shall achieve a net increase of at least two hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(ii) Not later than June 30, 2006, the secretary shall achieve a net increase of at least four hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(iii) Not later than June 30, 2007, the secretary shall achieve a net increase of at least six hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(iv) Not later than June 30, 2008, the secretary shall achieve a net increase of at least nine hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(v) Not later than June 30, 2009, the secretary shall achieve a net increase of at least one thousand two hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

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(vi) Not later than June 30, 2010, the secretary shall achieve a net increase of at least one thousand five hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003.

(b) Failure to comply with the schedule in this subsection does not create a private right of action.

(5) In the event that the offender worker's wages, gratuity, or workers' compensation benefit is subject to garnishment for support enforcement, the ~~((state general fund))~~ crime victims' compensation account, savings, and cost of incarceration deductions shall be calculated on the net wages after taxes, legal financial obligations, and garnishment.

(6) The department shall explore other methods of recovering a portion of the cost of the inmate's incarceration and for encouraging participation in work programs, including development of incentive programs that offer inmates benefits and amenities paid for only from wages earned while working in a correctional industries work program.

(7) The department shall develop the necessary administrative structure to recover inmates' wages and keep records of the amount inmates pay for the costs of incarceration and amenities. All funds deducted from inmate wages under subsection (1) of this section for the purpose of contributions to the cost of incarceration shall be deposited in a dedicated fund with the department and shall be used only for the purpose of enhancing and maintaining correctional industries work programs.

(8) It shall be in the discretion of the secretary to apportion the inmates between class I and class II depending on available contracts and resources.

(9) Nothing in this section shall limit the authority of the department of social and health services division of child support from taking collection action against an inmate's moneys, assets, or property pursuant to chapter 26.23, 74.20, or 74.20A RCW.

**Sec. 6.** RCW 72.09.480 and 2009 c 479 s 61 are each amended to read as follows:

(1) Unless the context clearly requires otherwise, the definitions in this section apply to this section.

(a) "Cost of incarceration" means the cost of providing an inmate with shelter, food, clothing, transportation, supervision, and other services and supplies as may be necessary for the maintenance and support of the inmate while in the custody of the department, based on the average per inmate costs established by the department and the office of financial management.

(b) "Minimum term of confinement" means the minimum amount of time an inmate will be confined in the custody of the department, considering the sentence imposed and adjusted for the total potential earned early release time available to the inmate.

(c) "Program" means any series of courses or classes necessary to achieve a proficiency standard, certificate, or postsecondary degree.

(2) When an inmate, except as provided in subsections (4) and (8) of this section, receives any funds in addition to his or her wages or gratuities, except settlements or awards resulting from legal action, the additional funds shall be subject to the following deductions and the priorities established in chapter 72.11 RCW:

(a) Five percent to the ~~((state general fund))~~ crime victims' compensation account provided in section 3 of this act;

(b) Ten percent to a department personal inmate savings account;

(c) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court;

(d) Twenty percent for any child support owed under a support order; and

(e) Twenty percent to the department to contribute to the cost of incarceration.

(3) When an inmate, except as provided in subsection (8) of this section, receives any funds from a settlement or award resulting from a legal action, the additional funds shall be subject to the deductions in RCW 72.09.111(1)(a) and the priorities established in chapter 72.11 RCW.

(4) When an inmate who is subject to a child support order receives funds from an inheritance, the deduction required under subsection (2)(e) of this section shall only apply after the child support obligation has been paid in full.

(5) The amount deducted from an inmate's funds under subsection (2) of this section shall not exceed the department's total cost of incarceration for the inmate incurred during the inmate's minimum or actual term of confinement, whichever is longer.

(6)(a) The deductions required under subsection (2) of this section shall not apply to funds received by the department from an offender or from a third party on behalf of an offender for payment of education or vocational programs or postsecondary education degree programs as provided in RCW 72.09.460 and 72.09.465.

(b) The deductions required under subsection (2) of this section shall not apply to funds received by the department from a third party, including but not limited to a nonprofit entity on behalf of the department's education, vocation, or postsecondary education degree programs.

(7) The deductions required under subsection (2) of this section shall not apply to any money received by the department, on behalf of an inmate, from family or other outside sources for the payment of postage expenses. Money received under this subsection may only be used for the payment of postage expenses and may not be transferred to any other account or purpose. Money that remains unused in the inmate's postage fund at the time of release shall be subject to the deductions outlined in subsection (2) of this section.

(8) When an inmate sentenced to life imprisonment without possibility of release or sentenced to death under chapter 10.95 RCW receives funds, deductions are required under subsection (2) of this section, with the exception of a personal inmate savings account under subsection (2)(b) of this section.

(9) The secretary of the department of corrections, or his or her designee, may exempt an inmate from a personal inmate savings account under subsection (2)(b) of this section if the inmate's earliest release date is beyond the inmate's life expectancy.

(10) The interest earned on an inmate savings account created as a result of the plan in section 4, chapter 325, Laws of 1999 shall be exempt from the mandatory deductions under this section and RCW 72.09.111.

(11) Nothing in this section shall limit the authority of the department of social and health services division of child support, the county clerk, or a restitution recipient from taking collection action against an inmate's moneys, assets, or property pursuant to chapter 9.94A, 26.23, 74.20, or 74.20A RCW including, but not limited to, the collection of moneys received by the inmate from settlements or awards resulting from legal action.

**NEW SECTION. Sec. 7.** A new section is added to chapter 7.68 RCW to read as follows:

(1) Within current funding levels, the department's crime victims' compensation program shall post on its public web site a report that shows the following items:

(a) The total amount of current funding available in the crime victims' compensation fund;

(b) The total amount of funding disbursed to victims in the previous thirty days; and

(c) The total amount paid in overhead and administrative costs in the previous thirty days.

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(2) The information listed in subsection (1) of this section must be posted and maintained on the department's web site by July 1, 2010 and updated every thirty days thereafter.

**NEW SECTION. Sec. 8.** Sections 1 and 2 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect April 1, 2010, for all claims of victims of criminal acts occurring after July 1, 1981.

**NEW SECTION. Sec. 9.** Sections 1 and 2 of this act expire July 1, 2015."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Hargrove moved that the Senate refuse to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6504, insist on its position and ask the House to recede therefrom.

Senator Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate refuse to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6504, insist on its position and ask the House to recede therefrom.

The motion by Senator Hargrove carried and the Senate refused to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6504, insist on its position and asked the House to recede therefrom by voice vote.

#### MOTION

At 1:55 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 3:36 p.m. by President Owen.

#### MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

#### SIGNED BY THE PRESIDENT

The President signed:

SECOND SUBSTITUTE HOUSE BILL 2016,  
SUBSTITUTE HOUSE BILL 2179,  
SUBSTITUTE HOUSE BILL 2402,  
SUBSTITUTE HOUSE BILL 2443,  
ENGROSSED SUBSTITUTE HOUSE BILL 2464,  
SUBSTITUTE HOUSE BILL 2466,  
SUBSTITUTE HOUSE BILL 2533,  
SUBSTITUTE HOUSE BILL 2534,  
ENGROSSED SUBSTITUTE HOUSE BILL 2538,  
SUBSTITUTE HOUSE BILL 2593,  
SECOND SUBSTITUTE HOUSE BILL 2603,  
HOUSE BILL 2625,  
SUBSTITUTE HOUSE BILL 2680,  
HOUSE BILL 2681,  
SUBSTITUTE HOUSE BILL 2717,  
HOUSE BILL 2748,  
ENGROSSED SUBSTITUTE HOUSE BILL 2752,  
SUBSTITUTE HOUSE BILL 2775,

ENGROSSED SUBSTITUTE HOUSE BILL 2777,  
SUBSTITUTE HOUSE BILL 2801,  
ENGROSSED HOUSE BILL 2805,  
SUBSTITUTE HOUSE BILL 2841,  
SECOND SUBSTITUTE HOUSE BILL 2867,  
SUBSTITUTE HOUSE BILL 2939,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
2961,  
HOUSE BILL 2973,  
ENGROSSED SUBSTITUTE HOUSE BILL 2986,  
HOUSE BILL 3007,  
SUBSTITUTE HOUSE BILL 3016,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
3026,  
ENGROSSED SUBSTITUTE HOUSE BILL 3040,  
SUBSTITUTE HOUSE BILL 3105,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
3141,  
ENGROSSED SUBSTITUTE HOUSE JOINT  
RESOLUTION 4220.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2745, by House Committee on Environmental Health (originally sponsored by Representatives Hudgins, Campbell and Uptegrove)

Concerning compliance with the environmental protection agency's renovation, repair, and painting rule in the lead-based paint program.

The measure was read the second time.

#### MOTION

On motion of Senator Rockefeller, the rules were suspended, Substitute House Bill No. 2745 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller, Marr and Franklin spoke in favor of passage of the bill.

Senators Hargrove and Benton spoke against passage of the bill.

#### MOTION

On motion of Senator Brandland, Senators Roach and Zarelli were excused.

#### POINT OF INQUIRY

Senator Franklin: "Would Senator Rockefeller yield to a question? Thank you Senator. Under the provisions of the bill are volunteers required to be certified?"

Senator Rockefeller: "Mr. President, would be happy to respond. Let me begin by pointing out that the law of the state under which we took the delegation of authority from EPA requires that our program and rules be equal to but not in excess of federal requirements as set forth in the federal residential lead-based paint hazard reduction act. So, that's our base line. According to the federal rules with which we must be consistent these provisions apply only to persons who are compensated for renovating homes and child care facilities built before 1978. So, while the gentlemen who have been concerned don't see language in this bill that is not the issue. Because the language of

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our law must be consistent with and not an excess of the federal requirements that we can answer with confidence that no volunteer is required to be certified as a renovator so volunteers are free, Senator Franklin. Unless specifically authorized to be more stringent, our state program must continue to be consistent with those federal rules and regulations and we have not authorized our program to be more stringent.”

Senator Marr again spoke in favor of passage of the bill.  
Senator Hargrove again spoke against passage of the bill.

Senators King, Schoesler and Becker spoke against passage of the bill.

Senators Gordon and Hobbs spoke in favor of passage of the bill.

#### POINT OF INQUIRY

Senator Roach: “Would Senator Rockefeller yield to a question? So, thank you for yielding. So, the question I have is if I understand this bill right and I’ve been over here trying to read some things here, listening and talking. If this bill passes then anyone who wants to be certified pays twenty-five dollars to be able to perform the service. If it doesn’t pass it could be two hundred to three hundred dollars that the EPA program would impose on an individual in this state to do the same work. Correct?”

Senator Rockefeller: “Correct and they are still required to have that training because the federal rules are the rules to which we are confirming our state practices so the standards are going into affect on April. These standards were adopted in the last year of the prior federal administration under President Bush. These are not regarded as unfriendly to business at that time or I think they would not have been adopted. So, what we’re having here is a bill which offers an easier way for our renovators who are compensated to carry out this work. Similar to the training that abatement contractors have today. People who are volunteers in abatement or in renovation currently do not have to get this training and they’re not subject to the rules or the penalties.”

Senator Roach: “So, if this bill passes the cost to an individual in Washington State is twenty-five dollars. If it doesn’t, the cost would be two hundred?”

Senator Rockefeller: “For the training part of it, yes.”

Senator Roach spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2745.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2745 and the bill passed the Senate by the following vote: Yeas, 31; Nays, 17; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Shin and Tom

Voting nay: Senators Becker, Brandland, Carrell, Delvin, Hargrove, Hewitt, Holmquist, Honeyford, King, Morton, Parlette, Pflug, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 2745, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3178, by House Committee on Ways & Means (originally sponsored by Representatives Carlyle, Anderson, Hunter, Rolfes, Eddy, Takko, Probst, Wallace, Maxwell, Van De Wege, Kelley, Green, Sullivan, Hudgins, Hope, Morrell, Springer, Ericks, Hunt, Goodman, Jacks and Finn)

Creating efficiencies in the use of technology in state government.

The measure was read the second time.

#### MOTION

Senator Prentice moved that the following committee striking amendment by the Committee on Ways & Means be adopted.

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** A new section is added to chapter 43.105 RCW to read as follows:

(1) The legislature finds that the provision of information technology in state government lacks strategic coordination, transparency, and meaningful enterprise-wide direction and oversight. It is no longer economically sustainable or technically feasible for state agencies to obtain and provide large-scale, commonly utilized information technology products and services on an individual, agency- by-agency basis without coordination. Instead, the state needs a strong, enterprise-based information technology strategy to ensure the public's needs are being met and the state is receiving the highest quality information technology products and services at the best price from public or private providers. Developing a strong enterprise-wide strategy also includes establishing clear lines of authority and accountability within state agencies so that those services unique to individual agencies receive the support required to effectively and efficiently provide services to citizens. To accomplish these objectives, the state needs to develop an open, transparent process for determining the total cost of ownership for the information technology products and services it provides, and to provide such information in an easily accessible, public fashion. It is in the state's interest to ensure that the wide range of disparate networks, systems, services, and structures across state government become more closely coordinated, organized, and structured. This type of coordinating effort is already underway in the area of higher education through the efforts of the higher education technology transformation task force and informally within other areas. When more transparent technical and financial information is readily available, the state can make sound policy decisions about what information technology services should be provided centrally on a shared services basis, and what products and services may be best suited for either contracting with private providers or for maintenance at the agency level. Furthermore, if attractive pricing models and service level agreements are developed for enterprise-based information technology services, the legislative and judicial branches will have an incentive to participate in those services as well.

(2) It is the intent of the legislature to organize, consolidate, and, where appropriate, contract with private providers for technology

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systems and resources in a strategic fashion that is based upon sound, objective, nonpolitical, and independent technical and financial criteria. The state needs to develop a clear, enterprise-based statewide strategy for information technology to ensure that there is transparency and accountability regarding how information technology resources are being allocated, how decisions are being made, and who is accountable for on-time, on-budget delivery.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.105 RCW to read as follows:

(1) State agencies that are purchasing wireless devices or services must make such purchases through the state master contract, unless the state agency provides to the office of financial management evidence that the state agency is securing its wireless devices or services from another source for a lower cost than through participation in the state master contract.

(2) For the purposes of this section, "state agency" means any office, department, board, commission, or other unit of state government, but does not include a unit of state government headed by a statewide elected official, an institution of higher education as defined in RCW 28B.10.016, the higher education coordinating board, the state board for community and technical colleges, or agencies of the legislative or judicial branches of state government.

**Sec. 3.** RCW 43.105.190 and 2005 c 319 s 111 are each amended to read as follows:

(1) The department, with the approval of the board, shall establish standards and policies governing the planning, implementation, and evaluation of major information technology projects, including those proposed by the superintendent of public instruction, in conjunction with educational service districts, or statewide or regional providers of K-12 education information technology services. The standards and policies shall:

(a) Establish criteria to identify projects which are subject to this section. Such criteria shall include, but not be limited to, significant anticipated cost, complexity, or statewide significance of the project; and

(b) Establish a model process and procedures which agencies shall follow in developing and implementing projects within their information technology portfolios. Agencies may propose, for approval by the department, a process and procedures unique to the agency. The department may accept or require modification of such agency proposals or the department may reject such agency proposals and require use of the model process and procedures established under this subsection. Any process and procedures developed under this subsection shall require (i) distinct and identifiable phases upon which funding may be based, (ii) user validation of products through system demonstrations and testing of prototypes and deliverables, and (iii) other elements identified by the board.

The director may terminate a major project if the director determines that the project is not meeting or is not expected to meet anticipated performance standards.

(2) The office of financial management shall establish policies and standards consistent with portfolio-based information technology management to govern the funding of projects developed under this section. The policies and standards shall provide for:

(a) Funding of a project under terms and conditions mutually agreed to by the director, the director of financial management, and the head of the agency proposing the project. However, the office of financial management may require incremental funding of a project on a phase-by-phase basis whereby funds for a given phase of a project may be released only when the office of financial management determines, with the advice of the department, that the previous phase is satisfactorily completed;

(b) Acceptance testing of products to assure that products perform satisfactorily before they are accepted and final payment is made; and

(c) Other elements deemed necessary by the office of financial management.

(3)(a) The department shall evaluate projects based on the demonstrated business needs and benefits; cost; technology scope and feasibility; impact on the agency's information technology portfolio and on the statewide infrastructure; and final project implementation plan based upon available funding.

(b) Copies of project evaluations conducted under this subsection shall be submitted to the office of financial management and the chairs, ranking minority members, and staff coordinators of the appropriations committees of the senate and house of representatives.

(c) If there are projects that receive funding from a transportation fund or account, copies of those projects' evaluations conducted under this subsection must be submitted to the chairs and ranking minority members of the transportation committees of the senate and the house of representatives.

(4) For the 2009-2011 biennium, the following limitations are established upon information technology procurement:

(a) Except as provided in (c) of this subsection, state agencies are not permitted to purchase or implement new information technology projects without securing prior authorization from the office of financial management. The office of financial management may only approve information technology projects that contribute towards an enterprise strategy or meet a critical, localized need of the requesting agency.

(b) Except as provided in (c) of this subsection, state agencies are not permitted to purchase servers, virtualization software, data storage, or related software through their operational funds or through a separate information technology budget item without securing prior authorization from the office of financial management. The office of financial management shall grant approval only if the purchase is consistent with the state's overall migration strategy to the state data center and critical to the operation of the agency.

(c) State agencies may purchase new information technology projects or servers without securing prior authorization from the office of financial management if the purchase by the agency is needed to address an immediate and compelling threat to public safety.

(d) For the purposes of this subsection (4), "state agency" means any office, department, board, commission, or other unit of state government, but does not include a unit of state government headed by a statewide elected official, an institution of higher education as defined in RCW 28B.10.016, the higher education coordinating board, the state board for community and technical colleges, or agencies of the legislative or judicial branches of state government.

**NEW SECTION. Sec. 4.** A new section is added to chapter 43.88 RCW to read as follows:

(1) As part of the biennial budget process, the office of financial management shall collect from agencies, and agencies shall provide, information to produce reports, summaries, and budget detail sufficient to allow review, analysis, and documentation of all current and proposed expenditures for information technology by state agencies. Information technology budget detail must be included as part of the budget submittal documentation required pursuant to RCW 43.88.030.

(2) The office of financial management must collect, and present as part of the biennial budget documentation, information for all existing information technology projects as defined by information services board policy. The office of financial management must work with the department of information services

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to maximize the ability to draw this information from the information technology portfolio management data collected by the department of information services pursuant to RCW 43.105.170. Connecting project information collected through the portfolio management process with financial data developed under subsection (1) of this section provides transparency regarding expenditure data for existing technology projects.

(3) The biennial budget documentation submitted by the office of financial management pursuant to RCW 43.88.030 must include an information technology plan identifying proposed large information technology projects. This plan must be presented using a method similar to the capital budget, identifying project costs through stages of the project and across fiscal periods and biennia from project initiation to implementation. This information must be submitted electronically, in a format to be determined by the office of financial management and the legislative evaluation and accountability program committee.

(4) The office of financial management shall also institute a method of accounting for information technology-related expenditures, including creating common definitions for what constitutes an information technology investment.

**Sec. 5.** RCW 43.88.560 and 1992 c 20 s 7 are each amended to read as follows:

The director of financial management shall establish policies and standards governing the funding of major information technology projects as required under RCW 43.105.190(2). The director of financial management shall also direct the collection of additional information on information technology projects and submit an information technology plan as required under section 4 of this act.

**Sec. 6.** RCW 43.105.041 and 2009 c 486 s 13 are each amended to read as follows:

(1) The board shall have the following powers and duties related to information services:

(a) To develop standards and procedures governing the acquisition and disposition of equipment, proprietary software and purchased services, licensing of the radio spectrum by or on behalf of state agencies, and confidentiality of computerized data. The board shall coordinate with the office of financial management to develop contracting standards for information technology acquisition and purchased services and must work with state agencies to ensure deployment of standardized contracts;

(b) To purchase, lease, rent, or otherwise acquire, dispose of, and maintain equipment, proprietary software, and purchased services, or to delegate to other agencies and institutions of state government, under appropriate standards, the authority to purchase, lease, rent, or otherwise acquire, dispose of, and maintain equipment, proprietary software, and purchased services: PROVIDED, That, agencies and institutions of state government are expressly prohibited from acquiring or disposing of equipment, proprietary software, and purchased services without such delegation of authority. The acquisition and disposition of equipment, proprietary software, and purchased services is exempt from RCW 43.19.1919 and, as provided in RCW 43.19.1901, from the provisions of RCW 43.19.190 through 43.19.200, except that the board, the department, and state agencies, as delegated, must post notices of technology procurement bids on the state's common vendor registration and bid notification system. This subsection (1)(b) does not apply to the legislative branch;

(c) To develop statewide or interagency technical policies, standards, and procedures;

(d) To review and approve standards and common specifications for new or expanded telecommunications networks proposed by agencies, public postsecondary education institutions, educational service districts, or statewide or regional providers of

K-12 information technology services, and to assure the cost-effective development and incremental implementation of a statewide video telecommunications system to serve: Public schools; educational service districts; vocational-technical institutes; community colleges; colleges and universities; state and local government; and the general public through public affairs programming;

(e) To provide direction concerning strategic planning goals and objectives for the state. The board shall seek input from the legislature and the judiciary;

(f) To develop and implement a process for the resolution of appeals by:

(i) Vendors concerning the conduct of an acquisition process by an agency or the department; or

(ii) A customer agency concerning the provision of services by the department or by other state agency providers;

(g) To establish policies for the periodic review by the department of agency performance which may include but are not limited to analysis of:

(i) Planning, management, control, and use of information services;

(ii) Training and education; and

(iii) Project management;

(h) To set its meeting schedules and convene at scheduled times, or meet at the request of a majority of its members, the chair, or the director;

(i) To review and approve that portion of the ~~((department's))~~ budget ~~((requests))~~ that ~~((provides for))~~ may provide independent, technical staff support to the board; and

(j) To develop procurement policies and procedures, such as unbundled contracting and subcontracting, that encourage and facilitate the purchase of products and services by state agencies and institutions from Washington small businesses to the maximum extent practicable and consistent with international trade agreement commitments.

(2) Statewide technical standards to promote and facilitate electronic information sharing and access are an essential component of acceptable and reliable public access service and complement content-related standards designed to meet those goals. The board shall:

(a) Establish technical standards to facilitate electronic access to government information and interoperability of information systems, including wireless communications systems. Local governments are strongly encouraged to follow the standards established by the board; and

(b) Require agencies to consider electronic public access needs when planning new information systems or major upgrades of systems.

In developing these standards, the board is encouraged to include the state library, state archives, and appropriate representatives of state and local government.

(3)(a) The board, in consultation with the K-20 board, has the duty to govern, operate, and oversee the technical design, implementation, and operation of the K-20 network including, but not limited to, the following duties: Establishment and implementation of K-20 network technical policy, including technical standards and conditions of use; review and approval of network design; procurement of shared network services and equipment; and resolving user/provider disputes concerning technical matters. The board shall delegate general operational and technical oversight to the K-20 network technical steering committee as appropriate.

(b) The board has the authority to adopt rules under chapter 34.05 RCW to implement the provisions regarding the technical operations and conditions of use of the K-20 network.

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(4) The board shall review all information technology efforts under its purview based on independent technical and financial information, regardless of whether the projects or services are being provided by public or private providers. This review must be conducted by independent, technical staff support, subject to funds appropriated for this specific purpose.

(5) In reviewing these efforts, the board, in consultation with the office of financial management, shall review state agency information technology budgets. The board may acquire project management assistance to assist in its efforts under this act.

**Sec. 7.** RCW 43.105.180 and 1999 c 80 s 11 are each amended to read as follows:

~~((Upon request of the office of financial management,))~~ (1) The department, in coordination with the information services board and the office of financial management, shall evaluate agency budget requests for major information technology projects identified under RCW 43.105.190, including those proposed by the superintendent of public instruction, in conjunction with educational service districts, or statewide or regional providers of K-12 education information technology services. The department shall submit recommendations for funding all or part of such requests to the office of financial management and to the chairs, ranking minority members, and staff coordinators of the appropriations committees of the senate and house of representatives. The department shall also submit recommendations regarding consolidation of similar proposals or other efficiencies it finds in reviewing proposals.

(2) The department, with the advice and approval of the office of financial management and the information services board, shall establish criteria, consistent with portfolio-based information technology management, for the evaluation of agency budget requests under this section. These budget requests shall be made in the context of an agency's information technology portfolio; technology initiatives underlying budget requests are subject to board review. Criteria shall include, but not be limited to: Feasibility of the proposed projects, consistency with the state strategic information technology plan, consistency with information technology portfolios, appropriate provision for public electronic access to information, evidence of business process streamlining and gathering of business and technical requirements, and services, costs, and benefits.

(3) For the purposes of this section, "state agency" includes every state office, department, division, bureau, board, commission, or other state agency, including offices headed by a statewide elected official.

**NEW SECTION. Sec. 8.** A new section is added to chapter 2.68 RCW to read as follows:

The administrative office of the courts, under the direction of the judicial information system committee, shall:

(1) Develop a judicial information system information technology portfolio consistent with the provisions of RCW 43.105.172;

(2) Participate in the development of an enterprise-based statewide information technology strategy as defined in section 11 of this act;

(3) Ensure the judicial information system information technology portfolio is organized and structured to clearly indicate participation in and use of enterprise-wide information technology strategies;

(4) As part of the biennial budget process, submit the judicial information system information technology portfolio to the chair and ranking member of the ways and means committees of the house of representatives and the senate, the office of financial management, and the department of information services.

**NEW SECTION. Sec. 9.** A new section is added to chapter 44.68 RCW to read as follows:

The legislative service center, under the direction of the joint legislative systems committee and the joint legislative systems administrative committee, shall:

(1) Develop a legislative information technology portfolio consistent with the provisions of RCW 43.105.172;

(2) Participate in the development of an enterprise-based statewide information technology strategy as defined in section 11 of this act;

(3) Ensure the legislative information technology portfolio is organized and structured to clearly indicate participation in and use of enterprise-wide information technology strategies;

(4) As part of the biennial budget process, submit the legislative information technology portfolio to the chair and ranking member of the ways and means committees of the house of representatives and the senate, the office of financial management, and the department of information services.

**Sec. 10.** RCW 43.105.160 and 2005 c 319 s 110 are each amended to read as follows:

(1) The department shall prepare a state strategic information technology plan which shall establish a statewide mission, goals, and objectives for the use of information technology, including goals for electronic access to government records, information, and services. The plan shall be developed in accordance with the standards and policies established by the board and shall be submitted to the board for review, modification as necessary, and approval. The department shall seek the advice of the board in the development of this plan.

The plan approved under this section shall be updated as necessary and submitted to the governor and the chairs and ranking minority members of the appropriations committees of the senate and the house of representatives.

(2) The department shall prepare a biennial state performance report on information technology based on agency performance reports required under RCW 43.105.170 and other information deemed appropriate by the department. The report shall include, but not be limited to:

(a) An analysis, based upon agency portfolios, of the state's information technology infrastructure, including its value, condition, and capacity;

(b) An evaluation of performance relating to information technology;

(c) An assessment of progress made toward implementing the state strategic information technology plan, including progress toward electronic access to public information and enabling citizens to have two-way access to public records, information, and services;

(d) An analysis of the success or failure, feasibility, progress, costs, and timeliness of implementation of major information technology projects under RCW 43.105.190. At a minimum, the portion of the report regarding major technology projects must include:

(i) Final total cost of ownership budget data for the entire life-cycle of the project, including capital and operational costs, broken down by staffing costs, contracted service, hardware purchase or lease, software purchase or lease, travel, and training. The original budget must also be shown for comparison;

(ii) The original proposed project schedule and the final actual project schedule;

(iii) Data regarding progress towards meeting the original goals and performance measures of the project, particularly as it relates to operating budget savings;

(iv) Discussion of lessons learned on the project, performance of any contractors used, and reasons for project delays or cost increases; and

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((e)) (v) Identification of benefits, cost avoidance, and cost savings generated by major information technology projects developed under RCW 43.105.190; and

((f)) (e) An inventory of state information services, equipment, and proprietary software.

Copies of the report shall be distributed biennially to the governor and the chairs and ranking minority members of the appropriations committees of the senate and the house of representatives. The major technology section of the report must examine major information technology projects completed in the previous biennium to determine the performance of the implementing agency, cost and value effectiveness, and timeliness and other performance metrics necessary to assess the quality and value of the investment. The report must also examine projects two years after completion for progress toward meeting performance goals and operating budget savings. The first report is due December 15, 2011, and every two years thereafter.

NEW SECTION. Sec. 11. A new section is added to chapter 43.105 RCW to read as follows:

(1) The board, in consultation with the department and the office of financial management, shall develop an enterprise-based strategy for information technology in state government informed by information technology expenditure information collected from state agencies pursuant to section 4 of this act.

(2) In developing an enterprise-based strategy for the state, the board is encouraged to consider the following strategies as possible opportunities for achieving greater efficiency:

(a) Developing personal computer replacement policies for the state, with consideration given to alternative models of personal computer usage for state government use, such as thin client, software as a service, browser-based functionality, mobile computing, and other models that are less dependent upon traditional computing;

(b) Pursuing shared services initiatives across functional areas, which may include services such as e-mail, telephony, and data storage;

(c) Pursuing pilot programs, such as a pilot to demonstrate the value of application management services, to identify opportunities to achieve operational efficiencies;

(d) Developing data storage policies and record retention requirements and schedules for state agencies, in consultation with the office of the secretary of state, the state archivist, and the state records committee, where appropriate;

(e) Reviewing existing software maintenance contracts to identify opportunities to renegotiate the price of those contracts or the level of service; and

(f) Partnering with private providers for commonly utilized information technology products and services.

(3) The legislative and judicial branches are encouraged to coordinate with, and participate in, shared services initiatives, pilot programs, and development of the enterprise-based strategy, where appropriate.

NEW SECTION. Sec. 12. (1) The office of financial management, with the assistance of the department of information services, must identify areas of potential savings that will achieve the savings identified in the omnibus appropriations act. These areas shall include, but not be limited to, wireless service, telephony, desktop computers, electronic mail services, and data storage.

(2) The office of financial management shall work with the appropriate state agencies, including the department of information services, to generate savings that arise pursuant to this act from the improved acquisition and delivery of information technology products and services. To accomplish this objective, state agencies must provide timely, accurate total cost of ownership data to the office of financial management upon request regarding information

technology products and services. The savings must be at least equal to those specified in the omnibus appropriations act. The office of financial management shall reduce agency allotments by the amounts specified in the omnibus appropriations act to reflect these savings. The allotment reductions shall be placed in unallotted status and remain unexpended.

(3) For the purposes of this section, "state agency" means any office, department, board, commission, or other unit of state government, but does not include a unit of state government headed by a statewide elected official, an institution of higher education as defined in RCW 28B.10.016, the higher education coordinating board, the state board for community and technical colleges, or agencies of the legislative or judicial branches of state government.

(4) This section expires June 30, 2011.

NEW SECTION. Sec. 13. A new section is added to chapter 43.105 RCW to read as follows:

(1) The department, in collaboration with state agencies, shall conduct an inventory from existing data sets of information technology assets owned or leased by state agencies. This inventory must be used to inform the development of a state information technology asset management process. Prior to implementation of any state information technology asset management process, the department must submit its recommended approach, including an estimate of the associated implementation costs, to the board for approval.

(2) For the purposes of this section, "state agency" includes every state office, department, division, bureau, board, commission, or other state agency, including offices headed by a statewide elected official, and offices in the legislative and judicial branches of state government, notwithstanding the provisions of RCW 44.68.105.

NEW SECTION. Sec. 14. (1) The office of financial management, in consultation with the department of information services and the information services board, shall develop and execute a pilot program to contract with one or more private providers for the delivery, support, maintenance, and operation of information technology through application managed services or other similar programs across one or more functional areas of information technology, or for the information technology needs of one or more state agencies. In selecting a private provider for the pilot program, the office of financial management must engage in a competitive bid process or request for proposals process.

(2) The objective of the pilot program will be to assess: (a) Each agency's information technology application portfolio; (b) opportunities to use best practices and tools; and (c) whether the agency should proceed with application managed services or other similar programs based on the results of the assessment.

(3) The department of information services and the office of financial management shall prepare a report of the findings of the pilot assessments by September 1, 2010, and a final report of the pilot results by June 30, 2011. The final report must include the following: Identification of short and long-term costs, risks, benefits, and other organizational impacts of implementing application managed services or other similar programs within the pilot agencies. The final report must also identify opportunities for other state agencies to benefit from application managed services or other similar programs. The results of the pilot program must be provided to the information services board, the governor, the senate committee on ways and means, and the house of representatives committee on ways and means.

NEW SECTION. Sec. 15. The department of information services shall, by November 1, 2010, report on the efforts to develop a centralized information project management office pursuant to section 142, chapter 522, Laws of 2007. The report shall address

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the current status of the effort, lessons learned, and recommended changes to the program.

**NEW SECTION. Sec. 16.** (1) The office of financial management shall contract with an independent consultant to:

(a) Conduct a technical and financial analysis of the state's plan for the consolidated state data center and office building; and

(b) Develop a strategic business plan outlining the various options for use of the site that maximize taxpayer value consistent with the terms of the finance lease and related agreements.

(2) The analysis must consist of, at a minimum, an assessment of the following issues:

(a) The total capital and operational costs for the proposed data center and office building;

(b) The occupancy rate for the consolidated state data center, as compared to total capacity, that will result in revenue exceeding total capital and operating expenses;

(c) The potential reallocation of resources that could result from the consolidation of state data centers and office space; and

(d) The potential return on investment for the consolidated state data center and office building that may be realized without impairing any existing contractual rights under the terms of the financing lease and related agreements.

(3) This review must build upon the analysis and migration strategy for the consolidated state data center being prepared for the department of information services.

(4) The strategic plan must be submitted to the governor and the legislature by December 1, 2010.

**NEW SECTION. Sec. 17.** (1) The department of information services and the office of financial management shall review existing statutes, procedures, data, and organizational structures to identify opportunities to increase efficiency, customer service, and transparency in information technology. This effort shall include:

(a) Identifying and addressing financial data needed to comprehensively evaluate information technology spending from an enterprise perspective;

(b) A review of best practices in information technology governance, including private sector practices and lessons learned from other states; and

(c) A review of existing statutes regarding information technology governance, standards, and financing to identify inconsistencies between current law and best practices.

(2) The department of information services and the office of financial management shall report findings and recommendations to the governor and the appropriate committees of the legislature by December 1, 2010.

**NEW SECTION. Sec. 18.** RCW 43.105.017 (Legislative intent) and 1992 c 20 s 6, 1990 c 208 s 2, & 1987 c 504 s 2 are each repealed.

**NEW SECTION. Sec. 19.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2010, in the omnibus appropriations act, this act is null and void."

Senator Prentice spoke in favor of adoption of the committee striking amendment.

#### MOTION

Senator Fraser moved that the following amendment by Senators Fraser and Swecker to the committee striking amendment be adopted:

On page 2 of the striking amendment, after line 31, strike all of section 3.

Renumber the sections consecutively and correct any internal references accordingly.

Senators Fraser, Swecker and Prentice spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Fraser and Swecker on page 2, after line 31 to the committee striking amendment to Engrossed Substitute House Bill No. 3178.

The motion by Senator Fraser carried and the amendment to the committee striking amendment was adopted by voice vote.

#### MOTION

Senator Marr moved that the following amendment by Senator Marr and others to the committee striking amendment be adopted:

On page 5, after line 7, insert the following:

"(5) This section does not apply to the department of transportation and the department of licensing."

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Marr, the amendment by Senator Marr and others on page 5, line 7 to the committee striking amendment to Engrossed Substitute House Bill No. 3178 was withdrawn.

#### MOTION

Senator Marr moved that the following amendment by Senator Marr and others to the committee striking amendment be adopted:

On page 5, after line 22, insert the following:

"(5) This section does not apply to the department of transportation and the department of licensing."

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Marr, the amendment by Senator Marr and others on page 5, after line 22 to the committee striking amendment to Engrossed Substitute House Bill No. 3178 was withdrawn.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means as amended to Engrossed Substitute House Bill No. 3178.

The motion by Senator Prentice carried and the committee striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendments were adopted:

On page 1, line 2 of the title, after "government;" strike the remainder of the title and insert "amending RCW 43.105.190, 43.88.560, 43.105.041, 43.105.180, and 43.105.160; adding new sections to chapter 43.105 RCW; adding a new section to chapter 43.88 RCW; adding a new section to chapter 2.68 RCW; adding a new section to chapter 44.68 RCW; creating new sections; repealing RCW 43.105.017; and providing an expiration date."

On page 17, line 5 of the title amendment, strike "43.105.190".

#### MOTION

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On motion of Senator Prentice, the rules were suspended, Engrossed Substitute House Bill No. 3178 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

## MOTION

On motion of Senator Marr, Senators Brown and Hargrove were excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 3178 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 3178 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Hargrove and McCaslin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3178 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 6364, by Senators Fraser, Brandland, Prentice and Zarelli

Concerning the capital budget.

## MOTION

On motion of Senator Fraser, Substitute Senate Bill No. 6364 was substituted for Senate Bill No. 6364 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Fraser moved that the following amendment by Senator Fraser and Brandland be adopted:

On page 65, line 12, strike "\$6,705,000" and insert "\$6,479,000"

On page 65, line 14, strike "\$6,479,000" and insert "\$6,705,000"

Senator Fraser spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Fraser and Brandland on page 65, line 12 to Substitute Senate Bill No. 6364.

The motion by Senator Fraser carried and the amendment was adopted by voice vote.

## MOTION

Senator Fraser moved that the following amendment by Senators Prentice and Fraser be adopted:

On page 14, on line 28, delete all material through line 30

Renumber the subsections accordingly.

Senator Fraser spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Prentice and Fraser on page 14, line 28 to Substitute Senate Bill No. 6364.

The motion by Senator Fraser carried and the amendment was adopted by voice vote.

## MOTION

Senator Fraser moved that the following amendment by Senators Fraser and Brandland be adopted:

On page 15, on line 19, delete all material through line 22 on page 19.

On page 21, on line 18, delete all material through line 32 on page 23.

Renumber the sections accordingly.

Senator Fraser spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Fraser and Brandland on page 15, line 19 to Substitute Senate Bill No. 6364.

The motion by Senator Fraser carried and the amendment was adopted by voice vote.

## MOTION

Senator Fraser moved that the following amendment by Senators Fraser and Brandland be adopted:

On page 29, after line 12, strike all material through line 32, and insert the following:

"(2) \$1,000,000 of the reappropriation is provided solely for the Chehalis basin flood control authority or other authorized local government groups to develop governance agreements for development of flood hazard mitigation measures throughout the basin. The agreements must be executed by July 1, 2011.

(3) \$1,700,000 of the reappropriation is provided solely for the Chehalis basin flood control authority to administer studies for development of basin-wide flood hazard mitigation measures, provided that any expenditures from the reappropriation for studies, plans, or investigations of large scale retention structures shall be limited to fifty percent of the total cost for such studies, plans, or investigations.

(4) \$200,000 of the reappropriations is provided solely for an early flood warning system.

(5) It is the intent of the legislature to fulfill the commitment of section 101, chapter 179, Laws of 2008 and chapter 180, Laws of 2008, by appropriating funds when the federal match requirement is needed."

On page 29, on line 35, strike "\$3,560,000" and insert "\$4,540,000"

On page 30, on line 3, strike "\$42,990,000" and insert "\$42,010,000"

Senator Fraser spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Fraser and Brandland on page 29, after line 12 to Substitute Senate Bill No. 6364.

The motion by Senator Fraser carried and the amendment was adopted by voice vote.

MOTION

Senator Fraser moved that the following amendment by Senator Fraser and Brandland be adopted:

On page 44, line 15, decrease the State Toxics Control Account--State appropriation by \$511,000.

Adjust the totals accordingly.

Senator Fraser spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Fraser and Brandland on page 44, line 15 to Substitute Senate Bill No. 6364.

The motion by Senator Fraser carried and the amendment was adopted by voice vote.

MOTION

Senator Fraser moved that the following amendment by Senator Fraser and others be adopted:

On page 61, on line 2, delete "Forest Biomass" and insert "Forest Hazard Reduction and Biomass Equipment"

On page 61, on line 5, delete "The appropriation" insert "(1) The natural resource equipment account appropriation"

On page 61, after line 20, insert the following:

"(2) The state building construction account-state appropriation is provided solely for forest improvement treatments on forest lands of eastern Washington with the five highest priority fire and disease hazards in Stevens, Ferry, Lincoln, Pend Oreille, Okanogan, and Spokane counties. Forest treatments on private lands funded by this appropriation require an agreement with the property owner that includes a commitment to maintain the improvements to forest health.

On page 61, after line 22, insert the following:

"State Building Construction Account--State. . . \$4,021,000"

Insert a subtotal and adjust the total accordingly

Senator Fraser spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Fraser and others on page 61, line 2 to Substitute Senate Bill No. 6364.

The motion by Senator Fraser carried and the amendment was adopted by voice vote.

MOTION

On motion of Senator Fraser, the rules were suspended, Engrossed Substitute Senate Bill No. 6364 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fraser and Morton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6364.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6364 and the bill passed the Senate by the following vote: Yeas, 32; Nays, 16; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brandland, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig,

Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin and Tom

Voting nay: Senators Becker, Benton, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, Morton, Parlette, Pflug, Roach, Schoesler, Stevens, Swecker and Zarelli

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6364, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6675, by Senators Murray, Pflug, Shin, Kastama, Kohl-Welles and Kilmer

Creating the Washington global health technologies and product development competitiveness program and allowing certain tax credits for program contributions.

MOTIONS

On motion of Senator Kastama, Second Substitute Senate Bill No. 6675 was substituted for Senate Bill No. 6675 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator Kastama, the rules were suspended, Second Substitute Senate Bill No. 6675 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kastama and Kohl-Welles spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6675.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6675 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 1; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Oemig

Absent: Senator Hewitt

Excused: Senator McCaslin

SECOND SUBSTITUTE SENATE BILL NO. 6675, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6712, by Senators Hobbs, Shin and Kilmer

Extending expiring tax incentives for certain clean alternative fuel vehicles, producers of certain biofuels, and federal aviation regulation part 145 certificated repair stations.

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## MOTIONS

On motion of Senator Hobbs, Substitute Senate Bill No. 6712 was substituted for Senate Bill No. 6712 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hobbs, the rules were suspended, Substitute Senate Bill No. 6712 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6712.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6712 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmier, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6712, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## PERSONAL PRIVILEGE

Senator Brandland: "I rise before the body to say goodbye. I'm not coming back. I've been thinking about this for months. My wife and I have kicked this around and I have been on again off again and I decided about two weekends ago as I was sitting in my front room watching the sun come up over Mt. Baker. I decided I'm not coming back. I could not do that without coming to this body and saying thank you. I have voted with you. I have voted against you. I have made so many friends here. I do leave with a heavy heart. I do love this job but my heart's in Bellingham and I want to go back there. So, thank you very much for your friendship and your kindness and I wish you luck in the future."

## REMARKS BY THE PRESIDENT

President Owen: "Senator Brandland, you sure, if we didn't give you two first round draft picks or something, we couldn't get you to change your mind?"

## PERSONAL PRIVILEGE

Senator Hewitt: "Thank you Mr. President. Resignation not accepted! I'm going to be sad to lose Dale. He's caused me a lot of heartaches in my caucus but I still love the guy regardless. He's what I would call a true statesman and a gentleman. I mean you never know what, whether Dale has something up his sleeve or not because he comes to you and tells you just like it is. If everybody operated that way down here this would be a tremendous, tremendous place, it would be a better place to be. So, I got to tell you my friend, I'm going to, seriously going to miss you. You have become a very good friend of mine for the

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last eight years and I tried like hell to talk him out of this. You can't believe how hard I've tried but it's a decision he has to make and I think he has his priorities squared away. His heart is in the right spot and wish you well my friend."

## PERSONAL PRIVILEGE

Senator Murray: "Well, speaking for side of the aisle I've enjoyed working with you tremendously on a variety of issues and Senator Brandland, I particularly have admired your integrity and your courage. So, from this side of the aisle the best of luck in the days and years ahead."

## PERSONAL PRIVILEGE

Senator Hargrove: "Thank you Mr. President. Well, Dale's been on my committee for a number of years and it's really interesting because our committee passes almost everything unanimously out of our committee. One thing, in all seriousness I am going to miss is that law enforcement perspective as we look at human services and correction issues. It has been invaluable to have that perspective on our committee as we have sorted through sex offender issues, through correction issues, through the prison reform stuff that Senator Carrell worked on. I mean it's just, so many times the experience Dale brought from being an ex-sheriff. He has inside knowledge about stuff that we just can't grasp without having that experience here. I am going to repeat one little story that I thought it might be humorous to people, that is, I can remember, I think the first year he was on my committee. You know I run a pretty tight ship in executive session and he actually started to speak on an amendment and then he looked up at me and said, 'Oh, you didn't want me to talk did you' and we got along really good because we worked together. He's never surprised me with anything. We've always known what was going to go on and worked things out and I think it's been a real pleasure Dale but we're really, really, really going to miss that experience on all the issues we've had to deal with in our committee and hope you won't be a stranger."

## PERSONAL PRIVILEGE

Senator Fraser: "Thank you Mr. President. I too would like to say thank you, once again, second time in about fifteen minutes to Senator Brandland. It's just been a total pleasure to work with him. I think we've worked on, I think four capital budgets together now and I would agree with Senator Hargrove that Senator Brandland's experience in law enforcement has been very helpful in working through projects on the capital budget and he and I have a lot in common. He's a former County Sheriff, I'm a former County Commissioner so it's really fun for us sometimes to sit there and think about you know we were in county government, now we're here and it's been great. Senator Brandland's always thoughtful, pleasant, informed and a total pleasure to work with and I guess this will be our last capital budget together but I hope we will be working on other things together. Thank you very much."

## PERSONAL PRIVILEGE

Senator Stevens: "Thank you Mr. President. I too rise with a heavy heart and as the ranking member on the committee that Senator Hargrove was speaking of, the Human Services and Corrections Committee. It has been a great opportunity to work together to be able to come together on issues that were very diverse and varied and to have the kind of input that we've had. I

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will never forget the time that we were in the majority, we were in that other building when we were temporarily out of this building and I can remember we were stalling for time. I was sitting beside Senator Brandland and I, he made a comment about a bill as a freshman I took advantage of the opportunity and I stood and asked him if he would yield to a question and he agreed. I said 'Can you tell me the difference between the striker and the bill, the original bill?' He turned and looked at me and said, 'I don't have a clue and why are doing this to me?' So, I will through that back at you, 'Why are you doing this to us?' I wish you well in your continued retirement and to you and your wife, the very best."

PERSONAL PRIVILEGE

Senator Kline: "Mr. President, I know I'm one of forty-eight guys around here, guys and gals, that are going to miss you. Dale, you're one of the reasons why bills, and we all have probably noticed this, at least in my committee and, I know, in Human Services and Corrections have been going out much more unanimously, much more well worked, with a great deal of attention and a lot of hand shaking across the aisle. The reason I think in large part is your ability to exercise what we liberals called empathy. That is the ability to see something not only from your own point of view and the people you know but from the point of view of others and law enforcement, yes, but also the people that I know that I represent, the people who may be doing some crazy stuff and sometimes maybe not always playing by the rules as we know they should. To exercise some empathy and to not be simple the sheriff as I hope I can and at some point and I know that all of us try. That takes a lot and I certainly appreciate it. I had an experience, a couple, I think it's two or three years ago, of going up to Bellingham to work with the Whatcom County Sherriff's, they were hosting a task force on gang activity and the sheriff's department in Whatcom County is Dale Brandland fans. He's there, not just their boss, their friend. That was pretty clear that they all knew and loved Dale as we do. Dale, I'm going to miss you. Come back sometime and see us. Thank you."

PERSONAL PRIVILEGE

Senator Kastama: "Thank you Mr. President, I didn't plan on speaking on this today. I really didn't but I do want to say this. When I first came to the chamber I think I learned the importance of being a Senator from Senator Snyder. He taught me very clearly that, in fact, you're no longer the individual Jim Kastama, whatever your name happens to be. You are a Senator and you behave as a Senator. I want to say that you will be missed in this body but I want you to know that you are truly a Senator. As a Senator very few people have gone through what we have gone through, have had to make the difficult decisions that we've had to make, have had to balance all the difference interest groups like we've had to do, had to make decisions that really impact lives in Washington State and determine allocations of millions if not billions of dollars. Very few people had to make those decisions and I want you to know that you, again, will always be welcome here as a Senator and you've been a great part of the Senate. Thank you for that."

PERSONAL PRIVILEGE

Senator Parlette: "Well, I got to tell you, isn't that what he often says too? I didn't plan on speaking but I got to tell you. Well, I have to tell you that we are going to really miss Dale for a

variety of reasons but he's part of our leadership team. He is our Whip and you know what the job is, to bring everybody into caucus. He sits right next to me in caucus as I chair the meeting and he keeps track of who wants to take turns speaking because he writes it down. But as you know, Dale is so often out there working on issues, bringing people together that sometimes, I mean at least every other time we go into caucus, we have to go look for the Whip because he's out there trying to solve a problem and bring people together so we can come to an agreement on what we're voting on. And that's the truth. That happens ninety percent of the time. Dale, we're going to miss you. You are a statesman. A prince of a man. We'll miss you."

PERSONAL PRIVILEGE

Senator Franklin: "Thank you Mr. President. Well, Senator Brandland, I have dubbed you the even-spirited guy. You have been a mediator, a moderator bringing people together, solving problems and a point of view law enforcement officer. When I come out of my office and you are there, it's 'Hello Rosa. Good morning Senator.' You really have served well. You are going to be missed for the person you are, for what you have brought to this august body and for your even temperament-except once. When I saw you sort of flustered, then somebody said something that did not, you were not, did not meet your principles and that only one time. But when we have legislators who serve, this is not an easy job, we get hit left and right. You get hit if you do the right thing. You get hit if you do the wrong thing-what they consider the wrong thing. You have looked at both sides and tried to come up with solutions to help all of us. When I come to Whatcom County, I'm going to look you up. Thank you. You've done a good job. You are going to be missed. Thank you for your service."

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2759, by House Committee on Ways & Means (originally sponsored by Representatives Maxwell, Anderson, Roberts, White, Goodman, Clibborn, Kenney, Hunter, Morrell and Haigh)

Adjusting local school finance related to nonresident students enrolled in online learning.

The measure was read the second time.

MOTION

Senator McAuliffe moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** While the legislature supports online learning, the legislature finds that there are unintended financial consequences for taxpayers, both locally and statewide, when significant numbers of nonresident students enroll in a school district for purposes of enrolling in an online school program. Therefore, the legislature intends to adjust finance policy related to voter-approved excess levies and a district's qualification for local effort enhancement funds to eliminate these unintended consequences.

**Sec. 2.** RCW 84.52.0531 and 2009 c 4 s 908 are each amended to read as follows:

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The maximum dollar amount which may be levied by or for any school district for maintenance and operation support under the provisions of RCW 84.52.053 shall be determined as follows:

(1) For excess levies for collection in calendar year 1997, the maximum dollar amount shall be calculated pursuant to the laws and rules in effect in November 1996.

(2) For excess levies for collection in calendar year 1998 and thereafter, the maximum dollar amount shall be the sum of (a) plus or minus (b) and (c) of this subsection minus (d) of this subsection:

(a) The district's levy base as defined in subsections (3) and (4) of this section multiplied by the district's maximum levy percentage as defined in subsection (5) of this section;

(b) For districts in a high/nonhigh relationship, the high school district's maximum levy amount shall be reduced and the nonhigh school district's maximum levy amount shall be increased by an amount equal to the estimated amount of the nonhigh payment due to the high school district under RCW 28A.545.030(3) and 28A.545.050 for the school year commencing the year of the levy;

(c) For districts in an interdistrict cooperative agreement, the nonresident school district's maximum levy amount shall be reduced and the resident school district's maximum levy amount shall be increased by an amount equal to the per pupil basic education allocation included in the nonresident district's levy base under subsection (3) of this section multiplied by:

(i) The number of full-time equivalent students served from the resident district in the prior school year; multiplied by:

(ii) The serving district's maximum levy percentage determined under subsection (5) of this section; increased by:

(iii) The percent increase per full-time equivalent student as stated in the state basic education appropriation section of the biennial budget between the prior school year and the current school year divided by fifty-five percent;

(d) The district's maximum levy amount shall be reduced by the maximum amount of state matching funds for which the district is eligible under RCW 28A.500.010.

(3) For excess levies for collection in calendar year 2005 and thereafter, a district's levy base shall be the sum of allocations in (a) through (c) of this subsection received by the district for the prior school year and the amounts determined under subsection (4) of this section, including allocations for compensation increases, plus the sum of such allocations multiplied by the percent increase per full time equivalent student as stated in the state basic education appropriation section of the biennial budget between the prior school year and the current school year and divided by fifty-five percent. A district's levy base shall not include local school district property tax levies or other local revenues, or state and federal allocations not identified in (a) through (c) of this subsection. In addition, for excess levies for collection in calendar year 2011 and thereafter, a district's levy base shall not include state or federal allocations attributable to nonresident students enrolled in the district in an online school program as defined under RCW 28A.250.010 based on an interdistrict agreement or under the provisions of RCW 28A.225.220 and 28A.225.225.

(a) The district's basic education allocation as determined pursuant to RCW 28A.150.250, 28A.150.260, and 28A.150.350;

(b) State and federal categorical allocations for the following programs:

(i) Pupil transportation;

(ii) Special education;

(iii) Education of highly capable students;

(iv) Compensatory education, including but not limited to learning assistance, migrant education, Indian education, refugee programs, and bilingual education;

(v) Food services; and

(vi) Statewide block grant programs; and

(c) Any other federal allocations for elementary and secondary school programs, including direct grants, other than federal impact aid funds and allocations in lieu of taxes.

(4) For levy collections in calendar years 2005 through 2011, in addition to the allocations included under subsection (3)(a) through (c) of this section, a district's levy base shall also include the following:

(a) The difference between the allocation the district would have received in the current school year had RCW 84.52.068 not been amended by chapter 19, Laws of 2003 1st sp. sess. and the allocation the district received in the current school year pursuant to RCW 84.52.068. The office of the superintendent of public instruction shall offset the amount added to a district's levy base pursuant to this subsection (4)(a) by any additional per student allocations included in a district's levy base pursuant to the enactment of an initiative to the people subsequent to June 10, 2004; and

(b) The difference between the allocations the district would have received the prior school year had RCW 28A.400.205 not been amended by chapter 20, Laws of 2003 1st sp. sess. and the allocations the district actually received the prior school year pursuant to RCW 28A.400.205. The office of the superintendent of public instruction shall offset the amount added to a district's levy base pursuant to this subsection (4)(b) by any additional salary increase allocations included in a district's levy base pursuant to the enactment of an initiative to the people subsequent to June 10, 2004.

(5) A district's maximum levy percentage shall be twenty-two percent in 1998 and twenty-four percent in 1999 and every year thereafter; plus, for qualifying districts, the grandfathered percentage determined as follows:

(a) For 1997, the difference between the district's 1993 maximum levy percentage and twenty percent; and

(b) For 1998 and thereafter, the percentage calculated as follows:

(i) Multiply the grandfathered percentage for the prior year times the district's levy base determined under subsection (3) of this section;

(ii) Reduce the result of (b)(i) of this subsection by any levy reduction funds as defined in subsection (6) of this section that are to be allocated to the district for the current school year;

(iii) Divide the result of (b)(ii) of this subsection by the district's levy base; and

(iv) Take the greater of zero or the percentage calculated in (b)(iii) of this subsection.

(6) "Levy reduction funds" shall mean increases in state funds from the prior school year for programs included under subsections (3) and (4) of this section: (a) That are not attributable to enrollment changes, compensation increases, or inflationary adjustments; and (b) that are or were specifically identified as levy reduction funds in the appropriations act. If levy reduction funds are dependent on formula factors which would not be finalized until after the start of the current school year, the superintendent of public instruction shall estimate the total amount of levy reduction funds by using prior school year data in place of current school year data. Levy reduction funds shall not include moneys received by school districts from cities or counties.

(7) For the purposes of this section, "prior school year" means the most recent school year completed prior to the year in which the levies are to be collected.

(8) For the purposes of this section, "current school year" means the year immediately following the prior school year.

(9) Funds collected from transportation vehicle fund tax levies shall not be subject to the levy limitations in this section.

(10) The superintendent of public instruction shall develop rules and regulations and inform school districts of the pertinent data necessary to carry out the provisions of this section.

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(11) For calendar year 2009, the office of the superintendent of public instruction shall recalculate school district levy authority to reflect levy rates certified by school districts for calendar year 2009.

**Sec. 3.** RCW 84.52.0531 and 1997 c 259 s 2 are each amended to read as follows:

The maximum dollar amount which may be levied by or for any school district for maintenance and operation support under the provisions of RCW 84.52.053 shall be determined as follows:

(1) For excess levies for collection in calendar year 1997, the maximum dollar amount shall be calculated pursuant to the laws and rules in effect in November 1996.

(2) For excess levies for collection in calendar year 1998 and thereafter, the maximum dollar amount shall be the sum of (a) plus or minus (b) and (c) of this subsection minus (d) of this subsection:

(a) The district's levy base as defined in subsection (3) of this section multiplied by the district's maximum levy percentage as defined in subsection (4) of this section;

(b) For districts in a high/nonhigh relationship, the high school district's maximum levy amount shall be reduced and the nonhigh school district's maximum levy amount shall be increased by an amount equal to the estimated amount of the nonhigh payment due to the high school district under RCW 28A.545.030(3) and 28A.545.050 for the school year commencing the year of the levy;

(c) For districts in an interdistrict cooperative agreement, the nonresident school district's maximum levy amount shall be reduced and the resident school district's maximum levy amount shall be increased by an amount equal to the per pupil basic education allocation included in the nonresident district's levy base under subsection (3) of this section multiplied by:

(i) The number of full-time equivalent students served from the resident district in the prior school year; multiplied by:

(ii) The serving district's maximum levy percentage determined under subsection (4) of this section; increased by:

(iii) The percent increase per full-time equivalent student as stated in the state basic education appropriation section of the biennial budget between the prior school year and the current school year divided by fifty-five percent;

(d) The district's maximum levy amount shall be reduced by the maximum amount of state matching funds for which the district is eligible under RCW 28A.500.010.

(3) For excess levies for collection in calendar year 1998 and thereafter, a district's levy base shall be the sum of allocations in (a) through (c) of this subsection received by the district for the prior school year, including allocations for compensation increases, plus the sum of such allocations multiplied by the percent increase per full time equivalent student as stated in the state basic education appropriation section of the biennial budget between the prior school year and the current school year and divided by fifty-five percent. A district's levy base shall not include local school district property tax levies or other local revenues, or state and federal allocations not identified in (a) through (c) of this subsection. In addition, for excess levies for collection in calendar year 2011 and thereafter, a district's levy base shall not include state or federal allocations attributable to nonresident students enrolled in the district in an online school program as defined under RCW 28A.250.010 based on an interdistrict agreement or under the provisions of RCW 28A.225.220 and 28A.225.225.

(a) The district's basic education allocation as determined pursuant to RCW 28A.150.250, 28A.150.260, and 28A.150.350;

(b) State and federal categorical allocations for the following programs:

(i) Pupil transportation;

(ii) Special education;

(iii) Education of highly capable students;

(iv) Compensatory education, including but not limited to learning assistance, migrant education, Indian education, refugee programs, and bilingual education;

(v) Food services; and

(vi) Statewide block grant programs; and

(c) Any other federal allocations for elementary and secondary school programs, including direct grants, other than federal impact aid funds and allocations in lieu of taxes.

(4) A district's maximum levy percentage shall be twenty-two percent in 1998 and twenty-four percent in 1999 and every year thereafter; plus, for qualifying districts, the grandfathered percentage determined as follows:

(a) For 1997, the difference between the district's 1993 maximum levy percentage and twenty percent; and

(b) For 1998 and thereafter, the percentage calculated as follows:

(i) Multiply the grandfathered percentage for the prior year times the district's levy base determined under subsection (3) of this section;

(ii) Reduce the result of (b)(i) of this subsection by any levy reduction funds as defined in subsection (5) of this section that are to be allocated to the district for the current school year;

(iii) Divide the result of (b)(ii) of this subsection by the district's levy base; and

(iv) Take the greater of zero or the percentage calculated in (b)(iii) of this subsection.

(5) "Levy reduction funds" shall mean increases in state funds from the prior school year for programs included under subsection (3) of this section: (a) That are not attributable to enrollment changes, compensation increases, or inflationary adjustments; and (b) that are or were specifically identified as levy reduction funds in the appropriations act. If levy reduction funds are dependent on formula factors which would not be finalized until after the start of the current school year, the superintendent of public instruction shall estimate the total amount of levy reduction funds by using prior school year data in place of current school year data. Levy reduction funds shall not include moneys received by school districts from cities or counties.

(6) For the purposes of this section, "prior school year" means the most recent school year completed prior to the year in which the levies are to be collected.

(7) For the purposes of this section, "current school year" means the year immediately following the prior school year.

(8) Funds collected from transportation vehicle fund tax levies shall not be subject to the levy limitations in this section.

(9) The superintendent of public instruction shall develop rules and regulations and inform school districts of the pertinent data necessary to carry out the provisions of this section.

NEW SECTION. **Sec. 4.** Section 2 of this act expires January 1, 2012.

NEW SECTION. **Sec. 5.** Section 3 of this act takes effect January 1, 2012."

#### MOTION

Senator Tom moved that the following amendment by Senator Tom and others to the committee striking amendment be adopted:

On page 2, line 32, after "thereafter," strike "a" and insert "for districts with twenty-five percent or greater full-time equivalent students enrolled in an online school program as specified in this subsection, the"

On page 6, line 19, after "thereafter," strike "a" and insert "for districts with twenty-five percent or greater full-time equivalent

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students enrolled in an online school program as specified in this subsection, the"

SECOND READING

Senator Tom spoke in favor of adoption of the amendment to the committee striking amendment.

SENATE BILL NO. 6855, by Senators McDermott and Kohl-Welles

The President declared the question before the Senate to be the adoption of the amendment by Senator Tom and others on page 2, line 32 to the committee striking amendment to Second Substitute House Bill No. 2759.

Exempting community centers from property taxation and imposing leasehold excise taxes on such property.

The measure was read the second time.

The motion by Senator Tom carried and the amendment to the committee striking amendment was adopted by voice vote.

MOTION

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means as amended to Second Substitute House Bill No. 2759.

On motion of Senator McDermott, the rules were suspended, Senate Bill No. 6855 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The motion by Senator McAuliffe carried and the committee striking amendment as amended was adopted by voice vote.

Senator McDermott spoke in favor of passage of the bill.

MOTION

The President declared the question before the Senate to be the final passage of Senate Bill No. 6855.

There being no objection, the following title amendment was adopted:

ROLL CALL

On page 1, line 2 of the title, after "learning;" strike the remainder of the title and insert "amending RCW 84.52.0531 and 84.52.0531; creating a new section; providing an effective date; and providing an expiration date."

The Secretary called the roll on the final passage of Senate Bill No. 6855 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 7; Absent, 1; Excused, 2.

MOTION

Voting yea: Senators Becker, Benton, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Stevens, Swecker and Tom

On motion of Senator McAuliffe, the rules were suspended, Second Substitute House Bill No. 2759 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Voting nay: Senators Brandland, Holmquist, King, Parlette, Pflug, Schoesler and Zarelli

Senator McAuliffe spoke in favor of passage of the bill.

Absent: Senator Roach

Excused: Senators McCaslin and Prentice

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2759 as amended by the Senate.

SENATE BILL NO. 6855, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

ROLL CALL

MOTION

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2759 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 3; Absent, 1; Excused, 1.

On motion of Senator Delvin, Senator Roach was excused.

SECOND READING

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3209, by House Committee on Transportation (originally sponsored by Representatives Clibborn, Rolfes, Seaquist and Morris)

Voting nay: Senators Carrell, Holmquist and Morton

Managing costs of the ferry system.

Absent: Senator Roach

The measure was read the second time.

Excused: Senator McCaslin

MOTION

SECOND SUBSTITUTE HOUSE BILL NO. 2759 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

Senator Haugen moved that the following striking amendment by Senator Haugen and others be adopted:

MOTION

Strike everything after the enacting clause and insert the following:

On motion of Senator Marr, Senator Prentice was excused.

"NEW SECTION. **Sec. 1.** The legislature finds that the Washington state ferry system is a critical component of the state's highway system. The legislature further finds that ferry system revenues are inadequate to support the capital requirements of aging vessels and terminals, and operating cost growth is fast outpacing

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the growth of fare revenue and gas tax revenue dedicated to the ferry system. As such, and drawing on more than four consecutive years of legislative analysis and operating policy reforms, the legislature finds that a realignment of the ferry compensation policy framework is an appropriate next step toward the legislature's long-term goal of assuring sustainable, cost-effective ferry service. The legislature further intends to address increased costs of ferry system operations in a manner that balances the interests of the ferry system, ferry workforce, and fare payers. It is the intent of the legislature that final recommendations from the joint transportation committee ferry study, submitted to the legislature during the 2009 regular legislative session, be enacted by the legislature and implemented by the department of transportation as soon as practicable in order to benefit from the efficiencies and cost savings identified in the recommendations. It is also the intent of the legislature to make various additional policy changes aimed at further efficiencies and cost savings. Since the study began in 2006, recommendations have been made with regard to long range planning and implementing the most efficient and effective balance between ferry capital and operating investments. It is intended that this act, the 2009-2011 omnibus transportation appropriations act, and subsequent transportation appropriations acts serve as vehicles for enacting these recommendations in order to maximize the utilization of existing capacity and to make the most efficient use of existing assets and tax dollars.

**NEW SECTION. Sec. 2.** (1) The office of financial management shall convene an expert panel of ferry operators to conduct a management review of the Washington state department of transportation, ferries division. The panel must have between three and five members and must represent both management and operations specialists, as well as public and private ferry operators that can bring best practices and state-of-the-art knowledge to this effort. The panel shall review past studies, conduct its own review, and make recommendations of the ferries division's management. The study must be completed and submitted to the transportation committees of the senate and house of representatives by August 1, 2010, and must include:

(a) A review and comment on the studies and audits conducted on the ferries division over the past four years in areas of overhead and management organization structure and costs, maintenance practices, scheduling, and prioritization of preservation of vessels and terminals to ensure they represent current best practices;

(b) A report on the implementation of the recommendations in the studies and audits described in (a) of this subsection, and a report on their effectiveness compared to national best practices; and

(c) A review and report on the procedures for crew and service scheduling and recommendations on opportunities for improvement to provide the least cost of operations while maintaining service schedules that meet the needs of ferries customers.

(2) This section expires July 1, 2011.

**Sec. 3.** RCW 47.60.355 and 2007 c 512 s 11 are each amended to read as follows:

(1) Terminal and vessel preservation funding requests shall only be for assets in the life-cycle cost model.

(2) Terminal and vessel preservation funding requests that exceed five million dollars per project must be accompanied by a predesign study. The predesign study must include all elements required by the office of financial management.

**Sec. 4.** RCW 47.60.365 and 2007 c 512 s 12 are each amended to read as follows:

The department shall develop terminal and vessel design standards that:

(1) Adhere to vehicle level of service standards as described in RCW 47.06.140;

(2) Adhere to operational strategies as described in RCW 47.60.327; and

(3) Choose the most efficient balance between capital and operating investments by using a life-cycle cost analysis.

**Sec. 5.** RCW 47.60.375 and 2008 c 124 s 3 are each amended to read as follows:

(1) The capital plan must adhere to the following:

(a) A current ridership demand forecast;

(b) Vehicle level of service standards as described in RCW 47.06.140;

(c) Operational strategies as described in RCW 47.60.327; and

(d) Terminal and vessel design standards as described in RCW 47.60.365.

(2) The capital plan must include the following:

(a) A current vessel preservation plan;

(b) A current systemwide vessel rebuild and replacement plan as described in RCW 47.60.377;

(c) A current vessel deployment plan; and

(d) A current terminal preservation plan that adheres to the life-cycle cost model on capital assets as described in RCW 47.60.345.

**Sec. 6.** RCW 47.60.385 and 2008 c 124 s 6 are each amended to read as follows:

(1) Terminal improvement, vessel improvement, and vessel acquisition project funding requests must adhere to the capital plan(~~(-~~

~~—(2) Requests for terminal improvement design and construction funding must~~), include route-based planning, and be submitted with a predesign study that:

(a) Includes all elements required by the office of financial management;

(b) Separately identifies basic terminal and vessel elements essential for operation and their costs;

(c) Separately identifies additional elements to provide ancillary revenue and customer comfort and their costs;

(d) Includes construction phasing options that are consistent with forecasted ridership increases;

(e) Separately identifies additional elements requested by local governments and the cost and proposed funding source of those elements;

(f) Separately identifies multimodal elements and the cost and proposed funding source of those elements; (~~and~~)

(g) Identifies all contingency amounts(.

(h)[(3)] When planning for new vessel acquisitions, the department must evaluate the long-term vessel operating costs related to fuel efficiency and staffing);

(h) Identifies any terminal, vessel, or other capital modifications that would be required as a result of the proposed capital project;

(i) Includes planned service modifications as a result of the proposed capital project, and the consistency of those service modifications with the capital plan; and

(j) Demonstrates the evaluation of long-term operating costs including fuel efficiency, staffing, and preservation.

(2) The department shall prioritize vessel preservation and acquisition funding requests over vessel improvement funding requests.

**NEW SECTION. Sec. 7.** A new section is added to chapter 47.60 RCW to read as follows:

(1) In addition to the requirements of RCW 47.60.385(1), initial requests for, and substantial modification requests to, vessel acquisition funding must be submitted with a predesign study that:

(a) Includes a business decision case on vessel sizing;

(b) Includes an updated vessel deployment plan demonstrating maximum use of existing vessels, and an updated systemwide vessel rebuild and replacement plan;

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(c) Includes an analysis that demonstrates that acquiring a new vessel or improving an existing vessel is more cost-effective than other alternatives considered. At a minimum, alternatives explored must include:

- (i) Alternatives to new vessel construction that increase capacity of existing vessels;
- (ii) Service level changes in lieu of adding vessel capacity; and
- (iii) Acquiring existing vessels or existing vessel plans rather than wholly new vessels or vessel plans; and
- (d) Demonstrates that the vessel proposed for improvement, construction, or purchase, if intended to replace an existing vessel or to place an existing vessel into inactive or reserve status, is consistent with the scheduled replacements in the rebuild and replacement plan.

(2) In addition to the requirements of RCW 47.60.385(1), initial requests for, and substantial modification requests to, vessel improvement funding must be submitted with a predesign study that includes:

- (a) An explanation of any regulatory changes necessitating the improvement;
- (b) The requirements under subsection (1) of this section, if the improvement modifies the capacity of a vessel;
- (c) A cost-benefit analysis of any modifications designed to improve fuel efficiency, including potential impacts on vessel maintenance and repair; and
- (d) An assessment of out-of-service time associated with making the improvement and ongoing preservation of the improvement.

**NEW SECTION. Sec. 8.** (1) Signage must be prominently displayed at each terminal and on each vessel that informs the public that assaults on Washington state employees will be prosecuted to the full extent of the law.

(2) The department shall investigate the frequency, severity, and prosecutorial results of assaults on Washington state ferries employees and, if appropriate, make recommendations to the transportation committees of the senate and house of representatives during the 2011 legislative session regarding methods to decrease the number of assaults on employees and procedures for prosecuting those who assault employees.

(3) This section expires June 30, 2011.

**Sec. 9.** RCW 47.28.030 and 2007 c 218 s 90 are each amended to read as follows:

(1)(a) A state highway shall be constructed, altered, repaired, or improved, and improvements located on property acquired for right-of-way purposes may be repaired or renovated pending the use of such right-of-way for highway purposes, by contract or state forces. The work or portions thereof may be done by state forces when the estimated costs thereof are less than fifty thousand dollars and effective July 1, 2005, sixty thousand dollars(~~:(—PROVIDED, That)~~).

(b) When delay of performance of such work would jeopardize a state highway or constitute a danger to the traveling public, the work may be done by state forces when the estimated cost thereof is less than eighty thousand dollars and effective July 1, 2005, one hundred thousand dollars.

(c) When the department of transportation determines to do the work by state forces, it shall enter a statement upon its records to that effect, stating the reasons therefor.

(d) To enable a larger number of small businesses, and minority, and women contractors to effectively compete for department of transportation contracts, the department may adopt rules providing for bids and award of contracts for the performance of work, or furnishing equipment, materials, supplies, or operating services whenever any work is to be performed and the engineer's estimate

indicates the cost of the work would not exceed eighty thousand dollars and effective July 1, 2005, one hundred thousand dollars.

(2) The rules adopted under this section:

~~((4))~~ (a) Shall provide for competitive bids to the extent that competitive sources are available except when delay of performance would jeopardize life or property or inconvenience the traveling public; and

~~((2))~~ (b) Need not require the furnishing of a bid deposit nor a performance bond, but if a performance bond is not required then progress payments to the contractor may be required to be made based on submittal of paid invoices to substantiate proof that disbursements have been made to laborers, material suppliers, mechanics, and subcontractors from the previous partial payment; and

~~((3))~~ (c) May establish prequalification standards and procedures as an alternative to those set forth in RCW 47.28.070, but the prequalification standards and procedures under RCW 47.28.070 shall always be sufficient.

(3) The department of transportation shall comply with such goals and rules as may be adopted by the office of minority and women's business enterprises to implement chapter 39.19 RCW with respect to contracts entered into under this chapter. The department may adopt such rules as may be necessary to comply with the rules adopted by the office of minority and women's business enterprises under chapter 39.19 RCW.

(4)(a) For the period of March 15, 2010, through June 30, 2011, work for less than one hundred twenty thousand dollars may be performed on ferry vessels and terminals by state forces.

(b) The department shall hire a disinterested, third party to conduct an independent analysis to identify methods of reducing out-of-service times for vessel maintenance, preservation, and improvement projects. The analysis must include options to extend the hours and days of operation at Eagle Harbor maintenance facility, consolidating work while vessels are at shipyards by having state forces perform services traditionally performed at Eagle Harbor at the shipyard, and decreasing the allowable time at shipyards. The analysis must also compare the out-of-service vessel times of performing services by state forces versus contracting out those services which in turn must be used to form a recommendation as to what the threshold of work performed on ferry vessels and terminals by state forces should be. This analysis must be presented to the transportation committees of the senate and house of representatives by December 1, 2010.

(c) The department shall develop a proposed ferry vessel maintenance, preservation, and improvement program and present it to the transportation committees of the senate and house of representatives by December 1, 2010. The proposed program must:

(i) Improve the basis for budgeting vessel maintenance, preservation, and improvement costs and for projecting those costs into a sixteen-year financial plan;

(ii) Limit the amount of planned out-of-service time to the greatest extent possible, including options associated with department staff as well as commercial shipyards; and

(iii) Be based on the service plan in the capital plan, recognizing that vessel preservation and improvement needs may vary by route.

(d) In developing the proposed ferry vessel maintenance, preservation, and improvement program, the department shall consider the following, related to reducing vessel out-of-service time:

(i) The costs compared to benefits of Eagle Harbor repair and maintenance facility operations options to include staffing costs and benefits in terms of reduced out-of-service time;

(ii) The maintenance requirements for on-vessel staff, including the benefits of a systemwide standard;

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(iii) The costs compared to benefits of staff performing preservation or maintenance work, or both, while the vessel is under way, tied up between sailings, or not deployed;

(iv) A review of the department's vessel maintenance, preservation, and improvement program contracting process and contractual requirements;

(v) The costs compared to benefits of allowing for increased costs associated with expedited delivery;

(vi) A method for comparing the anticipated out-of-service time of proposed projects and other projects planned during the same construction period;

(vii) Coordination with required United States coast guard dry dockings;

(viii) A method for comparing how proposed projects relate to the service requirements of the route on which the vessel normally operates; and

(ix) A method for evaluating the ongoing maintenance and preservation costs associated with proposed improvement projects.

**Sec. 10.** RCW 47.64.120 and 2006 c 164 s 3 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, the employer and ferry system employee organizations, through their collective bargaining representatives, shall meet at reasonable times(,) to negotiate in good faith with respect to wages, hours, working conditions, and insurance, ((and health care benefits as limited by RCW 47.64.270,)) and other matters mutually agreed upon. Employer funded retirement benefits shall be provided under the public employees retirement system under chapter 41.40 RCW and shall not be included in the scope of collective bargaining. Except as provided under RCW 47.64.270, the employer is not required to bargain over health care benefits. Any retirement system or retirement benefits shall not be subject to collective bargaining.

(2) Upon ratification of bargaining agreements, ferry employees are entitled to an amount equivalent to the interest earned on retroactive compensation increases. For purposes of this section, the interest earned on retroactive compensation increases is the same monthly rate of interest that was earned on the amount of the compensation increases while held in the state treasury. The interest will be computed for each employee until the date the retroactive compensation is paid, and must be allocated in accordance with appropriation authority. The interest earned on retroactive compensation is not considered part of the ongoing compensation obligation of the state and is not compensation earnable for the purposes of chapter 41.40 RCW. Negotiations shall also include grievance procedures for resolving any questions arising under the agreement, which shall be embodied in a written agreement and signed by the parties.

(3) Except as otherwise provided in this chapter, if a conflict exists between an executive order, administrative rule, or agency policy relating to wages, hours, and terms and conditions of employment and a collective bargaining agreement negotiated under this chapter, the collective bargaining agreement shall prevail. A provision of a collective bargaining agreement that conflicts with the terms of a statute is invalid and unenforceable.

**Sec. 11.** RCW 47.64.170 and 2007 c 160 s 1 are each amended to read as follows:

(1) Any ferry employee organization certified as the bargaining representative shall be the exclusive representative of all ferry employees in the bargaining unit and shall represent all such employees fairly.

(2) A ferry employee organization or organizations and the governor may each designate any individual as its representative to engage in collective bargaining negotiations.

(3) Negotiating sessions, including strategy meetings of the employer or employee organizations, mediation, and the

deliberative process of arbitrators are exempt from the provisions of chapter 42.30 RCW. Hearings conducted by arbitrators may be open to the public by mutual consent of the parties.

(4) Terms of any collective bargaining agreement may be enforced by civil action in Thurston county superior court upon the initiative of either party.

(5) Ferry system employees or any employee organization shall not negotiate or attempt to negotiate directly with anyone other than the person who has been appointed or authorized a bargaining representative for the purpose of bargaining with the ferry employees or their representative.

(6)(a) Within ten working days after the first Monday in September of every odd-numbered year, the parties shall attempt to agree on an interest arbitrator to be used if the parties are not successful in negotiating a comprehensive collective bargaining agreement. If the parties cannot agree on an arbitrator within the ten-day period, either party may request a list of seven arbitrators from the federal mediation and conciliation service. The parties shall select an interest arbitrator using the coin toss/alternate strike method within thirty calendar days of receipt of the list. Immediately upon selecting an interest arbitrator, the parties shall cooperate to reserve dates with the arbitrator for potential arbitration between August 1st and September 15th of the following even-numbered year. The parties shall also prepare a schedule of at least five negotiation dates for the following year, absent an agreement to the contrary. The parties shall execute a written agreement before November 1st of each odd-numbered year setting forth the name of the arbitrator and the dates reserved for bargaining and arbitration. This subsection (6)(a) imposes minimum obligations only and is not intended to define or limit a party's full, good faith bargaining obligation under other sections of this chapter.

(b) The negotiation of a proposed collective bargaining agreement by representatives of the employer and a ferry employee organization shall commence on or about February 1st of every even-numbered year.

(c) For negotiations covering the 2009-2011 biennium and subsequent biennia, the time periods specified in this section, and in RCW 47.64.210 and 47.64.300 through 47.64.320, must ensure conclusion of all agreements on or before October 1st of the even-numbered year next preceding the biennial budget period during which the agreement should take effect. These time periods may only be altered by mutual agreement of the parties in writing. Any such agreement and any impasse procedures agreed to by the parties under RCW 47.64.200 must include an agreement regarding the new time periods that will allow final resolution by negotiations or arbitration by October 1st of each even-numbered year.

(7) ((Until a new collective bargaining agreement is in effect, the terms and conditions of the previous collective bargaining agreement shall remain in force.)) It is the intent of this section that the collective bargaining agreement or arbitrator's award shall commence on July 1st of each odd-numbered year and shall terminate on June 30th of the next odd-numbered year to coincide with the ensuing biennial budget year, as defined by RCW 43.88.020(7), to the extent practical. It is further the intent of this section that all collective bargaining agreements be concluded by October 1st of the even-numbered year before the commencement of the biennial budget year during which the agreements are to be in effect. After the expiration date of a collective bargaining agreement negotiated under this chapter, all of the terms and conditions specified in the collective bargaining agreement remain in effect until the effective date of a subsequently negotiated agreement, not to exceed one year from the expiration date stated in the agreement. Thereafter, the employer may unilaterally implement according to law.

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(8) The office of financial management shall conduct a salary survey, for use in collective bargaining and arbitration, which must be conducted through a contract with a firm nationally recognized in the field of human resources management consulting.

(9)(a) The governor shall submit a request either for funds necessary to implement the collective bargaining agreements including, but not limited to, the compensation and fringe benefit provisions or for legislation necessary to implement the agreement, or both. Requests for funds necessary to implement the collective bargaining agreements shall not be submitted to the legislature by the governor unless such requests:

(i) Have been submitted to the director of the office of financial management by October 1st before the legislative session at which the requests are to be considered; and

(ii) Have been certified by the director of the office of financial management as being feasible financially for the state.

(b) The governor shall submit a request either for funds necessary to implement the arbitration awards or for legislation necessary to implement the arbitration awards, or both. Requests for funds necessary to implement the arbitration awards shall not be submitted to the legislature by the governor unless such requests:

(i) Have been submitted to the director of the office of financial management by October 1st before the legislative session at which the requests are to be considered; and

(ii) Have been certified by the director of the office of financial management as being feasible financially for the state.

(c) The legislature shall approve or reject the submission of the request for funds necessary to implement the collective bargaining agreements or arbitration awards as a whole for each agreement or award. The legislature shall not consider a request for funds to implement a collective bargaining agreement or arbitration award unless the request is transmitted to the legislature as part of the governor's budget document submitted under RCW 43.88.030 and 43.88.060. If the legislature rejects or fails to act on the submission, either party may reopen all or part of the agreement and award or the exclusive bargaining representative may seek to implement the procedures provided for in RCW 47.64.210 and 47.64.300.

~~(9)~~ (10) If, after the compensation and fringe benefit provisions of an agreement are approved by the legislature, a significant revenue shortfall occurs resulting in reduced appropriations, as declared by proclamation of the governor or by resolution of the legislature, both parties shall immediately enter into collective bargaining for a mutually agreed upon modification of the agreement.

**Sec. 12.** RCW 47.64.200 and 2006 c 164 s 7 are each amended to read as follows:

As the first step in the performance of their duty to bargain, the employer and the employee organization shall endeavor to agree upon impasse procedures. Unless otherwise agreed to by the employee organization and the employer in their impasse procedures, the arbitrator or panel ~~(is limited to selecting the most reasonable offer, in its judgment, of the final offers on each impasse item submitted by the parties. The employee organization and the employer may mutually agree to the impasse procedure under which the arbitrator or panel may)~~ shall issue a decision it deems just and appropriate with respect to each impasse item. If the parties fail to agree upon impasse procedures under this section, the impasse procedures provided in RCW 47.64.210 and 47.64.230 and 47.64.300 through 47.64.320 apply. It is unlawful for either party to refuse to participate in the impasse procedures provided in RCW 47.64.210 and 47.64.230 and 47.64.300 through 47.64.320.

**Sec. 13.** RCW 47.64.270 and 2006 c 164 s 17 are each amended to read as follows:

(1) The employer and one coalition of all the exclusive bargaining representatives subject to this chapter and chapter 41.80 RCW shall conduct negotiations regarding the dollar amount expended on behalf of each employee for health care benefits.

(2) Absent a collective bargaining agreement to the contrary, the department of transportation shall provide contributions to insurance and health care plans for ferry system employees and dependents, as determined by the state health care authority, under chapter 41.05 RCW ~~(and)~~.

(3) The employer and employee organizations may collectively bargain for ~~(other)~~ insurance ~~(and health care)~~ plans other than health care benefits, and employer contributions may exceed that of other state agencies as provided in RCW 41.05.050. ~~((To the extent that ferry employees by bargaining unit have absorbed the required offset of wage increases by the amount that the employer's contribution for employees' and dependents' insurance and health care plans exceeds that of other state general government employees in the 1985-87 fiscal biennium, employees shall not be required to absorb a further offset except to the extent the differential between employer contributions for those employees and all other state general government employees increases during any subsequent fiscal biennium. If such differential increases in the 1987-89 fiscal biennium or the 1985-87 offset by bargaining unit is insufficient to meet the required deduction, the amount available for compensation shall be reduced by bargaining unit by the amount of such increase or the 1985-87 shortage in the required offset. Compensation shall include all wages and employee benefits.))~~

**Sec. 14.** RCW 47.64.280 and 2006 c 164 s 18 are each amended to read as follows:

(1) There is created the marine employees' commission. The governor shall appoint the commission with the consent of the senate. The commission shall consist of three members: One member to be appointed from labor, one member from industry, and one member from the public who has significant knowledge of maritime affairs. The public member shall be chair of the commission. One of the original members shall be appointed for a term of three years, one for a term of four years, and one for a term of five years. Their successors shall be appointed for terms of five years each, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he or she succeeds. Commission members are eligible for reappointment. Any member of the commission may be removed by the governor, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause. Commission members are not eligible for state retirement under chapter 41.40 RCW by virtue of their service on the commission. Members of the commission shall be compensated in accordance with RCW 43.03.250 and shall receive reimbursement for official travel and other expenses at the same rate and on the same terms as provided for the transportation commission by RCW 47.01.061. The payments shall be made from the Puget Sound ferry operations account.

(2) The commission shall: (a) Adjust all complaints, grievances, and disputes between labor and management arising out of the operation of the ferry system as provided in RCW 47.64.150; (b) provide for impasse mediation as required in RCW 47.64.210; ~~and~~ (c) ~~((provide salary surveys as required in RCW 47.64.220; and~~ ~~(d))~~ perform those duties required in RCW 47.64.300.

(3)(a) In adjudicating all complaints, grievances, and disputes, the party claiming labor disputes shall, in writing, notify the commission, which shall make careful inquiry into the cause thereof and issue an order advising the ferry employee, or the ferry employee organization representing him or her, and the department of transportation, as to the decision of the commission.

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(b) The parties are entitled to offer evidence relating to disputes at all hearings conducted by the commission. The orders and awards of the commission are final and binding upon any ferry employee or employees or their representative affected thereby and upon the department.

(c) The commission shall adopt rules of procedure under chapter 34.05 RCW.

(d) The commission has the authority to subpoena any ferry employee or employees, or their representatives, and any member or representative of the department, and any witnesses. The commission may require attendance of witnesses and the production of all pertinent records at any hearings held by the commission. The subpoenas of the commission are enforceable by order of any superior court in the state of Washington for the county within which the proceeding may be pending. The commission may hire staff as necessary, appoint consultants, enter into contracts, and conduct studies as reasonably necessary to carry out this chapter.

**Sec. 15.** RCW 47.64.320 and 2006 c 164 s 14 are each amended to read as follows:

(1) The mediator, arbitrator, or arbitration panel may consider only matters that are subject to bargaining under this chapter, except that health care benefits are not subject to interest arbitration.

(2) The decision of an arbitrator or arbitration panel is not binding on the legislature and, if the legislature does not approve the funds necessary to implement provisions pertaining to compensation and fringe benefit provisions of an arbitrated collective bargaining agreement, is not binding on the state, the department of transportation, or the ferry employee organization.

(3) In making its determination, the arbitrator or arbitration panel shall be mindful of the legislative purpose under RCW 47.64.005 and 47.64.006 and, as additional standards or guidelines to aid it in reaching a decision, shall take into consideration the following factors:

(a) The financial ability of the department to pay for the compensation and fringe benefit provisions of a collective bargaining agreement;

(b) Past collective bargaining contracts between the parties including the bargaining that led up to the contracts;

~~((b))~~ (c) The constitutional and statutory authority of the employer;

~~((c))~~ (d) Stipulations of the parties;

~~((d))~~ (e) The results of the salary survey as required in RCW ~~(47.64.220)~~ 47.64.170(8);

~~((e))~~ (f) Comparison of wages, hours, employee benefits, and conditions of employment of the involved ferry employees with those of public and private sector employees in states along the west coast of the United States, including Alaska, and in British Columbia doing directly comparable but not necessarily identical work, giving consideration to factors peculiar to the area and the classifications involved;

~~((f))~~ (g) Changes in any of the foregoing circumstances during the pendency of the proceedings;

~~((g))~~ (h) The limitations on ferry toll increases and operating subsidies as may be imposed by the legislature; ~~((and~~

~~((h))~~ (i) The ability of the state to retain ferry employees;

(j) The overall compensation presently received by the ferry employees, including direct wage compensation, vacations, holidays and other paid excused time, pensions, insurance benefits, and all other direct or indirect monetary benefits received; and

(k) Other factors that are normally or traditionally taken into consideration in the determination of matters that are subject to bargaining under this chapter.

(4) This section applies to any matter before the respective mediator, arbitrator, or arbitration panel.

**Sec. 16.** RCW 41.80.020 and 2002 c 354 s 303 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, the matters subject to bargaining include wages, hours, and other terms and conditions of employment, and the negotiation of any question arising under a collective bargaining agreement.

(2) The employer is not required to bargain over matters pertaining to:

(a) Health care benefits or other employee insurance benefits, except as required in subsection (3) of this section;

(b) Any retirement system or retirement benefit; or

(c) Rules of the director of personnel or the Washington personnel resources board adopted under section 203, chapter 354, Laws of 2002.

(3) Matters subject to bargaining include the number of names to be certified for vacancies, promotional preferences, and the dollar amount expended on behalf of each employee for health care benefits. However, except as provided otherwise in this subsection for institutions of higher education, negotiations regarding the number of names to be certified for vacancies, promotional preferences, and the dollar amount expended on behalf of each employee for health care benefits shall be conducted between the employer and one coalition of all the exclusive bargaining representatives subject to this chapter. The exclusive bargaining representatives for employees that are subject to chapter 47.64 RCW shall bargain the dollar amount expended on behalf of each employee for health care benefits with the employer as part of the coalition under this subsection. Any such provision agreed to by the employer and the coalition shall be included in all master collective bargaining agreements negotiated by the parties. For institutions of higher education, promotional preferences and the number of names to be certified for vacancies shall be bargained under the provisions of RCW 41.80.010(4).

(4) The employer and the exclusive bargaining representative shall not agree to any proposal that would prevent the implementation of approved affirmative action plans or that would be inconsistent with the comparable worth agreement that provided the basis for the salary changes implemented beginning with the 1983-1985 biennium to achieve comparable worth.

(5) The employer and the exclusive bargaining representative shall not bargain over matters pertaining to management rights established in RCW 41.80.040.

(6) Except as otherwise provided in this chapter, if a conflict exists between an executive order, administrative rule, or agency policy relating to wages, hours, and terms and conditions of employment and a collective bargaining agreement negotiated under this chapter, the collective bargaining agreement shall prevail. A provision of a collective bargaining agreement that conflicts with the terms of a statute is invalid and unenforceable.

(7) This section does not prohibit bargaining that affects contracts authorized by RCW 41.06.142.

**Sec. 17.** 2010 c ... (ESSB 6381) s 222 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--MARINE--PROGRAM X Puget Sound Ferry Operations Account--State	
Appropriation.....	(( <del>\$425,922,000</del> ))
\$425,252,000	

The appropriation in this section is subject to the following conditions and limitations:

(1) \$78,754,952 of the Puget Sound ferry operations account--state appropriation is provided solely for auto ferry vessel operating fuel in the 2009-11 fiscal biennium. This appropriation is contingent upon the enactment of ~~((sections 716 and 701 of this act))~~ section 701, chapter . . . (ESSB 6381), Laws of 2010. All fuel

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purchased by the Washington state ferries at Harbor Island truck terminal for the operation of the Washington state ferries diesel powered vessels must be a minimum of five percent biodiesel blend so long as the per gallon price of diesel containing a five percent biodiesel blend level does not exceed the per gallon price of diesel by more than five percent.

(2) To protect the waters of Puget Sound, the department shall investigate nontoxic alternatives to fuel additives and other commercial products that are used to operate, maintain, and preserve vessels.

(3) If, after the department's review of fares and pricing policies, the department proposes a fuel surcharge, the department must evaluate other cost savings and fuel price stabilization strategies that would be implemented before the imposition of a fuel surcharge. The department shall report to the legislature and transportation commission on its progress of implementing new fuel forecasting and budgeting practices, price hedging contracts for fuel purchases, and fuel conservation strategies by November 30, 2010.

(4) The department shall strive to significantly reduce the number of injuries suffered by Washington state ferries employees. By December 15, 2009, the department shall submit to the office of financial management and the transportation committees of the legislature its implementation plan to reduce such injuries.

(5) The department shall continue to provide service to Sidney, British Columbia. The department may place a Sidney terminal departure surcharge on fares for out of state residents riding the Washington state ferry route that runs between Anacortes, Washington and Sidney, British Columbia, if the cost for landing/license fee, taxes, and additional amounts charged for docking are in excess of \$280,000 CDN. The surcharge must be limited to recovering amounts above \$280,000 CDN.

(6) The department shall analyze operational solutions to enhance service on the Bremerton to Seattle ferry run. The Washington state ferries shall report its analysis to the transportation committees of the legislature by December 1, 2009.

(7) The office of financial management budget instructions require agencies to recast enacted budgets into activities. The Washington state ferries shall include a greater level of detail in its 2011-13 omnibus transportation appropriations act request, as determined jointly by the office of financial management, the Washington state ferries, and the legislative transportation committees.

(8) (~~(\$4,794,000)~~) \$4,124,000 of the Puget Sound ferry operations account--state appropriation is provided solely for commercial insurance for ferry assets. The office of financial management, after consultation with the transportation committees of the legislature, must present a business plan for the Washington state ferry system's insurance coverage to the 2010 legislature. The business plan must include a cost-benefit analysis of Washington state ferries' current commercial insurance purchased for ferry assets and a review of self-insurance for noncatastrophic events.

(9) \$1,100,000 of the Puget Sound ferry operations account--state appropriation is provided solely for a marketing program. The department shall present a marketing program proposal to the transportation committees of the legislature during the 2010 legislative session before implementing this program. Of this amount, \$10,000 is for the city of Port Townsend and \$10,000 is for the town of Coupeville for mitigation expenses related to only one vessel operating on the Port Townsend/Keystone ferry route. The moneys provided to the city of Port Townsend and town of Coupeville are not contingent upon the required marketing proposal.

(10) \$350,000 of the Puget Sound ferry operations account--state appropriation is provided solely for two extra trips per day during the summer of 2009 season, beyond the current schedule, on the Port Townsend/Keystone route.

(11) When purchasing uniforms that are required by collective bargaining agreements, the department shall contract with the lowest cost provider.

(12) The legislature finds that measuring the performance of Washington state ferries requires the measurement of quality, timeliness, and unit cost of services delivered to customers. Consequently, the department must develop a set of metrics that measure that performance and report to the transportation committees of the legislature and to the office of financial management on the development of these measurements along with recommendations to the 2010 legislature on which measurements must become a part of the next omnibus transportation appropriations act.

(13) As a priority task, the department is directed to propose a comprehensive incident and accident investigation policy and appropriate procedures, and to provide the proposal to the legislature by November 1, 2009, using existing resources and staff expertise. In addition to consulting with ferry system unions and the United States coast guard, the Washington state ferries is encouraged to solicit independent outside expertise on incident and accident investigation best practices as they may be found in other organizations with a similar concern for marine safety. It is the intent of the legislature to enact the policies into law and to publish that law and procedures as a manual for Washington state ferries' accident/incident investigations. Until that time, the Washington state ferry system must exercise particular diligence to assure that any incident or accident investigations are conducted within the spirit of the guidelines of this act. The proposed policy must contain, at a minimum:

(a) The definition of an incident and an accident and the type of investigation that is required by both types of events;

(b) The process for appointing an investigating officer or officers and a description of the authorities and responsibilities of the investigating officer or officers. The investigating officer or officers must:

(i) Have the appropriate training and experience as determined by the policy;

(ii) Not have been involved in the incident or accident so as to avoid any conflict of interest;

(iii) Have full access to all persons, records, and relevant organizations that may have information about or may have contributed to, directly or indirectly, the incident or accident under investigation, in compliance with any affected employee's or employees' respective collective bargaining agreement and state laws and rules regarding public disclosure under chapter 42.56 RCW;

(iv) Be provided with, if requested by the investigating officer or officers, appropriate outside technical expertise; and

(v) Be provided with staff and legal support by the Washington state ferries as may be appropriate to the type of investigation;

(c) The process of working with the affected employee or employees in accordance with the employee's or employees' respective collective bargaining agreement and the appropriate union officials, within protocols afforded to all public employees;

(d) The process by which the United States coast guard is kept informed of, interacts with, and reviews the investigation;

(e) The process for review, approval, and implementation of any approved recommendations within the department; and

(f) The process for keeping the public informed of the investigation and its outcomes, in compliance with any affected employee's or employees' respective collective bargaining agreement and state laws and rules regarding public disclosure under chapter 42.56 RCW.

(14) \$7,300,000 of the Puget Sound ferry operations account--state appropriation is provided solely for the purposes of

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travel time associated with Washington state ferries employees. However, if Engrossed Substitute House Bill No. 3209 (managing costs of ferry system) is enacted by June 30, 2010, containing an appropriation for purposes of travel time associated with Washington state ferries employees, the amount provided in this subsection lapses.

(15) \$50,000 of the Puget Sound ferry operations account--state appropriation is provided solely to implement a mechanism to report on-time performance statistics.

(a) The department shall conduct a study to identify process changes that would improve on-time performance on a route-by-route basis. The study must include looking into the slowing down of vessels for fuel economy purposes and touch-and-go sailings on peak runs. The department shall report its findings to the transportation committees of the senate and house of representatives by December 1, 2010.

(b) The department shall, by November 1, 2010, report to the transportation committees of the legislature statistics regarding its on-time arrival and departure status on a route-by-route and month-by-month basis, as well as an annual route-by-route and systemwide basis, weighted by the number of customers on each sailing and distinguishing peak period on-time performance. The statistics must include reasons for any delays over ten minutes from the scheduled time. The statistics must be prominently displayed on the Washington state ferries' web site. Each Washington state ferries vessel and terminal must prominently display the statistics as they relate to their specific route.

(16) The department shall investigate outsourcing the call center functions planned for the ferry reservation system and report its findings to the transportation committees of the senate and house of representatives by December 15, 2010.

(17) By July 1, 2010, the department shall provide to the governor and the transportation committees of the senate and house of representatives a listing of all benefits that Washington state ferries union employees receive that other state employees do not traditionally receive. The listing must include any costs associated with these benefits.

Sec. 18. 2010 c ... (ESSB 6381) s 306 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--WASHINGTON STATE FERRIES CONSTRUCTION--PROGRAM W

Puget Sound Capital Construction Account--State	
Appropriation.....	\$126,824,000
Puget Sound Capital Construction Account--Federal	
Appropriation.....	\$60,364,000
Puget Sound Capital Construction Account--Local	
Appropriation.....	\$200,000
Transportation 2003 Account (Nickel Account)--State	
Appropriation.....	\$51,734,000
Transportation Partnership Account--State	
Appropriation.....	\$66,879,000
Multimodal Transportation Account--State	
Appropriation.....	\$149,000
TOTAL APPROPRIATION.....	\$306,150,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$126,824,000 of the Puget Sound capital construction account-- state appropriation, \$60,364,000 of the Puget Sound capital construction account--federal appropriation, \$200,000 of the Puget Sound capital construction account--local appropriation, \$66,879,000 of the transportation partnership account--state appropriation, \$51,734,000 of the transportation 2003 account (nickel account)--state appropriation, and \$149,000 of the multimodal transportation account-- state appropriation are

provided solely for ferry capital projects, project support, and administration as listed in LEAP Transportation Document ALL PROJECTS 2010-2 as developed March 8, 2010, Program - Ferries Construction Program (W). Of the total appropriation, a maximum of \$10,627,000 may be used for administrative support, a maximum of \$8,184,000 may be used for terminal project support, and a maximum of \$4,497,000 may be used for vessel project support. Of the total appropriation, \$5,851,000 is provided solely for a reservation system and associated communications projects.

(2) \$51,734,000 of the transportation 2003 account (nickel account)--state appropriation, \$63,100,000 of the transportation partnership account--state appropriation, and \$10,164,000 of the Puget Sound capital construction account--state appropriation are provided solely for the acquisition of three new Island Home class ferry vessels subject to the conditions of RCW 47.56.780. The department shall pursue a contract for the second and third Island Home class ferry vessels with an option to purchase a fourth Island Home class ferry vessel. However, if sufficient resources are available to build one 144-auto vessel prior to exercising the option to build the fourth Island Home class ferry vessel, procurement of the fourth Island Home class ferry vessel will be postponed and the department shall pursue procurement of a 144-auto vessel.

(a) The first two Island Home class ferry vessels must be placed on the Port Townsend-Keystone route.

(b) The department may add additional passenger capacity to one of the Island Home class ferry vessels to make it more flexible within the system in the future, if doing so does not require additional staffing on the vessel.

(c) Cost savings from the following initiatives will be included in the funding of these vessels: The department's review and update of the vessel life-cycle cost model as required under this section; and the implementation of technology efficiencies as required under section 602 of this act.

(3)(a) \$8,450,000 of the Puget Sound capital construction account-- state appropriation and \$2,450,000 of the transportation partnership account--state appropriation are provided solely for the following projects related to the design of a 144-vehicle vessel class: (i) \$1,380,000 is provided solely for completion of the contract for owner- furnished equipment; (ii) \$8,320,000 is provided solely for completion of the technical design, detail design, and production drawings, all of which must plan for an aluminum superstructure; (iii) \$480,000 is provided solely for the storage of owner-furnished equipment; and (iv) a maximum of \$720,000 is for construction engineering. In completing the contract for owner-furnished equipment, the department shall use as much of the already procured equipment as is practicable on the Island Home class ferry vessels if it is likely to be obsolete before it is used in procured 144-vehicle vessels.

(b) The department shall conduct a cost-benefit study on alternative furnishings and fittings for the 144-vehicle vessel class. The study must review the proposed interior furnishings and fittings for the long-term maintenance and out-of-service vessel costs and, if appropriate, propose alternative interior furnishings and fittings that will decrease long-term maintenance and out-of-service vessel costs. The study must include a projection of out-of-service time and a life- cycle cost analysis of planned out-of-service time, including the impact on fleet size. The department must submit the study to the joint transportation committee by August 1, 2010.

(c) The department shall identify costs for any additional detail design and production drawings costs related to incorporating the aluminum superstructure and any changes in the proposed furnishings and fittings.

(4) \$6,300,000 of the Puget Sound capital construction account-- state appropriation is provided solely for emergency capital costs.

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(5) \$3,000,000 of the Puget Sound capital construction account-- federal appropriation is provided solely for completing the Anacortes terminal design up to the maximum allowable construction cost phase. Beyond preparing environmental work, these funds may be spent only after the following conditions have been met: (a) A value engineering process is conducted on the existing design and the concept of a terminal building smaller than preferred alternative; (b) the office of financial management participates in the value engineering process; (c) the office of financial management concurs with the recommendations of the value engineering process; and (d) the office of financial management gives its approval to proceed with the design work.

(6) \$3,965,000 of the Puget Sound capital construction account-- state appropriation is provided solely for the following vessel projects: Waste heat recovery pilot project for the Issaquah; jumbo Mark 1 class steering gear ventilation pilot project; and improvements to the Yakima and Kaleetan propulsion controls to allow for two engine operation. Before beginning these projects, the Washington state ferries must ensure the vessels' out-of-service time does not negatively impact service to the system.

(7) The department shall pursue purchasing a foreign-flagged vessel for service on the Anacortes, Washington to Sidney, British Columbia ferry route.

(8) The department shall provide to the office of financial management and the legislature quarterly reports providing the status on each project listed in this section and in the project lists submitted pursuant to this act and on any additional projects for which the department has expended funds during the 2009-11 fiscal biennium. Elements must include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection via the transportation executive information systems (TEIS). The quarterly report regarding the status of projects identified on the list referenced in subsection (1) of this section must be developed according to an earned value method of project monitoring.

(9) The department shall review and adjust its capital program staffing levels to ensure staffing is at the most efficient level necessary to implement the capital program in the omnibus transportation appropriations act. The Washington state ferries shall report this review and adjustment to the office of financial management and the house and senate transportation committees of the legislature by July 2009.

(10) \$1,200,000 of the total appropriation is provided solely for improving the toll booth configuration at the Port Townsend and Keystone ferry terminals.

(11) \$2,636,000 of the total appropriation is provided solely for continued permitting work on the Mukilteo ferry terminal. The department shall seek additional federal funding for this project.

(12) The department shall develop a proposed ferry vessel maintenance, preservation, and improvement program and present it to the transportation committees of the legislature by July 1, 2010. The proposal must:

(a) Improve the basis for budgeting vessel maintenance, preservation, and improvement costs and for projecting those costs into a sixteen-year financial plan;

(b) Limit the amount of planned out-of-service time to the greatest extent possible, including options associated with department staff as well as commercial shipyards. At a minimum, the department shall consider the following:

(i) The costs compared to benefits of Eagle Harbor repair and maintenance facility operations options to include staffing costs and benefits in terms of reduced out-of-service time;

(ii) The maintenance requirements for on-vessel staff, including the benefits of a systemwide standard;

(iii) The costs compared to benefits of staff performing preservation or maintenance work, or both, while the vessel is underway, tied up between sailings, or not deployed;

(iv) A review of the department's vessel maintenance, preservation, and improvement program contracting process and contractual requirements;

(v) The costs compared to benefits of allowing for increased costs associated with expedited delivery;

(vi) A method for comparing the anticipated out-of-service time of proposed projects and other projects planned during the same construction period;

(vii) Coordination with required United States coast guard dry dockings;

(viii) A method for comparing how proposed projects relate to the service requirements of the route on which the vessel normally operates; and

(ix) A method for evaluating the ongoing maintenance and preservation costs associated with proposed improvement projects; and

(c) Be based on the service plan in the capital plan, recognizing that vessel preservation and improvement needs may vary by route.

(13) \$247,000 of the Puget Sound capital construction account--state appropriation is provided solely for the Washington state ferries to review and update its vessel life-cycle cost model and report the results to the house of representatives and senate transportation committees of the legislature by (~~March 15~~) December 1, 2010. This review will evaluate the impact of the planned out-of-service periods scheduled for each vessel on the ability of the overall system to deliver uninterrupted service and will assess the risk of service disruption from unscheduled maintenance or longer than planned maintenance periods.

(14) The department shall work with the department of archaeology and historic preservation to ensure that the cultural resources investigation is properly conducted on all large ferry terminal projects. These projects must be conducted with active archaeological management. Additionally, the department shall establish a scientific peer review of independent archaeologists that are knowledgeable about the region and its cultural resources.

(15) The Puget Sound capital construction account--state appropriation includes up to \$114,000,000 in proceeds from the sale of bonds authorized in RCW 47.10.843.

(16) The Puget Sound capital construction account--state appropriation reflects the reduction of three terminal positions due to decreased terminal activity and funding.

(17) The department shall provide data to the transportation committees of the senate and house of representatives for a transparent analysis of travel pay policies.

NEW SECTION. Sec. 19. The following acts or parts of acts are each repealed:

(1) RCW 47.61.010 (Authority to enter into agreement and apply for financial assistance) and 1984 c 7 s 338 & 1965 ex.s. c 56 s 1;

(2) RCW 47.61.020 (Bonds for matching funds--Issuance and sale) and 1965 ex.s. c 56 s 2;

(3) RCW 47.61.030 (Term of bonds--Terms and conditions) and 1965 ex.s. c 56 s 3;

(4) RCW 47.61.040 (Bonds--Signatures--Registration--Where payable-- Negotiable instruments) and 1965 ex.s. c 56 s 4;

(5) RCW 47.61.050 (Bonds--Denominations--Manner and terms of sale-- Legal investment for state funds) and 1965 ex.s. c 56 s 5;

(6) RCW 47.61.060 (Proceeds of bonds--Deposit and use) and 1965 ex.s. c 56 s 6;

(7) RCW 47.61.070 (Statement describing nature of bond obligation-- Pledge of excise taxes) and 1965 ex.s. c 56 s 7;

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(8) RCW 47.61.080 (Bonds to reflect terms and conditions of grant agreement) and 1965 ex.s. c 56 s 8;

(9) RCW 47.61.090 (Designation of funds to repay bonds and interest) and 1984 c 7 s 339 & 1965 ex.s. c 56 s 9;

(10) RCW 47.61.100 (Bond repayment procedure--Highway bond retirement fund) and 1965 ex.s. c 56 s 10;

(11) RCW 47.61.110 (Sums in excess of bond retirement requirements--Use) and 1965 ex.s. c 56 s 11;

(12) RCW 47.60.395 (Evaluation of cost allocation methodology and preservation and improvement costs--Exception) and 2009 c 470 s 707 & 2007 c 512 s 15;

(13) RCW 47.60.649 (Passenger-only ferry service--Finding) and 1998 c 166 s 1;

(14) RCW 47.60.652 (Passenger-only ferry service--Vessel and terminal acquisition, procurement, and construction) and 1998 c 166 s 2;

(15) RCW 47.60.654 (Passenger-only ferry service--Contingency) and 1998 c 166 s 3;

(16) RCW 47.60.658 (Passenger-only ferry service between Vashon and Seattle) and 2007 c 223 s 8 & 2006 c 332 s 3;

(17) RCW 47.60.770 (Jumbo ferry construction--Notice) and 1993 c 493 s 1;

(18) RCW 47.60.772 (Jumbo ferry construction--Bidding documents) and 1993 c 493 s 2;

(19) RCW 47.60.774 (Jumbo ferry construction--Procedure on conclusion of evaluation) and 1993 c 493 s 4;

(20) RCW 47.60.776 (Jumbo ferry construction--Contract) and 1993 c 493 s 5;

(21) RCW 47.60.778 (Jumbo ferry construction--Bid deposits--Low bidder claiming error) and 1996 c 18 s 9 & 1993 c 493 s 6;

(22) RCW 47.60.780 (Jumbo ferry construction--Propulsion system acquisition) and 1994 c 181 s 2; and

(23) RCW 47.64.220 (Salary survey) and 2006 c 164 s 10, 2005 c 274 s 308, 1999 c 256 s 1, 1989 c 327 s 2, & 1983 c 15 s 13.

**NEW SECTION. Sec. 20.** Section 17 of this act takes effect if section 222, chapter . . . (Engrossed Substitute Senate Bill No. 6381), Laws of 2010 is enacted into law. If section 222, chapter . . . (Engrossed Substitute Senate Bill No. 6381), Laws of 2010 is not enacted into law, section 17 of this act is void in its entirety.

**NEW SECTION. Sec. 21.** Section 18 of this act takes effect if section 306, chapter . . . (Engrossed Substitute Senate Bill No. 6381), Laws of 2010 is enacted into law. If section 306, chapter . . . (Engrossed Substitute Senate Bill No. 6381), Laws of 2010 is not enacted into law, section 18 of this act is void in its entirety.

**NEW SECTION. Sec. 22.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 23.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

#### MOTION

Senator Haugen moved that the following amendment by Senators Haugen and Swecker to the striking amendment be adopted:

On page 7, line 17 of the amendment, after "options", strike all material through "facility," on line 18 and insert "that consider"

On page 7, line 20 of the amendment, after "shipyard", strike "."

Senator Haugen spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Haugen and Swecker on page 7, line 17 to the striking amendment to Engrossed Substitute House Bill No. 3209.

The motion by Senator Haugen carried and the amendment to the striking amendment was adopted by voice vote.

#### MOTION

Senator King moved that the following amendment by Senator King to the striking amendment be adopted:

On page 18, after line 4 of the amendment, insert the following:

**"NEW SECTION. Sec. 17.** A new section is added to chapter 47.60 RCW to read as follows:

Upon expiration of the collective bargaining agreements in existence as of the effective date of this section, the department shall not allow free passage on any ferry vessel operated by the department to:

(1) Any department employee unless it is directly related to the employee's job duties, directly reporting to duty, or directly returning home from duty;

(2) Any former department employee or their families; or

(3) Any department employee's family members."

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senators King, Pflug and Sheldon spoke in favor of adoption of the amendment to the striking amendment.

#### MOTION

On motion of Senator Ranker, Senator Hobbs and Marr were excused.

Senators Haugen and Keiser spoke against adoption of the amendment to the striking amendment.

Senator Schoesler demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator King on page 18, after line 4 to the striking amendment to Engrossed Substitute House Bill No. 3209.

#### ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator King and the amendment to the striking amendment was adopted by the following vote: Yeas, 24; Nays, 20; Absent, 2; Excused, 3.

Voting yea: Senators Becker, Benton, Brandland, Carrell, Delvin, Franklin, Hargrove, Hewitt, Holmquist, Honeyford, Kastama, Kauffman, Kilmer, King, Morton, Oemig, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Voting nay: Senators Berkey, Brown, Eide, Fairley, Fraser, Gordon, Haugen, Jacobsen, Keiser, Kline, Kohl-Welles, McAuliffe, McDermott, Murray, Prentice, Pridemore, Ranker, Regala, Rockefeller and Shin

Absent: Senators Hatfield and Tom

Excused: Senators Hobbs, Marr and McCaslin

#### MOTION

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Senator Pflug moved that the following amendment by Senator Pflug to the striking amendment be adopted:

On page 27, after line 37 of the amendment, insert the following:

**"NEW SECTION. Sec. 20.** A new section is added to chapter 47.60 RCW to read as follows:

Upon expiration of the collective bargaining agreements in existence as of the effective date of this section:

The department shall not reimburse any department employee for mileage or travel time costs for commuting between the employee's home residence and work assignment when the employee chooses, based on seniority, the work assignment location."

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senator Pflug spoke in favor of adoption of the amendment to the striking amendment.

Senator Haugen spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Pflug on page 27, after line 37 to the striking amendment to Engrossed Substitute House Bill No. 3209.

The motion by Senator Pflug failed and the amendment to the striking amendment was not adopted by a rising vote.

#### MOTION

Senator Holmquist moved that the following amendment by Senators Holmquist and Honeyford to the striking amendment be adopted:

On page 7, line 11 of the amendment, after "(4)(a)", strike all material through "(b)" on line 14

Renumber the subsections consecutively and correct any internal references accordingly.

Senators Holmquist and Honeyford spoke in favor of adoption of the amendment to the striking amendment.

Senators Haugen and Rockefeller spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Holmquist and Honeyford on page 7, line 11 to the striking amendment to Engrossed Substitute House Bill No. 3209.

The motion by Senator Holmquist failed and the amendment to the striking amendment was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Haugen and Swecker as amended to Engrossed Substitute House Bill No. 3209.

The motion by Senator Haugen carried and the striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendments were adopted:

On page 1, line 1 of the title, after "system;" strike the remainder of the title and insert "amending RCW 47.60.355, 47.60.365, 47.60.375, 47.60.385, 47.28.030, 47.64.120, 47.64.170, 47.64.200, 47.64.270, 47.64.280, 47.64.320, and 41.80.020; amending 2010 c . . . (ESSB 6381) ss 222 and 306 (uncodified); adding a new section to chapter 47.60 RCW; creating new sections; repealing RCW

47.61.010, 47.61.020, 47.61.030, 47.61.040, 47.61.050, 47.61.060, 47.61.070, 47.61.080, 47.61.090, 47.61.100, 47.61.110, 47.60.395, 47.60.649, 47.60.652, 47.60.654, 47.60.658, 47.60.770, 47.60.772, 47.60.774, 47.60.776, 47.60.778, 47.60.780, and 47.64.220; providing contingent effective dates; providing expiration dates; and declaring an emergency."

On page 30, line 5 of the title amendment, after "adding" strike "a new section" and insert "new sections"

#### MOTION

On motion of Senator Haugen, the rules were suspended, Engrossed Substitute House Bill No. 3209 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and Swecker spoke in favor of passage of the bill.

Senator Pflug spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 3209 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 3209 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 39; Nays, 9; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Benton, Carrell, Hewitt, Holmquist, Honeyford, Morton, Pflug, Schoesler and Stevens

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3209 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

#### RULING BY THE PRESIDENT

President Owen: "In ruling on the Point of Order raised by Senator Schoesler as to whether the House amendments to Engrossed Second Substitute Senate Bill 6267 fit within the scope and object of the underlying bill, the President finds and rules as follows:

The underlying bill as it left the Senate expanded an existing program for processing water rights applications to include cost reimbursement programs and expedited processing, and provided some additional tools for water users and the Department of Ecology to use in determining water rights. The House amendments add additional changes to the program for processing such rights, such as including direct funding, increasing current fees, and allowing the agency to adjust fees following consultation with the Legislature. The amendments

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further make changes to metering requirements for certain exempt wells, a provision not directly related to processing water rights applications. Altogether, the House amendments impermissibly broaden the subject matter of the bill to include substantive provisions outside of the original bill's focus, which was limited to modifying an existing program to process or expedite water right applications.

For these reasons, the President finds that the House amendments are beyond the scope and object of the Senate bill, and Senator Schoesler's point is well-taken."

## MESSAGE FROM THE HOUSE

March 10, 2010

MR. PRESIDENT:

The House receded from its amendment to SENATE BILL NO. 6804 and passed the bill without the House amendment, and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

## MESSAGE FROM THE HOUSE

March 8, 2010

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SECOND SUBSTITUTE HOUSE BILL NO. 2731 and asks the Senate to recede therefrom, and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

Senator Kauffman moved that the Senate recede from its position in the Senate amendment(s) to Second Substitute House Bill No. 2731.

The President declared the question before the Senate to be motion by Senator Kauffman that the Senate recede from its position in the Senate amendment(s) to Second Substitute House Bill No. 2731.

The motion by Senator Kauffman carried and the Senate receded from its position in the Senate amendment(s) to Second Substitute House Bill No. 2731 by voice vote.

## MOTION

On motion of Senator Kauffman, the rules were suspended and Second Substitute House Bill No. 2731 was returned to second reading for the purposes of amendment.

## SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2731, by House Committee on Ways & Means (originally sponsored by Representatives Goodman, Haler, Maxwell, Priest, Kagi, Sullivan, Seaquist, Quall, O'Brien, Jacks, Haigh, Pedersen, Darneille, Kenney, Rolfes, Hunter, Williams, Orwall, Lias, Carlyle, Roberts, Simpson, Walsh, Nelson, Kelley, Dickerson, Appleton, Eddy, Sells and Morrell)

Creating an early learning program for educationally at-risk children.

The measure was read the second time.

## MOTION

Senator Kauffman moved that the following striking amendment by Senators Kauffman and McAuliffe be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that a critical factor in the eventual successful outcome of a K-12 education is for students to begin school ready, both intellectually and socially, to learn. The legislature also finds that, due to a variety of factors, some young children need supplemental instruction in preschool to assure that they have the opportunity to participate meaningfully and reach the necessary levels of achievement in the regular program of basic education. The legislature further finds that children who participate in high quality preschool programs have improved educational and life outcomes and are more likely to graduate from high school and pursue higher education, experience successful employment opportunities, and have increased earnings. Therefore the legislature intends to create a program of early learning that, when fully implemented, shall be an entitlement program for eligible children.

The legislature also finds that the state early childhood education and assistance program was established to help children from low-income families be prepared for kindergarten, and that the program has been a successful model for achieving that goal. Therefore, the legislature intends that the first phase of implementing the entitlement program of early learning shall be accomplished by utilizing the program standards and eligibility criteria in the early childhood education and assistance program. The legislature also intends that the implementation of subsequent phases of the program established by the ready for school act of 2010 will be aligned with the implementation of the state's all-day kindergarten program in order to maximize the gains resulting from investments in the two programs.

**NEW SECTION. Sec. 2. DEFINITIONS.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Community-based early learning providers" includes for-profit and nonprofit licensed providers of child care and preschool programs.

(2) "Program" means the program of early learning established in section 3 of this act for eligible children who are three and four years of age.

**NEW SECTION. Sec. 3. PROGRAM STANDARDS.** (1) Beginning September 1, 2011, an early learning program to provide voluntary preschool opportunities for children three and four years of age shall be implemented according to the funding and implementation plan in section 4 of this act. The program must be a comprehensive program providing early childhood education and family support, options for parental involvement, and health information, screening, and referral services, as family need is determined. Participation in the program is voluntary. On a space available basis, the program may allow enrollment of children who are not otherwise eligible by assessing a fee.

(2) The first phase of the program shall be implemented by utilizing the program standards and eligibility criteria in the early childhood education and assistance program.

(3) The director shall adopt rules for the following program components, as appropriate and necessary during the phased implementation of the program:

(a) Minimum program standards, including lead teacher, assistant teacher, and staff qualifications;

(b) Approval of program providers; and

(c) Accountability and adherence to performance standards.

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(4) The department has administrative responsibility for:

- (a) Approving and contracting with providers according to rules developed by the director under this section;
- (b) In partnership with school districts, monitoring program quality and assuring the program is responsive to the needs of eligible children;
- (c) Assuring that program providers work cooperatively with school districts to coordinate the transition from preschool to kindergarten so that children and their families are well-prepared and supported; and
- (d) Providing technical assistance to contracted providers.

**NEW SECTION. Sec. 4. FUNDING AND STATEWIDE IMPLEMENTATION.** (1) Funding for the program of early learning established under this chapter must be appropriated to the department. Allocations must be made on the basis of eligible children enrolled with eligible providers.

(2) The program shall be implemented in phases, so that full implementation is achieved in the 2018-19 school year.

(3) For the initial phase of the early learning program in school years 2011-12 and 2012-13, the legislature shall appropriate funding to the department for implementation of the program in an amount not less than the 2009-2011 enacted budget for the early childhood education and assistance program. The appropriation shall be sufficient to fund an equivalent number of slots as funded in the 2009-2011 enacted budget.

(4) Beginning in the 2013-14 school year, additional funding for the program must be phased in beginning in school districts providing all-day kindergarten programs under RCW 28A.150.315.

(5) Funding shall continue to be phased in incrementally each year until full statewide implementation of the early learning program is achieved in the 2018-19 school year, at which time any eligible child shall be entitled to be enrolled in the program.

(6) The department and the office of financial management shall annually review the caseload forecasts for the program and, beginning December 1, 2012, and annually thereafter, report to the governor and the appropriate committees of the legislature with recommendations for phasing in additional funding necessary to achieve statewide implementation in the 2018-19 school year.

(7) School districts and approved community-based early learning providers may contract with the department to provide services under the program. The department shall collaborate with school districts, community-based providers, and educational service districts to promote an adequate supply of approved providers.

**NEW SECTION. Sec. 5.** A new section is added to chapter 28A.320 RCW to read as follows:

For the program of early learning established in section 3 of this act, school districts:

- (1) Shall work cooperatively with program providers to coordinate the transition from preschool to kindergarten so that children and their families are well-prepared and supported; and
- (2) May contract with the department of early learning to deliver services under the program.

**Sec. 6.** RCW 43.215.020 and 2007 c 394 s 5 are each amended to read as follows:

(1) The department of early learning is created as an executive branch agency. The department is vested with all powers and duties transferred to it under this chapter and such other powers and duties as may be authorized by law.

(2) The primary duties of the department are to implement state early learning policy and to coordinate, consolidate, and integrate child care and early learning programs in order to administer programs and funding as efficiently as possible. The department's duties include, but are not limited to, the following:

(a) To support both public and private sectors toward a comprehensive and collaborative system of early learning that serves parents, children, and providers and to encourage best practices in child care and early learning programs;

(b) To make early learning resources available to parents and caregivers;

(c) To carry out activities, including providing clear and easily accessible information about quality and improving the quality of early learning opportunities for young children, in cooperation with the nongovernmental private-public partnership;

(d) To administer child care and early learning programs;

(e) To standardize internal financial audits, oversight visits, performance benchmarks, and licensing criteria, so that programs can function in an integrated fashion;

(f) To support the implementation of the nongovernmental private- public partnership and cooperate with that partnership in pursuing its goals including providing data and support necessary for the successful work of the partnership;

(g) To work cooperatively and in coordination with the early learning council;

(h) To collaborate with the K-12 school system at the state and local levels to ensure appropriate connections and smooth transitions between early learning and K-12 programs; ~~(and)~~

(i) To develop and adopt rules for administration of the program of early learning established in section 3 of this act; and

(j) Upon the development of an early learning information system, to make available to parents timely inspection and licensing action information through the internet and other means.

(3) The department's programs shall be designed in a way that respects and preserves the ability of parents and legal guardians to direct the education, development, and upbringing of their children. The department shall include parents and legal guardians in the development of policies and program decisions affecting their children.

**Sec. 7.** RCW 43.215.405 and 2006 c 265 s 210 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903.

(1) "Advisory committee" means the advisory committee under RCW 43.215.420.

(2) "Department" means the department of early learning.

(3) "Eligible child" means a child not eligible for kindergarten whose family income is at or below one hundred ten percent of the federal poverty level, as published annually by the federal department of health and human services, and includes a child whose family is eligible for public assistance, and who is not a participant in a federal or state program providing comprehensive services; a child eligible for special education due to disability under RCW 28A.155.020; and may include children who are eligible under rules adopted by the department if the number of such children equals not more than ten percent of the total enrollment in the early childhood program. Priority for enrollment shall be given to children from families with the lowest income, children in foster care, or to eligible children from families with multiple needs.

(4) "Approved programs" means those state-supported education and special assistance programs which are recognized by the department as meeting the minimum program rules adopted by the department to qualify under RCW 43.215.400 through 43.215.450 and 43.215.900 through 43.215.903 and are designated as eligible for funding by the department under RCW 43.215.430 and 43.215.440.

(5) "Comprehensive" means an assistance program that focuses on the needs of the child and includes education, health, and family support services.

(6) "Family support services" means providing opportunities for parents to:

(a) Actively participate in their child's early childhood program;

(b) Increase their knowledge of child development and parenting skills;

(c) Further their education and training;

(d) Increase their ability to use needed services in the community;

(e) Increase their self-reliance.

NEW SECTION. Sec. 8. Sections 2 through 4 and 9 of this act are each added to chapter 43.215 RCW.

NEW SECTION. Sec. 9. This act may be known as the ready for school act of 2010."

Senator Kauffman spoke in favor of adoption of the striking amendment.

Senator King spoke against adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kauffman and McAuliffe to Second Substitute House Bill No. 2731.

The motion by Senator Kauffman carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "children;" strike the remainder of the title and insert "amending RCW 43.215.020 and 43.215.405; adding new sections to chapter 43.215 RCW; adding a new section to chapter 28A.320 RCW; and creating a new section."

#### MOTION

On motion of Senator Kauffman, the rules were suspended, Second Substitute House Bill No. 2731 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2731 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2731 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 33; Nays, 15; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brandland, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin and Tom

Voting nay: Senators Becker, Benton, Carrell, Delvin, Hewitt, Honeyford, King, Morton, Parlette, Pflug, Roach, Schoesler, Stevens, Swecker and Zarelli

Excused: Senator McCaslin

SECOND SUBSTITUTE HOUSE BILL NO. 2731 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Marr, Senator Haugen was excused.

#### MESSAGE FROM THE HOUSE

March 9, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6520 with the following amendment(s): 6520-S AMH LGH H5377.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 36.70A.560 and 2007 c 353 s 2 are each amended to read as follows:

(1) For the period beginning May 1, 2007, and concluding July 1, ((2010)) 2011, counties and cities may not amend or adopt critical area ordinances under RCW 36.70A.060(2) as they specifically apply to agricultural activities. Nothing in this section:

(a) Nullifies critical area ordinances adopted by a county or city prior to May 1, 2007, to comply with RCW 36.70A.060(2);

(b) Limits or otherwise modifies the obligations of a county or city to comply with the requirements of this chapter pertaining to critical areas not associated with agricultural activities; or

(c) Limits the ability of a county or city to adopt or employ voluntary measures or programs to protect or enhance critical areas associated with agricultural activities.

(2) Counties and cities subject to deferral requirements under subsection (1) of this section:

(a) Should implement voluntary programs to enhance public resources and the viability of agriculture. Voluntary programs implemented under this subsection (2)(a) must include measures to evaluate the successes of these programs; and

(b) Must review and, if necessary, revise critical area ordinances as they specifically apply to agricultural activities to comply with the requirements of this chapter by December 1, ((2011)) 2012.

(3) For purposes of this section and RCW 36.70A.5601, "agricultural activities" means agricultural uses and practices currently existing or legally allowed on rural land or agricultural land designated under RCW 36.70A.170 including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, when the replacement facility is no closer to a critical area than the original facility; and maintaining agricultural lands under production or cultivation.

**Sec. 2.** RCW 36.70A.5601 and 2007 c 353 s 3 are each amended to read as follows:

(1) ((Subject to the availability of amounts appropriated for this specific purpose.)) The William D. Ruckelshaus Center must conduct an examination of the conflicts between agricultural activities and critical area ordinances adopted under chapter 36.70A RCW. The examination required by this section must commence by July 1, 2007.

(2) In fulfilling the requirements of this section, the center must:

(a) Work and consult with willing participants including, but not limited to, agricultural, environmental, tribal, and local government interests; and (b) involve and apprise legislators and legislative staff of its efforts.

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(3) The examination conducted by the center must be completed in two distinct phases in accordance with the following:

(a) In the first phase, the center must conduct fact-finding and stakeholder discussions with stakeholders identified in subsection (2) of this section. These discussions must identify stakeholder concerns, desired outcomes, opportunities, and barriers. The fact-finding must identify existing regulatory, management, and scientific information related to agricultural activities and critical areas including, but not limited to: (i) Critical area ordinances adopted under chapter 36.70A RCW; (ii) acreage enrolled in the conservation reserve enhancement program; (iii) acreage protected by conservation easements; (iv) buffer widths; (v) requirements of federally approved salmon recovery plans; (vi) the impacts of agricultural activities on Puget Sound recovery efforts; and (vii) compliance with water quality requirements. The center must issue two reports of its fact-finding efforts and stakeholder discussions to the governor and the appropriate committees of the house of representatives and the senate by December 1, 2007, and December 1, 2008; and

(b)(i) In the second phase, the center must facilitate discussions between the stakeholders identified in subsection (2) of this section to identify policy and financial options or opportunities to address the issues and desired outcomes identified by stakeholders in the first phase of the center's examination efforts.

(ii) In particular, the stakeholders must examine innovative solutions including, but not limited to, outcome-based approaches that incorporate, to the maximum extent practicable, voluntary programs or approaches. Additionally, stakeholders must examine ways to modify statutory provisions to ensure that regulatory constraints on agricultural activities are used as a last resort if desired outcomes are not achieved through voluntary programs or approaches.

(iii) The center must work to achieve agreement among participating stakeholders and to develop a coalition that can be used to support agreed upon changes or new approaches to protecting critical areas during the ~~((2010))~~ 2011 legislative session.

(4) The center must issue a final report of findings and legislative recommendations to the governor and the appropriate committees of the house of representatives and the senate by September 1, ~~((2009))~~ 2010.

**Sec. 3.** 2007 c 353 s 6 (uncodified) is amended to read as follows:

This act expires December 1, ~~((2014))~~ 2012."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hatfield moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6520.

Senator Hatfield spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hatfield that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6520.

The motion by Senator Hatfield carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6520 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6520, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6520, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Haugen and McCaslin

SUBSTITUTE SENATE BILL NO. 6520, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 8, 2010

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 2776 and asks the Senate to recede therefrom.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator McAuliffe moved that the Senate recede from its position in the Senate amendment(s) to Substitute House Bill No. 2776.

The President declared the question before the Senate to be motion by Senator McAuliffe that the Senate recede from its position in the Senate amendment(s) to Substitute House Bill No. 2776.

The motion by Senator McAuliffe carried and the Senate receded from its position in the Senate amendment(s) to Substitute House Bill No. 2776 by voice vote.

MOTION

On motion of Senator McAuliffe, the rules were suspended and Substitute House Bill No. 2776 was returned to second reading for the purposes of amendment.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2776, by House Committee on Education Appropriations (originally sponsored by Representatives Sullivan, Priest, Maxwell, Dammeier, Carlyle, Finn, Anderson, Eddy, Nelson, Goodman, Orwall, Hunter, Simpson, Jacks, Kagi, Ormsby, Morrell, Probst and Santos)

Regarding funding distribution formulas for K-12 education.

The measure was read the second time.

MOTION

Senator McAuliffe moved that the following striking amendment by Senator McAuliffe be adopted:

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Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) It is the legislature's intent to continue implementation of chapter 548, Laws of 2009, by adopting the technical details of a new distribution formula for the instructional program of basic education. The legislature intends to continue to review and revise the formulas and may make revisions as necessary for technical purposes and consistency in the event of mathematical or other technical errors.

(2) The legislature further intends to adjust the timelines for the working groups created under chapter 548, Laws of 2009, so that their expertise and advice can be received as soon as possible and to make adjustments to the composition of the local finance working group. The legislature further intends to clarify the legislature's intent to fully fund all-day kindergarten by the 2018-19 school year.

**Sec. 2.** RCW 28A.150.315 and 2009 c 548 s 107 are each amended to read as follows:

(1) Beginning with the 2007-08 school year, funding for voluntary all-day kindergarten programs shall be phased-in beginning with schools with the highest poverty levels, defined as those schools with the highest percentages of students qualifying for free and reduced-price lunch support in the prior school year. The funding shall continue to be phased-in until full statewide implementation of all-day kindergarten is achieved in the 2018-19 school year. Once a school receives funding for the all-day kindergarten program, that school shall remain eligible for funding in subsequent school years regardless of changes in the school's percentage of students eligible for free and reduced-price lunches as long as other program requirements are fulfilled. Additionally, schools receiving all-day kindergarten program support shall agree to the following conditions:

- (a) Provide at least a one thousand-hour instructional program;
- (b) Provide a curriculum that offers a rich, varied set of experiences that assist students in:
  - (i) Developing initial skills in the academic areas of reading, mathematics, and writing;
  - (ii) Developing a variety of communication skills;
  - (iii) Providing experiences in science, social studies, arts, health and physical education, and a world language other than English;
  - (iv) Acquiring large and small motor skills;
  - (v) Acquiring social and emotional skills including successful participation in learning activities as an individual and as part of a group; and
  - (vi) Learning through hands-on experiences;
- (c) Establish learning environments that are developmentally appropriate and promote creativity;
- (d) Demonstrate strong connections and communication with early learning community providers; and
- (e) Participate in kindergarten program readiness activities with early learning providers and parents.

(2) Subject to funds appropriated for this purpose, the superintendent of public instruction shall designate one or more school districts to serve as resources and examples of best practices in designing and operating a high-quality all-day kindergarten program. Designated school districts shall serve as lighthouse programs and provide technical assistance to other school districts in the initial stages of implementing an all-day kindergarten program. Examples of topics addressed by the technical assistance include strategic planning, developing the instructional program and curriculum, working with early learning providers to identify students and communicate with parents, and developing kindergarten program readiness activities.

**Sec. 3.** 2009 c 548 s 302 (uncodified) is amended to read as follows:

(1) Beginning (~~(July)~~) April 1, 2010, the office of financial management, with assistance and support from the office of the superintendent of public instruction, shall convene a technical working group to develop options for a new system of supplemental school funding through local school levies and local effort assistance.

(2) The working group shall consider the impact on overall school district revenues of the new basic education funding system established (~~(under this act)~~) by the legislature based on prototypical schools and shall recommend a phase-in plan that ensures that no school district suffers a decrease in funding from one school year to the next due to implementation of the new system of supplemental funding.

(3) The working group shall also:

(a) Examine local school district capacity to address facility needs associated with phasing-in full-day kindergarten across the state and reducing class size in kindergarten through third grade;

(b) Provide technical advice to the quality education council including an analysis on the potential use of local funds that may become available for redeployment and redirection as a result of increased state funding allocations for pupil transportation and maintenance, supplies, and operating costs; and

(c) Advise the quality education council and the legislature on further development and implementation of the funding formulas under RCW 28A.150.260, as appropriate.

(4) The working group shall be composed of the following members:

(a) Four members of the house of representatives, with two members representing each of the major caucuses and appointed by the speaker of the house of representatives;

(b) Four members of the senate, with two members representing each of the major caucuses and appointed by the president of the senate; and

(c) Representatives from the department of revenue, the legislative evaluation and accountability program committee, school district and educational service district financial managers, and representatives of the Washington association of school business officers, the Washington education association, the Washington association of school administrators, the association of Washington school principals, the Washington state school directors' association, the public school employees of Washington, and other interested stakeholders with expertise in education finance. When choosing the individuals to serve on the working group, the office of financial management and the office of the superintendent of public instruction are encouraged to include, as appropriate, members of the funding formula technical working group convened in accordance with section 112, chapter 548, Laws of 2009. The working group may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders. In addition to the staff support provided by the office of financial management and the office of the superintendent of public instruction, the department of revenue shall provide technical assistance, including financial and legal analysis, to support the working group's findings and analysis under subsection (3) of this section.

~~((4))~~ (5) The local funding working group shall be monitored and overseen by the legislature and by the quality education council created in (~~(section 114 of this act)~~) RCW 28A.290.010. The working group shall submit an initial report to the legislature (~~(December 1)~~) and the quality education council by November 30, 2010, and a final report by June 30, 2011.

**Sec. 4.** RCW 43.41.398 and 2009 c 548 s 601 are each amended to read as follows:

(1) The legislature recognizes that providing students with the opportunity to access a world-class educational system depends on

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our continuing ability to provide students with access to world-class educators. The legislature also understands that continuing to attract and retain the highest quality educators will require increased investments. The legislature intends to enhance the current salary allocation model and recognizes that changes to the current model cannot be imposed without great deliberation and input from teachers, administrators, and classified employees. Therefore, it is the intent of the legislature to begin the process of developing an enhanced salary allocation model that is collaboratively designed to ensure the rationality of any conclusions regarding what constitutes adequate compensation.

(2) Beginning July 1, 2011, the office of financial management in collaboration with the office of the superintendent of public instruction, shall convene a technical working group to recommend the details of an enhanced salary allocation model that aligns state expectations for educator development and certification with the compensation system and establishes recommendations for a concurrent implementation schedule. In addition to any other details the technical working group deems necessary, the technical working group shall make recommendations on the following:

- (a) How to reduce the number of tiers within the existing salary allocation model;
- (b) How to account for labor market adjustments;
- (c) How to account for different geographic regions of the state where districts may encounter difficulty recruiting and retaining teachers;
- (d) The role of and types of bonuses available;
- (e) Ways to accomplish salary equalization over a set number of years; and
- (f) Initial fiscal estimates for implementing the recommendations including a recognition that staff on the existing salary allocation model would have the option to grandfather in permanently to the existing schedule.

(3) As part of its work, the technical working group shall conduct or contract for a preliminary comparative labor market analysis of salaries and other compensation for school district employees to be conducted and shall include the results in any reports to the legislature. For the purposes of this subsection, "salaries and other compensation" includes average base salaries, average total salaries, average employee basic benefits, and retirement benefits.

(4) The analysis required under subsection (1) of this section must:

- (a) Examine salaries and other compensation for teachers, other certificated instructional staff, principals, and other building-level certificated administrators, and the types of classified employees for whom salaries are allocated;
- (b) Be calculated at a statewide level that identifies labor markets in Washington through the use of data from the United States bureau of the census and the bureau of labor statistics; and
- (c) Include a comparison of salaries and other compensation to the appropriate labor market for at least the following subgroups of educators: Beginning teachers and types of educational staff associates.

(5) The working group shall include representatives of the department of personnel, the professional educator standards board, the office of the superintendent of public instruction, the Washington education association, the Washington association of school administrators, the association of Washington school principals, the Washington state school directors' association, the public school employees of Washington, and other interested stakeholders with appropriate expertise in compensation related matters. The working group may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders.

(6) The working group shall be monitored and overseen by the legislature and the quality education council created in RCW 28A.290.010. The working group shall make an initial report to the legislature by December 1, 2012, and shall include in its report recommendations for whether additional further work of the group is necessary.

NEW SECTION. **Sec. 5.** A new section is added to chapter 28A.300 RCW to read as follows:

The office of the superintendent of public instruction shall implement and maintain an internet-based portal that provides ready public access to the state's prototypical school funding model for basic education under RCW 28A.150.260. The portal must provide citizens the opportunity to view, for each local school building, the staffing levels and other prototypical school funding elements that are assumed under the state funding formula. The portal must also provide a matrix displaying how individual school districts are deploying those same state resources through their allocation of staff and other resources to school buildings, so that citizens are able to compare the state assumptions to district allocation decisions for each local school building.

NEW SECTION. **Sec. 6.** The legislature intends to continue to refine and provide greater detail to the distribution formula for the basic education instructional allocation, which shall be based on minimum staffing and nonstaff costs that the legislature deems necessary to support instruction and operations in prototypical schools as defined by the legislature. The legislature expects that the detailed prototype school model will bring greater transparency, understanding, and public accountability to the funding system because it displays funding assumptions in understandable terms centered on the operations of school buildings.

**Sec. 7.** RCW 28A.150.260 and 2009 c 548 s 106 are each amended to read as follows:

The purpose of this section is to provide for the allocation of state funding that the legislature deems necessary to support school districts in offering the minimum instructional program of basic education under RCW 28A.150.220. The allocation shall be determined as follows:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula for the distribution of a basic education instructional allocation for each common school district.

(2) The distribution formula under this section shall be for allocation purposes only. Except as may be required under chapter 28A.155, 28A.165, 28A.180, or (~~28A.155~~) 28A.185 RCW, or federal laws and regulations, nothing in this section requires school districts to use basic education instructional funds to implement a particular instructional approach or service. Nothing in this section requires school districts to maintain a particular classroom teacher-to-student ratio or other staff-to-student ratio or to use allocated funds to pay for particular types or classifications of staff. Nothing in this section entitles an individual teacher to a particular teacher planning period.

(3)(a) To the extent the technical details of the formula have been adopted by the legislature and except when specifically provided as a school district allocation, the distribution formula for the basic education instructional allocation shall be based on minimum staffing and nonstaff costs the legislature deems necessary to support instruction and operations in prototypical schools serving high, middle, and elementary school students as provided in this section. The use of prototypical schools for the distribution formula does not constitute legislative intent that schools should be operated or structured in a similar fashion as the prototypes. Prototypical schools illustrate the level of resources needed to operate a school of a particular size with particular types and grade levels of students using commonly understood terms and

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inputs, such as class size, hours of instruction, and various categories of school staff. It is the intent that the funding allocations to school districts be adjusted from the school prototypes based on the actual number of annual average full-time equivalent students in each grade level at each school in the district and not based on the grade-level configuration of the school to the extent that data is available. The allocations shall be further adjusted from the school prototypes with minimum allocations for small schools and to reflect other factors identified in the omnibus appropriations act.

(b) For the purposes of this section, prototypical schools are defined as follows:

(i) A prototypical high school has six hundred average annual full-time equivalent students in grades nine through twelve;

(ii) A prototypical middle school has four hundred thirty-two average annual full-time equivalent students in grades seven and eight; and

(iii) A prototypical elementary school has four hundred average annual full-time equivalent students in grades kindergarten through six.

~~((e))~~ (4)(a) The minimum allocation for each level of prototypical school shall be based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours under RCW 28A.150.220 and provide at least one teacher planning period per school day, and based on ~~((a))~~ the following general education average class size ~~((as specified in the omnibus appropriations act.))~~ of full-time equivalent students per teacher:

General education average class size	
Grades K-3.....	25.23
Grade 4.....	27.00
Grades 5-6.....	27.00
Grades 7-8.....	28.53
Grades 9-12, except in cases when lower average class sizes are specified for approved career and technical education programs and skill centers.....	28.74

(b) The minimum allocation for each prototypical middle and high school shall also provide for full-time equivalent classroom teachers based on the following number of full-time equivalent students per teacher in career and technical education:

Career and technical education average class size	
Approved career and technical education offered at the middle school and high school level.....	26.57
Skill center programs meeting the standards established by the office of the superintendent of public instruction.....	22.76

(c) According to an implementation schedule adopted by the legislature, the omnibus appropriations act shall at a minimum specify:

- (i) ~~((Basic average class size; —(ii) Basic))~~ A high-poverty average class size in schools where more than fifty percent of the students are eligible for free and reduced-price meals; and
- ~~((iii))~~ (ii) A specialty average class size for ~~((exploratory and preparatory career and technical education.))~~ laboratory science, advanced placement, and international baccalaureate courses ~~((; and —(iv) Average class size in grades kindergarten through three)).~~

~~((4))~~ (5)(a) The minimum allocation for each level of prototypical school shall include allocations for the following types of staff in addition to classroom teachers:

((i) Principals, including assistant principals, and other certificated building-level administrators;

(ii) Teacher librarians, performing functions including information literacy, technology, and media to support school library media programs;

(iii) Student health services, a function that includes school nurses, whether certificated instructional or classified employee, and social workers;

(iv) Guidance counselors, performing functions including parent outreach and graduation advisor;

(v) Professional development coaches;

(vi) Teaching assistance, which includes any aspect of educational instructional services provided by classified employees;

(vii) Office support, technology support, and other noninstructional aides;

(viii) Custodians, warehouse, maintenance, laborer, and professional and technical education support employees; and

(ix) Classified staff providing student and staff safety.

~~(4)(a))~~

	<u>Elementary School</u>	<u>Middle School</u>	<u>High School</u>
<u>Principals, assistant principals, and other certificated building-level administrators, except administrators for approved career and technical programs and skill centers .....</u>	<u>1.253</u>	<u>1.353</u>	<u>1.880</u>
<u>Teacher librarians, a function that includes information literacy, technology, and media to support school library media programs .....</u>	<u>0.663</u>	<u>0.519</u>	<u>0.523</u>
<u>Health and social services:</u>			
<u>School nurses .....</u>	<u>0.076</u>	<u>0.060</u>	<u>0.096</u>
<u>Social workers.....</u>	<u>0.042</u>	<u>0.006</u>	<u>0.015</u>
<u>Psychologists.....</u>	<u>0.017</u>	<u>0.002</u>	<u>0.007</u>
<u>Guidance counselors, a function that includes parent outreach and graduation advising.....</u>	<u>0.493</u>	<u>1.116</u>	<u>1.909</u>
<u>Professional development coaches.....</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
<u>Teaching assistance, including any aspect of educational instructional services provided by classified employees .....</u>	<u>0.917</u>	<u>0.685</u>	<u>0.638</u>
<u>Office support and other noninstructional aides .....</u>	<u>1.971</u>	<u>2.277</u>	<u>3.201</u>
<u>Custodians.....</u>	<u>1.622</u>	<u>1.902</u>	<u>2.903</u>
<u>Classified staff providing student and staff safety.....</u>	<u>0.077</u>	<u>0.090</u>	<u>0.138</u>
<u>Parent involvement .....</u>	<u>0.000</u>	<u>0.000</u>	<u>0.000</u>

coordinators.....

(b) For career and technical education programs approved by the superintendent of public instruction, the minimum allocation for administrative staff shall be allocated at 0.410 per one hundred full-time equivalent career and technical education students and for other school-level certificated staff at 0.202 per one hundred full-time equivalent career and technical education students, regardless of the grade level at which the program is delivered, in lieu of the certificated allocations in (a) of this subsection.

(c) For skill center programs meeting the standards for skill center funding established in January 1999 by the superintendent of public instruction, the minimum allocation for administrative staff shall be allocated at 0.490 per one hundred full-time equivalent skill center students and for other school-level certificated staff at 0.236 per one hundred full-time equivalent skill center students in lieu of the certificated allocations in (a) of this subsection.

(6)(a) The minimum staffing allocation for each school district to provide district-wide support services shall be allocated per one thousand full-time equivalent students in grades K-12 as follows:

Staff per 1,000	
K-12 students	
Technology.....	0.615
Facilities, maintenance, and grounds.....	1.776
Warehouse, laborers, and mechanics.....	0.325

(b) The minimum allocation of staff units for each school district to support certificated and classified staffing of central administration shall be 5.39 percent of the staff units generated under subsections (4)(a) and (5)(a) of this section and (a) of this subsection.

(7)(a) Except as provided in subsection (8) of this section, the minimum allocation for each school district shall include allocations per annual average full-time equivalent student for the following materials, supplies, and operating costs: ~~((Student technology; utilities; curriculum, textbooks, library materials, and instructional supplies; instructional professional development for both certificated and classified staff; other building level costs including maintenance, custodial, and security; and central office administration.))~~

Per annual average	
full-time equivalent student	
in grades K-12	
Technology.....	\$54.43
Utilities and insurance.....	\$147.90
Curriculum and textbooks.....	\$58.44
Other supplies and library materials.....	\$124.07
Instructional professional development for certified and	
classified staff.....	\$9.04
Facilities maintenance.....	\$73.27
Security and central office.....	\$50.76

(b) ~~((The annual average full-time equivalent student amounts in (a) of this subsection shall be enhanced))~~ According to an implementation schedule adopted by the legislature and in addition to the amounts provided in (a) of this subsection, the omnibus appropriations act shall provide an amount based on the full-time equivalent student enrollment ~~((#))~~ for each of the following: (i) Exploratory career and technical education courses for students in grades seven through twelve; (ii) laboratory science courses for students in grades nine through twelve; (iii) preparatory career and technical education courses for students in grades nine through twelve offered in a high school; and (iv) preparatory career and

technical education courses for students in grades eleven and twelve offered through a skill center.

~~((5))~~ (8) In addition to the allocations otherwise provided under ~~((subsections (3) and (4) of))~~ this section ~~((shall be enhanced as follows to provide additional allocations for classroom teachers and maintenance, supplies, and operating costs))~~ amounts shall be provided to support the following programs and services:

(a) To provide supplemental instruction and services for underachieving students through the learning assistance program under RCW 28A.165.005 through 28A.165.065, allocations shall be based on the ~~((percent))~~ district percentage of students in ~~((each school))~~ grades K-12 who ~~((are))~~ are eligible for free ~~((and))~~ or reduced-price meals in the prior school year. The minimum allocation for the ~~((learning assistance))~~ program shall provide ~~((an extended school day and extended school year))~~ for each level of prototypical school ~~((and a per student allocation for maintenance, supplies, and operating costs))~~ resources to provide, on a statewide average, 1.5156 hours per week in extra instruction with a class size of fifteen learning assistance program students per teacher and zero hours per week of instruction during vacation periods.

(b) To provide supplemental instruction and services for students whose primary language is other than English, allocations shall be based on the head count number of students in each school who are eligible for and enrolled in the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080. The minimum allocation for each level of prototypical school shall provide ~~((for supplemental instruction based on percent of the school day a student is assumed to receive supplemental instruction and a per student allocation for maintenance, supplies, and operating costs))~~ resources to provide, on a statewide average, 4.7780 hours per week in extra instruction with fifteen transitional bilingual instruction program students per teacher and zero hours per week of instruction during vacation periods.

~~((6))~~ ~~The allocations provided under subsections (3) and (4) of this section shall be enhanced))~~ (c) To provide additional allocations to support programs for highly capable students under RCW 28A.185.010 through 28A.185.030, allocations shall be based on two and three hundred fourteen one-thousandths percent of each school district's full-time equivalent basic education enrollment. The minimum allocation for the programs shall provide ~~((an extended school day and extended school year for each level of prototypical school and a per student allocation for maintenance, supplies, and operating costs))~~ resources to provide, on a statewide average, 2.1590 hours per week in extra instruction with fifteen highly capable program students per teacher and zero hours per week of instruction during vacation periods.

~~((7))~~ (9) The allocations under subsections ~~((3)(b), (c)(i), and (d), (4), and (8))~~ (4)(a), (5)(a), (6), and (7)(a) of this section shall be enhanced as provided under RCW 28A.150.390 on an excess cost basis to provide supplemental instructional resources for students with disabilities.

~~((8))~~ The distribution formula shall include allocations to school districts to support certificated and classified staffing of central office administration. The minimum allocation shall be calculated as a percentage, identified in the omnibus appropriations act, of the total allocations for staff under subsections (3) and (6) of this section for all schools in the district.

(9)) (10)(a) For the purposes of allocations for prototypical high schools and middle schools under subsections (3) and ~~((5))~~ (8) of this section that are based on the percent of students in the school who are eligible for free and reduced-price meals, the actual percent of such students in a school shall be adjusted by a factor identified in the omnibus appropriations act to reflect underreporting

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of free and reduced-price meal eligibility among middle and high school students.

(b) Allocations or enhancements provided under subsections ~~((3) and~~) (4), (5), and (7) of this section for exploratory and preparatory career and technical education courses shall be provided only for courses approved by the office of the superintendent of public instruction under chapter 28A.700 RCW.

~~((4))~~ (1)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature.

(b) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect.

(c) The enrollment of any district shall be the annual average number of full-time equivalent students and part-time students as provided in RCW 28A.150.350, enrolled on the first school day of each month, including students who are in attendance pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district. The definition of full-time equivalent student shall be determined by rules of the superintendent of public instruction and shall be included as part of the superintendent's biennial budget request. The definition shall be based on the minimum instructional hour offerings required under RCW 28A.150.220. Any revision of the present definition shall not take effect until approved by the house ways and means committee and the senate ways and means committee.

(d) The office of financial management shall make a monthly review of the superintendent's reported full-time equivalent students in the common schools in conjunction with RCW 43.62.050.

**Sec. 8.** RCW 28A.505.210 and 2009 c 479 s 17 are each amended to read as follows:

School districts shall have the authority to decide the best use of funds distributed for the student achievement program under RCW 28A.505.220 to assist students in meeting and exceeding the new, higher academic standards in each district consistent with the provisions of chapter 3, Laws of 2001, except as provided in subsection (3) of this section.

(1) Funds shall be allocated for the following uses:

(a) To reduce class size by hiring certificated elementary classroom teachers in grades K-4 and paying nonemployee-related costs associated with those new teachers;

(b) To make selected reductions in class size in grades 5-12, such as small high school writing classes;

(c) To provide extended learning opportunities to improve student academic achievement in grades K-12, including, but not limited to, extended school year, extended school day, before-and-after-school programs, special tutoring programs, weekend school programs, summer school, and all-day kindergarten;

(d) To provide additional professional development for educators, including additional paid time for curriculum and lesson redesign and alignment, training to ensure that instruction is aligned with state standards and student needs, reimbursement for higher education costs related to enhancing teaching skills and knowledge, and mentoring programs to match teachers with skilled, master teachers. The funding shall not be used for salary increases or additional compensation for existing teaching duties, but may be used for extended year and extended day teaching contracts;

(e) To provide early assistance for children who need prekindergarten support in order to be successful in school;

(f) To provide improvements or additions to school building facilities which are directly related to the class size reductions and

extended learning opportunities under (a) through (c) of this subsection.

(2) Annually on or before May 1st, the school district board of directors shall meet at the time and place designated for the purpose of a public hearing on the proposed use of these funds to improve student achievement for the coming year. Any person may appear or by written submission have the opportunity to comment on the proposed plan for the use of these funds. No later than August 31st, as a part of the process under RCW 28A.505.060, each school district shall adopt a plan for the use of these funds for the upcoming school year. Annually, each school district shall provide to the citizens of their district a public accounting of the funds made available to the district during the previous school year under chapter 3, Laws of 2001, how the funds were used, and the progress the district has made in increasing student achievement, as measured by required state assessments and other assessments deemed appropriate by the district. Copies of this report shall be provided to the superintendent of public instruction.

(3) After the effective date of this section and until 2018, any funding for the student achievement program restored by the legislature shall be allocated in an amount of up to eighty percent of the funds to reduce class sizes in grades kindergarten through four or to assist with the continued phase-in of all-day kindergarten as specified in the omnibus appropriations act. These funds shall be considered part of the implementation plan for RCW 28A.150.260 and 28A.150.315 and only this portion of the student achievement program used to support these basic education components shall constitute basic education funding. The remaining funds provided for the student achievement program shall be allocated for the uses specified in subsection (1) of this section, shall not be considered part of basic education funding but in addition to basic education funding, and shall be distributed to school districts as specified in RCW 28A.505.220.

**Sec. 9.** RCW 28A.150.390 and 2009 c 548 s 108 are each amended to read as follows:

(1) The superintendent of public instruction shall submit to each regular session of the legislature during an odd-numbered year a programmed budget request for special education programs for students with disabilities. Funding for programs operated by local school districts shall be on an excess cost basis from appropriations provided by the legislature for special education programs for students with disabilities and shall take account of state funds accruing through RCW 28A.150.260 ~~((3)(b), (e)(i), and (d), (4), and (8) and federal medical assistance and private funds accruing under RCW 74.09.5249 through 74.09.5253 and 74.09.5254 through 74.09.5256))~~ (4)(a), (5)(a), (6), and (7)(a).

(2) The excess cost allocation to school districts shall be based on the following:

(a) A district's annual average headcount enrollment of students ages birth through four and those five year olds not yet enrolled in kindergarten who are eligible for and enrolled in special education, multiplied by the district's base allocation per full-time equivalent student, multiplied by 1.15; and

(b) A district's annual average full-time equivalent basic education enrollment, multiplied by the district's funded enrollment percent, multiplied by the district's base allocation per full-time equivalent student, multiplied by 0.9309.

(3) As used in this section:

(a) "Base allocation" means the total state allocation to all schools in the district generated by the distribution formula under RCW 28A.150.260 ~~((3)(b), (e)(i), and (d), (4), and (8))~~ (4)(a), (5)(a), (6), and (7)(a), to be divided by the district's full-time equivalent enrollment.

(b) "Basic education enrollment" means enrollment of resident students including nonresident students enrolled under RCW

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28A.225.225 and students from nonhigh districts enrolled under RCW 28A.225.210 and excluding students residing in another district enrolled as part of an interdistrict cooperative program under RCW 28A.225.250.

(c) "Enrollment percent" means the district's resident special education annual average enrollment, excluding students ages birth through four and those five year olds not yet enrolled in kindergarten, as a percent of the district's annual average full-time equivalent basic education enrollment.

(d) "Funded enrollment percent" means the lesser of the district's actual enrollment percent or twelve and seven-tenths percent.

**Sec. 10.** RCW 28A.150.410 and 2007 c 403 s 1 are each amended to read as follows:

(1) The legislature shall establish for each school year in the appropriations act a statewide salary allocation schedule, for allocation purposes only, to be used to distribute funds for basic education certificated instructional staff salaries under RCW 28A.150.260. For the purposes of this section, the staff allocations for classroom teachers, teacher librarians, professional development coaches, guidance counselors, and student health services staff under RCW 28A.150.260 are considered allocations for certificated instructional staff.

(2) Salary allocations for state-funded basic education certificated instructional staff shall be calculated by the superintendent of public instruction by determining the district's average salary for certificated instructional staff, using the statewide salary allocation schedule and related documents, conditions, and limitations established by the omnibus appropriations act.

(3) Beginning January 1, 1992, no more than ninety college quarter-hour credits received by any employee after the baccalaureate degree may be used to determine compensation allocations under the state salary allocation schedule and LEAP documents referenced in the omnibus appropriations act, or any replacement schedules and documents, unless:

(a) The employee has a master's degree; or

(b) The credits were used in generating state salary allocations before January 1, 1992.

(4) Beginning in the 2007-08 school year, the calculation of years of service for occupational therapists, physical therapists, speech-language pathologists, audiologists, nurses, social workers, counselors, and psychologists regulated under Title 18 RCW may include experience in schools and other nonschool positions as occupational therapists, physical therapists, speech-language pathologists, audiologists, nurses, social workers, counselors, or psychologists. The calculation shall be that one year of service in a nonschool position counts as one year of service for purposes of this chapter, up to a limit of two years of nonschool service. Nonschool years of service included in calculations under this subsection shall not be applied to service credit totals for purposes of any retirement benefit under chapter 41.32, 41.35, or 41.40 RCW, or any other state retirement system benefits.

**Sec. 11.** RCW 28A.150.100 and 1990 c 33 s 103 are each amended to read as follows:

(1) For the purposes of this section and RCW 28A.150.410 and 28A.400.200, "basic education certificated instructional staff" ~~(shall)~~ means all full-time equivalent classroom teachers, teacher librarians, guidance counselors, certificated student health services staff, and other certificated instructional staff in the following programs as defined for statewide school district accounting purposes: Basic education, secondary vocational education, general instructional support, and general supportive services.

(2) ~~(In the 1988-89 school year and thereafter.)~~ Each school district shall maintain a ratio of at least forty-six basic education

certificated instructional staff to one thousand annual average full time equivalent students.

**Sec. 12.** 2009 c 548 s 710 (uncodified) is amended to read as follows:

(1) RCW 28A.150.030 (School day) and 1971 ex.s. c 161 s 1 & 1969 ex.s. c 223 s 28A.01.010;

(2) RCW 28A.150.060 (Certificated employee) and 2005 c 497 s 212, 1990 c 33 s 102, 1977 ex.s. c 359 s 17, 1975 1st ex.s. c 288 s 21, & 1973 1st ex.s. c 105 s 1;

(3) ~~((RCW 28A.150.100 (Basic education certificated instructional staff--Definition--Ratio to students) and 1990 c 33 s 103 & 1987 1st ex.s. c 2 s 203;~~

~~(4)))~~ RCW 28A.150.040 (School year--Beginning--End) and 1990 c 33 s 101, 1982 c 158 s 5, 1977 ex.s. c 286 s 1, 1975-76 2nd ex.s. c 118 s 22, & 1969 ex.s. c 223 s 28A.01.020;

~~((5)))~~ ~~(4)~~ RCW 28A.150.370 (Additional programs for which legislative appropriations must or may be made) and 1995 c 335 s 102, 1995 c 77 s 5, 1990 c 33 s 114, 1982 1st ex.s. c 24 s 1, & 1977 ex.s. c 359 s 7; and

~~((6)))~~ ~~(5)~~ RCW 28A.155.180 (Safety net funds--Application--Technical assistance--Annual survey) and 2007 c 400 s 8.

**Sec. 13.** 2009 c 548 s 804 (uncodified) is amended to read as follows:

Sections 101 through 105, 107 through 110, and 701 through 710 of this act take effect September 1, 2011.

NEW SECTION. **Sec. 14.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

NEW SECTION. **Sec. 15.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 16.** Sections 6 through 14 of this act take effect September 1, 2011.

NEW SECTION. **Sec. 17.** Section 3 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Senators McAuliffe and King spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator McAuliffe to Substitute House Bill No. 2776.

The motion by Senator McAuliffe carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "education;" strike the remainder of the title and insert "amending RCW 28A.150.315, 43.41.398, 28A.150.260, 28A.505.210, 28A.150.390, 28A.150.410, and 28A.150.100; amending 2009 c 548 s 302 (uncodified); amending 2009 c 548 s 710 (uncodified); amending 2009 c 548 s 804 (uncodified); adding a new section to chapter 28A.300 RCW; creating new sections; providing an effective date; and declaring an emergency."

MOTION

On motion of Senator McAuliffe, the rules were suspended, Substitute House Bill No. 2776 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2776 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2776 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Haugen and McCaslin

SUBSTITUTE HOUSE BILL NO. 2776 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

SENATE BILL NO. 6572, by Senator Tom

Eliminating certain accounts.

MOTIONS

On motion of Senator Tom, Substitute Senate Bill No. 6572 was substituted for Senate Bill No. 6572 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Tom, the rules were suspended, Substitute Senate Bill No. 6572 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Tom and Zarelli spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6572.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6572 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6572, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2224, by House Committee on Local Government & Housing (originally sponsored by Representative Simpson)

Concerning the installation of residential fire sprinkler systems.

The measure was read the second time.

MOTION

Senator Fairley moved that the following committee amendment by the Committee on Government Operations & Elections be adopted:

On page 4, beginning on line 1, strike all of section 4 Renumber the remaining sections consecutively.

On page 1, line 2 of the title, after "systems;" strike the remainder of the title and insert "amending RCW 18.160.050 and 82.02.100; adding a new section to chapter 70.119A RCW; and creating a new section."

POINT OF ORDER

Senator Honeyford: "Thank you Mr. President. I believe this bill is not properly before us. Senate Concurrent Resolution No. 8411, the cut off resolution states that Friday, March 5 was the final day to consider bills from the opposite house. Exceptions are made for bills necessary to implement the budget but it does not appear this bill qualifies. There's not reference in the Senate or the House version of the budget and neither budget relies on revenue from this bill so I submit this bills not properly before us and ask for a ruling thereon."

MOTION

On motion of Senator Eide, further consideration of Substitute House Bill No. 2224 was deferred and the bill held its place on the second reading calendar.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Fraser moved that Gubernatorial Appointment No. 9240, Larry E. Swift, as a member of the Board of Trustees, State School for the Deaf, be confirmed.

Senator Fraser spoke in favor of the motion.

MOTION

MOTION

On motion of Senator Marr, Senator Oemig was excused.

APPOINTMENT OF LARRY E. SWIFT

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9240, Larry E. Swift as a member of the Board of Trustees, State School for the Deaf.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9240, Larry E. Swift as a member of the Board of Trustees, State School for the Deaf and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators McCaslin and Oemig

Gubernatorial Appointment No. 9240, Larry E. Swift, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, State School for the Deaf.

MOTION

On motion of Senator Marr, Senator Prentice was excused.

SECOND READING

SUBSTITUTE SENATE BILL NO. 5899, by Senate Committee on Ways & Means (originally sponsored by Senators Kilmer, Franklin, Kastama, Shin, Marr, McAuliffe, Haugen, Brown, Berkey, Prentice, Fairley, Regala, Keiser, Eide, Rockefeller, Murray, Hatfield, Hargrove, Sheldon, Oemig and Kline)

Providing a business and occupation tax credit for qualified employment positions.

The measure was read the second time.

MOTION

Senator Kastama moved that the following amendment by Senators Kastama and Kilmer be adopted:

On page 1, line 8, after "section.", insert "New qualified employment positions filled by a new hire are not eligible for the credit under this section if the new hire has been, during the twelve months preceding the date of hire, an independent contractor providing essentially the same work for which they are hired. Persons claiming the credit must maintain records sufficient to show that the eligibility requirement in this section has been complied with."

WITHDRAWAL OF AMENDMENT

On motion of Senator Kastama, the amendment by Senators Kastama and Kilmer on page 1, line 8 to Substitute Senate Bill No. 5899 was withdrawn.

Senator Kastama moved that the following amendment by Senators Kastama and Kilmer be adopted:

On page 1, line 8, after "section.", insert "New qualified employment positions filled by a new hire are not eligible for the credit under this section if the new hire has been, during the twelve months preceding the date of hire, an independent contractor providing essentially the same work to the eligible business by which they are hired. Persons claiming the credit must maintain records sufficient to show that the eligibility requirement in this section has been met."

Senator Kastama spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Kastama and Kilmer on page 1, line 8 to Substitute Senate Bill No. 5899.

The motion by Senator Kastama carried and the amendment was adopted by voice vote.

MOTION

Senator Kilmer moved that the following amendment by Senator Kilmer and others be adopted:

On page 2, line 19, after "exceed" strike "five" and insert "ten"

On page 4, line 8, after "with" strike "ten" and insert "twenty"

On page 5, line 8, after "June 30," strike "2011" and insert "2012"

On page 5, after line 12, insert the following:

"NEW SECTION. **Sec. 3.** This act takes effect July 1, 2010."

Senator Kilmer spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Kilmer and others on page 2, line 19 to Substitute Senate Bill No. 5899.

The motion by Senator Kilmer carried and the amendment was adopted by voice vote.

MOTION

Senator Kilmer moved that the following amendment by Senators Kilmer and Zarelli be adopted:

On page 3, after line 32, strike all of subsections (10) and (11) and insert the following:

"(10) The employment security department must provide to the department of revenue such information needed for the department of revenue to certify all determinations of employment and wages.

(11) Applications, reports, and any other information received by the department under this section are subject to disclosure to the extent disclosure is not otherwise prohibited by state or federal law."

Re-number the remaining subsections consecutively and correct any internal references accordingly.

Senator Kilmer spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Kilmer and Zarelli on page 3, after line 32 to Substitute Senate Bill No. 5899.

The motion by Senator Kilmer carried and the amendment was adopted by voice vote.

On motion of Senator Kilmer, the rules were suspended, Engrossed Substitute Senate Bill No. 5899 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kilmer spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5899.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5899 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators McCaslin and Prentice

ENGROSSED SUBSTITUTE SENATE BILL NO. 5899, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 6:50 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

EVENING SESSION

The Senate was called to order at 7:23 p.m. by President Owen.

MOTION

At 7:23 p.m., on motion of Senator McDermott, the Senate adjourned until 9:30 a.m. Thursday, March 11, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**SIXTIETH DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Thursday, March 11, 2010

The Senate was called to order at 9:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Fairley, Holmquist, McCaslin and Murray.

The Sergeant at Arms Color Guard consisting of Pages Grant Kallstrom and Madison Scully, presented the Colors. Pastor Jonathan Schmick of Marine View Presbyterian Church offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

March 8, 2010

ESHB 2954 Prime Sponsor, Committee on Health & Human Services Appropriations: Concerning license fees for nursing homes, boarding homes, and adult family homes. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Keiser; Kline; Kohl-Welles; McDermott; Murray; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Carrell; Honeyford and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Brandland; Hewitt and Parlette.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, the measure listed on the Standing Committee report was referred to the committee as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

March 10, 2010

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:  
 ENGROSSED SUBSTITUTE HOUSE BILL 2424.  
 and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 10, 2010

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:  
 SECOND SUBSTITUTE HOUSE BILL 3076.  
 and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 10, 2010

MR. PRESIDENT:

The House has passed:  
 SECOND SUBSTITUTE SENATE BILL 6578.  
 and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 10, 2010

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:  
 ENGROSSED SUBSTITUTE HOUSE BILL 2547.  
 and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 6883 by Senators Zarelli, Carrell, Holmquist, Becker, Stevens, Morton, Parlette, Honeyford, Brandland, King and Hewitt

AN ACT Relating to payment of legislators' expenses; amending RCW 44.04.120; and declaring an emergency.

Referred to Committee on Government Operations & Elections.

E2SHB 2956 by House Committee on Ways & Means (originally sponsored by Representatives Pettigrew, Williams and Maxwell)

AN ACT Relating to a hospital safety net assessment for increased hospital payments to improve health care access for

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the citizens of Washington; amending 2009 c 564 s 209 (uncodified); reenacting and amending RCW 43.84.092; adding a new section to chapter 70.47 RCW; adding a new chapter to Title 74 RCW; creating a new section; providing an expiration date; and declaring an emergency.

Referred to Committee on Ways & Means.

## MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Engrossed Second Substitute House Bill No. 2956 which was referred to the Committee on Ways & Means under suspension of the rules.

## MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

## MOTION

Senator Schoesler moved adoption of the following resolution:

## SENATE RESOLUTION

8673

By Senators Schoesler, Hatfield, and Shin

WHEREAS, On June 14, 1777 the Second Continental Congress adopted a resolution setting forth the stars-and-stripes design of our nation's flag; and

WHEREAS, In 1916, President Woodrow Wilson proclaimed June 14th as Flag Day, marking the anniversary of the Flag Resolution of 1777; and

WHEREAS, The city of Fairfield, incorporated in 1905, began observing Flag Day with a public celebration in 1910, when the United States flag contained 46 stars, and six years prior to President Wilson's Flag Day proclamation; and

WHEREAS, Fairfield will celebrate Flag Day for the 100th consecutive year in 2010, a record believed to be unmatched by any community in the United States; and

WHEREAS, The community celebration will feature the dedication of a new flag pole at the Southeast Spokane County Museum, which had been the Fairfield City Hall in 1910, when the community first observed Flag Day; and

WHEREAS, The Southeast Spokane County Historical Society will present Fairfield with a new flag to be raised, and a new flag pole will be dedicated to the men and women of Fairfield and Southeast Spokane County who have served in our country's defense; and

WHEREAS, The new Fairfield flag will have flown over the United States Capitol on March 3rd, the day Fairfield was incorporated 105 years ago; and

WHEREAS, The Fairfield Service Club has put together a program for the Flag Day celebration, which will take place from June 11th to 13th, and includes not only the flag-raising and flag pole dedication but several traditional events, such as the annual parade and high school reunions that bring present and former Fairfield residents back together;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor the centennial of Fairfield's Flag Day celebration and the work of the Fairfield Service Club, the

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Southeast Spokane County Historical Society, and the city of Fairfield on this 100th anniversary of the community's patriotic observance.

Senator Schoesler spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8673.

The motion by Senator Schoesler carried and the resolution was adopted by voice vote.

## INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced the residents of the City of Fairfield who were seated in the gallery.

## MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

## MESSAGE FROM THE HOUSE

March 10, 2010

MR. PRESIDENT:

The House insists on its position regarding the House amendment(s) to ENGROSSED SUBSTITUTE SENATE BILL NO. 6774 and asks the Senate to concur thereon. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

## POINT OF ORDER

Senator Marr: "Mr. President, pursuant to Rule 66, I move the House amendment to Engrossed Substitute Senate Bill No. 6774 beyond the scope and object of the underlying bill. I have a very brief argument. The bill as it left the Senate simply provided an alternative governance structure for transportation benefit districts that include more than, that include an area in more than one jurisdiction. The House amendment, however, has nothing to do with this issue. Rather, it expands the jurisdictions eligible to create a transportation benefit district. Under current law only counties and cities may create a TBD or Transportation Benefit District. Under current law, or however, under the House amendment certain districts are allowed temporary create a TBD for the purpose of funding transportation improvements. Because the House amendment addresses expanding the list of jurisdictions eligible to create a TBD rather than simply addressing the governance structure of multi-jurisdiction TBD, I respectfully request a ruling that the amendment is beyond the scope and object of the bill and violates Rule 66. Thank Mr. President."

## MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute Senate Bill No. 6774 was deferred and the bill held its place on the days calendar.

## MESSAGE FROM THE HOUSE

March 10, 2010

MR. PRESIDENT:

The House insists on its position regarding the House amendment(s) to SUBSTITUTE SENATE BILL NO. 6611 and asks the Senate to concur thereon.

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and the same is herewith transmitted.

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BARBARA BAKER, Chief Clerk

MOTION

Senator Pridemore moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6611.

Senator Pridemore spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Pridemore that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6611.

The motion by Senator Pridemore carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6611 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6611, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6611, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 4; Excused, 0.

Voting yeas: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senators Fairley, Holmquist, McCaslin and Murray  
SUBSTITUTE SENATE BILL NO. 6611, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Brandland, Senators Holmquist and McCaslin were excused.

MOTION

On motion of Senator McDermott, the Senate advanced to the sixth order of business.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Prentice moved that Gubernatorial Appointment No. 9248, Brian Unti, as a member of the Board of Trustees, Renton Technical College District No. 27, be confirmed.

Senator Prentice spoke in favor of the motion.

MOTION

On motion of Senator Marr, Senators Brown and Fairley were excused.

APPOINTMENT OF BRIAN UNTI

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9248, Brian Unti as a member of the Board of Trustees, Renton Technical College District No. 27.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9248, Brian Unti as a member of the Board of Trustees, Renton Technical College District No. 27 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yeas: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Tom

Absent: Senator Zarelli

Excused: Senators Fairley, Holmquist and McCaslin

Gubernatorial Appointment No. 9248, Brian Unti, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Renton Technical College District No. 27.

MOTION

On motion of Senator Delvin, Senators Hewitt and Zarelli were excused.

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SUBSTITUTE SENATE BILL 6538,  
SUBSTITUTE SENATE BILL 6548,  
SECOND SUBSTITUTE SENATE BILL 6575,  
SENATE BILL 6804.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Prentice moved that Gubernatorial Appointment No. 9223, Tyler Page, as a member of the Board of Trustees, Renton Technical College District No. 27, be confirmed.

Senator Prentice spoke in favor of the motion.

APPOINTMENT OF TYLER PAGE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9223, Tyler Page as a member of the Board of Trustees, Renton Technical College District No. 27.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9223, Tyler Page as a member of the Board of Trustees, Renton Technical College District No. 27 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yeas: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette,

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Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Tom

Excused: Senators Hewitt, Holmquist, McCaslin and Zarelli  
Gubernatorial Appointment No. 9223, Tyler Page, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Renton Technical College District No. 27.

## MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

## MESSAGE FROM THE HOUSE

March 10, 2010

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 2776 and asks the Senate to recede therefrom.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

Senator McAuliffe moved that the Senate insist on its position on the Senate amendment(s) to Substitute House Bill No. 2776 and ask the House to concur thereon.

The President declared the question before the Senate to be motion by Senator McAuliffe that the Senate insist on its position on the Senate amendment(s) to Substitute House Bill No. 2776 and ask the House to concur hereon.

The motion by Senator McAuliffe carried and the Senate insisted on its position in the Senate amendment(s) to Substitute House Bill No. 2776 and asked the House to concur thereon by voice vote.

## MESSAGE FROM THE HOUSE

March 10, 2010

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 3124 and asks the Senate to recede therefrom.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

Senator Benton moved that the Senate insist on its position in the Senate amendment(s) to Substitute House Bill No. 3124 and ask the House to concur thereon.

The President declared the question before the Senate to be motion by Senator Benton that the Senate insist on its position in the Senate amendment(s) to Substitute House Bill No. 3124 and ask the House to concur hereon.

The motion by Senator Benton carried and the Senate insisted on its position in the Senate amendment(s) to Substitute House Bill No. 3124 and asked the House to concur thereon by voice vote.

## MESSAGE FROM THE HOUSE

MR. PRESIDENT:

The House receded from its amendment(s) to SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 6508. Under suspension of the rules, the bill was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 6508-S.E2 AMH PEDE ADAM 153, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 4.20.010 and 1917 c 123 s 1 are each amended to read as follows:

(1) When the death of a person is caused by the wrongful act, neglect or default of another his personal representative may maintain an action for damages against the person causing the death; and although the death shall have been caused under such circumstances as amount, in law, to a felony.

(2) The liability of a governmental entity in an action under this section that is based on a parent's significant involvement in an adult child's life is limited to situations where the governmental entity's acts or omissions are negligent and are a proximate cause of the death of the claimant, and where the governmental entity is not otherwise immune or where the governmental entity's liability is not otherwise limited by statute or case law.

(3) For the purposes of this section, "governmental entity" means the state, local agencies, political subdivisions, and any officers, employees, or agents of the state, local agencies, or political subdivisions.

"**Sec. 2.** RCW 4.20.020 and 2007 c 156 s 29 are each amended to read as follows:

(1) Every (~~such~~) action under RCW 4.20.010 shall be for the benefit of the (~~wife, husband~~) spouse, state registered domestic partner, (~~child~~) or children, including stepchildren, of the person whose death shall have been so caused. If there (~~be~~) is no (~~wife, husband~~) spouse, state registered domestic partner, or (~~such~~) child (~~or children, such~~), the action may be maintained for the benefit of:

(a) The parents (~~sisters, or brothers, who may be dependent upon the deceased person for support, and who are resident within the United States at the time of his death~~) of a deceased adult child if the parents are financially dependent upon the adult child for support or if the parents have had significant involvement in the adult child's life; or

(b) Sisters or brothers who are financially dependent upon the decedent for support if there is no spouse, state registered domestic partner, child, or parent.

In every such action the jury may (~~give such~~) award economic and noneconomic damages as(;) under all circumstances of the case(;) may to them seem just. In an action under RCW 4.20.010 that is based on a parent's significant involvement in an adult child's life, economic damages include any student loan balance that the parent may be obligated to repay as a result of acting as a cosigner or guarantor on the decedent's student loans, except for student loan balances that, under the terms of the loan, are eligible for a complete discharge upon the death of the borrower.

(2) For the purposes of this section:

(a) "Financially dependent for support" means substantial dependence based on the receipt of services that have an economic or monetary value, or substantial dependence based on actual monetary payments or contributions; and

(b) "Significant involvement" means demonstrated support of an emotional, psychological, or financial nature within the relationship, at or reasonably near the time of death, or at or reasonably near the time of the incident causing death. When determining if the parents have had significant involvement in the adult child's life, the court shall consider, but not be limited to,

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objective evidence of personal, verbal, written, or electronic contact with the adult child, and in-person interaction with the adult child during holidays, birthdays, and other events.

**Sec. 3.** RCW 4.20.046 and 2008 c 6 s 409 are each amended to read as follows:

(1) All causes of action by a person or persons against another person or persons shall survive to the personal representatives of the former and against the personal representatives of the latter, whether ~~((such))~~ the actions arise on contract or otherwise, and whether or not ~~((such))~~ the actions would have survived at the common law or prior to the date of enactment of this section ~~((:—PROVIDED, HOWEVER, That))~~.

(2) In addition to recovering economic losses for the estate, the personal representative ((shall only be)) is entitled to recover on behalf of those beneficiaries identified under RCW 4.20.060 any noneconomic damages for pain and suffering, anxiety, emotional distress, or humiliation personal to and suffered by ((a)) the deceased ((on behalf of those beneficiaries enumerated in RCW 4.20.020, and)) in such amounts as determined by a jury to be just under all the circumstances of the case. Damages under this section are recoverable regardless of whether or not the death was occasioned by the injury that is the basis for the action.

(3) The liability of property of spouses or domestic partners held by them as community property and subject to execution in satisfaction of a claim enforceable against such property so held shall not be affected by the death of either or both spouses or either or both domestic partners; and a cause of action shall remain an asset as though both claiming spouses or both claiming domestic partners continued to live despite the death of either or both claiming spouses or both claiming domestic partners.

~~((2))~~ (4) Where death or an injury to person or property, resulting from a wrongful act, neglect or default, occurs simultaneously with or after the death of a person who would have been liable therefor if his or her death had not occurred simultaneously with such death or injury or had not intervened between the wrongful act, neglect or default and the resulting death or injury, an action to recover damages for such death or injury may be maintained against the personal representative of such person.

**Sec. 4.** RCW 4.20.060 and 2007 c 156 s 30 are each amended to read as follows:

(1) No action for a personal injury to any person occasioning death shall abate, nor shall ((such)) the right of action ((determine)) terminate, by reason of ((such)) the death(;) if ((such)) the person has a surviving ((spouse, state registered domestic partner, or child living, including stepchildren, or leaving no surviving spouse, state registered domestic partner, or such children, if there is dependent upon the deceased for support and resident within the United States at the time of decedent's death, parents, sisters, or brothers; but such action may be prosecuted, or commenced and prosecuted, by the executor or administrator)) beneficiary in whose favor the action may be brought under subsection (2) of this section.

(2) An action under this section shall be brought by the personal representative of the deceased(;) in favor of ((such)) the surviving spouse or state registered domestic partner((, or in favor of the surviving spouse or state registered domestic partner)) and ((such)) children((, or if)). If there is no surviving spouse ((or)), state registered domestic partner, ((in favor of such child)) or children, ((or if no surviving spouse, state registered domestic partner, or such child or children, then)) the action shall be brought in favor of the decedent's;

(a) Parents((, sisters, or brothers who may be dependent upon such person for support, and resident in the United States at the time of decedent's death)) if the parents are financially dependent upon the decedent for support or if the parents have had significant involvement in the decedent's life; or

(b) Sisters or brothers who are financially dependent upon the decedent for support if there is no spouse, state registered domestic partner, child, or parent.

(3) In addition to recovering economic losses, the persons identified in subsection (2) of this section are entitled to recover any noneconomic damages personal to and suffered by the decedent including, but not limited to, damages for the decedent's pain and suffering, anxiety, emotional distress, or humiliation, in such amounts as determined by a jury to be just under all the circumstances of the case.

(4) For the purposes of this section:

(a) "Financially dependent for support" means substantial dependence based on the receipt of services that have an economic or monetary value, or substantial dependence based on actual monetary payments or contributions; and

(b) "Significant involvement" means demonstrated support of an emotional, psychological, or financial nature within the relationship, at or reasonably near the time of death, or at or reasonably near the time of the incident causing death. When determining if the parents have had significant involvement in the child's life, the court shall consider, but not be limited to, objective evidence of personal, verbal, written, or electronic contact with the child, and in-person interaction with the child during holidays, birthdays, and other events.

**Sec. 5.** RCW 4.24.010 and 1998 c 237 s 2 are each amended to read as follows:

(1) A ((mother or father, or both,)) parent who has regularly contributed to the support of his or her minor child, ((and the mother or father, or both, of a child on whom either, or both, are)) or a parent who is financially dependent on a minor child for support or who has had significant involvement in the minor child's life, may maintain or join ((as a party)) an action as plaintiff for the injury or death of the child.

(2) Each parent, separately from the other parent, is entitled to recover for his or her own loss regardless of marital status, even though this section creates only one cause of action((, but if the parents of the child are not married, are separated, or not married to each other damages may be awarded to each plaintiff separately, as the trier of fact finds just and equitable)).

(3) If one parent brings an action under this section and the other parent is not named as a plaintiff, notice of the institution of the suit, together with a copy of the complaint, shall be served upon the other parent: PROVIDED, That notice shall be required only if parentage has been duly established.

Such notice shall be in compliance with the statutory requirements for a summons. Such notice shall state that the other parent must join as a party to the suit within twenty days or the right to recover damages under this section shall be barred. Failure of the other parent to timely appear shall bar such parent's action to recover any part of an award made to the party instituting the suit.

(4) In ((such)) an action under this section, in addition to damages for medical, hospital, medication expenses, and loss of services and support, damages may be recovered for the loss of love and companionship of the child and for injury to or destruction of the parent-child relationship in such amount as, under all the circumstances of the case, may be just.

(5) For the purposes of this section:

(a) "Financially dependent for support" means substantial dependence based on the receipt of services that have an economic or monetary value, or substantial dependence based on actual monetary payments or contributions; and

(b) "Significant involvement" means demonstrated support of an emotional, psychological, or financial nature within the relationship, at or reasonably near the time of death, or at or reasonably near the time of the incident causing death. When

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determining if the parents have had significant involvement in the child's life, the court shall consider, but not be limited to, objective evidence of personal, verbal, written, or electronic contact with the child, and in-person interaction with the child during holidays, birthdays, and other events.

**NEW SECTION. Sec. 6.** This act applies to all causes of action that are based on deaths occurring on or after the effective date of this act.

**NEW SECTION. Sec. 7.** (1) On December 1, 2011, and every December 1st thereafter, the risk management division within the office of financial management shall report to the house of representatives ways and means committee, the house of representatives judiciary committee, the senate ways and means committee, and the senate government operations and elections committee, or successor committees, on the incidents covered by this act that involve state agencies.

(2) On December 1, 2011, and every December 1st thereafter, each local government risk pool or local government risk management division, or the equivalent in local governments, shall report to the legislative body of the local government on the incidents covered by this act that involve the local government.

(3) This section expires December 2, 2016.

**NEW SECTION. Sec. 8.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Fairley moved that the Senate concur in the House amendment(s) to Second Engrossed Substitute Senate Bill No. 6508.

#### POINT OF ORDER

Senator Brandland: "Thank you Mr. President. I would move that Senate Rule requires that titles of bills fit their subject matter. I believe this title is improper under Rule 25 and I have some arguments to offer. I can read them if you like or I could present them."

#### REPLY BY THE PRESIDENT

President Owen: "Senator Brandland, you could just present them to us if you like."

Senator Gordon spoke against the point of order.

#### MOTION

On motion of Senator Eide, further consideration of Second Engrossed Substitute Senate Bill No. 6508 was deferred and the bill held its place on the days calendar.

#### MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

#### SUPPLEMENTAL INTRODUCTION AND FIRST READING OF HOUSE BILLS

**E2SHB 2617** by House Committee on Ways & Means (originally sponsored by Representatives Driscoll, Chase, Hunt, Wallace, Williams, Maxwell, White, Kelley, Carlyle, Simpson, Seauquist and Moeller)

AN ACT Relating to eliminating boards and commissions; amending RCW 43.03.027, 43.03.028, 34.12.100, 42.17.370, 43.03.040, 43.63A.760, 70.47.040, 41.04.033, 41.04.0331, 41.04.0332, 72.78.030, 43.101.380, 43.105.052, 82.58.020, 46.20.100, 46.82.280, 46.82.330, 46.82.420, 18.73.030, 18.73.101, 41.50.088, 41.50.770, 41.50.780, 41.34.020, 41.34.040, 41.34.070, 41.34.130, 41.34.140, 43.33A.135, 36.70C.030, 70.112.010, 70.112.020, 43.43.930, 43.43.934, 43.43.938, 43.43.962, 43.43.963, 43.44.030, 43.44.060, 38.52.530, 49.26.120, 48.62.061, 48.62.161, 28B.76.280, 43.330.090, 2.56.031, 13.40.510, 43.105.041, 43.105.805, 43.105.820, 19.146.225, 90.56.005, 90.56.060, 43.30.820, 18.210.010, 18.210.050, 18.210.060, 70.118.110, 77.95.100, 77.95.180, 77.95.190, 70.95.030, 43.21A.520, 70.105.010, 70.105.160, 46.16.316, 46.16.715, 46.16.725, 46.16.745, 46.16.755, 46.16.775, 46.16.30901, 46.16.30903, 46.16.30905, 46.16.30907, 46.16.30909, 46.16.30911, 46.16.30913, 46.16.30914, 46.16.30916, 46.16.30918, 46.16.30920, 46.16.30922, 46.16.30924, 46.16.30926, 46.16.30928, 43.370.020, 43.370.030, 43.60A.170, 43.131.406, 43.60A.010, 70.119A.180, 90.86.030, 27.34.365, 70.94.6534, 76.04.630, 76.04.660, 15.92.070, 17.21.020, 43.15.020, 43.15.020, 46.01.325, 46.01.140, 43.03.050, 43.03.220, 43.03.230, 43.03.240, 43.03.250, and 43.03.265; reenacting and amending RCW 18.71.205, 43.21B.005, 43.105.020, and 46.16.233; adding new sections to chapter 43.215 RCW; creating new sections; recodifying RCW 43.121.170, 43.121.175, and 43.121.180; repealing RCW 70.96A.070, 43.101.310, 43.101.315, 43.101.320, 43.101.325, 43.101.330, 43.101.335, 43.101.340, 43.101.345, 43.105.055, 46.82.300, 18.73.040, 18.73.050, 41.50.086, 43.21L.005, 43.21L.010, 43.21L.020, 43.21L.030, 43.21L.040, 43.21L.050, 43.21L.060, 43.21L.070, 43.21L.080, 43.21L.090, 43.21L.100, 43.21L.110, 43.21L.120, 43.21L.130, 43.21L.140, 43.21L.900, 43.21L.901, 70.112.030, 70.112.040, 70.112.050, 43.43.932, 43.43.936, 70.105E.070, 70.105E.090, 48.62.051, 48.62.041, 28B.76.100, 10.98.200, 10.98.210, 10.98.220, 10.98.230, 10.98.240, 43.105.800, 43.105.810, 43.360.040, 19.146.280, 90.56.120, 90.56.130, 18.210.040, 18.210.070, 70.118.100, 77.95.110, 77.95.120, 70.95.040, 70.95.050, 70.95.070, 70.105.060, 46.16.705, 43.60A.180, 46.38.010, 46.38.020, 46.38.030, 46.38.040, 46.38.050, 46.38.060, 46.38.070, 46.38.080, 46.38.090, 70.119A.160, 46.39.010, 46.39.020, 17.15.040, 79.19.070, 76.04.145, 43.126.015, 43.126.025, 43.126.035, 43.126.045, 43.126.055, 43.126.065, 43.126.075, 43.126.085, 17.21.230, 17.21.240, 17.21.250, 17.21.260, 17.21.270, 70.104.080, and 46.01.320; providing effective dates; and providing an expiration date.

Referred to Committee on Ways & Means.

**ESHB 3186** by House Committee on Finance (originally sponsored by Representatives Pettigrew, Walsh, Williams, Hunt, Green, Dickerson, Kagi, Goodman, Orwall, Liias, Seauquist, White and Appleton)

AN ACT Relating to imposing a tax on home and community based services to fund services for seniors and people with

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disabilities; amending RCW 82.16.020, 82.16.020, and 35.21.710; reenacting and amending RCW 82.16.010 and 82.16.010; adding a new section to chapter 82.16 RCW; creating a new section; providing effective dates; and providing an expiration date.

Referred to Committee on Ways & Means.

SHB 3201 by House Committee on Ways & Means (originally sponsored by Representatives Pettigrew, Linville, Sullivan and Ericks)

AN ACT Relating to fees for treatment services and outreach for children with heritable disorders; and amending RCW 70.83.023.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide and without objections, the rules were suspended and Engrossed Second Substitute House Bill No. 2617 was placed on the second reading calendar and Engrossed Substitute House Bill No. 3186 and Substitute House Bill No. 3201 were referred to the Committee on Ways & Means.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

March 6, 2010

MR. PRESIDENT:

The House refuses to concur in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2876, and asks the Senate for a conference thereon. The Speaker has appointed the following members as Conferees: Representatives Cody, Moeller, Hinkle, and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Keiser moved that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 2876.

The President declared the question before the Senate to be motion by Senator Keiser that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 2876.

The motion by Senator Keiser carried and the Senate receded from its amendments to Engrossed Substitute House Bill No. 2876 by voice vote.

MOTION

On motion of Senator Keiser, the rules were suspended and Engrossed Substitute House Bill No. 2876 was returned to second reading for the purposes of amendment.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2876, by House Committee on Health Care & Wellness (originally sponsored by Representatives Moeller, Green and Morrell)

Concerning pain management.

The measure was read the second time.

MOTION

Senator Keiser moved that the following striking amendment by Senator Keiser and others be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 18.22 RCW to read as follows:

(1) By June 30, 2011, the board shall repeal its rules on pain management, WAC 246-922-510 through 246-922-540.

(2) By June 30, 2011, the board shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a)(i) Dosing criteria, including:

(A) A dosage amount that must not be exceeded unless a podiatric physician and surgeon first consults with a practitioner specializing in pain management; and

(B) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management.

(ii) The rules regarding consultation with a practitioner specializing in pain management must, to the extent practicable, take into account:

(A) Circumstances under which repeated consultations would not be necessary or appropriate for a patient undergoing a stable, ongoing course of treatment for pain management;

(B) Minimum training and experience that is sufficient to exempt a podiatric physician and surgeon from the specialty consultation requirement;

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients.

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids.

(3) The board shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional association of podiatric physicians and surgeons in the state.

(4) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

NEW SECTION. Sec. 2. A new section is added to chapter 18.32 RCW to read as follows:

(1) By June 30, 2011, the commission shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a)(i) Dosing criteria, including:

(A) A dosage amount that must not be exceeded unless a dentist first consults with a practitioner specializing in pain management; and

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(B) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management.

(ii) The rules regarding consultation with a practitioner specializing in pain management must, to the extent practicable, take into account:

(A) Circumstances under which repeated consultations would not be necessary or appropriate for a patient undergoing a stable, ongoing course of treatment for pain management;

(B) Minimum training and experience that is sufficient to exempt a dentist from the specialty consultation requirement;

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients.

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids.

(2) The commission shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional association of dentists in the state.

(3) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

**NEW SECTION. Sec. 3.** A new section is added to chapter 18.57 RCW to read as follows:

(1) By June 30, 2011, the board shall repeal its rules on pain management, WAC 246-853-510 through 246-853-540.

(2) By June 30, 2011, the board shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a)(i) Dosing criteria, including:

(A) A dosage amount that must not be exceeded unless an osteopathic physician and surgeon first consults with a practitioner specializing in pain management; and

(B) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management.

(ii) The rules regarding consultation with a practitioner specializing in pain management must, to the extent practicable, take into account:

(A) Circumstances under which repeated consultations would not be necessary or appropriate for a patient undergoing a stable, ongoing course of treatment for pain management;

(B) Minimum training and experience that is sufficient to exempt an osteopathic physician and surgeon from the specialty consultation requirement;

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients.

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(3) The board shall consult with the agency medical directors' group, the department of health, the University of Washington, and

the largest association of osteopathic physicians and surgeons in the state.

(4) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

**NEW SECTION. Sec. 4.** A new section is added to chapter 18.57A RCW to read as follows:

(1) By June 30, 2011, the board shall repeal its rules on pain management, WAC 246-854-120 through 246-854-150.

(2) By June 30, 2011, the board shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a)(i) Dosing criteria, including:

(A) A dosage amount that must not be exceeded unless an osteopathic physician's assistant first consults with a practitioner specializing in pain management; and

(B) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management.

(ii) The rules regarding consultation with a practitioner specializing in pain management must, to the extent practicable, take into account:

(A) Circumstances under which repeated consultations would not be necessary or appropriate for a patient undergoing a stable, ongoing course of treatment for pain management;

(B) Minimum training and experience that is sufficient to exempt an osteopathic physician's assistant from the specialty consultation requirement;

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients.

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(3) The board shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest association of osteopathic physician's assistants in the state.

(4) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

**NEW SECTION. Sec. 5.** A new section is added to chapter 18.71 RCW to read as follows:

(1) By June 30, 2011, the commission shall repeal its rules on pain management, WAC 246-919-800 through 246-919-830.

(2) By June 30, 2011, the commission shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a)(i) Dosing criteria, including:

(A) A dosage amount that must not be exceeded unless a physician first consults with a practitioner specializing in pain management; and

(B) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management.

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(ii) The rules regarding consultation with a practitioner specializing in pain management must, to the extent practicable, take into account:

(A) Circumstances under which repeated consultations would not be necessary or appropriate for a patient undergoing a stable, ongoing course of treatment for pain management;

(B) Minimum training and experience that is sufficient to exempt a physician from the specialty consultation requirement;

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients.

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(3) The commission shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional association of physicians in the state.

(4) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

**NEW SECTION. Sec. 6.** A new section is added to chapter 18.71A RCW to read as follows:

(1) By June 30, 2011, the commission shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a)(i) Dosing criteria, including:

(A) A dosage amount that must not be exceeded unless a physician assistant first consults with a practitioner specializing in pain management; and

(B) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management.

(ii) The rules regarding consultation with a practitioner specializing in pain management must, to the extent practicable, take into account:

(A) Circumstances under which repeated consultations would not be necessary or appropriate for a patient undergoing a stable, ongoing course of treatment for pain management;

(B) Minimum training and experience that is sufficient to exempt a physician assistant from the specialty consultation requirement;

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients.

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(2) The commission shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional association of physician assistants in the state.

(3) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

**NEW SECTION. Sec. 7.** A new section is added to chapter 18.79 RCW to read as follows:

(1) By June 30, 2011, the commission shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a)(i) Dosing criteria, including:

(A) A dosage amount that must not be exceeded unless an advanced registered nurse practitioner or certified registered nurse anesthetist first consults with a practitioner specializing in pain management; and

(B) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management.

(ii) The rules regarding consultation with a practitioner specializing in pain management must, to the extent practicable, take into account:

(A) Circumstances under which repeated consultations would not be necessary or appropriate for a patient undergoing a stable, ongoing course of treatment for pain management;

(B) Minimum training and experience that is sufficient to exempt an advanced registered nurse practitioner or certified registered nurse anesthetist from the specialty consultation requirement;

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients.

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(2) The commission shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional associations for advanced registered nurse practitioners and certified registered nurse anesthetists in the state.

(3) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

**NEW SECTION. Sec. 8.** (1) The boards and commissions required to adopt rules on pain management under sections 1 through 7 of this act shall work collaboratively to ensure that the rules are as uniform as practicable.

(2) On January 11, 2011, each of the boards and commissions required to adopt rules on pain management under sections 1 through 7 of this act shall submit the proposed rules required by this act to the appropriate committees of the legislature."

Senators Keiser, Pflug, Fairley and Parlette spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Keiser and others to Engrossed Substitute House Bill No. 2876.

The motion by Senator Keiser carried and the striking amendment was adopted by voice vote.

MOTION

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There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "management;" strike the remainder of the title and insert "adding a new section to chapter 18.22 RCW; adding a new section to chapter 18.32 RCW; adding a new section to chapter 18.57 RCW; adding a new section to chapter 18.57A RCW; adding a new section to chapter 18.71 RCW; adding a new section to chapter 18.71A RCW; adding a new section to chapter 18.79 RCW; and creating a new section."

## MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute House Bill No. 2876 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Pflug spoke in favor of passage of the bill.

Senator Hobbs spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2876 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2876 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 36; Nays, 12; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Haugen, Hewitt, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, McAuliffe, McDermott, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Roach, Rockefeller, Schoesler, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Berkey, Fairley, Hatfield, Hobbs, Holmquist, Honeyford, Marr, Oemig, Ranker, Regala, Sheldon and Shin

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2876 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 10:44 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 1:40 p.m. by President Owen.

## MESSAGE FROM THE HOUSE

March 10, 2010

MR. PRESIDENT:

The House has passed:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2617,

ENGROSSED SUBSTITUTE HOUSE BILL 3186,

SUBSTITUTE HOUSE BILL 3201.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Carrell moved that Gubernatorial Appointment No. 9270, Jaqueline B. Rosenblatt, as a member of the Board of Trustees, Pierce Community College District No. 11, be confirmed.

Senator Carrell spoke in favor of the motion.

## APPOINTMENT OF JAQUELINE B. ROSENBLATT

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9270, Jaqueline B. Rosenblatt as a member of the Board of Trustees, Pierce Community College District No. 11.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9270, Jaqueline B. Rosenblatt as a member of the Board of Trustees, Pierce Community College District No. 11 and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Fraser

Excused: Senator McCaslin

Gubernatorial Appointment No. 9270, Jaqueline B. Rosenblatt, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Pierce Community College District No. 11.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Brown moved that Gubernatorial Appointment No. 9265, Tom Karier, as a member of the Northwest Power and Conservation Council, be confirmed.

Senator Brown spoke in favor of the motion.

## MOTION

On motion of Senator Marr, Senator Fraser was excused.

## MOTION

On motion of Senator Delvin, Senator Pflug was excused.

## APPOINTMENT OF TOM KARIER

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9265, Tom Karier as a member of the Northwest Power and Conservation Council.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9265, Tom Karier as a member of the Northwest Power and Conservation Council and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Fraser and McCaslin

Gubernatorial Appointment No. 9265, Tom Karier, having received the constitutional majority was declared confirmed as a member of the Northwest Power and Conservation Council.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2436, by House Committee on General Government Appropriations (originally sponsored by Representatives Moeller, Green, Clibborn, Pedersen, Carlyle, Morrell and Jacks)

Concerning vehicle license fraud.

The measure was read the second time.

MOTION

Senator Haugen moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.16.010 and 2007 c 242 s 2 are each amended to read as follows:

(1) It is unlawful for a person to operate any vehicle over and along a public highway of this state without first having obtained and having in full force and effect a current and proper vehicle license and display vehicle license number plates ~~((therefor))~~ as provided by this chapter ((provided)).

(2) Failure to make initial registration before operation on the highways of this state is a traffic infraction, and any person committing this infraction ~~((shall))~~ must pay a ~~((penalty))~~ fine of five hundred twenty-nine dollars, subject to applicable assessments, no part of which may be suspended or deferred. This fine is in addition to any delinquent taxes and fees that must be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion. The five hundred twenty-nine dollar fine must be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250.

(3) Failure to renew an expired registration before operation on the highways of this state is a traffic infraction.

(4) The licensing of a vehicle in another state by a resident of this state, as defined in RCW 46.16.028, evading the payment of any tax or license fee imposed in connection with registration, is a gross misdemeanor punishable, in lieu of the fine in subsection (2) of this section, as follows:

- (a) For a first offense~~((;))~~:
  - ~~((i))~~ Up to one year in the county jail ~~((and))~~;
  - ~~((ii))~~ Payment of a fine of five hundred twenty-nine dollars ~~((plus twice the amount of delinquent taxes and fees))~~ plus any applicable assessments, no part of which may be suspended or deferred. The fine of five hundred twenty-nine dollars must be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250;
  - ~~((iii))~~ A fine of one thousand dollars to be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250, no part of which may be suspended or deferred; and
  - ~~((iv))~~ The delinquent taxes and fees, which must be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion, no part of which may be suspended or deferred;
- (b) For a second or subsequent offense~~((;))~~:
  - ~~((i))~~ Up to one year in the county jail ~~((and))~~;
  - ~~((ii))~~ Payment of a fine of five hundred twenty-nine dollars ~~((plus four times the amount of delinquent taxes and fees))~~ plus any applicable assessments, no part of which may be suspended or deferred. The fine of five hundred twenty-nine dollars must be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250;
  - ~~((iii))~~ A fine of five thousand dollars to be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250, no part of which may be suspended or deferred;
  - ~~((c))~~ For fines levied under (b) of this subsection, an amount equal to the avoided taxes and fees owed will be deposited in the vehicle licensing fraud account created in the state treasury;
  - (d) The avoided taxes and fees shall be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion) and
  - ~~((iv))~~ The amount of delinquent taxes and fees, which must be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion, no part of which may be suspended or deferred.
- (5) These provisions ~~((shall))~~ do not apply to the following vehicles:
  - (a) Motorized foot scooters;
  - (b) Electric-assisted bicycles;
  - (c) Off-road vehicles operating on nonhighway roads under RCW 46.09.115;
  - (d) Farm vehicles if operated within a radius of fifteen miles of the farm where principally used or garaged, farm tractors and farm implements including trailers designed as cook or bunk houses used exclusively for animal herding temporarily operating or drawn upon the public highways, and trailers used exclusively to transport farm implements from one farm to another during the daylight hours or at night when such equipment has lights that comply with the law;
  - (e) Spray or fertilizer applicator rigs designed and used exclusively for spraying or fertilization in the conduct of agricultural operations and not primarily for the purpose of transportation, and nurse rigs or equipment auxiliary to the use of and designed or modified for the fueling, repairing, or loading of spray and fertilizer applicator rigs and not used, designed, or modified primarily for the purpose of transportation;
  - (f) Fork lifts operated during daylight hours on public highways adjacent to and within five hundred feet of the warehouses which they serve~~((: PROVIDED FURTHER, That))~~. However, these provisions ~~((shall))~~ do not apply to vehicles used by the state parks and recreation commission exclusively for park maintenance and operations upon public highways within state parks;
  - (g) "Trams" used for transporting persons to and from facilities related to the horse racing industry as regulated in chapter 67.16 RCW, as long as the public right-of-way routes over which the

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trams operate are not more than one mile from end to end, the public rights-of-way over which the tram operates have an average daily traffic of not more than 15,000 vehicles per day, and the activity is in conformity with federal law. The operator must be a licensed driver and at least eighteen years old. For the purposes of this section, "tram" also means a vehicle, or combination of vehicles linked together with a single mode of propulsion, used to transport persons from one location to another;

(h)(i) "Special highway construction equipment" defined as follows: Any vehicle which is designed and used primarily for grading of highways, paving of highways, earth moving, and other construction work on highways and which is not designed or used primarily for the transportation of persons or property on a public highway and which is only incidentally operated or moved over the highway. It includes, but is not limited to, road construction and maintenance machinery so designed and used such as portable air compressors, air drills, asphalt spreaders, bituminous mixers, bucket loaders, track laying tractors, ditchers, leveling graders, finishing machines, motor graders, paving mixers, road rollers, scarifiers, earth moving scrapers and carryalls, lighting plants, welders, pumps, power shovels and draglines, self-propelled and tractor-drawn earth moving equipment and machinery, including dump trucks and tractor-dump trailer combinations which ~~((either~~ ~~(+))~~;

~~(A) Are in excess of the legal width((,))<sub>2</sub> or ~~((ii) which)~~~~  
~~(B) Because of their length, height, or unladen weight, may not be moved on a public highway without the permit specified in RCW 46.44.090 and which are not operated laden except within the boundaries of the project limits as defined by the contract, and other similar types of construction equipment((,))<sub>2</sub> or ~~((iii) which)~~~~  
~~(C) Are driven or moved upon a public highway only for the purpose of crossing such highway from one property to another, provided such movement does not exceed five hundred feet and the vehicle is equipped with wheels or pads which will not damage the roadway surface.~~

((Exclusions:))

~~(ii) "Special highway construction equipment" does not include ~~((any of the following:))~~ dump trucks originally designed to comply with the legal size and weight provisions of this code notwithstanding any subsequent modification which would require a permit, as specified in RCW 46.44.090, to operate such vehicles on a public highway, including trailers, truck-mounted transit mixers, cranes and shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.~~

(6) The following vehicles, whether operated solo or in combination, are exempt from license registration and displaying license plates as required by this chapter:

(a) A converter gear used to convert a semitrailer into a trailer or a two-axle truck or tractor into a three or more axle truck or tractor or used in any other manner to increase the number of axles of a vehicle. Converter gear includes an auxiliary axle, booster axle, dolly, and jeep axle.

(b) A tow dolly that is used for towing a motor vehicle behind another motor vehicle. The front or rear wheels of the towed vehicle are secured to and rest on the tow dolly that is attached to the towing vehicle by a tow bar.

(c) An off-road vehicle operated on a street, road, or highway as authorized under RCW 46.09.180.

(7)(a) A motor vehicle subject to initial or renewal registration under this section shall not be registered to a natural person unless the person at time of application:

- (i) Presents an unexpired Washington state driver's license; or
- (ii) Certifies that he or she is:

(A) A Washington resident who does not operate a motor vehicle on public roads; or

(B) Exempt from the requirement to obtain a Washington state driver's license under RCW 46.20.025.

(b) For shared or joint ownership, the department will set up procedures to verify that all owners meet the requirements of this subsection.

(c) A person falsifying residency is guilty of a gross misdemeanor punishable only by a fine of five hundred twenty-nine dollars.

(d) The department may adopt rules necessary to implement this subsection, including rules under which a natural person applying for registration may be exempt from the requirements of this subsection where the person provides evidence satisfactory to the department that he or she has a valid and compelling reason for not being able to meet the requirements of this subsection.

(8) A vehicle with an expired registration of more than forty-five days parked on a public street may be impounded by a police officer under RCW 46.55.113(2).

NEW SECTION. Sec. 2. The sum of seventy-five thousand dollars per fiscal year is appropriated to the department of revenue or as much thereof as may be necessary and the sum of two hundred fifty thousand dollars is appropriated to the Washington state patrol per fiscal year, or as much thereof as may be necessary, from the vehicle license fraud account for the purposes of vehicle license fraud enforcement and collections by the Washington state patrol and the department of revenue.

NEW SECTION. Sec. 3. This act takes effect July 1, 2010."

Senator Haugen spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to Second Substitute House Bill No. 2436.

The motion by Senator Haugen carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "fraud;" strike the remainder of the title and insert "amending RCW 46.16.010; prescribing penalties; making an appropriation; and providing an effective date."

#### MOTION

On motion of Senator Haugen, the rules were suspended, Second Substitute House Bill No. 2436 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Haugen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2436 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2436 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SECOND SUBSTITUTE HOUSE BILL NO. 2436 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2893, by House Committee on Education Appropriations (originally sponsored by Representatives Sullivan, Carlyle, Hunter, Maxwell, Nelson, Hunt, Appleton, Simpson, Dickerson, White, Pedersen, Green, Sells, Eddy, Springer, Williams, Orwall, Goodman, Conway, Kenney, Rolfes, Ericks, Ormsby, Kagi, Roberts and Jacks)

Changing school levy provisions.

The measure was read the second time.

MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford be adopted:

On page 7, line 33, strike "twenty-eight" and insert "twenty-six"

Senator Honeyford spoke in favor of adoption of the amendment.

Senator McAuliffe spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 7, line 33 to Substitute House Bill No. 2893.

The motion by Senator Honeyford failed and the amendment was not adopted by voice vote.

MOTION

Senator Swecker moved that the following amendment by Senator Swecker and others be adopted:

On page 10, after line 22, insert the following:

"**Sec. 5.** RCW 28A.520.020 and 1991 sp.s. c 13 s 113 are each amended to read as follows:

(1) There shall be a fund known as the federal forest revolving account. The state treasurer, who shall be custodian of the revolving account, shall deposit into the revolving account the funds for each county received by the state in accordance with Title 16, section 500, United States Code. The state treasurer shall distribute these moneys to the counties according to the determined proportional area. The county legislative authority shall expend fifty percent of the money for the benefit of the public roads and other public purposes as authorized by federal statute or public schools of such county and not otherwise. Disbursements by the counties of the remaining fifty percent of the money shall be as authorized by the superintendent of public instruction, or the superintendent's designee, and shall occur in the manner provided in subsection (2) of this section.

(2) No later than thirty days following receipt of the funds from the federal government, the superintendent of public instruction shall apportion moneys distributed to counties for schools to public school districts in the respective counties in proportion to the number of full time equivalent students enrolled in each public school district to the number of full time equivalent students enrolled in public schools in the county. In apportioning these funds, the superintendent of public instruction shall utilize the October enrollment count.

(3) ~~((4))~~The amount received by any public school district pursuant to subsection (2) of this section ~~((is less than))~~ shall not reduce the basic education allocation to which the district would otherwise be entitled ~~((, the superintendent of public instruction shall apportion to the district, in the manner provided by RCW 28A.510.250, an amount which shall be the difference between the amount received pursuant to subsection (2) of this section and the basic education allocation to which the district would otherwise be entitled))~~.

(4) All federal forest funds shall be expended in accordance with the requirements of Title 16, section 500, United States Code, as now existing or hereafter amended."

Renumber remaining sections and correct internal references accordingly.

On page 1, line 2 of the title, after "84.52.0531," insert "28A.520.020,"

Senators Swecker and Hargrove spoke in favor of adoption of the amendment.

Senator Tom spoke against adoption of the amendment.

Senator Schoesler demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Swecker and others on page 10, after line 22 to Substitute House Bill No. 2893.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Swecker and the amendment was not adopted by the following vote: Yeas, 20; Nays, 28; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Brandland, Carrell, Delvin, Hargrove, Hatfield, Haugen, Hewitt, Holmquist, Honeyford, King, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens and Swecker

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Tom and Zarelli

Excused: Senator McCaslin

MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford be adopted:

On page 10, line 31, strike "fourteen" and insert "sixteen"

On page 10, line 32, strike "fourteen" and insert "sixteen"

On page 11, line 1, strike "fourteen" and insert "sixteen"

On page 11, line 5, strike "fourteen" and insert "sixteen"

On page 11, line 6, strike "fourteen" and insert "sixteen"

On page 11, line 7, strike "fourteen" and insert "sixteen"

On page 11, line 12, strike "fourteen" and insert "sixteen"

On page 11, line 13, strike "fourteen" and insert "sixteen"

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On page 11, line 25, strike "fourteen" and insert "sixteen"

On page 11, line 26, strike "fourteen" and insert "sixteen"

On page 11, line 28, strike "fourteen" and insert "sixteen"

On page 11, line 31, strike "fourteen" and insert "sixteen"

On page 11, line 32, strike "fourteen" and insert "sixteen"

On page 11, line 33, strike "fourteen" and insert "sixteen"

On page 11, line 35, strike "fourteen" and insert "sixteen"

Senator Honeyford spoke in favor of adoption of the amendment.

Senator McAuliffe spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 10, line 31 to Substitute House Bill No. 2893.

The motion by Senator Honeyford failed and the amendment was not adopted by voice vote.

#### MOTION

Senator Pflug moved that the following amendment by Senator Pflug and others be adopted:

On page 9, after line 25, insert the following:

**"NEW SECTION. Sec. 4.** A new section is added to chapter 84.52 RCW to read as follows:

A school district may not seek voter approval for a levy that exceeds by more than five percent the levy authority provided under RCW 84.52.0531 as of the date a resolution for a special election is presented to the county auditor under RCW 29A.04.330(3)."

ReNUMBER the sections consecutively and correct any internal references accordingly.

On page 1, line 4 of the title, after "28A.500.030", insert "adding a new section to chapter 84.52 RCW"

Senators Pflug and Schoesler spoke in favor of adoption of the amendment.

Senator Oemig spoke against adoption of the amendment.

#### POINT OF ORDER

Senator Pflug: "Mr. President, I object to the impugning of the motive by saying that the intent of my amendment was to step on the ability of my districts."

#### REPLY BY THE PRESIDENT

President Owen: "Senator Oemig, it is improper for you to refer to a member's intent."

The President declared the question before the Senate to be the adoption of the amendment by Senator Pflug and others on page 9, after line 25 to Substitute House Bill No. 2893.

The motion by Senator Pflug failed and the amendment was not adopted by a rising vote.

#### INTRODUCTION OF SPECIAL GUESTS

The President introduced the Mayor of the city of Galway, Ireland, The Honorable Declan McDonnell, wife Mary McDonnell; Deputy City Manager Joe O'Neil, wife Kay O'Neil; and Honorary Consul of Ireland in Seattle John Keane who were seated in the gallery.

#### MOTION

Senator Pflug moved that the following striking amendment by Senator Pflug be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature recognizes that since 2004, school districts have been permitted to restore full funding for Initiative 728 and Initiative 732 in the levy base. The intent of the legislature is to extend the expiration date for this provision and also to restore in the base funding received for staffing enhancements in grades kindergarten through four.

**Sec. 2.** RCW 84.52.0531 and 2009 c 4 s 908 are each amended to read as follows:

The maximum dollar amount which may be levied by or for any school district for maintenance and operation support under the provisions of RCW 84.52.053 shall be determined as follows:

(1) For excess levies for collection in calendar year 1997, the maximum dollar amount shall be calculated pursuant to the laws and rules in effect in November 1996.

(2) For excess levies for collection in calendar year 1998 and thereafter, the maximum dollar amount shall be the sum of (a) plus or minus (b) and (c) of this subsection minus (d) of this subsection:

(a) The district's levy base as defined in subsections (3) and (4) of this section multiplied by the district's maximum levy percentage as defined in subsection (5) of this section;

(b) For districts in a high/nonhigh relationship, the high school district's maximum levy amount shall be reduced and the nonhigh school district's maximum levy amount shall be increased by an amount equal to the estimated amount of the nonhigh payment due to the high school district under RCW 28A.545.030(3) and 28A.545.050 for the school year commencing the year of the levy;

(c) For districts in an interdistrict cooperative agreement, the nonresident school district's maximum levy amount shall be reduced and the resident school district's maximum levy amount shall be increased by an amount equal to the per pupil basic education allocation included in the nonresident district's levy base under subsection (3) of this section multiplied by:

(i) The number of full-time equivalent students served from the resident district in the prior school year; multiplied by:

(ii) The serving district's maximum levy percentage determined under subsection (5) of this section; increased by:

(iii) The percent increase per full-time equivalent student as stated in the state basic education appropriation section of the biennial budget between the prior school year and the current school year divided by fifty-five percent;

(d) The district's maximum levy amount shall be reduced by the maximum amount of state matching funds for which the district is eligible under RCW 28A.500.010.

(3) For excess levies for collection in calendar year 2005 and thereafter, a district's levy base shall be the sum of allocations in (a) through (c) of this subsection received by the district for the prior school year and the amounts determined under subsection (4) of this section, including allocations for compensation increases, plus the sum of such allocations multiplied by the percent increase per full time equivalent student as stated in the state basic education appropriation section of the biennial budget between the prior school year and the current school year and divided by fifty-five percent. A district's levy base shall not include local school district property tax levies or other local revenues, or state and federal allocations not identified in (a) through (c) of this subsection.

(a) The district's basic education allocation as determined pursuant to RCW 28A.150.250, 28A.150.260, and 28A.150.350;

(b) State and federal categorical allocations for the following programs:

(i) Pupil transportation;

(ii) Special education;

(iii) Education of highly capable students;

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(iv) Compensatory education, including but not limited to learning assistance, migrant education, Indian education, refugee programs, and bilingual education;

(v) Food services; and

(vi) Statewide block grant programs; and

(c) Any other federal allocations for elementary and secondary school programs, including direct grants, other than federal impact aid funds and allocations in lieu of taxes.

(4)(a) For levy collections in calendar years 2005 through ~~(2011)~~ 2017, in addition to the allocations included under subsection (3)(a) through (c) of this section, a district's levy base shall also include the following:

~~((b)) (i)(A) For levy collections in calendar year 2010, the difference between the allocation the district would have received in the current school year ((had RCW 84.52.068 not been amended by chapter 19, Laws of 2003 1st sp. sess.)) using the Initiative 728 base and the allocation the district received in the current school year pursuant to RCW ((84.52.068. The office of the superintendent of public instruction shall offset the amount added to a district's levy base pursuant to this subsection (4)(a) by any additional per student allocations included in a district's levy base pursuant to the enactment of an initiative to the people subsequent to June 10, 2004)) 28A.505.220;~~

~~(B) For levy collections in calendar years 2011 through 2017, the difference between the allocation rate the district would have received in the prior school year using the Initiative 728 base and the allocation rate the district received in the prior school year pursuant to RCW 28A.505.220 multiplied by the full-time equivalent student enrollment used to calculate the Initiative 728 allocation for the prior school year; and~~

~~((b)) (ii) The difference between the allocations the district would have received the prior school year ((had RCW 28A.400.205 not been amended by chapter 20, Laws of 2003 1st sp. sess.)) using the Initiative 732 base and the allocations the district actually received the prior school year pursuant to RCW 28A.400.205((- The office of the superintendent of public instruction shall offset the amount added to a district's levy base pursuant to this subsection (4)(b) by any additional salary increase allocations included in a district's levy base pursuant to the enactment of an initiative to the people subsequent to June 10, 2004)).~~

(b) For levy collections in calendar years 2011 through 2017, in addition to the allocations included under subsections (3)(a) through (c) and (4)(a) of this section, a district's levy base shall also include the difference between an allocation of fifty-three and two-tenths certificated instructional staff units per thousand full-time equivalent students in grades kindergarten through four enrolled in the prior school year and the allocation of certificated instructional staff units per thousand full-time equivalent students in grades kindergarten through four that the district actually received in the prior school year, except that the levy base for a school district whose allocation in the 2009-10 school year was less than fifty-three and two-tenths certificated instructional staff units per thousand full-time equivalent students in grades kindergarten through four shall include the difference between the allocation the district actually received in the 2009-10 school year and the allocation the district actually received in the prior school year.

(5) A district's maximum levy percentage shall be twenty-two percent in 1998 and twenty-four percent in 1999 and every year thereafter; plus, for qualifying districts, the grandfathered percentage determined as follows:

(a) For 1997, the difference between the district's 1993 maximum levy percentage and twenty percent; and

(b) For 1998 and thereafter, the percentage calculated as follows:

(i) Multiply the grandfathered percentage for the prior year times the district's levy base determined under subsection (3) of this section;

(ii) Reduce the result of (b)(i) of this subsection by any levy reduction funds as defined in subsection (6) of this section that are to be allocated to the district for the current school year;

(iii) Divide the result of (b)(ii) of this subsection by the district's levy base; and

(iv) Take the greater of zero or the percentage calculated in (b)(iii) of this subsection.

(6) "Levy reduction funds" shall mean increases in state funds from the prior school year for programs included under subsections (3) and (4) of this section: (a) That are not attributable to enrollment changes, compensation increases, or inflationary adjustments; and (b) that are or were specifically identified as levy reduction funds in the appropriations act. If levy reduction funds are dependent on formula factors which would not be finalized until after the start of the current school year, the superintendent of public instruction shall estimate the total amount of levy reduction funds by using prior school year data in place of current school year data. Levy reduction funds shall not include moneys received by school districts from cities or counties.

~~(7) ((For the purposes of this section,)) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.~~

~~(a) "Prior school year" means the most recent school year completed prior to the year in which the levies are to be collected.~~

~~((8) For the purposes of this section,)) (b) "Current school year" means the year immediately following the prior school year.~~

~~((9)) (c) "Initiative 728 base" means the allocation to the student achievement fund for the prior year that would have been made under chapter 3, Laws of 2001, if all annual adjustments to the initial 2001 allocation had been made in previous years and in each subsequent year as provided for under chapter 3, Laws of 2001.~~

(d) "Initiative 732 base" means the prior year's state allocation for annual salary cost-of-living increases for district employees in the state-funded salary base as it would have been calculated under chapter 4, Laws of 2001, if each annual cost-of-living increase allocation had been provided in previous years and in each subsequent year.

(8) Funds collected from transportation vehicle fund tax levies shall not be subject to the levy limitations in this section.

~~((4)) (9) The superintendent of public instruction shall develop rules and regulations and inform school districts of the pertinent data necessary to carry out the provisions of this section.~~

~~((11)) (10) For calendar year 2009, the office of the superintendent of public instruction shall recalculate school district levy authority to reflect levy rates certified by school districts for calendar year 2009.~~

**Sec. 3.** 2006 c 119 s 3 (uncodified) is amended to read as follows:

This act expires January 1, ~~(2012)~~ 2018.

**Sec. 4.** 2009 c 4 s 909 (uncodified) is amended to read as follows:

Section 908 of this act expires January 1, ~~(2012)~~ 2018.

**NEW SECTION. Sec. 5.** Section 2 of this act expires January 1, 2018."

On page 1, line 1 of the title, after "levies," strike the remainder of the title and insert the following: "amending RCW 84.52.0531; amending 2006 c 119 s 3 (uncodified); amending 2009 c 4 s 909 (uncodified); creating a new section; and providing an expiration date."

Senators Pflug and King spoke in favor of adoption of the amendment.

Senator McAuliffe spoke against adoption of the amendment.

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Senator Schoesler demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Pflug to Substitute House Bill No. 2893.

#### ROLL CALL

The Secretary called the roll on the adoption of the striking amendment by Senator Pflug and the amendment was not adopted by the following vote: Yeas, 17; Nays, 31; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, Morton, Parlette, Pflug, Roach, Schoesler, Stevens, Swecker and Zarelli

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin and Tom

Excused: Senator McCaslin

#### POINT OF INQUIRY

Senator McAuliffe: "Would Senator Oemig yield to a question? Senator Oemig, if the voters of a school district passed the maintenance and operation levy in February 2010, can the school board place on the ballot request for a supplemental levy for the fall of 2010 election?"

Senator Oemig: "Thank you, Mr. President. Yes, and I might read from the bill? To answer the question, yes indeed. I think this bill specifically allows that in the language in section four, subsequently enacted increases affecting the districts levy base or maximum levy percentage may be passed that would be consistent in any special election or in the upcoming general election."

#### POINT OF INQUIRY

Senator Franklin: "Would Senator McAuliffe yield to a question? Thank you Senator. As you know we have been searching for quite a long time one equator solution to this issue of levy equalization and wondering if we will ever get there? This of course was a major sticking point of the former Senator Al Bauer. In short, my question will be, will we ever resolve the levy equalization question?"

Senator McAuliffe: "Thank you Senator. We are very serious about adjusting this issue. The education reform bill that we passed last session created a levy work group made up of OFM, SPI the education stake holders and eight legislators that we just added to that in a bill yesterday. We are very serious about dealing with levies and levy equalizations and the inequities. The report is due back to us on December of 2011 with a brief report January 2011. So, we will, next year, be able to address this issue as we come back into session. Maybe just a few adjustments and then finally after their final report, they can help us to deal with the inequities."

#### MOTION

On motion of Senator McAuliffe, the rules were suspended, Substitute House Bill No. 2893 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe, Tom, Oemig and Marr spoke in favor of passage of the bill.

Senators King, Honeyford, Pflug, Schoesler and Parlette spoke against passage of the bill.

Senator Jacobsen spoke on final passage.

#### MOTION

Senator Eide demanded that the previous question be put.

The President declared that at least two additional senators joined the demand and the demand was sustained.

The President declared the question before the Senate to be the motion of Senator Eide, "Shall the main question be now put?"

The motion by Senator Eide that the previous question be put carried by voice vote.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2893.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2893 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 19; Absent, 0; Excused, 1.

Voting yea: Senators Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Hobbs, Jacobsen, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin and Tom

Voting nay: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Haugen, Hewitt, Holmquist, Honeyford, Kastama, King, Morton, Parlette, Pflug, Schoesler, Stevens, Swecker and Zarelli

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 2893, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

#### RULING BY THE PRESIDENT

President Owen: "In ruling on the Point of Order raised by Senator Marr as to whether the house amendment fits within the scope and object of Engrossed Substitute Senate Bill 6774, the President finds and rules as follows:

In general, a bill with a single limited subject can be challenging to amend without raising issues of scope and object. The underlying bill as it left the Senate contained one direct point, regarding an alternative governance structure for transportation benefit districts that include areas from more than one jurisdiction. Specifically, it provided that a metropolitan planning organization with boundaries identical to a transportation benefit district may act as the governing body of the district. The house amendment goes further, and would expand the power to create a transportation benefit district. This

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power is currently limited to cities and counties; under the House amendment, by contrast, the power would no longer be so limited. The power to create a transportation benefit district – as the House amendment provides – is distinct from the power of governing one.

For these reasons, the President finds that the house amendment is beyond the scope and object of the underlying bill, and Senator Marr's point is well-taken."

#### MOTION

Senator Marr moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6774 and ask the House to recede therefrom.

The President declared the question before the Senate to be motion by Senator Marr that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6774 and ask the House to recede therefrom.

The motion by Senator Marr carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6774 and asked the House to recede therefrom by voice vote.

#### RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Brandland as to whether the House amendment to Second Engrossed Substitute Senate Bill 6508 violates Senate Rule 25 by including a subject not reflected in the bill's title, the President finds and rules as follows:

This is the second title challenge to this particular bill this Session. In the previous ruling issued on March 9th, the President noted that the bill as passed by the Senate defined the rights and liabilities of various parties with respect to the wrongful death of an adult child. The Senate version included a joint and several liability provision to limit claims against the state and local governments. This was in keeping with the title of the bill, which provides:

AN ACT Relating to wrongful death or survival actions by changing the class of persons entitled to recoveries and by limiting the liability of state and local agencies or political subdivisions in those recoveries...

The House amendment removes the joint and several liability limitation altogether, but replaces it with new language which states that such liability:

[I]s limited to situations where the governmental entity's acts or omissions are negligent and are a proximate cause of the death of the claimant, and where the governmental entity is not otherwise immune or where the governmental entity's liability is not otherwise limited by statute or case law.

Senator Brandland argues that this language does not, in fact, limit liability, but instead does nothing more than restate the present case law standard. Whatever the merits of this argument may be, it is not for the President to make such a legal determination. Perhaps more importantly, there are many possible ways to address the question of the limits of liability, and it is not appropriate for the President to substitute his judgment for that of the body on what is clearly a policy choice. Rather,

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the President's role is simply to determine whether this particular policy choice is correctly reflected in the title of the bill.

Because this House amendment—like the underlying bill as passed by the Senate—assigns and limits the rights and liabilities of various private and governmental parties, it fits within the title of the bill.

For these reasons, the President finds that the House amendment is properly before this body for concurrence, and Senator Brandland's point is not well-taken."

#### REMARKS BY THE PRESIDENT

President Owen: "Now, further remarks of the President. Because of all the controversy and confusion surrounding this bill the President believes that it is appropriate to offer some additional explanation...appreciate the body's patience as he offers these comments.

As a practice, both sides of this argument have handed in written material to assist the President in understanding the issue and their arguments. Senator Brandland, who will be missed, handed in a one page explanation that was very clear and written in plain English. Senator Gordon also submitted an argument—a three page, single spaced legal treatise. While there is simply not enough time to read his entire brief and still sine die before midnight tonight the President would like to thank the good Senator from the Forty-first District for his restraint and not including any encrustation-covered hands within the argument. For the body's own edification however, the President will share that this brief included an English case from 1865 as well as a, this is true, as well a story about a lion that get's loose and eats people. The terms non-germane, expurgated, congruent, chattels, surplusage, circumscribed and tortuous are used throughout this brief. The President, lacking the energy to go and check a legal dictionary, will assume that they are used correctly. There are also references to nuclear power, cyanide gas, crop dusting and vessel or admiralty law, I am not lying. To perhaps provide some prospective advice to Senator Gordon, the President would like to inform the body that, should a crop duster drop a lion onto a nuclear-powered ship and should cyanide gas be used to contain that lion before it can eat anyone, rest assured that an emergency clause on a bill to address that problem would likely be well received and ruled within the scope of the bill."

The Senate resumed consideration of Second Engrossed Substitute Senate Bill No. 6508 which had been deferred earlier in the day.

Senators Hargrove, Carrell, Honeyford and Pflug spoke against the motion.

Senators Gordon and Kline spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Fairley that the Senate concur in the House amendment(s) to Second Engrossed Substitute Senate Bill No. 6508.

The motion by Senator Fairley failed and the Senate did not concur in the House amendment(s) to Second Engrossed Substitute Senate Bill No. 6508 by voice vote.

#### MESSAGE FROM THE HOUSE

March 10, 2010

MR. PRESIDENT:

The House receded from its amendment(s) to ENGROSSED SENATE BILL NO. 6610. Under suspension of the rules, the bill was returned to second reading for the purpose of an amendment.

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The House adopted the following amendment: 6610.E AMH GREE H5687.1, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 10.77 RCW to read as follows:

(1) The secretary shall establish an independent public safety review panel for the purpose of advising the secretary and the courts with respect to persons who have been found not guilty by reason of insanity. The panel shall provide advice regarding all recommendations: (a) For a change in commitment status; (b) to allow furloughs or temporary leaves accompanied by staff; or (c) to permit movement about the grounds of the treatment facility, with or without the accompaniment of staff.

(2) The members of the public safety review panel shall be appointed by the governor for a renewable term of three years and shall include the following:

- (a) A psychiatrist;
- (b) A licensed clinical psychologist;
- (c) A representative of the department of corrections;
- (d) A prosecutor or a representative of a prosecutor's association;
- (e) A representative of law enforcement or a law enforcement association;
- (f) A consumer and family advocate representative; and
- (g) A public defender or a representative of a defender's association.

(3) Thirty days prior to issuing a recommendation for conditional release under RCW 10.77.150 or forty-five days prior to issuing a recommendation for release under RCW 10.77.200, the secretary shall submit its recommendation with the committed person's application and the department's risk assessment to the public safety review panel. The public safety review panel shall complete an independent assessment of the public safety risk entailed by the secretary's proposed conditional release recommendation or release recommendation and provide this assessment in writing to the secretary. The public safety review panel may, within funds appropriated for this purpose, request additional evaluations of the committed person. The public safety review panel may indicate whether it is in agreement with the secretary's recommendation, or whether it would issue a different recommendation. The secretary shall provide the panel's assessment when it is received along with any supporting documentation, including all previous reports of evaluations of the committed person in the person's hospital record, to the court, prosecutor in the county that ordered the person's commitment, and counsel for the committed person.

(4) The secretary shall notify the public safety review panel at appropriate intervals concerning any changes in the commitment or custody status of persons found not guilty by reason of insanity. The panel shall have access, upon request, to a committed person's complete hospital record.

(5) The department shall provide administrative and financial support to the public safety review panel. The department, in consultation with the public safety review panel, may adopt rules to implement this section.

(6) By December 1, 2014, the public safety review panel shall report to the appropriate legislative committees the following:

- (a) Whether the public safety review panel has observed a change in statewide consistency of evaluations and decisions concerning changes in the commitment status of persons found not guilty by reason of insanity;
- (b) Whether the public safety review panel should be given the authority to make release decisions and monitor release conditions;

(c) Any other issues the public safety review panel deems relevant.

**NEW SECTION. Sec. 2.** A new section is added to chapter 10.77 RCW to read as follows:

(1) If the secretary determines in writing that a person committed to the custody of the secretary for treatment as criminally insane presents an unreasonable safety risk which, based on behavior, clinical history, and facility security is not manageable in a state hospital setting, the secretary may place the person in any secure facility operated by the secretary or the secretary of the department of corrections. Any person affected by this provision shall receive appropriate mental health treatment governed by a formalized treatment plan targeted at mental health rehabilitation needs and shall be afforded his or her rights under RCW 10.77.140, 10.77.150, and 10.77.200. The secretary of the department of social and health services shall retain legal custody of any person placed under this section and review any placement outside of a department mental health hospital every three months, or sooner if warranted by the person's mental health status, to determine if the placement remains appropriate.

(2) Beginning December 1, 2010, and every six months thereafter, the secretary shall report to the governor and the appropriate committees of the legislature regarding the use of the authority under this section to transfer persons to a secure facility. The report shall include information related to the number of persons who have been placed in a secure facility operated by the secretary or the secretary of the department of corrections, and the length of time that each such person has been in the secure facility.

(3) This section expires June 30, 2015.

**NEW SECTION. Sec. 3.** (1) The Washington state institute for public policy shall, in collaboration with the department of social and health services and other applicable entities, undertake a search for validated mental health assessment tools in each of the following areas:

(a) An assessment tool or combination of tools to be used by individuals performing court-ordered competency assessments and level of risk assessments of defendants pursuant to chapter 10.77 RCW; and

(b) An assessment tool or combination of tools to be used by individuals developing recommendations to courts as to the appropriateness of conditional release from inpatient treatment of criminally insane patients pursuant to chapter 10.77 RCW.

(2) This section expires June 30, 2011.

**Sec. 4.** RCW 10.77.120 and 2000 c 94 s 15 are each amended to read as follows:

(1) The secretary shall ~~((forthwith))~~ provide adequate care and individualized treatment to persons found criminally insane at one or several of the state institutions or facilities under ~~((his or her))~~ the direction and control ~~((wherein persons committed as criminally insane may be confined. Such persons shall be under the custody and control of the secretary to the same extent as are other persons who are committed to the secretary's custody, but such provision shall be made for their control, care, and treatment as is proper in view of their condition))~~ of the secretary. In order that the secretary may adequately determine the nature of the mental illness or developmental disability of the person committed ~~((to him or her))~~ as criminally insane, ~~((and in order for the secretary to place such individuals in a proper facility,))~~ all persons who are committed to the secretary as criminally insane shall be promptly examined by qualified personnel in ~~((such a manner as))~~ order to provide a proper evaluation and diagnosis of such individual. The examinations of all ~~((developmentally disabled))~~ persons with developmental disabilities committed under this chapter shall be performed by developmental disabilities professionals. Any person so committed shall not be released from the control of the secretary

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~~((save upon the))~~ except by order of a court of competent jurisdiction made after a hearing and judgment of release.

(2) Whenever there is a hearing which the committed person is entitled to attend, the secretary shall send ~~((him or her))~~ the person in the custody of one or more department employees to the county ~~((where))~~ in which the hearing is to be held at the time the case is called for trial. During the time the person is absent from the facility, ~~((he or she shall))~~ the person may be confined in a facility designated by and arranged for by the department, ~~((and))~~ but shall at all times be deemed to be in the custody of the department employee and provided necessary treatment. If the decision of the hearing remits the person to custody, the department employee shall ~~((forthwith))~~ return the person to such institution or facility designated by the secretary. If the state appeals an order of release, such appeal shall operate as a stay, and the person shall remain in custody ~~((shall so remain))~~ and be ~~((forthwith))~~ returned to the institution or facility designated by the secretary until a final decision has been rendered in the cause.

**Sec. 5.** RCW 10.77.150 and 1998 c 297 s 41 are each amended to read as follows:

(1) Persons examined pursuant to RCW 10.77.140 may make application to the secretary for conditional release. The secretary shall, after considering the reports of experts or professional persons conducting the examination pursuant to RCW 10.77.140, forward to the court of the county which ordered the person's commitment the person's application for conditional release as well as the secretary's recommendations concerning the application and any proposed terms and conditions upon which the secretary reasonably believes the person can be conditionally released. Conditional release may also contemplate partial release for work, training, or educational purposes.

(2) In instances in which persons examined pursuant to RCW 10.77.140 have not made application to the secretary for conditional release, but the secretary, after considering the reports of experts or professional persons conducting the examination pursuant to RCW 10.77.140, reasonably believes the person may be conditionally released, the secretary may submit a recommendation for release to the court of the county that ordered the person's commitment. The secretary's recommendation must include any proposed terms and conditions upon which the secretary reasonably believes the person may be conditionally released. Conditional release may also include partial release for work, training, or educational purposes. Notice of the secretary's recommendation under this subsection must be provided to the person for whom the secretary has made the recommendation for release and to his or her attorney.

(3)(a) The court of the county which ordered the person's commitment, upon receipt of an application or recommendation for conditional release with the secretary's recommendation for conditional release terms and conditions, shall within thirty days schedule a hearing. The court may schedule a hearing on applications recommended for disapproval by the secretary.

(b) The prosecuting attorney shall represent the state at such hearings and shall have the right to have the patient examined by an expert or professional person of the prosecuting attorney's choice. If the committed person is indigent, and he or she so requests, the court shall appoint a qualified expert or professional person to examine the person on his or her behalf.

(c) The issue to be determined at such a hearing is whether or not the person may be released conditionally without substantial danger to other persons, or substantial likelihood of committing criminal acts jeopardizing public safety or security.

(d) The court, after the hearing, shall rule on the secretary's recommendations, and if it disapproves of conditional release, may do so only on the basis of substantial evidence. The court may modify the suggested terms and conditions on which the person is to

be conditionally released. Pursuant to the determination of the court after hearing, the committed person shall thereupon be released on such conditions as the court determines to be necessary, or shall be remitted to the custody of the secretary. If the order of conditional release includes a requirement for the committed person to report to a community corrections officer, the order shall also specify that the conditionally released person shall be under the supervision of the secretary of corrections or such person as the secretary of corrections may designate and shall follow explicitly the instructions of the secretary of corrections including reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, and notifying the community corrections officer prior to making any change in the offender's address or employment. If the order of conditional release includes a requirement for the committed person to report to a community corrections officer, the community corrections officer shall notify the secretary or the secretary's designee, if the person is not in compliance with the court-ordered conditions of release.

~~((3))~~ (4) If the court determines that receiving regular or periodic medication or other medical treatment shall be a condition of the committed person's release, then the court shall require him or her to report to a physician or other medical or mental health practitioner for the medication or treatment. In addition to submitting any report required by RCW 10.77.160, the physician or other medical or mental health practitioner shall immediately upon the released person's failure to appear for the medication or treatment or upon a change in mental health condition that renders the patient a potential risk to the public report ~~((the failure))~~ to the court, to the prosecuting attorney of the county in which the released person was committed, to the secretary, and to the supervising community corrections officer.

~~((4))~~ (5) Any person, whose application for conditional release has been denied, may reapply after a period of six months from the date of denial.

**Sec. 6.** RCW 10.77.160 and 1993 c 31 s 7 are each amended to read as follows:

When a conditionally released person is required by the terms of his or her conditional release to report to a physician, department of corrections community corrections officer, or medical or mental health practitioner on a regular or periodic basis, the physician, department of corrections community corrections officer, medical or mental health practitioner, or other such person shall monthly, for the first six months after release and semiannually thereafter, or as otherwise directed by the court, submit to the court, the secretary, the institution from which released, and to the prosecuting attorney of the county in which the person was committed, a report stating whether the person is adhering to the terms and conditions of his or her conditional release, and detailing any arrests or criminal charges filed and any significant change in the person's mental health condition or other circumstances.

**Sec. 7.** RCW 10.77.190 and 1998 c 297 s 43 are each amended to read as follows:

(1) Any person submitting reports pursuant to RCW 10.77.160, the secretary, or the prosecuting attorney may petition the court to, or the court on its own motion may schedule an immediate hearing for the purpose of modifying the terms of conditional release if the petitioner or the court believes the released person is failing to adhere to the terms and conditions of his or her conditional release or is in need of additional care and treatment.

(2) If the prosecuting attorney, the secretary of social and health services, the secretary of corrections, or the court, after examining the report filed with them pursuant to RCW 10.77.160, or based on other information received by them, reasonably believes that a conditionally released person is failing to adhere to the terms and conditions of his or her conditional release the court or secretary of

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social and health services or the secretary of corrections may order that the conditionally released person be apprehended and taken into custody (~~until such time as a hearing can be scheduled to determine the facts and whether or not the person's conditional release should be revoked or modified~~). The court shall be notified of the apprehension before the close of the next judicial day (~~of the apprehension~~). The court shall schedule a hearing within thirty days to determine whether or not the person's conditional release should be modified or revoked. Both the prosecuting attorney and the conditionally released person shall have the right to request an immediate mental examination of the conditionally released person. If the conditionally released person is indigent, the court or secretary of social and health services or the secretary of corrections or their designees shall, upon request, assist him or her in obtaining a qualified expert or professional person to conduct the examination.

(3) If the hospital or facility designated to provide outpatient care determines that a conditionally released person presents a threat to public safety, the hospital or facility shall immediately notify the secretary of social and health services or the secretary of corrections or their designees. The secretary shall order that the conditionally released person be apprehended and taken into custody.

(4) The court, upon receiving notification of the apprehension, shall promptly schedule a hearing. The issue to be determined is whether the conditionally released person did or did not adhere to the terms and conditions of his or her release, or whether the person presents a threat to public safety. Pursuant to the determination of the court upon such hearing, the conditionally released person shall either continue to be conditionally released on the same or modified conditions or his or her conditional release shall be revoked and he or she shall be committed subject to release only in accordance with provisions of this chapter.

**Sec. 8.** RCW 10.77.200 and 2000 c 94 s 16 are each amended to read as follows:

(1) Upon application by the committed or conditionally released person, the secretary shall determine whether or not reasonable grounds exist for release. In making this determination, the secretary may consider the reports filed under RCW 10.77.060, 10.77.110, 10.77.140, and 10.77.160, and other reports and evaluations provided by professionals familiar with the case. If the secretary approves the release he or she then shall authorize the person to petition the court.

(2) In instances in which persons have not made application for release, but the secretary believes, after consideration of the reports filed under RCW 10.77.060, 10.77.110, 10.77.140, and 10.77.160, and other reports and evaluations provided by professionals familiar with the case, that reasonable grounds exist for release, the secretary may petition the court. If the secretary petitions the court for release under this subsection, notice of the petition must be provided to the person who is the subject of the petition and to his or her attorney.

(3) The petition shall be served upon the court and the prosecuting attorney. The court, upon receipt of the petition for release, shall within forty-five days order a hearing. Continuance of the hearing date shall only be allowed for good cause shown. The prosecuting attorney shall represent the state, and shall have the right to have the petitioner examined by an expert or professional person of the prosecuting attorney's choice. If the petitioner is indigent, and the person so requests, the court shall appoint a qualified expert or professional person to examine him or her. If the petitioner (~~is developmentally disabled~~) has a developmental disability, the examination shall be performed by a developmental disabilities professional. The hearing shall be before a jury if demanded by either the petitioner or the prosecuting attorney. The burden of proof shall be upon the petitioner to show by a preponderance of the evidence that the petitioner no longer presents,

as a result of a mental disease or defect, a substantial danger to other persons, or a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions.

~~((3))~~ (4) For purposes of this section, a person affected by a mental disease or defect in a state of remission is considered to have a mental disease or defect requiring supervision when the disease may, with reasonable medical probability, occasionally become active and, when active, render the person a danger to others. Upon a finding that the petitioner has a mental disease or defect in a state of remission under this subsection, the court may deny release, or place or continue such a person on conditional release.

(5) Nothing contained in this chapter shall prohibit the patient from petitioning the court for release or conditional release from the institution in which he or she is committed. The issue to be determined on such proceeding is whether the petitioner, as a result of a mental disease or defect, is a substantial danger to other persons, or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions.

~~(6)~~ Nothing contained in this chapter shall prohibit the committed person from petitioning for release by writ of habeas corpus.

NEW SECTION. **Sec. 9.** A new section is added to chapter 10.77 RCW to read as follows:

For persons who have received court approval for conditional release, the secretary or the secretary's designee shall supervise the person's compliance with the court-ordered conditions of release. The level of supervision provided by the secretary shall correspond to the level of the person's public safety risk. In undertaking supervision of persons under this section, the secretary shall coordinate with any treatment providers designated pursuant to RCW 10.77.150(3), any department of corrections staff designated pursuant to RCW 10.77.150(2), and local law enforcement, if appropriate. The secretary shall adopt rules to implement this section."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 6610.

Senator Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hargrove that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 6610.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 6610 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6610, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6610, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King,

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Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

ENGROSSED SENATE BILL NO. 6610, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE SENATE BILL 6520,  
SECOND SUBSTITUTE SENATE BILL 6578,  
SUBSTITUTE SENATE BILL 6611.

MOTION

On motion of Senator Carrell, Senator Hewitt was excused.

MESSAGE FROM THE HOUSE

March 9, 2010

MR. PRESIDENT:

The House receded from its amendment(s) to ENGROSSED SUBSTITUTE SENATE BILL NO. 5902. Under suspension of the rules, the bill was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 5902-S.E AMH LIIA H5639.1, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** The legislature finds that when people who have disabilities are welcomed and included as members of our communities and provided with equal access to the opportunities available to others, their participation enriches those communities, enhances the strength of those communities' diversity, and contributes toward the economic vitality of those communities. The legislature further finds that more than nine hundred thousand Washington state residents with disabilities continue to face barriers to full participation that could be easily eliminated.

**NEW SECTION. Sec. 2.** (1) The accessible communities account is created in the custody of the state treasurer. One hundred dollars of the assessment imposed under RCW 46.16.381 (7), (8), and (9) must be deposited into the account. Any reduction in the penalty or fine and assessment imposed under section 6 of this act shall be applied proportionally between the penalty or fine and the assessment.

(2) The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Only the commissioner may authorize expenditures from the account.

(3) Expenditures from the account may be used for promoting greater awareness of disability issues and improved access for and inclusion and acceptance of persons with disabilities in communities in the state of Washington, including:

(a) Reimbursing travel, per diem, and reasonable accommodation for county accessible community advisory committee meetings and committee sponsored activities including, but not limited to, supporting the involvement of people with disabilities and disability organization in emergency planning and emergency preparedness activities;

(b) Establishing and maintaining an accessible communities web site;

(c) Providing training or technical assistance for county accessible community advisory committees;

(d) A grant program for funding proposals developed and submitted by county accessible community advisory committees to promote greater awareness of disability issues and acceptance, inclusion, and access for persons with disabilities within the community;

(e) Reimbursing the state agency that provides administrative support to the governor's committee on disability issues and employment for costs associated with implementing this act; and

(f) Programming changes to the judicial information system accounting module required for disbursement of funds to this account.

**NEW SECTION. Sec. 3.** A new section is added to chapter 50.40 RCW to read as follows:

(1) To the extent allowed by funds available from the accessible communities account created in section 2 of this act, the governor's committee on disability issues and employment shall:

(a) Determine eligibility of accessible community advisory committees for reimbursement or for grant funding according to section 4 of this act; and

(b) Solicit proposals from active accessible community advisory committees for projects to improve disability awareness and access for persons with disabilities, and shall select projects for funding from moneys available in the accessible communities account.

(2) The commissioner shall adopt rules to administer this section.

(3) To the extent allowed by funds available from the accessible communities account created in section 2 of this act, the governor's committee on disability issues and employment shall establish an accessible communities web site to provide the following information: Guidance, technical assistance, reference materials, and resource identification for local governments, accessible community advisory committees, and public accommodations; examples of best practices for local initiatives and activities to promote greater awareness of disability issues and access for persons with disabilities within the community; and a searchable listing of local public accommodations that have taken steps to be more disability friendly, including information on the specific access features provided.

**NEW SECTION. Sec. 4.** A new section is added to chapter 36.01 RCW to read as follows:

(1) A county has the option to expand the scope of an advisory committee established and maintained under RCW 29A.46.260 to that of an accessible community advisory committee, or to create an accessible community advisory committee.

(2) A county that has an active accessible community advisory committee may be reimbursed within available funds from the accessible communities account created in section 2 of this act for travel, per diem, and reasonable accommodation expenses for the participation of that committee's members in committee meetings and sponsored activities.

(3) A county establishes that it has an active accessible community advisory committee by submitting biennial assurances to the governor's committee on disability issues and employment that:

(a) The decision to establish an accessible community advisory committee was made by the county legislative authority, or by agents or officers acting under that authority.

(b) If an accessible community advisory committee is established by expanding the advisory committee established and maintained under RCW 29A.46.260, the county auditor supports that expansion.

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(c) Committee members include persons with a diverse range of disabilities who are knowledgeable in identifying and eliminating attitudinal, programmatic, communication, and physical barriers encountered by persons with disabilities.

(d) The committee is actively involved in the following activities: Advising on addressing the needs of persons with disabilities in emergency plans; advising the county and other local governments within the county on access to programs services and activities, new construction or renovation projects, sidewalks, other pedestrian routes of travel, and disability parking enforcement; and developing local initiatives and activities to promote greater awareness of disability issues, and acceptance, involvement, and access for persons with disabilities within the community.

(4) Counties may form joint accessible community advisory committees, as long as no more than one of the participating counties has a population greater than seventy thousand.

**Sec. 5.** RCW 29A.46.260 and 2006 c 207 s 7 are each amended to read as follows:

(1) The legislature finds that the elimination of polling places resulting from the transition to vote by mail creates barriers that restrict the ability of many voters with disabilities from achieving the independence and privacy in voting provided by the accessible voting devices required under the help America vote act. Counties adopting a vote by mail system must take appropriate steps to mitigate these impacts and to address the obligation to provide voters with disabilities an equal opportunity to vote independently and privately, to the extent that this can be achieved without incurring undue administrative and financial burden.

(2) Each county shall establish and maintain an advisory committee that includes persons with diverse disabilities and persons with expertise in providing accommodations for persons with disabilities. The committee shall assist election officials in developing a plan to identify and implement changes to improve the accessibility of elections for voters with disabilities. The plan shall include recommendations for the following:

(a) The number of polling places that will be maintained in order to ensure that people with disabilities have reasonable access to accessible voting devices, and a written explanation for how the determination was made;

(b) The locations of polling places, drop-off facilities, voting centers, and other election-related functions necessary to maximize accessibility to persons with disabilities;

(c) Outreach to voters with disabilities on the availability of disability accommodation, including in-person disability access voting;

(d) Transportation of voting devices to locations convenient for voters with disabilities in order to ensure reasonable access for voters with disabilities; and

(e) Implementation of the provisions of the help America vote act related to persons with disabilities.

Counties must update the plan at least annually. The election review staff of the secretary of state shall review and evaluate the plan in conformance with the review procedure identified in RCW 29A.04.570.

(3) Counties may form a joint advisory committee to develop the plan identified in subsection (2) of this section if ~~((the total population of the joining counties does not exceed thirty thousand, and the counties are geographically adjacent))~~ no more than one of the participating counties has a population greater than seventy thousand.

**Sec. 6.** RCW 46.16.381 and 2007 c 262 s 1 and 2007 c 44 s 1 are each reenacted and amended to read as follows:

(1) The director shall grant special parking privileges to any person who has a disability that limits or impairs the ability to walk or involves acute sensitivity to light and meets one of the following

criteria, as determined by a licensed physician, an advanced registered nurse practitioner licensed under chapter 18.79 RCW, or a physician assistant licensed under chapter 18.71A or 18.57A RCW:

(a) Cannot walk two hundred feet without stopping to rest;

(b) Is severely limited in ability to walk due to arthritic, neurological, or orthopedic condition;

(c) Has such a severe disability, that the person cannot walk without the use of or assistance from a brace, cane, another person, prosthetic device, wheelchair, or other assistive device;

(d) Uses portable oxygen;

(e) Is restricted by lung disease to such an extent that forced expiratory respiratory volume, when measured by spirometry is less than one liter per second or the arterial oxygen tension is less than sixty mm/hg on room air at rest;

(f) Impairment by cardiovascular disease or cardiac condition to the extent that the person's functional limitations are classified as class III or IV under standards accepted by the American Heart Association;

(g) Has a disability resulting from an acute sensitivity to automobile emissions which limits or impairs the ability to walk. The personal physician, advanced registered nurse practitioner, or physician assistant of the applicant shall document that the disability is comparable in severity to the others listed in this subsection;

(h) Is legally blind and has limited mobility; or

(i) Is restricted by a form of porphyria to the extent that the applicant would significantly benefit from a decrease in exposure to light.

(2) The applications for parking permits for persons with disabilities and parking permits for persons with temporary disabilities are official state documents. Knowingly providing false information in conjunction with the application is a gross misdemeanor punishable under chapter 9A.20 RCW. The following statement must appear on each application form immediately below the physician's, advanced registered nurse practitioner's, or physician assistant's signature and immediately below the applicant's signature: "A parking permit for a person with disabilities may be issued only for a medical necessity that severely affects mobility or involves acute sensitivity to light (RCW 46.16.381). Knowingly providing false information on this application is a gross misdemeanor. The penalty is up to one year in jail and a fine of up to \$5,000 or both."

(3) Persons who qualify for special parking privileges are entitled to receive from the department of licensing a removable windshield placard bearing the international symbol of access and an individual serial number, along with a special identification card bearing the name and date of birth of the person to whom the placard is issued, and the placard's serial number. The special identification card shall be issued to all persons who are issued parking placards, including those issued for temporary disabilities, and special parking license plates for persons with disabilities. The department shall design the placard to be displayed when the vehicle is parked by suspending it from the rearview mirror, or in the absence of a rearview mirror the card may be displayed on the dashboard of any vehicle used to transport the person with disabilities. Instead of regular motor vehicle license plates, persons with disabilities are entitled to receive special license plates under this section or RCW 46.16.385 bearing the international symbol of access for one vehicle registered in the name of the person with disabilities. Persons with disabilities who are not issued the special license plates are entitled to receive a second special placard upon submitting a written request to the department. Persons who have been issued the parking privileges and who are using a vehicle or are riding in a vehicle displaying the placard or special license plates issued under this section or RCW 46.16.385 may park in places reserved for persons

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with physical disabilities. The director shall adopt rules providing for the issuance of special placards and license plates to public transportation authorities, nursing homes licensed under chapter 18.51 RCW, boarding homes licensed under chapter 18.20 RCW, senior citizen centers, private nonprofit agencies as defined in chapter 24.03 RCW, and vehicles registered with the department as cabulances that regularly transport persons with disabilities who have been determined eligible for special parking privileges provided under this section. The director may issue special license plates for a vehicle registered in the name of the public transportation authority, nursing home, boarding home, senior citizen center, private nonprofit agency, or cabulance service if the vehicle is primarily used to transport persons with disabilities described in this section. Public transportation authorities, nursing homes, boarding homes, senior citizen centers, private nonprofit agencies, and cabulance services are responsible for insuring that the special placards and license plates are not used improperly and are responsible for all fines and penalties for improper use.

(4) Whenever the person with disabilities transfers or assigns his or her interest in the vehicle, the special license plates shall be removed from the motor vehicle. If another vehicle is acquired by the person with disabilities and the vehicle owner qualifies for a special plate, the plate shall be attached to the vehicle, and the director shall be immediately notified of the transfer of the plate. If another vehicle is not acquired by the person with disabilities, the removed plate shall be immediately surrendered to the director.

(5) The special license plate shall be renewed in the same manner and at the time required for the renewal of regular motor vehicle license plates under this chapter. No special license plate may be issued to a person who is temporarily disabled. A person who has a condition expected to improve within six months may be issued a temporary placard for a period not to exceed six months. If the condition exists after six months a new temporary placard shall be issued upon receipt of a new certification from the person's physician. The permanent parking placard and identification card of a person with disabilities shall be renewed at least every five years, as required by the director, by satisfactory proof of the right to continued use of the privileges. In the event of the permit holder's death, the parking placard and identification card must be immediately surrendered to the department. The department shall match and purge its database of parking permits issued to persons with disabilities with available death record information at least every twelve months.

(6) Additional fees shall not be charged for the issuance of the special placards or the identification cards. No additional fee may be charged for the issuance of the special license plates except the regular motor vehicle registration fee and any other fees and taxes required to be paid upon registration of a motor vehicle.

(7) Any unauthorized use of the special placard, special license plate issued under this section or RCW 46.16.385, or identification card is a ~~((traffic))~~ parking infraction with a monetary penalty of two hundred fifty dollars. In addition to any penalty or fine imposed under this subsection, two hundred dollars shall be assessed.

(8) It is a parking infraction, with a monetary penalty of two hundred fifty dollars for a person to park in, block, or otherwise make inaccessible the access aisle located next to a space reserved for persons with physical disabilities. In addition to any penalty or fine imposed under this subsection, two hundred dollars shall be assessed. The clerk of the court shall report all violations related to this subsection to the department.

(9) It is a parking infraction, with a monetary penalty of two hundred fifty dollars for any person to park a vehicle in a parking place provided on private property without charge or on public property reserved for persons with physical disabilities without a placard or special license plate issued under this section or RCW

46.16.385. In addition to any penalty or fine imposed under this subsection, two hundred dollars shall be assessed. If a person is charged with a violation, the person shall not be determined to have committed an infraction if the person produces in court or before the court appearance the placard or special license plate issued under this section or RCW 46.16.385 required under this section. A local jurisdiction providing nonmetered, on-street parking places reserved for persons with physical disabilities may impose by ordinance time restrictions of no less than four hours on the use of these parking places. A local jurisdiction may impose by ordinance time restrictions of no less than four hours on the use of nonreserved, on-street parking spaces by vehicles displaying the special parking placards or special license plates issued under this section or RCW 46.16.385. All time restrictions must be clearly posted.

(10) ~~((The penalties))~~ (a) The assessment imposed under subsections (7), (8), and (9) of this section shall be allocated as follows:

(i) One hundred dollars shall be deposited in the accessible communities account created in section 2 of this act; and

(ii) One hundred dollars shall be deposited in the multimodal transportation account under RCW 47.66.070 for the sole purpose of supplementing a grant program for special needs transportation provided by transit agencies and nonprofit providers of transportation that is administered by the department of transportation.

(b) Any reduction in any penalty or fine and assessment imposed under subsections (7), (8), and (9) of this section shall be applied proportionally between the penalty or fine and the assessment. When a reduced penalty is imposed under subsection (7), (8), or (9) of this section, the amount deposited in the accounts identified in (a) of this subsection shall be reduced equally and proportionally.

(c) The penalty or fine amounts shall be used by that local jurisdiction exclusively for law enforcement. The court may also impose an additional penalty sufficient to reimburse the local jurisdiction for any costs it may have incurred in removal and storage of the improperly parked vehicle.

(11) Except as provided by subsection (2) of this section, it is a traffic infraction with a monetary penalty of two hundred fifty dollars for any person willfully to obtain a special license plate issued under this section or RCW 46.16.385, placard, or identification card in a manner other than that established under this section.

(12)(a) A law enforcement agency authorized to enforce parking laws may appoint volunteers, with a limited commission, to issue notices of infractions for violations of this section or RCW 46.61.581. Volunteers must be at least twenty-one years of age. The law enforcement agency appointing volunteers may establish any other qualifications the agency deems desirable.

(b) An agency appointing volunteers under this section must provide training to the volunteers before authorizing them to issue notices of infractions.

(c) A notice of infraction issued by a volunteer appointed under this subsection has the same force and effect as a notice of infraction issued by a police officer for the same offense.

(d) A police officer or a volunteer may request a person to show the person's identification card or special parking placard when investigating the possibility of a violation of this section. If the request is refused, the person in charge of the vehicle may be issued a notice of infraction for a violation of this section.

(13) For second or subsequent violations of this section, in addition to a monetary fine, the violator must complete a minimum of forty hours of:

(a) Community restitution for a nonprofit organization that serves persons having disabilities or disabling diseases; or

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(b) Any other community restitution that may sensitize the violator to the needs and obstacles faced by persons who have disabilities.

(14) The court may not suspend more than one-half of any fine imposed under subsection (7), (8), (9), or (11) of this section.

(15) For the purposes of this section, "legally blind" means a person who: (a) Has no vision or whose vision with corrective lenses is so limited that the individual requires alternative methods or skills to do efficiently those things that are ordinarily done with sight by individuals with normal vision; or (b) has an eye condition of a progressive nature which may lead to blindness.

**Sec. 7.** RCW 43.79A.040 and 2009 c 87 s 4 are each amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the accessible communities account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the students with dependents grant account, the basic health plan self- insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the Washington international exchange scholarship endowment fund, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the grain inspection revolving fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account), the life

sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, and the reading achievement account. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the city and county advance right-of-way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Pridemore moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5902.

Senator Pridemore spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Pridemore that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5902.

The motion by Senator Pridemore carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5902 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5902, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5902, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 4; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Tom and Zarelli

Voting nay: Senators Honeyford, Schoesler, Stevens and Swecker

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 5902, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 10, 2010

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MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2658 and asks the Senate to recede therefrom. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Kastama moved that the Senate recede from its position on the Senate amendments to Engrossed Second Substitute House Bill No. 2658.

The President declared the question before the Senate to be motion by Senator Kastama that the Senate recede from its position on the Senate amendments to Engrossed Second Substitute House Bill No. 2658.

The motion by Senator Kastama carried and the Senate receded from its amendments to Engrossed Second Substitute House Bill No. 2658 by voice vote.

#### MOTION

On motion of Senator Kastama, the rules were suspended and Engrossed Second Substitute House Bill No. 2658 was returned to second reading for the purposes of amendment.

#### SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2658, by House Committee on Ways & Means (originally sponsored by Representatives Kenney, Maxwell, McCoy and Morrell)

Refocusing the department of commerce, including transferring programs.

The measure was read the second time.

#### MOTION

Senator Kastama moved that the following striking amendment by Senator Kastama and others be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** In 2009, the legislature changed the name of the department of community, trade, and economic development to the department of commerce and directed the agency to, among other things, develop a report with recommendations on statutory changes to ensure that the department's efforts: Are organized around a concise core mission and aligned with the state's comprehensive plan for economic development; generate greater local capacity; maximize results through partnerships and the use of intermediaries; and provide transparency and increased accountability. Recommendations for creating or consolidating programs deemed important to meeting the department's core mission and recommendations for terminating or transferring specific programs if they are not consistent with the department's core mission were to be included in the report.

In accordance with that legislation, chapter 565, Laws of 2009, in November 2009 the department of commerce submitted a plan that establishes a mission of growing and improving jobs in the state and recognizes the need for an innovation-driven economy. The plan also outlines agency priorities, efficiencies, and program transfers that will help to advance the new mission.

The primary purpose of this act is to implement portions of the department of commerce plan by transferring certain programs from the department of commerce to other state agencies whose missions are more closely aligned with the core functions of those programs. This act also directs additional efficiencies in state government and directs development of a statewide clean energy strategy, which will better enable the department of commerce to focus on its new mission.

**Sec. 2.** RCW 43.330.005 and 1993 c 280 s 1 are each amended to read as follows:

The legislature finds that the long-term economic health of the state and its citizens depends upon the strength and vitality of its communities and businesses. It is the intent of this chapter to create a ~~((merged))~~ department of ~~((community, trade, and economic development))~~ commerce that fosters new partnerships for strong and sustainable communities. ~~((The consolidation of the department of trade and economic development and the department of community development into one department will))~~ The mission of the department is to grow and improve jobs in Washington and facilitate innovation. To carry out its mission, the department will bring together focused efforts to: Streamline access to business assistance and economic development services by providing ~~((a simpler point of entry for state programs))~~ them through sector-based, cluster-based, and regional partners; provide focused and flexible responses to changing economic conditions; generate greater local capacity to respond to both economic growth and environmental challenges; ~~((and))~~ increase accountability to the public, the executive branch, and the legislature~~((:~~

~~—A new department can bring together a focused effort to:));~~ manage growth and achieve sustainable development; diversify the state's economy and export goods and services; provide greater access to economic opportunity; stimulate private sector investment and entrepreneurship; provide stable family-wage jobs and meet the diverse needs of families; provide affordable housing and housing services; and construct public infrastructure~~((: protect our cultural heritage; and promote the health and safety of the state's citizens)).~~

The legislature further finds that as a result of the rapid pace of global social and economic change, the state and local communities will require coordinated and creative responses by every segment of the community. The state can play a role in assisting such local efforts by reorganizing state assistance efforts to promote such partnerships. The department has a primary responsibility to provide financial and technical assistance to the communities of the state, to assist in improving the delivery of federal, state, and local programs, and to provide communities with opportunities for productive and coordinated development beneficial to the well-being of communities and their residents. It is the intent of the legislature in ~~((this consolidation))~~ creating the department to maximize the use of local expertise and resources in the delivery of community and economic development services.

**Sec. 3.** RCW 43.330.007 and 2009 c 565 s 1 are each amended to read as follows:

**(1)** The purpose of this chapter is to establish the broad outline of the structure of the department of commerce, leaving specific details of its internal organization and management to those charged with its administration. This chapter identifies the broad functions and responsibilities of the department and is intended to provide flexibility to the director to reorganize these functions to more closely reflect its customers, its mission, and its priorities, and to make recommendations for changes.

**(2)** In order to generate greater local capacity, maximize results through partnerships and the use of intermediaries, and leverage the use of state resources, the department shall, in carrying out its business assistance and economic development functions, provide business and economic development services primarily through

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sector- based, cluster-based, and regionally based organizations rather than providing assistance directly to individual firms.

**NEW SECTION. Sec. 4.** The department shall examine the functions and operations of agricultural commodity commissions in the state and collaborate with industry sector and cluster associations on legislation that would enable industries to develop self-financing systems for addressing industry-identified issues such as workforce training, international marketing, quality improvement, and technology deployment. By December 1, 2010, the department shall report to the governor and the legislature on its findings and proposed legislation.

**NEW SECTION. Sec. 5.** (1) The legislature recognizes that there are many strong community services and housing programs currently operating within the department and serving our most vulnerable individuals, families, and communities. The legislature finds that some of these programs can readily be transferred beginning on July 1, 2010, to other mission-aligned agencies in state government. However, the legislature finds that to maintain the strength and credibility of the majority of the department's community services and housing programs, it is necessary to create a separate division for them within the department.

(2)(a) The legislature directs the department to establish the community services and housing division to deliver essential services to individuals, families, and communities.

(b) Services provided by the division shall include, but are not limited to: (i) Homeless housing and assistance programs including transitional housing, emergency shelter grants, independent youth housing, housing assistance for persons with mental illness, and housing opportunities for people with AIDS; (ii) affordable housing development programs including the housing trust fund and low-income home energy assistance; (iii) farm worker housing; (iv) crime victims' advocacy and sexual assault services; (v) community mobilization against substance abuse and violence; (vi) asset building for working families; (vii) local and community projects including the building communities fund, building for the arts, and youth recreational facilities grants; (viii) dispute resolution centers; (ix) the Washington families fund; (x) community services block grants; (xi) child care facility fund; (xii) WorkFirst community jobs; (xiii) long- term care ombudsman; (xiv) state drug task forces; (xv) justice assistance grants; (xvi) children and families of incarcerated parents; and (xvii) the Washington new Americans program.

(3) This section expires July 1, 2012.

## PART I

### DEPARTMENT OF HEALTH--PUBLIC HEALTH

**Sec. 101.** RCW 70.05.125 and 2009 c 479 s 48 are each amended to read as follows:

(1) The county public health account is created in the state treasury. Funds deposited in the county public health account shall be distributed by the state treasurer to each local public health jurisdiction based upon amounts certified to it by the department of (~~community, trade, and economic development~~) health in consultation with the Washington state association of counties. The account shall include funds distributed under RCW 82.14.200(8) and such funds as are appropriated to the account from the state general fund, the public health services account under RCW 43.72.902, and such other funds as the legislature may appropriate to it.

(2)(a) The (~~director~~) secretary of the department of (~~community, trade, and economic development~~) health shall certify the amounts to be distributed to each local public health jurisdiction using 1995 as the base year of actual city contributions to local public health.

(b) Only if funds are available and in an amount no greater than available funds under RCW 82.14.200(8), the department of community, trade, and economic development shall adjust the amount certified under (a) of this subsection to compensate for any annexation of an area with fifty thousand residents or more to any city as a result of a petition during calendar year 1996 or 1997, or for any city that became newly incorporated as a result of an election during calendar year 1994 or 1995. The amount to be adjusted shall be equal to the amount which otherwise would have been lost to the health jurisdiction due to the annexation or incorporation as calculated using the jurisdiction's 1995 funding formula.

(c) The county treasurer shall certify the actual 1995 city contribution to the department. Funds in excess of the base shall be distributed proportionately among the health jurisdictions based on incorporated population figures as last determined by the office of financial management.

(3) Moneys distributed under this section shall be expended exclusively for local public health purposes.

**NEW SECTION. Sec. 102.** (1) All powers, duties, and functions of the department of commerce pertaining to county public health assistance are transferred to the department of health. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the secretary or the department of health when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of health. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the department of health. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of health.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the department of health.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of health. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of health to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of health. All existing contracts and obligations shall remain in full force and shall be performed by the department of health.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial

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management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the department of health under this section whose positions are within an existing bargaining unit description at the department of health shall become a part of the existing bargaining unit at the department of health and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

**PART II  
DEPARTMENT OF HEALTH--DEVELOPMENTAL  
DISABILITIES**

**Sec. 201.** RCW 43.330.210 and 2009 c 565 s 11 are each amended to read as follows:

The developmental disabilities endowment governing board is established to design and administer the developmental disabilities endowment. To the extent funds are appropriated for this purpose, the ~~((director))~~ secretary of the department ~~((of commerce))~~ shall provide staff and administrative support to the governing board.

(1) The governing board shall consist of seven members as follows:

(a) Three of the members, who shall be appointed by the governor, shall be persons who have demonstrated expertise and leadership in areas such as finance, actuarial science, management, business, or public policy.

(b) Three members of the board, who shall be appointed by the governor, shall be persons who have demonstrated expertise and leadership in areas such as business, developmental disabilities service design, management, or public policy, and shall be family members of persons with developmental disabilities.

(c) The seventh member of the board, who shall serve as chair of the board, shall be appointed by the remaining six members of the board.

(2) Members of the board shall serve terms of four years and may be appointed for successive terms of four years at the discretion of the appointing authority. However, the governor may stagger the terms of the initial six members of the board so that approximately one-fourth of the members' terms expire each year.

(3) Members of the board shall be compensated for their service under RCW 43.03.240 and shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(4) The board shall meet periodically as specified by the call of the chair, or a majority of the board.

(5) Members of the governing board and the state investment board shall not be considered an insurer of the funds or assets of the endowment trust fund or the individual trust accounts. Neither of these two boards or their members shall be liable for the action or inaction of the other.

(6) Members of the governing board and the state investment board are not liable to the state, to the fund, or to any other person as a result of their activities as members, whether ministerial or discretionary, except for willful dishonesty or intentional violations of law. The department and the state investment board, respectively, may purchase liability insurance for members.

**Sec. 202.** RCW 43.330.240 and 2009 c 565 s 12 are each amended to read as follows:

The department ~~((of commerce))~~ shall adopt rules for the implementation of policies established by the governing board in RCW 43.330.200 through 43.330.230 (as recodified by this act).

Such rules will be consistent with those statutes and chapter 34.05 RCW.

NEW SECTION. **Sec. 203.** The following sections are each recodified as sections in chapter 43.70 RCW:

RCW 43.330.195

RCW 43.330.200

RCW 43.330.205

RCW 43.330.210

RCW 43.330.220

RCW 43.330.225

RCW 43.330.230

RCW 43.330.240

NEW SECTION. **Sec. 204.** (1) All powers, duties, and functions of the department of commerce pertaining to the developmental disabilities endowment are transferred to the department of health. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the secretary or the department of health when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of health. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the department of health. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of health.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the department of health.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of health. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of health to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of health. All existing contracts and obligations shall remain in full force and shall be performed by the department of health.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

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(7) All classified employees of the department of commerce assigned to the department of health under this section whose positions are within an existing bargaining unit description at the department of health shall become a part of the existing bargaining unit at the department of health and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

### PART III BUILDING CODE COUNCIL

**Sec. 301.** RCW 19.27.070 and 1995 c 399 s 8 are each amended to read as follows:

There is hereby established a state building code council to be appointed by the governor.

(1) The state building code council shall consist of fifteen members, two of whom shall be county elected legislative body members or elected executives and two of whom shall be city elected legislative body members or mayors. One of the members shall be a local government building code enforcement official and one of the members shall be a local government fire service official. Of the remaining nine members, one member shall represent general construction, specializing in commercial and industrial building construction; one member shall represent general construction, specializing in residential and multifamily building construction; one member shall represent the architectural design profession; one member shall represent the structural engineering profession; one member shall represent the mechanical engineering profession; one member shall represent the construction building trades; one member shall represent manufacturers, installers, or suppliers of building materials and components; one member shall be a person with a physical disability and shall represent the disability community; and one member shall represent the general public. At least six of these fifteen members shall reside east of the crest of the Cascade mountains. The council shall include: Two members of the house of representatives appointed by the speaker of the house, one from each caucus; two members of the senate appointed by the president of the senate, one from each caucus; and an employee of the electrical division of the department of labor and industries, as ex officio, nonvoting members with all other privileges and rights of membership. Terms of office shall be for three years. The council shall elect a member to serve as chair of the council for one-year terms of office. Any member who is appointed by virtue of being an elected official or holding public employment shall be removed from the council if he or she ceases being such an elected official or holding such public employment. Before making any appointments to the building code council, the governor shall seek nominations from recognized organizations which represent the entities or interests listed in this subsection. Members serving on the council on July 28, 1985, may complete their terms of office. Any vacancy shall be filled by alternating appointments from governmental and nongovernmental entities or interests until the council is constituted as required by this subsection.

(2) Members shall not be compensated but shall receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(3) The department of (~~community, trade, and economic development~~) general administration shall provide administrative and clerical assistance to the building code council.

**Sec. 302.** RCW 19.27.097 and 1995 c 399 s 9 are each amended to read as follows:

(1) Each applicant for a building permit of a building necessitating potable water shall provide evidence of an adequate water supply for the intended use of the building. Evidence may be in the form of a water right permit from the department of ecology, a

letter from an approved water purveyor stating the ability to provide water, or another form sufficient to verify the existence of an adequate water supply. In addition to other authorities, the county or city may impose conditions on building permits requiring connection to an existing public water system where the existing system is willing and able to provide safe and reliable potable water to the applicant with reasonable economy and efficiency. An application for a water right shall not be sufficient proof of an adequate water supply.

(2) Within counties not required or not choosing to plan pursuant to RCW 36.70A.040, the county and the state may mutually determine those areas in the county in which the requirements of subsection (1) of this section shall not apply. The departments of health and ecology shall coordinate on the implementation of this section. Should the county and the state fail to mutually determine those areas to be designated pursuant to this subsection, the county may petition the department of (~~community, trade, and economic development~~) general administration to mediate or, if necessary, make the determination.

(3) Buildings that do not need potable water facilities are exempt from the provisions of this section. The department of ecology, after consultation with local governments, may adopt rules to implement this section, which may recognize differences between high-growth and low-growth counties.

**Sec. 303.** RCW 19.27.150 and 1995 c 399 s 10 are each amended to read as follows:

Every month a copy of the United States department of commerce, bureau of the census' "report of building or zoning permits issued and local public construction" or equivalent report shall be transmitted by the governing bodies of counties and cities to the department of (~~community, trade, and economic development~~) general administration.

**Sec. 304.** RCW 19.27A.020 and 2009 c 423 s 4 are each amended to read as follows:

(1) The state building code council shall adopt rules to be known as the Washington state energy code as part of the state building code.

(2) The council shall follow the legislature's standards set forth in this section to adopt rules to be known as the Washington state energy code. The Washington state energy code shall be designed to:

(a) Construct increasingly energy efficient homes and buildings that help achieve the broader goal of building zero fossil-fuel greenhouse gas emission homes and buildings by the year 2031;

(b) Require new buildings to meet a certain level of energy efficiency, but allow flexibility in building design, construction, and heating equipment efficiencies within that framework; and

(c) Allow space heating equipment efficiency to offset or substitute for building envelope thermal performance.

(3) The Washington state energy code shall take into account regional climatic conditions. Climate zone 1 shall include all counties not included in climate zone 2. Climate zone 2 includes: Adams, Chelan, Douglas, Ferry, Grant, Kittitas, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, and Whitman counties.

(4) The Washington state energy code for residential buildings shall be the 2006 edition of the Washington state energy code, or as amended by rule by the council.

(5) The minimum state energy code for new nonresidential buildings shall be the Washington state energy code, 2006 edition, or as amended by the council by rule.

(6)(a) Except as provided in (b) of this subsection, the Washington state energy code for residential structures shall preempt the residential energy code of each city, town, and county in the state of Washington.

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(b) The state energy code for residential structures does not preempt a city, town, or county's energy code for residential structures which exceeds the requirements of the state energy code and which was adopted by the city, town, or county prior to March 1, 1990. Such cities, towns, or counties may not subsequently amend their energy code for residential structures to exceed the requirements adopted prior to March 1, 1990.

(7) The state building code council shall consult with the department of ~~((community, trade, and economic development))~~ general administration as provided in RCW 34.05.310 prior to publication of proposed rules. The director of the department of ~~((community, trade, and economic development))~~ general administration shall recommend to the state building code council any changes necessary to conform the proposed rules to the requirements of this section.

(8) The state building code council shall evaluate and consider adoption of the international energy conservation code in Washington state in place of the existing state energy code.

(9) The definitions in RCW 19.27A.140 apply throughout this section.

**Sec. 305.** RCW 19.27A.140 and 2009 c 423 s 2 are each amended to read as follows:

The definitions in this section apply to RCW 19.27A.130 through 19.27A.190 and 19.27A.020 unless the context clearly requires otherwise.

(1) "Benchmark" means the energy used by a facility as recorded monthly for at least one year and the facility characteristics information inputs required for a portfolio manager.

(2) "Conditioned space" means conditioned space, as defined in the Washington state energy code.

(3) "Consumer-owned utility" includes a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a mutual corporation or association formed under chapter 24.06 RCW, a port district formed under Title 53 RCW, or a water-sewer district formed under Title 57 RCW, that is engaged in the business of distributing electricity to one or more retail electric customers in the state.

(4) "Cost-effectiveness" means that a project or resource is forecast:

(a) To be reliable and available within the time it is needed; and

(b) To meet or reduce the power demand of the intended consumers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative project or resource, or any combination thereof.

(5) "Council" means the state building code council.

(6) ~~((("Department" means the department of community, trade, and economic development.~~

~~—(7))~~ (7) "Embodied energy" means the total amount of fossil fuel energy consumed to extract raw materials and to manufacture, assemble, transport, and install the materials in a building and the life-cycle cost benefits including the recyclability and energy efficiencies with respect to building materials, taking into account the total sum of current values for the costs of investment, capital, installation, operating, maintenance, and replacement as estimated for the lifetime of the product or project.

~~((8))~~ (7) "Energy consumption data" means the monthly amount of energy consumed by a customer as recorded by the applicable energy meter for the most recent twelve-month period.

~~((9))~~ (8) "Energy service company" has the same meaning as in RCW 43.19.670.

~~((10))~~ (9) "General administration" means the department of general administration.

~~((11))~~ (10) "Greenhouse gas" and "greenhouse gases" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

~~((12))~~ (11) "Investment grade energy audit" means an intensive engineering analysis of energy efficiency and management measures for the facility, net energy savings, and a cost-effectiveness determination.

~~((13))~~ (12) "Investor-owned utility" means a corporation owned by investors that meets the definition of "corporation" as defined in RCW 80.04.010 and is engaged in distributing either electricity or natural gas, or both, to more than one retail electric customer in the state.

~~((14))~~ (13) "Major facility" means any publicly owned or leased building, or a group of such buildings at a single site, having ten thousand square feet or more of conditioned floor space.

~~((15))~~ (14) "National energy performance rating" means the score provided by the energy star program, to indicate the energy efficiency performance of the building compared to similar buildings in that climate as defined in the United States environmental protection agency "ENERGY STAR® Performance Ratings Technical Methodology."

~~((16))~~ (15) "Net zero energy use" means a building with net energy consumption of zero over a typical year.

~~((17))~~ (16) "Portfolio manager" means the United States environmental protection agency's energy star portfolio manager or an equivalent tool adopted by the department of general administration.

~~((18))~~ (17) "Preliminary energy audit" means a quick evaluation by an energy service company of the energy savings potential of a building.

~~((19))~~ (18) "Qualifying public agency" includes all state agencies, colleges, and universities.

~~((20))~~ (19) "Qualifying utility" means a consumer-owned or investor-owned gas or electric utility that serves more than twenty-five thousand customers in the state of Washington.

~~((21))~~ (20) "Reporting public facility" means any of the following:

(a) A building or structure, or a group of buildings or structures at a single site, owned by a qualifying public agency, that exceed ten thousand square feet of conditioned space;

(b) Buildings, structures, or spaces leased by a qualifying public agency that exceeds ten thousand square feet of conditioned space, where the qualifying public agency purchases energy directly from the investor-owned or consumer-owned utility;

(c) A wastewater treatment facility owned by a qualifying public agency; or

(d) Other facilities selected by the qualifying public agency.

~~((22))~~ (21) "State portfolio manager master account" means a portfolio manager account established to provide a single shared portfolio that includes reports for all the reporting public facilities.

**Sec. 306.** RCW 19.27A.150 and 2009 c 423 s 3 are each amended to read as follows:

(1) To the extent that funding is appropriated specifically for the purposes of this section, the department of commerce shall develop and implement a strategic plan for enhancing energy efficiency in and reducing greenhouse gas emissions from homes, buildings, districts, and neighborhoods. The strategic plan must be used to help direct the future code increases in RCW 19.27A.020, with targets for new buildings consistent with RCW 19.27A.160. The strategic plan will identify barriers to achieving net zero energy use in homes and buildings and identify how to overcome these barriers in future energy code updates and through complementary policies.

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(2) The department of commerce must complete and release the strategic plan to the legislature and the council by December 31, 2010, and update the plan every three years.

(3) The strategic plan must include recommendations to the council on energy code upgrades. At a minimum, the strategic plan must:

(a) Consider development of aspirational codes separate from the state energy code that contain economically and technically feasible optional standards that could achieve higher energy efficiency for those builders that elected to follow the aspirational codes in lieu of or in addition to complying with the standards set forth in the state energy code;

(b) Determine the appropriate methodology to measure achievement of state energy code targets using the United States environmental protection agency's target finder program or equivalent methodology;

(c) Address the need for enhanced code training and enforcement;

(d) Include state strategies to support research, demonstration, and education programs designed to achieve a seventy percent reduction in annual net energy consumption as specified in RCW 19.27A.160 and enhance energy efficiency and on-site renewable energy production in buildings;

(e) Recommend incentives, education, training programs and certifications, particularly state-approved training or certification programs, joint apprenticeship programs, or labor-management partnership programs that train workers for energy-efficiency projects to ensure proposed programs are designed to increase building professionals' ability to design, construct, and operate buildings that will meet the seventy percent reduction in annual net energy consumption as specified in RCW 19.27A.160;

(f) Address barriers for utilities to serve net zero energy homes and buildings and policies to overcome those barriers;

(g) Address the limits of a prescriptive code in achieving net zero energy use homes and buildings and propose a transition to performance-based codes;

(h) Identify financial mechanisms such as tax incentives, rebates, and innovative financing to motivate energy consumers to take action to increase energy efficiency and their use of on-site renewable energy. Such incentives, rebates, or financing options may consider the role of government programs as well as utility-sponsored programs;

(i) Address the adequacy of education and technical assistance, including school curricula, technical training, and peer-to-peer exchanges for professional and trade audiences;

(j) Develop strategies to develop and install district and neighborhood-wide energy systems that help meet net zero energy use in homes and buildings;

(k) Identify costs and benefits of energy efficiency measures on residential and nonresidential construction; and

(l) Investigate methodologies and standards for the measurement of the amount of embodied energy used in building materials.

(4) The department of commerce and the council shall convene a work group with the affected parties to inform the initial development of the strategic plan.

**Sec. 307.** RCW 19.27A.180 and 2009 c 423 s 7 are each amended to read as follows:

By December 31, 2009, to the extent that funding is appropriated specifically for the purposes of this section, the department of commerce shall develop and recommend to the legislature a methodology to determine an energy performance score for residential buildings and an implementation strategy to use such information to improve the energy efficiency of the state's existing housing supply. In developing its strategy, the department

of commerce shall seek input from providers of residential energy audits, utilities, building contractors, mixed use developers, the residential real estate industry, and real estate listing and form providers.

**NEW SECTION. Sec. 308.** (1) All powers, duties, and functions of the department of commerce pertaining to administrative and support services for the state building code council are transferred to the department of general administration. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the director or the department of general administration when referring to the functions transferred in this section. Policy and planning assistance functions performed by the department of commerce remain with the department of commerce.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of general administration. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the department of general administration. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of general administration.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the department of general administration.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of general administration. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of general administration to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of general administration. All existing contracts and obligations shall remain in full force and shall be performed by the department of general administration.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the department of general administration under this section whose positions are within an existing bargaining unit description at the department of general administration shall become

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a part of the existing bargaining unit at the department of general administration and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

improved efficiency in the usage of any of the sources described in this subsection;

(6) "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, public utility district, joint operating agency, or any other entity, public or private, however organized; and

(7) "State energy strategy" means the document ~~((and energy policy direction)) developed ((under section 1, chapter 201, Laws of 1991 including any related appendices)) and updated by the department as allowed in RCW 43.21F.090.~~

**PART IV  
DEPARTMENT OF COMMERCE--ENERGY POLICY**

**Sec. 401.** RCW 43.21F.010 and 1975-'76 2nd ex.s. c 108 s 1 are each amended to read as follows:

(1) The legislature finds that the state needs to implement a comprehensive energy planning process that:

- (a) Is based on high quality, unbiased analysis;
- (b) Engages public agencies and stakeholders in a thoughtful, deliberative process that creates a cohesive plan that earns sustained support of the public and organizations and institutions that will ultimately be responsible for implementation and execution of the plan; and
- (c) Establishes policies and practices needed to ensure the effective implementation of the strategy.

(2) The legislature further finds that energy drives the entire modern economy from petroleum for vehicles to electricity to light homes and power businesses. The legislature further finds that the nation and the world have started the transition to a clean energy economy, with significant improvements in energy efficiency and investments in new clean and renewable energy resources and technologies. The legislature further finds this transition may increase or decrease energy costs and efforts should be made to mitigate cost increases.

(3) The legislature finds and declares that it is the continuing purpose of state government, consistent with other essential considerations of state policy, to foster wise and efficient energy use and to promote energy self-sufficiency through the use of indigenous and renewable energy sources, consistent with the promotion of reliable energy sources, the general welfare, and the protection of environmental quality.

(4) The legislature further declares that a successful state energy strategy must balance three goals to:

- (a) Maintain competitive energy prices that are fair and reasonable for consumers and businesses and support our state's continued economic success;
- (b) Increase competitiveness by fostering a clean energy economy and jobs through business and workforce development; and
- (c) Meet the state's obligations to reduce greenhouse gas emissions.

**Sec. 402.** RCW 43.21F.025 and 2009 c 565 s 27 are each reenacted and amended to read as follows:

(1) "Assistant director" means the assistant director of the department of commerce responsible for energy policy activities;

(2) "Department" means the department of commerce;

(3) "Director" means the director of the department of commerce;

(4) "Distributor" means any person, private corporation, partnership, individual proprietorship, utility, including investor-owned utilities, municipal utility, public utility district, joint operating agency, or cooperative, which engages in or is authorized to engage in the activity of generating, transmitting, or distributing energy in this state;

(5) "Energy" means petroleum or other liquid fuels; natural or synthetic fuel gas; solid carbonaceous fuels; fissionable nuclear material; electricity; solar radiation; geothermal resources; hydropower; organic waste products; wind; tidal activity; any other substance or process used to produce heat, light, or motion; or the savings from nongeneration technologies, including conservation or

**NEW SECTION. Sec. 403.** A new section is added to chapter 43.21F RCW to read as follows:

(1) The state shall use the following principles to guide development and implementation of the state's energy strategy and to meet the goals of RCW 43.21F.010:

(a) Pursue all cost-effective energy efficiency and conservation as the state's preferred energy resource, consistent with state law;

(b) Ensure that the state's energy system meets the health, welfare, and economic needs of its citizens with particular emphasis on meeting the needs of low-income and vulnerable populations;

(c) Maintain and enhance economic competitiveness by ensuring an affordable and reliable supply of energy resources and by supporting clean energy technology innovation, access to clean energy markets worldwide, and clean energy business and workforce development;

(d) Reduce dependence on fossil fuel energy sources through improved efficiency and development of cleaner energy sources, such as bioenergy, low-carbon energy sources, and natural gas, and leveraging the indigenous resources of the state for the production of clean energy;

(e) Improve efficiency of transportation energy use through advances in vehicle technology, increased system efficiencies, development of electricity, biofuels, and other clean fuels, and regional transportation planning to improve transportation choices;

(f) Meet the state's statutory greenhouse gas limits and environmental requirements as the state develops and uses energy resources;

(g) Build on the advantage provided by the state's clean regional electrical grid by expanding and integrating additional carbon-free and carbon-neutral generation, and improving the transmission capacity serving the state;

(h) Make state government a model for energy efficiency, use of clean and renewable energy, and greenhouse gas-neutral operations; and

(i) Maintain and enhance our state's existing energy infrastructure.

(2) The department shall:

(a) During energy shortage emergencies, give priority in the allocation of energy resources to maintaining the public health, safety, and welfare of the state's citizens and industry in order to minimize adverse impacts on their physical, social, and economic well-being;

(b) Develop and disseminate impartial and objective energy information and analysis, while taking full advantage of the capabilities of the state's institutions of higher education, national laboratory, and other organizations with relevant expertise and analytical capabilities;

(c) Actively seek to maximize federal and other nonstate funding and support to the state for energy efficiency, renewable energy, emerging energy technologies, and other activities of benefit to the state's overall energy future; and

(d) Monitor the actions of all agencies of the state for consistent implementation of the state's energy policy including applicable statutory policies and goals relating to energy supply and use.

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**Sec. 404.** RCW 43.21F.090 and 1996 c 186 s 106 are each amended to read as follows:

(1) By December 1, 2010, the department ((shall review the state energy strategy as developed under section 1, chapter 201, Laws of 1991, periodically with the guidance of an advisory committee. For each review, an advisory committee shall be established with a membership resembling as closely as possible the original energy strategy advisory committee specified under section 1, chapter 201, Laws of 1991. Upon completion of a public hearing regarding the advisory committee's advice and recommendations for revisions to the energy strategy, a written report shall be conveyed by the department to the governor and the appropriate legislative committees. Any advisory committee established under this section shall be dissolved within three months after their written report is conveyed.)) of commerce shall update and revise the state energy strategy and implementation report with the guidance of an advisory committee formed under subsection (4) of this section. By December 1, 2011, and at least every five years thereafter, the department shall produce a fully updated state energy strategy and implementation report with the guidance of an advisory committee formed under subsection (4) of this section.

(2)(a) The strategy shall, to the maximum extent feasible, examine the state's entire energy system.

(b) In producing and updating the energy strategy, the department and advisory committee shall review related processes and documents relevant to a state energy strategy including, but not limited to, prior state energy strategies, the work of the clean energy leadership council, the climate advisory and action teams, the evergreen jobs committee, and reports of the state transportation planning commission, the economic development commission, and the Northwest power and conservation council.

(c) The strategy must build upon and be consistent with all relevant and applicable statutorily authorized energy, environmental, and other policies, goals, and programs.

(d) The strategy must identify administrative actions, regulatory coordination, and legislative recommendations that need to be undertaken to ensure that the energy strategy is implemented and operationally supported by all state agencies and regulatory bodies responsible for implementation of energy policy in the state.

(3) In order to facilitate high quality decision making, the director of the department shall engage a group of scientific, engineering, economic, and other experts in energy analysis.

(a) This group shall be comprised of representatives from the following institutions:

- (i) Research institutions of higher education;
- (ii) The Pacific Northwest national laboratory;
- (iii) The Northwest power planning and conservation council; and
- (iv) Other private, public, and nonprofit organizations that have a recognized expertise in engineering or economic analysis.

(b) This group will:

- (i) Identify near and long-term analytical needs and capabilities necessary to develop a state energy strategy;
- (ii) Provide unbiased information about the state and region's energy portfolio, future energy needs, scenarios for growth, and improved productivity.

(c) The department and advisory committee shall use this information in updating the state energy strategy.

(4)(a) In order to update the state strategy, the department shall form an advisory committee.

(b) The director shall appoint the advisory committee with a membership reflecting a balance of the interests in:

- (i) Energy generation, distribution, and consumption;
- (ii) Economic development; and
- (iii) Environmental protection, including:

(A) Residential, commercial, industrial, and agricultural users;

(B) Electric and natural gas utilities or organizations, both consumer-owned and investor-owned;

(C) Liquid fuel and natural gas industries;

(D) Local governments;

(E) Civic and environmental organizations;

(F) Clean energy companies;

(G) Energy research and development organizations, economic development organizations, and key public agencies; and

(H) Other interested stakeholders.

(c) Any advisory committee established under this section must be dissolved within three months after the written report is conveyed.

(d) The department and advisory committee shall work with stakeholders and other state agencies to develop the strategy.

(5) Upon completion of a public hearing regarding the advisory committee's advice and recommendations for revisions to the energy strategy, the department shall present a written report to the governor and legislature which may include specific actions that will be needed to implement the strategy. The legislature shall, by concurrent resolution, approve or recommend changes to the strategy and updates.

(6) The department may periodically review and update the state energy strategy as necessary. The department shall engage an advisory committee as required in this section when updating the strategy and present any updates to the legislature for its approval.

(7) To assist in updates of the state energy strategy, the department shall actively seek both in-kind and financial support for this process from other nonstate sources. In order to avoid competition among Washington state agencies, the department shall coordinate the search for such external support. The department shall develop a work plan for updating the energy strategy that reflects the levels of activities and deliverables commensurate with the level of funding and in-kind support available from state and nonstate sources.

NEW SECTION. Sec. 405. RCW 43.21F.015 (State policy) and 1994 c 207 s 3 & 1981 c 295 s 1 are each repealed.

## PART V

### CRIMINAL JUSTICE TRAINING COMMISSION—DRUG PROSECUTION ASSISTANCE PROGRAM

**Sec. 501.** RCW 36.27.100 and 1995 c 399 s 41 are each amended to read as follows:

The legislature recognizes that, due to the magnitude or volume of offenses in a given area of the state, there is a recurring need for supplemental assistance in the prosecuting of drug and drug-related offenses that can be directed to the area of the state with the greatest need for short-term assistance. A statewide drug prosecution assistance program is created within the ~~((department—of community, trade, and economic development))~~ criminal justice training commission to assist county prosecuting attorneys in the prosecution of drug and drug-related offenses.

NEW SECTION. Sec. 502. (1) All powers, duties, and functions of the department of commerce pertaining to the drug prosecution assistance program are transferred to the criminal justice training commission. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the director or the criminal justice training commission when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the criminal justice

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training commission. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the criminal justice training commission. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the criminal justice training commission.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the criminal justice training commission.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the criminal justice training commission. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the criminal justice training commission to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the criminal justice training commission. All existing contracts and obligations shall remain in full force and shall be performed by the criminal justice training commission.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the criminal justice training commission under this section whose positions are within an existing bargaining unit description at the criminal justice training commission shall become a part of the existing bargaining unit at the criminal justice training commission and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

## PART VI

### WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION—ENERGY

**Sec. 601.** RCW 80.50.030 and 2001 c 214 s 4 are each amended to read as follows:

(1) There is created and established the energy facility site evaluation council.

(2)(a) The chair of the council shall be appointed by the governor with the advice and consent of the senate, shall have a vote on matters before the council, shall serve for a term coextensive with the term of the governor, and is removable for cause. The chair may designate a member of the council to serve as acting chair in the

event of the chair's absence. The salary of the chair shall be determined under RCW 43.03.040. The chair is a "state employee" for the purposes of chapter 42.52 RCW. As applicable, when attending meetings of the council, members may receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060, and are eligible for compensation under RCW 43.03.250.

(b) The chair or a designee shall execute all official documents, contracts, and other materials on behalf of the council. The Washington ~~((state department of community, trade, and economic development))~~ utilities and transportation commission shall provide all administrative and staff support for the council. The ~~((director of the department of community, trade, and economic development))~~ commission has supervisory authority over the staff of the council and shall employ such personnel as are necessary to implement this chapter. Not more than three such employees may be exempt from chapter 41.06 RCW. The council shall otherwise retain its independence in exercising its powers, functions, and duties and its supervisory control over nonadministrative staff support. Membership, powers, functions, and duties of the Washington state utilities and transportation commission and the council shall otherwise remain as provided by law.

(3)(a) The council shall consist of the directors, administrators, or their designees, of the following departments, agencies, commissions, and committees or their statutory successors:

- (i) Department of ecology;
- (ii) Department of fish and wildlife;
- (iii) Department of ~~((community, trade, and economic development))~~ commerce;
- (iv) Utilities and transportation commission; and
- (v) Department of natural resources.

(b) The directors, administrators, or their designees, of the following departments, agencies, and commissions, or their statutory successors, may participate as councilmembers at their own discretion provided they elect to participate no later than sixty days after an application is filed:

- (i) Department of agriculture;
- (ii) Department of health;
- (iii) Military department; and
- (iv) Department of transportation.

(c) Council membership is discretionary for agencies that choose to participate under (b) of this subsection only for applications that are filed with the council on or after May 8, 2001. For applications filed before May 8, 2001, council membership is mandatory for those agencies listed in (b) of this subsection.

(4) The appropriate county legislative authority of every county wherein an application for a proposed site is filed shall appoint a member or designee as a voting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the county which he or she represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site.

(5) The city legislative authority of every city within whose corporate limits an energy plant is proposed to be located shall appoint a member or designee as a voting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the city which he or she represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site.

(6) For any port district wherein an application for a proposed port facility is filed subject to this chapter, the port district shall appoint a member or designee as a nonvoting member to the council. The member or designee so appointed shall sit with the

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council only at such times as the council considers the proposed site for the port district which he or she represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site. The provisions of this subsection shall not apply if the port district is the applicant, either singly or in partnership or association with any other person.

**NEW SECTION. Sec. 602.** (1) All administrative powers, duties, and functions of the department of commerce pertaining to the energy facility site evaluation council are transferred to the Washington utilities and transportation commission. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the Washington utilities and transportation commission when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the Washington utilities and transportation commission. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the Washington utilities and transportation commission. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the Washington utilities and transportation commission.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the Washington utilities and transportation commission.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the Washington utilities and transportation commission. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the Washington utilities and transportation commission to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the Washington utilities and transportation commission. All existing contracts and obligations shall remain in full force and shall be performed by the Washington utilities and transportation commission.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the Washington utilities and transportation commission under this section whose positions are within an existing bargaining

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unit description at the Washington utilities and transportation commission shall become a part of the existing bargaining unit at the Washington utilities and transportation commission and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

## PART VII MUNICIPAL RESEARCH COUNCIL

**Sec. 701.** RCW 43.110.030 and 2000 c 227 s 3 are each amended to read as follows:

~~(1) The ((municipal research council)) department of commerce~~ shall contract for the provision of municipal research and services to cities, towns, and counties. Contracts for municipal research and services shall be made with state agencies, educational institutions, or private consulting firms, that in the judgment of ~~((council members))~~ the department are qualified to provide such research and services. Contracts for staff support may be made with state agencies, educational institutions, or private consulting firms that in the judgment of the ~~((council members))~~ department are qualified to provide such support.

~~(2) Municipal research and services shall consist of:~~

~~((4)) (a) Studying and researching city, town, and county government and issues relating to city, town, and county government;~~

~~((2)) (b) Acquiring, preparing, and distributing publications related to city, town, and county government and issues relating to city, town, and county government;~~

~~((3)) (c) Providing educational conferences relating to city, town, and county government and issues relating to city, town, and county government; and~~

~~((4)) (d) Furnishing legal, technical, consultative, and field services to cities, towns, and counties concerning planning, public health, utility services, fire protection, law enforcement, public works, and other issues relating to city, town, and county government.~~

~~(3) Requests for legal services by county officials shall be sent to the office of the county prosecuting attorney. Responses by the ((municipal research council)) department of commerce to county requests for legal services shall be provided to the requesting official and the county prosecuting attorney.~~

~~(4) The ((activities, programs, and services of the municipal research council shall be carried on in cooperation)) department of commerce shall coordinate with the association of Washington cities and the Washington state association of counties in carrying out the activities in this section. Services to cities and towns shall be based upon the moneys appropriated to the ((municipal research council)) department from the city and town research services account under RCW 43.110.060. Services to counties shall be based upon the moneys appropriated to the ((municipal research council)) department from the county research services account under RCW 43.110.050.~~

**Sec. 702.** RCW 43.110.060 and 2002 c 38 s 4 are each amended to read as follows:

The city and town research services account is created in the state treasury. Moneys in the account shall consist of amounts transferred under RCW 66.08.190(2) and any other transfers or appropriations to the account. Moneys in the account may be spent only after an appropriation. Expenditures from the account may be used only for city and town research.

All unobligated moneys remaining in the account at the end of the fiscal biennium shall be distributed by the treasurer to the incorporated cities and towns of the state in the same manner as the distribution under RCW 66.08.190(1)(b)(iii).

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((The treasurer may disburse amounts appropriated to the municipal research council from the city and town research services account by warrant or check to the contracting parties on invoices or vouchers certified by the chair of the municipal research council or his or her designee.)) Payments to public agencies may be made in advance of actual work contracted for, at the discretion of the ((council)) department of commerce.

**Sec. 703.** RCW 43.110.080 and 2006 c 328 s 1 are each amended to read as follows:

(1) The ((~~municipal research council~~)) department of commerce shall contract for the provision of research and services to special purpose districts. A contract shall be made with a state agency, educational institution, or private consulting firm, that in the judgment of ((~~council members~~)) the department is qualified to provide such research and services.

(2) Research and services to special purpose districts shall consist of:

(a) Studying and researching issues relating to special purpose district government;

(b) Acquiring, preparing, and distributing publications related to special purpose districts; and

(c) Furnishing legal, technical, consultative, and field services to special purpose districts concerning issues relating to special purpose district government.

(3) The ((activities, programs, and services of the municipal research council to special purpose districts shall be carried on in cooperation)) department of commerce shall coordinate with the associations representing the various special purpose districts with respect to carrying out the activities in this section. Services to special purpose districts shall be based upon the moneys appropriated to the ((municipal research council)) department of commerce from the special purpose district research services account under RCW 43.110.090.

**Sec. 704.** RCW 43.15.020 and 2009 c 560 s 27 are each amended to read as follows:

The lieutenant governor serves as president of the senate and is responsible for making appointments to, and serving on, the committees and boards as set forth in this section.

(1) The lieutenant governor serves on the following boards and committees:

(a) Capitol furnishings preservation committee, RCW 27.48.040;

(b) Washington higher education facilities authority, RCW 28B.07.030;

(c) Productivity board, also known as the employee involvement and recognition board, RCW 41.60.015;

(d) State finance committee, RCW 43.33.010;

(e) State capitol committee, RCW 43.34.010;

(f) Washington health care facilities authority, RCW 70.37.030;

(g) State medal of merit nominating committee, RCW 1.40.020;

(h) Medal of valor committee, RCW 1.60.020; and

(i) Association of Washington generals, RCW 43.15.030.

(2) The lieutenant governor, and when serving as president of the senate, appoints members to the following boards and committees:

(a) Civil legal aid oversight committee, RCW 2.53.010;

(b) Office of public defense advisory committee, RCW 2.70.030;

(c) Washington state gambling commission, RCW 9.46.040;

(d) Sentencing guidelines commission, RCW 9.94A.860;

(e) State building code council, RCW 19.27.070;

(f) Women's history consortium board of advisors, RCW 27.34.365;

(g) Financial ((~~literacy~~)) education public-private partnership, RCW 28A.300.450;

(h) Joint administrative rules review committee, RCW 34.05.610;

(i) Capital projects advisory review board, RCW 39.10.220;

(j) Select committee on pension policy, RCW 41.04.276;

(k) Legislative ethics board, RCW 42.52.310;

(l) Washington citizens' commission on salaries, RCW 43.03.305;

(m) Legislative oral history committee, RCW 44.04.325;

(n) State council on aging, RCW 43.20A.685;

(o) State investment board, RCW 43.33A.020;

(p) Capitol campus design advisory committee, RCW 43.34.080;

(q) Washington state arts commission, RCW 43.46.015;

(r) Information services board, RCW 43.105.032;

(s) K-20 educational network board, RCW 43.105.800;

(t) ((~~Municipal research council, RCW 43.110.010;~~

~~((u))~~) Council for children and families, RCW 43.121.020;

((~~(u)~~)) (u) PNWER-Net working subgroup under chapter 43.147 RCW;

((~~(w)~~)) (v) Community economic revitalization board, RCW 43.160.030;

((~~(x)~~)) (w) Washington economic development finance authority, RCW 43.163.020;

((~~(y)~~)) (x) Life sciences discovery fund authority, RCW 43.350.020;

((~~(z)~~)) (y) Legislative children's oversight committee, RCW 44.04.220;

((~~(aa)~~)) (z) Joint legislative audit and review committee, RCW 44.28.010;

((~~(bb)~~)) (aa) Joint committee on energy supply and energy conservation, RCW 44.39.015;

((~~(cc)~~)) (bb) Legislative evaluation and accountability program committee, RCW 44.48.010;

((~~(dd)~~)) (cc) Agency council on coordinated transportation, RCW 47.06B.020;

((~~(ee)~~)) (dd) Manufactured housing task force, RCW 59.22.090;

((~~(ff)~~)) (ee) Washington horse racing commission, RCW 67.16.014;

((~~(gg)~~)) (ff) Correctional industries board of directors, RCW 72.09.080;

((~~(hh)~~)) (gg) Joint committee on veterans' and military affairs, RCW 73.04.150;

((~~(ii)~~)) (hh) Joint legislative committee on water supply during drought, RCW 90.86.020;

((~~(jj)~~)) (ii) Statute law committee, RCW 1.08.001; and

((~~(kk)~~)) (jj) Joint legislative oversight committee on trade policy, RCW 44.55.020.

**Sec. 705.** RCW 35.21.185 and 1995 c 21 s 1 are each amended to read as follows:

(1) It is the purpose of this section to provide a means whereby all cities and towns may obtain, through a single source, information regarding ordinances of other cities and towns that may be of assistance to them in enacting appropriate local legislation.

(2) For the purposes of this section, (a) "clerk" means the city or town clerk or other person who is lawfully designated to perform the recordkeeping function of that office, and (b) "((~~municipal research council~~)) department" means the ((~~municipal research council~~)) department of commerce.

(3) The clerk of every city and town is directed to provide to the ((~~municipal research council~~)) department or its designee, promptly after adoption, a copy of each of its regulatory ordinances and such other ordinances or kinds of ordinances as may be described in a list or lists promulgated by the ((~~municipal research council~~)) department or its designee from time to time, and may provide such copies without charge. The ((~~municipal research council~~))

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department may provide that information to the entity with which it contracts for the provision of municipal research and services, in order to provide a pool of information for all cities and towns in the state of Washington.

(4) This section is intended to be directory and not mandatory.

**Sec. 706.** RCW 35.102.040 and 2006 c 301 s 7 are each amended to read as follows:

(1)(a) The cities, working through the association of Washington cities, shall form a model ordinance development committee made up of a representative sampling of cities that as of July 27, 2003, impose a business and occupation tax. This committee shall work through the association of Washington cities to adopt a model ordinance on municipal gross receipts business and occupation tax. The model ordinance and subsequent amendments shall be adopted using a process that includes opportunity for substantial input from business stakeholders and other members of the public. Input shall be solicited from statewide business associations and from local chambers of commerce and downtown business associations in cities that levy a business and occupation tax.

(b) The (~~municipal research council~~) department of commerce shall contract to post the model ordinance on an internet web site and to make paper copies available for inspection upon request. The department of revenue and the department of licensing shall post copies of or links to the model ordinance on their internet web sites. Additionally, a city that imposes a business and occupation tax must make copies of its ordinance available for inspection and copying as provided in chapter 42.56 RCW.

(c) The definitions and tax classifications in the model ordinance may not be amended more frequently than once every four years, however the model ordinance may be amended at any time to comply with changes in state law. Any amendment to a mandatory provision of the model ordinance must be adopted with the same effective date by all cities.

(2) A city that imposes a business and occupation tax must adopt the mandatory provisions of the model ordinance. The following provisions are mandatory:

(a) A system of credits that meets the requirements of RCW 35.102.060 and a form for such use;

(b) A uniform, minimum small business tax threshold of at least the equivalent of twenty thousand dollars in gross income annually. A city may elect to deviate from this requirement by creating a higher threshold or exemption but it shall not deviate lower than the level required in this subsection. If a city has a small business threshold or exemption in excess of that provided in this subsection as of January 1, 2003, and chooses to deviate below the threshold or exemption level that was in place as of January 1, 2003, the city must notify all businesses licensed to do business within the city at least one hundred twenty days prior to the potential implementation of a lower threshold or exemption amount;

(c) Tax reporting frequencies that meet the requirements of RCW 35.102.070;

(d) Penalty and interest provisions that meet the requirements of RCW 35.102.080 and 35.102.090;

(e) Claim periods that meet the requirements of RCW 35.102.100;

(f) Refund provisions that meet the requirements of RCW 35.102.110; and

(g) Definitions, which at a minimum, must include the definitions enumerated in RCW 35.102.030 and 35.102.120. The definitions in chapter 82.04 RCW shall be used as the baseline for all definitions in the model ordinance, and any deviation in the model ordinance from these definitions must be described by a comment in the model ordinance.

(3) Except for the deduction required by RCW 35.102.160 and the system of credits developed to address multiple taxation under subsection (2)(a) of this section, a city may adopt its own provisions for tax exemptions, tax credits, and tax deductions.

(4) Any city that adopts an ordinance that deviates from the nonmandatory provisions of the model ordinance shall make a description of such differences available to the public, in written and electronic form.

**Sec. 707.** RCW 36.70B.220 and 2005 c 274 s 272 are each amended to read as follows:

(1) Each county and city having populations of ten thousand or more that plan under RCW 36.70A.040 shall designate permit assistance staff whose function it is to assist permit applicants. An existing employee may be designated as the permit assistance staff.

(2) Permit assistance staff designated under this section shall:

(a) Make available to permit applicants all current local government regulations and adopted policies that apply to the subject application. The local government shall provide counter copies thereof and, upon request, provide copies according to chapter 42.56 RCW. The staff shall also publish and keep current one or more handouts containing lists and explanations of all local government regulations and adopted policies;

(b) Establish and make known to the public the means of obtaining the handouts and related information; and

(c) Provide assistance regarding the application of the local government's regulations in particular cases.

(3) Permit assistance staff designated under this section may obtain technical assistance and support in the compilation and production of the handouts under subsection (2) of this section from the (~~municipal research council and the department of community, trade, and economic development~~) department of commerce.

**NEW SECTION. Sec. 708.** The following acts or parts of acts are each repealed:

(1) RCW 43.110.010 (Council created--Membership--Terms--Travel expenses) and 2001 c 290 s 1, 1997 c 437 s 1, 1990 c 104 s 1, 1983 c 22 s 1, 1975-76 2nd ex.s. c 34 s 129, 1975 1st ex.s. c 218 s 1, & 1969 c 108 s 2;

(2) RCW 43.110.040 (Local government regulation and policy handouts--Technical assistance) and 1996 c 206 s 10; and

(3) RCW 43.110.070 (Hazardous liquid and gas pipeline--Model ordinance and franchise agreement) and 2000 c 191 s 8.

**NEW SECTION. Sec. 709.** (1) The municipal research council is hereby abolished and its powers, duties, and functions are hereby transferred to the department of commerce. All references to the municipal research council in the Revised Code of Washington shall be construed to mean the department of commerce.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the municipal research council shall be delivered to the custody of the department of commerce. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the municipal research council shall be made available to the department of commerce. All funds, credits, or other assets held by the municipal research council shall be assigned to the department of commerce.

(b) Any appropriations made to the municipal research council shall, on the effective date of this section, be transferred and credited to the department of commerce.

(c) If any question arises as to the transfer of any funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

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(3) All rules and all pending business before the municipal research council shall be continued and acted upon by the department of commerce. All existing contracts and obligations shall remain in full force and shall be performed by the department of commerce.

(4) The transfer of the powers, duties, and functions of the municipal research council shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

**PART VIII  
MISCELLANEOUS PROVISIONS**

**Sec. 801.** RCW 41.06.070 and 2009 c 33 s 36 and 2009 c 5 s 1 are each reenacted and amended to read as follows:

(1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;

(m) The public printer or to any employees of or positions in the state printing plant;

(n) Officers and employees of the Washington state fruit commission;

(o) Officers and employees of the Washington apple commission;

(p) Officers and employees of the Washington state dairy products commission;

(q) Officers and employees of the Washington tree fruit research commission;

(r) Officers and employees of the Washington state beef commission;

(s) Officers and employees of the Washington grain commission;

(t) Officers and employees of any commission formed under chapter 15.66 RCW;

(u) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

(v) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

(w) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(x) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

(y) All employees of the marine employees' commission;

(z) Staff employed by the department of ~~((community, trade, and economic development))~~ commerce to administer energy policy functions ~~((and manage))~~;

~~((aa))~~ (aa) The manager of the energy facility site evaluation council ~~((activities under RCW 43.21F.045(2)(m)))~~;

~~((aaa))~~ (bb) A maximum of ten staff employed by the department of commerce to administer innovation and policy functions, including the three principal policy assistants exempted under (x) of this subsection;

(cc) Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a

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community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(c) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the director of personnel may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the director of personnel stating the reasons for requesting such exemptions. The director of personnel shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the director determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the director of personnel shall grant the request and such determination shall be final as to any decision made before July 1, 1993. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through (v) and (y) and (2) of this section, shall be determined by the director of personnel. Changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

For the twelve months following February 18, 2009, a salary or wage increase shall not be granted to any position exempt from classification under this chapter.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

**NEW SECTION. Sec. 802.** RCW 43.63A.150 is decodified.

**NEW SECTION. Sec. 803.** This act takes effect July 1, 2010."

Senators Kastama and Zarelli spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Kastama and others to Engrossed Second Substitute House Bill No. 2658.

The motion by Senator Kastama carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "programs;" strike the remainder of the title and insert "amending RCW 43.330.005, 43.330.007, 70.05.125, 43.330.210, 43.330.240, 19.27.070, 19.27.097, 19.27.150, 19.27A.020, 19.27A.140, 19.27A.150, 19.27A.180, 43.21F.010, 43.21F.090, 36.27.100, 80.50.030, 43.110.030, 43.110.060, 43.110.080, 43.15.020, 35.21.185, 35.102.040, and 36.70B.220; reenacting and amending RCW 43.21F.025 and 41.06.070; adding new sections to chapter 43.70 RCW; adding a new section to chapter 43.21F RCW; creating new sections; recodifying RCW 43.330.195, 43.330.200, 43.330.205, 43.330.210, 43.330.220, 43.330.225, 43.330.230, and 43.330.240; decodifying RCW 43.63A.150; repealing RCW 43.21F.015, 43.110.010, 43.110.040, and 43.110.070; providing an effective date; and providing an expiration date."

#### MOTION

On motion of Senator Kastama, the rules were suspended, Engrossed Second Substitute House Bill No. 2658 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Marr, Senators Brown and Kline were excused.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2658 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2658as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Holmquist and Honeyford

Excused: Senators Kline and McCaslin

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2658 as amended by the Senate, having received the constitutional majority, was declared passed. There being no

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objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 10, 2010

MR. PRESIDENT:

The House receded from its amendment(s) to SUBSTITUTE SENATE BILL NO. 5798. Under suspension of the rules, the bill was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 5798-S AMH CODY H5658.2, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 69.51A.005 and 2007 c 371 s 2 are each amended to read as follows:

The people of Washington state find that some patients with terminal or debilitating illnesses, under their ~~((physician's))~~ health care professional's care, may benefit from the medical use of marijuana. Some of the illnesses for which marijuana appears to be beneficial include chemotherapy-related nausea and vomiting in cancer patients; AIDS wasting syndrome; severe muscle spasms associated with multiple sclerosis and other spasticity disorders; epilepsy; acute or chronic glaucoma; and some forms of intractable pain.

The people find that humanitarian compassion necessitates that the decision to authorize the medical use of marijuana by patients with terminal or debilitating illnesses is a personal, individual decision, based upon their ~~((physician's))~~ health care professional's professional medical judgment and discretion.

Therefore, the people of the state of Washington intend that:

Qualifying patients with terminal or debilitating illnesses who, in the judgment of their ~~((physicians))~~ health care professionals, may benefit from the medical use of marijuana, shall not be found guilty of a crime under state law for their possession and limited use of marijuana;

Persons who act as designated providers to such patients shall also not be found guilty of a crime under state law for assisting with the medical use of marijuana; and

~~((Physicians))~~ Health care professionals also be exempted from liability and prosecution for the authorization of marijuana use to qualifying patients for whom, in the ~~((physician's))~~ health care professional's professional judgment, medical marijuana may prove beneficial.

Sec. 2. RCW 69.51A.010 and 2007 c 371 s 3 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Designated provider" means a person who:

(a) Is eighteen years of age or older;

(b) Has been designated in writing by a patient to serve as a designated provider under this chapter;

(c) Is prohibited from consuming marijuana obtained for the personal, medical use of the patient for whom the individual is acting as designated provider; and

(d) Is the designated provider to only one patient at any one time.

(2) "Health care professional," for purposes of this chapter only, means a physician licensed under chapter 18.71 RCW, a physician assistant licensed under chapter 18.71A RCW, an osteopathic physician licensed under chapter 18.57 RCW, an osteopathic physicians' assistant licensed under chapter 18.57A RCW, a naturopath licensed under chapter 18.36A RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW.

(3) "Medical use of marijuana" means the production,

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possession, or administration of marijuana, as defined in RCW 69.50.101(q), for the exclusive benefit of a qualifying patient in the treatment of his or her terminal or debilitating illness.

~~((3))~~ (4) "Qualifying patient" means a person who:

(a) Is a patient of a ~~((physician licensed under chapter 18.71 or 18.57 RCW))~~ health care professional;

(b) Has been diagnosed by that ~~((physician))~~ health care professional as having a terminal or debilitating medical condition;

(c) Is a resident of the state of Washington at the time of such diagnosis;

(d) Has been advised by that ~~((physician))~~ health care professional about the risks and benefits of the medical use of marijuana; and

(e) Has been advised by that ~~((physician))~~ health care professional that they may benefit from the medical use of marijuana.

~~((4))~~ (5) "Tamper-resistant paper" means paper that meets one or more of the following industry-recognized features:

(a) One or more features designed to prevent copying of the paper;

(b) One or more features designed to prevent the erasure or modification of information on the paper; or

(c) One or more features designed to prevent the use of counterfeit valid documentation.

(6) "Terminal or debilitating medical condition" means:

(a) Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders; or

(b) Intractable pain, limited for the purpose of this chapter to mean pain unrelieved by standard medical treatments and medications; or

(c) Glaucoma, either acute or chronic, limited for the purpose of this chapter to mean increased intraocular pressure unrelieved by standard treatments and medications; or

(d) Crohn's disease with debilitating symptoms unrelieved by standard treatments or medications; or

(e) Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications; or

(f) Diseases, including anorexia, which result in nausea, vomiting, wasting, appetite loss, cramping, seizures, muscle spasms, or spasticity, when these symptoms are unrelieved by standard treatments or medications; or

(g) Any other medical condition duly approved by the Washington state medical quality assurance commission in consultation with the board of osteopathic medicine and surgery as directed in this chapter.

~~((5))~~ (7) "Valid documentation" means:

(a) A statement signed and dated by a qualifying patient's ~~((physician, or a copy of the qualifying patient's pertinent medical records))~~ health care professional written on tamper-resistant paper, which states that, in the ~~((physician's))~~ health care professional's professional opinion, the patient may benefit from the medical use of marijuana; and

(b) Proof of identity such as a Washington state driver's license or identicaid, as defined in RCW 46.20.035(; and

(c) A copy of the physician statement described in (a) of this subsection shall have the same force and effect as the signed original).

Sec. 3. RCW 69.51A.030 and 2007 c 371 s 4 are each amended to read as follows:

A ~~((physician licensed under chapter 18.71 or 18.57 RCW))~~ health care professional shall be exempted from the state's criminal laws and shall not be penalized in any manner, or denied any right or privilege, for:

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(1) Advising a qualifying patient about the risks and benefits of medical use of marijuana or that the qualifying patient may benefit from the medical use of marijuana where such use is within a professional standard of care or in the individual ~~((physician's))~~ health care professional's medical judgment; or

(2) Providing a qualifying patient with valid documentation, based upon the ~~((physician's))~~ health care professional's assessment of the qualifying patient's medical history and current medical condition, that the medical use of marijuana may benefit a particular qualifying patient.

**Sec. 4.** RCW 69.51A.060 and 2007 c 371 s 6 are each amended to read as follows:

(1) It shall be a misdemeanor to use or display medical marijuana in a manner or place which is open to the view of the general public.

(2) Nothing in this chapter requires any health insurance provider to be liable for any claim for reimbursement for the medical use of marijuana.

(3) Nothing in this chapter requires any ~~((physician))~~ health care professional to authorize the use of medical marijuana for a patient.

(4) Nothing in this chapter requires any accommodation of any on-site medical use of marijuana in any place of employment, in any school bus or on any school grounds, in any youth center, in any correctional facility, or smoking medical marijuana in any public place as that term is defined in RCW 70.160.020.

(5) It is a class C felony to fraudulently produce any record purporting to be, or tamper with the content of any record for the purpose of having it accepted as, valid documentation under RCW 69.51A.010~~((6)(a))~~ (7)(a).

(6) No person shall be entitled to claim the affirmative defense provided in RCW 69.51A.040 for engaging in the medical use of marijuana in a way that endangers the health or well-being of any person through the use of a motorized vehicle on a street, road, or highway.

**NEW SECTION. Sec. 5.** The provisions of section 2 of this act, relating to the definition of "valid documentation," apply prospectively only, not retroactively, and do not affect valid documentation obtained prior to the effective date of this section."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5798.

Senators Kohl-Welles and Pflug spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5798.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5798 by voice vote.

MOTION

On motion of Senator Schoesler, Senator Hewitt was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5798, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5798, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 34; Nays, 13; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hatfield, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

Voting nay: Senators Carrell, Hargrove, Haugen, Hewitt, Holmquist, Honeyford, King, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Excused: Senators Kline and McCaslin

SUBSTITUTE SENATE BILL NO. 5798, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 10, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6280 with the following amendment(s): 6280-S AMH CODY MORI 076

On page 3, line 11, after "to" insert "provide the techniques and services in subsection (1)(k) through (o) of this section or to"

On page 6, beginning on line 36, after "Asian" strike all material through "provider" on page 7, line 3 and insert "medical treatments, including acupuncture ((treatment shall not be continued)) , may only be continued after the patient signs a written waiver acknowledging the risks associated with the failure to pursue treatment from a primary health care provider. The waiver must also include: (a) An explanation of an East Asian medicine practitioner's scope of practice, including the services and techniques East Asian medicine practitioners are authorized to provide and (b) a statement that the services and techniques that an East Asian medicine practitioner is authorized to provide will not resolve the patient's underlying potentially serious disorder" and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Murray moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6280.

Senator Murray spoke in favor of the motion.

MOTION

On motion of Senator Marr, Senators McAuliffe and Oemig were excused.

The President declared the question before the Senate to be the motion by Senator Murray that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6280.

The motion by Senator Murray carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6280 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6280, as amended by the House.

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 ROLL CALL

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The Secretary called the roll on the final passage of Substitute Senate Bill No. 6280, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Ranker

Excused: Senators McCaslin and Oemig

SUBSTITUTE SENATE BILL NO. 6280, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Delvin, Senator Hewitt was excused.

MESSAGE FROM THE HOUSE

March 9, 2010

MR. PRESIDENT:

The House receded from its amendment(s) to SUBSTITUTE SENATE BILL NO. 6293. Under suspension of the rules, the bill was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 6293-S AMH HURS WALK 122, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9A.76.070 and 2003 c 53 s 83 are each amended to read as follows:

(1) A person is guilty of rendering criminal assistance in the first degree if he or she renders criminal assistance to a person who has committed or is being sought for murder in the first degree or any class A felony or equivalent juvenile offense.

(2)(a) Except as provided in (b) of this subsection, rendering criminal assistance in the first degree is a class ((C)) B felony.

(b) Rendering criminal assistance in the first degree is a gross misdemeanor if it is established by a preponderance of the evidence that the actor is a relative as defined in RCW 9A.76.060 and under the age of eighteen at the time of the offense.

NEW SECTION. Sec. 2. This act may be known and cited as Randy's law."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Brandland moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6293.

Senator Brandland spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Brandland that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6293.

The motion by Senator Brandland carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6293 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6293, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6293, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 4; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Haugen, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom and Zarelli

Absent: Senators Hatfield, Hobbs, Roach and Shin

Excused: Senators Hewitt, McCaslin and Oemig

SUBSTITUTE SENATE BILL NO. 6293, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 4:03 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 4:13 p.m. by President Owen.

MESSAGE FROM THE HOUSE

March 10, 2010

MR. PRESIDENT:

The House receded from its amendment(s) to SUBSTITUTE SENATE BILL NO. 6355. Under suspension of the rules, the bill was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 6355-S AMH WALL H5659.2, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that the state institutions of higher education are providing a high quality education to the citizens of the state. The legislature further finds that to meet goals of the strategic master plan for higher education the state needs a higher education system that is capable of delivering many more degrees. The legislature also finds that expansion of the system should be based on the proven demands of the citizens and the marketplace, a concept called "expand on demand." The legislature further finds that the higher education coordinating board, in collaboration with the state board for community and technical colleges, the two-year and four-year institutions of higher education, and other stakeholders developed a system design plan that contains seven guiding principles for system expansion, focuses near-term enrollment growth at university branch campuses, comprehensive universities, and university centers where existing capacity is available without new state capital investment, establishes a process for evaluating major new capital expansion, and creates a fund for innovation to foster change and innovation in higher education delivery. The legislature finds that

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the strategies in the plan support the concept of expand on demand and would increase degree production by first reinvesting in higher education to use existing capacity while also providing long-term strategies to guide decisions on when and where to build new campuses, significantly expand existing sites, and change missions of existing institutions.

The legislature endorses the system design plan, approved by the higher education coordinating board in November 2009, and adopts the recommendations and strategies in the plan.

**Sec. 2.** RCW 28B.50.020 and 2009 c 64 s 2 are each amended to read as follows:

The purpose of this chapter is to provide for the dramatically increasing number of students requiring high standards of education either as a part of the continuing higher education program or for occupational education and training, or for adult basic skills and literacy education, by creating a new, independent system of community and technical colleges which will:

(1) Offer an open door to every citizen, regardless of his or her academic background or experience, at a cost normally within his or her economic means;

(2) Ensure that each college district shall offer thoroughly comprehensive educational, training, and service programs to meet the needs of both the communities and students served by combining high standards of excellence in academic transfer courses; realistic and practical courses in occupational education, both graded and ungraded; community services of an educational, cultural, and recreational nature; and adult education, including basic skills and general, family, and workforce literacy programs and services;

(3) Provide for basic skills and literacy education, and occupational education and technical training at technical colleges in order to prepare students for careers in a competitive workforce;

(4) Provide or coordinate related and supplemental instruction for apprentices at community and technical colleges;

(5) Provide administration by state and local boards which will avoid unnecessary duplication of facilities or programs; and which will encourage efficiency in operation and creativity and imagination in education, training, and service to meet the needs of the community and students;

(6) Allow for the growth, improvement, flexibility and modification of the community colleges and their education, training, and service programs as future needs occur; and

(7) Establish firmly that(~~(, except on a pilot basis)~~) as provided under RCW 28B.50.810, community colleges are, for purposes of academic training, two year institutions, and are an independent, unique, and vital section of our state's higher education system, separate from both the common school system and other institutions of higher learning(~~(, and never to be considered for conversion into four year liberal arts colleges)~~).

**Sec. 3.** RCW 28B.50.810 and 2008 c 166 s 2 are each amended to read as follows:

(1) (~~(By April 2006,)~~) The college board (~~(shall)~~) may select (~~(four)~~) community or technical colleges to develop and offer programs of study leading to (~~(an)~~) applied baccalaureate degrees. (~~(At least one of the four pilot programs chosen must lead to a baccalaureate of applied science degree which builds on an associate of applied science degree. The college board shall convene a task force that includes representatives of both the community and technical colleges to develop objective selection criteria.~~)

~~—(2) By February 2008, the college board shall select up to three colleges to develop and offer programs of study leading to an applied baccalaureate degree. At least one of the colleges selected must be a technical college. The college board shall use the objective selection criteria developed under subsections (1) and (3)~~

~~of this section to make the selection.~~

~~—(3))~~ Colleges may submit (~~(an)~~) applications to (~~(become a pilot college under this section)~~) the college board. The college board and the higher education coordinating board shall review the applications and select the (~~(pilot)~~) colleges using objective criteria, including, but not limited to:

(a) The college demonstrates the capacity to make a long-term commitment of resources to build and sustain a high quality program;

(b) The college has or can readily engage faculty appropriately qualified to develop and deliver a high quality curriculum at the baccalaureate level;

(c) The college can demonstrate demand for the proposed program from a sufficient number of students within its service area to make the program cost-effective and feasible to operate;

(d) The college can demonstrate that employers demand the level of technical training proposed within the program, making it cost-effective for students to seek the degree; and

(e) The proposed program fills a gap in options available for students because it is not offered by a public four-year institution of higher education in the college's geographic area.

~~((4))~~ (2) A college selected (~~(as a pilot college)~~) under this section may develop the curriculum for and design and deliver courses leading to an applied baccalaureate degree. However, degree programs developed under this section are subject to approval by the college board under RCW 28B.50.090 and by the higher education coordinating board under RCW 28B.76.230 before a (~~(pilot)~~) college may enroll students in upper division courses. (~~(A pilot college approved under subsection (1) of this section may not enroll students in upper division courses before the fall academic quarter of 2006. A pilot college approved under subsection (2) of this section may not enroll students in upper division courses before the fall academic quarter of 2009.)~~)

**Sec. 4.** RCW 28B.76.020 and 1985 c 370 s 2 are each amended to read as follows:

~~((For the purposes of this chapter,))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the higher education coordinating board(~~(, and)~~).

(2) "Four-year institutions" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College.

(3) "Major expansion" means expansion of the higher education system that requires significant new capital investment, including building new institutions, campuses, branches, or centers or conversion of existing campuses, branches, or centers that would result in a mission change.

(4) "Mission change" means a change in the level of degree awarded or institutional type not currently authorized in statute.

**Sec. 5.** RCW 28B.76.230 and 2005 c 258 s 11 are each amended to read as follows:

(1) The board shall develop a comprehensive and ongoing assessment process to analyze the need for additional degrees and programs, additional off-campus centers and locations for degree programs, and consolidation or elimination of programs by the four-year institutions. Board recommendations regarding proposed major expansion shall be limited to determinations of whether the major expansion is within the scope indicated in the most recent strategic master plan for higher education or most recent system design plan. Recommendations regarding existing capital prioritization processes are not within the scope of the evaluation of major expansion. Major expansion and proposed mission changes

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may be proposed by the board, any public institution of higher education, or by a state or local government.

(2) As part of the needs assessment process, the board shall examine:

(a) Projections of student, employer, and community demand for education and degrees, including liberal arts degrees, on a regional and statewide basis;

(b) Current and projected degree programs and enrollment at public and private institutions of higher education, by location and mode of service delivery; ~~(and)~~

(c) Data from the workforce training and education coordinating board and the state board for community and technical colleges on the supply and demand for workforce education and certificates and associate degrees; and

(d) Recommendations from the technology transformation task force created in chapter 407, Laws of 2009, and institutions of higher education relative to the strategic and operational use of technology in higher education. These and other reports, reviews, and audits shall allow for: The development of enterprise-wide digital information technology across educational sectors, systems, and delivery methods; the integration and streamlining of administrative tools including but not limited to student information management, financial management, payroll, human resources, data collection, reporting, and analysis; and a determination of the costs of multiple technology platforms, systems, and models.

(3) Every two years the board shall produce, jointly with the state board for community and technical colleges and the workforce training and education coordinating board, an assessment of the number and type of higher education and training credentials required to match employer demand for a skilled and educated workforce. The assessment shall include the number of forecasted net job openings at each level of higher education and training and the number of credentials needed to match the forecast of net job openings.

(4) The board shall determine whether certain major lines of study or types of degrees, including applied degrees or research-oriented degrees, shall be assigned uniquely to some institutions or institutional sectors in order to create centers of excellence that focus resources and expertise.

(5) The following activities are subject to approval by the board:

(a) New degree programs by a four-year institution;

(b) Creation of any off-campus program by a four-year institution;

(c) Purchase or lease of major off-campus facilities by a four-year institution or a community or technical college;

(d) Creation of higher education centers and consortia;

(e) New degree programs and creation of off-campus programs by an independent college or university in collaboration with a community or technical college; and

(f) Applied baccalaureate degree programs developed by colleges under RCW 28B.50.810 .

(6) Institutions seeking board approval under this section must demonstrate that the proposal is justified by the needs assessment developed under this section. Institutions must also demonstrate how the proposals align with or implement the statewide strategic master plan for higher education under RCW 28B.76.200.

(7) The board shall develop clear guidelines and objective decision-making criteria regarding approval of proposals under this section, which must include review and consultation with the institution and other interested agencies and individuals.

(8) The board shall periodically recommend consolidation or elimination of programs at the four-year institutions, based on the needs assessment analysis.

(9) In the case of a proposed major expansion or mission change, the needs assessment process under subsection (2) of this section

constitutes a threshold inquiry. If the board determines that the need for the proposed major expansion or mission change has not been justified, the inquiry is concluded. If the board determines that the need for the proposed major expansion or mission change has been sufficiently established, the board, in consultation with any directly involved institutions and other interested agencies and individuals, shall proceed to examine the viability of the proposal using criteria including, but not limited to:

(a) The specific scope of the project including the capital investment requirements, the number of full-time equivalent students anticipated, and the number of academic programs planned;

(b) The existence of an efficient and sustainable financial plan;

(c) The extent to which existing resources can be leveraged;

(d) The current and five-year projected student population, faculty, and staff to support the proposed programs, institution, or innovation;

(e) The plans to accommodate expected growth over a twenty-year time frame;

(f) The extent to which new or existing partnerships and collaborations are a part of the proposal; and

(g) The feasibility of any proposed innovations to accelerate degree production.

(10) After the board completes its evaluation of the proposed major expansion or mission change using the needs assessment under subsection (2) of this section and viability determination under subsection (9) of this section, the board shall make a recommendation to either proceed, modify, or not proceed with the proposed major expansion or mission change. The board's recommendation shall be presented to the governor and the legislature.

**Sec. 6.** RCW 28B.120.005 and 1999 c 169 s 2 are each amended to read as follows:

The legislature finds that encouraging collaboration among the various educational sectors to meet statewide productivity and educational attainment needs as described in the system design plan developed by the higher education coordinating board will strengthen the entire educational system, kindergarten through twelfth grade and higher education. The legislature also recognizes that the most effective way to develop innovative and collaborative programs is to encourage institutions to develop them voluntarily, in line with established state goals. Through a system of competitive grants, the legislature shall encourage the development of innovative and collaborative and cost-effective solutions to issues of critical statewide need, including:

(1) Raising educational attainment and planning and piloting innovative initiatives to reach new locations and populations;

(2) Recognizing needs of special populations of students, including access and completion efforts targeting underrepresented populations;

~~((2))~~ (3) Furthering the development of learner-centered, technology-assisted course delivery, including expansion of online and hybrid coursework, open courseware, and other uses of technology in order to effectively and efficiently share costs, improve the quality of instruction and student, faculty, and administrative services, increase undergraduate and graduate student access, retention, and graduation, and to enhance transfer capability;

~~((3))~~ (4) Furthering the development of competency-based measurements of student achievement to be used as the basis for awarding degrees and certificates; ~~(and~~

~~—(4))~~ (5) Increasing the collaboration among both public and private sector institutions of higher education; and

(6) Improving productivity through innovations such as accelerated programs and alternative scheduling.

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**Sec. 7.** RCW 28B.120.010 and 1999 c 169 s 5 are each amended to read as follows:

The Washington fund for innovation and quality in higher education program is established. The higher education coordinating board shall administer the program ~~((for the purpose of awarding grants in which a four-year institution of higher education is named as the lead institution. The state board for community and technical colleges shall administer the program for the purpose of awarding grants in which a community or technical college is named as the lead institution))~~ and shall work in close collaboration with the state board for community and technical colleges and other local and regional entities. Through this program the higher education coordinating board~~(s)~~ may award on a competitive basis incentive grants to state public or private nonprofit institutions of higher education or consortia of institutions to encourage ~~((cooperative))~~ programs designed to address specific system problems. ~~((Grants shall not exceed a two-year period.))~~ Each institution or consortia of institutions receiving the award shall contribute some financial support, either by covering part of the costs for the program during its implementation, or by assuming continuing support at the end of the grant period. Strong priority will be given to proposals that involve more than one sector of education ~~((, and to proposals that show substantive institutional commitment))~~. Institutions are encouraged to solicit nonstate funds to support these cooperative programs.

**Sec. 8.** RCW 28B.120.020 and 1999 c 169 s 3 are each amended to read as follows:

The higher education coordinating board shall have the following powers and duties in administering the program for those proposals in which a four-year institution of higher education is named as the lead institution and fiscal agent:

(1) To adopt rules necessary to carry out the program;

(2) ~~((To establish one or more review committees to assist in the evaluation of proposals for funding. The review committee shall include individuals with significant experience in higher education in areas relevant to one or more of the funding period priorities and shall include representatives from both the four-year and two-year sectors of higher education;~~

(3)) To award grants no later than September 1st in those years when funding is available by June 30th;

~~((4)) (3) To establish each biennium specific guidelines for submitting grant proposals consistent with RCW 28B.120.005 and consistent with the strategic master plan for higher education, the system design plan, the overall goals of the program and ((consistent with)) the guidelines established by the state board for community and technical colleges under RCW 28B.120.025. ((During the 1999-01 biennium the guidelines shall be consistent with the following desired outcomes of:~~

~~—(a) Minority and diversity initiatives that encourage the participation of minorities in higher education, including students with disabilities;~~

~~—(b) K-12 teacher preparation models that encourage collaboration between higher education and K-12 to improve the preparedness of teachers, including provisions for higher education faculty involved with teacher preparation to spend time teaching in K-12 schools;~~

~~—(c) Collaborative instructional programs involving K-12, community and technical colleges, and four-year institutions of higher education to develop a three-year degree program, or reduce the time to degree;~~

~~—(d) Contracts with public or private institutions or businesses to provide services or the development of collaborative programs;~~

~~—(e) Articulation and transfer activities to smooth the transfer of students from K-12 to higher education, or from the community colleges and technical colleges to four-year institutions;~~

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~~—(f) Projects that further the development of learner-centered, technology-assisted course delivery; and~~

~~—(g) Projects that further the development of competency-based measurements of student achievement to be used as the basis for awarding degrees and certificates.))~~

After June 30, 2001, and each biennium thereafter, the board shall determine funding priorities for ~~((collaborative))~~ proposals for the biennium in consultation with the governor, the legislature, the office of the superintendent of public instruction, the state board for community and technical colleges, the workforce training and education coordinating board, higher education institutions, educational associations, and business and community groups consistent with statewide needs;

~~((5)) (4) To solicit grant proposals and provide information to the institutions of higher education about the program; and~~

~~((6)) (5) To establish reporting, evaluation, accountability, monitoring, and dissemination requirements for the recipients of the grants awarded by the higher education coordinating board.~~

**Sec. 9.** RCW 43.88D.010 and 2008 c 205 s 2 are each amended to read as follows:

(1) By October ~~((15th)) 1st~~ of each even-numbered year, the office of financial management shall complete an objective analysis and scoring of all capital budget projects proposed by the public four-year institutions of higher education and submit the results of the scoring process to the legislative fiscal committees, the higher education coordinating board, and the four-year institutions ~~((, except that, for 2008, the office of financial management shall complete the objective analysis and scoring by November 1st))~~. Each project must be reviewed and scored within one of the following categories, according to the project's principal purpose. Each project may be scored in only one category. The categories are:

(a) Access-related projects to accommodate enrollment growth at main and branch campuses, at existing or new university centers, or through distance learning. Growth projects should provide significant additional student capacity. Proposed projects must demonstrate that they are based on solid enrollment demand projections, more cost-effectively provide enrollment access than alternatives such as university centers and distance learning, and make cost-effective use of existing and proposed new space;

(b) Projects that replace failing permanent buildings ~~((or renovate facilities to restore building life and upgrade space to meet current program requirements))~~. Facilities that cannot be economically renovated are considered replacement projects. ~~((Renovation projects should represent a complete renovation of a total facility or an isolated wing of a facility. A reasonable renovation project should cost between sixty to eighty percent of current replacement value and restore the renovated area to at least twenty-five years of useful life.))~~ New space may be programmed for the same or a different use than the space being replaced ~~((or renovated))~~ and may include additions to improve access and enhance the relationship of program or support space;

(c) Projects that renovate facilities to restore building life and upgrade space to meet current program requirements. Renovation projects should represent a complete renovation of a total facility or an isolated wing of a facility. A reasonable renovation project should cost between sixty to eighty percent of current replacement value and restore the renovated area to at least twenty-five years of useful life. New space may be programmed for the same or a different use than the space being renovated and may include additions to improve access and enhance the relationship of program or support space;

(d) Major stand-alone campus infrastructure projects;

~~((d)) (e) Projects that promote economic growth and innovation through expanded research activity. The acquisition~~

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and installation of specialized equipment is authorized under this category; and

~~((e))~~ (f) Other project categories as determined by the office of financial management in consultation with the legislative fiscal committees.

(2) The office of financial management, in consultation with the legislative fiscal committees ~~((and the joint legislative audit and review committee))~~, shall establish a scoring system and process for each four-year project category that is based on the framework used in the community and technical college system of prioritization. Staff from the state board for community and technical colleges, the higher education coordinating board, and the four-year institutions shall provide technical assistance on the development of a scoring system and process.

(3) The office of financial management shall consult with the legislative fiscal committees in the scoring of four-year institution project proposals, and may also solicit participation by ~~((the joint legislative audit and review committee and))~~ independent experts.

(a) For each four-year project category, the scoring system must, at a minimum, include an evaluation of enrollment trends, reasonableness of cost, the ability of the project to enhance specific strategic master plan goals, age and condition of the facility if applicable, and impact on space utilization.

(b) Each four-year project category may include projects at the predesign, design, or construction funding phase.

(c) To the extent possible, the objective analysis and scoring system of all capital budget projects shall occur within the context of any and all performance agreements between the office of financial management and the governing board of a public, four-year institution of higher education that aligns goals, priorities, desired outcomes, flexibility, institutional mission, accountability, and levels of resources.

(4) In evaluating and scoring four-year institution projects, the office of financial management shall take into consideration project schedules that result in realistic, balanced, and predictable expenditure patterns over the ensuing three biennia.

(5) The office of financial management shall distribute common definitions, the scoring system, and other information required for the project proposal and scoring process as part of its biennial budget instructions ~~((, except that, for the 2009-2011 budget development cycle, this information must be distributed by July 1, 2008))~~. The office of financial management, in consultation with the legislative fiscal committees ~~((and the joint legislative audit and review committee))~~, shall develop common definitions that four-year institutions must use in developing their project proposals and lists under this section.

(6) In developing any scoring system for capital projects proposed by the four-year institutions, the office of financial management:

(a) Shall be provided with all required information by the four-year institutions as deemed necessary by the office of financial management;

(b) May utilize independent services to verify, sample, or evaluate information provided to the office of financial management by the four-year institutions; and

(c) Shall have full access to all data maintained by the higher education coordinating board and the joint legislative audit and review committee concerning the condition of higher education facilities.

(7) By August ~~((15th))~~ 1st of each even-numbered year ~~((, beginning in 2008,))~~ each public four-year higher education institution shall prepare and submit prioritized lists of the individual projects proposed by the institution for the ensuing six-year period in each category. ~~((On a pilot basis, the office of financial management shall require one research university to prepare two~~

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~~separate prioritized lists for each category, one for the main campus, and one covering all of the institution's branch campuses. The office of financial management shall report to the legislative fiscal committees by December 1, 2009, on the effect of this pilot project on capital project financing for all branch campuses.))~~ The lists must be submitted to the office of financial management and the legislative fiscal committees. The four-year institutions may aggregate minor works project proposals by primary purpose for ranking purposes. Proposed minor works projects must be prioritized within the aggregated proposal, and supporting documentation, including project descriptions and cost estimates, must be provided to the office of financial management and the legislative fiscal committees.

**Sec. 10.** RCW 28B.76.210 and 2008 c 205 s 4 are each amended to read as follows:

(1) The board shall collaborate with the four-year institutions including the council of presidents, the community and technical college system, and when appropriate the workforce training and education coordinating board, the superintendent of public instruction, and the independent higher educational institutions to identify budget priorities and levels of funding for higher education, including the two and four-year institutions of higher education and state financial aid programs. It is the intent of the legislature that recommendations from the board reflect not merely the sum of budget requests from multiple institutions, but prioritized funding needs for the overall system of higher education.

(2) By December of each odd-numbered year, the board shall distribute guidelines which outline the board's fiscal priorities to the institutions and the state board for community and technical colleges.

(a) The institutions and the state board for community and technical colleges shall submit an outline of their proposed operating budgets to the board no later than July 1st of each even-numbered year. Pursuant to guidelines developed by the board, operating budget outlines submitted by the institutions and the state board for community and technical colleges after January 1, 2007, shall include all policy changes and enhancements that will be requested by the institutions and the state board for community and technical colleges in their respective biennial budget requests. Operating budget outlines shall include a description of each policy enhancement, the dollar amount requested, and the fund source being requested.

(b) Capital budget outlines for the two-year institutions shall be submitted by August 15th of each even-numbered year, and shall include the prioritized ranking of the capital projects being requested, a description of each capital project, and the amount and fund source being requested.

(c) Capital budget outlines for the four-year institutions must be submitted by August 15th of each even-numbered year, and must include: The institutions' priority ranking of the project; the capital budget category within which the project will be submitted to the office of financial management in accordance with RCW 43.88D.010; a description of each capital project; and the amount and fund source being requested.

(d) The office of financial management shall reference these reporting requirements in its budget instructions.

(3) The board shall review and evaluate the operating and capital budget requests from four-year institutions and the community and technical college system based on how the requests align with the board's budget priorities, the missions of the institutions, and the statewide strategic master plan for higher education under RCW 28B.76.200.

(4) The board shall submit recommendations on the proposed operating budget and priorities to the office of financial

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management by October 1st of each even-numbered year, and to the legislature by January 1st of each odd-numbered year.

(5) The board's capital budget recommendations for the community and technical college system and the four-year institutions must be submitted to the office of financial management ((by November 15th of each even-numbered year)) and to the legislature by ((January 1st of each odd-numbered)) November 15th of each even-numbered year. The board's recommendations for the four-year institutions must include ((the relative share of the higher education capital budget that the board recommends be assigned to each project category, as defined in RCW 43.88D.010, and to minor works program and preservation)) a single, prioritized list of the major projects that the board recommends be funded with state bond and building account appropriations during the forthcoming fiscal biennium. In developing this single prioritized list, the board shall:

(a) Seek to identify the combination of projects that will most cost-effectively achieve the state's goals. These goals include increasing baccalaureate and graduate degree production, particularly in high-demand fields; promoting economic development through research and innovation; providing quality, affordable educational environments; preserving existing assets; and maximizing the efficient utilization of instructional space;

(b) Be guided by the objective analysis and scoring of capital budget projects completed by the office of financial management pursuant to chapter 43.88D RCW;

(c) Anticipate (i) that state bond and building account appropriations continue at the same level during each of the two subsequent fiscal biennia as has actually been appropriated for the baccalaureate institutions during the current one; (ii) that major projects funded for design during a biennium are funded for construction during the subsequent one before state appropriations are provided for new major projects; and (iii) that minor health, safety, code, and preservation projects are funded at the same average level as in recent biennia before state appropriations are provided for new major projects.

~~((5))~~ (6) Institutions and the state board for community and technical colleges shall submit any supplemental budget requests and revisions to the board at the same time they are submitted to the office of financial management. The board shall submit recommendations on the proposed supplemental budget requests to the office of financial management by November 1st and to the legislature by January 1st.

NEW SECTION. Sec. 11. A new section is added to chapter 28B.20 RCW to read as follows:

(1) This section provides an alternative process for awarding contracts for construction, building, renovation, remodeling, alteration, repair, or improvement of university buildings and facilities in which critical patient care or highly specialized medical research is located. These provisions may be used, in lieu of other procedures to award contracts for such work, when the estimated cost of the work is equal to or less than five million dollars and the project involves construction, renovation, remodeling, or alteration of improvements within a building that is used directly for critical patient care or highly specialized medical research.

(2) The university may create a single critical patient care or specialized medical research facilities roster or may create multiple critical patient care or specialized medical research facilities rosters for different trade specialties or categories of anticipated work. At least once a year, the university shall publish in a newspaper of general circulation a notice of the existence of the roster or rosters and solicit a statement of qualifications from contractors who wish to be on the roster or rosters of prime contractors. In addition, qualified contractors shall be added to the roster or rosters at any time they submit a written request, necessary records, and meet the qualifications established by the university. The university may

require eligible contractors desiring to be placed on a roster to keep current records of any applicable licenses, certifications, registrations, bonding, insurance, or other appropriate matters on file with the university as a condition of being placed on a roster or rosters. Placement on a roster shall be on the basis of qualifications.

(3) The public solicitation of qualifications shall include but not be limited to:

(a) A description of the types of projects to be completed and where possible may include programmatic, performance, and technical requirements and specifications;

(b) The reasons for using the critical patient care and specialized medical research roster process;

(c) A description of the qualifications to be required of a contractor, including submission of an accident prevention program;

(d) A description of the process the university will use to evaluate qualifications, including evaluation factors and the relative weight of factors;

(e) The form of the contract to be awarded;

(f) A description of the administrative process by which the required qualifications, evaluation process, and project types may be appealed; and

(g) A description of the administrative process by which decisions of the university may be appealed.

(4) The university shall establish a committee to evaluate the contractors submitting qualifications. Evaluation criteria for selection of the contractor or contractors to be included on a roster shall include, but not be limited to:

(a) Ability of a contractor's professional personnel;

(b) A contractor's past performance on similar projects, including but not limited to medical facilities, and involving either negotiated work or other public works contracts;

(c) The contractor's ability to meet time and budget requirements;

(d) The contractor's ability to provide preconstruction services, as appropriate;

(e) The contractor's capacity to successfully complete the project;

(f) The contractor's approach to executing projects;

(g) The contractor's approach to safety and the contractor's safety history; and

(h) The contractor's record of performance, integrity, judgment, and skills.

(5) Contractors meeting the evaluation committee's criteria for selection must be placed on the applicable roster or rosters.

(6) When a project is selected for delivery through this roster process, the university must establish a procedure for securing written quotations from all contractors on a roster to assure that a competitive price is established. Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. Plans and specifications must be included in the invitation but may not be detailed. Award of a project must be made to the responsible bidder submitting the lowest responsive bid.

(7) The university shall make an effort to solicit proposals from certified minority or certified woman-owned contractors to the extent permitted by the Washington state civil rights act, RCW 49.60.400.

(8) Beginning in September 2010 and every other year thereafter, the university shall provide a report to the capital projects advisory review board which must, at a minimum, include a list of rosters used, contracts awarded, and a description of outreach to and participation by women and minority-owned businesses.

NEW SECTION. Sec. 12. A new section is added to chapter 43.131 RCW to read as follows:

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The alternative process for awarding contracts established in section 11 of this act terminates June 30, 2015, as provided in section 13 of this act.

**NEW SECTION. Sec. 13.** A new section is added to chapter 43.131 RCW to read as follows:

Section 11 of this act, as now existing or hereafter amended, is repealed, effective June 30, 2016."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kilmer moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6355.

Senators Kilmer and Becker spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kilmer that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6355.

The motion by Senator Kilmer carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6355 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6355, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6355, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 4; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Holmquist, Honeyford, Jacobsen, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senators Hobbs, Kauffman, McAuliffe and Pflug

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6355, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Marr, Senators Hobbs, Kauffman, McAuliffe and Pflug were excused.

MESSAGE FROM THE HOUSE

March 10, 2010

MR. PRESIDENT:

The House insists on its position regarding the House amendment(s) to SUBSTITUTE SENATE BILL NO. 6416 and asks the Senate to concur thereon.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved to excuse Senator Delvin and noted he had no excuse.

PERSONAL PRIVILEGE

Senator Delvin: "I come here every day to do my best, to do my duty and the gentleman, well, I don't know we call him gentleman Mr. President but well, I'll just leave it at that."

MOTION

Senator Hargrove moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6416 and ask the House to recede therefrom.

Senators Hargrove and Roach spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6416 and ask the House to recede therefrom.

The motion by Senator Hargrove carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 6416 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

March 8, 2010

MR. PRESIDENT:

The House insists on its position regarding the House amendment(s) to ENGROSSED SENATE BILL NO. 6221 and asks the Senate to concur thereon.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Tom moved that the Senate refuse to concur in the House amendment(s) to Engrossed Senate Bill No. 6221 and ask the House to recede therefrom.

Senators Tom spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Tom that the Senate refuse to concur in the House amendment(s) to Engrossed Senate Bill No. 6221 and ask the House to recede therefrom.

The motion by Senator Tom carried and the Senate refused to concur in the House amendment(s) to Engrossed Senate Bill No. 6221 and asked the House to recede therefrom by voice vote.

PERSONAL PRIVILEGE

Senator Honeyford: "Thank you Mr. President. I just received an email that Senator McCaslin is out of surgery and in the ICU. He had a successful valve replacement and a double by-pass and they expect him to be in the ICU for twenty-four hours."

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The House receded from its amendment(s) to ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6267. Under

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suspension of the rules, the bill was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 6267-S.2.E AMH BLAK H5701.1, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** Water is an essential element for economic prosperity and it generates new, family-wage jobs and state revenues. It is the intent of the legislature to provide both water right applicants and the department of ecology with the necessary tools to expedite the processing of water right applications depending on the needs of the project and agency workload.

**NEW SECTION. Sec. 2.** Sufficient resources to support the department of ecology's water resource program are essential for effective and sustainable water management that provides certainty to processed applications. The department of ecology shall review current water resource functions and fee structures, and report to the legislature and the governor by September 1, 2010, on improvements to make the program more self-sustaining and efficient.

**Sec. 3.** RCW 90.03.265 and 2003 c 70 s 6 are each amended to read as follows:

**(1)(a)** Any applicant for a new withdrawal or a change, transfer, or amendment of a water right pending before the department((s)) may initiate a cost-reimbursement agreement with the department to provide expedited review of the application. A cost-reimbursement agreement may ((only)) be initiated under this section if the applicant agrees to pay for, or as part of a cooperative effort agrees to pay for, the cost of processing his or her application and all other applications from the same source of supply which must be acted upon before the applicant's request because they were filed prior to the date of when the applicant filed.

(b) The requirement to pay for the cost of other applications under (a) of this subsection does not apply to an application for a new appropriation that would not diminish the water available to earlier pending applicants for new appropriations from the same source of supply.

(c) The requirement to pay for the cost of processing other applications under (a) of this subsection does not apply to an application for a change, transfer, or other amendment that would not diminish the water available to earlier pending applicants for changes or transfers from the same source of supply.

(d) In determining whether an application would not diminish the water available to earlier pending applicants, the department shall consider any water impoundment or other water resource management mitigation technique proposed by the applicant under RCW 90.03.255 or 90.44.055.

(e) The department may enter into cost-reimbursement agreements provided resources are available and shall use the process established under RCW 43.21A.690 for entering into cost-reimbursement agreements. The department's share of work related to a cost-reimbursement application, such as final certificate approval, must be prioritized within the framework of other water right processing needs and as determined by agency rule.

(f) Each individual applicant is responsible for his or her own appeal costs that may result from a water right decision made by the department under this section. In the event that the department's approval of an application under this section is appealed under chapter 43.21B RCW by a third party, the applicant for the water right in question must reimburse the department for the cost of defending the decision before the pollution control hearings board unless otherwise agreed to by the applicant and the department. If an applicant appeals either an approval or a denial made by the department under this section, the applicant is responsible only for its own appeal costs.

(2) In pursuing a cost-reimbursement project, the department

must determine the source of water proposed to be diverted or withdrawn from, including the boundaries of the area that delimits the source. The department must determine if any other water right permit applications are pending from the same source. A water source may include surface water only, groundwater only, or surface and groundwater together if the department finds they are hydraulically connected. The department shall consider technical information submitted by the applicant in making its determinations under this subsection. The department may recover from a cost-reimbursement applicant its own costs in making the same source determination under this subsection.

(3) Upon request of the applicant seeking cost-reimbursement processing, the department may elect to initiate a coordinated cost-reimbursement process. To initiate this process, the department must notify in writing all persons who have pending applications on file for a new appropriation, change, transfer, or amendment of a water right from that water source. A water source may include surface water only, groundwater only, or surface and groundwater together if the department determines that they are hydraulically connected. The notice must be posted on the department's web site and published in a newspaper of general circulation in the area where affected properties are located. The notice must also be made individually by way of mail to:

(a) Inform those applicants that cost-reimbursement processing of applications within the described water source is being initiated;

(b) Provide to individual applicants the criteria under which the applications will be examined and determined;

(c) Provide to individual applicants the estimated cost for having an application processed on a cost-reimbursement basis;

(d) Provide an estimate of how long the cost-reimbursement process will take before an application is approved or denied; and

(e) Provide at least sixty days for the applicants to respond in writing regarding the applicant's decision to participate in the cost-reimbursement process.

(4) The applicant initiating the cost-reimbursement request must pay for the cost of the determination under subsections (2) and (3) of this section and other costs necessary for the initial phase of cost-reimbursement processing. The cost for each applicant for conducting processing under a coordinated cost-reimbursement agreement must be based primarily on the proportionate quantity of water requested by each applicant. The cost may be adjusted if it appears that an application will require a disproportionately greater amount of time and effort to process due to its complexity.

(5)(a) Only the department may approve or deny a water right application processed under this section, and such a final decision remains solely the responsibility and function of the department. The department retains full authority to amend, refuse, or approve any work product provided by any consultant under this section. The department may recover its costs related to: (i) The review of a consultant to ensure that no conflict of interest exists; (ii) the management of consultant contracts and cost-reimbursement agreements; and (iii) the review of work products provided by participating consultants.

(b) For any cost-reimbursement process initiated under subsection (1) of this section, the applicant may, after consulting with the department, select a prequalified consultant listed by the department under subsection (7) of this section or may be assigned such a prequalified consultant by the department.

(c) For any coordinated cost-reimbursement process initiated under subsection (3) of this section, the applicant may, after consulting with the department, select a prequalified consultant listed by the department under subsection (7) of this section or may be assigned a prequalified consultant by the department.

(d) In lieu of having one or more of the work products performed by a prequalified consultant listed under subsection (7) of

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this section, the department may, at its discretion, recognize specific work completed by an applicant or an applicant's consultant prior to the initiation of cost-reimbursement processing. The department may also, at its discretion, authorize the use of such a consultant to perform a specific scope of the work that would otherwise be assigned to prequalified consultants listed under subsection (7) of this section.

(e) At any point during the cost-reimbursement process, the department may request or accept technical information, data, and analysis from the applicant or the applicant's consultant to support the cost-reimbursement process or the department's decision on the application.

(6) The department is authorized to adopt rules or guidance providing minimum qualifications and standards for any consultant's submission of work products under this section, including standards for submission of technical information, scientific analysis, work product documentation, review for conflict of interest, and report presentation that such a consultant must meet.

(7) The department must provide notice to potential consultants of the opportunity to be considered for inclusion on the list of cost-reimbursement consultants to whom work assignments will be made. The department must competitively select an appropriate number of consultants who are qualified by training and experience to investigate and make recommendations on the disposition of water right applications. The prequalified consultant list must be renewed at least every six years, though the department may add qualified cost-reimbursement consultants to the list at any time. The department must enter a master contract with each consultant selected and thereafter make work assignments based on availability and qualifications.

(8) The department may remove any consultant from the consultant list for poor performance, malfeasance, or excessive complaints from cost-reimbursement participants. The department may interview any cost-reimbursement consultant to determine whether the person is qualified for this work, and must spot-check the work of consultants to ensure that the public is being competently served.

(9) When a prequalified cost-reimbursement consultant from the department's list described in subsection (7) of this section is assigned or selected to investigate an application or set of applications, the consultant must document its findings and recommended disposition in the form of written draft technical reports and preliminary draft reports of examination. Within two weeks of the department receiving draft technical reports and preliminary draft reports of examination, the department shall provide the applicant such documents for review and comment prior to their completion by the consultant. The department shall consider such comments by the applicant prior to the department's issuance of a draft report of examination. The department may modify the preliminary draft reports of examination submitted by the consultant. The department's decision on a permit application is final unless it is appealed to the pollution control hearings board under chapter 43.21B RCW.

(10) If an applicant elects not to participate in a cost-reimbursement process, the application remains on file with the department, retains its priority date, and may be processed under regular processing, priority processing, expedited processing, coordinated cost-reimbursement processing, cost-reimbursement processing, or through conservancy board processing as authorized under chapter 90.80 RCW.

**NEW SECTION. Sec. 4.** A new section is added to chapter 90.03 RCW to read as follows:

The water rights processing account is created in the state treasury. All receipts from the fees collected under sections 5, 7, and 12 of this act must be deposited into the account. Money in the

account may be spent only after appropriation. Expenditures from the account may only be used to support the processing of water right applications for a new appropriation, change, transfer, or amendment of a water right as provided in this chapter and chapters 90.42 and 90.44 RCW or for the examination, certification, and renewal of certification of water right examiners as provided in section 7 of this act.

**NEW SECTION. Sec. 5.** A new section is added to chapter 90.03 RCW to read as follows:

(1) The department may expedite processing of applications within the same source of water on its own volition when there is interest from a sufficient number of applicants or upon receipt of written requests from at least ten percent of the applicants within the same source of water.

(2) If the conditions of subsection (1) of this section have been met and the department determines that the public interest is best served by expediting applications within a water source, the department must notify in writing all persons who have pending applications on file for a new appropriation, change, transfer, or amendment of a water right from that water source. A water source may include surface water only, groundwater only, or surface and groundwater together if the department determines that they are hydraulically connected. The notice must be posted on the department's web site and published in a newspaper of general circulation in the area where affected properties are located. The notice must also be made individually by way of mail to:

(a) Inform those applicants that expedited processing of applications within the described water source is being initiated;

(b) Provide to individual applicants the criteria under which the applications will be examined and determined;

(c) Provide to individual applicants the estimated cost for having an application processed on an expedited basis;

(d) Provide an estimate of how long the expedited process will take before an application is approved or denied; and

(e) Provide at least sixty days for the applicants to respond in writing regarding the applicant's decision to participate in the expedited processing of their applications.

(3) In addition to the application fees provided in RCW 90.03.470, the department must recover the full cost of processing all the applications from applicants who elect to participate within the water source through expedited processing fees. The department must calculate an expedited processing fee based primarily on the proportionate quantity of water requested by each applicant and may adjust the fee if it appears that the application will require a disproportionately greater amount of time and effort to process due to its complexity. Any application fees that were paid by the applicant under RCW 90.03.470 must be credited against the applicant's share of the cost of processing applications under the provisions of this section.

(4) The expedited processing fee must be collected by the department prior to the expedited processing of an application. Revenue collected from these fees must be deposited into the water rights processing account created in section 4 of this act. An applicant who has stated in writing that he or she wants his or her application processed using the expedited procedures in this section must transmit the processing fee within sixty days of the written request. Failure to do so will result in the applicant not being included in expedited processing for that water source.

(5) If an applicant elects not to participate in expedited processing, the application remains on file with the department, the applicant retains his or her priority date, and the application may be processed through regular processing, priority processing, expedited processing, coordinated cost-reimbursement processing, cost-reimbursement processing, or through conservancy board processing as authorized under chapter 90.80 RCW. Such an

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application may not be processed through expedited processing within twelve months after the department's issuance of decisions on participating applications at the conclusion of expedited processing unless the applicant agrees to pay the full proportionate share that would otherwise have been paid during such processing. Any proceeds collected from an applicant under this delayed entry into expedited processing shall be used to reimburse the other applicants who participated in the previous expedited processing of applications, provided sufficient proceeds remain to fully cover the department's cost of processing the delayed entry application and the department's estimated administrative costs to reimburse the previously expedited applicants.

**NEW SECTION. Sec. 6.** A new section is added to chapter 90.03 RCW to read as follows:

The department must post notice on its web site and provide additional electronic notice and opportunity for comment to affected federally recognized tribal governments concurrently when providing notice to applicants under RCW 90.03.265 and sections 5 and 12 of this act.

**NEW SECTION. Sec. 7.** A new section is added to chapter 90.03 RCW to read as follows:

(1) The department shall establish and maintain a list of certified water right examiners. Certified water right examiners on the list are eligible to perform final proof examinations of permitted water uses leading to the issuance of a water right certificate under RCW 90.03.330. The list must be updated annually and must be made available to the public through written and electronic media.

(2) In order to qualify, an individual must be registered in Washington as a professional engineer, professional land surveyor, or registered hydrogeologist, or an individual must demonstrate at least five years of applicable experience to the department, or be a board member of a water conservancy board. Qualified individuals must also pass a written examination prior to being certified by the department. Such an examination must be administered by either the department or an entity formally approved by the department. Each certified water right examiner must demonstrate knowledge and competency regarding:

- (a) Water law in the state of Washington;
- (b) Measurement of the flow of water through open channels and enclosed pipes;
- (c) Water use and water level reporting;
- (d) Estimation of the capacity of reservoirs and ponds;
- (e) Irrigation crop water requirements;
- (f) Aerial photo interpretation;
- (g) Legal descriptions of land parcels;
- (h) Location of land and water infrastructure through the use of maps and global positioning;
- (i) Proper construction and sealing of well bores; and
- (j) Other topics related to the preparation and certification of water rights in Washington state.

(3) Except as provided in subsection (9) of this section, upon completion of a water appropriation and putting water to beneficial use, in order to receive a final water right certificate, the permit holder must secure the services of a certified water right examiner who has been tested and certified by the department. The examiner shall carry out a final examination of the project to verify its completion and to determine and document for the permit holder and the department the amount of water that has been appropriated for beneficial use, the location of diversion or withdrawal and conveyance facilities, and the actual place of use. The examiner shall take measurements or make estimates of the maximum diversion or withdrawal, the capacity of water storage facilities, the acreage irrigated, the type and number of residences served, the type and number of stock watered, and other information relevant to making a final determination of the amount of water beneficially

used. The examiner shall take photographs of the facilities to document the use or uses of water and the photographs must be submitted with the examiner's report to the department. The department shall specify the format and required content of the reports and may provide a form for that purpose.

(4) The department may suspend or revoke a certification based on poor performance, malfeasance, failure to acquire continuing education credits, or excessive complaints from the examiner's customers. The department may require the retesting of an examiner. The department may interview any examiner to determine whether the person is qualified for this work. The department shall spot-check the work of examiners to ensure that the public is being competently served. Any person aggrieved by an order of the department including the granting, denial, revocation, or suspension of a certificate issued by the department under this chapter may appeal pursuant to chapter 43.21B RCW.

(5) The decision regarding whether to issue a final water right certificate is solely the responsibility and function of the department.

(6) The department shall make its final decision under RCW 90.03.330 within sixty days of the date of receipt of the proof of examination from the certified water right examiner, unless otherwise requested by the applicant or returned for correction by the department. The department may return an initial proof of examination for correction within thirty days of the department's receipt of such initial proof from a certified water right examiner. Such proof must be returned to both the certified water right examiner and the applicant. Within thirty days of the department's receipt of such returned proof from the certified water right examiner, the department shall make its final decision under RCW 90.03.330, unless otherwise requested by the applicant.

(7) Each certified water right examiner must complete eight hours annually of qualifying continuing education in the water resources field. The department shall determine and specify the qualifying continuing education and shall inform examiners of the opportunities. The department shall track whether examiners are current in their continuing education and may suspend the certification of an examiner who has not complied with the continuing education requirement.

(8) Each certified water right examiner must be bonded for at least fifty thousand dollars.

(9) The department may waive the requirement to secure the services of a certified water right examiner in situations in which the department has already conducted a final proof of examination or finds it unnecessary for purposes of issuing a certificate of water right.

(10) The department shall establish and collect fees for the examination, certification, and renewal of certification of water right examiners. Revenue collected from these fees must be deposited into the water rights processing account created in section 4 of this act. Pursuant to RCW 43.135.055, the department is authorized to set fees for examination, certification, and renewal of certification for water right examiners.

(11) The department may adopt rules appropriate to carry out the purposes of this section.

**Sec. 8.** RCW 90.14.065 and 1987 c 93 s 1 are each amended to read as follows:

**(1)(a)** Any person or entity, or successor to such person or entity, having a statement of claim on file with the water rights claims registry ~~((on April 20, 1987))~~ may submit to the department of ecology for filing ~~((;))~~ an amendment to such a statement of claim if the submitted amendment is based on:

~~((+))~~ **(i)** An error in estimation of the quantity of the applicant's water claim prescribed in RCW 90.14.051 if the applicant provides reasons for the failure to claim such right in the original claim;

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~~((2))~~ (ii) A change in circumstances not foreseeable at the time the original claim was filed, if such change in circumstances relates only to the manner of transportation or diversion of the water and not to the use or quantity of such water; or

~~((3))~~ (iii) The amendment is ministerial in nature.

(b) The department shall accept any such submission and file the same in the registry unless the department by written determination concludes that the requirements of (a)(i), (ii), or (iii) of this subsection ~~((1), (2), or (3) of this section))~~ have not been satisfied.

(2) In addition to subsection (1) of this section, a surface water right claim may be changed or transferred in the same manner as a permit or certificate under RCW 90.03.380, and a water right claim for groundwater may be changed or transferred as provided under RCW 90.03.380 and 90.44.100.

(3) Any person aggrieved by a determination of the department may obtain a review thereof by filing a petition for review with the pollution control hearings board within thirty days of the date of the determination by the department. The provisions of RCW 90.14.081 shall apply to any amendment filed or approved under this section.

**Sec. 9.** RCW 90.44.100 and 2009 c 183 s 16 are each amended to read as follows:

(1) After an application to, and upon the issuance by the department of an amendment to the appropriate permit or certificate of groundwater right, the holder of a valid right to withdraw public groundwaters may, without losing the holder's priority of right, construct wells or other means of withdrawal at a new location in substitution for or in addition to those at the original location, or the holder may change the manner or the place of use of the water.

(2) An amendment to construct replacement or a new additional well or wells at a location outside of the location of the original well or wells or to change the manner or place of use of the water shall be issued only after publication of notice of the application and findings as prescribed in the case of an original application. Such amendment shall be issued by the department only on the conditions that: (a) The additional or replacement well or wells shall tap the same body of public groundwater as the original well or wells; (b) where a replacement well or wells is approved, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) where an additional well or wells is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original permit or certificate; and (d) other existing rights shall not be impaired. The department may specify an approved manner of construction and shall require a showing of compliance with the terms of the amendment, as provided in RCW 90.44.080 in the case of an original permit.

(3) The construction of a replacement or new additional well or wells at the location of the original well or wells shall be allowed without application to the department for an amendment. However, the following apply to such a replacement or new additional well: (a) The well shall tap the same body of public groundwater as the original well or wells; (b) if a replacement well is constructed, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) if a new additional well is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original water use permit or certificate; (d) the construction and use of the well shall not interfere with or impair water rights with an earlier date of priority than the water right or rights for the original well or wells; (e) the replacement or additional well shall be located no closer than the original well to a well it

might interfere with; (f) the department may specify an approved manner of construction of the well; and (g) the department shall require a showing of compliance with the conditions of this subsection (3).

(4) As used in this section, the "location of the original well or wells" of a water right permit or certificate is the area described as the point of withdrawal in the original public notice published for the application for the water right for the well. The location of the original well or wells of a water right claim filed under chapter 90.14 RCW is the area located within a one-quarter mile radius of the current well or wells.

(5) The development and use of a small irrigation impoundment, as defined in RCW 90.03.370(8), does not constitute a change or amendment for the purposes of this section. The exemption expressly provided by this subsection shall not be construed as requiring an amendment of any existing water right to enable the holder of the right to store water governed by the right.

(6) This section does not apply to a water right involved in an approved local water plan created under RCW 90.92.090 or a banked water right under RCW 90.92.070.

**Sec. 10.** RCW 90.44.100 and 2003 c 329 s 3 are each amended to read as follows:

(1) After an application to, and upon the issuance by the department of an amendment to the appropriate permit or certificate of groundwater right, the holder of a valid right to withdraw public groundwaters may, without losing the holder's priority of right, construct wells or other means of withdrawal at a new location in substitution for or in addition to those at the original location, or the holder may change the manner or the place of use of the water.

(2) An amendment to construct replacement or a new additional well or wells at a location outside of the location of the original well or wells or to change the manner or place of use of the water shall be issued only after publication of notice of the application and findings as prescribed in the case of an original application. Such amendment shall be issued by the department only on the conditions that: (a) The additional or replacement well or wells shall tap the same body of public groundwater as the original well or wells; (b) where a replacement well or wells is approved, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) where an additional well or wells is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original permit or certificate; and (d) other existing rights shall not be impaired. The department may specify an approved manner of construction and shall require a showing of compliance with the terms of the amendment, as provided in RCW 90.44.080 in the case of an original permit.

(3) The construction of a replacement or new additional well or wells at the location of the original well or wells shall be allowed without application to the department for an amendment. However, the following apply to such a replacement or new additional well: (a) The well shall tap the same body of public groundwater as the original well or wells; (b) if a replacement well is constructed, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) if a new additional well is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original water use permit or certificate; (d) the construction and use of the well shall not interfere with or impair water rights with an earlier date of priority than the water right or rights for the original well or wells; (e) the replacement or additional well shall be located no closer than the original well to a well it

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might interfere with; (f) the department may specify an approved manner of construction of the well; and (g) the department shall require a showing of compliance with the conditions of this subsection (3).

(4) As used in this section, the "location of the original well or wells" of a water right permit or certificate is the area described as the point of withdrawal in the original public notice published for the application for the water right for the well. The location of the original well or wells of a water right claim filed under chapter 90.14 RCW is the area located within a one-quarter mile radius of the current well or wells.

(5) The development and use of a small irrigation impoundment, as defined in RCW 90.03.370(8), does not constitute a change or amendment for the purposes of this section. The exemption expressly provided by this subsection shall not be construed as requiring an amendment of any existing water right to enable the holder of the right to store water governed by the right.

NEW SECTION. Sec. 11. A new section is added to chapter 90.44 RCW to read as follows:

Applications to appropriate groundwater under a cost-reimbursement agreement must be processed in accordance with RCW 90.03.265 when an applicant requests the assignment of a cost-reimbursement consultant as provided in RCW 43.21A.690.

NEW SECTION. Sec. 12. A new section is added to chapter 90.44 RCW to read as follows:

(1) The department may expedite processing of applications within the same source of water on its own volition when there is interest from a sufficient number of applicants or upon receipt of written requests from at least ten percent of the applicants within the same source of water.

(2) If the conditions of subsection (1) of this section have been met and the department determines that the public interest is best served by expediting applications within a water source, the department must notify in writing all persons who have pending applications on file for a new appropriation, change, transfer, or amendment of a water right from that water source. A water source may include surface water only, groundwater only, or surface and groundwater together if the department determines that they are hydraulically connected. The notice must be posted on the department's web site and published in a newspaper of general circulation in the area where affected properties are located. The notice must also be made individually by way of mail to:

(a) Inform those applicants that expedited processing of applications within the described water source is being initiated;

(b) Provide to individual applicants the criteria under which the applications will be examined and determined;

(c) Provide to individual applicants the estimated cost for having an application processed on an expedited basis;

(d) Provide an estimate of how long the expedited process will take before an application is approved or denied; and

(e) Provide at least sixty days for the applicants to respond in writing regarding the applicant's decision to participate in expedited processing of their applications.

(3) In addition to the application fees provided in RCW 90.03.470, the department must recover the full cost of processing all the applications from applicants who elect to participate within the water source through expedited processing fees. The department must calculate an expedited processing fee based primarily on the proportionate quantity of water requested by each applicant and may adjust the fee if it appears that an application will require a disproportionately greater amount of time and effort to process due to its complexity. Any application fees that were paid by the applicant under RCW 90.03.470 must be credited against the applicant's share of the cost of processing applications under the provisions of this section.

(4) The expedited processing fee must be collected by the department prior to the expedited processing of an application. Revenue collected from these fees must be deposited into the water rights processing account created in section 4 of this act. An applicant who has stated in writing that he or she wants his or her application processed using the expedited procedures in this section must transmit the processing fee within sixty days of the written request. Failure to do so will result in the applicant not being included in expedited processing for that water source.

(5) If an applicant elects not to participate in expedited processing, the application remains on file with the department, the applicant retains his or her priority date, and the application may be processed through regular processing, priority processing, expedited processing, coordinated cost-reimbursement processing, cost-reimbursement processing, or through conservancy board processing as authorized under chapter 90.80 RCW. Such an application may not be processed through expedited processing within twelve months after the department's issuance of decisions on participating applications at the conclusion of expedited processing unless the applicant agrees to pay the full proportionate share that would otherwise have been paid during such processing. Any proceeds collected from an applicant under this delayed entry into expedited processing shall be used to reimburse the other applicants who participated in the previous expedited processing of applications, provided sufficient proceeds remain to fully cover the department's cost of processing the delayed entry application and the department's estimated administrative costs to reimburse the previously expedited applicants.

NEW SECTION. Sec. 13. A new section is added to chapter 90.03 RCW to read as follows:

Nothing in this act affects or diminishes the processing of water right applications under any other existing authority, including but not limited to existing authority for the priority processing of applications by the department.

NEW SECTION. Sec. 14. Section 9 of this act expires June 30, 2019.

NEW SECTION. Sec. 15. Section 10 of this act takes effect June 30, 2019.

NEW SECTION. Sec. 16. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Rockefeller moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6267.

Senators Rockefeller and Honeyford spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Rockefeller that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6267.

The motion by Senator Rockefeller carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6267 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6267, as amended by the House.

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ROLL CALL

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The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6267, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Holmquist and Stevens

Excused: Senator McCaslin

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6267, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The House receded from its amendment(s) to ENGROSSED SUBSTITUTE SENATE BILL NO. 6604. Under suspension of the rules, the bill was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 6604-S.E AMH MAXW MCLA 586, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28A.655.061 and 2009 c 524 s 5 are each amended to read as follows:

(1) The high school assessment system shall include but need not be limited to the Washington assessment of student learning, opportunities for a student to retake the content areas of the assessment in which the student was not successful, and if approved by the legislature pursuant to subsection (10) of this section, one or more objective alternative assessments for a student to demonstrate achievement of state academic standards. The objective alternative assessments for each content area shall be comparable in rigor to the skills and knowledge that the student must demonstrate on the Washington assessment of student learning for each content area.

(2) Subject to the conditions in this section, a certificate of academic achievement shall be obtained by most students at about the age of sixteen, and is evidence that the students have successfully met the state standard in the content areas included in the certificate. With the exception of students satisfying the provisions of RCW 28A.155.045 or 28A.655.0611, acquisition of the certificate is required for graduation from a public high school but is not the only requirement for graduation.

(3) Beginning with the graduating class of 2008, with the exception of students satisfying the provisions of RCW 28A.155.045, a student who meets the state standards on the reading, writing, and mathematics content areas of the high school Washington assessment of student learning shall earn a certificate of academic achievement. If a student does not successfully meet the state standards in one or more content areas required for the certificate of academic achievement, then the student may retake the assessment in the content area up to four times at no cost to the student. If the student successfully meets the state standards on a retake of the assessment then the student shall earn a certificate of

academic achievement. Once objective alternative assessments are authorized pursuant to subsection (10) of this section, a student may use the objective alternative assessments to demonstrate that the student successfully meets the state standards for that content area if the student has taken the Washington assessment of student learning at least once. If the student successfully meets the state standards on the objective alternative assessments then the student shall earn a certificate of academic achievement.

(4) Beginning no later than with the graduating class of 2013, a student must meet the state standards in science in addition to the other content areas required under subsection (3) of this section on the Washington assessment of student learning or the objective alternative assessments in order to earn a certificate of academic achievement. The state board of education may adopt a rule that implements the requirements of this subsection (4) beginning with a graduating class before the graduating class of 2013, if the state board of education adopts the rule by September 1st of the freshman school year of the graduating class to which the requirements of this subsection (4) apply. The state board of education's authority under this subsection (4) does not alter the requirement that any change in performance standards for the tenth grade assessment must comply with RCW 28A.305.130.

(5) The state board of education may not require the acquisition of the certificate of academic achievement for students in home-based instruction under chapter 28A.200 RCW, for students enrolled in private schools under chapter 28A.195 RCW, or for students satisfying the provisions of RCW 28A.155.045.

(6) A student may retain and use the highest result from each successfully completed content area of the high school assessment.

(7) School districts must make available to students the following options:

(a) To retake the Washington assessment of student learning up to four times in the content areas in which the student did not meet the state standards if the student is enrolled in a public school; or

(b) To retake the Washington assessment of student learning up to four times in the content areas in which the student did not meet the state standards if the student is enrolled in a high school completion program at a community or technical college. The superintendent of public instruction and the state board for community and technical colleges shall jointly identify means by which students in these programs can be assessed.

(8) Students who achieve the standard in a content area of the high school assessment but who wish to improve their results shall pay for retaking the assessment, using a uniform cost determined by the superintendent of public instruction.

(9) Opportunities to retake the assessment at least twice a year shall be available to each school district.

(10)(a) The office of the superintendent of public instruction shall develop options for implementing objective alternative assessments, which may include an appeals process for students' scores, for students to demonstrate achievement of the state academic standards. The objective alternative assessments shall be comparable in rigor to the skills and knowledge that the student must demonstrate on the Washington assessment of student learning and be objective in its determination of student achievement of the state standards. Before any objective alternative assessments in addition to those authorized in RCW 28A.655.065 or (b) of this subsection are used by a student to demonstrate that the student has met the state standards in a content area required to obtain a certificate, the legislature shall formally approve the use of any objective alternative assessments through the omnibus appropriations act or by statute or concurrent resolution.

(b)(i) A student's score on the mathematics, reading or English, or writing portion of the SAT or the ACT may be used as an objective alternative assessment under this section for

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demonstrating that a student has met or exceeded the state standards for the certificate of academic achievement. The state board of education shall identify the scores students must achieve on the relevant portion of the SAT or ACT to meet or exceed the state standard in the relevant content area on the Washington assessment of student learning. The state board of education shall identify the first scores by December 1, 2007. After the first scores are established, the state board may increase but not decrease the scores required for students to meet or exceed the state standards.

(ii) Until August 31, 2008, a student's score on the mathematics portion of the PSAT may be used as an objective alternative assessment under this section for demonstrating that a student has met or exceeded the state standard for the certificate of academic achievement. The state board of education shall identify the score students must achieve on the mathematics portion of the PSAT to meet or exceed the state standard in that content area on the Washington assessment of student learning.

(iii) A student who scores at least a three on the grading scale of one to five for selected AP examinations may use the score as an objective alternative assessment under this section for demonstrating that a student has met or exceeded state standards for the certificate of academic achievement. A score of three on the AP examinations in calculus or statistics may be used as an alternative assessment for the mathematics portion of the Washington assessment of student learning. A score of three on the AP examinations in English language and composition may be used as an alternative assessment for the writing portion of the Washington assessment of student learning. A score of three on the AP examinations in English literature and composition, macroeconomics, microeconomics, psychology, United States history, world history, United States government and politics, or comparative government and politics may be used as an alternative assessment for the reading portion of the Washington assessment of student learning.

(11) By December 15, 2004, the house of representatives and senate education committees shall obtain information and conclusions from recognized, independent, national assessment experts regarding the validity and reliability of the high school Washington assessment of student learning for making individual student high school graduation determinations.

(12) To help assure continued progress in academic achievement as a foundation for high school graduation and to assure that students are on track for high school graduation, each school district shall prepare plans for and notify students and their parents or legal guardians as provided in this subsection ((12)).

((a)) Student learning plans are required for eighth ((through twelfth)) grade students who were not successful on any or all of the content areas of the ((Washington)) state assessment ((for student learning)) during the previous school year or who may not be on track to graduate due to credit deficiencies or absences. The parent or legal guardian shall be notified about the information in the student learning plan, preferably through a parent conference and at least annually. To the extent feasible, schools serving English language learner students and their parents shall translate the plan into the primary language of the family. The plan shall include the following information as applicable:

((a)) (a) The student's results on the ((Washington)) state assessment ((of student learning));

((b)) (b) If the student is in the transitional bilingual program, the score on his or her Washington language proficiency test II;

((c)) (c) Any credit deficiencies;

((d)) (d) The student's attendance rates over the previous two years;

((e)) (e) The student's progress toward meeting state and local graduation requirements;

((f)) (f) The courses, competencies, and other steps needed to be taken by the student to meet state academic standards and stay on track for graduation;

((g)) (g) Remediation strategies and alternative education options available to students, including informing students of the option to continue to receive instructional services after grade twelve or until the age of twenty-one;

((h)) (h) The alternative assessment options available to students under this section and RCW 28A.655.065;

((i)) (i) School district programs, high school courses, and career and technical education options available for students to meet graduation requirements; and

((j)) (j) Available programs offered through skill centers or community and technical colleges, including the college high school diploma options under RCW 28B.50.535.

((b)) All fifth grade students who were not successful in one or more of the content areas of the fourth grade Washington assessment of student learning shall have a student learning plan.

(i) The parent or guardian of the student shall be notified, preferably through a parent conference, of the student's results on the Washington assessment of student learning, actions the school intends to take to improve the student's skills in any content area in which the student was unsuccessful, and provide strategies to help them improve their student's skills.

(ii) Progress made on the student plan shall be reported to the student's parents or guardian at least annually and adjustments to the plan made as necessary.)"

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator McAuliffe moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6604.

Senators McAuliffe, King and Hobbs spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator McAuliffe that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6604.

The motion by Senator McAuliffe carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6604 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6604, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6604, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

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ENGROSSED SUBSTITUTE SENATE BILL NO. 6604, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MESSAGE FROM THE HOUSE

March 10, 2010

MR. PRESIDENT:

The House receded from its amendment(s) to SUBSTITUTE SENATE BILL NO. 6759. Under suspension of the rules, the bill was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 6759-S AMH GOOD H5686.1, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The department of early learning, the superintendent of public instruction, and thrive by five's joint early learning recommendations to the governor, and the quality education council's January 2010 recommendations to the legislature both suggested that a voluntary program of early learning should be included within the overall program of basic education. The legislature intends to examine these recommendations and Attorney General Opinion Number 8 (2009) through the development of a working group to identify and recommend a comprehensive plan.

**NEW SECTION. Sec. 2.** (1) Beginning April 1, 2010, the office of the superintendent of public instruction, with assistance and support from the department of early learning, shall convene a technical working group to develop a comprehensive plan for a voluntary program of early learning. The plan shall examine the opportunities and barriers of at least two options:

(a) A program of early learning under the program of basic education; and

(b) A program of early learning as an entitlement, either statutorily or constitutionally protected.

(2) The working group shall, at a minimum, include in the plan the following recommendations for each option:

(a) Criteria for eligible children;

(b) Program standards, including, but not limited to, direct services to be provided, number of hours per school year, teacher qualifications, and transportation requirements;

(c) Performance measures;

(d) Criteria for eligible providers, specifying whether or not they may be:

(i) Approved, certified, or licensed by the department of early learning; and

(ii) Public, private, nonsectarian, or sectarian organizations;

(e) Governance responsibilities for the superintendent of public instruction and the department of early learning;

(f) Funding necessary to implement a voluntary program of early learning, including, but not limited to, early learning teachers, professional development, facilities, and technical assistance;

(g) A timeline for implementation; and

(h) The early childhood education and assistance program's role in the new program of early learning.

(3) While developing the plan, the working group shall review early learning programs in Washington state, including the early childhood education and assistance program and the federal head start program, as well as programs in other states.

(4) The working group shall be composed of:

(a) At least one representative each from the following: The department of early learning, the office of the superintendent of public instruction, the nongovernmental private-public partnership created in RCW 43.215.070, and the office of the attorney general;

(b) Two members of the early learning advisory council established in RCW 43.215.090 to be appointed by the council; and

(c) Additional stakeholders with expertise in early learning to be appointed by the early learning advisory council.

(5) The working group may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders.

(6) The working group shall be monitored and overseen by the quality education council created in RCW 28A.290.010. The working group shall submit a progress report by July 1, 2011, and final report with the plan by November 1, 2011, to the early learning advisory council and the quality education council.

**Sec. 3.** RCW 43.215.090 and 2007 c 394 s 3 are each amended to read as follows:

(1) The early learning advisory council is established to advise the department on statewide early learning ~~((community needs and progress))~~ issues that would build a comprehensive system of quality early learning programs and services for Washington's children and families by assessing needs and the availability of services, aligning resources, developing plans for data collection and professional development of early childhood educators, and establishing key performance measures.

(2) The council shall work in conjunction with the department to develop a statewide early learning plan that ~~((crosses systems and sectors to promote))~~ guides the department in promoting alignment of private and public sector actions, objectives, and resources, and ~~((to ensure))~~ ensuring school readiness.

(3) The council shall include diverse, statewide representation from public, nonprofit, and for-profit entities. Its membership shall reflect regional, racial, and cultural diversity to adequately represent the needs of all children and families in the state.

(4) Council members shall serve two-year terms. However, to stagger the terms of the council, the initial appointments for twelve of the members shall be for one year. Once the initial one-year to two-year terms expire, all subsequent terms shall be for two years, with the terms expiring on June 30th of the applicable year. The terms shall be staggered in such a way that, where possible, the terms of members representing a specific group do not expire simultaneously.

(5) The council shall consist of not more than ~~((twenty-five))~~ twenty-three members, as follows:

(a) The governor shall appoint at least one representative from each of the following: The department, the office of financial management, the department of social and health services, the department of health, the higher education coordinating board, and the state board for community and technical colleges;

(b) One representative from the office of the superintendent of public instruction, to be appointed by the superintendent of public instruction;

(c) The governor shall appoint ~~((at least))~~ seven leaders in early childhood education, with at least one representative with experience or expertise in each of the areas such as the following ~~((areas))~~: Children with disabilities, the K-12 system, family day care providers, and child care centers;

(d) Two members of the house of representatives, one from each caucus, and two members of the senate, one from each caucus, to be appointed by the speaker of the house of representatives and the president of the senate, respectively;

(e) Two parents, one of whom serves on the department's parent advisory council, to be appointed by the governor;

(f) ~~((Two))~~ One representative~~((s))~~ of the private-public partnership created in RCW 43.215.070, to be appointed by the partnership board;

(g) One representative designated by sovereign tribal governments; and

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(h) One representative from the Washington federation of independent schools.

(6) The council shall be cochaired by one representative of a state agency and one nongovernmental member, to be elected by the council for two-year terms.

(7) The council shall appoint two members and stakeholders with expertise in early learning to sit on the technical working group created in section 2, chapter . . ., Laws of 2010 (section 2 of the act).

(8) Each member of the board shall be compensated in accordance with RCW 43.03.240 and reimbursed for travel expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060.

~~((8))~~ (9) The department shall provide staff support to the council.

**Sec. 4.** RCW 28A.290.010 and 2009 c 548 s 114 are each amended to read as follows:

(1) The quality education council is created to recommend and inform the ongoing implementation by the legislature of an evolving program of basic education and the financing necessary to support such program. The council shall develop strategic recommendations on the program of basic education for the common schools. The council shall take into consideration the capacity report produced under RCW 28A.300.172 and the availability of data and progress of implementing the data systems required under RCW 28A.655.210. Any recommendations for modifications to the program of basic education shall be based on evidence that the programs effectively support student learning. The council shall update the statewide strategic recommendations every four years. The recommendations of the council are intended to:

(a) Inform future educational policy and funding decisions of the legislature and governor;

(b) Identify measurable goals and priorities for the educational system in Washington state for a ten-year time period, including the goals of basic education and ongoing strategies for coordinating statewide efforts to eliminate the achievement gap and reduce student dropout rates; and

(c) Enable the state of Washington to continue to implement an evolving program of basic education.

(2) The council may request updates and progress reports from the office of the superintendent of public instruction, the state board of education, the professional educator standards board, and the department of early learning on the work of the agencies as well as educational working groups established by the legislature.

(3) The chair of the council shall be selected from the councilmembers. The council shall be composed of the following members:

(a) Four members of the house of representatives, with two members representing each of the major caucuses and appointed by the speaker of the house of representatives;

(b) Four members of the senate, with two members representing each of the major caucuses and appointed by the president of the senate; and

(c) One representative each from the office of the governor, office of the superintendent of public instruction, state board of education, professional educator standards board, and department of early learning.

(4) In the 2009 fiscal year, the council shall meet as often as necessary as determined by the chair. In subsequent years, the council shall meet no more than four times a year.

(5)(a) The council shall submit an initial report to the governor and the legislature by January 1, 2010, detailing its recommendations, including recommendations for resolving issues or decisions requiring legislative action during the 2010 legislative session, and recommendations for any funding necessary to

continue development and implementation of chapter 548, Laws of 2009.

(b) The initial report shall, at a minimum, include:

(i) Consideration of how to establish a statewide beginning teacher mentoring and support system;

(ii) Recommendations for a program of early learning for at-risk children;

(iii) A recommended schedule for the concurrent phase-in of the changes to the instructional program of basic education and the implementation of the funding formulas and allocations to support the new instructional program of basic education as established under chapter 548, Laws of 2009. The phase-in schedule shall have full implementation completed by September 1, 2018; and

(iv) A recommended schedule for phased-in implementation of the new distribution formula for allocating state funds to school districts for the transportation of students to and from school, with phase-in beginning no later than September 1, 2013.

(6) The council shall submit a report to the legislature by January 1, 2012, detailing its recommendations for a comprehensive plan for a voluntary program of early learning. Before submitting the report, the council shall seek input from the early learning advisory council created in RCW 43.215.090.

(7) The council shall be staffed by the office of the superintendent of public instruction and the office of financial management. Additional staff support shall be provided by the state entities with representatives on the ~~((committee))~~ council. Senate committee services and the house of representatives office of program research may provide additional staff support.

~~((7))~~ (8) Legislative members of the council shall serve without additional compensation but may be reimbursed for travel expenses in accordance with RCW 44.04.120 while attending sessions of the council or on official business authorized by the council. Nonlegislative members of the council may be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Kauffman moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6759.

Senators Kauffman and King spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kauffman that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6759.

The motion by Senator Kauffman carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6759 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6759, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6759, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King,

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Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6759, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MESSAGE FROM THE HOUSE

March 10, 2010

MR. PRESIDENT:

The House passed SENATE BILL NO. 6833 with the following amendment(s): 6833 AMH WAYS H5663.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature recognizes the significant financial benefits realized by the state through consolidated cash management activities. It is the intent of this act to encourage and, when financially advantageous, to expand those activities.

**Sec. 2.** RCW 43.08.150 and 2009 c 549 s 5045 are each amended to read as follows:

As soon as possible after the close of each calendar month, the state treasurer shall prepare a report as to the state of the general fund and every other fund under his or her control itemized as to:

- (1) The amount in the fund at the close of business at the end of the preceding month;
- (2) The amount of revenue deposited or transferred to the credit of each fund during the current month;
- (3) The amount of withdrawals or transfers from each fund during the current month; and
- (4) The amount on hand in each fund at the close of business at the end of the current month.

One copy of each report shall be provided promptly to those requesting them so long as the supply lasts. The report shall be posted on the official web site of the state treasurer. The report shall also include a graphical display of month end balances, for both the current and previous fiscal year, for the general fund, total funds in the treasury, total funds in the treasurer's trust fund, and total funds managed by the state treasurer.

**Sec. 3.** RCW 43.08.190 and 2009 c 564 s 926 are each amended to read as follows:

There is hereby created a fund within the state treasury to be known as the "state treasurer's service fund." Such fund shall be used solely for the payment of costs and expenses incurred in the operation and administration of the state treasurer's office.

Moneys shall be allocated monthly and placed in the state treasurer's service fund equivalent to a maximum of one percent of the trust and treasury average daily cash balances from the earnings generated under the authority of RCW 43.79A.040 and 43.84.080 other than earnings generated from investment of balances in funds and accounts specified in RCW 43.79A.040 ~~((or 43.84.092(4)))~~ (4)(c). The allocation shall precede the distribution of the remaining earnings as prescribed under RCW 43.79A.040 and 43.84.092. The state treasurer shall establish a uniform allocation rate ~~((based on the appropriations for the treasurer's office))~~ for all funds and accounts; except that the state treasurer may negotiate a different allocation rate with any state agency that has independent authority over funds not statutorily required to be held in the state treasury or in the custody of the state treasurer. In no event shall the rate be less than the actual costs incurred by the state treasurer's

office. If no rate is separately negotiated, the default rate for any funds held shall be the rate set for funds held pursuant to statute.

During the 2009-2011 fiscal biennium, the legislature may transfer from the state treasurer's service fund to the state general fund such amounts as reflect the excess fund balance of the fund.

**Sec. 4.** RCW 43.79A.040 and 2009 c 87 s 4 are each amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) ~~((and)),~~ (c), and (d) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the students with dependents grant account, the basic health plan self-insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the Washington international exchange scholarship endowment fund, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the grain inspection revolving fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account), the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, and the reading achievement account. ~~((However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.))~~

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(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the city and county advance right-of-way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Sec. 5.** RCW 43.84.092 and 2009 c 479 s 31, 2009 c 472 s 5, and 2009 c 451 s 8 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the budget stabilization account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the county sales and use tax equalization

account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the health system capacity account, the personal health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety account, the high occupancy toll lanes operations account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public transportation systems account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puyallup tribal settlement account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 corridor account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the urban arterial trust account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law

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enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. ~~((All earnings to be distributed under this subsection (4) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.))~~

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**NEW SECTION. Sec. 6.** A new section is added to chapter 43.79 RCW to read as follows:

By October 31st of each odd-numbered year, the state treasurer shall provide to the office of financial management and the appropriate fiscal committees of the legislature a list of any funds or accounts in the state treasury or in the custody of the state treasurer that he or she believes to be obsolete. The list must include the standard or process the treasurer used to determine whether an account is believed to be obsolete.

**NEW SECTION. Sec. 7.** By June 1, 2010, the office of financial management shall provide the state treasurer with a list of all funds or accounts held locally by any state agency. By October 31, 2010, the state treasurer, working with the office of financial management, shall review all locally held accounts, other than those held by institutions of higher education, and determine whether it would be financially advantageous to the state for those accounts to instead be held in the state treasury or in the custody of the state treasurer. When the treasurer deems it financially advantageous for local accounts to be held in the custody of the state treasurer or in the state treasury, he or she is encouraged to propose executive request legislation to effect those changes."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Tom moved that the Senate concur in the House amendment(s) to Senate Bill No. 6833.

Senator Tom spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Tom that the Senate concur in the House amendment(s) to Senate Bill No. 6833.

The motion by Senator Tom carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6833 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6833, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6833, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 31; Nays, 17; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, Morton, Parlette, Pflug, Roach, Schoesler, Stevens, Swecker and Zarelli

Excused: Senator McCaslin

SENATE BILL NO. 6833, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Oemig, Senator Murray was excused.

MOTION

On motion of Senator McDermott, the Senate advanced to the sixth order of business.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1096, by House Committee on General Government Appropriations (originally sponsored by Representatives Hasegawa, Green, Kenney, Chase, Hudgins and Moeller)

Enhancing small business participation in state purchasing.

The measure was read the second time.

MOTION

Senator Kastama moved that the following committee striking amendment by the Committee on Economic Development, Trade & Innovation be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 43.19 RCW to read as follows:

(1) The legislature finds that it is in the state's economic interest and serves a public purpose to promote and facilitate the fullest possible participation by Washington businesses of all sizes in the process by which goods and services are purchased by the state. The legislature further finds that large businesses have the resources to participate fully and effectively in the state's purchasing system, and because of many factors, including economies of scale, the purchasing system tends to create a preference in favor of large businesses and to disadvantage small businesses. The legislature intends, therefore, to assist, to the maximum extent possible, small businesses to participate in order to enhance and preserve competitive enterprise and to ensure that small businesses have a

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fair opportunity to be awarded contracts or subcontracts for goods and services purchased by the state.

(2) Purchasing agencies must establish and implement a plan to increase the number of small businesses annually receiving state contracts for goods and services purchased by the state. The goal of the plan must be to have the number of small businesses receiving state contracts in 2012 be at least fifty percent higher, and in 2014 be at least one hundred percent higher, than the number of contracts awarded to small businesses in 2009.

(3) On July 1, 2011, and each July 1st thereafter, the department of general administration, in consultation with the department of information services and the department of transportation, shall report to the governor and the appropriate committees of the legislature on progress in carrying out the plan required by this section. Annual reports must include information about progress in increasing the number of small businesses participating in state contracts, steps taken to meet the goals of the plan, and the characteristics of small businesses that are awarded contracts.

(4) As used in this section:

(a) "Purchasing agencies" are limited to the department of general administration, the department of information services, and the department of transportation.

(b) "In-state business" means a business that has its principal office located in Washington and its officers domiciled in Washington.

(c) "Small business" means an in-state business, including a sole proprietorship, corporation, partnership, or other legal entity, that: (i) Certifies, under penalty of perjury, that it is owned and operated independently from all other businesses and has either (A) fifty or fewer employees, or (B) a gross revenue of less than seven million dollars annually as reported on its federal income tax return or its return filed with the department of revenue over the previous three consecutive years; or (ii) is certified under chapter 39.19 RCW.

(5) This section expires July 1, 2015."

Senator Kastama spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Economic Development, Trade & Innovation to Engrossed Second Substitute House Bill No. 1096.

The motion by Senator Kastama carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "purchasing;" strike the remainder of the title and insert "adding a new section to chapter 43.19 RCW; and providing an expiration date."

#### MOTION

On motion of Senator Kastama, the rules were suspended, Engrossed Second Substitute House Bill No. 1096 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1096 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1096 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 42; Nays, 5; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Oemig, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Becker, Holmquist, Honeyford, Parlette and Stevens

Excused: Senators McCaslin and Murray

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1096 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 3061, by Representative Condotta

Addressing claims of insolvent self-insurers under industrial insurance.

The measure was read the second time.

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, House Bill No. 3061 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and Holmquist spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 3061.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3061 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Fairley

Excused: Senators McCaslin and Murray

HOUSE BILL NO. 3061, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 5:00 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

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The Senate was called to order at 6:47 p.m. by President Owen.

ENGROSSED SUBSTITUTE SENATE BILL 6726,  
SENATE BILL 6804,  
SENATE BILL 6826,  
SUBSTITUTE SENATE BILL 6832.  
and the same are herewith transmitted.

MOTION

BARBARA BAKER, Chief Clerk

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

March 11, 2010

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:  
SECOND SUBSTITUTE HOUSE BILL 2436,  
ENGROSSED SUBSTITUTE HOUSE BILL 2876,  
SUBSTITUTE HOUSE BILL 3124,  
ENGROSSED SUBSTITUTE HOUSE BILL 3178,  
ENGROSSED SUBSTITUTE HOUSE BILL 3209.  
and the same are herewith transmitted.

MR. PRESIDENT:

The House receded from its amendment to ENGROSSED SUBSTITUTE SENATE BILL NO. 6774 and passed the bill without the House amendment.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 11, 2010

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The Speaker has signed:  
SENATE BILL 6243,  
SENATE BILL 6308,  
SUBSTITUTE SENATE BILL 6344,  
SUBSTITUTE SENATE BILL 6349,  
SUBSTITUTE SENATE BILL 6350,  
ENGROSSED SUBSTITUTE SENATE BILL 6381,  
SENATE BILL 6401,  
ENGROSSED SUBSTITUTE SENATE BILL 6403,  
ENGROSSED SUBSTITUTE SENATE BILL 6468,  
SUBSTITUTE SENATE BILL 6470,  
ENGROSSED SUBSTITUTE SENATE BILL 6476,  
SENATE BILL 6481,  
SUBSTITUTE SENATE BILL 6485,  
SUBSTITUTE SENATE BILL 6520,  
ENGROSSED SUBSTITUTE SENATE BILL 6538,  
SUBSTITUTE SENATE BILL 6548,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL 6561,  
SECOND SUBSTITUTE SENATE BILL 6575,  
SECOND SUBSTITUTE SENATE BILL 6578,  
ENGROSSED SUBSTITUTE SENATE BILL 6582,  
SENATE BILL 6593,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL 6609,  
SUBSTITUTE SENATE BILL 6611,  
SUBSTITUTE SENATE BILL 6614,  
SUBSTITUTE SENATE BILL 6639,  
SUBSTITUTE SENATE BILL 6647,  
SECOND SUBSTITUTE SENATE BILL 6667,  
SECOND SUBSTITUTE SENATE BILL 6679,  
SUBSTITUTE SENATE BILL 6688,  
SUBSTITUTE SENATE BILL 6692,  
SECOND SUBSTITUTE SENATE BILL 6702,

MR. PRESIDENT:

The Speaker has signed:  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1597,  
SUBSTITUTE HOUSE BILL 2196,  
ENGROSSED SUBSTITUTE HOUSE BILL 2424,  
ENGROSSED SUBSTITUTE HOUSE BILL 2547,  
SUBSTITUTE HOUSE BILL 2596,  
SUBSTITUTE HOUSE BILL 2745,  
SUBSTITUTE HOUSE BILL 2758,  
SUBSTITUTE HOUSE BILL 2893,  
ENGROSSED SUBSTITUTE HOUSE BILL 2925,  
SUBSTITUTE HOUSE BILL 2935,  
HOUSE BILL 3030,  
SUBSTITUTE HOUSE BILL 3046,  
SECOND SUBSTITUTE HOUSE BILL 3076,  
ENGROSSED SUBSTITUTE HOUSE BILL 3179.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The House has passed:  
SUBSTITUTE SENATE BILL 6339.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1096,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2658.

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and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The House receded from its amendment(s) to ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6504. Under suspension of the rules, the bill was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 6504-S2.E AMH ROSC WALK 125, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 7.68.070 and 2009 c 38 s 1 are each amended to read as follows:

The right to benefits under this chapter and the amount thereof will be governed insofar as is applicable by the provisions contained in chapter 51.32 RCW except as provided in this section, provided that no more than fifty thousand dollars shall be paid per claim:

(1) The provisions contained in RCW 51.32.015, 51.32.030, 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not applicable to this chapter.

(2) Each victim injured as a result of a criminal act, including criminal acts committed between July 1, 1981, and January 1, 1983, or the victim's family or dependents in case of death of the victim, are entitled to benefits in accordance with this chapter, subject to the limitations under RCW 7.68.015. The rights, duties, responsibilities, limitations, and procedures applicable to a worker as contained in RCW 51.32.010 are applicable to this chapter.

(3) The limitations contained in RCW 51.32.020 are applicable to claims under this chapter. In addition thereto, no person or spouse, child, or dependent of such person is entitled to benefits under this chapter when the injury for which benefits are sought, was:

(a) The result of consent, provocation, or incitement by the victim, unless an injury resulting from a criminal act caused the death of the victim;

(b) Sustained while the crime victim was engaged in the attempt to commit, or the commission of, a felony; or

(c) Sustained while the victim was confined in any county or city jail, federal jail or prison or in any other federal institution, or any state correctional institution maintained and operated by the department of social and health services or the department of corrections, prior to release from lawful custody; or confined or living in any other institution maintained and operated by the department of social and health services or the department of corrections.

(4) The benefits established upon the death of a worker and contained in RCW 51.32.050 shall be the benefits obtainable under this chapter and provisions relating to payment contained in that section shall equally apply under this chapter(~~(=PROVIDED)~~), except that:

~~(a) Benefits for burial expenses shall not exceed ((the amount paid by the department in case of the death of a worker as provided in chapter 51.32 RCW in any claim: PROVIDED FURTHER, That if the criminal act results in the death of a victim who was not gainfully employed at the time of the criminal act, and who was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act;~~

~~(a) Benefits payable to an eligible surviving spouse, where there are no children of the victim at the time of the criminal act who have survived the victim or where such spouse has legal custody of all of~~

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~~his or her children, shall be limited to burial expenses and a lump sum payment of seven thousand five hundred dollars without reference to number of children, if any;~~

~~(b) Where any such spouse has legal custody of one or more but not all of such children, then such burial expenses shall be paid, and such spouse shall receive a lump sum payment of three thousand seven hundred fifty dollars and any such child or children not in the legal custody of such spouse shall receive a lump sum of three thousand seven hundred fifty dollars to be divided equally among such child or children;~~

~~(c) If any such spouse does not have legal custody of any of the children, the burial expenses shall be paid and the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars and any such child or children not in the legal custody of the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars to be divided equally among the child or children;~~

~~(d) If no such spouse survives, then such burial expenses shall be paid, and each surviving child of the victim at the time of the criminal act shall receive a lump sum payment of three thousand seven hundred fifty dollars up to a total of two such children and where there are more than two such children the sum of seven thousand five hundred dollars shall be divided equally among such children.~~

~~No other benefits may be paid or payable under these circumstances)) five thousand seven hundred fifty dollars per claim; and~~

(b) An application for benefits relating to payment for burial expenses, pursuant to this subsection, must be received within twelve months of the date upon which the death of the victim is officially recognized as a homicide. If there is a delay in the recovery of remains or the release of remains for burial, application for benefits must be received within twelve months of the date of the release of the remains for burial.

(5) The benefits established in RCW 51.32.060 for permanent total disability proximately caused by the criminal act shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter(~~(=PROVIDED)~~), except that if a victim becomes permanently and totally disabled as a proximate result of the criminal act ((and was not gainfully employed at the time of the criminal act)), the victim shall receive monthly during the period of the disability the following percentages, where applicable, of the average monthly wage determined as of the date of the criminal act pursuant to RCW 51.08.018:

(a) If married at the time of the criminal act, twenty-nine percent of the average monthly wage.

(b) If married with one child at the time of the criminal act, thirty-four percent of the average monthly wage.

(c) If married with two children at the time of the criminal act, thirty-eight percent of the average monthly wage.

(d) If married with three children at the time of the criminal act, forty-one percent of the average monthly wage.

(e) If married with four children at the time of the criminal act, forty-four percent of the average monthly wage.

(f) If married with five or more children at the time of the criminal act, forty-seven percent of the average monthly wage.

(g) If unmarried at the time of the criminal act, twenty-five percent of the average monthly wage.

(h) If unmarried with one child at the time of the criminal act, thirty percent of the average monthly wage.

(i) If unmarried with two children at the time of the criminal act, thirty-four percent of the average monthly wage.

(j) If unmarried with three children at the time of the criminal act, thirty-seven percent of the average monthly wage.

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(k) If unmarried with four children at the time of the criminal act, forty percent of the average monthly wage.

(l) If unmarried with five or more children at the time of the criminal act, forty-three percent of the average monthly wage.

(6) The benefits established in RCW 51.32.080 for permanent partial disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section equally apply under this chapter, but shall not exceed seven thousand dollars per claim.

(7) The benefits established in RCW 51.32.090 for temporary total disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter(~~(--PROVIDED--)~~), except that no person is eligible for temporary total disability benefits under this chapter if such person was not gainfully employed at the time of the criminal act(~~(--and was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act--)~~).

(8) The benefits established in RCW 51.32.095 for continuation of benefits during vocational rehabilitation shall be benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter(~~(--PROVIDED--)~~), except that benefits shall not exceed five thousand dollars for any single injury.

(9) The provisions for lump sum payment of benefits upon death or permanent total disability as contained in RCW 51.32.130 apply under this chapter.

(10) The provisions relating to payment of benefits to, for or on behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100, 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and 51.32.210 are applicable to payment of benefits to, for or on behalf of victims under this chapter.

(11) No person or spouse, child, or dependent of such person is entitled to benefits under this chapter where the person making a claim for such benefits has refused to give reasonable cooperation to state or local law enforcement agencies in their efforts to apprehend and convict the perpetrator(s) of the criminal act which gave rise to the claim.

(12) In addition to other benefits provided under this chapter, victims of sexual assault are entitled to receive appropriate counseling. Fees for such counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080. Counseling services may include, if determined appropriate by the department, counseling of members of the victim's immediate family, other than the perpetrator of the assault.

(13) (~~(Except for medical benefits authorized under RCW 7.68.080, no more than thirty thousand dollars shall be granted as a result of a single injury or death, except that benefits granted as the result of total permanent disability or death shall not exceed forty thousand dollars.~~

(14)) Notwithstanding other provisions of this chapter and Title 51 RCW, benefits payable for total temporary disability under subsection (7) of this section, shall be limited to fifteen thousand dollars.

(~~(14))~~) (14) Any person who is responsible for the victim's injuries, or who would otherwise be unjustly enriched as a result of the victim's injuries, shall not be a beneficiary under this chapter.

(~~(15))~~) (15) Crime victims' compensation is not available to pay for services covered under chapter 74.09 RCW or Title XIX of the federal social security act, except to the extent that the costs for such services exceed service limits established by the department of social and health services or, during the 1993-95 fiscal biennium, to the extent necessary to provide matching funds for federal medicaid reimbursement.

(~~(16))~~) (16) In addition to other benefits provided under this chapter, immediate family members of a homicide victim may receive appropriate counseling to assist in dealing with the immediate, near-term consequences of the related effects of the homicide. Fees for counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080. Payment of counseling benefits under this section may not be provided to the perpetrator of the homicide. The benefits under this subsection may be provided only with respect to homicides committed on or after July 1, 1992.

(~~(17))~~) (17) A dependent mother, father, stepmother, or stepfather, as defined in RCW 51.08.050, who is a survivor of her or his child's homicide, who has been requested by a law enforcement agency or a prosecutor to assist in the judicial proceedings related to the death of the victim, and who is not domiciled in Washington state at the time of the request, may receive a lump-sum payment upon arrival in this state. Total benefits under this subsection may not exceed seven thousand five hundred dollars. If more than one dependent parent is eligible for this benefit, the lump-sum payment of seven thousand five hundred dollars shall be divided equally among the dependent parents.

(~~(18))~~) (18) A victim whose crime occurred in another state who qualifies for benefits under RCW 7.68.060(4) may receive appropriate mental health counseling to address distress arising from participation in the civil commitment proceedings. Fees for counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080.

(19) A victim is not eligible for benefits under this act if such victim:

(a) Has been convicted of a felony offense within five years preceding the criminal act for which they are applying where the felony offense is a violent offense under RCW 9.94A.030 or a crime against persons under RCW 9.94A.411, or is convicted of such a felony offense after applying; and

(b) Has not completely satisfied all legal financial obligations owed prior to applying for benefits.

**Sec. 2.** RCW 7.68.085 and 2009 c 479 s 9 are each amended to read as follows:

(1) This section has no force or effect from the effective date of this section until July 1, 2015.

(2) The director of labor and industries shall institute a cap on medical benefits of one hundred fifty thousand dollars per injury or death. Payment for medical services in excess of the cap shall be made available to any innocent victim under the same conditions as other medical services and if the medical services are:

(~~(a))~~) (a) Necessary for a previously accepted condition;

(~~(b))~~) (b) Necessary to protect the victim's life or prevent deterioration of the victim's previously accepted condition; and

(~~(c))~~) (c) Not available from an alternative source.

For the purposes of this section, an individual will not be required to use his or her assets other than funds recovered as a result of a civil action or criminal restitution, for medical expenses or pain and suffering, in order to qualify for an alternative source of payment.

The director shall, in cooperation with the department of social and health services, establish by October 1, 1989, a process to aid crime victims in identifying and applying for appropriate alternative benefit programs, if any, administered by the department of social and health services.

**NEW SECTION. Sec. 3.** A new section is added to chapter 7.68 RCW to read as follows:

The crime victims' compensation account is created in the custody of the state treasurer. Expenditures from the account may be used only for the crime victims' compensation program under this chapter. Only the director of the department or the director's designee may authorize expenditures from the account. The

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account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**Sec. 4.** RCW 9A.82.110 and 2009 c 479 s 11 are each amended to read as follows:

(1) In an action brought by the attorney general on behalf of the state under RCW 9A.82.100(1)(b)(i) in which the state prevails, any payments ordered in excess of the actual damages sustained shall be deposited in the ((state general fund)) crime victims' compensation account provided in section 3 of this act.

(2)(a) The county legislative authority may establish an antiprofitereing revolving fund to be administered by the county prosecuting attorney under the conditions and for the purposes provided by this subsection. Disbursements from the fund shall be on authorization of the county prosecuting attorney. No appropriation is required for disbursements.

(b) Any prosecution and investigation costs, including attorney's fees, recovered for the state by the county prosecuting attorney as a result of enforcement of civil and criminal statutes pertaining to any offense included in the definition of criminal profiteering, whether by final judgment, settlement, or otherwise, shall be deposited, as directed by a court of competent jurisdiction, in the fund established by this subsection. In an action brought by a prosecuting attorney on behalf of the county under RCW 9A.82.100(1)(b)(i) in which the county prevails, any payments ordered in excess of the actual damages sustained shall be deposited in the ((state general fund)) crime victims' compensation account provided in section 3 of this act.

(c) The county legislative authority may prescribe a maximum level of moneys in the antiprofitereing revolving fund. Moneys exceeding the prescribed maximum shall be transferred to the county current expense fund.

(d) The moneys in the fund shall be used by the county prosecuting attorney for the investigation and prosecution of any offense, within the jurisdiction of the county prosecuting attorney, included in the definition of criminal profiteering, including civil enforcement.

(e) If a county has not established an antiprofitereing revolving fund, any payments or forfeitures ordered to the county under this chapter shall be deposited to the county current expense fund.

**Sec. 5.** RCW 72.09.111 and 2009 c 479 s 60 are each amended to read as follows:

(1) The secretary shall deduct taxes and legal financial obligations from the gross wages, gratuities, or workers' compensation benefits payable directly to the inmate under chapter 51.32 RCW, of each inmate working in correctional industries work programs, or otherwise receiving such wages, gratuities, or benefits. The secretary shall also deduct child support payments from the gratuities of each inmate working in class II through class IV correctional industries work programs. The secretary shall develop a formula for the distribution of offender wages, gratuities, and benefits. The formula shall not reduce the inmate account below the indigency level, as defined in RCW 72.09.015.

(a) The formula shall include the following minimum deductions from class I gross wages and from all others earning at least minimum wage:

(i) Five percent to the ((state general fund)) crime victims' compensation account provided in section 3 of this act;

(ii) Ten percent to a department personal inmate savings account;

(iii) Twenty percent to the department to contribute to the cost of incarceration; and

(iv) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court.

(b) The formula shall include the following minimum deductions from class II gross gratuities:

(i) Five percent to the ((state general fund)) crime victims' compensation account provided in section 3 of this act;

(ii) Ten percent to a department personal inmate savings account;

(iii) Fifteen percent to the department to contribute to the cost of incarceration;

(iv) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court; and

(v) Fifteen percent for any child support owed under a support order.

(c) The formula shall include the following minimum deductions from any workers' compensation benefits paid pursuant to RCW 51.32.080:

(i) Five percent to the ((state general fund)) crime victims' compensation account provided in section 3 of this act;

(ii) Ten percent to a department personal inmate savings account;

(iii) Twenty percent to the department to contribute to the cost of incarceration; and

(iv) An amount equal to any legal financial obligations owed by the inmate established by an order of any Washington state superior court up to the total amount of the award.

(d) The formula shall include the following minimum deductions from class III gratuities:

(i) Five percent for the ((state general fund)) crime victims' compensation account provided in section 3 of this act; and

(ii) Fifteen percent for any child support owed under a support order.

(e) The formula shall include the following minimum deduction from class IV gross gratuities:

(i) Five percent to the department to contribute to the cost of incarceration; and

(ii) Fifteen percent for any child support owed under a support order.

(2) Any person sentenced to life imprisonment without possibility of release or parole under chapter 10.95 RCW or sentenced to death shall be exempt from the requirement under subsection (1)(a)(ii), (b)(ii), or (c)(ii).

(3)(a) The department personal inmate savings account, together with any accrued interest, shall only be available to an inmate at the following times:

(i) The time of his or her release from confinement;

(ii) Prior to his or her release from confinement in order to secure approved housing; or

(iii) When the secretary determines that an emergency exists for the inmate.

(b) If funds are made available pursuant to (a)(ii) or (iii) of this subsection, the funds shall be made available to the inmate in an amount determined by the secretary.

(c) The management of classes I, II, and IV correctional industries may establish an incentive payment for offender workers based on productivity criteria. This incentive shall be paid separately from the hourly wage/gratuity rate and shall not be subject to the specified deduction for cost of incarceration.

(4)(a) Subject to availability of funds for the correctional industries program, the expansion of inmate employment in class I and class II correctional industries shall be implemented according to the following schedule:

(i) Not later than June 30, 2005, the secretary shall achieve a net increase of at least two hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

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(ii) Not later than June 30, 2006, the secretary shall achieve a net increase of at least four hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(iii) Not later than June 30, 2007, the secretary shall achieve a net increase of at least six hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(iv) Not later than June 30, 2008, the secretary shall achieve a net increase of at least nine hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(v) Not later than June 30, 2009, the secretary shall achieve a net increase of at least one thousand two hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(vi) Not later than June 30, 2010, the secretary shall achieve a net increase of at least one thousand five hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003.

(b) Failure to comply with the schedule in this subsection does not create a private right of action.

(5) In the event that the offender worker's wages, gratuity, or workers' compensation benefit is subject to garnishment for support enforcement, the ~~((state general fund))~~ crime victims' compensation account, savings, and cost of incarceration deductions shall be calculated on the net wages after taxes, legal financial obligations, and garnishment.

(6) The department shall explore other methods of recovering a portion of the cost of the inmate's incarceration and for encouraging participation in work programs, including development of incentive programs that offer inmates benefits and amenities paid for only from wages earned while working in a correctional industries work program.

(7) The department shall develop the necessary administrative structure to recover inmates' wages and keep records of the amount inmates pay for the costs of incarceration and amenities. All funds deducted from inmate wages under subsection (1) of this section for the purpose of contributions to the cost of incarceration shall be deposited in a dedicated fund with the department and shall be used only for the purpose of enhancing and maintaining correctional industries work programs.

(8) It shall be in the discretion of the secretary to apportion the inmates between class I and class II depending on available contracts and resources.

(9) Nothing in this section shall limit the authority of the department of social and health services division of child support from taking collection action against an inmate's moneys, assets, or property pursuant to chapter 26.23, 74.20, or 74.20A RCW.

**Sec. 6.** RCW 72.09.480 and 2009 c 479 s 61 are each amended to read as follows:

(1) Unless the context clearly requires otherwise, the definitions in this section apply to this section.

(a) "Cost of incarceration" means the cost of providing an inmate with shelter, food, clothing, transportation, supervision, and other services and supplies as may be necessary for the maintenance and support of the inmate while in the custody of the department, based on the average per inmate costs established by the department and the office of financial management.

(b) "Minimum term of confinement" means the minimum amount of time an inmate will be confined in the custody of the department, considering the sentence imposed and adjusted for the total potential earned early release time available to the inmate.

(c) "Program" means any series of courses or classes necessary to achieve a proficiency standard, certificate, or postsecondary degree.

(2) When an inmate, except as provided in subsections (4) and (8) of this section, receives any funds in addition to his or her wages or gratuities, except settlements or awards resulting from legal action, the additional funds shall be subject to the following deductions and the priorities established in chapter 72.11 RCW:

(a) Five percent to the ~~((state general fund))~~ crime victims' compensation account provided in section 3 of this act;

(b) Ten percent to a department personal inmate savings account;

(c) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court;

(d) Twenty percent for any child support owed under a support order; and

(e) Twenty percent to the department to contribute to the cost of incarceration.

(3) When an inmate, except as provided in subsection (8) of this section, receives any funds from a settlement or award resulting from a legal action, the additional funds shall be subject to the deductions in RCW 72.09.111(1)(a) and the priorities established in chapter 72.11 RCW.

(4) When an inmate who is subject to a child support order receives funds from an inheritance, the deduction required under subsection (2)(e) of this section shall only apply after the child support obligation has been paid in full.

(5) The amount deducted from an inmate's funds under subsection (2) of this section shall not exceed the department's total cost of incarceration for the inmate incurred during the inmate's minimum or actual term of confinement, whichever is longer.

(6)(a) The deductions required under subsection (2) of this section shall not apply to funds received by the department from an offender or from a third party on behalf of an offender for payment of education or vocational programs or postsecondary education degree programs as provided in RCW 72.09.460 and 72.09.465.

(b) The deductions required under subsection (2) of this section shall not apply to funds received by the department from a third party, including but not limited to a nonprofit entity on behalf of the department's education, vocation, or postsecondary education degree programs.

(7) The deductions required under subsection (2) of this section shall not apply to any money received by the department, on behalf of an inmate, from family or other outside sources for the payment of postage expenses. Money received under this subsection may only be used for the payment of postage expenses and may not be transferred to any other account or purpose. Money that remains unused in the inmate's postage fund at the time of release shall be subject to the deductions outlined in subsection (2) of this section.

(8) When an inmate sentenced to life imprisonment without possibility of release or sentenced to death under chapter 10.95 RCW receives funds, deductions are required under subsection (2) of this section, with the exception of a personal inmate savings account under subsection (2)(b) of this section.

(9) The secretary of the department of corrections, or his or her designee, may exempt an inmate from a personal inmate savings account under subsection (2)(b) of this section if the inmate's earliest release date is beyond the inmate's life expectancy.

(10) The interest earned on an inmate savings account created as a result of the plan in section 4, chapter 325, Laws of 1999 shall be exempt from the mandatory deductions under this section and RCW 72.09.111.

(11) Nothing in this section shall limit the authority of the department of social and health services division of child support,

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the county clerk, or a restitution recipient from taking collection action against an inmate's moneys, assets, or property pursuant to chapter 9.94A, 26.23, 74.20, or 74.20A RCW including, but not limited to, the collection of moneys received by the inmate from settlements or awards resulting from legal action.

**NEW SECTION. Sec. 7.** A new section is added to chapter 7.68 RCW to read as follows:

(1) Within current funding levels, the department's crime victims' compensation program shall post on its public web site a report that shows the following items:

(a) The total amount of current funding available in the crime victims' compensation fund;

(b) The total amount of funding disbursed to victims in the previous thirty days; and

(c) The total amount paid in overhead and administrative costs in the previous thirty days.

(2) The information listed in subsection (1) of this section must be posted and maintained on the department's web site by July 1, 2010 and updated every thirty days thereafter.

**NEW SECTION. Sec. 8.** Sections 1 and 2 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect April 1, 2010, for all claims of victims of criminal acts occurring after July 1, 1981.

**NEW SECTION. Sec. 9.** Sections 1 and 2 of this act expire July 1, 2015."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6504.

Senator Hargrove spoke in favor of the motion.

MOTION

On motion of Senator Brandland, Senator Roach was excused.

MOTION

On motion of Senator Marr, Senator Kohl-Welles was excused.

The President declared the question before the Senate to be the motion by Senator Hargrove that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6504.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6504 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6504, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6504, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Kohl-Welles, McCaslin and Roach

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6504, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1597,

SUBSTITUTE HOUSE BILL 2196,  
ENGROSSED SUBSTITUTE HOUSE BILL 2424,  
ENGROSSED SUBSTITUTE HOUSE BILL 2547,  
SUBSTITUTE HOUSE BILL 2596,  
SUBSTITUTE HOUSE BILL 2745,  
SUBSTITUTE HOUSE BILL 2758,  
SUBSTITUTE HOUSE BILL 2893,  
ENGROSSED SUBSTITUTE HOUSE BILL 2925,  
SUBSTITUTE HOUSE BILL 2935,  
HOUSE BILL 3030,  
SUBSTITUTE HOUSE BILL 3046,  
SECOND SUBSTITUTE HOUSE BILL 3076,  
ENGROSSED SUBSTITUTE HOUSE BILL 3179.

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The House insists on its position regarding the House amendment(s) to SUBSTITUTE HOUSE BILL NO. 2776 and again asks the Senate to concur thereon.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator McAuliffe moved that the Senate recede from its position in the Senate amendment(s) to Substitute House Bill No. 2776.

The President declared the question before the Senate to be motion by Senator McAuliffe that the Senate recede from its position in the Senate amendment(s) to Substitute House Bill No. 2776.

The motion by Senator McAuliffe carried and the Senate receded from its position in the Senate amendment(s) to Substitute House Bill No. 2776 by voice vote.

MOTION

On motion of Senator McAuliffe, the rules were suspended and Substitute House Bill No. 2776 was returned to second reading for the purposes of amendment.

SECOND READING

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SUBSTITUTE HOUSE BILL NO. 2776, by House Committee on Education Appropriations (originally sponsored by Representatives Sullivan, Priest, Maxwell, Dammeier, Carlyle, Finn, Anderson, Eddy, Nelson, Goodman, Orwall, Hunter, Simpson, Jacks, Kagi, Ormsby, Morrell, Probst and Santos)

teacher-to-student ratio or other staff-to-student ratio or to use allocated funds to pay for particular types or classifications of staff. Nothing in this section entitles an individual teacher to a particular teacher planning period.

Regarding funding distribution formulas for K-12 education.

(3)(a) To the extent the technical details of the formula have been adopted by the legislature and except when specifically provided as a school district allocation, the distribution formula for the basic education instructional allocation shall be based on minimum staffing and nonstaff costs the legislature deems necessary to support instruction and operations in prototypical schools serving high, middle, and elementary school students as provided in this section. The use of prototypical schools for the distribution formula does not constitute legislative intent that schools should be operated or structured in a similar fashion as the prototypes. Prototypical schools illustrate the level of resources needed to operate a school of a particular size with particular types and grade levels of students using commonly understood terms and inputs, such as class size, hours of instruction, and various categories of school staff. It is the intent that the funding allocations to school districts be adjusted from the school prototypes based on the actual number of annual average full-time equivalent students in each grade level at each school in the district and not based on the grade-level configuration of the school to the extent that data is available. The allocations shall be further adjusted from the school prototypes with minimum allocations for small schools and to reflect other factors identified in the omnibus appropriations act.

The measure was read the second time.

MOTION

Senator McAuliffe moved that the following striking amendment by Senator McAuliffe and others be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) It is the legislature's intent to continue implementation of chapter 548, Laws of 2009, by adopting the technical details of a new distribution formula for the instructional program of basic education and authorizing a phase-in of implementation of a new distribution formula for pupil transportation, both to take effect during the 2011-2013 biennium. Unless otherwise stated, the numeric values adopted in section 2 of this act represent the translation of 2009-2010 state funding levels for the basic education act into the funding factors of the prototypical school funding formula, based on the expert advice and extensive work of the funding formula technical working group established by the legislature for this purpose. The legislature intends to continue to review and revise the formulas and may make revisions as necessary for technical purposes and consistency in the event of mathematical or other technical errors.

(b) For the purposes of this section, prototypical schools are defined as follows:

(i) A prototypical high school has six hundred average annual full-time equivalent students in grades nine through twelve;

(ii) A prototypical middle school has four hundred thirty-two average annual full-time equivalent students in grades seven and eight; and

(iii) A prototypical elementary school has four hundred average annual full-time equivalent students in grades kindergarten through six.

(2) The legislature intends that per-pupil basic education funding for a school district shall not be decreased as a result of the transition of basic education funding formulas in effect during the 2009-2011 biennium to the new funding formulas under RCW 28A.150.260 that take effect during the 2011-2013 biennium.

~~((e))~~ (4)(a) The minimum allocation for each level of prototypical school shall be based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours under RCW 28A.150.220 and provide at least one teacher planning period per school day, and based on ~~((a))~~ the following general education average class size ~~((as specified in the omnibus appropriations act.))~~ of full-time equivalent students per teacher:

(3) It is also the legislature's intent to adopt an implementation schedule for phasing-in enhancements to the baseline funding levels of 2009-10 beginning in the 2011-2013 biennium for pupil transportation, class size allocations for grades kindergarten through three, full-day kindergarten, and allocations for maintenance, supplies, and operating costs.

(4) Finally, it is the legislature's intent to adjust the timelines for other working groups so that their expertise and advice can be received as soon as possible and to make technical adjustments to certain provisions of chapter 548, Laws of 2009.

General education average class size	
<u>Grades K</u> .....	325.23
<u>Grade 4</u> .....	27.00
<u>Grades 5-6</u> .....	27.00
<u>Grades 7-8</u> .....	28.53
<u>Grades 9-12</u> .....	28.74

Sec. 2. RCW 28A.150.260 and 2009 c 548 s 106 are each amended to read as follows:

The purpose of this section is to provide for the allocation of state funding that the legislature deems necessary to support school districts in offering the minimum instructional program of basic education under RCW 28A.150.220. The allocation shall be determined as follows:

(b) During the 2011-2013 biennium and beginning with schools with the highest percentage of students eligible for free and reduced-price meals in the prior school year, the general education average class size for grades K-3 shall be reduced until the average class size funded under this subsection (4) is no more than 17.0 full-time equivalent students per teacher beginning in the 2017-18 school year.

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula for the distribution of a basic education instructional allocation for each common school district.

(2) The distribution formula under this section shall be for allocation purposes only. Except as may be required under chapter ~~28A.155~~, 28A.165, 28A.180, or ~~((28A.155))~~ 28A.185 RCW, or federal laws and regulations, nothing in this section requires school districts to use basic education instructional funds to implement a particular instructional approach or service. Nothing in this section requires school districts to maintain a particular classroom

(c) The minimum allocation for each prototypical middle and high school shall also provide for full-time equivalent classroom teachers based on the following number of full-time equivalent students per teacher in career and technical education:

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Career and technical education average class size

Approved career and technical education offered at the middle school and high school level.....26.57

Skill center programs meeting the standards established by the office of the superintendent of public instruction 22.76

(d) In addition, the omnibus appropriations act shall at a minimum specify:

(i) ~~((Basic average class size;~~

~~—(ii) Basic)) A high-poverty average class size in schools where more than fifty percent of the students are eligible for free and reduced-price meals; and~~

~~((~~iii~~)) (ii) A specialty average class size for (~~exploratory and preparatory career and technical education,~~) laboratory science, advanced placement, and international baccalaureate courses(~~—and~~ ~~—(iv) Average class size in grades kindergarten through three~~)).~~

~~((~~d~~)) (5) The minimum allocation for each level of prototypical school shall include allocations for the following types of staff in addition to classroom teachers:~~

~~((i) Principals, including assistant principals, and other certificated building-level administrators;~~

~~(ii) Teacher librarians, performing functions including information literacy, technology, and media to support school library media programs;~~

~~(iii) Student health services, a function that includes school nurses, whether certificated instructional or classified employee, and social workers;~~

~~(iv) Guidance counselors, performing functions including parent outreach and graduation advisor;~~

~~(v) Professional development coaches;~~

~~(vi) Teaching assistance, which includes any aspect of educational instructional services provided by classified employees;~~

~~(vii) Office support, technology support, and other noninstructional aides;~~

~~(viii) Custodians, warehouse, maintenance, laborer, and professional and technical education support employees; and~~

~~(ix) Classified staff providing student and staff safety.~~

~~(4(a))~~

	<u>Elementary School</u>	<u>Middle School</u>	<u>High School</u>
<u>Principals, assistant principals, and other certificated building-level administrators</u> .....	<u>1.253</u>	<u>1.353</u>	<u>1.880</u>
<u>Teacher librarians, a function that includes information literacy, technology, and media to support school library media programs</u> .....	<u>0.663</u>	<u>0.519</u>	<u>0.523</u>
<u>Health and social services:</u>			
<u>School nurses</u> .....	<u>0.076</u>	<u>0.060</u>	<u>0.096</u>
<u>Social workers</u> .....	<u>0.042</u>	<u>0.006</u>	<u>0.015</u>
<u>Psychologists</u> .....	<u>0.017</u>	<u>0.002</u>	<u>0.007</u>
<u>Guidance counselors, a function that includes parent outreach and graduation advising</u> .....	<u>0.493</u>	<u>1.116</u>	<u>1.909</u>

<u>Teaching assistance, including any aspect of educational instructional services provided by classified employees</u> .....	<u>0.936</u>	<u>0.700</u>	<u>0.652</u>
<u>Office support and other noninstructional aides</u> .....	<u>2.012</u>	<u>2.325</u>	<u>3.269</u>
<u>Custodians</u> .....	<u>1.657</u>	<u>1.942</u>	<u>2.965</u>
<u>Classified staff providing student and staff safety</u> .....	<u>0.079</u>	<u>0.092</u>	<u>0.141</u>
<u>Parent involvement coordinators</u> .....	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>

(6)(a) The minimum staffing allocation for each school district to provide district-wide support services shall be allocated per one thousand annual average full-time equivalent students in grades K-12 as follows:

Staff per 1,000

K-12 students

Technology.....0.628

Facilities, maintenance, and grounds.....1.813

Warehouse, laborers, and mechanics.....0.332

(b) The minimum allocation of staff units for each school district to support certificated and classified staffing of central administration shall be 5.30 percent of the staff units generated under subsections (4)(a) and (b) and (5) of this section and (a) of this subsection.

(7) The distribution formula shall include staffing allocations to school districts for career and technical education and skill center administrative and other school-level certificated staff, as specified in the omnibus appropriations act.

(8)(a) Except as provided in (b) of this subsection, the minimum allocation for each school district shall include allocations per annual average full-time equivalent student for the following materials, supplies, and operating costs, to be adjusted for inflation from the 2008-09 school year: ~~((Student technology; utilities; curriculum, textbooks, library materials, and instructional supplies; instructional professional development for both certificated and classified staff; other building level costs including maintenance, custodial, and security; and central office administration.))~~

Per annual average

full-time equivalent student

in grades K-12

Technology.....\$54.43

Utilities and insurance.....\$147.90

Curriculum and textbooks.....\$58.44

Other supplies and library materials.....\$124.07

Instructional professional development for certified and classified staff.....\$9.04

Facilities maintenance.....\$73.27

Security and central office.....\$50.76

(b) ~~((The annual average full-time equivalent student amounts in (a) of this subsection shall be enhanced))~~ During the 2011-2013 biennium, the minimum allocation for maintenance, supplies, and operating costs shall be increased as specified in the omnibus appropriations act. The following allocations, adjusted for inflation from the 2007-08 school year, are provided in the 2015-16 school year, after which the allocations shall be adjusted annually for inflation as specified in the omnibus appropriations act:

Per annual average

full-time equivalent student

in grades K-12

Technology.....\$113.80

Utilities and insurance.....\$309.21

Curriculum and textbooks.....\$122.17

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Other supplies and library materials.....\$259.39  
 Instructional professional development for certificated and  
 classified staff.....\$18.89  
 Facilities maintenance.....\$153.18  
 Security and central office administration.....\$106.12

(9) In addition to the amounts provided in subsection (8) of this section, the omnibus appropriations act shall provide an amount based on full-time equivalent student enrollment in each of the following:

- (a) Exploratory career and technical education courses for students in grades seven through twelve;
- (b) Laboratory science courses for students in grades nine through twelve;
- (c) Preparatory career and technical education courses for students in grades nine through twelve offered in a high school; and
- (d) Preparatory career and technical education courses for students in grades eleven and twelve offered through a skill center.

~~((5))~~ (10) In addition to the allocations otherwise provided under (subsections (3) and (4) of) this section ((shall be enhanced as follows to provide additional allocations for classroom teachers and maintenance, supplies, and operating costs)), amounts shall be provided to support the following programs and services:

(a) To provide supplemental instruction and services for underachieving students through the learning assistance program under RCW 28A.165.005 through 28A.165.065, allocations shall be based on the ~~((percent))~~ district percentage of students in ((each school)) grades K-12 who ((are)) were eligible for free ((and) or reduced-price meals in the prior school year. The minimum allocation for the ~~((learning assistance))~~ program shall provide ~~((an extended school day and extended school year))~~ for each level of prototypical school ~~((and a per student allocation for maintenance, supplies, and operating costs))~~ resources to provide, on a statewide average, 1.5156 hours per week in extra instruction with a class size of fifteen learning assistance program students per teacher.

(b) To provide supplemental instruction and services for students whose primary language is other than English, allocations shall be based on the head count number of students in each school who are eligible for and enrolled in the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080. The minimum allocation for each level of prototypical school shall provide ~~((for supplemental instruction based on percent of the school day a student is assumed to receive supplemental instruction and a per student allocation for maintenance, supplies, and operating costs))~~ resources to provide, on a statewide average, 4.7780 hours per week in extra instruction with fifteen transitional bilingual instruction program students per teacher.

~~((6))~~ The allocations provided under subsections (3) and (4) of this section shall be enhanced (c) To provide additional allocations to support programs for highly capable students under RCW 28A.185.010 through 28A.185.030, allocations shall be based on two and three hundred fourteen one-thousandths percent of each school district's full-time equivalent basic education enrollment. The minimum allocation for the programs shall provide ~~((an extended school day and extended school year for each level of prototypical school and a per student allocation for maintenance, supplies, and operating costs))~~ resources to provide, on a statewide average, 2.1590 hours per week in extra instruction with fifteen highly capable program students per teacher.

~~((7))~~ (11) The allocations under subsections ((3)) (4)(a) and (b), ((e)(i), and (d), (4,)) (5), (6), and (8) of this section shall be enhanced as provided under RCW 28A.150.390 on an excess cost basis to provide supplemental instructional resources for students with disabilities.

~~((8))~~ The distribution formula shall include allocations to school districts to support certificated and classified staffing of central office administration. The minimum allocation shall be calculated as a percentage, identified in the omnibus appropriations act, of the total allocations for staff under subsections (3) and (6) of this section for all schools in the district.

(9)) (12)(a) For the purposes of allocations for prototypical high schools and middle schools under subsections ((3)) (4) and ((5)) (10) of this section that are based on the percent of students in the school who are eligible for free and reduced-price meals, the actual percent of such students in a school shall be adjusted by a factor identified in the omnibus appropriations act to reflect underreporting of free and reduced-price meal eligibility among middle and high school students.

(b) Allocations or enhancements provided under subsections ~~((3) and)~~ (4), (7), and (9) of this section for exploratory and preparatory career and technical education courses shall be provided only for courses approved by the office of the superintendent of public instruction under chapter 28A.700 RCW.

~~((4))~~ (13)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature.

(b) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect.

(c) The enrollment of any district shall be the annual average number of full-time equivalent students and part-time students as provided in RCW 28A.150.350, enrolled on the first school day of each month, including students who are in attendance pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district. The definition of full-time equivalent student shall be determined by rules of the superintendent of public instruction and shall be included as part of the superintendent's biennial budget request. The definition shall be based on the minimum instructional hour offerings required under RCW 28A.150.220. Any revision of the present definition shall not take effect until approved by the house ways and means committee and the senate ways and means committee.

(d) The office of financial management shall make a monthly review of the superintendent's reported full-time equivalent students in the common schools in conjunction with RCW 43.62.050.

**Sec. 3.** RCW 28A.150.390 and 2009 c 548 s 108 are each amended to read as follows:

(1) The superintendent of public instruction shall submit to each regular session of the legislature during an odd-numbered year a programmed budget request for special education programs for students with disabilities. Funding for programs operated by local school districts shall be on an excess cost basis from appropriations provided by the legislature for special education programs for students with disabilities and shall take account of state funds accruing through RCW 28A.150.260 ~~((3) (b), (c)(i), and (d), (4), and (8) and federal medical assistance and private funds accruing under RCW 74.09.5249 through 74.09.5253 and 74.09.5254 through 74.09.5256))~~ (4)(a) and (b), (5), (6), and (8).

(2) The excess cost allocation to school districts shall be based on the following:

(a) A district's annual average headcount enrollment of students ages birth through four and those five year olds not yet enrolled in kindergarten who are eligible for and enrolled in special education, multiplied by the district's base allocation per full-time equivalent student, multiplied by 1.15; and

(b) A district's annual average full-time equivalent basic education enrollment, multiplied by the district's funded enrollment

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percent, multiplied by the district's base allocation per full-time equivalent student, multiplied by 0.9309.

(3) As used in this section:

(a) "Base allocation" means the total state allocation to all schools in the district generated by the distribution formula under RCW 28A.150.260 ~~((3), (b), (c)(i), and (d), (4), and (8)))~~ (4)(a) and (b), (5), (6), and (8), to be divided by the district's full-time equivalent enrollment.

(b) "Basic education enrollment" means enrollment of resident students including nonresident students enrolled under RCW 28A.225.225 and students from nonhigh districts enrolled under RCW 28A.225.210 and excluding students residing in another district enrolled as part of an interdistrict cooperative program under RCW 28A.225.250.

(c) "Enrollment percent" means the district's resident special education annual average enrollment, excluding students ages birth through four and those five year olds not yet enrolled in kindergarten, as a percent of the district's annual average full-time equivalent basic education enrollment.

(d) "Funded enrollment percent" means the lesser of the district's actual enrollment percent or twelve and seven-tenths percent.

**Sec. 4.** RCW 28A.150.315 and 2009 c 548 s 107 are each amended to read as follows:

(1) Beginning with the 2007-08 school year, funding for voluntary all-day kindergarten programs shall be phased-in beginning with schools with the highest poverty levels, defined as those schools with the highest percentages of students qualifying for free and reduced-price lunch support in the prior school year. During the 2011-2013 biennium, funding shall continue to be phased-in each year until full statewide implementation of all-day kindergarten is achieved in the 2017-18 school year. Once a school receives funding for the all-day kindergarten program, that school shall remain eligible for funding in subsequent school years regardless of changes in the school's percentage of students eligible for free and reduced-price lunches as long as other program requirements are fulfilled. Additionally, schools receiving all-day kindergarten program support shall agree to the following conditions:

(a) Provide at least a one thousand-hour instructional program;

(b) Provide a curriculum that offers a rich, varied set of experiences that assist students in:

(i) Developing initial skills in the academic areas of reading, mathematics, and writing;

(ii) Developing a variety of communication skills;

(iii) Providing experiences in science, social studies, arts, health and physical education, and a world language other than English;

(iv) Acquiring large and small motor skills;

(v) Acquiring social and emotional skills including successful participation in learning activities as an individual and as part of a group; and

(vi) Learning through hands-on experiences;

(c) Establish learning environments that are developmentally appropriate and promote creativity;

(d) Demonstrate strong connections and communication with early learning community providers; and

(e) Participate in kindergarten program readiness activities with early learning providers and parents.

(2) Subject to funds appropriated for this purpose, the superintendent of public instruction shall designate one or more school districts to serve as resources and examples of best practices in designing and operating a high-quality all-day kindergarten program. Designated school districts shall serve as lighthouse programs and provide technical assistance to other school districts in the initial stages of implementing an all-day kindergarten program.

Examples of topics addressed by the technical assistance include strategic planning, developing the instructional program and curriculum, working with early learning providers to identify students and communicate with parents, and developing kindergarten program readiness activities.

**Sec. 5.** 2009 c 548 s 112 (uncodified) is amended to read as follows:

(1) The legislature intends to continue to redefine the instructional program of education under RCW 28A.150.220 that fulfills the obligations and requirements of Article IX of the state Constitution. The funding formulas under RCW 28A.150.260 to support the instructional program shall be implemented to the extent the technical details of the formula have been established and according to an implementation schedule to be adopted by the legislature. The object of the schedule is to assure that any increases in funding allocations are timely, predictable, and occur concurrently with any increases in program or instructional requirements. It is the intent of the legislature that no increased programmatic or instructional expectations be imposed upon schools or school districts without an accompanying increase in resources as necessary to support those increased expectations.

(2) The office of financial management, with assistance and support from the office of the superintendent of public instruction, shall convene a technical working group to:

(a) Develop the details of the funding formulas under RCW 28A.150.260;

(b) Recommend to the legislature an implementation schedule for phasing-in any increased program or instructional requirements concurrently with increases in funding for adoption by the legislature; and

(c) Examine possible sources of revenue to support increases in funding allocations and present options to the legislature and the quality education council created in ~~(section 114 of this act)~~ RCW 28A.290.010 for consideration.

(3) The working group shall include representatives of the legislative evaluation and accountability program committee, school district and educational service district financial managers, the Washington association of school business officers, the Washington education association, the Washington association of school administrators, the association of Washington school principals, the Washington state school directors' association, the public school employees of Washington, and other interested stakeholders with expertise in education finance. The working group may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders.

(4) The working group shall be monitored and overseen by the legislature and the quality education council established in ~~(section 114 of this act)~~ RCW 28A.290.010. The working group shall submit its recommendations to the legislature by December 1, 2009.

(5) After the 2009 report to the legislature, the office of financial management and the office of the superintendent of public instruction shall periodically reconvene the working group to monitor and provide advice on further development and implementation of the funding formulas under RCW 28A.150.260 and provide technical assistance to the ongoing work of the quality education council.

**Sec. 6.** 2009 c 548 s 302 (uncodified) is amended to read as follows:

(1) Beginning ~~(July)~~ April 1, 2010, the office of financial management, with assistance and support from the office of the superintendent of public instruction, shall convene a technical working group to develop options for a new system of supplemental school funding through local school levies and local effort assistance.

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(2) The working group shall consider the impact on overall school district revenues of the new basic education funding system established under ~~((this act))~~ chapter 548, Laws of 2009 and shall recommend a phase-in plan that ensures that no school district suffers a decrease in funding from one school year to the next due to implementation of the new system of supplemental funding.

(3) The working group shall also:

(a) Examine local school district capacity to address facility needs associated with phasing-in full-day kindergarten across the state and reducing class size in kindergarten through third grade; and

(b) Provide the quality education council with analysis on the potential use of local funds that may become available for redeployment and redirection as a result of increased state funding allocations for pupil transportation and maintenance, supplies, and operating costs.

(4) The working group shall be composed of representatives from the department of revenue, the legislative evaluation and accountability program committee, school district and educational service district financial managers, and representatives of the Washington association of school business officers, the Washington education association, the Washington association of school administrators, the association of Washington school principals, the Washington state school directors' association, the public school employees of Washington, and other interested stakeholders with expertise in education finance. The working group may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders.

~~((4))~~ (5) The local funding working group shall be monitored and overseen by the legislature and by the quality education council created in ~~((section 114 of this act))~~ RCW 28A.290.010. The working group shall report to the legislature ~~((December 1))~~ June 30, 2011.

**Sec. 7.** RCW 43.41.398 and 2009 c 548 s 601 are each amended to read as follows:

(1) The legislature recognizes that providing students with the opportunity to access a world-class educational system depends on our continuing ability to provide students with access to world-class educators. The legislature also understands that continuing to attract and retain the highest quality educators will require increased investments. The legislature intends to enhance the current salary allocation model and recognizes that changes to the current model cannot be imposed without great deliberation and input from teachers, administrators, and classified employees. Therefore, it is the intent of the legislature to begin the process of developing an enhanced salary allocation model that is collaboratively designed to ensure the rationality of any conclusions regarding what constitutes adequate compensation.

(2) Beginning July 1, 2011, the office of the superintendent of public instruction, in collaboration with the office of financial management, shall convene a technical working group to recommend the details of an enhanced salary allocation model that aligns state expectations for educator development and certification with the compensation system and establishes recommendations for a concurrent implementation schedule. In addition to any other details the technical working group deems necessary, the technical working group shall make recommendations on the following:

(a) How to reduce the number of tiers within the existing salary allocation model;

(b) How to account for labor market adjustments;

(c) How to account for different geographic regions of the state where districts may encounter difficulty recruiting and retaining teachers;

(d) The role of and types of bonuses available;

(e) Ways to accomplish salary equalization over a set number of years; and

(f) Initial fiscal estimates for implementing the recommendations including a recognition that staff on the existing salary allocation model would have the option to grandfather in permanently to the existing schedule.

(3) As part of its work, the technical working group shall conduct or contract for a preliminary comparative labor market analysis of salaries and other compensation for school district employees to be conducted and shall include the results in any reports to the legislature. For the purposes of this subsection, "salaries and other compensation" includes average base salaries, average total salaries, average employee basic benefits, and retirement benefits.

(4) The analysis required under subsection (1) of this section must:

(a) Examine salaries and other compensation for teachers, other certificated instructional staff, principals, and other building-level certificated administrators, and the types of classified employees for whom salaries are allocated;

(b) Be calculated at a statewide level that identifies labor markets in Washington through the use of data from the United States bureau of the census and the bureau of labor statistics; and

(c) Include a comparison of salaries and other compensation to the appropriate labor market for at least the following subgroups of educators: Beginning teachers and types of educational staff associates.

(5) The working group shall include representatives of the department of personnel, the professional educator standards board, the office of the superintendent of public instruction, the Washington education association, the Washington association of school administrators, the association of Washington school principals, the Washington state school directors' association, the public school employees of Washington, and other interested stakeholders with appropriate expertise in compensation related matters. The working group may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders.

(6) The working group shall be monitored and overseen by the legislature and the quality education council created in RCW 28A.290.010. The working group shall make an initial report to the legislature by ~~((December 1))~~ June 30, 2012, and shall include in its report recommendations for whether additional further work of the group is necessary.

**Sec. 8.** RCW 28A.160.192 and 2009 c 548 s 311 are each amended to read as follows:

(1) The superintendent of public instruction shall phase-in the implementation of the distribution formula under this chapter for allocating state funds to school districts for the transportation of students to and from school. The phase-in shall ~~((be according to the implementation schedule adopted by the legislature and shall))~~ begin no later than the ~~((2013-14 school year))~~ 2011-2013 biennium and be fully implemented by the 2013-2015 biennium.

(a) The formula must be developed and revised on an ongoing basis using the major cost factors in student transportation, including basic and special student loads, school district land area, average distance to school, roadway miles, and number of locations served. Factors must include all those site characteristics that are statistically significant after analysis of the data required by the revised reporting process.

(b) The formula must allocate funds to school districts based on the average predicted costs of transporting students to and from school, using a regression analysis.

(2) During the phase-in period, funding provided to school districts for student transportation operations shall be distributed on the following basis:

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(a) Annually, each school district shall receive the lesser of the previous school year's pupil transportation operations allocation, or the total of allowable pupil transportation expenditures identified on the previous school year's final expenditure report to the state plus district indirect expenses using the state recovery rate identified by the superintendent; and

(b) Annually, any funds appropriated by the legislature in excess of the maintenance level funding amount for student transportation shall be distributed among school districts on a prorated basis using the difference between the amount identified in (a) of this subsection and the amount determined under the formula in RCW 28A.160.180.

((3) The superintendent shall develop, implement, and provide a copy of the rules specifying the student transportation reporting requirements to the legislature and school districts no later than December 1, 2009.

(4) Beginning in December 2009, and continuing until December 2014, the superintendent shall provide quarterly updates and progress reports to the fiscal committees of the legislature on the implementation and testing of the distribution formula.))

**NEW SECTION. Sec. 9.** A new section is added to chapter 28A.160 RCW to read as follows:

(1) The superintendent of public instruction shall develop, implement, and provide a copy of the rules specifying the student transportation reporting requirements to the legislature and school districts no later than December 1, 2010.

(2) Beginning in December 2010, and continuing until December 2014, the superintendent shall provide quarterly updates and progress reports to the fiscal committees of the legislature on the implementation and testing of the distribution formula.

(3) This section expires June 30, 2015.

**Sec. 10.** RCW 28A.150.410 and 2007 c 403 s 1 are each amended to read as follows:

(1) The legislature shall establish for each school year in the appropriations act a statewide salary allocation schedule, for allocation purposes only, to be used to distribute funds for basic education certificated instructional staff salaries under RCW 28A.150.260. For the purposes of this section, the staff allocations for classroom teachers, teacher librarians, guidance counselors, and student health services staff under RCW 28A.150.260 are considered allocations for certificated instructional staff.

(2) Salary allocations for state-funded basic education certificated instructional staff shall be calculated by the superintendent of public instruction by determining the district's average salary for certificated instructional staff, using the statewide salary allocation schedule and related documents, conditions, and limitations established by the omnibus appropriations act.

(3) Beginning January 1, 1992, no more than ninety college quarter-hour credits received by any employee after the baccalaureate degree may be used to determine compensation allocations under the state salary allocation schedule and LEAP documents referenced in the omnibus appropriations act, or any replacement schedules and documents, unless:

(a) The employee has a master's degree; or

(b) The credits were used in generating state salary allocations before January 1, 1992.

(4) Beginning in the 2007-08 school year, the calculation of years of service for occupational therapists, physical therapists, speech-language pathologists, audiologists, nurses, social workers, counselors, and psychologists regulated under Title 18 RCW may include experience in schools and other nonschool positions as occupational therapists, physical therapists, speech-language pathologists, audiologists, nurses, social workers, counselors, or psychologists. The calculation shall be that one year of service in a nonschool position counts as one year of service for purposes of this

chapter, up to a limit of two years of nonschool service. Nonschool years of service included in calculations under this subsection shall not be applied to service credit totals for purposes of any retirement benefit under chapter 41.32, 41.35, or 41.40 RCW, or any other state retirement system benefits.

**Sec. 11.** RCW 28A.175.010 and 2005 c 207 s 3 are each amended to read as follows:

Each school district shall account for the educational progress of each of its students. To achieve this, school districts shall be required to report annually to the superintendent of public instruction:

(1) For students enrolled in each of a school district's high school programs:

(a) The number of students who graduate in fewer than four years;

(b) The number of students who graduate in four years;

(c) The number of students who remain in school for more than four years but who eventually graduate and the number of students who remain in school for more than four years but do not graduate;

(d) The number of students who transfer to other schools;

(e) The number of students in the ninth through twelfth grade who drop out of school over a four-year period; and

(f) The number of students whose status is unknown.

(2) Dropout rates of students in each of the grades seven through twelve.

(3) Dropout rates for student populations in each of the grades seven through twelve by:

(a) Ethnicity;

(b) Gender;

(c) Socioeconomic status; and

(d) Disability status.

(4) The causes or reasons, or both, attributed to students for having dropped out of school in grades seven through twelve.

(5) The superintendent of public instruction shall adopt rules under chapter 34.05 RCW to assure uniformity in the information districts are required to report under subsections (1) through (4) of this section. In developing rules, the superintendent of public instruction shall consult with school districts, including administrative and counseling personnel, with regard to the methods through which information is to be collected and reported.

(6) In reporting on the causes or reasons, or both, attributed to students for having dropped out of school, school building officials shall, to the extent reasonably practical, obtain such information directly from students. In lieu of obtaining such information directly from students, building principals and counselors shall identify the causes or reasons, or both, based on their professional judgment.

(7) The superintendent of public instruction shall report annually to the legislature the information collected under subsections (1) through (4) of this section.

(8) The Washington state institute for public policy shall calculate an annual estimate of the savings to taxpayers resulting from any improvement compared to the prior school year in the extended graduation rate, as calculated by the superintendent of public instruction. The superintendent shall include the estimate from the institute in an appendix of the report required under subsection (7) of this section, beginning with the 2010 report.

**NEW SECTION. Sec. 12.** A new section is added to chapter 28A.300 RCW to read as follows:

The office of the superintendent of public instruction shall implement and maintain an internet-based portal that provides ready public access to the state's prototypical school funding model for basic education under RCW 28A.150.260. The portal must provide citizens the opportunity to view, for each local school building, the staffing levels and other prototypical school funding

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elements that are assumed under the state funding formula. The portal must also provide a matrix displaying how individual school districts are deploying those same state resources through their allocation of staff and other resources to school buildings, so that citizens are able to compare the state assumptions to district allocation decisions for each local school building.

**Sec. 13.** RCW 28A.150.100 and 1990 c 33 s 103 are each amended to read as follows:

(1) For the purposes of this section and RCW 28A.150.410 and 28A.400.200, "basic education certificated instructional staff" ~~((shall))~~ means all full-time equivalent classroom teachers, teacher librarians, guidance counselors, certificated student health services staff, and other certificated instructional staff in the following programs as defined for statewide school district accounting purposes: Basic education, secondary vocational education, general instructional support, and general supportive services.

(2) ~~((In the 1988-89 school year and thereafter,))~~ Each school district shall maintain a ratio of at least forty-six basic education certificated instructional staff to one thousand annual average full time equivalent students.

**Sec. 14.** 2009 c 548 s 710 (uncodified) is amended to read as follows:

(1) RCW 28A.150.030 (School day) and 1971 ex.s. c 161 s 1 & 1969 ex.s. c 223 s 28A.01.010;

(2) RCW 28A.150.060 (Certificated employee) and 2005 c 497 s 212, 1990 c 33 s 102, 1977 ex.s. c 359 s 17, 1975 1st ex.s. c 288 s 21, & 1973 1st ex.s. c 105 s 1;

(3) ~~((RCW 28A.150.100 (Basic education certificated instructional staff--Definition--Ratio to students) and 1990 c 33 s 103 & 1987 1st ex.s. c 2 s 203;~~

(4)) RCW 28A.150.040 (School year--Beginning--End) and 1990 c 33 s 101, 1982 c 158 s 5, 1977 ex.s. c 286 s 1, 1975-'76 2nd ex.s. c 118 s 22, & 1969 ex.s. c 223 s 28A.01.020;

~~((5))~~ (4) RCW 28A.150.370 (Additional programs for which legislative appropriations must or may be made) and 1995 c 335 s 102, 1995 c 77 s 5, 1990 c 33 s 114, 1982 1st ex.s. c 24 s 1, & 1977 ex.s. c 359 s 7; and

~~((6))~~ (5) RCW 28A.155.180 (Safety net funds--Application--Technical assistance--Annual survey) and 2007 c 400 s 8.

**Sec. 15.** RCW 28A.290.010 and 2009 c 548 s 114 are each amended to read as follows:

(1) The quality education council is created to recommend and inform the ongoing implementation by the legislature of an evolving program of basic education and the financing necessary to support such program. The council shall develop strategic recommendations on the program of basic education for the common schools. The council shall take into consideration the capacity report produced under RCW 28A.300.172 and the availability of data and progress of implementing the data systems required under RCW 28A.655.210. Any recommendations for modifications to the program of basic education shall be based on evidence that the programs effectively support student learning. The council shall update the statewide strategic recommendations every four years. The recommendations of the council are intended to:

(a) Inform future educational policy and funding decisions of the legislature and governor;

(b) Identify measurable goals and priorities for the educational system in Washington state for a ten-year time period, including the goals of basic education and ongoing strategies for coordinating statewide efforts to eliminate the achievement gap and reduce student dropout rates; and

(c) Enable the state of Washington to continue to implement an evolving program of basic education.

(2) The council may request updates and progress reports from the office of the superintendent of public instruction, the state board of education, the professional educator standards board, and the department of early learning on the work of the agencies as well as educational working groups established by the legislature.

(3) The chair of the council shall be selected from the councilmembers. The council shall be composed of the following members:

(a) Four members of the house of representatives, with two members representing each of the major caucuses and appointed by the speaker of the house of representatives;

(b) Four members of the senate, with two members representing each of the major caucuses and appointed by the president of the senate; ~~((and))~~

(c) One representative each from the office of the governor, office of the superintendent of public instruction, state board of education, professional educator standards board, and department of early learning; and

(d) One nonlegislative representative from the achievement gap oversight and accountability committee established under RCW 28A.300.136, to be selected by the members of the committee.

(4) In the 2009 fiscal year, the council shall meet as often as necessary as determined by the chair. In subsequent years, the council shall meet no more than four times a year.

(5)(a) The council shall submit an initial report to the governor and the legislature by January 1, 2010, detailing its recommendations, including recommendations for resolving issues or decisions requiring legislative action during the 2010 legislative session, and recommendations for any funding necessary to continue development and implementation of chapter 548, Laws of 2009.

(b) The initial report shall, at a minimum, include:

(i) Consideration of how to establish a statewide beginning teacher mentoring and support system;

(ii) Recommendations for a program of early learning for at-risk children;

(iii) A recommended schedule for the concurrent phase-in of the changes to the instructional program of basic education and the implementation of the funding formulas and allocations to support the new instructional program of basic education as established under chapter 548, Laws of 2009. The phase-in schedule shall have full implementation completed by September 1, 2018; and

(iv) A recommended schedule for phased-in implementation of the new distribution formula for allocating state funds to school districts for the transportation of students to and from school, with phase-in beginning no later than September 1, 2013.

(6) The council shall submit a report to the governor and the legislature by December 1, 2010, that includes:

(a) Recommendations for specific strategies, programs, and funding, including funding allocations through the funding distribution formula in RCW 28A.150.260, that are designed to close the achievement gap and increase the high school graduation rate in Washington public schools. The council shall consult with the achievement gap oversight and accountability committee and the building bridges work group in developing its recommendations; and

(b) Recommendations for assuring adequate levels of state-funded classified staff to support essential school and district services.

(7) The council shall be staffed by the office of the superintendent of public instruction and the office of financial management. Additional staff support shall be provided by the state entities with representatives on the committee. Senate committee services and the house of representatives office of program research may provide additional staff support.

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((7)) (8) Legislative members of the council shall serve without additional compensation but may be reimbursed for travel expenses in accordance with RCW 44.04.120 while attending sessions of the council or on official business authorized by the council. Nonlegislative members of the council may be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

**Sec. 16.** 2009 c 548 s 805 (uncodified) is amended to read as follows:

Sections 304 through 311 of this act take effect September 1, ((2013)) 2011.

**NEW SECTION. Sec. 17.** 2009 c 548 s 112, as amended by section 5 of this act, is codified as a section in chapter 28A.290 RCW.

**NEW SECTION. Sec. 18.** RCW 43.41.398 is recodified as a section in chapter 28A.400 RCW.

**NEW SECTION. Sec. 19.** Sections 2, 3, 4, 8, 10, 13, and 14 of this act take effect September 1, 2011.

**NEW SECTION. Sec. 20.** Section 6 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Senator McAuliffe spoke in favor of adoption of the striking amendment.

#### MOTION

Senator McAuliffe moved that the following amendment by Senators McAuliffe and Oemig to the striking amendment be adopted.

On page 1, line 22, after "to" strike "'adopt an implementation schedule for" and insert "begin"

On page 1, line 24, after "2009-10" strike "beginning"

Senator McAuliffe spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators McAuliffe and Oemig on page 1, line 22 to the striking amendment to Substitute House Bill No. 2776.

The motion by Senator McAuliffe carried and the amendment to the striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the striking amendment as amended by Senator McAuliffe and others to Substitute House Bill No. 2776.

Senator Zarelli spoke against the striking amendment as amended.

#### PARLIAMENTARY INQUIRY

Senator Honeyford: "Earlier today we had a forty page striker. Today we have a twenty-five page striker. We have no effect statement on here and this shows up on our desk and we're expected to read and comprehend in five minutes what this does. There's something wrong."

Senators Honeyford and Pflug spoke against the striking amendment as amended

The motion by Senator McAuliffe carried and the striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "education;" strike the remainder of the title and insert "amending RCW 28A.150.260, 28A.150.390, 28A.150.315, 43.41.398, 28A.160.192, 28A.150.410, 28A.175.010, 28A.150.100, and 28A.290.010; amending 2009 c 548 s 112 (uncodified); amending 2009 c 548 s 302 (uncodified); amending 2009 c 548 s 710 (uncodified); amending 2009 c 548 s 805 (uncodified); adding a new section to chapter 28A.160 RCW; adding a new section to chapter 28A.300 RCW; adding a new section to chapter 28A.290 RCW; adding a new section to chapter 28A.400 RCW; creating a new section; recodifying RCW 43.41.398; providing effective dates; and declaring an emergency."

#### MOTION

On motion of Senator McAuliffe, the rules were suspended, Substitute House Bill No. 2776 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe, Brown and McDermott spoke in favor of passage of the bill.

Senators King, Pflug, Schoesler and Parlette spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2776 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2776 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 30; Nays, 17; Absent, 0; Excused, 2.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, Kastama, King, Morton, Parlette, Pflug, Schoesler, Stevens, Swecker and Zarelli

Excused: Senators McCaslin and Roach

SUBSTITUTE HOUSE BILL NO. 2776 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator McDermott, the Senate advanced to the sixth order of business.

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Rockefeller moved that Gubernatorial Appointment No. 9241, Alice Tawressey, as a member of the Board of Trustees, Olympic Community College District No. 3, be confirmed.

Senator Rockefeller spoke in favor of the motion.

#### MOTION

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On motion of Senator Marr, Senators Eide and Pridemore were excused.

Gubernatorial Appointment No. 9155, Brian Blake, having received the constitutional majority was declared confirmed as a member of the Pacific Marine Fishery Commission.

APPOINTMENT OF ALICE TAWRESEY

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9241, Alice Tawresey as a member of the Board of Trustees, Olympic Community College District No. 3.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9241, Alice Tawresey as a member of the Board of Trustees, Olympic Community College District No. 3 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Tom

Absent: Senator Zarelli

Excused: Senators Eide, McCaslin and Roach

Gubernatorial Appointment No. 9241, Alice Tawresey, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Olympic Community College District No. 3.

MOTION

On motion of Senator Stevens, Senators Holmquist and Zarelli were excused.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Hatfield moved that Gubernatorial Appointment No. 9155, Brian Blake, as a member of the Pacific Marine Fishery Commission, be confirmed.

Senator Hatfield spoke in favor of the motion.

APPOINTMENT OF BRIAN BLAKE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9155, Brian Blake as a member of the Pacific Marine Fishery Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9155, Brian Blake as a member of the Pacific Marine Fishery Commission and the appointment was confirmed by the following vote: Yeas, 42; Nays, 2; Absent, 1; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Fairley, Franklin, Fraser, Gordon, Hargrove, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens and Swecker

Voting nay: Senators Hatfield and Tom

Absent: Senator Delvin

Excused: Senators Eide, McCaslin, Roach and Zarelli

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator McDermott moved that Gubernatorial Appointment No. 9239, Charlene D. Strong, as a member of the Human Rights Commission, be confirmed.

Senator McDermott spoke in favor of the motion.

APPOINTMENT OF CHARLENE D. STRONG

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9239, Charlene D. Strong as a member of the Human Rights Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9239, Charlene D. Strong as a member of the Human Rights Commission and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Tom

Absent: Senator Ranker

Excused: Senators McCaslin, Roach and Zarelli

Gubernatorial Appointment No. 9239, Charlene D. Strong, having received the constitutional majority was declared confirmed as a member of the Human Rights Commission.

MOTION

On motion of Senator Marr, Senator Ranker was excused.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6658 with the following amendment(s): 6658-S.E AMH ENGR H5495.E

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 82.16.110 and 2009 c 469 s 504 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Administrator" means an owner and assignee of a community solar project as defined in subsection (2)(a)(i) of this section that is responsible for applying for the investment cost

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recovery incentive on behalf of the other owners and performing such administrative tasks on behalf of the other owners as may be necessary, such as receiving investment cost recovery incentive payments, and allocating and paying appropriate amounts of such payments to the other owners.

(2)(a) "Community solar project" means:

(i) A solar energy system that is capable of generating up to seventy-five kilowatts of electricity and is owned by local individuals, households, nonprofit organizations, or nonutility businesses that is placed on the property owned by a cooperating local governmental entity that is not in the light and power business or in the gas distribution business; ~~((8))~~

(ii) A utility-owned solar energy system that is capable of generating up to seventy-five kilowatts of electricity and that is voluntarily funded by the utility's ratepayers where, in exchange for their financial support, the utility gives contributors a payment or credit on their utility bill for the value of the electricity produced by the project; or

(iii) A solar energy system, placed on the property owned by a cooperating local governmental entity that is not in the light and power business or in the gas distribution business, that is capable of generating up to seventy-five kilowatts of electricity, and that is owned by a company whose members are each eligible for an investment cost recovery incentive for the same customer-generated electricity as provided in RCW 82.16.120.

(b) For the purposes of "community solar project" as defined in (a) of this subsection:

(i) "Company" means an entity that is:

(A)(I) A limited liability company;

(II) A cooperative formed under chapter 23.86 RCW; or

(III) A mutual corporation or association formed under chapter 24.06 RCW; and

(B) Not a "utility" as defined in this subsection (2)(b); and

(ii) "Nonprofit organization" means an organization exempt from taxation under ~~((Title))~~ 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended, as of January 1, 2009; and

~~((4))~~ (iii) "Utility" means a light and power business, an electric cooperative, or a mutual corporation that provides electricity service.

~~((2))~~ (3) "Customer-generated electricity" means a community solar project or the alternating current electricity that is generated from a renewable energy system located in Washington and installed on an individual's, businesses', or local government's real property that is also provided electricity generated by a light and power business. Except for community solar projects, a system located on a leasehold interest does not qualify under this definition. Except for utility-owned community solar projects, "customer-generated electricity" does not include electricity generated by a light and power business with greater than one thousand megawatt hours of annual sales or a gas distribution business.

~~((3))~~ (4) "Economic development kilowatt-hour" means the actual kilowatt-hour measurement of customer-generated electricity multiplied by the appropriate economic development factor.

~~((4))~~ (5) "Local governmental entity" means any unit of local government of this state including, but not limited to, counties, cities, towns, municipal corporations, quasi-municipal corporations, special purpose districts, and school districts.

~~((5))~~ (6) "Photovoltaic cell" means a device that converts light directly into electricity without moving parts.

~~((6))~~ (7) "Renewable energy system" means a solar energy system, an anaerobic digester as defined in RCW 82.08.900, or a wind generator used for producing electricity.

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~~((7))~~ (8) "Solar energy system" means any device or combination of devices or elements that rely upon direct sunlight as an energy source for use in the generation of electricity.

~~((8))~~ (9) "Solar inverter" means the device used to convert direct current to alternating current in a photovoltaic cell system.

~~((9))~~ (10) "Solar module" means the smallest nondivisible self-contained physical structure housing interconnected photovoltaic cells and providing a single direct current electrical output.

**Sec. 2.** RCW 82.16.120 and 2009 c 469 s 505 are each amended to read as follows:

(1)(a) Any individual, business, local governmental entity, not in the light and power business or in the gas distribution business, or a participant in a community solar project may apply to the light and power business serving the situs of the system, each fiscal year beginning on July 1, 2005, for an investment cost recovery incentive for each kilowatt-hour from a customer-generated electricity renewable energy system.

((No incentive may be paid for kilowatt-hours generated before July 1, 2005, or after June 30, 2020.))

(b) In the case of a community solar project as defined in RCW 82.16.110(2)(a)(i), the administrator must apply for the investment cost recovery incentive on behalf of each of the other owners.

(c) In the case of a community solar project as defined in RCW 82.16.110(2)(a)(iii), the company owning the community solar project must apply for the investment cost recovery incentive on behalf of each member of the company.

(2)(a) Before submitting for the first time the application for the incentive allowed under subsection (4) of this section, the applicant must submit to the department of revenue and to the climate and rural energy development center at the Washington State University, established under RCW 28B.30.642, a certification in a form and manner prescribed by the department that includes, but is not limited to, the following information:

(i) The name and address of the applicant and location of the renewable energy system.

(A) If the applicant is an administrator of a community solar project as defined in RCW 82.16.110(2)(a)(i), the certification must also include the name and address of each of the owners of the community solar project.

(B) If the applicant is a company that owns a community solar project as defined in RCW 82.16.110(2)(a)(iii), the certification must also include the name and address of each member of the company;

(ii) The applicant's tax registration number;

(iii) That the electricity produced by the applicant meets the definition of "customer-generated electricity" and that the renewable energy system produces electricity with:

(A) Any solar inverters and solar modules manufactured in Washington state;

(B) A wind generator powered by blades manufactured in Washington state;

(C) A solar inverter manufactured in Washington state;

(D) A solar module manufactured in Washington state; or

(E) Solar or wind equipment manufactured outside of Washington state;

(iv) That the electricity can be transformed or transmitted for entry into or operation in parallel with electricity transmission and distribution systems; and

(v) The date that the renewable energy system received its final electrical permit from the applicable local jurisdiction.

(b) Within thirty days of receipt of the certification the department of revenue must notify the applicant by mail, or electronically as provided in RCW 82.32.135, whether the renewable energy system qualifies for an incentive under this

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section. The department may consult with the climate and rural energy development center to determine eligibility for the incentive. System certifications and the information contained therein are subject to disclosure under RCW 82.32.330(3)(m).

(3)(a) By August 1st of each year application for the incentive ~~((shall))~~ must be made to the light and power business serving the situs of the system by certification in a form and manner prescribed by the department that includes, but is not limited to, the following information:

(i) The name and address of the applicant and location of the renewable energy system.

(A) If the applicant is an administrator of a community solar project as defined in RCW 82.16.110(2)(a)(i), the application must also include the name and address of each of the owners of the community solar project.

(B) If the applicant is a company that owns a community solar project as defined in RCW 82.16.110(2)(a)(iii), the application must also include the name and address of each member of the company;

(ii) The applicant's tax registration number;

(iii) The date of the notification from the department of revenue stating that the renewable energy system is eligible for the incentives under this section; and

(iv) A statement of the amount of kilowatt-hours generated by the renewable energy system in the prior fiscal year.

(b) Within sixty days of receipt of the incentive certification the light and power business serving the situs of the system ~~((shall))~~ must notify the applicant in writing whether the incentive payment will be authorized or denied. The business may consult with the climate and rural energy development center to determine eligibility for the incentive payment. Incentive certifications and the information contained therein are subject to disclosure under RCW 82.32.330(3)(m).

(c)(i) Persons, administrators of community solar projects, and companies receiving incentive payments ~~((shall))~~ must keep and preserve, for a period of five years, suitable records as may be necessary to determine the amount of incentive applied for and received. Such records ~~((shall))~~ must be open for examination at any time upon notice by the light and power business that made the payment or by the department. If upon examination of any records or from other information obtained by the business or department it appears that an incentive has been paid in an amount that exceeds the correct amount of incentive payable, the business may assess against the person for the amount found to have been paid in excess of the correct amount of incentive payable and ~~((shall))~~ must add thereto interest on the amount. Interest ~~((shall be))~~ is assessed in the manner that the department assesses interest upon delinquent tax under RCW 82.32.050.

(ii) If it appears that the amount of incentive paid is less than the correct amount of incentive payable the business may authorize additional payment.

(4) Except for community solar projects, the investment cost recovery incentive may be paid fifteen cents per economic development kilowatt-hour unless requests exceed the amount authorized for credit to the participating light and power business. For community solar projects, the investment cost recovery incentive may be paid thirty cents per economic development kilowatt-hour unless requests exceed the amount authorized for credit to the participating light and power business. For the purposes of this section, the rate paid for the investment cost recovery incentive may be multiplied by the following factors:

(a) For customer-generated electricity produced using solar modules manufactured in Washington state, two and four-tenths;

(b) For customer-generated electricity produced using a solar or a wind generator equipped with an inverter manufactured in Washington state, one and two-tenths;

(c) For customer-generated electricity produced using an anaerobic digester, or by other solar equipment or using a wind generator equipped with blades manufactured in Washington state, one; and

(d) For all other customer-generated electricity produced by wind, eight-tenths.

(5)(a) No individual, household, business, or local governmental entity is eligible for incentives provided under subsection (4) of this section for more than five thousand dollars per year.

(b) Except as provided in (c) through (e) of this subsection (5), each applicant in a community solar project is eligible for up to five thousand dollars per year.

(c) Where the applicant is an administrator of a community solar project as defined in RCW 82.16.110(2)(a)(i), each owner is eligible for an incentive but only in proportion to the ownership share of the project, up to five thousand dollars per year.

(d) Where the applicant is a company owning a community solar project that has applied for an investment cost recovery incentive on behalf of its members, each member of the company is eligible for an incentive that would otherwise belong to the company but only in proportion to each ownership share of the company, up to five thousand dollars per year. The company itself is not eligible for incentives under this section.

(e) In the case of a utility-owned community solar project, each ratepayer that contributes to the project is eligible for an incentive in proportion to the contribution, up to five thousand dollars per year.

(6) If requests for the investment cost recovery incentive exceed the amount of funds available for credit to the participating light and power business, the incentive payments ~~((shall))~~ must be reduced proportionately.

(7) The climate and rural energy development center at Washington State University energy program may establish guidelines and standards for technologies that are identified as Washington manufactured and therefore most beneficial to the state's environment.

(8) The environmental attributes of the renewable energy system belong to the applicant, and do not transfer to the state or the light and power business upon receipt of the investment cost recovery incentive.

(9) No incentive may be paid under this section for kilowatt-hours generated before July 1, 2005, or after June 30, 2020.

**Sec. 3.** RCW 82.16.130 and 2009 c 469 s 506 are each amended to read as follows:

(1) A light and power business shall be allowed a credit against taxes due under this chapter in an amount equal to investment cost recovery incentive payments made in any fiscal year under RCW 82.16.120. The credit shall be taken in a form and manner as required by the department. The credit under this section for the fiscal year may not exceed ~~((one))~~ one-half percent of the businesses' taxable power sales due under RCW 82.16.020(1)(b) or one hundred thousand dollars, whichever is greater. Incentive payments to participants in a utility-owned community solar project as defined in RCW 82.16.110~~((++))~~ (2)(a)(ii) may only account for up to twenty-five percent of the total allowable credit. Incentive payments to participants in a company-owned community solar project as defined in RCW 82.16.110(2)(a)(iii) may only account for up to five percent of the total allowable credit. The credit may not exceed the tax that would otherwise be due under this chapter. Refunds shall not be granted in the place of credits. Expenditures not used to earn a credit in one fiscal year may not be used to earn a credit in subsequent years.

(2) For any business that has claimed credit for amounts that exceed the correct amount of the incentive payable under RCW 82.16.120, the amount of tax against which credit was claimed for

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the excess payments shall be immediately due and payable. The department shall assess interest but not penalties on the taxes against which the credit was claimed. Interest shall be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW, retroactively to the date the credit was claimed, and shall accrue until the taxes against which the credit was claimed are repaid.

(3) The right to earn tax credits under this section expires June 30, 2020. Credits may not be claimed after June 30, 2021.

**Sec. 4.** RCW 82.16.140 and 2005 c 300 s 5 are each amended to read as follows:

(1) Using existing sources of information, the department ~~((shall))~~ **must** report to the house appropriations committee, the house committee dealing with energy issues, the senate committee on ways and means, and the senate committee dealing with energy issues by December 1, ~~((2009))~~ 2014. The report ~~((shall))~~ **must** measure the impacts of ~~((chapter 300, Laws of 2005))~~ RCW 82.16.110 through 82.16.130, including the total number of solar energy system manufacturing companies in the state, any change in the number of solar energy system manufacturing companies in the state since July 1, 2005, and, where relevant, the effect on job creation, the number of jobs created for Washington residents, and such other factors as the department selects.

(2) The department ~~((shall))~~ **may** not conduct any new surveys to provide the report in subsection (1) of this section.

(3) For the purposes of this section, "company" has the same meaning as provided in RCW 82.04.030.

**NEW SECTION. Sec. 5.** A new section is added to chapter 82.16 RCW to read as follows:

Owners of a community solar project as defined in RCW 82.16.110(2)(a) (i) and (iii) must agree to hold harmless the light and power business serving the situs of the system, including any employee, for the good faith reliance on the information contained in an application or certification submitted by an administrator or company. In addition, the light and power business and any employee is immune from civil liability for the good faith reliance on any misstatement that may be made in such application or certification. Should a light and power business or employee prevail upon the defense provided in this section, it is entitled to recover expenses and reasonable attorneys' fees incurred in establishing the defense."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Rockefeller moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6658.

Senators Rockefeller and Honeyford spoke in favor of passage of the motion.

The President declared the question before the Senate to be the motion by Senator Rockefeller that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6658.

The motion by Senator Rockefeller carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6658 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6658, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6658, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Delvin

Excused: Senators McCaslin and Roach

ENGROSSED SUBSTITUTE SENATE BILL NO. 6658, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The House receded from its amendment(s) 6345-S AMH ROAD MUNN 281 to SUBSTITUTE SENATE BILL NO. 6345 and passed said bill without the House amendment(s).  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

#### SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE SENATE BILL 5798,  
ENGROSSED SUBSTITUTE SENATE BILL 5902,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL 6267,  
SUBSTITUTE SENATE BILL 6280,  
SUBSTITUTE SENATE BILL 6293,  
SUBSTITUTE SENATE BILL 6339,  
SUBSTITUTE SENATE BILL 6355,  
ENGROSSED SUBSTITUTE SENATE BILL 6604,  
ENGROSSED SENATE BILL 6610,  
SUBSTITUTE SENATE BILL 6759,  
ENGROSSED SUBSTITUTE SENATE BILL 6774,  
SENATE BILL 6833.

#### MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

#### SECOND SUPPLEMENTAL AND FIRST READING

SCR 8412 by Senators Brown and Hewitt

Adjourning sine die.

#### MOTION

On motion of Senator Eide, the rules were suspended and Senate Concurrent Resolution No. 8412 was placed on the second reading calendar.

MOTION

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On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

SENATE CONCURRENT RESOLUTION NO. 8412, by Senators Brown and Hewitt

Adjourning sine die.

The measure was read the second time.

MOTION

On motion of Senator Eide, the rules were suspended, Senate Concurrent Resolution No. 8412 was advanced to third reading, the second reading considered the third and the concurrent resolution was placed on final passage.

The President declared the question before the Senate to be the final passage of Senate Concurrent Resolution No. 8412.

SENATE CONCURRENT RESOLUTION NO. 8412, was adopted by voice vote.

MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

MOTION

Senator Eide moved adoption of the following resolution:

SENATE RESOLUTION

8718

By Senators Brown and Hewitt

WHEREAS, The 2010 Regular Session of the Sixty-first Legislature is drawing to a close; and

WHEREAS, It is necessary to provide for the completion of the work of the Senate after its adjournment and during the interim period between the close of the 2010 Regular Session of the Sixty-first Legislature and the convening of the next regular session; and

WHEREAS, The state is experiencing extreme budget pressures and the Senate desires to promote efficiencies and savings within its own internal budget by maintaining certain travel, salary, hiring, contract, and expenditure controls and limitations throughout the fiscal year;

NOW, THEREFORE, BE IT RESOLVED, That the Senate Facilities and Operations Committee shall have full authority and direction over the authorization and execution of any contracts or subcontracts that necessitate the expenditure of Senate appropriations, subject to all applicable budget controls and limitations; and

BE IT FURTHER RESOLVED, That the Senate Facilities and Operations Committee may, as they deem appropriate, authorize travel for which members and staff may receive therefor their actual necessary expenses, and such per diem as may be authorized by law, subject to all applicable budget controls and limitations, to be paid

upon receipt of their vouchers out of funds appropriated for legislative expenses; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate and the Senate Facilities and Operations Committee be, and they hereby are, authorized to retain such employees as they may deem necessary and that said employees be allowed such rate of pay therefor, subject to all applicable budget controls and limitations, as the Secretary of the Senate and the Senate Facilities and Operations Committee shall deem proper; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate be, and he or she hereby is, authorized and directed to make out and execute the necessary vouchers upon which warrants for legislative expenses and expenditures shall be drawn from funds provided therefor; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate and the Facilities and Operations Committee be, and they hereby are, authorized to approve written requests by standing committees to meet during the interim period; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate be, and hereby is, authorized and directed to have printed a copy of the Senate Journals of the 2010 Regular Session of the Sixty-first Legislature; and

BE IT FURTHER RESOLVED, That the Rules Committee is authorized to assign subject matters to standing committees for study during the interim, and the Majority Leader is authorized to create special committees as may be necessary to carry out the functions of the Senate in an orderly manner and appoint members thereto with the approval of the Facilities and Operations Committee; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate is authorized to express the sympathy of the Senate by sending flowers or memorials in the event of a bereavement in the legislative "family"; and

BE IT FURTHER RESOLVED, That such use of the Senate facilities is permitted upon such terms as the Secretary of the Senate shall deem proper.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8718.

The motion by Senator Eide carried and the resolution was adopted by voice vote.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The House has passed:

SENATE BILL NO. 6855.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The House receded from its amendment(s) to ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6696. Under suspension of the rules, the bill was returned to second reading for the purpose of an amendment. The House adopted the

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following amendment: 6696-S2.E AMH SULL H5680.2, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

**"PART I  
ACCOUNTABILITY FRAMEWORK"**

**NEW SECTION. Sec. 101.** The legislature finds that it is the state's responsibility to create a coherent and effective accountability framework for the continuous improvement for all schools and districts. This system must provide an excellent and equitable education for all students; an aligned federal/state accountability system; and the tools necessary for schools and districts to be accountable. These tools include the necessary accounting and data reporting systems, assessment systems to monitor student achievement, and a system of general support, targeted assistance, and if necessary, intervention.

The office of the superintendent of public instruction is responsible for developing and implementing the accountability tools to build district capacity and working within federal and state guidelines. The legislature assigned the state board of education responsibility and oversight for creating an accountability framework. This framework provides a unified system of support for challenged schools that aligns with basic education, increases the level of support based upon the magnitude of need, and uses data for decisions. Such a system will identify schools and their districts for recognition as well as for additional state support. For a specific group of challenged schools, defined as persistently lowest-achieving schools, and their districts, it is necessary to provide a required action process that creates a partnership between the state and local district to target funds and assistance to turn around the identified lowest-achieving schools.

Phase I of this accountability system will recognize schools that have done an exemplary job of raising student achievement and closing the achievement gaps using the state board of education's accountability index. The state board of education shall have ongoing collaboration with the achievement gap oversight and accountability committee regarding the measures used to measure the closing of the achievement gaps and the recognition provided to the school districts for closing the achievement gaps. Phase I will also target the lowest five percent of persistently lowest-achieving schools defined under federal guidelines to provide federal funds and federal intervention models through a voluntary option in 2010, and for those who do not volunteer and have not improved student achievement, a required action process beginning in 2011.

Phase II of this accountability system will work toward implementing the state board of education's accountability index for identification of schools in need of improvement, including those that are not Title I schools, and the use of state and local intervention models and state funds through a required action process beginning in 2013, in addition to the federal program. Federal approval of the state board of education's accountability index must be obtained or else the federal guidelines for persistently lowest-achieving schools will continue to be used.

The expectation from implementation of this accountability system is the improvement of student achievement for all students to prepare them for postsecondary education, work, and global citizenship in the twenty-first century.

**NEW SECTION. Sec. 102.** (1) Beginning in 2010, and each year thereafter, by December 1st, the superintendent of public instruction shall annually identify schools as one of the state's persistently lowest-achieving schools if the school is a Title I school, or a school that is eligible for but does not receive Title I funds, that

is among the lowest-achieving five percent of Title I or Title I eligible schools in the state.

(2) The criteria for determining whether a school is among the persistently lowest-achieving five percent of Title I schools, or Title I eligible schools, under subsection (1) of this section shall be established by the superintendent of public instruction. The criteria must meet all applicable requirements for the receipt of a federal school improvement grant under the American recovery and reinvestment act of 2009 and Title I of the elementary and secondary education act of 1965, and take into account both:

(a) The academic achievement of the "all students" group in a school in terms of proficiency on the state's assessment, and any alternative assessments, in reading and mathematics combined; and

(b) The school's lack of progress on the mathematics and reading assessments over a number of years in the "all students" group.

**NEW SECTION. Sec. 103.** (1) Beginning in January 2011, the superintendent of public instruction shall annually recommend to the state board of education school districts for designation as required action districts. A district with at least one school identified as a persistently lowest-achieving school shall be designated as a required action district if it meets the criteria developed by the superintendent of public instruction. However, a school district shall not be recommended for designation as a required action district if the district was awarded a federal school improvement grant by the superintendent in 2010 and for three consecutive years following receipt of the grant implemented a federal school intervention model at each school identified for improvement. The state board of education may designate a district that received a school improvement grant in 2010 as a required action district if after three years of voluntarily implementing a plan the district continues to have a school identified as persistently lowest-achieving and meets the criteria for designation established by the superintendent of public instruction.

(2) The superintendent of public instruction shall provide a school district superintendent with written notice of the recommendation for designation as a required action district by certified mail or personal service. A school district superintendent may request reconsideration of the superintendent of public instruction's recommendation. The reconsideration shall be limited to a determination of whether the school district met the criteria for being recommended as a required action district. A request for reconsideration must be in writing and served on the superintendent of public instruction within ten days of service of the notice of the superintendent's recommendation.

(3) The state board of education shall annually designate those districts recommended by the superintendent in subsection (1) of this section as required action districts. A district designated as a required action district shall be required to notify all parents of students attending a school identified as a persistently lowest-achieving school in the district of the state board of education's designation of the district as a required action district and the process for complying with the requirements set forth in sections 104 through 110 of this act.

**NEW SECTION. Sec. 104.** (1) The superintendent of public instruction shall contract with an external review team to conduct an academic performance audit of the district and each persistently lowest-achieving school in a required action district to identify the potential reasons for the school's low performance and lack of progress. The review team must consist of persons under contract with the superintendent who have expertise in comprehensive school and district reform and may not include staff from the agency, the school district that is the subject of the audit, or members or staff of the state board of education.

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(2) The audit must be conducted based on criteria developed by the superintendent of public instruction and must include but not be limited to an examination of the following:

- (a) Student demographics;
- (b) Mobility patterns;
- (c) School feeder patterns;
- (d) The performance of different student groups on assessments;
- (e) Effective school leadership;
- (f) Strategic allocation of resources;
- (g) Clear and shared focus on student learning;
- (h) High standards and expectations for all students;
- (i) High level of collaboration and communication;
- (j) Aligned curriculum, instruction, and assessment to state standards;
- (k) Frequency of monitoring of learning and teaching;
- (l) Focused professional development;
- (m) Supportive learning environment;
- (n) High level of family and community involvement;
- (o) Alternative secondary schools best practices; and
- (p) Any unique circumstances or characteristics of the school or district.

(3) Audit findings must be made available to the local school district, its staff, the community, and the state board of education.

**NEW SECTION. Sec. 105.** (1) The local district superintendent and local school board of a school district designated as a required action district must submit a required action plan to the state board of education for approval. Unless otherwise required by subsection (3) of this section, the plan must be submitted under a schedule as required by the state board. A required action plan must be developed in collaboration with administrators, teachers, and other staff, parents, unions representing any employees within the district, students, and other representatives of the local community. The superintendent of public instruction shall provide a district with assistance in developing its plan if requested. The school board must conduct a public hearing to allow for comment on a proposed required action plan. The local school district shall submit the plan first to the office of the superintendent of public instruction to review and approve that the plan is consistent with federal guidelines. After the office of the superintendent of public instruction has approved that the plan is consistent with federal guidelines, the local school district must submit its required action plan to the state board of education for approval.

(2) A required action plan must include all of the following:

- (a) Implementation of one of the four federal intervention models required for the receipt of a federal school improvement grant, for those persistently lowest-achieving schools that the district will be focusing on for required action. However, a district may not establish a charter school under a federal intervention model without express legislative authority. The intervention models are the turnaround, restart, school closure, and transformation models. The intervention model selected must address the concerns raised in the academic performance audit and be intended to improve student performance to allow a school district to be removed from the list of districts designated as a required action district by the state board of education within three years of implementation of the plan;
- (b) Submission of an application for a federal school improvement grant or a grant from other federal funds for school improvement to the superintendent of public instruction;
- (c) A budget that provides for adequate resources to implement the federal model selected and any other requirements of the plan;
- (d) A description of the changes in the district's or school's existing policies, structures, agreements, processes, and practices that are intended to attain significant achievement gains for all students enrolled in the school and how the district intends to address the findings of the academic performance audit; and

(e) Identification of the measures that the school district will use in assessing student achievement at a school identified as a persistently lowest-achieving school, which include improving mathematics and reading student achievement and graduation rates as defined by the office of the superintendent of public instruction that enable the school to no longer be identified as a persistently lowest-achieving school.

(3)(a) For any district designated for required action, the parties to any collective bargaining agreement negotiated, renewed, or extended under chapter 41.59 or 41.56 RCW after the effective date of this section must reopen the agreement, or negotiate an addendum, if needed, to make changes to terms and conditions of employment that are necessary to implement a required action plan.

(b) If the school district and the employee organizations are unable to agree on the terms of an addendum or modification to an existing collective bargaining agreement, the parties, including all labor organizations affected under the required action plan, shall request the public employment relations commission to, and the commission shall, appoint an employee of the commission to act as a mediator to assist in the resolution of a dispute between the school district and the employee organizations. Beginning in 2011, and each year thereafter, mediation shall commence no later than April 15th. All mediations held under this section shall include the employer and representatives of all affected bargaining units.

(c) If the executive director of the public employment relations commission, upon the recommendation of the assigned mediator, finds that the employer and any affected bargaining unit are unable to reach agreement following a reasonable period of negotiations and mediation, but by no later than May 15th of the year in which mediation occurred, the executive director shall certify any disputed issues for a decision by the superior court in the county where the school district is located. The issues for determination by the superior court must be limited to the issues certified by the executive director.

(d) The process for filing with the court in this subsection (3)(d) must be used in the case where the executive director certifies issues for a decision by the superior court.

(i) The school district shall file a petition with the superior court, by no later than May 20th of the same year in which the issues were certified, setting forth the following:

- (A) The name, address, and telephone number of the school district and its principal representative;
- (B) The name, address, and telephone number of the employee organizations and their principal representatives;
- (C) A description of the bargaining units involved;
- (D) A copy of the unresolved issues certified by the executive director for a final and binding decision by the court; and
- (E) The academic performance audit that the office of the superintendent of public instruction completed for the school district.

(ii) Within seven days after the filing of the petition, each party shall file with the court the proposal it is asking the court to order be implemented in a required action plan for the district for each issue certified by the executive director. Contemporaneously with the filing of the proposal, a party must file a brief with the court setting forth the reasons why the court should order implementation of its proposal in the final plan.

(iii) Following receipt of the proposals and briefs of the parties, the court must schedule a date and time for a hearing on the petition. The hearing must be limited to argument of the parties or their counsel regarding the proposals submitted for the court's consideration. The parties may waive a hearing by written agreement.

(iv) The court must enter an order selecting the proposal for inclusion in a required action plan that best responds to the issues

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raised in the school district's academic performance audit, and allows for the award of a federal school improvement grant or a grant from other federal funds for school improvement to the district from the office of the superintendent of public instruction to implement one of the four federal intervention models. The court's decision must be issued no later than June 15th of the year in which the petition is filed and is final and binding on the parties; however the court's decision is subject to appeal only in the case where it does not allow the school district to implement a required action plan consistent with the requirements for the award of a federal school improvement grant or other federal funds for school improvement by the superintendent of public instruction.

(e) Each party shall bear its own costs and attorneys' fees incurred under this statute.

(f) Any party that proceeds with the process in this section after knowledge that any provision of this section has not been complied with and who fails to state its objection in writing is deemed to have waived its right to object.

(4) All contracts entered into between a school district and an employee must be consistent with this section and allow school districts designated as required action districts to implement one of the four federal models in a required action plan.

**NEW SECTION. Sec. 106.** A required action plan developed by a district's school board and superintendent must be submitted to the state board of education for approval. The state board must accept for inclusion in any required action plan the final decision by the superior court on any issue certified by the executive director of the public employment relations commission under the process in section 105 of this act. The state board of education shall approve a plan proposed by a school district only if the plan meets the requirements in section 105 of this act and provides sufficient remedies to address the findings in the academic performance audit to improve student achievement. Any addendum or modification to an existing collective bargaining agreement, negotiated under section 105 of this act or by agreement of the district and the exclusive bargaining unit, related to student achievement or school improvement shall not go into effect until approval of a required action plan by the state board of education. If the state board does not approve a proposed plan, it must notify the local school board and local district's superintendent in writing with an explicit rationale for why the plan was not approved. Nonapproval by the state board of education of the local school district's initial required action plan submitted is not intended to trigger any actions under section 108 of this act. With the assistance of the office of the superintendent of public instruction, the superintendent and school board of the required action district shall either: (a) Submit a new plan to the state board of education for approval within forty days of notification that its plan was rejected, or (b) submit a request to the required action plan review panel established under section 107 of this act for reconsideration of the state board's rejection within ten days of the notification that the plan was rejected. If federal funds are not available, the plan is not required to be implemented until such funding becomes available. If federal funds for this purpose are available, a required action plan must be implemented in the immediate school year following the district's designation as a required action district.

**NEW SECTION. Sec. 107.** (1) A required action plan review panel shall be established to offer an objective, external review of a request from a school district for reconsideration of the state board of education's rejection of the district's required action plan. The review and reconsideration by the panel shall be based on whether the state board of education gave appropriate consideration to the unique circumstances and characteristics identified in the academic performance audit of the local school district whose required action plan was rejected.

(2)(a) The panel shall be composed of five individuals with expertise in school improvement, school and district restructuring, or parent and community involvement in schools. Two of the panel members shall be appointed by the speaker of the house of representatives; two shall be appointed by the president of the senate; and one shall be appointed by the governor.

(b) The speaker of the house of representatives, president of the senate, and governor shall solicit recommendations for possible panel members from the Washington association of school administrators, the Washington state school directors' association, the association of Washington school principals, the achievement gap oversight and accountability committee, and associations representing certificated teachers, classified school employees, and parents.

(c) Members of the panel shall be appointed no later than December 1, 2010, but the superintendent of public instruction shall convene the panel only as needed to consider a school district's request for reconsideration. Appointments shall be for a four-year term, with opportunity for reappointment. Reappointments in the case of a vacancy shall be made expeditiously so that all requests are considered in a timely manner.

(3) The required action plan review panel may reaffirm the decision of the state board of education, recommend that the state board reconsider the rejection, or recommend changes to the required action plan that should be considered by the district and the state board of education to secure approval of the plan. The state board of education shall consider the recommendations of the panel and issue a decision in writing to the local school district and the panel. If the school district must submit a new required action plan to the state board of education, the district must submit the plan within forty days of the board's decision.

(4) The state board of education and superintendent of public instruction must develop timelines and procedures for the deliberations under this section so that school districts can implement a required action plan within the time frame required under section 106 of this act.

**NEW SECTION. Sec. 108.** The state board of education may direct the superintendent of public instruction to require a school district that has not submitted a final required action plan for approval, or has submitted but not received state board of education approval of a required action plan by the beginning of the school year in which the plan is intended to be implemented, to redirect the district's Title I funds based on the academic performance audit findings.

**NEW SECTION. Sec. 109.** A school district must implement a required action plan upon approval by the state board of education. The office of superintendent of public instruction must provide the required action district with technical assistance and federal school improvement grant funds or other federal funds for school improvement, if available, to implement an approved plan. The district must submit a report to the superintendent of public instruction that provides the progress the district is making in meeting the student achievement goals based on the state's assessments, identifying strategies and assets used to solve audit findings, and establishing evidence of meeting plan implementation benchmarks as set forth in the required action plan.

**NEW SECTION. Sec. 110.** (1) The superintendent of public instruction must provide a report twice per year to the state board of education regarding the progress made by all school districts designated as required action districts.

(2) The superintendent of public instruction must recommend to the state board of education that a school district be released from the designation as a required action district after the district implements a required action plan for a period of three years; has made progress, as defined by the superintendent of public

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instruction, in reading and mathematics on the state's assessment over the past three consecutive years; and no longer has a school within the district identified as persistently lowest achieving. The state board shall release a school district from the designation as a required action district upon confirmation that the district has met the requirements for a release.

(3) If the state board of education determines that the required action district has not met the requirements for release, the district remains in required action and must submit a new or revised plan under the process in section 105 of this act.

**Sec. 111.** RCW 28A.305.225 and 2009 c 548 s 503 are each amended to read as follows:

(1) The state board of education shall continue to refine the development of an accountability framework that creates a unified system of support for challenged schools, that aligns with basic education, increases the level of support based upon the magnitude of need, and uses data for decisions.

(2) The state board of education shall develop an accountability index to identify schools and districts for recognition, for continuous improvement, and for additional state support. The index shall be based on criteria that are fair, consistent, and transparent. Performance shall be measured using multiple outcomes and indicators including, but not limited to, graduation rates and results from statewide assessments. The index shall be developed in such a way as to be easily understood by both employees within the schools and districts, as well as parents and community members. It is the legislature's intent that the index provide feedback to schools and districts to self-assess their progress, and enable the identification of schools with exemplary student performance and those that need assistance to overcome challenges in order to achieve exemplary student performance. ~~((Once the accountability index has identified schools that need additional help, a more thorough analysis will be done to analyze specific conditions in the district including but not limited to the level of state resources a school or school district receives in support of the basic education system, achievement gaps for different groups of students, and community support.~~

~~—(3) Based on the accountability index and in consultation with the superintendent of public instruction, the state board of education shall develop a proposal and timeline for implementation of a comprehensive system of voluntary support and assistance for schools and districts. The timeline must take into account and accommodate capacity limitations of the K-12 educational system. Changes that have a fiscal impact on school districts, as identified by a fiscal analysis prepared by the office of the superintendent of public instruction, shall take effect only if formally authorized by the legislature through the omnibus appropriations act or other enacted legislation.~~

~~—(4)(a) The state board of education shall develop a proposal and implementation timeline for a more formalized comprehensive system improvement targeted to challenged schools and districts that have not demonstrated sufficient improvement through the voluntary system. The timeline must take into account and accommodate capacity limitations of the K-12 educational system. The proposal and timeline shall be submitted to the education committees of the legislature by December 1, 2009, and shall include recommended legislation and recommended resources to implement the system according to the timeline developed.~~

~~—(b) The proposal shall outline a process for addressing performance challenges that will include the following features: (i) An academic performance audit using peer review teams of educators that considers school and community factors in addition to other factors in developing recommended specific corrective actions that should be undertaken to improve student learning; (ii) a requirement for the local school board plan to develop and be~~

~~responsible for implementation of corrective action plan taking into account the audit findings, which plan must be approved by the state board of education at which time the plan becomes binding upon the school district to implement; and (iii) monitoring of local district progress by the office of the superintendent of public instruction. The proposal shall take effect only if formally authorized by the legislature through the omnibus appropriations act or other enacted legislation.~~

~~—(5)) (3) The state board of education, in cooperation with the office of the superintendent of public instruction, shall annually recognize schools for exemplary performance as measured on the state board of education accountability index. The state board of education shall have ongoing collaboration with the achievement gap oversight and accountability committee regarding the measures used to measure the closing of the achievement gaps and the recognition provided to the school districts for closing the achievement gaps.~~

~~—(4) In coordination with the superintendent of public instruction, the state board of education shall seek approval from the United States department of education for use of the accountability index and the state system of support, assistance, and intervention, to replace the federal accountability system under P.L. 107-110, the no child left behind act of 2001.~~

~~((6)) (5) The state board of education shall work with the education data center established within the office of financial management and the technical working group established in section 112, chapter 548, Laws of 2009 to determine the feasibility of using the prototypical funding allocation model as not only a tool for allocating resources to schools and districts but also as a tool for schools and districts to report to the state legislature and the state board of education on how the state resources received are being used.~~

**NEW SECTION. Sec. 112.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "All students group" means those students in grades three through eight and high school who take the state's assessment in reading and mathematics required under 20 U.S.C. Sec. 6311(b)(3).

(2) "Title I" means Title I, part A of the federal elementary and secondary education act of 1965 (ESEA) (20 U.S.C. Secs. 6311-6322).

**NEW SECTION. Sec. 113.** The superintendent of public instruction and the state board of education may each adopt rules in accordance with chapter 34.05 RCW as necessary to implement this chapter.

**NEW SECTION. Sec. 114.** (1) The legislature finds that a unified and equitable system of education accountability must include expectations and benchmarks for improvement, along with support for schools and districts to make the necessary changes that will lead to success for all students. Such a system must also clearly address the consequences for persistent lack of improvement. Establishing a process for school districts to prepare and implement a required action plan is one such consequence. However, to be truly accountable to students, parents, the community, and taxpayers, the legislature must also consider what should happen if a required action district continues not to make improvement after an extended period of time. Without an answer to this significant question, the state's system of education accountability is incomplete. Furthermore, accountability must be appropriately shared among various levels of decision makers, including in the building, in the district, and at the state.

(2)(a) A joint select committee on education accountability is established beginning no earlier than May 1, 2012, with the following members:

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(i) The president of the senate shall appoint two members from each of the two largest caucuses of the senate.

(ii) The speaker of the house of representatives shall appoint two members from each of the two largest caucuses of the house of representatives.

(b) The committee shall choose its cochairs from among its membership.

(3) The committee shall:

(a) Identify and analyze options for a complete system of education accountability, particularly consequences in the case of persistent lack of improvement by a required action district;

(b) Identify and analyze appropriate decision-making responsibilities and accompanying consequences at the building, district, and state level within such an accountability system;

(c) Examine models and experiences in other states;

(d) Identify the circumstances under which significant state action may be required; and

(e) Analyze the financial, legal, and practical considerations that would accompany significant state action.

(4) Staff support for the committee must be provided by the senate committee services and the house of representatives office of program research.

(5) The committee shall submit an interim report to the education committees of the legislature by September 1, 2012, and a final report with recommendations by September 1, 2013.

(6) This section expires June 30, 2014.

## PART II EVALUATIONS

**Sec. 201.** RCW 28A.150.230 and 2006 c 263 s 201 are each amended to read as follows:

(1) It is the intent and purpose of this section to guarantee that each common school district board of directors, whether or not acting through its respective administrative staff, be held accountable for the proper operation of their district to the local community and its electorate. In accordance with the provisions of Title 28A RCW, as now or hereafter amended, each common school district board of directors shall be vested with the final responsibility for the setting of policies ensuring quality in the content and extent of its educational program and that such program provide students with the opportunity to achieve those skills which are generally recognized as requisite to learning.

(2) In conformance with the provisions of Title 28A RCW, as now or hereafter amended, it shall be the responsibility of each common school district board of directors to adopt policies to:

(a) Establish performance criteria and an evaluation process for its superintendent, classified staff, certificated personnel, including administrative staff, and for all programs constituting a part of such district's curriculum. Each district shall report annually to the superintendent of public instruction the following for each employee group listed in this subsection (2)(a): (i) Evaluation criteria and rubrics; (ii) a description of each rating; and (iii) the number of staff in each rating;

(b) Determine the final assignment of staff, certificated or classified, according to board enumerated classroom and program needs and data, based upon a plan to ensure that the assignment policy: (i) Supports the learning needs of all the students in the district; and (ii) gives specific attention to high-need schools and classrooms;

(c) Provide information to the local community and its electorate describing the school district's policies concerning hiring, assigning, terminating, and evaluating staff, including the criteria for evaluating teachers and principals;

(d) Determine the amount of instructional hours necessary for

any student to acquire a quality education in such district, in not less than an amount otherwise required in RCW 28A.150.220, or rules of the state board of education;

~~((f))~~ (e) Determine the allocation of staff time, whether certificated or classified;

~~((g))~~ (f) Establish final curriculum standards consistent with law and rules of the superintendent of public instruction, relevant to the particular needs of district students or the unusual characteristics of the district, and ensuring a quality education for each student in the district; and

~~((h))~~ (g) Evaluate teaching materials, including text books, teaching aids, handouts, or other printed material, in public hearing upon complaint by parents, guardians or custodians of students who consider dissemination of such material to students objectionable.

**Sec. 202.** RCW 28A.405.100 and 1997 c 278 s 1 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, the superintendent of public instruction shall establish and may amend from time to time minimum criteria for the evaluation of the professional performance capabilities and development of certificated classroom teachers and certificated support personnel. For classroom teachers the criteria shall be developed in the following categories: Instructional skill; classroom management, professional preparation and scholarship; effort toward improvement when needed; the handling of student discipline and attendant problems; and interest in teaching pupils and knowledge of subject matter.

(b) Every board of directors shall, in accordance with procedure provided in RCW 41.59.010 through 41.59.170, 41.59.910 and 41.59.920, establish evaluative criteria and procedures for all certificated classroom teachers and certificated support personnel. The evaluative criteria must contain as a minimum the criteria established by the superintendent of public instruction pursuant to this section and must be prepared within six months following adoption of the superintendent of public instruction's minimum criteria. The district must certify to the superintendent of public instruction that evaluative criteria have been so prepared by the district.

(2)(a) Pursuant to the implementation schedule established in subsection (7)(b) of this section, every board of directors shall, in accordance with procedures provided in RCW 41.59.010 through 41.59.170, 41.59.910, and 41.59.920, establish revised evaluative criteria and a four-level rating system for all certificated classroom teachers.

(b) The minimum criteria shall include: (i) Centering instruction on high expectations for student achievement; (ii) demonstrating effective teaching practices; (iii) recognizing individual student learning needs and developing strategies to address those needs; (iv) providing clear and intentional focus on subject matter content and curriculum; (v) fostering and managing a safe, positive learning environment; (vi) using multiple student data elements to modify instruction and improve student learning; (vii) communicating and collaborating with parents and school community; and (viii) exhibiting collaborative and collegial practices focused on improving instructional practice and student learning.

(c) The four-level rating system used to evaluate the certificated classroom teacher must describe performance along a continuum that indicates the extent to which the criteria have been met or exceeded. When student growth data, if available and relevant to the teacher and subject matter, is referenced in the evaluation process it must be based on multiple measures that can include classroom-based, school-based, district-based, and state-based tools. As used in this subsection, "student growth" means the change in student achievement between two points in time.

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(3)(a) Except as provided in subsection ~~((5))~~ (10) of this section, it shall be the responsibility of a principal or his or her designee to evaluate all certificated personnel in his or her school. During each school year all classroom teachers and certificated support personnel ~~(hereinafter referred to as "employees" in this section)~~ shall be observed for the purposes of evaluation at least twice in the performance of their assigned duties. Total observation time for each employee for each school year shall be not less than sixty minutes. An employee in the third year of provisional status as defined in RCW 28A.405.220 shall be observed at least three times in the performance of his or her duties and the total observation time for the school year shall not be less than ninety minutes. Following each observation, or series of observations, the principal or other evaluator shall promptly document the results of the observation in writing, and shall provide the employee with a copy thereof within three days after such report is prepared. New employees shall be observed at least once for a total observation time of thirty minutes during the first ninety calendar days of their employment period.

(b) As used in this subsection and subsection (4) of this section, "employees" means classroom teachers and certificated support personnel.

(4)(a) At any time after October 15th, an employee whose work is not judged ~~((unsatisfactory))~~ satisfactory based on district evaluation criteria shall be notified in writing of the specific areas of deficiencies along with a reasonable program for improvement. During the period of probation, the employee may not be transferred from the supervision of the original evaluator. Improvement of performance or probable cause for nonrenewal must occur and be documented by the original evaluator before any consideration of a request for transfer or reassignment as contemplated by either the individual or the school district. A probationary period of sixty school days shall be established. The establishment of a probationary period does not adversely affect the contract status of an employee within the meaning of RCW 28A.405.300. The purpose of the probationary period is to give the employee opportunity to demonstrate improvements in his or her areas of deficiency. The establishment of the probationary period and the giving of the notice to the employee of deficiency shall be by the school district superintendent and need not be submitted to the board of directors for approval. During the probationary period the evaluator shall meet with the employee at least twice monthly to supervise and make a written evaluation of the progress, if any, made by the employee. The evaluator may authorize one additional certificated employee to evaluate the probationer and to aid the employee in improving his or her areas of deficiency; such additional certificated employee shall be immune from any civil liability that might otherwise be incurred or imposed with regard to the good faith performance of such evaluation. The probationer may be removed from probation if he or she has demonstrated improvement to the satisfaction of the principal in those areas specifically detailed in his or her initial notice of deficiency and subsequently detailed in his or her improvement program. Lack of necessary improvement during the established probationary period, as specifically documented in writing with notification to the probationer and shall constitute grounds for a finding of probable cause under RCW 28A.405.300 or 28A.405.210.

(b) Immediately following the completion of a probationary period that does not produce performance changes detailed in the initial notice of deficiencies and improvement program, the employee may be removed from his or her assignment and placed into an alternative assignment for the remainder of the school year. This reassignment may not displace another employee nor may it adversely affect the probationary employee's compensation or benefits for the remainder of the employee's contract year. If such

reassignment is not possible, the district may, at its option, place the employee on paid leave for the balance of the contract term.

~~((2))~~ (5) Every board of directors shall establish evaluative criteria and procedures for all superintendents, principals, and other administrators. It shall be the responsibility of the district superintendent or his or her designee to evaluate all administrators. Except as provided in subsection (6) of this section, such evaluation shall be based on the administrative position job description. Such criteria, when applicable, shall include at least the following categories: Knowledge of, experience in, and training in recognizing good professional performance, capabilities and development; school administration and management; school finance; professional preparation and scholarship; effort toward improvement when needed; interest in pupils, employees, patrons and subjects taught in school; leadership; and ability and performance of evaluation of school personnel.

~~((3))~~ (6)(a) Pursuant to the implementation schedule established by subsection (7)(b) of this section, every board of directors shall establish revised evaluative criteria and a four-level rating system for principals.

(b) The minimum criteria shall include: (i) Creating a school culture that promotes the ongoing improvement of learning and teaching for students and staff; (ii) demonstrating commitment to closing the achievement gap; (iii) providing for school safety; (iv) leading the development, implementation, and evaluation of a data-driven plan for increasing student achievement, including the use of multiple student data elements; (v) assisting instructional staff with alignment of curriculum, instruction, and assessment with state and local district learning goals; (vi) monitoring, assisting, and evaluating effective instruction and assessment practices; (vii) managing both staff and fiscal resources to support student achievement and legal responsibilities; and (viii) partnering with the school community to promote student learning.

(c) The four-level rating system used to evaluate the principal must describe performance along a continuum that indicates the extent to which the criteria have been met or exceeded. When available, student growth data that is referenced in the evaluation process must be based on multiple measures that can include classroom-based, school-based, district-based, and state-based tools. As used in this subsection, "student growth" means the change in student achievement between two points in time.

(7)(a) The superintendent of public instruction, in collaboration with state associations representing teachers, principals, administrators, and parents, shall create models for implementing the evaluation system criteria, student growth tools, professional development programs, and evaluator training for certificated classroom teachers and principals. Human resources specialists, professional development experts, and assessment experts must also be consulted. Due to the diversity of teaching assignments and the many developmental levels of students, classroom teachers and principals must be prominently represented in this work. The models must be available for use in the 2011-12 school year.

(b) A new certificated classroom teacher evaluation system that implements the provisions of subsection (2) of this section and a new principal evaluation system that implements the provisions of subsection (6) of this section shall be phased-in beginning with the 2010-11 school year by districts identified in (c) of this subsection and implemented in all school districts beginning with the 2013-14 school year.

(c) A set of school districts shall be selected by the superintendent of public instruction to participate in a collaborative process resulting in the development and piloting of new certificated classroom teacher and principal evaluation systems during the 2010-11 and 2011-12 school years. These school districts must be selected based on: (i) The agreement of the local associations

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representing classroom teachers and principals to collaborate with the district in this developmental work and (ii) the agreement to participate in the full range of development and implementation activities, including: Development of rubrics for the evaluation criteria and ratings in subsections (2) and (6) of this section; identification of or development of appropriate multiple measures of student growth in subsections (2) and (6) of this section; development of appropriate evaluation system forms; participation in professional development for principals and classroom teachers regarding the content of the new evaluation system; participation in evaluator training; and participation in activities to evaluate the effectiveness of the new systems and support programs. The school districts must submit to the office of the superintendent of public instruction data that is used in evaluations and all district-collected student achievement, aptitude, and growth data regardless of whether the data is used in evaluations. If the data is not available electronically, the district may submit it in nonelectronic form. The superintendent of public instruction must analyze the districts' use of student data in evaluations, including examining the extent that student data is not used or is underutilized. The superintendent of public instruction must also consult with participating districts and stakeholders, recommend appropriate changes, and address statewide implementation issues. The superintendent of public instruction shall report evaluation system implementation status, evaluation data, and recommendations to appropriate committees of the legislature and governor by July 1, 2011, and at the conclusion of the development phase by July 1, 2012. In the July 1, 2011 report, the superintendent shall include recommendations for whether a single statewide evaluation model should be adopted, whether modified versions developed by school districts should be subject to state approval, and what the criteria would be for determining if a school district's evaluation model meets or exceeds a statewide model. The report shall also identify challenges posed by requiring a state approval process.

(8) Each certificated (~~(employee)~~) classroom teacher and certificated support personnel shall have the opportunity for confidential conferences with his or her immediate supervisor on no less than two occasions in each school year. Such confidential conference shall have as its sole purpose the aiding of the administrator in his or her assessment of the employee's professional performance.

~~((4))~~ (9) The failure of any evaluator to evaluate or supervise or cause the evaluation or supervision of certificated (~~(employees)~~) classroom teachers and certificated support personnel or administrators in accordance with this section, as now or hereafter amended, when it is his or her specific assigned or delegated responsibility to do so, shall be sufficient cause for the nonrenewal of any such evaluator's contract under RCW 28A.405.210, or the discharge of such evaluator under RCW 28A.405.300.

~~((5))~~ (10) After (~~an employee~~) a certificated classroom teacher or certificated support personnel has four years of satisfactory evaluations under subsection (1) of this section or has received one of the two top ratings for four years under subsection (2) of this section, a school district may use a short form of evaluation, a locally bargained evaluation emphasizing professional growth, an evaluation under subsection (1) or (2) of this section, or any combination thereof. The short form of evaluation shall include either a thirty minute observation during the school year with a written summary or a final annual written evaluation based on the criteria in subsection (1) or (2) of this section and based on at least two observation periods during the school year totaling at least sixty minutes without a written summary of such observations being prepared. A locally bargained short-form evaluation emphasizing professional growth must provide that the professional growth activity conducted by the certificated classroom teacher be

specifically linked to one or more of the certificated classroom teacher evaluation criteria. However, the evaluation process set forth in subsection (1) or (2) of this section shall be followed at least once every three years unless this time is extended by a local school district under the bargaining process set forth in chapter 41.59 RCW. The employee or evaluator may require that the evaluation process set forth in subsection (1) or (2) of this section be conducted in any given school year. No evaluation other than the evaluation authorized under subsection (1) or (2) of this section may be used as a basis for determining that an employee's work is (~~(unsatisfactory)~~) not satisfactory under subsection (1) or (2) of this section or as probable cause for the nonrenewal of an employee's contract under RCW 28A.405.210 unless an evaluation process developed under chapter 41.59 RCW determines otherwise.

**Sec. 203.** RCW 28A.405.220 and 2009 c 57 s 2 are each amended to read as follows:

(1) Notwithstanding the provisions of RCW 28A.405.210, every person employed by a school district in a teaching or other nonsupervisory certificated position shall be subject to nonrenewal of employment contract as provided in this section during the first ~~((two))~~ three years of employment by such district, unless: (a) The employee has previously completed at least two years of certificated employment in another school district in the state of Washington, in which case the employee shall be subject to nonrenewal of employment pursuant to this section during the first year of employment with the new district; or (b) the school district superintendent may make a determination to remove an employee from provisional status if the employee has received one of the top two evaluation ratings during the second year of employment by the district. Employees as defined in this section shall hereinafter be referred to as "provisional employees( ")."

(2) In the event the superintendent of the school district determines that the employment contract of any provisional employee should not be renewed by the district for the next ensuing term such provisional employee shall be notified thereof in writing on or before May 15th preceding the commencement of such school term, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 15th, which notification shall state the reason or reasons for such determination. Such notice shall be served upon the provisional employee personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein. The determination of the superintendent shall be subject to the evaluation requirements of RCW 28A.405.100.

(3) Every such provisional employee so notified, at his or her request made in writing and filed with the superintendent of the district within ten days after receiving such notice, shall be given the opportunity to meet informally with the superintendent for the purpose of requesting the superintendent to reconsider his or her decision. Such meeting shall be held no later than ten days following the receipt of such request, and the provisional employee shall be given written notice of the date, time and place of meeting at least three days prior thereto. At such meeting the provisional employee shall be given the opportunity to refute any facts upon which the superintendent's determination was based and to make any argument in support of his or her request for reconsideration.

(4) Within ten days following the meeting with the provisional employee, the superintendent shall either reinstate the provisional employee or shall submit to the school district board of directors for consideration at its next regular meeting a written report recommending that the employment contract of the provisional employee be nonrenewed and stating the reason or reasons therefor. A copy of such report shall be delivered to the provisional employee at least three days prior to the scheduled meeting of the board of

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directors. In taking action upon the recommendation of the superintendent, the board of directors shall consider any written communication which the provisional employee may file with the secretary of the board at any time prior to that meeting.

(5) The board of directors shall notify the provisional employee in writing of its final decision within ten days following the meeting at which the superintendent's recommendation was considered. The decision of the board of directors to nonrenew the contract of a provisional employee shall be final and not subject to appeal.

(6) This section applies to any person employed by a school district in a teaching or other nonsupervisory certificated position after June 25, 1976. This section provides the exclusive means for nonrenewing the employment contract of a provisional employee and no other provision of law shall be applicable thereto, including, without limitation, RCW 28A.405.210 and chapter 28A.645 RCW.

**NEW SECTION. Sec. 204.** A new section is added to chapter 28A.405 RCW to read as follows:

(1) Representatives of the office of the superintendent of public instruction and statewide associations representing administrators, principals, human resources specialists, and certificated classroom teachers shall analyze how the evaluation systems in RCW 28A.405.100 (2) and (6) affect issues related to a change in contract status.

(2) The analysis shall be conducted during each of the phase-in years of the certificated classroom teacher and principal evaluation systems. The analysis shall include: Procedures, timelines, probationary periods, appeal procedures, and other items related to the timely exercise of employment decisions and due process provisions for certificated classroom teachers and principals.

**NEW SECTION. Sec. 205.** A new section is added to chapter 28A.405 RCW to read as follows:

If funds are provided for professional development activities designed specifically for first through third-year teachers, the funds shall be allocated first to districts participating in the evaluation systems in RCW 28A.405.100 (2) and (6) before the required implementation date under that section.

### PART III PRINCIPAL PERFORMANCE

**NEW SECTION. Sec. 301.** The legislature finds that the presence of highly effective principals in schools has never been more important than it is today. To enable students to meet high academic standards, principals must lead and encourage teams of teachers and support staff to work together, align curriculum and instruction, use student data to target instruction and intervention strategies, and serve as the chief school officer with parents and the community. Greater responsibility should come with greater authority over personnel, budgets, resource allocation, and programs. But greater responsibility also comes with greater accountability for outcomes. Washington is putting into place an updated and rigorous system of evaluating principal performance, one that will measure what matters. This system will never be truly effective unless the results are meaningfully used.

**NEW SECTION. Sec. 302.** A new section is added to chapter 28A.405 RCW to read as follows:

(1) Any certificated employee of a school district under this section who is first employed as a principal after the effective date of this section shall be subject to transfer as provided under this section, at the expiration of the term of his or her employment contract, to any subordinate certificated position within the school district. "Subordinate certificated position" as used in this section means any administrative or nonadministrative certificated position for which the annual compensation is less than the position currently held by the administrator. This section applies only to school

districts with an annual average student enrollment of more than thirty-five thousand full-time equivalent students.

(2) During the first three consecutive school years of employment as a principal by the school district, or during the first full school year of such employment in the case of a principal who has been previously employed as a principal by another school district in the state for three or more consecutive school years, the transfer of the principal to a subordinate certificated position may be made by a determination of the superintendent that the best interests of the school district would be served by the transfer.

(3) Commencing with the fourth consecutive school year of employment as a principal, or the second consecutive school year of such employment in the case of a principal who has been previously employed as a principal by another school district in the state for three or more consecutive school years, the transfer of the principal to a subordinate certificated position shall be based on the superintendent's determination that the results of the evaluation of the principal's performance using the evaluative criteria and rating system established under RCW 28A.405.100 provide a valid reason for the transfer without regard to whether there is probable cause for the transfer. If a valid reason is shown, it shall be deemed that the transfer is reasonably related to the principal's performance. No probationary period is required. However, provision of support and an attempt at remediation of the performance of the principal, as defined by the superintendent, are required for a determination by the superintendent under this subsection that the principal should be transferred to a subordinate certificated position.

(4) Any superintendent transferring a principal under this section to a subordinate certificated position shall notify that principal in writing on or before May 15th before the beginning of the school year of that determination, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 15th. The notification shall state the reason or reasons for the transfer and shall identify the subordinate certificated position to which the principal will be transferred. The notification shall be served upon the principal personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein.

(5) Any principal so notified may request to the president or chair of the board of directors of the district, in writing and within ten days after receiving notice, an opportunity to meet informally with the board of directors in an executive session for the purpose of requesting the board to reconsider the decision of the superintendent, and shall be given such opportunity. The board, upon receipt of such request, shall schedule the meeting for no later than the next regularly scheduled meeting of the board, and shall give the principal written notice at least three days before the meeting of the date, time, and place of the meeting. At the meeting the principal shall be given the opportunity to refute any evidence upon which the determination was based and to make any argument in support of his or her request for reconsideration. The principal and the board may invite their respective legal counsel to be present and to participate at the meeting. The board shall notify the principal in writing of its final decision within ten days following its meeting with the principal. No appeal to the courts shall lie from the final decision of the board of directors to transfer a principal to a subordinate certificated position.

(6) This section provides the exclusive means for transferring a certificated employee first employed by a school district under this section as a principal after the effective date of this section to a subordinate certificated position at the expiration of the term of his or her employment contract.

**Sec. 303.** RCW 28A.405.210 and 2009 c 57 s 1 are each amended to read as follows:

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No teacher, principal, supervisor, superintendent, or other certificated employee, holding a position as such with a school district, hereinafter referred to as "employee", shall be employed except by written order of a majority of the directors of the district at a regular or special meeting thereof, nor unless he or she is the holder of an effective teacher's certificate or other certificate required by law or the Washington professional educator standards board for the position for which the employee is employed.

The board shall make with each employee employed by it a written contract, which shall be in conformity with the laws of this state, and except as otherwise provided by law, limited to a term of not more than one year. Every such contract shall be made in duplicate, one copy to be retained by the school district superintendent or secretary and one copy to be delivered to the employee. No contract shall be offered by any board for the employment of any employee who has previously signed an employment contract for that same term in another school district of the state of Washington unless such employee shall have been released from his or her obligations under such previous contract by the board of directors of the school district to which he or she was obligated. Any contract signed in violation of this provision shall be void.

In the event it is determined that there is probable cause or causes that the employment contract of an employee should not be renewed by the district for the next ensuing term such employee shall be notified in writing on or before May 15th preceding the commencement of such term of that determination, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 15th, which notification shall specify the cause or causes for nonrenewal of contract. Such determination of probable cause for certificated employees, other than the superintendent, shall be made by the superintendent. Such notice shall be served upon the employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. Every such employee so notified, at his or her request made in writing and filed with the president, chair or secretary of the board of directors of the district within ten days after receiving such notice, shall be granted opportunity for hearing pursuant to RCW 28A.405.310 to determine whether there is sufficient cause or causes for nonrenewal of contract: PROVIDED, That any employee receiving notice of nonrenewal of contract due to an enrollment decline or loss of revenue may, in his or her request for a hearing, stipulate that initiation of the arrangements for a hearing officer as provided for by RCW 28A.405.310(4) shall occur within ten days following July 15 rather than the day that the employee submits the request for a hearing. If any such notification or opportunity for hearing is not timely given, the employee entitled thereto shall be conclusively presumed to have been reemployed by the district for the next ensuing term upon contractual terms identical with those which would have prevailed if his or her employment had actually been renewed by the board of directors for such ensuing term.

This section shall not be applicable to "provisional employees" as so designated in RCW 28A.405.220; transfer to a subordinate certificated position as that procedure is set forth in RCW 28A.405.230 or section 302 of this act shall not be construed as a nonrenewal of contract for the purposes of this section.

**Sec. 304.** RCW 28A.405.230 and 2009 c 57 s 3 are each amended to read as follows:

Any certificated employee of a school district employed as an assistant superintendent, director, principal, assistant principal, coordinator, or in any other supervisory or administrative position, hereinafter in this section referred to as "administrator", shall be subject to transfer, at the expiration of the term of his or her

employment contract, to any subordinate certificated position within the school district. "Subordinate certificated position" as used in this section, shall mean any administrative or nonadministrative certificated position for which the annual compensation is less than the position currently held by the administrator.

Every superintendent determining that the best interests of the school district would be served by transferring any administrator to a subordinate certificated position shall notify that administrator in writing on or before May 15th preceding the commencement of such school term of that determination, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 15th, which notification shall state the reason or reasons for the transfer, and shall identify the subordinate certificated position to which the administrator will be transferred. Such notice shall be served upon the administrator personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein.

Every such administrator so notified, at his or her request made in writing and filed with the president or chair, or secretary of the board of directors of the district within ten days after receiving such notice, shall be given the opportunity to meet informally with the board of directors in an executive session thereof for the purpose of requesting the board to reconsider the decision of the superintendent. Such board, upon receipt of such request, shall schedule the meeting for no later than the next regularly scheduled meeting of the board, and shall notify the administrator in writing of the date, time and place of the meeting at least three days prior thereto. At such meeting the administrator shall be given the opportunity to refute any facts upon which the determination was based and to make any argument in support of his or her request for reconsideration. The administrator and the board may invite their respective legal counsel to be present and to participate at the meeting. The board shall notify the administrator in writing of its final decision within ten days following its meeting with the administrator. No appeal to the courts shall lie from the final decision of the board of directors to transfer an administrator to a subordinate certificated position: PROVIDED, That in the case of principals such transfer shall be made at the expiration of the contract year and only during the first three consecutive school years of employment as a principal by a school district; except that if any such principal has been previously employed as a principal by another school district in the state of Washington for three or more consecutive school years the provisions of this section shall apply only to the first full school year of such employment.

This section applies to any person employed as an administrator by a school district on June 25, 1976, and to all persons so employed at any time thereafter, except that section 302 of this act applies to persons first employed after the effective date of this section as a principal by a school district meeting the criteria of section 302 of this act. This section provides the exclusive means for transferring an administrator subject to this section to a subordinate certificated position at the expiration of the term of his or her employment contract.

**Sec. 305.** RCW 28A.405.300 and 1990 c 33 s 395 are each amended to read as follows:

In the event it is determined that there is probable cause or causes for a teacher, principal, supervisor, superintendent, or other certificated employee, holding a position as such with the school district, hereinafter referred to as "employee", to be discharged or otherwise adversely affected in his or her contract status, such employee shall be notified in writing of that decision, which notification shall specify the probable cause or causes for such action. Such determinations of probable cause for certificated employees, other than the superintendent, shall be made by the

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superintendent. Such notices shall be served upon that employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. Every such employee so notified, at his or her request made in writing and filed with the president, chair of the board or secretary of the board of directors of the district within ten days after receiving such notice, shall be granted opportunity for a hearing pursuant to RCW 28A.405.310 to determine whether or not there is sufficient cause or causes for his or her discharge or other adverse action against his or her contract status.

In the event any such notice or opportunity for hearing is not timely given, or in the event cause for discharge or other adverse action is not established by a preponderance of the evidence at the hearing, such employee shall not be discharged or otherwise adversely affected in his or her contract status for the causes stated in the original notice for the duration of his or her contract.

If such employee does not request a hearing as provided herein, such employee may be discharged or otherwise adversely affected as provided in the notice served upon the employee.

Transfer to a subordinate certificated position as that procedure is set forth in RCW 28A.405.230 or section 302 of this act shall not be construed as a discharge or other adverse action against contract status for the purposes of this section.

#### PART IV ENCOURAGING INNOVATIONS

**Sec. 401.** RCW 28A.400.200 and 2002 c 353 s 2 are each amended to read as follows:

(1) Every school district board of directors shall fix, alter, allow, and order paid salaries and compensation for all district employees in conformance with this section.

(2)(a) Salaries for certificated instructional staff shall not be less than the salary provided in the appropriations act in the statewide salary allocation schedule for an employee with a baccalaureate degree and zero years of service; and

(b) Salaries for certificated instructional staff with a master's degree shall not be less than the salary provided in the appropriations act in the statewide salary allocation schedule for an employee with a master's degree and zero years of service;

(3)(a) The actual average salary paid to certificated instructional staff shall not exceed the district's average certificated instructional staff salary used for the state basic education allocations for that school year as determined pursuant to RCW 28A.150.410.

(b) Fringe benefit contributions for certificated instructional staff shall be included as salary under (a) of this subsection only to the extent that the district's actual average benefit contribution exceeds the amount of the insurance benefits allocation provided per certificated instructional staff unit in the state operating appropriations act in effect at the time the compensation is payable. For purposes of this section, fringe benefits shall not include payment for unused leave for illness or injury under RCW 28A.400.210; employer contributions for old age survivors insurance, workers' compensation, unemployment compensation, and retirement benefits under the Washington state retirement system; or employer contributions for health benefits in excess of the insurance benefits allocation provided per certificated instructional staff unit in the state operating appropriations act in effect at the time the compensation is payable. A school district may not use state funds to provide employer contributions for such excess health benefits.

(c) Salary and benefits for certificated instructional staff in programs other than basic education shall be consistent with the

salary and benefits paid to certificated instructional staff in the basic education program.

(4) Salaries and benefits for certificated instructional staff may exceed the limitations in subsection (3) of this section only by separate contract for additional time, for additional responsibilities, ~~((or))~~ for incentives, or for implementing specific measurable innovative activities, including professional development, specified by the school district to: (a) Close one or more achievement gaps, (b) focus on development of science, technology, engineering, and mathematics (STEM) learning opportunities, or (c) provide arts education. Beginning September 1, 2011, school districts shall annually provide a brief description of the innovative activities included in any supplemental contract to the office of the superintendent of public instruction. The office of the superintendent of public instruction shall summarize the district information and submit an annual report to the education committees of the house of representatives and the senate. Supplemental contracts shall not cause the state to incur any present or future funding obligation. Supplemental contracts shall be subject to the collective bargaining provisions of chapter 41.59 RCW and the provisions of RCW 28A.405.240, shall not exceed one year, and if not renewed shall not constitute adverse change in accordance with RCW 28A.405.300 through 28A.405.380. No district may enter into a supplemental contract under this subsection for the provision of services which are a part of the basic education program required by Article IX, section 3 of the state Constitution.

(5) Employee benefit plans offered by any district shall comply with RCW 28A.400.350 and 28A.400.275 and 28A.400.280.

#### PART V EXPANDING PROFESSIONAL PREPARATION OPTIONS AND WORKFORCE INFORMATION

NEW SECTION. **Sec. 501.** A new section is added to chapter 28A.410 RCW to read as follows:

(1) Beginning with the 2011-12 school year, all professional educator standards board-approved teacher preparation programs must administer to all preservice candidates the evidence-based assessment of teaching effectiveness adopted by the professional educator standards board. The professional educator standards board shall adopt rules that establish a date during the 2012-13 school year after which candidates completing teacher preparation programs must successfully pass this assessment. Assessment results from persons completing each preparation program must be reported annually by the professional educator standards board to the governor and the education and fiscal committees of the legislature by December 1st.

(2) The professional educator standards board and the superintendent of public instruction, as determined by the board, may contract with one or more third parties for:

(a) The administration, scoring, and reporting of scores of the assessment under this section;

(b) Related clerical and administrative activities; or

(c) Any combination of the purposes of this subsection (2).

(3) Candidates for residency certification who are required to successfully complete the assessment under this section, and who are charged a fee for the assessment by a third party contracted with under this section, shall pay the fee charged by the contractor directly to the contractor. Such fees shall be reasonably related to the actual costs of the contractor in providing the assessment.

NEW SECTION. **Sec. 502.** A new section is added to chapter 28A.410 RCW to read as follows:

(1) By September 30, 2010, the professional educator standards board shall review and revise teacher and administrator preparation program approval standards and proposal review procedures at the

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residency certificate level to ensure they are rigorous and appropriate standards for an expanded range of potential providers, including community college and nonhigher education providers. All approved providers must adhere to the same standards and comply with the same requirements.

(2) Beginning September 30, 2010, the professional educator standards board must accept proposals for community college and nonhigher education providers of educator preparation programs. Proposals must be processed and considered by the board as expeditiously as possible.

(3) By September 1, 2011, all professional educator standards board-approved residency teacher preparation programs at institutions of higher education as defined in RCW 28B.10.016 not currently a partner in an alternative route program approved by the professional educator standards board must submit to the board a proposal to offer one or more of the alternative route programs that meet the requirements of RCW 28A.660.020 and 28A.660.040.

**Sec. 503.** RCW 28A.660.020 and 2006 c 263 s 816 are each amended to read as follows:

(1) ~~(Each)~~ The professional educator standards board shall transition the alternative route partnership grant program from a separate competitive grant program to a preparation program model to be expanded among approved preparation program providers. Alternative routes are partnerships between professional educator standards board-approved preparation programs, Washington school districts, and other partners as appropriate.

(2) Each prospective teacher preparation program provider, in cooperation with a Washington school district or consortia of school districts applying ~~(for the)~~ to operate alternative route certification program shall ~~(submit a)~~ include in its proposal to the Washington professional educator standards board ~~(specifying)~~:

(a) The route or routes the partnership program intends to offer and a detailed description of how the routes will be structured and operated by the partnership;

(b) The estimated number of candidates that will be enrolled per route;

(c) An identification, indication of commitment, and description of the role of approved teacher preparation programs ~~(that are)~~ and partnering ~~(with the)~~ district or consortia of districts;

(d) An assurance ~~(of)~~ that the district (provision of) or approved preparation program provider will provide adequate training for mentor teachers ~~(either through participation in a state mentor training academy or district provided training that meets state established mentor training standards)~~ specific to the mentoring of alternative route candidates;

(e) An assurance that significant time will be provided for mentor teachers to spend with the alternative route teacher candidates throughout the internship. Partnerships must provide each candidate with intensive classroom mentoring until such time as the candidate demonstrates the competency necessary to manage the classroom with less intensive supervision and guidance from a mentor;

(f) A description of the rigorous screening process for applicants to alternative route programs, including entry requirements specific to each route, as provided in RCW 28A.660.040; ~~(and)~~

(g) A summary of procedures that provide flexible completion opportunities for candidates to achieve a residency certificate; and

(h) The design and use of a teacher development plan for each candidate. The plan shall specify the alternative route coursework and training required of each candidate and shall be developed by comparing the candidate's prior experience and coursework with the state's new performance-based standards for residency certification and adjusting any requirements accordingly. The plan may include the following components:

(i) A minimum of one-half of a school year, and an additional significant amount of time if necessary, of intensive mentorship during field experience, starting with full-time mentoring and progressing to increasingly less intensive monitoring and assistance as the intern demonstrates the skills necessary to take over the classroom with less intensive support. ~~((For route one and two candidates.))~~ Before the supervision is diminished, the mentor of the teacher candidate at the school and the supervisor of the teacher candidate from the ((higher education)) teacher preparation program must both agree that the teacher candidate is ready to manage the classroom with less intensive supervision((—For route three and four candidates, the mentor of the teacher candidate shall make the decision));

(ii) Identification of performance indicators based on the knowledge and skills standards required for residency certification by the Washington professional educator standards board;

(iii) Identification of benchmarks that will indicate when the standard is met for all performance indicators;

(iv) A description of strategies for assessing candidate performance on the benchmarks;

(v) Identification of one or more tools to be used to assess a candidate's performance once the candidate has been in the classroom for about one-half of a school year; ~~(and)~~

(vi) A description of the criteria that would result in residency certification after about one-half of a school year but before the end of the program; and

(vii) A description of how the district intends for the alternative route program to support its workforce development plan and how the presence of alternative route interns will advance its school improvement plans.

~~((2))~~ (3) To the extent funds are appropriated for this purpose, ~~((districts))~~ alternative route programs may apply for program funds to pay stipends to trained mentor teachers of interns during the mentored internship. The per intern amount of mentor stipend provided by state funds shall not exceed five hundred dollars.

**Sec. 504.** RCW 28A.660.040 and 2009 c 192 s 1 and 2009 c 166 s 1 are each reenacted and amended to read as follows:

~~((Partnership grants funded))~~ Alternative route programs under this chapter shall operate one to four specific route programs. Successful completion of the program shall make a candidate eligible for residency teacher certification. ~~((For route one and two candidates.))~~ The mentor of the teacher candidate at the school and the supervisor of the teacher candidate from the ~~((higher education))~~ teacher preparation program must both agree that the teacher candidate has successfully completed the program. ~~((For route three and four candidates, the mentor of the teacher candidate shall make the determination that the candidate has successfully completed the program.))~~

(1) ~~((Partnership grant programs seeking funds to operate))~~ Alternative route programs operating route one programs shall enroll currently employed classified instructional employees with transferable associate degrees seeking residency teacher certification with endorsements in special education, bilingual education, or English as a second language. It is anticipated that candidates enrolled in this route will complete both their baccalaureate degree and requirements for residency certification in two years or less, including a mentored internship to be completed in the final year. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) District or building validation of qualifications, including one year of successful student interaction and leadership as a classified instructional employee;

(b) Successful passage of the statewide basic skills exam ~~((when available))~~; and

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(c) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers.

(2) ~~((Partnership grant programs seeking funds to operate))~~ Alternative route programs operating route two programs shall enroll currently employed classified staff with baccalaureate degrees seeking residency teacher certification in subject matter shortage areas and areas with shortages due to geographic location. Candidates enrolled in this route must complete a mentored internship complemented by flexibly scheduled training and coursework offered at a local site, such as a school or educational service district, or online or via video-conference over the K-20 network, in collaboration with the partnership program's higher education partner. In addition, partnership grant programs shall uphold entry requirements for candidates that include:

(a) District or building validation of qualifications, including one year of successful student interaction and leadership as classified staff;

(b) A baccalaureate degree from a regionally accredited institution of higher education. The individual's college or university grade point average may be considered as a selection factor;

(c) Successful completion of the ~~((content test, once the state content test is available))~~ subject matter assessment required by RCW 28A.410.220(3);

(d) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(e) Successful passage of the statewide basic skills exam ~~((s, when available))~~.

(3) ~~((Partnership grant))~~ Alternative route programs seeking funds to operate route three programs shall enroll individuals with baccalaureate degrees, who are not employed in the district at the time of application. When selecting candidates for certification through route three, districts and approved preparation program providers shall give priority to individuals who are seeking residency teacher certification in subject matter shortage areas or shortages due to geographic locations. ~~((For route three only, the districts may include additional candidates in nonshortage subject areas if the candidates are seeking endorsements with a secondary grade level designation as defined by rule by the professional educator standards board. The districts shall disclose to candidates in nonshortage subject areas available information on the demand in those subject areas.))~~ Cohorts of candidates for this route shall attend an intensive summer teaching academy, followed by a full year employed by a district in a mentored internship, followed, if necessary, by a second summer teaching academy. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) A baccalaureate degree from a regionally accredited institution of higher education. The individual's grade point average may be considered as a selection factor;

(b) Successful completion of the ~~((content test, once the state content test is available))~~ subject matter assessment required by RCW 28A.410.220(3);

(c) External validation of qualifications, including demonstrated successful experience with students or children, such as reference letters and letters of support from previous employers;

(d) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(e) Successful passage of statewide basic skills exam ~~((s, when available))~~.

(4) ~~((Partnership grant programs seeking funds to operate))~~ Alternative route programs operating route four programs shall enroll individuals with baccalaureate degrees, who are employed in the district at the time of application, or who hold conditional teaching certificates or emergency substitute certificates. Cohorts

of candidates for this route shall attend an intensive summer teaching academy, followed by a full year employed by a district in a mentored internship. If employed on a conditional certificate, the intern may serve as the teacher of record, supported by a well-trained mentor. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) A baccalaureate degree from a regionally accredited institution of higher education. The individual's grade point average may be considered as a selection factor;

(b) Successful completion of the ~~((content test, once the state content test is available))~~ subject matter assessment required by RCW 28A.410.220(3);

(c) External validation of qualifications, including demonstrated successful experience with students or children, such as reference letters and letters of support from previous employers;

(d) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(e) Successful passage of statewide basic skills exam ~~((s, when available))~~.

(5) Applicants for alternative route programs who are eligible veterans or national guard members and who meet the entry requirements for the alternative route program for which application is made shall be given preference in admission.

**Sec. 505.** RCW 28A.660.050 and 2009 c 539 s 3 and 2009 c 192 s 2 are each reenacted and amended to read as follows:

Subject to the availability of amounts appropriated for these purposes, the conditional scholarship programs in this chapter are created under the following guidelines:

(1) The programs shall be administered by the higher education coordinating board. In administering the programs, the higher education coordinating board has the following powers and duties:

(a) To adopt necessary rules and develop guidelines to administer the programs;

(b) To collect and manage repayments from participants who do not meet their service obligations; and

(c) To accept grants and donations from public and private sources for the programs.

(2) Requirements for participation in the conditional scholarship programs are as provided in this subsection (2).

(a) The alternative route conditional scholarship program is limited to interns of ~~((the partnership grant))~~ professional educator standards board-approved alternative routes to teaching programs under RCW 28A.660.040. For fiscal year 2011, priority must be given to fiscal year 2010 participants in the alternative route partnership program. In order to receive conditional scholarship awards, recipients shall:

(i) Be accepted and maintain enrollment in alternative certification routes through ~~((the partnership grant))~~ a professional educator standards board-approved program;

(ii) Continue to make satisfactory progress toward completion of the alternative route certification program and receipt of a residency teaching certificate; and

(iii) Receive no more than the annual amount of the scholarship, not to exceed eight thousand dollars, for the cost of tuition, fees, and educational expenses, including books, supplies, and transportation for the alternative route certification program in which the recipient is enrolled. The board may adjust the annual award by the average rate of resident undergraduate tuition and fee increases at the state universities as defined in RCW 28B.10.016.

(b) The pipeline for paraeducators conditional scholarship program is limited to qualified paraeducators as provided by RCW 28A.660.042. In order to receive conditional scholarship awards, recipients shall:

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(i) Be accepted and maintain enrollment at a community and technical college for no more than two years and attain an associate of arts degree;

(ii) Continue to make satisfactory progress toward completion of an associate of arts degree. This progress requirement is a condition for eligibility into a route one program of the alternative routes to teacher certification program for a mathematics, special education, or English as a second language endorsement; and

(iii) Receive no more than the annual amount of the scholarship, not to exceed four thousand dollars, for the cost of tuition, fees, and educational expenses, including books, supplies, and transportation for the alternative route certification program in which the recipient is enrolled. The board may adjust the annual award by the average rate of tuition and fee increases at the state community and technical colleges.

(c) The retooling to teach mathematics and science conditional scholarship program is limited to current K-12 teachers ((and individuals having an elementary education certificate but who are not employed in positions requiring an elementary education certificate as provided by RCW 28A.660.045)). In order to receive conditional scholarship awards:

(i) Individuals currently employed as teachers shall pursue a middle level mathematics or science, or secondary mathematics or science endorsement; or

(ii) Individuals who are certificated with an elementary education endorsement(~~(, but not employed in positions requiring an elementary education certificate,))~~) shall pursue an endorsement in middle level mathematics or science, or both; and

(iii) Individuals shall use one of the pathways to endorsement processes to receive a mathematics or science endorsement, or both, which shall include passing a mathematics or science endorsement test, or both tests, plus observation and completing applicable coursework to attain the proper endorsement; and

(iv) Individuals shall receive no more than the annual amount of the scholarship, not to exceed three thousand dollars, for the cost of tuition, test fees, and educational expenses, including books, supplies, and transportation for the endorsement pathway being pursued.

(3) The Washington professional educator standards board shall select individuals to receive conditional scholarships. In selecting recipients, preference shall be given to eligible veterans or national guard members.

(4) For the purpose of this chapter, a conditional scholarship is a loan that is forgiven in whole or in part in exchange for service as a certificated teacher employed in a Washington state K-12 public school. The state shall forgive one year of loan obligation for every two years a recipient teaches in a public school. Recipients who fail to continue a course of study leading to residency teacher certification or cease to teach in a public school in the state of Washington in their endorsement area are required to repay the remaining loan principal with interest.

(5) Recipients who fail to fulfill the required teaching obligation are required to repay the remaining loan principal with interest and any other applicable fees. The higher education coordinating board shall adopt rules to define the terms for repayment, including applicable interest rates, fees, and deferments.

(6) The higher education coordinating board may deposit all appropriations, collections, and any other funds received for the program in this chapter in the future teachers conditional scholarship account authorized in RCW 28B.102.080.

**NEW SECTION. Sec. 506.** A new section is added to chapter 28A.410 RCW to read as follows:

Beginning with the 2010 school year and annually thereafter, each educational service district, in cooperation with the professional educator standards board, must convene

representatives from school districts within that region and professional educator standards board- approved educator preparation programs to review district and regional educator workforce data, make biennial projections of certificate staffing needs, and identify how recruitment and enrollment plans in educator preparation programs reflect projected need.

**Sec. 507.** RCW 28B.76.335 and 2007 c 396 s 17 are each amended to read as follows:

As part of the state needs assessment process conducted by the board in accordance with RCW 28B.76.230, the board shall, in collaboration with the professional educator standards board, assess the need for additional (~~(baccalaureate))~~ degree and certificate programs in Washington that specialize in teacher preparation (~~(in mathematics, science, and technology))~~ to meet regional or subject area shortages. If the board determines that there is a need for additional programs, then the board shall encourage the appropriate institutions of higher education or institutional sectors to create such a program.

**NEW SECTION. Sec. 508.** A new section is added to chapter 28B.76 RCW to read as follows:

(1) The board must establish boundaries for service regions for institutions of higher education as defined in RCW 28B.10.016 implementing professional educator standards board-approved educator preparation programs. Regions shall be established to encourage and support, not exclude, the reach of public institutions of higher education across the state.

(2) Based on the data in the assessment in RCW 28B.76.230 and 28B.76.335, the board shall determine whether reasonable teacher preparation program access for prospective teachers is available in each region. If access is determined to be inadequate in a region, the institution of higher education responsible for the region shall submit a plan for meeting the access need to the board.

(3) Partnerships with other teacher preparation program providers and the use of appropriate technology shall be considered. The board shall review the plan and, as appropriate, assist the institution in developing support and resources for implementing the plan.

**NEW SECTION. Sec. 509.** In conjunction with the regional needs assessments in sections 506 through 508 of this act, the council of presidents shall convene an interinstitutional work group to implement the plans developed under section 601, chapter 564, Laws of 2009 to increase the number of mathematics and science teacher endorsements and certificates. The work group must collaborate in evaluating regional needs and identifying strategies to meet those needs. The council of presidents shall report to the education and higher education committees of the legislature on demonstrated progress toward achieving outcomes identified in the plans no later than December 31, 2011.

**NEW SECTION. Sec. 510.** The following acts or parts of acts are each repealed:

(1) RCW 28A.660.010 (Partnership grant program) and 2004 c 23 s 1 & 2001 c 158 s 2;

(2) RCW 28A.415.100 (Student teaching centers--Legislative recognition--Intent) and 1991 c 258 s 1;

(3) RCW 28A.415.105 (Definitions) and 2006 c 263 s 811, 1995 c 335 s 403, & 1991 c 258 s 2;

(4) RCW 28A.415.125 (Network of student teaching centers) and 2006 c 263 s 812 & 1991 c 258 s 6;

(5) RCW 28A.415.130 (Allocation of funds for student teaching centers) and 2006 c 263 s 813 & 1991 c 258 s 7;

(6) RCW 28A.415.135 (Alternative means of teacher placement) and 1991 c 258 s 8;

(7) RCW 28A.415.140 (Field experiences) and 1991 c 258 s 9;

(8) RCW 28A.415.145 (Rules) and 2006 c 263 s 814 & 1991 c 258 s 10; and

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(9) RCW 28A.660.030 (Partnership grants--Selection--Administration) and 2004 c 23 s 3, 2003 c 410 s 2, & 2001 c 158 s 4.

### PART VI COMMON CORE STANDARDS

**NEW SECTION. Sec. 601.** A new section is added to chapter 28A.655 RCW to read as follows:

(1) By August 2, 2010, the superintendent of public instruction may revise the state essential academic learning requirements authorized under RCW 28A.655.070 for mathematics, reading, writing, and communication by provisionally adopting a common set of standards for students in grades kindergarten through twelve. The revised state essential academic learning requirements may be substantially identical with the standards developed by a multistate consortium in which Washington participated, must be consistent with the requirements of RCW 28A.655.070, and may include additional standards if the additional standards do not exceed fifteen percent of the standards for each content area. However, the superintendent of public instruction shall not take steps to implement the provisionally adopted standards until the education committees of the house of representatives and the senate have an opportunity to review the standards.

(2) By January 1, 2011, the superintendent of public instruction shall submit to the education committees of the house of representatives and the senate:

(a) A detailed comparison of the provisionally adopted standards and the state essential academic learning requirements as of the effective date of this section, including the comparative level of rigor and specificity of the standards and the implications of any identified differences; and

(b) An estimated timeline and costs to the state and to school districts to implement the provisionally adopted standards, including providing necessary training, realignment of curriculum, adjustment of state assessments, and other actions.

(3) The superintendent may implement the revisions to the essential academic learning requirements under this section after the 2011 legislative session unless otherwise directed by the legislature.

### PART VII PARENTS AND COMMUNITY

**NEW SECTION. Sec. 701.** A new section is added to chapter 28A.605 RCW to read as follows:

School districts are encouraged to strengthen family, school, and community partnerships by creating spaces in school buildings, if space is available, where students and families can access the services they need, such as after-school tutoring, dental and health services, counseling, or clothing and food banks.

**NEW SECTION. Sec. 702.** A new section is added to chapter 28A.655 RCW to read as follows:

(1) Beginning with the 2010-11 school year, each school shall conduct outreach and seek feedback from a broad and diverse range of parents, other individuals, and organizations in the community regarding their experiences with the school. The school shall summarize the responses in its annual report under RCW 28A.655.110.

(2) The office of the superintendent of public instruction shall create a working group with representatives of organizations representing parents, teachers, and principals as well as diverse communities. The working group shall also include a representative from the achievement gap oversight and accountability committee. By September 1, 2010, the working group shall develop model feedback tools and strategies that school

districts may use to facilitate the feedback process required in subsection (1) of this section. The model tools and strategies are intended to provide assistance to school districts. School districts are encouraged to adapt the models or develop unique tools and strategies that best fit the circumstances in their communities.

**Sec. 703.** RCW 28A.655.110 and 1999 c 388 s 303 are each amended to read as follows:

(1) Beginning with the 1994-95 school year, to provide the local community and electorate with access to information on the educational programs in the schools in the district, each school shall publish annually a school performance report and deliver the report to each parent with children enrolled in the school and make the report available to the community served by the school. The annual performance report shall be in a form that can be easily understood and be used by parents, guardians, and other members of the community who are not professional educators to make informed educational decisions. As data from the assessments in RCW 28A.655.060 becomes available, the annual performance report should enable parents, educators, and school board members to determine whether students in the district's schools are attaining mastery of the student learning goals under RCW 28A.150.210, and other important facts about the schools' performance in assisting students to learn. The annual report shall make comparisons to a school's performance in preceding years (~~and shall include school level goals under RCW 28A.655.050~~), student performance relative to the goals and the percentage of students performing at each level of the assessment, a comparison of student performance at each level of the assessment to the previous year's performance, and information regarding school-level plans to achieve the goals.

(2) The annual performance report shall include, but not be limited to: (a) A brief statement of the mission of the school and the school district; (b) enrollment statistics including student demographics; (c) expenditures per pupil for the school year; (d) a summary of student scores on all mandated tests; (e) a concise annual budget report; (f) student attendance, graduation, and dropout rates; (g) information regarding the use and condition of the school building or buildings; (h) a brief description of the learning improvement plans for the school; (i) a summary of the feedback from parents and community members obtained under section 702 of this act; and ~~((h))~~ (i) an invitation to all parents and citizens to participate in school activities.

(3) The superintendent of public instruction shall develop by June 30, 1994, and update periodically, a model report form, which shall also be adapted for computers, that schools may use to meet the requirements of subsections (1) and (2) of this section. In order to make school performance reports broadly accessible to the public, the superintendent of public instruction, to the extent feasible, shall make information on each school's report available on or through the superintendent's internet web site.

**NEW SECTION. Sec. 704.** A new section is added to chapter 28A.300 RCW to read as follows:

There is a sizeable body of research positively supporting the involvement of parents taking an engaged and active role in their child's education. Therefore, the legislature intends to provide state recognition by the center for the improvement of student learning within the office of the superintendent of public instruction for schools that increase the level of direct parental involvement with their child's education. By September 1, 2010, the center for the improvement of student learning shall determine measures that can be used to evaluate the level of parental involvement in a school. The center for the improvement of student learning shall collaborate with school district family and community outreach programs and educational service districts to identify and highlight successful models and practices of parent involvement.

**PART VIII  
COLLECTIVE BARGAINING**

**Sec. 801.** RCW 41.56.100 and 1989 c 45 s 1 are each amended to read as follows:

(1) A public employer shall have the authority to engage in collective bargaining with the exclusive bargaining representative and no public employer shall refuse to engage in collective bargaining with the exclusive bargaining representative(~~(= PROVIDED, That nothing contained herein shall require any)~~). However, a public employer is not required to bargain collectively with any bargaining representative concerning any matter which by ordinance, resolution, or charter of said public employer has been delegated to any civil service commission or personnel board similar in scope, structure, and authority to the board created by chapter 41.06 RCW.

(2) Upon the failure of the public employer and the exclusive bargaining representative to conclude a collective bargaining agreement, any matter in dispute may be submitted by either party to the commission. This subsection does not apply to negotiations and mediations conducted between a school district employer and an exclusive bargaining representative under section 105 of this act.

(3) If a public employer implements its last and best offer where there is no contract settlement, allegations that either party is violating the terms of the implemented offer shall be subject to grievance arbitration procedures if and as such procedures are set forth in the implemented offer, or, if not in the implemented offer, if and as such procedures are set forth in the parties' last contract.

**NEW SECTION. Sec. 802.** A new section is added to chapter 41.56 RCW to read as follows:

All collective bargaining agreements entered into between a school district employer and school district employees under this chapter after the effective date of this section, as well as bargaining agreements existing on the effective date of this section but renewed or extended after the effective date of this section, shall be consistent with section 105 of this act.

**NEW SECTION. Sec. 803.** A new section is added to chapter 41.59 RCW to read as follows:

All collective bargaining agreements entered into between a school district employer and school district employees under this chapter after the effective date of this section, as well as bargaining agreements existing on the effective date of this section but renewed or extended after the effective date of this section, shall be consistent with section 105 of this act.

**Sec. 804.** RCW 41.59.120 and 1975 1st ex.s. c 288 s 13 are each amended to read as follows:

(1) Either an employer or an exclusive bargaining representative may declare that an impasse has been reached between them in collective bargaining and may request the commission to appoint a mediator for the purpose of assisting them in reconciling their differences and resolving the controversy on terms which are mutually acceptable. If the commission determines that its assistance is needed, not later than five days after the receipt of a request therefor, it shall appoint a mediator in accordance with rules and regulations for such appointment prescribed by the commission. The mediator shall meet with the parties or their representatives, or both, forthwith, either jointly or separately, and shall take such other steps as he may deem appropriate in order to persuade the parties to resolve their differences and effect a mutually acceptable agreement. The mediator, without the consent of both parties, shall not make findings of fact or recommend terms of settlement. The services of the mediator, including, if any, per diem expenses, shall be provided by the commission without cost to the parties. Nothing in this subsection (1) shall be construed to prevent the parties from mutually agreeing upon their own mediation procedure, and in the

event of such agreement, the commission shall not appoint its own mediator unless failure to do so would be inconsistent with the effectuation of the purposes and policy of this chapter.

(2) If the mediator is unable to effect settlement of the controversy within ten days after his or her appointment, either party, by written notification to the other, may request that their differences be submitted to fact-finding with recommendations, except that the time for mediation may be extended by mutual agreement between the parties. Within five days after receipt of the aforesaid written request for fact-finding, the parties shall select a person to serve as fact finder and obtain a commitment from that person to serve. If they are unable to agree upon a fact finder or to obtain such a commitment within that time, either party may request the commission to designate a fact finder. The commission, within five days after receipt of such request, shall designate a fact finder in accordance with rules and regulations for such designation prescribed by the commission. The fact finder so designated shall not be the same person who was appointed mediator pursuant to subsection (1) of this section without the consent of both parties.

The fact finder, within five days after his appointment, shall meet with the parties or their representatives, or both, either jointly or separately, and make inquiries and investigations, hold hearings, and take such other steps as he may deem appropriate. For the purpose of such hearings, investigations and inquiries, the fact finder shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence. If the dispute is not settled within ten days after his appointment, the fact finder shall make findings of fact and recommend terms of settlement within thirty days after his appointment, which recommendations shall be advisory only.

(3) Such recommendations, together with the findings of fact, shall be submitted in writing to the parties and the commission privately before they are made public. Either the commission, the fact finder, the employer, or the exclusive bargaining representative may make such findings and recommendations public if the dispute is not settled within five days after their receipt from the fact finder.

(4) The costs for the services of the fact finder, including, if any, per diem expenses and actual and necessary travel and subsistence expenses, and any other incurred costs, shall be borne by the commission without cost to the parties.

(5) Nothing in this section shall be construed to prohibit an employer and an exclusive bargaining representative from agreeing to substitute, at their own expense, their own procedure for resolving impasses in collective bargaining for that provided in this section or from agreeing to utilize for the purposes of this section any other governmental or other agency or person in lieu of the commission.

(6) Any fact finder designated by an employer and an exclusive representative or the commission for the purposes of this section shall be deemed an agent of the state.

(7) This section does not apply to negotiations and mediations conducted under section 105 of this act.

**PART IX  
CLOSING THE ACHIEVEMENT GAP**

**Sec. 901.** RCW 28A.300.136 and 2009 c 468 s 2 are each amended to read as follows:

(1) An achievement gap oversight and accountability committee is created to synthesize the findings and recommendations from the 2008 achievement gap studies into an implementation plan, and to recommend policies and strategies to the superintendent of public instruction, the professional educator standards board, and the state board of education to close the achievement gap.

(2) The committee shall recommend specific policies and strategies in at least the following areas:

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- (a) Supporting and facilitating parent and community involvement and outreach;
  - (b) Enhancing the cultural competency of current and future educators and the cultural relevance of curriculum and instruction;
  - (c) Expanding pathways and strategies to prepare and recruit diverse teachers and administrators;
  - (d) Recommending current programs and resources that should be redirected to narrow the gap;
  - (e) Identifying data elements and systems needed to monitor progress in closing the gap;
  - (f) Making closing the achievement gap part of the school and school district improvement process; and
  - (g) Exploring innovative school models that have shown success in closing the achievement gap.
- (3) Taking a multidisciplinary approach, the committee may seek input and advice from other state and local agencies and organizations with expertise in health, social services, gang and violence prevention, substance abuse prevention, and other issues that disproportionately affect student achievement and student success.
- (4) The achievement gap oversight and accountability committee shall be composed of the following members:
- (a) The chairs and ranking minority members of the house and senate education committees, or their designees;
  - (b) One additional member of the house of representatives appointed by the speaker of the house and one additional member of the senate appointed by the president of the senate;
  - (c) A representative of the office of the education ombudsman;
  - (d) A representative of the center for the improvement of student learning in the office of the superintendent of public instruction;
  - (e) A representative of federally recognized Indian tribes whose traditional lands and territories lie within the borders of Washington state, designated by the federally recognized tribes; and
  - (f) Four members appointed by the governor in consultation with the state ethnic commissions, who represent the following populations: African-Americans, Hispanic Americans, Asian Americans, and Pacific Islander Americans.
- (5) The governor and the tribes are encouraged to designate members who have experience working in and with schools.
- (6) The committee may convene ad hoc working groups to obtain additional input and participation from community members. Members of ad hoc working groups shall serve without compensation and shall not be reimbursed for travel or other expenses.
- (7) The chair or co-chairs of the committee shall be selected by the members of the committee. Staff support for the committee shall be provided by the center for the improvement of student learning. Members of the committee shall serve without compensation but must be reimbursed as provided in RCW 43.03.050 and 43.03.060. Legislative members of the committee shall be reimbursed for travel expenses in accordance with RCW 44.04.120.
- (8) The superintendent of public instruction, the state board of education, the professional educator standards board, and the quality education council shall work collaboratively with the achievement gap oversight and accountability committee to close the achievement gap.

**PART X  
MISCELLANEOUS PROVISIONS**

NEW SECTION. **Sec. 1001.** RCW 28A.305.225 is recodified as a section in the chapter created in section 1002 of this act.

NEW SECTION. **Sec. 1002.** Sections 101 through 110 and 112 through 114 of this act constitute a new chapter in Title 28A RCW."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

**MOTION**

Senator McAuliffe moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6696.

Senators McAuliffe and King spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator McAuliffe that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6696.

The motion by Senator McAuliffe carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6696 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6696, as amended by the House.

**ROLL CALL**

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6696, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Kastama

Excused: Senators McCaslin and Roach

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6696, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

**MESSAGE FROM THE HOUSE**

March 11, 2010

MR. PRESIDENT:

The House has adopted

HOUSE CONCURRENT RESOLUTION 4408.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

**MOTION**

On motion of Senator Eide, the Senate advanced to the sixth order of business for the purpose of considering House Concurrent Resolution No. 4408.

**SECOND READING**

HOUSE CONCURRENT RESOLUTION NO. 4408, by  
Representatives Kessler and Kretz

SECOND SUBSTITUTE HOUSE BILL 2436,  
HOUSE BILL 3061.  
and the same are herewith transmitted.

Returning bills to their house of origin.

BARBARA BAKER, Chief Clerk

The measure was read the second time.

MESSAGE FROM THE HOUSE

MOTION

March 11, 2010

On motion of Senator Eide, the rules were suspended, House  
Concurrent Resolution No. 4408 was advanced to third reading,  
the second reading considered the third and the bill was placed on  
final passage.

MR. PRESIDENT:  
The Speaker has signed:  
SUBSTITUTE SENATE BILL 5798,  
ENGROSSED SUBSTITUTE SENATE BILL 5902,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL  
6267,  
SUBSTITUTE SENATE BILL 6280,  
SUBSTITUTE SENATE BILL 6293,  
SUBSTITUTE SENATE BILL 6339,  
SUBSTITUTE SENATE BILL 6355,  
ENGROSSED SUBSTITUTE SENATE BILL 6604,  
ENGROSSED SENATE BILL 6610,  
SUBSTITUTE SENATE BILL 6759,  
ENGROSSED SUBSTITUTE SENATE BILL 6774,  
SENATE BILL 6833.

The President declared the question before the Senate to be  
the adoption of House Concurrent Resolution No. 4408.

HOUSE CONCURRENT RESOLUTION NO. 4408 was  
adopted by voice vote.

and the same are herewith transmitted.

MOTION

BARBARA BAKER, Chief Clerk

On motion of Senator Eide and without objection, all  
measures remaining on the second and third reading calendars  
were returned to the Committee on Rules.

MESSAGE FROM THE HOUSE

March 11, 2010

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:  
The House concurred in the Senate amendments to the following  
bills and passed the bills as amended by the Senate:  
SECOND SUBSTITUTE HOUSE BILL 2731,  
SUBSTITUTE HOUSE BILL 2776.  
and the same are herewith transmitted.

MR. PRESIDENT:  
The Speaker has signed:  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
1096,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
2658,  
ENGROSSED SUBSTITUTE HOUSE BILL 2876,  
SUBSTITUTE HOUSE BILL 3124,  
ENGROSSED SUBSTITUTE HOUSE BILL 3178,  
ENGROSSED SUBSTITUTE HOUSE BILL 3209.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 11, 2010

SIGNED BY THE PRESIDENT

MR. PRESIDENT:  
The House has adopted  
SENATE CONCURRENT RESOLUTION 8412.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

The President signed:  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
1096,  
SECOND SUBSTITUTE HOUSE BILL 2436,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
2658,  
ENGROSSED SUBSTITUTE HOUSE BILL 2876,  
HOUSE BILL 3061,  
SUBSTITUTE HOUSE BILL 3124,  
ENGROSSED SUBSTITUTE HOUSE BILL 3178,  
ENGROSSED SUBSTITUTE HOUSE BILL 3209.

SIGNED BY THE PRESIDENT

The President signed:  
ENGROSSED SECOND SUBSTITUTE SENATE BILL  
6504,  
ENGROSSED SUBSTITUTE SENATE BILL 6658,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL  
6696,  
SENATE BILL 6855,  
SENATE CONCURRENT RESOLUTION 8412.

MESSAGE FROM THE HOUSE

March 11, 2010

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:  
The Speaker has signed:

MR. PRESIDENT:  
The Speaker has signed:  
HOUSE CONCURRENT RESOLUTION NO. 4408.

SIXTIETH DAY, MARCH 11, 2010  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:  
The Speaker has signed:  
SENATE CONCURRENT RESOLUTION NO. 8412.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:  
SUBSTITUTE SENATE BILL 6345.

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:  
The Speaker has signed:  
SUBSTITUTE SENATE BILL NO. 6345.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:  
The Speaker has signed:  
SECOND SUBSTITUTE HOUSE BILL 2731,  
SUBSTITUTE HOUSE BILL 2776.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:  
SECOND SUBSTITUTE HOUSE BILL 2731,  
SUBSTITUTE HOUSE BILL 2776,  
HOUSE CONCURRENT RESOLUTION 4408.

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:  
Under the provisions of HOUSE CONCURRENT RESOLUTION NO. 4408, the following Senate bills are returned to the Senate:  
SUBSTITUTE SENATE BILL 5237,  
SUBSTITUTE SENATE BILL 5376,  
SUBSTITUTE SENATE BILL 5383,  
SENATE BILL 5411,  
ENGROSSED SUBSTITUTE SENATE BILL 5424,  
ENGROSSED SENATE BILL 5523,  
SUBSTITUTE SENATE BILL 5548,  
ENGROSSED SUBSTITUTE SENATE BILL 5555,  
SENATE BILL 5621,

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SUBSTITUTE SENATE BILL 5668,  
SUBSTITUTE SENATE BILL 5780,  
ENGROSSED SUBSTITUTE SENATE BILL 5899,  
SENATE BILL 5908,  
ENGROSSED SUBSTITUTE SENATE BILL 6051,  
SENATE BILL 6103,  
SENATE BILL 6196,  
SUBSTITUTE SENATE BILL 6205,  
SUBSTITUTE SENATE BILL 6217,  
SENATE BILL 6220,  
SUBSTITUTE SENATE BILL 6224,  
SUBSTITUTE SENATE BILL 6231,  
ENGROSSED SENATE BILL 6240,  
ENGROSSED SUBSTITUTE SENATE BILL 6244,  
ENGROSSED SENATE BILL 6263,  
SENATE BILL 6265,  
SENATE BILL 6269,  
SENATE BILL 6277,  
ENGROSSED SUBSTITUTE SENATE BILL 6289,  
SUBSTITUTE SENATE BILL 6309,  
SECOND SUBSTITUTE SENATE BILL 6316,  
SUBSTITUTE SENATE BILL 6338,  
SUBSTITUTE SENATE BILL 6360,  
ENGROSSED SUBSTITUTE SENATE BILL 6364,  
SUBSTITUTE SENATE BILL 6374,  
SUBSTITUTE SENATE BILL 6380,  
SUBSTITUTE SENATE BILL 6393.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:  
Under the provisions of HOUSE CONCURRENT RESOLUTION NO. 4408, the following Senate bills are returned to the Senate:  
SENATE BILL 5409,  
ENGROSSED SUBSTITUTE SENATE BILL 6402,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL 6409,  
SUBSTITUTE SENATE BILL 6416,  
ENGROSSED SUBSTITUTE SENATE BILL 6424,  
ENGROSSED SUBSTITUTE SENATE BILL 6426,  
ENGROSSED SENATE BILL 6430,  
SUBSTITUTE SENATE BILL 6433,  
ENGROSSED SUBSTITUTE SENATE BILL 6449,  
ENGROSSED SENATE BILL 6462,  
ENGROSSED SUBSTITUTE SENATE BILL 6503,  
SECOND SUBSTITUTE SENATE BILL 6515,  
SUBSTITUTE SENATE BILL 6521,  
ENGROSSED SUBSTITUTE SENATE BILL 6533,  
SUBSTITUTE SENATE BILL 6550,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL 6562,  
SUBSTITUTE SENATE BILL 6570,  
SUBSTITUTE SENATE BILL 6572,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL 6579,  
SUBSTITUTE SENATE BILL 6580,  
ENGROSSED SUBSTITUTE SENATE BILL 6603,  
ENGROSSED SUBSTITUTE SENATE BILL 6621,  
SUBSTITUTE SENATE BILL 6629,  
ENGROSSED SENATE BILL 6643,

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SUBSTITUTE SENATE BILL 6644,  
 ENGROSSED SUBSTITUTE SENATE BILL 6656,  
 SUBSTITUTE SENATE BILL 6662,  
 SECOND SUBSTITUTE SENATE BILL 6675,  
 SECOND SUBSTITUTE SENATE BILL 6678,  
 SUBSTITUTE SENATE BILL 6686,  
 SUBSTITUTE SENATE BILL 6698,  
 SUBSTITUTE SENATE BILL 6706,  
 SUBSTITUTE SENATE BILL 6712,  
 SENATE BILL 6720,  
 SUBSTITUTE SENATE BILL 6721,  
 SUBSTITUTE SENATE BILL 6727,  
 ENGROSSED SUBSTITUTE SENATE BILL 6733,  
 ENGROSSED SUBSTITUTE SENATE BILL 6737,  
 SUBSTITUTE SENATE BILL 6747,  
 ENGROSSED SENATE BILL 6754,  
 SECOND SUBSTITUTE SENATE BILL 6760,  
 ENGROSSED SENATE BILL 6762,  
 ENGROSSED SUBSTITUTE SENATE BILL 6778,  
 SUBSTITUTE SENATE BILL 6788,  
 SECOND SUBSTITUTE SENATE BILL 6790,  
 SENATE BILL 6815,  
 SECOND ENGROSSED SENATE BILL 6843,  
 SUBSTITUTE SENATE BILL 6844,  
 ENGROSSED SENATE BILL 6870,  
 SUBSTITUTE SENATE BILL 6874,  
 ENGROSSED SUBSTITUTE SENATE JOINT  
 RESOLUTION 8218,  
 SENATE JOINT RESOLUTION 8225.  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

On motion of Senator Eide, the reading of the Journal for the 60<sup>th</sup> day of the 2010 session of the 61<sup>st</sup> Legislature was dispensed with and it was approved.

## MOTION

Under the provisions of HOUSE CONCURRENT RESOLUTION NO. 4408, the following House Bills were returned to the House of Representatives:

ENGROSSED HOUSE BILL 1139,  
 SECOND SUBSTITUTE HOUSE BILL 1162,  
 SECOND SUBSTITUTE HOUSE BILL 1180,  
 SUBSTITUTE HOUSE BILL 1203,  
 SUBSTITUTE HOUSE BILL 1329,  
 SECOND SUBSTITUTE HOUSE BILL 1357,  
 SECOND ENGROSSED HOUSE BILL 1547,  
 SECOND SUBSTITUTE HOUSE BILL 1572,  
 ENGROSSED HOUSE BILL 1690,  
 HOUSE BILL 1697,  
 HOUSE BILL 1757,  
 ENGROSSED SUBSTITUTE HOUSE BILL 1775,  
 HOUSE BILL 1785,  
 HOUSE BILL 1830,  
 SUBSTITUTE HOUSE BILL 1831,  
 SUBSTITUTE HOUSE BILL 1838,  
 ENGROSSED SUBSTITUTE HOUSE BILL 1885,  
 SUBSTITUTE HOUSE BILL 1900,  
 SUBSTITUTE HOUSE BILL 1949,  
 SECOND SUBSTITUTE HOUSE BILL 1985,  
 SUBSTITUTE HOUSE BILL 2138,  
 SUBSTITUTE HOUSE BILL 2224,

ENGROSSED HOUSE BILL 2360,  
 SUBSTITUTE HOUSE BILL 2397,  
 HOUSE BILL 2398,  
 SUBSTITUTE HOUSE BILL 2404,  
 SUBSTITUTE HOUSE BILL 2408,  
 SUBSTITUTE HOUSE BILL 2409,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2414,  
 SUBSTITUTE HOUSE BILL 2416,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2427,  
 HOUSE BILL 2435,  
 HOUSE BILL 2437,  
 SUBSTITUTE HOUSE BILL 2439,  
 ENGROSSED HOUSE BILL 2444,  
 HOUSE BILL 2456,  
 SUBSTITUTE HOUSE BILL 2457,  
 HOUSE BILL 2461,  
 HOUSE BILL 2462,  
 HOUSE BILL 2470,  
 SUBSTITUTE HOUSE BILL 2471,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
 2480,  
 HOUSE BILL 2483,  
 SUBSTITUTE HOUSE BILL 2486,  
 SUBSTITUTE HOUSE BILL 2488,  
 HOUSE BILL 2492,  
 HOUSE BILL 2495,  
 SUBSTITUTE HOUSE BILL 2497,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2499.

## MOTION

Under the provisions of HOUSE CONCURRENT RESOLUTION NO. 4408, the following House Bills were returned to the House of Representatives:

ENGROSSED SUBSTITUTE HOUSE BILL 2504,  
 HOUSE BILL 2511,  
 SUBSTITUTE HOUSE BILL 2512,  
 SUBSTITUTE HOUSE BILL 2514,  
 SUBSTITUTE HOUSE BILL 2516,  
 SUBSTITUTE HOUSE BILL 2517,  
 SUBSTITUTE HOUSE BILL 2524,  
 HOUSE BILL 2528,  
 SUBSTITUTE HOUSE BILL 2556,  
 ENGROSSED HOUSE BILL 2561,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2565,  
 SUBSTITUTE HOUSE BILL 2566,  
 HOUSE BILL 2567,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2571,  
 SUBSTITUTE HOUSE BILL 2580,  
 SUBSTITUTE HOUSE BILL 2589,  
 HOUSE BILL 2595,  
 HOUSE BILL 2605,  
 HOUSE BILL 2611,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
 2617,  
 SECOND SUBSTITUTE HOUSE BILL 2623,  
 SUBSTITUTE HOUSE BILL 2624,  
 SUBSTITUTE HOUSE BILL 2627,  
 HOUSE BILL 2629,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
 2630,  
 SUBSTITUTE HOUSE BILL 2636,  
 HOUSE BILL 2638,  
 HOUSE BILL 2642,  
 SECOND SUBSTITUTE HOUSE BILL 2670,

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HOUSE BILL 2676,  
 HOUSE BILL 2677,  
 SUBSTITUTE HOUSE BILL 2683,  
 THIRD SUBSTITUTE HOUSE BILL 2687,  
 SUBSTITUTE HOUSE BILL 2688,  
 HOUSE BILL 2694,  
 HOUSE BILL 2701,  
 SUBSTITUTE HOUSE BILL 2706,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2716,  
 HOUSE BILL 2720,  
 SUBSTITUTE HOUSE BILL 2721,  
 SUBSTITUTE HOUSE BILL 2722,  
 SUBSTITUTE HOUSE BILL 2739,  
 HOUSE BILL 2750,  
 HOUSE BILL 2751,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2753,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2756,  
 SUBSTITUTE HOUSE BILL 2768,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
 2782,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2790,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
 2793,  
 SUBSTITUTE HOUSE BILL 2804,  
 HOUSE BILL 2817,  
 SUBSTITUTE HOUSE BILL 2818,  
 HOUSE BILL 2848,  
 SUBSTITUTE HOUSE BILL 2852,  
 SECOND SUBSTITUTE HOUSE BILL 2854,  
 SUBSTITUTE HOUSE BILL 2863,  
 SUBSTITUTE HOUSE BILL 2865,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2875,  
 SECOND SUBSTITUTE HOUSE BILL 2882,  
 SUBSTITUTE HOUSE BILL 2884,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2886,  
 HOUSE BILL 2888,  
 HOUSE BILL 2898.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
 3024,  
 SUBSTITUTE HOUSE BILL 3039,  
 ENGROSSED SUBSTITUTE HOUSE BILL 3048,  
 HOUSE BILL 3056,  
 SUBSTITUTE HOUSE BILL 3060,  
 ENGROSSED SUBSTITUTE HOUSE BILL 3067,  
 HOUSE BILL 3068,  
 ENGROSSED SUBSTITUTE HOUSE BILL 3072,  
 HOUSE BILL 3095,  
 ENGROSSED SUBSTITUTE HOUSE BILL 3132,  
 ENGROSSED HOUSE BILL 3168,  
 ENGROSSED SUBSTITUTE HOUSE BILL 3175,  
 ENGROSSED SUBSTITUTE HOUSE BILL 3182,  
 ENGROSSED SUBSTITUTE HOUSE BILL 3186,  
 SUBSTITUTE HOUSE BILL 3201,  
 HOUSE JOINT MEMORIAL 4024,  
 HOUSE JOINT MEMORIAL 4025,  
 HOUSE JOINT MEMORIAL 4027.

MOTION

At 8:42 p.m., on motion of Senator Eide, the 2010 Regular Session of the Sixty-First Legislature adjourned SINE DIE.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

MOTION

Under the provisions of HOUSE CONCURRENT RESOLUTION NO. 4408, the following House Bills were returned to the House of Representatives:

HOUSE BILL 2904,  
 SECOND ENGROSSED SUBSTITUTE HOUSE BILL  
 2912,  
 HOUSE BILL 2918,  
 SUBSTITUTE HOUSE BILL 2930,  
 SUBSTITUTE HOUSE BILL 2933,  
 HOUSE BILL 2937,  
 SUBSTITUTE HOUSE BILL 2941,  
 HOUSE BILL 2942,  
 HOUSE BILL 2947,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2954,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
 2956,  
 ENGROSSED HOUSE BILL 2969,  
 HOUSE BILL 2984,  
 HOUSE BILL 2987,  
 HOUSE BILL 2989,  
 SUBSTITUTE HOUSE BILL 2997,  
 SUBSTITUTE HOUSE BILL 3001,  
 SUBSTITUTE HOUSE BILL 3003,  
 ENGROSSED HOUSE BILL 3023,

**SENATE JOURNAL**  
**SIXTY-FIRST LEGISLATURE**  
**STATE OF WASHINGTON**

**AT**

**OLYMPIA, THE STATE CAPITOL**

*2010 Special Session Convened March 15, 2010*

*Adjourned Sine Die April 12, 2010*

Official Record of All Senate Actions Compiled, Edited and Indexed  
Pursuant to Article II, Section 11 of the Constitution of the State of  
Washington, by Thomas Hoemann, Secretary of the Senate



Linda Jansson,  
Minute and Journal Clerk

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Lieutenant Governor Brad Owen, *President of the Senate*  
Senator Rosa Franklin, *President Pro Tempore*  
Senator Paull Shin, *Vice President Pro Tempore*

**FIRST DAY**

**NOON SESSION**

Senate Chamber, Olympia, Monday, March 15, 2010

The Senate was called to order at 12:00 p.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, McCaslin, Morton, Roach and Stevens.

The Sergeant at Arms Color Guard consisting of Senate employees, Samantha Lopez and Carolyn Schaefer, presented the Colors. Senator Shin offered the prayer.

**MOTION**

On motion of Senator Eide, the Senate advanced to the third order of business.

**MESSAGE FROM THE GOVERNOR**

10-04

**PROCLAMATION BY THE GOVERNOR**

**WHEREAS**, in accordance with Article II, Section 12 (Amendment 68) of the Washington State Constitution, the Legislature adjourned its 2010 regular session March 11, 2010, the 60<sup>th</sup> day of the session; and

**WHEREAS**, work remains to be done with respect to biennial operating and capital budgets and bills necessary to implement those budgets; and

**WHEREAS**, work also remains to be done with respect to job creation and economic development;

**NOW, THEREFORE, I**, Christine O. Gregoire, Governor of the state of Washington, by virtue of the authority vested in me by Article II, Section 12 (Amendment 68) and Article III, Section 7 of the Washington State Constitution, do hereby convene the Washington State Legislature in Special Session in the Capitol at Olympia on Monday, March 15, 2010 at noon, for a period of seven days for the purpose of enacting legislation as described above.

Signed and sealed with the official seal of the state of Washington this 11<sup>th</sup> day of March, A. D. Two Thousand and Ten at Olympia, Washington.

(Seal)

CHRISTINE GREGOIRE,  
Governor of Washington

BY THE GOVERNOR:  
SAM REED  
Secretary of State

**MOTION**

On motion of Senator Eide, the Senate advanced to the fourth order of business.

**MESSAGE FROM THE HOUSE**

March 15, 2010

MR. PRESIDENT:

The House has adopted:  
HOUSE CONCURRENT RESOLUTION 4409.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

**MOTION**

On motion of Senator Eide, the Senate advanced to the fifth order of business.

**INTRODUCTION AND FIRST READING**

SCR 8413 by Senator Brown

Specifying the status of bills, memorials, and resolutions for the 2010 first special session of the Sixty-first legislature.

HCR 4409 by Representatives Kessler and Kretz

Specifying the status of bills, memorials, and resolutions for the 2010 first special session of the Sixty-first legislature.

**MOTION**

On motion of Senator Eide, the rules were suspended and Senate Concurrent Resolution No. 8413 and House Concurrent Resolution No. 4409 were placed on the second reading calendar.

**MOTION**

On motion of Senator Eide, the Senate advanced to the sixth order of business.

**SECOND READING**

HOUSE CONCURRENT RESOLUTION NO. 4409, by Representatives Kessler and Kretz

Specifying the status of bills, memorials, and resolutions for the 2010 first special session of the Sixty-first legislature.

The measure was read the second time.

**MOTION**

On motion of Senator Eide, the rules were suspended, House Concurrent Resolution No. 4409 was advanced to third reading, the second reading considered the third and the concurrent resolution was placed on final passage.

The President declared the question before the Senate to be the final passage of House Concurrent Resolution No. 4409.

HOUSE CONCURRENT RESOLUTION NO. 4409, was adopted by voice vote.

**MOTION**

On motion of Senator Eide, the Senate advanced to the eighth order of business.

**MOTION**

FIRST DAY, MARCH 15, 2010

2010 1ST SPECIAL SESSION

On motion of Senator Eide, Senate Rule 20 was suspended for the remainder of the day to allow consideration of additional floor resolutions.

EDITOR'S NOTE: Senate Rule 20 limits consideration of floor resolutions not essential to the operation of the Senate to one per day during regular daily sessions.

MOTION

Senator Eide moved adoption of the following resolution:

SENATE RESOLUTION

8719

By Senators Eide and Hewitt

WHEREAS, The Senate adopted permanent rules for the 2009-2011 biennium under Senate Floor Resolution 8601, as amended by Senate Floor Resolution 8603;

NOW, THEREFORE, BE IT RESOLVED, That Rules 45 and 62 are each amended as follows:

“Committee Rules

**Rule 45.** 1. At least five days notice shall be given of all public hearings held by any committee other than the rules committee. Such notice shall contain the date, time and place of such hearing together with the title and number of each bill, or identification of the subject matter, to be considered at such hearing. By a majority vote of the committee members present at any committee meeting such notice may be dispensed with. The reason for such action shall be set forth in a written statement preserved in the records of the meeting.

2. No committee may hold a public hearing during a regular or extraordinary session on a proposal identified as a draft unless the draft has been made available to the public at least twenty-four hours prior to the hearing. This rule does not apply during the five days prior to any cutoff established by concurrent resolution nor does it apply to any measure exempted from the resolution.

3. During its consideration of or vote on any bill, resolution or memorial, the deliberations of any committee or subcommittee of the senate shall be open to the public. In case of any disturbance or disorderly conduct at any such deliberations, the chair shall order the sergeant at arms to suppress the same and may order the meeting closed to any person or persons creating such disturbance.

4. No committee shall amend a measure, adopt a substitute bill, or vote upon any measure or appointment absent a quorum. A committee may conduct a hearing absent a quorum. A majority of any committee shall constitute a quorum and committees shall be considered to have a quorum present unless the question is raised. Any question as to quorum not raised at the time of the committee action is deemed waived.

5. Bills reported to the senate from a standing committee must have a majority report, which shall be prepared upon a printed standing committee report form; shall be adopted at a regularly or specially called meeting during a legislative session and shall be signed by a majority of the committee; and shall carry only one of the following recommendations:

- a. Do pass;
- b. Do pass as amended;
- c. That a substitute bill be substituted therefor, and the substitute bill do pass; or
- d. Without recommendation.

In addition to one of the above-listed recommendations, a report may also recommend that a bill be referred to another committee.

6. A majority report of a committee must carry the signatures of a majority of the members of the committee. In the event a committee has a quorum pursuant to subsection 4 of this rule, a majority of the members present may act on a measure, subject to obtaining the signatures of a majority of the members of the committee on the majority report.

7. Any measure, appointment, substitute bill, or amendment still within a committee's possession before it has been reported out to the full senate may be reconsidered to correct an error, change language, or otherwise accurately reflect the will of the committee in its majority and minority reports to the full senate. Any such reconsideration may be made at any time, by any member of the committee, provided that the committee has not yet reported the measure, appointment, substitute bill, or amendment out to the full senate. Any such reconsideration made after a vote has been taken or signatures obtained will require a new vote and signature sheet. Any measure which does not receive a majority vote of the members present may be reconsidered at that meeting and may again be considered upon motion of any committee member if one day's notice of said motion is provided to all committee members. For purposes of this rule, a committee is deemed to have reported a measure, appointment, substitute bill, or amendment out when it has delivered its majority and minority reports to the senate workroom. After such delivery, the committee no longer has possession of the measure, appointment, substitute bill, or amendment and no further committee action, including reconsideration, may be taken.

8. Any member of the committee not concurring in the majority report may sign a minority report containing a recommendation of “do not pass” or “without recommendation,” which shall be signed by those members of the committee subscribing thereto, and submitted with the majority report. In every case where a majority report form is circulated for signature, a minority report form shall also be circulated.

9. When a committee reports a substitute for an original bill with the recommendation that the substitute bill do pass, it shall be in order to read the substitute bill the first time and have the same ordered printed.

A motion for the substitution of the substitute bill for the original bill shall not be in order until the committee on rules places the original bill on the second reading calendar.

10. No vote in any committee shall be taken by secret ballot nor shall any committee have a policy of secrecy as to any vote on action taken in such committee.

11. All reports of standing committees must be on the secretary's desk one hour prior to convening of the session in order to be read at said session. During any special session of the legislature, this rule may be suspended by a majority vote.”

“Reading of Bills

**Rule 62.** Every bill shall be read on three separate days unless the senate deems it expedient to suspend this rule. On and after the tenth day preceding adjournment sine die of any session, or three days prior to any cut-off date for consideration of bills, as determined pursuant to Article 2, Section 12 of the Constitution or concurrent resolution, or during any special session of the legislature, this rule may be suspended by a majority vote. (See also Rule 59).”

Senators Eide, Hewitt and Brown spoke in favor of adoption of the resolution.

MOTION

FIRST DAY, MARCH 15, 2010

On motion of Senator Marr, Senator Haugen was excused.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8719.

The motion by Senator Eide carried and the resolution was adopted by voice vote.

## MOTION

Senator Hewitt moved adoption of the following resolution:

## SENATE RESOLUTION

8717

By Senators Hewitt, Becker, Benton, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Gordon, Hargrove, Haugen, Holmquist, Jacobsen, Kauffman, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Parlette, Pflug, Prentice, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Zarelli, McCaslin, Swecker, Brandland, Franklin, Hatfield, Hobbs, and Fraser

WHEREAS, Dennis R. Lewis is retiring this year as Director of Senate Security; and

WHEREAS, Denny, as he is known by his friends, colleagues, and his Senate family, has been part of the security team for the Washington State Senate since the 1995 session and a permanent member of Senate Security since serving as Sergeant at Arms during the 1997 session; and

WHEREAS, Denny served in many capacities as a Washington State Patrol Trooper starting with his original assignment in 1969 as a Patrol Cadet in Ellensburg and including executive protection, special services, bomb detection, and capitol security; and

WHEREAS, Denny served as the regional vice president of the National Governor's Security Association in 1982; and

WHEREAS, Denny is a native of the beautiful Pacific Northwest having been born and raised in Oregon and attended Benson Polytechnic High School in Portland and the Washington State Patrol Academy; and

WHEREAS, Denny was a member of the United States Air Force for eight years and served in Vietnam and the Philippines; and

WHEREAS, The Senate thanks Denny's wife, Nancy, and his children Kristine and Travis for sharing him with us for the past 16 years; and

WHEREAS, Denny has honorably, bravely, and selflessly dedicated himself to the protection of all those who serve and work in the Senate and the citizens who come to the Capitol to participate in their government; and

WHEREAS, Denny, with his always ready smile and kind words, is respected and admired by the members of his Senate family; and

WHEREAS, Denny is regarded by other security staff as the most considerate gentleman they have ever worked for; and

WHEREAS, When Denny called to check on things while on vacation he was always told: "The fire is out, nobody was injured, and we should be back in the building in a week." To which he replied, "I'm never calling you guys again." But he always did, because he always cared; and

WHEREAS, Denny has probably made more than a million cups of coffee in the last 16 years for thirsty and tired senators;

NOW, THEREFORE, BE IT RESOLVED, That the members, with the Washington State Patrol and staff of the Washington State Senate acknowledge and honor Dennis R. Lewis for his 39 years of

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service to the State of Washington, and extend our heartfelt gratitude for his friendship and his concern for our safety; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Dennis R. Lewis.

Senators Hewitt, Eide, Honeyford, Fraser, Parlette, Kohl-Welles and Shin spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8717.

The motion by Senator Hewitt carried and the resolution was adopted by voice vote.

## INTRODUCTION OF SPECIAL GUESTS

The President and introduced Mr. Denny Lewis, Director of Senate Security who was present on the floor of the Senate.

## MOTION

At 12:30 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 2:05 p.m. by President Owen.

## MOTION

On motion of Senator Eide, the Senate reverted to the seventh order of business.

## THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5899, by Senate Committee on Ways & Means (originally sponsored by Senators Kilmer, Franklin, Kastama, Shin, Marr, McAuliffe, Haugen, Brown, Berkey, Prentice, Fairley, Regala, Keiser, Eide, Rockefeller, Murray, Hatfield, Hargrove, Sheldon, Oemig and Kline).

Providing a business and occupation tax credit for qualified employment positions.

The bill was read on Third Reading.

Senator Kilmer spoke in favor of passage of the bill.

## MOTION

On motion of Senator Delvin, Senators Benton, McCaslin, Morton, Roach and Stevens were excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5899.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5899 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King,

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Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli  
Excused: Senators Benton, McCaslin, Morton, Roach and Stevens

ENGROSSED SUBSTITUTE SENATE BILL NO. 5899, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

THIRD READING

SECOND SUBSTITUTE SENATE BILL NO. 6675, by Senate Committee on Ways & Means (originally sponsored by Senators Murray, Pflug, Shin, Kastama, Kohl-Welles and Kilmer).

Creating the Washington global health technologies and product development competitiveness program and allowing certain tax credits for program contributions.

The bill was read on Third Reading.

Senator Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6675.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6675 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 1; Absent, 0; Excused, 5.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senator Oemig

Excused: Senators Benton, McCaslin, Morton, Roach and Stevens

SECOND SUBSTITUTE SENATE BILL NO. 6675, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

THIRD READING

SENATE JOINT RESOLUTION NO. 8225, by Senators Fraser, Brandland and Prentice.

Resolving to define "interest" in the state Constitution.

The resolution was read on Third Reading.

Senator Fraser spoke in favor of passage of the resolution.

The President declared the question before the Senate to be the final passage of Senate Joint Resolution No. 8225.

ROLL CALL

The Secretary called the roll on the final passage of Senate Joint Resolution No. 8225 and the resolution passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Excused: Senators Benton, McCaslin, Morton, Roach and Stevens

SENATE JOINT RESOLUTION NO. 8225, having received the constitutional majority, was declared passed.

THIRD READING

SUBSTITUTE SENATE BILL NO. 6706, by Senate Committee on Economic Development, Trade & Innovation (originally sponsored by Senators Murray, Delvin, Kastama, Shin, Marr, Kilmer and Kohl-Welles).

Concerning the commercialization of research at state universities.

The bill was read on Third Reading.

Senator Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6706.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6706 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Excused: Senators Benton, McCaslin, Morton, Roach and Stevens

SUBSTITUTE SENATE BILL NO. 6706, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 6444, by Senate Committee on Ways & Means (originally sponsored by Senators Prentice and Tom).

Making 2010 operating supplemental appropriations. Revised for 1st Substitute: Making 2010 supplemental operating appropriations.

The bill was read on Third Reading.

Senators Prentice, Brown and Hargrove spoke in favor of passage of the bill.

Senators Zarelli, Pflug, Hewitt, Carrell, King and Parlette spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6444.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6444 and the bill passed the Senate by the following vote: Yeas, 25; Nays, 19; Absent, 0; Excused, 5.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Fraser, Gordon, Hargrove, Hatfield, Haugen, Jacobsen, Kastama, Kauffman, Keiser, Kline, Kohl-Welles, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller and Shin

Voting nay: Senators Becker, Brandland, Carrell, Delvin, Franklin, Hewitt, Hobbs, Holmquist, Honeyford, Kilmer, King, Marr, Parlette, Pflug, Schoesler, Sheldon, Swecker, Tom and Zarelli

Excused: Senators Benton, McCaslin, Morton, Roach and Stevens

ENGROSSED SUBSTITUTE SENATE BILL NO. 6444, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, Engrossed Substitute Senate Bill No. 6444 was immediately transmitted to the House of Representatives.

MOTION

At 2:38 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Tuesday, March 15, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**SECOND DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Tuesday, March 16, 2010

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Becker, Benton, Holmquist, McCaslin, Morton, Roach and Stevens.

The Sergeant at Arms Color Guard consisting of Senate employees Polly Rosmond and Rachel Gay, presented the Colors. Reverend Jim Erlandson of Community of Christ Church offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

MOTION

Senator McAuliffe moved adoption of the following resolution:

SENATE RESOLUTION  
8720

By Senators McAuliffe, Holmquist, Gordon, Tom, Eide, Brown, Zarelli, Brandland, Oemig, Kauffman, Hobbs, King, McDermott, Fraser, Kohl-Welles, and Franklin

WHEREAS, Barbara Mertens is retiring on June 30, 2010, after a total of forty-one years of service, the last sixteen of which she spent serving as the Assistant Executive Director of the Washington Association of School Administrators; and

WHEREAS, Barbara Mertens is widely recognized for encouraging public school professional associations and unions to work collaboratively on education issues; and

WHEREAS, Barbara Mertens' leadership, hard work, and innovation have made her an invaluable contributor to our education system throughout her career, whether she was serving as the Supervisor of Private schools, a Teacher, Team Leader, or House Administrator for Seattle Public Schools; a Principal in Seattle and Edmonds; or Director of Student Services in the Office of the Superintendent of Public Instruction; and

WHEREAS, Barbara Mertens was the primary leader of a successful initiative to require a simple majority vote for K-12 school levy ballot issues; and

WHEREAS, Barbara Mertens continues to be applauded for speaking her mind and "telling it like it is" for the one million children in our public schools;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate hereby commend Barbara Mertens for forty-one years of service to children and education colleagues in Washington State and for her deep commitment to serving the citizens of Washington; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Barbara Mertens.

Senators McAuliffe, Eide, McDermott and Jacobsen spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8720.

The motion by Senator McAuliffe carried and the resolution was adopted by voice vote.

INTRODUCTION OF SPECIAL GUESTS

The President introduced Barbara Mertens who was seated in the gallery.

MOTION

At 10:17 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 12:02 p.m. by President Owen.

MOTION

On motion of Senator Eide, the Senate reverted to the seventh order of business.

THIRD READING

SUBSTITUTE SENATE BILL NO. 6572, by Senate Committee on Ways & Means (originally sponsored by Senator Tom).

Eliminating certain accounts.

The bill was read on Third Reading.

Senator Tom spoke in favor of passage of the bill.

MOTION

On motion of Senator Brandland, Senators Becker, Benton, Holmquist, McCaslin, Morton, Roach and Stevens were excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6572.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6572 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 0; Absent, 1; Excused, 7.

Voting yea: Senators Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Absent: Senator Kline

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Excused: Senators Becker, Benton, Holmquist, McCaslin, Morton, Roach and Stevens

SUBSTITUTE SENATE BILL NO. 6572, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Marr, Senators Kline and Regala were excused.

## THIRD READING

SUBSTITUTE SENATE BILL NO. 6712, by Senate Committee on Ways & Means (originally sponsored by Senators Hobbs, Shin and Kilmer).

Extending expiring tax incentives for certain clean alternative fuel vehicles, producers of certain biofuels, and federal aviation regulation part 145 certificated repair stations.

The bill was read on Third Reading.

Senator Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6712.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6712 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 0; Absent, 0; Excused, 8.

Voting yea: Senators Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Excused: Senators Becker, Benton, Holmquist, McCaslin, Morton, Regala, Roach and Stevens

SUBSTITUTE SENATE BILL NO. 6712, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## THIRD READING

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6409, by Senate Committee on Ways & Means (originally sponsored by Senators Kastama, Rockefeller, Shin and Kohl-Welles).

Creating the Washington investment in excellence account. Revised for 2nd Substitute: Creating the Washington opportunity pathways account.

The bill was read on Third Reading.

Senator Kastama spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6409.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6409 and the bill passed the Senate by the following vote: Yeas, 32; Nays, 10; Absent, 0; Excused, 7.

Voting yea: Senators Berkey, Brandland, Brown, Delvin, Eide, Franklin, Fraser, Gordon, Hatfield, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Pridemore, Ranker, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Carrell, Fairley, Hargrove, Haugen, Kauffman, McDermott, Parlette, Pflug, Prentice and Regala

Excused: Senators Becker, Benton, Holmquist, McCaslin, Morton, Roach and Stevens

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6409, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## THIRD READING

SUBSTITUTE SENATE BILL NO. 6721, by Senate Committee on Ways & Means (originally sponsored by Senators Schoesler, Hobbs and Honeyford).

Concerning tax statute clarifications and technical corrections.

The bill was read on Third Reading.

Senator Schoesler spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6721.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6721 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Voting yea: Senators Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Excused: Senators Becker, Benton, Holmquist, McCaslin, Morton, Roach and Stevens

SUBSTITUTE SENATE BILL NO. 6721, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## THIRD READING

SUBSTITUTE SENATE BILL NO. 6727, by Senate Committee on Ways & Means (originally sponsored by Senators Marr and Brown).

Concerning health sciences and services authorities.

The bill was read on Third Reading.

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Senator Marr spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6727.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6727 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Voting yea: Senators Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Excused: Senators Becker, Benton, Holmquist, McCaslin, Morton, Roach and Stevens

SUBSTITUTE SENATE BILL NO. 6727, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 6737, by Senate Committee on Ways & Means (originally sponsored by Senators Marr, Brown and McCaslin).

Providing an exemption from property tax for aircraft used to provide air ambulance services for nonprofits. Revised for 1st Substitute: Providing an exemption from property tax for aircraft used to provide air ambulance services for nonprofits. (REVISED FOR ENGROSSED: Providing an exemption from property tax for aircraft used to provide air ambulance services. )

The bill was read on Third Reading.

Senators Marr and Ranker spoke in favor of passage of the bill.

Senator Pflug spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6737.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6737 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 1; Absent, 0; Excused, 7.

Voting yea: Senators Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senator Pflug

Excused: Senators Becker, Benton, Holmquist, McCaslin, Morton, Roach and Stevens

ENGROSSED SUBSTITUTE SENATE BILL NO. 6737, having received the constitutional majority, was declared passed.

There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Brandland, Senators Carrell and Delvin were excused.

## THIRD READING

SUBSTITUTE SENATE BILL NO. 6503, by Senate Committee on Ways & Means (originally sponsored by Senator Prentice).

Closing state agencies on specified dates.

The bill was read on Third Reading.

## MOTION

On motion of Senator Prentice, the rules were suspended and Substitute Senate Bill No. 6503 was returned to second reading for the purpose of amendment.

## SECOND READING

SUBSTITUTE SENATE BILL NO. 6503, by Senate Committee on Ways & Means (originally sponsored by Senator Prentice)

Closing state agencies on specified dates.

The measure was read the second time.

## MOTION

Senator Prentice moved that the following striking amendment by Senator Prentice be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature declares that unprecedented revenue shortfalls necessitate immediate action to reduce expenditures during the 2009-2011 fiscal biennium. From the effective date of this section, it is the intent of the legislature that state agencies of the legislative branch, judicial branch, and executive branch including institutions of higher education, shall achieve a reduction in government operating expenses as provided in this act. It is the legislature's intent that, to the extent that the reductions in expenditures reduce compensation costs, agencies and institutions shall strive to preserve family wage jobs by reducing the impact of temporary layoffs on lower-wage jobs.

NEW SECTION. **Sec. 2.** (1)(a) The office of financial management shall certify to each executive branch state agency and institution of higher education the compensation reduction amount to be achieved by that agency or institution. Each agency and institution shall achieve compensation expenditure reductions as provided in the omnibus appropriations act.

(b) Each executive branch state agency other than institutions of higher education may submit to the office of financial management a compensation reduction plan to achieve the cost reductions as provided in the omnibus appropriations act. The compensation reduction plan of each executive branch agency may include, but is not limited to, employee leave without pay, including additional mandatory and voluntary temporary layoffs, reductions in the agency workforce, compensation reductions, and reduced work hours, as well as voluntary retirement, separation, and other

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incentive programs authorized by section 912, chapter 564, Laws of 2009. The amount of compensation cost reductions to be achieved by each agency shall be adjusted to reflect voluntary and mandatory temporary layoffs at the agency during the 2009-2011 fiscal biennium and implemented prior to January 1, 2010, but not adjusted by other compensation reduction plans adopted as a result of the enactment of chapter 564, Laws of 2009, or the enactment of other compensation cost reduction measures applicable to the 2009-2011 fiscal biennium.

(c) Each institution of higher education must submit to the office of financial management a compensation reduction plan to achieve at least the cost reductions as provided in the omnibus appropriations act. For purposes of the compensation reduction plan, the state board of community and technical colleges shall submit a single plan on behalf of all community and technical colleges. The compensation reduction plan of each institution may include, but is not limited to, employee leave without pay, including mandatory and voluntary temporary layoffs, reductions in the institution workforce, compensation reductions, and reduced work hours, as well as voluntary retirement, separation, and other incentive programs authorized by section 912, chapter 564, Laws of 2009. The amount of compensation cost reductions to be achieved by each institution shall be adjusted to reflect voluntary and mandatory temporary layoffs at the institution during the 2009-2011 fiscal biennium and implemented prior to January 1, 2010, but not adjusted by other compensation reduction plans adopted as a result of the enactment of chapter 564, Laws of 2009, or the enactment of other compensation cost reduction measures applicable to the 2009-2011 fiscal biennium.

(d) The director of financial management shall review, approve, and submit to the legislative fiscal committees those executive branch state agencies and higher education institution compensation reduction plans that achieve the cost reductions as provided in the omnibus appropriations act. For those executive branch state agencies and institutions of higher education that do not have an approved compensation reduction plan, the institution shall be closed on the dates specified in subsection (2) of this section.

(e) For each agency of the legislative branch, the chief clerk of the house of representatives and the secretary of the senate shall review and approve a plan of employee mandatory and voluntary leave for the 2009-2011 fiscal biennium that achieve the cost reductions as provided in the omnibus appropriations act. The amount of compensation cost reductions to be achieved shall be adjusted, if necessary, to reflect voluntary and mandatory temporary layoffs at the agencies during the 2009-2011 fiscal biennium and implemented prior to January 1, 2010.

(f) For each agency of the judicial branch, the supreme court shall review and approve a plan of employee mandatory and voluntary leave for the 2009-2011 fiscal biennium that achieve the cost reductions as provided in the omnibus appropriations act. The amount of compensation cost reductions to be achieved shall be adjusted, if necessary, to reflect voluntary and mandatory temporary layoffs at the agencies during the 2009-2011 fiscal biennium and implemented prior to January 1, 2010.

(2) Each state agency of the executive, legislative, and judicial branch, and any institution that does not have an approved plan in accordance with subsection (1) of this section shall be closed on the following dates in addition to the legal holidays specified in RCW 1.16.050:

- (a) Monday, July 12, 2010;
- (b) Friday, August 6, 2010;
- (c) Tuesday, September 7, 2010;
- (d) Monday, October 11, 2010;
- (e) Monday, December 27, 2010;
- (f) Friday, January 28, 2011;

(g) Tuesday, February 22, 2011;

(h) Friday, March 11, 2011;

(i) Friday, April 22, 2011;

(j) Friday, June 10, 2011.

(3) If the closure of state agencies or institutions under subsection (2) of this section prevents the performance of any action, the action shall be considered timely if performed on the next business day.

(4) The following activities of state agencies and institutions of higher education are exempt from subsections (1) and (2) of this section:

(a) Direct custody, supervision, and patient care in: (i) Corrections; (ii) juvenile rehabilitation; (iii) institutional care of veterans, or individuals with mental illness, and individuals with developmental disabilities; (iv) state hospitals, the University of Washington medical center, and Harborview medical center; (v) the special commitment center; (vi) the school for the blind; (vii) the state center for childhood deafness and hearing loss; and (viii) the Washington youth academy;

(b) Direct protective services to children and other vulnerable populations, child support enforcement, disability determination services in the department of social and health services;

(c) Washington state patrol investigative services and field enforcement;

(d) Hazardous materials response or emergency response and cleanup;

(e) Emergency public health and patient safety response and the public health laboratory;

(f) Military operations and emergency management within the military department;

(g) Firefighting;

(h) Enforcement officers in the department of fish and wildlife, the liquor control board, the gambling commission, the department of financial institutions, and the department of natural resources;

(i) State parks operated by the parks and recreation commission;

(j) In institutions of higher education, classroom instruction, operations not funded from state funds or tuition, campus police and security, emergency management and response, and student health care;

(k) Operations of liquor control board business enterprises and games conducted by the state lottery;

(l) Agricultural commodity commissions and boards, and agricultural inspection programs operated by the department of agriculture;

(m) The unemployment insurance program and reemployment services of the employment security department;

(n) The workers' compensation program and workplace safety and health compliance activities of the department of labor and industries;

(o) The operation, maintenance, and construction of state ferries and state highways;

(p) The department of revenue;

(q) Licensing service offices in the department of licensing that are open no more than two days per week, and no licensing service office closures may occur on Saturdays as a result of this section;

(r) The labor relations office of the office of financial management through November 1, 2010;

(s) The governor, lieutenant governor, legislative agencies, and the office of financial management, during sessions of the legislature under Article II, section 12 of the state Constitution and the twenty-day veto period under Article IV, section 12 of the state Constitution; and

(t) The minimal use of state employees on the specified closure dates as necessary to protect public assets and information technology systems, and to maintain public safety.

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(5)(a) The closure of an office of a state agency or institution of higher education under this section shall result in the temporary layoff of the employees of the agency or institution. The compensation of the employees shall be reduced proportionately to the duration of the temporary layoff. Temporary layoffs under this section shall not affect the employees' vacation leave accrual, seniority, health insurance, or sick leave credits. For the purposes of chapter 430, Laws of 2009, the compensation reductions under this section are deemed to be an integral part of an employer's expenditure reduction efforts and shall not result in the loss of retirement benefits in any state defined benefit retirement plan for an employee whose period of average final compensation includes a portion of the period from the effective date of this section through June 30, 2011.

(b)(i) During the closure of an office or institution under this section, any employee with a monthly full-time equivalent salary of two thousand five hundred dollars or less may, at the employee's option, use accrued vacation leave in lieu of temporary layoff during the closure. Solely for this purpose, and during the 2009-2011 fiscal biennium only, the department of personnel shall adopt rules to permit employees with less than six months of continuous state employment to use accrued vacation leave.

(ii) If an employee with a monthly full-time equivalent salary of two thousand five hundred dollars or less has no accrued vacation leave, that employee may use shared leave, if approved by the agency director, and if made available through donations under RCW 41.04.665 in lieu of temporary layoff during the closure.

(6) Except as provided in subsection (4) of this section, for employees not scheduled to work on a day specified in subsection (2) of this section, the employing agency must designate an alternative day during that month on which the employee is scheduled to work that the employee will take temporary leave without pay.

(7) To the extent that the implementation of this section is subject to collective bargaining under chapter 41.80 RCW, the bargaining shall be conducted pursuant to section 3 of this act. To the extent that the implementation of this section is subject to collective bargaining under chapters 28B.52, 41.56, 41.76, or 47.64 RCW, the bargaining shall be conducted pursuant to these chapters.

(8) For all or a portion of the employees of an agency of the executive branch, the office of financial management may approve the substitution of temporary layoffs on an alternative date during that month for any date specified in subsection (2) of this section as necessary for the critical work of any agency.

**NEW SECTION. Sec. 3.** A new section is added to chapter 41.80 RCW to read as follows:

(1) To the extent that the implementation of section 2 of this act is subject to collective bargaining:

(a) For institutions of higher education that have elected to have negotiations conducted by the governor or governor's designee in accordance with RCW 41.80.010(4), and that have an approved compensation reduction plan under section 2(1) of this act, negotiations regarding impacts of the compensation reduction plan shall be conducted between the governor or governor's designee and a coalition at each college, college district, or university of all of the exclusive bargaining representatives subject to chapter 41.80 RCW;

(b) For institutions of higher education that have elected to have negotiations conducted by the governor or governor's designee in accordance with RCW 41.80.010(4), and that do not have an approved compensation reduction plan under section 2(1) of this act, negotiations regarding impacts of the temporary layoffs under section 2(2) of this act shall be conducted between the governor or governor's designee and one coalition of all of the exclusive bargaining representatives subject to chapter 41.80 RCW;

(c) For institutions of higher education that have not elected to have negotiations conducted by the governor or governor's designee under RCW 41.80.010(4), negotiations regarding impacts of section 2 of this act shall be conducted between each institution of higher education and the exclusive bargaining representatives;

(d) For agencies that have an approved compensation reduction plan under section 2(1) of this act, negotiations regarding impacts of the compensation reduction plan shall be conducted between the governor or governor's designee and a coalition at each agency of all of the exclusive bargaining representatives subject to chapter 41.80 RCW; and

(e) For agencies that do not have an approved compensation reduction plan under section 2(1) of this act, negotiations regarding impacts of the temporary layoffs under section 2(2) of this act shall be conducted between the governor or governor's designee and one coalition of all of the exclusive bargaining representatives subject to chapter 41.80 RCW.

(2) This section expires June 30, 2011.

**Sec. 4.** RCW 42.04.060 and 2009 c 428 s 1 are each amended to read as follows:

Except as provided in section 2 of this act, all state elective and appointive officers shall keep their offices open for the transaction of business for a minimum of forty hours per week, except weeks that include state legal holidays. Customary business hours must be posted on the agency or office's web site and made known by other means designed to provide the public with notice.

((This section shall not apply to the courts of record of this state or to their officers nor to the office of the attorney general and the lieutenant governor.))

**Sec. 5.** RCW 41.26.030 and 2009 c 523 s 3 are each reenacted and amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Accumulated contributions" means the employee's contributions made by a member, including any amount paid under RCW 41.50.165(2), plus accrued interest credited thereon.

(2) "Actuarial reserve" means a method of financing a pension or retirement plan wherein reserves are accumulated as the liabilities for benefit payments are incurred in order that sufficient funds will be available on the date of retirement of each member to pay the member's future benefits during the period of retirement.

(3) "Actuarial valuation" means a mathematical determination of the financial condition of a retirement plan. It includes the computation of the present monetary value of benefits payable to present members, and the present monetary value of future employer and employee contributions, giving effect to mortality among active and retired members and also to the rates of disability, retirement, withdrawal from service, salary and interest earned on investments.

(4)(a) "Basic salary" for plan 1 members, means the basic monthly rate of salary or wages, including longevity pay but not including overtime earnings or special salary or wages, upon which pension or retirement benefits will be computed and upon which employer contributions and salary deductions will be based.

(b) "Basic salary" for plan 2 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay. In any year in which a member serves in the legislature the member shall have the option of having such member's basic salary be the greater of:

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(i) The basic salary the member would have received had such member not served in the legislature; or

(ii) Such member's actual basic salary received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because basic salary under (b)(i) of this subsection is greater than basic salary under (b)(ii) of this subsection shall be paid by the member for both member and employer contributions.

(5)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance, disability allowance, death benefit, or any other benefit described herein.

(b) "Beneficiary" for plan 2 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(6)(a) "Child" or "children" means an unmarried person who is under the age of eighteen or mentally or physically disabled as determined by the department, except a person who is disabled and in the full time care of a state institution, who is:

(i) A natural born child;

(ii) A stepchild where that relationship was in existence prior to the date benefits are payable under this chapter;

(iii) A posthumous child;

(iv) A child legally adopted or made a legal ward of a member prior to the date benefits are payable under this chapter; or

(v) An illegitimate child legitimized prior to the date any benefits are payable under this chapter.

(b) A person shall also be deemed to be a child up to and including the age of twenty years and eleven months while attending any high school, college, or vocational or other educational institution accredited, licensed, or approved by the state, in which it is located, including the summer vacation months and all other normal and regular vacation periods at the particular educational institution after which the child returns to school.

(7) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(8) "Director" means the director of the department.

(9) "Disability board" for plan 1 members means either the county disability board or the city disability board established in RCW 41.26.110.

(10) "Disability leave" means the period of six months or any portion thereof during which a member is on leave at an allowance equal to the member's full salary prior to the commencement of disability retirement. The definition contained in this subsection shall apply only to plan 1 members.

(11) "Disability retirement" for plan 1 members, means the period following termination of a member's disability leave, during which the member is in receipt of a disability retirement allowance.

(12) "Domestic partners" means two adults who have registered as domestic partners under RCW 26.60.020.

(13) "Employee" means any law enforcement officer or firefighter as defined in subsections (16) and (18) of this section.

(14)(a) "Employer" for plan 1 members, means the legislative authority of any city, town, county, or district or the elected officials of any municipal corporation that employs any law enforcement officer and/or firefighter, any authorized association of such municipalities, and, except for the purposes of RCW 41.26.150, any labor guild, association, or organization, which represents the firefighters or law enforcement officers of at least seven cities of over 20,000 population and the membership of each local lodge or division of which is composed of at least sixty percent law enforcement officers or firefighters as defined in this chapter.

(b) "Employer" for plan 2 members, means the following entities to the extent that the entity employs any law enforcement officer and/or firefighter:

(i) The legislative authority of any city, town, county, or district;

(ii) The elected officials of any municipal corporation;

(iii) The governing body of any other general authority law enforcement agency; or

(iv) A four-year institution of higher education having a fully operational fire department as of January 1, 1996.

(15)(a) "Final average salary" for plan 1 members, means (i) for a member holding the same position or rank for a minimum of twelve months preceding the date of retirement, the basic salary attached to such same position or rank at time of retirement; (ii) for any other member, including a civil service member who has not served a minimum of twelve months in the same position or rank preceding the date of retirement, the average of the greatest basic salaries payable to such member during any consecutive twenty-four month period within such member's last ten years of service for which service credit is allowed, computed by dividing the total basic salaries payable to such member during the selected twenty-four month period by twenty-four; (iii) in the case of disability of any member, the basic salary payable to such member at the time of disability retirement; (iv) in the case of a member who hereafter vests pursuant to RCW 41.26.090, the basic salary payable to such member at the time of vesting.

(b) "Final average salary" for plan 2 members, means the monthly average of the member's basic salary for the highest consecutive sixty service credit months of service prior to such member's retirement, termination, or death. Periods constituting authorized unpaid leaves of absence may not be used in the calculation of final average salary.

(c) In calculating final average salary under (a) or (b) of this subsection, the department of retirement systems shall include any compensation forgone by a member employed by a state agency or institution during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer.

(16) "Firefighter" means:

(a) Any person who is serving on a full time, fully compensated basis as a member of a fire department of an employer and who is serving in a position which requires passing a civil service examination for firefighter, and who is actively employed as such;

(b) Anyone who is actively employed as a full time firefighter where the fire department does not have a civil service examination;

(c) Supervisory firefighter personnel;

(d) Any full time executive secretary of an association of fire protection districts authorized under RCW 52.12.031. The provisions of this subsection (16)(d) shall not apply to plan 2 members;

(e) The executive secretary of a labor guild, association or organization (which is an employer under ~~(RCW 41.26.030(14) as now or hereafter amended)~~ subsection (14) of this section), if such individual has five years previous membership in a retirement system established in chapter 41.16 or 41.18 RCW. The provisions of this subsection (16)(e) shall not apply to plan 2 members;

(f) Any person who is serving on a full time, fully compensated basis for an employer, as a fire dispatcher, in a department in which, on March 1, 1970, a dispatcher was required to have passed a civil service examination for firefighter;

(g) Any person who on March 1, 1970, was employed on a full time, fully compensated basis by an employer, and who on May 21, 1971, was making retirement contributions under the provisions of chapter 41.16 or 41.18 RCW; and

(h) Any person who is employed on a full-time, fully compensated basis by an employer as an emergency medical technician.

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(17) "General authority law enforcement agency" means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state, and any agency, department, or division of state government, having as its primary function the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general, but not including the Washington state patrol. Such an agency, department, or division is distinguished from a limited authority law enforcement agency having as one of its functions the apprehension or detection of persons committing infractions or violating the traffic or criminal laws relating to limited subject areas, including but not limited to, the state departments of natural resources and social and health services, the state gambling commission, the state lottery commission, the state parks and recreation commission, the state utilities and transportation commission, the state liquor control board, and the state department of corrections.

(18) "Law enforcement officer" beginning January 1, 1994, means any person who is commissioned and employed by an employer on a full time, fully compensated basis to enforce the criminal laws of the state of Washington generally, with the following qualifications:

(a) No person who is serving in a position that is basically clerical or secretarial in nature, and who is not commissioned shall be considered a law enforcement officer;

(b) Only those deputy sheriffs, including those serving under a different title pursuant to county charter, who have successfully completed a civil service examination for deputy sheriff or the equivalent position, where a different title is used, and those persons serving in unclassified positions authorized by RCW 41.14.070 except a private secretary will be considered law enforcement officers;

(c) Only such full time commissioned law enforcement personnel as have been appointed to offices, positions, or ranks in the police department which have been specifically created or otherwise expressly provided for and designated by city charter provision or by ordinance enacted by the legislative body of the city shall be considered city police officers;

(d) The term "law enforcement officer" also includes the executive secretary of a labor guild, association or organization (which is an employer under ~~(RCW 41.26.030(14))~~ subsection (14) of this section) if that individual has five years previous membership in the retirement system established in chapter 41.20 RCW. The provisions of this subsection (18)(d) shall not apply to plan 2 members; and

(e) The term "law enforcement officer" also includes a person employed on or after January 1, 1993, as a public safety officer or director of public safety, so long as the job duties substantially involve only either police or fire duties, or both, and no other duties in a city or town with a population of less than ten thousand. The provisions of this subsection (18)(e) shall not apply to any public safety officer or director of public safety who is receiving a retirement allowance under this chapter as of May 12, 1993.

(19) "Medical services" for plan 1 members, shall include the following as minimum services to be provided. Reasonable charges for these services shall be paid in accordance with RCW 41.26.150.

(a) Hospital expenses: These are the charges made by a hospital, in its own behalf, for

(i) Board and room not to exceed semiprivate room rate unless private room is required by the attending physician due to the condition of the patient.

(ii) Necessary hospital services, other than board and room, furnished by the hospital.

(b) Other medical expenses: The following charges are considered "other medical expenses", provided that they have not been considered as "hospital expenses".

(i) The fees of the following:

(A) A physician or surgeon licensed under the provisions of chapter 18.71 RCW;

(B) An osteopathic physician and surgeon licensed under the provisions of chapter 18.57 RCW;

(C) A chiropractor licensed under the provisions of chapter 18.25 RCW.

(ii) The charges of a registered graduate nurse other than a nurse who ordinarily resides in the member's home, or is a member of the family of either the member or the member's spouse.

(iii) The charges for the following medical services and supplies:

(A) Drugs and medicines upon a physician's prescription;

(B) Diagnostic X-ray and laboratory examinations;

(C) X-ray, radium, and radioactive isotopes therapy;

(D) Anesthesia and oxygen;

(E) Rental of iron lung and other durable medical and surgical equipment;

(F) Artificial limbs and eyes, and casts, splints, and trusses;

(G) Professional ambulance service when used to transport the member to or from a hospital when injured by an accident or stricken by a disease;

(H) Dental charges incurred by a member who sustains an accidental injury to his or her teeth and who commences treatment by a legally licensed dentist within ninety days after the accident;

(I) Nursing home confinement or hospital extended care facility;

(J) Physical therapy by a registered physical therapist;

(K) Blood transfusions, including the cost of blood and blood plasma not replaced by voluntary donors;

(L) An optometrist licensed under the provisions of chapter 18.53 RCW.

(20) "Member" means any firefighter, law enforcement officer, or other person as would apply under subsections (16) or (18) of this section whose membership is transferred to the Washington law enforcement officers' and firefighters' retirement system on or after March 1, 1970, and every law enforcement officer and firefighter who is employed in that capacity on or after such date.

(21) "Plan 1" means the law enforcement officers' and firefighters' retirement system, plan 1 providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(22) "Plan 2" means the law enforcement officers' and firefighters' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

(23) "Position" means the employment held at any particular time, which may or may not be the same as civil service rank.

(24) "Regular interest" means such rate as the director may determine.

(25) "Retiree" for persons who establish membership in the retirement system on or after October 1, 1977, means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

(26) "Retirement fund" means the "Washington law enforcement officers' and firefighters' retirement system fund" as provided for herein.

(27) "Retirement system" means the "Washington law enforcement officers' and firefighters' retirement system" provided herein.

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(28)(a) "Service" for plan 1 members, means all periods of employment for an employer as a firefighter or law enforcement officer, for which compensation is paid, together with periods of suspension not exceeding thirty days in duration. For the purposes of this chapter service shall also include service in the armed forces of the United States as provided in RCW 41.26.190. Credit shall be allowed for all service credit months of service rendered by a member from and after the member's initial commencement of employment as a firefighter or law enforcement officer, during which the member worked for seventy or more hours, or was on disability leave or disability retirement. Only service credit months of service shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter.

(i) For members retiring after May 21, 1971 who were employed under the coverage of a prior pension act before March 1, 1970, "service" shall also include (A) such military service not exceeding five years as was creditable to the member as of March 1, 1970, under the member's particular prior pension act, and (B) such other periods of service as were then creditable to a particular member under the provisions of RCW 41.18.165, 41.20.160, or 41.20.170. However, in no event shall credit be allowed for any service rendered prior to March 1, 1970, where the member at the time of rendition of such service was employed in a position covered by a prior pension act, unless such service, at the time credit is claimed therefor, is also creditable under the provisions of such prior act.

(ii) A member who is employed by two employers at the same time shall only be credited with service to one such employer for any month during which the member rendered such dual service.

(b) "Service" for plan 2 members, means periods of employment by a member for one or more employers for which basic salary is earned for ninety or more hours per calendar month which shall constitute a service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for at least seventy hours but less than ninety hours per calendar month shall constitute one-half service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for less than seventy hours shall constitute a one-quarter service credit month.

Members of the retirement system who are elected or appointed to a state elective position may elect to continue to be members of this retirement system.

Service credit years of service shall be determined by dividing the total number of service credit months of service by twelve. Any fraction of a service credit year of service as so determined shall be taken into account in the computation of such retirement allowance or benefits.

If a member receives basic salary from two or more employers during any calendar month, the individual shall receive one service credit month's service credit during any calendar month in which multiple service for ninety or more hours is rendered; or one-half service credit month's service credit during any calendar month in which multiple service for at least seventy hours but less than ninety hours is rendered; or one-quarter service credit month during any calendar month in which multiple service for less than seventy hours is rendered.

(29) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(30) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(31) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(32) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(33) "Surviving spouse" means the surviving widow or widower of a member. "Surviving spouse" shall not include the divorced spouse of a member except as provided in RCW 41.26.162.

**Sec. 6.** RCW 41.32.010 and 2008 c 204 s 1 and 2008 c 175 s 1 are each reenacted and amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1)(a) "Accumulated contributions" for plan 1 members, means the sum of all regular annuity contributions and, except for the purpose of withdrawal at the time of retirement, any amount paid under RCW 41.50.165(2) with regular interest thereon.

(b) "Accumulated contributions" for plan 2 members, means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality tables and regulations as shall be adopted by the director and regular interest.

(3) "Annuity" means the moneys payable per year during life by reason of accumulated contributions of a member.

(4) "Member reserve" means the fund in which all of the accumulated contributions of members are held.

(5)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter.

(b) "Beneficiary" for plan 2 and plan 3 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(6) "Contract" means any agreement for service and compensation between a member and an employer.

(7) "Creditable service" means membership service plus prior service for which credit is allowable. This subsection shall apply only to plan 1 members.

(8) "Dependent" means receiving one-half or more of support from a member.

(9) "Disability allowance" means monthly payments during disability. This subsection shall apply only to plan 1 members.

(10)(a) "Earnable compensation" for plan 1 members, means:

(i) All salaries and wages paid by an employer to an employee member of the retirement system for personal services rendered during a fiscal year. In all cases where compensation includes maintenance the employer shall fix the value of that part of the compensation not paid in money.

(ii) For an employee member of the retirement system teaching in an extended school year program, two consecutive extended school years, as defined by the employer school district, may be used as the annual period for determining earnable compensation in lieu of the two fiscal years.

(iii) "Earnable compensation" for plan 1 members also includes the following actual or imputed payments, which are not paid for personal services:

(A) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation and the individual shall receive the equivalent service credit.

(B) If a leave of absence, without pay, is taken by a member for the purpose of serving as a member of the state legislature, and such

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member has served in the legislature five or more years, the salary which would have been received for the position from which the leave of absence was taken shall be considered as compensation earnable if the employee's contribution thereon is paid by the employee. In addition, where a member has been a member of the state legislature for five or more years, earnable compensation for the member's two highest compensated consecutive years of service shall include a sum not to exceed thirty-six hundred dollars for each of such two consecutive years, regardless of whether or not legislative service was rendered during those two years.

(iv) For members employed less than full time under written contract with a school district, or community college district, in an instructional position, for which the member receives service credit of less than one year in all of the years used to determine the earnable compensation used for computing benefits due under RCW 41.32.497, 41.32.498, and 41.32.520, the member may elect to have earnable compensation defined as provided in RCW 41.32.345. For the purposes of this subsection, the term "instructional position" means a position in which more than seventy-five percent of the member's time is spent as a classroom instructor (including office hours), a librarian, a psychologist, a social worker, a nurse, a physical therapist, an occupational therapist, a speech language pathologist or audiologist, or a counselor. Earnable compensation shall be so defined only for the purpose of the calculation of retirement benefits and only as necessary to insure that members who receive fractional service credit under RCW 41.32.270 receive benefits proportional to those received by members who have received full-time service credit.

(v) "Earnable compensation" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Earnable compensation" for plan 2 and plan 3 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

"Earnable compensation" for plan 2 and plan 3 members also includes the following actual or imputed payments which, except in the case of (b)(ii)(B) of this subsection, are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation, to the extent provided above, and the individual shall receive the equivalent service credit.

(ii) In any year in which a member serves in the legislature the member shall have the option of having such member's earnable compensation be the greater of:

(A) The earnable compensation the member would have received had such member not served in the legislature; or

(B) Such member's actual earnable compensation received for teaching and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions.

(c) In calculating earnable compensation under (a) or (b) of this subsection, the department of retirement systems shall include any compensation forgone by a member employed by a state agency or institution during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer.

(11) "Employer" means the state of Washington, the school district, or any agency of the state of Washington by which the member is paid.

(12) "Fiscal year" means a year which begins July 1st and ends June 30th of the following year.

(13) "Former state fund" means the state retirement fund in operation for teachers under chapter 187, Laws of 1923, as amended.

(14) "Local fund" means any of the local retirement funds for teachers operated in any school district in accordance with the provisions of chapter 163, Laws of 1917 as amended.

(15) "Member" means any teacher included in the membership of the retirement system who has not been removed from membership under RCW 41.32.878 or 41.32.768. Also, any other employee of the public schools who, on July 1, 1947, had not elected to be exempt from membership and who, prior to that date, had by an authorized payroll deduction, contributed to the member reserve.

(16) "Membership service" means service rendered subsequent to the first day of eligibility of a person to membership in the retirement system: PROVIDED, That where a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered. The provisions of this subsection shall apply only to plan 1 members.

(17) "Pension" means the moneys payable per year during life from the pension reserve.

(18) "Pension reserve" is a fund in which shall be accumulated an actuarial reserve adequate to meet present and future pension liabilities of the system and from which all pension obligations are to be paid.

(19) "Prior service" means service rendered prior to the first date of eligibility to membership in the retirement system for which credit is allowable. The provisions of this subsection shall apply only to plan 1 members.

(20) "Prior service contributions" means contributions made by a member to secure credit for prior service. The provisions of this subsection shall apply only to plan 1 members.

(21) "Public school" means any institution or activity operated by the state of Washington or any instrumentality or political subdivision thereof employing teachers, except the University of Washington and Washington State University.

(22) "Regular contributions" means the amounts required to be deducted from the compensation of a member and credited to the member's individual account in the member reserve. This subsection shall apply only to plan 1 members.

(23) "Regular interest" means such rate as the director may determine.

(24)(a) "Retirement allowance" for plan 1 members, means monthly payments based on the sum of annuity and pension, or any optional benefits payable in lieu thereof.

(b) "Retirement allowance" for plan 2 and plan 3 members, means monthly payments to a retiree or beneficiary as provided in this chapter.

(25) "Retirement system" means the Washington state teachers' retirement system.

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(26)(a) "Service" for plan 1 members means the time during which a member has been employed by an employer for compensation.

(i) If a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered.

(ii) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(iii) As authorized in RCW 41.32.065, service earned in an out-of- state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(b) "Service" for plan 2 and plan 3 members, means periods of employment by a member for one or more employers for which earnable compensation is earned subject to the following conditions:

(i) A member employed in an eligible position or as a substitute shall receive one service credit month for each month of September through August of the following year if he or she earns earnable compensation for eight hundred ten or more hours during that period and is employed during nine of those months, except that a member may not receive credit for any period prior to the member's employment in an eligible position except as provided in RCW 41.32.812 and 41.50.132(4);

(ii) Any other member employed in an eligible position or as a substitute who earns earnable compensation during the period from September through August shall receive service credit according to one of the following methods, whichever provides the most service credit to the member:

(A) If a member is employed either in an eligible position or as a substitute teacher for nine months of the twelve month period between September through August of the following year but earns earnable compensation for less than eight hundred ten hours but for at least six hundred thirty hours, he or she will receive one-half of a service credit month for each month of the twelve month period;

(B) If a member is employed in an eligible position or as a substitute teacher for at least five months of a six-month period between September through August of the following year and earns earnable compensation for six hundred thirty or more hours within the six-month period, he or she will receive a maximum of six service credit months for the school year, which shall be recorded as one service credit month for each month of the six-month period;

(C) All other members employed in an eligible position or as a substitute teacher shall receive service credit as follows:

(I) A service credit month is earned in those calendar months where earnable compensation is earned for ninety or more hours;

(II) A half-service credit month is earned in those calendar months where earnable compensation is earned for at least seventy hours but less than ninety hours; and

(III) A quarter-service credit month is earned in those calendar months where earnable compensation is earned for less than seventy hours.

(iii) Any person who is a member of the teachers' retirement system and who is elected or appointed to a state elective position may continue to be a member of the retirement system and continue to receive a service credit month for each of the months in a state elective position by making the required member contributions.

(iv) When an individual is employed by two or more employers the individual shall only receive one month's service credit during any calendar month in which multiple service for ninety or more hours is rendered.

(v) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470. For purposes of plan 2 and plan 3 "forty-five days" as used in RCW

28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

(vi) As authorized in RCW 41.32.065, service earned in an out-of- state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(vii) The department shall adopt rules implementing this subsection.

(27) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(28) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(29) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity. The term includes state, educational service district, and school district superintendents and their assistants and all employees certificated by the superintendent of public instruction; and in addition thereto any full time school doctor who is employed by a public school and renders service of an instructional or educational nature.

(30) "Average final compensation" for plan 2 and plan 3 members, means the member's average earnable compensation of the highest consecutive sixty service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.32.810(2).

(31) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

(32) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(33) "Director" means the director of the department.

(34) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(35) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(36) "Substitute teacher" means:

(a) A teacher who is hired by an employer to work as a temporary teacher, except for teachers who are annual contract employees of an employer and are guaranteed a minimum number of hours; or

(b) Teachers who either (i) work in ineligible positions for more than one employer or (ii) work in an ineligible position or positions together with an eligible position.

(37)(a) "Eligible position" for plan 2 members from June 7, 1990, through September 1, 1991, means a position which normally requires two or more uninterrupted months of creditable service during September through August of the following year.

(b) "Eligible position" for plan 2 and plan 3 on and after September 1, 1991, means a position that, as defined by the employer, normally requires five or more months of at least seventy hours of earnable compensation during September through August of the following year.

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(c) For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position.

(d) The elected position of the superintendent of public instruction is an eligible position.

(38) "Plan 1" means the teachers' retirement system, plan 1 providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(39) "Plan 2" means the teachers' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977, and prior to July 1, 1996.

(40) "Plan 3" means the teachers' retirement system, plan 3 providing the benefits and funding provisions covering persons who first become members of the system on and after July 1, 1996, or who transfer under RCW 41.32.817.

(41) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items compiled by the bureau of labor statistics, United States department of labor.

(42) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(43) "Index B" means the index for the year prior to index A.

(44) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(45) "Adjustment ratio" means the value of index A divided by index B.

(46) "Annual increase" means, initially, fifty-nine cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

(47) "Member account" or "member's account" for purposes of plan 3 means the sum of the contributions and earnings on behalf of the member in the defined contribution portion of plan 3.

(48) "Separation from service or employment" occurs when a person has terminated all employment with an employer. Separation from service or employment does not occur, and if claimed by an employer or employee may be a violation of RCW 41.32.055, when an employee and employer have a written or oral agreement to resume employment with the same employer following termination. Mere expressions or inquiries about postretirement employment by an employer or employee that do not constitute a commitment to reemploy the employee after retirement are not an agreement under this section.

(49) "Employed" or "employee" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

**Sec. 7.** RCW 41.37.010 and 2007 c 492 s 11 and 2007 c 294 s 1 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter, unless the context clearly requires otherwise.

(1) "Retirement system" means the Washington public safety employees' retirement system provided for in this chapter.

(2) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(3) "State treasurer" means the treasurer of the state of Washington.

(4) "Employer" means the Washington state department of corrections, the Washington state parks and recreation commission, the Washington state gambling commission, the Washington state patrol, the Washington state department of natural resources, and the Washington state liquor control board; any county corrections department; or any city corrections department not covered under chapter 41.28 RCW.

(5) "Member" means any employee employed by an employer on a full-time basis:

(a) Who is in a position that requires completion of a certified criminal justice training course and is authorized by their employer to arrest, conduct criminal investigations, enforce the criminal laws of the state of Washington, and carry a firearm as part of the job;

(b) Whose primary responsibility is to ensure the custody and security of incarcerated or probationary individuals as a corrections officer, probation officer, or jailer;

(c) Who is a limited authority Washington peace officer, as defined in RCW 10.93.020, for an employer; or

(d) Whose primary responsibility is to supervise members eligible under this subsection.

(6)(a) "Compensation earnable" for members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States internal revenue code, but shall exclude nonmoney maintenance compensation and lump sum or other payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

(b) "Compensation earnable" for members also includes the following actual or imputed payments, which are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement, which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable to the extent provided in this subsection, and the individual shall receive the equivalent service credit;

(ii) In any year in which a member serves in the legislature, the member shall have the option of having such member's compensation earnable be the greater of:

(A) The compensation earnable the member would have received had such member not served in the legislature; or

(B) Such member's actual compensation earnable received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions;

(iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.37.060;

(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(vi) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(7) "Service" means periods of employment by a member on or after July 1, 2006, for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation

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earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

(a) Service in any state elective position shall be deemed to be full-time service.

(b) A member shall receive a total of not more than twelve service credit months of service for such calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for ninety or more hours is rendered.

(8) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(9) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(10) "Membership service" means all service rendered as a member.

(11) "Beneficiary" means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(12) "Regular interest" means such rate as the director may determine.

(13) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(14)(a) "Average final compensation" means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.37.290.

(b) In calculating average final compensation under (a) of this subsection, the department of retirement systems shall include any compensation forgone by a member employed by a state agency or institution during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer.

(15) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(16) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(17) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(18) "Retirement allowance" means monthly payments to a retiree or beneficiary as provided in this chapter.

(19) "Employee" or "employed" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

(20) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality and other tables as may be adopted by the director.

(21) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(22) "Eligible position" means any permanent, full-time position included in subsection (5) of this section.

(23) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (22) of this section.

(24) "Leave of absence" means the period of time a member is authorized by the employer to be absent from service without being separated from membership.

(25) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

(26) "Director" means the director of the department.

(27) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(28) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(29) "Plan" means the Washington public safety employees' retirement system plan 2.

(30) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(31) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(32) "Index B" means the index for the year prior to index A.

(33) "Adjustment ratio" means the value of index A divided by index B.

(34) "Separation from service" occurs when a person has terminated all employment with an employer.

**Sec. 8.** RCW 43.43.120 and 2009 c 549 s 5124 and 2009 c 522 s 1 are each reenacted and amended to read as follows:

As used in (~~RCW 43.43.120~~) this section and RCW 43.43.130 through 43.43.320, unless a different meaning is plainly required by the context:

(1) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality table as may be adopted and such interest rate as may be determined by the director.

(2) "Annual increase" means as of July 1, 1999, seventy-seven cents per month per year of service which amount shall be increased each subsequent July 1st by three percent, rounded to the nearest cent.

(3)(a) "Average final salary," for members commissioned prior to January 1, 2003, shall mean the average monthly salary received by a member during the member's last two years of service or any consecutive two-year period of service, whichever is the greater, as an employee of the Washington state patrol; or if the member has less than two years of service, then the average monthly salary received by the member during the member's total years of service.

(b) "Average final salary," for members commissioned on or after January 1, 2003, shall mean the average monthly salary received by a member for the highest consecutive sixty service credit months; or if the member has less than sixty months of service, then the average monthly salary received by the member during the member's total months of service.

(c) In calculating average final salary under (a) or (b) of this subsection, the department of retirement systems shall include any compensation forgone by the member during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the chief.

(4) "Beneficiary" means any person in receipt of retirement allowance or any other benefit allowed by this chapter.

(5)(a) "Cadet," for a person who became a member of the retirement system after June 12, 1980, is a person who has passed the Washington state patrol's entry-level oral, written, physical

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performance, and background examinations and is, thereby, appointed by the chief as a candidate to be a commissioned officer of the Washington state patrol.

(b) "Cadet," for a person who became a member of the retirement system before June 12, 1980, is a trooper cadet, patrol cadet, or employee of like classification, employed for the express purpose of receiving the on-the-job training required for attendance at the state patrol academy and for becoming a commissioned trooper. "Like classification" includes: Radio operators or dispatchers; persons providing security for the governor or legislature; patrol officers; drivers' license examiners; weighmasters; vehicle safety inspectors; central wireless operators; and warehouse workers.

(6) "Contributions" means the deduction from the compensation of each member in accordance with the contribution rates established under chapter 41.45 RCW.

(7) "Current service" shall mean all service as a member rendered on or after August 1, 1947.

(8) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(9) "Director" means the director of the department of retirement systems.

(10) "Domestic partners" means two adults who have registered as domestic partners under RCW ~~((26.60.020))~~ 26.60.040.

(11) "Employee" means any commissioned employee of the Washington state patrol.

(12) "Insurance commissioner" means the insurance commissioner of the state of Washington.

(13) "Lieutenant governor" means the lieutenant governor of the state of Washington.

(14) "Member" means any person included in the membership of the retirement fund.

(15) "Plan 2" means the Washington state patrol retirement system plan 2, providing the benefits and funding provisions covering commissioned employees who first become members of the system on or after January 1, 2003.

(16) "Prior service" shall mean all services rendered by a member to the state of Washington, or any of its political subdivisions prior to August 1, 1947, unless such service has been credited in another public retirement or pension system operating in the state of Washington.

(17) "Regular interest" means interest compounded annually at such rates as may be determined by the director.

(18) "Retirement board" means the board provided for in this chapter.

(19) "Retirement fund" means the Washington state patrol retirement fund.

(20) "Retirement system" means the Washington state patrol retirement system.

(21)(a) "Salary," for members commissioned prior to July 1, 2001, shall exclude any overtime earnings related to RCW 47.46.040, or any voluntary overtime, earned on or after July 1, 2001.

(b) "Salary," for members commissioned on or after July 1, 2001, shall exclude any overtime earnings related to RCW 47.46.040 or any voluntary overtime, lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, holiday pay, or any form of severance pay.

(22) "Service" shall mean services rendered to the state of Washington or any political subdivisions thereof for which compensation has been paid. Full time employment for seventy or more hours in any given calendar month shall constitute one month of service. An employee who is reinstated in accordance with RCW 43.43.110 shall suffer no loss of service for the period

reinstated subject to the contribution requirements of this chapter. Only months of service shall be counted in the computation of any retirement allowance or other benefit provided for herein. Years of service shall be determined by dividing the total number of months of service by twelve. Any fraction of a year of service as so determined shall be taken into account in the computation of such retirement allowance or benefit.

(23) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(24) "State treasurer" means the treasurer of the state of Washington.

~~((25))~~ Unless the context expressly indicates otherwise, words importing the masculine gender shall be extended to include the feminine gender and words importing the feminine gender shall be extended to include the masculine gender.

**Sec. 9.** RCW 41.04.665 and 2008 c 36 s 3 are each amended to read as follows:

(1) An agency head may permit an employee to receive leave under this section if:

(a)(i) The employee suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature;

(ii) The employee has been called to service in the uniformed services;

(iii) A state of emergency has been declared anywhere within the United States by the federal or any state government and the employee has needed skills to assist in responding to the emergency or its aftermath and volunteers his or her services to either a governmental agency or to a nonprofit organization engaged in humanitarian relief in the devastated area, and the governmental agency or nonprofit organization accepts the employee's offer of volunteer services; ~~((e))~~

(iv) The employee is a victim of domestic violence, sexual assault, or stalking; or

(v) During the 2009-2011 fiscal biennium only, the employee is eligible to use leave in lieu of temporary layoff under section 2(5) of this act;

(b) The illness, injury, impairment, condition, call to service, emergency volunteer service, or consequence of domestic violence, sexual assault, temporary layoff under section 2(5) of this act, or stalking has caused, or is likely to cause, the employee to:

(i) Go on leave without pay status; or

(ii) Terminate state employment;

(c) The employee's absence and the use of shared leave are justified;

(d) The employee has depleted or will shortly deplete his or her:

(i) Annual leave and sick leave reserves if he or she qualifies under (a)(i) of this subsection;

(ii) Annual leave and paid military leave allowed under RCW 38.40.060 if he or she qualifies under (a)(ii) of this subsection; or

(iii) Annual leave if he or she qualifies under (a)(iii) ~~((e))~~, (iv), or (v) of this subsection;

(e) The employee has abided by agency rules regarding:

(i) Sick leave use if he or she qualifies under (a)(i) or (iv) of this subsection; or

(ii) Military leave if he or she qualifies under (a)(ii) of this subsection; and

(f) The employee has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW if he or she qualifies under (a)(i) of this subsection.

(2) The agency head shall determine the amount of leave, if any, which an employee may receive under this section. However, an employee shall not receive a total of more than two hundred sixty-one days of leave, except that shared leave received under the

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uniformed service shared leave pool in RCW 41.04.685 is not included in this total.

(3) An employee may transfer annual leave, sick leave, and his or her personal holiday, as follows:

(a) An employee who has an accrued annual leave balance of more than ten days may request that the head of the agency for which the employee works transfer a specified amount of annual leave to another employee authorized to receive leave under subsection (1) of this section. In no event may the employee request a transfer of an amount of leave that would result in his or her annual leave account going below ten days. For purposes of this subsection (3)(a), annual leave does not accrue if the employee receives compensation in lieu of accumulating a balance of annual leave.

(b) An employee may transfer a specified amount of sick leave to an employee requesting shared leave only when the donating employee retains a minimum of one hundred seventy-six hours of sick leave after the transfer.

(c) An employee may transfer, under the provisions of this section relating to the transfer of leave, all or part of his or her personal holiday, as that term is defined under RCW 1.16.050, or as such holidays are provided to employees by agreement with a school district's board of directors if the leave transferred under this subsection does not exceed the amount of time provided for personal holidays under RCW 1.16.050.

(4) An employee of an institution of higher education under RCW 28B.10.016, school district, or educational service district who does not accrue annual leave but does accrue sick leave and who has an accrued sick leave balance of more than twenty-two days may request that the head of the agency for which the employee works transfer a specified amount of sick leave to another employee authorized to receive leave under subsection (1) of this section. In no event may such an employee request a transfer that would result in his or her sick leave account going below twenty-two days. Transfers of sick leave under this subsection are limited to transfers from employees who do not accrue annual leave. Under this subsection, "sick leave" also includes leave accrued pursuant to RCW 28A.400.300(2) or 28A.310.240(1) with compensation for illness, injury, and emergencies.

(5) Transfers of leave made by an agency head under subsections (3) and (4) of this section shall not exceed the requested amount.

(6) Leave transferred under this section may be transferred from employees of one agency to an employee of the same agency or, with the approval of the heads of both agencies, to an employee of another state agency. However, leave transferred to or from employees of school districts or educational service districts is limited to transfers to or from employees within the same employing district.

(7) While an employee is on leave transferred under this section, he or she shall continue to be classified as a state employee and shall receive the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued annual leave or sick leave.

(a) All salary and wage payments made to employees while on leave transferred under this section shall be made by the agency employing the person receiving the leave. The value of leave transferred shall be based upon the leave value of the person receiving the leave.

(b) In the case of leave transferred by an employee of one agency to an employee of another agency, the agencies involved shall arrange for the transfer of funds and credit for the appropriate value of leave.

(i) Pursuant to rules adopted by the office of financial management, funds shall not be transferred under this section if the

transfer would violate any constitutional or statutory restrictions on the funds being transferred.

(ii) The office of financial management may adjust the appropriation authority of an agency receiving funds under this section only if and to the extent that the agency's existing appropriation authority would prevent it from expending the funds received.

(iii) Where any questions arise in the transfer of funds or the adjustment of appropriation authority, the director of financial management shall determine the appropriate transfer or adjustment.

(8) Leave transferred under this section shall not be used in any calculation to determine an agency's allocation of full time equivalent staff positions.

(9) The value of any leave transferred under this section which remains unused shall be returned at its original value to the employee or employees who transferred the leave when the agency head finds that the leave is no longer needed or will not be needed at a future time in connection with the illness or injury for which the leave was transferred or for any other qualifying condition. Before the agency head makes a determination to return unused leave in connection with an illness or injury, or any other qualifying condition, he or she must receive from the affected employee a statement from the employee's doctor verifying that the illness or injury is resolved. To the extent administratively feasible, the value of unused leave which was transferred by more than one employee shall be returned on a pro rata basis.

(10) An employee who uses leave that is transferred to him or her under this section may not be required to repay the value of the leave that he or she used.

**NEW SECTION. Sec. 10.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

**NEW SECTION. Sec. 11.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 12.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Senator Prentice spoke in favor of adoption of the striking amendment.

## MOTION

Senator Kline moved that the following amendment by Senator Kline and others to the striking amendment be adopted:

On page 1, after line 13, insert the following:

" **NEW SECTION. Sec. 2.** State agencies and institutions shall achieve reductions in compensation expenditures for employees employed by general government state agencies in Washington management services, or exempt positions as managers, as defined in RCW 41.06.022, as provided in the omnibus appropriations act. These reductions shall be sufficient to attain a savings of \$10 million general fund--state for fiscal year 2011. Savings in other funds and accounts shall be achieved as provided in the omnibus appropriations act."

Renumber the sections consecutively and correct any internal references accordingly.

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Senators Kline and Prentice spoke in favor of adoption of the amendment to the striking amendment.

Senator McDermott spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Kline and others on page 1, after line 13 to the striking amendment to Substitute Senate Bill No. 6503.

The President declared the question before the Senate to be the adoption of the amendment by Senator McDermott and others on page 5, line 1 to Substitute Senate Bill No. 6503.

The motion by Senator Kline carried and the amendment to the striking amendment was adopted by voice vote.

The motion by Senator McDermott carried and the amendment to the striking amendment was adopted by voice vote.

MOTION

MOTION

Senator Keiser moved that the following amendment by Senators Keiser and McDermott to the striking amendment be adopted:

Senator McDermott moved that the following amendment by Senator McDermott and others to the striking amendment be adopted:

On page 4, line 8 of the amendment, after "services" and before "in", insert ", complaint investigators, and residential care licensers and surveyors"

On page 6, after line 14 of the amendment, strike all material down through line 15 on page 7. Renumber the sections consecutively and correct internal references accordingly.

On page 4, line 8 of the amendment, after "health services" insert "and the department of health"

On page 38, line 4 of the title amendment, strike "adding a new section to chapter 41.80 RCW;"

Senators Keiser and Prentice spoke in favor of adoption of the amendment to the striking amendment.

Senator McDermott spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Keiser and McDermott on page 4, line 8 to the striking amendment to Substitute Senate Bill No. 6503.

Senator Prentice spoke against adoption of the amendment to the striking amendment.

The motion by Senator Keiser carried and the amendment to the striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the amendment by Senator McDermott and others on page 6, after line 14 to the striking amendment to Substitute Senate Bill No. 6503.

MOTION

The motion by Senator McDermott failed and the amendment was not adopted by voice vote.

Senator Kohl-Welles moved that the following amendment by Senator Kohl-Welles and others to the striking amendment be adopted:

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Prentice as amended to Substitute Senate Bill No. 6503.

On page 4, line 23 of the amendment, after "response," insert "work performed by student employees if the duties were not previously assigned to nonstudents during the current or prior school year,"

The motion by Senator Prentice carried and the striking amendment as amended was adopted by voice vote.

Senators Kohl-Welles and Prentice spoke in favor of adoption of the amendment to the striking amendment.

MOTION

Senator King spoke against adoption of the amendment to the striking amendment.

There being no objection, the following title amendment was adopted:

The President declared the question before the Senate to be the adoption of the amendment by Senator Kohl-Welles and others on page 4, line 23 to the striking amendment to Substitute Senate Bill No. 6503.

On page 1, line 1 of the title, after "agencies;" strike the remainder of the title and insert "amending RCW 42.04.060 and 41.04.665; reenacting and amending RCW 41.26.030, 41.32.010, 41.37.010, and 43.43.120; adding a new section to chapter 41.80 RCW; creating new sections; and declaring an emergency."

The motion by Senator Kohl-Welles carried and the amendment to the striking amendment was adopted by voice vote.

MOTION

MOTION

On motion of Senator Prentice, the rules were suspended, Engrossed Substitute Senate Bill No. 6503 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McDermott moved that the following amendment by Senator McDermott and others to the striking amendment be adopted:

Senators Prentice, McDermott and Keiser spoke in favor of passage of the bill.

On page 5, strike lines 1 and 2 of the amendment and reletter the subsections consecutively.

Senators Zarelli and Sheldon spoke against passage of the bill.

On page 5, line 3 of the amendment, after "governor," insert "and"

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6503.

On page 5, lines 3 and 4 of the amendment, strike "and the office of financial management,"

ROLL CALL

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The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6503 and the bill passed the Senate by the following vote: Yeas, 30; Nays, 11; Absent, 0; Excused, 8.

Voting yea: Senators Berkey, Brandland, Brown, Eide, Fairley, Franklin, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

Voting nay: Senators Fraser, Hewitt, Holmquist, Honeyford, King, Parlette, Pflug, Schoesler, Sheldon, Swecker and Zarelli

Excused: Senators Becker, Benton, Carrell, Delvin, McCaslin, Morton, Roach and Stevens

ENGROSSED SUBSTITUTE SENATE BILL NO. 6503, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced the Honorable Peter Rothen, Consul General of Germany in San Francisco and the Honorable Petra Walker, Honorary Consul of Germany in Washington State who were seated in the gallery.

#### MOTION

On motion of Senator Eide, the Senate reverted to the sixth order of business.

#### SECOND READING

SENATE BILL NO. 6789, by Senators Prentice, Zarelli, Murray, Hewitt, Holmquist and Parlette

Concerning sales and use tax exemptions for certain equipment and infrastructure contained in data centers.

#### MOTION

On motion of Senator Tom, Substitute Senate Bill No. 6789 was substituted for Senate Bill No. 6789 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Tom moved that the following amendment by Senator Tom be adopted:

On page 3, line 16, beginning with "(4)" strike everything through page 3, line 18 "section."

On page 6, line 25, beginning with "(3)" strike everything through page 6, line 27, "section."

Renumber the sections consecutively and correct any internal references accordingly.

The President declared the question before the Senate to be the adoption of the amendment by Senator Tom on page 3, line 16 to Substitute Senate Bill No. 6789.

The motion by Senator Tom carried and the amendment was adopted by voice vote.

#### MOTION

Senator Kastama moved that the following amendment by Senator Kastama and others be adopted:

On page 4, beginning on line 33, strike all of subsection (7)(c)(i)(A) and insert the following:

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"(A) Located in a county with an unemployment rate above the state average at the time of application for the exemption under this section."

On page 4, line 36, after "servers;" strike "and"

On page 5, line 9, after "center" insert "; and

(D) For which the completion of construction occurs within eighteen months of commencement of construction"

Senator Kastama spoke in favor of adoption of the amendment.

Senators Hatfield and Zarelli spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Kastama and others on page 4, line 33 to Substitute Senate Bill No. 6789.

The motion by Senator Kastama failed and the amendment was not adopted by voice vote.

#### MOTION

Senator Rockefeller moved that the following striking amendment by Senator Rockefeller be adopted:

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. (1) It is the legislature's intent to encourage immediate investments in technology facilities that can provide an economic stimulus, sustain long-term jobs that provide living wages, and help build the digital infrastructure that can enable the state to be competitive for additional technology investment and jobs.

(2) There is currently an intense competition for data center construction and operation in many states including: Oregon, Arizona, North and South Carolina, North Dakota, Iowa, Virginia, Texas, Utah, and Illinois. Unprecedented incentives are available as a result of the desire of these states to attract investments that will serve as a catalyst for additional clusters of economic activity.

(3) Since the economic downturn, Washington has not succeeded in attracting any private investments in these centers after siting six major data centers between 2004 and 2007.

(4) Data center technology has advanced rapidly, with marked increases in energy efficiency. Large, commercial-grade data centers leverage the economies of scale to reduce energy consumption. Combining digitized processes with the economies of scale recognized at these data centers, today's enterprises can materially reduce the energy they consume and greatly improve their efficiency.

(5) The legislature finds that a twenty-seven month window that offers an opportunity to seek a tax deferral on server and related electrical equipment and installation will act as a stimulus to incent immediate investment. This investment will bring jobs, tax revenues, and economic growth to some of our states rural areas and counties that have unemployment above the statewide average.

NEW SECTION. Sec. 2. A new section is added to chapter 82.32 RCW to read as follows:

(1) A qualifying business may apply for deferral of taxes of eligible server equipment to be installed, without intervening use, in an eligible computer data center, and to charges made for labor and services rendered in respect to installing eligible server equipment. The deferral of taxes also applies to sales to qualifying businesses of eligible power infrastructure, including labor and services rendered in respect to constructing, installing, repairing, altering, or improving eligible power infrastructure. The application shall contain information regarding the location of the project, estimated or actual costs of the project, time schedules for completion and operation of the project, and other information required by the

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department. The department shall rule on the application within sixty days. All applications for deferral under this section must be received no later than July 1, 2012.

(2) The department shall issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, and 82.14 RCW.

(3) A qualifying business claiming the deferral under this section must present the seller with a deferral certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(4) A qualifying business shall begin paying the deferred taxes in the fifth year after the date certified by the department as the date on which the eligible project is operationally complete. The first payment is due on December 31st of the fifth calendar year after such certified date, with subsequent annual payments due on December 31st of the following nine years. Each payment shall equal ten percent of the deferred tax.

(5) Except as provided in subsection (6) of this section, interest shall not be charged on any taxes deferred under this section for the period of deferral. The debt for deferred taxes is not extinguished by insolvency or other failure of the qualifying business.

(6) If the project is not operationally complete within five calendar years from issuance of the tax deferral or if at any time the department finds that the project is not eligible for tax deferral under this section, the amount of deferred taxes outstanding for the project shall be immediately due and payable. If deferred taxes must be repaid under this subsection, the department shall assess interest, but not penalties, on amounts due under this subsection. Interest shall be assessed at the rate provided for delinquent taxes under this chapter, retroactively to the date of deferral, and shall accrue until the deferred taxes are repaid.

(7) A qualifying business claiming a deferral under this section must complete an annual report with the department as required under section 103, chapter . . . , Laws of 2010 (Substitute House Bill No. 3066).

(8)(a) The deferral provided in this section does not apply to:

(i) Any person who has received the benefit of the deferral program under chapter 82.60 RCW on: (A) The construction, renovation, or expansion of a structure or structures used as a computer data center; or (B) machinery or equipment used in a computer data center; and

(ii) Any person affiliated with a person within the scope of (a)(i) of this subsection (8). For purposes of this subsection, "affiliated" means that one person has a direct or indirect ownership interest of at least twenty percent in another person.

(b) If a person claims a deferral under this section and subsequently receives the benefit of the deferral program under chapter 82.60 RCW on either the construction, renovation, or expansion of a structure or structures used as a computer data center or machinery or equipment used in a computer data center, the person must repay the amount of taxes deferred under this section. Interest as provided in chapter 82.32 RCW applies to amounts due under this section until paid in full.

(9) For purposes of this section the following definitions apply unless the context clearly requires otherwise:

(a)(i) "Computer data center" means a facility comprised of one or more buildings, which may be comprised of multiple businesses, constructed or refurbished specifically, and used primarily, to house working servers, where the facility has the following characteristics: (A) Uninterruptible power supplies, generator backup power, or both; (B) sophisticated fire suppression and prevention systems; and (C) enhanced physical security, such as: Restricted access to the facility to selected personnel; permanent security guards; video camera surveillance; an electronic system requiring passcodes,

keycards, or biometric scans, such as hand scans and retinal or fingerprint recognition; or similar security features.

(ii) For a computer data center comprised of multiple buildings, each separate building constructed or refurbished specifically, and used primarily, to house working servers is considered a computer data center if it has all of the characteristics listed in (a)(i)(A) through (C) of this subsection (9).

(iii) A facility comprised of one building or more than one building must have a combined square footage of at least one hundred thousand square feet.

(b) "Electronic data storage and data management services" include, but are not limited to: Providing data storage and backup services, providing computer processing power, hosting enterprise software applications, and hosting web sites. The term also includes providing services such as e-mail, web browsing and searching, media applications, and other online services, regardless of whether a charge is made for such services.

(c)(i) "Eligible computer data center" means a computer data center:

(A) Located in a county in which the unemployment rate is above the statewide average unemployment rate during the calendar years of 2010 or 2011;

(B) Having at least twenty thousand square feet dedicated to housing working servers, where the server space has not previously been dedicated to housing working servers; and

(C) For which the commencement of construction occurs after March 31, 2010, and before July 1, 2012. For purposes of this section, "commencement of construction" means the date that a building permit is issued under the building code adopted under RCW 19.27.031 for construction of the computer data center. The construction of a computer data center includes the expansion, renovation, or other improvements made to existing facilities, including leased or rented space. "Commencement of construction" does not include soil testing, site clearing and grading, site preparation, or any other related activities that are initiated before the issuance of a building permit for the construction of the foundation of a computer data center.

(ii) With respect to facilities in existence on the effective date of this act that are expanded, renovated, or otherwise improved after March 31, 2010, an eligible computer data center includes only the portion of the computer data center meeting the requirements in (c)(i)(B) of this subsection.

(d) "Eligible power infrastructure" means all fixtures and equipment necessary for the transformation, distribution, or management of electricity that is required to operate eligible server equipment within an eligible computer data center. The term includes electrical substations, generators, wiring, and cogeneration equipment.

(e) "Eligible server equipment" means the original server equipment installed in an eligible computer data center on or after April 1, 2010.

(f) "Qualifying business" means a business entity that exists for the primary purpose of engaging in commercial activity for profit and that is the owner or lessee of an eligible computer data center. The term does not include the state or federal government or any of their departments, agencies, and institutions; tribal governments; political subdivisions of this state; or any municipal, quasi-municipal, public, or other corporation created by the state or federal government, tribal government, municipality, or political subdivision of the state.

(g) "Server" means blade or rack-mount server computers used in a computer data center exclusively to provide electronic data storage and data management services for internal use by the owner or lessee of the computer data center, for clients of the owner or

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lessee of the computer data center, or both. "Server" does not include personal computers.

At 1:12 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Wednesday, March 17, 2010.

(h) "Server equipment" means the server chassis and all computer hardware contained within the server chassis. "Server equipment" also includes computer software necessary to operate the server. "Server equipment" does not include the racks upon which the server chassis is installed, and computer peripherals such as keyboards, monitors, printers, mice, and other devices that work outside of the computer.

BRAD OWEN, President of the Senate

(10) This section expires July 1, 2027.

**NEW SECTION. Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect April 1, 2010."

THOMAS HOEMANN, Secretary of the Senate

Renumber the sections consecutively and correct any internal references accordingly.

On page 1, line 1 of the title, strike "exemptions" and insert "deferrals"

On page 1, line 2 of the title, after "centers;" insert "adding a new section to chapter 82.32 RCW; providing an effective date; providing expiration dates; and declaring an emergency."

Senator Rockefeller spoke in favor of adoption of the striking amendment.

Senator Tom spoke against adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Rockefeller to Substitute Senate Bill No. 6789.

The motion by Senator Rockefeller failed and the striking amendment was not adopted by voice vote.

#### MOTION

On motion of Senator Tom, the rules were suspended, Engrossed Substitute Senate Bill No. 6789 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Tom spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6789.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6789 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 4; Absent, 0; Excused, 6.

Voting yea: Senators Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli Voting nay: Senators Fairley, Fraser, Kastama and Rockefeller

Excused: Senators Becker, Benton, McCaslin, Morton, Roach and Stevens

ENGROSSED SUBSTITUTE SENATE BILL NO. 6789, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

THIRD DAY

MORNING SESSION

Senate Chamber, Olympia, Wednesday, March 17, 2010

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Becker, Benton, Brandland, Brown, Fairley, Franklin, Fraser, Gordon, Honeyford, Kauffman, Kline, McCaslin, Morton, Parlette, Prentice, Pridemore, Roach, Sheldon, Swecker and Zarelli.

The Sergeant at Arms Color Guard consisting of the Lt. Governor's office, Juliette Schindler Kelly and K. D. Chapman-See, presented the Colors. Senator Hargrove offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES  
GUBERNATORIAL APPOINTMENTS

March 16, 2010

SGA 9162 DEBORAH S LEE, reappointed on February 9, 2009, for the term ending June 17, 2013, as Member of the Human Rights Commission. Reported by Committee on Judiciary

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kline, Chair; Regala, Vice Chair; Gordon; Hargrove and Kohl-Welles.

Passed to Committee on Rules for second reading.

March 16, 2010

SGA 9186 ELLEN FAIR, reappointed on October 21, 2009, for the term ending August 2, 2012, as Member of the Sentencing Guidelines Commission. Reported by Committee on Judiciary

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kline, Chair; Regala, Vice Chair; Gordon; Hargrove and Kohl-Welles.

Passed to Committee on Rules for second reading.

March 16, 2010

SGA 9208 MICHAEL R KAWAMURA, reappointed on October 21, 2009, for the term ending August 3, 2012, as Member of the Sentencing Guidelines Commission. Reported by Committee on Judiciary

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kline, Chair; Regala, Vice Chair; Gordon; Hargrove and Kohl-Welles.

Passed to Committee on Rules for second reading.

March 16, 2010

SGA 9225 PAUL A PASTOR, appointed on October 21, 2009, for the term ending August 2, 2012, as Member of the Sentencing Guidelines Commission. Reported by Committee on Judiciary

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kline, Chair; Regala, Vice Chair; Gordon; Hargrove and Kohl-Welles.

Passed to Committee on Rules for second reading.

March 16, 2010

SGA 9275 BILL GRINSTEIN, reappointed on February 15, 2010, for the term ending June 30, 2013, as Member of the Higher Education Coordinating Board. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kilmer, Chair; Kastama, Vice Chair; Hewitt; Jacobsen; McAuliffe; Shin and Tom.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all appointees listed on the Gubernatorial Standing Committee report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

March 16, 2010

MR. PRESIDENT:

The House has passed:

- ENGROSSED HOUSE BILL 2360,
  - ENGROSSED HOUSE BILL 2561,
  - ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2617,
  - ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2630,
  - HOUSE BILL 2694,
  - ENGROSSED SUBSTITUTE HOUSE BILL 2753,
  - SECOND SUBSTITUTE HOUSE BILL 2854,
  - ENGROSSED SUBSTITUTE HOUSE BILL 2875,
  - ENGROSSED SUBSTITUTE HOUSE BILL 2954,
  - ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2956,
  - ENGROSSED HOUSE BILL 2969,
  - ENGROSSED SUBSTITUTE HOUSE BILL 3048,
  - ENGROSSED SUBSTITUTE HOUSE BILL 3182,
  - ENGROSSED SUBSTITUTE HOUSE BILL 3186.
- and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 6884 by Senators Hargrove and Shin

AN ACT Relating to the practice of counseling; and amending RCW 18.19.040.

Referred to Committee on Ways & Means.

SB 6885 by Senators Sheldon, Schoesler and Honeyford

AN ACT Relating to requiring the sale of certain state liquor control board warehouses; and amending RCW 66.08.160.

Referred to Committee on Ways & Means.

SB 6886 by Senator Sheldon

AN ACT Relating to privatizing the sale of liquor; amending RCW 66.08.030, 66.08.070, 66.08.130, 66.08.140, 66.08.150, 66.24.010, 66.24.012, 66.24.015, 66.24.025, 66.24.120, 66.44.200, 66.44.318, 66.44.340, 66.04.010, 66.08.020, 66.08.026, 66.08.030, 66.08.050, 66.08.060, 66.08.167, 66.16.110, 66.12.110, 66.12.120, 66.12.140, 66.20.010, 66.20.160, 66.20.170, 66.20.180, 66.20.190, 66.20.200, 66.20.210, 66.24.145, 66.24.360, 66.24.371, 66.24.380, 66.24.395, 66.24.395, 66.24.540, 66.24.590, 66.28.060, 66.32.010, 66.44.150, and 66.44.160; reenacting and amending RCW 66.04.010; adding new sections to chapter 66.08 RCW; creating a new section; recodifying RCW 66.16.110; repealing RCW 66.08.070, 66.08.160, 66.08.165, 66.08.166, 66.08.220, 66.08.235, 66.16.010, 66.16.040, 66.16.041, 66.16.050, 66.16.060, 66.16.070, 66.16.090, 66.16.100, 66.16.120, and 66.28.180; and providing effective dates.

Referred to Committee on Ways & Means.

SB 6887 by Senators McAuliffe and Regala

AN ACT Relating to delaying the implementation dates for long-term care worker training and certification; and amending RCW 74.39A.073, 74.39A.075, 74.39A.085, 74.39A.340, 18.88B.020, 18.88B.040, 18.88B.050, and 18.88A.115.

Referred to Committee on Ways & Means.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

EHB 2360 by Representative Darneille

AN ACT Relating to consolidation of administrative services for AIDS grants in the department of health; amending RCW 70.24.400; and providing an effective date.

Referred to Committee on Ways & Means.

EHB 2561 by Representatives Dunshee, Williams, White, Seaquist, Darneille, Eddy, Dickerson, Sells, Rolfes, Chase, Green, Appleton, Sullivan, Simpson, Nelson, Hudgins, Jacks, Hunt, Hasegawa, Ormsby, Moeller and Roberts

AN ACT Relating to creating jobs by funding construction of energy cost saving improvements to public facilities and raising revenue therefor; amending RCW 82.08.0293, 82.12.0293, and 39.94.040; adding a new chapter to Title 43 RCW; creating new sections; making an appropriation; providing a contingent effective date; providing for submission of certain sections of this act to a vote of the people; and declaring an emergency.

Referred to Committee on Ways & Means.

E2SHB 2617 by House Committee on Ways & Means (originally sponsored by Representatives Driscoll, Chase, Hunt, Wallace, Williams, Maxwell, White, Kelley, Carlyle, Simpson, Seaquist and Moeller)

AN ACT Relating to eliminating boards and commissions; amending RCW 43.03.027, 43.03.028, 34.12.100, 42.17.370, 43.03.040, 43.63A.760, 70.47.040, 41.04.033, 41.04.0331, 41.04.0332, 72.78.030, 43.101.380, 43.105.052, 82.58.020, 46.20.100, 46.82.280, 46.82.330, 46.82.420, 18.73.030, 18.73.101, 41.50.088, 41.50.770, 41.50.780, 41.34.020, 41.34.040, 41.34.070, 41.34.130, 41.34.140, 43.33A.135, 36.70C.030, 70.112.010, 70.112.020, 43.43.930, 43.43.934, 43.43.938, 43.43.962, 43.43.963, 43.44.030, 43.44.060, 38.52.530, 49.26.120, 48.62.061, 48.62.161, 28B.76.280, 43.330.090, 2.56.031, 13.40.510, 43.105.041, 43.105.805, 43.105.820, 19.146.225, 90.56.005, 90.56.060, 43.30.820, 18.210.010, 18.210.050, 18.210.060, 70.118.110, 77.95.100, 77.95.180, 77.95.190, 70.95.030, 43.21A.520, 70.105.010, 70.105.160, 46.16.316, 46.16.715, 46.16.725, 46.16.745, 46.16.755, 46.16.775, 46.16.30901, 46.16.30903, 46.16.30905, 46.16.30907, 46.16.30909, 46.16.30911, 46.16.30913, 46.16.30914, 46.16.30916, 46.16.30918, 46.16.30920, 46.16.30922, 46.16.30924, 46.16.30926, 46.16.30928, 43.370.020, 43.370.030, 43.60A.170, 43.131.406, 43.60A.010, 70.119A.180, 90.86.030, 27.34.365, 70.94.6534, 76.04.630, 76.04.660, 15.92.070, 17.21.020, 43.15.020, 43.15.020, 46.01.325, 46.01.140, 43.03.050, 43.03.220, 43.03.230, 43.03.240, 43.03.250, and 43.03.265; reenacting and amending RCW 18.71.205, 43.21B.005, 43.105.020, and 46.16.233; adding new sections to chapter 43.215 RCW; creating new sections; recodifying RCW 43.121.170, 43.121.175, and 43.121.180; repealing RCW 70.96A.070, 43.101.310, 43.101.315, 43.101.320, 43.101.325, 43.101.330, 43.101.335, 43.101.340, 43.101.345, 43.105.055, 46.82.300, 18.73.040, 18.73.050, 41.50.086, 43.21L.005, 43.21L.010, 43.21L.020, 43.21L.030, 43.21L.040, 43.21L.050, 43.21L.060, 43.21L.070, 43.21L.080, 43.21L.090, 43.21L.100, 43.21L.110, 43.21L.120, 43.21L.130, 43.21L.140, 43.21L.900, 43.21L.901, 70.112.030, 70.112.040, 70.112.050, 43.43.932, 43.43.936, 70.105E.070, 70.105E.090, 48.62.051, 48.62.041, 28B.76.100, 10.98.200, 10.98.210, 10.98.220, 10.98.230, 10.98.240, 43.105.800, 43.105.810, 43.360.040, 19.146.280, 90.56.120, 90.56.130, 18.210.040, 18.210.070, 70.118.100, 77.95.110, 77.95.120, 70.95.040, 70.95.050, 70.95.070, 70.105.060, 46.16.705, 43.60A.180, 46.38.010, 46.38.020, 46.38.030, 46.38.040, 46.38.050, 46.38.060, 46.38.070, 46.38.080, 46.38.090,

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70.119A.160, 46.39.010, 46.39.020, 17.15.040, 79.19.070, 76.04.145, 43.126.015, 43.126.025, 43.126.035, 43.126.045, 43.126.055, 43.126.065, 43.126.075, 43.126.085, 17.21.230, 17.21.240, 17.21.250, 17.21.260, 17.21.270, 70.104.080, and 46.01.320; providing effective dates; and providing an expiration date.

Referred to Committee on Ways & Means.

E2SHB 2630 by House Committee on Education Appropriations (originally sponsored by Representatives Probst, Kenney, Conway, Maxwell, Jacks, White, Simpson, Seaquist, Sells, Goodman, Ormsby and Santos)

AN ACT Relating to creating the opportunity express program; amending RCW 28C.04.390 and 28C.18.164; adding new sections to chapter 28B.50 RCW; creating a new section; and declaring an emergency.

Referred to Committee on Ways & Means.

HB 2694 by Representatives Sells, White, McCoy, Kenney, Ericks, O'Brien, Roberts and Chase

AN ACT Relating to a bachelor of science in nursing program at the University Center; adding a new section to chapter 28B.50 RCW; creating a new section; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

ESHB 2753 by House Committee on Capital Budget (originally sponsored by Representatives Orwall, Springer, Maxwell, Jacks, Nelson, Simpson, Conway, Ormsby, Chase and Santos)

AN ACT Relating to the creation of a workforce housing program; amending RCW 43.180.160, 39.86.100, 39.86.120, 39.86.130, 39.86.140, 39.86.150, 39.86.170, and 39.86.190; reenacting and amending RCW 39.86.110; adding a new section to chapter 39.86 RCW; creating a new section; and repealing RCW 39.86.200.

Referred to Committee on Ways & Means.

2SHB 2854 by House Committee on Ways & Means (originally sponsored by Representatives Kenney, Maxwell, Sells, Probst, Hasegawa, Pettigrew, Conway, Ericks, Sullivan, Hunt, Nelson, Quall, Chase, Ormsby, Liias, Upthegrove, Goodman, Pedersen, Santos, Morrell, Hudgins, Orwall, Cody, Eddy, Dickerson, Wallace, Kessler, Anderson and Simpson)

AN ACT Relating to making changes to the state higher education loan program; amending RCW 28B.97.010, 28B.97.020, and 43.79A.040; adding a new section to chapter 28B.97 RCW; creating a new section; and repealing RCW 28B.07.300, 28B.07.310, 28B.07.320, 28B.07.330, 28B.07.340, 28B.07.350, 28B.07.360, 28B.07.370, and 28B.07.380.

Referred to Committee on Ways & Means.

ESHB 2875 by House Committee on Health Care & Wellness (originally sponsored by Representatives Ericksen,

Cody, Condotta, Hinkle, Herrera, Driscoll, Parker, Bailey, Green, Morrell, Kelley, Wallace, Kessler and Moeller)

AN ACT Relating to health savings accounts; amending RCW 41.05.065; and creating a new section.

Referred to Committee on Ways & Means.

ESHB 2954 by House Committee on Health & Human Services Appropriations (originally sponsored by Representative Cody)

AN ACT Relating to license fees for nursing homes, boarding homes, and adult family homes; amending RCW 18.51.050, 18.20.050, and 70.128.060; and adding a new section to chapter 43.20A RCW.

Referred to Committee on Ways & Means.

E2SHB 2956 by House Committee on Ways & Means (originally sponsored by Representatives Pettigrew, Williams and Maxwell)

AN ACT Relating to a hospital safety net assessment for increased hospital payments to improve health care access for the citizens of Washington; amending 2009 c 564 s 209 (uncodified); reenacting and amending RCW 43.84.092; adding a new section to chapter 70.47 RCW; adding a new chapter to Title 74 RCW; creating a new section; providing an expiration date; and declaring an emergency.

Referred to Committee on Ways & Means.

EHB 2969 by Representative Hudgins

AN ACT Relating to promoting efficiencies in the services provided by the office of the public printer; amending RCW 43.78.080, 43.78.030, 43.78.070, 43.78.090, 43.78.100, 43.78.105, 43.78.110, 43.78.170, 43.105.041, 1.08.039, 15.24.085, 15.62.190, 16.67.170, 28A.300.040, 28B.10.029, 40.04.030, 40.06.030, 40.07.050, and 43.08.061; reenacting and amending RCW 43.105.020 and 41.06.070; adding new sections to chapter 43.105 RCW; adding a new section to chapter 41.56 RCW; creating new sections; recodifying RCW 43.78.030, 43.78.070, 43.78.090, 43.78.100, 43.78.105, 43.78.110, 43.78.130, 43.78.140, 43.78.150, 43.78.160, and 43.78.170; repealing RCW 43.78.010, 43.78.020, 43.78.040, 43.78.050, and 43.78.080; and providing effective dates.

Referred to Committee on Ways & Means.

ESHB 3048 by House Committee on Ways & Means (originally sponsored by Representatives Cody, Armstrong and Pettigrew)

AN ACT Relating to administration of the medicaid program; and creating a new section.

Referred to Committee on Ways & Means.

ESHB 3182 by House Committee on Ways & Means (originally sponsored by Representatives Alexander, DeBolt, Armstrong, Kristiansen, Pearson, Bailey, Rodne, Johnson, Short, Dammeier, Taylor, Crouse, Nealey, Walsh, Roach, Warnick,

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Klippert, Parker, Ross, Haler, Fagan, Orcutt, Schmick, Angel, Smith, Shea, Ericksen and Kretz)

AN ACT Relating to state mandates on political subdivisions of the state; amending RCW 28A.225.015, 28A.225.020, 28A.225.025, 28A.225.030, 28A.225.151, 35.22.620, 36.27.020, 36.34.010, 39.44.210, 84.14.100, and 84.40.175; creating new sections; repealing RCW 43.19.691; and providing an effective date.

Referred to Committee on Ways & Means.

ESHB 3186 by House Committee on Finance (originally sponsored by Representatives Pettigrew, Walsh, Williams, Hunt, Green, Dickerson, Kagi, Goodman, Orwall, Liias, Seaquist, White and Appleton)

AN ACT Relating to imposing a tax on home and community based services to fund services for seniors and people with disabilities; amending RCW 82.16.020, 82.16.020, and 35.21.710; reenacting and amending RCW 82.16.010 and 82.16.010; adding a new section to chapter 82.16 RCW; creating a new section; providing effective dates; and providing an expiration date.

Referred to Committee on Ways & Means.

#### MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

#### MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

#### MOTION

Senator Jacobsen moved adoption of the following resolution:

#### SENATE RESOLUTION 8721

By Senators Jacobsen and Kohl-Welles

WHEREAS, The growth of information technology has been a substantial contributor to the strength of the economy of the State of Washington and its citizens; and

WHEREAS, The unusually rapid pace of development of computing technology threatens to obscure the history of this realm of human endeavor; and

WHEREAS, In 2005, the Living Computer Museum (originally PDP Planet) of Seattle, Washington, was created by Mr. Paul Allen with the intention of preserving historically significant interactive and timesharing computer systems that spawned and shaped the open and accessible information society of today; and

WHEREAS, The Living Computer Museum is chartered to preserve not only the physical artifacts of computing, but also the art and practice of information technology as it evolved over time; and

WHEREAS, The Living Computer Museum is committed to sharing this history proactively through engagement with other museums, academic institutions, and the general public;

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NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize the Living Computer Museum for its role in the preservation of the history of information technology, as that technology has transformed our state and our world; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted to the Living Computer Museum, Mr. Paul Allen, Vulcan Incorporated, The Computer History Museum, Mountain View, California, and the Smithsonian Institution.

Senator Jacobsen spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8721.

The motion by Senator Jacobsen carried and the resolution was adopted by voice vote.

#### INTRODUCTION OF SPECIAL GUEST

The President introduced Mr. Ian S. King, Senior Assistant Engineer of the Living Computer Museum who was seated in the gallery.

#### REMARKS BY SENATOR MURRAY

Senator Murray: "Happy St. Patrick's Day Mr. President. There are two types of people in this world, Irish and those that want to be Irish. There will a Democratic Caucus immediately."

#### PERSONAL PRIVILEGE

Senator Jacobsen: "I'd like to point out to the good senator that the Irish are nothing but ship wrecked Norwegians."

#### MOTION

At 10:16 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:37 a.m. by President Owen.

#### MOTION

At 11:37 a.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Thursday, March 18, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

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## FOURTH DAY

## NOON SESSION

Senate Chamber, Olympia, Thursday, March 18, 2010

The Senate was called to order at 12:00 noon by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Becker, Benton, Brown, Franklin, Hargrove, McCaslin, Morton, Parlette, Roach, Schoesler and Sheldon.

The Sergeant at Arms Color Guard consisting of Senate employees Tony Aronica and Adam Cooper, presented the Colors. Senator Fraser offered the prayer.

## MOTION

On motion of Senator Eide the reading of the Journal of the previous day was dispensed with and it was approved.

## MOTION

There being no objection, the Senate advanced to the first order of business.

## REPORTS OF STANDING COMMITTEES

March 17, 2010

SB 6766 Prime Sponsor, Senator Hargrove: Concerning forest fire prevention and suppression. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 6766 be substituted therefor, and the second substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Carrell; Honeyford; Pflug and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Brandland; Hewitt and Parlette.

Passed to Committee on Rules for second reading.

March 17, 2010

E2SHB 2617 Prime Sponsor, Committee on Ways & Means: Eliminating certain boards and commissions. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Kline; McDermott; Murray; Parlette; Pflug; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

March 17, 2010

ESHB 2875 Prime Sponsor, Committee on Health Care & Wellness: Concerning health savings accounts. Reported by Committee on Ways & Means

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Prentice, Chair; Tom, Vice Chair, Operating Budget; Zarelli; Brandland; Carrell; Hewitt; Hobbs; Honeyford; Parlette; Pflug; Rockefeller and Schoesler.

MINORITY recommendation: Do not pass. Signed by Senators Keiser and Kohl-Welles.

Passed to Committee on Rules for second reading.

March 17, 2010

ESHB 2954 Prime Sponsor, Committee on Health & Human Services Appropriations: Concerning license fees for nursing homes, boarding homes, and adult family homes. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Carrell; Pflug and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Brandland; Hewitt; Honeyford and Parlette.

Passed to Committee on Rules for second reading.

March 17, 2010

E2SHB 2956 Prime Sponsor, Committee on Ways & Means: Concerning the hospital safety net. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Brandland; Carrell; Hewitt; Honeyford; Parlette; Pflug and Schoesler.

Passed to Committee on Rules for second reading.

## MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

## MOTION

On motion of Senator Eide, the Senate advanced to the third order of business.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

March 17, 2010  
TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON  
Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

DAVID THREEDY, appointed April 8, 2010, for the term ending June 17, 2015, as a Chair of the Board of Industrial Insurance Appeals.

Sincerely,  
CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Labor, Commerce & Consumer Protection.

March 8, 2010  
TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON  
Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

JEFF G. JOHNSON, reappointed April 4, 2010, for the term ending April 3, 2014, as Member of the State Board for Community and Technical Colleges.

Sincerely,  
CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

MOTION

On motion of Senator Eide, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

March 17, 2010

MR. PRESIDENT:  
The House has passed:

ENGROSSED SUBSTITUTE SENATE BILL 6789.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 17, 2010

MR. PRESIDENT:  
The House has passed:

ENGROSSED HOUSE BILL 2672,  
ENGROSSED SUBSTITUTE HOUSE BILL 3014.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 17, 2010

MR. PRESIDENT:

The House has passed:  
SUBSTITUTE HOUSE BILL 2416,  
SUBSTITUTE HOUSE BILL 3201.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 17, 2010

MR. PRESIDENT:

The House has passed:  
SECOND SUBSTITUTE HOUSE BILL NO. 2576.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 17, 2010

MR. PRESIDENT:

The House has passed:  
HOUSE BILL 2676,  
HOUSE BILL 2677,  
HOUSE BILL 2984.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 6888 by Senators Brown and Marr

AN ACT Relating to the use of child care offered to employees of nonprofit entities; and reenacting and amending RCW 43.215.010.

Referred to Committee on Ways & Means.

SB 6889 by Senators McDermott, Kohl-Welles, Kline, Murray, Prentice, Keiser, McAuliffe, Kauffman and Hewitt

AN ACT Relating to the governance and financing of the Washington state convention and trade center; amending RCW 36.100.010, 36.100.020, 36.100.030, 36.100.040, 36.100.060, and 36.100.100; adding new sections to chapter 36.100 RCW; creating new sections; repealing RCW 67.40.010, 67.40.025, 67.40.027, 67.40.030, 67.40.040, 67.40.045, 67.40.050, 67.40.055, 67.40.060, 67.40.070, 67.40.080, 67.40.090, 67.40.100, 67.40.105, 67.40.107, 67.40.110, 67.40.120, 67.40.130, 67.40.140, 67.40.150, 67.40.160, 67.40.170, 67.40.180, 67.40.190, 67.40.900, 67.40.020, and 39.94.020; and providing contingent effective dates.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

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Referred to Committee on Ways & Means.

82.12.805, 82.12.022, and 82.32.570; and providing an expiration date.

2SHB 2576 by House Committee on Ways & Means (originally sponsored by Representatives Kenney, Lias, Moeller, Pedersen and Armstrong)

Referred to Committee on Finance.

AN ACT Relating to restructuring and affirming certain fees established by the office of the secretary of state; amending RCW 23B.01.530, 24.03.405, 24.06.450, 25.05.500, 43.07.120, 43.07.130, 25.15.105, 19.77.030, 23.86.070, 19.09.075, 19.09.079, 19.09.097, 19.09.355, and 19.09.530; adding a new section to chapter 19.09 RCW; creating a new section; and repealing RCW 19.09.520.

ESHB 3014 by House Committee on Finance (originally sponsored by Representatives Kessler, Morrell and Van De Wege)

AN ACT Relating to modifying the sales and use tax deferral program for investment projects in rural counties; amending RCW 82.60.010, 82.60.020, 82.60.030, 82.60.040, 82.60.049, 82.60.060, 82.60.070, 82.60.100, and 82.62.010; adding new sections to chapter 82.60 RCW; creating a new section; decodifying RCW 82.60.900 and 82.60.901; repealing RCW 82.60.050 and 82.60.110; providing an effective date; and providing expiration dates.

Referred to Committee on Ways & Means.

HB 2676 by Representatives Chase and Simpson

AN ACT Relating to energy conservation loans; and amending RCW 54.16.280 and 87.03.017.

SHB 3201 by House Committee on Ways & Means (originally sponsored by Representatives Pettigrew, Linville, Sullivan and Ericks)

AN ACT Relating to fees for treatment services and outreach for children with heritable disorders; and amending RCW 70.83.023.

Referred to Committee on Ways & Means.

HB 2677 by Representatives Chase and Simpson

AN ACT Relating to water conservation loans; and amending RCW 35.92.017, 36.94.460, and 57.08.160.

Referred to Committee on Ways & Means.

Referred to Committee on Ways & Means.

HB 2984 by Representatives Maxwell, Clibborn, Eddy, Goodman and Hunter

AN ACT Relating to a sales and use tax deferral for performing arts centers; and adding a new section to chapter 82.32 RCW.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide and without objection, Substitute House Bill No. 2416 was referred to the committee as designated and Engrossed House Bill No. 2672, Engrossed Substitute House Bill No. 3014 and Substitute House Bill No. 3201 were placed on the second reading calendar under suspension of the rules.

SIGNED BY THE PRESIDENT

The President signed:  
ENGROSSED SUBSTITUTE SENATE BILL 6789.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

MOTION

At 12:13 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

SUPPLEMENTAL INTRODUCTION AND FIRST READING OF HOUSE BILLS

AFTERNOON SESSION

SHB 2416 by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Morris, Chase, Eddy, Van De Wege, Morrell, Upthegrove, Simpson, Kenney, Hudgins and Ormsby)

The Senate was called to order at 2:45 p.m. by President Owen.

AN ACT Relating to efficiency standards for consumer products; amending RCW 19.260.030, 19.260.040, and 19.260.050; and reenacting and amending RCW 19.260.020.

MOTION

On motion of Senator McDermott, the Senate advanced to the sixth order of business.

Referred to Committee on Ways & Means.

SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

EHB 2672 by Representatives Linville, Ericksen, Quall, Morris, Armstrong, Williams, Condotta, Simpson, Van De Wege and Conway

MOTION

Senator Murray moved that Gubernatorial Appointment No. 9263, Orin Smith, as a member of the Board of Regents, University of Washington, be confirmed.  
Senator Murray spoke in favor of the motion.

AN ACT Relating to tax relief for aluminum smelters; amending RCW 82.04.2909, 82.04.4481, 82.08.805,

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## MOTION

On motion of Senator Brandland, Senators Becker, Benton, McCaslin, Morton, Parlette and Roach were excused.

## MOTION

On motion of Senator Marr, Senator Brown was excused.

## MOTION

On motion of Senator Regala, Senators Franklin, Hargrove and Kline were excused.

## APPOINTMENT OF ORIN SMITH

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9263, Orin Smith as a member of the Board of Regents, University of Washington.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9263, Orin Smith as a member of the Board of Regents, University of Washington and the appointment was confirmed by the following vote: Yeas, 38; Nays, 0; Absent, 2; Excused, 9.

Voting yea: Senators Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Fraser, Gordon, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senators Schoesler and Sheldon

Excused: Senators Becker, Benton, Brown, Franklin, Hargrove, McCaslin, Morton, Parlette and Roach

Gubernatorial Appointment No. 9263, Orin Smith, having received the constitutional majority was declared confirmed as a member of the Board of Regents, University of Washington.

## MOTION

On motion of Senator Brandland, Senator Schoesler was excused.

## MOTION

On motion of Senator Regala, Senator Murray was excused.

## SECOND READING

## CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Kilmer moved that Gubernatorial Appointment No. 9275, Bill Grinstein, as a member of the Higher Education Coordinating Board, be confirmed.

Senator Kilmer spoke in favor of the motion.

## MOTION

On motion of Senator Hobbs, Senator Sheldon was excused.

## APPOINTMENT OF BILL GRINSTEIN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9275, Bill Grinstein as a member of the Higher Education Coordinating Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9275, Bill Grinstein as a member of the Higher Education Coordinating Board and the appointment was confirmed by the following vote: Yeas, 41; Nays, 0; Absent, 0; Excused, 8.

Voting yea: Senators Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Becker, Benton, Brown, McCaslin, Morton, Murray, Roach and Schoesler

Gubernatorial Appointment No. 9275, Bill Grinstein, having received the constitutional majority was declared confirmed as a member of the Higher Education Coordinating Board.

## MOTION

On motion of Senator Eide, the Senate advanced to the seventh order of business.

## THIRD READING

SECOND SUBSTITUTE SENATE BILL NO. 6678, by Senate Committee on Ways & Means (originally sponsored by Senators Hobbs, Kilmer, Marr, Berkey, Tom and Shin).

Concerning the creation of entities to address the long-range impact of opportunities and changes in the aerospace industry.

The bill was read on Third Reading.

Senator Marr spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6678.

## ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6678 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Voting yea: Senators Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Becker, Benton, Brown, McCaslin, Morton, Murray and Roach

SECOND SUBSTITUTE SENATE BILL NO. 6678, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## THIRD READING

SENATE BILL NO. 6870, by Senator Hargrove.

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Containing costs for services to sexually violent predators.

Excused: Senators Becker, Benton, Brown, McCaslin, Morton, Murray and Roach

The bill was read on Third Reading.

ENGROSSED SENATE BILL NO. 6870, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Hargrove, the rules were suspended and Senate Bill No. 6870 was returned to second reading for the purpose of amendment.

THIRD READING

SECOND READING

SUBSTITUTE SENATE BILL NO. 6698, by Senate Committee on Health & Long-Term Care (originally sponsored by Senators Keiser, Marr, Murray, Fairley and Kohl-Welles).

SENATE BILL NO. 6870, by Senator Hargrove

Concerning the acquisition of nonprofit hospitals.

Containing costs for services to sexually violent predators.

The bill was read on Third Reading.

The measure was read the second time.

Senators Keiser and Pflug spoke in favor of passage of the bill.

MOTION

Senator Hargrove moved that the following amendment by Senator Hargrove be adopted:

Senator King spoke on final passage of the bill.

On page 1, line 12, after "prejudiced." insert the following "The department is responsible for the cost of one expert or professional person to conduct an evaluation on the prosecuting agency's behalf."

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6698.

On page 4, at the beginning of line 15, insert the following "The department is responsible for the cost of one expert or professional person to conduct an evaluation on the prosecuting agency's behalf."

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6698 and the bill passed the Senate by the following vote: Yeas, 37; Nays, 7; Absent, 0; Excused, 5.

On page 6, line 10, after "rules" strike "for the payment of" and insert "to contain costs relating to reimbursement for"

Voting yea: Senators Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, McAuliffe, McDermott, Murray, Oemig, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Tom and Zarelli

Senators Hargrove and Stevens spoke in favor of adoption of the amendment.

Voting nay: Senators Hatfield, Holmquist, Marr, Parlette, Schoesler, Stevens and Swecker

The President declared the question before the Senate to be the adoption of the amendment by Senator Hargrove on page 1, line 12 to Senate Bill No. 6870.

Excused: Senators Becker, Benton, McCaslin, Morton and Roach

The motion by Senator Hargrove carried and the amendment was adopted by voice vote.

SUBSTITUTE SENATE BILL NO. 6698, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Senate Bill No. 6870 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

On motion of Senator McDermott, the Senate reverted to the sixth order of business.

Senator Hargrove spoke in favor of passage of the bill.

Senator Carrell spoke against passage of the bill.

MOTION

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6870.

On motion of Senator Marr, Senators Brown and Shin were excused.

ROLL CALL

SECOND READING

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6870 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 8; Absent, 0; Excused, 7.

ENGROSSED HOUSE BILL NO. 2672, by Representatives Linville, Ericksen, Quall, Morris, Armstrong, Williams, Condotta, Simpson, Van De Wege and Conway

Voting yea: Senators Berkey, Brandland, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Stevens, Swecker and Tom

Concerning tax relief for aluminum smelters.

The measure was read the second time.

MOTION

Voting nay: Senators Carrell, Delvin, Honeyford, Parlette, Pflug, Schoesler, Sheldon and Zarelli

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On motion of Senator Tom, the rules were suspended, Engrossed House Bill No. 2672 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Tom spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 2672.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2672 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Voting yeas: Senators Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Becker, Benton, Brown, McCaslin, Morton, Murray and Roach

ENGROSSED HOUSE BILL NO. 2672, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2617, by House Committee on Ways & Means (originally sponsored by Representatives Driscoll, Chase, Hunt, Wallace, Williams, Maxwell, White, Kelley, Carlyle, Simpson, Seaquist and Moeller)

Eliminating certain boards and commissions.

The measure was read the second time.

## MOTION

Senator Kohl-Welles moved that the following amendment by Senator Kohl-Welles be adopted:

On page 8, after line 33, strike all material down through and including line 7 on page 12.

Renumber the sections consecutively and correct internal references accordingly.

Senators Kohl-Welles and Prentice spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Kohl-Welles on page 8, after line 33 to Engrossed Second Substitute House Bill No. 2617.

The motion by Senator Kohl-Welles carried and the amendment was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 3 of the title, delete "18.250.010, 18.250.020, 18.250.060,"

On page 2, line 3 of the title, delete "18.250.030,"

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MOTION

Senator Marr moved that the following amendment by Senator Marr be adopted:

On page 79, after line 28, strike all material down through and including line 2 on page 85. Renumber the sections consecutively and correct internal references accordingly.

Senator Marr spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Marr on page 79, after line 28 to Engrossed Second Substitute House Bill No. 2617.

The motion by Senator Marr carried and the amendment was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 12 of the title, strike "18.200.010, 18.200.050, 18.200.070,"

On page 2, line 13 of the title, strike "18.200.060"

## MOTION

Senator Fairley moved that the following amendment by Senator Fairley be adopted:

On page 123, beginning on line 1, strike all material down through and including line 11 on page 126.

Renumber the sections consecutively and correct any internal references accordingly.

Senator Fairley spoke in favor of adoption of the amendment. Senator Marr spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Fairley on page 123, line 1 to Engrossed Second Substitute House Bill No. 2617.

The motion by Senator Fairley carried and the amendment was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 19 of the title, strike "17.12.670, 77.12.690, 77.08.045,"

On page 2, line 19 of the title, strike "77.12.680,"

## MOTION

Senator Haugen moved that the following amendment by Senators Haugen and Berkey be adopted:

On page 138, after line 9, insert the following:

**" Title and Registration Advisory Committee**

**NEW SECTION. Sec. 149.** RCW 46.01.320 (Title and registration advisory committee) and 2005 c 319 s 115, 1996 c 315 s 2, & 1992 c 216 s 3 are each repealed.

**Sec. 150.** RCW 46.01.325 and 2005 c 319 s 116 are each amended to read as follows:

(1) The director shall prepare(~~(, with the advice of the title and registration advisory committee,)~~) an annual comprehensive analysis and evaluation of agent and subagent fees. The director shall make recommendations for agent and subagent fee revisions

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~~((approved by the title and registration advisory committee))~~ to the senate and house transportation committees by January 1st of every third year starting with 1996. Fee revision recommendations may be made more frequently when justified by the annual analysis and evaluation ~~((, and requested by the title and registration advisory committee))~~.

(2) The annual comprehensive analysis and evaluation must consider, but is not limited to:

(a) Unique and significant financial, legislative, or other relevant developments that may impact fees;

(b) Current funding for ongoing operating and maintenance automation project costs affecting revenue collection and service delivery;

(c) Future system requirements including an appropriate sharing of costs between the department, agents, and subagents;

(d) Beneficial mix of customer service delivery options based on a fee structure commensurate with quality performance standards;

(e) Appropriate indices projecting state and national growth in business and economic conditions prepared by the United States department of commerce, the department of revenue, and the revenue forecast council for the state of Washington.

**Sec. 151.** RCW 46.01.140 and 2005 c 343 s 1 are each amended to read as follows:

(1) The county auditor, if appointed by the director of licensing shall carry out the provisions of this title relating to the licensing of vehicles and the issuance of vehicle license number plates under the direction and supervision of the director and may with the approval of the director appoint assistants as special deputies and recommend subagents to accept applications and collect fees for vehicle licenses and transfers and to deliver vehicle license number plates.

(2) A county auditor appointed by the director may request that the director appoint subagencies within the county.

(a) Upon authorization of the director, the auditor shall use an open competitive process including, but not limited to, a written business proposal and oral interview to determine the qualifications of all interested applicants.

(b) A subagent may recommend a successor who is either the subagent's sibling, spouse, or child, or a subagency employee, as long as the recommended successor participates in the open, competitive process used to select an applicant. In making successor recommendation and appointment determinations, the following provisions apply:

(i) If a subagency is held by a partnership or corporate entity, the nomination must be submitted on behalf of, and agreed to by, all partners or corporate officers.

(ii) No subagent may receive any direct or indirect compensation or remuneration from any party or entity in recognition of a successor nomination. A subagent may not receive any financial benefit from the transfer or termination of an appointment.

(iii) (a) and (b) of this subsection are intended to assist in the efficient transfer of appointments in order to minimize public inconvenience. They do not create a proprietary or property interest in the appointment.

(c) The auditor shall submit all proposals to the director, and shall recommend the appointment of one or more subagents who have applied through the open competitive process. The auditor shall include in his or her recommendation to the director, not only the name of the successor who is a relative or employee, if applicable and if otherwise qualified, but also the name of one other applicant who is qualified and was chosen through the open competitive process. The director has final appointment authority.

(3)(a) A county auditor who is appointed as an agent by the department shall enter into a standard contract provided by the

director ~~((, developed with the advice of the title and registration advisory committee))~~.

(b) A subagent appointed under subsection (2) of this section shall enter into a standard contract with the county auditor ~~((, developed with the advice of the title and registration advisory committee))~~. The director shall provide the standard contract to county auditors.

(c) The contracts provided for in (a) and (b) of this subsection must contain at a minimum provisions that:

(i) Describe the responsibilities, and where applicable, the liability, of each party relating to the service expectations and levels, equipment to be supplied by the department, and equipment maintenance;

(ii) Require the specific type of insurance or bonds so that the state is protected against any loss of collected motor vehicle tax revenues or loss of equipment;

(iii) Specify the amount of training that will be provided by the state, the county auditor, or subagents;

(iv) Describe allowable costs that may be charged to vehicle licensing activities as provided for in (d) of this subsection;

(v) Describe the causes and procedures for termination of the contract, which may include mediation and binding arbitration.

(d) The department shall develop procedures that will standardize and prescribe allowable costs that may be assigned to vehicle licensing and vessel registration and title activities performed by county auditors.

(e) The contracts may include any provision that the director deems necessary to ensure acceptable service and the full collection of vehicle and vessel tax revenues.

(f) The director may waive any provisions of the contract deemed necessary in order to ensure that readily accessible service is provided to the citizens of the state.

(4)(a) At any time any application is made to the director, the county auditor, or other agent pursuant to any law dealing with licenses, registration, or the right to operate any vehicle or vessel upon the public highways or waters of this state, excluding applicants already paying such fee under RCW 46.16.070 or 46.16.085, the applicant shall pay to the director, county auditor, or other agent a fee of three dollars for each application in addition to any other fees required by law.

(b) Counties that do not cover the expenses of vehicle licensing and vessel registration and title activities may submit to the department a request for cost-coverage moneys. The request must be submitted on a form developed by the department. The department shall develop procedures to verify whether a request is reasonable. Payment shall be made on requests found to be allowable from the licensing services account.

(c) Applicants for certificates of ownership, including applicants paying fees under RCW 46.16.070 or 46.16.085, shall pay to the director, county auditor, or other agent a fee of four dollars in addition to any other fees required by law.

(d) The fees under (a) and (c) of this subsection, if paid to the county auditor as agent of the director, or if paid to a subagent of the county auditor, shall be paid to the county treasurer in the same manner as other fees collected by the county auditor and credited to the county current expense fund. If the fee is paid to another agent of the director, the fee shall be used by the agent to defray his or her expenses in handling the application.

(e) Applicants required to pay the three-dollar fee established under (a) of this subsection, must pay an additional seventy-five cents, which must be collected and remitted to the state treasurer and distributed as follows:

(i) Fifty cents must be deposited into the department of licensing services account of the motor vehicle fund and must be used for agent and subagent support, which is to include but not be limited to

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the replacement of department-owned equipment in the possession of agents and subagents.

(ii) Twenty-five cents must be deposited into the license plate technology account created under RCW 46.16.685.

(5) A subagent shall collect a service fee of (a) ten dollars for changes in a certificate of ownership, with or without registration renewal, or verification of record and preparation of an affidavit of lost title other than at the time of the title application or transfer and (b) four dollars for registration renewal only, issuing a transit permit, or any other service under this section.

(6) If the fee is collected by the state patrol as agent for the director, the fee so collected shall be certified to the state treasurer and deposited to the credit of the state patrol highway account. If the fee is collected by the department of transportation as agent for the director, the fee shall be certified to the state treasurer and deposited to the credit of the motor vehicle fund. All such fees collected by the director or branches of his office shall be certified to the state treasurer and deposited to the credit of the highway safety fund.

(7) Any county revenues that exceed the cost of providing vehicle licensing and vessel registration and title activities in a county, calculated in accordance with the procedures in subsection (3)(d) of this section, shall be expended as determined by the county legislative authority during the process established by law for adoption of county budgets.

(8) The director may adopt rules to implement this section."

Renumber the sections consecutively and correct any internal references accordingly.

Senators Haugen and Berkey spoke in favor of adoption of the amendment.

Senator Swecker spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Haugen and Berkey on page 138, after line 9 to Engrossed Second Substitute House Bill No. 2617.

The motion by Senator Haugen carried and the amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 21 of the title, after "43.03.250," strike "and 43.03.265", and insert "43.03.265, 46.01.325, and 46.01.140"

On page 2, line 20 of the title, after "17.21.270," insert "46.01.320,"

#### MOTION

Senator Fraser moved that the following amendment by Senators Fraser, Kohl-Welles and Fairley be adopted:

On page 117, after line 20, strike all material down through and including line 32 on page 117 and insert the following:

"**Sec. 132.** RCW 27.34.365 and 2005 c 391 s 3 are each amended to read as follows:

The board of advisors shall consist of fifteen members. The ~~((governor))~~ director of the state historical society shall appoint eleven members to the board of advisors. Two members of the senate, one each representing the two largest caucuses of the senate, shall be appointed by the president of the senate, and two members of the house of representatives, one each representing the two largest caucuses of the house of representatives, shall be appointed by the speaker of the house of representatives.

The women's history consortium board of advisors may meet no more than two times per calendar year. If state funds are not

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available for travel, the board may meet on a voluntary basis at members' expense."

Senator Fraser spoke in favor of adoption of the amendment.

#### MOTION

On motion of Senator Marr, Senator Shin was excused.

The President declared the question before the Senate to be the adoption of the amendment by Senators Fraser Kohl-Welles and Fairley on page 177, after line 20 to Engrossed Second Substitute House Bill No. 2617.

The motion by Senator Fraser carried and the amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 2, line 1 of the title, after "18.71.205," insert "27.34.365,"

On page 2, lines 16 and 17 of the title, strike "27.34.360, 27.34.365, 27.34.370, 27.34.375, 27.34.380,"

#### MOTION

On motion of Senator Prentice, the rules were suspended, Engrossed Second Substitute House Bill No. 2617 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Prentice and Zarelli spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2617 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2617 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 40; Nays, 1; Absent, 0; Excused, 8.

Voting yea: Senators Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Stevens, Tom and Zarelli

Voting nay: Senator Swecker

Excused: Senators Becker, Benton, Brown, McCaslin, Morton, Murray, Roach and Shin

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2617 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 3201, by House Committee on Ways & Means (originally sponsored by Representatives Pettigrew, Linville, Sullivan and Ericks)

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Fees for infant screening.

might be missing something I thought something that might fit his head so we went to our caucus and we have something for Mrs. Hargrove to actually fit your head Senator.”

The measure was read the second time.

MOTION

MOTION

Senator Keiser moved that the following amendment by Senators Keiser and Prentice be adopted:

At 4:09 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Friday, March 19, 2010.

On page 1, line 14, after "obtained.", strike "The fee is a billable expense."

BRAD OWEN, President of the Senate

Senators Keiser, Prentice and Franklin spoke in favor of adoption of the amendment.

THOMAS HOEMANN, Secretary of the Senate

Senators Pflug and Schoesler spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Keiser and Prentice on page 1, line 14 to Substitute House Bill No. 3201.

The motion by Senator Keiser carried and the amendment was adopted by voice vote.

MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 3201 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

Senator Pflug spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 3201 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3201 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 26; Nays, 17; Absent, 0; Excused, 6.

Voting yea: Senators Berkey, Brown, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kline, Kohl-Welles, McAuliffe, McDermott, Murray, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon and Tom

Voting nay: Senators Brandland, Carrell, Delvin, Eide, Hewitt, Holmquist, Honeyford, Kilmer, King, Marr, Oemig, Parlette, Pflug, Schoesler, Stevens, Swecker and Zarelli

Excused: Senators Becker, Benton, McCaslin, Morton, Roach and Shin

SUBSTITUTE HOUSE BILL NO. 3201 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Brandland: “Thank you Mr. President. Last year you know I was standing in the body and Senator Hargrove brought to everyone’s attention that I looked pregnant because I had quite a big large stomach. Over the past year I’ve made quite an effort to lose some weight and reduce the size of my stomach. So, while I’m sitting here today I happen to look across and I noticed that Mrs. Hargrove was busy over the weekend and got out a soup bowl and shaved his head and I thought that since they

**FIFTH DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Friday, March 19, 2010

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Holmquist, McCaslin, McDermott, Morton and Roach.

The Sergeant at Arms Color Guard consisting of Senate Employees Sandy Wibbels and Kara Hamilton, presented the Colors. Retired Pastor Sandra Kries of St. Christopher's Community Church offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

March 18, 2010

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED HOUSE BILL NO. 2672,  
HOUSE CONCURRENT RESOLUTION NO. 4409,  
ENGROSSED SUBSTITUTE SENATE BILL 6789,  
and the same are here with transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

MOTION

Senator Prentice moved adoption of the following resolution:

SENATE RESOLUTION  
8722

By Senators Prentice, Fraser, Kohl-Welles, and Franklin

WHEREAS, The Washington State Legislature recognizes and honors the life and lifetime contributions of Ernest Ignacio Jose "Ernie" Aguilar, born on March 19, 1919, in Mexico City and died March 15, 2010; and

WHEREAS, In the name of public service Ernest Aguilar gave of his time, talent, resources, and skills during his entire lifetime towards the advancement of the Hispanic community and all citizens of Washington State; and

WHEREAS, Ernie Aguilar is survived by his wife of forty-five years, Clementina (Tina) Aguilar; his children, Kenny, Alan, Paul, Gloria McGriff, Michael (deceased), and Ernest (Nachito); his

grandchildren, Maria Aguilar, Shana Kenschuh, Darci and Alan Aguilar; and his great-grandchildren, Anthony and Alexander Kenschuh; and

WHEREAS, Ernie and Tina Aguilar's son Michael was the first Hispanic born in Washington State to graduate from West Point, and later unselfishly gave his life in the line of duty in a military training maneuver; and

WHEREAS, Ernie and Tina's son Kenny has achieved international recognition as the former Director of Personnel for NASA; and

WHEREAS, Ernie Aguilar proudly served this country and was a decorated veteran of World War II, the Korean War, and the Vietnam War; and

WHEREAS, Ernie Aguilar, as a tireless public servant and true visionary of the community, was instrumental in the creation of the Washington State Commission on Hispanic Affairs and was a member of its first governing board; and

WHEREAS, Ernie Aguilar was a former Thurston County Deputy Sheriff, the first Mexican-American to run for County Office in Washington State, and a former member of the Washington State Jail Commission; and

WHEREAS, Ernie Aguilar was a founding member and is now Chairman Emeritus of the Washington State Hispanic Chamber of Commerce, which promotes the self-determination and economic development of the State's Hispanic community; and

WHEREAS, Ernie Aguilar was one of the original founders and the first Chair of the Board of the Yakima Valley Farm Workers Clinic in Toppenish, Washington, which has improved access to medical care for all people in the community; and

WHEREAS, Ernie Aguilar was the initiator and founder of the Washington State Catholic Hispanic Ministry within Catholic Charities; and

WHEREAS, Ernie Aguilar has demonstrated a selfless commitment to higher education with the creation of the Ernie Aguilar Scholarship Fund that has been established at the University of Washington's Foster School of Business for Latino students who are pursuing their Masters in Business Administration; and

WHEREAS, Ernie Aguilar's international leadership achievements and dedication to the advancement of the Mexican and the Mexican-American communities were acknowledged by the President of Mexico when he was awarded the Ohtli Medal, Mexico's highest civilian honor;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate urge all citizens of the State of Washington to join us in congratulating and recognizing Ernie Aguilar for his unique and courageous vision, tireless public service, and legacy of accomplishments on behalf of Hispanics and all citizens of the State of Washington; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the family of Ernie Aguilar, the Consul General of Mexico, the Washington State Commission on Hispanic Affairs, the Washington Latino Advocacy and Leadership Institute, and the Foster School of Business at the University of Washington.

Senators Prentice, Franklin and King spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8722.

The motion by Senator Prentice carried and the resolution was adopted by voice vote.

MOTION

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On motion of Senator Eide, the Senate reverted to the sixth order of business.

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED HOUSE BILL 2672,  
HOUSE CONCURRENT RESOLUTION 4409.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Murray moved that Gubernatorial Appointment No. 9199, Kristin Hayden, as a member of the Board of Trustees, The Evergreen State College, be confirmed.

Senator Murray spoke in favor of the motion.

MOTION

On motion of Senator Brandland, Senators Benton, Holmquist, McCaslin, Morton, Roach and Stevens were excused.

MOTION

On motion of Senator Marr, Senators Brown, Fairley, Kauffman and McDermott were excused.

APPOINTMENT OF KRISTIN HAYDEN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9199, Kristin Hayden as a member of the Board of Trustees, The Evergreen State College.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9199, Kristin Hayden as a member of the Board of Trustees, The Evergreen State College and the appointment was confirmed by the following vote: Yeas, 42; Nays, 0; Absent, 1; Excused, 6.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Delvin

Excused: Senators Benton, Holmquist, McCaslin, McDermott, Morton and Roach

Gubernatorial Appointment No. 9199, Kristin Hayden, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, The Evergreen State College.

MOTION

On motion of Senator Carrell, Senator Delvin was excused.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

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Senator Gordon moved that Gubernatorial Appointment No. 9254, Lynette D. Jones, as a member of the Board of Trustees, Lake Washington Technical College District No. 26, be confirmed.

Senator Gordon spoke in favor of the motion.

APPOINTMENT OF LYNETTE D. JONES

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9254, Lynette D. Jones as a member of the Board of Trustees, Lake Washington Technical College District No. 26.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9254, Lynette D. Jones as a member of the Board of Trustees, Lake Washington Technical College District No. 26 and the appointment was confirmed by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Benton, Holmquist, McCaslin, McDermott, Morton and Roach

Gubernatorial Appointment No. 9254, Lynette D. Jones, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Lake Washington Technical College District No. 26.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Gordon moved that Gubernatorial Appointment No. 9196, Mariellen Gunn, as a member of the Board of Trustees, Bellevue Community College District No. 8, be confirmed.

Senator Gordon spoke in favor of the motion.

APPOINTMENT OF MARIELLEN GUNN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9196, Mariellen Gunn as a member of the Board of Trustees, Bellevue Community College District No. 8.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9196, Mariellen Gunn as a member of the Board of Trustees, Bellevue Community College District No. 8 and the appointment was confirmed by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Benton, Holmquist, McCaslin, McDermott, Morton and Roach

Gubernatorial Appointment No. 9196, Mariellen Gunn, having received the constitutional majority was declared

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confirmed as a member of the Board of Trustees, Bellevue Community College District No. 8.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Schoesler moved that Gubernatorial Appointment No. 9249, Kasey Webster, as a member of the Board of Regents, Washington State University, be confirmed.

Senator Schoesler spoke in favor of the motion.

## APPOINTMENT OF KASEY WEBSTER

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9249, Kasey Webster as a member of the Board of Regents, Washington State University.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9249, Kasey Webster as a member of the Board of Regents, Washington State University and the appointment was confirmed by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Benton, Holmquist, McCaslin, McDermott, Morton and Roach

Gubernatorial Appointment No. 9249, Kasey Webster, having received the constitutional majority was declared confirmed as a member of the Board of Regents, Washington State University.

## MOTION

On motion of Senator Eide, the Senate advanced to the seventh order of business.

## THIRD READING

ENGROSSED SENATE BILL NO. 6221, by Senator Fairley.

Concerning clarification and expansion of eligibility to use the state's local government investment pool.

The bill was read on Third Reading.

## MOTION

On motion of Senator Fairley, the rules were suspended and Engrossed Senate Bill No. 6221 was returned to second reading for the purpose of amendment.

## SECOND READING

ENGROSSED SENATE BILL NO. 6221, by Senator Fairley

Concerning clarification and expansion of eligibility to use the state's local government investment pool.

The measure was read the second time.

## MOTION

Senator Fairley moved that the following amendment by Senator Fairley be adopted:

On page 4, line 6, after "designee," strike "authorized officer of a school district."

Senator Fairley spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Fairley on page 4, line 6 to Engrossed Senate Bill No. 6221.

The motion by Senator Fairley carried and the amendment was adopted by voice vote.

## MOTION

On motion of Senator Fairley, the rules were suspended, Second Engrossed Senate Bill No. 6221 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fairley spoke in favor of passage of the bill.

Senator Tom spoke on final passage.

The President declared the question before the Senate to be the final passage of Second Engrossed Senate Bill No. 6221.

## ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Senate Bill No. 6221 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 1; Absent, 0; Excused, 6.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Voting nay: Senator Tom

Excused: Senators Benton, Holmquist, McCaslin, McDermott, Morton and Roach

SECOND ENGROSSED SENATE BILL NO. 6221, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 10:46 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:24 a.m. by President Owen.

## MOTION

On motion of Senator Eide, the Senate reverted to the sixth order of business.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

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Senator Franklin moved that Gubernatorial Appointment No. 9210, Bruce L. Lachney, as a member of the Board of Trustees, Clover Park Technical College District No. 29, be confirmed.

Senator Franklin spoke in favor of the motion.

APPOINTMENT OF BRUCE L. LACHNEY

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9210, Bruce L. Lachney as a member of the Board of Trustees, Clover Park Technical College District No. 29.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9210, Bruce L. Lachney as a member of the Board of Trustees, Clover Park Technical College District No. 29 and the appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Benton, Holmquist, McCaslin, Morton and Roach

Gubernatorial Appointment No. 9210, Bruce L. Lachney, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Clover Park Technical College District No. 29.

MOTION

On motion of Senator Eide, Rule 15 was suspended for the remainder of the day for the purpose of allowing continued floor action.

EDITOR'S NOTE: Senate Rule 15 establishes the floor schedule and calls for a lunch and dinner break of 90 minutes each per day during regular daily sessions.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Franklin moved that Gubernatorial Appointment No. 9195, Michael Grunwald, as a member of the Board of Trustees, Bates Technical College District No. 28, be confirmed.

Senator Franklin spoke in favor of the motion.

APPOINTMENT OF MICHAEL GRUNWALD

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9195, Michael Grunwald as a member of the Board of Trustees, Bates Technical College District No. 28.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9195, Michael Grunwald as a member of the Board of Trustees, Bates Technical College District No. 28 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon,

Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Benton, McCaslin, Morton and Roach

Gubernatorial Appointment No. 9195, Michael Grunwald, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Bates Technical College District No. 28.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Haugen moved that Gubernatorial Appointment No. 9222, Daniel O'Neal, as a member of the Transportation Commission, be confirmed.

Senator Haugen spoke in favor of the motion.

APPOINTMENT OF DANIEL O'NEAL

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9222, Daniel O'Neal as a member of the Transportation Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9222, Daniel O'Neal as a member of the Transportation Commission and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Benton, McCaslin, Morton and Roach

Gubernatorial Appointment No. 9222, Daniel O'Neal, having received the constitutional majority was declared confirmed as a member of the Transportation Commission.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Franklin moved that Gubernatorial Appointment No. 9251, Chad R. Wright, as a member of the Board of Trustees, Tacoma Community College District No. 22, be confirmed.

Senator Franklin spoke in favor of the motion.

APPOINTMENT OF CHAD R. WRIGHT

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9251, Chad R. Wright as a member of the Board of Trustees, Tacoma Community College District No. 22.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9251, Chad R. Wright as a member of the Board of Trustees, Tacoma Community College

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District No. 22 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yeas: Senators Becker, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Benton, McCaslin, Morton and Roach

Gubernatorial Appointment No. 9251, Chad R. Wright, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Tacoma Community College District No. 22.

## SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2956, by House Committee on Ways & Means (originally sponsored by Representatives Pettigrew, Williams and Maxwell)

Concerning hospital safety net assessment. Revised for 2nd Substitute: Concerning the hospital safety net.

The measure was read the second time.

## MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1. PURPOSE, FINDINGS, AND INTENT.** (1) The purpose of this chapter is to provide for a safety net assessment on certain Washington hospitals, which will be used solely to augment funding from all other sources and thereby obtain additional funds to restore recent reductions and to support additional payments to hospitals for medicaid services.

(2) The legislature finds that:

(a) Washington hospitals, working with the department of social and health services, have proposed a hospital safety net assessment to generate additional state and federal funding for the medicaid program, which will be used to partially restore recent inpatient and outpatient reductions in hospital reimbursement rates and provide for an increase in hospital payments; and

(b) The hospital safety net assessment and hospital safety net assessment fund created in this chapter allows the state to generate additional federal financial participation for the medicaid program and provides for increased reimbursement to hospitals.

(3) In adopting this chapter, it is the intent of the legislature:

(a) To impose a hospital safety net assessment to be used solely for the purposes specified in this chapter;

(b) That funds generated by the assessment shall be used solely to augment all other funding sources and not as a substitute for any other funds;

(c) That the total amount assessed not exceed the amount needed, in combination with all other available funds, to support the reimbursement rates and other payments authorized by this chapter; and

(d) To condition the assessment on receiving federal approval for receipt of additional federal financial participation and on continuation of other funding sufficient to maintain hospital inpatient and outpatient reimbursement rates and small rural

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disproportionate share payments at least at the levels in effect on June 30, 2009.

**"NEW SECTION. Sec. 2. DEFINITIONS.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Certified public expenditure hospital" means a hospital participating in the department's certified public expenditure payment program as described in WAC 388-550-4650 or successor rule.

(2) "Critical access hospital" means a hospital as described in RCW 74.09.5225.

(3) "Department" means the department of social and health services.

(4) "Fund" means the hospital safety net assessment fund established under section 3 of this act.

(5) "Hospital" means a facility licensed under chapter 70.41 RCW.

(6) "Long-term acute care hospital" means a hospital which has an average inpatient length of stay of greater than twenty-five days as determined by the department of health.

(7) "Managed care organization" means an organization having a certificate of authority or certificate of registration from the office of the insurance commissioner that contracts with the department under a comprehensive risk contract to provide prepaid health care services to eligible clients under the department's medicaid managed care programs, including the healthy options program.

(8) "Medicaid" means the medical assistance program as established in Title XIX of the social security act and as administered in the state of Washington by the department of social and health services.

(9) "Medicare cost report" means the medicare cost report, form 2552-96, or successor document.

(10) "Nonmedicare hospital inpatient day" means total hospital inpatient days less medicare inpatient days, including medicare days reported for medicare managed care plans, as reported on the medicare cost report, form 2552-96, or successor forms, excluding all skilled and nonskilled nursing facility days, skilled and nonskilled swing bed days, nursery days, observation bed days, hospice days, home health agency days, and other days not typically associated with an acute care inpatient hospital stay.

(11) "Prospective payment system hospital" means a hospital reimbursed for inpatient and outpatient services provided to medicaid beneficiaries under the inpatient prospective payment system and the outpatient prospective payment system as defined in WAC 388-550-1050. For purposes of this chapter, prospective payment system hospital does not include a hospital participating in the certified public expenditure program or a bordering city hospital located outside of the state of Washington and in one of the bordering cities listed in WAC 388-501-0175 or successor regulation.

(12) "Psychiatric hospital" means a hospital facility licensed as a psychiatric hospital under chapter 71.12 RCW.

(13) "Regional support network" has the same meaning as provided in RCW 71.24.025.

(14) "Rehabilitation hospital" means a medicare-certified freestanding inpatient rehabilitation facility.

(15) "Secretary" means the secretary of the department of social and health services.

(16) "Small rural disproportionate share hospital payment" means a payment made in accordance with WAC 388-550-5200 or subsequently filed regulation.

**"NEW SECTION. Sec. 3. HOSPITAL SAFETY NET ASSESSMENT FUND.** (1) A dedicated fund is hereby established within the state treasury to be known as the hospital safety net assessment fund. The purpose and use of the fund shall be to

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receive and disburse funds, together with accrued interest, in accordance with this chapter. Moneys in the fund, including interest earned, shall not be used or disbursed for any purposes other than those specified in this chapter. Any amounts expended from the fund that are later recouped by the department on audit or otherwise shall be returned to the fund.

(a) Any unexpended balance in the fund at the end of a fiscal biennium shall carry over into the following biennium and shall be applied to reduce the amount of the assessment under section 6(1)(c) of this act.

(b) Any amounts remaining in the fund on July 1, 2013, shall be used to make increased payments in accordance with sections 10 and 13 of this act for any outstanding claims with dates of service prior to July 1, 2013. Any amounts remaining in the fund after such increased payments are made shall be refunded to hospitals, pro rata according to the amount paid by the hospital, subject to the limitations of federal law.

(2) All assessments, interest, and penalties collected by the department under sections 4 and 6 of this act shall be deposited into the fund.

(3) Disbursements from the fund may be made only as follows:

(a) Subject to appropriations and the continued availability of other funds in an amount sufficient to maintain the level of medicaid hospital rates in effect on July 1, 2009;

(b) Upon certification by the secretary that the conditions set forth in section 17(1) of this act have been met with respect to the assessments imposed under section 4 (1) and (2) of this act, the payments provided under section 9 of this act, payments provided under section 13(2) of this act, and any initial payments under sections 11 and 12 of this act, funds shall be disbursed in the amount necessary to make the payments specified in those sections;

(c) Upon certification by the secretary that the conditions set forth in section 17(1) of this act have been met with respect to the assessments imposed under section 4(3) of this act and the payments provided under sections 10 and 14 of this act, payments made subsequent to the initial payments under sections 11 and 12 of this act, and payments under section 13(3) of this act, funds shall be disbursed periodically as necessary to make the payments as specified in those sections;

(d) To refund erroneous or excessive payments made by hospitals pursuant to this chapter;

(e) The sum of thirty-two million dollars per biennium may be expended in lieu of state general fund payments to hospitals. An additional sum of sixteen million dollars for the 2009-2011 fiscal biennium may be expended in lieu of state general fund payments to hospitals if additional federal financial participation under section 5001 of P.L. No. 111-5 is extended beyond December 31, 2010;

(f) The sum of one million dollars per biennium may be disbursed for payment of administrative expenses incurred by the department in performing the activities authorized by this chapter;

(g) To repay the federal government for any excess payments made to hospitals from the fund if the assessments or payment increases set forth in this chapter are deemed out of compliance with federal statutes and regulations and all appeals have been exhausted. In such a case, the department may require hospitals receiving excess payments to refund the payments in question to the fund. The state in turn shall return funds to the federal government in the same proportion as the original financing. If a hospital is unable to refund payments, the state shall develop a payment plan and/or deduct moneys from future medicaid payments.

**NEW SECTION. Sec. 4. ASSESSMENTS.** (1) An assessment is imposed as set forth in this subsection effective after the date when the applicable conditions under section 17(1) of this act have been satisfied through June 30, 2013, for the purpose of funding restoration of reimbursement rates under sections 9(1) and

13(2)(a) of this act and funding payments made subsequent to the initial payments under sections 11 and 12 of this act. Payments under this subsection are due and payable on the first day of each calendar quarter after the department sends notice of assessment to affected hospitals. However, the initial assessment is not due and payable less than thirty calendar days after notice of the amount due has been provided to affected hospitals.

(a) For the period beginning on the date the applicable conditions under section 17(1) of this act are met through December 31, 2010:

(i) Each prospective payment system hospital shall pay an assessment of thirty-two dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(ii) Each critical access hospital shall pay an assessment of ten dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(b) For the period beginning on January 1, 2011:

(i) Each prospective payment system hospital shall pay an assessment of forty dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(ii) Each critical access hospital shall pay an assessment of ten dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(c) For the period beginning July 1, 2011, through June 30, 2013:

(i) Each prospective payment system hospital shall pay an assessment of forty-four dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(ii) Each critical access hospital shall pay an assessment of ten dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(d)(i) For purposes of (a) and (b) of this subsection, the department shall determine each hospital's annual nonmedicare hospital inpatient days by summing the total reported nonmedicare inpatient days for each hospital that is not exempt from the assessment as described in section 5 of this act for the relevant state fiscal year 2008 portions included in the hospital's fiscal year end reports 2007 and/or 2008 cost reports. The department shall use nonmedicare hospital inpatient day data for each hospital taken from the centers for medicare and medicaid services' hospital 2552-96 cost report data file as of November 30, 2009, or equivalent data collected by the department.

(ii) For purposes of (c) of this subsection, the department shall determine each hospital's annual nonmedicare hospital inpatient days by summing the total reported nonmedicare hospital inpatient days for each hospital that is not exempt from the assessment under section 5 of this act, taken from the most recent publicly available hospital 2552-96 cost report data file or successor data file available through the centers for medicare and medicaid services, as of a date to be determined by the department. If cost report data are unavailable from the foregoing source for any hospital subject to the assessment, the department shall collect such information directly from the hospital.

(2) An assessment is imposed in the amounts set forth in this section for the purpose of funding the restoration of the rates under sections 9(2) and 13(2)(b) of this act and funding the initial payments under sections 11 and 12 of this act, which shall be due and payable within thirty calendar days after the department has transmitted a notice of assessment to hospitals. Such notice shall

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be transmitted immediately upon determination by the secretary that the applicable conditions established by section 17(1) of this act have been met.

(a) Prospective payment system hospitals.

(i) Each prospective payment system hospital shall pay an assessment of thirty dollars for each annual nonmedicare hospital inpatient day up to sixty thousand per year, multiplied by a ratio, the numerator of which is the number of days between June 30, 2009, and the day after the applicable conditions established by section 17(1) of this act have been met and the denominator of which is three hundred sixty-five.

(ii) Each prospective payment system hospital shall pay an assessment of one dollar for each annual nonmedicare hospital inpatient day over and above sixty thousand per year, multiplied by a ratio, the numerator of which is the number of days between June 30, 2009, and the day after the applicable conditions established by section 17(1) of this act have been met and the denominator of which is three hundred sixty-five.

(b) Each critical access hospital shall pay an assessment of ten dollars for each annual nonmedicare hospital inpatient day, multiplied by a ratio, the numerator of which is the number of days between June 30, 2009, and the day after the applicable conditions established by section 17(1) of this act have been met and the denominator of which is three hundred sixty-five.

(c) For purposes of this subsection, the department shall determine each hospital's annual nonmedicare hospital inpatient days by summing the total reported nonmedicare inpatient days for each hospital that is not exempt from the assessment as described in section 5 of this act for the relevant state fiscal year 2008 portions included in the hospital's fiscal year end reports 2007 and/or 2008 cost reports. The department shall use nonmedicare hospital inpatient day data for each hospital taken from the centers for medicare and medicaid services' hospital 2552-96 cost report data file as of November 30, 2009, or equivalent data collected by the department.

(3) An assessment is imposed as set forth in this subsection for the period February 1, 2010, through June 30, 2013, for the purpose of funding increased hospital payments under sections 10 and 13(3) of this act, which shall be due and payable on the first day of each calendar quarter after the department has sent notice of the assessment to each affected hospital, provided that the initial assessment shall be transmitted only after the secretary has determined that the applicable conditions established by section 17(1) of this act have been satisfied and shall be payable no less than thirty calendar days after the department sends notice of the amount due to affected hospitals. The initial assessment shall include the full amount due from February 1, 2010, through the date of the notice.

(a) For the period February 1, 2010, through December 31, 2010:

(i) Prospective payment system hospitals.

(A) Each prospective payment system hospital shall pay an assessment of one hundred dollars for each annual nonmedicare hospital inpatient day up to sixty thousand per year, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(B) Each prospective payment system hospital shall pay an assessment of five dollars for each annual nonmedicare hospital inpatient day over and above sixty thousand per year, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(ii) Each psychiatric hospital and each rehabilitation hospital shall pay an assessment of twenty-four dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(b) For the period beginning on January 1, 2011:

(i) Prospective payment system hospitals.

(A) Each prospective payment system hospital shall pay an assessment of one hundred twenty-seven dollars for each annual nonmedicare inpatient day up to sixty thousand per year, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(B) Each prospective payment system hospital shall pay an assessment of seven dollars for each annual nonmedicare inpatient day over and above sixty thousand per year, multiplied by the number of days in the assessment period divided by three hundred sixty-five. The department may adjust the assessment or the number of nonmedicare hospital inpatient days used to calculate the assessment amount if necessary to maintain compliance with federal statutes and regulations related to medicaid program health care-related taxes.

(ii) Each psychiatric hospital and each rehabilitation hospital shall pay an assessment of thirty dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(c) For the period beginning July 1, 2011, through June 30, 2013:

(i) Prospective payment system hospitals.

(A) Each prospective payment system hospital shall pay an assessment of one hundred thirty-three dollars for each annual nonmedicare hospital inpatient day up to sixty thousand per year, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(B) Each prospective payment system hospital shall pay an assessment of seven dollars for each annual nonmedicare inpatient day over and above sixty thousand per year, multiplied by the number of days in the assessment period divided by three hundred sixty-five. The department may adjust the assessment or the number of nonmedicare hospital inpatient days if necessary to maintain compliance with federal statutes and regulations related to medicaid program health care-related taxes.

(ii) Each psychiatric hospital and each rehabilitation hospital shall pay an assessment of thirty dollars for each annual nonmedicare inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(d)(i) For purposes of (a) and (b) of this subsection, the department shall determine each hospital's annual nonmedicare hospital inpatient days by summing the total reported nonmedicare inpatient days for each hospital that is not exempt from the assessment as described in section 5 of this act for the relevant state fiscal year 2008 portions included in the hospital's fiscal year end reports 2007 and/or 2008 cost reports. The department shall use nonmedicare hospital inpatient day data for each hospital taken from the centers for medicare and medicaid services' hospital 2552-96 cost report data file as of November 30, 2009, or equivalent data collected by the department.

(ii) For purposes of (c) of this subsection, the department shall determine each hospital's annual nonmedicare hospital inpatient days by summing the total reported nonmedicare hospital inpatient days for each hospital that is not exempt from the assessment under section 5 of this act, taken from the most recent publicly available hospital 2552-96 cost report data file or successor data file available through the centers for medicare and medicaid services, as of a date to be determined by the department. If cost report data are unavailable from the foregoing source for any hospital subject to the assessment, the department shall collect such information directly from the hospital.

(4) Notwithstanding the provisions of section 8 of this act, nothing in this act is intended to prohibit a hospital from including

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assessment amounts paid in accordance with this section on their medicare and medicaid cost reports.

**NEW SECTION. Sec. 5. EXEMPTIONS.** The following hospitals are exempt from any assessment under this chapter provided that if and to the extent any exemption is held invalid by a court of competent jurisdiction or by the centers for medicare and medicaid services, hospitals previously exempted shall be liable for assessments due after the date of final invalidation:

(1) Hospitals owned or operated by an agency of federal or state government, including but not limited to western state hospital and eastern state hospital;

(2) Washington public hospitals that participate in the certified public expenditure program;

(3) Hospitals that do not charge directly or indirectly for hospital services; and

(4) Long-term acute care hospitals.

**NEW SECTION. Sec. 6. ADMINISTRATION AND COLLECTION.** (1) The department, in cooperation with the office of financial management, shall develop rules for determining the amount to be assessed to individual hospitals, notifying individual hospitals of the assessed amount, and collecting the amounts due. Such rule making shall specifically include provision for:

(a) Transmittal of quarterly notices of assessment by the department to each hospital informing the hospital of its nonmedicare hospital inpatient days and the assessment amount due and payable. Such quarterly notices shall be sent to each hospital at least thirty calendar days prior to the due date for the quarterly assessment payment.

(b) Interest on delinquent assessments at the rate specified in RCW 82.32.050.

(c) Adjustment of the assessment amounts as follows:

(i) For each fiscal year beginning July 1, 2010, the assessment amounts under section 4 (1) and (3) of this act may be adjusted as follows:

(A) If sufficient other funds for hospitals, including any increase in federal financial participation for hospital payments in addition to what is provided under section 5001 of P.L. No. 111-5 or any extensions thereof, are available to support the reimbursement rates and other payments under section 9, 10, 11, 12, or 13 of this act without utilizing the full assessment authorized under section 4 (1) or (3) of this act, the department shall reduce the amount of the assessment for prospective payment system, psychiatric, and rehabilitation hospitals proportionately to the minimum level necessary to support those reimbursement rates and other payments.

(B) Provided that none of the conditions set forth in section 17(2) of this act have occurred, if the department's forecasts indicate that the assessment amounts under section 4 (1) and (3) of this act, together with all other available funds, are not sufficient to support the reimbursement rates and other payments under section 9, 10, 11, 12, or 13 of this act, the department shall increase the assessment rates for prospective payment system, psychiatric, and rehabilitation hospitals proportionately to the amount necessary to support those reimbursement rates and other payments, plus a contingency factor up to ten percent of the total assessment amount.

(C) Any positive balance remaining in the fund at the end of the fiscal year shall be applied to reduce the assessment amount for the subsequent fiscal year.

(ii) Any adjustment to the assessment amounts pursuant to this subsection, and the data supporting such adjustment, including but not limited to relevant data listed in subsection (2) of this section, must be submitted to the Washington state hospital association for review and comment at least sixty calendar days prior to implementation of such adjusted assessment amounts. Any review and comment provided by the Washington state hospital association

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shall not limit the ability of the Washington state hospital association or its members to challenge an adjustment or other action by the department that is not made in accordance with this chapter.

(2) By November 30th of each year, the department shall provide the following data to the Washington state hospital association:

(a) The fund balance;

(b) The amount of assessment paid by each hospital;

(c) The annual medicaid fee-for-service payments for inpatient hospital services and outpatient hospital services; and

(d) The medicaid healthy options inpatient and outpatient payments as reported by all hospitals to the department on disproportionate share hospital applications. The department shall amend the disproportionate share hospital application and reporting instructions as needed to ensure that the foregoing data is reported by all hospitals as needed in order to comply with this subsection (2)(d).

(3) The department shall determine the number of nonmedicare hospital inpatient days for each hospital for each assessment period.

(4) To the extent necessary, the department shall amend the contracts between the managed care organizations and the department and between regional support networks and the department to incorporate the provisions of section 13 of this act. The department shall pursue amendments to the contracts as soon as possible after the effective date of this act. The amendments to the contracts shall, among other provisions, provide for increased payment rates to managed care organizations in accordance with section 13 of this act.

**NEW SECTION. Sec. 7. LOCAL ASSESSMENTS OR TAXES NOT AUTHORIZED.** Nothing in this chapter shall be construed to authorize any unit of local government to impose a tax or assessment on hospitals, including but not limited to a tax or assessment measured by a hospital's income, earnings, bed days, or other similar measures.

**NEW SECTION. Sec. 8. ASSESSMENT PART OF OPERATING OVERHEAD.** The incidence and burden of assessments imposed under this chapter shall be on hospitals and the expense associated with the assessments shall constitute a part of the operating overhead of hospitals. Hospitals shall not increase charges or billings to patients or third-party payers as a result of the assessments under this chapter. The department may require hospitals to submit certified statements by their chief financial officers or equivalent officials attesting that they have not increased charges or billings as a result of the assessments.

**NEW SECTION. Sec. 9. RESTORATION OF JUNE 30, 2009, REIMBURSEMENT RATES.** Upon satisfaction of the applicable conditions set forth in section 17(1) of this act, the department shall:

(1) Restore medicaid inpatient and outpatient reimbursement rates to levels as if the four percent medicaid inpatient and outpatient rate reductions did not occur on July 1, 2009; and

(2) Recalculate the amount payable to each hospital that submitted an otherwise allowable claim for inpatient and outpatient medicaid-covered services rendered from and after July 1, 2009, up to and including the date when the applicable conditions under section 17(1) of this act have been satisfied, as if the four percent medicaid inpatient and outpatient rate reductions did not occur effective July 1, 2009, and, within sixty calendar days after the date upon which the applicable conditions set forth in section 17(1) of this act have been satisfied, remit the difference to each hospital.

**NEW SECTION. Sec. 10. INCREASED HOSPITAL PAYMENTS.** (1) Upon satisfaction of the applicable conditions set forth in section 17(1) of this act and for services rendered on or after February 1, 2010, the department shall increase the medicaid

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inpatient and outpatient fee-for-service hospital reimbursement rates in effect on June 30, 2009, by the percentages specified below:

- (a) Prospective payment system hospitals:
  - (i) Inpatient psychiatric services: Twelve percent;
  - (ii) Inpatient services: Twelve percent;
  - (iii) Outpatient services: Thirty-two percent.
- (b) Harborview medical center and University of Washington medical center:
  - (i) Inpatient psychiatric services: Three percent;
  - (ii) Inpatient services: Three percent;
  - (iii) Outpatient services: Twenty-one percent.
- (c) Rehabilitation hospitals:
  - (i) Inpatient services: Twelve percent;
  - (ii) Outpatient services: Thirty-two percent;
- (d) Psychiatric hospitals:
  - (i) Inpatient psychiatric services: Twelve percent;
  - (ii) Inpatient services: Twelve percent.

(2) For claims processed for services rendered on or after February 1, 2010, but prior to satisfaction of the applicable conditions specified in section 17(1) of this act, the department shall, within sixty calendar days after satisfaction of those conditions, calculate the amount payable to hospitals in accordance with this section and remit the difference to each hospital that has submitted an otherwise allowable claim for payment for such services.

**NEW SECTION. Sec. 11. CRITICAL ACCESS HOSPITAL PAYMENTS.** Upon satisfaction of the applicable conditions set forth in section 17(1) of this act, the department shall pay critical access hospitals that do not qualify for or receive a small rural disproportionate share payment in the subject state fiscal year an access payment of fifty dollars for each medicaid inpatient day, exclusive of days on which a swing bed is used for subacute care, from and after July 1, 2009. Initial payments to hospitals, covering the period from July 1, 2009, to the date when the applicable conditions under section 17(1) of this act are satisfied, shall be made within sixty calendar days after such conditions are satisfied. Subsequent payments shall be made to critical access hospitals on an annual basis at the time that disproportionate share eligibility and payment for the state fiscal year are established. These payments shall be in addition to any other amount payable with respect to services provided by critical access hospitals and shall not reduce any other payments to critical access hospitals.

**NEW SECTION. Sec. 12. DISPROPORTIONATE SHARE HOSPITAL PAYMENTS.** Upon satisfaction of the applicable conditions set forth in section 17(1) of this act, small rural disproportionate share payments shall be increased to one hundred twenty percent of the level in effect as of June 30, 2009, for the period from and after July 1, 2009, until July 1, 2013. Initial payments, covering the period from July 1, 2009, to the date when the applicable conditions under section 17(1) of this act are satisfied, shall be made within sixty calendar days after those conditions are satisfied. Subsequent payments shall be made directly to hospitals by the department on a periodic basis.

**NEW SECTION. Sec. 13. INCREASED MANAGED CARE PAYMENTS AND CORRESPONDING PAYMENTS TO HOSPITALS.** Subject to the applicable conditions set forth in section 17(1) of this act, the department shall:

- (1) Amend medicaid-managed care and regional support network contracts as necessary in order to ensure compliance with this chapter;
- (2) With respect to the inpatient and outpatient rates established by section 9 of this act:
  - (a) Upon satisfaction of the applicable conditions under section 17(1) of this act, increase payments to managed care organizations and regional support networks as necessary to ensure that hospitals are reimbursed in accordance with section 9(1) of this act for

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services rendered from and after the date when applicable conditions under section 17(1) of this act have been satisfied, and pay an additional amount equal to the estimated amount of additional state taxes on managed care organizations or regional support networks due as a result of the payments under this section, and require managed care organizations and regional support networks to make payments to each hospital in accordance with section 9 of this act. The increased payments made to hospitals pursuant to this subsection shall be in addition to any other amounts payable to hospitals by managed care organizations or regional support networks and shall not affect any other payments to hospitals;

(b) Within sixty calendar days after satisfaction of the applicable conditions under section 17(1) of this act, calculate the additional amount due to each hospital to pay claims submitted for inpatient and outpatient medicaid-covered services rendered from and after July 1, 2009, through the date when the applicable conditions under section 17(1) of this act have been satisfied, based on the rates required by section 9(2) of this act, make payments to managed care organizations and regional support networks in amounts sufficient to pay the additional amounts due to each hospital plus an additional amount equal to the estimated amount of additional state taxes on managed care organizations or regional support networks due as a result of the payments under this subsection, and require managed care organizations and regional support networks to make payments to each hospital in accordance with the department's calculations within forty-five calendar days after the department disburses funds for those purposes.

(3) With respect to the inpatient and outpatient hospital rates established by section 10 of this act:

(a) Upon satisfaction of the applicable conditions under section 17(1) of this act, increase payments to managed care organizations and regional support networks as necessary to ensure that hospitals are reimbursed in accordance with section 10 of this act, and pay an additional amount equal to the estimated amount of additional state taxes on managed care organizations or regional support networks due as a result of the payments under this section;

(b) Require managed care organizations and regional support networks to reimburse hospitals for hospital inpatient and outpatient services rendered after the date that the applicable conditions under section 17(1) of this act are satisfied at rates no lower than the combined rates established by sections 9 and 10 of this act;

(c) Within sixty calendar days after satisfaction of the applicable conditions under section 17(1) of this act, calculate the additional amount due to each hospital to pay claims submitted for inpatient and outpatient medicaid-covered services rendered from and after February 1, 2010, through the date when the applicable conditions under section 17(1) of this act are satisfied based on the rates required by section 10 of this act, make payments to managed care organizations and regional support networks in amounts sufficient to pay the additional amounts due to each hospital plus an additional amount equal to the estimated amount of additional state taxes on managed care organizations or regional support networks, and require managed care organizations and regional support networks to make payments to each hospital in accordance with the department's calculations within forty-five calendar days after the department disburses funds for those purposes;

(d) Require managed care organizations that contract with health care organizations that provide, directly or by contract, health care services on a prepaid or capitated basis to make payments to health care organizations for any of the hospital payments that the managed care organizations would have been required to pay to hospitals under this section if the managed care organizations did not contract with those health care organizations, and require the managed care organizations to require those health care

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organizations to make equivalent payments to the hospitals that would have received payments under this section if the managed care organizations did not contract with the health care organizations;

(4) The department shall ensure that the increases to the medicaid fee schedules as described in section 10 of this act are included in the development of healthy options premiums.

(5) The department may require managed care organizations and regional support networks to demonstrate compliance with this section.

**NEW SECTION. Sec. 14. QUALITY INCENTIVE PAYMENTS.** (1) The department, in collaboration with the health care authority, the department of health, the department of labor and industries, the Washington state hospital association, the Puget Sound health alliance, and the forum, a collaboration of health carriers, physicians, and hospitals in Washington state, shall design a system of hospital quality incentive payments. The design of the system shall be submitted to the relevant policy and fiscal committees of the legislature by December 15, 2010. The system shall be based upon the following principles:

(a) Evidence-based treatment and processes shall be used to improve health care outcomes for hospital patients;

(b) Effective purchasing strategies to improve the quality of health care services should involve the use of common quality improvement measures by public and private health care purchasers, while recognizing that some measures may not be appropriate for application to specialty pediatric, psychiatric, or rehabilitation hospitals;

(c) Quality measures chosen for the system should be consistent with the standards that have been developed by national quality improvement organizations, such as the national quality forum, the federal centers for medicare and medicaid services, or the federal agency for healthcare research and quality. New reporting burdens to hospitals should be minimized by giving priority to measures hospitals are currently required to report to governmental agencies, such as the hospital compare measures collected by the federal centers for medicare and medicaid services;

(d) Benchmarks for each quality improvement measure should be set at levels that are feasible for hospitals to achieve, yet represent real improvements in quality and performance for a majority of hospitals in Washington state; and

(e) Hospital performance and incentive payments should be designed in a manner such that all noncritical access hospitals in Washington are able to receive the incentive payments if performance is at or above the benchmark score set in the system established under this section.

(2) Upon satisfaction of the applicable conditions set forth in section 17(1) of this act, and for state fiscal year 2013 and each fiscal year thereafter, assessments may be increased to support an additional one percent increase in inpatient hospital rates for noncritical access hospitals that meet the quality incentive benchmarks established under this section.

**NEW SECTION. Sec. 15.** A new section is added to chapter 70.47 RCW to read as follows:

The increases in inpatient and outpatient reimbursement rates included in chapter 74.--- RCW (the new chapter created in section 23 of this act) shall not be reflected in hospital payment rates for services provided to basic health enrollees under this chapter.

**NEW SECTION. Sec. 16. MULTIHOSPITAL LOCATIONS, NEW HOSPITALS, AND CHANGES IN OWNERSHIP.** (1) If an entity owns or operates more than one hospital subject to assessment under this chapter, the entity shall pay the assessment for each hospital separately. However, if the entity operates multiple hospitals under a single medicaid provider number, it may pay the assessment for the hospitals in the aggregate.

(2) Notwithstanding any other provision of this chapter, if a hospital subject to the assessment imposed under this chapter ceases to conduct hospital operations throughout a state fiscal year, the assessment for the quarter in which the cessation occurs shall be adjusted by multiplying the assessment computed under section 4 (1) and (3) of this act by a fraction, the numerator of which is the number of days during the year which the hospital conducts, operates, or maintains the hospital and the denominator of which is three hundred sixty-five. Immediately prior to ceasing to conduct, operate, or maintain a hospital, the hospital shall pay the adjusted assessment for the fiscal year to the extent not previously paid.

(3) Notwithstanding any other provision of this chapter, in the case of a hospital that commences conducting, operating, or maintaining a hospital that is not exempt from payment of the assessment under section 5 of this act and that did not conduct, operate, or maintain such hospital throughout the cost reporting year used to determine the assessment amount, the assessment for that hospital shall be computed on the basis of the actual number of nonmedicare inpatient days reported to the department by the hospital on a quarterly basis. The hospital shall be eligible to receive increased payments under this chapter beginning on the date it commences hospital operations.

(4) Notwithstanding any other provision of this chapter, if a hospital previously subject to assessment is sold or transferred to another entity and remains subject to assessment, the assessment for that hospital shall be computed based upon the cost report data previously submitted by that hospital. The assessment shall be allocated between the transferor and transferee based on the number of days within the assessment period that each owned, operated, or maintained the hospital.

**NEW SECTION. Sec. 17. CONDITIONS.** (1) The assessment, collection, and disbursement of funds under this chapter shall be conditional upon:

(a) Withdrawal of those aspects of any pending state plan amendments previously submitted to the centers for medicare and medicaid services that are inconsistent with this chapter, specifically any pending state plan amendment related to the four percent rate reductions for inpatient and outpatient hospital rates and elimination of the small rural disproportionate share hospital payment program as implemented July 1, 2009;

(b) Approval by the centers for medicare and medicaid services of any state plan amendments or waiver requests that are necessary in order to implement the applicable sections of this chapter;

(c) To the extent necessary, amendment of contracts between the department and managed care organizations in order to implement this chapter; and

(d) Certification by the office of financial management that appropriations have been adopted that fully support the rates established in this chapter for the upcoming fiscal year.

(2) This chapter does not take effect or ceases to be imposed, and any moneys remaining in the fund shall be refunded to hospitals in proportion to the amounts paid by such hospitals, if and to the extent that:

(a) An appellate court or the centers for medicare and medicaid services makes a final determination that any element of this chapter, other than section 11 of this act, cannot be validly implemented;

(b) Medicaid inpatient or outpatient reimbursement rates for hospitals are reduced below the combined rates established by sections 9 and 10 of this act;

(c) Except for payments to the University of Washington medical center and harborview medical center, payments to hospitals required under sections 9, 10, 12, and 13 of this act are not eligible for federal matching funds;

(d) Other funding available for the medicaid program is not sufficient to maintain medicaid inpatient and outpatient reimbursement rates at the levels set in sections 9, 10, and 12 of this act; or

(e) The fund is used as a substitute for or to supplant other funds, except as authorized by section 3(3)(e) of this act.

**NEW SECTION. Sec. 18. SEVERABILITY.** (1) The provisions of this chapter are not severable: If the conditions set forth in section 17(1) of this act are not satisfied or if any of the circumstances set forth in section 17(2) of this act should occur, this entire chapter shall have no effect from that point forward, except that if the payment under section 11 of this act, or the application thereof to any hospital or circumstances does not receive approval by the centers for medicare and medicaid services as described in section 17(1)(b) of this act or is determined to be unconstitutional or otherwise invalid, the other provisions of this chapter or its application to hospitals or circumstances other than those to which it is held invalid shall not be affected thereby.

(2) In the event that any portion of this chapter shall have been validly implemented and the entire chapter is later rendered ineffective under this section, prior assessments and payments under the validly implemented portions shall not be affected.

(3) In the event that the payment under section 11 of this act, or the application thereof to any hospital or circumstances does not receive approval by the centers for medicare and medicaid services as described in section 17(1)(b) of this act or is determined to be unconstitutional or otherwise invalid, the amount of the assessment shall be adjusted under section 6(1)(c) of this act.

**Sec. 19.** 2009 c 564 s 209 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--MEDICAL ASSISTANCE PROGRAM

General Fund--State Appropriation (FY 2010).....	\$1,597,387,000
General Fund--State Appropriation (FY 2011).....	\$1,984,797,000
General Fund--Federal Appropriation.....	\$5,210,672,000
General Fund--Private/Local Appropriation.....	\$12,903,000
Emergency Medical Services and Trauma Care Systems	
Trust Account--State Appropriation.....	\$15,076,000
Tobacco Prevention and Control Account--	
State Appropriation.....	\$3,766,000
<b>TOTAL APPROPRIATION.....</b>	<b>\$8,824,601,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) Based on quarterly expenditure reports and caseload forecasts, if the department estimates that expenditures for the medical assistance program will exceed the appropriations, the department shall take steps including but not limited to reduction of rates or elimination of optional services to reduce expenditures so that total program costs do not exceed the annual appropriation authority.

(2) In determining financial eligibility for medicaid-funded services, the department is authorized to disregard recoveries by Holocaust survivors of insurance proceeds or other assets, as defined in RCW 48.104.030.

(3) The legislature affirms that it is in the state's interest for Harborview medical center to remain an economically viable component of the state's health care system.

(4) When a person is ineligible for medicaid solely by reason of residence in an institution for mental diseases, the department shall provide the person with the same benefits as he or she would receive if eligible for medicaid, using state-only funds to the extent necessary.

(5) In accordance with RCW 74.46.625, \$6,000,000 of the general fund--federal appropriation is provided solely for supplemental payments to nursing homes operated by public

hospital districts. The public hospital district shall be responsible for providing the required nonfederal match for the supplemental payment, and the payments shall not exceed the maximum allowable under federal rules. It is the legislature's intent that the payments shall be supplemental to and shall not in any way offset or reduce the payments calculated and provided in accordance with part E of chapter 74.46 RCW. It is the legislature's further intent that costs otherwise allowable for rate- setting and settlement against payments under chapter 74.46 RCW shall not be disallowed solely because such costs have been paid by revenues retained by the nursing home from these supplemental payments. The supplemental payments are subject to retrospective interim and final cost settlements based on the nursing homes' as-filed and final medicare cost reports. The timing of the interim and final cost settlements shall be at the department's discretion. During either the interim cost settlement or the final cost settlement, the department shall recoup from the public hospital districts the supplemental payments that exceed the medicaid cost limit and/or the medicare upper payment limit. The department shall apply federal rules for identifying the eligible incurred medicaid costs and the medicare upper payment limit.

(6) \$1,110,000 of the general fund--federal appropriation and \$1,105,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for grants to rural hospitals. The department shall distribute the funds under a formula that provides a relatively larger share of the available funding to hospitals that (a) serve a disproportionate share of low-income and medically indigent patients, and (b) have relatively smaller net financial margins, to the extent allowed by the federal medicaid program.

(7) \$9,818,000 of the general fund--state appropriation for fiscal year 2011, and \$9,865,000 of the general fund--federal appropriation are provided solely for grants to nonrural hospitals. The department shall distribute the funds under a formula that provides a relatively larger share of the available funding to hospitals that (a) serve a disproportionate share of low-income and medically indigent patients, and (b) have relatively smaller net financial margins, to the extent allowed by the federal medicaid program.

(8) The department shall continue the inpatient hospital certified public expenditures program for the 2009-11 biennium. The program shall apply to all public hospitals, including those owned or operated by the state, except those classified as critical access hospitals or state psychiatric institutions. The department shall submit reports to the governor and legislature by November 1, 2009, and by November 1, 2010, that evaluate whether savings continue to exceed costs for this program. If the certified public expenditures (CPE) program in its current form is no longer cost-effective to maintain, the department shall submit a report to the governor and legislature detailing cost-effective alternative uses of local, state, and federal resources as a replacement for this program. During fiscal year 2010 and fiscal year 2011, hospitals in the program shall be paid and shall retain one hundred percent of the federal portion of the allowable hospital cost for each medicaid inpatient fee-for-service claim payable by medical assistance and one hundred percent of the federal portion of the maximum disproportionate share hospital payment allowable under federal regulations. Inpatient medicaid payments shall be established using an allowable methodology that approximates the cost of claims submitted by the hospitals. Payments made to each hospital in the program in each fiscal year of the biennium shall be compared to a baseline amount. The baseline amount will be determined by the total of (a) the inpatient claim payment amounts that would have been paid during the fiscal year had the hospital not been in the CPE program, (b) one half of the indigent assistance disproportionate share hospital payment amounts paid to and retained by each

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hospital during fiscal year 2005, and (c) all of the other disproportionate share hospital payment amounts paid to and retained by each hospital during fiscal year 2005 to the extent the same disproportionate share hospital programs exist in the 2009-11 biennium. If payments during the fiscal year exceed the hospital's baseline amount, no additional payments will be made to the hospital except the federal portion of allowable disproportionate share hospital payments for which the hospital can certify allowable match. If payments during the fiscal year are less than the baseline amount, the hospital will be paid a state grant equal to the difference between payments during the fiscal year and the applicable baseline amount. Payment of the state grant shall be made in the applicable fiscal year and distributed in monthly payments. The grants will be recalculated and redistributed as the baseline is updated during the fiscal year. The grant payments are subject to an interim settlement within eleven months after the end of the fiscal year. A final settlement shall be performed. To the extent that either settlement determines that a hospital has received funds in excess of what it would have received as described in this subsection, the hospital must repay the excess amounts to the state when requested. \$6,570,000 of the general fund--state appropriation for fiscal year 2010, which is appropriated in section 204(1) of this act, and \$1,500,000 of the general fund--state appropriation for fiscal year 2011, which is appropriated in section 204(1) of this act, are provided solely for state grants for the participating hospitals. Sufficient amounts are appropriated in this section for the remaining state grants for the participating hospitals.

(9) The department is authorized to use funds appropriated in this section to purchase goods and supplies through direct contracting with vendors when the department determines it is cost-effective to do so.

(10) Sufficient amounts are appropriated in this section for the department to continue podiatry services for medicaid-eligible adults.

(11) Sufficient amounts are appropriated in this section for the department to provide an adult dental benefit that is at least equivalent to the benefit provided in the 2003-05 biennium.

(12) \$93,000 of the general fund--state appropriation for fiscal year 2010 and \$93,000 of the general fund--federal appropriation are provided solely for the department to pursue a federal Medicaid waiver pursuant to Second Substitute Senate Bill No. 5945 (Washington health partnership plan). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(13) The department shall require managed health care systems that have contracts with the department to serve medical assistance clients to limit any reimbursements or payments the systems make to providers not employed by or under contract with the systems to no more than the medical assistance rates paid by the department to providers for comparable services rendered to clients in the fee-for-service delivery system.

(14) Appropriations in this section are sufficient for the department to continue to fund family planning nurses in the community services offices.

(15) The department, in coordination with stakeholders, will conduct an analysis of potential savings in utilization of home dialysis. The department shall present its findings to the appropriate house of representatives and senate committees by December 2010.

(16) A maximum of \$166,875,000 of the general fund--state appropriation and \$38,389,000 of the general fund--federal appropriation may be expended in the fiscal biennium for the general assistance-unemployable medical program, and these amounts are provided solely for this program. Of these amounts, \$10,749,000 of the general fund--state appropriation for fiscal year 2010 and \$10,892,000 of the general fund--federal appropriation are

provided solely for payments to hospitals for providing outpatient services to low income patients who are recipients of general assistance-unemployable. Pursuant to RCW 74.09.035, the department shall not expend for the general assistance medical care services program any amounts in excess of the amounts provided in this subsection.

(17) If the department determines that it is feasible within the amounts provided in subsection (16) of this section, and without the loss of federal disproportionate share hospital funds, the department shall contract with the carrier currently operating a managed care pilot project for the provision of medical care services to general assistance-unemployable clients. Mental health services shall be included in the services provided through the managed care system. If the department determines that it is feasible, effective October 1, 2009, in addition to serving clients in the pilot counties, the carrier shall expand managed care services to clients residing in at least the following counties: Spokane, Yakima, Chelan, Kitsap, and Cowlitz. If the department determines that it is feasible, the carrier shall complete implementation into the remaining counties. Total per person costs to the state, including outpatient and inpatient services and any additional costs due to stop loss agreements, shall not exceed the per capita payments projected for the general assistance-unemployable eligibility category, by fiscal year, in the February 2009 medical assistance expenditures forecast. The department, in collaboration with the carrier, shall seek to improve the transition rate of general assistance clients to the federal supplemental security income program.

(18) The department shall evaluate the impact of the use of a managed care delivery and financing system on state costs and outcomes for general assistance medical clients. Outcomes measured shall include state costs, utilization, changes in mental health status and symptoms, and involvement in the criminal justice system.

(19) The department shall report to the governor and the fiscal committees of the legislature by June 1, 2010, on its progress toward achieving a twenty percentage point increase in the generic prescription drug utilization rate.

(20) State funds shall not be used by hospitals for advertising purposes.

(21) The department shall seek a medicaid state plan amendment to create a professional services supplemental payment program for University of Washington medicine professional providers no later than July 1, 2009. The department shall apply federal rules for identifying the shortfall between current fee-for-service medicaid payments to participating providers and the applicable federal upper payment limit. Participating providers shall be solely responsible for providing the local funds required to obtain federal matching funds. Any incremental costs incurred by the department in the development, implementation, and maintenance of this program will be the responsibility of the participating providers. Participating providers will retain the full amount of supplemental payments provided under this program, net of any potential costs for any related audits or litigation brought against the state. The department shall report to the governor and the legislative fiscal committees on the prospects for expansion of the program to other qualifying providers as soon as feasibility is determined but no later than December 31, 2009. The report will outline estimated impacts on the participating providers, the procedures necessary to comply with federal guidelines, and the administrative resource requirements necessary to implement the program. The department will create a process for expansion of the program to other qualifying providers as soon as it is determined feasible by both the department and providers but no later than June 30, 2010.

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(22) \$9,350,000 of the general fund--state appropriation for fiscal year 2010, \$8,313,000 of the general fund--state appropriation for fiscal year 2011, and \$20,371,000 of the general fund--federal appropriation are provided solely for development and implementation of a replacement system for the existing medicaid management information system. The amounts provided in this subsection are conditioned on the department satisfying the requirements of section 902 of this act.

(23) \$506,000 of the general fund--state appropriation for fiscal year 2011 and \$657,000 of the general fund--federal appropriation are provided solely for the implementation of Second Substitute House Bill No. 1373 (children's mental health). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(24) Pursuant to 42 U.S.C. Sec. 1396(a)(25), the department shall pursue insurance claims on behalf of medicaid children served through its in-home medically intensive child program under WAC 388-551-3000. The department shall report to the Legislature by December 31, 2009, on the results of its efforts to recover such claims.

(25) The department may, on a case-by-case basis and in the best interests of the child, set payment rates for medically intensive home care services to promote access to home care as an alternative to hospitalization. Expenditures related to these increased payments shall not exceed the amount the department would otherwise pay for hospitalization for the child receiving medically intensive home care services.

(26) \$425,000 of the general fund--state appropriation for fiscal year 2010, \$425,000 of the general fund--state appropriation for fiscal year 2011, and \$1,580,000 of the general fund--federal appropriation are provided solely to continue children's health coverage outreach and education efforts under RCW 74.09.470. These efforts shall rely on existing relationships and systems developed with local public health agencies, health care providers, public schools, the women, infants, and children program, the early childhood education and assistance program, child care providers, newborn visiting nurses, and other community-based organizations. The department shall seek public-private partnerships and federal funds that are or may become available to provide on-going support for outreach and education efforts under the federal children's health insurance program reauthorization act of 2009.

(27) The department, in conjunction with the office of financial management, shall ~~((reduce outpatient and inpatient hospital rates and))~~ implement a prorated inpatient payment policy. ~~((In determining the level of reductions needed, the department shall include in its calculations services paid under fee for service, managed care, and certified public expenditure payment methods; but reductions shall not apply to payments for psychiatric inpatient services or payments to critical access hospitals.))~~

(28) The department will pursue a competitive procurement process for antihemophilic products, emphasizing evidence-based medicine and protection of patient access without significant disruption in treatment.

(29) The department will pursue several strategies towards reducing pharmacy expenditures including but not limited to increasing generic prescription drug utilization by 20 percentage points and promoting increased utilization of the existing mail-order pharmacy program.

(30) The department shall reduce reimbursement for over-the-counter medications while maintaining reimbursement for those over-the-counter medications that can replace more costly prescription medications.

(31) The department shall seek public-private partnerships and federal funds that are or may become available to implement health

information technology projects under the federal American recovery and reinvestment act of 2009.

(32) The department shall target funding for maternity support services towards pregnant women with factors that lead to higher rates of poor birth outcomes, including hypertension, a preterm or low birth weight birth in the most recent previous birth, a cognitive deficit or developmental disability, substance abuse, severe mental illness, unhealthy weight or failure to gain weight, tobacco use, or African American or Native American race.

(33) The department shall direct graduate medical education funds to programs that focus on primary care training.

(34) \$79,000 of the general fund--state appropriation for fiscal year 2010 and \$53,000 of the general fund--federal appropriation are provided solely to implement Substitute House Bill No. 1845 (medical support obligations).

(35) \$63,000 of the general fund--state appropriation for fiscal year 2010, \$583,000 of the general fund--state appropriation for fiscal year 2011, and \$864,000 of the general fund--federal appropriation are provided solely to implement Engrossed House Bill No. 2194 (extraordinary medical placement for offenders). The department shall work in partnership with the department of corrections to identify services and find placements for offenders who are released through the extraordinary medical placement program. The department shall collaborate with the department of corrections to identify and track cost savings to the department of corrections, including medical cost savings, and to identify and track expenditures incurred by the aging and disability services program for community services and by the medical assistance program for medical expenses. A joint report regarding the identified savings and expenditures shall be provided to the office of financial management and the appropriate fiscal committees of the legislature by November 30, 2010. If this bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(36) Sufficient amounts are provided in this section to provide full benefit dual eligible beneficiaries with medicare part D prescription drug copayment coverage in accordance with RCW 74.09.520.

**Sec. 20.** RCW 43.84.092 and 2009 c 479 s 31, 2009 c 472 s 5, and 2009 c 451 s 8 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no

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appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the budget stabilization account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the health system capacity account, the personal health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety account, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public transportation systems account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puyallup tribal settlement account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the

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state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 corridor account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the urban arterial trust account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. Sec. 21. EXPIRATION. This chapter expires July 1, 2013.

NEW SECTION. Sec. 22. Upon expiration of chapter 74.--RCW (the new chapter created in section 24 of this act), inpatient and outpatient hospital reimbursement rates shall return to a rate structure as if the four percent medicaid inpatient and outpatient rate reductions did not occur on July 1, 2009, or as otherwise specified in the 2013-15 biennial operating appropriations act.

NEW SECTION. Sec. 23. EMERGENCY. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. Sec. 24. NEW CHAPTER. Sections 1 through 14, 16 through 18, and 21 of this act constitute a new chapter in Title 74 RCW."

Senator Keiser spoke in favor of adoption of the committee striking amendment.

#### MOTION

Senator Zarelli moved that the following amendment by Senator Zarelli to the committee striking amendment be adopted:

On page 5, after line 29, strike all material through line 35 and insert the following:

"(e) The sum of thirty-six million dollars for the fiscal year 2011 may be expended in lieu of state general fund payments to hospitals.

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The sum of thirty-six million five-hundred thousand dollars for fiscal year 2011 shall be expended to increase subsidized basic health plan enrollment by approximately 9,830 individuals. An additional sum of thirteen million five-hundred thousand dollars for fiscal year 2011 may be expended to increase enrollment in the basic health plan by approximately an additional 5,770 individuals if additional federal financial participation under section 5001 of P.L. No. 111-5 is extended beyond December 31, 2010. The sum of eighty-three million five-hundred thousand dollars for the 2011-13 fiscal biennium may be expended to increase subsidized basic health plan enrollment by approximately 15,650 individuals above the levels funded in the 2009-11 biennial operating appropriations act. If federal financial participation becomes available to support the basic health program, enrollment and/or funding levels may be adjusted accordingly to support continued enrollment pursuant to the 2011-13 biennial operating appropriations act."

Remember the sections consecutively and correct any internal references accordingly.

On page 13, beginning on line 21 strike all of section 10 and insert the following:

**"NEW SECTION. Sec. 10. INCREASED HOSPITAL PAYMENTS.** (1) Upon satisfaction of the applicable conditions set forth in section 17(1) of this act and for services rendered on or after February 1, 2010, the department shall increase the medicaid inpatient and outpatient fee-for-service hospital reimbursement rates in effect on June 30, 2009, by the percentages specified below:

- (a) Prospective payment system hospitals:
  - (i) Inpatient psychiatric services: ten percent;
  - (ii) Inpatient services: nine percent;
  - (iii) Outpatient services: twenty-seven percent.
- (b) Harborview medical center and University of Washington medical center:

- (i) Inpatient psychiatric services: two percent;
- (ii) Inpatient services: two percent;
- (iii) Outpatient services: Twenty percent.

(c) Rehabilitation hospitals:

- (i) Inpatient services: ten percent;
- (ii) Outpatient services: thirty-two percent;

(d) Psychiatric hospitals:

- (i) Inpatient psychiatric services: ten percent;
- (ii) Inpatient services: ten percent.

(2) For claims processed for services rendered on or after February 1, 2010, but prior to satisfaction of the applicable conditions specified in section 17(1) of this act, the department shall, within sixty calendar days after satisfaction of those conditions, calculate the amount payable to hospitals in accordance with this section and remit the difference to each hospital that has submitted an otherwise allowable claim for payment for such services."

Senator Zarelli spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Keiser spoke against adoption of the amendment to the committee striking amendment.

Senator Schoesler demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

Senator Pflug spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Marr spoke against adoption of the amendment to the committee striking amendment.

#### POINT OF ORDER

Senator Schoesler: "I think the derogatory remarks about the knowledge on this side of the aisle are unbecoming of this debate."

#### REPLY BY THE PRESIDENT

President Owen: "I don't think that the President agrees that those were directed at anybody in particular."

#### REMARKS BY SENATOR SCHOESLER

Senator Schoesler: "I think the 'uninformed remarks of the people who put this forward,' 'uninformed of members of the Senate who happen to serve on the fiscal and policy committees' is that not out of order?"

#### REPLY BY THE PRESIDENT

President Owen: "Senator Schoesler, the President has made his opinion. Senator Marr please be careful of your remarks."

#### POINT OF ORDER

Senator Pflug: "Thank you Mr. President. I do object to the gentleman saying that I am not informed about the fiscal reality of the hospital situation in this state. That is what he's saying."

#### REPLY BY THE PRESIDENT

President Owen: "I did not hear the Senator say that you were misinformed about anything."

#### REMARKS BY SENATOR PFLUG

Senator Pflug: "He's directed his remarks at the previous speaker."

#### REPLY BY THE PRESIDENT

President Owen: "Senator Pflug, the President has made his opinion. Senator Marr."

Senator McDermott spoke against adoption of the amendment to the committee striking amendment.

Senator Parlette spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Zarelli on page 5, after line 29 to the committee striking amendment to Engrossed Second Substitute House Bill No. 2956.

#### ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Zarelli to the committee striking amendment and the amendment was not adopted by the following vote: Yeas, 17; Nays, 27; Absent, 1; Excused, 4.

Voting yea: Senators Becker, Brandland, Carrell, Delvin, Hewitt, Hobbs, Holmquist, Honeyford, Kauffman, Kilmer, King, Parlette, Pflug, Schoesler, Stevens, Swecker and Zarelli

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon and Shin

Absent: Senator Tom

Excused: Senators Benton, McCaslin, Morton and Roach

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## MOTION

Senator Keiser moved that the following amendment by Senators Keiser and Parlette to the committee striking amendment be adopted:

On page 14, after line 12, insert the following:

"(3)By December 1, 2012, the department will submit a study to the legislature with recommendations on the amount of the assessments necessary to continue to support hospital payments for the 2013-15 biennium. The evaluation will assess medicaid hospital payments relative to medicaid hospital costs. The study should address current federal law, including any changes on scope of medicaid coverage and provisions related to provider taxes. The study should also address the state's economic forecast. Based on the forecast, the department should recommend the amount of assessment needed to support future hospital payments and the departmental administrative expenses. Recommendations should be developed with the fiscal committees of the legislature, office of financial management and the Washington state hospital association."

Senators Keiser and Parlette spoke in favor of adoption of the amendment to the committee striking amendment.

Senators Pflug and Hewitt spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Keiser and Parlette on page 14, after line 12 to the committee striking amendment to Engrossed Second Substitute House Bill No. 2956.

The motion by Senator Keiser carried and the amendment to the committee striking amendment was adopted by voice vote.

## MOTION

Senator Keiser moved that the following amendment by Senators Keiser and Parlette to the committee striking amendment be adopted:

On page 20, strike everything from line 20 through 22, and insert the following:

"(d) If other funding available for the medicaid program is not sufficient to maintain medicaid inpatient and outpatient reimbursement rates for hospitals and small rural disproportionate share payments at one hundred percent of the levels in effect on July 1, 2009; or"

On page 33, on line 4, after "structure" insert the following "no higher than the rate structure in effect as of July 1, 2009"

## WITHDRAWAL OF AMENDMENT

On motion of Senator Keiser, the amendment by Senators Keiser and Parlette on page 20, line 20 to the committee striking amendment was withdrawn.

## MOTION

Senator Keiser moved that the following amendment by Senators Keiser and Parlette to the committee striking amendment be adopted:

On page 20, strike everything from line 20 through 22, and insert the following:

"(d) Other funding available for the medicaid program is not sufficient to maintain medicaid inpatient and outpatient reimbursement rates for hospitals and small rural disproportionate

share payments at one hundred percent of the levels in effect on July 1, 2009; or"

On page 33, on line 4, after "structure" insert the following "no higher than the rate structure in effect as of July 1, 2009"

Senators Keiser, Parlette and Zarelli spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Keiser and Parlette on page 20, line 20 to the committee striking amendment to Engrossed Second Substitute House Bill No. 2956.

The motion by Senator Keiser carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means as amended to Engrossed Second Substitute House Bill No. 2956.

The motion by Senator Keiser carried and the committee striking amendment as amended was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 3 of the title, after "Washington;" strike the remainder of the title and insert "amending 2009 c 564 s 209 (uncodified); reenacting and amending RCW 43.84.092; adding a new section to chapter 70.47 RCW; adding a new chapter to Title 74 RCW; creating a new section; providing an expiration date; and declaring an emergency."

## MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Second Substitute House Bill No. 2956 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Marr spoke in favor of passage of the bill.

Senators Zarelli and Pflug spoke against passage of the bill.

## POINT OF ORDER

Senator Keiser: "I object to the implication that has been made that this was in some way a hospital association...."

## REPLY BY THE PRESIDENT

President Owen: "Senator Keiser, that objection has no merit in this debate. Senator Pflug."

Senator Franklin spoke in favor of passage of the bill.

Senators Hewitt, Schoesler and Parlette spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2956 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2956 as amended by

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the Senate and the bill passed the Senate by the following vote: Yeas, 28; Nays, 17; Absent, 0; Excused, 4.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon and Shin

Voting nay: Senators Becker, Brandland, Carrell, Delvin, Gordon, Haugen, Hewitt, Holmquist, Honeyford, King, Parlette, Pflug, Schoesler, Stevens, Swecker, Tom and Zarelli

Excused: Senators Benton, McCaslin, Morton and Roach  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2956 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 12:47 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 2:05 p.m. by President Owen.

MOTION

On motion of Senator Fairley, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

March 19, 2010

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6572, and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 19, 2010

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2617.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 19, 2010

MR. PRESIDENT:

The House has passed:

HOUSE BILL 1697,

SUBSTITUTE HOUSE BILL 2580,

ENGROSSED SUBSTITUTE HOUSE BILL 3175.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator McDermott moved that Gubernatorial Appointment No. 9253, Vanessa R. Gaston, as a member of the Human Rights Commission, be confirmed.

Senator McDermott spoke in favor of the motion.

MOTION

On motion of Senator Marr, Senators Brown, Hargrove, Haugen, Kohl-Welles and Ranker were excused.

MOTION

On motion of Senator Brandland, Senators Delvin and Pflug were excused.

APPOINTMENT OF VANESSA R. GASTON

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9253, Vanessa R. Gaston as a member of the Human Rights Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9253, Vanessa R. Gaston as a member of the Human Rights Commission and the appointment was confirmed by the following vote: Yeas, 33; Nays, 0; Absent, 5; Excused, 11.

Voting yea: Senators Becker, Berkey, Brandland, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hewitt, Holmquist, Honeyford, Kastama, Kauffman, Kilmer, King, Kline, Marr, McDermott, Murray, Oemig, Parlette, Prentice, Pridemore, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senators Hatfield, Hobbs, Jacobsen, Keiser and McAuliffe

Excused: Senators Benton, Brown, Delvin, Hargrove, Haugen, Kohl-Welles, McCaslin, Morton, Pflug, Ranker and Roach

Gubernatorial Appointment No. 9253, Vanessa R. Gaston, having received the constitutional majority was declared confirmed as a member of the Human Rights Commission.

MOTION

On motion of Senator Marr, Senators Hatfield, Hobbs, Jacobsen, Keiser and McAuliffe were excused.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator King moved that Gubernatorial Appointment No. 9215, Paul McDonald, as a member of the Board of Trustees,

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Yakima Valley Community College District No. 16, be confirmed.

Senator King spoke in favor of the motion.

APPOINTMENT OF PAUL MCDONALD

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9215, Paul McDonald as a member of the Board of Trustees, Yakima Valley Community College District No. 16.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9215, Paul McDonald as a member of the Board of Trustees, Yakima Valley Community College District No. 16 and the appointment was confirmed by the following vote: Yeas, 37; Nays, 0; Absent, 0; Excused, 12.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Haugen, Hewitt, Holmquist, Honeyford, Kastama, Kauffman, Kilmer, King, Kline, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Benton, Delvin, Hargrove, Hatfield, Hobbs, Jacobsen, Keiser, Kohl-Welles, McCaslin, Morton, Ranker and Roach

Gubernatorial Appointment No. 9215, Paul McDonald, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Yakima Valley Community College District No. 16.

SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE SENATE BILL 6572.

MOTION

At 2:15 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 3:09 p.m. by President Owen.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3014, by House Committee on Finance (originally sponsored by Representatives Kessler, Morrell and Van De Wege)

Modifying the sales and use tax deferral program for investment projects in rural counties.

The measure was read the second time.

MOTION

Senator Kastama moved that the following striking amendment by Senators Kastama and Zarelli be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 82.60.010 and 1985 c 232 s 1 are each amended to read as follows:

The legislature finds that there are several areas in the state that are characterized by very high levels of unemployment and poverty. The ~~((legislative legislature))~~ legislature further finds that economic stagnation is the primary cause of this high

unemployment rate and poverty; that new state policies are necessary in order to promote economic stimulation and new employment opportunities in these distressed areas; and that policies providing incentives for economic growth in these distressed areas are essential. For these reasons, the legislature ~~((hereby))~~ reestablishes a tax deferral program to be effective solely in distressed ~~((areas and under circumstances where the deferred tax payments are for investments or costs that result in the creation of a specified number of jobs))~~ counties. The legislature declares that this limited program serves the vital public purpose of creating employment opportunities and reducing poverty in the distressed ~~((areas))~~ counties of the state.

Sec. 2. RCW 82.60.020 and 2010 c ... (SHB 3066) s 138 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Applicant" means a person applying for a tax deferral under this chapter.

(2) "Department" means the department of revenue.

(3) "Eligible area" means ((a)):

(a) Through June 30, 2010, a rural county as defined in RCW 82.14.370; and

(b) Beginning July 1, 2010, a qualifying county.

(4)(a) "Eligible investment project" means an investment project that is located, as of the date the application required by RCW 82.60.030 is received by the department, in an eligible area as defined in subsection (3) of this section.

(b) ((The lessor or owner of a qualified building is not eligible for a deferral unless:

(i) The underlying ownership of the buildings, machinery, and equipment vests exclusively in the same person; or

(ii)(A) The lessor by written contract agrees to pass the economic benefit of the deferral to the lessee;

(B) The lessee that receives the economic benefit of the deferral agrees in writing with the department to complete the annual survey required under RCW 82.60.070; and

(C) The economic benefit of the deferral passed to the lessee is no less than the amount of tax deferred by the lessor and is evidenced by written documentation of any type of payment, credit, or other financial arrangement between the lessor or owner of the qualified building and the lessee.

(c)) "Eligible investment project" does not include any portion of an investment project undertaken by a light and power business as defined in RCW 82.16.010(4), other than that portion of a cogeneration project that is used to generate power for consumption within the manufacturing site of which the cogeneration project is an integral part, or investment projects ((which)) that have already received deferrals under this chapter.

(5) "Initiation of construction" has the same meaning as in RCW 82.63.010.

(6) "Investment project" means an investment in qualified buildings or qualified machinery and equipment, including labor and services rendered in the planning, installation, and construction of the project.

(7) "Manufacturing" means the same as defined in RCW 82.04.120. "Manufacturing" also includes;

(a) Before July 1, 2010: (i) Computer programming, the production of computer software, and other computer-related services, but only when the computer programming, production of computer software, or other computer-related services are performed by a manufacturer as defined in RCW 82.04.110 and contribute to the production of a new, different, or useful substance or article of tangible personal property for sale; (ii) the activities performed by research and development laboratories and commercial testing laboratories((s)); and (iii) the conditioning of

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vegetable seeds; and

(b) Beginning July 1, 2010: (i) The activities performed by research and development laboratories and commercial testing laboratories; and (ii) the conditioning of vegetable seeds.

(8) "Person" has the meaning given in RCW 82.04.030.

(9) "Qualified buildings" means construction of new structures, and expansion or renovation of existing structures for the purpose of increasing floor space or production capacity used for manufacturing and research and development activities, including plant offices and warehouses or other facilities for the storage of raw material or finished goods if such facilities are an essential or an integral part of a factory, mill, plant, or laboratory used for manufacturing or research and development. If a building is used partly for manufacturing or research and development and partly for other purposes, the applicable tax deferral ~~((shall))~~ must be determined by apportionment of the costs of construction under rules adopted by the department.

(10) "Qualified employment position" means a permanent full-time employee employed in the eligible investment project during the entire tax year. The term "entire tax year" means a full-time position that is filled for a period of twelve consecutive months. The term "full-time" means at least thirty-five hours a week, four hundred fifty-five hours a quarter, or one thousand eight hundred twenty hours a year.

(11) "Qualified machinery and equipment" means all new industrial and research fixtures, equipment, and support facilities that are an integral and necessary part of a manufacturing or research and development operation. "Qualified machinery and equipment" includes: Computers; software; data processing equipment; laboratory equipment; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; operating structures; and all equipment used to control or operate the machinery.

(12) "Qualifying county" means a county that has an unemployment rate, as determined by the employment security department, which is at least twenty percent above the state average for the three calendar years immediately preceding the year in which the list of qualifying counties is established or updated, as the case may be, as provided in section 3 of this act.

(13) "Recipient" means a person receiving a tax deferral under this chapter.

~~((13))~~ (14) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun, but only when such activities are intended to ultimately result in the production of a new, different, or useful substance or article of tangible personal property for sale. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

**NEW SECTION. Sec. 3.** A new section is added to chapter 82.60 RCW to read as follows:

The department, with the assistance of the employment security department, must establish a list of qualifying counties effective July 1, 2010. The list of qualifying counties is effective for a twenty-four month period and must be updated by July 1st of the year that is two calendar years after the list was established or last updated, as the case may be.

**NEW SECTION. Sec. 4.** A new section is added to chapter 82.60 RCW to read as follows:

The lessor or owner of a qualified building is not eligible for a deferral unless:

(1) The underlying ownership of the buildings, machinery, and equipment vests exclusively in the same person; or

(2)(a) The lessor by written contract agrees to pass the economic benefit of the deferral to the lessee;

(b) The lessee that receives the economic benefit of the deferral agrees in writing with the department to complete the annual survey required under RCW 82.60.070; and

(c) The economic benefit of the deferral passed to the lessee is no less than the amount of tax deferred by the lessor and is evidenced by written documentation of any type of payment, credit, or other financial arrangement between the lessor or owner of the qualified building and the lessee.

**Sec. 5.** RCW 82.60.030 and 1994 sp.s. c 1 s 2 are each amended to read as follows:

(1) Application for deferral of taxes under this chapter must be made before initiation of the construction of the investment project or acquisition of equipment or machinery. The application ~~((shall))~~ must be made to the department in a form and manner prescribed by the department. The application ~~((shall))~~ must contain information regarding the location of the investment project, the applicant's average employment in the state for the prior year, estimated or actual new employment related to the project, estimated or actual wages of employees related to the project, estimated or actual costs, time schedules for completion and operation, and other information required by the department. The department ~~((shall))~~ must rule on the application within sixty days.

(2) This section expires July 1, 2020.

**Sec. 6.** RCW 82.60.040 and 2004 c 25 s 4 are each amended to read as follows:

(1) The department ~~((shall))~~ must issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, and 82.14 RCW on each eligible investment project ~~((that is located in an eligible area as defined in RCW 82.60.020)).~~

(2) The department ~~((shall))~~ must keep a running total of all deferrals granted under this chapter during each fiscal biennium.

(3) This section expires July 1, ~~((2010))~~ 2020.

**Sec. 7.** RCW 82.60.049 and 2004 c 25 s 5 are each amended to read as follows:

(1) For the purposes of this section:

(a) "Eligible area" also means a designated community empowerment zone approved under RCW 43.31C.020 ~~((or a county containing a community empowerment zone)).~~

(b) "Eligible investment project" also means an investment project in an eligible area as defined in this section.

(2) In addition to the provisions of RCW 82.60.040, the department shall issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, and 82.14 RCW, on each eligible investment project that is located in an eligible area, if the applicant establishes that at the time the project is operationally complete:

(a) The applicant will hire at least one qualified employment position for each seven hundred fifty thousand dollars of investment for which a deferral is requested; and

(b) The positions will be filled by persons who at the time of hire are residents of the community empowerment zone. As used in this subsection, "resident" means the person makes his or her home in the community empowerment zone or the county in which the zone is located. A mailing address alone is insufficient to establish that a person is a resident for the purposes of this section. The persons must be hired after the date the application is filed with the department.

(3) All other provisions and eligibility requirements of this chapter apply to applicants eligible under this section.

(4) The qualified employment position must be filled by the end of the calendar year following the year in which the project is certified as operationally complete. If a person does not meet the

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requirements for qualified employment positions by the end of the second calendar year following the year in which the project is certified as operationally complete, all deferred taxes are immediately due.

**Sec. 8.** RCW 82.60.060 and 2000 c 106 s 5 are each amended to read as follows:

(1) The recipient (~~(shall)~~ must begin paying the deferred taxes in the third year after the date certified by the department as the date on which the (~~(construction))~~ investment project has been operationally completed. The first payment will be due on December 31st of the third calendar year after such certified date, with subsequent annual payments due on December 31st of the following four years with amounts of payment scheduled as follows:

Repayment Year	% of Deferred Tax Repaid
1	10%
2	15%
3	20%
4	25%
5	30%

(2) The department may authorize an accelerated repayment schedule upon request of the recipient.

(3) Interest (~~(shall)~~ may not be charged on any taxes deferred under this chapter for the period of deferral, although all other penalties and interest applicable to delinquent excise taxes may be assessed and imposed for delinquent payments under this chapter. The debt for deferred taxes will not be extinguished by insolvency or other failure of the recipient. Transfer of ownership does not terminate the deferral. The deferral is transferred, subject to the successor meeting the eligibility requirements of this chapter, for the remaining periods of the deferral.

**Sec. 9.** RCW 82.60.070 and 2010 c ... (SHB 3066) s 139 are each amended to read as follows:

(1)(a) Each recipient of a deferral of taxes granted under this chapter must file a complete annual survey with the department under RCW 82.32. . . (section 102, chapter . . . (SHB 3066), Laws of 2010). If the economic benefits of the deferral are passed to a lessee as provided in (~~(RCW 82.60.020(4))~~ section 4 of this act, the lessee must file a complete annual survey, and the applicant is not required to file a complete annual survey.

(b) The department must use the information reported on the annual survey required by this section to study the tax deferral program authorized under this chapter. The department must report to the legislature by December 1, (~~(2009))~~ 2019. The report must measure the effect of the program on job creation, the number of jobs created for residents of eligible areas, company growth, the introduction of new products, the diversification of the state's economy, growth in research and development investment, the movement of firms or the consolidation of firms' operations into the state, and such other factors as the department selects.

(2) Except as provided in section 10 of this act, if, on the basis of a survey under (~~(section))~~ RCW 82.32. . . (section 102, chapter . . . (SHB 3066), Laws of 2010) or other information, the department finds that an investment project is not eligible for tax deferral under this chapter, the amount of deferred taxes outstanding for the project is, according to the repayment schedule in RCW 82.60.060, will be immediately due. For purposes of this subsection (2)(a), the repayment schedule in RCW 82.60.060 is tolled during the period of time that a taxpayer is receiving relief from repayment of deferred taxes under section 10 of this act.

(3) A recipient who must repay deferred taxes under subsection (2) of this section because the department has found that an investment project is not eligible for tax deferral under this chapter is no longer required to file annual surveys under RCW 82.32. . . (section 102, chapter . . . (SHB 3066), Laws of 2010) beginning on the date an investment project is used for nonqualifying purposes.

(4) Notwithstanding any other provision of this section or RCW 82.32. . . (section 102, chapter . . . (SHB 3066), Laws of 2010), deferred taxes on the following need not be repaid:

(a) Machinery and equipment, and sales of or charges made for labor and services, which at the time of purchase would have qualified for exemption under RCW 82.08.02565; and

(b) Machinery and equipment which at the time of first use would have qualified for exemption under RCW 82.12.02565.

**NEW SECTION. Sec. 10.** A new section is added to chapter 82.60 RCW to read as follows:

(1) Subject to the conditions in this section, a person is not liable for the amount of deferred taxes outstanding for an investment project when the person temporarily ceases to use its qualified buildings and qualified machinery and equipment for manufacturing or research and development activities in a county with a population of less than twenty thousand persons for a period not to exceed twenty- four months from the date that the department sent its assessment for the amount of outstanding deferred taxes to the taxpayer.

(2) The relief from repayment of deferred taxes under this section does not apply unless the number of qualified employment positions maintained at the investment project after manufacturing or research and development activities are temporarily ceased is at least ten percent of the number of qualified employment positions employed at the investment project at the time the deferral was approved by the department. If a person has been approved for more than one deferral under this chapter, relief from repayment of deferred taxes under this section does not apply unless the number of qualified employment positions maintained at the investment project after manufacturing or research and development activities are temporarily ceased is at least ten percent of the highest number of qualified employment positions at the investment project at the time any of the deferrals were approved by the department. If, at any time during the twenty-four month period after the department has sent the taxpayer an assessment for outstanding deferred taxes resulting from the person temporarily ceasing to use its qualified buildings and qualified machinery and equipment for manufacturing or research and development activities, the number of qualified employment positions falls below the ten percent threshold in this subsection, the amount of deferred taxes outstanding for the project is immediately due.

(3) The lessor of an investment project for which a deferral has been granted under this chapter who has passed the economic benefits of the deferral to the lessee is not eligible for relief from the payment of deferred taxes under this section.

(4) A person seeking relief from the payment of deferred taxes under this section must apply to the department in a form and manner prescribed by the department. The application required under this subsection must be received by the department within thirty days of the date that the department sent its assessment for outstanding deferred taxes resulting from the person temporarily ceasing to use its qualified buildings and qualified machinery and equipment for manufacturing or research and development activities. The department must approve applications that meet the requirements in this section for relief from the payment of deferred taxes.

(5) A person is entitled to relief under this section only once.

(6) A person whose application for relief from the payment of deferred taxes has been approved under this section must continue

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to file an annual survey as required under RCW 82.60.070(1) or any successor statute. In addition, the person must file, in a form and manner prescribed by the department, a report on the status of the business and the outlook for commencing manufacturing or research and development activities.

**Sec. 11.** RCW 82.62.010 and 2010 c ... (E2SHB 1597) s 232 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Applicant" means a person applying for a tax credit under this chapter.

(2) "Department" means the department of revenue.

(3) "Eligible area" means ~~((an area))~~ a "rural county" as defined in RCW ~~((82.60.020))~~ 82.14.370.

(4)(a) "Eligible business project" means manufacturing or research and development activities which are conducted by an applicant in an eligible area at a specific facility, provided the applicant's average qualified employment positions at the specific facility will be at least fifteen percent greater in the four consecutive full calendar quarters after the calendar quarter during which the first qualified employment position is filled than the applicant's average qualified employment positions at the same facility in the four consecutive full calendar quarters immediately preceding the calendar quarter during which the first qualified employment position is filled.

(b) "Eligible business project" does not include any portion of a business project undertaken by a light and power business as defined in RCW 82.16.010~~((4))~~ or that portion of a business project creating qualified full-time employment positions outside an eligible area.

(5) "First qualified employment position" means the first qualified employment position filled for which a credit under this chapter is sought.

(6) "Manufacturing" means the same as defined in RCW 82.04.120. "Manufacturing" also includes:

(a) Before July 1, 2010: (i) Computer programming, the production of computer software, and other computer-related services, but only when the computer programming, production of computer software, or other computer-related services are performed by a manufacturer as defined in RCW 82.04.110 and contribute to the production of a new, different, or useful substance or article of tangible personal property for sale; and (ii) the activities performed by research and development laboratories and commercial testing laboratories; and

(b) Beginning July 1, 2010, the activities performed by research and development laboratories and commercial testing laboratories.

(7) "Person" has the meaning given in RCW 82.04.030.

(8)(a)(i) "Qualified employment position" means a permanent full-time employee employed in the eligible business project during four consecutive full calendar quarters.

(ii) For seasonal employers, "qualified employment position" also includes the equivalent of a full-time employee in work hours for four consecutive full calendar quarters.

(b) For purposes of this subsection, "full time" means a normal work week of at least thirty-five hours.

(c) Once a permanent, full-time employee has been employed, a position does not cease to be a qualified employment position solely due to periods in which the position goes vacant, as long as:

(i) The cumulative period of any vacancies in that position is not more than one hundred twenty days in the four-quarter period; and

(ii) During a vacancy, the employer is training or actively recruiting a replacement permanent, full-time employee for the position.

(9) "Recipient" means a person receiving tax credits under this chapter.

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(10) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun, but only when such activities are intended to ultimately result in the production of a new, different, or useful substance or article of tangible personal property for sale. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

(11) "Seasonal employee" means an employee of a seasonal employer who works on a seasonal basis. For the purposes of this subsection and subsection (12) of this section, "seasonal basis" means a continuous employment period of less than twelve consecutive months.

(12) "Seasonal employer" means a person who regularly hires more than fifty percent of its employees to work on a seasonal basis.

NEW SECTION. Sec. 12. RCW 82.60.900 and 82.60.901 are each decodified.

NEW SECTION. Sec. 13. The following acts or parts of acts are each repealed:

(1) RCW 82.60.050 (Expiration of RCW 82.60.030 and 82.60.040) and 2004 c 25 s 6, 1994 sp.s. c 1 s 7, 1993 sp.s. c 25 s 404, 1988 c 41 s 5, & 1985 c 232 s 10; and

(2) RCW 82.60.110 (Competing projects--Impact study) and 1998 c 245 s 169 & 1994 sp.s. c 1 s 8.

NEW SECTION. Sec. 14. Except for section 3 of this act, this act takes effect July 1, 2010."

Senator Kastama spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kastama and Zarelli to Engrossed Substitute House Bill No. 3014.

The motion by Senator Kastama carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "counties;" strike the remainder of the title and insert "amending RCW 82.60.010, 82.60.020, 82.60.030, 82.60.040, 82.60.049, 82.60.060, 82.60.070, and 82.62.010; adding new sections to chapter 82.60 RCW; decodifying RCW 82.60.900 and 82.60.901; repealing RCW 82.60.050 and 82.60.110; providing an effective date; and providing expiration dates."

#### MOTION

On motion of Senator Kastama, the rules were suspended, Engrossed Substitute House Bill No. 3014 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

Senator Sheldon spoke against passage of the bill.

#### MOTION

On motion of Senator Brandland, Senator Stevens was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 3014. as amended by the Senate

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## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 3014 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 41; Nays, 2; Absent, 0; Excused, 6.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Schoesler and Sheldon

Excused: Senators Benton, Delvin, McCaslin, Morton, Roach and Stevens

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3014 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION TO LIMIT DEBATE

Senator Eide: "Mr. President, I move that the members of the Senate be allowed to speak but once on each question before the Senate, that such speech be limited to three minutes and that members be prohibited from yielding their time, however, the maker of a motion shall be allowed to open and close debate. This motion shall be in effect through March 19, 2010."

The President declared the question before the Senate to be the motion by Senator Eide to limit debate.

The motion by Senator Eide carried and debate was limited through March 19, 2010 by voice vote.

## MOTION

On motion of Senator Eide, the Senate advanced to the seventh order of business.

## THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 6143, by Senate Committee on Ways & Means (originally sponsored by Senator Prentice).

Relating to revenue and taxation. Revised for 1st Substitute: Modifying excise tax laws to preserve funding for public schools, colleges, and universities, as well as other public systems essential for the safety, health, and security of all Washingtonians.

The bill was read on Third Reading.

## MOTION

On motion of Senator Prentice, the rules were suspended and Engrossed Substitute Senate Bill No. 6143 was returned to second reading for the purpose of amendment.

## SECOND READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 6143, by Senate Committee on Ways & Means (originally sponsored by Senator Prentice)

Relating to revenue and taxation. Revised for 1st Substitute: Modifying excise tax laws to preserve funding for public schools, colleges, and universities, as well as other public systems essential for the safety, health, and security of all Washingtonians.

The measure was read the second time.

## MOTION

Senator Prentice moved that the following amendment by Senator Prentice be adopted:

On page 14, at the beginning of line 32, strike "3Aa-7" and insert "3a-7"

On page 35, after line 30, insert the following:

"Sec. 404. RCW 82.04.4266 and 2010 c ... (SHB 3066) s 111 are each amended to read as follows:

(1) This chapter does not apply to the value of products or the gross proceeds of sales derived from:

(a) Manufacturing fruit((s)) or vegetable((s)) products by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables; or

(b) Selling at wholesale fruit((s)) or vegetable((s)) products manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state. A person taking an exemption under this subsection (1)(b) must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state.

(2) A person claiming the exemption provided in this section must file a complete annual survey with the department under RCW 82.32.--- (section 102, chapter ... (SHB 3066), Laws of 2010).

(3)(a) For the purposes of this section, "fruit or vegetable products" means:

(i) Products comprised exclusively of fruits, vegetables, or both; and

(ii) Products comprised of fruits, vegetables, or both, and which may also contain water, sugar, salt, seasonings, preservatives, binders, stabilizers, flavorings, yeast, and similar substances. However, the amount of all ingredients contained in the product, other than fruits, vegetables, and water, may not exceed the amount of fruits and vegetables contained in the product measured by weight or volume.

(b) "Fruit or vegetable products" includes only products that are intended for human consumption as food or animal consumption as feed.

(4) This section expires July 1, 2012.

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 42, after line 34, insert the following:

"Sec. 405. RCW 82.04.260 and 2010 c ... (SHB 3066) s 107 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing:

(a) Wheat into flour, barley into pearl barley, soybeans into soybean oil, canola into canola oil, canola meal, or canola by-products, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business is equal to the value of the flour, pearl barley, oil, canola meal, or canola by-product manufactured, multiplied by the rate of 0.138 percent;

(b) Beginning July 1, 2012, seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; or selling manufactured seafood

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products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing, to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business is equal to the value of the products manufactured or the gross proceeds derived from such sales, multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(c) Beginning July 1, 2012, dairy products that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including by-products from the manufacturing of the dairy products such as whey and casein; or selling the same to purchasers who transport in the ordinary course of business the goods out of state; as to such persons the tax imposed is equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(d)(i) Beginning July 1, 2012, fruit((s)) or vegetable((s)) products by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables, or selling at wholesale fruit((s)) or vegetable((s)) products manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business is equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(ii) For purposes of this subsection, "fruit or vegetable products" means:

(A) Products comprised exclusively of fruits, vegetables, or both; or

(B) Products comprised of fruits, vegetables, or both, and which may also contain water, sugar, salt, seasonings, preservatives, binders, stabilizers, flavorings, yeast, and similar substances. However, the amount of all ingredients contained in the product, other than fruits, vegetables, and water, may not exceed the amount of fruits and vegetables contained in the product measured by weight or volume;

(iii) "Fruit and vegetable products" includes only products that are intended for human consumption as food or animal consumption as feed;

(e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel feedstock, as those terms are defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business is equal to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock manufactured, multiplied by the rate of 0.138 percent; and

(f) Wood biomass fuel as defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business is equal to the value of wood biomass fuel manufactured, multiplied by the rate of 0.138 percent.

(2) Upon every person engaging within this state in the business of splitting or processing dried peas; as to such persons the amount of tax with respect to such business is equal to the value of the peas split or processed, multiplied by the rate of 0.138 percent.

(3) Upon every nonprofit corporation and nonprofit association engaging within this state in research and development, as to such corporations and associations, the amount of tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

(4) ((Upon every person engaging within this state in the business of slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale only and not at retail; as to such persons the tax imposed is equal to the gross proceeds derived from such sales multiplied by the rate of 0.138 percent.

(5))) Upon every person engaging within this state in the business of acting as a travel agent or tour operator; as to such persons the amount of the tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

((((6))) (5) Upon every person engaging within this state in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent; as to such persons the amount of the tax with respect to only international activities is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

((((7))) (6) Upon every person engaging within this state in the business of stevedoring and associated activities pertinent to the movement of goods and commodities in waterborne interstate or foreign commerce; as to such persons the amount of tax with respect to such business is equal to the gross proceeds derived from such activities multiplied by the rate of 0.275 percent. Persons subject to taxation under this subsection are exempt from payment of taxes imposed by chapter 82.16 RCW for that portion of their business subject to taxation under this subsection. Stevedoring and associated activities pertinent to the conduct of goods and commodities in waterborne interstate or foreign commerce are defined as all activities of a labor, service or transportation nature whereby cargo may be loaded or unloaded to or from vessels or barges, passing over, onto or under a wharf, pier, or similar structure; cargo may be moved to a warehouse or similar holding or storage yard or area to await further movement in import or export or may move to a consolidation freight station and be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loaded on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: Wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator service to containers, trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.

((((8))) (7) Upon every person engaging within this state in the business of disposing of low-level waste, as defined in RCW 43.145.010; as to such persons the amount of the tax with respect to such business is equal to the gross income of the business, excluding any fees imposed under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

If the gross income of the taxpayer is attributable to activities both within and without this state, the gross income attributable to this state must be determined in accordance with the methods of apportionment required under RCW 82.04.460.

((((9))) (8) Upon every person engaging within this state as an insurance producer or title insurance agent licensed under chapter 48.17 RCW or a surplus line broker licensed under chapter 48.15 RCW; as to such persons, the amount of the tax with respect to such licensed activities is equal to the gross income of such business multiplied by the rate of 0.484 percent.

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~~((49))~~ (9) Upon every person engaging within this state in business as a hospital, as defined in chapter 70.41 RCW, that is operated as a nonprofit corporation or by the state or any of its political subdivisions, as to such persons, the amount of tax with respect to such activities is equal to the gross income of the business multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5 percent thereafter.

~~((10))~~ (10)(a) Beginning October 1, 2005, upon every person engaging within this state in the business of manufacturing commercial airplanes, or components of such airplanes, or making sales, at retail or wholesale, of commercial airplanes or components of such airplanes, manufactured by the seller, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through June 30, 2007; and

(ii) 0.2904 percent beginning July 1, 2007.

(b) Beginning July 1, 2008, upon every person who is not eligible to report under the provisions of (a) of this subsection ~~((11))~~ (10) and is engaging within this state in the business of manufacturing tooling specifically designed for use in manufacturing commercial airplanes or components of such airplanes, or making sales, at retail or wholesale, of such tooling manufactured by the seller, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, be equal to the gross income of the business, multiplied by the rate of 0.2904 percent.

(c) For the purposes of this subsection ~~((11))~~ (10), "commercial airplane" and "component" have the same meanings as provided in RCW 82.32.550.

(d) In addition to all other requirements under this title, a person reporting under the tax rate provided in this subsection ~~((11))~~ (10) must file a complete annual report with the department under RCW 82.32.--- (section 103, chapter ... (SHB 3066), Laws of 2010).

(e) This subsection ~~((11))~~ (10) does not apply on and after July 1, 2024.

~~((11))~~ (11)(a) Until July 1, 2024, upon every person engaging within this state in the business of extracting timber or extracting for hire timber; as to such persons the amount of tax with respect to the business is, in the case of extractors, equal to the value of products, including by-products, extracted, or in the case of extractors for hire, equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2024.

(b) Until July 1, 2024, upon every person engaging within this state in the business of manufacturing or processing for hire: (i) Timber into timber products or wood products; or (ii) timber products into other timber products or wood products; as to such persons the amount of the tax with respect to the business is, in the case of manufacturers, equal to the value of products, including by-products, manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2024.

(c) Until July 1, 2024, upon every person engaging within this state in the business of selling at wholesale: (i) Timber extracted by that person; (ii) timber products manufactured by that person from timber or other timber products; or (iii) wood products manufactured by that person from timber or timber products; as to such persons the amount of the tax with respect to the business is

equal to the gross proceeds of sales of the timber, timber products, or wood products multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2024.

(d) Until July 1, 2024, upon every person engaging within this state in the business of selling standing timber; as to such persons the amount of the tax with respect to the business is equal to the gross income of the business multiplied by the rate of 0.2904 percent. For purposes of this subsection ~~((12))~~ (11)(d), "selling standing timber" means the sale of timber apart from the land, where the buyer is required to sever the timber within thirty months from the date of the original contract, regardless of the method of payment for the timber and whether title to the timber transfers before, upon, or after severance.

(e) For purposes of this subsection, the following definitions apply:

(i) "Biocomposite surface products" means surface material products containing, by weight or volume, more than fifty percent recycled paper and that also use nonpetroleum-based phenolic resin as a bonding agent.

(ii) "Paper and paper products" means products made of interwoven cellulosic fibers held together largely by hydrogen bonding. "Paper and paper products" includes newsprint; office, printing, fine, and pressure-sensitive papers; paper napkins, towels, and toilet tissue; kraft bag, construction, and other kraft industrial papers; paperboard, liquid packaging containers, containerboard, corrugated, and solid- fiber containers including linerboard and corrugated medium; and related types of cellulosic products containing primarily, by weight or volume, cellulosic materials. "Paper and paper products" does not include books, newspapers, magazines, periodicals, and other printed publications, advertising materials, calendars, and similar types of printed materials.

(iii) "Recycled paper" means paper and paper products having fifty percent or more of their fiber content that comes from postconsumer waste. For purposes of this subsection ~~((12))~~ (11)(e)(iii), "postconsumer waste" means a finished material that would normally be disposed of as solid waste, having completed its life cycle as a consumer item.

(iv) "Timber" means forest trees, standing or down, on privately or publicly owned land. "Timber" does not include Christmas trees that are cultivated by agricultural methods or short-rotation hardwoods as defined in RCW 84.33.035.

(v) "Timber products" means:

(A) Logs, wood chips, sawdust, wood waste, and similar products obtained wholly from the processing of timber, short-rotation hardwoods as defined in RCW 84.33.035, or both;

(B) Pulp, including market pulp and pulp derived from recovered paper or paper products; and

(C) Recycled paper, but only when used in the manufacture of biocomposite surface products.

(vi) "Wood products" means paper and paper products; dimensional lumber; engineered wood products such as particleboard, oriented strand board, medium density fiberboard, and plywood; wood doors; wood windows; and biocomposite surface products.

(f) Except for small harvesters as defined in RCW 84.33.035, a person reporting under the tax rate provided in this subsection ~~((12))~~ (11) must file a complete annual survey with the department under RCW 82.32.--- (section 102, chapter ... (SHB 3066), Laws of 2010).

~~((13))~~ (12) Upon every person engaging within this state in inspecting, testing, labeling, and storing canned salmon owned by another person, as to such persons, the amount of tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

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((44)) (13)(a) Upon every person engaging within this state in the business of printing a newspaper, publishing a newspaper, or both, the amount of tax on such business is equal to the gross income of the business multiplied by the rate of 0.2904 percent.

(b) A person reporting under the tax rate provided in this subsection ((44)) (13) must file a complete annual report with the department under RCW 82.32.--- (section 103, chapter ... (SHB 3066), Laws of 2010).

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 43, after line 20, insert the following:

"Sec. 406. RCW 82.04.250 and 2010 c ... (SHB 3066) s 106 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of making sales at retail, except persons taxable as retailers under other provisions of this chapter, as to such persons, the amount of tax with respect to such business is equal to the gross proceeds of sales of the business, multiplied by the rate of 0.471 percent.

(2) Upon every person engaging within this state in the business of making sales at retail that are exempt from the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or 82.08.0263, except persons taxable under RCW 82.04.260((44)) (10) or subsection (3) of this section, as to such persons, the amount of tax with respect to such business is equal to the gross proceeds of sales of the business, multiplied by the rate of 0.484 percent.

(3)(a) Upon every person classified by the federal aviation administration as a federal aviation regulation part 145 certificated repair station and that is engaging within this state in the business of making sales at retail that are exempt from the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or 82.08.0263, as to such persons, the amount of tax with respect to such business is equal to the gross proceeds of sales of the business, multiplied by the rate of 0.2904 percent.

(b) A person reporting under the tax rate provided in this subsection (3) must file a complete annual report with the department under RCW 82.32.--- (section 103, chapter ... (SHB 3066), Laws of 2010).

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 51, after line 23, insert the following:

"Sec. 412. RCW 82.04.4463 and 2010 c ... (SHB 3066) s 116 are each amended to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed for property taxes and leasehold excise taxes paid during the calendar year.

(2) The credit is equal to:

(a)(i)(A) Property taxes paid on buildings, and land upon which the buildings are located, constructed after December 1, 2003, and used exclusively in manufacturing commercial airplanes or components of such airplanes; and

(B) Leasehold excise taxes paid with respect to buildings constructed after January 1, 2006, the land upon which the buildings are located, or both, if the buildings are used exclusively in manufacturing commercial airplanes or components of such airplanes; and

(C) Property taxes or leasehold excise taxes paid on, or with respect to, buildings constructed after June 30, 2008, the land upon which the buildings are located, or both, and used exclusively for aerospace product development, manufacturing tooling specifically designed for use in manufacturing commercial airplanes or their components, or in providing aerospace services, by persons not within the scope of (a)(i)(A) and (B) of this subsection (2) and are taxable under RCW 82.04.290(3), 82.04.260((44)) (10)(b), or 82.04.250(3); or

(ii) Property taxes attributable to an increase in assessed value due to the renovation or expansion, after: (A) December 1, 2003, of a building used exclusively in manufacturing commercial airplanes or components of such airplanes; and (B) June 30, 2008, of buildings used exclusively for aerospace product development, manufacturing tooling specifically designed for use in manufacturing commercial airplanes or their components, or in providing aerospace services, by persons not within the scope of (a)(ii)(A) of this subsection (2) and are taxable under RCW 82.04.290(3), 82.04.260((44)) (10)(b), or 82.04.250(3); and

(b) An amount equal to:

(i)(A) Property taxes paid, by persons taxable under RCW 82.04.260((44)) (10)(a), on machinery and equipment exempt under RCW 82.08.02565 or 82.12.02565 and acquired after December 1, 2003;

(B) Property taxes paid, by persons taxable under RCW 82.04.260((44)) (10)(b), on machinery and equipment exempt under RCW 82.08.02565 or 82.12.02565 and acquired after June 30, 2008; or

(C) Property taxes paid, by persons taxable under RCW 82.04.250(3) or 82.04.290(3), on computer hardware, computer peripherals, and software exempt under RCW 82.08.975 or 82.12.975 and acquired after June 30, 2008.

(ii) For purposes of determining the amount eligible for credit under (i)(A) and (B) of this subsection (2)(b), the amount of property taxes paid is multiplied by a fraction.

(A) The numerator of the fraction is the total taxable amount subject to the tax imposed under RCW 82.04.260((44)) (10) (a) or (b) on the applicable business activities of manufacturing commercial airplanes, components of such airplanes, or tooling specifically designed for use in the manufacturing of commercial airplanes or components of such airplanes.

(B) The denominator of the fraction is the total taxable amount subject to the tax imposed under all manufacturing classifications in chapter 82.04 RCW.

(C) For purposes of both the numerator and denominator of the fraction, the total taxable amount refers to the total taxable amount required to be reported on the person's returns for the calendar year before the calendar year in which the credit under this section is earned. The department may provide for an alternative method for calculating the numerator in cases where the tax rate provided in RCW 82.04.260((44)) (10) for manufacturing was not in effect during the full calendar year before the calendar year in which the credit under this section is earned.

(D) No credit is available under (b)(i)(A) or (B) of this subsection (2) if either the numerator or the denominator of the fraction is zero. If the fraction is greater than or equal to nine-tenths, then the fraction is rounded to one.

(E) As used in (b)(ii)(C) of this subsection (2)((b)(ii)), "returns" means the tax returns for which the tax imposed under this chapter is reported to the department.

(3) The definitions in this subsection apply throughout this section, unless the context clearly indicates otherwise.

(a) "Aerospace product development" has the same meaning as provided in RCW 82.04.4461.

(b) "Aerospace services" has the same meaning given in RCW 82.08.975.

(c) "Commercial airplane" and "component" have the same meanings as provided in RCW 82.32.550.

(4) A credit earned during one calendar year may be carried over to be credited against taxes incurred in a subsequent calendar year, but may not be carried over a second year. No refunds may be granted for credits under this section.

(5) In addition to all other requirements under this title, a person claiming the credit under this section must file a complete annual

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report with the department under RCW 82.32.--- (section 103, chapter ... (SHB 3066), Laws of 2010).

(6) This section expires July 1, 2024.

Renumber the remaining sections consecutively and correct any internal references accordingly.

Beginning on page 52, line 27, strike all of section 413

Renumber the remaining sections consecutively and correct any internal references accordingly.

Beginning on page 55, line 14, strike all of sections 415 and 416

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 61, beginning on line 12, strike all of section 503 and insert the following:

"**Sec. 503.** RCW 82.04.360 and 2010 c ... (E2SHB 1597) s 207 are each amended to read as follows:

(1) This chapter does not apply to any person in respect to his or her employment in the capacity of an employee or servant as distinguished from that of an independent contractor. For the purposes of this section, the definition of employee (~~shall~~) includes those persons that are defined in section 3121(d)(3)(B) of the federal internal revenue code of 1986, as amended through January 1, 1991.

(2) A booth renter is an independent contractor for purposes of this chapter. For purposes of this subsection, "booth renter" means any person who:

(a) Performs cosmetology, barbering, esthetics, or manicuring services for which a license is required under chapter 18.16 RCW; and

(b) Pays a fee for the use of salon or shop facilities and receives no compensation or other consideration from the owner of the salon or shop for the services performed.

(3) Until July 1, 2010, this chapter does not apply to amounts received by an individual from a corporation as compensation for serving as a member of that corporation's board of directors. Beginning June 1, 2010, such amounts are taxable under RCW 82.04.290(2).

On page 72, after line 3, strike all of section 902 and insert the following:

"**Sec. 902.** RCW 82.60.020 and 2010 c ... (SHB 3066) s 138 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Applicant" means a person applying for a tax deferral under this chapter.

(2) "Department" means the department of revenue.

(3) "Eligible area" means a rural county as defined in RCW 82.14.370.

(4)(a) "Eligible investment project" means an investment project in an eligible area as defined in subsection (3) of this section.

(b) The lessor or owner of a qualified building is not eligible for a deferral unless:

(i) The underlying ownership of the buildings, machinery, and equipment vests exclusively in the same person; or

(ii)(A) The lessor by written contract agrees to pass the economic benefit of the deferral to the lessee;

(B) The lessee that receives the economic benefit of the deferral agrees in writing with the department to complete the annual survey required under RCW 82.60.070; and

(C) The economic benefit of the deferral passed to the lessee is no less than the amount of tax deferred by the lessor and is evidenced by written documentation of any type of payment, credit, or other financial arrangement between the lessor or owner of the qualified building and the lessee.

(c) "Eligible investment project" does not include any portion of an investment project undertaken by a light and power business as defined in RCW 82.16.010(4), other than that portion of a

cogeneration project that is used to generate power for consumption within the manufacturing site of (~~which~~) that the cogeneration project is an integral part, or investment projects which have already received deferrals under this chapter.

(5) "Initiation of construction" has the same meaning as in RCW 82.63.010.

(6) "Investment project" means an investment in qualified buildings or qualified machinery and equipment, including labor and services rendered in the planning, installation, and construction of the project.

(7) "Manufacturing" means the same as defined in RCW 82.04.120. "Manufacturing" also includes:

(a) Before July 1, 2010: (i) Computer programming, the production of computer software, and other computer-related services, but only when the computer programming, production of computer software, or other computer-related services are performed by a manufacturer as defined in RCW 82.04.110 and contribute to the production of a new, different, or useful substance or article of tangible personal property for sale; (ii) the activities performed by research and development laboratories and commercial testing laboratories; and (iii) the conditioning of vegetable seeds; and

(b) Beginning July 1, 2010: (i) The activities performed by research and development laboratories and commercial testing laboratories; and (ii) the conditioning of vegetable seeds.

(8) "Person" has the meaning given in RCW 82.04.030.

(9) "Qualified buildings" means construction of new structures, and expansion or renovation of existing structures for the purpose of increasing floor space or production capacity used for manufacturing and research and development activities, including plant offices and warehouses or other facilities for the storage of raw material or finished goods if such facilities are an essential or an integral part of a factory, mill, plant, or laboratory used for manufacturing or research and development. If a building is used partly for manufacturing or research and development and partly for other purposes, the applicable tax deferral must be determined by apportionment of the costs of construction under rules adopted by the department.

(10) "Qualified employment position" means a permanent full-time employee employed in the eligible investment project during the entire tax year. The term "entire tax year" means a full-time position that is filled for a period of twelve consecutive months. The term "full-time" means at least thirty-five hours a week, four hundred fifty-five hours a quarter, or one thousand eight hundred twenty hours a year.

(11) "Qualified machinery and equipment" means all new industrial and research fixtures, equipment, and support facilities that are an integral and necessary part of a manufacturing or research and development operation. "Qualified machinery and equipment" includes: Computers; software; data processing equipment; laboratory equipment; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; operating structures; and all equipment used to control or operate the machinery.

(12) "Recipient" means a person receiving a tax deferral under this chapter.

(13) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun, but only when such activities are intended to ultimately result in the production of a new, different, or useful substance or article of tangible personal property for sale. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

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**Sec. 903.** RCW 82.62.010 and 2007 c 485 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Applicant" means a person applying for a tax credit under this chapter.

(2) "Department" means the department of revenue.

(3) "Eligible area" means an area as defined in RCW 82.60.020.

(4)(a) "Eligible business project" means manufacturing or research and development activities which are conducted by an applicant in an eligible area at a specific facility, provided the applicant's average qualified employment positions at the specific facility will be at least fifteen percent greater in the four consecutive full calendar quarters after the calendar quarter during which the first qualified employment position is filled than the applicant's average qualified employment positions at the same facility in the four consecutive full calendar quarters immediately preceding the calendar quarter during which the first qualified employment position is filled.

(b) "Eligible business project" does not include any portion of a business project undertaken by a light and power business as defined in RCW 82.16.010~~((5))~~(4) or that portion of a business project creating qualified full-time employment positions outside an eligible area.

(5) "First qualified employment position" means the first qualified employment position filled for which a credit under this chapter is sought.

(6) "Manufacturing" means the same as defined in RCW 82.04.120. "Manufacturing" also includes:

(a) Before July 1, 2010: (i) Computer programming, the production of computer software, and other computer-related services, but only when the computer programming, production of computer software, or other computer-related services are performed by a manufacturer as defined in RCW 82.04.110 and contribute to the production of a new, different, or useful substance or article of tangible personal property for sale; and (ii) the activities performed by research and development laboratories and commercial testing laboratories; and

(b) Beginning July 1, 2010: (i) The activities performed by research and development laboratories and commercial testing laboratories; and (ii) the conditioning of vegetable seeds.

(7) "Person" has the meaning given in RCW 82.04.030.

(8)(a)(i) "Qualified employment position" means a permanent full-time employee employed in the eligible business project during four consecutive full calendar quarters.

(ii) For seasonal employers, "qualified employment position" also includes the equivalent of a full-time employee in work hours for four consecutive full calendar quarters.

(b) For purposes of this subsection, "full time" means a normal work week of at least thirty-five hours.

(c) Once a permanent, full-time employee has been employed, a position does not cease to be a qualified employment position solely due to periods in which the position goes vacant, as long as:

(i) The cumulative period of any vacancies in that position is not more than one hundred twenty days in the four-quarter period; and

(ii) During a vacancy, the employer is training or actively recruiting a replacement permanent, full-time employee for the position.

(9) "Recipient" means a person receiving tax credits under this chapter.

(10) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun, but only when such activities are intended to ultimately result in the production of a new, different, or useful substance or article of

tangible personal property for sale. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

(11) "Seasonal employee" means an employee of a seasonal employer who works on a seasonal basis. For the purposes of this subsection and subsection (12) of this section, "seasonal basis" means a continuous employment period of less than twelve consecutive months.

(12) "Seasonal employer" means a person who regularly hires more than fifty percent of its employees to work on a seasonal basis.

**Sec. 904.** RCW 82.62.010 and 2010 c ... (E2SHB 1597) s 232 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Applicant" means a person applying for a tax credit under this chapter.

(2) "Department" means the department of revenue.

(3) "Eligible area" means an area as defined in RCW 82.60.020.

(4)(a) "Eligible business project" means manufacturing or research and development activities which are conducted by an applicant in an eligible area at a specific facility, provided the applicant's average qualified employment positions at the specific facility will be at least fifteen percent greater in the four consecutive full calendar quarters after the calendar quarter during which the first qualified employment position is filled than the applicant's average qualified employment positions at the same facility in the four consecutive full calendar quarters immediately preceding the calendar quarter during which the first qualified employment position is filled.

(b) "Eligible business project" does not include any portion of a business project undertaken by a light and power business as defined in RCW 82.16.010(4) or that portion of a business project creating qualified full-time employment positions outside an eligible area.

(5) "First qualified employment position" means the first qualified employment position filled for which a credit under this chapter is sought.

(6) "Manufacturing" means the same as defined in RCW 82.04.120. "Manufacturing" also includes:

(a) Before July 1, 2010: (i) Computer programming, the production of computer software, and other computer-related services, but only when the computer programming, production of computer software, or other computer-related services are performed by a manufacturer as defined in RCW 82.04.110 and contribute to the production of a new, different, or useful substance or article of tangible personal property for sale; and (ii) the activities performed by research and development laboratories and commercial testing laboratories; and

(b) Beginning July 1, 2010: (i) The activities performed by research and development laboratories and commercial testing laboratories; and (ii) the conditioning of vegetable seeds.

(7) "Person" has the meaning given in RCW 82.04.030.

(8)(a)(i) "Qualified employment position" means a permanent full-time employee employed in the eligible business project during four consecutive full calendar quarters.

(ii) For seasonal employers, "qualified employment position" also includes the equivalent of a full-time employee in work hours for four consecutive full calendar quarters.

(b) For purposes of this subsection, "full time" means a normal work week of at least thirty-five hours.

(c) Once a permanent, full-time employee has been employed, a position does not cease to be a qualified employment position solely due to periods in which the position goes vacant, as long as:

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(i) The cumulative period of any vacancies in that position is not more than one hundred twenty days in the four-quarter period; and

(ii) During a vacancy, the employer is training or actively recruiting a replacement permanent, full-time employee for the position.

(9) "Recipient" means a person receiving tax credits under this chapter.

(10) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun, but only when such activities are intended to ultimately result in the production of a new, different, or useful substance or article of tangible personal property for sale. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

(11) "Seasonal employee" means an employee of a seasonal employer who works on a seasonal basis. For the purposes of this subsection and subsection (12) of this section, "seasonal basis" means a continuous employment period of less than twelve consecutive months.

(12) "Seasonal employer" means a person who regularly hires more than fifty percent of its employees to work on a seasonal basis.

Renumber the remaining sections consecutively and correct any internal references accordingly.

Beginning on page 77, strike all of Part XII

Renumber the remaining parts and sections consecutively and correct any internal references accordingly.

On page 94, line 14, after "taxpayer," strike "subject to the tax" and insert "which reports at least fifty percent of its taxable income"

On page 95, line 19, after "paying" strike "the" and insert "at least fifty percent of their"

On page 105, line 6, after "after" strike "July" and insert "June"

On page 106, beginning on line 1, after "Except" strike all material through "2105 of" on line 2 and insert "as otherwise provided in"

On page 106, after line 5, strike all of section 2110

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 106, after line 9, insert the following:

NEW SECTION. Sec. 2112. Sections 403, 405, 411, and 901 of this act expire June 10, 2010.

NEW SECTION. Sec. 2113. Sections 404, 406, 412, and 902 of this act take effect June 10, 2010.

NEW SECTION. Sec. 2114. Section 406 of this act expires July 1, 2011.

NEW SECTION. Sec. 2115. Sections 502 and 903 of this act expire July 1, 2010.

NEW SECTION. Sec. 2116. Sections 503 and 904 of this act take effect July 1, 2010.

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 106, after line 14, insert the following:

NEW SECTION. Sec. 2114. Part XVIII of this act expires June 1, 2013."

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 106, after line 18, strike all of section 2116

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 106, line 22, after "502" insert ", 503,"

Senator Prentice spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Prentice on page 14, line 32 to Engrossed Substitute Senate Bill No. 6143.

The motion by Senator Prentice carried and the amendment was adopted by voice vote.

#### MOTION

Senator Prentice moved that the following amendment by Senator Prentice be adopted:

On page 92, after line 3, insert the following:

**"Sec. 1802.** RCW 82.08.0293 and 2010 c ... (E2SHB 1597) s 216 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of food and food ingredients. "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include:

(a) "Alcoholic beverages," which means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume; and

(b) "Tobacco," which means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

(2) The exemption of "food and food ingredients" provided for in subsection (1) of this section does not apply to prepared food, soft drinks, bottled water, or dietary supplements. For purposes of this subsection, the following definitions apply:

(a) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

(i) Contains one or more of the following dietary ingredients:

(A) A vitamin;

(B) A mineral;

(C) An herb or other botanical;

(D) An amino acid;

(E) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(F) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in this subsection;

(ii) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(iii) Is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label as required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered as of January 1, 2003.

(b)(i) "Prepared food" means:

(A) Food sold in a heated state or heated by the seller;

(B) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food; or

(C) Two or more food ingredients mixed or combined by the seller for sale as a single item, except:

(I) Food that is only cut, repackaged, or pasteurized by the seller; or

(II) Raw eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal food and drug administration in chapter 3, part 401.11 of The Food Code, published by the food and drug administration, as amended or renumbered as of January 1, 2003, so as to prevent foodborne illness.

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(ii) "Prepared food" does not include the following food or food ingredients, if the food or food ingredients are sold without eating utensils provided by the seller:

(A) Food sold by a seller whose proper primary North American industry classification system (NAICS) classification is manufacturing in sector 311, except subsector 3118 (bakeries), as provided in the "North American industry classification system--United States, 2002";

(B) Food sold in an unheated state by weight or volume as a single item; or

(C) Bakery items. The term "bakery items" includes bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, or tortillas.

(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain: Milk or milk products; soy, rice, or similar milk substitutes; or greater than fifty percent of vegetable or fruit juice by volume.

(d) "Bottled water" means water that is placed in a sealed container or package for human consumption or other consumer uses. Bottled water is calorie free and does not contain sweeteners or other additives except that it may contain: (i) Antimicrobial agents; (ii) fluoride; (iii) carbonation; (iv) vitamins, minerals, and electrolytes; (v) oxygen; (vi) preservatives; and (vii) only those flavors, extracts, or essences derived from a spice or fruit. "Bottled water" includes water that is delivered to the buyer in a reusable container that is not sold with the water.

(3) Notwithstanding anything in this section to the contrary, the exemption of "food and food ingredients" provided in this section applies to food and food ingredients that are furnished, prepared, or served as meals:

(a) Under a state administered nutrition program for the aged as provided for in the older Americans act (P.L. 95-478 Title III) and RCW 74.38.040(6);

(b) That are provided to senior citizens, individuals with disabilities, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW; or

(c) That are provided to residents, sixty-two years of age or older, of a qualified low-income senior housing facility by the lessor or operator of the facility. The sale of a meal that is billed to both spouses of a marital community or both domestic partners of a domestic partnership meets the age requirement in this subsection (3)(c) if at least one of the spouses or domestic partners is at least sixty-two years of age. For purposes of this subsection, "qualified low-income senior housing facility" means a facility:

(i) That meets the definition of a qualified low-income housing project under 26 U.S.C. Sec. 42 of the federal internal revenue code, as existing on August 1, 2009;

(ii) That has been partially funded under 42 U.S.C. Sec. 1485 ~~((of the federal internal revenue code))~~; and

(iii) For which the lessor or operator has at any time been entitled to claim a federal income tax credit under 26 U.S.C. Sec. 42 of the federal internal revenue code.

(4)(a) Subsection (1) of this section notwithstanding, the retail sale of food and food ingredients is subject to sales tax under RCW 82.08.020 if the food and food ingredients are sold through a vending machine. Except as provided in (b) of this subsection, the selling price of food and food ingredients sold through a vending machine for purposes of RCW 82.08.020 is fifty-seven percent of the gross receipts.

(b) For soft drinks and hot prepared food and food ingredients, other than food and food ingredients which are heated after they have been dispensed from the vending machine, the selling price is the total gross receipts of such sales divided by the sum of one plus the sales tax rate expressed as a decimal.

(c) For tax collected under this subsection (4), the requirements that the tax be collected from the buyer and that the amount of tax be stated as a separate item are waived. Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 106, after line 18, insert the following:

"NEW SECTION. Sec. 2116. Sections 1801 and 1803 through 1806 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect May 1, 2010.

NEW SECTION. Sec. 2117. Section 1801 of this act expires July 1, 2010.

NEW SECTION. Sec. 2118. Section 1802 of this act takes effect July 1, 2010."

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senator Prentice spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Prentice on page 92, after line 3 to Engrossed Substitute Senate Bill No. 6143.

The motion by Senator Prentice carried and the amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendments were adopted:

On page 1, line 6 of the title, after "82.04.423," strike all material through "82.16.110," on line 10 and insert "82.04.4266, 82.04.4266, 82.04.260, 82.04.250, 82.04.250, 82.04.250, 82.04.298, 82.04.334, 82.04.4463, 82.04.4463, 82.08.806, 82.32.550, 82.45.195, 35.102.150, 48.14.080, 82.04.360, 82.45.010, 82.45.080, 82.32.145, 82.60.020, 82.60.020, 82.62.010, 82.62.010, 82.04.4282, 82.08.037, 82.12.037,"

On page 1, line 11 of the title, after "82.08.0293," insert "82.08.0293,"

#### MOTION

Senator Kohl-Welles moved that the following amendment by Senator Kohl-Welles and others be adopted:

On page 94, line 3, before "Beginning" insert "(1)"

On page 94, after line 5, insert the following:

"(2) The additional rate in subsection (1) of this section does not apply to persons engaged in the business of scientific research and development services including but not limited to research and development in the physical, engineering, and life sciences (such as agriculture, bacteriological, biotechnology, chemical, life sciences, and physical science research and development laboratories or services) and research and development in the social sciences and humanities (such as archaeological, behavioral, cognitive, economic, language, and learning research or development services)."

Renumber the sections consecutively and correct any internal references accordingly.

Senator Kohl-Welles spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Kohl-Welles and others on page 94, line 3 to Engrossed Substitute Senate Bill No. 6143.

The motion by Senator Kohl-Welles carried and the amendment was adopted by voice vote.

FIFTH DAY, MARCH 19, 2010

2010 1ST SPECIAL SESSION

MOTION

Senator Keiser moved that the following amendment by Senator Keiser and others be adopted:

On page 94, line 5, strike "82.04.260(9)"

Re-number the sections consecutively and correct any internal references accordingly.

Senator Keiser spoke in favor of adoption of the amendment.

POINT OF INQUIRY

Senator Pflug: "Would Senator Keiser yield to a question? Given that the JLARC study showed that the non-profit hospitals contributed significantly less to charity care than the for-profits. I'm having a hard time understanding why they're included in getting a break from the new increase. The public hospitals also are already given breaks so I'm just trying to understand what the rationale for this was?"

Senator Keiser: "Thank you Senator, I believe that the JLARC study actually did not make any assumption about the for profit hospitals doing more than the non-profit hospitals but did recommend a look at the non-profit hospitals tax status. I'm open and willing to that, to do that as well and have made that clear. Nevertheless, for the increase in this tax proposal it would behoove us. I think, at this point, to exempt the non-profit and public hospitals from the increase."

The President declared the question before the Senate to be the adoption of the amendment by Senator Keiser and others on page 94, line 5 to Engrossed Substitute Senate Bill No. 6143.

The motion by Senator Keiser carried and the amendment was adopted by voice vote.

MOTION

Senator Ranker moved that the following amendment by Senator Ranker and others be adopted:

On page 94, line 5, strike "82.04.255,"

On page 94, line 11, strike "82.04.255,"

On page 94, line 15, strike "82.04.255,"

On page 95, beginning on line 19, after "82.04.290(2)(a)" strike "82.04.255,"

Re-number the sections consecutively and correct any internal references accordingly.

Senator Ranker spoke in favor of adoption of the amendment.

MOTION

On motion of Senator Marr, Senators Hargrove and Tom were excused.

Senator Ranker demanded a roll call.

The President declared that one-sixth of the members did not support the demand and the demand was not sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Ranker and others on page 94, line 5 to Engrossed Substitute Senate Bill No. 6143.

The motion by Senator Ranker carried and the amendment was adopted by voice vote.

MOTION

Senator Franklin moved that the following amendment by Senator Franklin and others be adopted:

On page 96, beginning on line 32, strike "three-tenths" and insert "two-tenths"

On page 98, beginning on line 5, strike "three-tenths" and insert "two-tenths"

Re-number the sections consecutively and correct any internal references accordingly.

Senator Franklin spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Franklin and others on page 96, line 32 to Engrossed Substitute Senate Bill No. 6143.

The motion by Senator Franklin carried and the amendment was adopted by voice vote.

MOTION

Senator Prentice moved that the following amendment by Senator Prentice be adopted:

On Page 99, line 10, strike "June 1, 2010" and insert "January 1, 2011"

On page 99, line 22, after "(3)", strike the following

"(a) For remittances made in (~~2009 and 2010~~) 2011, the working families' tax exemption for the prior year is a retail sales tax exemption equal to the greater of twenty-five dollars or five percent of the credit granted as a result of (~~Title~~) 26 U.S.C. Sec. 32 of the federal internal revenue code in the most recent year for which data is available (~~or twenty five dollars~~), adjusted by a proportionate amount reflecting the seven months of increased tax imposed in sections 2002 and 2003 of this act in calendar year 2010."

On page 99, line 30, strike "(b)", and insert "(a)"

On page 99, line 35, strike "(c)", and insert "(b)"

On Page 100, line 27, strike "June 1, 2010" and insert "January 1, 2011"

On Page 100, line 30, strike "January 1, 2011" and insert "January 1, 2012"

Re-number the sections consecutively and correct any internal references accordingly.

Senator Prentice spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Prentice on page 99, line 10 to Engrossed Substitute Senate Bill No. 6143.

The motion by Senator Prentice carried and the amendment was adopted by voice vote.

MOTION

On motion of Senator Prentice, the rules were suspended, Second Engrossed Substitute Senate Bill No. 6143 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Prentice, Hargrove, Brown, McAuliffe and Kline spoke in favor of passage of the bill.

Senators Zarelli, Carrell, Hewitt, Pflug, Schoesler and King spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Second Engrossed Substitute Senate Bill No. 6143.

ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Substitute Senate Bill No. 6143 and the bill passed the Senate by the following vote: Yeas, 25; Nays, 18; Absent, 0; Excused, 6.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller and Shin

Voting nay: Senators Becker, Brandland, Carrell, Hewitt, Hobbs, Holmquist, Honeyford, Kauffman, Kilmer, King, Marr, Parlette, Pflug, Schoesler, Sheldon, Swecker, Tom and Zarelli

Excused: Senators Benton, Delvin, McCaslin, Morton, Roach and Stevens

SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 6143, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, Second Engrossed Substitute Senate Bill No. 6143 was immediately transmitted to the House of Representatives.

MOTION

At 4:18 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Saturday, March 20, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

SIXTH DAY

MORNING SESSION

Senate Chamber, Olympia, Saturday, March 20, 2010

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Brandland, Delvin, Gordon, Holmquist, McCaslin, Morton, Pflug, Roach and Swecker.

The Sergeant at Arms Color Guard consisting of Assistant Sergeant at Arms, Len Whitney and Loren Lacey, presented the Colors. Senator Shin offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

March 19, 2010

SB 6884 Prime Sponsor, Senator Hargrove: Concerning the practice of counseling. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6884 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Fairley.

Passed to Committee on Rules for second reading.

March 19, 2010

SB 6889 Prime Sponsor, Senator McDermott: Concerning the governance and financing of the Washington state convention and trade center. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6889 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Fairley; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Carrell.

Passed to Committee on Rules for second reading.

March 19, 2010

EHB 2360 Prime Sponsor, Representative Darneille: Concerning consolidation of administrative services for AIDS grants in the department of health. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Carrell; Fairley; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; Murray; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

March 19, 2010

HB 2676 Prime Sponsor, Representative Chase: Extending the pay back period for certain energy conservation loans. Reported by Committee on Ways & Means

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Carrell; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

March 19, 2010

HB 2677 Prime Sponsor, Representative Chase: Extending the pay back period for certain water conservation loans. Reported by Committee on Ways & Means

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Carrell; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

March 17, 2010

ESHB 2753 Prime Sponsor, Committee on Capital Budget: Creating a workforce housing program. (REVISED FOR ENGROSSED: Creating the Washington works housing program.) Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Honeyford; Parlette; Pflug and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Brandland and Hewitt.

Passed to Committee on Rules for second reading.

Referred to Committee on Ways & Means.

March 19, 2010

EHB 2969 Prime Sponsor, Representative Hudgins: Promoting efficiencies in the services provided by the office of the public printer. Reported by Committee on Ways & Means

SHB 2580 by House Committee on Education (originally sponsored by Representatives Liias, Simpson and Sullivan)

AN ACT Relating to secondary career and technical courses; amending RCW 28B.50.531; and creating a new section.

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli; Carrell; Hobbs; Honeyford; Keiser; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Referred to Committee on Ways & Means.

Passed to Committee on Rules for second reading.

ESHB 3175 by House Committee on General Government Appropriations (originally sponsored by Representative Darneille)

AN ACT Relating to transferring the office of minority and women's business enterprises into the department of commerce; amending RCW 39.19.020, 39.19.030, 39.19.041, 39.19.060, 39.19.250, 39.19.150, 39.19.200, 39.19.210, 39.19.220, 39.19.230, 42.17.2401, and 43.63A.690; creating a new section; repealing RCW 41.06.082; and providing an effective date.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

Referred to Committee on Government Operations & Elections.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MOTION

MESSAGE FROM THE HOUSE

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Engrossed Substitute House Bill No. 3175 which was referred to the Committee on Government Operations & Elections.

March 19, 2010

MR. PRESIDENT:  
The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2493.  
and the same is herewith transmitted.

MOTION

At 10:11 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

AFTERNOON SESSION

March 19, 2010

MR. PRESIDENT:  
The House has passed:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2782,  
ENGROSSED SUBSTITUTE HOUSE BILL 2836.  
and the same are herewith transmitted.

The Senate was called to order at 12:19 p.m. by President Owen.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

BARBARA BAKER, Chief Clerk

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

Senator Kline moved that Gubernatorial Appointment No. 9186, Ellen Fair, as a member of the Sentencing Guidelines Commission, be confirmed.

Senator Kline spoke in favor of the motion.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

MOTION

HB 1697 by Representatives Liias, Priest, Sullivan, Quall, Upthegrove, Santos, Kenney and Ormsby

On motion of Senator King, Senators Benton, Brandland, Delvin, Holmquist, McCaslin, Morton, Pflug, Roach and Swecker were excused.

AN ACT Relating to career and technical student organizations; and amending RCW 28A.300.380.

APPOINTMENT OF ELLEN FAIR

SIXTH DAY, MARCH 20, 2010

2010 1ST SPECIAL SESSION

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9186, Ellen Fair as a member of the Sentencing Guidelines Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9186, Ellen Fair as a member of the Sentencing Guidelines Commission and the appointment was confirmed by the following vote: Yeas, 38; Nays, 1; Absent, 1; Excused, 9.

Voting yea: Senators Becker, Berkey, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom and Zarelli

Voting nay: Senator Honeyford

Absent: Senator Gordon

Excused: Senators Benton, Brandland, Delvin, Holmquist, McCaslin, Morton, Pflug, Roach and Swecker

Gubernatorial Appointment No. 9186, Ellen Fair, having received the constitutional majority was declared confirmed as a member of the Sentencing Guidelines Commission.

#### MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

#### MOTION

Senator Kauffman moved adoption of the following resolution:

#### SENATE RESOLUTION

8724

By Senators Kauffman, Kilmer, Berkey, Hargrove, Oemig, Kline, Gordon, Ranker, Prentice, Murray, Tom, Marr, Eide, Sheldon, Kastama, Jacobsen, King, Kohl-Welles, Schoesler, Rockefeller, Hobbs, McAuliffe, McDermott, Shin, Pridemore, Hatfield, Fraser, Keiser, and Haugen

WHEREAS, Edward Claplanhoo, Makah Tribal Elder and Statesman, served three terms as the Makah tribal chairman; and

WHEREAS, Mr. Claplanhoo was recognized as a cultural treasure, inspiration, and mentor to the young and the old in the Makah Nation and all Native American nations; and

WHEREAS, He was instrumental in involving the people of the Makah Nation in the Ozette archaeological dig and in establishing the Makah Cultural and Research Center at Neah Bay; and

WHEREAS, Edward Claplanhoo served as the chairman of the board for the United Indians of All Tribes Foundation in Seattle, was an elder of the Neah Bay Assembly of God Church, and was a member of the Makah tribe's higher education committee; and

WHEREAS, Claplanhoo was also famous for his velvet booming voice as the emcee of the annual Makah Days celebration keeping the event lively and community centered since 1966; and

WHEREAS, Edward Claplanhoo was a proud Cougar alumni of Washington State University and was officially recognized as an honored graduate; and

WHEREAS, Edward Claplanhoo was a very active army veteran and was stationed at Fort Worden in Port Townsend and at Fort Lewis near Tacoma; and

WHEREAS, Edward Claplanhoo donated his land and was one of the most ardent advocates for the construction of the Fort Nunez Gaona-Diah Veterans Park and monument that honors all the veterans of Neah Bay and officially recognizes the site of the original 1779 Spanish Fort and settlement; and

WHEREAS, Edward Claplanhoo passed on March 14th and is survived by his wife Thelma, his daughter and son-in-law, Karen and Jack Werkau, his son and daughter-in-law, Vern and Marla Tolliver, five grandchildren, and eight great-grandchildren; and

WHEREAS, Edward Claplanhoo with his quiet dignity, intellect, passion for his culture, ancestors, and people, and his true commitment to the good of his country brought happiness to all that knew him and pride to his Native Makah Nation;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor the life and life-long achievements of Mr. Edward Claplanhoo on behalf of the State of Washington, the Makah Nation, and all Native Americans.

Senators Kauffman, Hargrove and Hatfield spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8724.

The motion by Senator Kauffman carried and the resolution was adopted by voice vote.

#### MOTION

On motion of Senator Eide, the Senate reverted to the fifth order of business.

#### SUPPLEMENTAL INTRODUCTION AND FIRST READING OF HOUSE BILLS

ESHB 2493 by House Committee on Finance (originally sponsored by Representatives Cody, Williams, Pedersen, Kagi, Nelson, Orwall, McCoy, Dickerson, White, Hunt, Darneille, Moeller and Roberts)

AN ACT Relating to the taxation of cigarettes and other tobacco products; amending RCW 82.24.020, 82.24.026, 82.26.010, 82.26.020, and 82.26.030; adding a new section to chapter 82.26 RCW; creating new sections; repealing RCW 82.24.027 and 82.24.028; providing an effective date; and declaring an emergency.

E2SHB 2782 by House Committee on Ways & Means (originally sponsored by Representatives Dickerson, Appleton, McCoy, Carlyle, Morrell, Kagi, Kessler, Green, Ericks, Moeller, Roberts, Nelson and Orwall)

AN ACT Relating to establishing the security lifeline act; amending RCW 74.04.005, 10.101.010, 26.19.071, 31.04.540, 70.123.110, 73.08.005, 74.04.0052, 74.04.120, 74.04.230, 74.04.266, 74.04.620, 74.04.770, 74.08.043, 74.08.278, 74.08.335, 74.08A.210, 74.09.010, 74.09.035, 74.09.555, and 74.50.060; reenacting and amending RCW 13.34.030; adding new sections to chapter 74.04 RCW; adding a new section to chapter 43.330 RCW; adding a new section to chapter 70.47 RCW; adding a new section to chapter 70.96A RCW; adding a new section to chapter 74.08A RCW; creating new sections; providing an effective date; providing an expiration date; and declaring an emergency.

Referred to Committee on Ways & Means.

**ESHB 2836** by House Committee on Capital Budget (originally sponsored by Representatives Dunshee and White)

AN ACT Relating to the capital budget; making appropriations and authorizing expenditures for capital improvements; amending RCW 43.155.050, 28B.20.725, 28B.30.750, 43.160.080, 90.71.370, 39.10.210, and 39.94.040; amending 2009 c 497 ss 1005, 1013, 1029, 1019, 1023, 1030, 1031, 1034, 1035, 1039, 1040, 1045, 1046, 1048, 1054, 1055, 1065, 1071, 1075, 1060, 1061, 1063, 1064, 1068, 1073, 1081, 1086, 1087, 2001, 2002, 2027, 2014, 2034, 2037, 2038, 2067, 2072, 2075, 2078, 2068, 2054, 2064, 3059, 3039, 3007, 3049, 3054, 3060, 3020, 3052, 3093, 3094, 3090, 3091, 3085, 3109, 3133, 3138, 3157, 3168, 3169, 3172, 3178, 3182, 3197, 3203, 4008, 5007, 5008, 5009, 5002, 5013, 5014, 5011, 5027, 5029, 5024, 5023, 5026, 5028, 5037, 5030, 5041, 5035, 5039, 5055, 5047, 5054, 5056, 5057, 5064, 5061, 5065, 5068, 5079, 5080, 5083, 5092, 5094, 5093, 5097, 5104, 5100, 5111, 5115, 5116, 5118, 5120, 5174, 5176, 5127, 5180, 5171, 5182, 5210, 5183, 5184, 5217, 5218, 5219, 5220, 5204, 5205, 5206, 5208, 5165, 5177, 5178, 5191, 5151, 5181, 5190, 5192, 5168, 5135, 5195, 5223, 5179, 5213, 5164, 5224, 5143, 5167, 6009, and 6004 (uncodified); amending 2008 c 5 s 1 (uncodified); adding new sections to 2009 c 497 (uncodified); creating a new section; repealing RCW 39.86.200; repealing 2009 c 497 ss 1089, 2030, 2079, 3098, 4009, 5043, 5059, 5072, 5084, 5098, and 5112 (uncodified); and declaring an emergency.

Referred to Committee on Ways & Means.

#### MOTION

On motion of Senator Eide, the rules were suspended and Engrossed Substitute House Bill No. 2836 was referred to the committee as designated; Engrossed Substitute House Bill No. 2493 and Engrossed Second Substitute House Bill No. 2782 were placed on the day's second reading calendar.

#### MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 2360, by Representative Darneille

Concerning consolidation of administrative services for AIDS grants in the department of health.

The measure was read the second time.

#### MOTION

On motion of Senator Prentice, the rules were suspended, Engrossed House Bill No. 2360 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 2360.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2360 and the bill passed the Senate by the following vote: Yeas, 40; Nays, 0; Absent, 0; Excused, 9.

Voting yea: Senators Becker, Berkey, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom and Zarelli

Excused: Senators Benton, Brandland, Delvin, Holmquist, McCaslin, Morton, Pflug, Roach and Swecker

ENGROSSED HOUSE BILL NO. 2360, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6884, by Senators Hargrove and Shin

Concerning the practice of counseling.

#### MOTIONS

On motion of Senator Hargrove, Substitute Senate Bill No. 6884 was substituted for Senate Bill No. 6884 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hargrove, the rules were suspended, Substitute Senate Bill No. 6884 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6884.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6884 and the bill passed the Senate by the following vote: Yeas, 40; Nays, 0; Absent, 0; Excused, 9.

Voting yea: Senators Becker, Berkey, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom and Zarelli

Excused: Senators Benton, Brandland, Delvin, Holmquist, McCaslin, Morton, Pflug, Roach and Swecker

SUBSTITUTE SENATE BILL NO. 6884, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2753, by House Committee on Capital Budget (originally sponsored by Representatives Orwall, Springer, Maxwell, Jacks, Nelson, Simpson, Conway, Ormsby, Chase and Santos)

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Creating a workforce housing program. Revised for 1st Substitute: Creating a workforce housing program. (REVISED FOR ENGROSSED: Creating the Washington works housing program.)

The measure was read the second time.

#### MOTION

Senator Prentice moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** This act may be known and cited as the Washington works housing act of 2010.

**Sec. 2.** RCW 43.180.160 and 2009 c 291 s 1 are each amended to read as follows:

(1) The total amount of outstanding indebtedness of the commission may not exceed six billion dollars at any time. The calculation of outstanding indebtedness shall include the initial principal amount of an issue and shall not include interest that is either currently payable or that accrues as a part of the face amount of an issue payable at maturity or earlier redemption. Outstanding indebtedness shall not include notes or bonds as to which the obligation of the commission has been satisfied and discharged by refunding or for which payment has been provided by reserves or otherwise.

(2)(a) The Washington works housing program is created to increase opportunities for nonprofit organizations and public agencies to purchase, acquire, build, and own real property to be used for affordable housing for low and moderate-income households. The Washington works housing program is intended to provide access to new funding mechanisms and build long-term community equity by increasing the stock of permanently affordable housing owned by nonprofit organizations and public agencies.

(b) The Washington works housing program is intended to provide these opportunities for public agencies and nonprofit organizations, including those materially participating as a managing member or general partner of a partnership, limited liability company, or equivalent organization, through the issuance of tax exempt or taxable revenue bonds issued by the commission in conjunction with a subsidy necessary to make bond issues to finance affordable housing properties financially feasible. The program is intended to provide financing for affordable housing that will meet the following income and rent restrictions during the period of initial bond indebtedness and thereafter:

(c) During the period of initial bond indebtedness under the program, the owner of the property must meet one of the following requirements: A minimum of twenty percent of the units will be occupied by households earning less than fifty percent of area median income and an additional thirty-one percent of the units will be occupied by persons earning less than eighty percent of area median income; or forty percent of the units will be occupied by households earning less than sixty percent of area median income and an additional eleven percent of the units will be occupied by households earning less than eighty percent of area median income.

(d) After the initial bond indebtedness is retired, the rents charged for units in the project will be adjusted to be sufficient to pay reasonable operation and maintenance expenses, including necessary capital needs, and to make reasonable deposits into a reserve account with the intent of providing affordable housing to very low or low-income households for the remaining useful life of the property. The reasonableness of the rent levels must be periodically approved by the commission based on information

provided by the owner of the property about income, expenses, and necessary reserve levels. The determination of the commission regarding the reasonableness of the rent levels will be final.

(e) The commission will enter into a recorded regulatory agreement with the borrower at the time of the issuance of bonds under the program for the purpose of ensuring that the property will meet the income and rent restrictions established in this section. The commission may charge such compliance fees as necessary to ensure enforcement of the income and rent restrictions during the useful life of the property.

(3) One billion dollars of the outstanding indebtedness of the commission is for the primary purpose of implementing the Washington works housing program.

(4) If no subsidies are available to make the program in subsection (2) of this section feasible; then the commission may pass a resolution stating these facts and authorize the use of a portion of the one billion dollars of indebtedness intended for the program to support its other bond programs until such time as the one billion dollars is exhausted or subsidies are available to make the program feasible.

**Sec. 3.** RCW 39.86.100 and 2001 c 330 s 1 are each amended to read as follows:

The federal ~~((tax reform act))~~ internal revenue code of 1986, ~~as amended~~ imposes ~~((an annual))~~ ceilings on the aggregate amount of ~~((federally tax-exempt private activity))~~ certain types of bonds, including tax-exempt private activity bonds ~~((for housing, student loans, exempt facilities, small issue industrial, redevelopment, and certain public utility projects))~~ and other types, that may be issued during any calendar year by or on behalf of states and their political subdivisions. ~~((In 2001, the ceiling will be increased to sixty two dollars and fifty cents per capita and in 2002 the ceiling will be increased to seventy five dollars per capita, to be indexed annually, for 2003 and every year thereafter. However, a study by the department of community development indicates that the dollar amount of the state ceiling is considerably less than the anticipated dollar amount for which issuers would need an allocation from the state ceiling.))~~ The ~~((tax reform act of 1986))~~ code provides a formula for allocating the annual tax-exempt private activity bond ceiling among various issuers of private activity bonds for housing, student loans, exempt facilities, and redevelopment projects within a state, but permits each state to enact a different allocation method that is appropriate to that state's needs. In addition, congress might, from time to time, amend the code by authorizing state ceilings on additional types of bonds. The purpose of this chapter is to provide a flexible and efficient method of allocating the annual state ceiling in Washington in a manner that recognizes the need of the state and its political subdivisions to finance activities or projects that satisfy a substantial public purpose.

**Sec. 4.** RCW 39.86.110 and 2009 c 565 s 23 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agency" means the department of commerce.

(2) ~~(("Board" means the community economic revitalization board established under chapter 43.160 RCW.~~

~~((3)))~~ "Bond use category" means: (a) Any of the following categories of bonds which are subject to the annual state tax-exempt private activity bond ceiling: ((a)) (i) Housing, ((b)) (ii) student loans, ((c)) (iii) small issue, ((d)) (iv) exempt facility, ((e)) (v) redevelopment, ((f) public utility; and (g)) and (vi) remainder; and (b) any other categories of bonds described in the code for which there is a separate ceiling, with the exception of bonds designated solely for school district purposes.

~~((4))~~ (3) "Bonds" means bonds, notes, or other obligations of an issuer.

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~~((5))~~ (4) "Carryforward" is an allocation or reallocation of the state ceiling which is carried from one calendar year to a later year, in accordance with the code.

~~((6))~~ (5) "Code" means the federal internal revenue code of 1986 ((as it exists on May 8, 1987. It also means the code as amended after May 8, 1987, but only if the amendments are approved by the agency under RCW 39.86.180)), as amended.

~~((7))~~ (6) "Director" means the director of the agency or the director's designee.

~~((8))~~ (7) "Exempt facility" means the bond use category which includes all bonds which are exempt facility bonds as described in the code, except those for qualified residential rental projects.

~~((9))~~ (8) "Firm and convincing evidence" means documentation that satisfies the director that the issuer is committed to the prompt financing of, and will issue ~~((tax exempt))~~ bonds for, the project or program for which it requests an allocation from the state ceiling.

~~((10))~~ (9) "Housing" means the bond use category which includes: (a) Mortgage revenue bonds and mortgage credit certificates as described in the code; and (b) exempt facility bonds for qualified residential rental projects as described in the code.

~~((11))~~ (10) "Initial allocation" means the portion or dollar value of the annual state tax-exempt private activity bond ceiling which initially in each calendar year is allocated to a bond use category for the issuance of private activity bonds, in accordance with RCW 39.86.120.

~~((12))~~ (11) "Issuer" means the state, any agency or instrumentality of the state, any political subdivision, or any other entity authorized to issue ~~((private activity))~~ bonds under state law.

(12) "Original allocation" means any allocation of bond authority by a mandatory formula in the code, except for the initial allocations of the annual state ceiling on tax-exempt private activity bonds.

(13) "Private activity bonds" means obligations that are private activity bonds as defined in the code or bonds for purposes described in section 1317(25) of the ~~((tax reform act))~~ federal internal revenue code of 1986, as amended.

(14) "Program" means the activities for which housing bonds ~~((or student loan bonds))~~ may be issued.

(15) ("Public utility" means the bond use category which includes those bonds described in section 1317(25) of the tax reform act of 1986.

(16)) "Redevelopment" means the bond use category which includes qualified redevelopment bonds as described in the code.

~~((17))~~ (16) "Remainder" means that portion of the annual state tax-exempt private activity bond ceiling remaining after initial allocations are made under RCW 39.86.120 for any other bond use category.

~~((18))~~ (17) "Small issue" means the bond use category which includes all industrial development bonds that constitute qualified small issue bonds, as described in the code.

~~((19))~~ (18) "State" means the state of Washington.

~~((20))~~ (19) "State ceiling" means the volume limitation for each calendar year on ~~((tax exempt private activity))~~ specific bond(s) types, including tax-exempt private activity bonds and other bonds, as imposed by the code.

~~((21))~~ (20) "Student loans" means the bond use category which includes qualified student loan bonds as described in the code.

**NEW SECTION. Sec. 5.** A new section is added to chapter 39.86 RCW to read as follows:

Original allocations or any reallocations of state bond ceilings other than the tax-exempt private activity bond ceiling must be determined by formula as provided in the code, or by department rule if no formula is provided in the code.

**Sec. 6.** RCW 39.86.120 and 2001 c 330 s 2 are each amended to read as follows:

(1) Except as provided in subsections (2) and (4) of this section, the initial allocation of the state ceiling shall be for each year as follows:

BOND USE CATEGORY	<del>((2001</del> <b>2002 and</b>	<del>))</del> <b>THEREAFTER</b>	<b>ALTERNATIVE ALLOCATION))</b> <b>2010 and</b> <b>THEREAFTER</b>
Housing	<del>((27.5%</del> <b>30.0%</b>	<del>))</del>	32.0%
Small Issue	<del>((24.5%</del> <b>24.0%</b>	<del>))</del>	25.0%
Exempt Facility	<del>((19.5%</del> <b>19.0%</b>	<del>))</del>	20.0%
Student Loans	<del>((14.5%</del> <b>14.0%</b>	<del>))</del>	15.0%
Public Utility	<del>((10.0%</del> <b>10.0%</b>	<del>))</del>	0.0%
Remainder and Redevelopment	<del>((4.0%</del> <b>3.0%</b>	<del>))</del>	8.0%

(2) Initial allocations may be modified by the agency only to reflect an issuer's carryforward amount. Any reduction of the initial allocation shall be added to the remainder and be available for allocation or reallocation.

(3) The remainder shall be allocated by the agency among one or more issuers from any bond use category with regard to the criteria specified in RCW 39.86.130.

(4) Should any bond use category no longer be subject to the state ceiling due to federal or state provisions of law, the agency shall divide the amount of that initial allocation among the remaining categories as necessary or appropriate with regard to the criteria specified in RCW 39.86.130. ~~((Upon the earlier of: (a) Exhaustion of the seven hundred fifty million dollar authority under I.R.C. 1317(25), or any new federal legislation increasing the amount of authority, or creating additional authority; or (b) waiver of the authority described under (a) of this subsection due to alternative federal authority that does not use a state volume cap, then the alternative allocation schedule in subsection (1) of this section will be used.))~~

(5)(a) Prior to ~~((September 1))~~ July 1st of each calendar year, any available portion of an initial allocation may be allocated or reallocated only to an issuer within the same bond use category, except that the remainder category, or portions thereof, may be allocated at any time to any bond use category.

(b) Beginning ~~((September 1))~~ July 1st of each calendar year, the agency may allocate or reallocate any available portion of the state ceiling to any bond use category with regard to the criteria specified in RCW 39.86.130.

**Sec. 7.** RCW 39.86.130 and 1987 c 297 s 4 are each amended to read as follows:

(1) In granting an allocation, reallocation, or carryforward of the state ceiling as provided in this chapter, the agency shall consider existing state priorities and other such criteria, including but not limited to, the following criteria:

(a) Need of issuers to issue ~~((private activity))~~ bonds within a bond use category subject to a state ceiling;

(b) Amount of the state ceiling available;

(c) Public benefit and purpose to be satisfied, including economic development, educational opportunity, and public health, safety, or welfare;

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(d) Cost or availability of alternative methods of financing for the project or program; and

(e) Certainty of using the allocation which is being requested.

(2) In determining whether to allocate an amount of the state ceiling to an issuer within any bond use category, the agency shall consider, but is not limited to, the following criteria for each of the bond use categories:

(a) Housing: Criteria which comply with RCW 43.180.200.

(b) Student loans: Criteria which comply with the applicable provisions of Title 28B RCW and rules adopted by the higher education coordinating board or applicable state agency dealing with student financial aid.

(c) Small issue: ((Recommendation by the board regarding how the amount of the state ceiling set aside for the small issue bond use category shall be allocated among issuers.)) Factors which may include:

(i) The number of employment opportunities the project is likely to create or retain in relation to the amount of the bond issuance;

(ii) The level of unemployment existing in the geographic area likely to be affected by the project;

(iii) A commitment to providing employment opportunities to low-income persons in cooperation with the employment security department;

(iv) Geographic distribution of projects;

(v) The number of persons who will benefit from the project;

(vi) Consistency with criteria identified in subsection (1) of this section; and

(vii) Order in which requests were received(; and

(viii) Requirements of the board's umbrella bond program)).

(d) Exempt facility or redevelopment: Factors which may include:

(i) State issuance needs;

(ii) Consistency with criteria identified in subsection (1) of this section;

(iii) Order in which requests were received;

(iv) The proportionate number of persons in relationship to the size of the community who will benefit from the project; and

(v) The unique timing and issuance needs of large scale projects that may require allocations in more than one year.

(e) Public utility: Factors which may include:

(i) Consistency with criteria identified in subsection (1) of this section; and

(ii) Timing needs for issuance of bonds over a multi-year period.

**Sec. 8.** RCW 39.86.140 and 1987 c 297 s 5 are each amended to read as follows:

(1) No issuer may receive an allocation of the state ceiling without a certificate of approval from the agency.

(2)((~~(a)~~)) For each state ceiling allocation request, an issuer shall submit to the agency, no sooner than ninety days prior to the beginning of a calendar year for which an allocation of the state ceiling is being requested, a form identifying:

((~~(a)~~)) (a) The amount of the allocation sought;

((~~(b)~~)) (b) The bond use category from which the allocation sought would be made;

((~~(c)~~)) (c) The project or program for which the allocation is requested;

((~~(d)~~)) (d) The financing schedule for which the allocation is needed; and

((~~(e)~~)) (e) Any other such information required by the agency, including information which corresponds to the allocation criteria of RCW 39.86.130.

((~~(b)~~)) Nothing in (a) of this subsection precludes a public utility issuer from filing and the agency from considering a request at such

times as may be appropriate in order to meet the criteria set forth in RCW 39.86.130(2)(e)(ii.))

(3) The agency may approve or deny an allocation for all or a portion of the issuer's request. Any denied request, however, shall remain on file with the agency for the remainder of the calendar year and shall be considered for receiving any allocation, reallocation, or carryforward of unused portions of the state ceiling during that period.

(4) After receiving an allocation request, the agency shall mail to the requesting issuer a written certificate of approval or notice of denial for an allocation amount, by a date no later than the latest of the following:

(a) ((~~Forty-five days from May 8, 1987;~~  
~~(b)~~)) February 1<sup>st</sup> of the calendar year((~~other than 1987~~)) for which the request is made;

((~~(e)~~)) (b) Fifteen days from the date the agency receives an allocation request; or

((~~(d)~~)) (c) Fifteen days from the date the agency receives a recommendation by the board with regard to a small issue allocation request, should the board choose to review individual requests.

(5)(a) For requests of the state ceiling of any calendar year, the following applies to all bond use categories except housing and student loans:

(i) Except for housing and student loans, any allocations granted prior to April 1<sup>st</sup>, for which bonds have not been issued by ((~~September 1~~)) July 1<sup>st</sup> of the same calendar year, shall revert to the agency on ((~~September 1~~)) July 1<sup>st</sup> of the same calendar year for reallocation unless an extension or carryforward is granted;

(ii) Except for housing and student loans, any allocations granted on or after April 1<sup>st</sup>, for which bonds have not been issued by ((~~December 15~~)) October 15<sup>th</sup> of the same calendar year, shall revert to the agency on ((~~December 15~~)) October 15<sup>th</sup> of the same calendar year for reallocation unless an extension or carryforward is granted.

(b) For each calendar year, any housing or student loan allocations, for which bonds have not been issued by December 15<sup>th</sup> of the same calendar year, shall revert to the agency on December 15<sup>th</sup> of the same calendar year for reallocation unless an extension or carryforward is granted.

(6) An extension of the deadlines provided by subsection (5) of this section may be granted by the agency for the approved allocation amount or a portion thereof, based on:

(a) Firm and convincing evidence that the bonds will be issued before the end of the calendar year if the extension is granted; and

(b) Any other criteria the agency deems appropriate.

(7) If an issuer determines that bonds subject to the state ceiling will not be issued for the project or program for which an allocation was granted, the issuer shall promptly notify the agency in writing so that the allocation may be canceled and the amount may be available for reallocation.

(8) Bonds subject to the state ceiling may be issued only to finance the project or program for which a certificate of approval is granted.

(9) Within three business days of the date that bonds for which an allocation of the state ceiling is granted have been delivered to the original purchasers, the issuer shall mail to the agency a written notification of the bond issuance. In accordance with chapter 39.44 RCW, the issuer shall also complete bond issuance information on the form provided by the agency.

(10) If the total amount of ((~~tax-exempt~~)) bonds issued under the authority of a state ceiling for a project or program is less than the amount allocated, the remaining portion of the allocation shall revert to the agency for reallocation in accordance with the criteria in RCW 39.86.130. If the amount of ((~~tax-exempt~~)) bonds actually

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issued under the authority of a state ceiling is greater than the amount allocated, the entire allocation shall be disallowed.

**Sec. 9.** RCW 39.86.150 and 1987 c 297 s 6 are each amended to read as follows:

(1) Beginning (~~(September 1)~~) July 1st of each calendar year, the agency may allocate or reallocate any portions of the annual state tax- exempt private activity bond ceiling for which no certificate of approval is in effect. Reallocations may also be made from the remainder category at any time during the year.

(2) Prior to the end of each calendar year, the agency shall allocate or reallocate any unused portions of the state ceiling among one or more issuers as carryforward, to be used within three years, in accordance with the code and relevant criteria described in RCW 39.86.130.

(3) Reallocations of state bond ceilings other than the annual tax-exempt private activity bond ceiling may be made by the agency in accordance with the code or as established in agency rule when not specified in the code.

**Sec. 10.** RCW 39.86.170 and 1987 c 297 s 8 are each amended to read as follows:

A fee schedule shall be established by rule by the agency to assist in support of bond allocation activities. Fees shall reflect costs actually incurred or expected to be incurred by the agency in its bond allocation and bond users clearinghouse activities.

**Sec. 11.** RCW 39.86.190 and 2009 c 518 s 19 are each amended to read as follows:

By February 1<sup>st</sup> of each even-numbered year, the agency shall summarize for the legislature each previous year's bond allocation requests and issuance. Beginning in (~~(June of 1988)~~) February 2010 and thereafter in (~~(June)~~) February of each even-numbered year, the agency shall also submit a biennial report summarizing usage of the bond allocation proceeds and any policy concerns for future bond allocations.

**NEW SECTION. Sec. 12.** RCW 39.86.200 (Ratification) and 1987 c 297 s 11 are each repealed."

Senator Prentice spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 2753.

The motion by Senator Prentice carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "program;" strike the remainder of the title and insert "amending RCW 43.180.160, 39.86.100, 39.86.120, 39.86.130, 39.86.140, 39.86.150, 39.86.170, and 39.86.190; reenacting and amending RCW 39.86.110; adding a new section to chapter 39.86 RCW; creating a new section; and repealing RCW 39.86.200."

#### MOTION

On motion of Senator Prentice, the rules were suspended, Engrossed Substitute House Bill No. 2753 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

Senator Schoesler spoke against passage of the bill.

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The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2753 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2753 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 29; Nays, 11; Absent, 0; Excused, 9.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon and Shin

Voting nay: Senators Becker, Carrell, Hewitt, Honeyford, King, Oemig, Parlette, Schoesler, Stevens, Tom and Zarelli

Excused: Senators Benton, Brandland, Delvin, Holmquist, McCaslin, Morton, Pflug, Roach and Swecker

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2753 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 6889, by Senators McDermott, Kohl-Welles, Kline, Murray, Prentice, Keiser, McAuliffe, Kauffman and Hewitt

Concerning the governance and financing of the Washington state convention and trade center.

#### MOTIONS

On motion of Senator McDermott, Substitute Senate Bill No. 6889 was substituted for Senate Bill No. 6889 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator McDermott, the rules were suspended, Substitute Senate Bill No. 6889 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McDermott, Hewitt, Parlette and Kohl-Welles spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6889.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6889 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 1; Absent, 0; Excused, 9.

Voting yea: Senators Becker, Berkey, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom and Zarelli

Voting nay: Senator Oemig

Excused: Senators Benton, Brandland, Delvin, Holmquist, McCaslin, Morton, Pflug, Roach and Swecker

SUBSTITUTE SENATE BILL NO. 6889, having received the constitutional majority, was declared passed. There being no

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objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 2676, by Representatives Chase and Simpson

Extending the pay back period for certain energy conservation loans.

The measure was read the second time.

## MOTION

On motion of Senator Rockefeller, the rules were suspended, House Bill No. 2676 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rockefeller spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2676.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2676 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 1; Absent, 0; Excused, 9.

Voting yea: Senators Becker, Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom and Zarelli

Voting nay: Senator Carrell

Excused: Senators Benton, Brandland, Delvin, Holmquist, McCaslin, Morton, Pflug, Roach and Swecker

HOUSE BILL NO. 2676, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 2677, by Representatives Chase and Simpson

Extending the pay back period for certain water conservation loans.

The measure was read the second time.

## MOTION

On motion of Senator Rockefeller, the rules were suspended, House Bill No. 2677 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rockefeller spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2677.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2677 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 1; Absent, 0; Excused, 9.

Voting yea: Senators Becker, Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom and Zarelli

Voting nay: Senator Carrell

Excused: Senators Benton, Brandland, Delvin, Holmquist, McCaslin, Morton, Pflug, Roach and Swecker

HOUSE BILL NO. 2677, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 1:05 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 2:45 p.m. by President Owen.

## SECOND READING

## CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Kline moved that Gubernatorial Appointment No. 9208, Michael R. Kawamura, as a member of the Sentencing Guidelines Commission, be confirmed.

Senator Kline spoke in favor of the motion.

## MOTION

On motion of Senator Marr, Senator Brown was excused.

## MOTION

On motion of Senator King, Senators Carrell, Stevens and Zarelli were excused.

## MOTION

On motion of Senator Eide, Senator Berkey was excused.

## APPOINTMENT OF MICHAEL R. KAWAMURA

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9208, Michael R. Kawamura as a member of the Sentencing Guidelines Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9208, Michael R. Kawamura as a member of the Sentencing Guidelines Commission and the appointment was confirmed by the following vote: Yeas, 35; Nays, 1; Absent, 1; Excused, 12.

Voting yea: Senators Becker, Benton, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig,

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Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin and Tom

Voting nay: Senator Honeyford

Absent: Senator Keiser

Excused: Senators Berkey, Brandland, Brown, Carrell, Delvin, Holmquist, McCaslin, Morton, Roach, Stevens, Swecker and Zarelli

Gubernatorial Appointment No. 9208, Michael R. Kawamura, having received the constitutional majority was declared confirmed as a member of the Sentencing Guidelines Commission.

## MOTION

On motion of Senator Eide, Senator Keiser was excused.

## SECOND READING

## CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Kilmer moved that Gubernatorial Appointment No. 9226, Dolorita Reandeu, as a member of the Board of Trustees, State School for the Deaf, be confirmed.

Senator Kilmer spoke in favor of the motion.

## APPOINTMENT OF DOLORITA REANDEAU

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9226, Dolorita Reandeu as a member of the Board of Trustees, State School for the Deaf.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9226, Dolorita Reandeu as a member of the Board of Trustees, State School for the Deaf and the appointment was confirmed by the following vote: Yeas, 35; Nays, 1; Absent, 1; Excused, 12.

Voting yea: Senators Becker, Benton, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin and Tom

Voting nay: Senator Honeyford

Absent: Senator Kline

Excused: Senators Berkey, Brandland, Brown, Carrell, Delvin, Holmquist, McCaslin, Morton, Roach, Stevens, Swecker and Zarelli

Gubernatorial Appointment No. 9226, Dolorita Reandeu, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, State School for the Deaf.

## MOTION

On motion of Senator Eide, Senator Kline was excused.

## SECOND READING

## CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Kastama moved that Gubernatorial Appointment No. 9225, Paul A. Pastor, as a member of the Sentencing Guidelines Commission, be confirmed.

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Senators Kastama and Becker spoke in favor of passage of the motion.

## MOTION

On motion of Senator Gordon, Senator Rockefeller was excused.

## APPOINTMENT OF PAUL A. PASTOR

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9225, Paul A. Pastor as a member of the Sentencing Guidelines Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9225, Paul A. Pastor as a member of the Sentencing Guidelines Commission and the appointment was confirmed by the following vote: Yeas, 37; Nays, 0; Absent, 0; Excused, 12.

Voting yea: Senators Becker, Benton, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin and Tom

Excused: Senators Berkey, Brandland, Carrell, Delvin, Holmquist, Kline, McCaslin, Morton, Roach, Stevens, Swecker and Zarelli

Gubernatorial Appointment No. 9225, Paul A. Pastor, having received the constitutional majority was declared confirmed as a member of the Sentencing Guidelines Commission.

## MOTION

At 3:00 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 3:11 p.m. by President Owen.

## MOTION

At 3:11 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Monday, March 22, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**EIGHTH DAY**

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**MORNING SESSION**

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Senate Chamber, Olympia, Monday, March 22, 2010

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Gordon, McCaslin, Morton and Roach.

The Sergeant at Arms Color Guard consisting of Senate employees Kim Cusick and Michael McCliment, presented the Colors. Reverend Jim Erlandson of Community of Christ Church offered the prayer.

**MOTION**

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

**MOTION**

On motion of Senator Eide, the Senate advanced to the eighth order of business.

**MOTION**

Senator Brown moved adoption of the following resolution:

**SENATE RESOLUTION  
8723**

By Senators Brown, Hewitt, Prentice, Gordon, Kline, Berkey, Keiser, Pridemore, Haugen, Hargrove, Regala, Brandland, Delvin, Carrell, Pflug, Franklin, McAuliffe, Fairley, Tom, Kauffman, Shin, Parlette, Hatfield, Kilmer, Hobbs, Rockefeller, Kohl-Welles, Kastama, McDermott, Marr, Ranker, Fraser, Eide, Jacobsen, Sheldon, Murray, Oemig, Stevens, Honeyford, Zarelli, Holmquist, King, Schoesler, Swecker, Becker, Benton, McCaslin, Morton, and Roach

WHEREAS, It is the tradition of the Washington State Senate to honor significant and important contributions made by the citizens of the state; and

WHEREAS, The Senate has the great privilege of enjoying the services and contributions of a talented and professional staff; and

WHEREAS, The Assistant Sergeants at Arms and Security staff are among the most utilized by all senators and staff, with little notice but always to great effect; entrusted with tasks ranging from securing senators' personal items to the safety and welfare of all senators, staff, and members of the public; and

WHEREAS, Ron McClinton, after a distinguished career as a State Trooper from 1965 to 1995 and with the Thurston County Superior Court from 1996 to 2002, first began with the Senate in 1999, becoming Assistant Sergeant at Arms in 2003 and then Deputy Director of Security; and

WHEREAS, Ron's constant and reliable presence with the Security office has been a source of comfort and assurance for all senators, staff, and members of the public; and

WHEREAS, Len Whitney began working sessions as an Assistant Sergeant at Arms with the 2000 session after 27 years with the State Patrol, becoming a familiar and personable presence on the floor as he ably assisted the members, Sergeant at Arms, and Security office; and

WHEREAS, Bob Patters came to the Senate in 1995, serving as an Assistant Sergeant at Arms through each session until 2009; and  
WHEREAS, "Patters" was known as the stoic guardian of all activities on the 1st floor of the Cherberg Building, where his stern demeanor masked his ever-ready-to-help attitude; and

WHEREAS, Bob Kelly and Bill Mason have served the Senate in the Sergeant at Arms office for over 20 sessions each, since 1986 and 1987, respectively; and

WHEREAS, Bill, in addition to working with the Senate, also assists Crime Stoppers of Lewis County, is a docent at the Veterans Memorial Museum in Chehalis, and volunteers with other worthy organizations; and

WHEREAS, Bob arrived at the Senate after his own failed run for Attorney General in 1976, campaigning as "Bunco" Bob Kelly as a member of the OWL - "Out with Logic, On with Lunacy" Party - and insisting that the administration of the law was far too important to be left in the hands of attorneys. "It was a hoot."; and

WHEREAS, Bob Kelly leaves after his 25th session with the Senate, never failing during that time to teach every page the "page pose" and rewarding them appropriately. His efforts were such a success that pages jostled for assignments that might take them by Bob's station so they could earn another piece of candy; and

WHEREAS, Ron, Len, and Bob will retire from public service with the Senate after the 2010 Sessions, and "Patters," and Bill retired after the 2009 session;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize the duty, devotion, and years of service given by Deputy Director Ron McClinton, Assistant Sergeants at Arms Bob Patters and Len Whitney and Security staff Bob Kelly and Bill Mason to the Washington State Senate and the citizens of the State of Washington; and

BE IT FURTHER RESOLVED, That the Senate acknowledges their retirements, thanking them and their families for their years of service and wish them the very best during their retirements; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Deputy Director Ron McClinton, Assistant Sergeants at Arms Bob Patters and Len Whitney, and Mr. Bob Kelly and Mr. Bill Mason on behalf of a grateful Senate.

Senators Brown, Hewitt, Kline, Parlette, Swecker, Marr, Fraser, Eide, Honeyford and Becker spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8723.

The motion by Senator Brown carried and the resolution was adopted by voice vote.

**INTRODUCTION OF SPECIAL GUESTS**

The President introduced Retiring Assistant Sergeant at Arms, Ron McClinton and wife Barb; Len Whitney and wife Caroline; Bob Patters; Bob Kelly and Bill Mason who were seated in the gallery.

**MOTION**

At 10:31 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

**AFTERNOON SESSION**

The Senate was called to order at 12:06 p.m. by President Owen.

MOTION

On motion of Senator Eide, the Senate reverted to the sixth order of business.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Kline moved that Gubernatorial Appointment No. 9162, Deborah S. Lee, as a member of the Human Rights Commission, be confirmed.

Senator Kline spoke in favor of the motion.

APPOINTMENT OF DEBORAH S. LEE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9162, Deborah S. Lee as a member of the Human Rights Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9162, Deborah S. Lee as a member of the Human Rights Commission and the appointment was confirmed by the following vote: Yeas, 43; Nays, 1; Absent, 5; Excused, 0.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Honeyford

Absent: Senators Benton, Gordon, McCaslin, Morton and Roach

Gubernatorial Appointment No. 9162, Deborah S. Lee, having received the constitutional majority was declared confirmed as a member of the Human Rights Commission.

MOTION

On motion of Senator Marr, Senator Gordon was excused.

MOTION

On motion of Senator Brandland, Senators Benton, McCaslin, Morton and Roach were excused.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Murray moved that Gubernatorial Appointment No. 9232, Cheryl Scott, as a member of the Board of Trustees, The Life Sciences Discovery Fund Authority, be confirmed.

Senator Murray spoke in favor of the motion.

APPOINTMENT OF CHERYL SCOTT

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9232, Cheryl Scott as a member of the Board of Trustees, The Life Sciences Discovery Fund Authority.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9232, Cheryl Scott as a member of the Board of Trustees, The Life Sciences Discovery Fund Authority and the appointment was confirmed by the following vote: Yeas, 43; Nays, 1; Absent, 0; Excused, 5.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Honeyford

Excused: Senators Benton, Gordon, McCaslin, Morton and Roach

Gubernatorial Appointment No. 9232, Cheryl Scott, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, The Life Sciences Discovery Fund Authority.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

March 19, 2010

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6737 with the following amendment(s): 6737-S.E AMH FIN H5803.3

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 84.36 RCW to read as follows:

An aircraft is exempt from taxation, if:

(1) The aircraft is owned by a nonprofit organization that is exempt from federal income taxation under 26 U.S.C. Sec. 501(c)(3);

(2) The aircraft is used to provide emergency medical transportation services; and

(3) The exemption inures to the benefit of the nonprofit organization that owns the aircraft.

**Sec. 2.** RCW 82.48.100 and 1999 c 302 s 3 are each amended to read as follows:

This chapter (~~shall~~) does not apply to:

(1) Aircraft owned by and used exclusively in the service of any government or any political subdivision thereof, including the government of the United States, any state, territory, or possession of the United States, or the District of Columbia, which are not engaged in carrying persons or property for commercial purposes;

(2) Aircraft registered under the laws of a foreign country;

(3) Aircraft which are owned by a nonresident and registered in another state (~~:- PROVIDED, That~~). However, if any such aircraft (~~shall~~) remains in and/or (~~be~~) is based in this state for a period of ninety days or longer it (~~shall~~) is not (~~be~~) exempt under this section;

(4) Aircraft engaged principally in commercial flying which constitutes interstate or foreign commerce; and aircraft owned by the manufacturer thereof while being operated for test or experimental purposes, or for the purpose of training crews for purchasers of the aircraft;

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(5) Aircraft being held for sale, exchange, delivery, test, or demonstration purposes solely as stock in trade of an aircraft dealer licensed under Title 14 RCW;

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 3201 and asks the Senate to recede therefrom. and the same is herewith transmitted.

(6) Aircraft owned by a nonresident of this state if the aircraft is kept at an airport in this state and that airport is jointly owned or operated by a municipal corporation or other governmental entity of this state and a municipal corporation or other governmental entity of another state, and the owner or operator of the aircraft provides the department with proof that the owner or operator has paid all taxes, license fees, and registration fees required by the state in which the owner or operator resides; and

BARBARA BAKER, Chief Clerk

MOTION

Senator Keiser moved that the Senate insist on its position on the Senate amendment(s) to Substitute House Bill No. 3201 and ask the House to concur thereon.

(7) Aircraft that are: (a) Owned by a nonprofit organization that is exempt from federal income taxation under 26 U.S.C. Sec. 501(c)(3); and (b) exclusively used to provide emergency medical transportation services.

MOTION

Senator Pflug moved that the Senate recede from its position on the Senate amendments to Substitute House Bill No. 3201.

NEW SECTION. Sec. 3. This act applies to taxes levied for collection in 2011 and thereafter.

Senator Pflug spoke in favor of the motion.

Senator Keiser spoke against the motion.

NEW SECTION. Sec. 4. This act expires January 1, 2020." Correct the title. and the same are herewith transmitted.

The President declared the question before the Senate to be motion by Senator Pflug that the Senate recede from its position on the Senate amendments to Substitute House Bill No. 3201.

The motion by Senator Pflug failed by voice vote.

BARBARA BAKER, Chief Clerk

MOTION

Senator Marr moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6737.

Senator Marr spoke in favor of the motion.

Senator Keiser spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Keiser that the Senate insist on its position on the Senate amendment(s) to Substitute House Bill No. 3201 and ask the House to concur thereon.

The President declared the question before the Senate to be the motion by Senator Marr that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6737.

The motion by Senator Keiser carried and the Senate insisted on its position in the Senate amendment(s) to Substitute House Bill No. 3201 and asked the House to concur thereon by voice vote.

The motion by Senator Marr carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6737 by voice vote.

MOTION

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6737, as amended by the House.

On motion of Senator Eide, the Senate advanced to the sixth order of business.

ROLL CALL

SECOND READING

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6737, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 1; Absent, 0; Excused, 5.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2782, by House Committee on Ways & Means (originally sponsored by Representatives Dickerson, Appleton, McCoy, Carlyle, Morrell, Kagi, Kessler, Green, Ericks, Moeller, Roberts, Nelson and Orwall)

Voting yea: Senators Becker, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Reorganizing delivery of services to recipients of public assistance. Revised for 2nd Substitute: Concerning the security lifeline act.

Voting nay: Senator Ranker

The measure was read the second time.

Excused: Senators Benton, Gordon, McCaslin, Morton and Roach

MOTION

ENGROSSED SUBSTITUTE SENATE BILL NO. 6737, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

Senator Hargrove moved that the following striking amendment by Senators Hargrove and Stevens be adopted:

Strike everything after the enacting clause and insert the following:

MESSAGE FROM THE HOUSE

"NEW SECTION. Sec. 1. INTENT. (1) The legislature finds that:

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MR. PRESIDENT:

(a) Low-income families and individuals often face significant barriers to receiving the services and benefits that they are qualified to receive. These services are essential to meeting individuals' basic needs, and provide critical support to low-income individuals

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who are working or who have disabilities that prevent them from working;

(b) Each year millions of federal dollars go unclaimed due to underutilization of benefits such as tax credits, health care coverage, and food support;

(c) State agencies have been engaged in an effort to implement an online benefit portal to simplify and streamline access to state, federal, and local benefits that include a broad array of public benefits;

(d) Access to education and training gives low-income individuals and families the opportunity to acquire the skills they need to become successfully employed and attain self-sufficiency; and

(e) Agencies have been engaged in efforts to increase access to training and education for recipients of federal food assistance.

(2) The legislature therefore intends to strengthen existing efforts by providing enhanced structure and direction to ensure that a strong partnership among colleges, state agencies, community partners, and philanthropy be established. The legislature also intends to provide an efficient, effective, integrated approach to the delivery of basic support services and education and training programs. The integrated approach should include the creation of a one-stop-shop, online benefits portal where individuals can apply for a broad array of services, including public benefits and education and training support, and the expansion of the food stamp employment and training program.

(3) The legislature further finds that:

(a) The general assistance program can be reformed to better support the ability of persons who are unable to work due to physical or mental health impairments to either return to work, or transition to federal supplemental security income benefits; and

(b) Persons who are homeless and suffering from mental illness or chemical dependency are particularly vulnerable, because homelessness is a substantial barrier to successful participation in, and completion of, needed treatment services.

(4) Through the reforms included in this act, the legislature intends to end the general assistance program and establish the disability lifeline program, and to implement multiple strategies designed to improve the employment and basic support outcomes of persons receiving disability lifeline benefits. The legislature further intends to focus services on persons who are homeless and have a mental illness or chemical dependency by providing housing vouchers as an alternative to a cash grant so that these persons can be in stable housing and thus have a greater opportunity to succeed in treatment.

NEW SECTION. Sec. 2. A new section is added to chapter 74.04 RCW to read as follows:

**OPPORTUNITY PORTAL.** (1) An online opportunity portal shall be established to provide the public with more effective access to available state, federal, and local services. The secretary of the department of social and health services shall act as the executive branch sponsor of the portal planning process. Under the leadership of the secretary, the department shall:

(a) Identify and select an appropriate solution and acquisition approach to integrate technology systems to create a user-friendly electronic tool for Washington residents to apply for benefits;

(b) Facilitate the adaptation of state information technology systems to allow applications generated through the opportunity portal and other compatible electronic application systems to seamlessly link to appropriate state information systems;

(c) Ensure that the portal provides access to a broad array of state, federal, and local services, including but not limited to: Health care services, higher education financial aid, tax credits, civic engagement, nutrition assistance, energy assistance, family support,

and disability lifeline benefits as defined in sections 4 through 13 of this act;

(d) Design an implementation strategy for the portal that maximizes collaboration with community-based organizations to facilitate its use by low-income individuals and families;

(e) Provide access to the portal at a wide array of locations including but not limited to: Community or technical colleges, community college campuses where community service offices are colocated, community-based organizations, libraries, churches, food banks, state agencies, early childhood education sites, and labor unions;

(f) Ensure project resources maximize available federal and private funds for development and initial operation of the opportunity portal. Any incidental costs to state agencies shall be derived from existing resources. This subsection does not obligate or preclude the appropriation of future state funding for the opportunity portal;

(g) Determine the solution and acquisition approach by June 1, 2010.

(2) By December 1, 2011, and annually thereafter, the department of social and health services shall report to the legislature and governor. The report shall include data and information on implementation and outcomes of the opportunity portal, including any increases in the use of public benefits and increases in federal funding.

(3) The department shall develop a plan for implementing paperless application processes for the services included in the opportunity portal for which the electronic exchange of application information is possible. The plan should include a goal of achieving, to the extent possible, the transition of these services to paperless application processes by July 1, 2012. The plan must comply with federal statutes and regulations and must allow applicants to submit applications by alternative means to ensure that access to benefits will not be restricted.

(4) To the extent that the department enters into a contractual relationship to accomplish the purposes of this section, such contract or contracts shall be performance-based.

NEW SECTION. Sec. 3. A new section is added to chapter 74.04 RCW to read as follows:

**BASIC FOOD EMPLOYMENT AND TRAINING PROGRAM.** (1) The department, the employment security department, and the state board for community and technical colleges shall work in partnership to expand the food stamp employment and training program. Subject to federal approval, the program shall be expanded to three additional community colleges or other community-based locations in 2010 and shall expand capacity at participating colleges. To the greatest extent possible, expansion shall be geographically diverse. The agencies shall:

(a) Identify and seek out partnerships with community-based organizations that can provide support services and case management to participants through performance-based contracts in the food stamp employment and training program, and do not replace the positions or work of department employees;

(b) Identify eligible nonfederal matching funds to draw down the federal match for food stamp employment and training services. Matching funds may include: Local funds, foundation grants, employer-paid costs, and the state allocation to community and technical colleges.

(2) Employment and training funds may be allocated for: Educational programs to develop skills for employability, vocational education, English as a second language courses, adult basic education, GED courses, remedial programs, job readiness training, case management, intake, assessment, evaluation, and barrier removal and support services such as tuition, books, child care, transportation, housing, and counseling services.

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(3) The department shall annually track and report outcomes including those achieved through performance-based contracts as follows: Federal funding received, the number of participants served, achievement points, the number of participants who enter employment during or after participation in the food stamp employment and training program, and the average wage of jobs attained. The report shall be submitted to the governor and appropriate committees of the legislature on November 1st of each year, beginning in 2010.

(4) For purposes of this section, "food stamp employment and training program" refers to a program established and administered through the employment security department and the department of social and health services.

**Sec. 4.** RCW 74.04.005 and 2003 1st sp.s. c 10 s 1 are each amended to read as follows:

For the purposes of this title, unless the context indicates otherwise, the following definitions shall apply:

(1) "Public assistance" or "assistance"--Public aid to persons in need thereof for any cause, including services, medical care, assistance grants, disbursing orders, work relief, ~~((general assistance))~~ disability lifeline benefits and federal aid assistance.

(2) "Department"--The department of social and health services.

(3) "County or local office"--The administrative office for one or more counties or designated service areas.

(4) "Director" or "secretary" means the secretary of social and health services.

(5) "Disability lifeline program" means a program that provides aid and support in accordance with the conditions set out in this subsection.

(a) Aid and assistance shall be provided to persons who are not eligible to receive federal aid assistance, other than basic food benefits transferred electronically and medical assistance and meet one of the following conditions:

(i) Are pregnant and in need, based upon the current income and resource requirements of the federal temporary assistance for needy families program; or

(ii) Are incapacitated from gainful employment by reason of bodily or mental infirmity that will likely continue for a minimum of ninety days as determined by the department. The standard for incapacity in this subsection, as evidenced by the ninety-day duration standard, is not intended to be as stringent as federal supplemental security income disability standards; and

(A) Are citizens or aliens lawfully admitted for permanent residence or otherwise residing in the United States under color of law;

(B) Have furnished the department their social security number. If the social security number cannot be furnished because it has not been issued or is not known, an application for a number shall be made prior to authorization of benefits, and the social security number shall be provided to the department upon receipt;

(C) Have not refused or failed without good cause to participate in drug or alcohol treatment if an assessment by a certified chemical dependency counselor indicates a need for such treatment. Good cause must be found to exist when a person's physical or mental condition, as determined by the department, prevents the person from participating in drug or alcohol dependency treatment, when needed outpatient drug or alcohol treatment is not available to the person in the county of his or her residence or when needed inpatient treatment is not available in a location that is reasonably accessible for the person; and

(D) Have not refused or failed without good cause to participate in vocational rehabilitation services, if an assessment conducted under section 5 of this act indicates that the person might benefit from such services. Good cause must be found to exist when a person's physical or mental condition, as determined by the

department, prevents the person from participating in vocational rehabilitation services, or when vocational rehabilitation services are not available to the person in the county of his or her residence.

(b)(i) Persons who initially apply and are found eligible for disability lifeline benefits based upon incapacity from gainful employment under (a) of this subsection on or after September 2, 2010, who are homeless and have been assessed as needing chemical dependency or mental health treatment or both, must agree, as a condition of eligibility for the disability lifeline program, to accept a housing voucher in lieu of a cash grant if a voucher is available. The department shall establish the dollar value of the housing voucher. The dollar value of the housing voucher may differ from the value of the cash grant. Persons receiving a housing voucher under this subsection also shall receive a cash stipend of fifty dollars per month.

(ii) If the department of commerce has determined under section 8 of this act that sufficient housing is not available, persons described in this subsection who apply for disability lifeline benefits during the time period that housing is not available shall receive a cash grant in lieu of a cash stipend and housing voucher.

(iii) Persons who refuse to accept a housing voucher under this subsection but otherwise meet the eligibility requirements of (a) of this subsection are eligible for medical care services benefits under RCW 74.09.035, subject to the time limits in (h) of this subsection.

(c) The following persons are not eligible for the disability lifeline program:

(i) Persons who are unemployable due primarily to alcohol or drug addiction. These persons shall be referred to appropriate assessment, treatment, shelter, or supplemental security income referral services as authorized under chapter 74.50 RCW. Referrals shall be made at the time of application or at the time of eligibility review. This subsection shall not be construed to prohibit the department from granting disability lifeline benefits to alcoholics and drug addicts who are incapacitated due to other physical or mental conditions that meet the eligibility criteria for the disability lifeline program;

(ii) Persons who refuse or fail to cooperate in obtaining federal aid assistance, without good cause.

(d) Disability lifeline benefits shall be provided only to persons who are not members of assistance units receiving federal aid assistance, except as provided in (a) of this subsection, and who will accept available services that can reasonably be expected to enable the person to work or reduce the need for assistance unless there is good cause to refuse. Failure to accept such services shall result in termination until the person agrees to cooperate in accepting such services and subject to the following maximum periods of ineligibility after reapplication:

(i) First failure: One week;

(ii) Second failure within six months: One month;

(iii) Third and subsequent failure within one year: Two months.

(e) Persons who are likely eligible for federal supplemental security income benefits shall be moved into the disability lifeline expedited component of the disability lifeline program. Persons placed in the expedited component of the program may, if otherwise eligible, receive disability lifeline benefits pending application for federal supplemental security income benefits. The monetary value of any disability lifeline benefit that is subsequently duplicated by the person's receipt of supplemental security income for the same period shall be considered a debt due the state and shall by operation of law be subject to recovery through all available legal remedies.

(f) For purposes of determining whether a person is incapacitated from gainful employment under (a) of this subsection:

(i) The department shall adopt by rule medical criteria for

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disability lifeline incapacity determinations to ensure that eligibility decisions are consistent with statutory requirements and are based on clear, objective medical information; and

(ii) The process implementing the medical criteria shall involve consideration of opinions of the treating or consulting physicians or health care professionals regarding incapacity, and any eligibility decision which rejects uncontroverted medical opinion must set forth clear and convincing reasons for doing so.

(g) Persons receiving disability lifeline benefits based upon a finding of incapacity from gainful employment who remain otherwise eligible shall have their benefits discontinued unless the recipient demonstrates no material improvement in their medical or mental health condition. The department may discontinue benefits when there was specific error in the prior determination that found the person eligible by reason of incapacitation.

(h)(i) Beginning September 1, 2010, no person who is currently receiving or becomes eligible for disability lifeline program benefits shall be eligible to receive benefits under the program for more than twenty-four months in a sixty-month period. For purposes of this subsection, months of receipt of general assistance-unemployable benefits count toward the twenty-four month limit. Months during which a person received benefits under the expedited component of the disability lifeline or general assistance program or under the aged, blind, or disabled component of the disability lifeline or general assistance program shall not be included when determining whether a person has been receiving benefits for more than twenty-four months. On or before July 1, 2010, the department must review the cases of all persons who have received disability lifeline benefits or general assistance unemployable benefits for at least twenty months as of that date. On or before September 1, 2010, the department must review the cases of all remaining persons who have received disability lifeline benefits for at least twelve months as of that date. The review should determine whether the person meets the federal supplemental security income disability standard and, if the person does not meet that standard, whether the receipt of additional services could lead to employability. If a need for additional services is identified, the department shall provide case management services, such as assistance with arranging transportation or locating stable housing, that will facilitate the person's access to needed services. A person may not be determined ineligible due to exceeding the time limit unless he or she has received a case review under this subsection finding that the person does not meet the federal supplemental security income disability standard.

(ii) The time limits established under this subsection expire June 30, 2013.

(i) No person may be considered an eligible individual for disability lifeline benefits with respect to any month if during that month the person:

(i) Is fleeing to avoid prosecution of, or to avoid custody or confinement for conviction of, a felony, or an attempt to commit a felony, under the laws of the state of Washington or the place from which the person flees; or

(ii) Is violating a condition of probation, community supervision, or parole imposed under federal or state law for a felony or gross misdemeanor conviction.

(6) "Disability lifeline expedited" means a component of the disability lifeline program under which persons receiving disability lifeline benefits have been determined, after examination by an appropriate health care provider, to be likely to be eligible for federal supplemental security income benefits based on medical and behavioral health evidence that meets the disability standards used for the federal supplemental security income program.

(7) "Federal aid assistance"--The specific categories of assistance for which provision is made in any federal law existing or

hereafter passed by which payments are made from the federal government to the state in aid or in respect to payment by the state for public assistance rendered to any category of needy persons for which provision for federal funds or aid may from time to time be made, or a federally administered needs-based program.

((((6(a) "General assistance"--Aid to persons in need who:

(i) Are not eligible to receive federal-aid assistance, other than food stamps or food stamp benefits transferred electronically and medical assistance; however, an individual who refuses or fails to cooperate in obtaining federal-aid assistance, without good cause, is not eligible for general assistance;

(ii) Meet one of the following conditions:

(A) Pregnant: PROVIDED, That need is based on the current income and resource requirements of the federal temporary assistance for needy families program; or

(B) Subject to chapter 165, Laws of 1992, incapacitated from gainful employment by reason of bodily or mental infirmity that will likely continue for a minimum of ninety days as determined by the department.

(C) Persons who are unemployable due to alcohol or drug addiction are not eligible for general assistance. Persons receiving general assistance on July 26, 1987, or becoming eligible for such assistance thereafter, due to an alcohol or drug-related incapacity, shall be referred to appropriate assessment, treatment, shelter, or supplemental security income referral services as authorized under chapter 74.50 RCW. Referrals shall be made at the time of application or at the time of eligibility review. Alcoholic and drug addicted clients who are receiving general assistance on July 26, 1987, may remain on general assistance if they otherwise retain their eligibility until they are assessed for services under chapter 74.50 RCW. Subsection (6)(a)(ii)(B) of this section shall not be construed to prohibit the department from granting general assistance benefits to alcoholics and drug addicts who are incapacitated due to other physical or mental conditions that meet the eligibility criteria for the general assistance program;

(iii) Are citizens or aliens lawfully admitted for permanent residence or otherwise residing in the United States under color of law; and

(iv) Have furnished the department their social security account number. If the social security account number cannot be furnished because it has not been issued or is not known, an application for a number shall be made prior to authorization of assistance, and the social security number shall be provided to the department upon receipt.

(b) Notwithstanding the provisions of subsection (6)(a)(i), (ii), and (c) of this section, general assistance shall be provided to the following recipients of federal-aid assistance:

(i) Recipients of supplemental security income whose need, as defined in this section, is not met by such supplemental security income grant because of separation from a spouse; or

(ii) To the extent authorized by the legislature in the biennial appropriations act, to recipients of temporary assistance for needy families whose needs are not being met because of a temporary reduction in monthly income below the entitled benefit payment level caused by loss or reduction of wages or unemployment compensation benefits or some other unforeseen circumstances. The amount of general assistance authorized shall not exceed the difference between the entitled benefit payment level and the amount of income actually received.

(c) General assistance shall be provided only to persons who are not members of assistance units receiving federal aid assistance, except as provided in subsection (6)(a)(ii)(A) and (b) of this section, and will accept available services which can reasonably be expected to enable the person to work or reduce the need for assistance unless there is good cause to refuse. Failure to accept such services shall

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result in termination until the person agrees to cooperate in accepting such services and subject to the following maximum periods of ineligibility after reapplication:

- (i) First failure: One week;
- (ii) Second failure within six months: One month;
- (iii) Third and subsequent failure within one year: Two months.

(d) Persons found eligible for general assistance based on incapacity from gainful employment may, if otherwise eligible, receive general assistance pending application for federal supplemental security income benefits. Any general assistance that is subsequently duplicated by the person's receipt of supplemental security income for the same period shall be considered a debt due the state and shall by operation of law be subject to recovery through all available legal remedies.

(e) The department shall adopt by rule medical criteria for general assistance eligibility to ensure that eligibility decisions are consistent with statutory requirements and are based on clear, objective medical information.

(f) The process implementing the medical criteria shall involve consideration of opinions of the treating or consulting physicians or health care professionals regarding incapacity, and any eligibility decision which rejects uncontroverted medical opinion must set forth clear and convincing reasons for doing so.

(g) Recipients of general assistance based upon a finding of incapacity from gainful employment who remain otherwise eligible shall have their benefits discontinued unless the recipient demonstrates no material improvement in their medical or mental condition. The department may discontinue benefits when there was specific error in the prior determination that found the recipient eligible by reason of incapacitation. Recipients of general assistance based upon pregnancy who relinquish their child for adoption, remain otherwise eligible, and are not eligible to receive benefits under the federal temporary assistance for needy families program shall not have their benefits terminated until the end of the month in which the period of six weeks following the birth of the recipient's child falls. Recipients of the federal temporary assistance for needy families program who lose their eligibility solely because of the birth and relinquishment of the qualifying child may receive general assistance through the end of the month in which the period of six weeks following the birth of the child falls.

(h) No person may be considered an eligible individual for general assistance with respect to any month if during that month the person:

- (i) Is fleeing to avoid prosecution of, or to avoid custody or confinement for conviction of, a felony, or an attempt to commit a felony, under the laws of the state of Washington or the place from which the person flees; or
- (ii) Is violating a condition of probation, community supervision, or parole imposed under federal or state law for a felony or gross misdemeanor conviction.

(7)) ~~(8)~~ (8) "Applicant"--Any person who has made a request, or on behalf of whom a request has been made, to any county or local office for assistance.

~~((8))~~ (9) "Recipient"--Any person receiving assistance and in addition those dependents whose needs are included in the recipient's assistance.

~~((9))~~ (10) "Standards of assistance"--The level of income required by an applicant or recipient to maintain a level of living specified by the department.

~~((10))~~ (11) "Resource"--Any asset, tangible or intangible, owned by or available to the applicant at the time of application, which can be applied toward meeting the applicant's need, either directly or by conversion into money or its equivalent. The department may by rule designate resources that an applicant may

retain and not be ineligible for public assistance because of such resources. Exempt resources shall include, but are not limited to:

- (a) A home that an applicant, recipient, or their dependents is living in, including the surrounding property;
- (b) Household furnishings and personal effects;
- (c) A motor vehicle, other than a motor home, used and useful having an equity value not to exceed five thousand dollars;
- (d) A motor vehicle necessary to transport a ~~((physically disabled))~~ household member with a physical disability. This exclusion is limited to one vehicle per ~~((physically disabled))~~ person with a physical disability;

(e) All other resources, including any excess of values exempted, not to exceed one thousand dollars or other limit as set by the department, to be consistent with limitations on resources and exemptions necessary for federal aid assistance. The department shall also allow recipients of temporary assistance for needy families to exempt savings accounts with combined balances of up to an additional three thousand dollars;

(f) Applicants for or recipients of ~~((general assistance))~~ disability lifeline benefits shall have their eligibility based on resource limitations consistent with the temporary assistance for needy families program rules adopted by the department; and

(g) If an applicant for or recipient of public assistance possesses property and belongings in excess of the ceiling value, such value shall be used in determining the need of the applicant or recipient, except that: (i) The department may exempt resources or income when the income and resources are determined necessary to the applicant's or recipient's restoration to independence, to decrease the need for public assistance, or to aid in rehabilitating the applicant or recipient or a dependent of the applicant or recipient; and (ii) the department may provide grant assistance for a period not to exceed nine months from the date the agreement is signed pursuant to this section to persons who are otherwise ineligible because of excess real property owned by such persons when they are making a good faith effort to dispose of that property: PROVIDED, That:

(A) The applicant or recipient signs an agreement to repay the lesser of the amount of aid received or the net proceeds of such sale;

(B) If the owner of the excess property ceases to make good faith efforts to sell the property, the entire amount of assistance may become an overpayment and a debt due the state and may be recovered pursuant to RCW 43.20B.630;

(C) Applicants and recipients are advised of their right to a fair hearing and afforded the opportunity to challenge a decision that good faith efforts to sell have ceased, prior to assessment of an overpayment under this section; and

(D) At the time assistance is authorized, the department files a lien without a sum certain on the specific property.

~~((11))~~ (12) "Income"--(a) All appreciable gains in real or personal property (cash or kind) or other assets, which are received by or become available for use and enjoyment by an applicant or recipient during the month of application or after applying for or receiving public assistance. The department may by rule and regulation exempt income received by an applicant for or recipient of public assistance which can be used by him or her to decrease his or her need for public assistance or to aid in rehabilitating him or her or his or her dependents, but such exemption shall not, unless otherwise provided in this title, exceed the exemptions of resources granted under this chapter to an applicant for public assistance. In addition, for cash assistance the department may disregard income pursuant to RCW 74.08A.230 and 74.12.350.

(b) If, under applicable federal requirements, the state has the option of considering property in the form of lump sum compensatory awards or related settlements received by an applicant or recipient as income or as a resource, the department shall consider such property to be a resource.

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~~((12))~~ (13) "Need"--The difference between the applicant's or recipient's standards of assistance for himself or herself and the dependent members of his or her family, as measured by the standards of the department, and value of all nonexempt resources and nonexempt income received by or available to the applicant or recipient and the dependent members of his or her family.

~~((13))~~ (14) For purposes of determining eligibility for public assistance and participation levels in the cost of medical care, the department shall exempt restitution payments made to people of Japanese and Aleut ancestry pursuant to the Civil Liberties Act of 1988 and the Aleutian and Pribilof Island Restitution Act passed by congress, P.L. 100-383, including all income and resources derived therefrom.

~~((14))~~ (15) In the construction of words and phrases used in this title, the singular number shall include the plural, the masculine gender shall include both the feminine and neuter genders and the present tense shall include the past and future tenses, unless the context thereof shall clearly indicate to the contrary.

**NEW SECTION. Sec. 5.** A new section is added to chapter 74.04 RCW to read as follows:

**REFERRAL TO THE DIVISION OF VOCATIONAL REHABILITATION.** (1) The economic services administration shall work jointly with the division of vocational rehabilitation to develop an assessment tool that must be used to determine whether the programs offered by the division of vocational rehabilitation could assist persons receiving disability lifeline benefits in returning to the work force. The assessment tool shall be completed no later than December 1, 2010. The economic services administration shall begin using the tool no later than January 1, 2011. No later than December 30, 2011, the department shall report on the use of the tool and to what extent the programs offered by the division of vocational rehabilitation have been successful in returning persons receiving disability lifeline benefits to the work force.

(2) After January 1, 2011, all persons receiving disability lifeline benefits shall be assessed to determine whether they would likely benefit from a program offered by the division of vocational rehabilitation. If the assessment indicates that the person might benefit, the economic services administration shall make a referral to the division of vocational rehabilitation. If the person is found eligible for a program with the division of vocational rehabilitation, he or she must participate in that program to remain eligible for the monthly stipend and housing voucher or a cash grant. If the person refuses to participate or does not complete the program, the department shall terminate the cash stipend and housing voucher or cash grant but may not terminate medical coverage and food benefits.

**NEW SECTION. Sec. 6.** A new section is added to chapter 74.04 RCW to read as follows:

**REFERRAL TO THE DEPARTMENT OF VETERANS AFFAIRS.** During the application process for disability lifeline benefits, the department shall inquire of each applicant whether he or she has ever served in the United States military service. If the applicant answers in the affirmative, the department shall confer with a veterans benefit specialist with the Washington state department of veterans affairs or a contracted veterans service officer in the community to determine whether the applicant is eligible for any benefits or programs offered to veterans by either the state or the federal government.

**NEW SECTION. Sec. 7.** A new section is added to chapter 74.04 RCW to read as follows:

**EARLY SSI TRANSITION PROJECT.** (1) To ensure that persons who are likely eligible for supplemental security income benefits are transitioned from disability lifeline benefits to disability lifeline expedited and the medicaid program, and then to the supplemental security income program as quickly as practicable, the

department shall implement the early supplemental security income transition project starting in King, Pierce, and Spokane counties no later than July 1, 2010, and extending statewide no later than October 1, 2011. The program shall be implemented through performance-based contracts with managed health care systems providing medical care services under RCW 74.09.035 or other qualified entities. The participants shall have the following responsibilities and duties under this program:

(a) The entities with whom the department contracts to provide the program shall be responsible for:

(i) Systematically screening persons receiving disability lifeline benefits at the point of eligibility determination or shortly thereafter to determine if the persons should be referred for medical or behavioral health evaluations to determine whether they are likely eligible for supplemental security income;

(ii) Immediately sharing the results of the disability screening with the department;

(iii) Managing disability lifeline incapacity evaluation examinations to provide timely access to needed medical and behavioral health evaluations and standardizing health care providers' conduct of incapacity evaluations. To maximize the timeliness and efficiency of incapacity evaluation examinations, the department must strongly consider contracting with a managed health care system with a network of health care providers that are trained and have agreed to conduct disability lifeline medical and psychological incapacity and recertification exams. The department may obtain medical evidence and other relevant information from sources other than the contracted entity if such evidence is available at the time of a person's application for disability lifeline benefits and is sufficient to support a determination that the person is incapacitated;

(iv) Maintaining a centralized appointment and clinical data system; and

(v) Assisting persons receiving disability lifeline benefits with obtaining additional medical or behavioral health examinations needed to meet the disability standard for federal supplemental security income benefits and with submission of applications for supplemental security income benefits.

(b) The department shall be responsible for:

(i) Determining incapacity and eligibility for disability lifeline benefits;

(ii) Making timely determinations that a person receiving disability lifeline benefits is likely eligible for supplemental security income based on medical evidence and other relevant information provided by a contracted entity, and immediately referring such persons to a contracted entity for services;

(iii) Developing standardized procedures for sharing data and information with the contracted entities to ensure timely identification of clients who have not been transferred to the disability lifeline expedited program within four months of their date of application, but who may, upon further review, be appropriately transferred to that program;

(iv) Providing case management, in partnership with the managed health care system or contracted entity, to support persons' transition to federal supplemental security income and medicaid benefits; and

(v) Identifying a savings determination methodology, in consultation with the contracted entities, the office of financial management, and the legislature, on or before implementation of the project.

(2) Early supplemental security income transition project contracts shall include the following performance goals:

(a) Persons receiving disability lifeline benefits should be screened within thirty days of entering the program to determine the

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propriety of their transfer to the disability lifeline expedited program; and

(b) Seventy-five percent of persons receiving disability lifeline benefits that appear likely to qualify for supplemental security income benefits shall be transferred to the disability lifeline expedited program within four months of their application for disability lifeline benefits.

(3) The initial focus of the efforts of the early supplemental security income transition project shall be on persons who have been receiving disability lifeline or general assistance unemployable benefits for twelve or more months as of September 1, 2010.

(4) No later than December 1, 2011, the department shall report to the governor and appropriate policy and fiscal committees on whether the early supplemental security income transition project performance goals in subsection (2) of this section were met, including the reasons those goals were or were not met.

(5) Pursuant to RCW 41.06.142(3), performance-based contracting under this section is expressly mandated by the legislature and is not subject to the processes set forth in RCW 41.06.142 (1), (4), and (5).

The statewide expansion of the program under this section shall be considered expressly mandated by the legislature and not be subject to the provisions of RCW 41.06.142 (1), (4), and (5).

**NEW SECTION. Sec. 8.** A new section is added to chapter 43.330 RCW to read as follows:

**DISABILITY LIFELINE HOUSING VOUCHER PROGRAM.** (1) To address the housing issues faced by the disability lifeline applicants in RCW 74.04.005(5)(b), the department of commerce and the department of social and health services shall jointly develop a housing voucher program. The departments also shall develop housing resources to be used by the applicants in RCW 74.04.005(5)(b). To the greatest extent possible, the housing resources shall follow the supportive housing model. The department of commerce shall administer the housing voucher program and shall:

(a) Identify the current supply of private and public housing including acquisition and rental of existing housing stock;

(b) Develop funding strategies for the development of housing resources; and

(c) Design the voucher program to maximize the ability of the department of social and health services to recover federal funding.

(2) If the department of commerce determines that the housing supply is inadequate to meet the need for those applicants qualifying for housing vouchers under RCW 74.04.005(5)(b), those applicants shall instead receive a cash grant administered by the department of social and health services. Upon the department of commerce's determination that the housing supply is adequate to meet the needs of the applicants in RCW 74.04.005(5)(b), housing vouchers rather than cash grants shall be issued to these applicants who apply on or after the department's determination.

(3) The department of commerce and the department of social and health services shall evaluate the impact of the use of housing vouchers under this section and report to the governor and relevant policy and fiscal committees of the legislature by November 30, 2012, on the following items:

(a) The supply, affordability, appropriateness, and use of stable housing;

(b) The following outcomes for persons receiving disability lifeline housing vouchers:

(i) Participation in and completion of chemical dependency or mental health treatment;

(ii) Contact with law enforcement, including arrest and conviction data;

(iii) Use of emergency room services; and

(iv) Involuntary commitment under chapter 71.05 RCW.

**NEW SECTION. Sec. 9.** A new section is added to chapter 70.47 RCW to read as follows:

**BASIC HEALTH PLAN ENROLLMENT.** In order to ensure continuity of health care coverage and avoid deterioration in health status, persons who have lost eligibility for disability lifeline benefits under RCW 74.04.005(5) due to improvement in their health status and who are eligible for subsidized basic health coverage shall be given priority for enrollment in the basic health plan. If the administrator closes or limits subsidized enrollment, to the extent funding is available, the basic health plan must continue to accept and process applications for subsidized enrollment from persons described in this section.

**NEW SECTION. Sec. 10.** A new section is added to chapter 70.96A RCW to read as follows:

**ACCESS TO CHEMICAL DEPENDENCY TREATMENT.** If an assessment by a certified chemical dependency counselor indicates a need for drug or alcohol treatment, in order to enable a person receiving disability lifeline benefits to improve his or her health status and transition from disability lifeline benefits to employment, or transition to federal disability benefits, the person must be given high priority for enrollment in treatment, within funds appropriated for that treatment. However, first priority for receipt of treatment services must be given to pregnant women and parents of young children. This section expires June 30, 2013. Persons who are terminated from disability lifeline benefits under RCW 74.04.005(5)(h) and are actively engaged in chemical dependency treatment during the month they are terminated shall be provided the opportunity to complete their current course of treatment.

**NEW SECTION. Sec. 11.** A new section is added to chapter 74.04 RCW to read as follows:

By December 1, 2012, the Washington state institute for public policy shall submit a report to the governor and the relevant policy and fiscal committees of the legislature that:

(1) Analyzes the experience of persons who have been terminated from disability lifeline benefits pursuant to RCW 74.04.005(5). The report shall include at least the following information:

(a) The number of persons terminated from the program who transition to supplemental security income benefits;

(b) The number of persons who become employed;

(c) The rate at which the affected persons use hospital emergency room services;

(d) The number of persons involuntarily committed under chapter 71.05 RCW;

(e) The number of persons arrested or convicted of criminal offenses; and

(f) The mortality rate of the affected persons; and

(2) Reports as to whether the case review standards and early supplemental security income transition project performance goals in RCW 74.04.005(5) have been met by the department.

**Sec. 12.** RCW 10.101.010 and 1998 c 79 s 2 are each amended to read as follows:

The following definitions shall be applied in connection with this chapter:

(1) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, (~~general assistance~~) disability lifeline benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty- five percent or less of the current federally established poverty level; or

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(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(2) "Indigent and able to contribute" means a person who, at any stage of a court proceeding, is unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are less than the anticipated cost of counsel but sufficient for the person to pay a portion of that cost.

(3) "Anticipated cost of counsel" means the cost of retaining private counsel for representation on the matter before the court.

(4) "Available funds" means liquid assets and disposable net monthly income calculated after provision is made for bail obligations. For the purpose of determining available funds, the following definitions shall apply:

(a) "Liquid assets" means cash, savings accounts, bank accounts, stocks, bonds, certificates of deposit, equity in real estate, and equity in motor vehicles. A motor vehicle necessary to maintain employment and having a market value not greater than three thousand dollars shall not be considered a liquid asset.

(b) "Income" means salary, wages, interest, dividends, and other earnings which are reportable for federal income tax purposes, and cash payments such as reimbursements received from pensions, annuities, social security, and public assistance programs. It includes any contribution received from any family member or other person who is domiciled in the same residence as the defendant and who is helping to defray the defendant's basic living costs.

(c) "Disposable net monthly income" means the income remaining each month after deducting federal, state, or local income taxes, social security taxes, contributory retirement, union dues, and basic living costs.

(d) "Basic living costs" means the average monthly amount spent by the defendant for reasonable payments toward living costs, such as shelter, food, utilities, health care, transportation, clothing, loan payments, support payments, and court-imposed obligations.

**Sec. 13.** RCW 13.34.030 and 2009 c 520 s 21 and 2009 c 397 s 1 are each reenacted and amended to read as follows:

For purposes of this chapter:

(1) "Abandoned" means when the child's parent, guardian, or other custodian has expressed, either by statement or conduct, an intent to forego, for an extended period, parental rights or responsibilities despite an ability to exercise such rights and responsibilities. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no contact between the child and the child's parent, guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon.

(2) "Child" and "juvenile" means any individual under the age of eighteen years.

(3) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until: (a) The child returns home; (b) an adoption decree, a permanent custody order, or guardianship order is entered; or (c) the dependency is dismissed, whichever occurs first.

(4) "Department" means the department of social and health services.

(5) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to this chapter for the limited purpose of assisting the court in the supervision of the dependency.

(6) "Dependent child" means any child who:

(a) Has been abandoned;

(b) Is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child; or

(c) Has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development.

(7) "Developmental disability" means a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial handicap to the individual.

(8) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding other than a proceeding under this chapter; and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" shall not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

(9) "Guardian ad litem" means a person, appointed by the court to represent the best interests of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.

(10) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

(11) "Housing assistance" means appropriate referrals by the department or other supervising agencies to federal, state, local, or private agencies or organizations, assistance with forms, applications, or financial subsidies or other monetary assistance for housing. For purposes of this chapter, "housing assistance" is not a remedial service or time-limited family reunification service as described in RCW 13.34.025(2).

(12) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, ~~((general assistance))~~ disability lifeline benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty- five percent or less of the federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(13) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(14) "Preventive services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services, including housing assistance, capable of preventing the need for out- of-home placement while protecting the child.

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(15) "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to RCW 74.15.030.

(16) "Sibling" means a child's birth brother, birth sister, adoptive brother, adoptive sister, half-brother, or half-sister, or as defined by the law or custom of the Indian child's tribe for an Indian child as defined in 25 U.S.C. Sec. 1903(4).

(17) "Social study" means a written evaluation of matters relevant to the disposition of the case and shall contain the following information:

(a) A statement of the specific harm or harms to the child that intervention is designed to alleviate;

(b) A description of the specific services and activities, for both the parents and child, that are needed in order to prevent serious harm to the child; the reasons why such services and activities are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered. The description shall identify the services chosen and approved by the parent;

(c) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs that have been considered and rejected; the preventive services, including housing assistance, that have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home; and the parents' attitude toward placement of the child;

(d) A statement of the likely harms the child will suffer as a result of removal;

(e) A description of the steps that will be taken to minimize the harm to the child that may result if separation occurs including an assessment of the child's relationship and emotional bond with any siblings, and the agency's plan to provide ongoing contact between the child and the child's siblings if appropriate; and

(f) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

(18) "Supervising agency" means an agency licensed by the state under RCW 74.15.090 or an Indian tribe under RCW 74.15.190 with whom the department has entered into a performance-based contract to provide child welfare services as defined in RCW 74.13.020.

**Sec. 14.** RCW 26.19.071 and 2009 c 84 s 3 are each amended to read as follows:

(1) **Consideration of all income.** All income and resources of each parent's household shall be disclosed and considered by the court when the court determines the child support obligation of each parent. Only the income of the parents of the children whose support is at issue shall be calculated for purposes of calculating the basic support obligation. Income and resources of any other person shall not be included in calculating the basic support obligation.

(2) **Verification of income.** Tax returns for the preceding two years and current paystubs shall be provided to verify income and deductions. Other sufficient verification shall be required for income and deductions which do not appear on tax returns or paystubs.

(3) **Income sources included in gross monthly income.** Except as specifically excluded in subsection (4) of this section, monthly gross income shall include income from any source, including:

- (a) Salaries;
- (b) Wages;
- (c) Commissions;
- (d) Deferred compensation;

(e) Overtime, except as excluded for income in subsection (4)(h) of this section;

(f) Contract-related benefits;

(g) Income from second jobs, except as excluded for income in subsection (4)(h) of this section;

(h) Dividends;

(i) Interest;

(j) Trust income;

(k) Severance pay;

(l) Annuities;

(m) Capital gains;

(n) Pension retirement benefits;

(o) Workers' compensation;

(p) Unemployment benefits;

(q) Maintenance actually received;

(r) Bonuses;

(s) Social security benefits;

(t) Disability insurance benefits; and

(u) Income from self-employment, rent, royalties, contracts, proprietorship of a business, or joint ownership of a partnership or closely held corporation.

(4) **Income sources excluded from gross monthly income.** The following income and resources shall be disclosed but shall not be included in gross income:

(a) Income of a new spouse or new domestic partner or income of other adults in the household;

(b) Child support received from other relationships;

(c) Gifts and prizes;

(d) Temporary assistance for needy families;

(e) Supplemental security income;

(f) ~~((General assistance))~~ Disability lifeline benefits;

(g) Food stamps; and

(h) Overtime or income from second jobs beyond forty hours per week averaged over a twelve-month period worked to provide for a current family's needs, to retire past relationship debts, or to retire child support debt, when the court finds the income will cease when the party has paid off his or her debts.

Receipt of income and resources from temporary assistance for needy families, supplemental security income, ~~((general assistance))~~ disability lifeline benefits, and food stamps shall not be a reason to deviate from the standard calculation.

(5) **Determination of net income.** The following expenses shall be disclosed and deducted from gross monthly income to calculate net monthly income:

(a) Federal and state income taxes;

(b) Federal insurance contributions act deductions;

(c) Mandatory pension plan payments;

(d) Mandatory union or professional dues;

(e) State industrial insurance premiums;

(f) Court-ordered maintenance to the extent actually paid;

(g) Up to five thousand dollars per year in voluntary retirement contributions actually made if the contributions show a pattern of contributions during the one-year period preceding the action establishing the child support order unless there is a determination that the contributions were made for the purpose of reducing child support; and

(h) Normal business expenses and self-employment taxes for self-employed persons. Justification shall be required for any business expense deduction about which there is disagreement.

Items deducted from gross income under this subsection shall not be a reason to deviate from the standard calculation.

(6) **Imputation of income.** The court shall impute income to a parent when the parent is voluntarily unemployed or voluntarily underemployed. The court shall determine whether the parent is voluntarily underemployed or voluntarily unemployed based upon

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that parent's work history, education, health, and age, or any other relevant factors. A court shall not impute income to a parent who is gainfully employed on a full-time basis, unless the court finds that the parent is voluntarily underemployed and finds that the parent is purposely underemployed to reduce the parent's child support obligation. Income shall not be imputed for an unemployable parent. Income shall not be imputed to a parent to the extent the parent is unemployed or significantly underemployed due to the parent's efforts to comply with court-ordered reunification efforts under chapter 13.34 RCW or under a voluntary placement agreement with an agency supervising the child. In the absence of records of a parent's actual earnings, the court shall impute a parent's income in the following order of priority:

- (a) Full-time earnings at the current rate of pay;
- (b) Full-time earnings at the historical rate of pay based on reliable information, such as employment security department data;
- (c) Full-time earnings at a past rate of pay where information is incomplete or sporadic;
- (d) Full-time earnings at minimum wage in the jurisdiction where the parent resides if the parent has a recent history of minimum wage earnings, is recently coming off public assistance, ~~((general assistance unemployable))~~ disability lifeline benefits, supplemental security income, or disability, has recently been released from incarceration, or is a high school student;
- (e) Median net monthly income of year-round full-time workers as derived from the United States bureau of census, current population reports, or such replacement report as published by the bureau of census.

**Sec. 15.** RCW 31.04.540 and 2009 c 149 s 8 are each amended to read as follows:

(1) To the extent that implementation of this section does not conflict with federal law resulting in the loss of federal funding, proprietary reverse mortgage loan advances made to a borrower must be treated as proceeds from a loan and not as income for the purpose of determining eligibility and benefits under means-tested programs of aid to individuals.

(2) Undisbursed reverse mortgage funds must be treated as equity in the borrower's home and not as proceeds from a loan, resources, or assets for the purpose of determining eligibility and benefits under means-tested programs of aid to individuals.

(3) This section applies to any law or program relating to payments, allowances, benefits, or services provided on a means-tested basis by this state including, but not limited to, optional state supplements to the federal supplemental security income program, low-income energy assistance, property tax relief, ~~((general assistance))~~ disability lifeline benefits, and medical assistance only to the extent this section does not conflict with Title 19 of the federal social security act.

**Sec. 16.** RCW 70.123.110 and 1997 c 59 s 9 are each amended to read as follows:

~~((General assistance))~~ Disability lifeline benefits or temporary assistance for needy families payments shall be made to otherwise eligible individuals who are residing in a secure shelter, a housing network or other shelter facility which provides shelter services to persons who are victims of domestic violence. Provisions shall be made by the department for the confidentiality of the shelter addresses where victims are residing.

**Sec. 17.** RCW 73.08.005 and 2009 c 35 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Direct costs" includes those allowable costs that can be readily assigned to the statutory objectives of this chapter, consistent with the cost principles promulgated by the federal office of management and budget in circular No. A-87, dated May 10, 2004.

(2) "Family" means the spouse or domestic partner, surviving spouse, surviving domestic partner, and dependent children of a living or deceased veteran.

(3) "Indigent" means a person who is defined as such by the county legislative authority using one or more of the following definitions:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, ~~((general assistance))~~ disability lifeline benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income;

(b) Receiving an annual income, after taxes, of up to one hundred fifty percent or less of the current federally established poverty level, or receiving an annual income not exceeding a higher qualifying income established by the county legislative authority; or

(c) Unable to pay reasonable costs for shelter, food, utilities, and transportation because his or her available funds are insufficient.

(4) "Indirect costs" includes those allowable costs that are generally associated with carrying out the statutory objectives of this chapter, but the identification and tracking of those costs cannot be readily assigned to a specific statutory objective without an accounting effort that is disproportionate to the benefit received. A county legislative authority may allocate allowable indirect costs to its veterans' assistance fund if it is accomplished in a manner consistent with the cost principles promulgated by the federal office of management and budget in circular No. A-87, dated May 10, 2004.

(5) "Veteran" has the same meaning as defined in RCW 41.04.005 and 41.04.007, and includes a current member of the national guard or armed forces reserves who has been deployed to serve in an armed conflict.

(6) "Veterans' advisory board" means a board established by a county legislative authority under the authority of RCW 73.08.035.

(7) "Veterans' assistance fund" means an account in the custody of the county auditor, or the chief financial officer in a county operating under a charter, that is funded by taxes levied under the authority of RCW 73.08.080.

(8) "Veterans' assistance program" means a program approved by the county legislative authority under the authority of RCW 73.08.010 that is fully or partially funded by the veterans' assistance fund authorized by RCW 73.08.080.

**Sec. 18.** RCW 74.04.0052 and 1997 c 58 s 502 are each amended to read as follows:

(1) The department shall determine, after consideration of all relevant factors and in consultation with the applicant, the most appropriate living situation for applicants under eighteen years of age, unmarried, and pregnant who are eligible for ~~((general assistance as defined in RCW 74.04.005(6)(a)(ii)(A))~~ disability lifeline benefits. An appropriate living situation shall include a place of residence that is maintained by the applicant's parents, parent, legal guardian, or other adult relative as their or his or her own home and that the department finds would provide an appropriate supportive living arrangement. It also includes a living situation maintained by an agency that is licensed under chapter 74.15 RCW that the department finds would provide an appropriate supportive living arrangement. Grant assistance shall not be provided under this chapter if the applicant does not reside in the most appropriate living situation, as determined by the department.

(2) A pregnant minor residing in the most appropriate living situation, as provided under subsection (1) of this section, is presumed to be unable to manage adequately the funds paid to the minor or on behalf of the dependent child or children and, unless the minor provides sufficient evidence to rebut the presumption, shall be subject to the protective payee requirements provided for under RCW 74.12.250 and 74.08.280.

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(3) The department shall consider any statements or opinions by either parent of the unmarried minor parent or pregnant minor applicant as to an appropriate living situation for the minor, whether in the parental home or other situation. If the parents or a parent of the minor request, they or he or she shall be entitled to a hearing in juvenile court regarding designation of the parental home or other relative placement as the most appropriate living situation for the pregnant or parenting minor.

The department shall provide the parents or parent with the opportunity to make a showing that the parental home, or home of the other relative placement, is the most appropriate living situation. It shall be presumed in any administrative or judicial proceeding conducted under this subsection that the parental home or other relative placement requested by the parents or parent is the most appropriate living situation. This presumption is rebuttable.

(4) In cases in which the minor is unmarried and unemployed, the department shall, as part of the determination of the appropriate living situation, provide information about adoption including referral to community-based organizations providing counseling.

(5) For the purposes of this section, "most appropriate living situation" shall not include a living situation including an adult male who fathered the qualifying child and is found to meet the elements of rape of a child as set forth in RCW 9A.44.079.

**Sec. 19.** RCW 74.04.120 and 1979 c 141 s 301 are each amended to read as follows:

Allocations of state and federal funds shall be made upon the basis of need within the respective counties as disclosed by the quarterly budgets, considered in conjunction with revenues available for the satisfaction of that need: PROVIDED, That in preparing his quarterly budget for federal aid assistance, the administrator shall include the aggregate of the individual case load approved by the department to date on the basis of need and the secretary shall approve and allocate an amount sufficient to service the aggregate case load as included in said budget, and in the event any portion of the budgeted case load cannot be serviced with moneys available for the particular category for which an application is made the committee may on the administrator's request authorize the transfer of sufficient ~~((general assistance))~~ disability lifeline program funds to the appropriation for such category to service such case load and secure the benefit of federal matching funds.

**Sec. 20.** RCW 74.04.230 and 1982 c 204 s 16 are each amended to read as follows:

Persons eligible for ~~((general assistance under RCW 74.04.005))~~ disability lifeline benefits are eligible for mental health services to the extent that they meet the client definitions and priorities established by chapter 71.24 RCW.

**Sec. 21.** RCW 74.04.266 and 1977 ex.s. c 215 s 1 are each amended to read as follows:

In determining need for ~~((general assistance for unemployable persons as defined in RCW 74.04.005(6)(a)))~~ disability lifeline benefits, the department may by rule and regulation establish a monthly earned income exemption in an amount not to exceed the exemption allowable under disability programs authorized in Title XVI of the federal social security act.

**Sec. 22.** RCW 74.04.620 and 1983 1st ex.s. c 41 s 37 are each amended to read as follows:

(1) The department is authorized to establish a program of state supplementation to the national program of supplemental security income consistent with Public Law 92-603 and Public Law 93-66 to those persons who are in need thereof in accordance with eligibility requirements established by the department.

(2) The department is authorized to establish reasonable standards of assistance and resource and income exemptions

specifically for such program of state supplementation which shall be consistent with the provisions of the Social Security Act.

(3) The department is authorized to make payments to applicants for supplemental security income, pursuant to agreements as provided in Public Law 93-368, who are otherwise eligible for ~~((general assistance))~~ disability lifeline benefits.

(4) Any agreement between the department and a supplemental security income applicant providing for the reimbursement of interim assistance to the department shall provide, if the applicant has been represented by an attorney, that twenty-five percent of the reimbursement received shall be withheld by the department and all or such portion thereof as has been approved as a fee by the United States department of health and human services shall be released directly to the applicant's attorney. The secretary may maintain such records as are deemed appropriate to measure the cost and effectiveness of such agreements and may make recommendations concerning the continued use of such agreements to the legislature.

**Sec. 23.** RCW 74.04.770 and 1997 c 59 s 11 are each amended to read as follows:

The department shall establish consolidated standards of need each fiscal year which may vary by geographical areas, program, and family size, for temporary assistance for needy families, refugee assistance, supplemental security income, and ~~((general assistance))~~ disability lifeline benefits. Standards for temporary assistance for needy families, refugee assistance, and ~~((general assistance))~~ disability lifeline benefits shall be based on studies of actual living costs and generally recognized inflation indices and shall include reasonable allowances for shelter, fuel, food, transportation, clothing, household maintenance and operations, personal maintenance, and necessary incidentals. The standard of need may take into account the economies of joint living arrangements, but unless explicitly required by federal statute, there shall not be proration of any portion of assistance grants unless the amount of the grant standard is equal to the standard of need.

The department is authorized to establish rateable reductions and grant maximums consistent with federal law.

Payment level will be equal to need or a lesser amount if rateable reductions or grant maximums are imposed. In no case shall a recipient of supplemental security income receive a state supplement less than the minimum required by federal law.

The department may establish a separate standard for shelter provided at no cost.

**Sec. 24.** RCW 74.08.043 and 1981 1st ex.s. c 6 s 12 are each amended to read as follows:

In determining the living requirements of otherwise eligible applicants and recipients of supplemental security income and ~~((general assistance))~~ disability lifeline benefits, the department is authorized to consider the need for personal and special care and supervision due to physical and mental conditions.

**Sec. 25.** RCW 74.08.278 and 1979 c 141 s 327 are each amended to read as follows:

In order to comply with federal statutes and regulations pertaining to federal matching funds and to provide for the prompt payment of initial grants and adjusting payments of grants the secretary is authorized to make provisions for the cash payment of assistance by the secretary or county administrators by the establishment of a central operating fund. The secretary may establish such a fund with the approval of the state auditor from moneys appropriated to the department for the payment of ~~((general assistance))~~ disability lifeline benefits in a sum not to exceed one million dollars. Such funds shall be deposited as agreed upon by the secretary and the state auditor in accordance with the laws regulating the deposits of public funds. Such security shall be required of the depository in connection with the fund as the state treasurer may prescribe. Moneys remaining in the fund shall be

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returned to the general fund at the end of the biennium, or an accounting of proper expenditures from the fund shall be made to the state auditor. All expenditures from such central operating fund shall be reimbursed out of and charged to the proper program appropriated by the use of such forms and vouchers as are approved by the secretary of the department and the state auditor. Expenditures from such fund shall be audited by the director of financial management and the state auditor from time to time and a report shall be made by the state auditor and the secretary as are required by law.

**Sec. 26.** RCW 74.08.335 and 1997 c 59 s 13 are each amended to read as follows:

Temporary assistance for needy families and (~~general assistance~~) disability lifeline benefits shall not be granted to any person who has made an assignment or transfer of property for the purpose of rendering himself or herself eligible for the assistance. There is a rebuttable presumption that a person who has transferred or transfers any real or personal property or any interest in property within two years of the date of application for the assistance without receiving adequate monetary consideration therefor, did so for the purpose of rendering himself or herself eligible for the assistance. Any person who transfers property for the purpose of rendering himself or herself eligible for assistance, or any person who after becoming a recipient transfers any property or any interest in property without the consent of the secretary, shall be ineligible for assistance for a period of time during which the reasonable value of the property so transferred would have been adequate to meet the person's needs under normal conditions of living: PROVIDED, That the secretary is hereby authorized to allow exceptions in cases where undue hardship would result from a denial of assistance.

**Sec. 27.** RCW 74.08A.210 and 1997 c 58 s 302 are each amended to read as follows:

(1) In order to prevent some families from developing dependency on temporary assistance for needy families, the department shall make available to qualifying applicants a diversion program designed to provide brief, emergency assistance for families in crisis whose income and assets would otherwise qualify them for temporary assistance for needy families.

(2) Diversion assistance may include cash or vouchers in payment for the following needs:

- (a) Child care;
- (b) Housing assistance;
- (c) Transportation-related expenses;
- (d) Food;
- (e) Medical costs for the recipient's immediate family;
- (f) Employment-related expenses which are necessary to keep or obtain paid unsubsidized employment.

(3) Diversion assistance is available once in each twelve-month period for each adult applicant. Recipients of diversion assistance are not included in the temporary assistance for needy families program.

(4) Diversion assistance may not exceed one thousand five hundred dollars for each instance.

(5) To be eligible for diversion assistance, a family must otherwise be eligible for temporary assistance for needy families.

(6) Families ineligible for temporary assistance for needy families or (~~general assistance~~) disability lifeline benefits due to sanction, noncompliance, the lump sum income rule, or any other reason are not eligible for diversion assistance.

(7) Families must provide evidence showing that a bona fide need exists according to subsection (2) of this section in order to be eligible for diversion assistance.

An adult applicant may receive diversion assistance of any type no more than once per twelve-month period. If the recipient of diversion assistance is placed on the temporary assistance for needy

families program within twelve months of receiving diversion assistance, the prorated dollar value of the assistance shall be treated as a loan from the state, and recovered by deduction from the recipient's cash grant.

**Sec. 28.** RCW 74.09.010 and 2007 c 3 s 2 are each amended to read as follows:

As used in this chapter:

(1) "Children's health program" means the health care services program provided to children under eighteen years of age and in households with incomes at or below the federal poverty level as annually defined by the federal department of health and human services as adjusted for family size, and who are not otherwise eligible for medical assistance or the limited casualty program for the medically needy.

(2) "Committee" means the children's health services committee created in section 3 of this act.

(3) "County" means the board of county commissioners, county council, county executive, or tribal jurisdiction, or its designee. A combination of two or more county authorities or tribal jurisdictions may enter into joint agreements to fulfill the requirements of RCW 74.09.415 through 74.09.435.

(4) "Department" means the department of social and health services.

(5) "Department of health" means the Washington state department of health created pursuant to RCW 43.70.020.

(6) "Internal management" means the administration of medical assistance, medical care services, the children's health program, and the limited casualty program.

(7) "Limited casualty program" means the medical care program provided to medically needy persons as defined under Title XIX of the federal social security act, and to medically indigent persons who are without income or resources sufficient to secure necessary medical services.

(8) "Medical assistance" means the federal aid medical care program provided to categorically needy persons as defined under Title XIX of the federal social security act.

(9) "Medical care services" means the limited scope of care financed by state funds and provided to (~~general assistance~~) disability lifeline benefits recipients, and recipients of alcohol and drug addiction services provided under chapter 74.50 RCW.

(10) "Nursing home" means nursing home as defined in RCW 18.51.010.

(11) "Poverty" means the federal poverty level determined annually by the United States department of health and human services, or successor agency.

(12) "Secretary" means the secretary of social and health services.

(13) "Full benefit dual eligible beneficiary" means an individual who, for any month: Has coverage for the month under a medicare prescription drug plan or medicare advantage plan with part D coverage; and is determined eligible by the state for full medicaid benefits for the month under any eligibility category in the state's medicaid plan or a section 1115 demonstration waiver that provides pharmacy benefits.

**Sec. 29.** RCW 74.09.035 and 1987 c 406 s 12 are each amended to read as follows:

(1) To the extent of available funds, medical care services may be provided to recipients of (~~general assistance~~) disability lifeline benefits, persons denied disability lifeline benefits under RCW 74.04.005(5)(b) or section 5 of this act who otherwise meet the requirements of RCW 74.04.005(5)(a), and recipients of alcohol and drug addiction services provided under chapter 74.50 RCW, in accordance with medical eligibility requirements established by the department. To the extent authorized in the operating budget, upon implementation of a federal medicaid 1115 waiver providing federal

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matching funds for medical care services, these services also may be provided to persons who have been terminated from disability lifeline benefits under RCW 74.04.005(5)(h).

(2) Determination of the amount, scope, and duration of medical care services shall be limited to coverage as defined by the department, except that adult dental, and routine foot care shall not be included unless there is a specific appropriation for these services.

(3) The department shall enter into performance-based contracts with one or more managed health care systems for the provision of medical care services to recipients of disability lifeline benefits. The contract must provide for integrated delivery of medical and mental health services.

(4) The department shall establish standards of assistance and resource and income exemptions, which may include deductibles and co- insurance provisions. In addition, the department may include a prohibition against the voluntary assignment of property or cash for the purpose of qualifying for assistance.

~~((4))~~ (5) Residents of skilled nursing homes, intermediate care facilities, and intermediate care facilities for the mentally retarded, as that term is described by federal law, who are eligible for medical care services shall be provided medical services to the same extent as provided to those persons eligible under the medical assistance program.

~~((5))~~ (6) Payments made by the department under this program shall be the limit of expenditures for medical care services solely from state funds.

~~((6))~~ (7) Eligibility for medical care services shall commence with the date of certification for ~~((general assistance))~~ disability lifeline benefits or the date of eligibility for alcohol and drug addiction services provided under chapter 74.50 RCW.

**Sec. 30.** RCW 74.09.555 and 2005 c 503 s 12 are each amended to read as follows:

(1) The department shall adopt rules and policies providing that when persons with a mental disorder, who were enrolled in medical assistance immediately prior to confinement, are released from confinement, their medical assistance coverage will be fully reinstated on the day of their release, subject to any expedited review of their continued eligibility for medical assistance coverage that is required under federal or state law.

(2) The department, in collaboration with the Washington association of sheriffs and police chiefs, the department of corrections, and the regional support networks, shall establish procedures for coordination between department field offices, institutions for mental disease, and correctional institutions, as defined in RCW 9.94.049, that result in prompt reinstatement of eligibility and speedy eligibility determinations for persons who are likely to be eligible for medical assistance services upon release from confinement. Procedures developed under this subsection must address:

(a) Mechanisms for receiving medical assistance services applications on behalf of confined persons in anticipation of their release from confinement;

(b) Expedient review of applications filed by or on behalf of confined persons and, to the extent practicable, completion of the review before the person is released;

(c) Mechanisms for providing medical assistance services identity cards to persons eligible for medical assistance services immediately upon their release from confinement; and

(d) Coordination with the federal social security administration, through interagency agreements or otherwise, to expedite processing of applications for federal supplemental security income or social security disability benefits, including federal acceptance of applications on behalf of confined persons.

(3) Where medical or psychiatric examinations during a person's confinement indicate that the person is disabled, the correctional institution or institution for mental diseases shall provide the department with that information for purposes of making medical assistance eligibility and enrollment determinations prior to the person's release from confinement. The department shall, to the maximum extent permitted by federal law, use the examination in making its determination whether the person is disabled and eligible for medical assistance.

(4) For purposes of this section, "confined" or "confinement" means incarcerated in a correctional institution, as defined in RCW 9.94.049, or admitted to an institute for mental disease, as defined in 42 C.F.R. part 435, Sec. 1009 on July 24, 2005.

(5) For purposes of this section, "likely to be eligible" means that a person:

(a) Was enrolled in medicaid or supplemental security income or ~~((general assistance))~~ the disability lifeline program immediately before he or she was confined and his or her enrollment was terminated during his or her confinement; or

(b) Was enrolled in medicaid or supplemental security income or ~~((general assistance))~~ the disability lifeline program at any time during the five years before his or her confinement, and medical or psychiatric examinations during the person's confinement indicate that the person continues to be disabled and the disability is likely to last at least twelve months following release.

(6) The economic services administration shall adopt standardized statewide screening and application practices and forms designed to facilitate the application of a confined person who is likely to be eligible for medicaid.

**Sec. 31.** RCW 74.50.060 and 1989 1st ex.s. c 18 s 3 are each amended to read as follows:

(1) The department shall establish a shelter assistance program to provide, within available funds, shelter for persons eligible under this chapter. "Shelter," "shelter support," or "shelter assistance" means a facility under contract to the department providing room and board in a supervised living arrangement, normally in a group or dormitory setting, to eligible recipients under this chapter. This may include supervised domiciliary facilities operated under the auspices of public or private agencies. No facility under contract to the department shall allow the consumption of alcoholic beverages on the premises. The department may contract with counties and cities for such shelter services. To the extent possible, the department shall not displace existing emergency shelter beds for use as shelter under this chapter. In areas of the state in which it is not feasible to develop shelters, due to low numbers of people needing shelter services, or in which sufficient numbers of shelter beds are not available, the department may provide shelter through an intensive protective payee program, unless the department grants an exception on an individual basis for less intense supervision.

(2) Persons continuously eligible for the ~~((general assistance--unemployable program))~~ disability lifeline program since July 25, 1987, who transfer to the program established by this chapter, have the option to continue their present living situation, but only through a protective payee.

**NEW SECTION. Sec. 32.** A new section is added to chapter 74.08A RCW to read as follows:

Recipients exempted from active work search activities due to incapacity or a disability shall receive disability lifeline benefits as they relate to the facilitation of enrollment in the federal supplemental security income program, access to chemical dependency treatment, referrals to vocational rehabilitation, and other services needed to assist the recipient in becoming employable. Disability lifeline benefits shall not supplant cash assistance and other services provided through the temporary assistance for needy families program. To the greatest extent

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possible, services shall be funded through the temporary assistance for needy families appropriations.

NEW SECTION. Sec. 33. This act shall be known and cited as the security lifeline act.

NEW SECTION. Sec. 34. Except for section 10 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. Sec. 35. Section 10 of this act takes effect July 1, 2010.

NEW SECTION. Sec. 36. If private funding sufficient to implement and operate the portal authorized under section 2 of this act is not secured by December 31, 2010, section 2 of this act is null and void.

NEW SECTION. Sec. 37. Sections 1 through 10 and 29 of this act shall be implemented within the amounts appropriated specifically for these purposes in the omnibus operating appropriations act."

Senators Hargrove and Stevens spoke in favor of adoption of the striking amendment.

#### POINT OF INQUIRY

Senator Jacobsen: "Would Senator Stevens yield to a question? How long have you been here?"

Senator Stevens: "You can tell right now. Too long."

The President declared the question before the Senate to be the adoption of the amendment by Senators Hargrove and Stevens to Engrossed Second Substitute House Bill No. 2782.

The motion by Senator Hargrove carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "lifeline act;" strike the remainder of the title and insert "amending RCW 74.04.005, 10.101.010, 26.19.071, 31.04.540, 70.123.110, 73.08.005, 74.04.0052, 74.04.120, 74.04.230, 74.04.266, 74.04.620, 74.04.770, 74.08.043, 74.08.278, 74.08.335, 74.08A.210, 74.09.010, 74.09.035, 74.09.555, and 74.50.060; reenacting and amending RCW 13.34.030; adding new sections to chapter 74.04 RCW; adding a new section to chapter 43.330 RCW; adding a new section to chapter 70.47 RCW; adding a new section to chapter 70.96A RCW; adding a new section to chapter 74.08A RCW; creating new sections; providing an effective date; providing an expiration date; and declaring an emergency."

Senators Hargrove and Stevens spoke in favor of adoption of the striking amendment.

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Second Substitute House Bill No. 2782 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove, Brown and Fairley spoke in favor of passage of the bill.

Senators Zarelli, Stevens, Schoesler and Pflug spoke against passage of the bill.

2010 1ST SPECIAL SESSION

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2782 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2782 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 28; Nays, 16; Absent, 0; Excused, 5.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon and Shin

Voting nay: Senators Becker, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, Marr, Parlette, Pflug, Schoesler, Stevens, Swecker, Tom and Zarelli

Excused: Senators Benton, Gordon, McCaslin, Morton and Roach

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2782 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, Engrossed Second Substitute House Bill No. 2782 was immediately transmitted to the House of Representatives.

#### MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

#### MESSAGE FROM THE HOUSE

March 22, 2010

MR. PRESIDENT:

The House concurred in the Senate amendment to the following bill and passed the bill as amended by the Senate:

ENGROSSED SUBSTITUTE HOUSE BILL 2753.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

At 12:58 p.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Tuesday, March 23, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

NINTH DAY

NOON SESSION

Senate Chamber, Olympia, Tuesday, March 23, 2010

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

MOTION

On motion of Senator Fraser, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Fraser, the Senate advanced to the third order of business.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

March 8, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

CATHY A. MCABEE, appointed March 8, 2010, for the term ending September 30, 2010, as Member, Board of Trustees, Renton Technical College District No. 27.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development

MOTION

On motion of Senator Fraser, the appointee listed on the Gubernatorial Appointment report was referred to the committee as designated.

MOTION

On motion of Senator Fraser, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

March 23, 2010

MR. PRESIDENT:

The Speaker has signed:

SUBSTITUTE SENATE BILL NO. 6572.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 23, 2010

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED HOUSE BILL 2360,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2617,  
HOUSE BILL 2676,  
HOUSE BILL 2677,  
ENGROSSED SUBSTITUTE HOUSE BILL 2753,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2782.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 22, 2010

MR. PRESIDENT:

The House has passed:

SECOND ENGROSSED SENATE BILL 6221.,

SUBSTITUTE SENATE BILL 6712.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 22, 2010

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2782.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 22, 2010

MR. PRESIDENT:

The House has passed:

HOUSE BILL 3197.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED HOUSE BILL 2360,

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2617,

HOUSE BILL 2676,

HOUSE BILL 2677,

ENGROSSED SUBSTITUTE HOUSE BILL 2753,

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2782.

MOTION

At 12:04 p.m., on motion of Senator Fraser, the Senate adjourned until 12:00 noon, Wednesday, March 24, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**TENTH DAY**

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NOON SESSION

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Senate Chamber, Olympia, Wednesday, March 24, 2010

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

MOTION

On motion of Senator McDermott, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator McDermott, the Senate advanced to the third order of business.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

March 22, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

ELIZABETH CHEN, appointed March 10, 2010, for the term ending April 3, 2013, as Member of the State Board for Community and Technical Colleges.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

March 23, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

KIM A. EKKER, appointed March 2, 2010, for the term ending January 19, 2014, as Member of the Board of Pharmacy.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Health & Long-Term Care.

MOTION

On motion of Senator McDermott, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated.

MOTION

On motion of Senator McDermott, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 6890 by Senators Benton and Holmquist

AN ACT Relating to adopting the Washington state health care freedom act of 2010; adding new sections to chapter

48.44 RCW; and adding a new section to chapter 43.10 RCW.

Referred to Committee on Health & Long-Term Care.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

HB 3197 by Representatives Sullivan, Linville, Seaquist, Ericks and Haigh

AN ACT Relating to transferring funds from the budget stabilization account to the general fund; and creating a new section.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator McDermott, the measures listed on the Introduction and First Reading report were referred to the committee as designated with the exception of House Bill No. 3197 was placed on the second reading calendar under suspension of the rules.

SIGNED BY THE PRESIDENT

The President signed:

SECOND ENGROSSED SENATE BILL 6221,  
SUBSTITUTE SENATE BILL 6712,  
ENGROSSED SUBSTITUTE SENATE BILL 6737.

MOTION

At 12:03 p.m., on motion of Senator McDermott, the Senate adjourned until 10:00 a.m. Thursday, March 25, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**ELEVENTH DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Thursday, March 25, 2010

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Brandland, Gordon, Haugen, Hobbs, Holmquist, McAuliffe, McCaslin, Morton, Pflug, Pridemore and Tom.

The Sergeant at Arms Color Guard consisting of Senate employees Krista Winters and Penny McWain, presented the Colors. Legislative Assistant to Senator Hargrove, Shawn O'Neill offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator McDermott moved that Gubernatorial Appointment No. 9204, Shaunta Hyde, as a member of the State Board for Community and Technical Colleges, be confirmed.

Senator McDermott spoke in favor of the motion.

MOTION

On motion of Senator Schoesler, Senators Benton, Brandland, Delvin, Hewitt, Holmquist, Honeyford, McCaslin, Morton, Parlette and Pflug were excused.

MOTION

On motion of Senator Marr, Senators Gordon, Haugen, Hobbs and Prentice were excused.

APPOINTMENT OF SHAUNTA HYDE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9204, Shaunta Hyde as a member of the State Board for Community and Technical Colleges.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9204, Shaunta Hyde as a member of the State Board for Community and Technical Colleges and the appointment was confirmed by the following vote: Yeas, 36; Nays, 1; Absent, 3; Excused, 9.

Voting yea: Senators Becker, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McDermott, Murray, Oemig, Parlette,

Prentice, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Voting nay: Senator Honeyford

Absent: Senators McAuliffe, Pridemore and Tom

Excused: Senators Benton, Brandland, Gordon, Haugen, Hobbs, Holmquist, McCaslin, Morton and Pflug

Gubernatorial Appointment No. 9204, Shaunta Hyde, having received the constitutional majority was declared confirmed as a member of the State Board for Community and Technical Colleges.

MOTION

On motion of Senator Marr, Senators McAuliffe, Pridemore and Tom were excused.

PERSONAL PRIVILEGE

Senator Sheldon: "Well Mr. President, I'm a little nervous today but very proud of the Washington Huskies as they go forth to do battle with the West Virginia Mountaineers in Syracuse, New York. As I was growing up one of my personal favorites was Jerry West but he is just a memory, hopefully as they do battle. I know that the rules of the Senate prohibit inappropriate attire so I want to put this hat on Mr. President and suggest that other members wear hats and then you could send us all home and we could end this special session. So, how about that suggestion Mr. President!"

REPLY BY THE PRESIDENT

President Owen: "Or at least you."

REMARKS BY SENATOR SHELDON

Senator Sheldon: "Alright, I'll go for it if I can go home and watch the game and root our Huskies on. Go Huskies."

MOTION

At 10:15 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:22 a.m. by President Owen.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Marr moved that Gubernatorial Appointment No. 9256, Ryland P. Davis, as a member of The Life Sciences Discovery Fund Authority Board of Trustees, be confirmed.

Senator Marr spoke in favor of the motion.

APPOINTMENT OF RYLAND P. DAVIS

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9256, Ryland P. Davis as a member of The Life Sciences Discovery Fund Authority Board of Trustees.

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The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9256, Ryland P. Davis as a member of The Life Sciences Discovery Fund Authority Board of Trustees and the appointment was confirmed by the following vote: Yeas, 42; Nays, 1; Absent, 1; Excused, 5.

Voting yea: Senators Becker, Benton, Berkey, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Honeyford

Absent: Senator Carrell

Excused: Senators Brandland, Gordon, Holmquist, McCaslin and Morton

Gubernatorial Appointment No. 9256, Ryland P. Davis, having received the constitutional majority was declared confirmed as a member of The Life Sciences Discovery Fund Authority Board of Trustees.

MOTION

On motion of Senator Delvin, Senator Carrell was excused.

MOTION

On motion of Senator Eide, the Senate advanced to the seventh order of business.

THIRD READING

SUBSTITUTE SENATE CONCURRENT RESOLUTION NO. 8409, by Senate Committee on Health & Long-Term Care (originally sponsored by Senator Keiser).

Forming a joint select committee on health reform implementation.

The measure was read on Third Reading.

Senators Keiser and Hargrove spoke in favor of passage of the resolution.

Senator Schoesler spoke against passage of the resolution.

MOTION

Senator Benton moved that the rules be suspended and Substitute Senate Concurrent Resolution No. 8409 be returned to second reading for the purpose of amendment.

Senator Eide spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Benton that the rules be suspended and Substitute Senate Concurrent Resolution No. 8409 be referred to second reading for the purpose of an amendment(s).

The motion by Senator Benton did not carry by a voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Concurrent Resolution No. 8409.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Concurrent Resolution No. 8409 and the resolution passed the Senate by the following vote: Yeas, 43; Nays, 1; Absent, 0; Excused, 5.

Voting yea: Senators Becker, Benton, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Schoesler

Excused: Senators Brandland, Gordon, Holmquist, McCaslin and Morton

SUBSTITUTE SENATE CONCURRENT RESOLUTION NO. 8409, having received the constitutional majority, was declared passed.

MOTION

On motion of Senator Eide, Senate Concurrent Resolution No. 8409 was immediately transmitted to the House of Representatives.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MOTION

At 11:36 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:58 a.m. by President Owen.

MESSAGE FROM THE HOUSE

March 22, 2010

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 3014 and asks the Senate to recede therefrom. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kastama moved that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 3014.

The President declared the question before the Senate to be motion by Senator Kastama that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 3014.

The motion by Senator Kastama carried and the Senate receded from its amendments to Engrossed Substitute House Bill No. 3014.

MOTION

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On motion of Senator Kastama, the rules were suspended and Engrossed Substitute House Bill No. 3014 was returned to second reading for the purposes of amendment.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3014, by House Committee on Finance (originally sponsored by Representatives Kessler, Morrell and Van De Wege)

Modifying the sales and use tax deferral program for investment projects in rural counties.

The measure was read the second time.

## MOTION

Senator Kastama moved that the following striking amendment by Senators Kastama and Zarelli be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 82.60.010 and 1985 c 232 s 1 are each amended to read as follows:

The legislature finds that there are several areas in the state that are characterized by very high levels of unemployment and poverty. The ~~((legislative—legislature))~~ legislature further finds that economic stagnation is the primary cause of this high unemployment rate and poverty; that new state policies are necessary in order to promote economic stimulation and new employment opportunities in these distressed areas; and that policies providing incentives for economic growth in these distressed areas are essential. For these reasons, the legislature ~~((hereby))~~ reestablishes a tax deferral program to be effective solely in distressed ~~((areas and under circumstances where the deferred tax payments are for investments or costs that result in the creation of a specified number of jobs))~~ counties. The legislature declares that this limited program serves the vital public purpose of creating employment opportunities and reducing poverty in the distressed ~~((areas))~~ counties of the state.

"**Sec. 2.** RCW 82.60.020 and 2010 c ... (SHB 3066) s 138 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Applicant" means a person applying for a tax deferral under this chapter.

(2) "Department" means the department of revenue.

(3) "Eligible area" means ((a)):

(a) Through June 30, 2010, a rural county as defined in RCW 82.14.370; and

(b) Beginning July 1, 2010, a qualifying county.

(4)(a) "Eligible investment project" means an investment project that is located, as of the date the application required by RCW 82.60.030 is received by the department, in an eligible area as defined in subsection (3) of this section.

(b) ((The lessor or owner of a qualified building is not eligible for a deferral unless:

(i) The underlying ownership of the buildings, machinery, and equipment vests exclusively in the same person; or

(ii)(A) The lessor by written contract agrees to pass the economic benefit of the deferral to the lessee;

(B) The lessee that receives the economic benefit of the deferral agrees in writing with the department to complete the annual survey required under RCW 82.60.070; and

(C) The economic benefit of the deferral passed to the lessee is

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no less than the amount of tax deferred by the lessor and is evidenced by written documentation of any type of payment, credit, or other financial arrangement between the lessor or owner of the qualified building and the lessee.

(c))) "Eligible investment project" does not include any portion of an investment project undertaken by a light and power business as defined in RCW 82.16.010(4), other than that portion of a cogeneration project that is used to generate power for consumption within the manufacturing site of which the cogeneration project is an integral part, or investment projects ((which)) that have already received deferrals under this chapter.

(5) "Initiation of construction" has the same meaning as in RCW 82.63.010.

(6) "Investment project" means an investment in qualified buildings or qualified machinery and equipment, including labor and services rendered in the planning, installation, and construction of the project.

(7) "Manufacturing" means the same as defined in RCW 82.04.120. "Manufacturing" also includes:

(a) Before July 1, 2010: (i) Computer programming, the production of computer software, and other computer-related services, but only when the computer programming, production of computer software, or other computer-related services are performed by a manufacturer as defined in RCW 82.04.110 and contribute to the production of a new, different, or useful substance or article of tangible personal property for sale; (ii) the activities performed by research and development laboratories and commercial testing laboratories((s)); and (iii) the conditioning of vegetable seeds; and

(b) Beginning July 1, 2010: (i) The activities performed by research and development laboratories and commercial testing laboratories; and (ii) the conditioning of vegetable seeds.

(8) "Person" has the meaning given in RCW 82.04.030.

(9) "Qualified buildings" means construction of new structures, and expansion or renovation of existing structures for the purpose of increasing floor space or production capacity used for manufacturing ~~((and))~~ or research and development activities, including plant offices and warehouses or other facilities for the storage of raw material or finished goods if such facilities are an essential or an integral part of a factory, mill, plant, or laboratory used for manufacturing or research and development. If a building is used partly for manufacturing or research and development and partly for other purposes, the applicable tax deferral ~~((shall))~~ must be determined by apportionment of the costs of construction under rules adopted by the department.

(10) "Qualified employment position" means a permanent full-time employee employed in the eligible investment project during the entire tax year. The term "entire tax year" means a full-time position that is filled for a period of twelve consecutive months. The term "full-time" means at least thirty-five hours a week, four hundred fifty-five hours a quarter, or one thousand eight hundred twenty hours a year.

(11) "Qualified machinery and equipment" means all new industrial and research fixtures, equipment, and support facilities that are an integral and necessary part of a manufacturing or research and development operation. "Qualified machinery and equipment" includes: Computers; software; data processing equipment; laboratory equipment; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; operating structures; and all equipment used to control or operate the machinery.

(12) "Qualifying county" means a county that has an unemployment rate, as determined by the employment security department, which is at least twenty percent above the state average for the three calendar years immediately preceding the year in which

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the list of qualifying counties is established or updated, as the case may be, as provided in section 3 of this act.

(13) "Recipient" means a person receiving a tax deferral under this chapter.

~~((43))~~ (14) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun, but only when such activities are intended to ultimately result in the production of a new, different, or useful substance or article of tangible personal property for sale. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

**NEW SECTION. Sec. 3.** A new section is added to chapter 82.60 RCW to read as follows:

The department, with the assistance of the employment security department, must establish a list of qualifying counties effective July 1, 2010. The list of qualifying counties is effective for a twenty-four month period and must be updated by July 1st of the year that is two calendar years after the list was established or last updated, as the case may be.

**NEW SECTION. Sec. 4.** A new section is added to chapter 82.60 RCW to read as follows:

The lessor or owner of a qualified building is not eligible for a deferral unless:

(1) The underlying ownership of the buildings, machinery, and equipment vests exclusively in the same person; or

(2)(a) The lessor by written contract agrees to pass the economic benefit of the deferral to the lessee;

(b) The lessee that receives the economic benefit of the deferral agrees in writing with the department to complete the annual survey required under RCW 82.60.070; and

(c) The economic benefit of the deferral passed to the lessee is no less than the amount of tax deferred by the lessor and is evidenced by written documentation of any type of payment, credit, or other financial arrangement between the lessor or owner of the qualified building and the lessee.

**Sec. 5.** RCW 82.60.030 and 1994 sp.s. c 1 s 2 are each amended to read as follows:

(1) Application for deferral of taxes under this chapter must be made before initiation of the construction of the investment project or acquisition of equipment or machinery. The application ~~((shall))~~ must be made to the department in a form and manner prescribed by the department. The application ~~((shall))~~ must contain information regarding the location of the investment project, the applicant's average employment in the state for the prior year, estimated or actual new employment related to the project, estimated or actual wages of employees related to the project, estimated or actual costs, time schedules for completion and operation, and other information required by the department. The department ~~((shall))~~ must rule on the application within sixty days.

(2) This section expires July 1, 2020.

**Sec. 6.** RCW 82.60.040 and 2004 c 25 s 4 are each amended to read as follows:

(1) The department ~~((shall))~~ must issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, and 82.14 RCW on each eligible investment project ~~((that is located in an eligible area as defined in RCW 82.60.020)).~~

(2) The department ~~((shall))~~ must keep a running total of all deferrals granted under this chapter during each fiscal biennium.

(3) This section expires July 1, ~~((2010))~~ 2020.

**Sec. 7.** RCW 82.60.049 and 2004 c 25 s 5 are each amended to read as follows:

(1) For the purposes of this section:

(a) "Eligible area" also means a designated community empowerment zone approved under RCW 43.31C.020 ~~((or a county containing a community empowerment zone)).~~

(b) "Eligible investment project" also means an investment project in an eligible area as defined in this section.

(2) In addition to the provisions of RCW 82.60.040, the department shall issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, and 82.14 RCW, on each eligible investment project that is located in an eligible area, if the applicant establishes that at the time the project is operationally complete:

(a) The applicant will hire at least one qualified employment position for each seven hundred fifty thousand dollars of investment for which a deferral is requested; and

(b) The positions will be filled by persons who at the time of hire are residents of the community empowerment zone. As used in this subsection, "resident" means the person makes his or her home in the community empowerment zone or the county in which the zone is located. A mailing address alone is insufficient to establish that a person is a resident for the purposes of this section. The persons must be hired after the date the application is filed with the department.

(3) All other provisions and eligibility requirements of this chapter apply to applicants eligible under this section.

(4) The qualified employment position must be filled by the end of the calendar year following the year in which the project is certified as operationally complete. If a person does not meet the requirements for qualified employment positions by the end of the second calendar year following the year in which the project is certified as operationally complete, all deferred taxes are immediately due.

**Sec. 8.** RCW 82.60.060 and 2000 c 106 s 5 are each amended to read as follows:

(1) The recipient ~~((shall))~~ must begin paying the deferred taxes in the third year after the date certified by the department as the date on which the ~~((construction))~~ investment project has been operationally completed. The first payment will be due on December 31st of the third calendar year after such certified date, with subsequent annual payments due on December 31st of the following four years with amounts of payment scheduled as follows:

Repayment Year	% of Deferred Tax Repaid
1	10%
2	15%
3	20%
4	25%
5	30%

(2) The department may authorize an accelerated repayment schedule upon request of the recipient.

(3) Interest ~~((shall))~~ may not be charged on any taxes deferred under this chapter for the period of deferral, although all other penalties and interest applicable to delinquent excise taxes may be assessed and imposed for delinquent payments under this chapter. The debt for deferred taxes will not be extinguished by insolvency or other failure of the recipient. Transfer of ownership does not terminate the deferral. The deferral is transferred, subject to the

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successor meeting the eligibility requirements of this chapter, for the remaining periods of the deferral.

**Sec. 9.** RCW 82.60.070 and 2010 c ... (SHB 3066) s 139 are each amended to read as follows:

(1)(a) Each recipient of a deferral of taxes granted under this chapter must file a complete annual survey with the department under RCW 82.32. . . (section 102, chapter . . . (SHB 3066), Laws of 2010). If the economic benefits of the deferral are passed to a lessee as provided in (~~RCW 82.60.020(4))~~ section 4 of this act, the lessee must file a complete annual survey, and the applicant is not required to file a complete annual survey.

(b) The department must use the information reported on the annual survey required by this section to study the tax deferral program authorized under this chapter. The department must report to the legislature by December 1, (~~2009~~) 2019. The report must measure the effect of the program on job creation, the number of jobs created for residents of eligible areas, company growth, the introduction of new products, the diversification of the state's economy, growth in research and development investment, the movement of firms or the consolidation of firms' operations into the state, and such other factors as the department selects.

(2) Except as provided in section 10 of this act, if, on the basis of a survey under (~~section~~) RCW 82.32. . . (section 102, chapter . . . (SHB 3066), Laws of 2010) or other information, the department finds that an investment project is not eligible for tax deferral under this chapter, the amount of deferred taxes outstanding for the project (~~is~~), according to the repayment schedule in RCW 82.60.060, is immediately due. For purposes of this subsection (2)(a), the repayment schedule in RCW 82.60.060 is tolled during the period of time that a taxpayer is receiving relief from repayment of deferred taxes under section 10 of this act.

(3) A recipient who must repay deferred taxes under subsection (2) of this section because the department has found that an investment project is not eligible for tax deferral under this chapter is no longer required to file annual surveys under RCW 82.32. . . (section 102, chapter . . . (SHB 3066), Laws of 2010) beginning on the date an investment project is used for nonqualifying purposes.

(4) Notwithstanding any other provision of this section or RCW 82.32. . . (section 102, chapter . . . (SHB 3066), Laws of 2010), deferred taxes on the following need not be repaid:

(a) Machinery and equipment, and sales of or charges made for labor and services, which at the time of purchase would have qualified for exemption under RCW 82.08.02565; and

(b) Machinery and equipment which at the time of first use would have qualified for exemption under RCW 82.12.02565.

**NEW SECTION. Sec. 10.** A new section is added to chapter 82.60 RCW to read as follows:

(1) Subject to the conditions in this section, a person is not liable for the amount of deferred taxes outstanding for an investment project when the person temporarily ceases to use its qualified buildings and qualified machinery and equipment for manufacturing or research and development activities in a county with a population of less than twenty thousand persons for a period not to exceed twenty- four months from the date that the department sent its assessment for the amount of outstanding deferred taxes to the taxpayer.

(2) The relief from repayment of deferred taxes under this section does not apply unless the number of qualified employment positions maintained at the investment project after manufacturing or research and development activities are temporarily ceased is at least ten percent of the number of qualified employment positions employed at the investment project at the time the deferral was approved by the department. If a person has been approved for more than one deferral under this chapter, relief from repayment of deferred taxes under this section does not apply unless the number

of qualified employment positions maintained at the investment project after manufacturing or research and development activities are temporarily ceased is at least ten percent of the highest number of qualified employment positions at the investment project at the time any of the deferrals were approved by the department. If, at any time during the twenty-four month period after the department has sent the taxpayer an assessment for outstanding deferred taxes resulting from the person temporarily ceasing to use its qualified buildings and qualified machinery and equipment for manufacturing or research and development activities, the number of qualified employment positions falls below the ten percent threshold in this subsection, the amount of deferred taxes outstanding for the project is immediately due.

(3) The lessor of an investment project for which a deferral has been granted under this chapter who has passed the economic benefits of the deferral to the lessee is not eligible for relief from the payment of deferred taxes under this section.

(4) A person seeking relief from the payment of deferred taxes under this section must apply to the department in a form and manner prescribed by the department. The application required under this subsection must be received by the department within thirty days of the date that the department sent its assessment for outstanding deferred taxes resulting from the person temporarily ceasing to use its qualified buildings and qualified machinery and equipment for manufacturing or research and development activities. The department must approve applications that meet the requirements in this section for relief from the payment of deferred taxes.

(5) A person is entitled to relief under this section only once.

(6) A person whose application for relief from the payment of deferred taxes has been approved under this section must continue to file an annual survey as required under RCW 82.60.070(1) or any successor statute. In addition, the person must file, in a form and manner prescribed by the department, a report on the status of the business and the outlook for commencing manufacturing or research and development activities.

**Sec. 11.** RCW 82.62.010 and 2010 c ... (E2SHB 1597) s 232 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Applicant" means a person applying for a tax credit under this chapter.

(2) "Department" means the department of revenue.

(3) "Eligible area" means (~~an area~~) a "rural county" as defined in RCW (~~(82.60.020)~~) 82.14.370.

(4)(a) "Eligible business project" means manufacturing or research and development activities which are conducted by an applicant in an eligible area at a specific facility, provided the applicant's average qualified employment positions at the specific facility will be at least fifteen percent greater in the four consecutive full calendar quarters after the calendar quarter during which the first qualified employment position is filled than the applicant's average qualified employment positions at the same facility in the four consecutive full calendar quarters immediately preceding the calendar quarter during which the first qualified employment position is filled.

(b) "Eligible business project" does not include any portion of a business project undertaken by a light and power business as defined in RCW 82.16.010(~~(4)~~) or that portion of a business project creating qualified full-time employment positions outside an eligible area.

(5) "First qualified employment position" means the first qualified employment position filled for which a credit under this chapter is sought.

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(6) "Manufacturing" means the same as defined in RCW 82.04.120. "Manufacturing" also includes:

(a) Before July 1, 2010: (i) Computer programming, the production of computer software, and other computer-related services, but only when the computer programming, production of computer software, or other computer-related services are performed by a manufacturer as defined in RCW 82.04.110 and contribute to the production of a new, different, or useful substance or article of tangible personal property for sale; and (ii) the activities performed by research and development laboratories and commercial testing laboratories; and

(b) Beginning July 1, 2010, the activities performed by research and development laboratories and commercial testing laboratories.

(7) "Person" has the meaning given in RCW 82.04.030.

(8)(a)(i) "Qualified employment position" means a permanent full-time employee employed in the eligible business project during four consecutive full calendar quarters.

(ii) For seasonal employers, "qualified employment position" also includes the equivalent of a full-time employee in work hours for four consecutive full calendar quarters.

(b) For purposes of this subsection, "full time" means a normal work week of at least thirty-five hours.

(c) Once a permanent, full-time employee has been employed, a position does not cease to be a qualified employment position solely due to periods in which the position goes vacant, as long as:

(i) The cumulative period of any vacancies in that position is not more than one hundred twenty days in the four-quarter period; and

(ii) During a vacancy, the employer is training or actively recruiting a replacement permanent, full-time employee for the position.

(9) "Recipient" means a person receiving tax credits under this chapter.

(10) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun, but only when such activities are intended to ultimately result in the production of a new, different, or useful substance or article of tangible personal property for sale. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

(11) "Seasonal employee" means an employee of a seasonal employer who works on a seasonal basis. For the purposes of this subsection and subsection (12) of this section, "seasonal basis" means a continuous employment period of less than twelve consecutive months.

(12) "Seasonal employer" means a person who regularly hires more than fifty percent of its employees to work on a seasonal basis.  
NEW SECTION. Sec. 12. RCW 82.60.900 and 82.60.901 are each decodified.

NEW SECTION. Sec. 13. The following acts or parts of acts are each repealed:

(1) RCW 82.60.050 (Expiration of RCW 82.60.030 and 82.60.040) and 2004 c 25 s 6, 1994 sp.s. c 1 s 7, 1993 sp.s. c 25 s 404, 1988 c 41 s 5, & 1985 c 232 s 10; and

(2) RCW 82.60.110 (Competing projects--Impact study) and 1998 c 245 s 169 & 1994 sp.s. c 1 s 8.

NEW SECTION. Sec. 14. Except for section 3 of this act, this act takes effect July 1, 2010.

NEW SECTION. Sec. 15. The amendments to the definitions of "manufacturing" and "research and development" in sections 2 and 11 of this act apply retroactively as well as prospectively."

Senator Kastama spoke in favor of adoption of the striking amendment.

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The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kastama and Zarelli to Engrossed Substitute House Bill No. 3014.

The motion by Senator Kastama carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "counties;" strike the remainder of the title and insert "amending RCW 82.60.010, 82.60.020, 82.60.030, 82.60.040, 82.60.049, 82.60.060, 82.60.070, and 82.62.010; adding new sections to chapter 82.60 RCW; decodifying RCW 82.60.900 and 82.60.901; repealing RCW 82.60.050 and 82.60.110; providing an effective date; and providing expiration dates."

#### MOTION

On motion of Senator Kastama, the rules were suspended, Engrossed Substitute House Bill No. 3014 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 3014 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 3014 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 1; Excused, 5.

Voting yea: Senators Becker, Benton, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Jacobsen

Excused: Senators Brandland, Gordon, Holmquist, McCaslin and Morton

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3014 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Marr, Senator Jacobsen was excused.

#### MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

#### MESSAGE FROM THE HOUSE

March 20, 2010

MR. PRESIDENT:

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The House passed SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 6143 with the following amendment(s): 6143-S.E2 AMH ENGR H5824.E

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** In order to preserve funding for education, public safety, health care, environmental protection, and safety net services for children, elderly, disabled, and vulnerable people, it is the intent of the legislature to close obsolete tax preferences, clarify the legislature's intent regarding existing tax policy, and to ensure balanced tax policy while bolstering emerging industries.

### PART I

#### Minimum Nexus Standards

**NEW SECTION. Sec. 101.** (1) The legislature finds that out-of-state businesses that do not have a physical presence in Washington earn significant income from Washington residents from providing services or collecting royalties on the use of intangible property in this state. The legislature further finds that these businesses receive significant benefits and opportunities provided by the state, such as: Laws providing protection of business interests or regulating consumer credit; access to courts and judicial process to enforce business rights, including debt collection and intellectual property rights; an orderly and regulated marketplace; and police and fire protection and a transportation system benefiting in-state agents and other representatives of out-of-state businesses. Therefore, the legislature intends to extend the state's business and occupation tax to these companies to ensure that they pay their fair share of the cost of services that this state renders and the infrastructure it provides.

(2)(a) The legislature also finds that the current cost apportionment method in RCW 82.04.460(1) for apportioning most service income has been difficult for both taxpayers and the department to apply due in large part (i) to the difficulty in assigning certain costs of doing business inside or outside of this state, and (ii) to its dissimilarity with the apportionment methods used in other states for their business activity taxes.

(b) The legislature further finds that there is a trend among states to adopt a single factor apportionment formula based on sales. The legislature recognizes that adoption of a sales factor only apportionment method has the advantages of simplifying apportionment and making Washington a more attractive place for businesses to expand their property and payroll. For these reasons, the legislature adopts single factor sales apportionment for purposes of apportioning royalty income and certain service income for state business and occupation tax purposes.

(c) Nothing in this act may be construed, however, to authorize apportionment of the gross income or value of products taxable under the following business and occupation tax classifications: Retailing, wholesaling, manufacturing, processing for hire, extracting, extracting for hire, printing, government contracting, public road construction, the classifications in RCW 82.04.280 (2), (4), (6), and (7), and any other activity not specifically included in the definition of apportionable activities in RCW 82.04.460.

(d) Nothing in this part is intended to modify the nexus and apportionment requirements for local gross receipts business and occupation taxes.

**Sec. 102.** RCW 82.04.220 and 1961 c 15 s 82.04.220 are each amended to read as follows:

(1) There is levied and (~~shall be~~) collected from every person that has a substantial nexus with this state a tax for the act or privilege of engaging in business activities. (~~Such~~) The tax (~~shall be~~) is measured by the application of rates against value of products, gross

proceeds of sales, or gross income of the business, as the case may be.

(2) A person who has a substantial nexus with this state in any tax year will be deemed to have a substantial nexus with this state for the following tax year.

**NEW SECTION. Sec. 103.** A new section is added to chapter 82.04 RCW to read as follows:

"Engaging within this state" and "engaging within the state," when used in connection with any apportionable activity as defined in RCW 82.04.460, means that a person generates gross income of the business from sources within this state, such as customers or intangible property located in this state, regardless of whether the person is physically present in this state.

**NEW SECTION. Sec. 104.** A new section is added to chapter 82.04 RCW to read as follows:

(1) A person engaging in business is deemed to have substantial nexus with this state if the person is:

(a) An individual and is a resident or domiciliary of this state;

(b) A business entity and is organized or commercially domiciled in this state; or

(c) A nonresident individual or a business entity that is organized or commercially domiciled outside this state, and in any tax year the person has:

(i) More than fifty thousand dollars of property in this state;

(ii) More than fifty thousand dollars of payroll in this state;

(iii) More than two hundred fifty thousand dollars of receipts from this state; or

(iv) At least twenty-five percent of the person's total property, total payroll, or total receipts in this state.

(2)(a) Property counting toward the thresholds in subsection (1)(c)(i) and (iv) of this section is the average value of the taxpayer's property, including intangible property, owned or rented and used in this state during the tax year.

(b)(i) Property owned by the taxpayer, other than loans and credit card receivables owned by the taxpayer, is valued at its original cost basis. Loans and credit card receivables owned by the taxpayer are valued at their outstanding principal balance, without regard to any reserve for bad debts. However, if a loan or credit card receivable is charged off in whole or in part for federal income tax purposes, the portion of the loan or credit card receivable charged off is deducted from the outstanding principal balance.

(ii) Property rented by the taxpayer is valued at eight times the net annual rental rate. For purposes of this subsection, "net annual rental rate" means the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

(c) The average value of property must be determined by averaging the values at the beginning and ending of the tax year; but the department may require the averaging of monthly values during the tax year if reasonably required to properly reflect the average value of the taxpayer's property.

(d)(i) For purposes of this subsection (2), loans and credit card receivables are deemed owned and used in this state as follows:

(A) Loans secured by real property, personal property, or both real and personal property, are deemed owned and used in the state if the real property or personal property securing the loan is located within this state. If the property securing the loan is located both within this state and one or more other states, the loan is deemed owned and used in this state if more than fifty percent of the fair market value of the real or personal property is located within this state. If more than fifty percent of the fair market value of the real or personal property is not located within any one state, then the loan is deemed owned and used in this state if the borrower is located in this state. The determination of whether the real or personal property securing a loan is located within this state must be made, as

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of the time the original agreement was made, and any and all subsequent substitutions of collateral must be disregarded.

(B) Loans not secured by real or personal property are deemed owned and used in this state if the borrower is located in this state.

(C) Credit card receivables are deemed owned and used in this state if the billing address of the cardholder is in this state.

(ii)(A) Except as otherwise provided in (d)(ii)(B) of this subsection (2), the definitions in the multistate tax commission's recommended formula for the apportionment and allocation of net income of financial institutions as existing on the effective date of this section or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, apply to this section.

(B) "Credit card" means a card or device existing for the purpose of obtaining money, property, labor, or services on credit.

(e) Notwithstanding anything else to the contrary in this subsection, property counting toward the thresholds in subsection (1)(c)(i) and (iv) of this section does not include a person's ownership of, or rights in, computer software as defined in RCW 82.04.215, including computer software used in providing a digital automated service; master copies of software; and digital goods and digital codes residing on servers located in this state.

(3)(a) Payroll counting toward the thresholds in subsection (1)(c)(ii) and (iv) of this section is the total amount paid by the taxpayer for compensation in this state during the tax year plus nonemployee compensation paid to representative third parties in this state. Nonemployee compensation paid to representative third parties includes the gross amount paid to nonemployees who represent the taxpayer in interactions with the taxpayer's clients and includes sales commissions.

(b) Employee compensation is paid in this state if the compensation is properly reportable to this state for unemployment compensation tax purposes, regardless of whether the compensation was actually reported to this state.

(c) Nonemployee compensation is paid in this state if the service performed by the representative third party occurs entirely or primarily within this state.

(d) For purposes of this subsection, "compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees or nonemployees and defined as gross income under 26 U.S.C. Sec. 61 of the federal internal revenue code of 1986, as existing on the effective date of this section.

(4) Receipts counting toward the thresholds in subsection (1)(c)(iii) and (iv) of this section are those amounts included in the numerator of the receipts factor under section 105 of this act and, for financial institutions, those amounts included in the numerator of the receipts factor under the rule adopted by the department as authorized in RCW 82.04.460(2).

(5)(a) Each December, the department must review the cumulative percentage change in the consumer price index. The department must adjust the thresholds in subsection (1)(c)(i) through (iii) of this section if the consumer price index has changed by five percent or more since the later of the effective date of this section, or the date that the thresholds were last adjusted under this subsection. For purposes of determining the cumulative percentage change in the consumer price index, the department must compare the consumer price index available as of December 1st of the current year with the consumer price index as of the later of the effective date of this section, or the date that the thresholds were last adjusted under this subsection. The thresholds must be adjusted to reflect that cumulative percentage change in the consumer price index. The adjusted thresholds must be rounded to the nearest one thousand dollars. Any adjustment will apply to tax periods that begin after the adjustment is made.

(b) As used in this subsection, "consumer price index" means the consumer price index for all urban consumers (CPI-U) available from the bureau of labor statistics of the United States department of labor.

(6) Subsections (1) through (5) of this section only apply with respect to the taxes imposed under this chapter on apportionable activities as defined in RCW 82.04.460. For purposes of the taxes imposed under this chapter on any activity not included in the definition of apportionable activities in RCW 82.04.460, a person is deemed to have a substantial nexus with this state if the person has a physical presence in this state, which need only be demonstrably more than a slightest presence. For purposes of this subsection, a person is physically present in this state if the person has property or employees in this state. A person is also physically present in this state if the person, either directly or through an agent or other representative, engages in activities in this state that are significantly associated with the person's ability to establish or maintain a market for its products in this state.

**NEW SECTION. Sec. 105.** A new section is added to chapter 82.04 RCW to read as follows:

(1) The apportionable income of a person within the scope of RCW 82.04.460(1) is apportioned to Washington by multiplying its apportionable income by the receipts factor. Persons who are subject to tax under more than one of the tax classifications enumerated in RCW 82.04.460(4)(a) (i) through (ix) must calculate a separate receipts factor for each tax classification that the person is taxable under.

(2) For purposes of subsection (1) of this section, the receipts factor is a fraction and is calculated as provided in subsections (3) and (4) of this section and, for financial institutions, as provided in the rule adopted by the department under the authority of RCW 82.04.460(2).

(3)(a) The numerator of the receipts factor is the total gross income of the business of the taxpayer attributable to this state during the tax year from engaging in an apportionable activity. The denominator of the receipts factor is the total gross income of the business of the taxpayer from engaging in an apportionable activity everywhere in the world during the tax year.

(b) Except as otherwise provided in this section, for purposes of computing the receipts factor, gross income of the business generated from each apportionable activity is attributable to the state:

(i) Where the customer received the benefit of the taxpayer's service or, in the case of gross income from royalties, where the customer used the taxpayer's intangible property.

(ii) If the customer received the benefit of the service or used the intangible property in more than one state, gross income of the business must be attributed to the state in which the benefit of the service was primarily received or in which the intangible property was primarily used.

(iii) If the taxpayer is unable to attribute gross income of the business under the provisions of (b)(i) or (ii) of this subsection (3), gross income of the business must be attributed to the state from which the customer ordered the service or, in the case of royalties, the office of the customer from which the royalty agreement with the taxpayer was negotiated.

(iv) If the taxpayer is unable to attribute gross income of the business under the provisions of (b)(i), (ii), or (iii) of this subsection (3), gross income of the business must be attributed to the state to which the billing statements or invoices are sent to the customer by the taxpayer.

(v) If the taxpayer is unable to attribute gross income of the business under the provisions of (b)(i), (ii), (iii), or (iv) of this subsection (3), gross income of the business must be attributed to the state from which the customer sends payment to the taxpayer.

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(vi) If the taxpayer is unable to attribute gross income of the business under the provisions of (b)(i), (ii), (iii), (iv), or (v) of this subsection (3), gross income of the business must be attributed to the state where the customer is located as indicated by the customer's address: (A) Shown in the taxpayer's business records maintained in the regular course of business; or (B) obtained during consummation of the sale or the negotiation of the contract for services or for the use of the taxpayer's intangible property, including any address of a customer's payment instrument when readily available to the taxpayer and no other address is available.

(vii) If the taxpayer is unable to attribute gross income of the business under the provisions of (b)(i), (ii), (iii), (iv), (v), or (vi) of this subsection (3), gross income of the business must be attributed to the commercial domicile of the taxpayer.

(viii) For purposes of this subsection (3)(b), "customer" means a person or entity to whom the taxpayer makes a sale or renders services or from whom the taxpayer otherwise receives gross income of the business. "Customer" includes anyone who pays royalties or charges in the nature of royalties for the use of the taxpayer's intangible property.

(c) Gross income of the business from engaging in an apportionable activity must be excluded from the denominator of the receipts factor if, in respect to such activity, at least some of the activity is performed in this state, and the gross income is attributable under (b) of this subsection (3) to a state in which the taxpayer is not taxable. For purposes of this subsection (3)(c), "not taxable" means that the taxpayer is not subject to a business activities tax by that state, except that a taxpayer is taxable in a state in which it would be deemed to have a substantial nexus with that state under the standards in section 104(1) of this act regardless of whether that state imposes such a tax. "Business activities tax" means a tax measured by the amount of, or economic results of, business activity conducted in a state. The term includes taxes measured in whole or in part on net income or gross income or receipts. "Business activities tax" does not include a sales tax, use tax, or a similar transaction tax, imposed on the sale or acquisition of goods or services, whether or not denominated a gross receipts tax or a tax imposed on the privilege of doing business.

(d) This subsection (3) does not apply to financial institutions with respect to apportionable income taxable under RCW 82.04.290. Financial institutions must calculate the receipts factor as provided in subsection (4) of this section and the rule adopted by the department under the authority of RCW 82.04.460(2) with respect to apportionable income taxable under RCW 82.04.290. Financial institutions that are subject to tax under any other tax classification enumerated in RCW 82.04.460(4)(a) (i) through (v) and (vii) through (x) must calculate a separate receipts factor, as provided in this section, for each of the other tax classifications that the financial institution is taxable under.

(4) A taxpayer may calculate the receipts factor for the current tax year based on the most recent calendar year for which information is available for the full calendar year. If a taxpayer does not calculate the receipts factor for the current tax year based on previous calendar year information as authorized in this subsection, the business must use current year information to calculate the receipts factor for the current tax year. In either case, a taxpayer must correct the reporting for the current tax year when complete information is available to calculate the receipts factor for that year, but not later than October 31st of the following tax year. Interest will apply to any additional tax due on a corrected tax return. Interest must be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW, retroactively to the date the original return was due, and will accrue until the additional taxes are paid. Penalties as provided in RCW 82.32.090 will apply to any such additional tax due only if the current tax year reporting is not

corrected and the additional tax is not paid by October 31st of the following tax year. Interest as provided in RCW 82.32.060 will apply to any tax paid in excess of that properly due on a return as a result of a taxpayer using previous calendar year data or incomplete current-year data to calculate the receipts factor.

(5) Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this section.

(a) "Apportionable activities" and "apportionable income" have the same meaning as in RCW 82.04.460.

(b) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision of a foreign country.

**Sec. 106.** RCW 82.04.2907 and 2009 c 535 s 407 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of receiving income from royalties ((or charges in the nature of royalties for the granting of intangible rights, such as copyrights, licenses, patents, or franchise fees)), the amount of tax with respect to ((such)) the business ((shall be)) is equal to the gross income from royalties ((or charges in the nature of royalties from the business)) multiplied by the rate of 0.484 percent.

(2) For the purposes of this section, "gross income from royalties" means compensation for the use of intangible property, ((such as)) including charges in the nature of royalties, regardless of where the intangible property will be used. For purposes of this subsection, "intangible property" includes copyrights, patents, licenses, franchises, trademarks, trade names, and similar items. ((H)) "Gross income from royalties" does not include compensation for any natural resource, the licensing of prewritten computer software to the end user, or the licensing ((or use)) of digital goods, digital codes, or digital automated services to the end user as defined in RCW 82.04.190(11).

**Sec. 107.** RCW 82.04.2907 and 2010 c . . . (SHB 2620) s 302 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of receiving income from royalties ((or charges in the nature of royalties for the granting of intangible rights, such as copyrights, licenses, patents, or franchise fees)), the amount of tax with respect to the business is equal to the gross income from royalties ((or charges in the nature of royalties from the business)) multiplied by the rate of 0.484 percent.

(2) For the purposes of this section, "gross income from royalties" means compensation for the use of intangible property, ((such as)) including charges in the nature of royalties, regardless of where the intangible property will be used. For purposes of this subsection, "intangible property" includes copyrights, patents, licenses, franchises, trademarks, trade names, and similar items. ((H)) "Gross income from royalties" does not include compensation for any natural resource, the licensing of prewritten computer software to the end user, or the licensing of digital goods, digital codes, or digital automated services to the end user as defined in RCW 82.04.190(11).

**Sec. 108.** RCW 82.04.460 and 2004 c 174 s 6 are each amended to read as follows:

(1) Except as otherwise provided in this section, any person ((rendering services)) earning apportionable income taxable under ((RCW 82.04.290 or 82.04.2908)) this chapter and ((maintaining places of business both within and without this state which contribute to the rendition of such services shall)) also taxable in another state, must, for the purpose of computing tax liability under ((RCW 82.04.290 or 82.04.2908)) this chapter, apportion to this state, in accordance with section 105 of this act, that portion of the person's ((gross)) apportionable income ((which is)) derived from ((services rendered)) business activities performed within this state.

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~~((Where such apportionment cannot be accurately made by separate accounting methods, the taxpayer shall apportion to this state that proportion of the taxpayer's total income which the cost of doing business within the state bears to the total cost of doing business both within and without the state.))~~

(2) ((Notwithstanding the provision of subsection (1) of this section, persons doing business both within and without the state who receive gross income from service charges, as defined in RCW 63.14.010 (relating to amounts charged for granting the right or privilege to make deferred or installment payments) or who receive gross income from engaging in business as financial institutions within the scope of chapter 82.14A RCW (relating to city taxes on financial institutions) shall apportion or allocate gross income taxable under RCW 82.04.290 to this state pursuant to rules promulgated by the department consistent with uniform rules for apportionment or allocation developed by the states.)) The department must by rule provide a method of apportioning the apportionable income of financial institutions, where such apportionable income is taxable under RCW 82.04.290. The rule adopted by the department must, to the extent feasible, be consistent with the multistate tax commission's recommended formula for the apportionment and allocation of net income of financial institutions as existing on the effective date of this section or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, except that:

(a) The department's rule must provide for a single factor apportionment method based on the receipts factor; and

(b) The definition of "financial institution" contained in appendix A to the multistate tax commission's recommended formula for the apportionment and allocation of net income of financial institutions is advisory only.

(3) The department ~~((shall))~~ may by rule provide a method or methods of apportioning or allocating gross income derived from sales of ~~telecommunications service and competitive telephone service~~(\*) taxed under this chapter, if the gross proceeds of sales subject to tax under this chapter do not fairly represent the extent of the taxpayer's income attributable to this state. ~~((The rules shall be, so far as feasible, consistent with the methods of apportionment contained in this section and shall require the consideration of those facts, circumstances, and apportionment factors as will result in an equitable and constitutionally permissible division of the services.))~~ The rule must provide for an equitable and constitutionally permissible division of the tax base.

(4) For purposes of this section, the following definitions apply unless the context clearly requires otherwise:

(a) "Apportionable income" means gross income of the business generated from engaging in apportionable activities, including income received from apportionable activities performed outside this state if the income would be taxable under this chapter if received from activities in this state, less the exemptions and deductions allowable under this chapter. For purposes of this subsection, "apportionable activities" means only those activities taxed under:

- (i) RCW 82.04.255;
- (ii) RCW 82.04.260 (3), (4), (5), (6), (7), (8), (9), and (12);
- (iii) RCW 82.04.280(5);
- (iv) RCW 82.04.285;
- (v) RCW 82.04.286;
- (vi) RCW 82.04.290;
- (vii) RCW 82.04.2907;
- (viii) RCW 82.04.2908;
- (ix) RCW 82.04.263, but only to the extent of any activity that would be taxable under any of the provisions enumerated under (a)(i) through (viii) of this subsection (4) if the tax classification in RCW 82.04.263 did not exist; and

(x) RCW 82.04.260(13) and 82.04.280(1), but only with respect to advertising.

(b)(i) "Taxable in another state" means that the taxpayer is subject to a business activities tax by another state on its income received from engaging in apportionable activities; or the taxpayer is not subject to a business activities tax by another state on its income received from engaging in apportionable activities, but any other state has jurisdiction to subject the taxpayer to a business activities tax on such income under the substantial nexus standards in section 104(1) of this act.

(ii) For purposes of this subsection (4)(b), "business activities tax" and "state" have the same meaning as in section 105 of this act.

**Sec. 109.** RCW 82.04.080 and 1961 c 15 s 82.04.080 are each amended to read as follows:

(1) "Gross income of the business" means the value proceeding or accruing by reason of the transaction of the business engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds, or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.

(2) Financial institutions must determine gains realized from trading in stocks, bonds, and other evidences of indebtedness on a net annualized basis. For purposes of this subsection, a financial institution means a person within the scope of the rule adopted by the department under the authority of RCW 82.04.460(2).

**NEW SECTION. Sec. 110.** A new section is added to chapter 82.04 RCW to read as follows:

(1) This chapter does not apply to amounts received by a financial institution from an affiliated person if the amounts are received from transactions that are required to be at arm's length under sections 23A or 23B of the federal reserve act as existing on the effective date of this section or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section. For purposes of this subsection, "financial institution" has the same meaning as in RCW 82.04.080.

(2) As used in this section, "affiliated" means under common control. "Common control" means the possession, directly or indirectly, of more than fifty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise.

**NEW SECTION. Sec. 111.** A new section is added to chapter 82.04 RCW to read as follows:

(1) This chapter does not apply to amounts received by investment conduits or securitization entities from cash and securities.

(2) For purposes of this section, the following definitions apply:

- (a) "Investment conduit" means an entity formed by a financial institution as defined in RCW 82.04.080 for the express purpose of holding or owning cash or securities if the entity formed:
  - (i) Has no employees;
  - (ii) Has no direct profit-making motive;
  - (iii) Owns no tangible assets, other than cash or securities;
  - (iv) Holds or owns cash or securities solely as a conduit, allocating its income to holders of its ownership interests; and
  - (v) Has, within twelve months of its organization or initial capitalization date, issued ownership interests to other than affiliated persons, equal to or greater than twenty-five percent of its total issued ownership interests.
- (b) "Securities" has the same meaning as in section 2 of the securities act of 1933 and includes eligible assets as defined by Rule

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3a-7 of the investment company act, as the law and rule exist on the effective date of this section or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section.

(c) "Securitization entity" means an entity created by a bank holding company if the entity created:

- (i) Has no employees;
- (ii) Has no direct profit-making motive;

(iii) Owns no tangible assets, other than cash, fixed or revolving discrete pools of credit or charge card receivables originated by a financial institution, or securities;

(iv) Acts solely as a conduit, allocating its income to holders of its ownership interests; and

(v) Has as its sole business activities the:

(A) Acquisition of such discrete pools of credit or charge card receivables; and

(B) Issuance or causing the issuance of securities primarily to persons not affiliated with the entity.

(d) "Bank holding company" has the same meaning as provided in the bank holding company act of 1956, as existing on the effective date of this section or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section.

(e) "No direct profit-making motive" means that all of an entity's income, less a reasonable servicing fee, is paid to holders of its ownership interests.

(f) "Ownership interest" means interests categorized as debt or equity for purposes of federal tax or generally accepted accounting principles.

(g) "Affiliated" has the same meaning as in section 110 of this act.

## PART II

### Tax Avoidance Transactions

NEW SECTION. **Sec. 201.** (1) The legislature finds that this state's tax policy with respect to the taxation of transactions between affiliated entities and the income derived from such transactions (intercompany transactions) has motivated some taxpayers to engage in transactions designed solely or primarily to minimize the tax effects of intercompany transactions. The legislature further finds that some intercompany transactions result from taxpayers that are required to establish affiliated entities to comply with regulatory mandates and that transactions between such affiliates effectively increases the tax burden in this state on the affiliated group of entities.

(2) Therefore, as existing resources allow, the department of revenue is directed to conduct a review of the state's tax policy with respect to the taxation of intercompany transactions. The review must include the impacts of such transactions under the state's business and occupation tax and state and local sales and use taxes. The department may include other taxes in the review as it deems appropriate.

(3) In conducting the review, the department must examine how this state's tax policy compares to the tax policy of other states with respect to the taxation of intercompany transactions. The department's review must include an analysis of potential alternatives to the current policy of taxing intercompany transactions, including their estimated revenue impacts if practicable.

(4) In conducting this review, the department may seek input from members of the business community and others as it deems appropriate.

(5) The department must report its findings to the fiscal committees of the house of representatives and senate by December 1, 2010. However, if the department has not completed its review

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by December 1, 2010, the department must provide the fiscal committees of the legislature with a brief status report by December 1, 2010, and the final report by December 1, 2011.

**Sec. 202.** RCW 82.12.020 and 2009 c 535 s 305 are each amended to read as follows:

(1) There is ~~((hereby))~~ levied and ~~((there shall be))~~ collected from every person in this state a tax or excise for the privilege of using within this state as a consumer any:

(a) Article of tangible personal property ((purchased at retail, or)) acquired by ((lease, gift, repossession, or bailment, or extracted or produced or manufactured by the person so using the same, or otherwise furnished to a person engaged in any business taxable under RCW 82.04.280 (2) or (7))) the user in any manner, including tangible personal property acquired at a casual or isolated sale, and including by-products used by the manufacturer thereof, except as otherwise provided in this chapter, irrespective of whether the article or similar articles are manufactured or are available for purchase within this state;

(b) Prewritten computer software, regardless of the method of delivery, but excluding prewritten computer software that is either provided free of charge or is provided for temporary use in viewing information, or both;

(c) Services defined as a retail sale in RCW 82.04.050 (2)(a) or (g), (3)(a), or (6)(b), excluding services defined as a retail sale in RCW 82.04.050(6)(b) that are provided free of charge;

(d) Extended warranty; or

(e)(i) Digital good, digital code, or digital automated service, including the use of any services provided by a seller exclusively in connection with digital goods, digital codes, or digital automated services, whether or not a separate charge is made for such services.

(ii) With respect to the use of digital goods, digital automated services, and digital codes acquired by purchase, the tax imposed in this subsection (1)(e) applies in respect to:

(A) Sales in which the seller has granted the purchaser the right of permanent use;

(B) Sales in which the seller has granted the purchaser a right of use that is less than permanent;

(C) Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and

(D) Sales in which the purchaser is obligated to make continued payment as a condition of the sale.

(iii) With respect to digital goods, digital automated services, and digital codes acquired other than by purchase, the tax imposed in this subsection (1)(e) applies regardless of whether or not the consumer has a right of permanent use or is obligated to make continued payment as a condition of use.

(2) The provisions of this chapter do not apply in respect to the use of any article of tangible personal property, extended warranty, digital good, digital code, digital automated service, or service taxable under RCW 82.04.050 (2)(a) or (g), (3)(a), or (6)(b), if the sale to, or the use by, the present user or the present user's bailor or donor has already been subjected to the tax under chapter 82.08 RCW or this chapter and the tax has been paid by the present user or by the present user's bailor or donor.

(3)(a) Except as provided in this section, payment of the tax imposed by this chapter or chapter 82.08 RCW by one purchaser or user of tangible personal property, extended warranty, digital good, digital code, digital automated service, or other service does not have the effect of exempting any other purchaser or user of the same property, extended warranty, digital good, digital code, digital automated service, or other service from the taxes imposed by such chapters.

(b) The tax imposed by this chapter does not apply:

(i) If the sale to, or the use by, the present user or his or her bailor or donor has already been subjected to the tax under chapter

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82.08 RCW or this chapter and the tax has been paid by the present user or by his or her bailor or donor;

(ii) In respect to the use of any article of tangible personal property acquired by bailment and the tax has once been paid based on reasonable rental as determined by RCW 82.12.060 measured by the value of the article at time of first use multiplied by the tax rate imposed by chapter 82.08 RCW or this chapter as of the time of first use;

(iii) In respect to the use of any article of tangible personal property acquired by bailment, if the property was acquired by a previous bailee from the same bailor for use in the same general activity and the original bailment was prior to June 9, 1961; or

(iv) To the use of digital goods or digital automated services, which were obtained through the use of a digital code, if the sale of the digital code to, or the use of the digital code by, the present user or the present user's bailor or donor has already been subjected to the tax under chapter 82.08 RCW or this chapter and the tax has been paid by the present user or by the present user's bailor or donor.

(4)(a) Except as provided in (b) of this subsection (4), the tax is levied and must be collected in an amount equal to the value of the article used, value of the digital good or digital code used, value of the extended warranty used, or value of the service used by the taxpayer, multiplied by the applicable rates in effect for the retail sales tax under RCW 82.08.020.

(b) In the case of a seller required to collect use tax from the purchaser, the tax must be collected in an amount equal to the purchase price multiplied by the applicable rate in effect for the retail sales tax under RCW 82.08.020.

(5) For purposes of the tax imposed in this section, "person" includes anyone within the definition of "buyer," "purchaser," and "consumer" in RCW 82.08.010.

**Sec. 203.** RCW 82.45.010 and 2008 c 116 s 3 and 2008 c 6 s 701 are each reenacted and amended to read as follows:

(1) As used in this chapter, the term "sale" (~~shall have~~) has its ordinary meaning and (~~shall~~) includes any conveyance, grant, assignment, quitclaim, or transfer of the ownership of or title to real property, including standing timber, or any estate or interest therein for a valuable consideration, and any contract for such conveyance, grant, assignment, quitclaim, or transfer, and any lease with an option to purchase real property, including standing timber, or any estate or interest therein or other contract under which possession of the property is given to the purchaser, or any other person at the purchaser's direction, and title to the property is retained by the vendor as security for the payment of the purchase price. The term also includes the grant, assignment, quitclaim, sale, or transfer of improvements constructed upon leased land.

(2)(a) The term "sale" also includes the transfer or acquisition within any twelve-month period of a controlling interest in any entity with an interest in real property located in this state for a valuable consideration.

(b) For the sole purpose of determining whether, pursuant to the exercise of an option, a controlling interest was transferred or acquired within a twelve-month period, the date that the option agreement was executed is the date on which the transfer or acquisition of the controlling interest is deemed to occur. For all other purposes under this chapter, the date upon which the option is exercised is the date of the transfer or acquisition of the controlling interest.

(c) For purposes of this subsection, all acquisitions of persons acting in concert (~~shall~~) must be aggregated for purposes of determining whether a transfer or acquisition of a controlling interest has taken place. The department (~~of revenue shall~~) must adopt standards by rule to determine when persons are acting in concert. In adopting a rule for this purpose, the department (~~shall~~) must consider the following:

~~((a))~~ (i) Persons (~~shall~~) must be treated as acting in concert when they have a relationship with each other such that one person influences or controls the actions of another through common ownership; and

~~((b))~~ (ii) When persons are not commonly owned or controlled, they (~~shall~~) must be treated as acting in concert only when the unity with which the purchasers have negotiated and will consummate the transfer of ownership interests supports a finding that they are acting as a single entity. If the acquisitions are completely independent, with each purchaser buying without regard to the identity of the other purchasers, then the acquisitions (~~shall be~~) are considered separate acquisitions.

(3) The term "sale" (~~shall~~) does not include:

(a) A transfer by gift, devise, or inheritance.

(b) A transfer of any leasehold interest other than of the type mentioned above.

(c) A cancellation or forfeiture of a vendee's interest in a contract for the sale of real property, whether or not such contract contains a forfeiture clause, or deed in lieu of foreclosure of a mortgage.

(d) The partition of property by tenants in common by agreement or as the result of a court decree.

(e) The assignment of property or interest in property from one spouse or one domestic partner to the other spouse or other domestic partner in accordance with the terms of a decree of dissolution of marriage or state registered domestic partnership or in fulfillment of a property settlement agreement.

(f) The assignment or other transfer of a vendor's interest in a contract for the sale of real property, even though accompanied by a conveyance of the vendor's interest in the real property involved.

(g) Transfers by appropriation or decree in condemnation proceedings brought by the United States, the state or any political subdivision thereof, or a municipal corporation.

(h) A mortgage or other transfer of an interest in real property merely to secure a debt, or the assignment thereof.

(i) Any transfer or conveyance made pursuant to a deed of trust or an order of sale by the court in any mortgage, deed of trust, or lien foreclosure proceeding or upon execution of a judgment, or deed in lieu of foreclosure to satisfy a mortgage or deed of trust.

(j) A conveyance to the federal housing administration or veterans administration by an authorized mortgagee made pursuant to a contract of insurance or guaranty with the federal housing administration or veterans administration.

(k) A transfer in compliance with the terms of any lease or contract upon which the tax as imposed by this chapter has been paid or where the lease or contract was entered into prior to the date this tax was first imposed.

(l) The sale of any grave or lot in an established cemetery.

(m) A sale by the United States, this state or any political subdivision thereof, or a municipal corporation of this state.

(n) A sale to a regional transit authority or public corporation under RCW 81.112.320 under a sale/leaseback agreement under RCW 81.112.300.

(o) A transfer of real property, however effected, if it consists of a mere change in identity or form of ownership of an entity where there is no change in the beneficial ownership. These include transfers to a corporation or partnership which is wholly owned by the transferor and/or the transferor's spouse or domestic partner or children of the transferor or the transferor's spouse or domestic partner (~~PROVIDED, That~~). However, if thereafter such transferee corporation or partnership voluntarily transfers such real property, or such transferor, spouse or domestic partner, or children of the transferor or the transferor's spouse or domestic partner voluntarily transfer stock in the transferee corporation or interest in the transferee partnership capital, as the case may be, to other than

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~~((H))~~ (i) the transferor and/or the transferor's spouse or domestic partner or children of the transferor or the transferor's spouse or domestic partner, ~~((2))~~ (ii) a trust having the transferor and/or the transferor's spouse or domestic partner or children of the transferor or the transferor's spouse or domestic partner as the only beneficiaries at the time of the transfer to the trust, or ~~((3))~~ (iii) a corporation or partnership wholly owned by the original transferor and/or the transferor's spouse or domestic partner or children of the transferor or the transferor's spouse or domestic partner, within three years of the original transfer to which this exemption applies, and the tax on the subsequent transfer has not been paid within sixty days of becoming due, excise taxes ~~((shall))~~ become due and payable on the original transfer as otherwise provided by law.

(p)(i) A transfer that for federal income tax purposes does not involve the recognition of gain or loss for entity formation, liquidation or dissolution, and reorganization, including but not limited to nonrecognition of gain or loss because of application of ~~((section))~~ 26 U.S.C. Sec. 332, 337, 351, 368(a)(1), 721, or 731 of the internal revenue code of 1986, as amended.

(ii) However, the transfer described in (p)(i) of this subsection cannot be preceded or followed within a twelve-month period by another transfer or series of transfers, that, when combined with the otherwise exempt transfer or transfers described in (p)(i) of this subsection, results in the transfer of a controlling interest in the entity for valuable consideration, and in which one or more persons previously holding a controlling interest in the entity receive cash or property in exchange for any interest the person or persons acting in concert hold in the entity. This subsection (3)(p)(ii) does not apply to that part of the transfer involving property received that is the real property interest that the person or persons originally contributed to the entity or when one or more persons who did not contribute real property or belong to the entity at a time when real property was purchased receive cash or personal property in exchange for that person or persons' interest in the entity. The real estate excise tax under this subsection (3)(p)(ii) is imposed upon the person or persons who previously held a controlling interest in the entity.

(q) A qualified sale of a manufactured/mobile home community, as defined in RCW 59.20.030, that takes place on or after June 12, 2008, but before December 31, 2018.

**Sec. 204.** RCW 82.45.033 and 1993 sp.s. c 25 s 505 are each amended to read as follows:

(1) As used in this chapter, the term "controlling interest" has the following meaning:

~~((H))~~ (a) In the case of a corporation, either fifty percent or more of the total combined voting power of all classes of stock of the corporation entitled to vote, or fifty percent of the capital, profits, or beneficial interest in the voting stock of the corporation; and

~~((2))~~ (b) In the case of a partnership, association, trust, or other entity, fifty percent or more of the capital, profits, or beneficial interest in such partnership, association, trust, or other entity.

(2) The department may, at the department's option, enforce the obligation of the seller under this chapter as provided in this subsection (2):

(a) In the transfer or acquisition of a controlling interest as defined in subsection (1)(a) of this section, either against the corporation in which a controlling interest is transferred or acquired, against the person or persons who acquired the controlling interest in the corporation or, when the corporation is not a publicly traded company, against the person or persons who transferred the controlling interest in the corporation; and

(b) In the transfer or acquisition of a controlling interest as defined in subsection (1)(b) of this section, either against the entity in which a controlling interest is transferred or acquired or against the person or persons who transferred or acquired the controlling interest in the entity.

**Sec. 205.** RCW 82.45.070 and 1969 ex.s. c 223 s 28A.45.070 are each amended to read as follows:

The tax ~~((herein))~~ provided for in this chapter and any interest or penalties thereon ~~((shall be))~~ is a specific lien upon each ~~((piece))~~ parcel of real property located in this state that is either sold or that is owned by an entity in which a controlling interest has been transferred or acquired. The lien attaches from the time of sale until the tax ~~((shall have been))~~ is paid, which lien may be enforced in the manner prescribed for the foreclosure of mortgages.

**Sec. 206.** RCW 82.45.080 and 1980 c 154 s 3 are each amended to read as follows:

(1) The tax levied under this chapter ~~((shall be))~~ is the obligation of the seller and the department ~~((of revenue))~~ may, at the department's option, enforce the obligation through an action of debt against the seller or the department may proceed in the manner prescribed for the foreclosure of mortgages ~~((and resort to)).~~ The department's use of one course of enforcement ((shall) is not ((be)) an election not to pursue the other.

(2) For purposes of this section and notwithstanding any other provisions of law, the seller is the parent corporation of a wholly owned subsidiary, when such subsidiary is the transferor to a third-party transferee and the subsidiary is dissolved before paying the tax imposed under this chapter.

**Sec. 207.** RCW 82.45.100 and 2007 c 111 s 112 are each amended to read as follows:

(1) Payment of the tax imposed under this chapter is due and payable immediately at the time of sale, and if not paid within one month thereafter ~~((shall))~~ will bear interest from the time of sale until the date of payment.

(a) Interest imposed before January 1, 1999, ~~((shall be))~~ is computed at the rate of one percent per month.

(b) Interest imposed after December 31, 1998, ~~((shall be))~~ is computed on a monthly basis at the rate as computed under RCW 82.32.050(2). The rate so computed ~~((shall))~~ must be adjusted on the first day of January of each year for use in computing interest for that calendar year. The department ~~((of revenue shall))~~ must provide written notification to the county treasurers of the variable rate on or before December 1st of the year preceding the calendar year in which the rate applies.

(2) In addition to the interest described in subsection (1) of this section, if the payment of any tax is not received by the county treasurer or the department of revenue, as the case may be, within one month of the date due, there ~~((shall be))~~ is assessed a penalty of five percent of the amount of the tax; if the tax is not received within two months of the date due, there ~~((shall))~~ will be assessed a total penalty of ten percent of the amount of the tax; and if the tax is not received within three months of the date due, there ~~((shall))~~ will be assessed a total penalty of twenty percent of the amount of the tax. The payment of the penalty described in this subsection ~~((shall be))~~ is collectible from the seller only, and RCW 82.45.070 does not apply to the penalties described in this subsection.

(3) If the tax imposed under this chapter is not received by the due date, the transferee ~~((shall be))~~ is personally liable for the tax, along with any interest as provided in subsection (1) of this section, unless(:

~~((a))~~ an instrument evidencing the sale is recorded in the official real property records of the county in which the property conveyed is located(

~~((b) Either the transferor or transferee notifies the department of revenue in writing of the occurrence of the sale within thirty days following the date of the sale)).~~

(4) If upon examination of any affidavits or from other information obtained by the department or its agents it appears that all or a portion of the tax is unpaid, the department ~~((shall))~~ must assess against the taxpayer the additional amount found to be due

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plus interest and penalties as provided in subsections (1) and (2) of this section. The department ~~((shall))~~ must notify the taxpayer by mail, or electronically as provided in RCW 82.32.135, of the additional amount and the same ~~((shall))~~ becomes due and ~~((shall))~~ must be paid within thirty days from the date of the notice, or within such further time as the department may provide.

(5) No assessment or refund may be made by the department more than four years after the date of sale except upon a showing of:

(a) Fraud or misrepresentation of a material fact by the taxpayer;

(b) A failure by the taxpayer to record documentation of a sale or otherwise report the sale to the county treasurer; or

(c) A failure of the transferor or transferee to report the sale under RCW 82.45.090(2).

(6) Penalties collected on taxes due under this chapter under subsection (2) of this section and RCW 82.32.090 (2) through (7) ~~((shall))~~ must be deposited in the housing trust fund as described in chapter 43.185 RCW.

**Sec. 208.** RCW 82.45.220 and 2005 c 326 s 3 are each amended to read as follows:

(1) An organization that fails to report a transfer of the controlling interest in the organization under RCW 43.07.390 to the secretary of state and is later determined to be subject to real estate excise taxes due to the transfer, ~~((shall be))~~ is subject to the provisions of RCW 82.45.100 as well as the evasion penalty in RCW 82.32.090(6).

(2) Subsection (1) of this section also applies to the failure to report to the secretary of state the granting of an option to acquire an interest in the organization if the exercise of the option would result in a sale as defined in RCW 82.45.010(2).

**Sec. 209.** RCW 43.07.390 and 2005 c 326 s 2 are each amended to read as follows:

(1)(a) The secretary of state ~~((shall))~~ must adopt rules requiring any entity that is required to file an annual report with the secretary of state, including entities under Titles 23, 23B, 24, and 25 RCW, to disclose: (i) Any transfer ~~((of))~~ of the controlling interest ~~((of))~~ in the entity ~~((and any interest in real property)); and (ii) the granting of any option to acquire an interest in the entity if the exercise of the option would result in a sale as defined in RCW 82.45.010(2).~~

(b) The disclosure requirement in this subsection only applies to entities owning an interest in real property located in this state.

(2) This information ~~((shall))~~ must be made available to the department of revenue upon request for the purposes of tracking the transfer of the controlling interest in entities owning real property and to determine when the real estate excise tax is applicable in such cases.

(3) For the purposes of this section, "controlling interest" has the same meaning as provided in RCW 82.45.033.

### PART III

#### Modifying and Placing a Cap on the First Mortgage Deduction

**NEW SECTION. Sec. 301.** In 1980, the legislature adopted a business and occupation tax deduction to financial businesses for amounts derived from interest received on investments or loans primarily secured by first mortgages or trust deeds on nontransient residential properties which was codified in RCW 82.04.4292. However, the Washington state supreme court in *Homestreet, Inc. v. Dep't of Revenue*, 166 Wn.2d 444 (2009) held that a mortgage lender was entitled to a business and occupation tax deduction under RCW 82.04.4292 for the portion of interest it retained for servicing loans and mortgage-backed securities that it sold on a service-retained basis on the secondary market. The legislature finds that inclusion of interest retained for servicing loans and mortgage-backed securities was not within the legislative intent when the deduction provided in 82.04.4292 was adopted in 1980.

Therefore, by this act, the legislature declares that the deduction provided by RCW 82.04.4292 does not apply to fees that are received in exchange for services, regardless of whether the source of the fees is or may have been interest when paid by a borrower.

**Sec. 302.** RCW 82.04.4292 and 1980 c 37 s 12 are each amended to read as follows:

(1) In computing tax there may be deducted from the measure of tax by those engaged in banking, loan, security or other financial businesses, amounts derived from interest received on investments or loans primarily secured by first mortgages or trust deeds on nontransient residential properties.

(2) Interest deductible under this section includes the portion of fees charged to borrowers, including points and loan origination fees, that is recognized over the life of the loan as an adjustment to yield in the taxpayer's books and records according to generally accepted accounting principles.

(3) Subsections (1) and (2) of this section notwithstanding, the following is a nonexclusive list of items that are not deductible under this section:

(a) Fees for specific services such as: Document preparation fees; finder fees; brokerage fees; title examination fees; fees for credit checks; notary fees; loan application fees; interest lock-in fees if the loan is not made; servicing fees, including servicing fees received by lenders when they sell loans or mortgage-backed or mortgage-related securities in the secondary market while retaining the right to service the loans or securities and receive a portion of the interest payments as the servicing fee; and similar fees or amounts;

(b) Fees received in consideration for an agreement to make funds available for a specific period of time at specified terms, commonly referred to as commitment fees;

(c) Any other fees, or portion of a fee, that is not recognized over the life of the loan as an adjustment to yield in the taxpayer's books and records according to generally accepted accounting principles; and

(d) Gains on the sale of valuable rights such as:

(i) Service release premiums, which are amounts received when servicing rights are sold; and

(ii) Gains on the sale of loans.

(4) The total amount a person may deduct under this section for any calendar year may not exceed one hundred twenty million dollars.

### PART IV

#### Repealing the Nonresident Sales Tax Exemption

**NEW SECTION. Sec. 401.** RCW 82.08.0273 (Exemptions--Sales to nonresidents of tangible personal property, digital goods, and digital codes for use outside the state--Proof of nonresident status--Penalties) and 2009 c 535 s 512, 2007 c 135 s 2, 2003 c 53 s 399, 1993 c 444 s 1, 1988 c 96 s 1, 1982 1st ex.s. c 5 s 1, & 1980 c 37 s 39 are each repealed.

**NEW SECTION. Sec. 402.** RCW 82.08.0273 (Exemptions--Sales to nonresidents of tangible personal property, digital goods, and digital codes for use outside the state--Proof of nonresident status--Penalties) and 2010 c . . . (E2SHB 1597) s 215, 2009 c 535 s 512, 2007 c 135 s 2, 2003 c 53 s 399, 1993 c 444 s 1, 1988 c 96 s 1, 1982 1st ex.s. c 5 s 1, & 1980 c 37 s 39 are each repealed.

### PART V

#### Direct Seller Business and Occupation Tax Exemption

**NEW SECTION. Sec. 501.** (1) A business and occupation tax exemption is provided in RCW 82.04.423 for certain out-of-state sellers that sell consumer products exclusively to or through a direct

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seller's representative. The intent of the legislature in enacting this exemption was to provide a narrow exemption for out-of-state businesses engaged in direct sales of consumer products, typically accomplished through in-home parties or door-to-door selling.

(2) In *Dot Foods, Inc. v. Dep't of Revenue*, Docket No. 81022-2 (September 10, 2009), the Washington supreme court held that the exemption in RCW 82.04.423 applied to a taxpayer: (a) That sold nonconsumer products through its representative in addition to consumer products; and (b) whose consumer products were ultimately sold at retail in permanent retail establishments.

(3) The legislature finds that most out-of-state businesses selling consumer products in this state will either be eligible for the exemption under RCW 82.04.423 or could easily restructure their business operations to qualify for the exemption. As a result, the legislature expects that the broadened interpretation of the direct sellers' exemption will lead to large and devastating revenue losses. This comes at a time when the state's existing budget is facing a two billion six hundred million dollar shortfall, which could grow, while at the same time the demand for state and state-funded services is also growing. Moreover, the legislature further finds that RCW 82.04.423 provides preferential tax treatment for out-of-state businesses over their in-state competitors and now creates a strong incentive for in-state businesses to move their operations outside Washington.

(4) Therefore, the legislature finds that it is necessary to reaffirm the legislature's intent in establishing the direct sellers' exemption and prevent the loss of revenues resulting from the expanded interpretation of the exemption by amending RCW 82.04.423 retroactively to conform the exemption to the original intent of the legislature and by prospectively ending the direct sellers' exemption as of the effective date of this section.

**Sec. 502.** RCW 82.04.423 and 1983 1st ex.s. c 66 s 5 are each amended to read as follows:

(1) ~~Prior to April 1, 2010, this chapter ((shall))~~ does not apply to any person in respect to gross income derived from the business of making sales at wholesale or retail if such person:

- (a) Does not own or lease real property within this state; and
- (b) Does not regularly maintain a stock of tangible personal property in this state for sale in the ordinary course of business; and
- (c) Is not a corporation incorporated under the laws of this state; and
- (d) Makes sales in this state exclusively to or through a direct seller's representative.

(2) For purposes of this section, the term "direct seller's representative" means a person who buys only consumer products on a buy-sell basis or a deposit-commission basis for resale, by the buyer or any other person, in the home or otherwise than in a permanent retail establishment, or who sells at retail, or solicits the sale at retail of, only consumer products in the home or otherwise than in a permanent retail establishment; and

(a) Substantially all of the remuneration paid to such person, whether or not paid in cash, for the performance of services described in this subsection is directly related to sales or other output, including the performance of services, rather than the number of hours worked; and

(b) The services performed by the person are performed pursuant to a written contract between such person and the person for whom the services are performed and such contract provides that the person will not be treated as an employee with respect to such purposes for federal tax purposes.

(3) Nothing in this section (~~shall~~) may be construed to imply that a person exempt from tax under this section was engaged in a business activity taxable under this chapter prior to (~~the enactment of this section~~) August 23, 1983.

## PART VI

**Business and Occupation Tax Preferences for Manufacturers of Products Derived from Certain Agricultural Products**

**NEW SECTION. Sec. 601.** (1)(a) In 1967, the legislature amended RCW 82.04.260 in chapter 149, Laws of 1967 ex. sess. to authorize a preferential business and occupation tax rate for slaughtering, breaking, and/or processing perishable meat products and/or selling the same at wholesale. The legislature finds that RCW 82.04.260(4) was interpreted by the state supreme court on January 13, 2005, in *Agrilink Foods, Inc. v. Department of Revenue*, 153 Wn.2d 392 (2005). The supreme court held that the preferential business and occupation tax rate on the slaughtering, breaking, and/or processing of perishable meat products applied to the processing of perishable meat products into nonperishable finished products, such as canned food.

(b) The legislature intends to narrow the exemption provided for slaughtering, breaking, and/or processing perishable meat products and/or selling such products at wholesale by requiring that the end product be a perishable meat product; a nonperishable meat product that is comprised primarily of animal carcass by weight or volume, other than a canned meat product; or a meat by-product.

(2)(a) A business and occupation tax exemption is provided for (i) manufacturing by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables, and (ii) selling such products at wholesale by the manufacturer to purchasers who transport the goods out of state in the ordinary course of business. This exemption expires July 1, 2012, and is replaced by a preferential business and occupation tax rate.

(b) The legislature finds that the rationale of the *Agrilink* decision, if applied to these tax preferences, could result in preferential tax treatment for any processed food product that contained any fresh fruit or vegetable as an ingredient, however small the amount.

(c) The legislature intends to narrow the tax preference provided to fruit and vegetable manufacturers by requiring that the end product be comprised either (i) exclusively of fruits and/or vegetables, or (ii) of any combination of fruits, vegetables, and certain other substances that, cumulatively, may not exceed the amount of fruits and vegetables contained in the product measured by weight or volume.

**NEW SECTION. Sec. 602.** A new section is added to chapter 82.04 RCW to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing:

(a) Perishable meat products, by slaughtering, breaking, or processing, if the finished product is a perishable meat product; as to such persons the tax imposed is equal to the value of the perishable meat products manufactured, or, in the case of a processor for hire, the gross income of the business, multiplied by the rate of 0.138 percent;

(b) Meat products, by dehydration, curing, smoking, or any combination of these activities, if the finished meat products are not canned; as to such persons the tax imposed is equal to the value of the meat products manufactured, or, in the case of a processor for hire, the gross income of the business, multiplied by the rate of 0.138 percent;

(c) Hides, tallow, meat meal, and other similar meat by-products, if such products are derived in part from animals and manufactured in a rendering plant licensed under chapter 16.68 RCW; as to such persons the tax imposed is equal to the value of the products manufactured, or, in the case of a processor for hire, the gross income of the business, multiplied by the rate of 0.138 percent.

(2) Upon every person engaging within this state in the business of selling at wholesale:

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(a) Perishable meat products; as to such persons the tax imposed is equal to the gross proceeds derived from such sales multiplied by the rate of 0.138 percent;

(b) Meat products that have been manufactured by the seller by dehydration, curing, smoking, or any combination of such activities, if the finished meat products are not canned; as to such persons the tax imposed is equal to the gross proceeds derived from such sales multiplied by the rate of 0.138 percent;

(c) Hides, tallow, meat meal, and other similar meat by-products, if such products are derived in part from animals and manufactured by the seller in a rendering plant; as to such persons the tax imposed is equal to the gross proceeds derived from such sales multiplied by the rate of 0.138 percent.

(3) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Animal" means all members of the animal kingdom except humans, fish, and insects.

(b) "Carcass" means all or any parts, including viscera, of a slaughtered animal.

(c) "Fish" means any water-breathing animal, including shellfish.

(d) "Hide" means any unprocessed animal pelt or skin.

(e)(i) "Meat products" means:

(A) Products comprised exclusively of animal carcass; and

(B) Products, such as jerky, sausage, and other cured meat products, that are comprised primarily of animal carcass by weight or volume and may also contain water; nitrates; nitrites; acids; binders and extenders; natural or synthetic casings; colorings; flavorings such as soy sauce, liquid smoke, seasonings, citric acid, sugar, molasses, corn syrup, and vinegar; and similar substances.

(ii) Except as provided in (e)(i) of this subsection (3), "meat products" does not include products containing any cereal grains or cereal-grain products, dairy products, legumes and legume products, fruit or vegetable products as defined in RCW 82.04.260, and similar ingredients, unless the ingredient is used as a flavoring. For purposes of this subsection, "flavoring" means a substance that contains the flavoring constituents derived from a spice, fruit or fruit juice, vegetable or vegetable juice, edible yeast, herb, bark, bud, root, leaf, or any other edible substance of plant origin, whose primary function in food is flavoring or seasoning rather than nutritional, and which may legally appear as "natural flavor," "flavor," or "flavorings" in the ingredient statement on the label of the meat product.

(iii) "Meat products" includes only products that are intended for human consumption as food or animal consumption as feed.

(f) "Perishable" means having a high risk of spoilage within thirty days of manufacture without any refrigeration or freezing.

(g) "Rendering plant" means any place of business or location where dead animals or any part or portion thereof, or packing house refuse, are processed for the purpose of obtaining the hide, skin, grease residue, or any other by-product whatsoever.

**Sec. 603.** RCW 82.04.4266 and 2006 c 354 s 3 are each amended to read as follows:

(1) This chapter ~~((shall))~~ does not apply to the value of products or the gross proceeds of sales derived from:

(a) Manufacturing fruit~~((s))~~ or vegetable~~((s))~~ products by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables; or

(b) Selling at wholesale fruit~~((s))~~ or vegetable~~((s))~~ products manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state. A person taking an exemption under this subsection (1)(b) must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were

transported by the purchaser in the ordinary course of business out of this state.

(2)(a) "Fruit or vegetable products" means:

(i) Products comprised exclusively of fruits, vegetables, or both; and

(ii) Products comprised of fruits, vegetables, or both, and which may also contain water, sugar, salt, seasonings, preservatives, binders, stabilizers, flavorings, yeast, and similar substances. However, the amount of all ingredients contained in the product, other than fruits, vegetables, and water, may not exceed the amount of fruits and vegetables contained in the product measured by weight or volume.

(b) "Fruit or vegetable products" includes only products that are intended for human consumption as food or animal consumption as feed.

(3) This section expires July 1, 2012.

**Sec. 604.** RCW 82.04.4266 and 2010 c . . . (SHB 3066) s 111 are each amended to read as follows:

(1) This chapter does not apply to the value of products or the gross proceeds of sales derived from:

(a) Manufacturing fruit~~((s))~~ or vegetable~~((s))~~ products by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables; or

(b) Selling at wholesale fruit~~((s))~~ or vegetable~~((s))~~ products manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state. A person taking an exemption under this subsection (1)(b) must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state.

(2)(a) "Fruit or vegetable products" means:

(i) Products comprised exclusively of fruits, vegetables, or both; and

(ii) Products comprised of fruits, vegetables, or both, and which may also contain water, sugar, salt, seasonings, preservatives, binders, stabilizers, flavorings, yeast, and similar substances. However, the amount of all ingredients contained in the product, other than fruits, vegetables, and water, may not exceed the amount of fruits and vegetables contained in the product measured by weight or volume.

(b) "Fruit or vegetable products" includes only products that are intended for human consumption as food or animal consumption as feed.

(3) A person claiming the exemption provided in this section must file a complete annual survey with the department under RCW 82.32.--- (section 102, chapter . . . (SHB 3066), Laws of 2010).

~~((3))~~ (4) This section expires July 1, 2012.

**Sec. 605.** RCW 82.04.260 and 2009 c 479 s 64, 2009 c 461 s 1, and 2009 c 162 s 34 are each reenacted and amended to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing:

(a) Wheat into flour, barley into pearl barley, soybeans into soybean oil, canola into canola oil, canola meal, or canola by-products, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business ~~((shall be))~~ is equal to the value of the flour, pearl barley, oil, canola meal, or canola by-product manufactured, multiplied by the rate of 0.138 percent;

(b) Beginning July 1, 2012, seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; or selling manufactured seafood products that remain in a raw, raw frozen, or raw salted state at the

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completion of the manufacturing, to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business ~~((shall be))~~ is equal to the value of the products manufactured or the gross proceeds derived from such sales, multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(c) Beginning July 1, 2012, dairy products that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including by-products from the manufacturing of the dairy products such as whey and casein; or selling the same to purchasers who transport in the ordinary course of business the goods out of state; as to such persons the tax imposed ~~((shall be))~~ is equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(d)(i) Beginning July 1, 2012, fruit(s) or vegetable(s) products by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables, or selling at wholesale fruit(s) or vegetable(s) products manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business ~~((shall be))~~ is equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(ii) For purposes of this subsection, "fruit or vegetable products" means:

(A) Products comprised exclusively of fruits, vegetables, or both; or

(B) Products comprised of fruits, vegetables, or both, and which may also contain water, sugar, salt, seasonings, preservatives, binders, stabilizers, flavorings, yeast, and similar substances. However, the amount of all ingredients contained in the product, other than fruits, vegetables, and water, may not exceed the amount of fruits and vegetables contained in the product measured by weight or volume;

(iii) "Fruit and vegetable products" includes only products that are intended for human consumption as food or animal consumption as feed;

(e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel feedstock, as those terms are defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business ~~((shall be))~~ is equal to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock manufactured, multiplied by the rate of 0.138 percent; and

(f) Alcohol fuel or wood biomass fuel, as those terms are defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business ~~((shall be))~~ is equal to the value of alcohol fuel or wood biomass fuel manufactured, multiplied by the rate of 0.138 percent.

(2) Upon every person engaging within this state in the business of splitting or processing dried peas; as to such persons the amount of tax with respect to such business ~~((shall be))~~ is equal to the value of the peas split or processed, multiplied by the rate of 0.138 percent.

(3) Upon every nonprofit corporation and nonprofit association engaging within this state in research and development, as to such corporations and associations, the amount of tax with respect to such

activities ~~((shall be))~~ is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

(4) ((Upon every person engaging within this state in the business of slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale only and not at retail; as to such persons the tax imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of 0.138 percent.

(5)) Upon every person engaging within this state in the business of acting as a travel agent or tour operator; as to such persons the amount of the tax with respect to such activities ~~((shall be))~~ is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

~~((6))~~ (5) Upon every person engaging within this state in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent; as to such persons the amount of the tax with respect to only international activities ~~((shall be))~~ is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

~~((7))~~ (6) Upon every person engaging within this state in the business of stevedoring and associated activities pertinent to the movement of goods and commodities in waterborne interstate or foreign commerce; as to such persons the amount of tax with respect to such business ~~((shall be))~~ is equal to the gross proceeds derived from such activities multiplied by the rate of 0.275 percent. Persons subject to taxation under this subsection ~~((shall be))~~ are exempt from payment of taxes imposed by chapter 82.16 RCW for that portion of their business subject to taxation under this subsection. Stevedoring and associated activities pertinent to the conduct of goods and commodities in waterborne interstate or foreign commerce are defined as all activities of a labor, service or transportation nature whereby cargo may be loaded or unloaded to or from vessels or barges, passing over, onto or under a wharf, pier, or similar structure; cargo may be moved to a warehouse or similar holding or storage yard or area to await further movement in import or export or may move to a consolidation freight station and be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loaded on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: Wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator service to containers, trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.

~~((8))~~ (7)(a) Upon every person engaging within this state in the business of disposing of low-level waste, as defined in RCW 43.145.010; as to such persons the amount of the tax with respect to such business ~~((shall be))~~ is equal to the gross income of the business, excluding any fees imposed under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

(b) If the gross income of the taxpayer is attributable to activities both within and without this state, the gross income attributable to this state ~~((shall))~~ must be determined in accordance with the methods of apportionment required under RCW 82.04.460.

~~((9))~~ (8) Upon every person engaging within this state as an insurance producer or title insurance agent licensed under chapter 48.17 RCW or a surplus line broker licensed under chapter 48.15 RCW; as to such persons, the amount of the tax with respect to such

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licensed activities ~~(shall be)~~ is equal to the gross income of such business multiplied by the rate of 0.484 percent.

~~((40))~~ (9) Upon every person engaging within this state in business as a hospital, as defined in chapter 70.41 RCW, that is operated as a nonprofit corporation or by the state or any of its political subdivisions, as to such persons, the amount of tax with respect to such activities ~~(shall be)~~ is equal to the gross income of the business multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5 percent thereafter.

~~((41))~~ (10)(a) Beginning October 1, 2005, upon every person engaging within this state in the business of manufacturing commercial airplanes, or components of such airplanes, or making sales, at retail or wholesale, of commercial airplanes or components of such airplanes, manufactured by the seller, as to such persons the amount of tax with respect to such business ~~(shall)~~, in the case of manufacturers, ~~(be)~~ is equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, ~~(be)~~ is equal to the gross income of the business, multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through ~~(the later of)~~ June 30, 2007; and

(ii) 0.2904 percent beginning July 1, 2007.

(b) Beginning July 1, 2008, upon every person who is not eligible to report under the provisions of (a) of this subsection ~~((41))~~ (10) and is engaging within this state in the business of manufacturing tooling specifically designed for use in manufacturing commercial airplanes or components of such airplanes, or making sales, at retail or wholesale, of such tooling manufactured by the seller, as to such persons the amount of tax with respect to such business ~~(shall)~~, in the case of manufacturers, ~~(be)~~ is equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, ~~(be)~~ is equal to the gross income of the business, multiplied by the rate of 0.2904 percent.

(c) For the purposes of this subsection ~~((41))~~ (10), "commercial airplane" and "component" have the same meanings as provided in RCW 82.32.550.

(d) In addition to all other requirements under this title, a person eligible for the tax rate under this subsection ~~((41))~~ (10) must report as required under RCW 82.32.545.

(e) This subsection ~~((41))~~ (10) does not apply on and after July 1, 2024.

~~((42))~~ (11)(a) Until July 1, 2024, upon every person engaging within this state in the business of extracting timber or extracting for hire timber; as to such persons the amount of tax with respect to the business ~~(shall)~~, in the case of extractors, ~~(be)~~ is equal to the value of products, including by-products, extracted, or in the case of extractors for hire, ~~(be)~~ is equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2024.

(b) Until July 1, 2024, upon every person engaging within this state in the business of manufacturing or processing for hire: (i) Timber into timber products or wood products; or (ii) timber products into other timber products or wood products; as to such persons the amount of the tax with respect to the business ~~(shall)~~, in the case of manufacturers, ~~(be)~~ is equal to the value of products, including by-products, manufactured, or in the case of processors for hire, ~~(be)~~ is equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2024.

(c) Until July 1, 2024, upon every person engaging within this state in the business of selling at wholesale: (i) Timber extracted by that person; (ii) timber products manufactured by that person from

timber or other timber products; or (iii) wood products manufactured by that person from timber or timber products; as to such persons the amount of the tax with respect to the business ~~(shall be)~~ is equal to the gross proceeds of sales of the timber, timber products, or wood products multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2024.

(d) Until July 1, 2024, upon every person engaging within this state in the business of selling standing timber; as to such persons the amount of the tax with respect to the business ~~(shall be)~~ is equal to the gross income of the business multiplied by the rate of 0.2904 percent. For purposes of this subsection ~~((42))~~ (11)(d), "selling standing timber" means the sale of timber apart from the land, where the buyer is required to sever the timber within thirty months from the date of the original contract, regardless of the method of payment for the timber and whether title to the timber transfers before, upon, or after severance.

(e) For purposes of this subsection, the following definitions apply:

(i) "Biocomposite surface products" means surface material products containing, by weight or volume, more than fifty percent recycled paper and that also use nonpetroleum-based phenolic resin as a bonding agent.

(ii) "Paper and paper products" means products made of interwoven cellulosic fibers held together largely by hydrogen bonding. "Paper and paper products" includes newsprint; office, printing, fine, and pressure-sensitive papers; paper napkins, towels, and toilet tissue; kraft bag, construction, and other kraft industrial papers; paperboard, liquid packaging containers, containerboard, corrugated, and solid-fiber containers including linerboard and corrugated medium; and related types of cellulosic products containing primarily, by weight or volume, cellulosic materials. "Paper and paper products" does not include books, newspapers, magazines, periodicals, and other printed publications, advertising materials, calendars, and similar types of printed materials.

(iii) "Recycled paper" means paper and paper products having fifty percent or more of their fiber content that comes from postconsumer waste. For purposes of this subsection ~~((42))~~ (11)(e)(iii), "postconsumer waste" means a finished material that would normally be disposed of as solid waste, having completed its life cycle as a consumer item.

(iv) "Timber" means forest trees, standing or down, on privately or publicly owned land. "Timber" does not include Christmas trees that are cultivated by agricultural methods or short-rotation hardwoods as defined in RCW 84.33.035.

(v) "Timber products" means:

(A) Logs, wood chips, sawdust, wood waste, and similar products obtained wholly from the processing of timber, short-rotation hardwoods as defined in RCW 84.33.035, or both;

(B) Pulp, including market pulp and pulp derived from recovered paper or paper products; and

(C) Recycled paper, but only when used in the manufacture of biocomposite surface products.

(vi) "Wood products" means paper and paper products; dimensional lumber; engineered wood products such as particleboard, oriented strand board, medium density fiberboard, and plywood; wood doors; wood windows; and biocomposite surface products.

~~((43))~~ (12) Upon every person engaging within this state in inspecting, testing, labeling, and storing canned salmon owned by another person, as to such persons, the amount of tax with respect to such activities ~~(shall be)~~ is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

~~((44))~~ (13) Upon every person engaging within this state in the business of printing a newspaper, publishing a newspaper, or both,

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the amount of tax on such business is equal to the gross income of the business multiplied by the rate of 0.2904 percent.

**Sec. 606.** RCW 82.04.260 and 2010 c . . . (SHB 3066) s 107 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing:

(a) Wheat into flour, barley into pearl barley, soybeans into soybean oil, canola into canola oil, canola meal, or canola by-products, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business is equal to the value of the flour, pearl barley, oil, canola meal, or canola by-product manufactured, multiplied by the rate of 0.138 percent;

(b) Beginning July 1, 2012, seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; or selling manufactured seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing, to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business is equal to the value of the products manufactured or the gross proceeds derived from such sales, multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(c) Beginning July 1, 2012, dairy products that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including by-products from the manufacturing of the dairy products such as whey and casein; or selling the same to purchasers who transport in the ordinary course of business the goods out of state; as to such persons the tax imposed is equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(d)(i) Beginning July 1, 2012, fruit((s)) or vegetable((s)) products by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables, or selling at wholesale fruit((s)) or vegetable((s)) products manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business is equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(ii) For purposes of this subsection, "fruit or vegetable products" means:

(A) Products comprised exclusively of fruits, vegetables, or both; or

(B) Products comprised of fruits, vegetables, or both, and which may also contain water, sugar, salt, seasonings, preservatives, binders, stabilizers, flavorings, yeast, and similar substances. However, the amount of all ingredients contained in the product, other than fruits, vegetables, and water, may not exceed the amount of fruits and vegetables contained in the product measured by weight or volume;

(iii) "Fruit and vegetable products" includes only products that are intended for human consumption as food or animal consumption as feed;

(e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel feedstock, as those terms are defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business is equal

to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock manufactured, multiplied by the rate of 0.138 percent; and

(f) Wood biomass fuel as defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business is equal to the value of wood biomass fuel manufactured, multiplied by the rate of 0.138 percent.

(2) Upon every person engaging within this state in the business of splitting or processing dried peas; as to such persons the amount of tax with respect to such business is equal to the value of the peas split or processed, multiplied by the rate of 0.138 percent.

(3) Upon every nonprofit corporation and nonprofit association engaging within this state in research and development, as to such corporations and associations, the amount of tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

(4) ((Upon every person engaging within this state in the business of slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale only and not at retail; as to such persons the tax imposed is equal to the gross proceeds derived from such sales multiplied by the rate of 0.138 percent.

(5)) Upon every person engaging within this state in the business of acting as a travel agent or tour operator; as to such persons the amount of the tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

((~~(6)~~)) (5) Upon every person engaging within this state in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent; as to such persons the amount of the tax with respect to only international activities is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

((~~(7)~~)) (6) Upon every person engaging within this state in the business of stevedoring and associated activities pertinent to the movement of goods and commodities in waterborne interstate or foreign commerce; as to such persons the amount of tax with respect to such business is equal to the gross proceeds derived from such activities multiplied by the rate of 0.275 percent. Persons subject to taxation under this subsection are exempt from payment of taxes imposed by chapter 82.16 RCW for that portion of their business subject to taxation under this subsection. Stevedoring and associated activities pertinent to the conduct of goods and commodities in waterborne interstate or foreign commerce are defined as all activities of a labor, service or transportation nature whereby cargo may be loaded or unloaded to or from vessels or barges, passing over, onto or under a wharf, pier, or similar structure; cargo may be moved to a warehouse or similar holding or storage yard or area to await further movement in import or export or may move to a consolidation freight station and be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loaded on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: Wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator service to containers, trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.

((~~(8)~~)) (7)(a) Upon every person engaging within this state in the business of disposing of low-level waste, as defined in RCW

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43.145.010; as to such persons the amount of the tax with respect to such business is equal to the gross income of the business, excluding any fees imposed under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

(b) If the gross income of the taxpayer is attributable to activities both within and without this state, the gross income attributable to this state must be determined in accordance with the methods of apportionment required under RCW 82.04.460.

~~((9))~~ (8) Upon every person engaging within this state as an insurance producer or title insurance agent licensed under chapter 48.17 RCW or a surplus line broker licensed under chapter 48.15 RCW; as to such persons, the amount of the tax with respect to such licensed activities is equal to the gross income of such business multiplied by the rate of 0.484 percent.

~~((40))~~ (9) Upon every person engaging within this state in business as a hospital, as defined in chapter 70.41 RCW, that is operated as a nonprofit corporation or by the state or any of its political subdivisions, as to such persons, the amount of tax with respect to such activities is equal to the gross income of the business multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5 percent thereafter.

~~((41))~~ (10)(a) Beginning October 1, 2005, upon every person engaging within this state in the business of manufacturing commercial airplanes, or components of such airplanes, or making sales, at retail or wholesale, of commercial airplanes or components of such airplanes, manufactured by the seller, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through June 30, 2007; and

(ii) 0.2904 percent beginning July 1, 2007.

(b) Beginning July 1, 2008, upon every person who is not eligible to report under the provisions of (a) of this subsection (11) and is engaging within this state in the business of manufacturing tooling specifically designed for use in manufacturing commercial airplanes or components of such airplanes, or making sales, at retail or wholesale, of such tooling manufactured by the seller, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, be equal to the gross income of the business, multiplied by the rate of 0.2904 percent.

(c) For the purposes of this subsection ~~((44))~~ (10), "commercial airplane" and "component" have the same meanings as provided in RCW 82.32.550.

(d) In addition to all other requirements under this title, a person reporting under the tax rate provided in this subsection ~~((44))~~ (10) must file a complete annual report with the department under RCW 82.32.--- (section 103, chapter . . . (SHB 3066), Laws of 2010).

(e) This subsection ~~((44))~~ (10) does not apply on and after July 1, 2024.

~~((42))~~ (11)(a) Until July 1, 2024, upon every person engaging within this state in the business of extracting timber or extracting for hire timber; as to such persons the amount of tax with respect to the business is, in the case of extractors, equal to the value of products, including by-products, extracted, or in the case of extractors for hire, equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2024.

(b) Until July 1, 2024, upon every person engaging within this state in the business of manufacturing or processing for hire: (i)

Timber into timber products or wood products; or (ii) timber products into other timber products or wood products; as to such persons the amount of the tax with respect to the business is, in the case of manufacturers, equal to the value of products, including by-products, manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2024.

(c) Until July 1, 2024, upon every person engaging within this state in the business of selling at wholesale: (i) Timber extracted by that person; (ii) timber products manufactured by that person from timber or other timber products; or (iii) wood products manufactured by that person from timber or timber products; as to such persons the amount of the tax with respect to the business is equal to the gross proceeds of sales of the timber, timber products, or wood products multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2024.

(d) Until July 1, 2024, upon every person engaging within this state in the business of selling standing timber; as to such persons the amount of the tax with respect to the business is equal to the gross income of the business multiplied by the rate of 0.2904 percent. For purposes of this subsection ~~((42))~~ (11)(d), "selling standing timber" means the sale of timber apart from the land, where the buyer is required to sever the timber within thirty months from the date of the original contract, regardless of the method of payment for the timber and whether title to the timber transfers before, upon, or after severance.

(e) For purposes of this subsection, the following definitions apply:

(i) "Biocomposite surface products" means surface material products containing, by weight or volume, more than fifty percent recycled paper and that also use nonpetroleum-based phenolic resin as a bonding agent.

(ii) "Paper and paper products" means products made of interwoven cellulosic fibers held together largely by hydrogen bonding. "Paper and paper products" includes newsprint; office, printing, fine, and pressure-sensitive papers; paper napkins, towels, and toilet tissue; kraft bag, construction, and other kraft industrial papers; paperboard, liquid packaging containers, containerboard, corrugated, and solid-fiber containers including linerboard and corrugated medium; and related types of cellulosic products containing primarily, by weight or volume, cellulosic materials. "Paper and paper products" does not include books, newspapers, magazines, periodicals, and other printed publications, advertising materials, calendars, and similar types of printed materials.

(iii) "Recycled paper" means paper and paper products having fifty percent or more of their fiber content that comes from postconsumer waste. For purposes of this subsection ~~((42))~~ (11)(e)(iii), "postconsumer waste" means a finished material that would normally be disposed of as solid waste, having completed its life cycle as a consumer item.

(iv) "Timber" means forest trees, standing or down, on privately or publicly owned land. "Timber" does not include Christmas trees that are cultivated by agricultural methods or short-rotation hardwoods as defined in RCW 84.33.035.

(v) "Timber products" means:

(A) Logs, wood chips, sawdust, wood waste, and similar products obtained wholly from the processing of timber, short-rotation hardwoods as defined in RCW 84.33.035, or both;

(B) Pulp, including market pulp and pulp derived from recovered paper or paper products; and

(C) Recycled paper, but only when used in the manufacture of biocomposite surface products.

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(vi) "Wood products" means paper and paper products; dimensional lumber; engineered wood products such as particleboard, oriented strand board, medium density fiberboard, and plywood; wood doors; wood windows; and biocomposite surface products.

(f) Except for small harvesters as defined in RCW 84.33.035, a person reporting under the tax rate provided in this subsection ~~((42))~~ (11) must file a complete annual survey with the department under RCW 82.32.--- (section 102, chapter . . . (SHB 3066), Laws of 2010).

~~((43))~~ (12) Upon every person engaging within this state in inspecting, testing, labeling, and storing canned salmon owned by another person, as to such persons, the amount of tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

~~((44))~~ (13)(a) Upon every person engaging within this state in the business of printing a newspaper, publishing a newspaper, or both, the amount of tax on such business is equal to the gross income of the business multiplied by the rate of 0.2904 percent.

(b) A person reporting under the tax rate provided in this subsection ~~((44))~~ (13) must file a complete annual report with the department under RCW 82.32.--- (section 103, chapter . . . (SHB 3066), Laws of 2010).

**Sec. 607.** RCW 82.04.250 and 2008 c 81 s 5 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of making sales at retail, except persons taxable as retailers under other provisions of this chapter, as to such persons, the amount of tax with respect to such business ~~((shall be))~~ is equal to the gross proceeds of sales of the business, multiplied by the rate of 0.471 percent.

(2) Upon every person engaging within this state in the business of making sales at retail that are exempt from the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or 82.08.0263, except persons taxable under RCW 82.04.260~~((44))~~ (10) or subsection (3) of this section, as to such persons, the amount of tax with respect to such business ~~((shall be))~~ is equal to the gross proceeds of sales of the business, multiplied by the rate of 0.484 percent.

(3) Upon every person classified by the federal aviation administration as a federal aviation regulation part 145 certificated repair station and that is engaging within this state in the business of making sales at retail that are exempt from the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or 82.08.0263, as to such persons, the amount of tax with respect to such business ~~((shall be))~~ is equal to the gross proceeds of sales of the business, multiplied by the rate of .2904 percent.

**Sec. 608.** RCW 82.04.250 and 2007 c 54 s 5 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of making sales at retail, except persons taxable as retailers under other provisions of this chapter, as to such persons, the amount of tax with respect to such business ~~((shall be))~~ is equal to the gross proceeds of sales of the business, multiplied by the rate of 0.471 percent.

(2) Upon every person engaging within this state in the business of making sales at retail that are exempt from the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or 82.08.0263, except persons taxable under RCW 82.04.260~~((44))~~ (10), as to such persons, the amount of tax with respect to such business ~~((shall be))~~ is equal to the gross proceeds of sales of the business, multiplied by the rate of 0.484 percent.

**Sec. 609.** RCW 82.04.261 and 2007 c 54 s 7 and 2007 c 48 s 4 are each reenacted and amended to read as follows:

(1) In addition to the taxes imposed under RCW 82.04.260~~((42))~~ (11), a surcharge is imposed on those persons who are subject to any of the taxes imposed under RCW 82.04.260~~((42))~~ (11). Except as otherwise provided in this section, the surcharge is equal to 0.052 percent. The surcharge is added to the rates provided in RCW 82.04.260~~((42))~~ (11) (a), (b), (c), and (d). The surcharge and this section expire July 1, 2024.

(2) All receipts from the surcharge imposed under this section ~~((shall))~~ must be deposited into the forest and fish support account created in RCW 76.09.405.

(3)(a) The surcharge imposed under this section ~~((shall be))~~ is suspended if:

(i) Receipts from the surcharge total at least eight million dollars during any fiscal biennium; or

(ii) The office of financial management certifies to the department that the federal government has appropriated at least two million dollars for participation in forest and fish report-related activities by federally recognized Indian tribes located within the geographical boundaries of the state of Washington for any federal fiscal year.

(b)(i) The suspension of the surcharge under (a)(i) of this subsection (3) ~~((shall))~~ takes effect on the first day of the calendar month that is at least thirty days after the end of the month during which the department determines that receipts from the surcharge total at least eight million dollars during the fiscal biennium. The surcharge ~~((shall be))~~ is imposed again at the beginning of the following fiscal biennium.

(ii) The suspension of the surcharge under (a)(ii) of this subsection (3) ~~((shall))~~ takes effect on the later of the first day of October of any federal fiscal year for which the federal government appropriates at least two million dollars for participation in forest and fish report-related activities by federally recognized Indian tribes located within the geographical boundaries of the state of Washington, or the first day of a calendar month that is at least thirty days following the date that the office of financial management makes a certification to the department under subsection (5) of this section. The surcharge ~~((shall be))~~ is imposed again on the first day of the following July.

(4)(a) If, by October 1st of any federal fiscal year, the office of financial management certifies to the department that the federal government has appropriated funds for participation in forest and fish report-related activities by federally recognized Indian tribes located within the geographical boundaries of the state of Washington but the amount of the appropriation is less than two million dollars, the department ~~((shall))~~ must adjust the surcharge in accordance with this subsection.

(b) The department ~~((shall))~~ must adjust the surcharge by an amount that the department estimates will cause the amount of funds deposited into the forest and fish support account for the state fiscal year that begins July 1st and that includes the beginning of the federal fiscal year for which the federal appropriation is made, to be reduced by twice the amount of the federal appropriation for participation in forest and fish report-related activities by federally recognized Indian tribes located within the geographical boundaries of the state of Washington.

(c) Any adjustment in the surcharge ~~((shall))~~ takes effect at the beginning of a calendar month that is at least thirty days after the date that the office of financial management makes the certification under subsection (5) of this section.

(d) The surcharge ~~((shall be))~~ is imposed again at the rate provided in subsection (1) of this section on the first day of the following state fiscal year unless the surcharge is suspended under subsection (3) of this section or adjusted for that fiscal year under this subsection.

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(e) Adjustments of the amount of the surcharge by the department are final and ~~((shall))~~ may not be used to challenge the validity of the surcharge imposed under this section.

(f) The department ~~((shall))~~ must provide timely notice to affected taxpayers of the suspension of the surcharge or an adjustment of the surcharge.

(5) The office of financial management ~~((shall))~~ must make the certification to the department as to the status of federal appropriations for tribal participation in forest and fish report-related activities.

**Sec. 610.** RCW 82.04.298 and 2008 c 49 s 1 are each amended to read as follows:

(1) The amount of tax with respect to a qualified grocery distribution cooperative's sales of groceries or related goods for resale, excluding items subject to tax under ~~((RCW 82.04.260(4)))~~ section 602 of this act, to customer-owners of the grocery distribution cooperative is equal to the gross proceeds of sales of the grocery distribution cooperative multiplied by the rate of one and one-half percent.

(2) A qualified grocery distribution cooperative is allowed a deduction from the gross proceeds of sales of groceries or related goods for resale, excluding items subject to tax under ~~((RCW 82.04.260(4)))~~ section 602 of this act, to customer-owners of the grocery distribution cooperative that is equal to the portion of the gross proceeds of sales for resale that represents the actual cost of the merchandise sold by the grocery distribution cooperative to customer-owners.

(3) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Grocery distribution cooperative" means an entity that sells groceries and related items to customer-owners of the grocery distribution cooperative and has customer-owners, in the aggregate, who own a majority of the outstanding ownership interests of the grocery distribution cooperative or of the entity controlling the grocery distribution cooperative. "Grocery distribution cooperative" includes an entity that controls a grocery distribution cooperative.

(b) "Qualified grocery distribution cooperative" means:

(i) A grocery distribution cooperative that has been determined by a court of record of the state of Washington to be not engaged in wholesaling or making sales at wholesale, within the meaning of RCW 82.04.270 or any similar provision of a municipal ordinance that imposes a tax on gross receipts, gross proceeds of sales, or gross income, with respect to purchases made by customer-owners, and subsequently changes its form of doing business to make sales at wholesale of groceries or related items to its customer-owners; or

(ii) A grocery distribution cooperative that has acquired substantially all of the assets of a grocery distribution cooperative described in (b)(i) of this subsection.

(c) "Customer-owner" means a person who has an ownership interest in a grocery distribution cooperative and purchases groceries and related items at wholesale from that grocery distribution cooperative.

(d) "Controlling" means holding fifty percent or more of the voting interests of an entity and having at least equal power to direct or cause the direction of the management and policies of the entity, whether through the ownership of voting securities, by contract, or otherwise.

**Sec. 611.** RCW 82.04.334 and 2007 c 48 s 3 are each amended to read as follows:

This chapter does not apply to any sale of standing timber excluded from the definition of "sale" in RCW 82.45.010(3). The definitions in RCW 82.04.260~~((42))~~ (11) apply to this section.

**Sec. 612.** RCW 82.04.440 and 2006 c 300 s 8 and 2006 c 84 s 6 are each reenacted and amended to read as follows:

(1) Every person engaged in activities that are subject to tax under two or more provisions of RCW 82.04.230 through 82.04.298, inclusive, ~~((shall be))~~ is taxable under each provision applicable to those activities.

(2) Persons taxable under RCW 82.04.2909(2), 82.04.250, 82.04.270, 82.04.294(2), or 82.04.260 (1)~~(b)~~, (c), ~~((4+))~~ or (d), (10), or (11), or ((42)) section 602(2) of this act with respect to selling products in this state, including those persons who are also taxable under RCW 82.04.261, ~~((shall be))~~ are allowed a credit against those taxes for any (a) manufacturing taxes paid with respect to the manufacturing of products so sold in this state, and/or (b) extracting taxes paid with respect to the extracting of products so sold in this state or ingredients of products so sold in this state. Extracting taxes taken as credit under subsection (3) of this section may also be taken under this subsection, if otherwise allowable under this subsection. The amount of the credit ~~((shall))~~ may not exceed the tax liability arising under this chapter with respect to the sale of those products.

(3) Persons taxable as manufacturers under RCW 82.04.240 or 82.04.260 (1)(b) or ~~((42))~~ (11), including those persons who are also taxable under RCW 82.04.261, ~~((shall be))~~ are allowed a credit against those taxes for any extracting taxes paid with respect to extracting the ingredients of the products so manufactured in this state. The amount of the credit ~~((shall))~~ may not exceed the tax liability arising under this chapter with respect to the manufacturing of those products.

(4) Persons taxable under RCW 82.04.230, 82.04.240, 82.04.2909(1), 82.04.294(1), 82.04.2404, or 82.04.260 (1), (2), ~~((4+))~~ (10), or (11), or ((42)) section 602(1) of this act, including those persons who are also taxable under RCW 82.04.261, with respect to extracting or manufacturing products in this state ~~((shall be))~~ are allowed a credit against those taxes for any (i) gross receipts taxes paid to another state with respect to the sales of the products so extracted or manufactured in this state, (ii) manufacturing taxes paid with respect to the manufacturing of products using ingredients so extracted in this state, or (iii) manufacturing taxes paid with respect to manufacturing activities completed in another state for products so manufactured in this state. The amount of the credit ~~((shall))~~ may not exceed the tax liability arising under this chapter with respect to the extraction or manufacturing of those products.

(5) For the purpose of this section:

(a) "Gross receipts tax" means a tax:

(i) Which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which the deductions allowed would not constitute the tax an income tax or value added tax; and

(ii) Which is also not, pursuant to law or custom, separately stated from the sales price.

(b) "State" means (i) the state of Washington, (ii) a state of the United States other than Washington, or any political subdivision of such other state, (iii) the District of Columbia, and (iv) any foreign country or political subdivision thereof.

(c) "Manufacturing tax" means a gross receipts tax imposed on the act or privilege of engaging in business as a manufacturer, and includes (i) the taxes imposed in RCW 82.04.240, 82.04.2404, 82.04.2909(1), 82.04.260 (1), (2), ~~((4+))~~ (10), and (11), ((and (42))) section 602(1) of this act, and 82.04.294(1); (ii) the tax imposed under RCW 82.04.261 on persons who are engaged in business as a manufacturer; and (iii) similar gross receipts taxes paid to other states.

(d) "Extracting tax" means a gross receipts tax imposed on the act or privilege of engaging in business as an extractor, and includes (i) the tax imposed on extractors in RCW 82.04.230 and 82.04.260~~((42))~~ (11); (ii) the tax imposed under RCW 82.04.261

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on persons who are engaged in business as an extractor; and (iii) similar gross receipts taxes paid to other states.

(e) "Business", "manufacturer", "extractor", and other terms used in this section have the meanings given in RCW 82.04.020 through 82.04.212, notwithstanding the use of those terms in the context of describing taxes imposed by other states.

**Sec. 613.** RCW 82.04.4463 and 2008 c 81 s 8 are each amended to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed for property taxes and leasehold excise taxes paid during the calendar year.

(2) The credit is equal to:

(a)(i)(A) Property taxes paid on buildings, and land upon which the buildings are located, constructed after December 1, 2003, and used exclusively in manufacturing commercial airplanes or components of such airplanes; and

(B) Leasehold excise taxes paid with respect to buildings constructed after January 1, 2006, the land upon which the buildings are located, or both, if the buildings are used exclusively in manufacturing commercial airplanes or components of such airplanes; and

(C) Property taxes or leasehold excise taxes paid on, or with respect to, buildings constructed after June 30, 2008, the land upon which the buildings are located, or both, and used exclusively for aerospace product development or in providing aerospace services, by persons not within the scope of (a)(i)(A) and (B) of this subsection (2) and are: (I) Engaged in manufacturing tooling specifically designed for use in manufacturing commercial airplanes or their components; or (II) taxable under RCW 82.04.290(3) or 82.04.250(3); or

(ii) Property taxes attributable to an increase in assessed value due to the renovation or expansion, after: (A) December 1, 2003, of a building used exclusively in manufacturing commercial airplanes or components of such airplanes; and (B) June 30, 2008, of buildings used exclusively for aerospace product development or in providing aerospace services, by persons not within the scope of (a)(ii)(A) of this subsection (2) and are: (I) Engaged in manufacturing tooling specifically designed for use in manufacturing commercial airplanes or their components; or (II) taxable under RCW 82.04.290(3) or 82.04.250(3); and

(b) An amount equal to:

(i)(A) Property taxes paid, by persons taxable under RCW 82.04.260(~~((4+))~~) (10)(a), on machinery and equipment exempt under RCW 82.08.02565 or 82.12.02565 and acquired after December 1, 2003;

(B) Property taxes paid, by persons taxable under RCW 82.04.260(~~((4+))~~) (10)(b), on machinery and equipment exempt under RCW 82.08.02565 or 82.12.02565 and acquired after June 30, 2008; or

(C) Property taxes paid, by persons taxable under RCW (~~(82.04.0250(3) {82.04.250(3)})~~) 82.04.250(3) or 82.04.290(3), on computer hardware, computer peripherals, and software exempt under RCW 82.08.975 or 82.12.975 and acquired after June 30, 2008.

(ii) For purposes of determining the amount eligible for credit under (i)(A) and (B) of this subsection (2)(b), the amount of property taxes paid is multiplied by a fraction.

~~((#))~~ (A) The numerator of the fraction is the total taxable amount subject to the tax imposed under RCW 82.04.260(~~((4+))~~) (10) (a) or (b) on the applicable business activities of manufacturing commercial airplanes, components of such airplanes, or tooling specifically designed for use in the manufacturing of commercial airplanes or components of such airplanes.

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~~((#))~~ (B) The denominator of the fraction is the total taxable amount subject to the tax imposed under all manufacturing classifications in chapter 82.04 RCW.

~~((#))~~ (C) For purposes of both the numerator and denominator of the fraction, the total taxable amount refers to the total taxable amount required to be reported on the person's returns for the calendar year before the calendar year in which the credit under this section is earned. The department may provide for an alternative method for calculating the numerator in cases where the tax rate provided in RCW 82.04.260(~~((4+))~~) (10) for manufacturing was not in effect during the full calendar year before the calendar year in which the credit under this section is earned.

~~((#))~~ (D) No credit is available under (b)(i)(A) or (B) of this subsection (2) if either the numerator or the denominator of the fraction is zero. If the fraction is greater than or equal to nine-tenths, then the fraction is rounded to one.

~~((#))~~ (E) As used in ~~((#))~~ (b)(ii)(C) of this subsection (2)(~~((b)(ii)(C))~~), "returns" means the tax returns for which the tax imposed under this chapter is reported to the department.

(3) The definitions in this subsection apply throughout this section, unless the context clearly indicates otherwise.

(a) "Aerospace product development" has the same meaning as provided in RCW 82.04.4461.

(b) "Aerospace services" has the same meaning given in RCW 82.08.975.

(c) "Commercial airplane" and "component" have the same meanings as provided in RCW 82.32.550.

(4) A credit earned during one calendar year may be carried over to be credited against taxes incurred in a subsequent calendar year, but may not be carried over a second year. No refunds may be granted for credits under this section.

(5) In addition to all other requirements under this title, a person taking the credit under this section must report as required under RCW 82.32.545.

(6) This section expires July 1, 2024.

**Sec. 614.** RCW 82.04.4463 and 2010 c . . . (SHB 3066) s 116 are each amended to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed for property taxes and leasehold excise taxes paid during the calendar year.

(2) The credit is equal to:

(a)(i)(A) Property taxes paid on buildings, and land upon which the buildings are located, constructed after December 1, 2003, and used exclusively in manufacturing commercial airplanes or components of such airplanes; and

(B) Leasehold excise taxes paid with respect to buildings constructed after January 1, 2006, the land upon which the buildings are located, or both, if the buildings are used exclusively in manufacturing commercial airplanes or components of such airplanes; and

(C) Property taxes or leasehold excise taxes paid on, or with respect to, buildings constructed after June 30, 2008, the land upon which the buildings are located, or both, and used exclusively for aerospace product development, manufacturing tooling specifically designed for use in manufacturing commercial airplanes or their components, or in providing aerospace services, by persons not within the scope of (a)(i)(A) and (B) of this subsection (2) and are taxable under RCW 82.04.290(3), 82.04.260(~~((4+))~~) (10)(b), or 82.04.250(3); or

(ii) Property taxes attributable to an increase in assessed value due to the renovation or expansion, after: (A) December 1, 2003, of a building used exclusively in manufacturing commercial airplanes or components of such airplanes; and (B) June 30, 2008, of buildings used exclusively for aerospace product development, manufacturing tooling specifically designed for use in

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manufacturing commercial airplanes or their components, or in providing aerospace services, by persons not within the scope of (a)(ii)(A) of this subsection (2) and are taxable under RCW 82.04.290(3), 82.04.260(~~((4+))~~) (10)(b), or 82.04.250(3); and

(b) An amount equal to:

(i)(A) Property taxes paid, by persons taxable under RCW 82.04.260(~~((4+))~~) (10)(a), on machinery and equipment exempt under RCW 82.08.02565 or 82.12.02565 and acquired after December 1, 2003;

(B) Property taxes paid, by persons taxable under RCW 82.04.260(~~((4+))~~) (10)(b), on machinery and equipment exempt under RCW 82.08.02565 or 82.12.02565 and acquired after June 30, 2008; or

(C) Property taxes paid, by persons taxable under RCW 82.04.250(3) or 82.04.290(3), on computer hardware, computer peripherals, and software exempt under RCW 82.08.975 or 82.12.975 and acquired after June 30, 2008.

(ii) For purposes of determining the amount eligible for credit under (i)(A) and (B) of this subsection (2)(b), the amount of property taxes paid is multiplied by a fraction.

(A) The numerator of the fraction is the total taxable amount subject to the tax imposed under RCW 82.04.260(~~((4+))~~) (10) (a) or (b) on the applicable business activities of manufacturing commercial airplanes, components of such airplanes, or tooling specifically designed for use in the manufacturing of commercial airplanes or components of such airplanes.

(B) The denominator of the fraction is the total taxable amount subject to the tax imposed under all manufacturing classifications in chapter 82.04 RCW.

(C) For purposes of both the numerator and denominator of the fraction, the total taxable amount refers to the total taxable amount required to be reported on the person's returns for the calendar year before the calendar year in which the credit under this section is earned. The department may provide for an alternative method for calculating the numerator in cases where the tax rate provided in RCW 82.04.260(~~((4+))~~) (10) for manufacturing was not in effect during the full calendar year before the calendar year in which the credit under this section is earned.

(D) No credit is available under (b)(i)(A) or (B) of this subsection (2) if either the numerator or the denominator of the fraction is zero. If the fraction is greater than or equal to nine-tenths, then the fraction is rounded to one.

(E) As used in (b)(ii)(C) of this subsection (2)(~~((b)(ii))~~), "returns" means the tax returns for which the tax imposed under this chapter is reported to the department.

(3) The definitions in this subsection apply throughout this section, unless the context clearly indicates otherwise.

(a) "Aerospace product development" has the same meaning as provided in RCW 82.04.4461.

(b) "Aerospace services" has the same meaning given in RCW 82.08.975.

(c) "Commercial airplane" and "component" have the same meanings as provided in RCW 82.32.550.

(4) A credit earned during one calendar year may be carried over to be credited against taxes incurred in a subsequent calendar year, but may not be carried over a second year. No refunds may be granted for credits under this section.

(5) In addition to all other requirements under this title, a person claiming the credit under this section must file a complete annual report with the department under RCW 82.32.--- (section 103, chapter . . . (SHB 3066), Laws of 2010).

(6) This section expires July 1, 2024.

**Sec. 615.** RCW 82.08.806 and 2009 c 461 s 5 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales, to a printer or publisher, of computer equipment, including repair parts and replacement parts for such equipment, when the computer equipment is used primarily in the printing or publishing of any printed material, or to sales of or charges made for labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the computer equipment. This exemption applies only to computer equipment not otherwise exempt under RCW 82.08.02565.

(2) A person taking the exemption under this section must keep records necessary for the department to verify eligibility under this section. This exemption is available only when the purchaser provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller (~~(shall)~~) must retain a copy of the certificate for the seller's files.

(3) The definitions in this subsection (3) apply throughout this section, unless the context clearly requires otherwise.

(a) "Computer" has the same meaning as in RCW 82.04.215.

(b) "Computer equipment" means a computer and the associated physical components that constitute a computer system, including monitors, keyboards, printers, modems, scanners, pointing devices, and other computer peripheral equipment, cables, servers, and routers. "Computer equipment" also includes digital cameras and computer software.

(c) "Computer software" has the same meaning as in RCW 82.04.215.

(d) "Primarily" means greater than fifty percent as measured by time.

(e) "Printer or publisher" means a person, as defined in RCW 82.04.030, who is subject to tax under RCW 82.04.260(~~((4+))~~) (13) or 82.04.280(1).

(4) "Computer equipment" does not include computer equipment that is used primarily for administrative purposes including but not limited to payroll processing, accounting, customer service, telemarketing, and collection. If computer equipment is used simultaneously for administrative and nonadministrative purposes, the administrative use (~~(shall)~~) must be disregarded during the period of simultaneous use for purposes of determining whether the computer equipment is used primarily for administrative purposes.

**Sec. 616.** RCW 82.32.550 and 2008 c 81 s 12 are each amended to read as follows:

(1)((a) Chapter 1, Laws of 2003 2nd sp. sess. takes effect on the first day of the month in which the governor and a manufacturer of commercial airplanes sign a memorandum of agreement regarding an affirmative final decision to site a significant commercial airplane final assembly facility in Washington state. The department shall provide notice of the effective date of chapter 1, Laws of 2003 2nd sp. sess. to affected taxpayers, the legislature, and others as deemed appropriate by the department.

(b) Chapter 1, Laws of 2003 2nd sp. sess. is contingent upon the siting of a significant commercial airplane final assembly facility in the state of Washington. If a memorandum of agreement under subsection (1) of this section is not signed by June 30, 2005, chapter 1, Laws of 2003 2nd sp. sess. is null and void.

(c)(i) The rate in RCW 82.04.260(11)(a)(ii) takes effect July 1, 2007.

(ii) If on December 31, 2007, final assembly of a superefficient airplane has not begun in Washington state, the department shall provide notice of such to affected taxpayers, the legislature, and others as deemed appropriate by the department.

(2) The definitions in this subsection apply throughout this section.

(a)) "Commercial airplane" has its ordinary meaning, which is an airplane certified by the federal aviation administration for

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transporting persons or property, and any military derivative of such an airplane.

((b)) (2) "Component" means a part or system certified by the federal aviation administration for installation or assembly into a commercial airplane.

((c)) "Final assembly of a superefficient airplane" means the activity of assembling an airplane from components parts necessary for its mechanical operation such that the finished commercial airplane is ready to deliver to the ultimate consumer.

(d) "Significant commercial airplane final assembly facility" means a location with the capacity to produce at least thirty-six superefficient airplanes a year.

(e) "Siting" means a final decision by a manufacturer to locate a significant commercial airplane final assembly facility in Washington state.

(f)) (3) "Superefficient airplane" means a twin aisle airplane that carries between two hundred and three hundred fifty passengers, with a range of more than seven thousand two hundred nautical miles, a cruising speed of approximately mach .85, and that uses fifteen to twenty percent less fuel than other similar airplanes on the market.

**Sec. 617.** RCW 82.45.195 and 2007 c 48 s 7 are each amended to read as follows:

A sale of standing timber is exempt from tax under this chapter if the gross income from such sale is taxable under RCW 82.04.260((42)) (11)(d).

**Sec. 618.** RCW 35.102.150 and 2009 c 461 s 4 are each amended to read as follows:

Notwithstanding RCW 35.102.130, a city that imposes a business and occupation tax must allocate a person's gross income from the activities of printing, and of publishing newspapers, periodicals, or magazines, to the principal place in this state from which the taxpayer's business is directed or managed. As used in this section, the activities of printing, and of publishing newspapers, periodicals, or magazines are those activities to which the tax rates in RCW 82.04.260((44)) (13) and 82.04.280(1) apply.

**Sec. 619.** RCW 48.14.080 and 2009 c 535 s 1102 are each amended to read as follows:

(1) As to insurers, other than title insurers and taxpayers under RCW 48.14.0201, the taxes imposed by this title (~~shall be~~) are in lieu of all other taxes, except as otherwise provided in this section.

(2) Subsection (1) of this section does not apply with respect to:

(a) Taxes on real and tangible personal property;

(b) Excise taxes on the sale, purchase, use, or possession of (i) real property; (ii) tangible personal property; (iii) extended warranties; (iv) services, including digital automated services as defined in RCW 82.04.192; and (v) digital goods and digital codes as those terms are defined in RCW 82.04.192; and

(c) The tax imposed in RCW 82.04.260((40)) (9), regarding public and nonprofit hospitals.

(3) For the purposes of this section, the term "taxes" includes taxes imposed by the state or any county, city, town, municipal corporation, quasi-municipal corporation, or other political subdivision.

## PART VII

### Suspending the Sales and Use Tax Exemption for Livestock Nutrient Equipment and Facilities

**Sec. 701.** RCW 82.08.890 and 2009 c 469 s 601 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales to eligible persons of:

(a) Qualifying livestock nutrient management equipment;

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(b) Labor and services rendered in respect to installing, repairing, cleaning, altering, or improving qualifying livestock nutrient management equipment; and

(c)(i) Labor and services rendered in respect to repairing, cleaning, altering, or improving of qualifying livestock nutrient management facilities, or to tangible personal property that becomes an ingredient or component of qualifying livestock nutrient management facilities in the course of repairing, cleaning, altering, or improving of such facilities.

(ii) The exemption provided in this subsection (1)(c) does not apply to the sale of or charge made for: (A) Labor and services rendered in respect to the constructing of new, or replacing previously existing, qualifying livestock nutrient management facilities; or (B) tangible personal property that becomes an ingredient or component of qualifying livestock nutrient management facilities during the course of constructing new, or replacing previously existing, qualifying livestock nutrient management facilities.

(2) The exemption provided in subsection (1) of this section applies to sales made after the livestock nutrient management plan is: (a) Certified under chapter 90.64 RCW; (b) approved as part of the permit issued under chapter 90.48 RCW; or (c) approved as required under subsection (4)(c)(iii) of this section.

(3)(a) The department of revenue must provide an exemption certificate to an eligible person upon application by that person. The department of agriculture must provide a list of eligible persons, as defined in subsection (4)(c)(i) and (ii) of this section, to the department of revenue. Conservation districts must maintain lists of eligible persons as defined in subsection (4)(c)(iii) of this section to allow the department of revenue to verify eligibility. The application must be in a form and manner prescribed by the department and must contain information regarding the location of the dairy or animal feeding operation and other information the department may require.

(b) A person claiming an exemption under this section must keep records necessary for the department to verify eligibility under this section. The exemption is available only when the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(4) The definitions in this subsection apply to this section and RCW 82.12.890 unless the context clearly requires otherwise:

(a) "Animal feeding operation" means a lot or facility, other than an aquatic animal production facility, where the following conditions are met:

(i) Animals, other than aquatic animals, have been, are, or will be stabled or confined and fed or maintained for a total of forty-five days or more in any twelve-month period; and

(ii) Crops, vegetation, forage growth, or postharvest residues are not sustained in the normal growing season over any portion of the lot or facility.

(b) "Conservation district" means a subdivision of state government organized under chapter 89.08 RCW.

(c) "Eligible person" means a person: (i) Licensed to produce milk under chapter 15.36 RCW who has a certified dairy nutrient management plan, as required by chapter 90.64 RCW; (ii) who owns an animal feeding operation and has a permit issued under chapter 90.48 RCW; or (iii) who owns an animal feeding operation and has a nutrient management plan approved by a conservation district as meeting natural resource conservation service field office technical guide standards and who possesses an exemption certificate under RCW 82.08.855.

(d) "Handling and treatment of livestock manure" means the activities of collecting, storing, moving, or transporting livestock manure, separating livestock manure solids from liquids, or

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applying livestock manure to the agricultural lands of an eligible person other than through the use of pivot or linear type traveling irrigation systems.

(e) "Permit" means either a state waste discharge permit or a national pollutant discharge elimination system permit, or both.

(f) "Qualifying livestock nutrient management equipment" means the following tangible personal property for exclusive use in the handling and treatment of livestock manure, including repair and replacement parts for such equipment: (i) Aerators; (ii) agitators; (iii) augers; (iv) conveyers; (v) gutter cleaners; (vi) hard-hose reel traveler irrigation systems; (vii) lagoon and pond liners and floating covers; (viii) loaders; (ix) manure composting devices; (x) manure spreaders; (xi) manure tank wagons; (xii) manure vacuum tanks; (xiii) poultry house cleaners; (xiv) poultry house flame sterilizers; (xv) poultry house washers; (xvi) poultry litter saver machines; (xvii) pipes; (xviii) pumps; (xix) scrapers; (xx) separators; (xxi) slurry injectors and hoses; and (xxii) wheelbarrows, shovels, and pitchforks.

(g) "Qualifying livestock nutrient management facilities" means the following structures and facilities for exclusive use in the handling and treatment of livestock manure: (i) Flush systems; (ii) lagoons; (iii) liquid livestock manure storage structures, such as concrete tanks or glass-lined steel tanks; and (iv) structures used solely for the dry storage of manure, including roofed stacking facilities.

(5) The exemption under this section does not apply to sales made from April 1, 2010, through June 30, 2013.

**Sec. 702.** RCW 82.12.890 and 2009 c 469 s 602 are each amended to read as follows:

(1) The provisions of this chapter do not apply with respect to the use by an eligible person of:

(a) Qualifying livestock nutrient management equipment;

(b) Labor and services rendered in respect to installing, repairing, cleaning, altering, or improving qualifying livestock nutrient management equipment; and

(c)(i) Tangible personal property that becomes an ingredient or component of qualifying livestock nutrient management facilities in the course of repairing, cleaning, altering, or improving of such facilities.

(ii) The exemption provided in this subsection (1)(c) does not apply to the use of tangible personal property that becomes an ingredient or component of qualifying livestock nutrient management facilities during the course of constructing new, or replacing previously existing, qualifying livestock nutrient management facilities.

(2)(a) To be eligible, the equipment and facilities must be used exclusively for activities necessary to maintain a livestock nutrient management plan.

(b) The exemption applies to the use of tangible personal property and labor and services made after the livestock nutrient management plan is: (i) Certified under chapter 90.64 RCW; (ii) approved as part of the permit issued under chapter 90.48 RCW; or (iii) approved as required under RCW 82.08.890(4)(c)(iii).

(3) The exemption certificate and recordkeeping requirements of RCW 82.08.890 apply to this section. The definitions in RCW 82.08.890 apply to this section.

(4) The exemption under this section does not apply to the use of tangible personal property and services if first use of the property or services occurs in this state from April 1, 2010, through June 30, 2013.

### PART VIII

#### Ending the Preferential Business and Occupation Tax Treatment Received by Directors of Corporations

**NEW SECTION. Sec. 801.** (1) In adopting the state's business and occupation tax, the legislature intended to tax virtually all business activities carried on within the state. See *Simpson Inv. Co. v. Dep't of Revenue*, 141 Wn.2d 139, 149 (2000). The legislature recognizes that the business and occupation tax applies to all activities engaged in with the object of gain, benefit, or advantage to the taxpayer or to another person or class, directly or indirectly, unless a specific exemption applies.

(2) One of the major business and occupation tax exemptions is provided in RCW 82.04.360 for income earned as an employee or servant as distinguished from income earned as an independent contractor. The legislature's intent in providing this exemption was to exempt employee wages from the business and occupation tax but not to exempt income earned as an independent contractor.

(3) The legislature finds that corporate directors are not employees or servants of the corporation whose board they serve on and therefore are not entitled to a business and occupation tax exemption under RCW 82.04.360. The legislature further finds that there are no business and occupation tax exemptions for compensation received for serving as a member of a corporation's board of directors.

(4) The legislature also finds that there is a widespread misunderstanding among corporate directors that the business and occupation tax does not apply to the compensation they receive for serving as a director of a corporation. It is the legislature's expectation that the department of revenue will take appropriate measures to ensure that corporate directors understand and comply with their business and occupation tax obligations with respect to their director compensation. However, because of the widespread misunderstanding by corporate directors of their liability for business and occupation tax on director compensation, the legislature finds that it is appropriate in this unique situation to provide limited relief against the retroactive assessment of business and occupation taxes on corporate director compensation.

(5) The legislature also reaffirms its intent that all income of all independent contractors is subject to business and occupation tax unless specifically exempt under the Constitution or laws of this state or the United States.

**Sec. 802.** RCW 82.04.360 and 1991 c 324 s 19 and 1991 c 275 s 2 are each reenacted and amended to read as follows:

(1) This chapter (~~shall~~) does not apply to any person in respect to his or her employment in the capacity of an employee or servant as distinguished from that of an independent contractor. For the purposes of this section, the definition of employee (~~shall~~) includes those persons that are defined in section 3121(d)(3)(B) of the federal internal revenue code of 1986, as amended through January 1, 1991.

(2) (~~(A booth renter, as defined by RCW 18.16.020, is an independent contractor for purposes of this chapter.)~~) Until April 1, 2010, this chapter does not apply to amounts received by an individual from a corporation as compensation for serving as a member of that corporation's board of directors. Beginning April 1, 2010, such amounts are taxable under RCW 82.04.290(2).

**Sec. 803.** RCW 82.04.360 and 2010 c . . . (E2SHB 1597) s 207 are each amended to read as follows:

(1) This chapter does not apply to any person in respect to his or her employment in the capacity of an employee or servant as distinguished from that of an independent contractor. For the purposes of this section, the definition of employee (~~shall~~) includes those persons that are defined in section 3121(d)(3)(B) of the federal internal revenue code of 1986, as amended through January 1, 1991.

(2) Until April 1, 2010, this chapter does not apply to amounts received by an individual from a corporation as compensation for serving as a member of that corporation's board of directors. Beginning April 1, 2010, such amounts are taxable under RCW 82.04.290(2).

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(3) A booth renter is an independent contractor for purposes of this chapter. For purposes of this ~~((sub))~~section, "booth renter" means any person who:

(a) Performs cosmetology, barbering, esthetics, or manicuring services for which a license is required under chapter 18.16 RCW; and

(b) Pays a fee for the use of salon or shop facilities and receives no compensation or other consideration from the owner of the salon or shop for the services performed.

**PART IX  
Airplane Excise Tax**

**Sec. 901.** RCW 82.48.030 and 1983 2nd ex.s. c 3 s 22 are each amended to read as follows:

(1) The amount of the tax imposed by this chapter for each calendar year ~~((shall be))~~ is as follows:

(a) Except as otherwise provided in this subsection, aircraft with a date of manufacture on or before December 31, 1970:

Type of aircraft	<del>((Registration fee))</del> <u>Tax</u>
Single engine fixed wing	\$ <del>((50))</del> <u>100</u>
Small multi-engine fixed wing	<del>((65))</del> <u>130</u>
Large multi-engine fixed wing	<del>((80))</del> <u>160</u>
Turboprop multi-engine fixed wing	<del>((100))</del> <u>6,750</u>
<del>((Turbojet multi-engine fixed wing</del> <u>125))</u>	
Helicopter	<del>((75))</del> <u>150</u>
Sailplane	<del>((20))</del> <u>40</u>
Lighter than air	<del>((20))</del> <u>40</u>
Home built	<del>((20))</del> <u>40</u>

(b) Except as otherwise provided in this subsection, aircraft with a date of manufacture after December 31, 1970:

Type of aircraft	<u>Tax</u>
<u>Single engine fixed wing</u>	\$ <u>338</u>
<u>Small multi-engine fixed wing</u>	<u>439</u>
<u>Large multi-engine fixed wing</u>	<u>540</u>
<u>Turboprop multi-engine fixed wing</u>	<u>6,750</u>
<u>Helicopter</u>	<u>338</u>
<u>Sailplane</u>	<u>135</u>
<u>Lighter than air</u>	<u>135</u>
<u>Home built</u>	<u>135</u>

(c) Turbojet multi-engine fixed wing aircraft:

<u>Maximum Certificated Takeoff Weight</u>	<u>Tax</u>
<u>Up to 19,999 pounds</u>	\$ <u>13,500</u>
<u>20,000 to 24,999 pounds</u>	<u>18,000</u>
<u>25,000 to 44,999 pounds</u>	<u>22,500</u>
<u>45,000 to 84,999 pounds</u>	<u>33,750</u>
<u>85,000 and over</u>	<u>45,000</u>

(2) The amount of tax imposed under subsection (1) of this section for each calendar year ~~((shall))~~ must be divided into twelve parts corresponding to the months of the calendar year and the excise tax upon an aircraft registered for the first time in this state after the last day of any month ~~((shall))~~ may only be levied for the remaining months of the calendar year including the month in which the aircraft is being registered ~~((PROVIDED, That))~~. However, the minimum amount payable ~~((shall be))~~ is three dollars.

~~((3))~~ (3) An aircraft ~~((shall be))~~ is deemed registered for the first time in this state when such aircraft was not previously registered by this state for the year immediately preceding the year in which application for registration is made.

~~((4))~~ (4) For the purposes of this section, "maximum certificated takeoff weight" means the maximum takeoff weight authorized by the terms of the aircraft airworthiness certificate.

**Sec. 902.** RCW 82.48.080 and 1995 c 170 s 2 are each amended to read as follows:

The secretary ~~((shall))~~ must regularly pay to the state treasurer the excise taxes collected under this chapter, ~~((which shall be credited by the state treasurer as follows: Ninety percent to the general fund and ten percent to the aeronautics account in the transportation fund for administrative expenses))~~ for deposit into the general fund.

**PART X  
Tax Debts**

**Sec. 1001.** RCW 82.32.145 and 1995 c 318 s 2 are each amended to read as follows:

(1) ~~((Upon termination, dissolution, or abandonment of a corporate or limited liability company business, any officer, member, manager, or other person having control or supervision of retail sales tax funds collected and held in trust under RCW 82.08.050, or who is charged with the responsibility for the filing of returns or the payment of retail sales tax funds collected and held in trust under RCW 82.08.050, shall be personally liable for any unpaid taxes and interest and penalties on those taxes, if such officer or other person wilfully fails to pay or to cause to be paid any taxes due from the corporation pursuant to chapter 82.08 RCW. For the purposes of this section, any retail sales taxes that have been paid but not collected shall be deductible from the retail sales taxes collected but not paid.~~

For purposes of this subsection "wilfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.

(2) The officer, member or manager, or other person shall be liable only for taxes collected which Whenever the department has issued a warrant under RCW 82.32.210 for the collection of unpaid retail sales tax funds collected and held in trust under RCW 82.08.050 from a limited liability business entity and that business entity has been terminated, dissolved, or abandoned, or is insolvent,

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the department may pursue collection of the entity's unpaid sales taxes, including penalties and interest on those taxes, against any or all of the responsible individuals. For purposes of this subsection, "insolvent" means the condition that results when the sum of the entity's debts exceeds the fair market value of its assets. The department may presume that an entity is insolvent if the entity refuses to disclose to the department the nature of its assets and liabilities.

(2) Personal liability under this section may be imposed for state and local sales taxes.

(3)(a) For a responsible individual who is the current or a former chief executive or chief financial officer, liability under this section applies regardless of fault or whether the individual was or should have been aware of the unpaid sales tax liability of the limited liability business entity.

(b) For any other responsible individual, liability under this section applies only if he or she willfully fails to pay or to cause to be paid to the department the sales taxes due from the limited liability business entity.

(4)(a) Except as provided in this subsection (4)(a), a responsible individual who is the current or a former chief executive or chief financial officer is liable under this section only for sales tax liability accrued during the period that he or she was the chief executive or chief financial officer. However, if the responsible individual had the responsibility or duty to remit payment of the limited liability business entity's sales taxes to the department during any period of time that the person was not the chief executive or chief financial officer, that individual is also liable for sales tax liability that became due during the period that he or she had the duty to remit payment of the limited liability business entity's taxes to the department but was not the chief executive or chief financial officer.

(b) All other responsible individuals are liable under this section only for sales tax liability that became due during the period he or she had the ((control, supervision,)) responsibility((,)) or duty to ((act for the corporation described in subsection (1) of this section, plus interest and penalties on those taxes.

(3)) remit payment of the limited liability business entity's taxes to the department.

(5) Persons ((liable under)) described in subsection (((1))) (3)(b) of this section are exempt from liability under this section in situations where nonpayment of the ((retail sales tax funds held in trust)) limited liability business entity's sales taxes is due to reasons beyond their control as determined by the department by rule.

(((4))) (6) Any person having been issued a notice of assessment under this section is entitled to the appeal procedures under RCW 82.32.160, 82.32.170, 82.32.180, 82.32.190, and 82.32.200.

((5) This section applies only in situations where the department has determined that there is no reasonable means of collecting the retail sales tax funds held in trust directly from the corporation.

(6)) (7) This section does not relieve the ((corporation or)) limited liability ((company)) business entity of ((other tax liabilities)) its sales tax liability or otherwise impair other tax collection remedies afforded by law.

(((7))) (8) Collection authority and procedures prescribed in this chapter apply to collections under this section.

(9) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Chief executive" means: The president of a corporation; or for other entities or organizations other than corporations or if the corporation does not have a president as one of its officers, the highest ranking executive manager or administrator in charge of the management of the company or organization.

(b) "Chief financial officer" means: The treasurer of a corporation; or for entities or organizations other than corporations

or if a corporation does not have a treasurer as one of its officers, the highest senior manager who is responsible for overseeing the financial activities of the entire company or organization.

(c) "Limited liability business entity" means a type of business entity that generally shields its owners from personal liability for the debts, obligations, and liabilities of the entity, or a business entity that is managed or owned in whole or in part by an entity that generally shields its owners from personal liability for the debts, obligations, and liabilities of the entity. Limited liability business entities include corporations, limited liability companies, limited liability partnerships, trusts, general partnerships and joint ventures in which one or more of the partners or parties are also limited liability business entities, and limited partnerships in which one or more of the general partners are also limited liability business entities.

(d) "Manager" has the same meaning as in RCW 25.15.005.

(e) "Member" has the same meaning as in RCW 25.15.005, except that the term only includes members of member-managed limited liability companies.

(f) "Officer" means any officer or assistant officer of a corporation, including the president, vice-president, secretary, and treasurer.

(g)(i) "Responsible individual" includes any current or former officer, manager, member, partner, or trustee of a limited liability business entity with an unpaid tax warrant issued by the department.

(ii) "Responsible individual" also includes any current or former employee or other individual, but only if the individual had the responsibility or duty to remit payment of the limited liability business entity's unpaid sales tax liability reflected in a tax warrant issued by the department.

(iii) Whenever any taxpayer has one or more limited liability business entities as a member, manager, or partner, "responsible individual" also includes any current and former officers, members, or managers of the limited liability business entity or entities or of any other limited liability business entity involved directly in the management of the taxpayer. For purposes of this subsection (9)(g)(iii), "taxpayer" means a limited liability business entity with an unpaid tax warrant issued against it by the department.

(h) "Willfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.

**PART XI**

**Repealing the Sales and Use Tax Exemptions for Bottled Water**

NEW SECTION. Sec. 1101. In order to preserve funding to protect Washington state's natural resources, it is the legislature's intent to use revenue generated from assessing a sales tax on bottled water on natural resource and environmental protection activities.

**Sec. 1102.** RCW 82.08.0293 and 2009 c 483 s 2 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 ((shall)) does not apply to sales of food and food ingredients. "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include:

(a) "Alcoholic beverages," which means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume; and

(b) "Tobacco," which means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

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(2) The exemption of "food and food ingredients" provided for in subsection (1) of this section (~~shall~~) does not apply to prepared food, soft drinks, bottled water, or dietary supplements.

(a) "Prepared food" means:

(i) Food sold in a heated state or heated by the seller;

(ii) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food; or

(iii) Two or more food ingredients mixed or combined by the seller for sale as a single item, except:

(A) Food that is only cut, repackaged, or pasteurized by the seller; or

(B) Raw eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal food and drug administration in chapter 3, part 401.11 of The Food Code, published by the food and drug administration, as amended or renumbered as of January 1, 2003, so as to prevent foodborne illness.

(b) "Prepared food" does not include the following food or food ingredients, if the food or food ingredients are sold without eating utensils provided by the seller:

(i) Food sold by a seller whose proper primary North American industry classification system (NAICS) classification is manufacturing in sector 311, except subsector 3118 (bakeries), as provided in the "North American industry classification system--United States, 2002";

(ii) Food sold in an unheated state by weight or volume as a single item; or

(iii) Bakery items. The term "bakery items" includes bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, or tortillas.

(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain: Milk or milk products; soy, rice, or similar milk substitutes; or greater than fifty percent of vegetable or fruit juice by volume.

(d) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

(i) Contains one or more of the following dietary ingredients:

(A) A vitamin;

(B) A mineral;

(C) An herb or other botanical;

(D) An amino acid;

(E) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(F) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in this subsection;

(ii) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(iii) Is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label as required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered as of January 1, 2003.

(e) "Bottled water" means water that is placed in a sealed container or package for human consumption or other consumer uses. Bottled water is calorie free and does not contain sweeteners or other additives except that it may contain: (i) Antimicrobial agents; (ii) fluoride; (iii) carbonation; (iv) vitamins, minerals, and electrolytes; (v) oxygen; (vi) preservatives; and (vii) only those flavors, extracts, or essences derived from a spice or fruit. "Bottled water" includes water that is delivered to the buyer in a reusable container that is not sold with the water.

(3) Notwithstanding anything in this section to the contrary, the exemption of "food and food ingredients" provided in this section (~~shall apply~~) applies to food and food ingredients that are furnished, prepared, or served as meals:

(a) Under a state administered nutrition program for the aged as provided for in the older Americans act (P.L. 95-478 Title III) and RCW 74.38.040(6);

(b) That are provided to senior citizens, individuals with disabilities, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW; or

(c) That are provided to residents, sixty-two years of age or older, of a qualified low-income senior housing facility by the lessor or operator of the facility. The sale of a meal that is billed to both spouses of a marital community or both domestic partners of a domestic partnership meets the age requirement in this subsection (3)(c) if at least one of the spouses or domestic partners is at least sixty-two years of age. For purposes of this subsection, "qualified low-income senior housing facility" means a facility:

(i) That meets the definition of a qualified low-income housing project under (~~Title~~) 26 U.S.C. Sec. 42 of the federal internal revenue code, as existing on August 1, 2009;

(ii) That has been partially funded under (~~Title~~) 42 U.S.C. Sec. 1485 (~~of the federal internal revenue code~~); and

(iii) For which the lessor or operator has at any time been entitled to claim a federal income tax credit under (~~Title~~) 26 U.S.C. Sec. 42 of the federal internal revenue code.

(4)(a) Subsection (1) of this section notwithstanding, the retail sale of food and food ingredients is subject to sales tax under RCW 82.08.020 if the food and food ingredients are sold through a vending machine, and in this case the selling price for purposes of RCW 82.08.020 is fifty-seven percent of the gross receipts.

(b) This subsection (4) does not apply to hot prepared food and food ingredients, other than food and food ingredients which are heated after they have been dispensed from the vending machine.

(c) For tax collected under this subsection (4), the requirements that the tax be collected from the buyer and that the amount of tax be stated as a separate item are waived.

**Sec. 1103.** RCW 82.08.0293 and 2010 c . . . (E2SHB 1597) s 216 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of food and food ingredients. "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include:

(a) "Alcoholic beverages," which means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume; and

(b) "Tobacco," which means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

(2) The exemption of "food and food ingredients" provided for in subsection (1) of this section does not apply to prepared food, soft drinks, bottled water, or dietary supplements. For purposes of this subsection, the following definitions apply:

(a) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

(i) Contains one or more of the following dietary ingredients:

(A) A vitamin;

(B) A mineral;

(C) An herb or other botanical;

(D) An amino acid;

(E) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(F) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in this subsection;

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(ii) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(iii) Is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label as required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered as of January 1, 2003.

(b)(i) "Prepared food" means:

(A) Food sold in a heated state or heated by the seller;

(B) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food; or

(C) Two or more food ingredients mixed or combined by the seller for sale as a single item, except:

(I) Food that is only cut, repackaged, or pasteurized by the seller; or

(II) Raw eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal food and drug administration in chapter 3, part 401.11 of The Food Code, published by the food and drug administration, as amended or renumbered as of January 1, 2003, so as to prevent foodborne illness.

(ii) "Prepared food" does not include the following food or food ingredients, if the food or food ingredients are sold without eating utensils provided by the seller:

(A) Food sold by a seller whose proper primary North American industry classification system (NAICS) classification is manufacturing in sector 311, except subsector 3118 (bakeries), as provided in the "North American industry classification system--United States, 2002";

(B) Food sold in an unheated state by weight or volume as a single item; or

(C) Bakery items. The term "bakery items" includes bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, or tortillas.

(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain: Milk or milk products; soy, rice, or similar milk substitutes; or greater than fifty percent of vegetable or fruit juice by volume.

(d) "Bottled water" means water that is placed in a sealed container or package for human consumption or other consumer uses. Bottled water is calorie free and does not contain sweeteners or other additives except that it may contain: (i) Antimicrobial agents; (ii) fluoride; (iii) carbonation; (iv) vitamins, minerals, and electrolytes; (v) oxygen; (vi) preservatives; and (vii) only those flavors, extracts, or essences derived from a spice or fruit. "Bottled water" includes water that is delivered to the buyer in a reusable container that is not sold with the water.

(3) Notwithstanding anything in this section to the contrary, the exemption of "food and food ingredients" provided in this section applies to food and food ingredients that are furnished, prepared, or served as meals:

(a) Under a state administered nutrition program for the aged as provided for in the older Americans act (P.L. 95-478 Title III) and RCW 74.38.040(6);

(b) That are provided to senior citizens, individuals with disabilities, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW; or

(c) That are provided to residents, sixty-two years of age or older, of a qualified low-income senior housing facility by the lessor or operator of the facility. The sale of a meal that is billed to both spouses of a marital community or both domestic partners of a

domestic partnership meets the age requirement in this subsection (3)(c) if at least one of the spouses or domestic partners is at least sixty-two years of age. For purposes of this subsection, "qualified low-income senior housing facility" means a facility:

(i) That meets the definition of a qualified low-income housing project under 26 U.S.C. Sec. 42 of the federal internal revenue code, as existing on August 1, 2009;

(ii) That has been partially funded under 42 U.S.C. Sec. 1485 ((of the federal internal revenue code)); and

(iii) For which the lessor or operator has at any time been entitled to claim a federal income tax credit under 26 U.S.C. Sec. 42 of the federal internal revenue code.

(4)(a) Subsection (1) of this section notwithstanding, the retail sale of food and food ingredients is subject to sales tax under RCW 82.08.020 if the food and food ingredients are sold through a vending machine. Except as provided in (b) of this subsection, the selling price of food and food ingredients sold through a vending machine for purposes of RCW 82.08.020 is fifty-seven percent of the gross receipts.

(b) For soft drinks and hot prepared food and food ingredients, other than food and food ingredients which are heated after they have been dispensed from the vending machine, the selling price is the total gross receipts of such sales divided by the sum of one plus the sales tax rate expressed as a decimal.

(c) For tax collected under this subsection (4), the requirements that the tax be collected from the buyer and that the amount of tax be stated as a separate item are waived.

**Sec. 1104.** RCW 82.12.0293 and 2009 c 483 s 4 are each amended to read as follows:

(1) The provisions of this chapter ((shall)) do not apply in respect to the use of food and food ingredients for human consumption. "Food and food ingredients" has the same meaning as in RCW 82.08.0293.

(2) The exemption of "food and food ingredients" provided for in subsection (1) of this section ((shall)) does not apply to prepared food, soft drinks, bottled water, or dietary supplements. "Prepared food," "soft drinks," ((and)) "dietary supplements," and "bottled water" have the same meanings as in RCW 82.08.0293.

(3) Notwithstanding anything in this section to the contrary, the exemption of "food and food ingredients" provided in this section ((shall)) apply to food and food ingredients which are furnished, prepared, or served as meals:

(a) Under a state administered nutrition program for the aged as provided for in the older Americans act (P.L. 95-478 Title III) and RCW 74.38.040(6);

(b) Which are provided to senior citizens, individuals with disabilities, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW; or

(c) That are provided to residents, sixty-two years of age or older, of a qualified low-income senior housing facility by the lessor or operator of the facility. The sale of a meal that is billed to both spouses of a marital community or both domestic partners of a domestic partnership meets the age requirement in this subsection (3)(c) if at least one of the spouses or domestic partners is at least sixty-two years of age. For purposes of this subsection, "qualified low-income senior housing facility" has the same meaning as in RCW 82.08.0293.

**NEW SECTION. Sec. 1105.** A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of bottled water for human use dispensed or to be dispensed to patients, pursuant to a prescription for use in the cure, mitigation, treatment, or prevention of disease or medical condition.

(2) The definitions in this subsection apply to this section.

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(a) "Bottled water" has the same meaning as provided in RCW 82.08.0293.

(b) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to prescribe.

**NEW SECTION. Sec. 1106.** A new section is added to chapter 82.12 RCW to read as follows:

The provisions of this chapter do not apply in respect to the use of bottled water for human use dispensed or to be dispensed to patients, pursuant to a prescription for use in the cure, mitigation, treatment, or prevention of disease or medical condition. The definitions in section 1105 of this act apply to this section.

**NEW SECTION. Sec. 1107.** A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of bottled water for human use to persons who do not otherwise have a readily available source of potable water and who provide the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(2) The department may waive the requirement for an exemption certificate in the event of disaster or similar circumstance.

**NEW SECTION. Sec. 1108.** A new section is added to chapter 82.12 RCW to read as follows:

The provisions of this chapter do not apply in respect to the use of bottled water for human use by persons who do not otherwise have a readily available source of potable water.

## PART XII

### Imposing Sales and Use Tax on Custom Software

**NEW SECTION. Sec. 1201.** In order to preserve funding for higher education, it is the legislature's intent to use revenue generated from assessing a sales and use tax on custom software to support the state's institutions of higher education and financial aid programs including the state need grant.

**Sec. 1202.** RCW 82.04.050 and 2009 c 563 s 301 and 2009 c 535 s 301 are each reenacted and amended to read as follows:

(1) "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than a sale to a person who presents a seller's permit or uniform exemption certificate in conformity with RCW 82.04.470 and who:

(a) Purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person, but a purchase for the purpose of resale by a regional transit authority under RCW 81.112.300 is not a sale for resale; or

(b) Installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person; or

(c) Purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale; or

(d) Purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

(e) Purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065. The term ~~((shall))~~ includes every sale of tangible personal property which is used or consumed or to be used or consumed in the performance of any activity classified as a "sale at retail" or "retail sale" even though such property is resold or utilized as provided in (a), (b), (c), (d), or (e) of this subsection following such use. The term also means every sale of tangible personal property to persons engaged in any business which is taxable under RCW 82.04.280 (2) and (7), 82.04.290, and 82.04.2908; or

(f) Purchases for the purpose of satisfying the person's obligations under an extended warranty as defined in subsection (7) of this section, if such tangible personal property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person.

(2) The term "sale at retail" or "retail sale" includes the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following:

(a) The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding charges made for the use of self-service laundry facilities, and also excluding sales of laundry service to nonprofit health care facilities, and excluding services rendered in respect to live animals, birds and insects;

(b) The constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and ~~((shall))~~ also includes the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture;

(c) The constructing, repairing, or improving of any structure upon, above, or under any real property owned by an owner who conveys the property by title, possession, or any other means to the person performing such construction, repair, or improvement for the purpose of performing such construction, repair, or improvement and the property is then reconveyed by title, possession, or any other means to the original owner;

(d) The cleaning, fumigating, razing, or moving of existing buildings or structures, but may not include the charge made for janitorial services; and for purposes of this section the term "janitorial services" shall mean those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting;

(e) Automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW;

(f) The furnishing of lodging and all other services by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it is presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere

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license to use or enjoy the same. For the purposes of this subsection, it ~~((shall be))~~ is presumed that the sale of and charge made for the furnishing of lodging for a continuous period of one month or more to a person is a rental or lease of real property and not a mere license to enjoy the same;

(g) The installing, repairing, altering, or improving of digital goods for consumers;

(h) Persons taxable under ~~a((c), (b), (e), (d), (e), (f), and))~~ through (g) of this subsection when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption. Nothing contained in this subsection ~~((shall))~~ may be construed to modify subsection (1) of this section and nothing contained in subsection (1) of this section may be construed to modify this subsection.

(3) The term "sale at retail" or "retail sale" includes the sale of or charge made for personal, business, or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities:

(a) Amusement and recreation services including but not limited to golf, pool, billiards, skating, bowling, ski lifts and tows, day trips for sightseeing purposes, and others, when provided to consumers;

(b) Abstract, title insurance, and escrow services;

(c) Credit bureau services;

(d) Automobile parking and storage garage services;

(e) Landscape maintenance and horticultural services but excluding (i) horticultural services provided to farmers and (ii) pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or distribution lines or equipment, if performed by or at the direction of an electric utility;

(f) Service charges associated with tickets to professional sporting events; and

(g) The following personal services: Physical fitness services, tanning salon services, tattoo parlor services, steam bath services, turkish bath services, escort services, and dating services.

(4)(a) The term also includes:

(i) The renting or leasing of tangible personal property to consumers; and

(ii) Providing tangible personal property along with an operator for a fixed or indeterminate period of time. A consideration of this is that the operator is necessary for the tangible personal property to perform as designed. For the purpose of this subsection (4)(a)(ii), an operator must do more than maintain, inspect, or set up the tangible personal property.

(b) The term does not include the renting or leasing of tangible personal property where the lease or rental is for the purpose of sublease or subrent.

(5) The term also includes the providing of "competitive telephone service," "telecommunications service," or "ancillary services," as those terms are defined in RCW 82.04.065, to consumers.

(6)(a) The term also includes the sale of prewritten computer software other than a sale to a person who presents a seller's permit or uniform exemption certificate in conformity with RCW 82.04.470, regardless of the method of delivery to the end user. For purposes of this subsection (6)(a), the sale of prewritten computer software includes the sale of or charge made for a key or an enabling or activation code, where the key or code is required to activate prewritten computer software and put the software into use. There is no separate sale of the key or code from the prewritten computer software, regardless of how the sale may be characterized by the vendor or by the purchaser.

((The term "retail sale" does not include the sale of or charge made for:

(i) Custom software; or

(ii) The customization of prewritten computer software.))

(b) The term also includes the charge made to consumers for the right to access and use prewritten computer software, where possession of the software is maintained by the seller or a third party, regardless of whether the charge for the service is on a per use, per user, per license, subscription, or some other basis.

(7)(a) The term also includes the sale of or charge made for custom software and the customization of prewritten computer software to a consumer, regardless of the method of delivery to the consumer.

(b) The term also includes the charge made to consumers for the right to access and use custom software and customized prewritten computer software, where possession of the software is maintained by the seller or a third party.

(8) The term also includes the sale of or charge made for an extended warranty to a consumer. For purposes of this subsection, "extended warranty" means an agreement for a specified duration to perform the replacement or repair of tangible personal property at no additional charge or a reduced charge for tangible personal property, labor, or both, or to provide indemnification for the replacement or repair of tangible personal property, based on the occurrence of specified events. The term "extended warranty" does not include an agreement, otherwise meeting the definition of extended warranty in this subsection, if no separate charge is made for the agreement and the value of the agreement is included in the sales price of the tangible personal property covered by the agreement. For purposes of this subsection, "sales price" has the same meaning as in RCW 82.08.010.

~~((8))~~ (9)(a) The term also includes the following sales to consumers of digital goods, digital codes, and digital automated services:

(i) Sales in which the seller has granted the purchaser the right of permanent use;

(ii) Sales in which the seller has granted the purchaser a right of use that is less than permanent;

(iii) Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and

(iv) Sales in which the purchaser is obligated to make continued payment as a condition of the sale.

(b) A retail sale of digital goods, digital codes, or digital automated services under this subsection ~~((8))~~ (9) includes any services provided by the seller exclusively in connection with the digital goods, digital codes, or digital automated services, whether or not a separate charge is made for such services.

(c) For purposes of this subsection, "permanent" means perpetual or for an indefinite or unspecified length of time. A right of permanent use is presumed to have been granted unless the agreement between the seller and the purchaser specifies or the circumstances surrounding the transaction suggest or indicate that the right to use terminates on the occurrence of a condition subsequent.

~~((9))~~ (10) The term does not include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind.

~~((10))~~ (11) The term also does not include sales of chemical sprays or washes to persons for the purpose of postharvest treatment of fruit for the prevention of scald, fungus, mold, or decay, nor does

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it include sales of feed, seed, seedlings, fertilizer, agents for enhanced pollination including insects such as bees, and spray materials to: (a) Persons who participate in the federal conservation reserve program, the environmental quality incentives program, the wetlands reserve program, and the wildlife habitat incentives program, or their successors administered by the United States department of agriculture; (b) farmers for the purpose of producing for sale any agricultural product; and (c) farmers acting under cooperative habitat development or access contracts with an organization exempt from federal income tax under ~~((Title))~~ 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code or the Washington state department of fish and wildlife to produce or improve wildlife habitat on land that the farmer owns or leases.

~~((H))~~ (12) The term does not include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing, or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation. Nor does the term include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority. Nor does the term include the sale of services or charges made for cleaning up for the United States, or its instrumentalities, radioactive waste and other by-products of weapons production and nuclear research and development.

~~((H))~~ (13) The term does not include the sale of or charge made for labor, services, or tangible personal property pursuant to agreements providing maintenance services for bus, rail, or rail fixed guideway equipment when a regional transit authority is the recipient of the labor, services, or tangible personal property, and a transit agency, as defined in RCW 81.104.015, performs the labor or services.

**Sec. 1203.** RCW 82.04.050 and 2010 c . . . (SHB 2758) s 14 are each amended to read as follows:

(1) "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than a sale to a person who:

(a) Purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person, but a purchase for the purpose of resale by a regional transit authority under RCW 81.112.300 is not a sale for resale; or

(b) Installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person; or

(c) Purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale; or

(d) Purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such

property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

(e) Purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065. The term includes every sale of tangible personal property which is used or consumed or to be used or consumed in the performance of any activity classified as a "sale at retail" or "retail sale" even though such property is resold or utilized as provided in (a), (b), (c), (d), or (e) of this subsection following such use. The term also means every sale of tangible personal property to persons engaged in any business which is taxable under RCW 82.04.280 (2) and (7), 82.04.290, and 82.04.2908; or

(f) Purchases for the purpose of satisfying the person's obligations under an extended warranty as defined in subsection (7) of this section, if such tangible personal property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person.

(2) The term "sale at retail" or "retail sale" includes the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following:

(a) The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding charges made for the use of self-service laundry facilities, and also excluding sales of laundry service to nonprofit health care facilities, and excluding services rendered in respect to live animals, birds and insects;

(b) The constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and also includes the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture;

(c) The constructing, repairing, or improving of any structure upon, above, or under any real property owned by an owner who conveys the property by title, possession, or any other means to the person performing such construction, repair, or improvement for the purpose of performing such construction, repair, or improvement and the property is then reconveyed by title, possession, or any other means to the original owner;

(d) The cleaning, fumigating, razing, or moving of existing buildings or structures, but does not include the charge made for janitorial services; and for purposes of this section the term "janitorial services" means those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting;

(e) Automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW;

(f) The furnishing of lodging and all other services by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it is presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same. For the purposes of this subsection, it is presumed that the sale of and charge made for the furnishing of lodging for a continuous period of one month or more

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to a person is a rental or lease of real property and not a mere license to enjoy the same;

(g) The installing, repairing, altering, or improving of digital goods for consumers;

(h) Persons taxable under (a), ~~((b), (c), (d), (e), (f), and))~~ through (g) of this subsection when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption. Nothing contained in this subsection may be construed to modify subsection (1) of this section and nothing contained in subsection (1) of this section may be construed to modify this subsection.

(3) The term "sale at retail" or "retail sale" includes the sale of or charge made for personal, business, or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities:

(a) Amusement and recreation services including but not limited to golf, pool, billiards, skating, bowling, ski lifts and tows, day trips for sightseeing purposes, and others, when provided to consumers;

(b) Abstract, title insurance, and escrow services;

(c) Credit bureau services;

(d) Automobile parking and storage garage services;

(e) Landscape maintenance and horticultural services but excluding (i) horticultural services provided to farmers and (ii) pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or distribution lines or equipment, if performed by or at the direction of an electric utility;

(f) Service charges associated with tickets to professional sporting events; and

(g) The following personal services: Physical fitness services, tanning salon services, tattoo parlor services, steam bath services, turkish bath services, escort services, and dating services.

(4)(a) The term also includes:

(i) The renting or leasing of tangible personal property to consumers; and

(ii) Providing tangible personal property along with an operator for a fixed or indeterminate period of time. A consideration of this is that the operator is necessary for the tangible personal property to perform as designed. For the purpose of this subsection (4)(a)(ii), an operator must do more than maintain, inspect, or set up the tangible personal property.

(b) The term does not include the renting or leasing of tangible personal property where the lease or rental is for the purpose of sublease or subrent.

(5) The term also includes the providing of "competitive telephone service," "telecommunications service," or "ancillary services," as those terms are defined in RCW 82.04.065, to consumers.

(6)(a) The term also includes the sale of prewritten computer software to a consumer, regardless of the method of delivery to the end user. For purposes of this subsection (6)(a), the sale of prewritten computer software includes the sale of or charge made for a key or an enabling or activation code, where the key or code is required to activate prewritten computer software and put the software into use. There is no separate sale of the key or code from the prewritten computer software, regardless of how the sale may be characterized by the vendor or by the purchaser.

((The term "retail sale" does not include the sale of or charge made for:

(i) Custom software; or

(ii) The customization of prewritten computer software.))

(b) The term also includes the charge made to consumers for the right to access and use prewritten computer software, where

possession of the software is maintained by the seller or a third party, regardless of whether the charge for the service is on a per use, per user, per license, subscription, or some other basis.

(7)(a) The term also includes the sale of or charge made for custom software and the customization of prewritten computer software to a consumer, regardless of the method of delivery to the consumer.

(b) The term also includes the charge made to consumers for the right to access and use custom software and customized prewritten computer software, where possession of the software is maintained by the seller or a third party.

(8) The term also includes the sale of or charge made for an extended warranty to a consumer. For purposes of this subsection, "extended warranty" means an agreement for a specified duration to perform the replacement or repair of tangible personal property at no additional charge or a reduced charge for tangible personal property, labor, or both, or to provide indemnification for the replacement or repair of tangible personal property, based on the occurrence of specified events. The term "extended warranty" does not include an agreement, otherwise meeting the definition of extended warranty in this subsection, if no separate charge is made for the agreement and the value of the agreement is included in the sales price of the tangible personal property covered by the agreement. For purposes of this subsection, "sales price" has the same meaning as in RCW 82.08.010.

~~((8))~~ (9)(a) The term also includes the following sales to consumers of digital goods, digital codes, and digital automated services:

(i) Sales in which the seller has granted the purchaser the right of permanent use;

(ii) Sales in which the seller has granted the purchaser a right of use that is less than permanent;

(iii) Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and

(iv) Sales in which the purchaser is obligated to make continued payment as a condition of the sale.

(b) A retail sale of digital goods, digital codes, or digital automated services under this subsection ~~((8))~~ (9) includes any services provided by the seller exclusively in connection with the digital goods, digital codes, or digital automated services, whether or not a separate charge is made for such services.

(c) For purposes of this subsection, "permanent" means perpetual or for an indefinite or unspecified length of time. A right of permanent use is presumed to have been granted unless the agreement between the seller and the purchaser specifies or the circumstances surrounding the transaction suggest or indicate that the right to use terminates on the occurrence of a condition subsequent.

~~((9))~~ (10) The term does not include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind.

~~((10))~~ (11) The term also does not include sales of chemical sprays or washes to persons for the purpose of postharvest treatment of fruit for the prevention of scald, fungus, mold, or decay, nor does it include sales of feed, seed, seedlings, fertilizer, agents for enhanced pollination including insects such as bees, and spray materials to: (a) Persons who participate in the federal conservation reserve program, the environmental quality incentives program, the wetlands reserve program, and the wildlife habitat incentives program, or their successors administered by the United

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States department of agriculture; (b) farmers for the purpose of producing for sale any agricultural product; and (c) farmers acting under cooperative habitat development or access contracts with an organization exempt from federal income tax under ~~((Title))~~ 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code or the Washington state department of fish and wildlife to produce or improve wildlife habitat on land that the farmer owns or leases.

~~((11))~~ (12) The term does not include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing, or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation. Nor does the term include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority. Nor does the term include the sale of services or charges made for cleaning up for the United States, or its instrumentalities, radioactive waste and other byproducts of weapons production and nuclear research and development.

~~((12))~~ (13) The term does not include the sale of or charge made for labor, services, or tangible personal property pursuant to agreements providing maintenance services for bus, rail, or rail fixed guideway equipment when a regional transit authority is the recipient of the labor, services, or tangible personal property, and a transit agency, as defined in RCW 81.104.015, performs the labor or services.

**Sec. 1204.** RCW 82.04.050 and 2010 c . . . (SHB 2620) s 201 and 2010 c . . . (E2SHB 1597) s 202 are each reenacted and amended to read as follows:

(1)(a) "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than a sale to a person who:

(i) Purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person, but a purchase for the purpose of resale by a regional transit authority under RCW 81.112.300 is not a sale for resale; or

(ii) Installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person; or

(iii) Purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale; or

(iv) Purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

(v) Purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065; or

(vi) Purchases for the purpose of satisfying the person's obligations under an extended warranty as defined in subsection (7) of this section, if such tangible personal property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person.

(b) The term includes every sale of tangible personal property that is used or consumed or to be used or consumed in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property is resold or used as provided in (a)(i) through (vi) of this subsection following such use.

(c) The term also means every sale of tangible personal property to persons engaged in any business that is taxable under RCW 82.04.280 (1), (2), and (7), 82.04.290, and 82.04.2908.

(2) The term "sale at retail" or "retail sale" includes the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following:

(a) The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding charges made for the use of self-service laundry facilities, and also excluding sales of laundry service to nonprofit health care facilities, and excluding services rendered in respect to live animals, birds and insects;

(b) The constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and shall also include the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture;

(c) The constructing, repairing, or improving of any structure upon, above, or under any real property owned by an owner who conveys the property by title, possession, or any other means to the person performing such construction, repair, or improvement for the purpose of performing such construction, repair, or improvement and the property is then reconveyed by title, possession, or any other means to the original owner;

(d) The cleaning, fumigating, razing, or moving of existing buildings or structures, but does not include the charge made for janitorial services; and for purposes of this section the term "janitorial services" means those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting;

(e) Automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW;

(f) The furnishing of lodging and all other services by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it is presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same. For the purposes of this subsection, it is presumed that the sale of and charge made for the furnishing of lodging for a continuous period of one month or more to a person is a rental or lease of real property and not a mere license to enjoy the same;

(g) The installing, repairing, altering, or improving of digital goods for consumers;

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(h) Persons taxable under ~~(a)(- (b), (c), (d), (e), (f), and)~~ through (g) of this subsection when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption. Nothing contained in this subsection may be construed to modify subsection (1) of this section and nothing contained in subsection (1) of this section may be construed to modify this subsection.

(3) The term "sale at retail" or "retail sale" includes the sale of or charge made for personal, business, or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities:

(a) Amusement and recreation services including but not limited to golf, pool, billiards, skating, bowling, ski lifts and tows, day trips for sightseeing purposes, and others, when provided to consumers;

(b) Abstract, title insurance, and escrow services;

(c) Credit bureau services;

(d) Automobile parking and storage garage services;

(e) Landscape maintenance and horticultural services but excluding (i) horticultural services provided to farmers and (ii) pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or distribution lines or equipment, if performed by or at the direction of an electric utility;

(f) Service charges associated with tickets to professional sporting events; and

(g) The following personal services: Physical fitness services, tanning salon services, tattoo parlor services, steam bath services, turkish bath services, escort services, and dating services.

(4)(a) The term also includes the renting or leasing of tangible personal property to consumers.

(b) The term does not include the renting or leasing of tangible personal property where the lease or rental is for the purpose of sublease or subrent.

(5) The term also includes the providing of "competitive telephone service," "telecommunications service," or "ancillary services," as those terms are defined in RCW 82.04.065, to consumers.

(6)(a) The term also includes the sale of prewritten computer software to a consumer, regardless of the method of delivery to the end user. For purposes of this subsection (6)(a), the sale of prewritten computer software includes the sale of or charge made for a key or an enabling or activation code, where the key or code is required to activate prewritten computer software and put the software into use. There is no separate sale of the key or code from the prewritten computer software, regardless of how the sale may be characterized by the vendor or by the purchaser.

((The term "retail sale" does not include the sale of or charge made for:

(i) Custom software; or

(ii) The customization of prewritten computer software.))

(b)(i) The term also includes the charge made to consumers for the right to access and use prewritten computer software, where possession of the software is maintained by the seller or a third party, regardless of whether the charge for the service is on a per use, per user, per license, subscription, or some other basis.

(ii)(A) The service described in (b)(i) of this subsection (6) includes the right to access and use prewritten computer software to perform data processing.

(B) For purposes of this subsection (6)(b)(ii), "data processing" means the systematic performance of operations on data to extract the required information in an appropriate form or to convert the data to usable information. Data processing includes check

processing, image processing, form processing, survey processing, payroll processing, claim processing, and similar activities.

(7)(a) The term also includes the sale of or charge made for custom software and the customization of prewritten computer software to a consumer, regardless of the method of delivery to the consumer.

(b) The term also includes the charge made to consumers for the right to access and use custom software and customized prewritten computer software, where possession of the software is maintained by the seller or a third party.

(8) The term also includes the sale of or charge made for an extended warranty to a consumer. For purposes of this subsection, "extended warranty" means an agreement for a specified duration to perform the replacement or repair of tangible personal property at no additional charge or a reduced charge for tangible personal property, labor, or both, or to provide indemnification for the replacement or repair of tangible personal property, based on the occurrence of specified events. The term "extended warranty" does not include an agreement, otherwise meeting the definition of extended warranty in this subsection, if no separate charge is made for the agreement and the value of the agreement is included in the sales price of the tangible personal property covered by the agreement. For purposes of this subsection, "sales price" has the same meaning as in RCW 82.08.010.

((~~(8)~~)) (9)(a) The term also includes the following sales to consumers of digital goods, digital codes, and digital automated services:

(i) Sales in which the seller has granted the purchaser the right of permanent use;

(ii) Sales in which the seller has granted the purchaser a right of use that is less than permanent;

(iii) Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and

(iv) Sales in which the purchaser is obligated to make continued payment as a condition of the sale.

(b) A retail sale of digital goods, digital codes, or digital automated services under this subsection ((~~(8)~~)) (9) includes any services provided by the seller exclusively in connection with the digital goods, digital codes, or digital automated services, whether or not a separate charge is made for such services.

(c) For purposes of this subsection, "permanent" means perpetual or for an indefinite or unspecified length of time. A right of permanent use is presumed to have been granted unless the agreement between the seller and the purchaser specifies or the circumstances surrounding the transaction suggest or indicate that the right to use terminates on the occurrence of a condition subsequent.

((~~(9)~~)) (10) The term also includes the charge made for providing tangible personal property along with an operator for a fixed or indeterminate period of time. A consideration of this is that the operator is necessary for the tangible personal property to perform as designed. For the purpose of this subsection ((~~(9)~~)) (10), an operator must do more than maintain, inspect, or set up the tangible personal property.

(11) The term does not include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind.

((~~(10)~~)) (12) The term also does not include sales of chemical sprays or washes to persons for the purpose of postharvest treatment of fruit for the prevention of scald, fungus, mold, or decay, nor does

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it include sales of feed, seed, seedlings, fertilizer, agents for enhanced pollination including insects such as bees, and spray materials to: (a) Persons who participate in the federal conservation reserve program, the environmental quality incentives program, the wetlands reserve program, and the wildlife habitat incentives program, or their successors administered by the United States department of agriculture; (b) farmers for the purpose of producing for sale any agricultural product; and (c) farmers acting under cooperative habitat development or access contracts with an organization exempt from federal income tax under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code or the Washington state department of fish and wildlife to produce or improve wildlife habitat on land that the farmer owns or leases.

~~((42))~~ (13) The term does not include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing, or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation. Nor does the term include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority. Nor does the term include the sale of services or charges made for cleaning up for the United States, or its instrumentalities, radioactive waste and other by-products of weapons production and nuclear research and development.

~~((42))~~ (14) The term does not include the sale of or charge made for labor, services, or tangible personal property pursuant to agreements providing maintenance services for bus, rail, or rail fixed guideway equipment when a regional transit authority is the recipient of the labor, services, or tangible personal property, and a transit agency, as defined in RCW 81.104.015, performs the labor or services.

(15) The term does not include the sale for resale of any service described in this section if the sale would otherwise constitute a "sale at retail" and "retail sale" under this section.

**Sec. 1205.** RCW 82.04.060 and 2009 c 535 s 403 are each amended to read as follows:

"Sale at wholesale" or "wholesale sale" means:

(1) Any sale, which is not a sale at retail, of:

(a) Tangible personal property;

(b) Services defined as a retail sale in RCW 82.04.050(2) (a) or (g);

(c) Amusement or recreation services as defined in RCW 82.04.050(3)(a);

(d) Prewritten computer software;

(e) Services described in RCW 82.04.050 (6)(b) or (7);

(f) Extended warranties as defined in RCW 82.04.050(7);

(g) Competitive telephone service, ancillary services, or telecommunications service as those terms are defined in RCW 82.04.065; or

(h) Digital goods, digital codes, or digital automated services; and

(2) Any charge made for labor and services rendered for persons who are not consumers, in respect to real or personal property, if such charge is expressly defined as a retail sale by RCW 82.04.050 when rendered to or for consumers. For the purposes of this subsection (2), "real or personal property" does not include any natural products named in RCW 82.04.100.

**Sec. 1206.** RCW 82.04.060 and 2010 c . . . (E2SHB 1597) s 203 are each amended to read as follows:

"Sale at wholesale" or "wholesale sale" means:

(1) Any sale, which is not a sale at retail, of:

(a) Tangible personal property;

(b) Services defined as a retail sale in RCW 82.04.050(2) (a) or (g);

(c) Amusement or recreation services as defined in RCW 82.04.050(3)(a);

(d) Prewritten computer software;

(e) Services described in RCW 82.04.050 (6)(b) or (7);

(f) Extended warranties as defined in RCW 82.04.050(7);

(g) Competitive telephone service, ancillary services, or telecommunications service as those terms are defined in RCW 82.04.065; or

(h) Digital goods, digital codes, or digital automated services;

(2) Any charge made for labor and services rendered for persons who are not consumers, in respect to real or personal property, if such charge is expressly defined as a retail sale by RCW 82.04.050 when rendered to or for consumers. For the purposes of this subsection (2), "real or personal property" does not include any natural products named in RCW 82.04.100; and

(3) The sale of any service for resale, if the sale is excluded from the definition of "sale at retail" and "retail sale" in RCW 82.04.050(14).

**Sec. 1207.** RCW 82.04.190 and 2009 c 535 s 302 are each amended to read as follows:

"Consumer" means the following:

(1) Any person who purchases, acquires, owns, holds, or uses any article of tangible personal property irrespective of the nature of the person's business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than for the purpose (a) of resale as tangible personal property in the regular course of business or (b) of incorporating such property as an ingredient or component of real or personal property when installing, repairing, cleaning, altering, imprinting, improving, constructing, or decorating such real or personal property of or for consumers or (c) of consuming such property in producing for sale a new article of tangible personal property or a new substance, of which such property becomes an ingredient or component or as a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale or (d) of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon or (e) of satisfying the person's obligations under an extended warranty as defined in RCW 82.04.050(7), if such tangible personal property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person;

(2)(a) Any person engaged in any business activity taxable under RCW 82.04.290 or 82.04.2908; (b) any person who purchases, acquires, or uses any competitive telephone service, ancillary services, or telecommunications service as those terms are defined in RCW 82.04.065, other than for resale in the regular course of business; (c) any person who purchases, acquires, or uses any service defined in RCW 82.04.050(2) (a) or (g), other than for resale in the regular course of business or for the purpose of satisfying the person's obligations under an extended warranty as defined in RCW 82.04.050(7); (d) any person who purchases, acquires, or uses any amusement and recreation service defined in RCW 82.04.050(3)(a), other than for resale in the regular course of business; (e) any person who purchases or acquires an extended warranty as defined in RCW 82.04.050(7) other than for resale in the regular course of business; and (f) any person who is an end user

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of software. For purposes of this subsection (2)(f) and RCW 82.04.050(6), a person who purchases or otherwise acquires prewritten computer software, who provides services described in RCW 82.04.050(6)(b) and who will charge consumers for the right to access and use the prewritten computer software, is not an end user of the prewritten computer software;

(3) Any person engaged in the business of contracting for the building, repairing or improving of any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state of Washington or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind as defined in RCW 82.04.280, in respect to tangible personal property when such person incorporates such property as an ingredient or component of such publicly owned street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle by installing, placing or spreading the property in or upon the right-of-way of such street, place, road, highway, easement, bridge, tunnel, or trestle or in or upon the site of such mass public transportation terminal or parking facility;

(4) Any person who is an owner, lessee or has the right of possession to or an easement in real property which is being constructed, repaired, decorated, improved, or otherwise altered by a person engaged in business, excluding only (a) municipal corporations or political subdivisions of the state in respect to labor and services rendered to their real property which is used or held for public road purposes, and (b) the United States, instrumentalities thereof, and county and city housing authorities created pursuant to chapter 35.82 RCW in respect to labor and services rendered to their real property. Nothing contained in this or any other subsection of this definition shall be construed to modify any other definition of "consumer";

(5) Any person who is an owner, lessee, or has the right of possession to personal property which is being constructed, repaired, improved, cleaned, imprinted, or otherwise altered by a person engaged in business;

(6) Any person engaged in the business of constructing, repairing, decorating, or improving new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation; also, any person engaged in the business of clearing land and moving earth of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW. Any such person (~~shall be~~) is a consumer within the meaning of this subsection in respect to tangible personal property incorporated into, installed in, or attached to such building or other structure by such person, except that consumer does not include any person engaged in the business of constructing, repairing, decorating, or improving new or existing buildings or other structures under, upon, or above real property of or for the United States, or any instrumentality thereof, if the investment project would qualify for sales and use tax deferral under chapter 82.63 RCW if undertaken by a private entity;

(7) Any person who is a lessor of machinery and equipment, the rental of which is exempt from the tax imposed by RCW 82.08.020 under RCW 82.08.02565, with respect to the sale of or charge made for tangible personal property consumed in respect to repairing the machinery and equipment, if the tangible personal property has a useful life of less than one year. Nothing contained in this or any

other subsection of this section (~~shall~~) may be construed to modify any other definition of "consumer";

(8) Any person engaged in the business of cleaning up for the United States, or its instrumentalities, radioactive waste and other by-products of weapons production and nuclear research and development;

(9) Any person who is an owner, lessee, or has the right of possession of tangible personal property that, under the terms of an extended warranty as defined in RCW 82.04.050(7), has been repaired or is replacement property, but only with respect to the sale of or charge made for the repairing of the tangible personal property or the replacement property;

(10) Any person who purchases, acquires, or uses services described in RCW 82.04.050 (6)(b) or (7) other than for resale in the regular course of business; and

(11)(a) Any end user of a digital product or digital code.

(b)(i) For purposes of this subsection, "end user" means any taxpayer as defined in RCW 82.12.010 other than a taxpayer who receives by contract a digital product for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution or exhibition of the product, in whole or in part, to others. A person that purchases digital products or digital codes for the purpose of giving away such products or codes will not be considered to have engaged in the distribution or redistribution of such products or codes and will be treated as an end user;

(ii) If a purchaser of a digital code does not receive the contractual right to further redistribute, after the digital code is redeemed, the underlying digital product to which the digital code relates, then the purchaser of the digital code is an end user. If the purchaser of the digital code receives the contractual right to further redistribute, after the digital code is redeemed, the underlying digital product to which the digital code relates, then the purchaser of the digital code is not an end user. A purchaser of a digital code who has the contractual right to further redistribute the digital code is an end user if that purchaser does not have the right to further redistribute, after the digital code is redeemed, the underlying digital product to which the digital code relates.

**Sec. 1208.** RCW 82.04.190 and 2010 c . . . (E2SHB 1597) s 204 are each amended to read as follows:

"Consumer" means the following:

(1) Any person who purchases, acquires, owns, holds, or uses any article of tangible personal property irrespective of the nature of the person's business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than for the purpose of:

(a) Resale as tangible personal property in the regular course of business;

(b) Incorporating such property as an ingredient or component of real or personal property when installing, repairing, cleaning, altering, imprinting, improving, constructing, or decorating such real or personal property of or for consumers;

(c) Consuming such property in producing for sale as a new article of tangible personal property or a new substance, of which such property becomes an ingredient or component or as a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale;

(d) Consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

(e) Satisfying the person's obligations under an extended warranty as defined in RCW 82.04.050(7), if such tangible personal

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property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person;

(2)(a) Any person engaged in any business activity taxable under RCW 82.04.290 or 82.04.2908; (b) any person who purchases, acquires, or uses any competitive telephone service, ancillary services, or telecommunications service as those terms are defined in RCW 82.04.065, other than for resale in the regular course of business; (c) any person who purchases, acquires, or uses any service defined in RCW 82.04.050(2) (a) or (g), other than for resale in the regular course of business or for the purpose of satisfying the person's obligations under an extended warranty as defined in RCW 82.04.050(7); (d) any person who purchases, acquires, or uses any amusement and recreation service defined in RCW 82.04.050(3)(a), other than for resale in the regular course of business; (e) any person who purchases or acquires an extended warranty as defined in RCW 82.04.050(7) other than for resale in the regular course of business; and (f) any person who is an end user of software. For purposes of this subsection (2)(f) and RCW 82.04.050(6), a person who purchases or otherwise acquires prewritten computer software, who provides services described in RCW 82.04.050(6)(b) and who will charge consumers for the right to access and use the prewritten computer software, is not an end user of the prewritten computer software;

(3) Any person engaged in the business of contracting for the building, repairing or improving of any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state of Washington or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind as defined in RCW 82.04.280, in respect to tangible personal property when such person incorporates such property as an ingredient or component of such publicly owned street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle by installing, placing or spreading the property in or upon the right-of-way of such street, place, road, highway, easement, bridge, tunnel, or trestle or in or upon the site of such mass public transportation terminal or parking facility;

(4) Any person who is an owner, lessee or has the right of possession to or an easement in real property which is being constructed, repaired, decorated, improved, or otherwise altered by a person engaged in business, excluding only (a) municipal corporations or political subdivisions of the state in respect to labor and services rendered to their real property which is used or held for public road purposes, and (b) the United States, instrumentalities thereof, and county and city housing authorities created pursuant to chapter 35.82 RCW in respect to labor and services rendered to their real property. Nothing contained in this or any other subsection of this definition shall be construed to modify any other definition of "consumer";

(5) Any person who is an owner, lessee, or has the right of possession to personal property which is being constructed, repaired, improved, cleaned, imprinted, or otherwise altered by a person engaged in business;

(6) Any person engaged in the business of constructing, repairing, decorating, or improving new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation; also, any person engaged in the business of clearing land and moving earth of or for the United

States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW. Any such person is a consumer within the meaning of this subsection in respect to tangible personal property incorporated into, installed in, or attached to such building or other structure by such person, except that consumer does not include any person engaged in the business of constructing, repairing, decorating, or improving new or existing buildings or other structures under, upon, or above real property of or for the United States, or any instrumentality thereof, if the investment project would qualify for sales and use tax deferral under chapter 82.63 RCW if undertaken by a private entity;

(7) Any person who is a lessor of machinery and equipment, the rental of which is exempt from the tax imposed by RCW 82.08.020 under RCW 82.08.02565, with respect to the sale of or charge made for tangible personal property consumed in respect to repairing the machinery and equipment, if the tangible personal property has a useful life of less than one year. Nothing contained in this or any other subsection of this section may be construed to modify any other definition of "consumer";

(8) Any person engaged in the business of cleaning up for the United States, or its instrumentalities, radioactive waste and other by-products of weapons production and nuclear research and development;

(9) Any person who is an owner, lessee, or has the right of possession of tangible personal property that, under the terms of an extended warranty as defined in RCW 82.04.050(7), has been repaired or is replacement property, but only with respect to the sale of or charge made for the repairing of the tangible personal property or the replacement property;

(10) Any person who purchases, acquires, or uses services described in RCW 82.04.050 (6)(b) or (7) other than for resale in the regular course of business;

(11)(a) Any end user of a digital product or digital code.

(b)(i) For purposes of this subsection, "end user" means any taxpayer as defined in RCW 82.12.010 other than a taxpayer who receives by contract a digital product for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution or exhibition of the product, in whole or in part, to others. A person that purchases digital products or digital codes for the purpose of giving away such products or codes will not be considered to have engaged in the distribution or redistribution of such products or codes and will be treated as an end user;

(ii) If a purchaser of a digital code does not receive the contractual right to further redistribute, after the digital code is redeemed, the underlying digital product to which the digital code relates, then the purchaser of the digital code is an end user. If the purchaser of the digital code receives the contractual right to further redistribute, after the digital code is redeemed, the underlying digital product to which the digital code relates, then the purchaser of the digital code is not an end user. A purchaser of a digital code who has the contractual right to further redistribute the digital code is an end user if that purchaser does not have the right to further redistribute, after the digital code is redeemed, the underlying digital product to which the digital code relates; and

(12) Any person who provides services described in RCW 82.04.050(9). Any such person is a consumer with respect to the purchase, acquisition, or use of the tangible personal property that the person provides along with an operator in rendering services defined as a retail sale in RCW 82.04.050(9). Any such person may also be a consumer under other provisions of this section.

**Sec. 1209.** RCW 82.04.215 and 2003 c 168 s 601 are each amended to read as follows:

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(1) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.

(2) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task. All software is classified as either prewritten or custom. Consistent with this definition "computer software" includes only those sets of coded instructions intended for use by an end user and specifically excludes retained rights in software and master copies of software.

(3) "Custom software" means computer software created for a single person.

(4) "Customization of prewritten computer software" means any alteration, modification, or development of applications using or incorporating prewritten computer software for a specific person. "Customization of prewritten computer software" includes individualized configuration of software to work with other software and computer hardware but does not include routine installation. Customization of prewritten computer software does not change the underlying character or taxability of the original prewritten computer software.

(5) "Master copies" of software means copies of software from which a software developer, author, inventor, publisher, licensor, sublicensor, or distributor makes copies for sale or license.

(6) "Prewritten computer software" means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. Prewritten computer software includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than such purchaser. Where a person modifies or enhances computer software of which such persons is not the author or creator, the person (~~shall be~~) is deemed to be the author or creator only of the person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; however where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for the modification or enhancement, the modification or enhancement (~~shall~~) does not constitute prewritten computer software.

(7) "Retained rights" means any and all rights, including intellectual property rights such as those rights arising from copyrights, patents, and trade secret laws, that are owned or are held under contract or license by a software developer, author, inventor, publisher, licensor, sublicensor, or distributor.

**NEW SECTION. Sec. 1210.** RCW 82.04.29001 (Creation and distribution of custom software--Customization of prewritten computer software--Taxable services) and 2003 c 168 s 602 & 1998 c 332 s 4 are each repealed.

**Sec. 1211.** RCW 82.08.02088 and 2009 c 535 s 701 are each amended to read as follows:

(1) The tax imposed by RCW 82.08.020 does not apply to the sale of digital goods, digital codes, digital automated services, prewritten computer software, or services defined as a retail sale in RCW 82.04.050 (6)(b) or (7) to a buyer that provides the seller with an exemption certificate claiming multiple points of use. An exemption certificate claiming multiple points of use must be in a form and contain such information as required by the department.

(2) A buyer is entitled to use an exemption certificate claiming multiple points of use only if the buyer is a business or other

organization and the digital goods or digital automated services purchased, or the digital goods or digital automated services to be obtained by the digital code purchased, or the prewritten computer software or services defined as a retail sale in RCW 82.04.050 (6)(b) or (7) purchased will be concurrently available for use within and outside this state. A buyer is not entitled to use an exemption certificate claiming multiple points of use for digital goods, digital codes, digital automated services, prewritten computer software, or services defined as a retail sale in RCW 82.04.050(6)(b) purchased for personal use.

(3) A buyer claiming an exemption under this section must report and pay the tax imposed in RCW 82.12.020 and any local use taxes imposed under the authority of chapter 82.14 RCW and RCW 81.104.170 directly to the department in accordance with RCW 82.12.02088 and 82.14.457.

(4) For purposes of this section, "concurrently available for use within and outside this state" means that employees or other agents of the buyer may use the digital goods, digital automated services, prewritten computer software, or services defined as a retail sale in RCW 82.04.050 (6)(b) or (7) simultaneously from one or more locations within this state and one or more locations outside this state. A digital code is concurrently available for use within and outside this state if employees or other agents of the buyer may use the digital goods or digital automated services to be obtained by the code simultaneously at one or more locations within this state and one or more locations outside this state.

**Sec. 1212.** RCW 82.12.010 and 2009 c 535 s 304 are each amended to read as follows:

For the purposes of this chapter:

(1) "Purchase price" means the same as sales price as defined in RCW 82.08.010;

(2)(a) "Value of the article used" (~~shall be~~) is the purchase price for the article of tangible personal property, the use of which is taxable under this chapter. The term also includes, in addition to the purchase price, the amount of any tariff or duty paid with respect to the importation of the article used. In case the article used is acquired by lease or by gift or is extracted, produced, or manufactured by the person using the same or is sold under conditions wherein the purchase price does not represent the true value thereof, the value of the article used (~~shall~~) must be determined as nearly as possible according to the retail selling price at place of use of similar products of like quality and character under such rules as the department may prescribe.

(b) In case the articles used are acquired by bailment, the value of the use of the articles so used (~~shall~~) must be in an amount representing a reasonable rental for the use of the articles so bailed, determined as nearly as possible according to the value of such use at the places of use of similar products of like quality and character under such rules as the department of revenue may prescribe. In case any such articles of tangible personal property are used in respect to the construction, repairing, decorating, or improving of, and which become or are to become an ingredient or component of, new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing or attaching of any such articles therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, then the value of the use of such articles so used (~~shall~~) must be determined according to the retail selling price of such articles, or in the absence of such a selling price, as nearly as possible according to the retail selling price at place of use of similar products of like quality and character or, in the absence of either of these selling price measures, such value may be determined upon a cost basis, in any event under such rules as the department of revenue may prescribe.

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(c) In the case of articles owned by a user engaged in business outside the state which are brought into the state for no more than one hundred eighty days in any period of three hundred sixty-five consecutive days and which are temporarily used for business purposes by the person in this state, the value of the article used ~~((shall))~~ must be an amount representing a reasonable rental for the use of the articles, unless the person has paid tax under this chapter or chapter 82.08 RCW upon the full value of the article used, as defined in (a) of this subsection.

(d) In the case of articles manufactured or produced by the user and used in the manufacture or production of products sold or to be sold to the department of defense of the United States, the value of the articles used ~~((shall))~~ must be determined according to the value of the ingredients of such articles.

(e) In the case of an article manufactured or produced for purposes of serving as a prototype for the development of a new or improved product, the value of the article used ~~((shall))~~ must be determined by: (i) The retail selling price of such new or improved product when first offered for sale; or (ii) the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale.

(f) In the case of an article purchased with a direct pay permit under RCW 82.32.087, the value of the article used ~~((shall be))~~ is determined by the purchase price of such article if, but for the use of the direct pay permit, the transaction would have been subject to sales tax;

(3) "Value of the service used" means the purchase price for the digital automated service or other service, the use of which is taxable under this chapter. If the service is received by gift or under conditions wherein the purchase price does not represent the true value thereof, the value of the service used ~~((shall))~~ must be determined as nearly as possible according to the retail selling price at place of use of similar services of like quality and character under rules the department may prescribe;

(4) "Value of the extended warranty used" means the purchase price for the extended warranty, the use of which is taxable under this chapter. If the extended warranty is received by gift or under conditions wherein the purchase price does not represent the true value of the extended warranty, the value of the extended warranty used ~~((shall))~~ must be determined as nearly as possible according to the retail selling price at place of use of similar extended warranties of like quality and character under rules the department may prescribe;

(5) "Value of the digital good or digital code used" means the purchase price for the digital good or digital code, the use of which is taxable under this chapter. If the digital good or digital code is acquired other than by purchase, the value of the digital good or digital code must be determined as nearly as possible according to the retail selling price at place of use of similar digital goods or digital codes of like quality and character under rules the department may prescribe;

(6) "Use," "used," "using," or "put to use" have their ordinary meaning, and mean:

(a) With respect to tangible personal property, the first act within this state by which the taxpayer takes or assumes dominion or control over the article of tangible personal property (as a consumer), and include installation, storage, withdrawal from storage, distribution, or any other act preparatory to subsequent actual use or consumption within this state;

(b) With respect to a service defined in RCW 82.04.050(2)(a), the first act within this state after the service has been performed by which the taxpayer takes or assumes dominion or control over the article of tangible personal property upon which the service was performed (as a consumer), and includes installation, storage, withdrawal from storage, distribution, or any other act preparatory

to subsequent actual use or consumption of the article within this state;

(c) With respect to an extended warranty, the first act within this state after the extended warranty has been acquired by which the taxpayer takes or assumes dominion or control over the article of tangible personal property to which the extended warranty applies, and includes installation, storage, withdrawal from storage, distribution, or any other act preparatory to subsequent actual use or consumption of the article within this state;

(d) With respect to a digital good or digital code, the first act within this state by which the taxpayer, as a consumer, views, accesses, downloads, possesses, stores, opens, manipulates, or otherwise uses or enjoys the digital good or digital code;

(e) With respect to a digital automated service, the first act within this state by which the taxpayer, as a consumer, uses, enjoys, or otherwise receives the benefit of the service;

(f) With respect to a service defined as a retail sale in RCW 82.04.050 (6)(b) or (7), the first act within this state by which the taxpayer, as a consumer, accesses the ~~((prewritten))~~ computer software; and

(g) With respect to a service defined as a retail sale in RCW 82.04.050(2)(g), the first act within this state after the service has been performed by which the taxpayer, as a consumer, views, accesses, downloads, possesses, stores, opens, manipulates, or otherwise uses or enjoys the digital good upon which the service was performed;

(7) "Taxpayer" and "purchaser" include all persons included within the meaning of the word "buyer" and the word "consumer" as defined in chapters 82.04 and 82.08 RCW;

(8)(a)(i) Except as provided in (a)(ii) of this subsection (8), "retailer" means every seller as defined in RCW 82.08.010 and every person engaged in the business of selling tangible personal property at retail and every person required to collect from purchasers the tax imposed under this chapter.

(ii) "Retailer" does not include a professional employer organization when a covered employee coemployed with the client under the terms of a professional employer agreement engages in activities that constitute a sale of tangible personal property, extended warranty, digital good, digital code, or a sale of any digital automated service or service defined as a retail sale in RCW 82.04.050 (2)(a) or (g), (3)(a), ~~((or))~~ (6)(b), or (7) that is subject to the tax imposed by this chapter. In such cases, the client, and not the professional employer organization, is deemed to be the retailer and is responsible for collecting and remitting the tax imposed by this chapter.

(b) For the purposes of (a) of this subsection, the terms "client," "covered employee," "professional employer agreement," and "professional employer organization" have the same meanings as in RCW 82.04.540;

(9) "Extended warranty" has the same meaning as in RCW 82.04.050(7);

(10) The meaning ascribed to words and phrases in chapters 82.04 and 82.08 RCW, insofar as applicable, ~~((shall have))~~ has full force and effect with respect to taxes imposed under the provisions of this chapter. "Consumer," in addition to the meaning ascribed to it in chapters 82.04 and 82.08 RCW insofar as applicable, ~~((shall))~~ also means any person who distributes or displays, or causes to be distributed or displayed, any article of tangible personal property, except newspapers, the primary purpose of which is to promote the sale of products or services. With respect to property distributed to persons within this state by a consumer as defined in this subsection (10), the use of the property ~~((shall be))~~ is deemed to be by such consumer.

**Sec. 1213.** RCW 82.12.020 and 2009 c 535 s 305 are each amended to read as follows:

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(1) There is ~~((hereby))~~ levied and ~~((there shall be))~~ collected from every person in this state a tax or excise for the privilege of using within this state as a consumer any:

(a) Article of tangible personal property purchased at retail, or acquired by lease, gift, repossession, or bailment, or extracted or produced or manufactured by the person so using the same, or otherwise furnished to a person engaged in any business taxable under RCW 82.04.280 (2) or (7), including tangible personal property acquired at a casual or isolated sale, and including by-products used by the manufacturer thereof, except as otherwise provided in this chapter, irrespective of whether the article or similar articles are manufactured or are available for purchase within this state;

(b) Prewritten computer software, regardless of the method of delivery, but excluding prewritten computer software that is either provided free of charge or is provided for temporary use in viewing information, or both;

(c) Services defined as a retail sale in RCW 82.04.050 (2)(a) or (g), (3)(a), ~~((or))~~ (6)(b), or (7), excluding services defined as a retail sale in RCW 82.04.050(6)(b) that are provided free of charge;

(d) Extended warranty; or

(e)(i) Digital good, digital code, or digital automated service, including the use of any services provided by a seller exclusively in connection with digital goods, digital codes, or digital automated services, whether or not a separate charge is made for such services.

(ii) With respect to the use of digital goods, digital automated services, and digital codes acquired by purchase, the tax imposed in this subsection (1)(e) applies in respect to:

(A) Sales in which the seller has granted the purchaser the right of permanent use;

(B) Sales in which the seller has granted the purchaser a right of use that is less than permanent;

(C) Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and

(D) Sales in which the purchaser is obligated to make continued payment as a condition of the sale.

(iii) With respect to digital goods, digital automated services, and digital codes acquired other than by purchase, the tax imposed in this subsection (1)(e) applies regardless of whether or not the consumer has a right of permanent use or is obligated to make continued payment as a condition of use.

(2) The provisions of this chapter do not apply in respect to the use of any article of tangible personal property, extended warranty, digital good, digital code, digital automated service, or service taxable under RCW 82.04.050 (2)(a) or (g), (3)(a), ~~((or))~~ (6)(b), or (7), if the sale to, or the use by, the present user or the present user's bailor or donor has already been subjected to the tax under chapter 82.08 RCW or this chapter and the tax has been paid by the present user or by the present user's bailor or donor.

(3)(a) Except as provided in this section, payment of the tax imposed by this chapter or chapter 82.08 RCW by one purchaser or user of tangible personal property, extended warranty, digital good, digital code, digital automated service, or other service does not have the effect of exempting any other purchaser or user of the same property, extended warranty, digital good, digital code, digital automated service, or other service from the taxes imposed by such chapters.

(b) The tax imposed by this chapter does not apply:

(i) If the sale to, or the use by, the present user or his or her bailor or donor has already been subjected to the tax under chapter 82.08 RCW or this chapter and the tax has been paid by the present user or by his or her bailor or donor;

(ii) In respect to the use of any article of tangible personal property acquired by bailment and the tax has once been paid based on reasonable rental as determined by RCW 82.12.060 measured by

the value of the article at time of first use multiplied by the tax rate imposed by chapter 82.08 RCW or this chapter as of the time of first use;

(iii) In respect to the use of any article of tangible personal property acquired by bailment, if the property was acquired by a previous bailee from the same bailor for use in the same general activity and the original bailment was prior to June 9, 1961; or

(iv) To the use of digital goods or digital automated services, which were obtained through the use of a digital code, if the sale of the digital code to, or the use of the digital code by, the present user or the present user's bailor or donor has already been subjected to the tax under chapter 82.08 RCW or this chapter and the tax has been paid by the present user or by the present user's bailor or donor.

(4)(a) Except as provided in (b) of this subsection (4), the tax is levied and must be collected in an amount equal to the value of the article used, value of the digital good or digital code used, value of the extended warranty used, or value of the service used by the taxpayer, multiplied by the applicable rates in effect for the retail sales tax under RCW 82.08.020.

(b) In the case of a seller required to collect use tax from the purchaser, the tax must be collected in an amount equal to the purchase price multiplied by the applicable rate in effect for the retail sales tax under RCW 82.08.020.

### PART XIII

#### PUD Privilege Tax Clarification

**Sec. 1301.** RCW 54.28.011 and 1957 c 278 s 12 are each amended to read as follows:

"Gross revenue" ~~((shall))~~ means the amount received from the sale of electric energy, which also includes any regularly recurring charge billed to consumers as a condition of receiving electric energy, and excluding any tax levied by a municipal corporation upon the district pursuant to RCW 54.28.070.

### PART XIV

#### Temporarily Increasing the Business and Occupation Tax on Service Businesses while Increasing the Small Business Credit for the Same Businesses

**NEW SECTION. Sec. 1401.** A new section is added to chapter 82.04 RCW to read as follows:

(1) Beginning May 1, 2010, through June 30, 2013, an additional rate of tax of .25 percent is added to the rate provided for in RCW 82.04.285 and 82.04.290(2)(a).

(2)(a) The additional rate in subsection (1) of this section does not apply to persons engaged in the business of scientific research and development services including but not limited to research and development in the physical, engineering, and life sciences (such as agriculture, bacteriological, biotechnology, chemical, life sciences, and physical science research and development laboratories or services) and research and development in the social sciences and humanities (such as archaeological, behavioral, cognitive, economic, language, and learning research or development services).

(b) The additional rate in subsection (1) of this section does not apply to persons engaging within this state in business as a hospital, as defined in RCW 70.41.020.

**Sec. 1402.** RCW 82.04.4451 and 1997 c 238 s 2 are each amended to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed against the amount of tax otherwise due under this chapter, as provided in this section. The maximum credit for a taxpayer, except for taxpayers subject to tax under RCW 82.04.290(2)(a) and 82.04.285, for a reporting period is thirty-five dollars multiplied by

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the number of months in the reporting period, as determined under RCW 82.32.045. The maximum credit for a taxpayer, which reports at least fifty percent of its taxable income under RCW 82.04.290(2)(a) and 82.04.285, for a reporting period is seventy dollars multiplied by the number of months in the reporting period, as determined under RCW 82.32.045.

(2) When the amount of tax otherwise due under this chapter is equal to or less than the maximum credit, a credit is allowed equal to the amount of tax otherwise due under this chapter.

(3) When the amount of tax otherwise due under this chapter exceeds the maximum credit, a reduced credit is allowed equal to twice the maximum credit, minus the tax otherwise due under this chapter, but not less than zero.

(4) The department may prepare a tax credit table consisting of tax ranges using increments of no more than five dollars and a corresponding tax credit to be applied to those tax ranges. The table shall be prepared in such a manner that no taxpayer will owe a greater amount of tax by using the table than would be owed by performing the calculation under subsections (1) through (3) of this section. A table prepared by the department under this subsection ~~((shall))~~ must be used by all taxpayers in taking the credit provided in this section.

**Sec. 1403.** RCW 82.32.045 and 2006 c 256 s 1 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, payments of the taxes imposed under chapters 82.04, 82.08, 82.12, 82.14, and 82.16 RCW, along with reports and returns on forms prescribed by the department, are due monthly within twenty-five days after the end of the month in which the taxable activities occur.

(2) The department of revenue may relieve any taxpayer or class of taxpayers from the obligation of remitting monthly and may require the return to cover other longer reporting periods, but in no event may returns be filed for a period greater than one year. For these taxpayers, tax payments are due on or before the last day of the month next succeeding the end of the period covered by the return.

(3) The department of revenue may also require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability.

(4) Notwithstanding subsections (1) and (2) of this section, the department may relieve any person of the requirement to file returns if the following conditions are met:

(a) The person's value of products, gross proceeds of sales, or gross income of the business, from all business activities taxable under chapter 82.04 RCW, is less than twenty-eight thousand dollars per year, except for businesses paying at least fifty percent of their tax under RCW 82.04.290(2)(a) and 82.04.285, the amount of business activities taxable under chapter 82.04 RCW is less than fifty-six thousand dollars per year;

(b) The person's gross income of the business from all activities taxable under chapter 82.16 RCW is less than twenty-four thousand dollars per year; and

(c) The person is not required to collect or pay to the department of revenue any other tax or fee which the department is authorized to collect.

#### **PART XV Property Management Salaries**

NEW SECTION. **Sec. 1501.** RCW 82.04.394 (Exemptions--Amounts received by property management company for on-site personnel) and 1998 c 338 s 2 are each repealed.

#### **PART XVI Convention Center Taxes**

**Sec. 1601.** RCW 67.40.140 and 1995 c 386 s 2 are each amended to read as follows:

When remitting sales tax receipts to the state under RCW 82.14.050, the city treasurer, or its designee, ~~((shall))~~ must at the same time remit the sales taxes collected under RCW 67.40.130 for the municipality. ~~((The sum so collected and paid over on behalf of the municipality shall be credited against the amount of the tax otherwise due to the state from those same taxpayers under RCW 82.08.020(1).))~~

**Sec. 1602.** RCW 67.40.190 and 1995 c 386 s 7 are each amended to read as follows:

(1) Moneys received from any tax imposed under RCW 67.40.130 shall be used for the purpose of providing funds to the corporation for the costs associated with paying all or any part of the cost associated with: The financing, design, acquisition, construction, equipping, operating, maintaining, and reequipping of convention center facilities; the acquisition, construction, and relocation costs of replacement housing; and repayment of loans and advances from the state, including loans authorized previously under this chapter, or to pay or secure the payment of all or part of the principal of or interest on any state bonds issued for purposes authorized under this chapter.

(2) If any of the revenue from any local sales tax authorized under RCW 67.40.130 ~~((shall have))~~ has been encumbered or pledged by the state to secure the payment of any state bonds as authorized under RCW 67.40.030, then as long as that agreement or pledge ~~((shall be))~~ is in effect, the legislature shall not withdraw from the municipality the authority to levy and collect the tax ~~((or the tax credit))~~ authorized under RCW 67.40.130 ~~((and 67.40.140)).~~

**Sec. 1603.** RCW 82.14.410 and 2001 c 6 s 1 are each amended to read as follows:

(1) A local sales and use tax change adopted after December 1, 2000, must provide an exemption for those sales of lodging for which, but for the exemption, the total sales tax rate imposed on sales of lodging would exceed the greater of:

(a) Twelve percent; or

(b) The total sales tax rate that would have applied to the sale of lodging if the sale were made on December 1, 2000.

(2) For the purposes of this section:

(a) "Local sales and use tax change" is defined as provided in RCW 82.14.055.

(b) "Sale of lodging" means the sale of or charge made for the furnishing of lodging and all other services by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property.

(c) "Total sales tax rate" means the combined rates of all state and local taxes imposed under this chapter and chapters 36.100, 67.28, 67.40, and 82.08 RCW, and any other tax authorized after March 29, 2001, if the tax is in the nature of a sales tax collected from the buyer, but excluding taxes imposed under RCW 81.104.170 before December 1, 2000, and taxes imposed under RCW 67.40.130.

**Sec. 1604.** RCW 67.28.181 and 2004 c 79 s 8 are each amended to read as follows:

(1) The legislative body of any municipality may impose an excise tax on the sale of or charge made for the furnishing of lodging that is subject to tax under chapter 82.08 RCW. The rate of tax ~~((shall))~~ may not exceed the lesser of two percent or a rate that, when combined with all other taxes imposed upon sales of lodging within the municipality under this chapter and chapters 36.100, 67.40, 82.08, and 82.14 RCW, equals twelve percent. A tax under this chapter ~~((shall))~~ may not be imposed in increments smaller than tenths of a percent.

(2) Notwithstanding subsection (1) of this section:

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(a) If a municipality was authorized to impose taxes under this chapter or RCW 67.40.100 or both with a total rate exceeding four percent before July 27, 1997, such total authorization ((shall)) must continue through January 31, 1999, and thereafter the municipality may impose a tax under this section at a rate not exceeding the rate actually imposed by the municipality on January 31, 1999.

(b) If a city or town, other than a municipality imposing a tax under (a) of this subsection, is located in a county that imposed taxes under this chapter with a total rate of four percent or more on January 1, 1997, the city or town may not impose a tax under this section.

(c) If a city has a population of four hundred thousand or more and is located in a county with a population of one million or more, the rate of tax imposed under this chapter by the city ((shall)) may not exceed the lesser of four percent or a rate that, when combined with all other taxes imposed upon sales of lodging in the municipality under this chapter and chapters 36.100, 67.40, 82.08, and 82.14 RCW, equals ((fifteen)) seventeen and two-tenths percent.

(d) If a municipality was authorized to impose taxes under this chapter or RCW 67.40.100, or both, at a rate equal to six percent before January 1, 1998, the municipality may impose a tax under this section at a rate not exceeding the rate actually imposed by the municipality on January 1, 1998.

(3) Any county ordinance or resolution adopted under this section ((shall)) must contain a provision allowing a credit against the county tax for the full amount of any city or town tax imposed under this section upon the same taxable event.

**PART XVII  
Miscellaneous Provisions**

NEW SECTION. Sec. 1701. (1) Except as provided in subsection (2) of this section, if any provision of Part I of this act or its application to any person or circumstance is held invalid, the remainder of Part I of this act or the application of the provision to other persons or circumstances is not affected.

(2) If a court of competent jurisdiction, in a final judgment not subject to appeal, adjudges any provision of section 104(1)(c) of this act unconstitutional or otherwise invalid, Part I of this act is null and void in its entirety.

NEW SECTION. Sec. 1702. Part I of this act applies with respect to gross income of the business, as defined in RCW 82.04.080, including gross income from royalties as defined in RCW 82.04.2907, generated on and after July 1, 2010. For purposes of calculating the thresholds in section 104(1)(c) of this act for the 2010 tax year, property, payroll, and receipts are based on the entire 2010 tax year.

NEW SECTION. Sec. 1703. Part II of this act must be construed liberally to effectuate the legislature's intent to ensure that all businesses and individuals pay their fair share of taxes.

NEW SECTION. Sec. 1704. Sections 502, 802, and 803 of this act apply both retroactively and prospectively.

NEW SECTION. Sec. 1705. In accordance with Article VIII, section 5 of the state Constitution, sections 802, 803, and 1704 of this act do not authorize refunds of business and occupation tax validly collected before April 1, 2010, on amounts received by an individual from a corporation as compensation for serving as a member of that corporation's board of directors.

NEW SECTION. Sec. 1706. Section 502 of this act does not affect any final judgments, not subject to appeal, entered by a court of competent jurisdiction before the effective date of this section.

NEW SECTION. Sec. 1707. If any provision of this act or its application to any person or circumstance is held invalid, the

remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 1708. Except as otherwise provided in this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect April 1, 2010.

NEW SECTION. Sec. 1709. Part XIV of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect May 1, 2010.

NEW SECTION. Sec. 1710. Sections 603, 605, 613, and 1202 of this act expire June 10, 2010.

NEW SECTION. Sec. 1711. Sections 604, 606, 614, and 1203 of this act take effect June 10, 2010.

NEW SECTION. Sec. 1712. Sections 106, 802, 1102, 1203, 1205, and 1207 of this act expire July 1, 2010.

NEW SECTION. Sec. 1713. Part III and sections 101 through 105, 107 through 111, 402, 803, 1103, 1204, 1206, and 1208 of this act take effect July 1, 2010.

NEW SECTION. Sec. 1714. Section 607 of this act expires July 1, 2011.

NEW SECTION. Sec. 1715. Section 608 of this act takes effect July 1, 2011.

NEW SECTION. Sec. 1716. Part IX of this act takes effect January 1, 2011.

NEW SECTION. Sec. 1717. Section 1301 of this act applies prospectively only."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Prentice moved that the Senate refuse to concur in the House amendment(s) to Second Engrossed Substitute Senate Bill No. 6143 and request of the House a conference thereon.

The President declared the question before the Senate to be motion by Senator Prentice that the Senate refuse to concur in the House amendment(s) to Second Engrossed Substitute Senate Bill No. 6143 and request a conference thereon.

The motion by Senator Prentice carried and the Senate refused to concur in the House amendment(s) to Second Engrossed Substitute Senate Bill No. 6143 and requested of the House a conference thereon.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Second Engrossed Substitute Senate Bill No. 6143 and the House amendment(s) thereto: Senators Prentice, Murray and Zarelli.

MOTION

On motion of Senator Eide, the appointments to the conference committee were confirmed.

MESSAGE FROM THE HOUSE

March 22, 2010

MR. PRESIDENT:  
The House passed SECOND SUBSTITUTE SENATE BILL NO. 6675 with the following amendment(s): 6675-S2 AMH FIN H5776.1

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Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that the global health sector develops new technologies and products for the improvement of health delivery locally and worldwide and that Washington is home to the world's richest collection of global health research and education programs creating new and innovative technologies on a daily basis. It is the intent of the legislature to stimulate the state's economy and foster job creation in the emerging field of global health while improving the health of people in Washington state and the world. The purpose of this act is to create a funding mechanism and a grant program to ensure that Washington remains competitive in global health innovation and to guarantee that the development, manufacture, and delivery of global health products will become an even more dynamic part of the state's economy.

**NEW SECTION. Sec. 2.** (1) The Washington global health technologies and product development competitiveness program is created.

(2)(a) The program must be administered by a nonprofit organization exempt from income taxation under 26 U.S.C. Sec. 501(c)(6) of the federal internal revenue code whose board of directors is appointed by the governor. The governor must make the appointments after consultation with a statewide alliance of global health research, nonprofit, and private entities. The board consists of the following members:

(i) Three members representing private companies engaged in the provision of global health products or services;

(ii) Three members representing nonprofit organizations supporting global health research or providing global health products or services;

(iii) Three members representing public research institutions engaged in global health research and education; and

(iv) One member who is a former elected official.

(b) The governor must appoint the chair of the board from among the members. The governor must appoint the members to staggered terms and each appointment may not last more than three years, but an appointee may serve more than one term.

(3) The board must contract with the department of commerce for management services to assist the board in implementing the program.

(4) The board must solicit and receive gifts, grants, bequests, royalty payments, licensing income, and other funds from businesses, foundations, and the federal government to promote the development and delivery of global health technologies and products. All federal funds received must be deposited in the Washington global health technologies and product development account created in section 3 of this act. All remaining nonstate funds received must be deposited in an account that the board creates and administers to carry out the purposes of this section. Expenditures from the account created by the board may be used only for funding activities of the program created in this section. Of the total amounts deposited into these accounts, no more than three percent of the total funds may be used for the department of commerce's management services and administrative expenses related to the program created in this section.

(5) The board must establish eligibility criteria for global health technologies and product development grants and adopt policies and procedures to facilitate the orderly process of grant application, review, and reward.

(6) In making grants to entities pursuant to contract for the development, production, promotion, and delivery of global health technologies and products, the board must consider the following:

(a) The quality of the proposed research or the proposed technical assistance in product development or production process

design. Any grant funds awarded for research activities must be awarded for nonbasic research which will assist in commercialization or manufacture of global health technologies;

(b) The potential for the grant recipient to improve global health outcomes;

(c) The potential for the grant to leverage additional funding for the development of global health technologies and products;

(d) The potential for the grant to stimulate, or promote technical skills training for, employment in the development of global health technologies in the state;

(e) The willingness of the grant recipient, when appropriate, to enter into royalty or licensing income agreements with the board; and

(f) Any other factors, as the board determines.

(7) Grant contracts must specify that award recipients must conduct their research, development, and any subsequent production activities within Washington, with the exception of activities such as clinical trials that must be carried out in developing countries, and that a failure to comply with this requirement will obligate the recipient to return the amount of the award plus interest as determined by the board.

(8) Upon the recommendation of the Washington economic development commission, the board may provide funding for the recruitment and employment by public research institutions and global health nonprofit organizations in the state, of global health researchers with a history of commercialization of global health technologies.

(9) Each project receiving a grant under this section must report information to the board in the format and at the intervals as the board requires to provide accountability and to evaluate the effectiveness of the program. The information reported must include the amount of funding received; the funding, if any, leveraged by the grant; the number and types of jobs created as a result of the grant; and any other information that the board requires. The board must use the information to prepare an annual evaluation of the program for a report to the appropriate committees of the legislature and the governor, beginning December 1, 2012.

**NEW SECTION. Sec. 3.** The Washington global health technologies and product development account is created in the custody of the state treasurer. Only the board of directors of the Washington global health technologies and product development competitiveness program or the board's designee may authorize expenditures from the account. All federal moneys received from the solicitations required in section 2 of this act and all state funds appropriated for the specific purposes of the Washington global health technologies and product development competitiveness program must be deposited in the account. Expenditures from the account may be used only for funding activities of the Washington global health technologies and product development competitiveness program created in section 2 of this act. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**Sec. 4.** RCW 43.79A.040 and 2009 c 87 s 4 are each amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state

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agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the students with dependents grant account, the basic health plan self-insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the Washington international exchange scholarship endowment fund, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account), the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, and the reading achievement account. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the city and county advance right-of-way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**NEW SECTION. Sec. 5.** Sections 1 through 3 of this act constitute a new chapter in Title 43 RCW."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

Senator Kastama moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6675.

Senator Kastama spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kastama that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6675.

The motion by Senator Kastama carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 6675 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6675, as amended by the House.

## ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6675, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Becker, Benton, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brandland, Gordon, Holmquist, McCaslin and Morton

SECOND SUBSTITUTE SENATE BILL NO. 6675, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MESSAGE FROM THE HOUSE

March 22, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6706 with the following amendment(s): 6706-S AMH ENGR H5761.E

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 28B.10 RCW to read as follows:

(1) It is the intent of the legislature that state universities engage in the commercialization of research and other economic development and workforce development activities that benefit the intermediate and long-term economic vitality of Washington. State universities are expected to develop and strengthen university-industry relationships through the conduct of research, the support of company formation and job generation, and collaborative training. The state universities, using a collaborative process that may include both in-house resources and independent contractors with necessary technical expertise or innovative processes, must perform one or more of the following functions:

(a) Provide collaborative research and technology transfer opportunities;

(b) Publicize their commercialization processes and include an explanation of how to access commercialization resources at the universities;

(c) Develop mechanisms for pairing researchers, entrepreneurs, and investors. Such mechanisms are to include, but are not limited

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to, developing guides, web sites, or workshops on funding opportunities, on entrepreneurship and the process of starting a company, and on university-industry relations;

(d) Host events to connect researchers to entrepreneurs, investors, and individuals from the state's technology-based industries; and

(e) Provide opportunities for training undergraduate and graduate students through direct involvement in research and industry interactions.

(2) In carrying out the functions in this section, the universities may work with and through the higher education coordinating board.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28B.10 RCW to read as follows:

To support the formation of companies created around the technologies developed at state universities, the state universities are authorized to establish and administer bridge-funding programs for start-up companies using funds from the federal government and the private sector."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Kastama moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6706.

Senator Kastama spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kastama that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6706.

The motion by Senator Kastama carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6706 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6706, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6706, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brandland, Gordon, McCaslin and Morton

SUBSTITUTE SENATE BILL NO. 6706, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 25, 2010

MR. PRESIDENT:

The Speaker has signed:

SECOND ENGROSSED SENATE BILL 6221,

SUBSTITUTE SENATE BILL 6712,  
ENGROSSED SUBSTITUTE SENATE BILL 6737.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

At 12:14 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Friday, March 26, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**TWELFTH DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Friday, March 26, 2010

The Senate was called to order at 10:00 a.m. by President Owen. No roll call was taken.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

At 10:01 p.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Monday, March 29, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**FIFTEENTH DAY**

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NOON SESSION

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Senate Chamber, Olympia, Monday, March 29, 2010

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

MOTION

On motion of Senator Fraser, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Fraser, the Senate advanced to the third order of business.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

March 24, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

QUENTIN POWERS, reappointed October 1, 2009, for the term ending September 30, 2014, as Member, Board of Trustees, Edmonds Community College District No. 23.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

MOTION

On motion of Senator Fraser, the appointee listed on the Gubernatorial Appointment report was referred to the committee as designated.

SIGNED BY THE PRESIDENT

The President signed:

SECOND SUBSTITUTE SENATE BILL 6675,  
SUBSTITUTE SENATE BILL 6706.

MOTION

At 12:07 p.m., on motion of Senator Fraser, the Senate adjourned until 12:00 noon, Tuesday, March 30, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**SIXTEENTH DAY**

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NOON SESSION

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Senate Chamber, Olympia, Tuesday, March 30, 2010

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

MOTION

On motion of Senator Fraser, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Fraser, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

March 29, 2010

MR. PRESIDENT:

The Speaker has signed:

SECOND SUBSTITUTE SENATE BILL 6675,

SUBSTITUTE SENATE BILL 6706.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

At 12:01 p.m., on motion of Senator Fraser, the Senate adjourned until 10:00 a.m., Wednesday, March 31, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**SEVENTEENTH DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Wednesday, March 31, 2010

The Senate was called to order at 10:00 a.m. by Senator Marr.  
No roll call was taken.

MOTION

On motion of Senator Fraser, the reading of the Journal of the  
previous day was dispensed with and it was approved.

MOTION

At 10:01 a.m., on motion of Senator Fraser, the Senate  
adjourned until 12:00 noon, Thursday, April 1, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

## EIGHTEENTH DAY

## NOON SESSION

Senate Chamber, Olympia, Thursday, April 1, 2010

The Senate was called to order at 12:00 p.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Delvin, Gordon, Kline, McCaslin, Morton, Pridemore and Zarelli.

The Sergeant at Arms Color Guard consisting of Senate employees Nova Gattman and Mike Hatchett, presented the Colors. Senator Shin offered the prayer.

## MOTION

On motion of Senator Eide the reading of the Journal of the previous day was dispensed with and it was approved.

## MOTION

At 12:06 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

## AFTERNOON SESSION

The Senate was called to order at 1:10 p.m. by President Owen.

## MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

## MESSAGE FROM THE HOUSE

March 22, 2010

## MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6889 with the following amendment(s): 6889-S AMH HUNT H5832.1

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that conventions and trade shows provide both direct and indirect civic and economic benefits. It is the intent of the legislature to provide for the transfer of the governance and financing of the state convention and trade center to a public facilities district formed by a county with a population of one million five hundred thousand or more to acquire, own, and operate the convention and trade center. The legislature also intends to replace, in connection with such transfer, the authority under chapter 67.40 RCW of the state and city to impose excise taxes on the sale of or charge made for the furnishing of lodging to fund the state convention and trade center with authority for the public facilities district to impose lodging taxes at these rates, without affecting the existing authority of the state, county, cities, and other municipal corporations to impose taxes on the sale or charge made for the furnishing of lodging under existing caps on the aggregate rate that may be charged.

(2) The legislature further finds that the location of the convention and trade center particularly benefits and increases the occupancy of larger hotels and other lodging facilities in the city in which it is located and to a lesser extent in the remainder of the county in which it is located. The legislature finds that imposing

excise taxes on the sale of or charge made for the furnishing of lodging at the rates authorized in section 5 of this act is an appropriate method of paying for the cost of acquiring, constructing, owning, remodeling, maintaining, equipping, reequipping, repairing, altering, and operating a convention and trade center.

**Sec. 2.** RCW 36.100.010 and 2002 c 218 s 26 are each amended to read as follows:

(1) ~~((A))~~ One or more public facilities districts may be created in any county and ~~((shall))~~ must be coextensive with the boundaries of the county.

(2) A public facilities district ~~((shall be))~~ is created upon adoption of a resolution providing for the creation of such a district by the county legislative authority in which the proposed district is located.

(3) A public facilities district is a municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution.

(4) Except as provided in RCW 36.100.040 (4) and (5), no taxes authorized under this chapter may be assessed or levied unless a majority of the voters of the public facilities district has approved such tax at a general or special election. A single ballot proposition may both validate the imposition of the sales and use tax under RCW 82.14.048 and the excise tax under RCW 36.100.040(1).

(5) (a) A public facilities district ~~((shall))~~ constitutes a body corporate and ~~((shall))~~ possesses all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, including contracts with public and private parties, to acquire, own, sell, transfer, lease, and otherwise acquire or dispose of property, to grant concessions under terms approved by the public facilities district, and to sue and be sued.

(b) A public facilities district created by a county with a population of one million five hundred thousand or more to acquire, own, and operate a convention and trade center transferred from a public nonprofit corporation may continue to contract with the Seattle-King county convention and visitors' bureau or its successor in interest for marketing the convention and trade center facility and services.

(6) A public facilities district may enter into contracts with a county for the purpose of exercising any powers of a community renewal agency under chapter 35.81 RCW.

(7) The ~~((county))~~ legislative authority ~~((or the city council))~~ of a city or county, the board of directors of a public nonprofit corporation, or the state of Washington may transfer property to ~~((the))~~ a public facilities district created under this chapter, with or without consideration. No property that is encumbered with debt or that is in need of major capital renovation may be transferred to the district without the agreement of the district and revenues adequate to retire the existing indebtedness.

(8) A public facilities district may enter into agreements with the state, any municipal corporation, or any other governmental entity for the design, financing, acquisition, development, construction, reconstruction, lease, remodeling, alteration, maintenance, equipping, reequipping, repair, operation, or management of one or more facilities of the parties thereto. Agreements may provide that any party to the contract designs, finances, acquires, develops, constructs, reconstructs, remodels, alters, maintains, equips, reequips, repairs, and operates one or more facilities for the other party or parties to the contract. A public facilities district may enter into an agreement with the state, any municipal corporation, or other public or private entity that will assist a public facilities district in the

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financing of all or any part of a district facility on such terms as may be determined by agreement between the respective parties, including without limitation by a loan, guaranty, or other financing agreement.

**Sec. 3.** RCW 36.100.020 and 1995 3rd sp.s. c 1 s 302 are each amended to read as follows:

(1)(a) A public facilities district (~~(shall)~~) must be governed by a board of directors consisting of five (~~(or)~~), seven, or nine members as provided in this section.

(b) If the largest city in the county has a population that is at least forty percent of the total county population, the board of directors of the public facilities district (~~(shall)~~) must consist of five members selected as follows:

(~~(a)~~) (i) Two members appointed by the county legislative authority to serve for four-year staggered terms;

(~~(b)~~) (ii) Two members appointed by the city council of the largest city in the county to serve for four-year staggered terms; and

(~~(c)~~) (iii) One person to serve for a four-year term who is selected by the other directors.

(c)(i) Except as provided in (c)(ii) of this subsection (1), if the largest city in the county has a population of less than forty percent of the total county population, the county legislative authority (~~(shall)~~) must establish in the resolution creating the public facilities district whether the board of directors of the public facilities district has either five or seven members, and the county legislative authority (~~(shall)~~) must appoint the members of the board of directors to reflect the interests of cities and towns in the county, as well as the unincorporated area of the county.

(ii) However, if the county has a population of one million five hundred thousand or more, the largest city in the county has a population of less than forty percent of the total county population, and the county operates under a county charter, which provides for an elected county executive, the members of the board of directors must be appointed as follows:

(A) If the public facilities district is created to construct a baseball stadium as defined in RCW 82.14.0485, three members (~~(shall)~~) must be appointed by the governor and the remaining members (~~(shall)~~) must be appointed by the county executive subject to confirmation by the county legislative authority. Of the members appointed by the governor, the speaker of the house of representatives and the majority leader of the senate (~~(shall)~~) must each recommend to the governor a person to be appointed to the board; and

(B) If the public facilities district is created to acquire, own, and operate a convention and trade center, following the expiration of the terms of the initial board of directors, three members must be appointed by the governor, three members must be nominated by the county executive subject to confirmation by the county legislative authority, and three members must be nominated by the mayor of the city in which the convention and trade center is located subject to confirmation by the city legislative authority. Members of the board of directors may not be members of the legislative authority of the county or any city within the county.

(d) The initial board of directors of a public facilities district created in a county of one million five hundred thousand or more to acquire, own, and operate a convention and trade center must be comprised of the nine members of the board of the public nonprofit corporation that transfers the convention and trade center to the public facilities district under section 8 of this act. The governor must designate which of the initial board members must serve two-year terms and which must serve four-year terms and identify the board positions to which successors to initial directors are to be appointed by the county and the city.

(2) At least one member on the board of directors (~~(shall)~~) must be representative of the lodging industry in the public facilities

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district before the public facilities district imposes the excise tax under RCW 36.100.040(1). Of the members of the board of directors of a public facilities district created in a county of one million five hundred thousand or more to acquire, own, and operate a convention and trade center, one of the governor's appointments and one of the county's appointments must be representative of the lodging industry in the public facilities district and one of the city's appointments must be representative of organized labor, except that these requirements do not apply to the initial board of such district.

(3) Members of the board of directors (~~(shall)~~) must serve four-year terms of office, except that two of the initial five board members (~~(or)~~), three of the initial seven board members (~~(shall)~~), and four of the initial nine board members must serve two-year terms of office.

(4) A vacancy (~~(shall)~~) must be filled in the same manner as the original appointment was made and the person appointed to fill a vacancy (~~(shall)~~) must serve for the remainder of the unexpired term of the office for the position to which he or she was appointed.

(5) Any director may be removed from office by the person or entity that appointed or confirmed such director for any reason or for no reason as follows: A director appointed by the governor may be removed from office by the governor(-); and any (~~(other)~~) director confirmed by a city or county legislative authority may be removed from office by action of at least two-thirds of the members of the legislative authority (~~(which made the appointment)~~) that confirmed the director.

**Sec. 4.** RCW 36.100.030 and 2003 c 376 s 1 are each amended to read as follows:

(1) A public facilities district is authorized to acquire, construct, own, remodel, maintain, equip, reequip, repair, and operate (a) sports facilities, entertainment facilities, convention facilities, including without limitation any convention and trade center transferred from a public nonprofit corporation under section 8(1) of this act, or regional centers as defined in RCW 35.57.020, and (b) for districts formed after January 1, 2000, recreational facilities other than ski areas, together with contiguous parking facilities. The taxes that are provided for in this chapter may only be imposed for these purposes, including without limitation implementing any redemption, prepayment, or legal defeasance of outstanding obligations under section 8(3)(a) of this act.

(2) A public facilities district may enter into agreements under chapter 39.34 RCW for the (~~(joint provision and operation)~~) design, financing, acquisition, development, construction, reconstruction, lease, remodeling, alteration, maintenance, equipping, reequipping, repair, operation, or management of such facilities and may enter into contracts under chapter 39.34 RCW where any party to the contract provides and operates such facilities for the other party or parties to the contract. A public facilities district may enter into agreements under chapter 39.34 RCW that will assist a public facilities district in the financing of all or any part of a district facility on such terms as may be determined by agreement between the respective parties, including without limitation by a loan, guaranty, or other financing agreement.

(3) Notwithstanding the establishment of a career, civil, or merit service system, a public facilities district may contract with a public or private entity for the operation or management of its public facilities.

(4) A public facilities district is authorized to use the supplemental alternative public works contracting procedures set forth in chapter 39.10 RCW in connection with the design, construction, reconstruction, remodel, or alteration of any of its public facilities.

(5) A public facilities district may impose charges and fees for the use of its facilities, and may accept and expend or use gifts, grants, and donations.

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**Sec. 5.** RCW 36.100.040 and 2008 c 137 s 5 are each amended to read as follows:

(1) A public facilities district may impose an excise tax on the sale of or charge made for the furnishing of lodging that is subject to tax under chapter 82.08 RCW, except that no such tax may be levied on any premises having fewer than forty lodging units. ~~((However))~~ Except for any tax imposed under subsection (4) or (5) of this section, if a public facilities district has not imposed such an excise tax prior to December 31, 1995, the public facilities district may only impose the excise tax if a ballot proposition authorizing the imposition of the tax has been approved by a simple majority vote of voters of the public facilities district voting on the proposition.

(2) The rate of the tax ~~((shall))~~ may not exceed two percent and the proceeds of the tax ~~((shall))~~ may only be used for the acquisition, design, construction, remodeling, maintenance, equipping, reequipping, repairing, and operation of its public facilities. This excise tax ~~((shall))~~ may not be imposed until the district has approved the proposal to acquire, design, and construct the public facilities.

(3) ~~((A public facilities district may not impose the tax authorized in this section if, after the tax authorized in this section was imposed, the effective combined rate of state and local excise taxes, including sales and use taxes and excise taxes on lodging, imposed on the sale of or charge made for furnishing of lodging in any jurisdiction in the public facilities district exceeds eleven and one-half percent.~~

(4)) Except for a public facilities district created within a county with a population of one million five hundred thousand or more for the purpose of acquiring, owning, and operating a convention and trade center, a public facilities district may not impose the tax authorized in this section if, after the tax authorized in this section was imposed, the effective combined rate of state and local excise taxes, including sales and use taxes and excise taxes on lodging, imposed on the sale of or charge made for furnishing of lodging in any jurisdiction in the public facilities district exceeds eleven and one-half percent.

(4) To replace the tax authorized by RCW 67.40.090, a public facilities district created within a county with a population of one million five hundred thousand or more for the purpose of acquiring, owning, and operating a convention and trade center may impose an excise tax on the sale of or charge made for the furnishing of lodging that is subject to tax under chapter 82.08 RCW, except that no such tax may be levied on any premises having fewer than sixty lodging units. The rate of the tax may not exceed seven percent within the portion of the district that corresponds to the boundaries of the largest city within the public facilities district and may not exceed 2.8 percent in the remainder of the district. The tax imposed under this subsection (4) may not be collected prior to the transfer date defined in section 8 of this act.

(5) To replace the tax authorized by RCW 67.40.130, a public facilities district created within a county with a population of one million five hundred thousand or more for the purpose of acquiring, owning, and operating a convention and trade center may impose an additional excise tax on the sale of or charge made for the furnishing of lodging that is subject to tax under chapter 82.08 RCW, except that no such tax may be levied on any premises having fewer than sixty lodging units. The rate of the additional excise tax may not exceed two percent and may be imposed only within the portion of the district that corresponds to the boundaries of the largest city within the public facilities district and may not be imposed in the remainder of the district. The tax imposed under this subsection (5) may not be collected prior to the transfer date specified in section 8 of this act. The tax imposed under this subsection (5) must be credited against the amount of the tax otherwise due to the state from

those same taxpayers under chapter 82.08 RCW. The tax under this subsection (5) may be imposed only for the purpose of paying or securing the payment of the principal of and interest on obligations issued or incurred by the public facilities district and paying annual payment amounts to the state under subsection (6)(a) of this section. The authority to impose the additional excise tax under this subsection (5) expires on the date that is the earlier of (a) July 1, 2029, or (b) the date on which all obligations issued or incurred by the public facilities district to implement any redemption, prepayment, or legal defeasance of outstanding obligations under section 8(3)(a) of this act are no longer outstanding.

(6)(a) Commencing with the first full fiscal year of the state after the transfer date defined in section 8 of this act and for so long as a public facilities district imposes a tax under subsection (5) of this section, the public facilities district must transfer to the state of Washington on June 30th of each state fiscal year an annual payment amount.

(b) For the purposes of this subsection (6), "annual payment amount" means an amount equal to revenues received by the public facilities district in the fiscal year from the additional excise tax imposed under subsection (5) of this section plus an interest charge calculated on one-half the annual payment amount times an interest rate equal to the average annual rate of return for the prior calendar year in the Washington state local government investment pool created in chapter 43.250 RCW.

(c)(i) If the public facilities district in any fiscal year is required to apply additional lodging excise tax revenues to the payment of principal and interest on obligations it issues or incurs, and the public facilities district is unable to pay all or any portion of the annual payment amount to the state, the deficiency is deemed to be a loan from the state to the public facilities district for the purpose of assisting the district in paying such principal and interest and must be repaid by the public facilities district to the state after providing for the payment of the principal of and interest on obligations issued or incurred by the public facilities district, all on terms established by an agreement between the state treasurer and the public facilities district executed prior to the transfer date. Any agreement between the state treasurer and the public facilities district must specify the term for the repayment of the deficiency in the annual payment amount with an interest rate equal to the twenty bond general obligation bond buyer index plus one percentage point.

(ii) Outstanding obligations to repay any loans deemed to have been made to the public facilities district as provided in any such agreements between the state treasurer and the public facilities district survive the expiration of the additional excise tax under subsection (5) of this section.

(iii) For the purposes of this subsection (6)(c), "additional lodging excise tax revenues" mean the tax revenues received by the public facilities district under subsection (5) of this section.

(7) A public facilities district is authorized to pledge any of its revenues, including without limitation revenues from the taxes authorized in this section, to pay or secure the payment of obligations issued or incurred by the public facilities district, subject to the terms established by the board of directors of the public facilities district. So long as a pledge of the taxes authorized under this section is in effect, the legislature may not withdraw or modify the authority to levy and collect the taxes at the rates permitted under this section and may not increase the annual payment amount to be transferred to the state under subsection (6) of this section.

(8) The department of revenue must perform the collection of such taxes on behalf of the public facilities district at no cost to the district, and the state treasurer must distribute those taxes as available on a monthly basis to the district or, upon the direction of the district, to a fiscal agent, paying agent or trustee for obligations issued or incurred by the district.

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(9) Except as expressly provided in this chapter, all of the provisions contained in RCW 82.08.050 and 82.08.060 and chapter 82.32 RCW have full force and application with respect to taxes imposed under the provisions of this section.

(10) The taxes imposed in this section ((does)) do not apply to sales of temporary medical housing exempt under RCW 82.08.997.

**Sec. 6.** RCW 36.100.060 and 1999 c 165 s 15 are each amended to read as follows:

(1) To carry out the purpose of this chapter, a public facilities district may issue general obligation bonds, not to exceed an amount, together with any outstanding nonvoter approved general obligation indebtedness, equal to one-half of one percent of the value of taxable property within the district, as the term "value of taxable property" is defined in RCW 39.36.015. A public facilities district additionally may issue general obligation bonds for capital purposes only, together with any outstanding general obligation indebtedness, not to exceed an amount equal to one and one-fourth percent of the value of the taxable property within the district, as the term "value of taxable property" is defined in RCW 39.36.015, when authorized by the voters of the public facilities district pursuant to Article VIII, section 6 of the state Constitution, and to provide for the retirement thereof by excess property tax levies as provided in this chapter.

(2) General obligation bonds may be issued with a maturity of up to thirty years, and must be issued and sold in accordance with the provisions of chapter 39.46 RCW. If the public facilities district is formed by a county with a population of one million five hundred thousand or more to acquire, own, and operate a convention and trade center, general obligation bonds may be issued with a maturity of up to forty years, and ~~((shall))~~ must be issued and sold in accordance with the provisions of chapter 39.46 RCW. In addition to the powers vested in it under RCW 39.46.030, a public facilities district created by a county with a population of one million five hundred thousand or more to acquire, own, and operate a convention and trade center may appoint, and may specify the rights and duties of, trustees with respect to its bonds, and such trustees may receive, hold, disburse, invest, and reinvest funds on the district's behalf and for the protection of the district's bond owners.

(3) The general obligation bonds may be payable from the operating revenues of the public facilities district in addition to the tax receipts of the district.

(4) The excise tax imposed pursuant to RCW 36.100.040 ~~((shall))~~ (1) terminates upon final payment of all bonded indebtedness for its public facilities, except that the excise tax may be reauthorized by a public vote, in the same manner as originally authorized, for funding of additional public facilities or a regional center.

**Sec. 7.** RCW 36.100.100 and 1995 c 396 s 7 are each amended to read as follows:

The treasurer of the county in which a public facilities district is located ~~((shall))~~ must be the ex officio treasurer of the district, unless the board of directors of a public facilities district created in a county of one million five hundred thousand or more designates by resolution another person having experience in financial or fiscal matters as the treasurer of the district. Such a treasurer possesses all of the powers, responsibilities, and duties of, and is subject to the same restrictions as provided by law for, a county treasurer with regard to district financial matters. Such treasurer must be bonded for not less than twenty-five thousand dollars.

**NEW SECTION. Sec. 8.** A new section is added to chapter 36.100 RCW to read as follows:

(1) On the transfer date the board of directors of a public nonprofit corporation formed under RCW 67.40.020 that owns and operates a state convention and trade center must transfer all lands, facilities, equipment, assets, other interests in real, personal, and

intangible property, and interests under contracts, leases, licenses, and agreements under the control of that board of directors to a public facilities district created as provided in RCW 36.100.010 by the county in which the convention and trade center is located pursuant to an agreement with the public facilities district, subject to the review and approval of the state treasurer.

(2) No real estate excise tax or other excise tax may be imposed with respect to the transfer of assets of the public nonprofit corporation to the public facilities district.

(3) For the purposes of this section, "transfer date" means the date on or prior to June 30, 2011, on which provision has been made for all of the following, pursuant to agreements and other necessary arrangements approved by the state treasurer:

(a) The redemption, prepayment, or legal defeasance on or prior to the transfer date of all outstanding borrowings and other financing obligations of the state of Washington and the public nonprofit corporation with respect to the state convention and trade center, including state bonds and certificates of participation and related financing contracts;

(b) The transfer to the public facilities district on the transfer date of the balances on deposit in the state convention and trade center operations account, the state convention and trade center account and other accounts relating to the state convention and trade center, including the revenues identified under (g)(ii) of this subsection (3);

(c) The imposition by the public facilities district of excise taxes on the sale of or charge made for the furnishing of lodging under RCW 36.100.040 (4) and (5) at the maximum rates permitted in those subsections;

(d) The transfer of all other assets and liabilities and, to the extent permissible by their terms, the assignment or transfer of all contracts and agreements of the public nonprofit corporation to the public nonprofit corporation to the public facilities district;

(e) The execution of an agreement settling all claims in the case of Tourism Alliance, a Washington nonprofit corporation; Craig Schafer; Claridge LLC, a Washington limited liability company; R.C. Hedreen Corporation, a Washington corporation; and on behalf of taxpayers, Andrew Olsen, Amy L. Dee, Christopher M. Dee, Clipper Navigation, Inc., a Washington corporation v. State of Washington and James L. McIntire, in his official capacity as State Treasurer of the State of Washington;

(f) The payment or provision for payment of all fees, costs, and expenses incurred by the state of Washington and the public nonprofit corporation to effect such transfer;

(g) An agreement of the public facilities district to transfer to the state on June 30, 2011, an amount equal to (i) the revenues from the tax imposed under RCW 36.100.040(5) during the state fiscal year ending June 30, 2011, plus (ii) the revenues from the tax imposed under RCW 67.40.130 during the state fiscal year ending June 30, 2011; and

(h) The agreement between the state treasurer and the public facilities district, referred to in section 5(6)(c)(i).

**NEW SECTION. Sec. 9.** A new section is added to chapter 36.100 RCW to read as follows:

(1) Except as provided in chapters 35.101, 67.28, and 82.14 RCW, after January 1, 1983, no city, town, or county in which the tax under RCW 36.100.040 (4) and (5) is imposed may impose a license fee or tax on the act or privilege of engaging in business to furnish lodging by a hotel, rooming house, tourist court, motel, trailer camp, or similar facilities in excess of the rate imposed upon other persons engaged in the business of making sales at retail.

(2) For the purposes of this section, "sales at retail" has the same meaning as provided in RCW 82.04.050.

**NEW SECTION. Sec. 10.** A new section is added to chapter 36.100 RCW to read as follows:

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Nothing in this act may be construed to limit the authority of a public nonprofit corporation under chapter 67.40 RCW prior to the effective date of section 14 of this act.

**NEW SECTION. Sec. 11.** A new section is added to chapter 36.100 RCW to read as follows:

Bonds issued under this chapter are hereby made securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies in their commercial departments, savings banks, cooperative banks, banking associations, investment companies, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in obligations of the state may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds and other obligations of the state are now or may hereafter be authorized by law.

**NEW SECTION. Sec. 12.** A new section is added to chapter 36.100 RCW to read as follows:

(1) Any county with a population of one million five hundred thousand or more that creates a public facilities district pursuant to this chapter to acquire, own, and operate a convention and trade center transferred from a public nonprofit corporation is authorized to acquire by condemnation property or property rights as may be necessary to carry out the purposes of such district. If the legislative body of such county chooses to exercise its authority to acquire property by eminent domain on behalf of such public facilities district, it must do so pursuant to the procedures set forth in chapter 8.08 RCW.

(2) The accomplishment of the activities authorized by this chapter is declared to be a strictly public purpose of the municipality or municipal entities authorized to perform the same.

(3) The powers and authority conferred by this section are in addition and supplemental to existing powers or authority. Nothing contained in this section limits any other powers or authority of any agency, political subdivision, or unit of local government of this state.

**Sec. 13.** RCW 39.94.020 and 2010 c ... (SB 6218) s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Credit enhancement" includes insurance, letters of credit, lines of credit, or other similar agreements which enhance the security for the payment of the state's or an other agency's obligations under financing contracts.

(2) "Financing contract" means any contract entered into by the state for itself or on behalf of an other agency which provides for the use and purchase of real or personal property by the state and provides for payment by the state over a term of more than one year, and which provides that title to the subject property may secure performance of the state or transfer to the state or an other agency by the end of the term, upon exercise of an option, for a nominal amount or for a price determined without reference to fair market value. Financing contracts include, but are not limited to, conditional sales contracts, financing leases, lease purchase contracts, or refinancing contracts, but do(es) not include operating or true leases. For purposes of this chapter, the term "financing contract" does not include any nonrecourse financing contract or other obligation payable only from money or other property received from private sources and not payable from any public money or property. The term "financing contract" includes a "master financing contract."

(3) "Master financing contract" means a financing contract which provides for the use and purchase of property by the state, and which may include more than one financing contract and appropriation.

(4) "Other agency" means any commission established under Title 15 RCW, a library or regional library, an educational service district, the superintendent of public instruction, the school directors' association, a health district, a public facilities district, or any county, city, town, school district, or other municipal corporation or quasi-municipal corporation.

(5) "State" means the state, agency, department, or instrumentality of the state, the state board for community and technical colleges, and any state institution of higher education.

(6) "State finance committee" means the state finance committee under chapter 43.33 RCW.

(7) "Trustee" means a bank or trust company, within or without the state, authorized by law to exercise trust powers.

**NEW SECTION. Sec. 14.** The following acts or parts of acts are each repealed:

(1) RCW 67.40.010 (Legislative finding) and 1983 2nd ex.s. c 1 s 1 & 1982 c 34 s 1;

(2) RCW 67.40.025 (State convention and trade center operations account--Operating revenues--Expenditures) and 2008 c 329 s 916, 1988 ex.s. c 1 s 2, 1987 1st ex.s. c 8 s 3, & 1985 c 233 s 2;

(3) RCW 67.40.027 (Compensation and travel expenses of board members) and 1985 c 233 s 3;

(4) RCW 67.40.030 (General obligation bonds--Authorized--Appropriation required) and 1990 c 181 s 1, 1988 ex.s. c 1 s 3, 1987 1st ex.s. c 3 s 12, 1985 c 233 s 1, 1983 2nd ex.s. c 1 s 3, & 1982 c 34 s 3;

(5) RCW 67.40.040 (Deposit of proceeds in state convention and trade center account and appropriate subaccounts--Credit against future borrowings--Use) and 2008 c 329 s 917, 2008 c 328 s 6011, 2007 c 228 s 106, 2005 c 518 s 936, 2003 1st sp.s. c 25 s 929, 1995 c 386 s 13, 1991 sp.s. c 13 s 11, 1990 c 181 s 2, 1988 ex.s. c 1 s 4, 1987 1st ex.s. c 8 s 4, 1985 c 57 s 66, 1983 2nd ex.s. c 1 s 4, & 1982 c 34 s 4;

(6) RCW 67.40.045 (Authorization to borrow from state treasury for project completion costs--Limits--"Project completion" defined-- Legislative intent--Application) and 1995 c 386 s 14, 1993 sp.s. c 12 s 9, 1992 c 4 s 1, 1991 c 2 s 1, 1990 c 181 s 3, 1988 ex.s. c 1 s 9, & 1987 1st ex.s. c 8 s 1;

(7) RCW 67.40.050 (Administration of proceeds) and 1982 c 34 s 5;

(8) RCW 67.40.055 (Transfer of funds to account--Repayment of borrowed funds with interest) and 1988 ex.s. c 1 s 5 & 1987 1st ex.s. c 8 s 11;

(9) RCW 67.40.060 (Retirement of bonds from nondebt-limit proprietary appropriated bond retirement account--Transfer from accounts--Pledge and promise--Remedies of bondholders) and 2005 c 487 s 9, 1997 c 456 s 25, 1987 1st ex.s. c 8 s 5, 1983 2nd ex.s. c 1 s 5, & 1982 c 34 s 6;

(10) RCW 67.40.070 (Legislature may provide additional means for payment of bonds) and 1982 c 34 s 7;

(11) RCW 67.40.080 (Bonds legal investment for public funds) and 1982 c 34 s 8;

(12) RCW 67.40.090 (Lodging tax imposed in King county--Rates-- Proceeds) and 2002 c 178 s 4, 1995 c 386 s 15, 1991 c 2 s 3, 1988 ex.s. c 1 s 6, 1987 1st ex.s. c 8 s 6, & 1982 c 34 s 9;

(13) RCW 67.40.100 (Limitation on license fees and taxes on hotels, motels, rooming houses, trailer camps, etc.) and 1997 c 452 s 15, 1990 c 242 s 1, 1988 ex.s. c 1 s 25, & 1982 c 34 s 10;

(14) RCW 67.40.105 (Exemption from tax--Emergency lodging for homeless persons--Conditions) and 1988 c 61 s 3;

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(15) RCW 67.40.107 (Exemption from tax--Temporary medical housing) and 2008 c 137 s 4;

(16) RCW 67.40.110 (Use of revenues from convention and trade center facilities excise tax by cities for professional sports franchise facilities limited) and 1997 c 452 s 19 & 1987 1st ex.s. c 8 s 8;

(17) RCW 67.40.120 (Contracts for marketing facility and services) and 2002 c 182 s 1, 1997 c 452 s 20, 1991 c 336 s 2, & 1988 ex.s. c 1 s 8;

(18) RCW 67.40.130 (Convention and trade facilities--Tax on transient lodging authorized--Rates) and 1995 c 386 s 1;

(19) RCW 67.40.140 (Convention and trade facilities--Remittance of tax--Credit) and 1995 c 386 s 2;

(20) RCW 67.40.150 (Convention and trade facilities--Contract of administration and collection to department of revenue--Disposition of tax--Procedure) and 1995 c 386 s 3;

(21) RCW 67.40.160 (Convention and trade facilities--Tax on construction--Disposition) and 1995 c 386 s 4;

(22) RCW 67.40.170 (Convention and trade facilities--Use of collected taxes) and 1995 c 386 s 5;

(23) RCW 67.40.180 (Convention and trade facilities--Use of funds-- Acceptance by board of directors of funding commitment) and 1995 c 386 s 6;

(24) RCW 67.40.190 (Convention and trade facilities--Use of funds-- Encumbered revenue) and 1995 c 386 s 7; and

(25) RCW 67.40.900 (Severability--1982 c 34) and 1982 c 34 s 13.

**NEW SECTION. Sec. 15.** RCW 67.40.020 (State convention and trade center--Public nonprofit corporation authorized--Board of directors-- Powers and duties) and 1995 c 386 s 12, 1993 c 500 s 9, 1988 ex.s. c 1 s 1, 1987 1st ex.s. c 8 s 2, 1984 c 210 s 1, 1983 2nd ex.s. c 1 s 2, & 1982 c 34 s 2 are each repealed.

**NEW SECTION. Sec. 16.** Section 14 of this act is effective contingent upon the transfer date occurring in section 8 of this act. If the transfer date occurs in section 8 of this act, section 14 of this act is effective on the transfer date. For the purposes of this section, "transfer date" has the same meaning as provided in section 8 of this act.

**NEW SECTION. Sec. 17.** Section 15 of this act is effective contingent upon the transfer date occurring in section 8 of this act. If the transfer date occurs in section 8 of this act, section 15 of this act is effective thirty days after the transfer date in section 8 of this act. For the purposes of this section, "transfer date" has the same meaning as provided in section 8 of this act.

**NEW SECTION. Sec. 18.** The state treasurer must provide written notice of the effective dates in sections 16 and 17 of this act to the department of revenue, the office of the code reviser, and others as deemed appropriate by the state treasurer.

**NEW SECTION. Sec. 19.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 20.** The provisions of this chapter must be liberally construed to effect the policies and purposes of this chapter."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator McDermott moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6889.

Senator McDermott spoke in favor of the motion.

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The President declared the question before the Senate to be the motion by Senator McDermott that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6889.

The motion by Senator McDermott carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6889 by voice vote.

Senator Hewitt spoke in favor of final passage.

#### MOTION

On motion of Senator Marr, Senators Gordon, Kline and Pridemore were excused.

#### MOTION

On motion of Senator Brandland, Senators Benton, Delvin, McCaslin, Morton and Zarelli were excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6889, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6889, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 39; Nays, 2; Absent, 0; Excused, 8.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Parlette, Pflug, Prentice, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Tom

Voting nay: Senators Carrell and Oemig

Excused: Senators Benton, Delvin, Gordon, Kline, McCaslin, Morton, Pridemore and Zarelli

SUBSTITUTE SENATE BILL NO. 6889, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, the Senate advanced to the seventh order of business.

#### THIRD READING

SENATE BILL NO. 6220, by Senators Fraser and Brandland.

Concerning determination of the terms and conditions of bonds, notes, and other evidences of indebtedness of the state of Washington.

The bill was read on Third Reading.

Senator Fraser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6220.

#### ROLL CALL

EIGHTEENTH DAY, APRIL 1, 2010

2010 1ST SPECIAL SESSION

The Secretary called the roll on the final passage of Senate Bill No. 6220 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 0; Absent, 0; Excused, 8.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Tom

Excused: Senators Benton, Delvin, Gordon, Kline, McCaslin, Morton, Pridemore and Zarelli

SENATE BILL NO. 6220, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Eide, the Senate reverted to the sixth order of business.

## SECOND READING

SENATE BILL NO. 6846, by Senators Brandland, Regala and Fraser

Concerning enhanced 911 emergency communications services.

## MOTION

On motion of Senator Brandland, Substitute Senate Bill No. 6846 was substituted for Senate Bill No. 6846 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Schoesler moved that the following amendment by Senator Schoesler and others be adopted:

On page 4, line 6, after "act" insert "and funds raised by a county under this tax shall not supplant existing funds used for these purposes"

On page 5, line 8, after "act" insert "and funds raised by a county under this tax shall not supplant existing funds used for these purposes"

Senator Schoesler spoke in favor of adoption of the amendment.

Senator Regala spoke against adoption of the amendment.

Senator Brandland spoke on the adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Schoesler and others on page 4, line 6 to Substitute Senate Bill No. 6846.

The motion by Senator Schoesler failed and the amendment was not adopted by voice vote.

## MOTION

On motion of Senator Brandland, the rules were suspended, Substitute Senate Bill No. 6846 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Brandland, Regala, Fraser, Becker and Haugen spoke in favor of passage of the bill.

Senators Pflug and Stevens spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6846.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6846 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 12; Absent, 0; Excused, 8.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kohl-Welles, McAuliffe, McDermott, Murray, Prentice, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Swecker and Tom

Voting nay: Senators Carrell, Hewitt, Holmquist, Honeyford, Kilmer, King, Marr, Oemig, Parlette, Pflug, Schoesler and Stevens

Excused: Senators Benton, Delvin, Gordon, Kline, McCaslin, Morton, Pridemore and Zarelli

SUBSTITUTE SENATE BILL NO. 6846, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 1:38 p.m., on motion of Senator Eide the Senate adjourned until 10:00 a.m. Friday, April 2, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**NINETEENTH DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Friday, April 2, 2010

The Senate was called to order at 10:00 a.m. by President Owen. No roll call was taken

MOTION

On motion of Senator Fraser, the reading of the Journal of the previous day was dispensed with and it was approved.

SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE SENATE BILL 6889.

MOTION

At 10:01 a.m., on motion of Senator Fraser, the Senate adjourned until 12:00 noon, Monday, April 5, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

TWENTY SECOND DAY

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NOON SESSION

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Senate Chamber, Olympia, Monday, April 5, 2010

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the third order of business.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

March 8, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

SHARON FAIRCHILD, reappointed April 4, 2010, for the term ending April 3, 2014, as Member of the State Board for Community and Technical Colleges.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

March 31, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

SID MORRISON, reappointed November 5, 2009, for the term ending September 30, 2015, as Member, Board of Trustees, Central Washington University.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

MOTION

On motion of Senator Eide, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

April 5, 2010

MR. PRESIDENT:  
The Speaker has signed:  
SUBSTITUTE SENATE BILL 6889.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 2, 2010

MR. PRESIDENT:  
The House has passed:  
SENATE BILL 6220,  
SUBSTITUTE SENATE BILL 6846,  
SUBSTITUTE SENATE BILL 6884.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 2, 2010

MR. PRESIDENT:  
The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:  
ENGROSSED SUBSTITUTE HOUSE BILL 3014,  
SUBSTITUTE HOUSE BILL 3201.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

At 12:03 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Tuesday, April 6, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**TWENTY THIRD DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Tuesday, April 6, 2010

The Senate was called to order at 10:00 a.m. by Senator Marr.  
No roll call was taken.

MOTION

On motion of Senator Fraser, the reading of the Journal of the  
previous day was dispensed with and it was approved.

MOTION

On motion of Senator Fraser, the Senate advanced to the  
fourth order of business.

MESSAGE FROM THE HOUSE

April 5, 2010

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED SUBSTITUTE HOUSE BILL 3014,

SUBSTITUTE HOUSE BILL 3201.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

At 10:02 a.m., on motion of Senator Fraser, the Senate  
adjourned until 10:00 a.m. Wednesday, April 7, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**TWENTY FOURTH DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Wednesday, April 7, 2010

The Senate was called to order at 10:00 a.m. by President Owen. No roll call was taken.

MOTION

On motion of Senator Fraser, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Fraser, the Senate advanced to the third order of business.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

March 19, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

STEPHEN L. WARNER, appointed March 19, 2010, for the term ending September 30, 2013, as Member, Board of Trustees, Olympic Community College District No. 3.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

MOTION

On motion of Senator Fraser, the appointee listed on the Gubernatorial Appointment report was referred to the committee as designated.

MOTION

On motion of Senator Fraser, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 6891 by Senator Benton

AN ACT Relating to creating the taxpayer choice act; adding a new section to chapter 43.79 RCW; and creating new sections.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Fraser, the measure listed on the Introduction and First Reading report was referred to the committee as designated.

SIGNED BY THE PRESIDENT

The President signed:  
SENATE BILL 6220,  
SUBSTITUTE SENATE BILL 6846,  
SUBSTITUTE SENATE BILL 6884.

SIGNED BY THE PRESIDENT

The President signed:  
ENGROSSED SUBSTITUTE HOUSE BILL 3014,  
SUBSTITUTE HOUSE BILL 3201.

MOTION

At 10:03 a.m., on motion of Senator Fraser, the Senate adjourned until 10:00 a.m. Thursday, April 8, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**TWENTY FIFTH DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Thursday, April 8, 2010

The Senate was called to order at 10:00 a.m. by President Owen. No roll call was taken.

MOTION

On motion of Senator Fraser, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Fraser, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

April 7, 2010

MR. PRESIDENT:

The Speaker has signed:

SENATE BILL 6220,

SUBSTITUTE SENATE BILL 6846,

SUBSTITUTE SENATE BILL 6884.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

At 10:02 a.m., on motion of Senator Fraser, the Senate adjourned until 12:00 noon, Friday, April 9, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

TWENTY SIXTH DAY, APRIL 9, 2010

2010 1ST SPECIAL SESSION

## TWENTY SIXTH DAY

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NOON SESSION

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Senate Chamber, Olympia, Friday, April 9, 2010

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

## MOTION

On motion of Senator Fraser, the reading of the Journal of the previous day was dispensed with and it was approved.

## MOTION

On motion of Senator Fraser, the Senate advanced to the third order of business.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

April 8, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

DENNIS THAUT, reappointed April 16, 2010, for the term ending April 15, 2015, as Member of the Indeterminate Sentence Review Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Human Services &amp; Corrections.

April 8, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

LINDA VILLEGAS BREMER, appointed May 1, 2010, for the term ending January 15, 2011, as Member of the Liquor Control Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Labor, Commerce &amp; Consumer Protection.

## MOTION

On motion of Senator Fraser, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated.

## MOTION

At 12:02 p.m., on motion of Senator Fraser, the Senate adjourned until 2:00 p.m. Saturday, April 10, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

TWENTY SEVENTH DAY

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AFTERNOON SESSION

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Senate Chamber, Olympia, Saturday, April 10, 2010

The Senate was called to order at 2:00 p.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Delvin, Haugen, Holmquist, Honeyford, McCaslin, Oemig, Pridemore and Tom.

The Sergeant at Arms Color Guard consisting of Senate employees John Elder and Brian Dirks, presented the Colors. Senator Morton offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

April 9, 2010

MR. PRESIDENT:

The House grants the request for a conference on SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 6143. The Speaker has appointed the following members as Conferees: Representatives Hunter, Hasegawa, Orcutt and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

At 2:09 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 3:38 p.m. by President Owen.

MESSAGE FROM THE HOUSE

March 19, 2010

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2956, and asks the Senate for a conference thereon. The Speaker has appointed the following members as Conferees: Representatives Cody, Pettigrew, Schmick and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Keiser moved that the Senate recede from its position on the Senate amendment(s) to Engrossed Second Substitute House Bill No. 2956.

The President declared the question before the Senate to be motion by Senator Keiser that the Senate recede from its position on the Senate amendment(s) to Engrossed Second Substitute House Bill No. 2956.

The motion by Senator Keiser carried and the Senate receded from its position on the Senate amendment(s) to Engrossed Second Substitute House Bill No. 2956 by voice vote.

MOTION

On motion of Senator Keiser, the rules were suspended and Engrossed Second Substitute House Bill No. 2956 was returned to second reading for the purposes of amendment.

MOTION

On motion of Senator Schoesler, Senators Delvin, Holmquist, Honeyford and McCaslin were excused.

MOTION

On motion of Senator Marr, Senators Haugen, Oemig, Pridemore and Tom were excused.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2956, by House Committee on Ways & Means (originally sponsored by Representatives Pettigrew, Williams and Maxwell)

Concerning hospital safety net assessment. Revised for 2nd Substitute: Concerning the hospital safety net.

The measure was read the second time.

MOTION

Senator Keiser moved that the following striking amendment by Senator Keiser be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1. PURPOSE, FINDINGS, AND INTENT.** (1) The purpose of this chapter is to provide for a safety net assessment on certain Washington hospitals, which will be used solely to augment funding from all other sources and thereby obtain additional funds to restore recent reductions and to support additional payments to hospitals for medicaid services.

(2) The legislature finds that:

(a) Washington hospitals, working with the department of social and health services, have proposed a hospital safety net assessment to generate additional state and federal funding for the medicaid program, which will be used to partially restore recent inpatient and outpatient reductions in hospital reimbursement rates and provide for an increase in hospital payments; and

(b) The hospital safety net assessment and hospital safety net assessment fund created in this chapter allows the state to generate additional federal financial participation for the medicaid program and provides for increased reimbursement to hospitals.

(3) In adopting this chapter, it is the intent of the legislature:

(a) To impose a hospital safety net assessment to be used solely for the purposes specified in this chapter;

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(b) That funds generated by the assessment shall be used solely to augment all other funding sources and not as a substitute for any other funds;

(c) That the total amount assessed not exceed the amount needed, in combination with all other available funds, to support the reimbursement rates and other payments authorized by this chapter; and

(d) To condition the assessment on receiving federal approval for receipt of additional federal financial participation and on continuation of other funding sufficient to maintain hospital inpatient and outpatient reimbursement rates and small rural disproportionate share payments at least at the levels in effect on July 1, 2009.

**NEW SECTION. Sec. 2. DEFINITIONS.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Certified public expenditure hospital" means a hospital participating in the department's certified public expenditure payment program as described in WAC 388-550-4650 or successor rule.

(2) "Critical access hospital" means a hospital as described in RCW 74.09.5225.

(3) "Department" means the department of social and health services.

(4) "Fund" means the hospital safety net assessment fund established under section 3 of this act.

(5) "Hospital" means a facility licensed under chapter 70.41 RCW.

(6) "Long-term acute care hospital" means a hospital which has an average inpatient length of stay of greater than twenty-five days as determined by the department of health.

(7) "Managed care organization" means an organization having a certificate of authority or certificate of registration from the office of the insurance commissioner that contracts with the department under a comprehensive risk contract to provide prepaid health care services to eligible clients under the department's medicaid managed care programs, including the healthy options program.

(8) "Medicaid" means the medical assistance program as established in Title XIX of the social security act and as administered in the state of Washington by the department of social and health services.

(9) "Medicare cost report" means the medicare cost report, form 2552-96, or successor document.

(10) "Nonmedicare hospital inpatient day" means total hospital inpatient days less medicare inpatient days, including medicare days reported for medicare managed care plans, as reported on the medicare cost report, form 2552-96, or successor forms, excluding all skilled and nonskilled nursing facility days, skilled and nonskilled swing bed days, nursery days, observation bed days, hospice days, home health agency days, and other days not typically associated with an acute care inpatient hospital stay.

(11) "Prospective payment system hospital" means a hospital reimbursed for inpatient and outpatient services provided to medicaid beneficiaries under the inpatient prospective payment system and the outpatient prospective payment system as defined in WAC 388-550-1050. For purposes of this chapter, prospective payment system hospital does not include a hospital participating in the certified public expenditure program or a bordering city hospital located outside of the state of Washington and in one of the bordering cities listed in WAC 388-501-0175 or successor regulation.

(12) "Psychiatric hospital" means a hospital facility licensed as a psychiatric hospital under chapter 71.12 RCW.

(13) "Regional support network" has the same meaning as provided in RCW 71.24.025.

(14) "Rehabilitation hospital" means a medicare-certified freestanding inpatient rehabilitation facility.

(15) "Secretary" means the secretary of the department of social and health services.

(16) "Small rural disproportionate share hospital payment" means a payment made in accordance with WAC 388-550-5200 or subsequently filed regulation.

**NEW SECTION. Sec. 3. HOSPITAL SAFETY NET ASSESSMENT FUND.** (1) A dedicated fund is hereby established within the state treasury to be known as the hospital safety net assessment fund. The purpose and use of the fund shall be to receive and disburse funds, together with accrued interest, in accordance with this chapter. Moneys in the fund, including interest earned, shall not be used or disbursed for any purposes other than those specified in this chapter. Any amounts expended from the fund that are later recouped by the department on audit or otherwise shall be returned to the fund.

(a) Any unexpended balance in the fund at the end of a fiscal biennium shall carry over into the following biennium and shall be applied to reduce the amount of the assessment under section 6(1)(c) of this act.

(b) Any amounts remaining in the fund on July 1, 2013, shall be used to make increased payments in accordance with sections 10 and 13 of this act for any outstanding claims with dates of service prior to July 1, 2013. Any amounts remaining in the fund after such increased payments are made shall be refunded to hospitals, pro rata according to the amount paid by the hospital, subject to the limitations of federal law.

(2) All assessments, interest, and penalties collected by the department under sections 4 and 6 of this act shall be deposited into the fund.

(3) Disbursements from the fund may be made only as follows:

(a) Subject to appropriations and the continued availability of other funds in an amount sufficient to maintain the level of medicaid hospital rates in effect on July 1, 2009;

(b) Upon certification by the secretary that the conditions set forth in section 17(1) of this act have been met with respect to the assessments imposed under section 4 (1) and (2) of this act, the payments provided under section 9 of this act, payments provided under section 13(2) of this act, and any initial payments under sections 11 and 12 of this act, funds shall be disbursed in the amount necessary to make the payments specified in those sections;

(c) Upon certification by the secretary that the conditions set forth in section 17(1) of this act have been met with respect to the assessments imposed under section 4(3) of this act and the payments provided under sections 10 and 14 of this act, payments made subsequent to the initial payments under sections 11 and 12 of this act, and payments under section 13(3) of this act, funds shall be disbursed periodically as necessary to make the payments as specified in those sections;

(d) To refund erroneous or excessive payments made by hospitals pursuant to this chapter;

(e) The sum of forty-nine million three-hundred thousand dollars per biennium may be expended in lieu of state general fund payments to hospitals. An additional sum of seventeen million five-hundred thousand dollars for the 2009-2011 fiscal biennium may be expended in lieu of state general fund payments to hospitals if additional federal financial participation under section 5001 of P.L. No. 111-5 is extended beyond December 31, 2010;

(f) The sum of one million dollars per biennium may be disbursed for payment of administrative expenses incurred by the department in performing the activities authorized by this chapter;

(g) To repay the federal government for any excess payments made to hospitals from the fund if the assessments or payment increases set forth in this chapter are deemed out of compliance with

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federal statutes and regulations and all appeals have been exhausted. In such a case, the department may require hospitals receiving excess payments to refund the payments in question to the fund. The state in turn shall return funds to the federal government in the same proportion as the original financing. If a hospital is unable to refund payments, the state shall develop a payment plan and/or deduct moneys from future medicaid payments.

**NEW SECTION. Sec. 4. ASSESSMENTS.** (1) An assessment is imposed as set forth in this subsection effective after the date when the applicable conditions under section 17(1) of this act have been satisfied through June 30, 2013, for the purpose of funding restoration of reimbursement rates under sections 9(1) and 13(2)(a) of this act and funding payments made subsequent to the initial payments under sections 11 and 12 of this act. Payments under this subsection are due and payable on the first day of each calendar quarter after the department sends notice of assessment to affected hospitals. However, the initial assessment is not due and payable less than thirty calendar days after notice of the amount due has been provided to affected hospitals.

(a) For the period beginning on the date the applicable conditions under section 17(1) of this act are met through December 31, 2010:

(i) Each prospective payment system hospital shall pay an assessment of thirty-two dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(ii) Each critical access hospital shall pay an assessment of ten dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(b) For the period beginning on January 1, 2011 and ending on June 30, 2011:

(i) Each prospective payment system hospital shall pay an assessment of forty dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(ii) Each critical access hospital shall pay an assessment of ten dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(c) For the period beginning July 1, 2011, through June 30, 2013:

(i) Each prospective payment system hospital shall pay an assessment of forty-four dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(ii) Each critical access hospital shall pay an assessment of ten dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(d)(i) For purposes of (a) and (b) of this subsection, the department shall determine each hospital's annual nonmedicare hospital inpatient days by summing the total reported nonmedicare inpatient days for each hospital that is not exempt from the assessment as described in section 5 of this act for the relevant state fiscal year 2008 portions included in the hospital's fiscal year end reports 2007 and/or 2008 cost reports. The department shall use nonmedicare hospital inpatient day data for each hospital taken from the centers for medicare and medicaid services' hospital 2552-96 cost report data file as of November 30, 2009, or equivalent data collected by the department.

(ii) For purposes of (c) of this subsection, the department shall determine each hospital's annual nonmedicare hospital inpatient days by summing the total reported nonmedicare hospital inpatient days for each hospital that is not exempt from the assessment under

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section 5 of this act, taken from the most recent publicly available hospital 2552-96 cost report data file or successor data file available through the centers for medicare and medicaid services, as of a date to be determined by the department. If cost report data are unavailable from the foregoing source for any hospital subject to the assessment, the department shall collect such information directly from the hospital.

(2) An assessment is imposed in the amounts set forth in this section for the purpose of funding the restoration of the rates under sections 9(2) and 13(2)(b) of this act and funding the initial payments under sections 11 and 12 of this act, which shall be due and payable within thirty calendar days after the department has transmitted a notice of assessment to hospitals. Such notice shall be transmitted immediately upon determination by the secretary that the applicable conditions established by section 17(1) of this act have been met.

(a) Prospective payment system hospitals.

(i) Each prospective payment system hospital shall pay an assessment of thirty dollars for each annual nonmedicare hospital inpatient day up to sixty thousand per year, multiplied by a ratio, the numerator of which is the number of days between June 30, 2009, and the day after the applicable conditions established by section 17(1) of this act have been met and the denominator of which is three hundred sixty-five.

(ii) Each prospective payment system hospital shall pay an assessment of one dollar for each annual nonmedicare hospital inpatient day over and above sixty thousand per year, multiplied by a ratio, the numerator of which is the number of days between June 30, 2009, and the day after the applicable conditions established by section 17(1) of this act have been met and the denominator of which is three hundred sixty-five.

(b) Each critical access hospital shall pay an assessment of ten dollars for each annual nonmedicare hospital inpatient day, multiplied by a ratio, the numerator of which is the number of days between June 30, 2009, and the day after the applicable conditions established by section 17(1) of this act have been met and the denominator of which is three hundred sixty-five.

(c) For purposes of this subsection, the department shall determine each hospital's annual nonmedicare hospital inpatient days by summing the total reported nonmedicare inpatient days for each hospital that is not exempt from the assessment as described in section 5 of this act for the relevant state fiscal year 2008 portions included in the hospital's fiscal year end reports 2007 and/or 2008 cost reports. The department shall use nonmedicare hospital inpatient day data for each hospital taken from the centers for medicare and medicaid services' hospital 2552-96 cost report data file as of November 30, 2009, or equivalent data collected by the department.

(3) An assessment is imposed as set forth in this subsection for the period February 1, 2010, through June 30, 2013, for the purpose of funding increased hospital payments under sections 10 and 13(3) of this act, which shall be due and payable on the first day of each calendar quarter after the department has sent notice of the assessment to each affected hospital, provided that the initial assessment shall be transmitted only after the secretary has determined that the applicable conditions established by section 17(1) of this act have been satisfied and shall be payable no less than thirty calendar days after the department sends notice of the amount due to affected hospitals. The initial assessment shall include the full amount due from February 1, 2010, through the date of the notice.

(a) For the period February 1, 2010, through December 31, 2010:

(i) Prospective payment system hospitals.

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(A) Each prospective payment system hospital shall pay an assessment of one hundred nineteen dollars for each annual nonmedicare hospital inpatient day up to sixty thousand per year, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(B) Each prospective payment system hospital shall pay an assessment of five dollars for each annual nonmedicare hospital inpatient day over and above sixty thousand per year, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(ii) Each psychiatric hospital and each rehabilitation hospital shall pay an assessment of thirty-one dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(b) For the period beginning on January 1, 2011 and ending on June 30, 2011:

(i) Prospective payment system hospitals.

(A) Each prospective payment system hospital shall pay an assessment of one hundred fifty dollars for each annual nonmedicare inpatient day up to sixty thousand per year, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(B) Each prospective payment system hospital shall pay an assessment of six dollars for each annual nonmedicare inpatient day over and above sixty thousand per year, multiplied by the number of days in the assessment period divided by three hundred sixty-five. The department may adjust the assessment or the number of nonmedicare hospital inpatient days used to calculate the assessment amount if necessary to maintain compliance with federal statutes and regulations related to medicaid program health care-related taxes.

(ii) Each psychiatric hospital and each rehabilitation hospital shall pay an assessment of thirty-nine dollars for each annual nonmedicare hospital inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(c) For the period beginning July 1, 2011, through June 30, 2013:

(i) Prospective payment system hospitals.

(A) Each prospective payment system hospital shall pay an assessment of one hundred fifty-six dollars for each annual nonmedicare hospital inpatient day up to sixty thousand per year, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(B) Each prospective payment system hospital shall pay an assessment of six dollars for each annual nonmedicare inpatient day over and above sixty thousand per year, multiplied by the number of days in the assessment period divided by three hundred sixty-five. The department may adjust the assessment or the number of nonmedicare hospital inpatient days if necessary to maintain compliance with federal statutes and regulations related to medicaid program health care-related taxes.

(ii) Each psychiatric hospital and each rehabilitation hospital shall pay an assessment of thirty-nine dollars for each annual nonmedicare inpatient day, multiplied by the number of days in the assessment period divided by three hundred sixty-five.

(d)(i) For purposes of (a) and (b) of this subsection, the department shall determine each hospital's annual nonmedicare hospital inpatient days by summing the total reported nonmedicare inpatient days for each hospital that is not exempt from the assessment as described in section 5 of this act for the relevant state fiscal year 2008 portions included in the hospital's fiscal year end reports 2007 and/or 2008 cost reports. The department shall use nonmedicare hospital inpatient day data for each hospital taken from the centers for medicare and medicaid services' hospital 2552-96

cost report data file as of November 30, 2009, or equivalent data collected by the department.

(ii) For purposes of (c) of this subsection, the department shall determine each hospital's annual nonmedicare hospital inpatient days by summing the total reported nonmedicare hospital inpatient days for each hospital that is not exempt from the assessment under section 5 of this act, taken from the most recent publicly available hospital 2552-96 cost report data file or successor data file available through the centers for medicare and medicaid services, as of a date to be determined by the department. If cost report data are unavailable from the foregoing source for any hospital subject to the assessment, the department shall collect such information directly from the hospital.

(4) Notwithstanding the provisions of section 8 of this act, nothing in this act is intended to prohibit a hospital from including assessment amounts paid in accordance with this section on their medicare and medicaid cost reports.

NEW SECTION. Sec. 5. EXEMPTIONS. The following hospitals are exempt from any assessment under this chapter provided that if and to the extent any exemption is held invalid by a court of competent jurisdiction or by the centers for medicare and medicaid services, hospitals previously exempted shall be liable for assessments due after the date of final invalidation:

(1) Hospitals owned or operated by an agency of federal or state government, including but not limited to western state hospital and eastern state hospital;

(2) Washington public hospitals that participate in the certified public expenditure program;

(3) Hospitals that do not charge directly or indirectly for hospital services; and

(4) Long-term acute care hospitals.

NEW SECTION. Sec. 6. ADMINISTRATION AND COLLECTION. (1) The department, in cooperation with the office of financial management, shall develop rules for determining the amount to be assessed to individual hospitals, notifying individual hospitals of the assessed amount, and collecting the amounts due. Such rule making shall specifically include provision for:

(a) Transmittal of quarterly notices of assessment by the department to each hospital informing the hospital of its nonmedicare hospital inpatient days and the assessment amount due and payable. Such quarterly notices shall be sent to each hospital at least thirty calendar days prior to the due date for the quarterly assessment payment.

(b) Interest on delinquent assessments at the rate specified in RCW 82.32.050.

(c) Adjustment of the assessment amounts as follows:

(i) For each fiscal year beginning July 1, 2010, the assessment amounts under section 4 (1) and (3) of this act may be adjusted as follows:

(A) If sufficient other funds for hospitals, excluding any extension of section 5001 of P.L. No. 111-5, are available to support the reimbursement rates and other payments under section 9, 10, 11, 12, or 13 of this act without utilizing the full assessment authorized under section 4 (1) or (3) of this act, the department shall reduce the amount of the assessment for prospective payment system, psychiatric, and rehabilitation hospitals proportionately to the minimum level necessary to support those reimbursement rates and other payments.

(B) Provided that none of the conditions set forth in section 17(2) of this act have occurred, if the department's forecasts indicate that the assessment amounts under section 4 (1) and (3) of this act, together with all other available funds, are not sufficient to support the reimbursement rates and other payments under section 9, 10, 11, 12, or 13 of this act, the department shall increase the assessment

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rates for prospective payment system, psychiatric, and rehabilitation hospitals proportionately to the amount necessary to support those reimbursement rates and other payments, plus a contingency factor up to ten percent of the total assessment amount.

(C) Any positive balance remaining in the fund at the end of the fiscal year shall be applied to reduce the assessment amount for the subsequent fiscal year.

(ii) Any adjustment to the assessment amounts pursuant to this subsection, and the data supporting such adjustment, including but not limited to relevant data listed in subsection (2) of this section, must be submitted to the Washington state hospital association for review and comment at least sixty calendar days prior to implementation of such adjusted assessment amounts. Any review and comment provided by the Washington state hospital association shall not limit the ability of the Washington state hospital association or its members to challenge an adjustment or other action by the department that is not made in accordance with this chapter.

(2) By November 30th of each year, the department shall provide the following data to the Washington state hospital association:

(a) The fund balance;

(b) The amount of assessment paid by each hospital;

(c) The annual medicaid fee-for-service payments for inpatient hospital services and outpatient hospital services; and

(d) The medicaid healthy options inpatient and outpatient payments as reported by all hospitals to the department on disproportionate share hospital applications. The department shall amend the disproportionate share hospital application and reporting instructions as needed to ensure that the foregoing data is reported by all hospitals as needed in order to comply with this subsection (2)(d).

(3) The department shall determine the number of nonmedicare hospital inpatient days for each hospital for each assessment period.

(4) To the extent necessary, the department shall amend the contracts between the managed care organizations and the department and between regional support networks and the department to incorporate the provisions of section 13 of this act. The department shall pursue amendments to the contracts as soon as possible after the effective date of this act. The amendments to the contracts shall, among other provisions, provide for increased payment rates to managed care organizations in accordance with section 13 of this act.

**NEW SECTION. Sec. 7. LOCAL ASSESSMENTS OR TAXES NOT AUTHORIZED.** Nothing in this chapter shall be construed to authorize any unit of local government to impose a tax or assessment on hospitals, including but not limited to a tax or assessment measured by a hospital's income, earnings, bed days, or other similar measures.

**NEW SECTION. Sec. 8. ASSESSMENT PART OF OPERATING OVERHEAD.** The incidence and burden of assessments imposed under this chapter shall be on hospitals and the expense associated with the assessments shall constitute a part of the operating overhead of hospitals. Hospitals shall not increase charges or billings to patients or third-party payers as a result of the assessments under this chapter. The department may require hospitals to submit certified statements by their chief financial officers or equivalent officials attesting that they have not increased charges or billings as a result of the assessments.

**NEW SECTION. Sec. 9. RESTORATION OF JUNE 30, 2009, REIMBURSEMENT RATES.** Upon satisfaction of the applicable conditions set forth in section 17(1) of this act, the department shall:

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(1) Restore medicaid inpatient and outpatient reimbursement rates to levels as if the four percent medicaid inpatient and outpatient rate reductions did not occur on July 1, 2009; and

(2) Recalculate the amount payable to each hospital that submitted an otherwise allowable claim for inpatient and outpatient medicaid-covered services rendered from and after July 1, 2009, up to and including the date when the applicable conditions under section 17(1) of this act have been satisfied, as if the four percent medicaid inpatient and outpatient rate reductions did not occur effective July 1, 2009, and, within sixty calendar days after the date upon which the applicable conditions set forth in section 17(1) of this act have been satisfied, remit the difference to each hospital.

**NEW SECTION. Sec. 10. INCREASED HOSPITAL PAYMENTS.** (1) Upon satisfaction of the applicable conditions set forth in section 17(1) of this act and for services rendered on or after February 1, 2010, the department shall increase the medicaid inpatient and outpatient fee-for-service hospital reimbursement rates in effect on June 30, 2009, by the percentages specified below:

(a) Prospective payment system hospitals:

(i) Inpatient psychiatric services: Thirteen percent;

(ii) Inpatient services: Thirteen percent;

(iii) Outpatient services: Thirty-six and eighty-three one-hundredths percent.

(b) Harborview medical center and University of Washington medical center:

(i) Inpatient psychiatric services: Three percent;

(ii) Inpatient services: Three percent;

(iii) Outpatient services: Twenty-one percent.

(c) Rehabilitation hospitals:

(i) Inpatient services: Thirteen percent;

(ii) Outpatient services: Thirty-six and eighty-three one-hundredths percent;

(d) Psychiatric hospitals:

(i) Inpatient psychiatric services: Thirteen percent;

(ii) Inpatient services: Thirteen percent.

(2) For claims processed for services rendered on or after February 1, 2010, but prior to satisfaction of the applicable conditions specified in section 17(1) of this act, the department shall, within sixty calendar days after satisfaction of those conditions, calculate the amount payable to hospitals in accordance with this section and remit the difference to each hospital that has submitted an otherwise allowable claim for payment for such services.

(3) By December 1, 2012, the department will submit a study to the legislature with recommendations on the amount of the assessments necessary to continue to support hospital payments for the 2013-15 biennium. The evaluation will assess medicaid hospital payments relative to medicaid hospital costs. The study should address current federal law, including any changes on scope of medicaid coverage, provisions related to provider taxes, and impacts of federal health care reform legislation. The study should also address the state's economic forecast. Based on the forecast, the department should recommend the amount of assessment needed to support future hospital payments and the departmental administrative expenses. Recommendations should be developed with the fiscal committees of the legislature, office of financial management and the Washington state hospital association.

**NEW SECTION. Sec. 11. CRITICAL ACCESS HOSPITAL PAYMENTS.** Upon satisfaction of the applicable conditions set forth in section 17(1) of this act, the department shall pay critical access hospitals that do not qualify for or receive a small rural disproportionate share payment in the subject state fiscal year an access payment of fifty dollars for each medicaid inpatient day, exclusive of days on which a swing bed is used for subacute care, from and after July 1, 2009. Initial payments to hospitals, covering the period from July 1, 2009, to the date when the applicable

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conditions under section 17(1) of this act are satisfied, shall be made within sixty calendar days after such conditions are satisfied. Subsequent payments shall be made to critical access hospitals on an annual basis at the time that disproportionate share eligibility and payment for the state fiscal year are established. These payments shall be in addition to any other amount payable with respect to services provided by critical access hospitals and shall not reduce any other payments to critical access hospitals.

**NEW SECTION. Sec. 12. DISPROPORTIONATE SHARE HOSPITAL PAYMENTS.** Upon satisfaction of the applicable conditions set forth in section 17(1) of this act, small rural disproportionate share payments shall be increased to one hundred twenty percent of the level in effect as of June 30, 2009, for the period from and after July 1, 2009, until July 1, 2013. Initial payments, covering the period from July 1, 2009, to the date when the applicable conditions under section 17(1) of this act are satisfied, shall be made within sixty calendar days after those conditions are satisfied. Subsequent payments shall be made directly to hospitals by the department on a periodic basis.

**NEW SECTION. Sec. 13. INCREASED MANAGED CARE PAYMENTS AND CORRESPONDING PAYMENTS TO HOSPITALS.** Subject to the applicable conditions set forth in section 17(1) of this act, the department shall:

(1) Amend medicaid-managed care and regional support network contracts as necessary in order to ensure compliance with this chapter;

(2) With respect to the inpatient and outpatient rates established by section 9 of this act:

(a) Upon satisfaction of the applicable conditions under section 17(1) of this act, increase payments to managed care organizations and regional support networks as necessary to ensure that hospitals are reimbursed in accordance with section 9(1) of this act for services rendered from and after the date when applicable conditions under section 17(1) of this act have been satisfied, and pay an additional amount equal to the estimated amount of additional state taxes on managed care organizations or regional support networks due as a result of the payments under this section, and require managed care organizations and regional support networks to make payments to each hospital in accordance with section 9 of this act. The increased payments made to hospitals pursuant to this subsection shall be in addition to any other amounts payable to hospitals by managed care organizations or regional support networks and shall not affect any other payments to hospitals;

(b) Within sixty calendar days after satisfaction of the applicable conditions under section 17(1) of this act, calculate the additional amount due to each hospital to pay claims submitted for inpatient and outpatient medicaid-covered services rendered from and after July 1, 2009, through the date when the applicable conditions under section 17(1) of this act have been satisfied, based on the rates required by section 9(2) of this act, make payments to managed care organizations and regional support networks in amounts sufficient to pay the additional amounts due to each hospital plus an additional amount equal to the estimated amount of additional state taxes on managed care organizations or regional support networks due as a result of the payments under this subsection, and require managed care organizations and regional support networks to make payments to each hospital in accordance with the department's calculations within forty-five calendar days after the department disburses funds for those purposes.

(3) With respect to the inpatient and outpatient hospital rates established by section 10 of this act:

(a) Upon satisfaction of the applicable conditions under section 17(1) of this act, increase payments to managed care organizations and regional support networks as necessary to ensure that hospitals

are reimbursed in accordance with section 10 of this act, and pay an additional amount equal to the estimated amount of additional state taxes on managed care organizations or regional support networks due as a result of the payments under this section;

(b) Require managed care organizations and regional support networks to reimburse hospitals for hospital inpatient and outpatient services rendered after the date that the applicable conditions under section 17(1) of this act are satisfied at rates no lower than the combined rates established by sections 9 and 10 of this act;

(c) Within sixty calendar days after satisfaction of the applicable conditions under section 17(1) of this act, calculate the additional amount due to each hospital to pay claims submitted for inpatient and outpatient medicaid-covered services rendered from and after February 1, 2010, through the date when the applicable conditions under section 17(1) of this act are satisfied based on the rates required by section 10 of this act, make payments to managed care organizations and regional support networks in amounts sufficient to pay the additional amounts due to each hospital plus an additional amount equal to the estimated amount of additional state taxes on managed care organizations or regional support networks, and require managed care organizations and regional support networks to make payments to each hospital in accordance with the department's calculations within forty-five calendar days after the department disburses funds for those purposes;

(d) Require managed care organizations that contract with health care organizations that provide, directly or by contract, health care services on a prepaid or capitated basis to make payments to health care organizations for any of the hospital payments that the managed care organizations would have been required to pay to hospitals under this section if the managed care organizations did not contract with those health care organizations, and require the managed care organizations to require those health care organizations to make equivalent payments to the hospitals that would have received payments under this section if the managed care organizations did not contract with the health care organizations;

(4) The department shall ensure that the increases to the medicaid fee schedules as described in section 10 of this act are included in the development of healthy options premiums.

(5) The department may require managed care organizations and regional support networks to demonstrate compliance with this section.

**NEW SECTION. Sec. 14. QUALITY INCENTIVE PAYMENTS.** (1) The department, in collaboration with the health care authority, the department of health, the department of labor and industries, the Washington state hospital association, the Puget Sound health alliance, and the forum, a collaboration of health carriers, physicians, and hospitals in Washington state, shall design a system of hospital quality incentive payments. The design of the system shall be submitted to the relevant policy and fiscal committees of the legislature by December 15, 2010. The system shall be based upon the following principles:

(a) Evidence-based treatment and processes shall be used to improve health care outcomes for hospital patients;

(b) Effective purchasing strategies to improve the quality of health care services should involve the use of common quality improvement measures by public and private health care purchasers, while recognizing that some measures may not be appropriate for application to specialty pediatric, psychiatric, or rehabilitation hospitals;

(c) Quality measures chosen for the system should be consistent with the standards that have been developed by national quality improvement organizations, such as the national quality forum, the federal centers for medicare and medicaid services, or the federal agency for healthcare research and quality. New reporting burdens

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to hospitals should be minimized by giving priority to measures hospitals are currently required to report to governmental agencies, such as the hospital compare measures collected by the federal centers for medicare and medicaid services;

(d) Benchmarks for each quality improvement measure should be set at levels that are feasible for hospitals to achieve, yet represent real improvements in quality and performance for a majority of hospitals in Washington state; and

(e) Hospital performance and incentive payments should be designed in a manner such that all noncritical access hospitals in Washington are able to receive the incentive payments if performance is at or above the benchmark score set in the system established under this section.

(2) Upon satisfaction of the applicable conditions set forth in section 17(1) of this act, and for state fiscal year 2013 and each fiscal year thereafter, assessments may be increased to support an additional one percent increase in inpatient hospital rates for noncritical access hospitals that meet the quality incentive benchmarks established under this section.

**NEW SECTION. Sec. 15.** A new section is added to chapter 70.47 RCW to read as follows:

The increases in inpatient and outpatient reimbursement rates included in chapter 74,--- RCW (the new chapter created in section 23 of this act) shall not be reflected in hospital payment rates for services provided to basic health enrollees under this chapter.

**NEW SECTION. Sec. 16. MULTIHOSPITAL LOCATIONS, NEW HOSPITALS, AND CHANGES IN OWNERSHIP.** (1) If an entity owns or operates more than one hospital subject to assessment under this chapter, the entity shall pay the assessment for each hospital separately. However, if the entity operates multiple hospitals under a single medicaid provider number, it may pay the assessment for the hospitals in the aggregate.

(2) Notwithstanding any other provision of this chapter, if a hospital subject to the assessment imposed under this chapter ceases to conduct hospital operations throughout a state fiscal year, the assessment for the quarter in which the cessation occurs shall be adjusted by multiplying the assessment computed under section 4 (1) and (3) of this act by a fraction, the numerator of which is the number of days during the year which the hospital conducts, operates, or maintains the hospital and the denominator of which is three hundred sixty-five. Immediately prior to ceasing to conduct, operate, or maintain a hospital, the hospital shall pay the adjusted assessment for the fiscal year to the extent not previously paid.

(3) Notwithstanding any other provision of this chapter, in the case of a hospital that commences conducting, operating, or maintaining a hospital that is not exempt from payment of the assessment under section 5 of this act and that did not conduct, operate, or maintain such hospital throughout the cost reporting year used to determine the assessment amount, the assessment for that hospital shall be computed on the basis of the actual number of nonmedicare inpatient days reported to the department by the hospital on a quarterly basis. The hospital shall be eligible to receive increased payments under this chapter beginning on the date it commences hospital operations.

(4) Notwithstanding any other provision of this chapter, if a hospital previously subject to assessment is sold or transferred to another entity and remains subject to assessment, the assessment for that hospital shall be computed based upon the cost report data previously submitted by that hospital. The assessment shall be allocated between the transferor and transferee based on the number of days within the assessment period that each owned, operated, or maintained the hospital.

**NEW SECTION. Sec. 17. CONDITIONS.** (1) The assessment, collection, and disbursement of funds under this chapter shall be conditional upon:

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(a) Withdrawal of those aspects of any pending state plan amendments previously submitted to the centers for medicare and medicaid services that are inconsistent with this chapter, specifically any pending state plan amendment related to the four percent rate reductions for inpatient and outpatient hospital rates and elimination of the small rural disproportionate share hospital payment program as implemented July 1, 2009;

(b) Approval by the centers for medicare and medicaid services of any state plan amendments or waiver requests that are necessary in order to implement the applicable sections of this chapter;

(c) To the extent necessary, amendment of contracts between the department and managed care organizations in order to implement this chapter; and

(d) Certification by the office of financial management that appropriations have been adopted that fully support the rates established in this chapter for the upcoming fiscal year.

(2) This chapter does not take effect or ceases to be imposed, and any moneys remaining in the fund shall be refunded to hospitals in proportion to the amounts paid by such hospitals, if and to the extent that:

(a) An appellate court or the centers for medicare and medicaid services makes a final determination that any element of this chapter, other than section 11 of this act, cannot be validly implemented;

(b) Medicaid inpatient or outpatient reimbursement rates for hospitals are reduced below the combined rates established by sections 9 and 10 of this act;

(c) Except for payments to the University of Washington medical center and harborview medical center, payments to hospitals required under sections 9, 10, 12, and 13 of this act are not eligible for federal matching funds;

(d) Other funding available for the medicaid program is not sufficient to maintain medicaid inpatient and outpatient reimbursement rates for hospitals and small rural disproportionate share payments at one hundred percent of the levels in effect on July 1, 2009; or

(e) The fund is used as a substitute for or to supplant other funds, except as authorized by section 3(3)(e) of this act.

**NEW SECTION. Sec. 18. SEVERABILITY.** (1) The provisions of this chapter are not severable: If the conditions set forth in section 17(1) of this act are not satisfied or if any of the circumstances set forth in section 17(2) of this act should occur, this entire chapter shall have no effect from that point forward, except that if the payment under section 11 of this act, or the application thereof to any hospital or circumstances does not receive approval by the centers for medicare and medicaid services as described in section 17(1)(b) of this act or is determined to be unconstitutional or otherwise invalid, the other provisions of this chapter or its application to hospitals or circumstances other than those to which it is held invalid shall not be affected thereby.

(2) In the event that any portion of this chapter shall have been validly implemented and the entire chapter is later rendered ineffective under this section, prior assessments and payments under the validly implemented portions shall not be affected.

(3) In the event that the payment under section 11 of this act, or the application thereof to any hospital or circumstances does not receive approval by the centers for medicare and medicaid services as described in section 17(1)(b) of this act or is determined to be unconstitutional or otherwise invalid, the amount of the assessment shall be adjusted under section 6(1)(c) of this act.

**Sec. 19.** 2009 c 564 s 209 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--MEDICAL ASSISTANCE PROGRAM

General Fund--State Appropriation (FY 2010).....\$1,597,387,000

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General Fund--State Appropriation (FY 2011).....	\$1,984,797,000
General Fund--Federal Appropriation.....	\$5,210,672,000
General Fund--Private/Local Appropriation.....	\$12,903,000
Emergency Medical Services and Trauma Care Systems	
Trust Account--State Appropriation.....	\$15,076,000
Tobacco Prevention and Control Account--	
State Appropriation.....	\$3,766,000
TOTAL APPROPRIATION.....	\$8,824,601,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Based on quarterly expenditure reports and caseload forecasts, if the department estimates that expenditures for the medical assistance program will exceed the appropriations, the department shall take steps including but not limited to reduction of rates or elimination of optional services to reduce expenditures so that total program costs do not exceed the annual appropriation authority.

(2) In determining financial eligibility for medicaid-funded services, the department is authorized to disregard recoveries by Holocaust survivors of insurance proceeds or other assets, as defined in RCW 48.104.030.

(3) The legislature affirms that it is in the state's interest for Harborview medical center to remain an economically viable component of the state's health care system.

(4) When a person is ineligible for medicaid solely by reason of residence in an institution for mental diseases, the department shall provide the person with the same benefits as he or she would receive if eligible for medicaid, using state-only funds to the extent necessary.

(5) In accordance with RCW 74.46.625, \$6,000,000 of the general fund--federal appropriation is provided solely for supplemental payments to nursing homes operated by public hospital districts. The public hospital district shall be responsible for providing the required nonfederal match for the supplemental payment, and the payments shall not exceed the maximum allowable under federal rules. It is the legislature's intent that the payments shall be supplemental to and shall not in any way offset or reduce the payments calculated and provided in accordance with part E of chapter 74.46 RCW. It is the legislature's further intent that costs otherwise allowable for rate- setting and settlement against payments under chapter 74.46 RCW shall not be disallowed solely because such costs have been paid by revenues retained by the nursing home from these supplemental payments. The supplemental payments are subject to retrospective interim and final cost settlements based on the nursing homes' as-filed and final medicare cost reports. The timing of the interim and final cost settlements shall be at the department's discretion. During either the interim cost settlement or the final cost settlement, the department shall recoup from the public hospital districts the supplemental payments that exceed the medicaid cost limit and/or the medicare upper payment limit. The department shall apply federal rules for identifying the eligible incurred medicaid costs and the medicare upper payment limit.

(6) \$1,110,000 of the general fund--federal appropriation and \$1,105,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for grants to rural hospitals. The department shall distribute the funds under a formula that provides a relatively larger share of the available funding to hospitals that (a) serve a disproportionate share of low-income and medically indigent patients, and (b) have relatively smaller net financial margins, to the extent allowed by the federal medicaid program.

(7) \$9,818,000 of the general fund--state appropriation for fiscal year 2011, and \$9,865,000 of the general fund--federal appropriation are provided solely for grants to nonrural hospitals. The department shall distribute the funds under a formula that

provides a relatively larger share of the available funding to hospitals that (a) serve a disproportionate share of low-income and financially indigent patients, and (b) have relatively smaller net financial margins, to the extent allowed by the federal medicaid program.

(8) The department shall continue the inpatient hospital certified public expenditures program for the 2009-11 biennium. The program shall apply to all public hospitals, including those owned or operated by the state, except those classified as critical access hospitals or state psychiatric institutions. The department shall submit reports to the governor and legislature by November 1, 2009, and by November 1, 2010, that evaluate whether savings continue to exceed costs for this program. If the certified public expenditures (CPE) program in its current form is no longer cost-effective to maintain, the department shall submit a report to the governor and legislature detailing cost-effective alternative uses of local, state, and federal resources as a replacement for this program. During fiscal year 2010 and fiscal year 2011, hospitals in the program shall be paid and shall retain one hundred percent of the federal portion of the allowable hospital cost for each medicaid inpatient fee-for-service claim payable by medical assistance and one hundred percent of the federal portion of the maximum disproportionate share hospital payment allowable under federal regulations. Inpatient medicaid payments shall be established using an allowable methodology that approximates the cost of claims submitted by the hospitals. Payments made to each hospital in the program in each fiscal year of the biennium shall be compared to a baseline amount. The baseline amount will be determined by the total of (a) the inpatient claim payment amounts that would have been paid during the fiscal year had the hospital not been in the CPE program based on the reimbursement rates developed, implemented, and consistent with policies approved in the 2009-11 biennial operating appropriations act (chapter 564, Laws of 2009) and in effect on July 1, 2009, (b) one half of the indigent assistance disproportionate share hospital payment amounts paid to and retained by each hospital during fiscal year 2005, and (c) all of the other disproportionate share hospital payment amounts paid to and retained by each hospital during fiscal year 2005 to the extent the same disproportionate share hospital programs exist in the 2009-11 biennium. If payments during the fiscal year exceed the hospital's baseline amount, no additional payments will be made to the hospital except the federal portion of allowable disproportionate share hospital payments for which the hospital can certify allowable match. If payments during the fiscal year are less than the baseline amount, the hospital will be paid a state grant equal to the difference between payments during the fiscal year and the applicable baseline amount. Payment of the state grant shall be made in the applicable fiscal year and distributed in monthly payments. The grants will be recalculated and redistributed as the baseline is updated during the fiscal year. The grant payments are subject to an interim settlement within eleven months after the end of the fiscal year. A final settlement shall be performed. To the extent that either settlement determines that a hospital has received funds in excess of what it would have received as described in this subsection, the hospital must repay the excess amounts to the state when requested. \$6,570,000 of the general fund-- state appropriation for fiscal year 2010, which is appropriated in section 204(1) of this act, and \$1,500,000 of the general fund--state appropriation for fiscal year 2011, which is appropriated in section 204(1) of this act, are provided solely for state grants for the participating hospitals. Sufficient amounts are appropriated in this section for the remaining state grants for the participating hospitals. CPE hospitals will receive the inpatient and outpatient reimbursement rate restorations in section 9 and rate increases in section 10 (1) (b) of Engrossed Second Substitute House Bill 2956 (hospital safety net assessment)

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funded through the hospital safety net assessment fund rather than through the baseline mechanism specified in this section.

(9) The department is authorized to use funds appropriated in this section to purchase goods and supplies through direct contracting with vendors when the department determines it is cost-effective to do so.

(10) Sufficient amounts are appropriated in this section for the department to continue podiatry services for medicaid-eligible adults.

(11) Sufficient amounts are appropriated in this section for the department to provide an adult dental benefit that is at least equivalent to the benefit provided in the 2003-05 biennium.

(12) \$93,000 of the general fund--state appropriation for fiscal year 2010 and \$93,000 of the general fund--federal appropriation are provided solely for the department to pursue a federal Medicaid waiver pursuant to Second Substitute Senate Bill No. 5945 (Washington health partnership plan). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(13) The department shall require managed health care systems that have contracts with the department to serve medical assistance clients to limit any reimbursements or payments the systems make to providers not employed by or under contract with the systems to no more than the medical assistance rates paid by the department to providers for comparable services rendered to clients in the fee-for-service delivery system.

(14) Appropriations in this section are sufficient for the department to continue to fund family planning nurses in the community services offices.

(15) The department, in coordination with stakeholders, will conduct an analysis of potential savings in utilization of home dialysis. The department shall present its findings to the appropriate house of representatives and senate committees by December 2010.

(16) A maximum of \$166,875,000 of the general fund--state appropriation and \$38,389,000 of the general fund--federal appropriation may be expended in the fiscal biennium for the general assistance-unemployable medical program, and these amounts are provided solely for this program. Of these amounts, \$10,749,000 of the general fund--state appropriation for fiscal year 2010 and \$10,892,000 of the general fund--federal appropriation are provided solely for payments to hospitals for providing outpatient services to low income patients who are recipients of general assistance-unemployable. Pursuant to RCW 74.09.035, the department shall not expend for the general assistance medical care services program any amounts in excess of the amounts provided in this subsection.

(17) If the department determines that it is feasible within the amounts provided in subsection (16) of this section, and without the loss of federal disproportionate share hospital funds, the department shall contract with the carrier currently operating a managed care pilot project for the provision of medical care services to general assistance-unemployable clients. Mental health services shall be included in the services provided through the managed care system. If the department determines that it is feasible, effective October 1, 2009, in addition to serving clients in the pilot counties, the carrier shall expand managed care services to clients residing in at least the following counties: Spokane, Yakima, Chelan, Kitsap, and Cowlitz. If the department determines that it is feasible, the carrier shall complete implementation into the remaining counties. Total per person costs to the state, including outpatient and inpatient services and any additional costs due to stop loss agreements, shall not exceed the per capita payments projected for the general assistance-unemployable eligibility category, by fiscal year, in the February 2009 medical assistance expenditures forecast. The department, in collaboration with the carrier, shall seek to improve

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the transition rate of general assistance clients to the federal supplemental security income program.

(18) The department shall evaluate the impact of the use of a managed care delivery and financing system on state costs and outcomes for general assistance medical clients. Outcomes measured shall include state costs, utilization, changes in mental health status and symptoms, and involvement in the criminal justice system.

(19) The department shall report to the governor and the fiscal committees of the legislature by June 1, 2010, on its progress toward achieving a twenty percentage point increase in the generic prescription drug utilization rate.

(20) State funds shall not be used by hospitals for advertising purposes.

(21) The department shall seek a medicaid state plan amendment to create a professional services supplemental payment program for University of Washington medicine professional providers no later than July 1, 2009. The department shall apply federal rules for identifying the shortfall between current fee-for-service medicaid payments to participating providers and the applicable federal upper payment limit. Participating providers shall be solely responsible for providing the local funds required to obtain federal matching funds. Any incremental costs incurred by the department in the development, implementation, and maintenance of this program will be the responsibility of the participating providers. Participating providers will retain the full amount of supplemental payments provided under this program, net of any potential costs for any related audits or litigation brought against the state. The department shall report to the governor and the legislative fiscal committees on the prospects for expansion of the program to other qualifying providers as soon as feasibility is determined but no later than December 31, 2009. The report will outline estimated impacts on the participating providers, the procedures necessary to comply with federal guidelines, and the administrative resource requirements necessary to implement the program. The department will create a process for expansion of the program to other qualifying providers as soon as it is determined feasible by both the department and providers but no later than June 30, 2010.

(22) \$9,350,000 of the general fund--state appropriation for fiscal year 2010, \$8,313,000 of the general fund--state appropriation for fiscal year 2011, and \$20,371,000 of the general fund--federal appropriation are provided solely for development and implementation of a replacement system for the existing medicaid management information system. The amounts provided in this subsection are conditioned on the department satisfying the requirements of section 902 of this act.

(23) \$506,000 of the general fund--state appropriation for fiscal year 2011 and \$657,000 of the general fund--federal appropriation are provided solely for the implementation of Second Substitute House Bill No. 1373 (children's mental health). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(24) Pursuant to 42 U.S.C. Sec. 1396(a)(25), the department shall pursue insurance claims on behalf of medicaid children served through its in-home medically intensive child program under WAC 388-551-3000. The department shall report to the Legislature by December 31, 2009, on the results of its efforts to recover such claims.

(25) The department may, on a case-by-case basis and in the best interests of the child, set payment rates for medically intensive home care services to promote access to home care as an alternative to hospitalization. Expenditures related to these increased payments shall not exceed the amount the department would

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otherwise pay for hospitalization for the child receiving medically intensive home care services.

(26) \$425,000 of the general fund--state appropriation for fiscal year 2010, \$425,000 of the general fund--state appropriation for fiscal year 2011, and \$1,580,000 of the general fund--federal appropriation are provided solely to continue children's health coverage outreach and education efforts under RCW 74.09.470. These efforts shall rely on existing relationships and systems developed with local public health agencies, health care providers, public schools, the women, infants, and children program, the early childhood education and assistance program, child care providers, newborn visiting nurses, and other community-based organizations. The department shall seek public-private partnerships and federal funds that are or may become available to provide on-going support for outreach and education efforts under the federal children's health insurance program reauthorization act of 2009.

(27) The department, in conjunction with the office of financial management, shall ~~((reduce outpatient and inpatient hospital rates and))~~ implement a prorated inpatient payment policy. ~~((In determining the level of reductions needed, the department shall include in its calculations services paid under fee for service, managed care, and certified public expenditure payment methods; but reductions shall not apply to payments for psychiatric inpatient services or payments to critical access hospitals.))~~

(28) The department will pursue a competitive procurement process for antihemophilic products, emphasizing evidence-based medicine and protection of patient access without significant disruption in treatment.

(29) The department will pursue several strategies towards reducing pharmacy expenditures including but not limited to increasing generic prescription drug utilization by 20 percentage points and promoting increased utilization of the existing mail-order pharmacy program.

(30) The department shall reduce reimbursement for over-the-counter medications while maintaining reimbursement for those over-the-counter medications that can replace more costly prescription medications.

(31) The department shall seek public-private partnerships and federal funds that are or may become available to implement health information technology projects under the federal American recovery and reinvestment act of 2009.

(32) The department shall target funding for maternity support services towards pregnant women with factors that lead to higher rates of poor birth outcomes, including hypertension, a preterm or low birth weight birth in the most recent previous birth, a cognitive deficit or developmental disability, substance abuse, severe mental illness, unhealthy weight or failure to gain weight, tobacco use, or African American or Native American race.

(33) The department shall direct graduate medical education funds to programs that focus on primary care training.

(34) \$79,000 of the general fund--state appropriation for fiscal year 2010 and \$53,000 of the general fund--federal appropriation are provided solely to implement Substitute House Bill No. 1845 (medical support obligations).

(35) \$63,000 of the general fund--state appropriation for fiscal year 2010, \$583,000 of the general fund--state appropriation for fiscal year 2011, and \$864,000 of the general fund--federal appropriation are provided solely to implement Engrossed House Bill No. 2194 (extraordinary medical placement for offenders). The department shall work in partnership with the department of corrections to identify services and find placements for offenders who are released through the extraordinary medical placement program. The department shall collaborate with the department of corrections to identify and track cost savings to the department of corrections, including medical cost savings, and to identify and track

expenditures incurred by the aging and disability services program for community services and by the medical assistance program for medical expenses. A joint report regarding the identified savings and expenditures shall be provided to the office of financial management and the appropriate fiscal committees of the legislature by November 30, 2010. If this bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(36) Sufficient amounts are provided in this section to provide full benefit dual eligible beneficiaries with medicare part D prescription drug copayment coverage in accordance with RCW 74.09.520.

**Sec. 20.** RCW 43.84.092 and 2009 c 479 s 31, 2009 c 472 s 5, and 2009 c 451 s 8 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the budget stabilization account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment

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account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the health system capacity account, the personal health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety account, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public transportation systems account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puyallup tribal settlement account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 corridor account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the urban arterial trust account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University

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building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. Sec. 21. EXPIRATION. This chapter expires July 1, 2013.

NEW SECTION. Sec. 22. Upon expiration of chapter 74.--RCW (the new chapter created in section 24 of this act), inpatient and outpatient hospital reimbursement rates shall return to a rate structure no higher than the rate structure in effect as of July 1, 2009, as if the four percent medicaid inpatient and outpatient rate reductions did not occur on July 1, 2009, or as otherwise specified in the 2013-15 biennial operating appropriations act.

NEW SECTION. Sec. 23. EMERGENCY. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. Sec. 24. NEW CHAPTER. Sections 1 through 14, 16 through 18, and 21 of this act constitute a new chapter in Title 74 RCW."

Correct the title.

Senator Keiser spoke in favor of adoption of the striking amendment.

Senator Pflug spoke against adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Keiser to Engrossed Second Substitute House Bill No. 2956.

The motion by Senator Keiser carried and the striking amendment was adopted by voice vote.

#### MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Second Substitute House Bill No. 2956 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

Senator Pflug spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2956 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2956 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 26; Nays, 15; Absent, 0; Excused, 8.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Prentice, Ranker, Regala, Rockefeller, Sheldon and Shin

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Voting nay: Senators Becker, Benton, Brandland, Carrell, Gordon, Hewitt, King, Morton, Parlette, Pflug, Roach, Schoesler, Stevens, Swecker and Zarelli

Excused: Senators Delvin, Haugen, Holmquist, Honeyford, McCaslin, Oemig, Pridemore and Tom

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2956 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

#### MESSAGE FROM THE HOUSE

April 5, 2010

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6503 with the following amendment(s): 6503-S AMH ENGR H5844.E

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature declares that unprecedented revenue shortfalls necessitate immediate action to reduce expenditures during the 2009-2011 fiscal biennium. From the effective date of this section, it is the intent of the legislature that state agencies of the legislative branch, judicial branch, and executive branch including institutions of higher education, shall achieve a reduction in government operating expenses as provided in this act. It is the legislature's intent that, to the extent that the reductions in expenditures reduce compensation costs, agencies and institutions shall strive to preserve family wage jobs by reducing the impact of temporary layoffs on lower-wage jobs.

**NEW SECTION. Sec. 2.** State agencies and institutions shall achieve reductions in compensation expenditures for employees employed by general government state agencies in Washington management services, or exempt positions as managers, as defined in RCW 41.06.022, as provided in the omnibus appropriations act. These reductions shall be sufficient to attain a savings of \$10 million general fund--state for fiscal year 2011. Savings in other funds and accounts shall be achieved as provided in the omnibus appropriations act.

**NEW SECTION. Sec. 3.** (1)(a) The office of financial management shall certify to each executive branch state agency and institution of higher education the compensation reduction amount to be achieved by that agency or institution. Each agency and institution shall achieve compensation expenditure reductions as provided in the omnibus appropriations act.

(b) Each executive branch state agency other than institutions of higher education may submit to the office of financial management a compensation reduction plan to achieve the cost reductions as provided in the omnibus appropriations act. The compensation reduction plan of each executive branch agency may include, but is not limited to, employee leave without pay, including additional mandatory and voluntary temporary layoffs, reductions in the agency workforce, compensation reductions, and reduced work hours, as well as voluntary retirement, separation, and other incentive programs authorized by section 912, chapter 564, Laws of 2009. The amount of compensation cost reductions to be achieved by each agency shall be adjusted to reflect voluntary and mandatory temporary layoffs at the agency during the 2009-2011 fiscal biennium and implemented prior to January 1, 2010, but not

adjusted by other compensation reduction plans adopted as a result of the enactment of chapter 564, Laws of 2009, or the enactment of other compensation cost reduction measures applicable to the 2009-2011 fiscal biennium.

(c) Each institution of higher education must submit to the office of financial management a compensation and operations reduction plan to achieve at least the cost reductions as provided in the omnibus appropriations act. For purposes of the reduction plan, the state board of community and technical colleges shall submit a single plan on behalf of all community and technical colleges. The reduction plan of each institution may include, but is not limited to, employee leave without pay, including mandatory and voluntary temporary layoffs, reductions in the institution workforce, compensation reductions, and reduced work hours, as well as voluntary retirement, separation, incentive programs authorized by section 912, chapter 564, Laws of 2009, as well as other reductions to the cost of operations. The amount of cost reductions to be achieved by each institution shall be adjusted to reflect voluntary and mandatory temporary layoffs at the institution during the 2009-2011 fiscal biennium and implemented prior to January 1, 2010, but not adjusted by other compensation reduction plans adopted as a result of the enactment of chapter 564, Laws of 2009, or the enactment of other compensation cost reduction measures applicable to the 2009-2011 fiscal biennium.

(d) The director of financial management shall review, approve, and submit to the legislative fiscal committees those executive branch state agencies and higher education institution plans that achieves the cost reductions as provided in the omnibus appropriations act. For those executive branch state agencies and institutions of higher education that do not have an approved compensation and operations reduction plan, the institution shall be closed on the dates specified in subsection (2) of this section.

(e) For each agency of the legislative branch, the chief clerk of the house of representatives and the secretary of the senate shall review and approve a plan of employee mandatory and voluntary leave for the 2009-2011 fiscal biennium that achieves the cost reductions as provided in the omnibus appropriations act. The amount of compensation cost reductions to be achieved shall be adjusted, if necessary, to reflect voluntary and mandatory temporary layoffs at the agencies during the 2009-2011 fiscal biennium and implemented prior to January 1, 2010.

(f) For each agency of the judicial branch, the supreme court shall review and approve a plan of employee mandatory and voluntary leave for the 2009-2011 fiscal biennium that achieve the cost reductions as provided in the omnibus appropriations act. The amount of compensation cost reductions to be achieved shall be adjusted, if necessary, to reflect voluntary and mandatory temporary layoffs at the agencies during the 2009-2011 fiscal biennium and implemented prior to January 1, 2010.

(2) Each state agency of the executive, legislative, and judicial branch, and any institution that does not have an approved plan in accordance with subsection (1) of this section shall be closed on the following dates in addition to the legal holidays specified in RCW 1.16.050:

- (a) Monday, July 12, 2010;
- (b) Friday, August 6, 2010;
- (c) Tuesday, September 7, 2010;
- (d) Monday, October 11, 2010;
- (e) Monday, December 27, 2010;
- (f) Friday, January 28, 2011;
- (g) Tuesday, February 22, 2011;
- (h) Friday, March 11, 2011;
- (i) Friday, April 22, 2011;
- (j) Friday, June 10, 2011.

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(3) If the closure of state agencies or institutions under subsection (2) of this section prevents the performance of any action, the action shall be considered timely if performed on the next business day.

(4) The following activities of state agencies and institutions of higher education are exempt from subsections (1) and (2) of this section:

(a) Direct custody, supervision, and patient care in: (i) Corrections; (ii) juvenile rehabilitation; (iii) institutional care of veterans, or individuals with mental illness, and individuals with developmental disabilities; (iv) state hospitals, the University of Washington medical center, and Harborview medical center; (v) the special commitment center; (vi) the school for the blind; (vii) the state center for childhood deafness and hearing loss; and (viii) the Washington youth academy;

(b) Direct protective services to children and other vulnerable populations, child support enforcement, disability determination services, complaint investigators, and residential care licensors and surveyors in the department of social and health services and the department of health;

(c) Washington state patrol investigative services and field enforcement;

(d) Hazardous materials response or emergency response and cleanup;

(e) Emergency public health and patient safety response and the public health laboratory;

(f) Military operations and emergency management within the military department;

(g) Firefighting;

(h) Enforcement officers in the department of fish and wildlife, the liquor control board, the gambling commission, the department of financial institutions, and the department of natural resources;

(i) State parks operated by the parks and recreation commission;

(j) In institutions of higher education, classroom instruction, operations not funded from state funds or tuition, campus police and security, emergency management and response, work performed by student employees if the duties were not previously assigned to nonstudents during the current or prior school year, and student health care;

(k) Operations of liquor control board business enterprises and games conducted by the state lottery;

(l) Agricultural commodity commissions and boards, and agricultural inspection programs operated by the department of agriculture;

(m) The unemployment insurance program and reemployment services of the employment security department;

(n) The workers' compensation program and workplace safety and health compliance activities of the department of labor and industries;

(o) The operation, maintenance, and construction of state ferries and state highways;

(p) The department of revenue;

(q) Licensing service offices in the department of licensing that are open no more than two days per week, and no licensing service office closures may occur on Saturdays as a result of this section;

(r) The governor, lieutenant governor, legislative agencies, and the office of financial management, during sessions of the legislature under Article II, section 12 of the state Constitution and the twenty-day veto period under Article IV, section 12 of the state Constitution;

(s) The office of the attorney general, except for management and administrative functions not directly related to civil, criminal, or administrative actions;

(t) The labor relations office of the office of financial management through November 1, 2010;

(u) The minimal use of state employees on the specified closure dates as necessary to protect public assets and information technology systems, and to maintain public safety; and

(v) The operations of the office of the insurance commissioner that are funded by industry regulatory fees.

(5)(a) The closure of an office of a state agency or institution of higher education under this section shall result in the temporary layoff of the employees of the agency or institution. The compensation of the employees shall be reduced proportionately to the duration of the temporary layoff. Temporary layoffs under this section shall not affect the employees' vacation leave accrual, seniority, health insurance, or sick leave credits. For the purposes of chapter 430, Laws of 2009, the compensation reductions under this section are deemed to be an integral part of an employer's expenditure reduction efforts and shall not result in the loss of retirement benefits in any state defined benefit retirement plan for an employee whose period of average final compensation includes a portion of the period from the effective date of this section through June 30, 2011.

(b)(i) During the closure of an office or institution under this section, any employee with a monthly full-time equivalent salary of two thousand five hundred dollars or less may, at the employee's option, use accrued vacation leave in lieu of temporary layoff during the closure. Solely for this purpose, and during the 2009-2011 fiscal biennium only, the department of personnel shall adopt rules to permit employees with less than six months of continuous state employment to use accrued vacation leave.

(ii) If an employee with a monthly full-time equivalent salary of two thousand five hundred dollars or less has no accrued vacation leave, that employee may use shared leave, if approved by the agency director, and if made available through donations under RCW 41.04.665 in lieu of temporary layoff during the closure.

(6) Except as provided in subsection (4) of this section, for employees not scheduled to work on a day specified in subsection (2) of this section, the employing agency must designate an alternative day during that month on which the employee is scheduled to work that the employee will take temporary leave without pay.

(7) To the extent that the implementation of this section is subject to collective bargaining under chapter 41.80 RCW, the bargaining shall be conducted pursuant to section 4 of this act. To the extent that the implementation of this section is subject to collective bargaining under chapters 28B.52, 41.56, 41.76, or 47.64 RCW, the bargaining shall be conducted pursuant to these chapters.

(8) For all or a portion of the employees of an agency of the executive branch, the office of financial management may approve the substitution of temporary layoffs on an alternative date during that month for any date specified in subsection (2) of this section as necessary for the critical work of any agency.

**NEW SECTION. Sec. 4.** A new section is added to chapter 41.80 RCW to read as follows:

(1) To the extent that the implementation of section 3 of this act is subject to collective bargaining:

(a) For institutions of higher education that have elected to have negotiations conducted by the governor or governor's designee in accordance with RCW 41.80.010(4), and that have an approved compensation reduction plan under section 3(1) of this act, negotiations regarding impacts of the compensation reduction plan shall be conducted between the governor or governor's designee and a coalition at each college, college district, or university of all of the exclusive bargaining representatives subject to chapter 41.80 RCW;

(b) For institutions of higher education that have elected to have negotiations conducted by the governor or governor's designee in accordance with RCW 41.80.010(4), and that do not have an approved compensation reduction plan under section 3(1) of this act,

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negotiations regarding impacts of the temporary layoffs under section 3(2) of this act shall be conducted between the governor or governor's designee and one coalition of all of the exclusive bargaining representatives subject to chapter 41.80 RCW;

(c) For institutions of higher education that have not elected to have negotiations conducted by the governor or governor's designee under RCW 41.80.010(4), negotiations regarding impacts of section 3 of this act shall be conducted between each institution of higher education and the exclusive bargaining representatives;

(d) For agencies that have an approved compensation reduction plan under section 3(1) of this act, negotiations regarding impacts of the compensation reduction plan shall be conducted between the governor or governor's designee and a coalition at each agency of all of the exclusive bargaining representatives subject to chapter 41.80 RCW; and

(e) For agencies that do not have an approved compensation reduction plan under section 3(1) of this act, negotiations regarding impacts of the temporary layoffs under section 3(2) of this act shall be conducted between the governor or governor's designee and the exclusive bargaining representatives subject to chapter 41.80 RCW.

(2) This section expires June 30, 2011.

**Sec. 5.** RCW 42.04.060 and 2009 c 428 s 1 are each amended to read as follows:

Except as provided in section 3 of this act, all state elective and appointive officers shall keep their offices open for the transaction of business for a minimum of forty hours per week, except weeks that include state legal holidays. Customary business hours must be posted on the agency or office's web site and made known by other means designed to provide the public with notice.

((This section shall not apply to the courts of record of this state or to their officers nor to the office of the attorney general and the lieutenant governor.))

**Sec. 6.** RCW 41.26.030 and 2009 c 523 s 3 are each reenacted and amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Accumulated contributions" means the employee's contributions made by a member, including any amount paid under RCW 41.50.165(2), plus accrued interest credited thereon.

(2) "Actuarial reserve" means a method of financing a pension or retirement plan wherein reserves are accumulated as the liabilities for benefit payments are incurred in order that sufficient funds will be available on the date of retirement of each member to pay the member's future benefits during the period of retirement.

(3) "Actuarial valuation" means a mathematical determination of the financial condition of a retirement plan. It includes the computation of the present monetary value of benefits payable to present members, and the present monetary value of future employer and employee contributions, giving effect to mortality among active and retired members and also to the rates of disability, retirement, withdrawal from service, salary and interest earned on investments.

(4)(a) "Basic salary" for plan 1 members, means the basic monthly rate of salary or wages, including longevity pay but not including overtime earnings or special salary or wages, upon which pension or retirement benefits will be computed and upon which employer contributions and salary deductions will be based.

(b) "Basic salary" for plan 2 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay. In any year in which a member serves

in the legislature the member shall have the option of having such member's basic salary be the greater of:

(i) The basic salary the member would have received had such member not served in the legislature; or

(ii) Such member's actual basic salary received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because basic salary under (b)(i) of this subsection is greater than basic salary under (b)(ii) of this subsection shall be paid by the member for both member and employer contributions.

(5)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance, disability allowance, death benefit, or any other benefit described herein.

(b) "Beneficiary" for plan 2 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(6)(a) "Child" or "children" means an unmarried person who is under the age of eighteen or mentally or physically disabled as determined by the department, except a person who is disabled and in the full time care of a state institution, who is:

(i) A natural born child;

(ii) A stepchild where that relationship was in existence prior to the date benefits are payable under this chapter;

(iii) A posthumous child;

(iv) A child legally adopted or made a legal ward of a member prior to the date benefits are payable under this chapter; or

(v) An illegitimate child legitimized prior to the date any benefits are payable under this chapter.

(b) A person shall also be deemed to be a child up to and including the age of twenty years and eleven months while attending any high school, college, or vocational or other educational institution accredited, licensed, or approved by the state, in which it is located, including the summer vacation months and all other normal and regular vacation periods at the particular educational institution after which the child returns to school.

(7) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(8) "Director" means the director of the department.

(9) "Disability board" for plan 1 members means either the county disability board or the city disability board established in RCW 41.26.110.

(10) "Disability leave" means the period of six months or any portion thereof during which a member is on leave at an allowance equal to the member's full salary prior to the commencement of disability retirement. The definition contained in this subsection shall apply only to plan 1 members.

(11) "Disability retirement" for plan 1 members, means the period following termination of a member's disability leave, during which the member is in receipt of a disability retirement allowance.

(12) "Domestic partners" means two adults who have registered as domestic partners under RCW 26.60.020.

(13) "Employee" means any law enforcement officer or firefighter as defined in subsections (16) and (18) of this section.

(14)(a) "Employer" for plan 1 members, means the legislative authority of any city, town, county, or district or the elected officials of any municipal corporation that employs any law enforcement officer and/or firefighter, any authorized association of such municipalities, and, except for the purposes of RCW 41.26.150, any labor guild, association, or organization, which represents the firefighters or law enforcement officers of at least seven cities of over 20,000 population and the membership of each local lodge or division of which is composed of at least sixty percent law enforcement officers or firefighters as defined in this chapter.

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(b) "Employer" for plan 2 members, means the following entities to the extent that the entity employs any law enforcement officer and/or firefighter:

- (i) The legislative authority of any city, town, county, or district;
- (ii) The elected officials of any municipal corporation;
- (iii) The governing body of any other general authority law enforcement agency; or
- (iv) A four-year institution of higher education having a fully operational fire department as of January 1, 1996.

(15)(a) "Final average salary" for plan 1 members, means (i) for a member holding the same position or rank for a minimum of twelve months preceding the date of retirement, the basic salary attached to such same position or rank at time of retirement; (ii) for any other member, including a civil service member who has not served a minimum of twelve months in the same position or rank preceding the date of retirement, the average of the greatest basic salaries payable to such member during any consecutive twenty-four month period within such member's last ten years of service for which service credit is allowed, computed by dividing the total basic salaries payable to such member during the selected twenty-four month period by twenty-four; (iii) in the case of disability of any member, the basic salary payable to such member at the time of disability retirement; (iv) in the case of a member who hereafter vests pursuant to RCW 41.26.090, the basic salary payable to such member at the time of vesting.

(b) "Final average salary" for plan 2 members, means the monthly average of the member's basic salary for the highest consecutive sixty service credit months of service prior to such member's retirement, termination, or death. Periods constituting authorized unpaid leaves of absence may not be used in the calculation of final average salary.

(c) In calculating final average salary under (a) or (b) of this subsection, the department of retirement systems shall include any compensation forgone by a member employed by a state agency or institution during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer.

(16) "Firefighter" means:

(a) Any person who is serving on a full time, fully compensated basis as a member of a fire department of an employer and who is serving in a position which requires passing a civil service examination for firefighter, and who is actively employed as such;

(b) Anyone who is actively employed as a full time firefighter where the fire department does not have a civil service examination;

(c) Supervisory firefighter personnel;

(d) Any full time executive secretary of an association of fire protection districts authorized under RCW 52.12.031. The provisions of this subsection (16)(d) shall not apply to plan 2 members;

(e) The executive secretary of a labor guild, association or organization (which is an employer under ~~(RCW 41.26.030(14))~~ as ~~now or hereafter amended~~) subsection (14) of this section, if such individual has five years previous membership in a retirement system established in chapter 41.16 or 41.18 RCW. The provisions of this subsection (16)(e) shall not apply to plan 2 members;

(f) Any person who is serving on a full time, fully compensated basis for an employer, as a fire dispatcher, in a department in which, on March 1, 1970, a dispatcher was required to have passed a civil service examination for firefighter;

(g) Any person who on March 1, 1970, was employed on a full time, fully compensated basis by an employer, and who on May 21, 1971, was making retirement contributions under the provisions of chapter 41.16 or 41.18 RCW; and

(h) Any person who is employed on a full-time, fully compensated basis by an employer as an emergency medical technician.

(17) "General authority law enforcement agency" means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state, and any agency, department, or division of state government, having as its primary function the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general, but not including the Washington state patrol. Such an agency, department, or division is distinguished from a limited authority law enforcement agency having as one of its functions the apprehension or detection of persons committing infractions or violating the traffic or criminal laws relating to limited subject areas, including but not limited to, the state departments of natural resources and social and health services, the state gambling commission, the state lottery commission, the state parks and recreation commission, the state utilities and transportation commission, the state liquor control board, and the state department of corrections.

(18) "Law enforcement officer" beginning January 1, 1994, means any person who is commissioned and employed by an employer on a full time, fully compensated basis to enforce the criminal laws of the state of Washington generally, with the following qualifications:

(a) No person who is serving in a position that is basically clerical or secretarial in nature, and who is not commissioned shall be considered a law enforcement officer;

(b) Only those deputy sheriffs, including those serving under a different title pursuant to county charter, who have successfully completed a civil service examination for deputy sheriff or the equivalent position, where a different title is used, and those persons serving in unclassified positions authorized by RCW 41.14.070 except a private secretary will be considered law enforcement officers;

(c) Only such full time commissioned law enforcement personnel as have been appointed to offices, positions, or ranks in the police department which have been specifically created or otherwise expressly provided for and designated by city charter provision or by ordinance enacted by the legislative body of the city shall be considered city police officers;

(d) The term "law enforcement officer" also includes the executive secretary of a labor guild, association or organization (which is an employer under ~~(RCW 41.26.030(14))~~ subsection (14) of this section) if that individual has five years previous membership in the retirement system established in chapter 41.20 RCW. The provisions of this subsection (18)(d) shall not apply to plan 2 members; and

(e) The term "law enforcement officer" also includes a person employed on or after January 1, 1993, as a public safety officer or director of public safety, so long as the job duties substantially involve only either police or fire duties, or both, and no other duties in a city or town with a population of less than ten thousand. The provisions of this subsection (18)(e) shall not apply to any public safety officer or director of public safety who is receiving a retirement allowance under this chapter as of May 12, 1993.

(19) "Medical services" for plan 1 members, shall include the following as minimum services to be provided. Reasonable charges for these services shall be paid in accordance with RCW 41.26.150.

(a) Hospital expenses: These are the charges made by a hospital, in its own behalf, for

(i) Board and room not to exceed semiprivate room rate unless private room is required by the attending physician due to the condition of the patient.

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(ii) Necessary hospital services, other than board and room, furnished by the hospital.

(b) Other medical expenses: The following charges are considered "other medical expenses", provided that they have not been considered as "hospital expenses".

(i) The fees of the following:

(A) A physician or surgeon licensed under the provisions of chapter 18.71 RCW;

(B) An osteopathic physician and surgeon licensed under the provisions of chapter 18.57 RCW;

(C) A chiropractor licensed under the provisions of chapter 18.25 RCW.

(ii) The charges of a registered graduate nurse other than a nurse who ordinarily resides in the member's home, or is a member of the family of either the member or the member's spouse.

(iii) The charges for the following medical services and supplies:

(A) Drugs and medicines upon a physician's prescription;

(B) Diagnostic X-ray and laboratory examinations;

(C) X-ray, radium, and radioactive isotopes therapy;

(D) Anesthesia and oxygen;

(E) Rental of iron lung and other durable medical and surgical equipment;

(F) Artificial limbs and eyes, and casts, splints, and trusses;

(G) Professional ambulance service when used to transport the member to or from a hospital when injured by an accident or stricken by a disease;

(H) Dental charges incurred by a member who sustains an accidental injury to his or her teeth and who commences treatment by a legally licensed dentist within ninety days after the accident;

(I) Nursing home confinement or hospital extended care facility;

(J) Physical therapy by a registered physical therapist;

(K) Blood transfusions, including the cost of blood and blood plasma not replaced by voluntary donors;

(L) An optometrist licensed under the provisions of chapter 18.53 RCW.

(20) "Member" means any firefighter, law enforcement officer, or other person as would apply under subsections (16) or (18) of this section whose membership is transferred to the Washington law enforcement officers' and firefighters' retirement system on or after March 1, 1970, and every law enforcement officer and firefighter who is employed in that capacity on or after such date.

(21) "Plan 1" means the law enforcement officers' and firefighters' retirement system, plan 1 providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(22) "Plan 2" means the law enforcement officers' and firefighters' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

(23) "Position" means the employment held at any particular time, which may or may not be the same as civil service rank.

(24) "Regular interest" means such rate as the director may determine.

(25) "Retiree" for persons who establish membership in the retirement system on or after October 1, 1977, means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

(26) "Retirement fund" means the "Washington law enforcement officers' and firefighters' retirement system fund" as provided for herein.

(27) "Retirement system" means the "Washington law enforcement officers' and firefighters' retirement system" provided herein.

(28)(a) "Service" for plan 1 members, means all periods of employment for an employer as a firefighter or law enforcement officer, for which compensation is paid, together with periods of suspension not exceeding thirty days in duration. For the purposes of this chapter service shall also include service in the armed forces of the United States as provided in RCW 41.26.190. Credit shall be allowed for all service credit months of service rendered by a member from and after the member's initial commencement of employment as a firefighter or law enforcement officer, during which the member worked for seventy or more hours, or was on disability leave or disability retirement. Only service credit months of service shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter.

(i) For members retiring after May 21, 1971 who were employed under the coverage of a prior pension act before March 1, 1970, "service" shall also include (A) such military service not exceeding five years as was creditable to the member as of March 1, 1970, under the member's particular prior pension act, and (B) such other periods of service as were then creditable to a particular member under the provisions of RCW 41.18.165, 41.20.160, or 41.20.170. However, in no event shall credit be allowed for any service rendered prior to March 1, 1970, where the member at the time of rendition of such service was employed in a position covered by a prior pension act, unless such service, at the time credit is claimed therefor, is also creditable under the provisions of such prior act.

(ii) A member who is employed by two employers at the same time shall only be credited with service to one such employer for any month during which the member rendered such dual service.

(b) "Service" for plan 2 members, means periods of employment by a member for one or more employers for which basic salary is earned for ninety or more hours per calendar month which shall constitute a service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for at least seventy hours but less than ninety hours per calendar month shall constitute one-half service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for less than seventy hours shall constitute a one-quarter service credit month.

Members of the retirement system who are elected or appointed to a state elective position may elect to continue to be members of this retirement system.

Service credit years of service shall be determined by dividing the total number of service credit months of service by twelve. Any fraction of a service credit year of service as so determined shall be taken into account in the computation of such retirement allowance or benefits.

If a member receives basic salary from two or more employers during any calendar month, the individual shall receive one service credit month's service credit during any calendar month in which multiple service for ninety or more hours is rendered; or one-half service credit month's service credit during any calendar month in which multiple service for at least seventy hours but less than ninety hours is rendered; or one-quarter service credit month during any calendar month in which multiple service for less than seventy hours is rendered.

(29) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(30) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

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(31) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(32) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(33) "Surviving spouse" means the surviving widow or widower of a member. "Surviving spouse" shall not include the divorced spouse of a member except as provided in RCW 41.26.162.

**Sec. 7.** RCW 41.32.010 and 2008 c 204 s 1 and 2008 c 175 s 1 are each reenacted and amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1)(a) "Accumulated contributions" for plan 1 members, means the sum of all regular annuity contributions and, except for the purpose of withdrawal at the time of retirement, any amount paid under RCW 41.50.165(2) with regular interest thereon.

(b) "Accumulated contributions" for plan 2 members, means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality tables and regulations as shall be adopted by the director and regular interest.

(3) "Annuity" means the moneys payable per year during life by reason of accumulated contributions of a member.

(4) "Member reserve" means the fund in which all of the accumulated contributions of members are held.

(5)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter.

(b) "Beneficiary" for plan 2 and plan 3 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(6) "Contract" means any agreement for service and compensation between a member and an employer.

(7) "Creditable service" means membership service plus prior service for which credit is allowable. This subsection shall apply only to plan 1 members.

(8) "Dependent" means receiving one-half or more of support from a member.

(9) "Disability allowance" means monthly payments during disability. This subsection shall apply only to plan 1 members.

(10)(a) "Earnable compensation" for plan 1 members, means:

(i) All salaries and wages paid by an employer to an employee member of the retirement system for personal services rendered during a fiscal year. In all cases where compensation includes maintenance the employer shall fix the value of that part of the compensation not paid in money.

(ii) For an employee member of the retirement system teaching in an extended school year program, two consecutive extended school years, as defined by the employer school district, may be used as the annual period for determining earnable compensation in lieu of the two fiscal years.

(iii) "Earnable compensation" for plan 1 members also includes the following actual or imputed payments, which are not paid for personal services:

(A) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation and the individual shall receive the equivalent service credit.

(B) If a leave of absence, without pay, is taken by a member for the purpose of serving as a member of the state legislature, and such member has served in the legislature five or more years, the salary which would have been received for the position from which the leave of absence was taken shall be considered as compensation earnable if the employee's contribution thereon is paid by the employee. In addition, where a member has been a member of the state legislature for five or more years, earnable compensation for the member's two highest compensated consecutive years of service shall include a sum not to exceed thirty-six hundred dollars for each of such two consecutive years, regardless of whether or not legislative service was rendered during those two years.

(iv) For members employed less than full time under written contract with a school district, or community college district, in an instructional position, for which the member receives service credit of less than one year in all of the years used to determine the earnable compensation used for computing benefits due under RCW 41.32.497, 41.32.498, and 41.32.520, the member may elect to have earnable compensation defined as provided in RCW 41.32.345. For the purposes of this subsection, the term "instructional position" means a position in which more than seventy-five percent of the member's time is spent as a classroom instructor (including office hours), a librarian, a psychologist, a social worker, a nurse, a physical therapist, an occupational therapist, a speech language pathologist or audiologist, or a counselor. Earnable compensation shall be so defined only for the purpose of the calculation of retirement benefits and only as necessary to insure that members who receive fractional service credit under RCW 41.32.270 receive benefits proportional to those received by members who have received full-time service credit.

(v) "Earnable compensation" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Earnable compensation" for plan 2 and plan 3 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

"Earnable compensation" for plan 2 and plan 3 members also includes the following actual or imputed payments which, except in the case of (b)(ii)(B) of this subsection, are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation, to the extent provided above, and the individual shall receive the equivalent service credit.

(ii) In any year in which a member serves in the legislature the member shall have the option of having such member's earnable compensation be the greater of:

(A) The earnable compensation the member would have received had such member not served in the legislature; or

(B) Such member's actual earnable compensation received for teaching and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall

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be paid by the member for both member and employer contributions.

(c) In calculating earnable compensation under (a) or (b) of this subsection, the department of retirement systems shall include any compensation forgone by a member employed by a state agency or institution during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer.

(11) "Employer" means the state of Washington, the school district, or any agency of the state of Washington by which the member is paid.

(12) "Fiscal year" means a year which begins July 1st and ends June 30th of the following year.

(13) "Former state fund" means the state retirement fund in operation for teachers under chapter 187, Laws of 1923, as amended.

(14) "Local fund" means any of the local retirement funds for teachers operated in any school district in accordance with the provisions of chapter 163, Laws of 1917 as amended.

(15) "Member" means any teacher included in the membership of the retirement system who has not been removed from membership under RCW 41.32.878 or 41.32.768. Also, any other employee of the public schools who, on July 1, 1947, had not elected to be exempt from membership and who, prior to that date, had by an authorized payroll deduction, contributed to the member reserve.

(16) "Membership service" means service rendered subsequent to the first day of eligibility of a person to membership in the retirement system: PROVIDED, That where a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered. The provisions of this subsection shall apply only to plan 1 members.

(17) "Pension" means the moneys payable per year during life from the pension reserve.

(18) "Pension reserve" is a fund in which shall be accumulated an actuarial reserve adequate to meet present and future pension liabilities of the system and from which all pension obligations are to be paid.

(19) "Prior service" means service rendered prior to the first date of eligibility to membership in the retirement system for which credit is allowable. The provisions of this subsection shall apply only to plan 1 members.

(20) "Prior service contributions" means contributions made by a member to secure credit for prior service. The provisions of this subsection shall apply only to plan 1 members.

(21) "Public school" means any institution or activity operated by the state of Washington or any instrumentality or political subdivision thereof employing teachers, except the University of Washington and Washington State University.

(22) "Regular contributions" means the amounts required to be deducted from the compensation of a member and credited to the member's individual account in the member reserve. This subsection shall apply only to plan 1 members.

(23) "Regular interest" means such rate as the director may determine.

(24)(a) "Retirement allowance" for plan 1 members, means monthly payments based on the sum of annuity and pension, or any optional benefits payable in lieu thereof.

(b) "Retirement allowance" for plan 2 and plan 3 members, means monthly payments to a retiree or beneficiary as provided in this chapter.

(25) "Retirement system" means the Washington state teachers' retirement system.

(26)(a) "Service" for plan 1 members means the time during which a member has been employed by an employer for compensation.

(i) If a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered.

(ii) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(iii) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(b) "Service" for plan 2 and plan 3 members, means periods of employment by a member for one or more employers for which earnable compensation is earned subject to the following conditions:

(i) A member employed in an eligible position or as a substitute shall receive one service credit month for each month of September through August of the following year if he or she earns earnable compensation for eight hundred ten or more hours during that period and is employed during nine of those months, except that a member may not receive credit for any period prior to the member's employment in an eligible position except as provided in RCW 41.32.812 and 41.50.132(4).

(ii) Any other member employed in an eligible position or as a substitute who earns earnable compensation during the period from September through August shall receive service credit according to one of the following methods, whichever provides the most service credit to the member:

(A) If a member is employed either in an eligible position or as a substitute teacher for nine months of the twelve month period between September through August of the following year but earns earnable compensation for less than eight hundred ten hours but for at least six hundred thirty hours, he or she will receive one-half of a service credit month for each month of the twelve month period;

(B) If a member is employed in an eligible position or as a substitute teacher for at least five months of a six-month period between September through August of the following year and earns earnable compensation for six hundred thirty or more hours within the six-month period, he or she will receive a maximum of six service credit months for the school year, which shall be recorded as one service credit month for each month of the six-month period;

(C) All other members employed in an eligible position or as a substitute teacher shall receive service credit as follows:

(I) A service credit month is earned in those calendar months where earnable compensation is earned for ninety or more hours;

(II) A half-service credit month is earned in those calendar months where earnable compensation is earned for at least seventy hours but less than ninety hours; and

(III) A quarter-service credit month is earned in those calendar months where earnable compensation is earned for less than seventy hours.

(iii) Any person who is a member of the teachers' retirement system and who is elected or appointed to a state elective position may continue to be a member of the retirement system and continue to receive a service credit month for each of the months in a state elective position by making the required member contributions.

(iv) When an individual is employed by two or more employers the individual shall only receive one month's service credit during any calendar month in which multiple service for ninety or more hours is rendered.

(v) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of

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determining eligibility to retire under RCW 41.32.470. For purposes of plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

(vi) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(vii) The department shall adopt rules implementing this subsection.

(27) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(28) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(29) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity. The term includes state, educational service district, and school district superintendents and their assistants and all employees certificated by the superintendent of public instruction; and in addition thereto any full time school doctor who is employed by a public school and renders service of an instructional or educational nature.

(30) "Average final compensation" for plan 2 and plan 3 members, means the member's average earnable compensation of the highest consecutive sixty service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.32.810(2).

(31) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

(32) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(33) "Director" means the director of the department.

(34) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(35) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(36) "Substitute teacher" means:

(a) A teacher who is hired by an employer to work as a temporary teacher, except for teachers who are annual contract employees of an employer and are guaranteed a minimum number of hours; or

(b) Teachers who either (i) work in ineligible positions for more than one employer or (ii) work in an ineligible position or positions together with an eligible position.

(37)(a) "Eligible position" for plan 2 members from June 7, 1990, through September 1, 1991, means a position which normally requires two or more uninterrupted months of creditable service during September through August of the following year.

(b) "Eligible position" for plan 2 and plan 3 on and after September 1, 1991, means a position that, as defined by the employer, normally requires five or more months of at least seventy

hours of earnable compensation during September through August of the following year.

(c) For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position.

(d) The elected position of the superintendent of public instruction is an eligible position.

(38) "Plan 1" means the teachers' retirement system, plan 1 providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(39) "Plan 2" means the teachers' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977, and prior to July 1, 1996.

(40) "Plan 3" means the teachers' retirement system, plan 3 providing the benefits and funding provisions covering persons who first become members of the system on and after July 1, 1996, or who transfer under RCW 41.32.817.

(41) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items compiled by the bureau of labor statistics, United States department of labor.

(42) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(43) "Index B" means the index for the year prior to index A.

(44) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(45) "Adjustment ratio" means the value of index A divided by index B.

(46) "Annual increase" means, initially, fifty-nine cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

(47) "Member account" or "member's account" for purposes of plan 3 means the sum of the contributions and earnings on behalf of the member in the defined contribution portion of plan 3.

(48) "Separation from service or employment" occurs when a person has terminated all employment with an employer. Separation from service or employment does not occur, and if claimed by an employer or employee may be a violation of RCW 41.32.055, when an employee and employer have a written or oral agreement to resume employment with the same employer following termination. Mere expressions or inquiries about postretirement employment by an employer or employee that do not constitute a commitment to reemploy the employee after retirement are not an agreement under this section.

(49) "Employed" or "employee" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

**Sec. 8.** RCW 41.37.010 and 2007 c 492 s 11 and 2007 c 294 s 1 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter, unless the context clearly requires otherwise.

(1) "Retirement system" means the Washington public safety employees' retirement system provided for in this chapter.

(2) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(3) "State treasurer" means the treasurer of the state of Washington.

(4) "Employer" means the Washington state department of corrections, the Washington state parks and recreation commission, the Washington state gambling commission, the Washington state patrol, the Washington state department of natural resources, and the Washington state liquor control board; any county corrections

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department; or any city corrections department not covered under chapter 41.28 RCW.

(5) "Member" means any employee employed by an employer on a full-time basis:

(a) Who is in a position that requires completion of a certified criminal justice training course and is authorized by their employer to arrest, conduct criminal investigations, enforce the criminal laws of the state of Washington, and carry a firearm as part of the job;

(b) Whose primary responsibility is to ensure the custody and security of incarcerated or probationary individuals as a corrections officer, probation officer, or jailer;

(c) Who is a limited authority Washington peace officer, as defined in RCW 10.93.020, for an employer; or

(d) Whose primary responsibility is to supervise members eligible under this subsection.

(6)(a) "Compensation earnable" for members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States internal revenue code, but shall exclude nonmoney maintenance compensation and lump sum or other payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

(b) "Compensation earnable" for members also includes the following actual or imputed payments, which are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement, which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable to the extent provided in this subsection, and the individual shall receive the equivalent service credit;

(ii) In any year in which a member serves in the legislature, the member shall have the option of having such member's compensation earnable be the greater of:

(A) The compensation earnable the member would have received had such member not served in the legislature; or

(B) Such member's actual compensation earnable received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions;

(iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.37.060;

(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(vi) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(7) "Service" means periods of employment by a member on or after July 1, 2006, for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month. Compensation earnable earned for at least

seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

(a) Service in any state elective position shall be deemed to be full-time service.

(b) A member shall receive a total of not more than twelve service credit months of service for such calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for ninety or more hours is rendered.

(8) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(9) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(10) "Membership service" means all service rendered as a member.

(11) "Beneficiary" means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(12) "Regular interest" means such rate as the director may determine.

(13) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(14)(a) "Average final compensation" means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.37.290.

(b) In calculating average final compensation under (a) of this subsection, the department of retirement systems shall include any compensation forgone by a member employed by a state agency or institution during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer.

(15) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(16) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(17) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(18) "Retirement allowance" means monthly payments to a retiree or beneficiary as provided in this chapter.

(19) "Employee" or "employed" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

(20) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality and other tables as may be adopted by the director.

(21) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

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(22) "Eligible position" means any permanent, full-time position included in subsection (5) of this section.

(23) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (22) of this section.

(24) "Leave of absence" means the period of time a member is authorized by the employer to be absent from service without being separated from membership.

(25) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

(26) "Director" means the director of the department.

(27) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(28) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(29) "Plan" means the Washington public safety employees' retirement system plan 2.

(30) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(31) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(32) "Index B" means the index for the year prior to index A.

(33) "Adjustment ratio" means the value of index A divided by index B.

(34) "Separation from service" occurs when a person has terminated all employment with an employer.

**Sec. 9.** RCW 43.43.120 and 2009 c 549 s 5124 and 2009 c 522 s 1 are each reenacted and amended to read as follows:

As used in (~~RCW 43.43.120~~) this section and RCW 43.43.130 through 43.43.320, unless a different meaning is plainly required by the context:

(1) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality table as may be adopted and such interest rate as may be determined by the director.

(2) "Annual increase" means as of July 1, 1999, seventy-seven cents per month per year of service which amount shall be increased each subsequent July 1st by three percent, rounded to the nearest cent.

(3)(a) "Average final salary," for members commissioned prior to January 1, 2003, shall mean the average monthly salary received by a member during the member's last two years of service or any consecutive two-year period of service, whichever is the greater, as an employee of the Washington state patrol; or if the member has less than two years of service, then the average monthly salary received by the member during the member's total years of service.

(b) "Average final salary," for members commissioned on or after January 1, 2003, shall mean the average monthly salary received by a member for the highest consecutive sixty service credit months; or if the member has less than sixty months of service, then the average monthly salary received by the member during the member's total months of service.

(c) In calculating average final salary under (a) or (b) of this subsection, the department of retirement systems shall include any compensation forgone by the member during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the chief.

(4) "Beneficiary" means any person in receipt of retirement allowance or any other benefit allowed by this chapter.

(5)(a) "Cadet," for a person who became a member of the retirement system after June 12, 1980, is a person who has passed the Washington state patrol's entry-level oral, written, physical performance, and background examinations and is, thereby, appointed by the chief as a candidate to be a commissioned officer of the Washington state patrol.

(b) "Cadet," for a person who became a member of the retirement system before June 12, 1980, is a trooper cadet, patrol cadet, or employee of like classification, employed for the express purpose of receiving the on-the-job training required for attendance at the state patrol academy and for becoming a commissioned trooper. "Like classification" includes: Radio operators or dispatchers; persons providing security for the governor or legislature; patrol officers; drivers' license examiners; weighmasters; vehicle safety inspectors; central wireless operators; and warehouse workers.

(6) "Contributions" means the deduction from the compensation of each member in accordance with the contribution rates established under chapter 41.45 RCW.

(7) "Current service" shall mean all service as a member rendered on or after August 1, 1947.

(8) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(9) "Director" means the director of the department of retirement systems.

(10) "Domestic partners" means two adults who have registered as domestic partners under RCW (~~(26.60.020)~~) 26.60.040.

(11) "Employee" means any commissioned employee of the Washington state patrol.

(12) "Insurance commissioner" means the insurance commissioner of the state of Washington.

(13) "Lieutenant governor" means the lieutenant governor of the state of Washington.

(14) "Member" means any person included in the membership of the retirement fund.

(15) "Plan 2" means the Washington state patrol retirement system plan 2, providing the benefits and funding provisions covering commissioned employees who first become members of the system on or after January 1, 2003.

(16) "Prior service" shall mean all services rendered by a member to the state of Washington, or any of its political subdivisions prior to August 1, 1947, unless such service has been credited in another public retirement or pension system operating in the state of Washington.

(17) "Regular interest" means interest compounded annually at such rates as may be determined by the director.

(18) "Retirement board" means the board provided for in this chapter.

(19) "Retirement fund" means the Washington state patrol retirement fund.

(20) "Retirement system" means the Washington state patrol retirement system.

(21)(a) "Salary," for members commissioned prior to July 1, 2001, shall exclude any overtime earnings related to RCW 47.46.040, or any voluntary overtime, earned on or after July 1, 2001.

(b) "Salary," for members commissioned on or after July 1, 2001, shall exclude any overtime earnings related to RCW 47.46.040 or any voluntary overtime, lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, holiday pay, or any form of severance pay.

(22) "Service" shall mean services rendered to the state of Washington or any political subdivisions thereof for which compensation has been paid. Full time employment for seventy or

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more hours in any given calendar month shall constitute one month of service. An employee who is reinstated in accordance with RCW 43.43.110 shall suffer no loss of service for the period reinstated subject to the contribution requirements of this chapter. Only months of service shall be counted in the computation of any retirement allowance or other benefit provided for herein. Years of service shall be determined by dividing the total number of months of service by twelve. Any fraction of a year of service as so determined shall be taken into account in the computation of such retirement allowance or benefit.

(23) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(24) "State treasurer" means the treasurer of the state of Washington.

~~((25))~~ Unless the context expressly indicates otherwise, words importing the masculine gender shall be extended to include the feminine gender and words importing the feminine gender shall be extended to include the masculine gender.

**Sec. 10.** RCW 41.04.665 and 2008 c 36 s 3 are each amended to read as follows:

(1) An agency head may permit an employee to receive leave under this section if:

(a)(i) The employee suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature;

(ii) The employee has been called to service in the uniformed services;

(iii) A state of emergency has been declared anywhere within the United States by the federal or any state government and the employee has needed skills to assist in responding to the emergency or its aftermath and volunteers his or her services to either a governmental agency or to a nonprofit organization engaged in humanitarian relief in the devastated area, and the governmental agency or nonprofit organization accepts the employee's offer of volunteer services; ~~((26))~~

(iv) The employee is a victim of domestic violence, sexual assault, or stalking; or

(v) During the 2009-2011 fiscal biennium only, the employee is eligible to use leave in lieu of temporary layoff under section 3(5) of this act;

(b) The illness, injury, impairment, condition, call to service, emergency volunteer service, or consequence of domestic violence, sexual assault, temporary layoff under section 3(5) of this act, or stalking has caused, or is likely to cause, the employee to:

(i) Go on leave without pay status; or

(ii) Terminate state employment;

(c) The employee's absence and the use of shared leave are justified;

(d) The employee has depleted or will shortly deplete his or her:

(i) Annual leave and sick leave reserves if he or she qualifies under (a)(i) of this subsection;

(ii) Annual leave and paid military leave allowed under RCW 38.40.060 if he or she qualifies under (a)(ii) of this subsection; or

(iii) Annual leave if he or she qualifies under (a)(iii) ~~((27))~~ (iv), or (v) of this subsection;

(e) The employee has abided by agency rules regarding:

(i) Sick leave use if he or she qualifies under (a)(i) or (iv) of this subsection; or

(ii) Military leave if he or she qualifies under (a)(ii) of this subsection; and

(f) The employee has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW if he or she qualifies under (a)(i) of this subsection.

(2) The agency head shall determine the amount of leave, if any, which an employee may receive under this section. However, an

employee shall not receive a total of more than two hundred sixty-one days of leave, except that shared leave received under the uniformed service shared leave pool in RCW 41.04.685 is not included in this total.

(3) An employee may transfer annual leave, sick leave, and his or her personal holiday, as follows:

(a) An employee who has an accrued annual leave balance of more than ten days may request that the head of the agency for which the employee works transfer a specified amount of annual leave to another employee authorized to receive leave under subsection (1) of this section. In no event may the employee request a transfer of an amount of leave that would result in his or her annual leave account going below ten days. For purposes of this subsection (3)(a), annual leave does not accrue if the employee receives compensation in lieu of accumulating a balance of annual leave.

(b) An employee may transfer a specified amount of sick leave to an employee requesting shared leave only when the donating employee retains a minimum of one hundred seventy-six hours of sick leave after the transfer.

(c) An employee may transfer, under the provisions of this section relating to the transfer of leave, all or part of his or her personal holiday, as that term is defined under RCW 1.16.050, or as such holidays are provided to employees by agreement with a school district's board of directors if the leave transferred under this subsection does not exceed the amount of time provided for personal holidays under RCW 1.16.050.

(4) An employee of an institution of higher education under RCW 28B.10.016, school district, or educational service district who does not accrue annual leave but does accrue sick leave and who has an accrued sick leave balance of more than twenty-two days may request that the head of the agency for which the employee works transfer a specified amount of sick leave to another employee authorized to receive leave under subsection (1) of this section. In no event may such an employee request a transfer that would result in his or her sick leave account going below twenty-two days. Transfers of sick leave under this subsection are limited to transfers from employees who do not accrue annual leave. Under this subsection, "sick leave" also includes leave accrued pursuant to RCW 28A.400.300(2) or 28A.310.240(1) with compensation for illness, injury, and emergencies.

(5) Transfers of leave made by an agency head under subsections (3) and (4) of this section shall not exceed the requested amount.

(6) Leave transferred under this section may be transferred from employees of one agency to an employee of the same agency or, with the approval of the heads of both agencies, to an employee of another state agency. However, leave transferred to or from employees of school districts or educational service districts is limited to transfers to or from employees within the same employing district.

(7) While an employee is on leave transferred under this section, he or she shall continue to be classified as a state employee and shall receive the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued annual leave or sick leave.

(a) All salary and wage payments made to employees while on leave transferred under this section shall be made by the agency employing the person receiving the leave. The value of leave transferred shall be based upon the leave value of the person receiving the leave.

(b) In the case of leave transferred by an employee of one agency to an employee of another agency, the agencies involved shall arrange for the transfer of funds and credit for the appropriate value of leave.

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(i) Pursuant to rules adopted by the office of financial management, funds shall not be transferred under this section if the transfer would violate any constitutional or statutory restrictions on the funds being transferred.

(ii) The office of financial management may adjust the appropriation authority of an agency receiving funds under this section only if and to the extent that the agency's existing appropriation authority would prevent it from expending the funds received.

(iii) Where any questions arise in the transfer of funds or the adjustment of appropriation authority, the director of financial management shall determine the appropriate transfer or adjustment.

(8) Leave transferred under this section shall not be used in any calculation to determine an agency's allocation of full time equivalent staff positions.

(9) The value of any leave transferred under this section which remains unused shall be returned at its original value to the employee or employees who transferred the leave when the agency head finds that the leave is no longer needed or will not be needed at a future time in connection with the illness or injury for which the leave was transferred or for any other qualifying condition. Before the agency head makes a determination to return unused leave in connection with an illness or injury, or any other qualifying condition, he or she must receive from the affected employee a statement from the employee's doctor verifying that the illness or injury is resolved. To the extent administratively feasible, the value of unused leave which was transferred by more than one employee shall be returned on a pro rata basis.

(10) An employee who uses leave that is transferred to him or her under this section may not be required to repay the value of the leave that he or she used.

**NEW SECTION. Sec. 11.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

**NEW SECTION. Sec. 12.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 13.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 1 of the title, after "agencies;" strike the remainder of the title and insert "amending RCW 42.04.060 and 41.04.665; reenacting and amending RCW 41.26.030, 41.32.010, 41.37.010, and 43.43.120; adding a new section to chapter 41.80 RCW; creating new sections; providing an expiration date; and declaring an emergency." and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Prentice moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6503.

Senator Prentice spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Prentice that the Senate concur in the

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House amendment(s) to Engrossed Substitute Senate Bill No. 6503.

The motion by Senator Prentice carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6503 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6503, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6503, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 26; Nays, 14; Absent, 1; Excused, 8.

Voting yea: Senators Berkey, Brandland, Brown, Eide, Fairley, Franklin, Gordon, Hargrove, Hatfield, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Prentice, Ranker, Regala, Rockefeller and Shin

Voting nay: Senators Becker, Benton, Carrell, Fraser, Hewitt, King, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Absent: Senator Morton

Excused: Senators Delvin, Haugen, Holmquist, Honeyford, McCaslin, Oemig, Pridemore and Tom

ENGROSSED SUBSTITUTE SENATE BILL NO. 6503, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 3:57 p.m., on motion of Senator Eide, the Senate adjourned until 2:00 p.m. Sunday, April 11, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

TWENTY EIGHTH DAY, APRIL 11, 2010

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**TWENTY EIGHTH DAY**

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**AFTERNOON SESSION**

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Senate Chamber, Olympia, Sunday, April 11, 2010

The Senate was called to order at 2:00 p.m. by President Owen. No roll call was taken.

**MOTION**

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

**MOTION**

On motion of Senator Eide, the Senate advanced to the fourth order of business.

**MESSAGE FROM THE HOUSE**

April 10, 2010

**MR. PRESIDENT:**

The House has adopted:

**SENATE JOINT RESOLUTION 8225.**

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

**MESSAGE FROM THE HOUSE**

April 10, 2010

**MR. PRESIDENT:**

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2956.**

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

**MOTION**

At 2:02 p.m., on motion of Senator Eide, the Senate adjourned until 9:00 a.m. Monday, April 12, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

## TWENTY NINTH DAY

## MORNING SESSION

Senate Chamber, Olympia, Monday, April 12, 2010

The Senate was called to order at 9:00 a.m. by the President Pro Tempore. The Secretary called the roll and announced to the President Pro Tempore that all Senators were present with the exception of Senators Delvin, Holmquist, McCaslin and Stevens.

The Sergeant at Arms Color Guard consisting of Senate employees Stephen Malmstrom and Gary Humboch, presented the Colors. Reverend Jim Erlandson, Community of Christ Church of Olympia offered the prayer.

## MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

## MOTION

There being no objection, the Senate advanced to the first order of business.

## REPORTS OF STANDING COMMITTEES

April 11, 2010

EHB 2561 Prime Sponsor, Representative Dunshee: Funding construction of energy cost saving improvements to public facilities. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Parlette; Pflug and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Brandland.

Passed to Committee on Rules for second reading.

April 11, 2010

2SHB 2576 Prime Sponsor, Committee on Ways & Means: Restructuring fees for the division of corporations and affirming authority to establish fees for the charities program of the office of the secretary of state. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Fairley; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Parlette; Pflug and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Brandland.

Passed to Committee on Rules for second reading.

April 11, 2010

E2SHB 2630 Prime Sponsor, Committee on Education Appropriations: Creating the opportunity express program. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senator Pflug.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Brandland; Parlette and Schoesler.

Passed to Committee on Rules for second reading.

April 11, 2010

HB 2694 Prime Sponsor, Representative Sells: Regarding a bachelor of science in nursing program at the University Center. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Zarelli; Brandland; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Regala and Rockefeller.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Pflug and Schoesler.

Passed to Committee on Rules for second reading.

## MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

## MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

## MESSAGE FROM THE HOUSE

April 10, 2010

MR. PRESIDENT:  
The House has passed:  
ENGROSSED HOUSE BILL NO. 1690  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

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The Senate was called to order at 10:58 a.m. by President Owen.

## INTRODUCTION AND FIRST READING

EHB 1690 by Representatives Hasegawa, Hunt, Hudgins, Anderson and Kenney

AN ACT Relating to public works projects; amending RCW 39.10.200, 39.10.230, 35.82.200, and 43.131.408; and creating a new section.

## MOTION

On motion of Senator Eide, the rules were suspended and Engrossed House Bill No. 1690 was placed on the second reading calendar.

## MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

## MOTION

Senator McAuliffe moved adoption of the following resolution:

SENATE RESOLUTION  
8725

By Senators McAuliffe, Murray, Kohl-Welles, Prentice, McDermott, Kline, Gordon, Eide, Keiser, Brandland, Morton, Becker, Jacobsen, and Fairley

WHEREAS, Will Johnson, a University of Washington senior majoring in computer science and mathematics, has been named a Putnam Fellow for finishing among the top five students in this elite college-math competition among 4,036 competitors; and

WHEREAS, Will Johnson is the first University of Washington student to win a Putnam Fellowship since the competition was initiated in 1938; and

WHEREAS, Will Johnson, a Washington student, grew up in Kenmore and attended Inglemoor High School; and

WHEREAS, Will Johnson's University of Washington math professor, Ioana Dumitriu, the first woman to win a Putnam in 1996, has described Will Johnson as a "once in a generation" student; and

WHEREAS, Will Johnson also participated in last year's competition where he finished sixth;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize that the support of his teachers and his family have contributed to Will Johnson's ability to achieve this prestigious academic award; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Will Johnson.

Senator McAuliffe spoke in favor of adoption of the resolution.

The President Pro Tempore declared the question before the Senate to be the adoption of Senate Resolution No. 8725.

The motion by Senator McAuliffe carried and the resolution was adopted by voice vote.

## MOTION

At 9:45 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

## MOTION

Senator Eide moved that Senate Rule 45.1 be suspended for the remainder of the day to allow for public hearings with less than five days notice.

## MOTION

On motion of Senator Eide, the Senate reverted to the sixth order of business.

## SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2576, by House Committee on Ways & Means (originally sponsored by Representatives Kenney, Liias, Moeller, Pedersen and Armstrong)

Restructuring fees for the division of corporations and affirming authority to establish fees for the charities program of the office of the secretary of state.

The measure was read the second time.

## MOTION

On motion of Senator Prentice, the rules were suspended, Second Substitute House Bill No. 2576 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Prentice and Brown spoke in favor of passage of the bill.

Senators Schoesler, Benton, Pflug and Roach spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2576.

## ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2576 and the bill passed the Senate by the following vote: Yeas, 26; Nays, 19; Absent, 4; Excused, 0.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Jacobsen, Kastama, Kauffman, Keiser, Kline, Kohl-Welles, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Haugen, Hewitt, Hobbs, Honeyford, Kilmer, King, Marr, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Swecker and Zarelli

Absent: Senators Delvin, Holmquist, McCaslin and Stevens  
SECOND SUBSTITUTE HOUSE BILL NO. 2576, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Brandland, Senators Delvin, Holmquist, McCaslin and Stevens were excused.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2630, by House Committee on Education Appropriations (originally sponsored by Representatives Probst, Kenney, Conway, Maxwell, Jacks, White, Simpson, Seaquist, Sells, Goodman, Ormsby and Santos)

Creating the opportunity express program.

The measure was read the second time.

#### MOTION

Senator Prentice moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that in times of severe economic recession, the state has a special obligation to help unemployed and low-income citizens access the training and education necessary to help them find and keep living wage jobs. The legislature also finds that during times of recession, when state revenues are at their lowest, demand for education and training are at their highest, making it especially important for the legislature to set clear goals and make the most efficient use of limited state resources.

(2) The legislature therefore intends to expand training and education programs, which have proven to be successful, to help Washington citizens receive the training they need. These programs include the worker retraining program, the opportunity grant program, and the opportunity internship program. The legislature further intends to create more effective intake and outreach systems to reach the greatest number of citizens and connect them to the resources they need, including college, apprenticeship, and preapprenticeship.

**Sec. 2.** RCW 28C.04.390 and 1999 c 121 s 1 are each amended to read as follows:

(1) The college board worker retraining program funds shall be used for training programs and related support services, including financial aid, counseling, referral to training resources, job referral, and job development that:

- (a) Are consistent with the unified plan for workforce development;
- (b) Provide increased enrollments for dislocated workers;
- (c) Provide customized training opportunities for dislocated workers; and
- (d) Provide increased enrollments and support services, including financial aid for those students not receiving unemployment insurance benefits, that do not replace or supplant any existing enrollments, programs, support services, or funding sources.

(2) The college board shall develop a plan for use of the worker retraining program funds in conjunction with the workforce training customer advisory committee established in subsection (3) of this section. In developing the plan the college board shall:

- (a) Provide that applicants for worker retraining program funds shall solicit financial support for training programs and give priority in receipt of funds to those applicants which are most successful in matching public dollars with financial support;
- (b) Provide that applicants for worker retraining program funds shall develop training programs in partnership with local businesses, industry associations, labor, and other partners as appropriate and give priority in receipt of funds to those applicants who develop

customized training programs in partnership with local businesses, industry associations, and labor organizations;

(c) Give priority in receipt of funds to those applicants serving rural areas;

(d) Ensure that applicants receiving worker retraining program funds gather information from local workforce development councils on employer workforce needs, including the needs of businesses with less than twenty-five employees; ~~((and))~~

(e) Provide for specialized vocational training at a private career school or college at the request of a recipient eligible under subsection (1)(b) of this section. Available tuition for the training is limited to the amount that would otherwise be payable per enrolled quarter to a public institution; and

(f) Give priority in receipt of funds to those applicants working toward careers in the aerospace, health care, advanced manufacturing, construction, and renewable energy industries; high-demand occupations in strategic industry clusters identified in the state comprehensive plan and the workforce development councils' local comprehensive plans for workforce educational training as identified in RCW 28C.18.080 and 28C.18.150; and occupations and industries identified by community and technical colleges in collaboration with local workforce development councils. For purposes of this section, health care includes long-term care.

(3) The executive director of the college board shall appoint a workforce training customer advisory committee by July 1, 1999, to:

(a) Assist in the development of the plan for the use of the college board worker retraining program funds and recommend guidelines to the college board for the operation of worker retraining programs;

(b) Recommend selection criteria for worker retraining programs and grant applicants for receipt of worker retraining program grants;

(c) Provide advice to the college board on other workforce development activities of the community and technical colleges;

(d) Recommend selection criteria for job skills grants, consistent with criteria established in this chapter and chapter 121, Laws of 1999. Such criteria shall include a prioritization of job skills applicants in rural areas;

(e) Recommend guidelines to the college board for the operation of the job skills program; and

(f) Recommend grant applicants for receipt of job skills program grants.

(4) Members of the workforce training customer advisory committee shall consist of three college system representatives selected by the executive director of the college board, three representatives of business selected from nominations provided by statewide business organizations, and three representatives of labor selected from nominations provided by a statewide labor organization representing a cross-section of workers in the state.

**NEW SECTION. Sec. 3.** A new section is added to chapter 28B.50 RCW to read as follows:

By July 1, 2010, and within existing resources, the college board may create a single web site for the purpose of advertising the availability of opportunity express funding to Washington citizens; explaining that opportunity express helps people who want to pursue college and apprenticeship for certain targeted industries; and explaining that opportunity express includes the following tracks: Worker retraining for unemployed adults; training programs approved by the commissioner of the employment security department, training programs administered by labor and management partnerships, and training programs prioritized by industry, for unemployed adults and incumbent workers; opportunity internships for high school students; and opportunity

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grants for low-income adults. The web site may also direct interested individuals to the appropriate local intake office. The web site may also include a link to the Washington state department of labor and industries apprenticeship program.

**Sec. 4.** RCW 28C.18.164 and 2009 c 238 s 4 are each amended to read as follows:

(1) Opportunity internship consortia may apply to the board to offer an opportunity internship program.

(a) The board, in consultation with the Washington state apprenticeship and training council, may select those consortia that demonstrate the strongest commitment and readiness to implement a high quality opportunity internship program for low-income high school students. The board shall place a priority on consortia with demonstrated experience working with similar populations of students and demonstrated capacity to assist a large number of students through the progression of internship or preapprenticeship, high school graduation, postsecondary education, and retention in a high-demand occupation. The board shall place a priority on programs that emphasize secondary career and technical education and nonbaccalaureate postsecondary education; however, programs that target four-year postsecondary degrees are eligible to participate.

(b)(i) Except as provided in (b)(ii) of this subsection (1), the board shall enter into a contract with each consortium selected to participate in the program. No more than ten consortia per year shall be selected to participate in the program, and to the extent possible, the board shall assure a geographic distribution of consortia in regions across the state emphasizing a variety of targeted industries. Each consortium may select no more than one hundred low-income high school students per year to participate in the program.

(ii) For fiscal years 2011 through 2013, the board shall enter into a contract with each consortium selected to participate in the program. No more than twelve consortia per year shall be selected to participate in the program, and to the extent possible, the board shall assure a geographic distribution of consortia in regions across the state emphasizing a variety of targeted industries. No more than five thousand low-income high school students per year may be selected to participate in the program.

(2) Under the terms of an opportunity internship program contract, an opportunity internship consortium shall commit to the following activities which shall be conducted using existing federal, state, local, or private funds available to the consortium:

(a) Identify high-demand occupations in targeted industries for which opportunity internships or preapprenticeships shall be developed and provided;

(b) Develop and implement the components of opportunity internships, including paid or unpaid internships or preapprenticeships of at least ninety hours in length in high-demand occupations with employers in the consortium, mentoring and guidance for students who participate in the program, assistance with applications for postsecondary programs and financial aid, and a guarantee of a job interview with a participating employer for all opportunity internship graduates who successfully complete a postsecondary program of study;

(c) Once the internship or preapprenticeship components have been developed, conduct outreach efforts to inform low-income high school students about high-demand occupations, the opportunity internship program, options for postsecondary programs of study, and the incentives and opportunities provided to students who participate in the program;

(d) Obtain appropriate documentation of the low-income status of students who participate in the program;

(e) Maintain communication with opportunity internship graduates of the consortium who enroll in postsecondary programs of study; and

(f) Submit an annual report to the board on the progress of and participation in the opportunity internship program of the consortium.

(3) Opportunity internship consortia are encouraged to:

(a) Provide paid opportunity internships or preapprenticeships, including during the summer months to encourage students to stay enrolled in high school;

(b) Work with high schools to offer opportunity internships as approved worksite learning experiences where students can earn high school credit;

(c) Designate the local workforce development council as fiscal agent for the opportunity internship program contract;

(d) Work with area high schools to incorporate the opportunity internship program into comprehensive guidance and counseling programs such as the navigation 101 program; and

(e) Coordinate the opportunity internship program with other workforce development and postsecondary education programs, including opportunity grants, the college bound scholarship program, federal workforce investment act initiatives, and college access challenge grants.

(4) The board shall seek federal funds that may be used to support the opportunity internship program, including providing the incentive payments under RCW 28C.18.168.

**NEW SECTION. Sec. 5.** A new section is added to chapter 28B.50 RCW to read as follows:

A separate and identifiable account, which shall be known as the opportunity express account, is established. Moneys in the account may be spent only after appropriation. Moneys in the account shall be used only for the worker retraining program, training programs approved by the commissioner of the employment security department, training programs administered by labor and management partnerships, industry-prioritized training programs, training programs that facilitate career progression in health care occupations, the opportunity internship program, and the opportunity grant program, and for administrative costs related to these programs. Moneys in the account shall be used to supplement, not supplant, existing funding for the opportunity grant program.

**NEW SECTION. Sec. 6.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Senator Prentice spoke in favor of adoption of the committee striking amendment.

#### MOTION

Senator Hargrove moved that the following amendment by Senators Hargrove and Kilmer to the committee striking amendment be adopted:

On page 2, line 32, after "construction," insert "forest product."

Senator Hargrove spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Hargrove and Kilmer on page 2, line 32 to the committee striking amendment to Engrossed Second Substitute House Bill No. 2630.

The motion by Senator Hargrove carried and the amendment to the committee striking amendment was adopted by voice vote.

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The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means as amended to Engrossed Second Substitute House Bill No. 2630.

The motion by Senator Prentice carried and the committee striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "program;" strike the remainder of the title and insert "amending RCW 28C.04.390 and 28C.18.164; adding new sections to chapter 28B.50 RCW; creating a new section; and declaring an emergency."

#### MOTION

On motion of Senator Prentice, the rules were suspended, Engrossed Second Substitute House Bill No. 2630 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Prentice and Sheldon spoke in favor of passage of the bill.

Senator Pflug spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2630 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2630 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 34; Nays, 11; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Swecker and Tom

Voting nay: Senators Becker, Brandland, Carrell, Haugen, Hewitt, Honeyford, Morton, Parlette, Pflug, Schoesler and Zarelli

Excused: Senators Delvin, Holmquist, McCaslin and Stevens  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2630 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, Engrossed Second Substitute House Bill No. 2630 was immediately transmitted to the House of Representatives.

#### SECOND READING

HOUSE BILL NO. 2694, by Representatives Sells, White, McCoy, Kenney, Ericks, O'Brien, Roberts and Chase

Regarding a bachelor of science in nursing program at the University Center.

The measure was read the second time.

#### MOTION

Senator Prentice moved that the following committee striking amendment by the Committee on Ways & Means be adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 28B.50 RCW to read as follows:

(1) RCW 28B.50.901 assigns responsibility for the north Snohomish, Island, and Skagit counties' higher education consortium to Everett Community College. In April of 2009, Everett Community College opened Gray Wolf Hall, the new home of the University Center of North Puget Sound. The University Center currently offers over twenty bachelor's and master's degrees from six partner universities.

(2) Although Everett Community College offers an associate degree nursing program that graduates approximately seventy to ninety students per year, the University Center does not offer a bachelor of science in nursing. Some graduates of the Everett Community College program are able to articulate to the bachelor of science in nursing program offered by the University of Washington-Bothell at its Bothell campus or in Mt. Vernon but current capacity is not sufficient for all of the graduates who are both interested and qualified.

(3) Despite recent growth in nursing education capacity, shortages still persist for registered nurses. According to a June 2007 study by the Washington, Wyoming, Alaska, Montana, and Idaho center for health workforce studies, the average age of Washington's registered nurses was forty-eight years. More than a third were fifty-five years of age or older. Consequently, the high rate of registered nurses retiring from nursing practice over the next two decades will significantly reduce the supply. This reduction comes at the same time as the state's population grows and ages. The registered nurse education capacity in Washington has a large impact on the supply of registered nurses in the state. If the rate of graduation in registered nursing does not increase, projections show that supply in Washington will begin to decline by 2015. In contrast, if graduation rates increased by four hundred per year, the supply of registered nurses would meet estimated demand by the year 2021.

(4) Subject to specific funding to support up to fifty full-time equivalent students in a bachelor of nursing program, the University Center at Everett Community College, in partnership with the University of Washington-Bothell, shall offer a bachelor of science in nursing program with capacity for up to fifty full-time students.

NEW SECTION. **Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2010.

NEW SECTION. **Sec. 3.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2010, in the omnibus appropriations act, this act is null and void."

Senator Prentice spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to House Bill No. 2694.

The motion by Senator Prentice carried and the committee striking amendment was adopted by voice vote.

#### MOTION

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There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "Center;" strike the remainder of the title and insert "adding a new section to chapter 28B.50 RCW; creating a new section; providing an effective date; and declaring an emergency."

#### MOTION

On motion of Senator Prentice, the rules were suspended, House Bill No. 2694 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

Senator Pflug spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2694 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2694 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 43; Nays, 2; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Pflug and Schoesler

Excused: Senators Delvin, Holmquist, McCaslin and Stevens

HOUSE BILL NO. 2694 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2493, by Representatives Cody, Williams, Pedersen, Kagi, Nelson, Orwall, McCoy, Dickerson, White, Hunt, Darneille, Moeller and Roberts

Concerning the taxation of cigarettes and other tobacco products.

The measure was read the second time.

#### MOTION

Senator Tom moved that the following amendment by Senator Tom be adopted:

On page 9, at the beginning of line 10, strike "April" and insert "May"

On page 9, line 14, after "after" strike "April" and insert "May"

On page 9, at the beginning of line 23, strike "April" and insert "May"

Senator Tom spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Tom on page 9, line 10 to Engrossed Substitute House Bill No. 2493.

The motion by Senator Tom carried and the amendment was adopted by voice vote.

#### MOTION

On motion of Senator Tom, the rules were suspended, Engrossed Substitute House Bill No. 2493 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Tom, Marr and Murray spoke in favor of passage of the bill.

Senator Pflug spoke against passage of the bill.

Senator Hewitt spoke on final passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2493 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2493 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 28; Nays, 17; Absent, 0; Excused, 4.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Ranker, Regala, Rockefeller and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Hewitt, Honeyford, King, Morton, Parlette, Pflug, Pridemore, Roach, Schoesler, Sheldon, Shin, Swecker and Zarelli

Excused: Senators Delvin, Holmquist, McCaslin and Stevens  
HOUSE BILL NO. 2493 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 11:41 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

#### AFTERNOON SESSION

The Senate was called to order at 4:11 p.m. by President Owen.

#### MOTION

On motion of Senator Eide, the Senate reverted to the first order of business.

#### SUPPLEMENTAL REPORTS OF STANDING COMMITTEES

April 12, 2010

ESHB 2836 Prime Sponsor, Committee on Capital Budget: Concerning the capital budget. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended.  
Signed by Senators Prentice, Chair; Fraser, Vice Chair,

Capital Budget Chair; Tom, Vice Chair, Operating Budget; Brandland; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore; Regala and Rockefeller.

MOTION

On motion of Senator Eide, the rules were suspended and House Bill No. 3219 was placed on the second reading calendar.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Hewitt; Honeyford; Parlette and Schoesler.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

Passed to Committee on Rules for second reading.

MOTION

SIGNED BY THE PRESIDENT

On motion of Senator Eide, the rules were suspended and Engrossed Substitute House Bill No. 2836 was placed on the second reading calendar.

The President signed:

ENGROSSED SUBSTITUTE SENATE BILL 6503, SENATE JOINT RESOLUTION 8225.

MOTION

SECOND READING

On motion of Senator Eide, the Senate advanced to the fourth order of business.

ENGROSSED HOUSE BILL NO. 1690, by Representatives Hasegawa, Hunt, Hudgins, Anderson and Kenney

MESSAGE FROM THE HOUSE

Authorizing alternative public works contracting procedures.

April 12, 2010

The measure was read the second time.

MR. PRESIDENT:

MOTION

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2630,

Senator Regala moved that the following striking amendment by Senator Regala be adopted:

HOUSE BILL 2694.

Strike everything after the enacting clause and insert the following:

and the same are herewith transmitted.

"NEW SECTION. Sec. 1. The establishment of alternative public works contracting procedures authorized for use by public bodies has been a complex, controversial, and challenging undertaking, but it has been successful. The key to the successful adoption and consideration of these procedures has depended, in great part, on the review and oversight mechanisms put in place by the legislature in chapter 39.10 RCW, as well as the countless hours of dedicated work by numerous stakeholders over many years. It is the intent of the legislature to clarify that, unless otherwise specifically provided for in law, public bodies that want to use an alternative public works contracting procedure may use only those procedures specifically authorized in chapter 39.10 RCW.

BARBARA BAKER, Chief Clerk

Sec. 2. RCW 39.10.200 and 2007 c 494 s 1 are each amended to read as follows:

MESSAGE FROM THE HOUSE

April 12, 2010

MR. PRESIDENT:

The House has passed:

HOUSE BILL NO. 3219.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

The legislature finds that the traditional process of awarding public works contracts in lump sum to the lowest responsible bidder is a fair and objective method of selecting a contractor. However, under certain circumstances, alternative public works contracting procedures may best serve the public interest if such procedures are implemented in an open and fair process based on objective and equitable criteria. The purpose of this chapter is to authorize the use of certain supplemental alternative public works contracting procedures, to prescribe appropriate requirements to ensure that such contracting procedures serve the public interest, and to establish a process for evaluation of such contracting procedures. It is the intent of the legislature to establish that, unless otherwise specifically provided for in law, public bodies may use only those alternative public works contracting procedures specifically authorized in this chapter, subject to the requirements of this chapter.

SUPPLEMENTAL INTRODUCTION AND FIRST READING OF HOUSE BILLS

HB 3219 by Representatives Goodman, Rodne, Pedersen, Hudgins, Chase and Upthegrove

Sec. 3. RCW 39.10.230 and 2009 c 75 s 1 are each amended to read as follows:

AN ACT Relating to technical corrections to the Revised Code of Washington; amending RCW 6.17.160, 6.27.140, 24.55.075, 36.16.050, 36.70A.070, 41.45.150, 67.28.180, and 82.45.180; amending 2010 c 204 s 1105 (uncodified); amending 2010 1st sp.s. c 7 s 132 (uncodified); amending 2010 1st sp.s. c 7 s 150 (uncodified); reenacting RCW 28B.67.030; repealing 2010 1st sp.s. c 7 s 151 (uncodified); providing an effective date; and declaring an emergency.

The board has the following powers and duties:

(1) Develop and recommend to the legislature policies to further enhance the quality, efficiency, and accountability of capital

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construction projects through the use of traditional and alternative delivery methods in Washington, and make recommendations regarding expansion, continuation, elimination, or modification of the alternative public works contracting methods;

(2) Evaluate the use of existing contracting procedures and the potential future use of other alternative contracting procedures including competitive negotiation contracts;

(3) ~~(Develop guidelines to be used by the committee for the review and approval of design build demonstration projects that procure operations and maintenance services.)~~ Submit recommendations to the appropriate committees of the legislature evaluating alternative contracting procedures that are not authorized under this chapter;

(4) Appoint members of the committee; and

(5) Develop and administer questionnaires designed to provide quantitative and qualitative data on alternative public works contracting procedures on which evaluations are based.

"Sec. 4. RCW 35.82.200 and 1965 c 7 s 35.82.200 are each amended to read as follows:

(1) In addition to the powers conferred upon an authority by other provisions of this chapter, an authority is empowered to borrow money or accept contributions, grants or other financial assistance from the federal government for or in aid of any housing project within its area of operation, to take over or lease or manage any housing project or undertaking constructed or owned by the federal government, and to these ends, to comply with such conditions and enter into such mortgages, trust indentures, leases or agreements as may be necessary, convenient or desirable. It is the purpose and intent of this chapter to authorize every authority to do any and all things necessary or desirable to secure the financial aid or cooperation of the federal government in the undertaking, construction, maintenance or operation of any housing project by such authority.

(2) All housing authorities shall be subject to the provisions of chapter 39.10 RCW except where alternative requirements or procedures of federal law or federal regulation are authorized.

(3) The requirements of chapter 39.12 RCW regarding prevailing wages shall apply to housing authority public works except where specifically preempted by federal law or federal regulation."

Sec. 5. RCW 43.131.408 and 2007 c 494 s 507 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2014:

(1) RCW 39.10.200 and section 2 of this act, 2007 c 494 s 1, & 1994 c 132 s 1;

(2) RCW 39.10.210 and 2007 c 494 s 101 & 2005 c 469 s 3;

(3) RCW 39.10.220 and 2007 c 494 s 102 & 2005 c 377 s 1;

(4) RCW 39.10.230 and section 3 of this act, 2009 c 75 s 1, 2007 c 494 s 103, & 2005 c 377 s 2;

(5) RCW 39.10.240 and 2007 c 494 s 104;

(6) RCW 39.10.250 and 2007 c 494 s 105;

(7) RCW 39.10.260 and 2007 c 494 s 106;

(8) RCW 39.10.270 and 2007 c 494 s 107;

(9) RCW 39.10.280 and 2007 c 494 s 108;

(10) RCW 39.10.290 and 2007 c 494 s 109;

(11) RCW 39.10.300 and 2007 c 494 s 201, 2003 c 352 s 2, 2003 c 300 s 4, 2002 c 46 s 1, & 2001 c 328 s 2;

(12) ~~(RCW 39.10.310 and 2007 c 494 s 202 & 1994 c 132 s 8; —(13))~~ RCW 39.10.320 and 2007 c 494 s 203 & 1994 c 132 s 7;

~~((14))~~ (13) RCW 39.10.330 and 2007 c 494 s 204;

~~((15))~~ (14) RCW 39.10.340 and 2007 c 494 s 301, 2003 c 352 s 3, 2003 c 300 s 5, 2002 c 46 s 2, & 2001 c 328 s 3;

~~((16))~~ (15) RCW 39.10.350 and 2007 c 494 s 302;

~~((17))~~ (16) RCW 39.10.360 and 2007 c 494 s 303;

~~((18))~~ (17) RCW 39.10.370 and 2007 c 494 s 304;

~~((19))~~ (18) RCW 39.10.380 and 2007 c 494 s 305;

~~((20))~~ (19) RCW 39.10.390 and 2007 c 494 s 306;

~~((21))~~ (20) RCW 39.10.400 and 2007 c 494 s 307;

~~((22))~~ (21) RCW 39.10.410 and 2007 c 494 s 308;

~~((23))~~ (22) RCW 39.10.420 and 2007 c 494 s 401 & 2003 c 301 s 1;

~~((24))~~ (23) RCW 39.10.430 and 2007 c 494 s 402;

~~((25))~~ (24) RCW 39.10.440 and 2007 c 494 s 403;

~~((26))~~ (25) RCW 39.10.450 and 2007 c 494 s 404;

~~((27))~~ (26) RCW 39.10.460 and 2007 c 494 s 405;

~~((28))~~ (27) RCW 39.10.470 and 2005 c 274 s 275 & 1994 c 132 s 10;

~~((29))~~ (28) RCW 39.10.480 and 1994 c 132 s 9;

~~((30))~~ (29) RCW 39.10.490 and 2007 c 494 s 501 & 2001 c 328 s 5;

~~((31))~~ (30) RCW 39.10.500 and 2007 c 494 s 502;

~~((32))~~ (31) RCW 39.10.510 and 2007 c 494 s 503;

~~((33))~~ (32) RCW 39.10.900 and 1994 c 132 s 13;

~~((34))~~ (33) RCW 39.10.901 and 1994 c 132 s 14; and

~~((35))~~ (34) RCW 39.10.903 and 2007 c 494 s 510."

Renumber the sections consecutively and correct any internal references accordingly.

Senator Regala spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Regala to Engrossed House Bill No. 1690.

The motion by Senator Regala carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, strike the title, and insert "an act relating to public works projects; and amending RCW 35.82.070, 39.10.200, 39.10.230, and 43.131.408; and creating a new section."

Renumber the sections consecutively and correct any internal references accordingly.

MOTION

On motion of Senator Regala, the rules were suspended, Engrossed House Bill No. 1690 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Regala spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1690 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1690 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 40; Nays, 5; Absent, 1; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Gordon, Hargrove, Hatfield, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice,

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Pridmore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin and Swecker

Voting nay: Senators Fraser, Haugen, Holmquist, Honeyford and Tom

Absent: Senator Zarelli

Excused: Senators Delvin, McCaslin and Stevens

ENGROSSED HOUSE BILL NO. 1690 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Brandland, Senator Zarelli was excused.

#### SECOND READING

HOUSE BILL NO. 3219, by Representatives Goodman, Rodne, Pedersen, Hudgins, Chase and Upthegrove

Making technical corrections to the Revised Code of Washington.

The measure was read the second time.

#### MOTION

On motion of Senator Fairley, the rules were suspended, House Bill No. 3219 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fairley spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 3219.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3219 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 3; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, McAuliffe, McDermott, Morton, Oemig, Parlette, Pflug, Prentice, Pridmore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker and Tom

Absent: Senators Brown, Marr and Murray

Excused: Senators Delvin, McCaslin, Stevens and Zarelli

HOUSE BILL NO. 3219, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

#### MESSAGE FROM THE HOUSE

April 12, 2010

MR. PRESIDENT:

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The House passed ENGROSSED SENATE BILL NO. 6870 with the following amendment(s): 6870.E AMH HUDG PAME 117 On page 6, beginning on line 19, strike all of section 4 Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 6870.

Senators Hargrove and Carrell spoke in favor of passage of the motion.

#### MOTION

On motion of Senator Rockefeller, Senators Brown and Marr were excused.

The President declared the question before the Senate to be the motion by Senator Hargrove that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 6870.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 6870 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6870, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6870, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridmore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker and Tom

Excused: Senators Delvin, McCaslin, Stevens and Zarelli

ENGROSSED SENATE BILL NO. 6870, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Brandland, Senators Benton, Carrell, Morton and Roach were excused.

#### MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 2561, by Representatives Dunshee, Williams, White, Seaquist, Darneille, Eddy, Dickerson, Sells, Rolfes, Chase, Green, Appleton, Sullivan, Simpson,

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Nelson, Hudgins, Jacks, Hunt, Hasegawa, Ormsby, Moeller and Roberts

Funding construction of energy cost saving improvements to public facilities.

The measure was read the second time.

MOTION

Senator Pflug moved to defer further consideration of Engrossed House Bill No. 2561 and the bill hold its place on the second reading calendar.

Senator Eide spoke against the motion.  
 Senator Pflug spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Pflug to defer further consideration of Engrossed House Bill No. 2561 and the bill hold its place on the second reading calendar.

The motion by Senator Pflug failed by a voice vote.

MOTION

Senator Fraser moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

**"PART I  
 SHORT TITLE AND INTENT**

NEW SECTION. Sec. 101. This act may be known and cited as the jobs act.

NEW SECTION. Sec. 102. The legislature intends to create jobs in every corner of Washington state by issuing bonds, which will catalyze energy savings and repair work at public schools and state colleges and universities.

It is the intent of the legislature that these investments will create jobs quickly and directly, at a time when the state's residents need jobs. It is the further intent of the legislature that these investments both accelerate innovation in the energy efficiency sector and create locally developed technologies and companies to provide sustainable jobs. The legislature intends to prioritize the use of innovative technologies and facilitate the development of a sustainable innovation cluster that creates and installs highly efficient building technologies and creates jobs.

The legislature intends that these job-creating projects save taxpayers money, with an estimated one hundred twenty-six million dollars saved each year in public schools through reduced energy and operational costs, and improve the health and safety of those buildings. The energy savings are equivalent to the use of an estimated ninety thousand houses. It is also the intent of the legislature that these job-creating projects lead to reduced pollutants, as the weatherization and energy efficiency projects will reduce pollution emissions by an estimated amount equivalent to removing an estimated one hundred thirty thousand cars from the roads each year.

**PART II  
 BOND AUTHORIZATION**

NEW SECTION. Sec. 201. (1) For the purpose of creating jobs by constructing needed capital improvements to public facilities for energy, utility, and operational cost savings, the state

finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of five hundred five million dollars, or so much thereof as may be required, for this purpose and all costs incidental thereto. The bonds issued under the authority of this section are known as jobs act bonds.

(2) Bonds authorized in this section must be sold in the manner, at the time or times, in amounts, and at such prices as the state finance committee determines.

(3) The authorization to issue bonds contained in this chapter does not expire until the full authorization has been issued.

(4) No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

NEW SECTION. Sec. 202. (1) The nondebt-limit general fund bond retirement account must be used for the payment of the principal of and interest on the bonds authorized in section 201 of this act.

(2) The state finance committee must, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in section 201 of this act.

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of section 201 of this act, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the nondebt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date.

NEW SECTION. Sec. 203. (1) Bonds issued under this section and sections 201 and 202 of this act must state that they are a general obligation of the state of Washington, must pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and must contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

**PART III  
 PROGRAM REQUIREMENTS, APPROPRIATIONS, AND  
 REVENUE PROVISIONS**

NEW SECTION. Sec. 301. (1) The department of commerce, in consultation with the department of general administration and the Washington State University energy program, shall administer the jobs act.

(2) The department of general administration must develop guidelines that are consistent with national and international energy savings performance standards for the implementation of energy savings performance contracting projects by the energy savings performance contractors by December 31, 2010.

(3) The definitions in this section apply throughout this chapter and section 302 of this act unless the context clearly requires otherwise.

(a) "Cost-effectiveness" means that the present value to higher education institutions and school districts of the energy reasonably expected to be saved or produced by a facility, activity, measure, or piece of equipment over its useful life, including any compensation received from a utility or the Bonneville power administration, is greater than the net present value of the costs of implementing, maintaining, and operating such facility, activity, measure, or piece of equipment over its useful life, when discounted at the cost of public borrowing.

(b) "Energy cost savings" means savings realized in expenses for energy use and expenses associated with water, wastewater, or solid waste systems.

(c) "Energy equipment" means energy management systems and any equipment, materials, or supplies that are expected, upon installation, to reduce the energy use or energy cost of an existing building or facility, and the services associated with the equipment, materials, or supplies, including but not limited to design, engineering, financing, installation, project management, guarantees, operations, and maintenance. Reduction in energy use or energy cost may also include reductions in the use or cost of water, wastewater, or solid waste.

(d) "Energy savings performance contracting" means the process authorized by chapter 39.35C RCW by which a company contracts with a public agency to conduct energy audits and guarantee energy savings from energy efficiency.

(e) "Innovative measures" means advanced or emerging technologies, systems, or approaches that may not yet be in common practice but improve energy efficiency, accelerate deployment, or reduce energy usage, and become widely commercially available in the future if proven successful in demonstration programs without compromising the guaranteed performance or measurable energy and operational cost savings anticipated. Examples of innovative measures include, but are not limited to, advanced energy and systems operations monitoring, diagnostics, and controls systems for buildings; novel heating, cooling, ventilation, and water heating systems; advanced windows and insulation technologies, highly efficient lighting technologies, designs, and controls; and integration of renewable energy sources into buildings, and energy savings verification technologies and solutions.

(f) "Operational cost savings" means savings realized from parts, service fees, capital renewal costs, and other measurable annual expenses to maintain and repair systems. This definition does not mean labor savings related to existing facility staff.

(g) "Public facilities" means buildings, building components, and major equipment or systems owned by public school districts and public higher education institutions.

**NEW SECTION. Sec. 302.** (1) Within appropriations specifically provided for the purposes of this chapter, the department of commerce, in consultation with the department of general administration, and the Washington State University energy program shall establish a competitive process to solicit and evaluate applications from public school districts, public higher education institutions, and other state agencies. Final grant awards shall be determined by the department of commerce.

(2) Grants must be awarded in competitive rounds, based on demand and capacity, with at least five percent of each grant round awarded to small public school districts with fewer than one thousand full-time equivalent students, based on demand and capacity.

(3) Within each competitive round, projects must be weighted and prioritized based on the following criteria and in the following order:

(a) Leverage ratio: In each round, the higher the leverage ratio of nonstate funding sources to state jobs act grant, the higher the project ranking.

(b) Energy savings: In each round, the higher the energy savings, the higher the project ranking. Applicants must submit documentation that demonstrates energy and operational cost savings resulting from the installation of the energy equipment and improvements. The energy savings analysis must be performed by a licensed engineer and documentation must include but is not limited to the following:

(i) A description of the energy equipment and improvements;

(ii) A description of the energy and operational cost savings; and

(iii) A description of the extent to which the project employs collaborative and innovative measures and encourages demonstration of new and emerging technologies with high energy savings or energy cost reductions.

(c) Expediency of expenditure: Project readiness to spend funds must be prioritized so that the legislative intent to expend funds quickly is met.

(4) Projects that do not use energy savings performance contracting must: (a) Verify energy and operational cost savings, as defined in section 301 of this act, for ten years or until the energy and operational costs savings pay for the project, whichever is shorter; (b) follow the department of general administration's energy savings performance contracting project guidelines developed pursuant to section 301 of this act; and (c) employ a licensed engineer for the energy audit and construction. The department of commerce may require third-party verification of savings if a project is not implemented by an energy savings performance contractor selected by the department of general administration through the request of qualifications process. Third-party verification must be conducted either by an energy savings performance contractor selected by the department of general administration through a request for qualifications, a licensed engineer specializing in energy conservation, or by a project resource conservation manager or educational service district resource conservation manager.

(5) To intensify competition, the department of commerce may only award funds to the top eighty-five percent of projects applying in a round until the department of commerce determines a final round is appropriate. Projects that do not receive a grant award in one round may reapply in subsequent rounds.

(6) To match federal grants and programs that require state matching funds and produce significantly higher efficiencies in operations and utilities, the level of innovation criteria may be increased for the purposes of weighted scoring to capture those federal dollars for selected projects that require a higher level of innovation and regional collaboration.

(7) Grant amounts awarded to each project must allow for the maximum number of projects funded with the greatest energy and cost benefit.

(8)(a) The department of commerce must use bond proceeds to pay one-half of the preliminary audit, up to five cents per square foot, if the project does not meet the school district's and higher education institution's predetermined cost-effectiveness criteria. School districts and higher education institutions must pay the other one-half of the cost of the preliminary audit if the project does not meet their predetermined cost-effectiveness criteria.

(b) The energy savings performance contractor may not charge for an investment grade audit if the project does not meet the school district's and higher education institution's predetermined cost-effectiveness criteria. School districts and higher education institutions must pay the full price of an investment grade audit if they do not proceed with a project that meets the school district's and higher education institution's predetermined cost-effectiveness criteria.

(9) The department of commerce may charge projects administrative fees and may pay the department of general administration and the Washington State University energy program administration fees in an amount determined through a memorandum of understanding.

(10) The department of commerce and the department of general administration must submit a joint report to the appropriate committees of the legislature and the office of financial management on the timing and use of the grant funds, program administrative function, compliance with apprenticeship utilization

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requirements in RCW 39.04.320, compliance with prevailing wage requirements, and administration fees by the end of each fiscal year, until the funds are fully expended and all savings verification requirements are fulfilled.

**NEW SECTION. Sec. 303. FOR THE DEPARTMENT OF COMMERCE--JOBS ACT**

The appropriation in this section is subject to the following conditions and limitations: The appropriation is for fiscal year 2011 and is provided solely for grants to public school districts and public higher education institutions for energy and operational cost savings improvements to public facilities and related projects that result in energy and operational cost savings under the provision and requirements of sections 301 and 302 of this act. Related projects are those projects that must be completed in order for the energy efficiency improvements to be effective.

Appropriation:

Washington	Works
Account--State.....	\$500,000,000
Prior	Biennia
(Expenditures).....	\$0
Future	Biennia
Costs).....	(Projected)
	\$0
	TOTAL \$500,000,000

**NEW SECTION. Sec. 304.** The legislature intends to increase general state revenues to pay for a portion of the increased debt service costs for voter-approved bonds and for debt-limit bonds authorized by the legislature for projects awarded grants under sections 301 and 302 of this act for energy efficiency projects in public facilities.

**Sec. 305.** RCW 82.08.0293 and 2010 1st sp.s. c ... (2ESSB 6143) s 902 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of food and food ingredients. "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include:

- (a) "Alcoholic beverages," which means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume; and
- (b) "Tobacco," which means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

(2) ~~(Until July 1, 2013,) The exemption of "food and food ingredients" provided for in subsection (1) of this section does not apply to prepared food, soft drinks, bottled water, candy, or dietary supplements. ((Beginning July 1, 2013, the exemption of "food and food ingredients" provided for in subsection (1) of this section does not apply to prepared food, soft drinks, candy, or dietary supplements.))~~ For purposes of this subsection, the following definitions apply:

- (a) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:
  - (i) Contains one or more of the following dietary ingredients:
    - (A) A vitamin;
    - (B) A mineral;
    - (C) An herb or other botanical;
    - (D) An amino acid;
    - (E) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or
    - (F) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in this subsection;
  - (ii) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(iii) Is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label as required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered as of January 1, 2003.

(b)(i) "Prepared food" means:

- (A) Food sold in a heated state or heated by the seller;
- (B) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food; or

(C) Two or more food ingredients mixed or combined by the seller for sale as a single item, except:

- (I) Food that is only cut, repackaged, or pasteurized by the seller; or
- (II) Raw eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal food and drug administration in chapter 3, part 401.11 of The Food Code, published by the food and drug administration, as amended or renumbered as of January 1, 2003, so as to prevent foodborne illness.

(ii) "Prepared food" does not include the following food or food ingredients, if the food or food ingredients are sold without eating utensils provided by the seller:

(A) Food sold by a seller whose proper primary North American industry classification system (NAICS) classification is manufacturing in sector 311, except subsector 3118 (bakeries), as provided in the "North American industry classification system--United States, 2002";

(B) Food sold in an unheated state by weight or volume as a single item; or

(C) Bakery items. The term "bakery items" includes bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, or tortillas.

(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain: Milk or milk products; soy, rice, or similar milk substitutes; or greater than fifty percent of vegetable or fruit juice by volume.

(d) "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" does not include any preparation containing flour and does not require refrigeration.

(e) "Bottled water" means water that is placed in a sealed container or package for human consumption. Bottled water is calorie free and does not contain sweeteners or other additives except that it may contain: (i) Antimicrobial agents; (ii) fluoride; (iii) carbonation; (iv) vitamins, minerals, and electrolytes; (v) oxygen; (vi) preservatives; and (vii) only those flavors, extracts, or essences derived from a spice or fruit. "Bottled water" includes water that is delivered to the buyer in a reusable container that is not sold with the water.

(3) Notwithstanding anything in this section to the contrary, the exemption of "food and food ingredients" provided in this section applies to food and food ingredients that are furnished, prepared, or served as meals:

(a) Under a state administered nutrition program for the aged as provided for in the older Americans act (P.L. 95-478 Title III) and RCW 74.38.040(6);

(b) That are provided to senior citizens, individuals with disabilities, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW; or

(c) That are provided to residents, sixty-two years of age or older, of a qualified low-income senior housing facility by the lessor or operator of the facility. The sale of a meal that is billed to both

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spouses of a marital community or both domestic partners of a domestic partnership meets the age requirement in this subsection (3)(c) if at least one of the spouses or domestic partners is at least sixty-two years of age. For purposes of this subsection, "qualified low-income senior housing facility" means a facility:

(i) That meets the definition of a qualified low-income housing project under 26 U.S.C. Sec. 42 of the federal internal revenue code, as existing on August 1, 2009;

(ii) That has been partially funded under 42 U.S.C. Sec. 1485; and

(iii) For which the lessor or operator has at any time been entitled to claim a federal income tax credit under 26 U.S.C. Sec. 42 of the federal internal revenue code.

(4)(a) Subsection (1) of this section notwithstanding, the retail sale of food and food ingredients is subject to sales tax under RCW 82.08.020 if the food and food ingredients are sold through a vending machine. Except as provided in (b) of this subsection, the selling price of food and food ingredients sold through a vending machine for purposes of RCW 82.08.020 is fifty-seven percent of the gross receipts.

(b) For soft drinks and hot prepared food and food ingredients, other than food and food ingredients which are heated after they have been dispensed from the vending machine, the selling price is the total gross receipts of such sales divided by the sum of one plus the sales tax rate expressed as a decimal.

(c) For tax collected under this subsection (4), the requirements that the tax be collected from the buyer and that the amount of tax be stated as a separate item are waived.

**Sec. 306.** RCW 82.12.0293 and 2010 1st sp.s. c ... (2ESSB 6143) s 903 are each amended to read as follows:

(1) The provisions of this chapter do not apply in respect to the use of food and food ingredients for human consumption. "Food and food ingredients" has the same meaning as in RCW 82.08.0293.

(2) ~~((Until July 1, 2013,))~~ The exemption of "food and food ingredients" provided for in subsection (1) of this section does not apply to prepared food, soft drinks, bottled water, candy, or dietary supplements. ~~((Beginning July 1, 2013, the exemption of "food and food ingredients" provided for in subsection (1) of this section does not apply to prepared food, soft drinks, candy, or dietary supplements.))~~ "Prepared food," "soft drinks," "dietary supplements," "candy," and "bottled water" have the same meanings as in RCW 82.08.0293.

(3) Notwithstanding anything in this section to the contrary, the exemption of "food and food ingredients" provided in this section ~~((apply))~~ applies to food and food ingredients which are furnished, prepared, or served as meals:

(a) Under a state administered nutrition program for the aged as provided for in the older Americans act (P.L. 95-478 Title III) and RCW 74.38.040(6);

(b) Which are provided to senior citizens, individuals with disabilities, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW; or

(c) That are provided to residents, sixty-two years of age or older, of a qualified low-income senior housing facility by the lessor or operator of the facility. The sale of a meal that is billed to both spouses of a marital community or both domestic partners of a domestic partnership meets the age requirement in this subsection (3)(c) if at least one of the spouses or domestic partners is at least sixty-two years of age. For purposes of this subsection, "qualified low-income senior housing facility" has the same meaning as in RCW 82.08.0293.

#### PART IV TECHNICAL PROVISIONS

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**NEW SECTION. Sec. 401.** (1) The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in section 201 of this act, and section 202 of this act may not be deemed to provide an exclusive method for the payment.

(2) The office of the state treasurer must determine a mechanism to allow individual Washington state residents to purchase jobs act bonds.

**NEW SECTION. Sec. 402.** The bonds authorized by this chapter constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations.

**NEW SECTION. Sec. 403.** The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds provided for in this act, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

**NEW SECTION. Sec. 404.** The Washington works account is created in the state treasury. All receipts from bonds authorized under section 201 of this act must be deposited in the account. Moneys in the account may be spent only after appropriation. The proceeds from the sale of the bonds authorized in section 201 of this act must be deposited in the account. Moneys in the account must be used exclusively for:

(1) The purposes of sections 301, 302, and 303 of this act, which includes energy and operational cost savings improvements and related projects that result in energy and operational cost savings for public school districts and public higher education institutions; and

(2) The payment of the expenses incurred in connection with the sale and issuance of the bonds.

**NEW SECTION. Sec. 405.** If the state finance committee deems it necessary to issue any portion of the bonds authorized in this chapter as taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of such taxable bonds must be transferred to the state taxable building construction account in lieu of any deposits otherwise provided by section 404 of this act. The state treasurer must submit written notice to the director of financial management if it is determined that any such transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation. For purposes of this section, "nontaxable bond proceeds" includes proceeds from bonds issued as tax exempt bonds and proceeds from taxable bonds eligible for direct federal subsidy under federal internal revenue service rules.

**Sec. 406.** RCW 39.94.040 and 2003 c 6 s 2 are each amended to read as follows:

(1) Except as provided in RCW 28B.10.022, the state may not enter into any financing contract for itself if the aggregate principal amount payable thereunder is greater than an amount to be established from time to time by the state finance committee or participate in a program providing for the issuance of certificates of participation, including any contract for credit enhancement, without the prior approval of the state finance committee. Except as provided in RCW 28B.10.022, the state finance committee shall approve the form of all financing contracts or a standard format for all financing contracts. The state finance committee also may:

(a) Consolidate existing or potential financing contracts into master financing contracts with respect to property acquired by one or more agencies, departments, instrumentalities of the state, the state board for community and technical colleges, or a state institution of higher learning; or to be acquired by other agency;

(b) Approve programs providing for the issuance of certificates of participation in master financing contracts for the state or for other agencies;

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(c) Enter into agreements with trustees relating to master financing contracts; and

(d) Make appropriate rules for the performance of its duties under this chapter.

(2) In the performance of its duties under this chapter, the state finance committee may consult with representatives from the department of general administration, the office of financial management, and the department of information services.

(3) With the approval of the state finance committee, the state also may enter into agreements with trustees relating to financing contracts and the issuance of certificates of participation.

(4) Except for financing contracts for real property used for the purposes described under chapter 28B.140 RCW, the state may not enter into any financing contract for real property of the state without prior approval of the legislature.

(5) The state may not enter into any financing contract on behalf of an other agency without the approval of such a financing contract by the governing body of the other agency. For the purposes of this requirement, a financing contract must be treated as used for real property if it is being entered into by the state for the acquisition of land; the acquisition of an existing building; the construction of a new building; or a major remodeling, renovation, rehabilitation, or rebuilding of an existing building. Prior approval of the legislature is not required under this chapter for a financing contract entered into by the state under this chapter for energy conservation improvements to existing buildings where such improvements include (a) fixtures and equipment that are not part of a major remodeling, renovation, rehabilitation, or rebuilding of the building, or (b) other improvements to the building that are being performed for the primary purpose of energy conservation. Such energy conservation improvements must be determined eligible for financing under this chapter by the office of financial management in accordance with financing guidelines established by the state treasurer, and are to be treated as personal property for the purposes of this chapter.

**PART V  
REFERENDUM PROVISIONS**

**NEW SECTION. Sec. 501.** (1) The secretary of state shall submit sections 101 through 203 and 401 through 405 of this act to the people for their adoption and ratification, or rejection, at the next general election to be held in this state, in accordance with Article II, section 1 and Article VIII, section 3 of the state Constitution and the laws adopted to facilitate their operation.

(2) If the people ratify this act as specified under subsection (1) of this section, revenues generated shall be spent as detailed in this act.

(3) Pursuant to RCW 29A.72.050(6), the statement of subject and concise description for the ballot title shall read: "The legislature has passed Engrossed House Bill No. 2561 (this act), concerning job creation through energy efficiency projects in school buildings. This bill would promote job creation by authorizing bonds to construct energy efficiency savings improvements to schools, including higher education buildings."

**NEW SECTION. Sec. 502.** Sections 303 through 306 of this act are contingent upon approval by the voters of sections 101 through 203 and 401 through 405 of this act. If sections 101 through 203 and 401 through 405 of this act are not approved by the voters by December 1, 2010, sections 303 through 306 of this act are null and void.

**NEW SECTION. Sec. 503.** Sections 201 through 203, 301, 302, and 401 through 405 of this act constitute a new chapter in Title 43 RCW.

**PART VI  
MISCELLANEOUS PROVISIONS**

**NEW SECTION. Sec. 601.** This act takes effect if Second Engrossed Substitute Senate Bill No. 6143 is enacted by the legislature during the 2010 1st special session."

**MOTION**

Senator Schoesler moved that the following amendment by Senator Schoesler to the committee striking amendment be adopted:

On page 5, line 13, after "higher the" insert "percentage"

Senators Schoesler and Pflug spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Fraser spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Schoesler on page 5, line 13 to the committee striking amendment to Engrossed House Bill No. 2561.

The motion by Senator Schoesler failed and the amendment to the committee striking amendment was not adopted by voice vote.

**MOTION**

Senator Pflug moved that the following amendment by Senator Pflug to the committee striking amendment be adopted:

On page 6, line 18, after "must" insert "require ninety percent of the energy cost savings to be remitted back to the state"

Senator Pflug spoke in favor of adoption of the amendment to the committee striking amendment.

Senators Rockefeller and Fraser spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Pflug on page 6, line 18 to the committee striking amendment to Engrossed House Bill No. 2561.

The motion by Senator Pflug failed and the amendment to the committee striking amendment was not adopted by voice vote.

**MOTION**

Senator Schoesler moved that the following amendment by Senator Schoesler to the committee striking amendment be adopted:

On page 8, line 12, after "bottled water," strike "candy," and insert "~~((candy))~~"

On page 11, line 16, after "bottled water," strike "candy," and insert "~~((candy))~~"

Renumber the sections consecutively and correct any internal references accordingly.

**POINT OF ORDER**

Senator Rockefeller: "The amendment is beyond not only the scope but the object of the underlying bill. The 2561 bill authorizes the issuance of certain bonds upon approval of the voters with the proceeds from the sale of those bonds used to create jobs, in the area of retrofitting schools and other educational institutions. The bill provides that the bonds would be paid by extending the tax on bottled water, again, only upon

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approval by the voters. That is the entire scope of the bill. This amendment would remove an entirely different tax, a tax on candy contained in a separate bill. The tax on candy has nothing to do with the bonds, the retrofitting process, job creation or bond repayment. It simply is an effort to alter an unrelated tax provision. Further, Mr. President, the amendment also is beyond the object of the bill. The entire purpose of the provisions related to the tax on bottled water is to provide a funding source for repayment of the bonds authorized in the bill and by contrast the provisions related to the tax on candy in this amendment would reduce revenue and have no relation to funding the bonds authorized within the bill. With this reason I agree it is beyond both scope and object and therefore should be ruled out of order. Thank you Mr. President.”

Senator Schoesler spoke against the point of order.

#### MOTION

On motion of Senator Eide, further consideration of the amendment number by Senator Schoesler on page 8, line 12 was deferred.

#### MOTION

Senator Schoesler moved that the following amendment by Senator Schoesler to the committee striking amendment be adopted:

On page 14, line 36, after "203" insert ", 303 through 306,"

On page 15, beginning on line 15, strike section 502.

Senators Schoesler and Fraser spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Schoesler on page 14, line 36 to the committee striking amendment to Engrossed House Bill No. 2561.

The motion by Senator Schoesler carried and the amendment to the committee striking amendment was adopted by voice vote.

#### MOTION

Senator Parlette moved that the following amendment by Senator Parlette to the committee striking amendment be adopted:

On page 15, line 11, after "This" strike all material through line 14 and insert "bill authorizes bonds in excess of the Article VIII, section 1 constitutional debt limit to construct school energy efficiency improvements, and makes permanent the sales tax on bottled water."

Senators Parlette, Zarelli, Roach and Pflug spoke in favor of adoption of the amendment to the committee striking amendment.

Senators Fraser and Brown spoke against adoption of the amendment to the committee striking amendment.

Senator Zarelli demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Parlette on page 15, line 11 to the committee striking amendment to Engrossed House Bill No. 2561.

#### ROLL CALL

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The Secretary called the roll on the adoption of the amendment by Senator Parlette to the committee striking amendment and the amendment was not adopted by the following vote: Yeas, 16; Nays, 30; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Brandland, Carrell, Hewitt, Holmquist, Honeyford, King, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Swecker and Zarelli

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmner, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

Excused: Senators Delvin, McCaslin and Stevens

#### MOTION

Senator Schoesler moved that the following amendment by Senator Schoesler to the committee striking amendment be adopted:

On page 15, after line 26, insert the following:

"NEW SECTION. Sec. 602. If the national streamline sales tax agreement is not amended by June 1, 2010 to allow for the sales tax to apply to bottled water, this act is null and void."

Senator Schoesler spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Fraser spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Schoesler on page 15, after line 26 to the committee striking amendment to Engrossed House Bill No. 2561.

The motion by Senator Schoesler failed and the amendment to the committee striking amendment was not adopted by voice vote.

#### MOTION

On motion of Senator Eide, further consideration of Engrossed House Bill No. 2561 was deferred and the bill held its place on the second reading calendar.

#### MOTION

At 7:00 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

#### EVENING SESSION

The Senate was called to order at 7:46 p.m. by President Owen.

#### MOTION TO LIMIT DEBATE

Senator Eide: "Mr. President, I move that the members of the Senate be allowed to speak but once on each question before the Senate, that such speech be limited to three minutes and that members be prohibited from yielding their time, however, the maker of a motion shall be allowed to open and close debate. This motion shall be in effect through April 12, 2010."

The President declared the question before the Senate to be the motion by Senator Eide to limit debate.

The motion by Senator Eide carried and debate was limited through April 12, 2010 by voice vote.

#### RULING BY THE PRESIDENT

President Owen: “In ruling upon the point of order raised by Senator Rockefeller as to whether amendment 467 by Senator Schoesler to Engrossed House Bill No. 2561 expands the scope and object of the underlying bill. The President finds and rules as follows:

Engrossed House Bill No. 2561 authorizes the issuance of certain bonds upon approval of the voters with the proceeds from the sale of those bonds used to create jobs to retrofit schools and other educational institutions. Section 304 of the bill describes the legislature’s intent to increase state revenues to pay for a portion of the increased debt service cost. To accomplish this intending result the bill would extend the tax on bottled water as provided in a separate revenue bill. The proposed amendment by contrast would eliminate a tax on candy, a tax that is created in the same revenue bill. Although the two taxes are both found in the revenue bill the treatment in this bill are opposite to one another. The extension of the bottled water tax is consistent with the intent of the bill by raising taxes while the removal of the tax on candy is inconsistent with the state of purpose.

For these reasons the President finds that the proposed amendment is beyond the scope and object of the underlying bill and Senator Rockefeller’s point is well taken.”

**MOTION FOR IMMEDIATE RECONSIDERATION**

Senator Eide, having voted on the prevailing side moved to immediately reconsider the vote by which the by Senator Schoesler on page 14, line 36 to the committee striking amendment to Engrossed House Bill No. 2561 passed the Senate earlier in the day.

**POINT OF ORDER**

Senator Hewitt: “So, Mr. President, if there’s an oral roll call, how can one prove that they actually voted on the that amendment?”

**REPLY BY THE PRESIDENT**

President Owen: “How can I prove they didn’t. Senator Hewitt, to be honest and I mean to be more sincere, the President has to take the person’s word. I believe in a situation like that, unless there’s some evidence to the contrary. I have no way of showing otherwise. Matter of fact I think just about the whole body voted for that amendment.”

The President declared the question before the Senate to be the motion by Senator Eide to immediately reconsider the vote by which the amendment by Senator Schoesler to the committee striking amendment to Engrossed House Bill No. 2561.

The motion by Senator Eide carried by a voice vote.

The President declared the question before the Senate to be the adoption of the amendment by Senator Schoesler on page 14, line 36 to the committee striking amendment to Engrossed House Bill No. 2561 on reconsideration.

The motion by Senator Schoesler failed and the amendment to the committee striking amendment was not adopted by voice vote on reconsideration.

**MOTION**

On motion of Senator Eide, further consideration of Engrossed House Bill No. 2561 was deferred and the bill held its place on the second reading calendar.

**MOTION**

On motion of Senator Eide, the Senate reverted to the fourth order of business.

**MESSAGE FROM THE HOUSE**

April 10, 2010

MR. PRESIDENT:

The House has adopted the report of the Conference Committee on SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 6143 and has passed the bill as recommended by the Conference Committee. and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

**REPORT OF THE CONFERENCE COMMITTEE**

Second Engrossed Substitute Senate Bill No. 6143

April 10, 2010

MR. PRESIDENT:

MR. SPEAKER:

We of your conference committee, to whom was referred Second Engrossed Substitute Senate Bill No. 6143, have had the same under consideration and recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** In order to preserve funding for education, public safety, health care, environmental protection, and safety net services for children, elderly, disabled, and vulnerable people, it is the intent of the legislature to close obsolete tax preferences, clarify the legislature's intent regarding existing tax policy, and to ensure balanced tax policy while bolstering emerging industries.

**PART I**

**Minimum Nexus Standards**

**NEW SECTION. Sec. 101.** (1) The legislature finds that out-of-state businesses that do not have a physical presence in Washington earn significant income from Washington residents from providing services or collecting royalties on the use of intangible property in this state. The legislature further finds that these businesses receive significant benefits and opportunities provided by the state, such as: Laws providing protection of business interests or regulating consumer credit; access to courts and judicial process to enforce business rights, including debt collection and intellectual property rights; an orderly and regulated marketplace; and police and fire protection and a transportation system benefiting in-state agents and other representatives of out-of-state businesses. Therefore, the legislature intends to extend the state's business and occupation tax to these companies to ensure that they pay their fair share of the cost of services that this state renders and the infrastructure it provides.

(2)(a) The legislature also finds that the current cost apportionment method in RCW 82.04.460(1) for apportioning most service income has been difficult for both taxpayers and the department to apply due in large part (i) to the difficulty in assigning certain costs of doing business inside or outside of this state, and (ii) to its dissimilarity with the apportionment methods used in other states for their business activity taxes.

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(b) The legislature further finds that there is a trend among states to adopt a single factor apportionment formula based on sales. The legislature recognizes that adoption of a sales factor only apportionment method has the advantages of simplifying apportionment and making Washington a more attractive place for businesses to expand their property and payroll. For these reasons, the legislature adopts single factor sales apportionment for purposes of apportioning royalty income and certain service income for state business and occupation tax purposes.

(c) Nothing in this act may be construed, however, to authorize apportionment of the gross income or value of products taxable under the following business and occupation tax classifications: Retailing, wholesaling, manufacturing, processing for hire, extracting, extracting for hire, printing, government contracting, public road construction, the classifications in RCW 82.04.280 (2), (4), (6), and (7), and any other activity not specifically included in the definition of apportionable activities in RCW 82.04.460.

(d) Nothing in this part is intended to modify the nexus and apportionment requirements for local gross receipts business and occupation taxes.

**Sec. 102.** RCW 82.04.220 and 1961 c 15 s 82.04.220 are each amended to read as follows:

(1) There is levied and ((shall be)) collected from every person that has a substantial nexus with this state a tax for the act or privilege of engaging in business activities. ((Such)) The tax ((shall be)) is measured by the application of rates against value of products, gross proceeds of sales, or gross income of the business, as the case may be.

(2) A person who has a substantial nexus with this state in any tax year will be deemed to have a substantial nexus with this state for the following tax year.

**NEW SECTION. Sec. 103.** A new section is added to chapter 82.04 RCW to read as follows:

"Engaging within this state" and "engaging within the state," when used in connection with any apportionable activity as defined in RCW 82.04.460, means that a person generates gross income of the business from sources within this state, such as customers or intangible property located in this state, regardless of whether the person is physically present in this state.

**NEW SECTION. Sec. 104.** A new section is added to chapter 82.04 RCW to read as follows:

(1) A person engaging in business is deemed to have substantial nexus with this state if the person is:

(a) An individual and is a resident or domiciliary of this state;

(b) A business entity and is organized or commercially domiciled in this state; or

(c) A nonresident individual or a business entity that is organized or commercially domiciled outside this state, and in any tax year the person has:

(i) More than fifty thousand dollars of property in this state;

(ii) More than fifty thousand dollars of payroll in this state;

(iii) More than two hundred fifty thousand dollars of receipts from this state; or

(iv) At least twenty-five percent of the person's total property, total payroll, or total receipts in this state.

(2)(a) Property counting toward the thresholds in subsection (1)(c)(i) and (iv) of this section is the average value of the taxpayer's property, including intangible property, owned or rented and used in this state during the tax year.

(b)(i) Property owned by the taxpayer, other than loans and credit card receivables owned by the taxpayer, is valued at its original cost basis. Loans and credit card receivables owned by the taxpayer are valued at their outstanding principal balance, without regard to any reserve for bad debts. However, if a loan or credit card receivable is charged off in whole or in part for federal income

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tax purposes, the portion of the loan or credit card receivable charged off is deducted from the outstanding principal balance.

(ii) Property rented by the taxpayer is valued at eight times the net annual rental rate. For purposes of this subsection, "net annual rental rate" means the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

(c) The average value of property must be determined by averaging the values at the beginning and ending of the tax year; but the department may require the averaging of monthly values during the tax year if reasonably required to properly reflect the average value of the taxpayer's property.

(d)(i) For purposes of this subsection (2), loans and credit card receivables are deemed owned and used in this state as follows:

(A) Loans secured by real property, personal property, or both real and personal property, are deemed owned and used in the state if the real property or personal property securing the loan is located within this state. If the property securing the loan is located both within this state and one or more other states, the loan is deemed owned and used in this state if more than fifty percent of the fair market value of the real or personal property is located within this state. If more than fifty percent of the fair market value of the real or personal property is not located within any one state, then the loan is deemed owned and used in this state if the borrower is located in this state. The determination of whether the real or personal property securing a loan is located within this state must be made, as of the time the original agreement was made, and any and all subsequent substitutions of collateral must be disregarded.

(B) Loans not secured by real or personal property are deemed owned and used in this state if the borrower is located in this state.

(C) Credit card receivables are deemed owned and used in this state if the billing address of the cardholder is in this state.

(ii)(A) Except as otherwise provided in (d)(ii)(B) of this subsection (2), the definitions in the multistate tax commission's recommended formula for the apportionment and allocation of net income of financial institutions as existing on the effective date of this section or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, apply to this section.

(B) "Credit card" means a card or device existing for the purpose of obtaining money, property, labor, or services on credit.

(e) Notwithstanding anything else to the contrary in this subsection, property counting toward the thresholds in subsection (1)(c)(i) and (iv) of this section does not include a person's ownership of, or rights in, computer software as defined in RCW 82.04.215, including computer software used in providing a digital automated service; master copies of software; and digital goods and digital codes residing on servers located in this state.

(3)(a) Payroll counting toward the thresholds in subsection (1)(c)(ii) and (iv) of this section is the total amount paid by the taxpayer for compensation in this state during the tax year plus nonemployee compensation paid to representative third parties in this state. Nonemployee compensation paid to representative third parties includes the gross amount paid to nonemployees who represent the taxpayer in interactions with the taxpayer's clients and includes sales commissions.

(b) Employee compensation is paid in this state if the compensation is properly reportable to this state for unemployment compensation tax purposes, regardless of whether the compensation was actually reported to this state.

(c) Nonemployee compensation is paid in this state if the service performed by the representative third party occurs entirely or primarily within this state.

(d) For purposes of this subsection, "compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees or nonemployees and defined as gross income

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under 26 U.S.C. Sec. 61 of the federal internal revenue code of 1986, as existing on the effective date of this section.

(4) Receipts counting toward the thresholds in subsection (1)(c)(iii) and (iv) of this section are those amounts included in the numerator of the receipts factor under section 105 of this act and, for financial institutions, those amounts included in the numerator of the receipts factor under the rule adopted by the department as authorized in RCW 82.04.460(2).

(5)(a) Each December, the department must review the cumulative percentage change in the consumer price index. The department must adjust the thresholds in subsection (1)(c)(i) through (iii) of this section if the consumer price index has changed by five percent or more since the later of the effective date of this section, or the date that the thresholds were last adjusted under this subsection. For purposes of determining the cumulative percentage change in the consumer price index, the department must compare the consumer price index available as of December 1st of the current year with the consumer price index as of the later of the effective date of this section, or the date that the thresholds were last adjusted under this subsection. The thresholds must be adjusted to reflect that cumulative percentage change in the consumer price index. The adjusted thresholds must be rounded to the nearest one thousand dollars. Any adjustment will apply to tax periods that begin after the adjustment is made.

(b) As used in this subsection, "consumer price index" means the consumer price index for all urban consumers (CPI-U) available from the bureau of labor statistics of the United States department of labor.

(6) Subsections (1) through (5) of this section only apply with respect to the taxes imposed under this chapter on apportionable activities as defined in RCW 82.04.460. For purposes of the taxes imposed under this chapter on any activity not included in the definition of apportionable activities in RCW 82.04.460, a person is deemed to have a substantial nexus with this state if the person has a physical presence in this state, which need only be demonstrably more than a slightest presence. For purposes of this subsection, a person is physically present in this state if the person has property or employees in this state. A person is also physically present in this state if the person, either directly or through an agent or other representative, engages in activities in this state that are significantly associated with the person's ability to establish or maintain a market for its products in this state.

**NEW SECTION. Sec. 105.** A new section is added to chapter 82.04 RCW to read as follows:

(1) The apportionable income of a person within the scope of RCW 82.04.460(1) is apportioned to Washington by multiplying its apportionable income by the receipts factor. Persons who are subject to tax under more than one of the tax classifications enumerated in RCW 82.04.460(4)(a) (i) through (x) must calculate a separate receipts factor for each tax classification that the person is taxable under.

(2) For purposes of subsection (1) of this section, the receipts factor is a fraction and is calculated as provided in subsections (3) and (4) of this section and, for financial institutions, as provided in the rule adopted by the department under the authority of RCW 82.04.460(2).

(3)(a) The numerator of the receipts factor is the total gross income of the business of the taxpayer attributable to this state during the tax year from engaging in an apportionable activity. The denominator of the receipts factor is the total gross income of the business of the taxpayer from engaging in an apportionable activity everywhere in the world during the tax year.

(b) Except as otherwise provided in this section, for purposes of computing the receipts factor, gross income of the business

generated from each apportionable activity is attributable to the state:

(i) Where the customer received the benefit of the taxpayer's service or, in the case of gross income from royalties, where the customer used the taxpayer's intangible property.

(ii) If the customer received the benefit of the service or used the intangible property in more than one state, gross income of the business must be attributed to the state in which the benefit of the service was primarily received or in which the intangible property was primarily used.

(iii) If the taxpayer is unable to attribute gross income of the business under the provisions of (b)(i) or (ii) of this subsection (3), gross income of the business must be attributed to the state from which the customer ordered the service or, in the case of royalties, the office of the customer from which the royalty agreement with the taxpayer was negotiated.

(iv) If the taxpayer is unable to attribute gross income of the business under the provisions of (b)(i), (ii), or (iii) of this subsection (3), gross income of the business must be attributed to the state to which the billing statements or invoices are sent to the customer by the taxpayer.

(v) If the taxpayer is unable to attribute gross income of the business under the provisions of (b)(i), (ii), (iii), or (iv) of this subsection (3), gross income of the business must be attributed to the state from which the customer sends payment to the taxpayer.

(vi) If the taxpayer is unable to attribute gross income of the business under the provisions of (b)(i), (ii), (iii), (iv), or (v) of this subsection (3), gross income of the business must be attributed to the state where the customer is located as indicated by the customer's address: (A) Shown in the taxpayer's business records maintained in the regular course of business; or (B) obtained during consummation of the sale or the negotiation of the contract for services or for the use of the taxpayer's intangible property, including any address of a customer's payment instrument when readily available to the taxpayer and no other address is available.

(vii) If the taxpayer is unable to attribute gross income of the business under the provisions of (b)(i), (ii), (iii), (iv), (v), or (vi) of this subsection (3), gross income of the business must be attributed to the commercial domicile of the taxpayer.

(viii) For purposes of this subsection (3)(b), "customer" means a person or entity to whom the taxpayer makes a sale or renders services or from whom the taxpayer otherwise receives gross income of the business. "Customer" includes anyone who pays royalties or charges in the nature of royalties for the use of the taxpayer's intangible property.

(c) Gross income of the business from engaging in an apportionable activity must be excluded from the denominator of the receipts factor if, in respect to such activity, at least some of the activity is performed in this state, and the gross income is attributable under (b) of this subsection (3) to a state in which the taxpayer is not taxable. For purposes of this subsection (3)(c), "not taxable" means that the taxpayer is not subject to a business activities tax by that state, except that a taxpayer is taxable in a state in which it would be deemed to have a substantial nexus with that state under the standards in section 104(1) of this act regardless of whether that state imposes such a tax. "Business activities tax" means a tax measured by the amount of, or economic results of, business activity conducted in a state. The term includes taxes measured in whole or in part on net income or gross income or receipts. "Business activities tax" does not include a sales tax, use tax, or a similar transaction tax, imposed on the sale or acquisition of goods or services, whether or not denominated a gross receipts tax or a tax imposed on the privilege of doing business.

(d) This subsection (3) does not apply to financial institutions with respect to apportionable income taxable under RCW

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82.04.290. Financial institutions must calculate the receipts factor as provided in subsection (4) of this section and the rule adopted by the department under the authority of RCW 82.04.460(2) with respect to apportionable income taxable under RCW 82.04.290. Financial institutions that are subject to tax under any other tax classification enumerated in RCW 82.04.460(4)(a) (i) through (v) and (vii) through (x) must calculate a separate receipts factor, as provided in this section, for each of the other tax classifications that the financial institution is taxable under.

(4) A taxpayer may calculate the receipts factor for the current tax year based on the most recent calendar year for which information is available for the full calendar year. If a taxpayer does not calculate the receipts factor for the current tax year based on previous calendar year information as authorized in this subsection, the business must use current year information to calculate the receipts factor for the current tax year. In either case, a taxpayer must correct the reporting for the current tax year when complete information is available to calculate the receipts factor for that year, but not later than October 31st of the following tax year. Interest will apply to any additional tax due on a corrected tax return. Interest must be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW, retroactively to the date the original return was due, and will accrue until the additional taxes are paid. Penalties as provided in RCW 82.32.090 will apply to any such additional tax due only if the current tax year reporting is not corrected and the additional tax is not paid by October 31st of the following tax year. Interest as provided in RCW 82.32.060 will apply to any tax paid in excess of that properly due on a return as a result of a taxpayer using previous calendar year data or incomplete current-year data to calculate the receipts factor.

(5) Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this section.

(a) "Apportionable activities" and "apportionable income" have the same meaning as in RCW 82.04.460.

(b) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision of a foreign country.

**Sec. 106.** RCW 82.04.2907 and 2009 c 535 s 407 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of receiving income from royalties ~~((or charges in the nature of royalties for the granting of intangible rights, such as copyrights, licenses, patents, or franchise fees)),~~ the amount of tax with respect to ~~((such))~~ the business ~~((shall be))~~ is equal to the gross income from royalties ~~((or charges in the nature of royalties from the business))~~ multiplied by the rate of 0.484 percent.

(2) For the purposes of this section, "gross income from royalties" means compensation for the use of intangible property, ~~((such as))~~ including charges in the nature of royalties, regardless of where the intangible property will be used. For purposes of this subsection, "intangible property" includes copyrights, patents, licenses, franchises, trademarks, trade names, and similar items. ~~((#))~~ "Gross income from royalties" does not include compensation for any natural resource, the licensing of prewritten computer software to the end user, or the licensing ~~((or use))~~ of digital goods, digital codes, or digital automated services to the end user as defined in RCW 82.04.190(11).

**Sec. 107.** RCW 82.04.2907 and 2010 c 111 (SHB 2620) s 302 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of receiving income from royalties ~~((or charges in the nature of royalties for the granting of intangible rights, such as copyrights, licenses, patents, or franchise fees)),~~ the amount of tax with respect to the business is equal to the gross income from royalties ~~((or~~

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~~charges in the nature of royalties from the business))~~ multiplied by the rate of 0.484 percent.

(2) For the purposes of this section, "gross income from royalties" means compensation for the use of intangible property, ~~((such as))~~ including charges in the nature of royalties, regardless of where the intangible property will be used. For purposes of this subsection, "intangible property" includes copyrights, patents, licenses, franchises, trademarks, trade names, and similar items. ~~((#))~~ "Gross income from royalties" does not include compensation for any natural resource, the licensing of prewritten computer software to the end user, or the licensing of digital goods, digital codes, or digital automated services to the end user as defined in RCW 82.04.190(11).

**Sec. 108.** RCW 82.04.460 and 2004 c 174 s 6 are each amended to read as follows:

(1) Except as otherwise provided in this section, any person ~~((rendering services))~~ earning apportionable income taxable under ~~((RCW 82.04.290 or 82.04.2908))~~ this chapter and ~~((maintaining places of business both within and without this state which contribute to the rendition of such services shall))~~ also taxable in another state, must, for the purpose of computing tax liability under ~~((RCW 82.04.290 or 82.04.2908))~~ this chapter, apportion to this state, in accordance with section 105 of this act, that portion of the person's ~~((gross))~~ apportionable income ~~((which is))~~ derived from ~~((services rendered))~~ business activities performed within this state. ~~((Where such apportionment cannot be accurately made by separate accounting methods, the taxpayer shall apportion to this state that proportion of the taxpayer's total income which the cost of doing business within the state bears to the total cost of doing business both within and without the state.))~~

(2) ~~((Notwithstanding the provision of subsection (1) of this section, persons doing business both within and without the state who receive gross income from service charges, as defined in RCW 63.14.010 (relating to amounts charged for granting the right or privilege to make deferred or installment payments) or who receive gross income from engaging in business as financial institutions within the scope of chapter 82.14A RCW (relating to city taxes on financial institutions) shall apportion or allocate gross income taxable under RCW 82.04.290 to this state pursuant to rules promulgated by the department consistent with uniform rules for apportionment or allocation developed by the states.))~~ The department must by rule provide a method of apportioning the apportionable income of financial institutions, where such apportionable income is taxable under RCW 82.04.290. The rule adopted by the department must, to the extent feasible, be consistent with the multistate tax commission's recommended formula for the apportionment and allocation of net income of financial institutions as existing on the effective date of this section or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, except that:

(a) The department's rule must provide for a single factor apportionment method based on the receipts factor; and

(b) The definition of "financial institution" contained in appendix A to the multistate tax commission's recommended formula for the apportionment and allocation of net income of financial institutions is advisory only.

(3) The department ~~((shall))~~ may by rule provide a method or methods of apportioning or allocating gross income derived from sales of telecommunications service and competitive telephone service ~~((s))~~ taxed under this chapter, if the gross proceeds of sales subject to tax under this chapter do not fairly represent the extent of the taxpayer's income attributable to this state. ~~((The rules shall be, so far as feasible, consistent with the methods of apportionment contained in this section and shall require the consideration of those facts, circumstances, and apportionment factors as will result in an~~

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~~equitable and constitutionally permissible division of the services.))  
The rule must provide for an equitable and constitutionally  
permissible division of the tax base.~~

~~(4) For purposes of this section, the following definitions apply  
unless the context clearly requires otherwise:~~

~~(a) "Apportionable income" means gross income of the business  
generated from engaging in apportionable activities, including  
income received from apportionable activities performed outside  
this state if the income would be taxable under this chapter if  
received from activities in this state, less the exemptions and  
deductions allowable under this chapter. For purposes of this  
subsection, "apportionable activities" means only those activities  
taxed under:~~

~~(i) RCW 82.04.255;~~

~~(ii) RCW 82.04.260 (3), (4), (5), (6), (7), (8), (9), and (12);~~

~~(iii) RCW 82.04.280(5);~~

~~(iv) RCW 82.04.285;~~

~~(v) RCW 82.04.286;~~

~~(vi) RCW 82.04.290;~~

~~(vii) RCW 82.04.2907;~~

~~(viii) RCW 82.04.2908;~~

~~(ix) RCW 82.04.263, but only to the extent of any activity that  
would be taxable under any of the provisions enumerated under  
(a)(i) through (viii) of this subsection (4) if the tax classification in  
RCW 82.04.263 did not exist; and~~

~~(x) RCW 82.04.260(13) and 82.04.280(1), but only with respect  
to advertising.~~

~~(b)(i) "Taxable in another state" means that the taxpayer is  
subject to a business activities tax by another state on its income  
received from engaging in apportionable activities; or the taxpayer  
is not subject to a business activities tax by another state on its  
income received from engaging in apportionable activities, but any  
other state has jurisdiction to subject the taxpayer to a business  
activities tax on such income under the substantial nexus standards  
in section 104(1) of this act.~~

~~(ii) For purposes of this subsection (4)(b), "business activities  
tax" and "state" have the same meaning as in section 105 of this act.~~

**Sec. 109.** RCW 82.04.080 and 1961 c 15 s 82.04.080 are each  
amended to read as follows:

(1) "Gross income of the business" means the value proceeding or  
accruing by reason of the transaction of the business engaged in and  
includes gross proceeds of sales, compensation for the rendition of  
services, gains realized from trading in stocks, bonds, or other  
evidences of indebtedness, interest, discount, rents, royalties, fees,  
commissions, dividends, and other emoluments however  
designated, all without any deduction on account of the cost of  
tangible property sold, the cost of materials used, labor costs,  
interest, discount, delivery costs, taxes, or any other expense  
whatsoever paid or accrued and without any deduction on account  
of losses.

(2) Financial institutions must determine gains realized from trading  
in stocks, bonds, and other evidences of indebtedness on a net  
annualized basis. For purposes of this subsection, a financial  
institution means a person within the scope of the rule adopted by  
the department under the authority of RCW 82.04.460(2).

**NEW SECTION. Sec. 110.** A new section is added to  
chapter 82.04 RCW to read as follows:

(1) This chapter does not apply to amounts received by a  
financial institution from an affiliated person if the amounts are  
received from transactions that are required to be at arm's length  
under sections 23A or 23B of the federal reserve act as existing on  
the effective date of this section or such subsequent date as may be  
provided by the department by rule, consistent with the purposes of  
this section. For purposes of this subsection, "financial institution"  
has the same meaning as in RCW 82.04.080.

(2) As used in this section, "affiliated" means under common  
control. "Common control" means the possession, directly or  
indirectly, of more than fifty percent of the power to direct or cause  
the direction of the management and policies of a person, whether  
through the ownership of voting shares, by contract, or otherwise.

**NEW SECTION. Sec. 111.** A new section is added to  
chapter 82.04 RCW to read as follows:

(1) This chapter does not apply to amounts received by  
investment conduits or securitization entities from cash and  
securities.

(2) For purposes of this section, the following definitions apply:

(a) "Investment conduit" means an entity formed by a financial  
institution as defined in RCW 82.04.080 for the express purpose of  
holding or owning cash or securities if the entity formed:

(i) Has no employees;

(ii) Has no direct profit-making motive;

(iii) Owns no tangible assets, other than cash or securities;

(iv) Holds or owns cash or securities solely as a conduit,  
allocating its income to holders of its ownership interests; and

(v) Has, within twelve months of its organization or initial  
capitalization date, issued ownership interests to other than affiliated  
persons, equal to or greater than twenty-five percent of its total  
issued ownership interests.

(b) "Securities" has the same meaning as in section 2 of the  
securities act of 1933 and includes eligible assets as defined by Rule  
3a-7 of the investment company act, as the law and rule exist on the  
effective date of this section or such subsequent date as may be  
provided by the department by rule, consistent with the purposes of  
this section.

(c) "Securitization entity" means an entity created by a bank  
holding company if the entity created:

(i) Has no employees;

(ii) Has no direct profit-making motive;

(iii) Owns no tangible assets, other than cash, fixed or revolving  
discrete pools of credit or charge card receivables originated by a  
financial institution, or securities;

(iv) Acts solely as a conduit, allocating its income to holders of  
its ownership interests; and

(v) Has as its sole business activities the:

(A) Acquisition of such discrete pools of credit or charge card  
receivables; and

(B) Issuance or causing the issuance of securities primarily to  
persons not affiliated with the entity.

(d) "Bank holding company" has the same meaning as provided  
in the bank holding company act of 1956, as existing on the effective  
date of this section or such subsequent date as may be provided by  
the department by rule, consistent with the purposes of this section.

(e) "No direct profit-making motive" means that all of an  
entity's income, less a reasonable servicing fee, is paid to holders of  
its ownership interests.

(f) "Ownership interest" means interests categorized as debt or  
equity for purposes of federal tax or generally accepted accounting  
principles.

(g) "Affiliated" has the same meaning as in section 110 of this  
act.

**NEW SECTION. Sec. 112.** A new section is added to  
chapter 82.04 RCW to read as follows:

(1) In computing tax there may be deducted from the measure of  
tax interest and fees on loans secured by commercial aircraft  
primarily used to provide routine air service and owned by:

(a) An air carrier, as defined in RCW 82.42.030, which is  
primarily engaged in the business of providing passenger air service;

(b) An affiliate of such air carrier; or

(c) A parent entity for which such air carrier is an affiliate.

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(2) The deduction authorized under this section is not available to any person who is physically present in this state as determined under section 104(6) of this act.

(3) For purposes of this section, the following definitions apply:

(a) "Affiliate" means a person is "affiliated," as defined in section 110 of this act, with another person; and

(b) "Commercial aircraft" means a commercial airplane as defined in RCW 82.32.550.

## PART II

### Tax Avoidance Transactions

**NEW SECTION. Sec. 201.** A new section is added to chapter 82.32 RCW to read as follows:

(1) It is the legislature's intent to require all taxpayers to pay their fair share of taxes. To accomplish this purpose, it is the legislature's intent to stop transactions or arrangements that are designed to unfairly avoid taxes.

(2) The department must disregard, for tax purposes, the tax avoidance transactions or arrangements that are described in subsection (3) of this section. The department must deny the tax benefit that would otherwise result from the tax avoidance transaction or arrangement. In determining whether the department must disregard a transaction or arrangement described under subsection (3) of this section, the department may consider:

(a) Whether an arrangement or transaction changes in a meaningful way, apart from its tax effects, the economic positions of the participants in the arrangement when considered as a whole;

(b) Whether substantial nontax reasons exist for entering into an arrangement or transaction;

(c) Whether an arrangement or transaction is a reasonable means of accomplishing a substantial nontax purpose;

(d) An entities' relative contributions to the work that generates income;

(e) The location where work is performed; and

(f) Other relevant factors.

(3) This section applies only to the following transactions or arrangements:

(a) Arrangements that are, in form, a joint venture or similar arrangement between a construction contractor and the owner or developer of a construction project but that are, in substance, substantially guaranteed payments for the purchase of construction services characterized by a failure of the parties' agreement to provide for the contractor to share substantial profits and bear significant risk of loss in the venture;

(b) Arrangements through which a taxpayer attempts to avoid tax under chapter 82.04 RCW by disguising income received, or otherwise avoiding tax on income, from a person that is not affiliated with the taxpayer from business activities that would be taxable in Washington by moving that income to another entity that would not be taxable in Washington; and

(c) Arrangements through which a taxpayer attempts to avoid tax under chapter 82.08 or 82.12 RCW by engaging in a transaction to disguise its purchase or use of tangible personal property by vesting legal title or other ownership interest in another entity over which the taxpayer exercises control in such a manner as to effectively retain control of the tangible personal property.

(4) In determining whether a transaction or arrangement comes within the scope of subsection (3) of this section, the department is not required to prove a taxpayer's subjective intent in engaging in the transaction or arrangement.

(5) The department must adopt rules to assist in determining whether a transaction or arrangement is within the scope of subsection (3) of this section. The adoption of a rule as required under this subsection is not a condition precedent for the

department's exercise of the authority provided in this section. Any rules adopted under this section must include examples of transactions that the department will disregard for tax purposes.

(6) This section does not affect the department's authority to apply any other remedies available under statutory or common law.

(7) For purposes of this section, "affiliated" means under common control. "Control" means the possession, directly or indirectly, of more than fifty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise.

**NEW SECTION. Sec. 202.** A new section is added to chapter 82.32 RCW to read as follows:

(1)(a) The department may not use section 201 of this act to disregard any transaction or arrangement initiated before the effective date of this section, if, in respect to such transaction or arrangement, the taxpayer had reported its tax liability in conformance with either specific written instructions provided by the department to the taxpayer, a determination published under the authority of RCW 82.32.410, or other document made available by the department to the general public.

(b) This section does not apply if the transaction or arrangement engaged in by the taxpayer differs materially from the transaction or arrangement that was addressed in the specific written instructions, published determination, or other document made available by the department to the general public.

(2) Section 201 of this act does not apply to any tax periods ending before May 1, 2010, that were included in a completed field audit conducted by the department.

(3) For purposes of this section, "specific written instructions" means tax reporting instructions provided to a taxpayer and which specifically identify the taxpayer to whom the instructions apply. Specific written instructions may be provided as part of an audit, tax assessment, determination, closing agreement, or in response to a binding ruling request.

**Sec. 203.** RCW 82.32.090 and 2006 c 256 s 6 are each amended to read as follows:

(1) If payment of any tax due on a return to be filed by a taxpayer is not received by the department of revenue by the due date, there ((~~shall be~~)) is assessed a penalty of five percent of the amount of the tax; and if the tax is not received on or before the last day of the month following the due date, there ((~~shall be~~)) is assessed a total penalty of fifteen percent of the amount of the tax under this subsection; and if the tax is not received on or before the last day of the second month following the due date, there ((~~shall be~~)) is assessed a total penalty of twenty-five percent of the amount of the tax under this subsection. No penalty so added shall be less than five dollars.

(2) If the department of revenue determines that any tax has been substantially underpaid, there ((~~shall be~~)) is assessed a penalty of five percent of the amount of the tax determined by the department to be due. If payment of any tax determined by the department to be due is not received by the department by the due date specified in the notice, or any extension thereof, there ((~~shall be~~)) is assessed a total penalty of fifteen percent of the amount of the tax under this subsection; and if payment of any tax determined by the department to be due is not received on or before the thirtieth day following the due date specified in the notice of tax due, or any extension thereof, there ((~~shall be~~)) is assessed a total penalty of twenty-five percent of the amount of the tax under this subsection. No penalty so added ((~~shall~~)) may be less than five dollars. As used in this section, "substantially underpaid" means that the taxpayer has paid less than eighty percent of the amount of tax determined by the department to be due for all of the types of taxes included in, and for the entire period of time covered by, the department's examination, and the amount of underpayment is at least one thousand dollars.

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(3) If a warrant ~~((be))~~ is issued by the department of revenue for the collection of taxes, increases, and penalties, there ~~((shall be))~~ is added thereto a penalty of ten percent of the amount of the tax, but not less than ten dollars.

(4) If the department finds that a person has engaged in any business or performed any act upon which a tax is imposed under this title and that person has not obtained from the department a registration certificate as required by RCW 82.32.030, the department ~~((shall))~~ must impose a penalty of five percent of the amount of tax due from that person for the period that the person was not registered as required by RCW 82.32.030. The department ~~((shall))~~ may not impose the penalty under this subsection (4) if a person who has engaged in business taxable under this title without first having registered as required by RCW 82.32.030, prior to any notification by the department of the need to register, obtains a registration certificate from the department.

(5) If the department finds that all or any part of a deficiency resulted from the disregard of specific written instructions as to reporting or tax liabilities, the department ~~((shall))~~ must add a penalty of ten percent of the amount of the additional tax found due because of the failure to follow the instructions. A taxpayer disregards specific written instructions when the department ~~((of revenue))~~ has informed the taxpayer in writing of the taxpayer's tax obligations and the taxpayer fails to act in accordance with those instructions unless the department has not issued final instructions because the matter is under appeal pursuant to this chapter or departmental regulations. The department ~~((shall))~~ may not assess the penalty under this section upon any taxpayer who has made a good faith effort to comply with the specific written instructions provided by the department to that taxpayer. Specific written instructions may be given as a part of a tax assessment, audit, determination, or closing agreement, provided that such specific written instructions ~~((shall))~~ apply only to the taxpayer addressed or referenced on such documents. Any specific written instructions by the department ~~((of revenue shall))~~ must be clearly identified as such and ~~((shall))~~ must inform the taxpayer that failure to follow the instructions may subject the taxpayer to the penalties imposed by this subsection.

(6) If the department finds that all or any part of a deficiency resulted from engaging in a disregarded transaction, as described in section 201(3) of this act, the department must assess a penalty of thirty-five percent of the additional tax found to be due as a result of engaging in a transaction disregarded by the department under section 201(2) of this act. The penalty provided in this subsection may be assessed together with any other applicable penalties provided in this section on the same tax found to be due, except for the evasion penalty provided in subsection (7) of this section. The department may not assess the penalty under this subsection if, before the department discovers the taxpayer's use of a transaction described under section 201(3) of this act, the taxpayer discloses its participation in the transaction to the department.

(7) If the department finds that all or any part of the deficiency resulted from an intent to evade the tax payable hereunder, a further penalty of fifty percent of the additional tax found to be due ~~((shall))~~ must be added.

~~((7))~~ (8) The penalties imposed under subsections (1) through (4) of this section can each be imposed on the same tax found to be due. This subsection does not prohibit or restrict the application of other penalties authorized by law.

~~((8))~~ (9) The department ~~((of revenue))~~ may not impose ~~((both))~~ the evasion penalty ~~((and))~~ in combination with the penalty for disregarding specific written instructions or the penalty provided in subsection (6) of this section on the same tax found to be due.

~~((9))~~ (10) For the purposes of this section, "return" means any document a person is required by the state of Washington to file to

satisfy or establish a tax or fee obligation that is administered or collected by the department ~~((of revenue))~~, and that has a statutorily defined due date.

NEW SECTION. Sec. 204. A new section is added to chapter 82.32 RCW to read as follows:

There is hereby created a joint tax avoidance review committee which is a bipartisan committee consisting of three members of the senate, two from the majority caucus and one from the minority caucus, and three members of the house of representatives, two from the majority caucus and one from the minority caucus. The senate members of the committee must be appointed by the majority leader of the senate, and the house members of the committee must be appointed by the speaker of the house. The appointing authorities must also appoint one alternate member from each of the two largest caucuses of each legislative chamber.

(1)(a) Members and alternates must be appointed as soon as possible after the effective date of this section, and their terms continue until such persons no longer wish to serve on the committee or no longer serve in the legislature, whichever occurs first.

(b) A vacancy must be filled by the appointment of a legislator from the same legislative chamber and caucus as the original appointment. The appropriate appointing authority must make the appointment within thirty days of the vacancy occurring. Former committee members and alternates may be reappointed to the committee.

(2) The committee must choose its chair and vice-chair from among its membership. The committee meets at the call of the chair. The chair of the committee must cause all meeting notices and committee documents to be sent to the committee members and alternates.

(3) Staff support for the committee must be provided by the senate committee services and the house of representatives office of program research.

(4) The committee must:

(a) Generally monitor the department's implementation of Part II of this act, providing timely advice to the department in any rule making undertaken pursuant to the authority granted under section 201 of this act;

(b) Seek input from stakeholders and other legislators as the committee may determine is desirable and useful in the furtherance of its mission herein described;

(c) Review other cases, identified by the department, of tax avoidance transactions not described in section 201 of this act that may represent examples of arrangements that circumvent the policies of this state and thus unfairly avoid taxes;

(d) Consider the need for an explicit statutory construction standard to provide direction to the courts on the interpretation of Part II of this act; and

(e) Provide a report to the fiscal committees of the house of representatives and senate by December 31, 2010, which must include:

(i) Recommended legislation on any matters that the committee deems advisable, including amendments to sections 201, 202, and 203 of this act; and

(ii) Recommendations for future legislative oversight of the department's implementation of sections 201, 202, and 203 of this act.

(5) For the purposes of this section, the disclosure of otherwise confidential tax information to the members of the committee is deemed to fall within the exception provided by RCW 82.32.330(3)(d).

(6) This section expires July 1, 2011.

NEW SECTION. Sec. 205. (1) The legislature finds that this state's tax policy with respect to the taxation of transactions between

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affiliated entities and the income derived from such transactions (intercompany transactions) has motivated some taxpayers to engage in transactions designed solely or primarily to minimize the tax effects of intercompany transactions. The legislature further finds that some intercompany transactions result from taxpayers that are required to establish affiliated entities to comply with regulatory mandates and that transactions between such affiliates effectively increases the tax burden in this state on the affiliated group of entities.

(2) Therefore, as existing resources allow, the department of revenue is directed to conduct a review of the state's tax policy with respect to the taxation of intercompany transactions. The review must include the impacts of such transactions under the state's business and occupation tax and state and local sales and use taxes. The department may include other taxes in the review as it deems appropriate.

(3) In conducting the review, the department must examine how this state's tax policy compares to the tax policy of other states with respect to the taxation of intercompany transactions. The department's review must include an analysis of potential alternatives to the current policy of taxing intercompany transactions, including their estimated revenue impacts if practicable.

(4) In conducting this review, the department may seek input from members of the business community and others as it deems appropriate.

(5) The department must report its findings to the fiscal committees of the house of representatives and senate by December 1, 2010. However, if the department has not completed its review by December 1, 2010, the department must provide the fiscal committees of the legislature with a brief status report by December 1, 2010, and the final report by December 1, 2011.

**Sec. 206.** RCW 82.12.020 and 2009 c 535 s 305 are each amended to read as follows:

(1) There is ~~((hereby))~~ levied and ~~((there shall be))~~ collected from every person in this state a tax or excise for the privilege of using within this state as a consumer any:

(a) Article of tangible personal property ~~((purchased at retail, or))~~ acquired by ~~((lease, gift, repossession, or bailment, or extracted or produced or manufactured by the person so using the same, or otherwise furnished to a person engaged in any business taxable under RCW 82.04.280 (2) or (7))~~ the user in any manner, including tangible personal property acquired at a casual or isolated sale, and including by-products used by the manufacturer thereof, except as otherwise provided in this chapter, irrespective of whether the article or similar articles are manufactured or are available for purchase within this state;

(b) Prewritten computer software, regardless of the method of delivery, but excluding prewritten computer software that is either provided free of charge or is provided for temporary use in viewing information, or both;

(c) Services defined as a retail sale in RCW 82.04.050 (2)(a) or (g), (3)(a), or (6)(b), excluding services defined as a retail sale in RCW 82.04.050(6)(b) that are provided free of charge;

(d) Extended warranty; or

(e)(i) Digital good, digital code, or digital automated service, including the use of any services provided by a seller exclusively in connection with digital goods, digital codes, or digital automated services, whether or not a separate charge is made for such services.

(ii) With respect to the use of digital goods, digital automated services, and digital codes acquired by purchase, the tax imposed in this subsection (1)(e) applies in respect to:

(A) Sales in which the seller has granted the purchaser the right of permanent use;

(B) Sales in which the seller has granted the purchaser a right of use that is less than permanent;

(C) Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and

(D) Sales in which the purchaser is obligated to make continued payment as a condition of the sale.

(iii) With respect to digital goods, digital automated services, and digital codes acquired other than by purchase, the tax imposed in this subsection (1)(e) applies regardless of whether or not the consumer has a right of permanent use or is obligated to make continued payment as a condition of use.

(2) The provisions of this chapter do not apply in respect to the use of any article of tangible personal property, extended warranty, digital good, digital code, digital automated service, or service taxable under RCW 82.04.050 (2)(a) or (g), (3)(a), or (6)(b), if the sale to, or the use by, the present user or the present user's bailor or donor has already been subjected to the tax under chapter 82.08 RCW or this chapter and the tax has been paid by the present user or by the present user's bailor or donor.

(3)(a) Except as provided in this section, payment of the tax imposed by this chapter or chapter 82.08 RCW by one purchaser or user of tangible personal property, extended warranty, digital good, digital code, digital automated service, or other service does not have the effect of exempting any other purchaser or user of the same property, extended warranty, digital good, digital code, digital automated service, or other service from the taxes imposed by such chapters.

(b) The tax imposed by this chapter does not apply:

(i) If the sale to, or the use by, the present user or his or her bailor or donor has already been subjected to the tax under chapter 82.08 RCW or this chapter and the tax has been paid by the present user or by his or her bailor or donor;

(ii) In respect to the use of any article of tangible personal property acquired by bailment and the tax has once been paid based on reasonable rental as determined by RCW 82.12.060 measured by the value of the article at time of first use multiplied by the tax rate imposed by chapter 82.08 RCW or this chapter as of the time of first use;

(iii) In respect to the use of any article of tangible personal property acquired by bailment, if the property was acquired by a previous bailee from the same bailor for use in the same general activity and the original bailment was prior to June 9, 1961; or

(iv) To the use of digital goods or digital automated services, which were obtained through the use of a digital code, if the sale of the digital code to, or the use of the digital code by, the present user or the present user's bailor or donor has already been subjected to the tax under chapter 82.08 RCW or this chapter and the tax has been paid by the present user or by the present user's bailor or donor.

(4)(a) Except as provided in (b) of this subsection (4), the tax is levied and must be collected in an amount equal to the value of the article used, value of the digital good or digital code used, value of the extended warranty used, or value of the service used by the taxpayer, multiplied by the applicable rates in effect for the retail sales tax under RCW 82.08.020.

(b) In the case of a seller required to collect use tax from the purchaser, the tax must be collected in an amount equal to the purchase price multiplied by the applicable rate in effect for the retail sales tax under RCW 82.08.020.

(5) For purposes of the tax imposed in this section, "person" includes anyone within the definition of "buyer," "purchaser," and "consumer" in RCW 82.08.010.

**Sec. 207.** RCW 82.45.010 and 2008 c 116 s 3 and 2008 c 6 s 701 are each reenacted and amended to read as follows:

(1) As used in this chapter, the term "sale" ~~((shall have))~~ has its ordinary meaning and ~~((shall))~~ includes any conveyance, grant,

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assignment, quitclaim, or transfer of the ownership of or title to real property, including standing timber, or any estate or interest therein for a valuable consideration, and any contract for such conveyance, grant, assignment, quitclaim, or transfer, and any lease with an option to purchase real property, including standing timber, or any estate or interest therein or other contract under which possession of the property is given to the purchaser, or any other person at the purchaser's direction, and title to the property is retained by the vendor as security for the payment of the purchase price. The term also includes the grant, assignment, quitclaim, sale, or transfer of improvements constructed upon leased land.

(2)(a) The term "sale" also includes the transfer or acquisition within any twelve-month period of a controlling interest in any entity with an interest in real property located in this state for a valuable consideration.

(b) For the sole purpose of determining whether, pursuant to the exercise of an option, a controlling interest was transferred or acquired within a twelve-month period, the date that the option agreement was executed is the date on which the transfer or acquisition of the controlling interest is deemed to occur. For all other purposes under this chapter, the date upon which the option is exercised is the date of the transfer or acquisition of the controlling interest.

(c) For purposes of this subsection, all acquisitions of persons acting in concert (~~shall~~) **must** be aggregated for purposes of determining whether a transfer or acquisition of a controlling interest has taken place. The department (~~of revenue shall~~) **must** adopt standards by rule to determine when persons are acting in concert. In adopting a rule for this purpose, the department (~~shall~~) **must** consider the following:

(~~(a)~~) (i) Persons (~~shall~~) **must** be treated as acting in concert when they have a relationship with each other such that one person influences or controls the actions of another through common ownership; and

(~~(b)~~) (ii) When persons are not commonly owned or controlled, they (~~shall~~) **must** be treated as acting in concert only when the unity with which the purchasers have negotiated and will consummate the transfer of ownership interests supports a finding that they are acting as a single entity. If the acquisitions are completely independent, with each purchaser buying without regard to the identity of the other purchasers, then the acquisitions (~~shall be~~) **are** considered separate acquisitions.

(3) The term "sale" (~~shall~~) **does** not include:

(a) A transfer by gift, devise, or inheritance.

(b) A transfer of any leasehold interest other than of the type mentioned above.

(c) A cancellation or forfeiture of a vendee's interest in a contract for the sale of real property, whether or not such contract contains a forfeiture clause, or deed in lieu of foreclosure of a mortgage.

(d) The partition of property by tenants in common by agreement or as the result of a court decree.

(e) The assignment of property or interest in property from one spouse or one domestic partner to the other spouse or other domestic partner in accordance with the terms of a decree of dissolution of marriage or state registered domestic partnership or in fulfillment of a property settlement agreement.

(f) The assignment or other transfer of a vendor's interest in a contract for the sale of real property, even though accompanied by a conveyance of the vendor's interest in the real property involved.

(g) Transfers by appropriation or decree in condemnation proceedings brought by the United States, the state or any political subdivision thereof, or a municipal corporation.

(h) A mortgage or other transfer of an interest in real property merely to secure a debt, or the assignment thereof.

(i) Any transfer or conveyance made pursuant to a deed of trust or an order of sale by the court in any mortgage, deed of trust, or lien foreclosure proceeding or upon execution of a judgment, or deed in lieu of foreclosure to satisfy a mortgage or deed of trust.

(j) A conveyance to the federal housing administration or veterans administration by an authorized mortgagee made pursuant to a contract of insurance or guaranty with the federal housing administration or veterans administration.

(k) A transfer in compliance with the terms of any lease or contract upon which the tax as imposed by this chapter has been paid or where the lease or contract was entered into prior to the date this tax was first imposed.

(l) The sale of any grave or lot in an established cemetery.

(m) A sale by the United States, this state or any political subdivision thereof, or a municipal corporation of this state.

(n) A sale to a regional transit authority or public corporation under RCW 81.112.320 under a sale/leaseback agreement under RCW 81.112.300.

(o) A transfer of real property, however effected, if it consists of a mere change in identity or form of ownership of an entity where there is no change in the beneficial ownership. These include transfers to a corporation or partnership which is wholly owned by the transferor and/or the transferor's spouse or domestic partner or children of the transferor or the transferor's spouse or domestic partner (~~(= PROVIDED, That)~~). However, if thereafter such transferee corporation or partnership voluntarily transfers such real property, or such transferor, spouse or domestic partner, or children of the transferor or the transferor's spouse or domestic partner voluntarily transfer stock in the transferee corporation or interest in the transferee partnership capital, as the case may be, to other than ~~(=)~~ (i) the transferor and/or the transferor's spouse or domestic partner or children of the transferor or the transferor's spouse or domestic partner, ~~(=)~~ (ii) a trust having the transferor and/or the transferor's spouse or domestic partner or children of the transferor or the transferor's spouse or domestic partner as the only beneficiaries at the time of the transfer to the trust, or ~~(=)~~ (iii) a corporation or partnership wholly owned by the original transferor and/or the transferor's spouse or domestic partner or children of the transferor or the transferor's spouse or domestic partner, within three years of the original transfer to which this exemption applies, and the tax on the subsequent transfer has not been paid within sixty days of becoming due, excise taxes (~~shall~~) become due and payable on the original transfer as otherwise provided by law.

(p)(i) A transfer that for federal income tax purposes does not involve the recognition of gain or loss for entity formation, liquidation or dissolution, and reorganization, including but not limited to nonrecognition of gain or loss because of application of ~~(section)~~ 26 U.S.C. Sec. 332, 337, 351, 368(a)(1), 721, or 731 of the internal revenue code of 1986, as amended.

(ii) However, the transfer described in (p)(i) of this subsection cannot be preceded or followed within a twelve-month period by another transfer or series of transfers, that, when combined with the otherwise exempt transfer or transfers described in (p)(i) of this subsection, results in the transfer of a controlling interest in the entity for valuable consideration, and in which one or more persons previously holding a controlling interest in the entity receive cash or property in exchange for any interest the person or persons acting in concert hold in the entity. This subsection (3)(p)(ii) does not apply to that part of the transfer involving property received that is the real property interest that the person or persons originally contributed to the entity or when one or more persons who did not contribute real property or belong to the entity at a time when real property was purchased receive cash or personal property in exchange for that person or persons' interest in the entity. The real estate excise tax

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under this subsection (3)(p)(ii) is imposed upon the person or persons who previously held a controlling interest in the entity.

(q) A qualified sale of a manufactured/mobile home community, as defined in RCW 59.20.030, that takes place on or after June 12, 2008, but before December 31, 2018.

**Sec. 208.** RCW 82.45.033 and 1993 sp.s. c 25 s 505 are each amended to read as follows:

(1) As used in this chapter, the term "controlling interest" has the following meaning:

~~((1))~~ (a) In the case of a corporation, either fifty percent or more of the total combined voting power of all classes of stock of the corporation entitled to vote, or fifty percent of the capital, profits, or beneficial interest in the voting stock of the corporation; and

~~((2))~~ (b) In the case of a partnership, association, trust, or other entity, fifty percent or more of the capital, profits, or beneficial interest in such partnership, association, trust, or other entity.

(2) The department may, at the department's option, enforce the obligation of the seller under this chapter as provided in this subsection (2):

(a) In the transfer or acquisition of a controlling interest as defined in subsection (1)(a) of this section, either against the corporation in which a controlling interest is transferred or acquired, against the person or persons who acquired the controlling interest in the corporation or, when the corporation is not a publicly traded company, against the person or persons who transferred the controlling interest in the corporation; and

(b) In the transfer or acquisition of a controlling interest as defined in subsection (1)(b) of this section, either against the entity in which a controlling interest is transferred or acquired or against the person or persons who transferred or acquired the controlling interest in the entity.

**Sec. 209.** RCW 82.45.070 and 1969 ex.s. c 223 s 28A.45.070 are each amended to read as follows:

The tax (~~herein~~) provided for in this chapter and any interest or penalties thereon (~~shall be~~) is a specific lien upon each (piece) parcel of real property located in this state that is either sold or that is owned by an entity in which a controlling interest has been transferred or acquired. The lien attaches from the time of sale until the tax (shall have been) is paid, which lien may be enforced in the manner prescribed for the foreclosure of mortgages.

**Sec. 210.** RCW 82.45.080 and 1980 c 154 s 3 are each amended to read as follows:

(1) The tax levied under this chapter (~~shall be~~) is the obligation of the seller and the department (of revenue) may, at the department's option, enforce the obligation through an action of debt against the seller or the department may proceed in the manner prescribed for the foreclosure of mortgages (and resort to). The department's use of one course of enforcement (shall) is not ((be)) an election not to pursue the other.

(2) For purposes of this section and notwithstanding any other provisions of law, the seller is the parent corporation of a wholly owned subsidiary, when such subsidiary is the transferor to a third-party transferee and the subsidiary is dissolved before paying the tax imposed under this chapter.

**Sec. 211.** RCW 82.45.100 and 2007 c 111 s 112 are each amended to read as follows:

(1) Payment of the tax imposed under this chapter is due and payable immediately at the time of sale, and if not paid within one month thereafter (~~shall~~) will bear interest from the time of sale until the date of payment.

(a) Interest imposed before January 1, 1999, (~~shall be~~) is computed at the rate of one percent per month.

(b) Interest imposed after December 31, 1998, (~~shall be~~) is computed on a monthly basis at the rate as computed under RCW 82.32.050(2). The rate so computed (~~shall~~) must be adjusted on

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the first day of January of each year for use in computing interest for that calendar year. The department (~~of revenue shall~~) must provide written notification to the county treasurers of the variable rate on or before December 1st of the year preceding the calendar year in which the rate applies.

(2) In addition to the interest described in subsection (1) of this section, if the payment of any tax is not received by the county treasurer or the department of revenue, as the case may be, within one month of the date due, there (~~shall be~~) is assessed a penalty of five percent of the amount of the tax; if the tax is not received within two months of the date due, there (~~shall~~) will be assessed a total penalty of ten percent of the amount of the tax; and if the tax is not received within three months of the date due, there (~~shall~~) will be assessed a total penalty of twenty percent of the amount of the tax. The payment of the penalty described in this subsection (~~shall be~~) is collectible from the seller only, and RCW 82.45.070 does not apply to the penalties described in this subsection.

(3) If the tax imposed under this chapter is not received by the due date, the transferee (~~shall be~~) is personally liable for the tax, along with any interest as provided in subsection (1) of this section, unless(~~:~~

~~(a))~~ an instrument evidencing the sale is recorded in the official real property records of the county in which the property conveyed is located(~~;~~

~~(b))~~ Either the transferor or transferee notifies the department of revenue in writing of the occurrence of the sale within thirty days following the date of the sale).

(4) If upon examination of any affidavits or from other information obtained by the department or its agents it appears that all or a portion of the tax is unpaid, the department (~~shall~~) must assess against the taxpayer the additional amount found to be due plus interest and penalties as provided in subsections (1) and (2) of this section. The department (~~shall~~) must notify the taxpayer by mail, or electronically as provided in RCW 82.32.135, of the additional amount and the same (~~shall~~) becomes due and (shall) must be paid within thirty days from the date of the notice, or within such further time as the department may provide.

(5) No assessment or refund may be made by the department more than four years after the date of sale except upon a showing of:

(a) Fraud or misrepresentation of a material fact by the taxpayer;

(b) A failure by the taxpayer to record documentation of a sale or otherwise report the sale to the county treasurer; or

(c) A failure of the transferor or transferee to report the sale under RCW 82.45.090(2).

(6) Penalties collected on taxes due under this chapter under subsection (2) of this section and RCW 82.32.090 (2) through (~~(7))~~ (8) (shall) must be deposited in the housing trust fund as described in chapter 43.185 RCW.

**Sec. 212.** RCW 82.45.220 and 2005 c 326 s 3 are each amended to read as follows:

(1) An organization that fails to report a transfer of the controlling interest in the organization under RCW 43.07.390 to the secretary of state and is later determined to be subject to real estate excise taxes due to the transfer, (~~shall be~~) is subject to the provisions of RCW 82.45.100 as well as the evasion penalty in RCW 82.32.090(~~(6))~~ (7).

(2) Subsection (1) of this section also applies to the failure to report to the secretary of state the granting of an option to acquire an interest in the organization if the exercise of the option would result in a sale as defined in RCW 82.45.010(2).

**Sec. 213.** RCW 43.07.390 and 2005 c 326 s 2 are each amended to read as follows:

(1)(a) The secretary of state (~~shall~~) must adopt rules requiring any entity that is required to file an annual report with the secretary of state, including entities under Titles 23, 23B, 24, and 25 RCW, to

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disclose: ~~(i) Any transfer ((#)) of the controlling interest ((#)) in the entity ((and any interest in real property)); and (ii) the granting of any option to acquire an interest in the entity if the exercise of the option would result in a sale as defined in RCW 82.45.010(2).~~

~~(b) The disclosure requirement in this subsection only applies to entities owning an interest in real property located in this state.~~

~~(2) This information ((shall)) must be made available to the department of revenue upon request for the purposes of tracking the transfer of the controlling interest in entities owning real property and to determine when the real estate excise tax is applicable in such cases.~~

~~(3) For the purposes of this section, "controlling interest" has the same meaning as provided in RCW 82.45.033.~~

**PART III  
Modifying the First Mortgage Deduction**

**Sec. 301.** RCW 82.04.4292 and 1980 c 37 s 12 are each amended to read as follows:

(1) In computing tax there may be deducted from the measure of tax by those engaged in banking, loan, security or other financial businesses, ((amounts derived from)) interest received on investments or loans primarily secured by first mortgages or trust deeds on nontransient residential properties.

(2) Interest deductible under this section includes the portion of fees charged to borrowers, including points and loan origination fees, that is recognized over the life of the loan as an adjustment to yield in the taxpayer's books and records according to generally accepted accounting principles.

(3) Subsections (1) and (2) of this section notwithstanding, the following is a nonexclusive list of items that are not deductible under this section:

(a) Fees for specific services such as: Document preparation fees; finder fees; brokerage fees; title examination fees; fees for credit checks; notary fees; loan application fees; interest lock-in fees if the loan is not made; servicing fees; and similar fees or amounts;

(b) Fees received in consideration for an agreement to make funds available for a specific period of time at specified terms, commonly referred to as commitment fees;

(c) Any other fees, or portion of a fee, that is not recognized over the life of the loan as an adjustment to yield in the taxpayer's books and records according to generally accepted accounting principles;

(d) Gains on the sale of valuable rights such as service release premiums, which are amounts received when servicing rights are sold; and

(e) Gains on the sale of loans, except deferred loan origination fees and points deductible under subsection (2) of this section, are not to be considered part of the proceeds of sale of the loan.

(4) Notwithstanding subsection (3) of this section, in computing tax there may be deducted from the measure of tax by those engaged in banking, loan, security, or other financial businesses, amounts received for servicing loans primarily secured by first mortgages or trust deeds on nontransient residential properties, including such loans that secure mortgage-backed or mortgage-related securities, but only if:

(a)(i) The loans were originated by the person claiming a deduction under this subsection (4) and that person either sold the loans on the secondary market or securitized the loans and sold the securities on the secondary market; or

(ii)(A) The person claiming a deduction under this subsection (4) acquired the loans from the person that originated the loans through a merger or acquisition of substantially all of the assets of the person who originated the loans, or the person claiming a deduction under this subsection (4) is affiliated with the person that

originated the loans. For purposes of this subsection, "affiliated" means under common control. "Control" means the possession, directly or indirectly, of more than fifty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise; and

(B) Either the person who originated the loans or the person claiming a deduction under this subsection (4) sold the loans on the secondary market or securitized the loans and sold the securities on the secondary market; and

(b) The amounts received for servicing the loans are determined by a percentage of the interest paid by the borrower and are only received if the borrower makes interest payments.

**PART IV  
Direct Seller Business and Occupation Tax Exemption**

NEW SECTION. Sec. 401. (1) A business and occupation tax exemption is provided in RCW 82.04.423 for certain out-of-state sellers that sell consumer products exclusively to or through a direct seller's representative. The intent of the legislature in enacting this exemption was to provide a narrow exemption for out-of-state businesses engaged in direct sales of consumer products, typically accomplished through in-home parties or door-to-door selling.

(2) In *Dot Foods, Inc. v. Dep't of Revenue*, Docket No. 81022-2 (September 10, 2009), the Washington supreme court held that the exemption in RCW 82.04.423 applied to a taxpayer: (a) That sold nonconsumer products through its representative in addition to consumer products; and (b) whose consumer products were ultimately sold at retail in permanent retail establishments.

(3) The legislature finds that most out-of-state businesses selling consumer products in this state will either be eligible for the exemption under RCW 82.04.423 or could easily restructure their business operations to qualify for the exemption. As a result, the legislature expects that the broadened interpretation of the direct sellers' exemption will lead to large and devastating revenue losses. This comes at a time when the state's existing budget is facing a two billion six hundred million dollar shortfall, which could grow, while at the same time the demand for state and state-funded services is also growing. Moreover, the legislature further finds that RCW 82.04.423 provides preferential tax treatment for out-of-state businesses over their in-state competitors and now creates a strong incentive for in-state businesses to move their operations outside Washington.

(4) Therefore, the legislature finds that it is necessary to reaffirm the legislature's intent in establishing the direct sellers' exemption and prevent the loss of revenues resulting from the expanded interpretation of the exemption by amending RCW 82.04.423 retroactively to conform the exemption to the original intent of the legislature and by prospectively ending the direct sellers' exemption as of the effective date of this section.

**Sec. 402.** RCW 82.04.423 and 1983 1st ex.s. c 66 s 5 are each amended to read as follows:

(1) Prior to the effective date of this section, this chapter ((shall)) does not apply to any person in respect to gross income derived from the business of making sales at wholesale or retail if such person:

(a) Does not own or lease real property within this state; and

(b) Does not regularly maintain a stock of tangible personal property in this state for sale in the ordinary course of business; and

(c) Is not a corporation incorporated under the laws of this state; and

(d) Makes sales in this state exclusively to or through a direct seller's representative.

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(2) For purposes of this section, the term "direct seller's representative" means a person who buys only consumer products on a buy-sell basis or a deposit-commission basis for resale, by the buyer or any other person, in the home or otherwise than in a permanent retail establishment, or who sells at retail, or solicits the sale at retail of, only consumer products in the home or otherwise than in a permanent retail establishment; and

(a) Substantially all of the remuneration paid to such person, whether or not paid in cash, for the performance of services described in this subsection is directly related to sales or other output, including the performance of services, rather than the number of hours worked; and

(b) The services performed by the person are performed pursuant to a written contract between such person and the person for whom the services are performed and such contract provides that the person will not be treated as an employee with respect to such purposes for federal tax purposes.

(3) Nothing in this section (~~(shall)~~) may be construed to imply that a person exempt from tax under this section was engaged in a business activity taxable under this chapter prior to (~~(the enactment of this section))~~ August 23, 1983.

#### PART V

#### Business and Occupation Tax Preferences for Manufacturers of Products Derived from Certain Agricultural Products

**NEW SECTION. Sec. 501.** (1)(a) In 1967, the legislature amended RCW 82.04.260 in chapter 149, Laws of 1967 ex. sess. to authorize a preferential business and occupation tax rate for slaughtering, breaking, and/or processing perishable meat products and/or selling the same at wholesale. The legislature finds that RCW 82.04.260(4) was interpreted by the state supreme court on January 13, 2005, in *Agrilink Foods, Inc. v. Department of Revenue*, 153 Wn.2d 392 (2005). The supreme court held that the preferential business and occupation tax rate on the slaughtering, breaking, and/or processing of perishable meat products applied to the processing of perishable meat products into nonperishable finished products, such as canned food.

(b) The legislature intends to narrow the exemption provided for slaughtering, breaking, and/or processing perishable meat products and/or selling such products at wholesale by requiring that the end product be a perishable meat product; a nonperishable meat product that is comprised primarily of animal carcass by weight or volume, other than a canned meat product; or a meat by-product.

(2)(a) A business and occupation tax exemption is provided for (i) manufacturing by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables, and (ii) selling such products at wholesale by the manufacturer to purchasers who transport the goods out of state in the ordinary course of business. This exemption expires July 1, 2012, and is replaced by a preferential business and occupation tax rate.

(b) The legislature finds that the rationale of the *Agrilink* decision, if applied to these tax preferences, could result in preferential tax treatment for any processed food product that contained any fresh fruit or vegetable as an ingredient, however small the amount.

(c) The legislature intends to narrow the tax preference provided to fruit and vegetable manufacturers by requiring that the end product be comprised either (i) exclusively of fruits and/or vegetables, or (ii) of any combination of fruits, vegetables, and certain other substances that, cumulatively, may not exceed the amount of fruits and vegetables contained in the product measured by weight or volume.

**NEW SECTION. Sec. 502.** A new section is added to chapter 82.04 RCW to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing:

(a) Perishable meat products, by slaughtering, breaking, or processing, if the finished product is a perishable meat product; as to such persons the tax imposed is equal to the value of the perishable meat products manufactured, or, in the case of a processor for hire, the gross income of the business, multiplied by the rate of 0.138 percent;

(b) Meat products, by dehydration, curing, smoking, or any combination of these activities, if the finished meat products are not canned; as to such persons the tax imposed is equal to the value of the meat products manufactured, or, in the case of a processor for hire, the gross income of the business, multiplied by the rate of 0.138 percent;

(c) Hides, tallow, meat meal, and other similar meat by-products, if such products are derived in part from animals and manufactured in a rendering plant licensed under chapter 16.68 RCW; as to such persons the tax imposed is equal to the value of the products manufactured, or, in the case of a processor for hire, the gross income of the business, multiplied by the rate of 0.138 percent.

(2) Upon every person engaging within this state in the business of selling at wholesale:

(a) Perishable meat products; as to such persons the tax imposed is equal to the gross proceeds derived from such sales multiplied by the rate of 0.138 percent;

(b) Meat products that have been manufactured by the seller by dehydration, curing, smoking, or any combination of such activities, if the finished meat products are not canned; as to such persons the tax imposed is equal to the gross proceeds derived from such sales multiplied by the rate of 0.138 percent;

(c) Hides, tallow, meat meal, and other similar meat by-products, if such products are derived in part from animals and manufactured by the seller in a rendering plant; as to such persons the tax imposed is equal to the gross proceeds derived from such sales multiplied by the rate of 0.138 percent.

(3) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Animal" means all members of the animal kingdom except humans, fish, and insects.

(b) "Carcass" means all or any parts, including viscera, of a slaughtered animal.

(c) "Fish" means any water-breathing animal, including shellfish.

(d) "Hide" means any unprocessed animal pelt or skin.

(e)(i) "Meat products" means:

(A) Products comprised exclusively of animal carcass; and

(B) Products, such as jerky, sausage, and other cured meat products, that are comprised primarily of animal carcass by weight or volume and may also contain water; nitrates; nitrites; acids; binders and extenders; natural or synthetic casings; colorings; flavorings such as soy sauce, liquid smoke, seasonings, citric acid, sugar, molasses, corn syrup, and vinegar; and similar substances.

(ii) Except as provided in (e)(i) of this subsection (3), "meat products" does not include products containing any cereal grains or cereal-grain products, dairy products, legumes and legume products, fruit or vegetable products as defined in RCW 82.04.260, and similar ingredients, unless the ingredient is used as a flavoring. For purposes of this subsection, "flavoring" means a substance that contains the flavoring constituents derived from a spice, fruit or fruit juice, vegetable or vegetable juice, edible yeast, herb, bark, bud, root, leaf, or any other edible substance of plant origin, whose primary function in food is flavoring or seasoning rather than nutritional, and which may legally appear as "natural flavor," "flavor," or "flavorings" in the ingredient statement on the label of the meat product.

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(iii) "Meat products" includes only products that are intended for human consumption as food or animal consumption as feed.

(f) "Perishable" means having a high risk of spoilage within thirty days of manufacture without any refrigeration or freezing.

(g) "Rendering plant" means any place of business or location where dead animals or any part or portion thereof, or packing house refuse, are processed for the purpose of obtaining the hide, skin, grease residue, or any other by-product whatsoever.

**Sec. 503.** RCW 82.04.4266 and 2006 c 354 s 3 are each amended to read as follows:

(1) This chapter (~~shall~~) does not apply to the value of products or the gross proceeds of sales derived from:

(a) Manufacturing fruit((s)) or vegetable((s)) products by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables; or

(b) Selling at wholesale fruit((s)) or vegetable((s)) products manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state. A person taking an exemption under this subsection (1)(b) must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state.

(2)(a) "Fruit or vegetable products" means:

(i) Products comprised exclusively of fruits, vegetables, or both; and

(ii) Products comprised of fruits, vegetables, or both, and which may also contain water, sugar, salt, seasonings, preservatives, binders, stabilizers, flavorings, yeast, and similar substances. However, the amount of all ingredients contained in the product, other than fruits, vegetables, and water, may not exceed the amount of fruits and vegetables contained in the product measured by weight or volume.

(b) "Fruit or vegetable products" includes only products that are intended for human consumption as food or animal consumption as feed.

(3) This section expires July 1, 2012.

**Sec. 504.** RCW 82.04.4266 and 2010 c 114 (SHB 3066) s 111 are each amended to read as follows:

(1) This chapter does not apply to the value of products or the gross proceeds of sales derived from:

(a) Manufacturing fruit((s)) or vegetable((s)) products by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables; or

(b) Selling at wholesale fruit((s)) or vegetable((s)) products manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state. A person taking an exemption under this subsection (1)(b) must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state.

(2)(a) "Fruit or vegetable products" means:

(i) Products comprised exclusively of fruits, vegetables, or both; and

(ii) Products comprised of fruits, vegetables, or both, and which may also contain water, sugar, salt, seasonings, preservatives, binders, stabilizers, flavorings, yeast, and similar substances. However, the amount of all ingredients contained in the product, other than fruits, vegetables, and water, may not exceed the amount of fruits and vegetables contained in the product measured by weight or volume.

(b) "Fruit or vegetable products" includes only products that are

intended for human consumption as food or animal consumption as feed.

(3) A person claiming the exemption provided in this section must file a complete annual survey with the department under RCW 82.32.--- (section 102, chapter 114 (SHB 3066), Laws of 2010).

~~((3))~~ (4) This section expires July 1, 2012.

**Sec. 505.** RCW 82.04.260 and 2009 c 479 s 64, 2009 c 461 s 1, and 2009 c 162 s 34 are each reenacted and amended to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing:

(a) Wheat into flour, barley into pearl barley, soybeans into soybean oil, canola into canola oil, canola meal, or canola by-products, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business (~~shall be~~) is equal to the value of the flour, pearl barley, oil, canola meal, or canola by-product manufactured, multiplied by the rate of 0.138 percent;

(b) Beginning July 1, 2012, seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; or selling manufactured seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing, to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business (~~shall be~~) is equal to the value of the products manufactured or the gross proceeds derived from such sales, multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(c) Beginning July 1, 2012, dairy products that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including by-products from the manufacturing of the dairy products such as whey and casein; or selling the same to purchasers who transport in the ordinary course of business the goods out of state; as to such persons the tax imposed (~~shall be~~) is equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(d)(i) Beginning July 1, 2012, fruit((s)) or vegetable((s)) products by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables, or selling at wholesale fruit((s)) or vegetable((s)) products manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business (~~shall be~~) is equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(ii) For purposes of this subsection, "fruit or vegetable products" means:

(A) Products comprised exclusively of fruits, vegetables, or both; or

(B) Products comprised of fruits, vegetables, or both, and which may also contain water, sugar, salt, seasonings, preservatives, binders, stabilizers, flavorings, yeast, and similar substances. However, the amount of all ingredients contained in the product, other than fruits, vegetables, and water, may not exceed the amount of fruits and vegetables contained in the product measured by

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weight or volume;

(iii) "Fruit and vegetable products" includes only products that are intended for human consumption as food or animal consumption as feed;

(e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel feedstock, as those terms are defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business (~~shall be~~) is equal to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock manufactured, multiplied by the rate of 0.138 percent; and

(f) Alcohol fuel or wood biomass fuel, as those terms are defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business (~~shall be~~) is equal to the value of alcohol fuel or wood biomass fuel manufactured, multiplied by the rate of 0.138 percent.

(2) Upon every person engaging within this state in the business of splitting or processing dried peas; as to such persons the amount of tax with respect to such business (~~shall be~~) is equal to the value of the peas split or processed, multiplied by the rate of 0.138 percent.

(3) Upon every nonprofit corporation and nonprofit association engaging within this state in research and development, as to such corporations and associations, the amount of tax with respect to such activities (~~shall be~~) is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

~~(4) (Upon every person engaging within this state in the business of slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale only and not at retail; as to such persons the tax imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of 0.138 percent.~~

~~(5))~~ Upon every person engaging within this state in the business of acting as a travel agent or tour operator; as to such persons the amount of the tax with respect to such activities (~~shall be~~) is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

~~(6))~~ (5) Upon every person engaging within this state in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent; as to such persons the amount of the tax with respect to only international activities (~~shall be~~) is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

~~(7))~~ (6) Upon every person engaging within this state in the business of stevedoring and associated activities pertinent to the movement of goods and commodities in waterborne interstate or foreign commerce; as to such persons the amount of tax with respect to such business (~~shall be~~) is equal to the gross proceeds derived from such activities multiplied by the rate of 0.275 percent. Persons subject to taxation under this subsection (~~shall be~~) are exempt from payment of taxes imposed by chapter 82.16 RCW for that portion of their business subject to taxation under this subsection. Stevedoring and associated activities pertinent to the conduct of goods and commodities in waterborne interstate or foreign commerce are defined as all activities of a labor, service or transportation nature whereby cargo may be loaded or unloaded to or from vessels or barges, passing over, onto or under a wharf, pier, or similar structure; cargo may be moved to a warehouse or similar holding or storage yard or area to await further movement in import or export or may move to a consolidation freight station and be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loaded on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: Wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery,

checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator service to containers, trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.

~~(8))~~ (7)(a) Upon every person engaging within this state in the business of disposing of low-level waste, as defined in RCW 43.145.010; as to such persons the amount of the tax with respect to such business (~~shall be~~) is equal to the gross income of the business, excluding any fees imposed under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

(b) If the gross income of the taxpayer is attributable to activities both within and without this state, the gross income attributable to this state (~~shall~~) must be determined in accordance with the methods of apportionment required under RCW 82.04.460.

~~(9))~~ (8) Upon every person engaging within this state as an insurance producer or title insurance agent licensed under chapter 48.17 RCW or a surplus line broker licensed under chapter 48.15 RCW; as to such persons, the amount of the tax with respect to such licensed activities (~~shall be~~) is equal to the gross income of such business multiplied by the rate of 0.484 percent.

~~(10))~~ (9) Upon every person engaging within this state in business as a hospital, as defined in chapter 70.41 RCW, that is operated as a nonprofit corporation or by the state or any of its political subdivisions, as to such persons, the amount of tax with respect to such activities (~~shall be~~) is equal to the gross income of the business multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5 percent thereafter.

~~(11))~~ (10)(a) Beginning October 1, 2005, upon every person engaging within this state in the business of manufacturing commercial airplanes, or components of such airplanes, or making sales, at retail or wholesale, of commercial airplanes or components of such airplanes, manufactured by the seller, as to such persons the amount of tax with respect to such business (~~shall~~), in the case of manufacturers, (~~be~~) is equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, (~~be~~) is equal to the gross income of the business, multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through ~~(the later of)~~ June 30, 2007; and

(ii) 0.2904 percent beginning July 1, 2007.

(b) Beginning July 1, 2008, upon every person who is not eligible to report under the provisions of (a) of this subsection ~~(11))~~ (10) and is engaging within this state in the business of manufacturing tooling specifically designed for use in manufacturing commercial airplanes or components of such airplanes, or making sales, at retail or wholesale, of such tooling manufactured by the seller, as to such persons the amount of tax with respect to such business (~~shall~~), in the case of manufacturers, (~~be~~) is equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, (~~be~~) is equal to the gross income of the business, multiplied by the rate of 0.2904 percent.

(c) For the purposes of this subsection ~~(11))~~ (10), "commercial airplane" and "component" have the same meanings as provided in RCW 82.32.550.

(d) In addition to all other requirements under this title, a person eligible for the tax rate under this subsection ~~(11))~~ (10) must report as required under RCW 82.32.545.

(e) This subsection ~~(11))~~ (10) does not apply on and after July 1, 2024.

~~(12))~~ (11)(a) Until July 1, 2024, upon every person engaging within this state in the business of extracting timber or extracting for hire timber; as to such persons the amount of tax with respect to the

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business (~~(shall)~~), in the case of extractors, (~~(be)~~) is equal to the value of products, including by-products, extracted, or in the case of extractors for hire, (~~(be)~~) is equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2024.

(b) Until July 1, 2024, upon every person engaging within this state in the business of manufacturing or processing for hire: (i) Timber into timber products or wood products; or (ii) timber products into other timber products or wood products; as to such persons the amount of the tax with respect to the business (~~(shall)~~), in the case of manufacturers, (~~(be)~~) is equal to the value of products, including by-products, manufactured, or in the case of processors for hire, (~~(be)~~) is equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2024.

(c) Until July 1, 2024, upon every person engaging within this state in the business of selling at wholesale: (i) Timber extracted by that person; (ii) timber products manufactured by that person from timber or other timber products; or (iii) wood products manufactured by that person from timber or timber products; as to such persons the amount of the tax with respect to the business (~~(shall be)~~) is equal to the gross proceeds of sales of the timber, timber products, or wood products multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2024.

(d) Until July 1, 2024, upon every person engaging within this state in the business of selling standing timber; as to such persons the amount of the tax with respect to the business (~~(shall be)~~) is equal to the gross income of the business multiplied by the rate of 0.2904 percent. For purposes of this subsection (~~((42))~~) (11)(d), "selling standing timber" means the sale of timber apart from the land, where the buyer is required to sever the timber within thirty months from the date of the original contract, regardless of the method of payment for the timber and whether title to the timber transfers before, upon, or after severance.

(e) For purposes of this subsection, the following definitions apply:

(i) "Biocomposite surface products" means surface material products containing, by weight or volume, more than fifty percent recycled paper and that also use nonpetroleum-based phenolic resin as a bonding agent.

(ii) "Paper and paper products" means products made of interwoven cellulosic fibers held together largely by hydrogen bonding. "Paper and paper products" includes newsprint; office, printing, fine, and pressure-sensitive papers; paper napkins, towels, and toilet tissue; kraft bag, construction, and other kraft industrial papers; paperboard, liquid packaging containers, containerboard, corrugated, and solid-fiber containers including linerboard and corrugated medium; and related types of cellulosic products containing primarily, by weight or volume, cellulosic materials. "Paper and paper products" does not include books, newspapers, magazines, periodicals, and other printed publications, advertising materials, calendars, and similar types of printed materials.

(iii) "Recycled paper" means paper and paper products having fifty percent or more of their fiber content that comes from postconsumer waste. For purposes of this subsection (~~((42))~~) (11)(e)(iii), "postconsumer waste" means a finished material that would normally be disposed of as solid waste, having completed its life cycle as a consumer item.

(iv) "Timber" means forest trees, standing or down, on privately or publicly owned land. "Timber" does not include Christmas trees that are cultivated by agricultural methods or short-rotation hardwoods as defined in RCW 84.33.035.

(v) "Timber products" means:

(A) Logs, wood chips, sawdust, wood waste, and similar products obtained wholly from the processing of timber, short-rotation hardwoods as defined in RCW 84.33.035, or both;

(B) Pulp, including market pulp and pulp derived from recovered paper or paper products; and

(C) Recycled paper, but only when used in the manufacture of biocomposite surface products.

(vi) "Wood products" means paper and paper products; dimensional lumber; engineered wood products such as particleboard, oriented strand board, medium density fiberboard, and plywood; wood doors; wood windows; and biocomposite surface products.

~~((13))~~ (12) Upon every person engaging within this state in inspecting, testing, labeling, and storing canned salmon owned by another person, as to such persons, the amount of tax with respect to such activities (~~(shall be)~~) is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

~~((14))~~ (13) Upon every person engaging within this state in the business of printing a newspaper, publishing a newspaper, or both, the amount of tax on such business is equal to the gross income of the business multiplied by the rate of 0.2904 percent.

**Sec. 506.** RCW 82.04.260 and 2010 c 114 (SHB 3066) s 107 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing:

(a) Wheat into flour, barley into pearl barley, soybeans into soybean oil, canola into canola oil, canola meal, or canola by-products, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business is equal to the value of the flour, pearl barley, oil, canola meal, or canola by-product manufactured, multiplied by the rate of 0.138 percent;

(b) Beginning July 1, 2012, seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; or selling manufactured seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing, to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business is equal to the value of the products manufactured or the gross proceeds derived from such sales, multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(c) Beginning July 1, 2012, dairy products that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including by-products from the manufacturing of the dairy products such as whey and casein; or selling the same to purchasers who transport in the ordinary course of business the goods out of state; as to such persons the tax imposed is equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

~~(d)(i)~~ (d)(i) Beginning July 1, 2012, fruit(~~(s)~~) or vegetable(~~(s)~~) products by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables, or selling at wholesale fruit(~~(s)~~) or vegetable(~~(s)~~) products manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business is equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and

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preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(ii) For purposes of this subsection, "fruit or vegetable products" means:

(A) Products comprised exclusively of fruits, vegetables, or both; or

(B) Products comprised of fruits, vegetables, or both, and which may also contain water, sugar, salt, seasonings, preservatives, binders, stabilizers, flavorings, yeast, and similar substances. However, the amount of all ingredients contained in the product, other than fruits, vegetables, and water, may not exceed the amount of fruits and vegetables contained in the product measured by weight or volume;

(iii) "Fruit and vegetable products" includes only products that are intended for human consumption as food or animal consumption as feed;

(e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel feedstock, as those terms are defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business is equal to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock manufactured, multiplied by the rate of 0.138 percent; and

(f) Wood biomass fuel as defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business is equal to the value of wood biomass fuel manufactured, multiplied by the rate of 0.138 percent.

(2) Upon every person engaging within this state in the business of splitting or processing dried peas; as to such persons the amount of tax with respect to such business is equal to the value of the peas split or processed, multiplied by the rate of 0.138 percent.

(3) Upon every nonprofit corporation and nonprofit association engaging within this state in research and development, as to such corporations and associations, the amount of tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

~~(4) ((Upon every person engaging within this state in the business of slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale only and not at retail; as to such persons the tax imposed is equal to the gross proceeds derived from such sales multiplied by the rate of 0.138 percent.~~

~~—(5))~~ Upon every person engaging within this state in the business of acting as a travel agent or tour operator; as to such persons the amount of the tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

~~((6))~~ (5) Upon every person engaging within this state in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent; as to such persons the amount of the tax with respect to only international activities is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

~~((7))~~ (6) Upon every person engaging within this state in the business of stevedoring and associated activities pertinent to the movement of goods and commodities in waterborne interstate or foreign commerce; as to such persons the amount of tax with respect to such business is equal to the gross proceeds derived from such activities multiplied by the rate of 0.275 percent. Persons subject to taxation under this subsection are exempt from payment of taxes imposed by chapter 82.16 RCW for that portion of their business subject to taxation under this subsection. Stevedoring and associated activities pertinent to the conduct of goods and commodities in waterborne interstate or foreign commerce are defined as all activities of a labor, service or transportation nature

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whereby cargo may be loaded or unloaded to or from vessels or barges, passing over, onto or under a wharf, pier, or similar structure; cargo may be moved to a warehouse or similar holding or storage yard or area to await further movement in import or export or may move to a consolidation freight station and be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loaded on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: Wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator service to containers, trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.

~~((8))~~ (7)(a) Upon every person engaging within this state in the business of disposing of low-level waste, as defined in RCW 43.145.010; as to such persons the amount of the tax with respect to such business is equal to the gross income of the business, excluding any fees imposed under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

(b) If the gross income of the taxpayer is attributable to activities both within and without this state, the gross income attributable to this state must be determined in accordance with the methods of apportionment required under RCW 82.04.460.

~~((9))~~ (8) Upon every person engaging within this state as an insurance producer or title insurance agent licensed under chapter 48.17 RCW or a surplus line broker licensed under chapter 48.15 RCW; as to such persons, the amount of the tax with respect to such licensed activities is equal to the gross income of such business multiplied by the rate of 0.484 percent.

~~((10))~~ (9) Upon every person engaging within this state in business as a hospital, as defined in chapter 70.41 RCW, that is operated as a nonprofit corporation or by the state or any of its political subdivisions, as to such persons, the amount of tax with respect to such activities is equal to the gross income of the business multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5 percent thereafter.

~~((11))~~ (10)(a) Beginning October 1, 2005, upon every person engaging within this state in the business of manufacturing commercial airplanes, or components of such airplanes, or making sales, at retail or wholesale, of commercial airplanes or components of such airplanes, manufactured by the seller, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through June 30, 2007; and

(ii) 0.2904 percent beginning July 1, 2007.

(b) Beginning July 1, 2008, upon every person who is not eligible to report under the provisions of (a) of this subsection ~~((11))~~ (10) and is engaging within this state in the business of manufacturing tooling specifically designed for use in manufacturing commercial airplanes or components of such airplanes, or making sales, at retail or wholesale, of such tooling manufactured by the seller, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for

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hire, be equal to the gross income of the business, multiplied by the rate of 0.2904 percent.

(c) For the purposes of this subsection (~~((44))~~) (10), "commercial airplane" and "component" have the same meanings as provided in RCW 82.32.550.

(d) In addition to all other requirements under this title, a person reporting under the tax rate provided in this subsection (~~((44))~~) (10) must file a complete annual report with the department under RCW 82.32.--- (section 103, chapter 114 (SHB 3066), Laws of 2010).

(e) This subsection (~~((44))~~) (10) does not apply on and after July 1, 2024.

~~((42))~~ (11)(a) Until July 1, 2024, upon every person engaging within this state in the business of extracting timber or extracting for hire timber; as to such persons the amount of tax with respect to the business is, in the case of extractors, equal to the value of products, including by-products, extracted, or in the case of extractors for hire, equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2024.

(b) Until July 1, 2024, upon every person engaging within this state in the business of manufacturing or processing for hire: (i) Timber into timber products or wood products; or (ii) timber products into other timber products or wood products; as to such persons the amount of the tax with respect to the business is, in the case of manufacturers, equal to the value of products, including by-products, manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2024.

(c) Until July 1, 2024, upon every person engaging within this state in the business of selling at wholesale: (i) Timber extracted by that person; (ii) timber products manufactured by that person from timber or other timber products; or (iii) wood products manufactured by that person from timber or timber products; as to such persons the amount of the tax with respect to the business is equal to the gross proceeds of sales of the timber, timber products, or wood products multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2024.

(d) Until July 1, 2024, upon every person engaging within this state in the business of selling standing timber; as to such persons the amount of the tax with respect to the business is equal to the gross income of the business multiplied by the rate of 0.2904 percent. For purposes of this subsection (~~((42))~~) (11)(d), "selling standing timber" means the sale of timber apart from the land, where the buyer is required to sever the timber within thirty months from the date of the original contract, regardless of the method of payment for the timber and whether title to the timber transfers before, upon, or after severance.

(e) For purposes of this subsection, the following definitions apply:

(i) "Biocomposite surface products" means surface material products containing, by weight or volume, more than fifty percent recycled paper and that also use nonpetroleum-based phenolic resin as a bonding agent.

(ii) "Paper and paper products" means products made of interwoven cellulosic fibers held together largely by hydrogen bonding. "Paper and paper products" includes newsprint; office, printing, fine, and pressure-sensitive papers; paper napkins, towels, and toilet tissue; kraft bag, construction, and other kraft industrial papers; paperboard, liquid packaging containers, containerboard, corrugated, and solid-fiber containers including linerboard and corrugated medium; and related types of cellulosic products containing primarily, by weight or volume, cellulosic materials. "Paper and paper products" does not include books, newspapers,

magazines, periodicals, and other printed publications, advertising materials, calendars, and similar types of printed materials.

(iii) "Recycled paper" means paper and paper products having fifty percent or more of their fiber content that comes from postconsumer waste. For purposes of this subsection (~~((42))~~) (11)(e)(iii), "postconsumer waste" means a finished material that would normally be disposed of as solid waste, having completed its life cycle as a consumer item.

(iv) "Timber" means forest trees, standing or down, on privately or publicly owned land. "Timber" does not include Christmas trees that are cultivated by agricultural methods or short-rotation hardwoods as defined in RCW 84.33.035.

(v) "Timber products" means:

(A) Logs, wood chips, sawdust, wood waste, and similar products obtained wholly from the processing of timber, short-rotation hardwoods as defined in RCW 84.33.035, or both;

(B) Pulp, including market pulp and pulp derived from recovered paper or paper products; and

(C) Recycled paper, but only when used in the manufacture of biocomposite surface products.

(vi) "Wood products" means paper and paper products; dimensional lumber; engineered wood products such as particleboard, oriented strand board, medium density fiberboard, and plywood; wood doors; wood windows; and biocomposite surface products.

(f) Except for small harvesters as defined in RCW 84.33.035, a person reporting under the tax rate provided in this subsection (~~((42))~~) (11) must file a complete annual survey with the department under RCW 82.32.--- (section 102, chapter 114 (SHB 3066), Laws of 2010).

~~((43))~~ (12) Upon every person engaging within this state in inspecting, testing, labeling, and storing canned salmon owned by another person, as to such persons, the amount of tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

~~((44))~~ (13)(a) Upon every person engaging within this state in the business of printing a newspaper, publishing a newspaper, or both, the amount of tax on such business is equal to the gross income of the business multiplied by the rate of 0.2904 percent.

(b) A person reporting under the tax rate provided in this subsection (~~((44))~~) (13) must file a complete annual report with the department under RCW 82.32.--- (section 103, chapter 114 (SHB 3066), Laws of 2010).

**Sec. 507.** RCW 82.04.250 and 2008 c 81 s 5 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of making sales at retail, except persons taxable as retailers under other provisions of this chapter, as to such persons, the amount of tax with respect to such business (~~(shall be)~~) is equal to the gross proceeds of sales of the business, multiplied by the rate of 0.471 percent.

(2) Upon every person engaging within this state in the business of making sales at retail that are exempt from the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or 82.08.0263, except persons taxable under RCW 82.04.260(~~((44))~~) (10) or subsection (3) of this section, as to such persons, the amount of tax with respect to such business (~~(shall be)~~) is equal to the gross proceeds of sales of the business, multiplied by the rate of 0.484 percent.

(3) Upon every person classified by the federal aviation administration as a federal aviation regulation part 145 certificated repair station and that is engaging within this state in the business of making sales at retail that are exempt from the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or 82.08.0263, as to such persons, the amount of tax with respect to

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such business ~~((shall be))~~ is equal to the gross proceeds of sales of the business, multiplied by the rate of .2904 percent.

**Sec. 508.** RCW 82.04.250 and 2010 1st sp.s. c 11 (SSB 6712) s 1 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of making sales at retail, except persons taxable as retailers under other provisions of this chapter, as to such persons, the amount of tax with respect to such business is equal to the gross proceeds of sales of the business, multiplied by the rate of 0.471 percent.

(2) Upon every person engaging within this state in the business of making sales at retail that are exempt from the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or 82.08.0263, except persons taxable under RCW 82.04.260~~((4+))~~ (10) or subsection (3) of this section, as to such persons, the amount of tax with respect to such business is equal to the gross proceeds of sales of the business, multiplied by the rate of 0.484 percent.

(3) Until July 1, 2024, upon every person classified by the federal aviation administration as a federal aviation regulation part 145 certificated repair station and that is engaging within this state in the business of making sales at retail that are exempt from the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or 82.08.0263, as to such persons, the amount of tax with respect to such business is equal to the gross proceeds of sales of the business, multiplied by the rate of .2904 percent.

**Sec. 509.** RCW 82.04.250 and 2007 c 54 s 5 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of making sales at retail, except persons taxable as retailers under other provisions of this chapter, as to such persons, the amount of tax with respect to such business ~~((shall be))~~ is equal to the gross proceeds of sales of the business, multiplied by the rate of 0.471 percent.

(2) Upon every person engaging within this state in the business of making sales at retail that are exempt from the tax imposed under chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or 82.08.0263, except persons taxable under RCW 82.04.260~~((4+))~~ (10), as to such persons, the amount of tax with respect to such business ~~((shall be))~~ is equal to the gross proceeds of sales of the business, multiplied by the rate of 0.484 percent.

**Sec. 510.** RCW 82.04.261 and 2007 c 54 s 7 and 2007 c 48 s 4 are each reenacted and amended to read as follows:

(1) In addition to the taxes imposed under RCW 82.04.260~~((42))~~ (11), a surcharge is imposed on those persons who are subject to any of the taxes imposed under RCW 82.04.260~~((42))~~ (11). Except as otherwise provided in this section, the surcharge is equal to 0.052 percent. The surcharge is added to the rates provided in RCW 82.04.260~~((42))~~ (11) (a), (b), (c), and (d). The surcharge and this section expire July 1, 2024.

(2) All receipts from the surcharge imposed under this section ~~((shall))~~ must be deposited into the forest and fish support account created in RCW 76.09.405.

(3)(a) The surcharge imposed under this section ~~((shall be))~~ is suspended if:

(i) Receipts from the surcharge total at least eight million dollars during any fiscal biennium; or

(ii) The office of financial management certifies to the department that the federal government has appropriated at least two million dollars for participation in forest and fish report-related activities by federally recognized Indian tribes located within the geographical boundaries of the state of Washington for any federal fiscal year.

(b)(i) The suspension of the surcharge under (a)(i) of this subsection (3) ~~((shall))~~ takes effect on the first day of the calendar month that is at least thirty days after the end of the month during which the department determines that receipts from the surcharge

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total at least eight million dollars during the fiscal biennium. The surcharge ~~((shall be))~~ is imposed again at the beginning of the following fiscal biennium.

(ii) The suspension of the surcharge under (a)(ii) of this subsection (3) ~~((shall))~~ takes effect on the later of the first day of October of any federal fiscal year for which the federal government appropriates at least two million dollars for participation in forest and fish report-related activities by federally recognized Indian tribes located within the geographical boundaries of the state of Washington, or the first day of a calendar month that is at least thirty days following the date that the office of financial management makes a certification to the department under subsection (5) of this section. The surcharge ~~((shall be))~~ is imposed again on the first day of the following July.

(4)(a) If, by October 1st of any federal fiscal year, the office of financial management certifies to the department that the federal government has appropriated funds for participation in forest and fish report-related activities by federally recognized Indian tribes located within the geographical boundaries of the state of Washington but the amount of the appropriation is less than two million dollars, the department ~~((shall))~~ must adjust the surcharge in accordance with this subsection.

(b) The department ~~((shall))~~ must adjust the surcharge by an amount that the department estimates will cause the amount of funds deposited into the forest and fish support account for the state fiscal year that begins July 1st and that includes the beginning of the federal fiscal year for which the federal appropriation is made, to be reduced by twice the amount of the federal appropriation for participation in forest and fish report-related activities by federally recognized Indian tribes located within the geographical boundaries of the state of Washington.

(c) Any adjustment in the surcharge ~~((shall))~~ takes effect at the beginning of a calendar month that is at least thirty days after the date that the office of financial management makes the certification under subsection (5) of this section.

(d) The surcharge ~~((shall be))~~ is imposed again at the rate provided in subsection (1) of this section on the first day of the following state fiscal year unless the surcharge is suspended under subsection (3) of this section or adjusted for that fiscal year under this subsection.

(e) Adjustments of the amount of the surcharge by the department are final and ~~((shall))~~ may not be used to challenge the validity of the surcharge imposed under this section.

(f) The department ~~((shall))~~ must provide timely notice to affected taxpayers of the suspension of the surcharge or an adjustment of the surcharge.

(5) The office of financial management ~~((shall))~~ must make the certification to the department as to the status of federal appropriations for tribal participation in forest and fish report-related activities.

**Sec. 511.** RCW 82.04.298 and 2008 c 49 s 1 are each amended to read as follows:

(1) The amount of tax with respect to a qualified grocery distribution cooperative's sales of groceries or related goods for resale, excluding items subject to tax under ~~((RCW 82.04.260(4)))~~ section 502 of this act, to customer-owners of the grocery distribution cooperative is equal to the gross proceeds of sales of the grocery distribution cooperative multiplied by the rate of one and one-half percent.

(2) A qualified grocery distribution cooperative is allowed a deduction from the gross proceeds of sales of groceries or related goods for resale, excluding items subject to tax under ~~((RCW 82.04.260(4)))~~ section 502 of this act, to customer-owners of the grocery distribution cooperative that is equal to the portion of the gross proceeds of sales for resale that represents the actual cost of

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the merchandise sold by the grocery distribution cooperative to customer-owners.

(3) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Grocery distribution cooperative" means an entity that sells groceries and related items to customer-owners of the grocery distribution cooperative and has customer-owners, in the aggregate, who own a majority of the outstanding ownership interests of the grocery distribution cooperative or of the entity controlling the grocery distribution cooperative. "Grocery distribution cooperative" includes an entity that controls a grocery distribution cooperative.

(b) "Qualified grocery distribution cooperative" means:

(i) A grocery distribution cooperative that has been determined by a court of record of the state of Washington to be not engaged in wholesaling or making sales at wholesale, within the meaning of RCW 82.04.270 or any similar provision of a municipal ordinance that imposes a tax on gross receipts, gross proceeds of sales, or gross income, with respect to purchases made by customer-owners, and subsequently changes its form of doing business to make sales at wholesale of groceries or related items to its customer-owners; or

(ii) A grocery distribution cooperative that has acquired substantially all of the assets of a grocery distribution cooperative described in (b)(i) of this subsection.

(c) "Customer-owner" means a person who has an ownership interest in a grocery distribution cooperative and purchases groceries and related items at wholesale from that grocery distribution cooperative.

(d) "Controlling" means holding fifty percent or more of the voting interests of an entity and having at least equal power to direct or cause the direction of the management and policies of the entity, whether through the ownership of voting securities, by contract, or otherwise.

**Sec. 512.** RCW 82.04.334 and 2007 c 48 s 3 are each amended to read as follows:

This chapter does not apply to any sale of standing timber excluded from the definition of "sale" in RCW 82.45.010(3). The definitions in RCW 82.04.260(~~((42))~~) (11) apply to this section.

**Sec. 513.** RCW 82.04.440 and 2006 c 300 s 8 and 2006 c 84 s 6 are each reenacted and amended to read as follows:

(1) Every person engaged in activities that are subject to tax under two or more provisions of RCW 82.04.230 through 82.04.298, inclusive, (~~shall be~~) is taxable under each provision applicable to those activities.

(2) Persons taxable under RCW 82.04.2909(2), 82.04.250, 82.04.270, 82.04.294(2), or 82.04.260 (1)(~~b~~), (c), (~~((4))~~) or (d), (10), or (11), or ((12)) section 502(2) of this act with respect to selling products in this state, including those persons who are also taxable under RCW 82.04.261, (~~shall be~~) are allowed a credit against those taxes for any (a) manufacturing taxes paid with respect to the manufacturing of products so sold in this state, and/or (b) extracting taxes paid with respect to the extracting of products so sold in this state or ingredients of products so sold in this state. Extracting taxes taken as credit under subsection (3) of this section may also be taken under this subsection, if otherwise allowable under this subsection. The amount of the credit (~~shall~~) may not exceed the tax liability arising under this chapter with respect to the sale of those products.

(3) Persons taxable as manufacturers under RCW 82.04.240 or 82.04.260 (1)(~~b~~) or (~~((12))~~) (11), including those persons who are also taxable under RCW 82.04.261, (~~shall be~~) are allowed a credit against those taxes for any extracting taxes paid with respect to extracting the ingredients of the products so manufactured in this state. The amount of the credit (~~shall~~) may not exceed the tax

liability arising under this chapter with respect to the manufacturing of those products.

(4) Persons taxable under RCW 82.04.230, 82.04.240, 82.04.2909(1), 82.04.294(1), 82.04.2404, or 82.04.260 (1), (2), (~~((4))~~) (10), or (11), or ((12)) section 502(1) of this act, including those persons who are also taxable under RCW 82.04.261, with respect to extracting or manufacturing products in this state (~~shall be~~) are allowed a credit against those taxes for any (i) gross receipts taxes paid to another state with respect to the sales of the products so extracted or manufactured in this state, (ii) manufacturing taxes paid with respect to the manufacturing of products using ingredients so extracted in this state, or (iii) manufacturing taxes paid with respect to manufacturing activities completed in another state for products so manufactured in this state. The amount of the credit (~~shall~~) may not exceed the tax liability arising under this chapter with respect to the extraction or manufacturing of those products.

(5) For the purpose of this section:

(a) "Gross receipts tax" means a tax:

(i) Which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which the deductions allowed would not constitute the tax an income tax or value added tax; and

(ii) Which is also not, pursuant to law or custom, separately stated from the sales price.

(b) "State" means (i) the state of Washington, (ii) a state of the United States other than Washington, or any political subdivision of such other state, (iii) the District of Columbia, and (iv) any foreign country or political subdivision thereof.

(c) "Manufacturing tax" means a gross receipts tax imposed on the act or privilege of engaging in business as a manufacturer, and includes (i) the taxes imposed in RCW 82.04.240, 82.04.2404, 82.04.2909(1), 82.04.260 (1), (2), (~~((4))~~) (10), and (11), ((and (12))) section 502(1) of this act, and 82.04.294(1); (ii) the tax imposed under RCW 82.04.261 on persons who are engaged in business as a manufacturer; and (iii) similar gross receipts taxes paid to other states.

(d) "Extracting tax" means a gross receipts tax imposed on the act or privilege of engaging in business as an extractor, and includes (i) the tax imposed on extractors in RCW 82.04.230 and 82.04.260(~~((42))~~) (11); (ii) the tax imposed under RCW 82.04.261 on persons who are engaged in business as an extractor; and (iii) similar gross receipts taxes paid to other states.

(e) "Business", "manufacturer", "extractor", and other terms used in this section have the meanings given in RCW 82.04.020 through 82.04.212, notwithstanding the use of those terms in the context of describing taxes imposed by other states.

**Sec. 514.** RCW 82.04.463 and 2008 c 81 s 8 are each amended to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed for property taxes and leasehold excise taxes paid during the calendar year.

(2) The credit is equal to:

(a)(i)(A) Property taxes paid on buildings, and land upon which the buildings are located, constructed after December 1, 2003, and used exclusively in manufacturing commercial airplanes or components of such airplanes; and

(B) Leasehold excise taxes paid with respect to buildings constructed after January 1, 2006, the land upon which the buildings are located, or both, if the buildings are used exclusively in manufacturing commercial airplanes or components of such airplanes; and

(C) Property taxes or leasehold excise taxes paid on, or with respect to, buildings constructed after June 30, 2008, the land upon which the buildings are located, or both, and used exclusively for aerospace product development or in providing aerospace services,

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by persons not within the scope of (a)(i)(A) and (B) of this subsection (2) and are: (I) Engaged in manufacturing tooling specifically designed for use in manufacturing commercial airplanes or their components; or (II) taxable under RCW 82.04.290(3) or 82.04.250(3); or

(ii) Property taxes attributable to an increase in assessed value due to the renovation or expansion, after: (A) December 1, 2003, of a building used exclusively in manufacturing commercial airplanes or components of such airplanes; and (B) June 30, 2008, of buildings used exclusively for aerospace product development or in providing aerospace services, by persons not within the scope of (a)(ii)(A) of this subsection (2) and are: (I) Engaged in manufacturing tooling specifically designed for use in manufacturing commercial airplanes or their components; or (II) taxable under RCW 82.04.290(3) or 82.04.250(3); and

(b) An amount equal to:

(i)(A) Property taxes paid, by persons taxable under RCW 82.04.260(~~((4))~~) (10)(a), on machinery and equipment exempt under RCW 82.08.02565 or 82.12.02565 and acquired after December 1, 2003;

(B) Property taxes paid, by persons taxable under RCW 82.04.260(~~((4))~~) (10)(b), on machinery and equipment exempt under RCW 82.08.02565 or 82.12.02565 and acquired after June 30, 2008; or

(C) Property taxes paid, by persons taxable under RCW (~~82.04.0250(3)~~ ~~82.04.250(3)~~) 82.04.250(3) or 82.04.290(3), on computer hardware, computer peripherals, and software exempt under RCW 82.08.975 or 82.12.975 and acquired after June 30, 2008.

(ii) For purposes of determining the amount eligible for credit under (i)(A) and (B) of this subsection (2)(b), the amount of property taxes paid is multiplied by a fraction.

(~~((H))~~) (A) The numerator of the fraction is the total taxable amount subject to the tax imposed under RCW 82.04.260(~~((4))~~) (10) (a) or (b) on the applicable business activities of manufacturing commercial airplanes, components of such airplanes, or tooling specifically designed for use in the manufacturing of commercial airplanes or components of such airplanes.

(~~((H))~~) (B) The denominator of the fraction is the total taxable amount subject to the tax imposed under all manufacturing classifications in chapter 82.04 RCW.

(~~((H))~~) (C) For purposes of both the numerator and denominator of the fraction, the total taxable amount refers to the total taxable amount required to be reported on the person's returns for the calendar year before the calendar year in which the credit under this section is earned. The department may provide for an alternative method for calculating the numerator in cases where the tax rate provided in RCW 82.04.260(~~((4))~~) (10) for manufacturing was not in effect during the full calendar year before the calendar year in which the credit under this section is earned.

(~~((V))~~) (D) No credit is available under (b)(i)(A) or (B) of this subsection (2) if either the numerator or the denominator of the fraction is zero. If the fraction is greater than or equal to nine-tenths, then the fraction is rounded to one.

(~~((V))~~) (E) As used in (~~((H))~~) (b)(ii)(C) of this subsection (2)(~~((b)(ii)(C))~~), "returns" means the tax returns for which the tax imposed under this chapter is reported to the department.

(3) The definitions in this subsection apply throughout this section, unless the context clearly indicates otherwise.

(a) "Aerospace product development" has the same meaning as provided in RCW 82.04.4461.

(b) "Aerospace services" has the same meaning given in RCW 82.08.975.

(c) "Commercial airplane" and "component" have the same meanings as provided in RCW 82.32.550.

(4) A credit earned during one calendar year may be carried over to be credited against taxes incurred in a subsequent calendar year, but may not be carried over a second year. No refunds may be granted for credits under this section.

(5) In addition to all other requirements under this title, a person taking the credit under this section must report as required under RCW 82.32.545.

(6) This section expires July 1, 2024.

**Sec. 515.** RCW 82.04.4463 and 2010 c 114 (SHB 3066) s 116 are each amended to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed for property taxes and leasehold excise taxes paid during the calendar year.

(2) The credit is equal to:

(a)(i)(A) Property taxes paid on buildings, and land upon which the buildings are located, constructed after December 1, 2003, and used exclusively in manufacturing commercial airplanes or components of such airplanes; and

(B) Leasehold excise taxes paid with respect to buildings constructed after January 1, 2006, the land upon which the buildings are located, or both, if the buildings are used exclusively in manufacturing commercial airplanes or components of such airplanes; and

(C) Property taxes or leasehold excise taxes paid on, or with respect to, buildings constructed after June 30, 2008, the land upon which the buildings are located, or both, and used exclusively for aerospace product development, manufacturing tooling specifically designed for use in manufacturing commercial airplanes or their components, or in providing aerospace services, by persons not within the scope of (a)(i)(A) and (B) of this subsection (2) and are taxable under RCW 82.04.290(3), 82.04.260(~~((4))~~) (10)(b), or 82.04.250(3); or

(ii) Property taxes attributable to an increase in assessed value due to the renovation or expansion, after: (A) December 1, 2003, of a building used exclusively in manufacturing commercial airplanes or components of such airplanes; and (B) June 30, 2008, of buildings used exclusively for aerospace product development, manufacturing tooling specifically designed for use in manufacturing commercial airplanes or their components, or in providing aerospace services, by persons not within the scope of (a)(ii)(A) of this subsection (2) and are taxable under RCW 82.04.290(3), 82.04.260(~~((4))~~) (10)(b), or 82.04.250(3); and

(b) An amount equal to:

(i)(A) Property taxes paid, by persons taxable under RCW 82.04.260(~~((4))~~) (10)(a), on machinery and equipment exempt under RCW 82.08.02565 or 82.12.02565 and acquired after December 1, 2003;

(B) Property taxes paid, by persons taxable under RCW 82.04.260(~~((4))~~) (10)(b), on machinery and equipment exempt under RCW 82.08.02565 or 82.12.02565 and acquired after June 30, 2008; or

(C) Property taxes paid, by persons taxable under RCW 82.04.250(3) or 82.04.290(3), on computer hardware, computer peripherals, and software exempt under RCW 82.08.975 or 82.12.975 and acquired after June 30, 2008.

(ii) For purposes of determining the amount eligible for credit under (i)(A) and (B) of this subsection (2)(b), the amount of property taxes paid is multiplied by a fraction.

(A) The numerator of the fraction is the total taxable amount subject to the tax imposed under RCW 82.04.260(~~((4))~~) (10) (a) or (b) on the applicable business activities of manufacturing commercial airplanes, components of such airplanes, or tooling specifically designed for use in the manufacturing of commercial airplanes or components of such airplanes.

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(B) The denominator of the fraction is the total taxable amount subject to the tax imposed under all manufacturing classifications in chapter 82.04 RCW.

(C) For purposes of both the numerator and denominator of the fraction, the total taxable amount refers to the total taxable amount required to be reported on the person's returns for the calendar year before the calendar year in which the credit under this section is earned. The department may provide for an alternative method for calculating the numerator in cases where the tax rate provided in RCW 82.04.260(~~((44))~~) (10) for manufacturing was not in effect during the full calendar year before the calendar year in which the credit under this section is earned.

(D) No credit is available under (b)(i)(A) or (B) of this subsection (2) if either the numerator or the denominator of the fraction is zero. If the fraction is greater than or equal to nine-tenths, then the fraction is rounded to one.

(E) As used in ~~(b)(ii)(C)~~ of this subsection (2)(~~((b)(ii))~~), "returns" means the tax returns for which the tax imposed under this chapter is reported to the department.

(3) The definitions in this subsection apply throughout this section, unless the context clearly indicates otherwise.

(a) "Aerospace product development" has the same meaning as provided in RCW 82.04.4461.

(b) "Aerospace services" has the same meaning given in RCW 82.08.975.

(c) "Commercial airplane" and "component" have the same meanings as provided in RCW 82.32.550.

(4) A credit earned during one calendar year may be carried over to be credited against taxes incurred in a subsequent calendar year, but may not be carried over a second year. No refunds may be granted for credits under this section.

(5) In addition to all other requirements under this title, a person claiming the credit under this section must file a complete annual report with the department under RCW 82.32.--- (section 103, chapter 114 (SHB 3066), Laws of 2010).

(6) This section expires July 1, 2024.

**Sec. 516.** RCW 82.08.806 and 2009 c 461 s 5 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales, to a printer or publisher, of computer equipment, including repair parts and replacement parts for such equipment, when the computer equipment is used primarily in the printing or publishing of any printed material, or to sales of or charges made for labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the computer equipment. This exemption applies only to computer equipment not otherwise exempt under RCW 82.08.02565.

(2) A person taking the exemption under this section must keep records necessary for the department to verify eligibility under this section. This exemption is available only when the purchaser provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller (~~(shall)~~) must retain a copy of the certificate for the seller's files.

(3) The definitions in this subsection (3) apply throughout this section, unless the context clearly requires otherwise.

(a) "Computer" has the same meaning as in RCW 82.04.215.

(b) "Computer equipment" means a computer and the associated physical components that constitute a computer system, including monitors, keyboards, printers, modems, scanners, pointing devices, and other computer peripheral equipment, cables, servers, and routers. "Computer equipment" also includes digital cameras and computer software.

(c) "Computer software" has the same meaning as in RCW 82.04.215.

(d) "Primarily" means greater than fifty percent as measured by time.

(e) "Printer or publisher" means a person, as defined in RCW 82.04.030, who is subject to tax under RCW 82.04.260(~~((44))~~) (13) or 82.04.280(1).

(4) "Computer equipment" does not include computer equipment that is used primarily for administrative purposes including but not limited to payroll processing, accounting, customer service, telemarketing, and collection. If computer equipment is used simultaneously for administrative and nonadministrative purposes, the administrative use (~~(shall)~~) must be disregarded during the period of simultaneous use for purposes of determining whether the computer equipment is used primarily for administrative purposes.

**Sec. 517.** RCW 82.32.550 and 2008 c 81 s 12 are each amended to read as follows:

~~(1)((a) Chapter 1, Laws of 2003 2nd sp. sess. takes effect on the first day of the month in which the governor and a manufacturer of commercial airplanes sign a memorandum of agreement regarding an affirmative final decision to site a significant commercial airplane final assembly facility in Washington state. The department shall provide notice of the effective date of chapter 1, Laws of 2003 2nd sp. sess. to affected taxpayers, the legislature, and others as deemed appropriate by the department.~~

~~—(b) Chapter 1, Laws of 2003 2nd sp. sess. is contingent upon the siting of a significant commercial airplane final assembly facility in the state of Washington. If a memorandum of agreement under subsection (1) of this section is not signed by June 30, 2005, chapter 1, Laws of 2003 2nd sp. sess. is null and void.~~

~~—(c)(i) The rate in RCW 82.04.260(11)(a)(ii) takes effect July 1, 2007.~~

~~—(ii) If on December 31, 2007, final assembly of a superefficient airplane has not begun in Washington state, the department shall provide notice of such to affected taxpayers, the legislature, and others as deemed appropriate by the department.~~

~~—(2) The definitions in this subsection apply throughout this section.~~

~~—(a)) "Commercial airplane" has its ordinary meaning, which is an airplane certified by the federal aviation administration for transporting persons or property, and any military derivative of such an airplane.~~

~~((b)) (2) "Component" means a part or system certified by the federal aviation administration for installation or assembly into a commercial airplane.~~

~~((c) "Final assembly of a superefficient airplane" means the activity of assembling an airplane from components parts necessary for its mechanical operation such that the finished commercial airplane is ready to deliver to the ultimate consumer.~~

~~—(d) "Significant commercial airplane final assembly facility" means a location with the capacity to produce at least thirty-six superefficient airplanes a year.~~

~~—(e) "Siting" means a final decision by a manufacturer to locate a significant commercial airplane final assembly facility in Washington state.~~

~~—(f)) (3) "Superefficient airplane" means a twin aisle airplane that carries between two hundred and three hundred fifty passengers, with a range of more than seven thousand two hundred nautical miles, a cruising speed of approximately mach .85, and that uses fifteen to twenty percent less fuel than other similar airplanes on the market.~~

**Sec. 518.** RCW 82.45.195 and 2007 c 48 s 7 are each amended to read as follows:

A sale of standing timber is exempt from tax under this chapter if the gross income from such sale is taxable under RCW 82.04.260(~~((42))~~) (11)(d).

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**Sec. 519.** RCW 35.102.150 and 2009 c 461 s 4 are each amended to read as follows:

Notwithstanding RCW 35.102.130, a city that imposes a business and occupation tax must allocate a person's gross income from the activities of printing, and of publishing newspapers, periodicals, or magazines, to the principal place in this state from which the taxpayer's business is directed or managed. As used in this section, the activities of printing, and of publishing newspapers, periodicals, or magazines are those activities to which the tax rates in RCW 82.04.260(~~(44)~~) (13) and 82.04.280(1) apply.

**Sec. 520.** RCW 48.14.080 and 2009 c 535 s 1102 are each amended to read as follows:

(1) As to insurers, other than title insurers and taxpayers under RCW 48.14.0201, the taxes imposed by this title (~~shall be~~) are in lieu of all other taxes, except as otherwise provided in this section.

(2) Subsection (1) of this section does not apply with respect to:

(a) Taxes on real and tangible personal property;

(b) Excise taxes on the sale, purchase, use, or possession of (i) real property; (ii) tangible personal property; (iii) extended warranties; (iv) services, including digital automated services as defined in RCW 82.04.192; and (v) digital goods and digital codes as those terms are defined in RCW 82.04.192; and

(c) The tax imposed in RCW 82.04.260(~~(40)~~) (9), regarding public and nonprofit hospitals.

(3) For the purposes of this section, the term "taxes" includes taxes imposed by the state or any county, city, town, municipal corporation, quasi-municipal corporation, or other political subdivision.

## PART VI

### Suspending the Sales and Use Tax Exemption for Livestock Nutrient Equipment and Facilities

**Sec. 601.** RCW 82.08.890 and 2009 c 469 s 601 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales to eligible persons of:

(a) Qualifying livestock nutrient management equipment;

(b) Labor and services rendered in respect to installing, repairing, cleaning, altering, or improving qualifying livestock nutrient management equipment; and

(c)(i) Labor and services rendered in respect to repairing, cleaning, altering, or improving of qualifying livestock nutrient management facilities, or to tangible personal property that becomes an ingredient or component of qualifying livestock nutrient management facilities in the course of repairing, cleaning, altering, or improving of such facilities.

(ii) The exemption provided in this subsection (1)(c) does not apply to the sale of or charge made for: (A) Labor and services rendered in respect to the constructing of new, or replacing previously existing, qualifying livestock nutrient management facilities; or (B) tangible personal property that becomes an ingredient or component of qualifying livestock nutrient management facilities during the course of constructing new, or replacing previously existing, qualifying livestock nutrient management facilities.

(2) The exemption provided in subsection (1) of this section applies to sales made after the livestock nutrient management plan is: (a) Certified under chapter 90.64 RCW; (b) approved as part of the permit issued under chapter 90.48 RCW; or (c) approved as required under subsection (4)(c)(iii) of this section.

(3)(a) The department of revenue must provide an exemption certificate to an eligible person upon application by that person. The department of agriculture must provide a list of eligible persons, as defined in subsection (4)(c)(i) and (ii) of this section, to the

department of revenue. Conservation districts must maintain lists of eligible persons as defined in subsection (4)(c)(iii) of this section to allow the department of revenue to verify eligibility. The application must be in a form and manner prescribed by the department and must contain information regarding the location of the dairy or animal feeding operation and other information the department may require.

(b) A person claiming an exemption under this section must keep records necessary for the department to verify eligibility under this section. The exemption is available only when the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(4) The definitions in this subsection apply to this section and RCW 82.12.890 unless the context clearly requires otherwise:

(a) "Animal feeding operation" means a lot or facility, other than an aquatic animal production facility, where the following conditions are met:

(i) Animals, other than aquatic animals, have been, are, or will be stabled or confined and fed or maintained for a total of forty-five days or more in any twelve-month period; and

(ii) Crops, vegetation, forage growth, or postharvest residues are not sustained in the normal growing season over any portion of the lot or facility.

(b) "Conservation district" means a subdivision of state government organized under chapter 89.08 RCW.

(c) "Eligible person" means a person: (i) Licensed to produce milk under chapter 15.36 RCW who has a certified dairy nutrient management plan, as required by chapter 90.64 RCW; (ii) who owns an animal feeding operation and has a permit issued under chapter 90.48 RCW; or (iii) who owns an animal feeding operation and has a nutrient management plan approved by a conservation district as meeting natural resource conservation service field office technical guide standards and who possesses an exemption certificate under RCW 82.08.855.

(d) "Handling and treatment of livestock manure" means the activities of collecting, storing, moving, or transporting livestock manure, separating livestock manure solids from liquids, or applying livestock manure to the agricultural lands of an eligible person other than through the use of pivot or linear type traveling irrigation systems.

(e) "Permit" means either a state waste discharge permit or a national pollutant discharge elimination system permit, or both.

(f) "Qualifying livestock nutrient management equipment" means the following tangible personal property for exclusive use in the handling and treatment of livestock manure, including repair and replacement parts for such equipment: (i) Aerators; (ii) agitators; (iii) augers; (iv) conveyers; (v) gutter cleaners; (vi) hard-hose reel traveler irrigation systems; (vii) lagoon and pond liners and floating covers; (viii) loaders; (ix) manure composting devices; (x) manure spreaders; (xi) manure tank wagons; (xii) manure vacuum tanks; (xiii) poultry house cleaners; (xiv) poultry house flame sterilizers; (xv) poultry house washers; (xvi) poultry litter saver machines; (xvii) pipes; (xviii) pumps; (xix) scrapers; (xx) separators; (xxi) slurry injectors and hoses; and (xxii) wheelbarrows, shovels, and pitchforks.

(g) "Qualifying livestock nutrient management facilities" means the following structures and facilities for exclusive use in the handling and treatment of livestock manure: (i) Flush systems; (ii) lagoons; (iii) liquid livestock manure storage structures, such as concrete tanks or glass-lined steel tanks; and (iv) structures used solely for the dry storage of manure, including roofed stacking facilities.

(5) The exemption under this section does not apply to sales made from the effective date of this section through June 30, 2013.

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**Sec. 602.** RCW 82.12.890 and 2009 c 469 s 602 are each amended to read as follows:

(1) The provisions of this chapter do not apply with respect to the use by an eligible person of:

(a) Qualifying livestock nutrient management equipment;

(b) Labor and services rendered in respect to installing, repairing, cleaning, altering, or improving qualifying livestock nutrient management equipment; and

(c)(i) Tangible personal property that becomes an ingredient or component of qualifying livestock nutrient management facilities in the course of repairing, cleaning, altering, or improving of such facilities.

(ii) The exemption provided in this subsection (1)(c) does not apply to the use of tangible personal property that becomes an ingredient or component of qualifying livestock nutrient management facilities during the course of constructing new, or replacing previously existing, qualifying livestock nutrient management facilities.

(2)(a) To be eligible, the equipment and facilities must be used exclusively for activities necessary to maintain a livestock nutrient management plan.

(b) The exemption applies to the use of tangible personal property and labor and services made after the livestock nutrient management plan is: (i) Certified under chapter 90.64 RCW; (ii) approved as part of the permit issued under chapter 90.48 RCW; or (iii) approved as required under RCW 82.08.890(4)(c)(iii).

(3) The exemption certificate and recordkeeping requirements of RCW 82.08.890 apply to this section. The definitions in RCW 82.08.890 apply to this section.

(4) The exemption under this section does not apply to the use of tangible personal property and services if first use of the property or services in this state occurs from the effective date of this section through June 30, 2013.

## PART VII

### Ending the Preferential Business and Occupation Tax Treatment Received by Directors of Corporations

NEW SECTION. **Sec. 701.** (1) In adopting the state's business and occupation tax, the legislature intended to tax virtually all business activities carried on within the state. See *Simpson Inv. Co. v. Dep't of Revenue*, 141 Wn.2d 139, 149 (2000). The legislature recognizes that the business and occupation tax applies to all activities engaged in with the object of gain, benefit, or advantage to the taxpayer or to another person or class, directly or indirectly, unless a specific exemption applies.

(2) One of the major business and occupation tax exemptions is provided in RCW 82.04.360 for income earned as an employee or servant as distinguished from income earned as an independent contractor. The legislature's intent in providing this exemption was to exempt employee wages from the business and occupation tax but not to exempt income earned as an independent contractor.

(3) The legislature finds that corporate directors are not employees or servants of the corporation whose board they serve on and therefore are not entitled to a business and occupation tax exemption under RCW 82.04.360. The legislature further finds that there are no business and occupation tax exemptions for compensation received for serving as a member of a corporation's board of directors.

(4) The legislature also finds that there is a widespread misunderstanding among corporate directors that the business and occupation tax does not apply to the compensation they receive for serving as a director of a corporation. It is the legislature's expectation that the department of revenue will take appropriate measures to ensure that corporate directors understand and comply

with their business and occupation tax obligations with respect to their director compensation. However, because of the widespread misunderstanding by corporate directors of their liability for business and occupation tax on director compensation, the legislature finds that it is appropriate in this unique situation to provide limited relief against the retroactive assessment of business and occupation taxes on corporate director compensation.

(5) The legislature also reaffirms its intent that all income of all independent contractors is subject to business and occupation tax unless specifically exempt under the Constitution or laws of this state or the United States.

**Sec. 702.** RCW 82.04.360 and 2010 c 106 (E2SHB 1597) s 207 are each amended to read as follows:

(1) This chapter does not apply to any person in respect to his or her employment in the capacity of an employee or servant as distinguished from that of an independent contractor. For the purposes of this section, the definition of employee ~~((shall))~~ includes those persons that are defined in section 3121(d)(3)(B) of the federal internal revenue code of 1986, as amended through January 1, 1991.

(2) Until the effective date of this section, this chapter does not apply to amounts received by an individual from a corporation as compensation for serving as a member of that corporation's board of directors. Beginning on the effective date of this section, such amounts are taxable under RCW 82.04.290(2).

(3) A booth renter is an independent contractor for purposes of this chapter. For purposes of this ~~((sub))~~section, "booth renter" means any person who:

(a) Performs cosmetology, barbering, esthetics, or manicuring services for which a license is required under chapter 18.16 RCW; and

(b) Pays a fee for the use of salon or shop facilities and receives no compensation or other consideration from the owner of the salon or shop for the services performed.

## PART VIII

### Tax Debts

**Sec. 801.** RCW 82.32.145 and 1995 c 318 s 2 are each amended to read as follows:

~~(1) ((Upon termination, dissolution, or abandonment of a corporate or limited liability company business, any officer, member, manager, or other person having control or supervision of retail sales tax funds collected and held in trust under RCW 82.08.050, or who is charged with the responsibility for the filing of returns or the payment of retail sales tax funds collected and held in trust under RCW 82.08.050, shall be personally liable for any unpaid taxes and interest and penalties on those taxes, if such officer or other person wilfully fails to pay or to cause to be paid any taxes due from the corporation pursuant to chapter 82.08 RCW. For the purposes of this section, any retail sales taxes that have been paid but not collected shall be deductible from the retail sales taxes collected but not paid.~~

~~— For purposes of this subsection "wilfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.~~

(2) The officer, member or manager, or other person shall be liable only for taxes collected which)) Whenever the department has issued a warrant under RCW 82.32.210 for the collection of unpaid retail sales tax funds collected and held in trust under RCW 82.08.050 from a limited liability business entity and that business entity has been terminated, dissolved, or abandoned, or is insolvent, the department may pursue collection of the entity's unpaid sales taxes, including penalties and interest on those taxes, against any or all of the responsible individuals. For purposes of this subsection, "insolvent" means the condition that results when the sum of the

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entity's debts exceeds the fair market value of its assets. The department may presume that an entity is insolvent if the entity refuses to disclose to the department the nature of its assets and liabilities.

(2) Personal liability under this section may be imposed for state and local sales taxes.

(3)(a) For a responsible individual who is the current or a former chief executive or chief financial officer, liability under this section applies regardless of fault or whether the individual was or should have been aware of the unpaid sales tax liability of the limited liability business entity.

(b) For any other responsible individual, liability under this section applies only if he or she willfully fails to pay or to cause to be paid to the department the sales taxes due from the limited liability business entity.

(4)(a) Except as provided in this subsection (4)(a), a responsible individual who is the current or a former chief executive or chief financial officer is liable under this section only for sales tax liability accrued during the period that he or she was the chief executive or chief financial officer. However, if the responsible individual had the responsibility or duty to remit payment of the limited liability business entity's sales taxes to the department during any period of time that the person was not the chief executive or chief financial officer, that individual is also liable for sales tax liability that became due during the period that he or she had the duty to remit payment of the limited liability business entity's taxes to the department but was not the chief executive or chief financial officer.

(b) All other responsible individuals are liable under this section only for sales tax liability that became due during the period he or she had the ((control, supervision,)) responsibility((;)) or duty to ((act for the corporation described in subsection (1) of this section, plus interest and penalties on those taxes.

(3)) remit payment of the limited liability business entity's taxes to the department.

(5) Persons ((liable under)) described in subsection ((4)) (3)(b) of this section are exempt from liability under this section in situations where nonpayment of the ((retail sales tax funds held in trust)) limited liability business entity's sales taxes is due to reasons beyond their control as determined by the department by rule.

((4)) (6) Any person having been issued a notice of assessment under this section is entitled to the appeal procedures under RCW 82.32.160, 82.32.170, 82.32.180, 82.32.190, and 82.32.200.

((5) This section applies only in situations where the department has determined that there is no reasonable means of collecting the retail sales tax funds held in trust directly from the corporation.

((6)) (7) This section does not relieve the ((corporation or)) limited liability ((company)) business entity of ((other tax liabilities)) its sales tax liability or otherwise impair other tax collection remedies afforded by law.

((7)) (8) Collection authority and procedures prescribed in this chapter apply to collections under this section.

(9) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Chief executive" means: The president of a corporation; or for other entities or organizations other than corporations or if the corporation does not have a president as one of its officers, the highest ranking executive manager or administrator in charge of the management of the company or organization.

(b) "Chief financial officer" means: The treasurer of a corporation; or for entities or organizations other than corporations or if a corporation does not have a treasurer as one of its officers, the highest senior manager who is responsible for overseeing the financial activities of the entire company or organization.

(c) "Limited liability business entity" means a type of business

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entity that generally shields its owners from personal liability for the debts, obligations, and liabilities of the entity, or a business entity that is managed or owned in whole or in part by an entity that generally shields its owners from personal liability for the debts, obligations, and liabilities of the entity. Limited liability business entities include corporations, limited liability companies, limited liability partnerships, trusts, general partnerships and joint ventures in which one or more of the partners or parties are also limited liability business entities, and limited partnerships in which one or more of the general partners are also limited liability business entities.

(d) "Manager" has the same meaning as in RCW 25.15.005.

(e) "Member" has the same meaning as in RCW 25.15.005, except that the term only includes members of member-managed limited liability companies.

(f) "Officer" means any officer or assistant officer of a corporation, including the president, vice-president, secretary, and treasurer.

(g)(i) "Responsible individual" includes any current or former officer, manager, member, partner, or trustee of a limited liability business entity with an unpaid tax warrant issued by the department.

(ii) "Responsible individual" also includes any current or former employee or other individual, but only if the individual had the responsibility or duty to remit payment of the limited liability business entity's unpaid sales tax liability reflected in a tax warrant issued by the department.

(iii) Whenever any taxpayer has one or more limited liability business entities as a member, manager, or partner, "responsible individual" also includes any current and former officers, members, or managers of the limited liability business entity or entities or of any other limited liability business entity involved directly in the management of the taxpayer. For purposes of this subsection (9)(g)(iii), "taxpayer" means a limited liability business entity with an unpaid tax warrant issued against it by the department.

(h) "Willfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.

## PART IX

### Repealing the Sales and Use Tax Exemptions for Bottled Water and Candy

Sec. 901. RCW 82.08.0293 and 2009 c 483 s 2 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 ((shall)) does not apply to sales of food and food ingredients. "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include:

(a) "Alcoholic beverages," which means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume; and

(b) "Tobacco," which means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

(2) Until July 1, 2013, the exemption of "food and food ingredients" provided for in subsection (1) of this section ((shall)) does not apply to prepared food, soft drinks, bottled water, candy, or dietary supplements. Beginning July 1, 2013, the exemption of "food and food ingredients" provided for in subsection (1) of this section does not apply to prepared food, soft drinks, candy, or dietary supplements.

(a) "Prepared food" means:

(i) Food sold in a heated state or heated by the seller;

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(ii) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food; or

(iii) Two or more food ingredients mixed or combined by the seller for sale as a single item, except:

(A) Food that is only cut, repackaged, or pasteurized by the seller; or

(B) Raw eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal food and drug administration in chapter 3, part 401.11 of The Food Code, published by the food and drug administration, as amended or renumbered as of January 1, 2003, so as to prevent foodborne illness.

(b) "Prepared food" does not include the following food or food ingredients, if the food or food ingredients are sold without eating utensils provided by the seller:

(i) Food sold by a seller whose proper primary North American industry classification system (NAICS) classification is manufacturing in sector 311, except subsector 3118 (bakeries), as provided in the "North American industry classification system--United States, 2002";

(ii) Food sold in an unheated state by weight or volume as a single item; or

(iii) Bakery items. The term "bakery items" includes bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, or tortillas.

(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain: Milk or milk products; soy, rice, or similar milk substitutes; or greater than fifty percent of vegetable or fruit juice by volume.

(d) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

(i) Contains one or more of the following dietary ingredients:

- (A) A vitamin;
- (B) A mineral;
- (C) An herb or other botanical;
- (D) An amino acid;

(E) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(F) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in this subsection;

(ii) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(iii) Is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label as required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered as of January 1, 2003.

(e) "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" does not include any preparation containing flour and does not require refrigeration.

(f) "Bottled water" means water that is placed in a sealed container or package for human consumption. Bottled water is calorie free and does not contain sweeteners or other additives except that it may contain: (i) Antimicrobial agents; (ii) fluoride; (iii) carbonation; (iv) vitamins, minerals, and electrolytes; (v) oxygen; (vi) preservatives; and (vii) only those flavors, extracts, or essences derived from a spice or fruit. "Bottled water" includes water that is delivered to the buyer in a reusable container that is not sold with the water.

(3) Notwithstanding anything in this section to the contrary, the exemption of "food and food ingredients" provided in this section ~~((shall apply))~~ applies to food and food ingredients that are furnished, prepared, or served as meals:

(a) Under a state administered nutrition program for the aged as provided for in the older Americans act (P.L. 95-478 Title III) and RCW 74.38.040(6);

(b) That are provided to senior citizens, individuals with disabilities, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW; or

(c) That are provided to residents, sixty-two years of age or older, of a qualified low-income senior housing facility by the lessor or operator of the facility. The sale of a meal that is billed to both spouses of a marital community or both domestic partners of a domestic partnership meets the age requirement in this subsection (3)(c) if at least one of the spouses or domestic partners is at least sixty-two years of age. For purposes of this subsection, "qualified low-income senior housing facility" means a facility:

(i) That meets the definition of a qualified low-income housing project under ~~((Title))~~ 26 U.S.C. Sec. 42 of the federal internal revenue code, as existing on August 1, 2009;

(ii) That has been partially funded under ~~((Title))~~ 42 U.S.C. Sec. 1485 ~~((of the federal internal revenue code))~~; and

(iii) For which the lessor or operator has at any time been entitled to claim a federal income tax credit under ~~((Title))~~ 26 U.S.C. Sec. 42 of the federal internal revenue code.

(4)(a) Subsection (1) of this section notwithstanding, the retail sale of food and food ingredients is subject to sales tax under RCW 82.08.020 if the food and food ingredients are sold through a vending machine, and in this case the selling price for purposes of RCW 82.08.020 is fifty-seven percent of the gross receipts.

(b) This subsection (4) does not apply to hot prepared food and food ingredients, other than food and food ingredients which are heated after they have been dispensed from the vending machine.

(c) For tax collected under this subsection (4), the requirements that the tax be collected from the buyer and that the amount of tax be stated as a separate item are waived.

**Sec. 902.** RCW 82.08.0293 and 2010 c 106 (E2SHB 1597) s 216 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of food and food ingredients. "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include:

(a) "Alcoholic beverages," which means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume; and

(b) "Tobacco," which means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

(2) Until July 1, 2013, the exemption of "food and food ingredients" provided for in subsection (1) of this section does not apply to prepared food, soft drinks, bottled water, candy, or dietary supplements. Beginning July 1, 2013, the exemption of "food and food ingredients" provided for in subsection (1) of this section does not apply to prepared food, soft drinks, candy, or dietary supplements. For purposes of this subsection, the following definitions apply:

(a) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

- (i) Contains one or more of the following dietary ingredients:
  - (A) A vitamin;
  - (B) A mineral;
  - (C) An herb or other botanical;
  - (D) An amino acid;

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(E) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(F) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in this subsection;

(ii) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(iii) Is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label as required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered as of January 1, 2003.

(b)(i) "Prepared food" means:

(A) Food sold in a heated state or heated by the seller;

(B) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food; or

(C) Two or more food ingredients mixed or combined by the seller for sale as a single item, except:

(I) Food that is only cut, repackaged, or pasteurized by the seller; or

(II) Raw eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal food and drug administration in chapter 3, part 401.11 of The Food Code, published by the food and drug administration, as amended or renumbered as of January 1, 2003, so as to prevent foodborne illness.

(ii) "Prepared food" does not include the following food or food ingredients, if the food or food ingredients are sold without eating utensils provided by the seller:

(A) Food sold by a seller whose proper primary North American industry classification system (NAICS) classification is manufacturing in sector 311, except subsector 3118 (bakeries), as provided in the "North American industry classification system--United States, 2002";

(B) Food sold in an unheated state by weight or volume as a single item; or

(C) Bakery items. The term "bakery items" includes bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, or tortillas.

(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain: Milk or milk products; soy, rice, or similar milk substitutes; or greater than fifty percent of vegetable or fruit juice by volume.

(d) "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" does not include any preparation containing flour and does not require refrigeration.

(e) "Bottled water" means water that is placed in a sealed container or package for human consumption. Bottled water is calorie free and does not contain sweeteners or other additives except that it may contain: (i) Antimicrobial agents; (ii) fluoride; (iii) carbonation; (iv) vitamins, minerals, and electrolytes; (v) oxygen; (vi) preservatives; and (vii) only those flavors, extracts, or essences derived from a spice or fruit. "Bottled water" includes water that is delivered to the buyer in a reusable container that is not sold with the water.

(3) Notwithstanding anything in this section to the contrary, the exemption of "food and food ingredients" provided in this section applies to food and food ingredients that are furnished, prepared, or served as meals:

(a) Under a state administered nutrition program for the aged as provided for in the older Americans act (P.L. 95-478 Title III) and RCW 74.38.040(6);

(b) That are provided to senior citizens, individuals with disabilities, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW; or

(c) That are provided to residents, sixty-two years of age or older, of a qualified low-income senior housing facility by the lessor or operator of the facility. The sale of a meal that is billed to both spouses of a marital community or both domestic partners of a domestic partnership meets the age requirement in this subsection (3)(c) if at least one of the spouses or domestic partners is at least sixty-two years of age. For purposes of this subsection, "qualified low-income senior housing facility" means a facility:

(i) That meets the definition of a qualified low-income housing project under 26 U.S.C. Sec. 42 of the federal internal revenue code, as existing on August 1, 2009;

(ii) That has been partially funded under 42 U.S.C. Sec. 1485 ~~((of the federal internal revenue code)); and~~

(iii) For which the lessor or operator has at any time been entitled to claim a federal income tax credit under 26 U.S.C. Sec. 42 of the federal internal revenue code.

(4)(a) Subsection (1) of this section notwithstanding, the retail sale of food and food ingredients is subject to sales tax under RCW 82.08.020 if the food and food ingredients are sold through a vending machine. Except as provided in (b) of this subsection, the selling price of food and food ingredients sold through a vending machine for purposes of RCW 82.08.020 is fifty-seven percent of the gross receipts.

(b) For soft drinks and hot prepared food and food ingredients, other than food and food ingredients which are heated after they have been dispensed from the vending machine, the selling price is the total gross receipts of such sales divided by the sum of one plus the sales tax rate expressed as a decimal.

(c) For tax collected under this subsection (4), the requirements that the tax be collected from the buyer and that the amount of tax be stated as a separate item are waived.

**Sec. 903.** RCW 82.12.0293 and 2009 c 483 s 4 are each amended to read as follows:

(1) The provisions of this chapter ~~((shall))~~ do not apply in respect to the use of food and food ingredients for human consumption. "Food and food ingredients" has the same meaning as in RCW 82.08.0293.

(2) Until July 1, 2013, the exemption of "food and food ingredients" provided for in subsection (1) of this section ((shall)) does not apply to prepared food, soft drinks, bottled water, candy, or dietary supplements. Beginning July 1, 2013, the exemption of "food and food ingredients" provided for in subsection (1) of this section does not apply to prepared food, soft drinks, candy, or dietary supplements. "Prepared food," "soft drinks," ((and)) "dietary supplements," "candy," and "bottled water" have the same meanings as in RCW 82.08.0293.

(3) Notwithstanding anything in this section to the contrary, the exemption of "food and food ingredients" provided in this section ~~((shall))~~ apply to food and food ingredients which are furnished, prepared, or served as meals:

(a) Under a state administered nutrition program for the aged as provided for in the older Americans act (P.L. 95-478 Title III) and RCW 74.38.040(6);

(b) Which are provided to senior citizens, individuals with disabilities, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW; or

(c) That are provided to residents, sixty-two years of age or older, of a qualified low-income senior housing facility by the lessor or operator of the facility. The sale of a meal that is billed to both

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spouses of a marital community or both domestic partners of a domestic partnership meets the age requirement in this subsection (3)(c) if at least one of the spouses or domestic partners is at least sixty-two years of age. For purposes of this subsection, "qualified low-income senior housing facility" has the same meaning as in RCW 82.08.0293.

**NEW SECTION. Sec. 904.** A new section is added to chapter 82.08 RCW to read as follows:

(1) Subject to the conditions in this section, the tax levied by RCW 82.08.020 does not apply to sales of bottled water for human use dispensed or to be dispensed to patients, pursuant to a prescription for use in the cure, mitigation, treatment, or prevention of disease or other medical condition. For purposes of this section, "prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to prescribe.

(2) Except for sales of bottled water delivered to the buyer in a reusable container that is not sold with the water, sellers must collect tax on sales subject to this exemption. Any buyer that has paid at least twenty-five dollars in state and local sales taxes on purchases of bottled water subject to this exemption may apply for a refund of the taxes directly from the department in a form and manner prescribed by the department. The department must deny any refund application if the amount of the refund requested is less than twenty-five dollars. No refund may be made for taxes paid more than four years after the end of the calendar year in which the tax was paid to the seller.

(3) The provisions of RCW 82.32.060 apply to refunds authorized under this section.

(4) With respect to sales of bottled water delivered to the buyer in a reusable container that is not sold with the water, buyers claiming the exemption provided in this section must provide the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

**NEW SECTION. Sec. 905.** A new section is added to chapter 82.12 RCW to read as follows:

The provisions of this chapter do not apply in respect to the use of bottled water for human use dispensed or to be dispensed to patients, pursuant to a prescription for use in the cure, mitigation, treatment, or prevention of disease or medical condition. "Prescription" has the same meaning as in section 904 of this act.

**NEW SECTION. Sec. 906.** A new section is added to chapter 82.08 RCW to read as follows:

(1) Subject to the conditions in this section, the tax levied by RCW 82.08.020 does not apply to sales of bottled water for human use to persons who do not otherwise have a readily available source of potable water.

(2) Except for sales of bottled water delivered to the buyer in a reusable container that is not sold with the water, sellers must collect tax on sales subject to this exemption. Any buyer that has paid at least twenty-five dollars in state and local sales taxes on purchases of bottled water subject to this exemption may apply for a refund of the taxes directly from the department in a form and manner prescribed by the department. The department must deny any refund application if the amount of the refund requested is less than twenty-five dollars. No refund may be made for taxes paid more than four years after the end of the calendar year in which the tax was paid to the seller.

(3) The provisions of RCW 82.32.060 apply to refunds authorized under this section.

(4)(a) With respect to sales of bottled water delivered to the buyer in a reusable container that is not sold with the water, buyers claiming the exemption provided in this section must provide the seller with an exemption certificate in a form and manner prescribed

by the department. The seller must retain a copy of the certificate for the seller's files.

(b) The department may waive the requirement for an exemption certificate in the event of disaster or similar circumstance.

**NEW SECTION. Sec. 907.** A new section is added to chapter 82.12 RCW to read as follows:

The provisions of this chapter do not apply in respect to the use of bottled water for human use by persons who do not otherwise have a readily available source of potable water.

**NEW SECTION. Sec. 908.** A new section is added to chapter 82.04 RCW to read as follows:

(1)(a) Subject to the requirements and limits in this section, candy manufacturers are entitled to a credit against the tax due under this chapter. The credit equals one thousand dollars for:

(i) Each full-time employment position that has been maintained in this state on a full-time basis for a continuous period of at least twelve consecutive months; or

(ii) Each full-time equivalent seasonal employee hired by a seasonal employer.

(b) Once a full-time employment position has been filled, the position does not cease to be maintained for a continuous period solely due to periods in which the position goes vacant, as long as:

(i) The cumulative period of any vacancies in that position is not more than one hundred twenty days in the twelve consecutive month period for which the position must be filled to earn a credit under this section; and

(ii) During any vacancy, the employer is training or actively recruiting a replacement permanent, full-time employee for the position.

(c) For full-time employment positions initially filled before July 1, 2010:

(i) The twelve consecutive month period for which the position must be filled to earn a credit under this section begins on the later of August 1, 2009, or the date that the employment position was initially filled; and

(ii) A second credit may be earned if the employment position is maintained on a full-time basis for an additional twelve consecutive month period.

(2)(a) The credit may only be claimed on a tax return filed electronically with the department using the department's online tax filing service, unless the department grants a waiver for good cause shown. For purposes of this subsection, "good cause" has the same meaning as in RCW 82.32.080(8)(a) (i), (ii), (iii), and (vi) and (b).

(b) Credit may be claimed only on tax returns originally due after July 31, 2010.

(c) The department must disallow any credit claimed on tax returns filed with the department after July 31, 2012.

(3)(a) Credits claimed may not exceed the tax otherwise due under this chapter on the manufacturing and retail or wholesale sale of candy manufactured by the taxpayer.

(b) No refunds may be granted for credits under this section.

(c) The credit provided in this section is in addition to any other credit that may be available to the candy manufacturer with respect to the same employment positions.

(4) No application is necessary for the credit. Candy manufacturers claiming the credit must keep records necessary for the department to verify eligibility under this section.

(5) A candy manufacturer claiming credit under this section must report to the department as provided in RCW 82.32.--- (section 103, chapter 114 (SHB 3066), Laws of 2010).

(6) The employment security department must provide to the department such information needed by the department to verify eligibility under this section.

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(7) Pursuant to chapter 43.136 RCW, the citizen commission for performance measurement of tax preferences must schedule the credit under this section for a tax preference review by the joint legislative audit and review committee in 2011.

(8) For purposes of this section, the following definitions apply:

(a) "Candy" has the same meaning as in RCW 82.08.0293.

(b) "Candy manufacturer" means a person that manufactures candy. For purposes of this subsection "manufactures" has the same meaning as "to manufacture" in RCW 82.04.120.

(c) "Full-time" means a normal work week of at least thirty-five hours.

(d) "Seasonal employee" means an employee of a seasonal employer who works on a seasonal basis. "Seasonal basis" means a continuous employment period of less than twelve consecutive months.

(e) "Seasonal employer" means a person who regularly hires more than ten percent of its employees to work on a seasonal basis.

**NEW SECTION. Sec. 909.** If any provision of section 908 of this act or its application to any person or circumstance is held unconstitutional: (1) Section 908 of this act is considered invalid in its entirety; and (2) section 908 of this act and the application of any provision of that section to any person or circumstance is considered null and void and of no effect.

**NEW SECTION. Sec. 910.** A new section is added to chapter 82.32 RCW to read as follows:

(1) The department must compile a list of products meeting the definition of candy in RCW 82.08.0293 and products that are similar to candy but do not meet that definition. The list must identify each item as either subject to sales or use tax or not subject to sales or use tax. The list will be made in a form and manner prescribed by the department and must be made available on the department's internet web site. The list must also provide information about how to request a binding ruling from the department on the taxability of products not on the list.

(2) In compiling the list described in subsection (1) of this section, the department may:

(a) Evaluate the experiences of other member states of the streamlined sales and use tax agreement that impose retail sales tax on candy;

(b) Accept technical assistance from persons that sell, market, or distribute candy; and

(c) Consider any other resource the department finds useful in compiling the list.

(3) The creation of a list under subsection (1) of this section and any modifications to the list are not subject to the rule-making provisions of chapter 34.05 RCW.

(4) For products that are not identified on the list created by the department under subsection (1) of this section, taxpayers may request a binding written ruling from the department on the taxability of the product.

## PART X

### PUD Privilege Tax Clarification

**Sec. 1001.** RCW 54.28.011 and 1957 c 278 s 12 are each amended to read as follows:

"Gross revenue" (~~shall~~) means the amount received from the sale of electric energy, which also includes any regularly recurring charge billed to consumers as a condition of receiving electric energy, and excluding any tax levied by a municipal corporation upon the district pursuant to RCW 54.28.070.

## PART XI

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### Temporarily Increasing the Business and Occupation Tax on Service Businesses while Increasing the Small Business Credit for the Same Businesses

**NEW SECTION. Sec. 1101.** A new section is added to chapter 82.04 RCW to read as follows:

(1) Beginning May 1, 2010, through June 30, 2013, an additional rate of tax of 0.30 percent is added to the rate provided for in RCW 82.04.255, 82.04.285, and 82.04.290(2)(a).

(2)(a) The additional rate in subsection (1) of this section does not apply to persons engaging within this state in business as a hospital. "Hospital" has the meaning provided in chapter 70.41 RCW but also includes any hospital that comes within the scope of chapter 71.12 RCW if the hospital is also licensed under chapter 70.41 RCW.

(b) The additional rate in subsection (1) of this section does not apply to amounts received from performing scientific research and development services including but not limited to research and development in the physical, engineering, and life sciences (such as agriculture, bacteriological, biotechnology, chemical, life sciences, and physical science research and development laboratories or services).

**Sec. 1102.** RCW 82.04.4451 and 1997 c 238 s 2 are each amended to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed against the amount of tax otherwise due under this chapter, as provided in this section. ~~((The maximum credit for a taxpayer))~~ Except for taxpayers that report at least fifty percent of their taxable amount under RCW 82.04.255, 82.04.290(2)(a), and 82.04.285, the maximum credit for a taxpayer for a reporting period is thirty-five dollars multiplied by the number of months in the reporting period, as determined under RCW 82.32.045. For a taxpayer that reports at least fifty percent of its taxable amount under RCW 82.04.255, 82.04.290(2)(a), and 82.04.285, the maximum credit for a reporting period is seventy dollars multiplied by the number of months in the reporting period, as determined under RCW 82.32.045.

(2) When the amount of tax otherwise due under this chapter is equal to or less than the maximum credit, a credit is allowed equal to the amount of tax otherwise due under this chapter.

(3) When the amount of tax otherwise due under this chapter exceeds the maximum credit, a reduced credit is allowed equal to twice the maximum credit, minus the tax otherwise due under this chapter, but not less than zero.

(4) The department may prepare a tax credit table consisting of tax ranges using increments of no more than five dollars and a corresponding tax credit to be applied to those tax ranges. The table shall be prepared in such a manner that no taxpayer will owe a greater amount of tax by using the table than would be owed by performing the calculation under subsections (1) through (3) of this section. A table prepared by the department under this subsection ~~(shall)~~ must be used by all taxpayers in taking the credit provided in this section.

**Sec. 1103.** RCW 82.32.045 and 2006 c 256 s 1 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, payments of the taxes imposed under chapters 82.04, 82.08, 82.12, 82.14, and 82.16 RCW, along with reports and returns on forms prescribed by the department, are due monthly within twenty-five days after the end of the month in which the taxable activities occur.

(2) The department of revenue may relieve any taxpayer or class of taxpayers from the obligation of remitting monthly and may require the return to cover other longer reporting periods, but in no event may returns be filed for a period greater than one year. For

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these taxpayers, tax payments are due on or before the last day of the month next succeeding the end of the period covered by the return.

(3) The department of revenue may also require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability.

(4) Notwithstanding subsections (1) and (2) of this section, the department may relieve any person of the requirement to file returns if the following conditions are met:

(a) The person's value of products, gross proceeds of sales, or gross income of the business, from all business activities taxable under chapter 82.04 RCW, is less than:

- (i) Twenty-eight thousand dollars per year; or
- (ii) Forty-six thousand six hundred and sixty-seven dollars per year for persons generating at least fifty percent of their taxable amount from activities taxable under RCW 82.04.255, 82.04.290(2)(a), and 82.04.285;

(b) The person's gross income of the business from all activities taxable under chapter 82.16 RCW is less than twenty-four thousand dollars per year; and

(c) The person is not required to collect or pay to the department of revenue any other tax or fee which the department is authorized to collect.

**PART XII  
Property Management Salaries**

**Sec. 1201.** RCW 82.04.394 and 1998 c 338 s 2 are each amended to read as follows:

(1) This chapter does not apply to:

(a) Amounts received by a nonprofit property management company from the owner of a property for gross wages and benefits paid directly to or on behalf of on-site personnel from property management trust accounts that are required to be maintained under RCW ~~(18.85.340)~~ 18.85.285; or

(b) Amounts received by a property management company from a housing authority for gross wages and benefits paid directly to or on behalf of on-site personnel from property management trust accounts that are required to be maintained under RCW 18.85.285.

~~(2) ((As used in)) The definitions in this subsection apply to this section((;)).~~

(a) "On-site personnel" means a person who meets all of the following conditions: ((;)) (i) The person works primarily at the owner's property; ((;)) (ii) the person's duties include leasing property units, maintaining the property, collecting rents, or similar activities; and ((;)) (iii) under a written property management agreement: ((;)) (A) The person's compensation is the ultimate obligation of the property owner and not the property manager; ((;)) (B) the property manager is liable for payment only as agent of the owner; and ((;)) (C) the property manager is the agent of the owner with respect to the on-site personnel and that all actions, including, but not limited to, hiring, firing, compensation, and conditions of employment, taken by the property manager with respect to the on-site personnel are subject to the approval of the property owner.

(b) "Nonprofit property management company" means a property management company that is exempt from tax under 26 U.S.C. Sec. 501(c) of the federal internal revenue code, as it exists on January 1, 2010.

(c) "Housing authority" means a city or county housing authority created pursuant to chapter 35.82 RCW.

**Sec. 1202.** RCW 82.04.394 and 2010 c 106 (E2SHB 1597) s 209 are each amended to read as follows:

(1) This chapter does not apply to:

(a) Amounts received by a nonprofit property management company from the owner of a property for gross wages and benefits

paid directly to or on behalf of on-site personnel from property management trust accounts that are required to be maintained under RCW 18.85.285; or

(b) Amounts received by a property management company from a housing authority for gross wages and benefits paid directly to or on behalf of on-site personnel from property management trust accounts that are required to be maintained under RCW 18.85.285.

~~(2) ((As used in)) The definitions in this subsection apply to this section((;)).~~

(a) "On-site personnel" means a person who meets all of the following conditions: ((;)) (i) The person works primarily at the owner's property; ((;)) (ii) the person's duties include leasing property units, maintaining the property, collecting rents, or similar activities; and ((;)) (iii) under a written property management agreement: ((;)) (A) The person's compensation is the ultimate obligation of the property owner and not the property manager; ((;)) (B) the property manager is liable for payment only as agent of the owner; and ((;)) (C) the property manager is the agent of the owner with respect to the on-site personnel and that all actions, including, but not limited to, hiring, firing, compensation, and conditions of employment, taken by the property manager with respect to the on-site personnel are subject to the approval of the property owner.

(b) "Nonprofit property management company" means a property management company that is exempt from tax under 26 U.S.C. Sec. 501(c) of the federal internal revenue code, as it exists on January 1, 2010.

(c) "Housing authority" means a city or county housing authority created pursuant to chapter 35.82 RCW.

**PART XIII  
Temporarily Increasing Beer Taxes**

**Sec. 1301.** RCW 66.24.290 and 2009 c 479 s 43 are each amended to read as follows:

(1) Any microbrewer or domestic brewery or beer distributor licensed under this title may sell and deliver beer and strong beer to holders of authorized licenses direct, but to no other person, other than the board. Any certificate of approval holder authorized to act as a distributor under RCW 66.24.270 shall pay the taxes imposed by this section.

(a) Every such brewery or beer distributor shall report all sales to the board monthly, pursuant to the regulations, and shall pay to the board as an added tax for the privilege of manufacturing and selling the beer and strong beer within the state a tax of one dollar and thirty cents per barrel of thirty-one gallons on sales to licensees within the state and on sales to licensees within the state of bottled and canned beer, including strong beer, shall pay a tax computed in gallons at the rate of one dollar and thirty cents per barrel of thirty-one gallons.

(b) Any brewery or beer distributor whose applicable tax payment is not postmarked by the twentieth day following the month of sale will be assessed a penalty at the rate of two percent per month or fraction thereof. Beer and strong beer shall be sold by breweries and distributors in sealed barrels or packages.

(c) The moneys collected under this subsection shall be distributed as follows: (i) Three-tenths of a percent shall be distributed to border areas under RCW 66.08.195; and (ii) of the remaining moneys: (A) Twenty percent shall be distributed to counties in the same manner as under RCW 66.08.200; and (B) eighty percent shall be distributed to incorporated cities and towns in the same manner as under RCW 66.08.210.

(d) Any licensed retailer authorized to purchase beer from a certificate of approval holder with a direct shipment endorsement or a brewery or microbrewery shall make monthly reports to the liquor

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control board on beer purchased during the preceding calendar month in the manner and upon such forms as may be prescribed by the board.

(2) An additional tax is imposed on all beer and strong beer subject to tax under subsection (1) of this section. The additional tax is equal to two dollars per barrel of thirty-one gallons. All revenues collected during any month from this additional tax shall be deposited in the state general fund by the twenty-fifth day of the following month.

(3)(a) An additional tax is imposed on all beer and strong beer subject to tax under subsection (1) of this section. The additional tax is equal to ninety-six cents per barrel of thirty-one gallons through June 30, 1995, two dollars and thirty-nine cents per barrel of thirty-one gallons for the period July 1, 1995, through June 30, 1997, and four dollars and seventy-eight cents per barrel of thirty-one gallons thereafter.

(b) The additional tax imposed under this subsection does not apply to the sale of the first sixty thousand barrels of beer each year by breweries that are entitled to a reduced rate of tax under 26 U.S.C. Sec. 5051, as existing on July 1, 1993, or such subsequent date as may be provided by the board by rule consistent with the purposes of this exemption.

(c) All revenues collected from the additional tax imposed under this subsection (3) shall be deposited in the state general fund.

(4) An additional tax is imposed on all beer and strong beer that is subject to tax under subsection (1) of this section that is in the first sixty thousand barrels of beer and strong beer by breweries that are entitled to a reduced rate of tax under 26 U.S.C. Sec. 5051, as existing on July 1, 1993, or such subsequent date as may be provided by the board by rule consistent with the purposes of the exemption under subsection (3)(b) of this section. The additional tax is equal to one dollar and forty-eight and two-tenths cents per barrel of thirty-one gallons. By the twenty-fifth day of the following month, three percent of the revenues collected from this additional tax shall be distributed to border areas under RCW 66.08.195 and the remaining moneys shall be transferred to the state general fund.

(5)(a) From the effective date of this section through June 30, 2013, an additional tax is imposed on all beer and strong beer subject to tax under subsection (1) of this section. The additional tax is equal to fifteen dollars and fifty cents per barrel of thirty-one gallons.

(b) The additional tax imposed under this subsection does not apply to the sale of the first sixty thousand barrels of beer each year by breweries that are entitled to a reduced rate of tax under 26 U.S.C. Sec. 5051 of the federal internal revenue code, as existing on July 1, 1993, or such subsequent date as may be provided by the board by rule consistent with the purposes of this exemption.

(c) All revenues collected from the additional tax imposed under this subsection shall be deposited in the state general fund.

(6) The board may make refunds for all taxes paid on beer and strong beer exported from the state for use outside the state.

~~((6))~~ (7) The board may require filing with the board of a bond to be approved by it, in such amount as the board may fix, securing the payment of the tax. If any licensee fails to pay the tax when due, the board may forthwith suspend or cancel his or her license until all taxes are paid.

#### PART XIV

#### Temporarily Imposing Taxes on Carbonated Beverages

NEW SECTION. Sec. 1401. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

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(1)(a) "Carbonated beverage" means any packaged nonalcoholic liquid intended for human consumption that contains carbonation by natural or artificial means and any of the following substances: Caffeine, extracts, fruit juice or concentrated fruit juice, herbs, sweeteners, or syrup. "Packaged" includes cans, bottles, and other similar sealed containers. "Syrup" means a concentrated mixture in either liquid or powdered form that contains sugar or a sugar substitute and that is an ingredient used to make carbonated beverages.

(b) "Carbonated beverage" does not include carbonated bottled water. For the purpose of this subsection, "bottled water" has the same meaning as provided in section 901 of this act.

(2) "Ounce" means United States fluid ounce.

(3) "Previously taxed carbonated beverages" means carbonated beverages to which the tax under this chapter has been previously imposed.

(4) Except for terms defined in this section, the definitions in chapters 82.04, 82.08, and 82.12 RCW apply to this chapter.

NEW SECTION. Sec. 1402. (1) From the effective date of this section through June 30, 2013, a tax is imposed on every person for the privilege of selling, at wholesale or retail, carbonated beverages in this state. The rate of the tax is equal to two cents per twelve ounces of carbonated beverages sold in this state.

(2)(a) In calculating the amount of tax due under this section, if the total amount of carbonated beverages sold in this state during the reporting period is not a whole number, the taxable quantity must be rounded as provided in (b) of this subsection.

(b) For a fraction of an ounce that is equal to or greater than one-half ounce, the taxable quantity must be rounded up to the nearest ounce. For a fraction of an ounce that is less than one-half ounce, the taxable quantity must be rounded down to the nearest ounce.

(3) Chapter 82.32 RCW applies to the tax imposed in this section. The tax reporting frequency for the tax imposed in this section must coincide with the taxpayer's reporting frequency for the tax imposed in chapter 82.04 RCW.

(4) The department may require taxpayers to report the taxable quantity of carbonated beverages in units of measure other than ounces.

(5) The tax imposed in this section is in addition to all other taxes imposed in this title on the same taxable event.

NEW SECTION. Sec. 1403. (1) The tax imposed in this chapter does not apply to any successive sale of previously taxed carbonated beverages.

(2) Any person claiming the exemption provided in this section must maintain documentation establishing that the carbonated beverages were previously taxed under this chapter. The documentation may be in the form of information on the invoice, or certification from the previous seller, stating: (a) That all or a specific stated portion of the carbonated beverages were previously subject to the tax imposed in this chapter; and (b) the amount of tax remitted or to be remitted to the department in respect of the carbonated beverages.

NEW SECTION. Sec. 1404. (1) For each calendar year, the tax imposed in this chapter does not apply in respect to the first ten million dollars of carbonated beverages sold in this state by any bottler as measured by the gross proceeds of sales of carbonated beverages at retail and wholesale by the bottler. If a bottler is affiliated with any other bottler or distributor, the ten million dollar threshold for the exemption in this subsection (1) is based on the combined gross proceeds of sales by all affiliated persons from all sales at wholesale and retail of carbonated beverages in this state during the calendar year.

(2) Successive sales by any person of carbonated beverages exempt under subsection (1) of this section are also exempt from the

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tax imposed in this chapter. Any person claiming the exemption provided in this subsection (2) must maintain documentation establishing that the carbonated beverages were previously sold in this state by a person exempt under subsection (1) of this section. The documentation may be in the form of information on the invoice, or certification from the previous seller, stating that the carbonated beverages were previously exempt under subsection (1) of this section.

(3) For purposes of this section, the following definitions apply:

(a) "Affiliated" has the same meaning as provided in section 110 of this act.

(b) "Bottler" means a person who bottles, cans, or otherwise packages carbonated beverages in beverage containers.

(c) "Distributor" means a person, other than a bottler, that makes sales at wholesale of carbonated beverages.

**NEW SECTION. Sec. 1405.** The tax imposed in this chapter does not apply to any activity or person that the state is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States.

**NEW SECTION. Sec. 1406.** This part constitutes a new chapter in Title 82 RCW.

### PART XV Limiting the Bad Debt Deduction

**NEW SECTION. Sec. 1501.** The legislature intends with sections 1502 and 1503 of this act to supersede the holding of the supreme court of the state of Washington in *Puget Sound National Bank v. Department of Revenue*, 123 Wn.2d 284 (1994).

**Sec. 1502.** RCW 82.08.037 and 2007 c 6 s 102 are each amended to read as follows:

(1) A seller is entitled to a credit or refund for sales taxes previously paid on bad debts, as that term is used in 26 U.S.C. Sec. 166, as amended or renumbered as of January 1, 2003.

(2) For purposes of this section, "bad debts" does not include:

(a) Amounts due on property that remains in the possession of the seller until the full purchase price is paid;

(b) Expenses incurred in attempting to collect debt; ~~((and))~~

(c) Debts sold or assigned by the seller to third parties, where the third party is without recourse against the seller; and

(d) Repossessed property.

(3) If a credit or refund of sales tax is taken for a bad debt and the debt is subsequently collected in whole or in part, the tax on the amount collected must be paid and reported on the return filed for the period in which the collection is made.

(4) Payments on a previously claimed bad debt are applied first proportionally to the taxable price of the property or service and the sales or use tax thereon, and secondly to interest, service charges, and any other charges.

(5) If the seller uses a certified service provider as defined in RCW 82.32.020 to administer its sales tax responsibilities, the certified service provider may claim, on behalf of the seller, the credit or refund allowed by this section. The certified service provider must credit or refund the full amount received to the seller.

(6) The department ~~((shall))~~ must allow an allocation of bad debts among member states to the streamlined sales tax agreement, as defined in RCW 82.58.010(1), if the books and records of the person claiming bad debts support the allocation.

(7) A person's right to claim a credit or refund under this section is not assignable. No person other than the original seller in the transaction that generated the bad debt or, as provided in subsection (5) of this section, a certified service provider, is entitled to claim a credit or refund under this section. If the original seller in the transaction that generated the bad debt has sold or assigned the debt instrument to a third party with recourse, the original seller may

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claim a credit or refund under this section only after the debt instrument is reassigned by the third party to the original seller.

**Sec. 1503.** RCW 82.12.037 and 2007 c 6 s 103 are each amended to read as follows:

(1) A seller is entitled to a credit or refund for use taxes previously paid on bad debts, as that term is used in 26 U.S.C. Sec. 166, as amended or renumbered as of January 1, 2003.

(2) For purposes of this section, "bad debts" does not include:

(a) Amounts due on property that remains in the possession of the seller until the full purchase price is paid;

(b) Expenses incurred in attempting to collect debt; ~~((and))~~

(c) Debts sold or assigned by the seller to third parties, where the third party is without recourse against the seller; and

(d) Repossessed property.

(3) If a credit or refund of use tax is taken for a bad debt and the debt is subsequently collected in whole or in part, the tax on the amount collected must be paid and reported on the return filed for the period in which the collection is made.

(4) Payments on a previously claimed bad debt are applied first proportionally to the taxable price of the property or service and the sales or use tax thereon, and secondly to interest, service charges, and any other charges.

(5) If the seller uses a certified service provider as defined in RCW 82.32.020 to administer its use tax responsibilities, the certified service provider may claim, on behalf of the seller, the credit or refund allowed by this section. The certified service provider must credit or refund the full amount received to the seller.

(6) The department ~~((shall))~~ must allow an allocation of bad debts among member states to the streamlined sales and use tax agreement, as defined in RCW 82.58.010(1), if the books and records of the person claiming bad debts support the allocation.

(7) A person's right to claim a credit or refund under this section is not assignable. No person other than the original seller in the transaction that generated the bad debt or, as provided in subsection (5) of this section, a certified service provider, is entitled to claim a credit or refund under this section. If the original seller in the transaction that generated the bad debt has sold or assigned the debt instrument to a third party with recourse, the original seller may claim a credit or refund under this section only after the debt instrument is reassigned by the third party to the original seller.

### PART XVI Data Centers

**Sec. 1601.** RCW 82.08.--- and 2010 1st sp.s. c 1 (ESSB 6789) s 2 are each amended to read as follows:

(1) An exemption from the tax imposed by RCW 82.08.020 is provided for sales to qualifying businesses of eligible server equipment to be installed, without intervening use, in an eligible computer data center, and to charges made for labor and services rendered in respect to installing eligible server equipment. The exemption also applies to sales to qualifying businesses of eligible power infrastructure, including labor and services rendered in respect to constructing, installing, repairing, altering, or improving eligible power infrastructure.

(2)(a) In order to claim the exemption under this section, a qualifying business must submit an application to the department for an exemption certificate. The application must include the information necessary, as required by the department, to determine that a business qualifies for the exemption under this section. The department must issue exemption certificates to qualifying businesses. The department may assign a unique identification number to each exemption certificate issued under this section.

(b) A qualifying business claiming the exemption under this section must present the seller with an exemption certificate in a

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form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(3)(a) ~~((A qualifying business must establish))~~ Within six years of the ((first day of the calendar quarter in which the business first receives an exemption under this section or section 3 of this act that it has)) date that the department issued an exemption certificate under this section to a qualifying business with respect to an eligible computer data center, the qualifying business must establish that net employment at the eligible computer data center has increased ((employment in a computer data center)) by a minimum of:

(i) Thirty-five family wage ((jobs from the date the eligible computer data center first became operational)) employment positions; or

(ii) Three family wage employment positions for each twenty thousand square feet of space or less that is newly dedicated to housing working servers at the eligible computer data center. For qualifying businesses that lease space at an eligible computer data center, the number of family wage employment positions that must be increased under this subsection (3)(a)(ii) is based only on the space occupied by the lessee in the eligible computer data center.

(b) In calculating the net increase in family wage employment positions:

(i) The owner of an eligible computer data center, in addition to its own net increase in family wage employment positions, may include:

(A) The net increase in family wage employment positions employed by qualifying businesses leasing space within the eligible computer data center from the owner; and

(B) The net increase in family wage employment positions described in (c)(ii)(B) of this subsection (3).

(ii)(A) Lessees of the owner of an eligible computer data center, in addition to their own net increase in family wage employment positions, may include:

(I) A portion of the net increase in family wage employment positions employed by the owner; and

(II) A portion of the net increase in family wage employment positions described in (c)(ii)(B) of this subsection (3).

(B) The portion of the net increase in family wage employment positions to be counted under this subsection (3)(b)(ii) by each lessee must be in proportion to the amount of space in the eligible computer data center occupied by the lessee compared to the total amount of space in the eligible computer data center occupied by all lessees that are qualifying businesses.

(c)(i) For purposes of this subsection, family wage ((jobs)) employment positions are new permanent employment positions requiring forty hours of weekly work, or their equivalent, on a full-time basis at the eligible computer data center and ((paying)) receiving a wage equivalent to or greater than one hundred fifty percent of the per capita personal income of the county in which the qualified project is located. ~~((The qualifying business must provide))~~ An employment position may not be counted as a family wage employment position unless the employment position is entitled to health insurance coverage ((for employees)) provided by the employer of the employment position. For purposes of this subsection (3)(c), "new permanent employment position" means an employment position that did not exist or that had not previously been filled as of the date that the department issued an exemption certificate to the owner or lessee of an eligible computer data center, as the case may be.

(ii)(A) Family wage employment positions include positions filled by employees of the owner of the eligible computer data center and by employees of qualifying businesses leasing space from the owner of the eligible computer data center.

(B) Family wage employment positions also include individuals performing work at an eligible computer data center as an

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independent contractor hired by the owner of the eligible computer data center or as an employee of an independent contractor hired by the owner of the eligible computer data center, if the work is necessary for the operation of the computer data center, such as security and building maintenance, and provided that all of the requirements in (c)(i) of this subsection (3) are met.

~~((b))~~ (d) All previously exempted sales and use taxes are immediately due and payable for a qualifying business that does not meet the requirements of this subsection.

(4) A qualifying business claiming an exemption under this section or RCW 82.12.--- (section 3, chapter 1 (ESSB 6789), Laws of 2010 1st sp. sess.) must complete an annual report with the department as required under section 103, chapter 114 (SHB 3066), Laws of 2010.

(5)(a) The exemption provided in this section does not apply to:

(i) Any person who has received the benefit of the deferral program under chapter 82.60 RCW on: (A) The construction, renovation, or expansion of a structure or structures used as a computer data center; or (B) machinery or equipment used in a computer data center; and

(ii) Any person affiliated with a person within the scope of (a)(i) of this subsection (5). For purposes of this subsection, "affiliated" means that one person has a direct or indirect ownership interest of at least twenty percent in another person.

(b) If a person claims an exemption under this section and subsequently receives the benefit of the deferral program under chapter 82.60 RCW on either the construction, renovation, or expansion of a structure or structures used as a computer data center or machinery or equipment used in a computer data center, the person must repay the amount of taxes exempted under this section. Interest as provided in chapter 82.32 RCW applies to amounts due under this section until paid in full.

(6) For purposes of this section the following definitions apply unless the context clearly requires otherwise:

(a)(i) "Computer data center" means a facility comprised of one or more buildings, which may be comprised of multiple businesses, constructed or refurbished specifically, and used primarily, to house working servers, where the facility has the following characteristics: (A) Uninterruptible power supplies, generator backup power, or both; (B) sophisticated fire suppression and prevention systems; and (C) enhanced physical security, such as: Restricted access to the facility to selected personnel; permanent security guards; video camera surveillance; an electronic system requiring passcodes, keycards, or biometric scans, such as hand scans and retinal or fingerprint recognition; or similar security features.

(ii) For a computer data center comprised of multiple buildings, each separate building constructed or refurbished specifically, and used primarily, to house working servers is considered a computer data center if it has all of the characteristics listed in (a)(i)(A) through (C) of this subsection (6).

(iii) A facility comprised of one building or more than one building must have a combined square footage of at least one hundred thousand square feet.

(b) "Electronic data storage and data management services" include, but are not limited to: Providing data storage and backup services, providing computer processing power, hosting enterprise software applications, and hosting web sites. The term also includes providing services such as e-mail, web browsing and searching, media applications, and other online services, regardless of whether a charge is made for such services.

(c)(i) "Eligible computer data center" means a computer data center:

(A) Located in a rural county as defined in RCW 82.14.370;

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(B) Having at least twenty thousand square feet dedicated to housing working servers, where the server space has not previously been dedicated to housing working servers; and

(C) For which the commencement of construction occurs after March 31, 2010, and before July 1, 2011. For purposes of this section, "commencement of construction" means the date that a building permit is issued under the building code adopted under RCW 19.27.031 for construction of the computer data center. The construction of a computer data center includes the expansion, renovation, or other improvements made to existing facilities, including leased or rented space. "Commencement of construction" does not include soil testing, site clearing and grading, site preparation, or any other related activities that are initiated before the issuance of a building permit for the construction of the foundation of a computer data center.

(ii) With respect to facilities in existence on April 1, 2010 that are expanded, renovated, or otherwise improved after March 31, 2010, an eligible computer data center includes only the portion of the computer data center meeting the requirements in (c)(i)(B) of this subsection (6).

(d) "Eligible power infrastructure" means all fixtures and equipment necessary for the transformation, distribution, or management of electricity that is required to operate eligible server equipment within an eligible computer data center. The term includes electrical substations, generators, wiring, and cogeneration equipment.

(e) "Eligible server equipment" means the original server equipment installed in an eligible computer data center on or after April 1, 2010, and replacement server equipment. For purposes of this subsection (6)(e), "replacement server equipment" means server equipment that: (i) Replaces existing server equipment, if the sale or use of the server equipment to be replaced qualified for an exemption under this section or RCW 82.12.--- (section 3, chapter 1 (ESSB 6789), Laws of 2010 1st sp. sess.); and (ii) is installed and put into regular use before April 1, 2018.

(f) "Qualifying business" means a business entity that exists for the primary purpose of engaging in commercial activity for profit and that is the owner (~~or lessee~~) of an eligible computer data center or the lessee of at least twenty thousand square feet within an eligible computer data center dedicated to housing working servers, where the server space has not previously been dedicated to housing working servers. The term does not include the state or federal government or any of their departments, agencies, and institutions; tribal governments; political subdivisions of this state; or any municipal, quasi-municipal, public, or other corporation created by the state or federal government, tribal government, municipality, or political subdivision of the state.

(g) "Server" means blade or rack-mount server computers used in a computer data center exclusively to provide electronic data storage and data management services for internal use by the owner or lessee of the computer data center, for clients of the owner or lessee of the computer data center, or both. "Server" does not include personal computers.

(h) "Server equipment" means the server chassis and all computer hardware contained within the server chassis. "Server equipment" also includes computer software necessary to operate the server. "Server equipment" does not include the racks upon which the server chassis is installed, and computer peripherals such as keyboards, monitors, printers, mice, and other devices that work outside of the computer.

(7) This section expires April 1, 2018.

**Sec. 1602.** RCW 82.12.--- and 2010 1st sp.s. c 1 (ESSB 6789) s 3 are each amended to read as follows:

(1) An exemption from the tax imposed by RCW 82.12.020 is provided for the use by qualifying businesses of eligible server

equipment to be installed, without intervening use, in an eligible computer data center, and to the use of labor and services rendered in respect to installing such server equipment. The exemption also applies to the use of power infrastructure, including labor and services rendered in respect to installing, repairing, altering, or improving such infrastructure.

(2) A qualifying business is not eligible for the exemption under this section unless the department issued an exemption certificate to the qualifying business for the exemption provided in RCW 82.08.---(section 2, chapter 1 (ESSB 6789), Laws of 2010 1st sp. sess.).

(3)(a) The exemption provided in this section does not apply to:

(i) Any person who has received the benefit of the deferral program under chapter 82.60 RCW on: (A) The construction, renovation, or expansion of a structure or structures used as a computer data center; or (B) machinery or equipment used in a computer data center; and

(ii) Any person affiliated with a person within the scope of (a)(i) of this subsection (3). For purposes of this subsection, "affiliated" means that one person has a direct or indirect ownership interest of at least twenty percent in another person.

(b) If a person has received the benefit of the exemption under this section and subsequently receives the benefit of the deferral program under chapter 82.60 RCW on either the construction, renovation, or expansion of a structure or structures used as a computer data center or machinery or equipment used in a computer data center, the person must repay the amount of taxes exempted under this section. Interest as provided in chapter 82.32 RCW applies to amounts due under this subsection (3)(b) until paid in full. A person is not required to repay taxes under this subsection with respect to property and services for which the person is required to repay taxes under RCW 82.08.---(section 2, chapter 1 (ESSB 6789), Laws of 2010 1st sp. sess.).

(4) The definitions and requirements in RCW 82.08.--- (section 2, chapter 1 (ESSB 6789), Laws of 2010 1st sp. sess.) apply to this section.

(5) This section expires April 1, 2018.

## PART XVII Miscellaneous Provisions

**NEW SECTION. Sec. 1701.** If a court of competent jurisdiction, in a final judgment not subject to appeal, adjudges any provision of section 104(1)(c) of this act unconstitutional or otherwise invalid, Part I of this act is null and void in its entirety.

**NEW SECTION. Sec. 1702.** Part I of this act applies with respect to gross income of the business, as defined in RCW 82.04.080, including gross income from royalties as defined in RCW 82.04.2907, generated on and after June 1, 2010. For purposes of calculating the thresholds in section 104(1)(c) of this act for the 2010 tax year, property, payroll, and receipts are based on the entire 2010 tax year.

**NEW SECTION. Sec. 1703.** Except as provided in section 202 of this act, section 201 of this act applies to tax periods beginning January 1, 2006.

**NEW SECTION. Sec. 1704.** Sections 402 and 702 of this act apply both retroactively and prospectively.

**NEW SECTION. Sec. 1705.** In accordance with Article VIII, section 5 of the state Constitution, sections 702 and 1704 of this act do not authorize refunds of business and occupation tax validly collected before July 1, 2010, on amounts received by an individual from a corporation as compensation for serving as a member of that corporation's board of directors.

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**NEW SECTION. Sec. 1706.** Section 402 of this act does not affect any final judgments, not subject to appeal, entered by a court of competent jurisdiction before the effective date of this section.

**NEW SECTION. Sec. 1707.** Except as provided in section 1701 of this act, if any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 1708.** Except as otherwise provided in this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect May 1, 2010.

**NEW SECTION. Sec. 1709.** Parts III and XIII and sections 101 through 106, 108 through 112, 501 through 503, 505, 507, 510 through 514, 516 through 519, 901, 903 through 911, and 1201 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect June 1, 2010.

**NEW SECTION. Sec. 1710.** Sections 106, 901, and 1201 of this act expire July 1, 2010.

**NEW SECTION. Sec. 1711.** Sections 503, 505, and 514 of this act expire June 10, 2010.

**NEW SECTION. Sec. 1712.** Sections 504, 506, and 515 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect June 10, 2010.

**NEW SECTION. Sec. 1713.** Parts VI, VII, and XIV and sections 107, 702, 902, and 1202 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2010.

**NEW SECTION. Sec. 1714.** Section 507 of this act expires July 13, 2010.

**NEW SECTION. Sec. 1715.** Section 508 of this act takes effect July 13, 2010.

**NEW SECTION. Sec. 1716.** Section 508 of this act expires July 1, 2011.

**NEW SECTION. Sec. 1717.** Section 509 of this act takes effect July 1, 2011.

**NEW SECTION. Sec. 1718.** Section 1001 of this act applies prospectively only.

**NEW SECTION. Sec. 1719.** Sections 1502 and 1503 of this act apply to claims for credit or refund filed with the department of revenue after June 30, 2010."

Correct the title.

And the bill do pass as recommended by the conference committee.

Signed by Senators Prentice and Murray; Representatives Hasegawa and Hunter.

#### MOTION

Senator Prentice moved that the Report of the Conference Committee on Second Engrossed Substitute Senate Bill No. 6143 be adopted.

Senator Zarelli spoke against the motion.

Senator Schoesler demanded a roll call on the motion to adopt the conference committee report on Second Engrossed Substitute Senate Bill No. 6143.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the motion by Senator Prentice that the Report of the Conference

Committee on Second Engrossed Substitute Senate Bill No. 6143 be adopted.

#### ROLL CALL

The Secretary called the roll on the motion by Senator Prentice and the report of the conference committee was adopted by the following vote: Yeas, 25; Nays, 21; Absent, 0; Excused, 3.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller and Shin

Voting nay: Senators Becker, Benton, Brandland, Carrell, Hewitt, Hobbs, Holmquist, Honeyford, Kauffman, Kilmer, King, Marr, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Swecker, Tom and Zarelli

Excused: Senators Delvin, McCaslin and Stevens

The Report of the Conference Committee was adopted by a roll call.

The President declared the question before the Senate to be the final passage of Second Engrossed Substitute Senate Bill No. 6143, as recommended by the Conference Committee.

Senators Schoesler, Sheldon, Morton, Carrell, Zarelli, Benton and Pflug spoke against final passage of the bill.

Senators Hargrove, Jacobsen, Franklin, Brown, and Murray spoke in favor of final passage of the bill.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Substitute Senate Bill No. 6143, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 25; Nays, 21; Absent, 0; Excused, 3.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller and Shin

Voting nay: Senators Becker, Benton, Brandland, Carrell, Hewitt, Hobbs, Holmquist, Honeyford, Kauffman, Kilmer, King, Marr, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Swecker, Tom and Zarelli

Excused: Senators Delvin, McCaslin and Stevens

**SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 6143**, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SENATE BILL 6870.

#### MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

The Senate resumed consideration of Engrossed House Bill No. 2561 which had been deferred earlier in the day.

#### MOTION

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Senator Honeyford moved that the following amendment by Senator Honeyford to the committee striking amendment be adopted:

On page 3, line 34, after "(b)" insert the following:  
 ""Cost effective" has the same meaning as provided in RCW 80.52.030.

(c)"

On page 5, line 15, after "demonstrates" insert "cost effective"

Renumber the sections consecutively and correct any internal references accordingly.

Senator Honeyford spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Fraser spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 3, line 34 to the committee striking amendment to Engrossed House Bill No. 2561.

The motion by Senator Honeyford failed and the amendment to the committee striking amendment was not adopted by a rising vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed House Bill No. 2561.

#### POINT OF ORDER

Senator Carrell: "I believe that this bill contains two subjects in violation of Senate Rule 25 and I have arguments thereon. This bill authorized the issuance of bonds for the purpose of creating energy efficient schools. In addition the bill removes the expiration date on the new tax on bottled water. The tax on bottled water is not dedicated to the payment of the bonds issued under the bill. It is an entirely separate stand alone provision to extend the tax where the revenue is directed to the state's general fund and revenue may be spent on a variety of programs. Mr. President, I believe that the bill contains two distinct subjects, the issuance of bonds and the extension of a tax in violation of Rule 25."

#### REPLY BY THE PRESIDENT

President Owen: "Senator Carrell, the President needs a clarification. You raised your point of order on the bill or raised your point of order on the committee amendment? Senator Carrell, the President is going to allow little latitude here because he believes that you made your point of order to the bill but in effect the striking amendment is the bill. Therefore he will allow the consideration of the two the question of violating the two issue rule on the striking amendment itself and we'll take under consideration."

Senator Eide spoke against the point of order.

#### RULING BY THE PRESIDENT

President Owen: "In ruling on the Point of Order raised by Senator Carrell as to whether the Senate committee amendment to Engrossed House Bill 2561 would violate the single subject limitation found in Senate Rule 25, the President finds and rules as follows:

The Senate has developed a body of parliamentary precedent on this issue, precedent which is based in large part upon Supreme Court rulings on this same topic. While the President

does not make legal rulings, the Supreme Court's guidance is appropriate, because Senate Rule 25 contains the same single subject language found in our Constitution in Article II, Section 19.

Very generally, this precedent requires that the various sections and effects of a measure be rationally related to that measure's overarching common purpose or subject. It is true that this measure contains multiple provisions, but these are all harmonized under one common policy choice—or subject—of the bill, which is to issue bonds for a particular purpose and include revenue which might fund those bonds and facilitate that purpose. The varied and detailed sections of the bill in this case are simply policy choices made by the drafters to implement that purpose. Others may prefer different choices or different purposes altogether, but those are policy choices to be made by this body, not a violation of Senate Rule 25.

For these reasons, the President finds that the proposed committee amendment does not violate the provisions of Senate Rule 25, and Senator Carrell's point is not well-taken."

The motion by Senator Fraser carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "facilities" strike the remainder of the title and insert "and raising revenue therefor; amending RCW 82.08.0293, 82.12.0293, and 39.94.040; adding a new chapter to Title 43 RCW; creating new sections; making an appropriation; providing a contingent effective date; providing for submission of certain sections of this act to a vote of the people; and declaring an emergency."

#### MOTION

On motion of Senator Fraser, the rules were suspended, Engrossed House Bill No. 2561 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fraser, Franklin and Rockefeller spoke in favor of passage of the bill.

Senators Zarelli, King, Benton and Carrell spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 2561 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2561 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 28; Nays, 18; Absent, 0; Excused, 3.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller and Shin

Voting nay: Senators Becker, Benton, Brandland, Carrell, Haugen, Hewitt, Holmquist, Honeyford, King, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Swecker, Tom and Zarelli

Excused: Senators Delvin, McCaslin and Stevens

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ENGROSSED HOUSE BILL NO. 2561 as amended b the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

April 12, 2010

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6444 with the following amendment(s): 6444-S.E AMH ENGR H5863.E Strike everything after the enacting clause and insert the following:

"PART I GENERAL GOVERNMENT

Sec. 101. 2009 c 564 s 101 (uncodified) is amended to read as follows:

FOR THE HOUSE OF REPRESENTATIVES

Table with 2 columns: Description and Amount. Rows include General Fund--State Appropriation (FY 2010), General Fund--State Appropriation (FY 2011), and TOTAL APPROPRIATION.

Sec. 102. 2009 c 564 s 102 (uncodified) is amended to read as follows:

FOR THE SENATE

Table with 2 columns: Description and Amount. Rows include General Fund--State Appropriation (FY 2010), General Fund--State Appropriation (FY 2011), and TOTAL APPROPRIATION.

Sec. 103. 2009 c 564 s 103 (uncodified) is amended to read as follows:

FOR THE JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE

Table with 2 columns: Description and Amount. Rows include General Fund--State Appropriation (FY 2010), General Fund--State Appropriation (FY 2011), and TOTAL APPROPRIATION.

The appropriations in this section are subject to the following conditions and limitations:

(1) Notwithstanding the provisions of this section, the joint legislative audit and review committee may adjust the due dates for projects included on the committee's 2009-11 work plan as necessary to efficiently manage workload.

(2) Within the amounts appropriated in this section, the committee shall conduct a review of the effect of risk management practices on tort payouts. This review shall include an analysis of the state's laws, policies, procedures, and practices as they relate to the conduct of post-incident reviews and the impact of such reviews on the state's conduct and liability.

(3) Within the amounts appropriated in this section, the committee shall conduct a review of the state's workplace safety and

health program. The review shall examine workplace safety inspection, enforcement, training, and outreach efforts compared to other states and federal programs; analyze workplace injury and illness rates and trends in Washington; identify factors that may influence workplace safety and health; and identify practices that may improve workplace safety and health and/or impact insurance costs.

(4) Within the amounts appropriated in this section, the committee shall prepare an evaluation of the implementation of legislation designed to improve communication, collaboration, and expedited medicaid attainment with regard to persons released from confinement who have mental health or chemical dependency disorders. The review shall evaluate the implementation of: (a) Chapter 166, Laws of 2004 (E2SSB 6358); (b) sections 507 and 508 of chapter 504, Laws of 2005 (E2SSB 5763); (c) sections 12 and 13 of chapter 503, Laws of 2005 (E2SHB 1290); and (d) section 8 of chapter 359, Laws of 2007 (2SHB 1088). The departments of corrections and social and health services, the administrative office of the courts, institutions for mental disease, city and county jails, city and county courts, county clerks, and mental health and chemical dependency treatment providers shall provide the committee with information necessary for the study.

(5) Within the amount appropriated in this section, the joint legislative audit and review committee shall conduct a review of the state's recreational boating programs. This review shall include examination of the following:

- (a) Revenue sources for state recreational boating programs;
(b) Expenditures for state boating programs;
(c) Methods of administrating state recreational boating programs, including the roles of both state and local government entities; and
(d) Approaches other states have taken to funding and administering their recreational boating programs.

The committee shall complete the review by October 31, 2010.

((7)) (6) Within the amount appropriated in this section, the joint legislative audit and review committee shall examine the operations of employment and day services as provided by the department of social and health services, division of developmental disabilities and administered by the counties. The examination shall include a thorough review of the contracts for all services including, but not limited to, employment services, day services, child development services and other uses of state dollars for county administration of services to the developmentally disabled. In its final report, due to the legislature by September 1, 2010, the joint legislative audit and review committee shall provide: A description of how funds are used and the rates paid to vendors, and a recommendation on best practices the agency may use for the development of a consistent, outcome-based contract for services provided under contract with the counties.

((8)) (7) Within the amount appropriated in this section, the joint legislative audit and review committee shall conduct a study of the relationship between the cost of school districts and their enrollment size. The study shall be completed by June 2010 and shall include:

(a) An analysis of how categories of costs vary related to size, including but not limited to facility costs, transportation costs, educational costs, and administrative costs;

(b) A review of other factors that may impact costs, such as revenues available from local levies and other sources, geographic dispersion, demographics, level of services received from educational service districts, and whether districts operate a high school;

(c) Case studies on the change in cost patterns occurring after school district consolidations and for school districts operating under state oversight condition specified in RCW 28A.505.110; and

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(d) A review of available research on nonfinancial benefits and impacts associated with school and school district size.

(8) \$200,000 of the general fund--state appropriation for fiscal year 2011 is provided for the committee to contract with a consultant specializing in medicaid programs nationwide to review Washington state's medicaid program and report on cost containment strategies for the 2011-13 biennial budget. The report is due to the fiscal committees of the legislature by June 1, 2011.

(9) \$50,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the joint legislative audit and review committee to complete a report that includes the following: (a) An analysis of the availability within eastern Washington of helicopters that are privately owned or owned by nonstate governmental entities that are sufficiently outfitted to participate in wildfire suppression efforts of the department of natural resources; (b) a comparison of the costs to the department of natural resources for maintaining the existing helicopter fleet versus entering into exclusive use contracts with the helicopters noted in (a) of this subsection; and (c) an analysis that compares the use and funding of helicopters utilized for wildfire suppression in the states of California, Oregon, Idaho, and Montana. The committee shall submit the report to the appropriate fiscal committees of the legislature and the office of financial management no later than December 1, 2010.

(10)(a) The task force for reform of executive and legislative procedures dealing with tax preferences is hereby established. The task force must:

(i) Review current executive and legislative budget and policy practices and procedures associated with the recommendation, development, and consideration of tax preferences, assess the effectiveness of budgeting requirements and practices, the general rigor of justifications and evaluations typically provided during legislative consideration of tax preferences, and the role and value of methodologies currently used to measure the public benefits and costs, including opportunity costs, of tax preferences, as defined in RCW 43.136.021.

(ii) Consider but not be limited to, the factors listed in RCW 43.136.055.

(b) The task force may make recommendations to improve the effectiveness of the review process conducted by the citizen commission on performance measurement of tax preferences process as described in chapter 43.136 RCW. The task force may also recommend changes or improvements in the manner in which both the executive branch and legislative branch of state government address tax preferences generally, including those in effect as well as those that may be hereafter proposed, in order to protect the public interest and assure transparency, fairness, and equity in the state tax code.

(c) The task force may recommend structural or procedural changes that it feels will enhance both executive and legislative procedures and ensure consistent and rigorous examination of such preferences.

(d) The task force must report its recommendations to the governor and legislative fiscal committees by November 15, 2010.

(e) The task force has eleven voting members as follows:

(i) One member is the state treasurer;

(ii) One member is the chair of the joint legislative audit and review committee;

(iii) One member is the director of financial management;

(iv) A member, four in all, of each of the two largest caucuses of the senate and the two largest caucuses of the house of representatives, appointed by the chair of each caucus; and

(v) An appointee who is not a legislator, four in all, of each of the two largest caucuses of the senate and the two largest caucuses of the house of representatives, appointed by the chair of each caucus.

(f) Persons appointed by the caucus chairs under (e)(v) of this subsection should be individuals who have a basic understanding of state tax policy, government operations, and public services.

(g) The task force must elect a chair from among its members. Decisions of the task force must be made using the sufficient consensus model. For the purposes of this subsection, "sufficient consensus" means the point at which the substantial majority of the commission favors taking a particular action. The chair may determine when a vote must be taken. The task force must allow a minority report to be included with a decision of the task force if requested by a member of the task force.

(h) The joint legislative audit and review committee must provide clerical, technical, and management personnel to the task force to serve as the task force's staff. The staff of the legislative fiscal committees, legislative counsel, and the office of financial management must also provide technical assistance to the task force. The department of revenue must provide necessary support and information to the joint task force.

(i) The task force must meet at least once a quarter and may hold additional meetings at the call of the chair or by a majority vote of the members of the task force. The members of the task force must be compensated in accordance with RCW 43.03.220 and reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

Sec. 104. 2009 c 564 s 104 (uncodified) is amended to read as follows:

**FOR THE LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE**

General Fund--State Appropriation (FY 2010).....	\$1,748,000
General Fund--State Appropriation (FY 2011).....	<del>(\$1,927,000)</del>
	\$1,916,000
TOTAL APPROPRIATION.....	<del>(\$3,675,000)</del>
	\$3,664,000

Sec. 105. 2009 c 564 s 105 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF THE STATE ACTUARY**

General Fund--State Appropriation (FY 2010).....	\$200,000
General Fund--State Appropriation (FY 2011).....	<del>(\$25,000)</del>
	\$20,000
<del>(Health Care Authority Administrative Account--State</del>	
<del>Appropriation.....</del>	<del>\$735,000)</del>
Department of Retirement Systems Expense	
Account--State Appropriation.....	<del>(\$3,309,000)</del>
	\$3,305,000
TOTAL APPROPRIATION.....	<del>(\$4,269,000)</del>
	\$3,525,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$25,000 of the department of retirement systems--state appropriation is provided solely for the continued study of local government liabilities for postretirement medical benefits for members of plan 1 of the law enforcement officers' and firefighters' retirement system.

(2) \$51,000 of the department of retirement systems expense account--state appropriation is provided solely for the state actuary to contract with the Washington state institute for public policy for a study of the disability benefits provided to the plan 2 and plan 3 members of the public employees' retirement system, the teachers' retirement system, and the school employees' retirement system. Among the options the institute shall examine include statutory changes to the retirement systems and insurance products. The institute shall report its findings and recommendations to the select committee on pension policy by November 1, 2009.

(3) \$30,000 of the department of retirement systems expense account--state appropriation is provided solely for the state actuary



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**Sec. 113.** 2009 c 564 s 114 (uncodified) is amended to read as follows:

**FOR THE ADMINISTRATOR FOR THE COURTS**

General Fund--State Appropriation (FY 2010).....	<del>(\$53,607,000)</del>
	\$52,644,000
General Fund--State Appropriation (FY 2011).....	<del>(\$51,812,000)</del>
	\$52,562,000
<u>General Fund--Federal Appropriation.....</u>	<u>\$979,000</u>
Judicial Information Systems Account--State	
Appropriation.....	<del>(\$29,676,000)</del>
	\$33,406,000
Judicial Stabilization Trust Account--State	
Appropriation.....	\$6,598,000
TOTAL APPROPRIATION.....	<del>(\$141,693,000)</del>
	\$146,189,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,800,000 of the general fund--state appropriation for fiscal year 2010 and \$1,800,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for school districts for petitions to juvenile court for truant students as provided in RCW 28A.225.030 and 28A.225.035. The office of the administrator for the courts shall develop an interagency agreement with the superintendent of public instruction to allocate the funding provided in this subsection. Allocation of this money to school districts shall be based on the number of petitions filed. This funding includes amounts school districts may expend on the cost of serving petitions filed under RCW 28A.225.030 by certified mail or by personal service or for the performance of service of process for any hearing associated with RCW 28A.225.030.

(2)(a) \$8,252,000 of the general fund--state appropriation for fiscal year 2010 and \$8,253,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for distribution to county juvenile court administrators to fund the costs of processing truancy, children in need of services, and at-risk youth petitions. The administrator for the courts, in conjunction with the juvenile court administrators, shall develop an equitable funding distribution formula. The formula shall neither reward counties with higher than average per-petition processing costs nor shall it penalize counties with lower than average per-petition processing costs.

(b) Each fiscal year during the 2009-11 fiscal biennium, each county shall report the number of petitions processed and the total actual costs of processing truancy, children in need of services, and at-risk youth petitions. Counties shall submit the reports to the administrator for the courts no later than 45 days after the end of the fiscal year. The administrator for the courts shall electronically transmit this information to the chairs and ranking minority members of the house of representatives appropriations committee and the senate ways and means committee no later than 60 days after a fiscal year ends. These reports are deemed informational in nature and are not for the purpose of distributing funds.

(3) The distributions made under this subsection and distributions from the county criminal justice assistance account made pursuant to section 801 of this act constitute appropriate reimbursement for costs for any new programs or increased level of service for purposes of RCW 43.135.060.

(4) \$5,700,000 of the judicial information systems account--state appropriation is provided solely for modernization and integration of the judicial information system.

(a) Of this amount, \$1,700,000 is for the development of a comprehensive enterprise-level information technology strategy and detailed business and operational plans in support of that strategy, and \$4,000,000 is to continue to modernize and integrate current

systems and enhance case management functionality on an incremental basis.

(b) The amount provided in this subsection may not be expended without prior approval by the judicial information system committee (~~(in consultation with the information services board)~~). The administrator shall regularly submit project plan updates for approval to the judicial information system committee (~~(and the information services board)~~).

(c) The judicial information system committee (~~(and the information services board)~~) shall review project progress on a regular basis and may require quality assurance plans. The judicial information systems committee (~~(and the information services board)~~) shall provide a report to the appropriate committees of the legislature no later than November 1, 2011, on the status of the judicial information system modernization and integration, and the consistency of the project with the state's architecture, infrastructure and statewide enterprise view of service delivery.

(d) \$100,000 of the judicial information systems account--state appropriation is provided solely for the administrative office of the courts, in coordination with the judicial information system committee, to conduct an independent third-party executive-level review of the judicial information system. This review shall examine, at a minimum, the scope of the current project plan, governance structure, and organizational change management procedures. The review will also benchmark the system plans against similarly sized projects in other states or localities, review the large scale program risks, and estimate life cycle costs, including capital and on-going operational expenditures.

(5) \$3,000,000 of the judicial information systems account--state appropriation is provided solely for replacing computer equipment at state courts, and at state judicial agencies. The administrator for the courts shall prioritize equipment replacement purchasing and shall fund those items that are most essential or critical. By October 1, 2010, the administrative office of the courts shall report to the appropriate legislative fiscal committees on expenditures for equipment under this subsection.

(6) \$12,000 of the judicial information systems account--state appropriation is provided solely to implement Engrossed Substitute House Bill No. 1954 (sealing juvenile records). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(7) \$106,000 of the general fund--state appropriation for fiscal year 2010 and \$106,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the twenty-third superior court judge position in Pierce county. The funds appropriated in this subsection shall be expended only if the judge is appointed and serving on the bench.

(8) It is the intent of the legislature that the reductions in appropriations in this section shall be achieved, to the greatest extent possible, by reducing those state government administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing its mission.

(9) \$44,000 of the judicial information systems account--state appropriation is provided solely to implement chapter 272, Laws of 2010 (SHB 2680: guardianship).

(10) \$274,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the office of public guardianship to provide guardianship services for low-income incapacitated persons.

(11) \$3,797,000 of the judicial information systems account--state appropriation is provided solely for continued planning and implementation of improvements to the court case management system.

**Sec. 114.** 2009 c 564 s 115 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF PUBLIC DEFENSE**

General Fund--State Appropriation (FY 2010)	.....\$25,385,000
General Fund--State Appropriation (FY 2011)	.....(( <del>\$24,592,000</del> ))
	<u>\$24,591,000</u>
Judicial Stabilization Trust Account--State	
Appropriation	.....\$2,923,000
TOTAL APPROPRIATION	.....(( <del>\$52,900,000</del> ))
	<u>\$2,899,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) It is the intent of the legislature that the reductions in appropriations in this section shall be achieved, to the greatest extent possible, by reducing those state government administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing its mission.

(2) The amounts provided include funding for expert and investigative services in death penalty personal restraint petitions.

**Sec. 115.** 2009 c 564 s 116 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF CIVIL LEGAL AID**

General Fund--State Appropriation (FY 2010)	.....\$11,175,000
General Fund--State Appropriation (FY 2011)	.....(( <del>\$11,105,000</del> ))
	<u>\$10,984,000</u>
Judicial Stabilization Trust Account--State	
Appropriation	.....(( <del>\$1,160,000</del> ))
	<u>\$1,155,000</u>
TOTAL APPROPRIATION	.....(( <del>\$23,440,000</del> ))
	<u>\$23,314,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) An amount not to exceed \$40,000 of the general fund--state appropriation for fiscal year 2010 and an amount not to exceed \$40,000 of the general fund--state appropriation for fiscal year 2011 may be used to provide telephonic legal advice and assistance to otherwise eligible persons who are sixty years of age or older on matters authorized by RCW 2.53.030(2) (a) through (k) regardless of household income or asset level.

(2) It is the intent of the legislature that the reductions in appropriations in this section shall be achieved, to the greatest extent possible, by reducing those state government administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing its mission.

**Sec. 116.** 2009 c 564 s 117 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF THE GOVERNOR**

General Fund--State Appropriation (FY 2010)	.....(( <del>\$5,880,000</del> ))
	<u>\$5,836,000</u>
General Fund--State Appropriation (FY 2011)	.....(( <del>\$5,876,000</del> ))
	<u>\$5,705,000</u>
Economic Development Strategic Reserve Account--State	
Appropriation	.....\$1,500,000
TOTAL APPROPRIATION	.....(( <del>\$13,256,000</del> ))
	<u>\$13,041,000</u>

The appropriations in this section are subject to the following conditions and limitations: ((+)) \$1,500,000 of the economic development strategic reserve account appropriation is provided solely for efforts to assist with currently active industrial recruitment efforts that will bring new jobs to the state or will retain headquarter locations of major companies currently housed in the state.

**Sec. 117.** 2009 c 564 s 118 (uncodified) is amended to read as follows:

**FOR THE LIEUTENANT GOVERNOR**

General Fund--State Appropriation (FY 2010)	.....(( <del>\$770,000</del> ))
	<u>\$752,000</u>
General Fund--State Appropriation (FY 2011)	.....(( <del>\$788,000</del> ))
	<u>\$765,000</u>
General Fund--Private/Local Appropriation	
	.....(( <del>\$90,000</del> ))
	<u>\$88,000</u>
TOTAL APPROPRIATION	.....(( <del>\$1,648,000</del> ))
	<u>\$1,605,000</u>

**Sec. 118.** 2009 c 564 s 119 (uncodified) is amended to read as follows:

**FOR THE PUBLIC DISCLOSURE COMMISSION**

General Fund--State Appropriation (FY 2010)	.....(( <del>\$2,267,000</del> ))
	<u>\$2,249,000</u>
General Fund--State Appropriation (FY 2011)	.....(( <del>\$2,264,000</del> ))
	<u>\$2,212,000</u>
TOTAL APPROPRIATION	.....(( <del>\$4,531,000</del> ))
	<u>\$4,461,000</u>

**Sec. 119.** 2010 c 3 s 101 (uncodified) is amended to read as follows:

**FOR THE SECRETARY OF STATE**

General Fund--State Appropriation (FY 2010)	.....(( <del>\$20,649,000</del> ))
	<u>\$21,105,000</u>
General Fund--State Appropriation (FY 2011)	.....(( <del>\$17,733,000</del> ))
	<u>\$14,869,000</u>
General Fund--Federal Appropriation	.....(( <del>\$8,121,000</del> ))
	<u>\$8,082,000</u>
Archives and Records Management Account--State	
Appropriation	.....(( <del>\$8,863,000</del> ))
	<u>\$8,990,000</u>
<u>Charitable Organization Education Account--State</u>	
Appropriation	.....\$76,000
Department of Personnel Service Account--State	
Appropriation	.....(( <del>\$760,000</del> ))
	<u>\$757,000</u>
<u>Election Account--State Appropriation</u>	
	<u>\$77,000</u>
Local Government Archives Account--State	
Appropriation	.....(( <del>\$11,777,000</del> ))
	<u>\$11,515,000</u>
Election Account--Federal Appropriation	.....(( <del>\$29,715,000</del> ))
	<u>\$31,163,000</u>
TOTAL APPROPRIATION	.....(( <del>\$97,618,000</del> ))
	<u>\$96,634,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$4,101,000 of the general fund--state appropriation for fiscal year 2010 is provided solely to reimburse counties for the state's share of primary and general election costs and the costs of conducting mandatory recounts on state measures. Counties shall be reimbursed only for those odd-year election costs that the secretary of state validates as eligible for reimbursement.

(2)(a) \$1,897,000 of the general fund--state appropriation for fiscal year 2010 and \$2,076,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for contracting with a nonprofit organization to produce gavel-to-gavel television coverage of state government deliberations and other events of statewide significance during the 2009-2011 biennium. The funding level for each year of the contract shall be based on the amount provided in this subsection. The nonprofit organization shall be required to raise contributions or commitments to make contributions, in cash or in kind, in an amount equal to forty percent of the state contribution. The office of the secretary of state may

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make full or partial payment once all criteria in this subsection have been satisfactorily documented.

(b) The legislature finds that the commitment of on-going funding is necessary to ensure continuous, autonomous, and independent coverage of public affairs. For that purpose, the secretary of state shall enter into a contract with the nonprofit organization to provide public affairs coverage.

(c) The nonprofit organization shall prepare an annual independent audit, an annual financial statement, and an annual report, including benchmarks that measure the success of the nonprofit organization in meeting the intent of the program.

(d) No portion of any amounts disbursed pursuant to this subsection may be used, directly or indirectly, for any of the following purposes:

(i) Attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, by any county, city, town, or other political subdivision of the state of Washington, or by the congress, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency;

(ii) Making contributions reportable under chapter 42.17 RCW; or

(iii) Providing any: (A) Gift; (B) honoraria; or (C) travel, lodging, meals, or entertainment to a public officer or employee.

(3) The appropriations in this section are based upon savings assumed from the implementation of Senate Bill No. 6122 (election costs).

(4) ~~((The secretary of state shall not reduce the services provided by the talking book and Braille library below the service level provided in fiscal year 2008.~~

—(5)) In implementing budget reductions, the office of the secretary of state must make its first priority to maintain funding for the elections division.

(5) \$76,000 of the charitable organization education account--state appropriation for fiscal year 2011 is provided solely to implement Second Substitute House Bill No. 2576 (corporation and charity fees). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(6) \$77,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for deposit to the election account.

**Sec. 120.** 2009 c 564 s 121 (uncodified) is amended to read as follows:

**FOR THE GOVERNOR'S OFFICE OF INDIAN AFFAIRS**

General Fund--State Appropriation (FY 2010).....~~(\$266,000)~~  
\$275,000

General Fund--State Appropriation (FY 2011).....~~(\$276,000)~~  
\$262,000

TOTAL APPROPRIATION.....~~(\$542,000)~~  
\$537,000

The appropriations in this section are subject to the following conditions and limitations: The office shall assist the department of personnel on providing the government-to-government training sessions for federal, state, local, and tribal government employees. The training sessions shall cover tribal historical perspectives, legal issues, tribal sovereignty, and tribal governments. Costs of the training sessions shall be recouped through a fee charged to the participants of each session. The department of personnel shall be responsible for all of the administrative aspects of the training, including the billing and collection of the fees for the training.

**Sec. 121.** 2009 c 564 s 122 (uncodified) is amended to read as follows:

**FOR THE COMMISSION ON ASIAN PACIFIC AMERICAN AFFAIRS**

General Fund--State Appropriation (FY 2010).....~~(\$236,000)~~  
\$216,000

General Fund--State Appropriation (FY 2011).....~~(\$224,000)~~

\$236,000

TOTAL APPROPRIATION.....~~(\$460,000)~~

\$452,000

**Sec. 122.** 2009 c 564 s 123 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER**

State Treasurer's Service Account--State  
Appropriation.....~~(\$14,802,000)~~  
\$14,686,000

**Sec. 123.** 2009 c 564 s 124 (uncodified) is amended to read as follows:

**FOR THE STATE AUDITOR**

General Fund--State Appropriation (FY 2010).....\$722,000

General Fund--State Appropriation (FY 2011).....~~(\$729,000)~~

\$717,000

State Auditing Services Revolving  
Account--State Appropriation.....~~(\$12,061,000)~~

\$10,749,000

TOTAL APPROPRIATION.....~~(\$13,512,000)~~

\$12,188,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Audits of school districts by the division of municipal corporations shall include findings regarding the accuracy of: (a) Student enrollment data; and (b) the experience and education of the district's certified instructional staff, as reported to the superintendent of public instruction for allocation of state funding.

(2) \$722,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$729,000)~~ \$717,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for staff and related costs to verify the accuracy of reported school district data submitted for state funding purposes; conduct school district program audits of state funded public school programs; establish the specific amount of state funding adjustments whenever audit exceptions occur and the amount is not firmly established in the course of regular public school audits; and to assist the state special education safety net committee when requested.

(3) Within the amounts appropriated in this section, the state auditor shall continue to complete the annual audit of the state's comprehensive annual financial report and the annual federal single audit consistent with the auditing standards generally accepted in the United States and the standards applicable to financial audits contained in government auditing standards, issued by the comptroller general of the United States, and OMB circular A-133, audits of states, local governments, and nonprofit organizations.

(4) The legislature finds that the major changes in personnel funding in this budget and the long term effects of the ongoing economic recession combine with structural changes in the nature of work and employment in many state agencies to require a continuing review of the workforce examination begun under chapter 534, Laws of 2009 (exempt employment practices). The legislature notes the ongoing management reforms of the Washington management service being undertaken by the department of personnel, and anticipates a continuing legislative committee examination of the architecture and cost of the state's career and executive workforce. To that end, the office of state auditor is invited to provide by September 1, 2010, a general survey of new and best practices for executive and career workforce management now in use by other states and relevant industries.

**Sec. 124.** 2010 c 3 s 102 (uncodified) is amended to read as follows:

**FOR THE CITIZENS' COMMISSION ON SALARIES FOR ELECTED OFFICIALS**

General Fund--State Appropriation (FY 2010).....\$168,000

General Fund--State Appropriation (FY 2011).....	(\$209,000)
	<u>\$206,000</u>
TOTAL APPROPRIATION.....	(\$377,000)
	<u>\$374,000</u>

TOTAL APPROPRIATION.....	(\$1,525,000)
	<u>\$1,508,000</u>

**Sec. 125.** 2010 c 3 s 103 (uncodified) is amended to read as follows:

**FOR THE ATTORNEY GENERAL**

General Fund--State Appropriation (FY 2010).....	(\$5,285,000)
	<u>\$5,732,000</u>
General Fund--State Appropriation (FY 2011).....	(\$5,614,000)
	<u>\$5,848,000</u>
General Fund--Federal Appropriation.....	\$4,026,000
New Motor Vehicle Arbitration Account--State	
Appropriation.....	(\$1,346,000)
	<u>\$1,350,000</u>
Legal Services Revolving Account--State	
Appropriation.....	(\$221,515,000)
	<u>\$220,909,000</u>
Tobacco Prevention and Control Account--State	
Appropriation.....	\$270,000
TOTAL APPROPRIATION.....	(\$238,056,000)
	<u>\$238,135,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The attorney general shall report each fiscal year on actual legal services expenditures and actual attorney staffing levels for each agency receiving legal services. The report shall be submitted to the office of financial management and the fiscal committees of the senate and house of representatives no later than ninety days after the end of each fiscal year. As part of its by agency report to the legislative fiscal committees and the office of financial management, the office of the attorney general shall include information detailing the agency's expenditures for its agency-wide overhead and a breakdown by division of division administration expenses.

(2) Prior to entering into any negotiated settlement of a claim against the state that exceeds five million dollars, the attorney general shall notify the director of financial management and the chairs of the senate committee on ways and means and the house of representatives committee on ways and means.

(3) The office of the attorney general is authorized to expend \$2,100,000 from the Zyprexa and other cy pres awards towards consumer protection costs in accordance with uses authorized in the court orders.

(4) The attorney general shall annually report to the fiscal committees of the legislature all new cy pres awards and settlements and all new accounts, disclosing their intended uses, balances, the nature of the claim or account, proposals, and intended timeframes for the expenditure of each amount. The report shall be distributed electronically and posted on the attorney general's web site. The report shall not be printed on paper or distributed physically.

(5) The executive ethics board must produce a report by the end of the calendar year for the legislature regarding performance measures on the efficiency and effectiveness of the board, as well as on performance measures to measure and monitor the ethics and integrity of all state agencies.

(6) \$53,000 of the legal services revolving account--state appropriation is provided solely to implement Engrossed Second Substitute House Bill No. 3026 (school district compliance with state and federal civil rights laws).

**Sec. 126.** 2010 c 3 s 104 (uncodified) is amended to read as follows:

**FOR THE CASELOAD FORECAST COUNCIL**

General Fund--State Appropriation (FY 2010).....	\$766,000
General Fund--State Appropriation (FY 2011).....	(\$759,000)

The appropriations in this section are subject to the following conditions and limitations: \$13,000 of the general fund--state appropriation for fiscal year 2010 and \$7,000 of the general fund--state appropriation for fiscal year 2011 are for the implementation of Second Substitute House Bill No. 2106 (improving child welfare outcomes through the phased implementation of strategic and proven reforms). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

**Sec. 127.** 2010 c 3 s 105 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF COMMERCE**

General Fund--State Appropriation (FY 2010).....	(\$51,015,000)
	<u>\$49,670,000</u>
General Fund--State Appropriation (FY 2011).....	(\$51,813,000)
	<u>\$40,577,000</u>
General Fund--Federal Appropriation.....	(\$384,540,000)
	<u>\$381,918,000</u>
General Fund--Private/Local Appropriation.....	(\$16,266,000)
	<u>\$10,622,000</u>
Public Works Assistance Account--State	
Appropriation.....	(\$2,990,000)
	<u>\$2,974,000</u>
Tourism Development and Promotion Account--State	
Appropriation.....	\$1,003,000
Drinking Water Assistance Administrative	
Account--State Appropriation.....	(\$439,000)
	<u>\$433,000</u>
Lead Paint Account--State Appropriation.....	(\$18,000)
	<u>\$35,000</u>
Building Code Council Account--State Appropriation	
.....	(\$1,286,000)
	<u>\$688,000</u>
Home Security Fund Account--State Appropriation.....	(\$23,498,000)
	<u>\$25,486,000</u>
Affordable Housing for All Account--State	
Appropriation.....	(\$11,900,000)
	<u>\$11,896,000</u>
Washington Auto Theft Prevention Authority	
Account--State Appropriation.....	\$300,000
Independent Youth Housing Account--State	
Appropriation.....	(\$80,000)
	<u>\$220,000</u>
County Research Services Account--State Appropriation.....	\$469,000
Community Preservation and Development Authority	
Account--State Appropriation.....	\$350,000
Financial Fraud and Identity Theft Crimes Investigation	
and Prosecution Account--State Appropriation.....	\$1,166,000
Low-Income Weatherization Assistance Account--State	
Appropriation.....	(\$8,382,000)
	<u>\$6,882,000</u>
City and Town Research Services Account--State	
Appropriation.....	\$2,246,000
Manufacturing Innovation and Modernization	
Account--State Appropriation.....	(\$246,000)
	<u>\$230,000</u>
Community and Economic Development Fee	
Account--State Appropriation.....	(\$1,833,000)
	<u>\$6,922,000</u>
Washington Housing Trust Account--State	
Appropriation.....	(\$15,372,000)
	<u>\$15,348,000</u>

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Prostitution Prevention and Intervention Account—

<u>State Appropriation.....</u>	<u>\$125,000</u>
Public Facility Construction Loan Revolving Account--State Appropriation.....	<del>(\$755,000)</del>
	<u>\$754,000</u>
TOTAL APPROPRIATION.....	<del>(\$573,252,000)</del>
	<u>\$560,314,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~(\$2,520,000)~~ \$2,378,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$2,521,000)~~ \$2,379,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a contract with the Washington technology center for work essential to the mission of the Washington technology center and conducted in partnership with universities.

(2) Repayments of outstanding loans granted under RCW 43.63A.600, the mortgage and rental assistance program, shall be remitted to the department, including any current revolving account balances. The department shall collect payments on outstanding loans, and deposit them into the state general fund. Repayments of funds owed under the program shall be remitted to the department according to the terms included in the original loan agreements.

(3) \$100,000 of the general fund--state appropriation for fiscal year 2010 and \$100,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement section 2(7) of Engrossed Substitute House Bill No. 1959 (land use and transportation planning for marine container ports).

(4) \$102,000 of the building code council account--state appropriation is provided solely for the implementation of sections 3 and 7 of Engrossed Second Substitute Senate Bill No. 5854 (built environment pollution). If sections 3 and 7 of the bill are not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(5)(a) \$10,500,000 of the general fund--federal appropriation is provided for training and technical assistance associated with low income weatherization programs. Subject to federal requirements, the department shall provide: (i) Up to \$4,000,000 to the state board for community and technical colleges to provide workforce training related to weatherization and energy efficiency; (ii) up to \$3,000,000 to the Bellingham opportunity council to provide workforce training related to energy efficiency and weatherization; and (iii) up to \$3,500,000 to community-based organizations and to community action agencies consistent with the provisions of Engrossed Second Substitute House Bill No. 2227 (evergreen jobs act). Any funding remaining shall be expended in project 91000013, weatherization, in the omnibus capital appropriations act, Substitute House Bill No. 1216 (capital budget).

(b) \$6,787,000 of the general fund--federal appropriation is provided solely for the state energy program, including not less than \$5,000,000 to provide credit enhancements consistent with the provisions of Engrossed Second Substitute Senate Bill No. 5649 (energy efficiency in buildings).

(c) Of the general fund--federal appropriation the department shall provide: \$14,500,000 to the Washington State University for the purpose of making grants for pilot projects providing community-wide urban, residential, and commercial energy efficiency upgrades consistent with the provisions of Engrossed Second Substitute Senate Bill No. 5649 (energy efficiency in buildings); \$500,000 to Washington State University to conduct farm energy assessments. In contracting with the Washington State University for the provision of these services, the total administration of Washington State University and the department shall not exceed 3 percent of the amounts provided.

(d) \$38,500,000 of the general fund--federal appropriation is provided for deposit in the energy recovery act account to establish a

revolving loan program, consistent with the provisions of Engrossed Substitute House Bill No. 2289 (expanding energy freedom program).

(e) \$10,646,000 of the general fund--federal appropriation is provided pursuant to the energy efficiency and conservation block grant under the American reinvestment and recovery act. The department may use up to \$3,000,000 of the amount provided in this subsection to provide technical assistance for energy programs administered by the agency under the American reinvestment and recovery act.

(6) \$14,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the implementation of Engrossed Second Substitute Senate Bill No. 5560 (state agency climate leadership). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(7) \$22,400,000 of the general fund--federal appropriation is provided solely for the justice assistance grant program and is contingent upon the department transferring: \$1,200,000 to the department of corrections for security threat mitigation, \$2,336,000 to the department of corrections for offender reentry, \$1,960,000 to the Washington state patrol for law enforcement activities, \$2,087,000 to the department of social and health services, division of alcohol and substance abuse for drug courts, and \$428,000 to the department of social and health services for sex abuse recognition training. The remaining funds shall be distributed by the department to local jurisdictions.

(8) \$20,000 of the general fund--state appropriation for fiscal year 2010 and \$20,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a grant to KCTS public television to support Spanish language programming and the V-me Spanish language channel.

(9) \$500,000 of the general fund--state appropriation for fiscal year 2010 and \$500,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a grant to resolution Washington to building statewide capacity for alternative dispute resolution centers and dispute resolution programs that guarantee that citizens have access to low-cost resolution as an alternative to litigation.

(10) \$30,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for implementation of Engrossed Second Substitute Senate Bill No. 6015 (commercialization of technology). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(11) By June 30, 2011, the department shall request information that describes what jurisdictions have adopted, or are in the process of adopting, plans that address RCW 36.70A.020 and helps achieve the greenhouse gas emission reductions established in RCW 70.235.020. This information request in this subsection applies to jurisdictions that are required to review and if necessary revise their comprehensive plans (~~by December 1, 2011,~~) in accordance with RCW 36.70A.130.

(12) During the 2009-11 fiscal biennium, the department shall allot all of its appropriations subject to allotment by object, account, and expenditure authority code to conform with the office of financial management's definition of an option 2 allotment. For those funds subject to allotment but not appropriation, the agency shall submit option 2 allotments to the office of financial management.

(13) \$50,000 of the general fund--state appropriation for fiscal year 2010 and \$50,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a grant for the state's participation in the Pacific Northwest economic region.

(14) \$712,000 of the general fund--state appropriation for fiscal year 2010 and \$712,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to the office of crime victims

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advocacy. These funds shall be contracted with the 39 county prosecuting attorneys' offices to support victim-witness services. The funds must be prioritized to ensure a full-time victim-witness coordinator in each county. The office may retain only the amount currently allocated for this activity for administrative costs.

(15) \$306,000 of the general fund--state appropriation for fiscal year 2010 and \$306,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a grant to the retired senior volunteer program.

(16) \$65,000 of the general fund--state appropriation for fiscal year 2010 ~~((and \$65,000 of the general fund--state appropriation for fiscal year 2011 are))~~ is provided solely for a contract with a food distribution program for communities in the southwestern portion of the state and for workers impacted by timber and salmon fishing closures and reductions. The department may not charge administrative overhead or expenses to the funds provided in this subsection.

(17) \$371,000 of the general fund--state appropriation for fiscal year 2010 and \$371,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to the northwest agriculture business center.

(18) The department shall administer its growth management act technical assistance so that smaller cities receive proportionately more assistance than larger cities or counties. ~~((Pass-through grants shall continue to be funded under 2007-09 policy.))~~

(19) \$212,000 of the general fund--federal appropriation is provided solely for implementation of Second Substitute House Bill No. 1172 (development rights transfer). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(20) \$69,000 of the general fund--state appropriation for fiscal year 2010 and \$66,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for implementation of Engrossed Second Substitute House Bill No. 2227 (evergreen jobs act). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(21) \$350,000 of the community development and preservation authority account--state appropriation is provided solely for a grant to a community development authority established under chapter 43.167 RCW. The community preservation and development's board of directors may contract with nonprofit community organizations to aid in mitigating the effects of increased public impact on urban neighborhoods due to events in stadia that have a capacity of over 50,000 spectators.

(22) \$300,000 of the Washington auto theft prevention authority account--state appropriation is provided solely for a contract with a community group to build local community capacity and economic development within the state by strengthening political relationships between economically distressed communities and governmental institutions. The community group shall identify opportunities for collaboration and initiate activities and events that bring community organizations, local governments, and state agencies together to address the impacts of poverty, political disenfranchisement, and economic inequality on communities of color. These funds must be matched by other nonstate sources on an equal basis.

(23) \$1,800,000 of the home security fund--state appropriation is provided for transitional housing assistance or partial payments for rental assistance under the independent youth housing program.

(24) \$5,000,000 of the home security fund--state appropriation is provided solely for the operation, repair, and staffing of shelters in the homeless family shelter program.

(25) \$253,000 of the general fund--state appropriation for fiscal year 2010 and \$283,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Washington new Americans program.

(26) \$438,000 of the general fund--state appropriation for fiscal

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year 2010 and \$438,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Washington asset building coalitions.

(27) Funding provided to microenterprise development organizations for fiscal year 2011 shall not be reduced by more than ten percent from funding levels in the 2009-11 operating budget.

(28) Within existing resources, the department of commerce shall convene a work group that includes a representative designated by each of the following: The department, the economic development commission, the Washington technology center, the Spokane intercollegiate research and technology institute, the University of Washington center for commercialization and Washington State University's office of economic development and global engagement. To better align the missions of state supported entities conducting commercialization, the work group shall prepare and submit a report to the legislature no later than December 1, 2010, that identifies gaps and overlaps in programs, evaluates strategies to reduce administrative overhead expenses, and recommends changes which would amplify and accelerate innovation-driver job creation in the state.

(29) \$3,231,000 of the general fund--state appropriation for fiscal year 2010 and \$3,231,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for associate development organizations.

(30) \$5,400,000 of the community and economic development fee account is provided as follows: \$1,000,000 is provided solely for the department of commerce for services for homeless families through the Washington families fund; \$2,600,000 is provided solely for housing trust fund operations and maintenance; \$800,000 is provided solely for housing trust fund portfolio management; \$500,000 is provided solely for foreclosure counseling and support; and \$500,000 is provided solely for use as a reserve in the account.

(31)(a) The economic development commission must develop a biennial budget request for approval by the office of financial management. The commission must adopt an annual budget and work plan in accordance with the omnibus appropriations bill approved by the legislature.

(b) Of state appropriated funds for the operation of the commission, the state agency serving as the commission's fiscal agent may use no more than ten percent of funds appropriated for commission personnel costs and no more than three percent of funds in the Washington state economic development commission account to cover administrative expenses.

(c) The commission may accept gifts, grants, donations, sponsorships, or contributions from any federal, state, or local governmental agency or program, or any private source, and expend the same for any purpose consistent with this chapter.

(d) The Washington state economic development commission account is created in the custody of the state treasurer. All receipts from gifts, grants, donations, sponsorships, or contributions must be deposited into the account. State appropriated funds may not be deposited into the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Expenditures from the account may be used only for purposes related to carrying out the mission, roles, and responsibilities of the commission. Only the commission, or the commission's designee, may authorize expenditures from the account.

(32) \$250,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the department to administer a competitive grant program to fund economic development activities designed to further regional cluster growth and to integrate its sector-based and cluster-based strategies with its support for the development of innovation partnership zones. Grant recipients must provide matching funds equal to the size of the grant. Grants

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may be awarded to support the formation of sector associations or cluster associations, the identification of the technology and commercialization needs of a sector or cluster, facilitating working relationships between a sector association or cluster association and an innovation partnership zone, expanding the operations of an innovation partnership zone, and developing and implementing plans to meet the technology development and commercialization needs of industry sectors, industry clusters, and innovation partnership zones. The projects receiving grants must not duplicate the purpose or efforts of industry skill panels but priority must be given to applicants that complement industry skill panels and will use the grant funds to build linkages and joint projects.

(33) \$100,000 of the general fund--state appropriation for fiscal year 2011 is provided solely to:

(a) Develop a rural manufacturer export outreach program in conjunction with impact Washington. The program must provide outreach services to rural manufacturers in Washington to inform them of the importance of and opportunities in international trade, and to inform them of the export assistance programs available to assist these businesses to become exporters; and

(b) Develop export loan or loan guarantee programs in conjunction with the Washington economic development finance authority and the appropriate federal and private entities.

(34) \$1,000,000 of the general fund--state appropriation for fiscal year 2011 is provided solely to implement the provisions of chapter 13, Laws of 2010 (global health program).

(35) \$50,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the creation of the Washington entrepreneurial development and small business reference service in the department of commerce.

(a) The department must:

(i) In conjunction with and drawing on information compiled by the work force training and education coordinating board and the Washington economic development commission:

(A) Establish and maintain an inventory of the public and private entrepreneurial training and technical assistance services, programs, and resources available in the state;

(B) Disseminate information about available entrepreneurial development and small business assistance services, programs, and resources via in-person presentations and electronic and printed materials and undertake other activities to raise awareness of entrepreneurial training and small business assistance offerings; and

(C) Evaluate the extent to which existing entrepreneurial training and technical assistance programs in the state are effective and represent a consistent, integrated approach to meeting the needs of start-up and existing entrepreneurs;

(ii) Assist providers of entrepreneurial development and small business assistance services in applying for federal and private funding to support the entrepreneurial development and small business assistance activities in the state;

(iii) Distribute awards for excellence in entrepreneurial training and small business assistance; and

(iv) Report to the governor, the economic development commission, the work force training and education coordinating board, and the appropriate legislative committees its recommendations for statutory changes necessary to enhance operational efficiencies or enhance coordination related to entrepreneurial development and small business assistance.

(b) In carrying out the duties under this section, the department must seek the advice of small business owners and advocates, the Washington economic development commission, the work force training and education coordinating board, the state board for community and technical colleges, the employment security department, the Washington state microenterprise association, associate development organizations, impact Washington, the

Washington quality award council, the Washington technology center, the small business export finance assistance center, the Spokane intercollegiate research and technology institute, representatives of the University of Washington business school and the Washington State University college of business and economics, the office of minority and women's business enterprises, the Washington economic development finance authority, and staff from small business development centers.

(c) The director may appoint an advisory board or convene such other individuals or groups as he or she deems appropriate to assist in carrying out the department's duties under this section.

(36) The investing in innovation account is created in the custody of the state treasurer. Funds may be directed to the account from federal, state, and private sources. Expenditures from the account may be used only to carry out the investing in innovation grants program established under RCW 70.210.030, and other innovation and commercialization purposes consistent with the federal, state, or private and other funding guidelines that apply to the funds deposited in the account. Only the executive director of the Washington technology center or the executive director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(37) \$50,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for a grant to HistoryLink.

(38) \$50,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the Washington quality award council created in RCW 43.06.335 to provide training to small manufacturers and other businesses as well as to technical assistance providers from the department of commerce, impact Washington, small business development centers, associate development organizations, and other organizations. The training shall be in continuous quality improvement, performance measurement, strategic planning, and other approaches designed to reduce operating costs, improve effectiveness, and increase productivity in businesses receiving assistance.

(39) \$50,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the manufacturing innovation and modernization account created in RCW 43.338.030.

**Sec. 128.** 2010 c 3 s 106 (uncodified) is amended to read as follows:

**FOR THE ECONOMIC AND REVENUE FORECAST COUNCIL**

General Fund--State Appropriation (FY 2010).....	\$711,000
General Fund--State Appropriation (FY 2011).....	(\$785,000)
	\$772,000
TOTAL APPROPRIATION.....	(\$1,496,000)
	\$1,483,000

The appropriations in this section are subject to the following conditions and limitations: The economic and revenue forecast council, in its quarterly revenue forecasts, shall forecast the total revenue for the state lottery.

**Sec. 129.** 2010 c 3 s 107 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT**

General Fund--State Appropriation (FY 2010).....	(\$21,599,000)
	\$21,189,000
General Fund--State Appropriation (FY 2011).....	(\$20,670,000)
	\$20,152,000
General Fund--Federal Appropriation.....	(\$23,597,000)
	\$27,103,000
General Fund--Private/Local Appropriation.....	\$1,270,000
State Auditing Services Revolving	
Account--State Appropriation.....	\$25,000
Economic Development Strategic Reserve Account--	

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State Appropriation.....	(\$280,000)
	\$278,000
TOTAL APPROPRIATION.....	(\$67,441,000)
	\$70,017,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$188,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the implementation of Second Substitute Senate Bill No. 5945 (Washington health partnership plan). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(2) The office of financial management shall conduct a study on alternatives for consolidating or transferring activities and responsibilities of the state lottery commission, state horse racing commission, state liquor control board, and the state gambling commission to achieve cost savings and regulatory efficiencies. In conducting the study, the office of financial management shall consult with the legislative fiscal committees. Further, the office of financial management shall establish an advisory group to include, but not be limited to, representatives of affected businesses, state agencies or entities, local governments, and stakeholder groups. The office of financial management shall submit a final report to the governor and the legislative fiscal committees by November 15, 2009.

(3) ~~(\$500,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for a study of the feasibility of closing state institutional facilities and a plan on eliminating beds in the state institutional facility inventory. The office of financial management shall contract with consultants with expertise related to the subject matters included in this study. The office of financial management and the consultants shall consult with the department of social and health services, the department of corrections, stakeholder groups that represent the people served in these institutions, labor organizations that represent employees who work in these institutions and other persons or entities with expertise in the areas being studied.~~

~~(a) For the purposes of this study, "state institutional facilities" means facilities operated by the department of corrections to house persons convicted of a criminal offense, Green Hill school and Maple Lane school operated by the department of social and health services juvenile rehabilitation administration, and residential habilitation centers operated by the department of social and health services.~~

~~(b) In conducting this study, the consultants shall consider the following factors as appropriate:~~

~~(i) The availability of alternate facilities including alternatives and opportunities for consolidation with other facilities, impacts on those alternate facilities, and any related capital costs;~~

~~(ii) The cost of operating the facility, including the cost of providing services and the cost of maintaining or improving the physical plant of the facility;~~

~~(iii) The geographic factors associated with the facility, including the impact of the facility on the local economy and the economic impact of its closure, and alternative uses for a facility recommended for closure;~~

~~(iv) The costs associated with closing the facility, including the continuing costs following the closure of the facility;~~

~~(v) Number and type of staff and the impact on the facility staff including other employment opportunities if the facility is closed;~~

~~(vi) The savings that will accrue to the state from closure or consolidation of a facility and the impact any closure would have on funding the associated services; and~~

~~(vii) For the residential habilitation centers, the impact on clients in the facility being recommended for closure and their families, including ability to get alternate services and impact on~~

~~being moved to another facility.~~

~~(c) The office of financial management shall submit a final report to the governor and the ways and means committees of the house of representatives and senate by November 1, 2009. The report shall provide a recommendation and a plan to eliminate 1,580 beds in the department of corrections facilities, 235 beds from juvenile rehabilitation facilities, and 250 funded beds in the residential habilitation centers through closure or consolidation of facilities. The report shall include an assessment of each facility studied, where and how the services should be provided, and any costs or savings associated with each recommendation. In considering the recommendations of the report, the governor and the legislature shall not consider closure of any state institutional facility unless the report recommended the facility for closure.)~~ \$25,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the office to contract with the Washington state quality award program to provide training for state managers and employees.

~~(4) \$110,000 of the general fund--state appropriation for fiscal year 2011 is provided solely to implement Second Substitute Senate Bill No. 6578 (multiagency permitting teams). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.~~

~~(5) The office of financial management shall, with the assistance of the natural resources cabinet as created in executive order 09-07, reduce the number of facilities being leased by the state by consolidating, wherever possible, regional offices and storage facilities of the natural resource agencies. The office of financial management and the natural resources cabinet shall submit a report on the progress of this effort and the associated savings to the appropriate fiscal committees of the legislature no later than December 1, 2010.~~

~~(6) \$100,000 of the general fund--state appropriation for fiscal year 2010 and \$100,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the office of financial management to hire an independent consultant to conduct an assessment. The consultant shall be agreed upon by a wide range of interested stakeholders including organization leaders representing residents of residential habilitation centers. The assessment shall include interviews with all residential habilitation center residents or guardians of residents to determine the optimum setting for these individuals and shall include the option and choice to remain in a residential habilitation center. The assessment shall note when the recommendation of the consultant differs from the choice of the individual. The assessment shall also determine service and placements that are underfunded or underserved in community settings and determine resources and options for funding sources necessary to adequately fund community-based services for people with developmental disabilities. The resulting report will be due to the legislature on December 1, 2010.~~

~~(7)(a) \$50,000 of the general fund--state appropriation for fiscal year 2010 and \$150,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the purposes of the office of financial management:~~

~~(i) Conducting a technical and financial analysis of the state's plan for the consolidated state data center and office building; and~~

~~(ii) Developing a strategic business plan outlining the various options for use of the site that maximize taxpayer value consistent with the terms of the finance lease and related agreements.~~

~~(b) The analysis required in (a)(i) of this subsection must consist of, at a minimum, an assessment of the following issues:~~

~~(i) The total capital and operational costs for the proposed data center and office building;~~

~~(ii) The occupancy rate for the consolidated state data center, as compared to total capacity, that will result in revenue exceeding~~

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total capital and operating expenses;  
(iii) The potential reallocation of resources that could result from the consolidation of state data centers and office space; and  
(iv) The potential return on investment for the consolidated state data center and office building that may be realized without impairing any existing contractual rights under the terms of the financing lease and related agreements.  
(c) This review must build upon the analysis and migration strategy for the consolidated state data center being prepared for the department of information services.  
(d) The strategic plan must be submitted to the governor and the legislature by December 1, 2010.  
(8) Appropriations in this section include amounts sufficient to implement Engrossed Substitute House Bill No. 3178 (technology efficiencies).

**Sec.130.** 2009 c 564 s 131 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF ADMINISTRATIVE HEARINGS**

Administrative Hearings Revolving  
Account--State Appropriation.....((~~\$33,473,000~~))  
\$33,978,000

The appropriation in this section is subject to the following conditions and limitations: \$725,000 of the administrative hearings revolving account--state appropriation is provided solely to implement Engrossed Second Substitute House Bill No. 2782 (security lifeline act). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

**Sec. 131.** 2009 c 564 s 132 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF PERSONNEL**

Department of Personnel Service Account--State  
Appropriation.....((~~\$22,025,000~~))  
\$20,057,000  
Higher Education Personnel Services Account--State  
Appropriation.....((~~\$1,716,000~~))  
\$1,578,000  
TOTAL APPROPRIATION.....((~~\$23,741,000~~))  
\$21,635,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The department shall coordinate with the governor's office of Indian affairs on providing the government-to-government training sessions for federal, state, local, and tribal government employees. The training sessions shall cover tribal historical perspectives, legal issues, tribal sovereignty, and tribal governments. Costs of the training sessions shall be recouped through a fee charged to the participants of each session. The department shall be responsible for all of the administrative aspects of the training, including the billing and collection of the fees for the training.

(2) In coordination with efforts under section 119(4) of this act, the department of personnel shall provide, by September 1, 2010, a synopsis of current and recent survey data regarding employee satisfaction and the department's overall assessment of career and executive workforce management concerns.

**Sec. 132.** 2009 c 564 s 133 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE LOTTERY**

Lottery Administrative Account--State  
Appropriation.....((~~\$27,776,000~~))  
\$26,777,000

**Sec. 133.** 2009 c 564 s 134 (uncodified) is amended to read as follows:

**FOR THE COMMISSION ON HISPANIC AFFAIRS**

General Fund--State Appropriation (FY 2010).....((~~\$253,000~~))  
\$250,000

General Fund--State Appropriation (FY 2011).....((~~\$260,000~~))  
\$255,000  
TOTAL APPROPRIATION.....((~~\$513,000~~))  
\$505,000

**Sec. 134.** 2009 c 564 s 135 (uncodified) is amended to read as follows:

**FOR THE COMMISSION ON AFRICAN-AMERICAN AFFAIRS**

General Fund--State Appropriation (FY 2010).....\$243,000  
General Fund--State Appropriation (FY 2011).....((~~\$244,000~~))  
\$236,000  
TOTAL APPROPRIATION.....((~~\$487,000~~))  
\$479,000

**Sec. 135.** 2009 c 564 s 136 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF RETIREMENT SYSTEMS--OPERATIONS**

Department of Retirement Systems Expense  
Account--State Appropriation.....((~~\$49,504,000~~))  
\$48,332,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$148,000 of the department of retirement systems--state appropriation is provided solely for the administrative costs associated with implementation of Senate Bill No. 5303 (transferring members of retirement systems). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(2) \$66,000 of the department of retirement systems expense account--state appropriation is provided for the department of retirement systems to make revisions to various administrative processes as necessary to implement Engrossed Second Substitute Senate Bill No. 5688 (registered domestic partners). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(3) \$12,000 of the department of retirement systems--state appropriation is provided solely for the administrative costs associated with implementation of Senate Bill No. 5542 or House Bill No. 1678 (minimum disability benefits). If neither bill is enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(4) \$45,000 of the department of retirement systems expense account--state appropriation is provided solely to implement Engrossed Substitute House Bill No. 1445 (Washington state patrol retirement system domestic partners). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(5) \$45,000 of the department of retirement systems expense account--state appropriation is provided solely to implement Engrossed House Bill No. 1616 (law enforcement officers' and firefighters' retirement system plan 2 domestic partners). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(6) \$56,000 of the department of retirement systems expense account--state appropriation is provided solely to implement House Bill No. 1548 (military service credit purchases). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(7) \$35,000 of the department of retirement systems expense account--state appropriation is provided solely to implement Substitute House Bill No. 1953 (department of fish and wildlife enforcement officers' past service credit). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(8) \$58,000 of the department of retirement systems expense account--state appropriation is provided solely to implement House Bill No. 1541 (plan 2/3 half-time educational employee service

credit). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(9) \$31,000 of the department of retirement systems expense account--state appropriation is provided solely to implement Engrossed House Bill No. 2519 (public safety death benefits). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

**Sec. 136.** 2010 c 3 s 108 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF REVENUE**

General Fund--State Appropriation (FY 2010).....	<del>(\$108,215,000)</del>
	<u>\$109,472,000</u>
General Fund--State Appropriation (FY 2011).....	<del>(\$106,995,000)</del>
	<u>\$112,319,000</u>
Timber Tax Distribution Account--State	
Appropriation.....	<del>(\$5,904,000)</del>
	<u>\$5,933,000</u>
Waste Reduction/Recycling/Litter	
Control--State Appropriation.....	\$130,000
Waste Tire Removal Account--State Appropriation.....	\$2,000
Real Estate Excise Tax Grant Account--State	
Appropriation.....	<del>(\$1,050,000)</del>
	<u>\$3,429,000</u>
State Toxics Control Account--State Appropriation.....	\$87,000
Oil Spill Prevention Account--State Appropriation.....	\$19,000
TOTAL APPROPRIATION.....	<del>(\$222,402,000)</del>
	<u>\$231,391,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$469,000 of the general fund--state appropriation for fiscal year 2010 and \$374,000 of the general fund--state appropriation for fiscal year 2011 are for the implementation of Substitute Senate Bill No. 5368 (annual property revaluation). If the bill is not enacted by June 30, 2009, the amounts in this subsection shall lapse.

(2) \$4,653,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$4,424,000)~~ \$4,242,000 of the general fund--state appropriation for fiscal year 2011 are for the implementation of revenue enhancement strategies. The strategies must include increased out-of-state auditing and compliance, the purchase of third party data sources for enhanced audit selection, and increased traditional auditing and compliance efforts.

(3) \$3,127,000 of the general fund--state appropriation for fiscal year 2010 and \$1,737,000 of the general fund--state appropriation for fiscal year 2011 are for the implementation of Senate Bill No. 6173 (sales tax compliance). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(4) \$1,294,000 of the general fund--state appropriation for fiscal year 2010 and \$3,085,000 of the general fund--state appropriation for fiscal year 2011 are for the implementation of Second Engrossed Substitute Senate Bill No. 6143 (excise tax law modifications). If the bill is not enacted by June 30, 2010, the amounts provided in this subsection shall lapse.

(5) \$163,000 of the general fund--state appropriation for fiscal year 2011 is provided solely to implement Substitute Senate Bill No. 6846 (enhanced 911 services). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(6) \$1,200,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for making the necessary preparations for implementation of the working families tax exemption pursuant to RCW 82.08.0206 in 2012.

**Sec. 137.** 2009 c 564 s 138 (uncodified) is amended to read as follows:

**FOR THE STATE INVESTMENT BOARD**

State Investment Board Expense Account--State	
Appropriation.....	<del>(\$29,581,000)</del>

\$29,352,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$2,471,000 of the state investment board expense account--state appropriation is provided solely for development of a risk management information system, with the intent that further expenditures for this project be made only by appropriation.

(2) The state investment board shall include funding for any future salary increases authorized under RCW 43.33A.100 in the agency's budget request submitted in accordance with chapter 43.88 RCW in advance of granting related salary increases. The biennial salary survey required under RCW 43.33A.100 shall also be provided to the office of financial management and to the fiscal committees of the legislature as part of the state investment board's biennial budget submittal, and shall include the total amount of compensation increases proposed, as well as recommended salary ranges.

**Sec. 138.** 2010 c 3 s 109 (uncodified) is amended to read as follows:

**FOR THE BOARD OF TAX APPEALS**

General Fund--State Appropriation (FY 2010).....	<del>(\$1,342,000)</del>
	<u>\$1,346,000</u>
General Fund--State Appropriation (FY 2011).....	<del>(\$1,346,000)</del>
	<u>\$1,318,000</u>
TOTAL APPROPRIATION.....	<del>(\$2,688,000)</del>
	<u>\$2,664,000</u>

**Sec. 139.** 2009 c 564 s 140 (uncodified) is amended to read as follows:

**FOR THE MUNICIPAL RESEARCH COUNCIL**

County Research Services Account--State	
Appropriation.....	<del>(\$940,000)</del>
	<u>\$471,000</u>
City and Town Research Services--State	
Appropriation.....	<del>(\$4,515,000)</del>
	<u>\$2,258,000</u>
TOTAL APPROPRIATION.....	<del>(\$5,455,000)</del>
	<u>\$2,729,000</u>

**Sec. 140.** 2009 c 564 s 141 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES**

OMWBE Enterprises Account--State Appropriation..	<del>(\$3,622,000)</del>
	<u>\$3,674,000</u>

**Sec. 141.** 2009 c 564 s 142 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

General Fund--State Appropriation (FY 2010).....	\$815,000
General Fund--State Appropriation (FY 2011).....	<del>(\$811,000)</del>
	<u>\$3,963,000</u>
General Fund--Federal Appropriation.....	<del>(\$5,738,000)</del>
	<u>\$2,956,000</u>
Building Code Council Account--State	
Appropriation.....	\$593,000
General Fund--Private/Local Appropriation.....	\$84,000
General Administration Service Account--State	
Appropriation.....	<del>(\$35,044,000)</del>
	<u>\$31,748,000</u>
TOTAL APPROPRIATION.....	<del>(\$42,408,000)</del>
	<u>\$40,159,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$28,000 of the general fund--state appropriation for fiscal year 2010 and \$28,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the purposes of section 8 of

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Engrossed Second Substitute Senate Bill No. 5854 (built environment pollution). If section 8 of the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(2) \$3,545,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the payment of facilities and services charges, utilities and contracts charges, public and historic facilities charges, and capital projects surcharges allocable to the senate, house of representatives, statute law committee, and joint legislative systems committee. The department shall allocate charges attributable to these agencies among the affected revolving funds. The department shall enter into an interagency agreement with these agencies by July 1, 2010, to establish performance standards, prioritization of preservation and capital improvement projects, and quality assurance provisions for the delivery of services under this subsection. The agencies named in this subsection shall continue to enjoy all of the same rights of occupancy, support, and space use on the capitol campus as historically established.

(3) \$84,000 of the general fund--private/local appropriation and \$593,000 of the building code council account--state appropriation are provided solely to implement Engrossed Second Substitute House Bill No. 2658 (refocusing the department of commerce, including transferring programs). If the bill is not enacted by June 30, 2010, the amounts provided in this subsection shall lapse.

Sec. 142. 2010 c 3 s 110 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF INFORMATION SERVICES**

General Fund--State Appropriation (FY 2010).....	\$1,086,000
General Fund--State Appropriation (FY 2011).....	<del>(\$1,086,000)</del>
	<u>\$1,080,000</u>
General Fund--Federal Appropriation.....	\$701,000
General Fund--Private/Local Appropriation.....	\$178,000
Data Processing Revolving Account--State	
Appropriation.....	<del>(\$7,824,000)</del>
	<u>\$7,601,000</u>
TOTAL APPROPRIATION.....	<del>(\$10,697,000)</del>
	<u>\$10,646,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$100,000 of the general fund--state appropriation for fiscal year 2010 and \$100,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the purposes of Engrossed Second Substitute House Bill No. 1701 (high-speed internet), including expenditure for deposit to the community technology opportunity account. If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(2) The department shall implement some or all of the following strategies to achieve savings on information technology expenditures through: (a) Holistic virtualization strategies; (b) wide-area network optimization strategies; (c) replacement of traditional telephone communications systems with alternatives; and (d) migration of external voice mail systems to internal voice mail systems coordinated by the department. The department shall report to the office of financial management and the fiscal committees of the legislature semiannually on progress made towards the implementation of savings strategies and the savings realized to date. No later than June 30, 2011, the department shall submit a final report on its findings and savings realized to the office of financial management and the fiscal committees of the legislature.

(3) \$178,000 of the general fund--private/local appropriation is provided solely for the implementation of the opportunity portal under Second Substitute House Bill No. 2782 (security lifeline act). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(4) Appropriations in this section include amounts sufficient to implement Engrossed Substitute House Bill No. 3178 (technology efficiencies).

Sec. 143. 2009 c 564 s 144 (uncodified) is amended to read as follows:

**FOR THE INSURANCE COMMISSIONER**

General Fund--Federal Appropriation.....	<del>(\$1,943,000)</del>
	<u>\$1,939,000</u>
Insurance Commissioners Regulatory Account--State	
Appropriation.....	<del>(\$47,978,000)</del>
	<u>\$48,452,000</u>
TOTAL APPROPRIATION.....	<del>(\$49,921,000)</del>
	<u>\$50,391,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$410,000 of the insurance commissioner's regulatory account appropriation is provided solely to implement Substitute Senate Bill No. 5480 (discount health plans). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(2) \$598,000 of the insurance commissioner's regulatory account appropriation is provided solely to implement Substitute Senate Bill No. 5195 (life settlements model act). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(3) \$551,000 of the insurance commissioner's regulatory account appropriation is provided solely to implement Second Substitute Senate Bill No. 5346 (health care administration simplification). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(4) \$40,000 of the insurance commissioner's regulatory account appropriation is to implement Engrossed Substitute House Bill No. 2560 (joint underwriting associations).

(5) \$227,000 of the insurance commissioner's regulatory account appropriation is provided solely to implement Engrossed Substitute House Bill No. 1714 (association health plans).

Sec. 144. 2009 c 564 s 145 (uncodified) is amended to read as follows:

**FOR THE BOARD OF ACCOUNTANCY**

Certified Public Accountants' Account--State	
Appropriation.....	<del>(\$3,016,000)</del>
	<u>\$3,649,000</u>

The appropriation in this section is subject to the following conditions and limitations: \$150,000 of the certified public accountants' account appropriation is provided solely for the board to contract with a consultant or consultants to conduct an independent investigation. Each consultant must be a governmental entity or an independent firm of legal consultants. Each consultant must be familiar with the administrative procedure act, chapter 34.05 RCW. The consultant or consultants shall produce a report that includes, but is not limited to, an evaluation of the efficiency and effectiveness of the board's practices, policies, and procedures, and an evaluation of the efficacy, economy, and accountability of merging the board into the department of licensing. The consultant or consultants shall deliver a report to the appropriate committees of the legislature on or before December 1, 2010.

Sec. 145. 2009 c 564 s 147 (uncodified) is amended to read as follows:

**FOR THE HORSE RACING COMMISSION**

Horse Racing Commission Operating Account--State	
Appropriation.....	<del>(\$5,123,000)</del>
	<u>\$4,830,000</u>

The appropriation in this section is subject to the following conditions and limitations: Pursuant to RCW 43.135.055, the

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commission is authorized to increase licensing fees during the 2009-2011 fiscal biennium as necessary to support the appropriation in this section.

Sec. 146. 2009 c 564 s 148 (uncodified) is amended to read as follows:

**FOR THE LIQUOR CONTROL BOARD**

Liquor Control Board Construction and Maintenance	
Account--State Appropriation.....	\$8,817,000
Liquor Revolving Account--State Appropriation...( <del>(\$200,506,000)</del> )	<del>\$156,580,000</del>
TOTAL APPROPRIATION.....( <del>(\$209,323,000)</del> )	<del>\$165,397,000</del>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,306,000 of the liquor revolving account--state appropriation is provided solely for the liquor control board to open five new state stores.

(2) \$40,000 of the liquor revolving account--state appropriation is provided solely for the liquor control board to open ten new contract stores.

(3) \$3,059,000 of the liquor revolving account--state appropriation is provided solely for the liquor control board to increase state and local revenues from new retail strategies including opening nine state stores on Sunday, opening state liquor stores on seven holidays, opening six mall locations during the holiday season, and increasing lottery sales.

(4) \$173,000 of the liquor revolving account--state appropriation is provided solely for the Engrossed House Bill No. 2040 (beer and wine regulation commission). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(5) \$130,000 of the liquor revolving account appropriation is provided to implement chapter 141, Laws of 2010 (SSB 6329).

(6) Within the amounts appropriated in this section, the liquor control board shall monitor the tasting endorsement authorized by chapter 141, Laws of 2010 (SSB 6329) and report to the appropriate committees of the legislature by June 30, 2011, on the enforcement of the endorsement. The report must include the number of compliance checks conducted by the liquor board during tasting activities, whether the checks were conducted with the knowledge of the licensee, the number of compliance checks passed, the number and type of notices of violation issued, the penalties imposed for the violations, the number of complaints received about tasting activities, and other information related to the enforcement of the endorsement. If the bill is not enacted by June 30, 2010, the requirements of this subsection shall be null and void.

(7) The board shall prepare a plan to transition selected state liquor stores to contract stores. The plan must identify stores for transition that the board determines will result in the greatest efficiency and cost-effectiveness for the state. The plan must provide for the conversion of at least twenty state liquor stores to contract liquor stores and for that conversion to occur between July 1, 2011, and July 1, 2013. The plan must also include an analysis of the revenue generating capacity and costs for the stores before and after the conversion as well as an analysis of access to liquor by intoxicated and underage persons. The board shall submit the plan to the appropriate policy and fiscal committees of the legislature by November 1, 2010.

Sec. 147. 2009 c 564 s 150 (uncodified) is amended to read as follows:

**FOR THE UTILITIES AND TRANSPORTATION COMMISSION**

General Fund--Federal Appropriation.....	\$267,000
General Fund--Private/Local Appropriation.....	\$5,547,000
Public Service Revolving Account--State	

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Appropriation.....( <del>(\$31,306,000)</del> )	<del>\$31,200,000</del>
Pipeline Safety Account--State Appropriation.....( <del>(\$3,194,000)</del> )	<del>\$3,187,000</del>
Pipeline Safety Account--Federal Appropriation.....( <del>(\$1,536,000)</del> )	<del>\$1,518,000</del>
TOTAL APPROPRIATION.....( <del>(\$36,036,000)</del> )	<del>\$41,719,000</del>

The appropriations in this section are subject to the following conditions and limitations: Pursuant to RCW 43.135.055, the commission is authorized to increase solid waste regulatory fees to the extent necessary to raise \$100,000 in fiscal year 2011 for enforcement activities under RCW 81.77.080.

Sec. 148. 2010 c 3 s 111 (uncodified) is amended to read as follows:

**FOR THE MILITARY DEPARTMENT**

General Fund--State Appropriation (FY 2010).....( <del>(\$10,084,000)</del> )	<del>\$9,350,000</del>
General Fund--State Appropriation (FY 2011).....( <del>(\$10,190,000)</del> )	<del>\$8,874,000</del>
General Fund--Federal Appropriation.....( <del>(\$149,101,000)</del> )	<del>\$168,599,000</del>
Enhanced 911 Account--State Appropriation.....( <del>(\$39,598,000)</del> )	<del>\$44,508,000</del>
Disaster Response Account--State Appropriation...( <del>(\$28,194,000)</del> )	<del>\$28,350,000</del>
Disaster Response Account--Federal Appropriation...( <del>(\$91,263,000)</del> )	<del>\$114,496,000</del>
Military Department Rent and Lease Account--State	
Appropriation.....( <del>(\$615,000)</del> )	<del>\$612,000</del>
Military Department Active State Service Account--Federal	
Appropriation.....( <del>(\$200,000)</del> )	<del>\$592,000</del>
Worker and Community Right-to-Know Account--State	
Appropriation.....	\$341,000
Nisqually Earthquake Account--State Appropriation...( <del>(\$144,000)</del> )	<del>\$307,000</del>
Nisqually Earthquake Account--Federal Appropriation( <del>(\$856,000)</del> )	<del>\$1,067,000</del>
TOTAL APPROPRIATION.....( <del>(\$330,586,000)</del> )	<del>\$377,096,000</del>

The appropriations in this section are subject to the following conditions and limitations:

(1) (~~(\$28,194,000)~~) \$28,326,000 of the disaster response account--state appropriation and (~~(\$91,263,000)~~) \$114,496,000 of the disaster response account--federal appropriation may be spent only on disasters declared by the governor and with the approval of the office of financial management. The military department shall submit a report (~~(quarterly)~~) to the office of financial management and the legislative fiscal committees on October 1st and February 1st of each year detailing information on the disaster response account, including: (a) The amount and type of deposits into the account; (b) the current available fund balance as of the reporting date; and (c) the projected fund balance at the end of the 2009-2011 biennium based on current revenue and expenditure patterns.

(2) (~~(\$144,000)~~) \$307,000 of the Nisqually earthquake account--state appropriation and (~~(\$856,000)~~) \$1,067,000 of the Nisqually earthquake account--federal appropriation are provided solely for response and recovery costs associated with the February 28, 2001, earthquake. The military department shall submit a report (~~(quarterly)~~) to the office of financial management and the legislative fiscal committees on October 1st and February 1st of each year detailing earthquake recovery costs, including: (a) Estimates of total costs; (b) incremental changes from the previous

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estimate; (c) actual expenditures; (d) estimates of total remaining costs to be paid; and (e) estimates of future payments by biennium. This information shall be displayed by fund, by type of assistance, and by amount paid on behalf of state agencies or local organizations. The military department shall also submit a report quarterly to the office of financial management and the legislative fiscal committees detailing information on the Nisqually earthquake account, including: (a) The amount and type of deposits into the account; (b) the current available fund balance as of the reporting date; and (c) the projected fund balance at the end of the 2009-2011 biennium based on current revenue and expenditure patterns.

(3) \$85,000,000 of the general fund--federal appropriation is provided solely for homeland security, subject to the following conditions:

(a) Any communications equipment purchased by local jurisdictions or state agencies shall be consistent with standards set by the Washington state interoperability executive committee; and

(b) The department shall submit ~~((a quarterly))~~ an annual report to the office of financial management and the legislative fiscal committees detailing the governor's domestic security advisory group recommendations; homeland security revenues and expenditures, including estimates of total federal funding for the state; and incremental changes from the previous estimate ~~(; planned and actual homeland security expenditures by the state and local governments with this federal funding; and matching or accompanying state or local expenditures; and~~

~~—(c) The department shall submit a report by December 1st of each year to the office of financial management and the legislative fiscal committees detailing homeland security revenues and expenditures for the previous fiscal year by county and legislative district).~~

(4) \$500,000 of the general fund--state appropriation for fiscal year 2010 ~~((and \$500,000 of the general fund--state appropriation for fiscal year 2011 are))~~ is provided solely for the military department to contract with the Washington information network 2-1-1 to operate a statewide 2-1-1 system. The department shall provide the entire amount for 2-1-1 and ~~((shall))~~ may not use any of the funds for administrative purposes.

**Sec. 149.** 2009 c 564 s 149 (uncodified) is amended to read as follows:

**FOR THE BOARD FOR VOLUNTEER FIREFIGHTERS**  
 Volunteer Firefighters' and Reserve Officers'

Administrative	Account--State
Appropriation.....	Appropriation.....
	<del>(\$1,044,000))</del>
	<u>\$1,052,000</u>

**Sec. 150.** 2009 c 564 s 152 (uncodified) is amended to read as follows:

**FOR THE PUBLIC EMPLOYMENT RELATIONS COMMISSION**

General Fund--State Appropriation (FY 2010).....	<del>(\$3,128,000))</del>
	<u>\$2,667,000</u>
General Fund--State Appropriation (FY 2011).....	<del>(\$3,130,000))</del>
	<u>\$2,635,000</u>
<u>Higher Education Personnel Services Account--State</u>	
Appropriation.....	\$250,000
<u>Department of Personnel Service Account--State</u>	
Appropriation.....	<del>(\$3,290,000))</del>
	<u>\$3,263,000</u>
TOTAL APPROPRIATION.....	<del>(\$9,548,000))</del>
	<u>\$8,815,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$50,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for implementation of Engrossed Substitute Senate Bill No. 6726 (language access provider bargaining).

**Sec. 151.** 2010 c 3 s 112 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION**

General Fund--State Appropriation (FY 2010).....	\$1,371,000
General Fund--State Appropriation (FY 2011).....	<del>(\$1,349,000))</del>
	<u>\$1,382,000</u>
General Fund--Federal Appropriation.....	<del>(\$1,653,000))</del>
	<u>\$2,293,000</u>
General Fund--Private/Local Appropriation.....	\$14,000
TOTAL APPROPRIATION.....	<del>(\$4,387,000))</del>
	<u>\$5,060,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$44,000 of the general fund--state appropriation for fiscal year 2011 is provided for implementation of Substitute House Bill No. 2704 (Washington main street program). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

**Sec. 152.** 2010 c 3 s 113 (uncodified) is amended to read as follows:

**FOR THE GROWTH MANAGEMENT HEARINGS BOARD**

General Fund--State Appropriation (FY 2010).....	<del>(\$1,623,000))</del>
	<u>\$1,642,000</u>
General Fund--State Appropriation (FY 2011).....	<del>(\$1,549,000))</del>
	<u>\$1,424,000</u>
TOTAL APPROPRIATION.....	<del>(\$3,172,000))</del>
	<u>\$3,066,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$13,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for Substitute House Bill No. 2935 (hearings boards/environment and land use). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

**Sec. 153.** 2009 c 564 s 155 (uncodified) is amended to read as follows:

**FOR THE STATE CONVENTION AND TRADE CENTER**

State Convention and Trade Center Account--State	
Appropriation.....	\$60,127,000
State Convention and Trade Center Operating	
Account--State Appropriation.....	<del>(\$56,995,000))</del>
	<u>\$56,694,000</u>
TOTAL APPROPRIATION.....	<del>(\$117,122,000))</del>
	<u>\$116,821,000</u>

(End of part)

**PART II  
HUMAN SERVICES**

**Sec. 201.** 2009 c 564 s 201 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES.** (1) Appropriations made in this act to the department of social and health services shall initially be allotted as required by this act. Subsequent allotment modifications shall not include transfers of moneys between sections of this act except as expressly provided in this act, nor shall allotment modifications permit moneys that are provided solely for a specified purpose to be used for other than that purpose.

(2) The department of social and health services shall not initiate any services that require expenditure of state general fund moneys unless expressly authorized in this act or other law. The department may seek, receive, and spend, under RCW 43.79.260 through 43.79.282, federal moneys not anticipated in this act as long as the federal funding does not require expenditure of state moneys

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for the program in excess of amounts anticipated in this act. If the department receives unanticipated unrestricted federal moneys, those moneys shall be spent for services authorized in this act or in any other legislation providing appropriation authority, and an equal amount of appropriated state general fund moneys shall lapse. Upon the lapsing of any moneys under this subsection, the office of financial management shall notify the legislative fiscal committees. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on specifically defined projects or matched on a formula basis by state funds.

(3) The appropriations to the department of social and health services in this act shall be expended for the programs and in the amounts specified in this act.

(4) The department is authorized to develop an integrated health care program designed to slow the progression of illness and disability and better manage medicaid expenditures for the aged and disabled population. Under this Washington medicaid integration partnership (WMIP), the department may combine and transfer such medicaid funds appropriated under sections 204, 206, 208, and 209 of this act as may be necessary to finance a unified health care plan for the WMIP program enrollment. The WMIP pilot projects shall not exceed a daily enrollment of 6,000 persons, nor expand beyond one county, during the 2009-2011 biennium. The amount of funding assigned to the pilot projects from each program may not exceed the average per capita cost assumed in this act for individuals covered by that program, actuarially adjusted for the health condition of persons enrolled in the pilot project, times the number of clients enrolled in the pilot project. In implementing the WMIP pilot projects, the department may: (a) Withhold from calculations of "available resources" as set forth in RCW 71.24.025 a sum equal to the capitated rate for individuals enrolled in the pilots; and (b) employ capitation financing and risk-sharing arrangements in collaboration with health care service contractors licensed by the office of the insurance commissioner and qualified to participate in both the medicaid and medicare programs. The department shall conduct an evaluation of the WMIP, measuring changes in participant health outcomes, changes in patterns of service utilization, participant satisfaction, participant access to services, and the state fiscal impact.

(5)(a) The appropriations to the department of social and health services in this act shall be expended for the programs and in the amounts specified in this act. However, after May 1, 2010, unless specifically prohibited by this act, the department may transfer general fund--state appropriations for fiscal year 2010 among programs after approval by the director of financial management. However, the department shall not transfer state moneys that are provided solely for a specified purpose except as expressly provided in (b) of this subsection.

(b) To the extent that transfers under (a) of this subsection are insufficient to fund actual expenditures in excess of fiscal year 2010 caseload forecasts and utilization assumptions in the medical assistance, long-term care, foster care, adoptions support, and child support programs, the department may transfer state moneys that are provided solely for a specified purpose. The department shall not transfer funds, and the director of financial management shall not approve the transfer, unless the transfer is consistent with the objective of conserving, to the maximum extent possible, the expenditure of state funds. The director of financial management shall notify the appropriate fiscal committees of the senate and house of representatives in writing seven days prior to approving any allotment modifications or transfers under this subsection. The written notification shall include a narrative explanation and justification of the changes, along with expenditures and allotments

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by budget unit and appropriation, both before and after any allotment modifications or transfers.

(6) The legislature finds that medicaid payment rates, as calculated by the department pursuant to the appropriations in this act, bear a reasonable relationship to the costs incurred by efficiently and economically operated facilities for providing quality services and will be sufficient to enlist enough providers so that care and services are available to the extent that such care and services are available to the general population in the geographic area. The legislature finds that cost reports, payment data from the federal government, historical utilization, economic data, and clinical input constitute reliable data upon which to determine the payment rates.

(7) With the objective of improving and enhancing the efficiency and effectiveness of the audit and oversight program, the department shall identify streamlining opportunities in the areas described in (a) through (d) of this subsection. The goals of these activities are to leverage department resources to better fulfill the obligations of all aspects of audit and oversight programs in an era of resource constraints and to assure that the burden of audits and other oversight activities on the state's businesses, organizations, and individuals is as minimal as practical.

(a) The department shall complete an assessment of expanding the use of technology and automated data matches for identification and recovery of third party resources, including data matches with pharmacy benefit managers (PBM). The department shall submit a report to the governor and the relevant fiscal and policy committees of the legislature by September 1, 2010, that identifies resources needed to implement the enhanced data matching capability and the actions and timelines necessary for implementation of automated production data matching capability.

(b) The department shall complete a comprehensive review of multiple licensing and certification reviews, onsite surveys, and contract oversight obligations that require provider site visits or require provider response. The department shall identify all related oversight and review activities and identify opportunities for consolidation of multiple clinical and business management review activities as appropriate with a view to minimizing the cost of both conducting and receiving the audits or other review or oversight activities.

(c) The department shall expand its provider audit capacity through its provider one payment system. The department shall identify medicaid payment system enhancements that will maximize new technical capabilities. The department shall explore new technical capabilities of its fraud and abuse detection system to identify more efficient ways to correlate audit efforts to the levels of risk and materiality. Results of focused audits must be used to enhance educational materials. The department shall report to the governor and legislature by December 1, 2010, on the status of developing this audit capacity.

(d) The department shall conduct a review and assessment of audit processes and timeframes. The department shall review audit outcomes from the past three fiscal years and will concentrate on identifying opportunities to shorten timeframes between the various stages of an audit, including the letter of intent to audit, records collection to issuance of the draft audit, dispute resolution activities, issuance of the final audit, and administrative hearings. The department shall initiate a provider outreach and education program to include communication materials that clearly identify expectations of the department and the provider being audited. The department must develop and publish an orientation to medicaid audits publication by October 1, 2010, that includes audit requirements, expectations of providers and the department, and associated timelines. The department shall report to the governor and relevant policy and fiscal committees of the legislature by December 1, 2010, on the status of these activities.

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**Sec. 202.** 2010 c 3 s 201 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--CHILDREN AND FAMILY SERVICES PROGRAM**

General Fund--State Appropriation (FY 2010).....	<del>(\$314,698,000)</del>	<u>\$315,002,000</u>
General Fund--State Appropriation (FY 2011).....	<del>(\$316,181,000)</del>	<u>\$306,947,000</u>
General Fund--Federal Appropriation.....	<del>(\$494,889,000)</del>	<u>\$506,248,000</u>
General Fund--Private/Local Appropriation.....	<del>(\$828,000)</del>	<u>\$3,320,000</u>
Home Security Fund Appropriation.....	<del>(\$8,389,000)</del>	<u>\$10,183,000</u>
Domestic Violence Prevention Account--State Appropriation.....		<u>\$1,154,000</u>
Education Legacy Trust Account--State Appropriation....		<u>\$725,000</u>
TOTAL APPROPRIATION.....	<del>(\$1,136,864,000)</del>	<u>\$1,143,579,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~(\$5,563,000 of the general fund state appropriation for fiscal year 2010 and \$5,563,000 of the general fund state appropriation for fiscal year 2011 are provided solely for intensive family preservation services as defined in RCW 74.14C.010 and for evidence-based services that prevent out of home placement and reduce length of stay in the child welfare system.~~

~~—(2) \$993,000)~~ \$937,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$993,000)~~ \$742,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to contract for the operation of one pediatric interim care facility. The facility shall provide residential care for up to ~~(seventeen)~~ thirteen children through two years of age. Seventy-five percent of the children served by the facility must be in need of special care as a result of substance abuse by their mothers. The facility shall also provide on-site training to biological, adoptive, or foster parents. The facility shall provide at least three months of consultation and support to parents accepting placement of children from the facility. The facility may recruit new and current foster and adoptive parents for infants served by the facility. The department shall not require case management as a condition of the contract.

~~((3) \$375,000)~~ (2) \$369,000 of the general fund--state appropriation for fiscal year 2010, ~~(\$375,000)~~ \$366,000 of the general fund--state appropriation for fiscal year 2011, and ~~(\$322,000)~~ \$316,000 of the general fund--federal appropriation are provided solely for up to three nonfacility-based programs for the training, consultation, support, and recruitment of biological, foster, and adoptive parents of children through age three in need of special care as a result of substance abuse by their mothers, except that each program may serve up to three medically fragile nonsubstance-abuse-affected children. In selecting nonfacility-based programs, preference shall be given to programs whose federal or private funding sources have expired or that have successfully performed under the existing pediatric interim care program.

~~((4))~~ (3) \$2,500,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$2,500,000)~~ \$93,000 of the general fund--state appropriation for fiscal year 2011, and \$2,407,000 of the home security fund--state appropriation are provided solely for secure crisis residential centers. Within appropriated amounts, the department shall collaborate with providers to maintain no less than forty-five beds that are geographically representative of the state. The department shall examine current secure crisis residential

staffing requirements, flexible payment options, center specific waivers, and other appropriate methods to accomplish this outcome.

~~((5))~~ (4) A maximum of ~~(\$76,831,000)~~ \$73,209,000 of the general fund--state appropriations and ~~(\$56,901,000)~~ \$54,596,000 of the general fund--federal appropriations for the 2009-11 biennium shall be expended for behavioral rehabilitative services and these amounts are provided solely for this purpose. The department shall work with behavioral rehabilitative service providers to safely keep youth with emotional, behavioral, or medical needs at home, with relatives, or with other permanent placement resources and decrease the length of ~~(stay)~~ service through improved emotional, behavioral, or medical outcomes for children in behavioral rehabilitative services in order to achieve the appropriated levels.

(a) Contracted providers shall act in good faith and accept the hardest to ~~(place)~~ serve children, to the greatest extent possible, in order to improve their emotional, behavioral, or medical conditions.

(b) The department and the contracted provider shall mutually agree and establish an exit date for when the child is to exit the behavioral rehabilitative service provider. The department and the contracted provider should mutually agree, to the greatest extent possible, on a viable placement for the child to go to once the child's treatment process has been completed. The child shall exit only when the emotional, behavioral, or medical condition has improved or if the provider has not shown progress toward the outcomes specified in the signed contract at the time of exit. This subsection (b) does not prevent or eliminate the department's responsibility for removing the child from the provider if the child's emotional, behavioral, or medical condition worsens or is threatened.

(c) The department is encouraged to use performance-based contracts with incentives directly tied to outcomes described in this section. The contracts should incentivize contracted providers to accept the hardest to ~~(place)~~ serve children and incentivize improvement in children's emotional, mental, and medical well-being within the established exit date. The department is further encouraged to increase the use of behavioral rehabilitative service group homes, wrap around services to facilitate and support placement of youth at home with relatives, or other permanent resources, and other means to control expenditures.

(d) The total foster care per capita amount shall not increase more than four percent in the 2009-11 biennium and shall not include behavioral rehabilitative service.

~~((6))~~ (5) Within amounts provided for the foster care and adoption support programs, the department shall control reimbursement decisions for foster care and adoption support cases such that the aggregate average cost per case for foster care and for adoption support does not exceed the amounts assumed in the projected caseload expenditures.

~~((7) Within amounts appropriated in this section.)~~ (6) \$14,460,000 of the general fund--state appropriation for fiscal year 2011 and \$6,231,000 of the general fund--federal appropriation are provided solely for the department to provide contracted prevention and early intervention services. The legislature recognizes the need for flexibility as the department transitions to performance-based contracts. The following services are included in the prevention and early intervention block grant: Crisis family intervention services, family preservation services, intensive family preservation services, evidence-based programs, public health nurses, and early family support services. The legislature intends for the department to maintain and build on existing evidence-based and research-based programs with the goal of utilizing contracted prevention and intervention services to keep children safe at home and to safely reunify families. Priority shall be given to proven intervention models, including evidence-based prevention and early intervention programs identified by the Washington state institute

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for public policy and the department. The department shall include information on the number, type, and outcomes of the evidence-based programs being implemented in its reports on child welfare reform efforts and shall provide the legislature and governor a report regarding the allocation of resources in this subsection by September 30, 2010. The department shall expend federal funds under this subsection in compliance with federal regulations.

~~((8) \$37,000)~~ (7) \$36,000 of the general fund--state appropriation for fiscal year 2010, ~~((37,000))~~ \$36,000 of the general fund--state appropriation for fiscal year 2011, and ~~((32,000))~~ \$31,000 of the general fund--federal appropriation are provided solely for the implementation of chapter 465, Laws of 2007 (child welfare).

~~((9))~~ (8) \$125,000 of the general fund--state appropriation for fiscal year 2010 and \$125,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for continuum of care services. \$100,000 of this amount is for Casey family partners and \$25,000 of this amount is for volunteers of America crosswalk in fiscal year 2010. \$100,000 of this amount is for Casey family partners and \$25,000 of this amount is for volunteers of America crosswalk in fiscal year 2011.

~~((10) \$616,000)~~ (9) \$1,904,000 of the general fund--state appropriation for fiscal year 2010, ~~((616,000))~~ \$1,832,000 of the general fund--state appropriation for fiscal year 2011, and ~~((368,000))~~ \$357,000 of the general fund--federal appropriation are provided solely to contract with medical professionals for comprehensive safety assessments of high-risk families and for foster care assessments. The safety assessments will use validated assessment tools to guide intervention decisions through the identification of additional safety and risk factors. ~~((800,000 of this amount is for))~~ The department will maintain the availability of comprehensive foster care assessments and follow up services for children in out-of-home care who do not have permanent plans, comprehensive safety assessments for families receiving in-home child protective services or family voluntary services ~~((800,000 of this amount is for))~~, and comprehensive safety assessments ~~((of))~~ for families with an infant age birth to fifteen days where the infant was, at birth, diagnosed as substance exposed and the department received an intake referral related to the infant due to the substance exposure. The department must consolidate contracts, streamline administration, and explore efficiencies to achieve savings.

~~((11) \$7,970,000)~~ (10) \$7,679,000 of the general fund--state appropriation for fiscal year 2010, ~~((7,711,000))~~ \$6,643,000 of the general fund--state appropriation for fiscal year 2011, and ~~((5,177,000))~~ \$4,971,000 of the general fund--federal appropriation are provided solely for court-ordered supervised visits between parents and dependent children and for sibling visits. The department shall work collaboratively with the juvenile dependency courts and revise the supervised visit reimbursement procedures to stay within appropriations without impeding reunification outcomes between parents and dependent children. The department shall report to the legislative fiscal committees ~~((quarterly))~~ on September 30, 2010, and December 30, 2010, the number of children in foster care who receive supervised visits, their frequency, length of time of each visit, and whether reunification is attained.

~~((12) \$1,789,000)~~ (11) \$145,000 of the general fund--state appropriation for fiscal year 2010, \$871,000 of the general fund--state appropriation for fiscal year 2011, and \$773,000 of the home security fund--state appropriation is provided solely for street youth program services.

~~((13) \$1,584,000)~~ (12) \$1,522,000 of the general fund--state appropriation for fiscal year 2010, ~~((1,584,000))~~ \$1,340,000 of the general fund--state appropriation for fiscal year 2011, and ~~((1,586,000))~~ \$1,464,000 of the general fund--federal appropriation are provided solely for the department to recruit foster

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parents. The recruitment efforts shall include collaborating with community-based organizations and current or former foster parents to recruit foster parents.

~~((14))~~ (13) \$493,000 of the general fund--state appropriation for fiscal year 2010, \$303,000 of the general fund--state appropriation for fiscal year 2011, \$466,000 of the general fund--private/local appropriation, and \$725,000 of the education legacy trust account--state appropriation ~~((is))~~ are provided solely for children's administration to contract with an educational advocacy provider with expertise in foster care educational outreach. Funding is provided solely for contracted education coordinators to assist foster children in succeeding in K-12 and higher education systems. Funding shall be prioritized to regions with high numbers of foster care youth and/or regions where backlogs of youth that have formerly requested educational outreach services exist. The department shall utilize private matching funds to maintain educational advocacy services.

~~((15) \$1,300,000)~~ (14) \$1,677,000 of the home security fund account--state appropriation is provided solely for HOPE beds.

~~((16) \$5,300,000)~~ (15) \$5,193,000 of the home security fund account--state appropriation is provided solely for the crisis residential centers.

~~((17))~~ (16) The appropriations in this section reflect reductions in the appropriations for the children's administration administrative expenses. It is the intent of the legislature that these reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

~~((18))~~ (17) Within the amounts appropriated in this section, the department shall contract for a pilot project with family and community networks in Whatcom county and up to four additional counties to provide services. The pilot project shall be designed to provide a continuum of services that reduce out-of-home placements and the lengths of stay for children in out-of-home placement. The department and the community networks shall collaboratively select the additional counties for the pilot project and shall collaboratively design the contract. Within the framework of the pilot project, the contract shall seek to maximize federal funds. The pilot project in each county shall include the creation of advisory and management teams which include members from neighborhood-based family advisory committees, residents, parents, youth, providers, and local and regional department staff. The Whatcom county team shall facilitate the development of outcome-based protocols and policies for the pilot project and develop a structure to oversee, monitor, and evaluate the results of the pilot projects. The department shall report the costs and savings of the pilot project to the appropriate committees of the legislature by November 1 of each year.

~~((19))~~ (18) \$157,000 of the general fund--state appropriation for fiscal year 2010 and \$157,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the department to contract with a nonprofit entity for a reunification pilot project in Whatcom and Skagit counties. The contract for the reunification pilot project shall include a rate of \$46.16 per hour for evidence-based interventions, in combination with supervised visits, to provide 3,564 hours of services to reduce the length of stay for children in the child welfare system. The contract shall also include evidence-based intensive parenting skills building services and family support case management services for 38 families participating in the reunification pilot project. The contract shall include the flexibility for the nonprofit entity to subcontract with trained providers.

~~((20))~~ (19) \$303,000 of the general fund--state appropriation for fiscal year 2010, \$418,000 of the general fund--state appropriation for fiscal year 2011, and \$257,000 of the general

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fund--federal appropriation are provided solely to implement Engrossed Substitute House Bill No. 1961 (increasing adoptions act). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

((21) ~~\$100,000~~) (20) \$98,000 of the general fund--state appropriation for fiscal year 2010 and (~~\$100,000~~) \$98,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the department to contract with an agency that is working in partnership with, and has been evaluated by, the University of Washington school of social work to implement promising practice constellation hub models of foster care support.

((22)) (21) The legislature intends for the department to reduce the time a child remains in the child welfare system. The department shall establish a measurable goal and report progress toward meeting that goal to the legislature by January 15 of each fiscal year of the 2009- 11 fiscal biennium. To the extent that actual caseloads exceed those assumed in this section, it is the intent of the legislature to address those issues in a manner similar to all other caseload programs.

(22) \$715,000 of the general fund--state appropriation for fiscal year 2010 and \$715,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for services provided through children's advocacy centers.

(23) \$11,000 of the general fund--state appropriation for fiscal year 2011 and \$3,000 of the general fund--federal appropriation are provided solely for implementation of chapter 224, Laws of 2010 (confinement alternatives). If the bill is not enacted by June 30, 2010, the amounts provided in this subsection shall lapse.

(24) \$1,867,000 of the general fund--state appropriation for fiscal year 2010, \$1,790,000 of the general fund--state appropriation for fiscal year 2011, and \$4,673,000 of the general fund--federal appropriation are provided solely for the department to contract for medicaid treatment child care (MTCC) services. Children's administration case workers, local public health nurses and case workers from the temporary assistance for needy families program shall refer children to MTCC services, as long as the children meet the eligibility requirements as outlined in the Washington state plan for the MTCC services.

(25) The department shall contract for at least one pilot project with adolescent services providers to deliver a continuum of short-term crisis stabilization services. The pilot project shall include adolescent services provided through secure crisis residential centers, crisis residential centers, and hope beds. The department shall work with adolescent service providers to maintain availability of adolescent services and maintain the delivery of services in a geographically representative manner. The department shall examine current staffing requirements, flexible payment options, center-specific licensing waivers, and other appropriate methods to achieve savings and streamline the delivery of services. The legislature intends for the pilot project to provide flexibility to the department to improve outcomes and to achieve more efficient utilization of existing resources, while meeting the statutory goals of the adolescent services programs. The department shall provide an update to the appropriate legislative committees and governor on the status of the pilot project implementation by December 1, 2010.

(26) To ensure expenditures remain within available funds appropriated in this section as required by RCW 74.13A.005 and 74.13A.020, the secretary shall not set the amount of any adoption assistance payment or payments, made pursuant to RCW 26.33.320 and 74.13A.005 through 74.13A.080, to more than ninety percent of the foster care maintenance payment for that child had he or she remained in a foster family home during the same period. This subsection does not apply to adoption assistance agreements in existence on the effective date of this section.

(27) Receipts from fees per chapter 289, Laws of 2010, as deposited into the prostitution prevention and intervention account for services provided to sexually exploited children as defined in RCW 13.32A.030 in secure and semi-secure crisis residential centers with access to staff trained to meet their specific needs shall be used to expand capacity for secure crisis residential centers and not supplant existing funding.

Sec. 203. 2010 c 3 s 202 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--JUVENILE REHABILITATION PROGRAM**

General Fund--State Appropriation (FY 2010).....	<del>(\$104,185,000)</del>
	\$103,437,000
General Fund--State Appropriation (FY 2011).....	<del>(\$92,392,000)</del>
	\$97,761,000
General Fund--Federal Appropriation.....	<del>(\$6,565,000)</del>
	\$1,715,000
General Fund--Private/Local Appropriation.....	<del>(\$1,900,000)</del>
	\$1,899,000
Washington Auto Theft Prevention Authority Account--	
State Appropriation.....	\$3,896,000
Juvenile Accountability Incentive Account--Federal	
Appropriation.....	<del>(\$2,801,000)</del>
	\$2,805,000
State Efficiency and Restructuring Account--State	
Appropriation.....	\$4,958,000
TOTAL APPROPRIATION.....	<del>(\$211,739,000)</del>
	\$216,471,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$353,000 of the general fund--state appropriation for fiscal year 2010 and \$353,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for deposit in the county criminal justice assistance account for costs to the criminal justice system associated with the implementation of chapter 338, Laws of 1997 (juvenile code revisions). The amounts provided in this subsection are intended to provide funding for county adult court costs associated with the implementation of chapter 338, Laws of 1997 and shall be distributed in accordance with RCW 82.14.310.

(2) (~~\$3,578,000~~) \$3,408,000 of the general fund--state appropriation for fiscal year 2010 and (~~\$3,578,000~~) \$2,898,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the implementation of chapter 338, Laws of 1997 (juvenile code revisions). The amounts provided in this subsection are intended to provide funding for county impacts associated with the implementation of chapter 338, Laws of 1997 and shall be distributed to counties as prescribed in the current consolidated juvenile services (CJS) formula.

(3) \$3,716,000 of the general fund--state appropriation for fiscal year 2010 and \$3,716,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement community juvenile accountability grants pursuant to chapter 338, Laws of 1997 (juvenile code revisions). Funds provided in this subsection may be used solely for community juvenile accountability grants, administration of the grants, and evaluations of programs funded by the grants.

(4) (~~\$1,506,000~~) \$1,427,000 of the general fund--state appropriation for fiscal year 2010 and (~~\$1,506,000~~) \$1,206,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement alcohol and substance abuse treatment programs for locally committed offenders. The juvenile rehabilitation administration shall award these moneys on a competitive basis to counties that submitted a plan for the provision of services approved by the division of alcohol and substance abuse. The juvenile rehabilitation administration shall develop criteria for

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evaluation of plans submitted and a timeline for awarding funding and shall assist counties in creating and submitting plans for evaluation.

(5) \$3,066,000 of the general fund--state appropriation for fiscal year 2010 and \$3,066,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for grants to county juvenile courts for the following programs identified by the Washington state institute for public policy (institute) in its October 2006 report: "Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs and Crime Rates": Functional family therapy, multi-systemic therapy, aggression replacement training and interagency coordination programs, or other programs with a positive benefit-cost finding in the institute's report. County juvenile courts shall apply to the juvenile rehabilitation administration for funding for program-specific participation and the administration shall provide grants to the courts consistent with the per-participant treatment costs identified by the institute.

(6) \$1,287,000 of the general fund--state appropriation for fiscal year 2010 and \$1,287,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for expansion of the following treatments and therapies in juvenile rehabilitation administration programs identified by the Washington state institute for public policy in its October 2006 report: "Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs and Crime Rates": Multidimensional treatment foster care, family integrated transitions, and aggression replacement training. The administration may concentrate delivery of these treatments and therapies at a limited number of programs to deliver the treatments in a cost-effective manner.

(7)(a) ~~(For the fiscal year ending June 30, 2010, the juvenile rehabilitation administration shall administer a block grant, rather than categorical funding, of consolidated juvenile service funds, community juvenile accountability act grants, the chemical dependency disposition alternative funds, the special sex offender disposition alternative funds, the mental health disposition alternative, sentencing disposition alternative, and evidence based program expansion grants to juvenile courts for the purpose of serving youth adjudicated in the juvenile justice system. Evidence based programs, based on the criteria established by the Washington state institute for public policy, and disposition alternatives will be funding priorities. Funds may be used for promising practices when approved by juvenile rehabilitation administration, based on criteria established in consultation with Washington state institute for public policy and the juvenile courts. — By September 1, 2009, a committee with four members, in consultation with Washington state institute for public policy, shall develop a funding formula that takes into account the juvenile courts average daily population of program eligible youth in conjunction with the number of youth served in each approved evidence based program or disposition alternative. The committee shall have one representative from the juvenile rehabilitation administration, one representative from the office of financial management, one representative from the office of the administrator of the courts, and one representative from the juvenile courts. Decision making will be by majority rule.~~

~~— By September 1, 2010, the Washington state institute for public policy shall provide a report to the office of financial management and the legislature on the administration of the block grant authorized in this subsection. The report shall include the criteria used for allocating the funding as a block grant and the participation targets and actual participation in the programs subject to the block grant.~~

~~— (b) By December 1, 2009, the committee established in (a) of this subsection, in consultation with Washington state institute for public policy, shall propose to the office of financial management~~

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~~and the legislature changes in the process of funding and managing, including accountability and information collection and dissemination, grants to juvenile courts for serving youth adjudicated in the juvenile court system use in the fiscal year ending June 30, 2011. The proposal shall include, but is not limited to: A process of making a block grant of funds consistent with (a) of this subsection; a program of data collection and measurement criteria for receiving the funds which will include targets of the number of youth served in identified evidence based programs and disposition alternatives in which the juvenile courts and office of the administrator of the courts will have responsibility for collecting and distributing information and providing access to the data systems to the juvenile rehabilitation administration and the Washington state institute for public policy related to program and outcome data; and necessary changes to the Washington administrative code.~~

~~— (c) Within the funds provided for criminal justice analysis in section 610(4) of this act, the Washington state institute for public policy shall conduct an analysis of the costs per participant of evidence based programs by the juvenile courts and by December 1, 2009, shall report the results of this analysis to the juvenile rehabilitation administration, the juvenile courts, office of the administrator of the courts, the office of financial management, and the fiscal committees of the legislature)) For the fiscal year ending June 30, 2011, the juvenile rehabilitation administration shall administer a block grant, rather than categorical funding, of consolidated juvenile service funds, community juvenile accountability act grants, the chemical dependency disposition alternative funds, the mental health disposition alternative, and the sentencing disposition alternative for the purpose of serving youth adjudicated in the juvenile justice system. In making the block grant, the juvenile rehabilitation administration shall follow the following formula and will prioritize evidence-based programs and disposition alternatives and take into account juvenile courts program-eligible youth in conjunction with the number of youth served in each approved evidence-based program or disposition alternative: (i) Thirty-seven and one-half percent for the at-risk population of youth ten to seventeen years old; (ii) fifteen percent for moderate and high-risk youth; (iii) twenty-five percent for evidence-based program participation; (iv) seventeen and one-half percent for minority populations; (v) three percent for the chemical dependency disposition alternative; and (vi) two percent for the mental health and sentencing dispositional alternatives. Funding for the special sex offender disposition alternative (SSODA) shall not be included in the block grant, but allocated on the average daily population in juvenile courts. Funding for the evidence-based expansion grants shall be excluded from the block grant formula. Funds may be used for promising practices when approved by the juvenile rehabilitation administration and juvenile courts, through the community juvenile accountability act committee, based on the criteria established in consultation with Washington state institute for public policy and the juvenile courts.~~

~~— (b) It is the intent of the legislature that the juvenile rehabilitation administration phase the implementation of the formula provided in subsection (1) of this section by including a stop-loss formula of three percent in fiscal year 2011, five percent in fiscal year 2012, and five percent in fiscal year 2013. It is further the intent of the legislature that the evidence-based expansion grants be incorporated into the block grant formula by fiscal year 2013 and SSODA remain separate unless changes would result in increasing the cost benefit savings to the state as identified in (c) of this subsection.~~

~~— (c) The juvenile rehabilitation administration and the juvenile courts shall establish a block grant funding formula oversight committee with equal representation from the juvenile rehabilitation administration and the juvenile courts. The purpose of this~~

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committee is to assess the ongoing implementation of the block grant funding formula, utilizing data-driven decision making and the most current available information. The committee will be cochaired by the juvenile rehabilitation administration and the juvenile courts, who will also have the ability to change members of the committee as needed to achieve its purpose. Initial members will include one juvenile court representative from the finance committee, the community juvenile accountability act committee, the risk assessment quality assurance committee, the executive board of the Washington association of juvenile court administrators, the Washington state center for court research, and a representative of the superior court judges association; two representatives from the juvenile rehabilitation administration headquarters program oversight staff, two representatives of the juvenile rehabilitation administration regional office staff, one representative of the juvenile rehabilitation administration fiscal staff and a juvenile rehabilitation administration division director. The committee may make changes to the formula categories other than the evidence-based program and disposition alternative categories if it is determined the changes will increase statewide service delivery or effectiveness of evidence-based program or disposition alternative resulting in increased cost benefit savings to the state. Long-term cost benefit must be considered. Percentage changes may occur in the evidence-based program or disposition alternative categories of the formula should it be determined the changes will increase evidence-based program or disposition alternative delivery and increase the cost benefit to the state. These outcomes will also be considered in determining when evidence-based expansion or special sex offender disposition alternative funds should be included in the block grant or left separate.

(d) The juvenile courts and administrative office of the courts shall be responsible for collecting and distributing information and providing access to the data systems to the juvenile rehabilitation administration and the Washington state institute for public policy related to program and outcome data. The juvenile rehabilitation administration and the juvenile courts will work collaboratively to develop program outcomes that reinforce the greatest cost benefit to the state in the implementation of evidence-based practices and disposition alternatives.

(e) By December 1, 2010, the Washington state institute for public policy shall report to the office of financial management and appropriate committees of the legislature on the administration of the block grant authorized in this subsection. The report shall include the criteria used for allocating the funding as a block grant and the participation targets and actual participation in the programs subject to the block grant.

(8) \$3,700,000 of the Washington auto theft prevention authority account--state appropriation is provided solely for competitive grants to community-based organizations to provide at-risk youth intervention services, including but not limited to, case management, employment services, educational services, and street outreach intervention programs. Projects funded should focus on preventing, intervening, and suppressing behavioral problems and violence while linking at-risk youth to pro-social activities. The department may not expend more than \$1,850,000 per fiscal year. The costs of administration must not exceed four percent of appropriated funding for each grant recipient. Each entity receiving funds must report to the juvenile rehabilitation administration on the number and types of youth served, the services provided, and the impact of those services upon the youth and the community.

(9) The appropriations in this section assume savings associated with the transfer of youthful offenders age eighteen or older whose sentences extend beyond age twenty-one to the department of

corrections to complete their sentences. Prior to transferring an offender to the department of corrections, the juvenile rehabilitation administration shall evaluate the offender to determine the offender's physical and emotional suitability for transfer.

**Sec. 204.** 2010 c 3 s 203 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--MENTAL HEALTH PROGRAM**

(1) COMMUNITY SERVICES/REGIONAL SUPPORT NETWORKS

General Fund--State Appropriation (FY 2010).....	(\$266,677,000)	
		\$273,648,000
General Fund--State Appropriation (FY 2011).....	(\$296,619,000)	
		\$278,530,000
General Fund--Federal Appropriation.....	(\$463,180,000)	
		\$519,456,000
General Fund--Private/Local Appropriation.....	(\$14,868,000)	
		\$16,674,000
<u>Hospital Safety Net Assessment Fund--State</u>		
<u>Appropriation.....</u>		\$3,476,000
TOTAL APPROPRIATION.....	(\$1,041,344,000)	\$1,091,784,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) \$113,689,000 of the general fund--state appropriation for fiscal year 2010 and \$113,689,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for persons and services not covered by the medicaid program. This is a reduction of \$11,606,000 each fiscal year from the nonmedicaid funding that was allocated for expenditure by regional support networks during fiscal year 2009 prior to supplemental budget reductions. This \$11,606,000 reduction shall be distributed among regional support networks proportional to each network's share of the total state population. To the extent possible, levels of regional support network spending shall be maintained in the following priority order: (i) Crisis and commitment services; (ii) community inpatient services; and (iii) residential care services, including personal care and emergency housing assistance.

(b) ~~(\$16,900,000)~~ \$10,400,000 of the general fund--state appropriation for fiscal year 2010 ~~(and \$16,900,000)~~, \$9,100,000 of the general fund--state appropriation for fiscal year 2011, and \$1,300,000 of the general fund--federal appropriation are provided solely for the department and regional support networks to contract for implementation of high-intensity program for active community treatment (PACT) teams ~~(, and other proven program approaches that the department concurs will enable the regional support network to achieve significant reductions in the number of beds the regional support network would otherwise need to use at the state hospitals)).~~ The department shall work with regional support networks and the center for medicare and medicaid services to integrate eligible components of the PACT service delivery model into medicaid capitation rates no later than January 2011, while maintaining consistency with all essential elements of the PACT evidence-based practice model.

(c) \$6,500,000 of the general fund--state appropriation for fiscal year 2010 and \$6,500,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the western Washington regional support networks to provide either community- or hospital campus-based services for persons who require the level of care provided by the program for adaptive living skills (PALS) at western state hospital.

(d) The number of nonforensic beds allocated for use by regional support networks at eastern state hospital shall be 192 per day. The number of nonforensic beds allocated for use by regional support networks at western state hospital shall be 617 per day

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during the first quarter of fiscal year 2010, and 587 per day thereafter. Beds in the program for adaptive living skills (PALS) are not included in the preceding bed allocations. The department shall separately charge regional support networks for persons served in the PALS program.

((d)) (e) From the general fund--state appropriations in this subsection, the secretary of social and health services shall assure that regional support networks reimburse the aging and disability services administration for the general fund--state cost of medicaid personal care services that enrolled regional support network consumers use because of their psychiatric disability.

((e)) (f) \$4,582,000 of the general fund--state appropriation for fiscal year 2010 and \$4,582,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for mental health services for mentally ill offenders while confined in a county or city jail and for facilitating access to programs that offer mental health services upon release from confinement.

((f)) (g) The department is authorized to continue to contract directly, rather than through contracts with regional support networks, for children's long-term inpatient facility services.

((g)) (h) \$750,000 of the general fund--state appropriation for fiscal year 2010 and \$750,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to continue performance-based incentive contracts to provide appropriate community support services for individuals with severe mental illness who were discharged from the state hospitals as part of the expanding community services initiative. These funds will be used to enhance community residential and support services provided by regional support networks through other state and federal funding.

((h)) (i) \$1,500,000 of the general fund--state appropriation for fiscal year 2010 and \$1,500,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Spokane regional support network to implement services to reduce utilization and the census at eastern state hospital. Such services shall include:

(i) High intensity treatment team for persons who are high utilizers of psychiatric inpatient services, including those with co-occurring disorders and other special needs;

(ii) Crisis outreach and diversion services to stabilize in the community individuals in crisis who are at risk of requiring inpatient care or jail services;

(iii) Mental health services provided in nursing facilities to individuals with dementia, and consultation to facility staff treating those individuals; and

(iv) Services at the sixteen-bed evaluation and treatment facility.

At least annually, the Spokane regional support network shall assess the effectiveness of these services in reducing utilization at eastern state hospital, identify services that are not optimally effective, and modify those services to improve their effectiveness.

((i)) (j) The department shall return to the Spokane regional support network fifty percent of the amounts assessed against the network during the last six months of calendar year 2009 for state hospital utilization in excess of its contractual limit. The regional support network shall use these funds for operation during its initial months of a new sixteen-bed evaluation and treatment facility that will enable the network to reduce its use of the state hospital, and for diversion and community support services for persons with dementia who would likely otherwise require care at the state hospital.

((j)) (k) The department is directed to identify and implement program efficiencies and benefit changes in its delivery of medicaid managed-care services that are sufficient to operate within the state and federal appropriations in this section. Such actions may include but are not limited to methods such as adjusting the care

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access standards; improved utilization management of ongoing, recurring, and high-intensity services; and increased uniformity in provider payment rates. The department shall ensure that the capitation rate adjustments necessary to accomplish these efficiencies and changes are distributed uniformly and equitably across all regional support networks statewide. The department is directed to report to the relevant legislative fiscal and policy committees at least thirty days prior to implementing rate adjustments reflecting these changes.

((k)) (l) In developing the new medicaid managed care rates under which the public mental health managed care system will operate during the five years beginning in fiscal year 2011, the department should seek to estimate the reasonable and necessary cost of efficiently and effectively providing a comparable set of medically necessary mental health benefits to persons of different acuity levels regardless of where in the state they live. Actual prior period spending in a regional administrative area shall not be a key determinant of future payment rates. The department shall report to the office of financial management and to the relevant fiscal and policy committees of the legislature on its proposed new waiver and mental health managed care rate-setting approach by October 1, 2009, and again at least sixty days prior to implementation of new capitation rates.

(m) In implementing the new public mental health managed care payment rates for fiscal year 2011, the department shall to the maximum extent possible within each regional support network's allowable rate range establish rates so that there is no increase or decrease in the total state and federal funding that the regional support network would receive if it were to continue to be paid at its October 2009 through June 2010 rates. The department shall additionally revise the draft rates issued January 28, 2010, to more accurately reflect the lower practitioner productivity inherent in the delivery of services in extremely rural regions in which a majority of the population reside in frontier counties, as defined and designated by the national center for frontier communities.

((l)) (n) \$1,529,000 of the general fund--state appropriation for fiscal year 2010 and \$1,529,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to reimburse Pierce and Spokane counties for the cost of conducting 180-day commitment hearings at the state psychiatric hospitals.

((m)) (o) The legislature intends and expects that regional support networks and contracted community mental health agencies shall make all possible efforts to, at a minimum, maintain current compensation levels of direct care staff. Such efforts shall include, but not be limited to, identifying local funding that can preserve client services and staff compensation, achieving administrative reductions at the regional support network level, and engaging stakeholders on cost-savings ideas that maintain client services and staff compensation. For purposes of this section, "direct care staff" means persons employed by community mental health agencies whose primary responsibility is providing direct treatment and support to people with mental illness, or whose primary responsibility is providing direct support to such staff in areas such as client scheduling, client intake, client reception, client records-keeping, and facilities maintenance.

(p) Regional support networks may use local funds to earn additional federal medicaid match, provided the locally matched rate does not exceed the upper-bound of their federally allowable rate range, and provided that the enhanced funding is used only to provide medicaid state plan or waiver services to medicaid clients. Additionally, regional support networks may use a portion of the state funds allocated in accordance with (a) of this subsection to earn additional medicaid match, but only to the extent that the application of such funds to medicaid services does not diminish the level of crisis and commitment, community inpatient, residential care, and

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outpatient services presently available to persons not eligible for Medicaid.

(2) INSTITUTIONAL SERVICES

General Fund--State Appropriation (FY 2010).....	(\$120,637,000)
	\$119,423,000
General Fund--State Appropriation (FY 2011).....	(\$124,995,000)
	\$123,012,000
General Fund--Federal Appropriation.....	(\$151,160,000)
	\$153,425,000
General Fund--Private/Local Appropriation.....	(\$65,868,000)
	\$64,614,000
TOTAL APPROPRIATION.....	(\$462,660,000)
	\$460,474,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The state psychiatric hospitals may use funds appropriated in this subsection to purchase goods and supplies through hospital group purchasing organizations when it is cost-effective to do so.

(b) \$231,000 of the general fund--state appropriation for fiscal year 2008 and \$231,000 of the general fund--state appropriation for fiscal year 2009 are provided solely for a community partnership between western state hospital and the city of Lakewood to support community policing efforts in the Lakewood community surrounding western state hospital. The amounts provided in this subsection (2)(b) are for the salaries, benefits, supplies, and equipment for one full-time investigator, one full-time police officer, and one full-time community service officer at the city of Lakewood.

(c) \$45,000 of the general fund--state appropriation for fiscal year 2010 and \$45,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for payment to the city of Lakewood for police services provided by the city at western state hospital and adjacent areas.

(d) \$200,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for support of the psychiatric security review panel established pursuant to Senate Bill No. 6610. If Senate Bill No. 6610 is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(3) SPECIAL PROJECTS

General Fund--State Appropriation (FY 2010).....	\$1,819,000
General Fund--State Appropriation (FY 2011).....	(\$1,812,000)
	\$2,092,000
General Fund--Federal Appropriation.....	\$2,142,000
TOTAL APPROPRIATION.....	(\$5,773,000)
	\$6,053,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) \$1,511,000 of the general fund--state appropriation for fiscal year 2010 and \$1,511,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for children's evidence based mental health services. Funding is sufficient to continue serving children at the same levels as fiscal year 2009.

(b) \$100,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for consultation, training, and technical assistance to regional support networks on strategies for effective service delivery in very sparsely populated counties.

(c) \$60,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the department to contract with the Washington state institute for public policy for completion of the research reviews to be conducted in accordance with chapter 263, Laws of 2010.

(d) \$60,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the department to contract with the Washington state institute for public policy for completion of the research reviews to be conducted in accordance with section 1,

chapter 280, Laws of 2010.

(e) \$60,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for implementation of sections 2 and 3, chapter 280, Laws of 2010. The department shall use these funds to contract with the Washington state institute for public policy for completion of an assessment of (i) the extent to which the number of persons involuntarily committed for 3, 14, and 90 days is likely to increase as a result of the revised commitment standards; (ii) the availability of community treatment capacity to accommodate that increase; (iii) strategies for cost-effectively leveraging state, local, and private resources to increase community involuntary treatment capacity; and (iv) the extent to which increases in involuntary commitments are likely to be offset by reduced utilization of correctional facilities, publicly-funded medical care, and state psychiatric hospitalizations.

(f) By October 1, 2010, the department shall report to the governor and appropriate committees of the legislature with (i) a report on improving services for children who are at greatest risk of requiring long-term inpatient and residential care due to the severity of their emotional impairments; and (ii) an inventory of current publicly funded efforts in Washington to identify children at risk of emotional impairments and to provide intervention before a mental disorder manifests itself. The report on improving services for children at risk of long-term care shall be developed by the division of behavioral health and recovery services in consultation with treatment specialists, regional support networks, behavioral health provider organizations, and consumer and family representatives. It shall include potential alternatives for services to children at risk of long-term, intensive mental health care and recommend specific proposals regarding program components, delivery system organization, and cost estimates. The proposals may include short and long-term alternatives to reach statewide equity in access to high-intensity services with a primary focus on children who are at risk of out-of-home placement or who are high system utilizers. Evidence-based and research-based practices shall be included as options to the extent that they provide appropriate services for children at risk of long-term, intensive mental health care. The inventory shall include, but is not limited to, activities that focus on prevention rather than solely on clinical or medical treatment and that rely on strategies such as those identified by the national academies' institute of medicine as effective in preventing childhood emotional impairments. The inventory shall be developed by the family policy council in consultation with public health departments, special education experts, managed health care plans, regional support networks, the University of Washington's children's mental health evidence-based practice institute, and behavioral health provider organizations.

(4) PROGRAM SUPPORT

General Fund--State Appropriation (FY 2010).....	(\$4,077,000)
	\$4,078,000
General Fund--State Appropriation (FY 2011).....	(\$4,094,000)
	\$4,070,000
General Fund--Federal Appropriation.....	(\$7,227,000)
	\$7,219,000
TOTAL APPROPRIATION.....	(\$15,398,000)
	\$15,367,000

The department is authorized and encouraged to continue its contract with the Washington state institute for public policy to provide a longitudinal analysis of long-term mental health outcomes as directed in chapter 334, Laws of 2001 (mental health performance audit); to build upon the evaluation of the impacts of chapter 214, Laws of 1999 (mentally ill offenders); and to assess program outcomes and cost effectiveness of the children's mental health pilot projects as required by chapter 372, Laws of 2006.

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Sec. 205. 2010 c 3 s 204 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--DEVELOPMENTAL DISABILITIES PROGRAM**

**(1) COMMUNITY SERVICES**

General Fund--State Appropriation (FY 2010).....	<del>(\$311,589,000)</del>
	\$307,348,000
General Fund--State Appropriation (FY 2011).....	<del>(\$366,489,000)</del>
	\$338,299,000
General Fund--Federal Appropriation.....	<del>(\$849,263,000)</del>
	\$902,900,000
TOTAL APPROPRIATION.....	<del>(\$1,527,341,000)</del>
	\$1,548,547,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) Individuals receiving services as supplemental security income (SSI) state supplemental payments shall not become eligible for medical assistance under RCW 74.09.510 due solely to the receipt of SSI state supplemental payments.

(b)(i) Amounts appropriated in this section reflect a reduction to funds appropriated for in-home care. The department shall reduce the number of in-home hours authorized. The reduction shall be scaled based on the acuity level of care recipients. The largest hour reductions shall be to lower acuity patients and the smallest hour reductions shall be to higher acuity patients. In doing so, the department shall comply with all maintenance of effort requirements contained in the American reinvestment and recovery act.

(ii) \$508,000 of the general fund--state appropriation for fiscal year 2011 and \$822,000 of the general fund--federal appropriation are provided solely for the department to partially restore the reductions to in-home care that are taken in (b)(i) of this subsection. The department will use the same formula to restore personal care hours that it used to reduce personal care hours.

(c) Amounts appropriated in this section are sufficient to develop and implement the use of a consistent, statewide outcome-based vendor contract for employment and day services by April 1, 2011. The rates paid to vendors under this contract shall also be made consistent. In its description of activities the agency shall include activity listings and dollars appropriated for: Employment services, day services, child development services and county administration of services to the developmentally disabled. The department shall begin reporting to the office of financial management on these activities beginning in fiscal year 2010.

~~(d) (\$5,593,000 of the general fund--state appropriation for fiscal year 2010, \$4,002,000 of the general fund--state appropriation for fiscal year 2011, and \$14,701,000 of the general fund--federal appropriation are provided solely for community residential and support services. Funding in this subsection shall be prioritized for (i) residents of residential habilitation centers who are able to be adequately cared for in community settings and who choose to live in those community settings; (ii) clients without residential services who are at immediate risk of institutionalization or in crisis; (iii) children who are at risk of institutionalization or who are aging out of other state services; and (iv) current home and community-based waiver program clients who have been assessed as having an immediate need for increased services. First priority shall be given to children who are at risk of institutionalization. The department shall ensure that the average cost per day for all program services other than start-up costs shall not exceed \$300. In order to maximize the number of clients served and ensure the cost effectiveness of the waiver programs, the department will strive to limit new client placement expenditures to 90 percent of the budgeted daily rate. If this can be accomplished, additional clients~~

~~may be served with excess funds, provided the total projected carry forward expenditures do not exceed the amounts estimated. The department shall electronically report to the appropriate committees of the legislature, within 45 days following each fiscal year quarter, the number of persons served with these additional community services, where they were residing, what kinds of services they were receiving prior to placement, and the actual expenditures for all community services to support these clients.~~

~~—(e)(i) \$493,000 of the general fund--state appropriation for fiscal year 2010, \$1,463,000 of the general fund--state appropriation for fiscal year 2011, and \$2,741,000 of the general fund--federal appropriation are provided solely for community services for persons with developmental disabilities who also have community protection issues. Funding in this subsection shall be prioritized for (A) clients being diverted or discharged from the state psychiatric hospitals; (B) clients participating in the dangerous mentally ill offender program; (C) clients participating in the community protection program; and (D) mental health crisis diversion outplacements. The department shall ensure that the average cost per day for all program services other than start-up costs shall not exceed \$349 per day in fiscal year 2010 and \$356 per day in fiscal year 2011. In order to maximize the number of clients served and ensure the cost effectiveness of the waiver programs, the department will strive to limit new client placement expenditures to 90 percent of the budgeted daily rate. If this can be accomplished, additional clients may be served with excess funds if the total projected carry forward expenditures do not exceed the amounts estimated.~~

~~—(ii) The department shall electronically report to the appropriate committees of the legislature, within 45 days following each fiscal year quarter, the number of persons served with these additional community services, where they were residing, what kinds of services they were receiving prior to placement, and the actual expenditures for all community services to support these clients.~~

~~—(f)) \$302,000 of the general fund--state appropriation for fiscal year 2010, \$831,000 of the general fund--state appropriation for fiscal year 2011, and \$1,592,000 of the general fund--federal appropriation are provided solely for health care benefits pursuant to a collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270.~~

~~((g)) (e)(i) \$682,000 of the general fund--state appropriation for fiscal year 2010, \$1,651,000 of the general fund--state appropriation for fiscal year 2011, and \$1,678,000 of the general fund--federal appropriation are provided solely for the state's contribution to the training partnership, as provided in RCW 74.39A.360, pursuant to a collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270.~~

(ii) The federal portion of the amounts in this subsection (g) is contingent upon federal approval of participation in contributions to the trust and shall remain unallotted and placed in reserve status until the office of financial management and the department of social and health services receive federal approval.

(iii) Expenditures for the purposes specified in this subsection (g) shall not exceed the amounts provided in this subsection.

~~((h)) (f) Within the amounts appropriated in this subsection (1), the department shall implement all necessary rules to facilitate the transfer to a department home and community-based services (HCBS) waiver of all eligible individuals who (i) currently receive services under the existing state-only employment and day program or the existing state-only residential program, and (ii) otherwise meet the waiver eligibility requirements. The amounts appropriated are sufficient to ensure that all individuals currently receiving services under the state-only employment and day and~~

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state-only residential programs who are not transferred to a department HCBS waiver will continue to receive services.

~~((i))~~ ~~Adult day health services shall only be authorized for in-home clients.~~

~~((j))~~ ~~(g)~~ In addition to other reductions, the appropriations in this subsection reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

~~((h))~~ ~~(h)~~ The department shall not pay a home care agency licensed under chapter 70.127 RCW for personal care services provided by a family member, pursuant to Substitute House Bill No. 2361 (modifying state payments for in-home care).

~~((i))~~ ~~(i)~~ Within the appropriations of this section, the department shall reduce all seventeen payment levels of the seventeen-level payment system from the fiscal year 2009 levels for boarding homes, boarding homes contracted as assisted living, and adult family homes. Excluded from the reductions are exceptional care rate add-ons. The long-term care program may develop add-ons to pay exceptional care rates to adult family homes and boarding homes with specialty contracts to provide support for the following specifically eligible clients:

- (i) Persons with AIDS or HIV-related diseases who might otherwise require nursing home or hospital care;
- (ii) Persons with Alzheimer's disease and related dementia who might otherwise require nursing home care; and
- (iii) Persons with co-occurring mental illness and long-term care needs who are eligible for expanded community services and who might otherwise require state and local psychiatric hospital care.

Within amounts appropriated, exceptional add-on rates for AIDS/HIV, dementia specialty care, and expanded community services may be standardized within each program.

~~((m))~~ ~~(j)~~ The amounts appropriated in this subsection reflect a reduction in funds available for employment and day services. In administering this reduction the department shall negotiate with counties and their vendors so that this reduction, to the greatest extent possible, is achieved by reducing vendor rates and allowable contract administrative charges (overhead) and not through reductions to direct client services or direct service delivery or programs.

~~((n))~~ ~~Within the amounts allotted for employment and day services in this section, the department shall prioritize the funding of employment services for students graduating from high school during fiscal years 2010 and 2011. However, nothing in this subsection is intended to displace services for other recipients of employment services.~~

~~((o))~~ ~~(k)~~ As part of the needs assessment instrument, the department may collect data on family income for minor children with developmental disabilities and all individuals who are receiving state-only funded services. The department may ensure that this information is collected as part of the client assessment process.

(l) \$116,000 of the general fund--state appropriation for fiscal year 2010, \$2,689,000 of the general fund--state appropriation for fiscal year 2011, and \$1,772,000 of the general fund--federal appropriation are provided solely for employment services and required waiver services. Priority consideration for this new funding shall be young adults with developmental disabilities living with their family who need employment opportunities and assistance after high school graduation. Services shall be provided for both waiver and nonwaiver clients. Fifty percent of the general fund appropriation shall be utilized for graduates served on a home and community-based services waiver and fifty percent of the

general fund appropriation shall be used for nonwaiver clients.

(m) The division of developmental disabilities shall not reduce funding for county employment contracts. Funding for this purpose shall be maintained at the amount appropriated for this purpose in chapter 564, Laws of 2009.

(n) The department shall, by September 30, 2010, provide a report to the legislature on the implementation of chapter 571, Laws of 2009 (Substitute House Bill No. 2361). The report shall provide an analysis of the savings and/or costs to the agency associated with the implementation of the bill. Additionally, the report shall provide a full accounting of the relative hourly costs of agency providers and individual providers.

(o) The department shall establish a working group with representatives of the home care industry to identify and eliminate or mitigate administrative burdens. The make-up of this working group shall be limited to:

(i) The state unit on aging chief of the aging and disabilities service administration (ADSA);

(ii) Other ADSA representatives as the state unit on aging chief deems necessary;

(iii) A representative from the department of health facility services licensing;

(iv) No more than seven representatives of the home care industry, to include:

(A) A representative of each of the three home care associations;

(B) A for-profit agency with at least seven area agency on aging contracts;

(C) A nonprofit with at least seven area agency on aging contracts;

(D) An agency that serves persons with developmental disabilities; and

(E) An agency that is a community action program;

(v) No more than two area agency on aging directors; and

(vi) Representatives from each of the two labor unions which represent home care workers.

The department is authorized to assign work group members consistent with this subsection (1)(s). The working group shall hold its first meeting no later than May 1, 2010, and shall meet at least monthly or as needed until the group has accomplished its goals. The work group shall provide a report on its findings to the legislative fiscal committees by January 1, 2011.

(p) The department shall electronically report to the appropriate committees of the legislature, within 45 days following each fiscal year quarter, the number of persons served in each of the following categories: (i) Residents of residential habilitation centers who are able to be adequately cared for in community settings and who choose to live in those community settings; (ii) clients without residential services who are at immediate risk of institutionalization or in crisis; (iii) children who are at risk of institutionalization or who are aging out of other state services; (iv) current home and community-based waiver program clients who have been assessed as having an immediate need for increased services; (v) clients being diverted or discharged from the state psychiatric hospitals; (vi) clients participating in the dangerous mentally ill offender program; (vii) clients participating in the community protection program; or (viii) mental health crisis diversion outplacements. The department shall strive to serve these clients in the most cost-effective manner.

(q) \$81,000 of the general fund--state appropriation for fiscal year 2010, \$599,000 of the general fund--state appropriation for fiscal year 2011, and \$1,111,000 of the general fund--federal appropriation are provided solely for the department to provide employment and day services for eligible students who are currently on a waiver and will graduate from high school during fiscal years 2010 and 2011.

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(r) \$100,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for direct support to families of individuals with developmental disabilities to provide instruction in self-advocacy.

(s) \$100,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for direct support of local organizations that utilize parent-to-parent networks and communication to promote access and quality of care for individuals with developmental disabilities and their families.

(t) The automatic award of additional hours of personal care for people with special meal preparation or incontinence needs is eliminated. Authorization of service hours will be based upon the individual's assessed needs.

(2) INSTITUTIONAL SERVICES

General Fund--State Appropriation (FY 2010).....	(\$61,612,000))
	\$61,422,000
General Fund--State Appropriation (FY 2011).....	(\$74,185,000))
	\$65,685,000
General Fund--Federal Appropriation.....	(\$202,160,000))
	\$210,473,000
General Fund--Private/Local Appropriation.....	\$22,441,000
TOTAL APPROPRIATION.....	(\$360,398,000))
	\$360,021,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) Individuals receiving services as supplemental security income (SSI) state supplemental payments shall not become eligible for medical assistance under RCW 74.09.510 due solely to the receipt of SSI state supplemental payments.

(b) The developmental disabilities program is authorized to use funds appropriated in this subsection to purchase goods and supplies through direct contracting with vendors when the program determines it is cost-effective to do so.

(c) \$721,000 of the general fund--state appropriation for fiscal year 2010 and \$721,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the department to fulfill its contracts with the school districts under chapter 28A.190 RCW to provide transportation, building space, and other support services as are reasonably necessary to support the educational programs of students living in residential habilitation centers.

(d) In addition to other reductions, the appropriations in this subsection reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(3) PROGRAM SUPPORT

General Fund--State Appropriation (FY 2010).....	(\$1,420,000))
	\$1,407,000
General Fund--State Appropriation (FY 2011).....	(\$1,372,000))
	\$1,379,000
General Fund--Federal Appropriation.....	(\$1,360,000))
	\$1,319,000
TOTAL APPROPRIATION.....	(\$4,152,000))
	\$4,105,000

The appropriations in this subsection are subject to the following conditions and limitations: In addition to other reductions, the appropriations in this subsection reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(4) SPECIAL PROJECTS

<del>General Fund--State Appropriation (FY 2010).....</del>	<del>\$15,000</del>
<del>General Fund--State Appropriation (FY 2011).....</del>	<del>\$15,000</del>

General Fund--Federal Appropriation.....	(\$21,066,000))
	\$9,631,000
TOTAL APPROPRIATION.....	(\$21,096,000))
	\$9,631,000

The appropriations in this subsection are subject to the following conditions and limitations: The appropriations in this subsection are available solely for the infant toddler early intervention program.

Sec. 206. 2010 c 3 s 205 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--AGING AND ADULT SERVICES PROGRAM**

General Fund--State Appropriation (FY 2010).....	(\$584,741,000))
	\$616,837,000
General Fund--State Appropriation (FY 2011).....	(\$693,325,000))
	\$638,535,000
General Fund--Federal Appropriation.....	(\$585,958,000))
	\$1,953,289,000
General Fund--Private/Local Appropriation.....	(\$19,973,000))
	\$18,013,000
Traumatic Brain Injury Account--State Appropriation.....	(\$1,816,000))
	\$4,136,000
TOTAL APPROPRIATION.....	(\$3,105,813,000))
	\$3,230,810,000

The appropriations in this section are subject to the following conditions and limitations:

(1) For purposes of implementing chapter 74.46 RCW, the weighted average nursing facility payment rate shall not exceed ~~(\$156.37)~~ \$169.85 for fiscal year 2010 and shall not exceed ~~(\$158.74)~~ \$166.24 for fiscal year 2011, including the rate add-on described in subsection (12) of this section. There will be no adjustments for economic trends and conditions in fiscal years 2010 and 2011. The economic trends and conditions factor or factors defined in the biennial appropriations act shall not be compounded with the economic trends and conditions factor or factors defined in any other biennial appropriations acts before applying it to the component rate allocations established in accordance with chapter 74.46 RCW. When no economic trends and conditions factor for either fiscal year is defined in a biennial appropriations act, no economic trends and conditions factor or factors defined in any earlier biennial appropriations act shall be applied solely or compounded to the component rate allocations established in accordance with chapter 74.46 RCW.

(2) After examining actual nursing facility cost information, the legislature finds that the medicaid nursing facility rates calculated pursuant to Substitute House Bill No. 3202 or Substitute Senate Bill No. 6872 (nursing facility medicaid payments) provide sufficient reimbursement to efficient and economically operating nursing facilities and bears a reasonable relationship to costs.

(3) In accordance with chapter 74.46 RCW, the department shall issue no additional certificates of capital authorization for fiscal year 2010 and no new certificates of capital authorization for fiscal year 2011 and shall grant no rate add-ons to payment rates for capital improvements not requiring a certificate of need and a certificate of capital authorization for fiscal year 2011.

~~((3))~~ (4) The long-term care program may develop and pay enhanced rates for exceptional care to nursing homes for persons with traumatic brain injuries who are transitioning from hospital care. The cost per patient day for caring for these clients in a nursing home setting may be equal to or less than the cost of caring for these clients in a hospital setting.

~~((4))~~ (5) Within the appropriations of this section, the department shall reduce all seventeen payment levels of the seventeen-level payment system from the fiscal year 2009 levels for

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boarding homes, boarding homes contracted as assisted living, and adult family homes. Excluded from the reductions are exceptional care rate add-ons. The long-term care program may develop add-ons to pay exceptional care rates to adult family homes and boarding homes with specialty contracts to provide support for the following specifically eligible clients:

(a) Persons with AIDS or HIV-related diseases who might otherwise require nursing home or hospital care;

(b) Persons with Alzheimer's disease and related dementia who might otherwise require nursing home care; and

(c) Persons with co-occurring mental illness and long-term care needs who are eligible for expanded community services and who might otherwise require state and local psychiatric hospital care.

Within amounts appropriated, exceptional add-on rates for AIDS/HIV, dementia specialty care, and expanded community services may be standardized within each program.

~~((5))~~ (6)(a) Amounts appropriated in this section reflect a reduction to funds appropriated for in-home care. The department shall reduce the number of in-home hours authorized. The reduction shall be scaled based on the acuity level of care recipients. The largest hour reductions shall be to lower acuity patients and the smallest hour reductions shall be to higher acuity patients. In doing so, the department shall comply with all maintenance of effort requirements contained in the American reinvestment and recovery act.

(b) \$3,070,000 of the general fund--state appropriation for fiscal year 2011 and \$4,980,000 of the general fund--federal appropriation are provided solely for the department to partially restore the reduction to in-home care that are taken in (a) of this subsection. The department will use the same formula to restore personal care hours that it used to reduce personal care hours.

~~((6))~~ (7) \$536,000 of the general fund--state appropriation for fiscal year 2010, \$1,477,000 of the general fund--state appropriation for fiscal year 2011, and \$2,830,000 of the general fund--federal appropriation are provided solely for health care benefits pursuant to a collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270.

~~((7))~~ (8)(a) \$1,212,000 of the general fund--state appropriation for fiscal year 2010, \$2,934,000 of the general fund--state appropriation for fiscal year 2011, and \$2,982,000 of the general fund--federal appropriation are provided solely for the state's contribution to the training partnership, as provided in RCW 74.39A.360, pursuant to a collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270.

(b) \$330,000 of the general fund--state appropriation for fiscal year 2010, \$660,000 of the general fund-state appropriation for fiscal year 2011, and \$810,000 of the general fund--federal appropriation are provided solely for transfer from the department to the training partnership, as provided in RCW 74.39A.360, for infrastructure and instructional costs associated with training of individual providers, pursuant to a collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270.

(c) The federal portion of the amounts in this subsection is contingent upon federal approval of participation in contributions to the trust and shall remain unallotted and placed in reserve status until the office of financial management and the department of social and health services receive federal approval.

(d) Expenditures for the purposes specified in this subsection shall not exceed the amounts provided in this subsection.

~~((8))~~ (9) Within the amounts appropriated in this section, the department may expand the new freedom waiver program to accommodate new waiver recipients throughout the state. As

possible, and in compliance with current state and federal laws, the department shall allow current waiver recipients to transfer to the new freedom waiver.

~~((9))~~ (10) Individuals receiving services as supplemental security income (SSI) state supplemental payments shall not become eligible for medical assistance under RCW 74.09.510 due solely to the receipt of SSI state supplemental payments.

~~((10) Adult day health services shall only be authorized for in-home clients.)~~

(11) \$3,955,000 of the general fund--state appropriation for fiscal year 2010, \$4,239,000 of the general fund--state appropriation for fiscal year 2011, and \$10,190,000 of the general fund--federal appropriation are provided solely for the continued operation of community residential and support services for persons who are older adults or who have co-occurring medical and behavioral disorders and who have been discharged or diverted from a state psychiatric hospital. These funds shall be used to serve individuals whose treatment needs constitute substantial barriers to community placement, who no longer require active psychiatric treatment at an inpatient hospital level of care, and who no longer meet the criteria for inpatient involuntary commitment. Coordination of these services will be done in partnership between the mental health program and the aging and disability services administration.

(12) Within the funds provided, the department shall continue to provide an add-on per medicaid resident day per facility not to exceed \$1.57. The add-on shall be used to increase wages, benefits, and/or staffing levels for certified nurse aides; or to increase wages and/or benefits for dietary aides, housekeepers, laundry aides, or any other category of worker whose statewide average dollars-per-hour wage was less than \$15 in calendar year 2008, according to cost report data. The add-on may also be used to address resulting wage compression for related job classes immediately affected by wage increases to low-wage workers. The department shall continue reporting requirements and a settlement process to ensure that the funds are spent according to this subsection. The department shall adopt rules to implement the terms of this subsection.

(13) \$1,840,000 of the general fund--state appropriation for fiscal year 2010 and \$1,877,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for operation of the volunteer ~~(enhore)~~ services program. Funding shall be prioritized towards serving populations traditionally served by long-term care services to include senior citizens and persons with disabilities.

(14) In accordance with chapter 74.39 RCW, the department may implement two medicaid waiver programs for persons who do not qualify for such services as categorically needy, subject to federal approval and the following conditions and limitations:

(a) One waiver program shall include coverage of care in community residential facilities. Enrollment in the waiver shall not exceed 600 persons at any time.

(b) The second waiver program shall include coverage of in-home care. Enrollment in this second waiver shall not exceed 200 persons at any time.

(c) The department shall identify the number of medically needy nursing home residents, and enrollment and expenditures on each of the two medically needy waivers, on monthly management reports.

(d) If it is necessary to establish a waiting list for either waiver because the budgeted number of enrollment opportunities has been reached, the department shall track how the long-term care needs of applicants assigned to the waiting list are met.

(15) The department shall establish waiting lists to the extent necessary to assure that annual expenditures on the community options program entry systems (COPES) program do not exceed

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appropriated levels. In establishing and managing any such waiting list, the department shall assure priority access to persons with the greatest unmet needs, as determined by department assessment processes.

(16) The department shall contract for housing with service models, such as cluster care, to create efficiencies in service delivery and responsiveness to unscheduled personal care needs by clustering hours for clients that live in close proximity to each other.

(17) The department shall not pay a home care agency licensed under chapter 70.127 RCW for personal care services provided by a family member, pursuant to Substitute House Bill No. 2361 (modifying state payments for in-home care).

(18) (~~(\$204,000)~~ \$209,000 of the general fund--state appropriation for fiscal year 2010, (~~(\$1,099,000)~~ \$781,000 of the general fund--state appropriation for fiscal year 2011, and (~~(\$1,697,000)~~ \$1,293,000 of the general fund--federal appropriation are provided solely to implement Engrossed House Bill No. 2194 (extraordinary medical placement for offenders). The department shall work in partnership with the department of corrections to identify services and find placements for offenders who are released through the extraordinary medical placement program. The department shall collaborate with the department of corrections to identify and track cost savings to the department of corrections, including medical cost savings and to identify and track expenditures incurred by the aging and disability services program for community services and by the medical assistance program for medical expenses. A joint report regarding the identified savings and expenditures shall be provided to the office of financial management and the appropriate fiscal committees of the legislature by November 30, 2010. If this bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(19) (~~(Sufficient funding is provided in this section for the department to implement Engrossed Second Substitute House Bill No. 1935 (adult family homes). During the 2009-11 biennium, the initial licensing fee for an adult family home shall be set at \$900.00. During the 2009-11 biennium, the annual licensing renewal fee shall be set at \$100.00.)~~ In accordance with RCW 18.51.050, 18.20.050, and 43.135.055, the department is authorized to increase nursing facility and boarding home fees in fiscal year 2011 as necessary to meet the actual costs of conducting the licensure, inspection, and regulatory programs.

(a) \$1,035,000 of the general fund--private/local appropriation assumes that the current annual renewal license fee for nursing facilities shall be increased to \$327 per bed beginning in fiscal year 2011.

(b) \$1,806,000 of the general fund--local appropriation assumes that the current annual renewal license fee for boarding homes shall be increased to \$106 per bed beginning in fiscal year 2011.

(20) The department shall, by September 30, 2010, provide a report to the legislature on the implementation of chapter 571, Laws of 2009 (Substitute House Bill No. 2361). The report shall provide an analysis of the savings and/or costs to the agency associated with the implementation of the bill. Additionally, the report shall provide a full accounting of the relative hourly costs of agency providers and individual providers.

(21) The department shall establish a working group with representatives of the home care industry to identify and eliminate or mitigate administrative burdens. The make-up of this working group shall be limited to:

(a) The state unit on aging chief of the aging and disabilities service administration (ADSA);

(b) Other ADSA representatives as the state unit on aging chief deems necessary;

(c) A representative from the department of health facility services licensing;

(d) No more than seven representatives of the home care industry, to include:

(i) A representative of each of the three home care associations;

(ii) A for-profit agency with at least seven area agency on aging contracts;

(iii) A nonprofit with at least seven area agency on aging contracts;

(iv) An agency that serves persons with developmental disabilities; and

(v) An agency that is a community action program;

(e) No more than two area agency on aging directors; and

(f) Representatives from each of the two labor unions which represent home care workers.

The department is authorized to assign work group members consistent with this subsection. The working group shall hold its first meeting no later than May 1, 2010, and shall meet at least monthly or as needed until the group has accomplished its goals. The work group shall provide a report on its findings to the legislative fiscal committees by January 1, 2011.

(22) \$2,566,000 of the traumatic brain injury account--state appropriation is provided solely to continue services for persons with traumatic brain injury (TBI) as defined in RCW 74.31.020 through 74.31.050. The TBI advisory council shall provide a report to the legislature by December 1, 2010, on the effectiveness of the functions overseen by the council and shall provide recommendations on the development of critical services for individuals with traumatic brain injury.

(23) The automatic award of additional hours of personal care for people with special meal preparation or incontinence needs is eliminated. Authorization of service hours will be based upon the individual's assessed needs.

(24) For calendar year 2009, the department shall calculate split settlements covering two periods January 1, 2009, through June 30, 2009, and July 1, 2009, through December 31, 2009. For the second period beginning July 1, 2009, the department may partially or totally waive settlements only in specific cases where a nursing home can demonstrate significant decreases in costs from the first period.

(25) \$72,000 of the traumatic brain injury account appropriation and \$116,000 of the general fund--federal appropriation are provided solely for a direct care rate add-on to any nursing facility specializing in the care of residents with traumatic brain injuries where more than 50 percent of residents are classified with this condition based upon the federal minimum data set assessment.

(26) \$69,000 of the general fund--state appropriation for fiscal year 2010, \$1,289,000 of the general fund--state appropriation for fiscal year 2011, and \$2,050,000 of the general fund--federal appropriation are provided solely for the department to maintain enrollment in the adult day health services program. New enrollments are authorized for up to 1,575 clients or to the extent that appropriated funds are available to cover additional clients.

(27) \$1,000,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the department to contract for the provision of an individual provider referral registry.

(28) \$100,000 of the general fund--state appropriation for fiscal year 2011 and \$100,000 of the general fund--federal appropriation are provided solely for the department to contract with a consultant to evaluate and make recommendations on a pay-for-performance payment subsidy system. The department shall organize one workgroup meeting with the consultant where nursing home stakeholders may provide input on pay-for-performance ideas. The consultant shall review pay-for-performance strategies used in other states to sustain and enhance quality-improvement efforts in nursing facilities. The evaluation shall include a review of the centers for medicare and medicaid services demonstration project to explore

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the feasibility of pay-for-performance systems in medicare certified nursing facilities. The consultant shall develop a report to include:

(a) Best practices used in other states for pay-for-performance strategies incorporated into medicaid nursing home payment systems;

(b) The relevance of existing research to Washington state;

(c) A summary and review of suggestions for pay-for-performance strategies provided by nursing home stakeholders in Washington state; and

(d) An evaluation of the effectiveness on a variety of performance measures.

(29) \$4,100,000 of the general fund--state appropriation for fiscal year 2010, \$4,174,000 of the general fund--state appropriation for fiscal year 2011, and \$8,124,000 of the general fund--federal appropriation are provided for the operation of the management services division of the aging and disability services administration. This includes but is not limited to the budget, contracts, accounting, decision support, information technology, and rate development activities for programs administered by the aging and disability services administration. Nothing in this subsection is intended to exempt the management services division of the aging and disability services administration from reductions directed by the secretary. However, funds provided in this subsection shall not be transferred elsewhere within the department nor used for any other purpose.

**Sec. 207.** 2010 c 3 s 206 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--ECONOMIC SERVICES PROGRAM**

General Fund--State Appropriation (FY 2010).....	<del>(\$557,452,000)</del>
	\$564,492,000
General Fund--State Appropriation (FY 2011).....	<del>(\$587,973,000)</del>
	\$581,459,000
General Fund--Federal Appropriation.....	<del>(\$1,139,899,000)</del>
	\$1,223,832,000
General Fund--Private/Local Appropriation.....	<del>(\$27,920,000)</del>
	\$31,816,000
Administrative Contingency Account--State	
Appropriation.....	<del>(\$29,136,000)</del>
	\$24,336,000
TOTAL APPROPRIATION.....	<del>(\$2,342,380,000)</del>
	\$2,425,935,000

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~(\$303,196,000)~~ \$303,393,000 of the general fund--state appropriation for fiscal year 2010, ~~(\$309,755,000)~~ \$285,913,000 of the general fund--state appropriation for fiscal year 2011, ~~(\$29,136,000)~~ \$24,336,000 of the administrative contingency account--state appropriation, and \$778,606,000 of the general fund--federal appropriation are provided solely for all components of the WorkFirst program. The department shall use moneys from the administrative contingency account for WorkFirst job placement services provided by the employment security department. Within the amounts provided for the WorkFirst program, the department may provide assistance using state-only funds for families eligible for temporary assistance for needy families. In addition, within the amounts provided for WorkFirst the department shall:

(a) Establish a career services work transition program;

(b) Continue to implement WorkFirst program improvements that are designed to achieve progress against outcome measures specified in RCW 74.08A.410. Outcome data regarding job retention and wage progression shall be reported quarterly to appropriate fiscal and policy committees of the legislature for families who leave assistance, measured after 12 months, 24 months, and 36 months. The department shall also report the

percentage of families who have returned to temporary assistance for needy families after 12 months, 24 months, and 36 months;

(c) Submit a report electronically by October 1, 2009, to the fiscal committees of the legislature containing a spending plan for the WorkFirst program. The plan shall identify how spending levels in the 2009-2011 biennium will be adjusted to stay within available federal grant levels and the appropriated state-fund levels;

(d) Provide quarterly fiscal reports to the office of financial management and the legislative fiscal committees detailing information on the amount expended from general fund--state and general fund--federal by activity;

(e) Maintain the fiscal year 2009 grant standard for the temporary assistance for needy families grant.

(2) The WorkFirst subcabinet, in partnership with the department of social and health services, shall review and prepare a report on services provided and accessed by both general population clients and limited English proficiency clients. The review shall include information on efficiencies and outcomes related to client services for each client population. The report should identify services and expenditures related to client outcomes in fiscal year 2010. The report on these programs and client outcomes shall be reported to the appropriate committees of the legislature no later than December 15, 2010.

(3) The department and the office of financial management shall electronically report quarterly the expenditures, maintenance of effort allotments, expenditure amounts, and caseloads for the WorkFirst program to the legislative fiscal committees.

~~((3))~~ (4) \$16,783,000 of the general fund--state appropriation for fiscal year 2011 and \$62,000,000 of the general fund--federal appropriation are provided solely for all components of the WorkFirst program in order to maintain services to January 2011. The legislature intends to work with the governor to design and implement fiscal and programmatic modifications to provide for the sustainability of the program. The funding in this subsection assumes that no other expenditure reductions will be made prior to January 2011 other than those assumed in the appropriation levels in this act.

(5) ~~(\$84,856,000)~~ \$94,322,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$95,173,000)~~ \$97,168,000 of the general fund--state appropriation for fiscal year 2011, net of recoveries, are provided solely for cash assistance and other services to recipients in the ~~(general assistance unemployable program)~~ cash program pursuant to chapter 8, Laws of 2010 1st sp. sess. (security lifeline act), including persons in the unemployable, expedited, and aged, blind, and disabled components of the program. It is the intent of the legislature that the lifeline incapacity determination and progressive evaluation process regulations be carefully designed to accurately identify those persons who have been or will be incapacitated for at least ninety days. The incapacity determination and progressive evaluation process regulations in effect on January 1, 2010, cannot be amended until at least September 30, 2010; except that provisions related to the use of administrative review teams may be amended, and obsolete terminology and functional assessment language may be updated on or after July 1, 2010, in a manner that only minimally impacts the outcome of incapacity evaluations. After September 30, 2010, the incapacity determination and progressive evaluation process regulations may be amended only if the reports under (a) and (b) of this subsection have been submitted, and find that expenditures will exceed the appropriated level by three percent or more.

(a) The department and the caseload forecast council shall, by September 21, 2010, submit a report to the legislature based upon the most recent caseload forecast and actual expenditure data available, as to whether expenditures for the lifeline-unemployable grants in fiscal year 2011 will exceed \$69,648,000 for fiscal year

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2011 in the 2010 supplemental operating budget by three percent or more. If expenditures will exceed the appropriated amount for lifeline-unemployable grants by three percent or more, the department may adopt regulations modifying incapacity determination and progressive evaluation process regulations after September 30, 2010.

(b) On or before September 21, 2010, the department shall submit a report to the relevant policy and fiscal committees of the legislature that includes the following information regarding any regulations proposed for adoption that would modify the lifeline incapacity determination and progressive evaluation process:

(i) A copy of the proposed changes and a concise description of the changes;

(ii) A description of the persons who would likely be affected by adoption of the regulations, including their impairments, age, education, and work history;

(iii) An estimate of the number of persons who, on a monthly basis through June 2013, would be denied lifeline benefits if the regulations were adopted, expressed as a number, as a percentage of total applicants, and as a percentage of the number of persons granted lifeline benefits in each month;

(iv) An estimate of the number of persons who, on a monthly basis through June 2013, would have their lifeline benefits terminated following an eligibility review if the regulations were adopted, expressed as a number, as a percentage of the number of persons who have had an eligibility review in each month, and as a percentage of the total number of persons currently receiving lifeline-unemployable benefits in each month; and

(v) Intended improvements in employment or treatment outcomes among persons receiving lifeline benefits that could be attributable to the changes in the regulations.

(c) Within these amounts:

((#)) (i) The department shall aggressively pursue opportunities to transfer ((general assistance unemployable)) lifeline clients to general assistance expedited coverage and to facilitate client applications for federal supplemental security income when the client's incapacities indicate that he or she would be likely to meet the federal disability criteria for supplemental security income. The department shall initiate and file the federal supplemental security income interim agreement as quickly as possible in order to maximize the recovery of federal funds;

((#)) (ii) The department shall review the ((general assistance)) lifeline caseload to identify recipients that would benefit from assistance in becoming naturalized citizens, and thus be eligible to receive federal supplemental security income benefits. Those cases shall be given high priority for naturalization funding through the department;

((#)) (iii) The department shall actively coordinate with local workforce development councils to expedite access to worker retraining programs for ((general assistance unemployable)) lifeline clients in those regions of the state with the greatest number of such clients;

((#)) (iv) By July 1, 2009, the department shall enter into an interagency agreement with the department of veterans' affairs to establish a process for referral of veterans who may be eligible for veteran's services. This agreement must include outstationing department of veterans' affairs staff in selected community service office locations in King and Pierce counties to facilitate applications for veterans' services; and

((#)) (v) In addition to any earlier evaluation that may have been conducted, the department shall intensively evaluate those clients who have been receiving ((general assistance unemployable)) lifeline benefits for twelve months or more as of July 1, 2009, or thereafter, if the available medical and incapacity related evidence indicates that the client is unlikely to meet the

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disability standard for federal supplemental security income benefits. The evaluation shall identify services necessary to eliminate or minimize barriers to employment, including mental health treatment, substance abuse treatment and vocational rehabilitation services. The department shall expedite referrals to chemical dependency treatment, mental health and vocational rehabilitation services for these clients.

((#)) (vi) The appropriations in this subsection reflect a change in the earned income disregard policy for ((general assistance unemployable)) lifeline clients. It is the intent of the legislature that the department shall adopt the temporary assistance for needy families earned income policy for ((general assistance unemployable)) the lifeline program.

((#)) (6) \$750,000 of the general fund--state appropriation for fiscal year 2010 and \$750,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for naturalization services.

((#)) (7)(a) \$3,550,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for refugee employment services, of which \$2,650,000 is provided solely for the department to pass through to statewide refugee assistance organizations for limited English proficiency pathway services; and \$3,550,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for refugee employment services, of which \$2,650,000 is provided solely for the department to pass through to statewide refugee assistance organizations for limited English proficiency pathway services.

(b) The legislature intends that the appropriation in this subsection for the 2009-11 fiscal biennium will maintain funding for refugee programs at a level at least equal to expenditures on these programs in the 2007-09 fiscal biennium.

((#)) (8) The appropriations in this section reflect reductions in the appropriations for the economic services administration's administrative expenses. It is the intent of the legislature that these reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or program.

(9) \$855,000 of the general fund--state appropriation for fiscal year 2011, \$719,000 of the general fund--federal appropriation, and \$2,907,000 of the general fund--private/local appropriation are provided solely for the implementation of the opportunity portal, the food stamp employment and training program, and the disability lifeline program under Second Substitute House Bill No. 2782 (security lifeline act). If the bill is not enacted by June 30, 2010, the amounts provided in this subsection shall lapse.

(10) \$200,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the department to award grants to small mutual assistance or small community-based organizations that contract with the department for immigrant and refugee assistance services. The funds shall be awarded to provide funding for community groups to provide transitional assistance, language skills, and other resources to improve refugees' economic self-sufficiency through the effective use of social services, financial services, and medical assistance.

(11) \$250,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for increased funding for limited English proficiency pathway programs.

**Sec. 208.** 2010 c 3 s 207 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--ALCOHOL AND SUBSTANCE ABUSE PROGRAM**

General Fund--State Appropriation (FY 2010).....((~~\$82,028,000~~))  
\$81,982,000

General Fund--State Appropriation (FY 2011).....((~~\$84,682,000~~))

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	\$82,393,000
General Fund--Federal Appropriation.....	(((\$145,604,000))
	<u>\$148,034,000</u>
General Fund--Private/Local Appropriation.....	(((\$2,719,000))
	<u>\$2,718,000</u>
Criminal Justice Treatment Account--State Appropriation.....	(((\$17,747,000))
	<u>\$17,743,000</u>
Problem Gambling Account--State Appropriation....	(((\$1,459,000))
	<u>\$1,456,000</u>
TOTAL APPROPRIATION.....	(((\$334,239,000))
	<u>\$334,326,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Within the amounts appropriated in this section, the department may contract with the University of Washington and community-based providers for the provision of the parent-child assistance program. For all contractors, indirect charges for administering the program shall not exceed ten percent of the total contract amount.

(2) Within the amounts appropriated in this section, the department shall continue to provide for chemical dependency treatment services for adult medicaid eligible and general assistance-unemployable patients.

(3) In addition to other reductions, the appropriations in this section reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(4) \$2,247,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the implementation of the lifeline program under Second Substitute House Bill No. 2782 (security lifeline act). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(5) \$3,500,000 of the general fund--federal appropriation (from the substance abuse prevention and treatment federal block grant) is provided solely for the continued funding of existing county drug and alcohol use prevention programs.

Sec. 209. 2010 c 3 s 208 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--MEDICAL ASSISTANCE PROGRAM**

General Fund--State Appropriation (FY 2010....	(((\$1,598,043,000))
	<u>\$1,697,203,000</u>
General Fund--State Appropriation (FY 2011)....	(((\$1,985,797,000))
	<u>\$1,789,973,000</u>
General Fund--Federal Appropriation.....	(((\$5,212,855,000))
	<u>\$6,086,632,000</u>
General Fund--Private/Local Appropriation.....	(((\$12,903,000))
	<u>\$37,249,000</u>
Emergency Medical Services and Trauma Care Systems Trust Account--State Appropriation.....	(((\$15,076,000))
	<u>\$15,075,000</u>
Tobacco Prevention and Control Account-- State Appropriation.....	(((\$3,766,000))
	<u>\$4,464,000</u>
Hospital Safety Net Assessment Fund--State Appropriation.....	\$260,036,000
TOTAL APPROPRIATION.....	(((\$8,828,440,000))
	<u>\$9,890,632,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Based on quarterly expenditure reports and caseload forecasts, if the department estimates that expenditures for the

medical assistance program will exceed the appropriations, the department shall take steps including but not limited to reduction of rates or elimination of optional services to reduce expenditures so that total program costs do not exceed the annual appropriation authority.

(2) In determining financial eligibility for medicaid-funded services, the department is authorized to disregard recoveries by Holocaust survivors of insurance proceeds or other assets, as defined in RCW 48.104.030.

(3) The legislature affirms that it is in the state's interest for Harborview medical center to remain an economically viable component of the state's health care system.

(4) When a person is ineligible for medicaid solely by reason of residence in an institution for mental diseases, the department shall provide the person with the same benefits as he or she would receive if eligible for medicaid, using state-only funds to the extent necessary.

(5) In accordance with RCW 74.46.625, \$6,000,000 of the general fund--federal appropriation is provided solely for supplemental payments to nursing homes operated by public hospital districts. The public hospital district shall be responsible for providing the required nonfederal match for the supplemental payment, and the payments shall not exceed the maximum allowable under federal rules. It is the legislature's intent that the payments shall be supplemental to and shall not in any way offset or reduce the payments calculated and provided in accordance with part E of chapter 74.46 RCW. It is the legislature's further intent that costs otherwise allowable for rate-setting and settlement against payments under chapter 74.46 RCW shall not be disallowed solely because such costs have been paid by revenues retained by the nursing home from these supplemental payments. The supplemental payments are subject to retrospective interim and final cost settlements based on the nursing homes' as-filed and final medicare cost reports. The timing of the interim and final cost settlements shall be at the department's discretion. During either the interim cost settlement or the final cost settlement, the department shall recoup from the public hospital districts the supplemental payments that exceed the medicaid cost limit and/or the medicare upper payment limit. The department shall apply federal rules for identifying the eligible incurred medicaid costs and the medicare upper payment limit.

(6) \$1,110,000 of the general fund--federal appropriation and \$1,105,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for grants to rural hospitals. The department shall distribute the funds under a formula that provides a relatively larger share of the available funding to hospitals that (a) serve a disproportionate share of low-income and medically indigent patients, and (b) have relatively smaller net financial margins, to the extent allowed by the federal medicaid program.

(7) \$9,818,000 of the general fund--state appropriation for fiscal year 2011, and \$9,865,000 of the general fund--federal appropriation are provided solely for grants to nonrural hospitals. The department shall distribute the funds under a formula that provides a relatively larger share of the available funding to hospitals that (a) serve a disproportionate share of low-income and medically indigent patients, and (b) have relatively smaller net financial margins, to the extent allowed by the federal medicaid program.

(8) The department shall continue the inpatient hospital certified public expenditures program for the 2009-11 biennium. The program shall apply to all public hospitals, including those owned or operated by the state, except those classified as critical access hospitals or state psychiatric institutions. The department shall submit reports to the governor and legislature by November 1, 2009, and by November 1, 2010, that evaluate whether savings continue to

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exceed costs for this program. If the certified public expenditures (CPE) program in its current form is no longer cost-effective to maintain, the department shall submit a report to the governor and legislature detailing cost-effective alternative uses of local, state, and federal resources as a replacement for this program. During fiscal year 2010 and fiscal year 2011, hospitals in the program shall be paid and shall retain one hundred percent of the federal portion of the allowable hospital cost for each medicaid inpatient fee-for-service claim payable by medical assistance and one hundred percent of the federal portion of the maximum disproportionate share hospital payment allowable under federal regulations. Inpatient medicaid payments shall be established using an allowable methodology that approximates the cost of claims submitted by the hospitals. Payments made to each hospital in the program in each fiscal year of the biennium shall be compared to a baseline amount. The baseline amount will be determined by the total of (a) the inpatient claim payment amounts that would have been paid during the fiscal year had the hospital not been in the CPE program based on the reimbursement rates developed, implemented, and consistent with policies approved in the 2009-11 biennial operating appropriations act (chapter 564, Laws of 2009) and in effect on July 1, 2009, (b) one half of the indigent assistance disproportionate share hospital payment amounts paid to and retained by each hospital during fiscal year 2005, and (c) all of the other disproportionate share hospital payment amounts paid to and retained by each hospital during fiscal year 2005 to the extent the same disproportionate share hospital programs exist in the 2009-11 biennium. If payments during the fiscal year exceed the hospital's baseline amount, no additional payments will be made to the hospital except the federal portion of allowable disproportionate share hospital payments for which the hospital can certify allowable match. If payments during the fiscal year are less than the baseline amount, the hospital will be paid a state grant equal to the difference between payments during the fiscal year and the applicable baseline amount. Payment of the state grant shall be made in the applicable fiscal year and distributed in monthly payments. The grants will be recalculated and redistributed as the baseline is updated during the fiscal year. The grant payments are subject to an interim settlement within eleven months after the end of the fiscal year. A final settlement shall be performed. To the extent that either settlement determines that a hospital has received funds in excess of what it would have received as described in this subsection, the hospital must repay the excess amounts to the state when requested. \$20,403,000 of the general fund--state appropriation for fiscal year 2010, of which \$6,570,000 (of the general fund--state appropriation for fiscal year 2010, which) is appropriated in section 204(1) of this act, and ((\$1,500,000 of the general fund--state appropriation for fiscal year 2011, which) \$29,480,000 of the general fund--state appropriation for fiscal year 2011, of which \$6,570,000 is appropriated in section 204(1) of this act, are provided solely for state grants for the participating hospitals. ((Sufficient amounts are appropriated in this section for the remaining state grants for the participating hospitals.)) CPE hospitals will receive the inpatient and outpatient reimbursement rate restorations in section 9 and rate increases in section 10(1)(b) of Engrossed Second Substitute House Bill No. 2956 (hospital safety net assessment) funded through the hospital safety net assessment fund rather than through the baseline mechanism specified in this subsection.

(9) The department is authorized to use funds appropriated in this section to purchase goods and supplies through direct contracting with vendors when the department determines it is cost-effective to do so.

(10) \$93,000 of the general fund--state appropriation for fiscal year 2010 and \$93,000 of the general fund--federal appropriation are provided solely for the department to pursue a federal Medicaid

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waiver pursuant to Second Substitute Senate Bill No. 5945 (Washington health partnership plan). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(11) The department shall require managed health care systems that have contracts with the department to serve medical assistance clients to limit any reimbursements or payments the systems make to providers not employed by or under contract with the systems to no more than the medical assistance rates paid by the department to providers for comparable services rendered to clients in the fee-for-service delivery system.

(12) ~~A maximum of ((\$166,875,000 of the general fund--state appropriation and \$38,389,000 of the general fund--federal)) \$241,141,000 in total funds from the general fund--state, general fund--federal, and tobacco and prevention control account--state appropriations may be expended in the fiscal biennium for the ((general assistance unemployable)) medical program pursuant to chapter 8, Laws of 2010 1st sp. sess. (security lifeline act), and these amounts are provided solely for this program. Of these amounts, \$10,749,000 of the general fund--state appropriation for fiscal year 2010 and \$10,892,000 of the general fund--federal appropriation are provided solely for payments to hospitals for providing outpatient services to low income patients who are recipients of ((general assistance unemployable)) lifeline benefits. Pursuant to RCW 74.09.035, the department shall not expend for the ((general assistance)) lifeline medical care services program any amounts in excess of the amounts provided in this subsection.~~

(13) ~~((If the department determines that it is feasible within the amounts provided in subsection (16) of this section, and without the loss of federal disproportionate share hospital funds, the department shall contract with the carrier currently operating a managed care pilot project for the provision of medical care services to general assistance unemployable clients.)) Mental health services shall be included in the services provided through the managed care system((- If the department determines that it is feasible, effective October 1, 2009, in addition to serving clients in the pilot counties, the carrier shall expand managed care services to clients residing in at least the following counties: Spokane, Yakima, Chelan, Kitsap, and Cowlitz. If the department determines that it is feasible, the carrier shall complete implementation into the remaining counties. Total per person costs to the state, including outpatient and inpatient services and any additional costs due to stop loss agreements, shall not exceed the per capita payments projected for the general assistance unemployable eligibility category, by fiscal year, in the February 2009 medical assistance expenditures forecast)) for lifeline clients under chapter 8, Laws of 2010 1st sp. sess. In transitioning lifeline clients to managed care, the department shall attempt to deliver care to lifeline clients through medical homes in community and migrant health centers. The department, in collaboration with the carrier, shall seek to improve the transition rate of ((general assistance)) lifeline clients to the federal supplemental security income program. The department shall renegotiate the contract with the managed care plan that provides services for lifeline clients to maximize state retention of future hospital savings as a result of improved care coordination. The department, in collaboration with stakeholders, shall propose a new name for the lifeline program.~~

(14) The department shall evaluate the impact of the use of a managed care delivery and financing system on state costs, savings, and outcomes for ((general assistance)) lifeline medical clients. Outcomes measured shall include state costs, utilization, changes in mental health status and symptoms, and involvement in the criminal justice system. Outcomes measured shall also include the total costs or savings resulting from utilization changes due to care management, and how much of those costs or savings accrued to the state and the managed care organization. The department shall

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provide a report on these outcomes to the relevant policy and fiscal committees of the legislature by November 1, 2010. Monthly encounter data shall be included in the report.

(15) The department shall report to the governor and the fiscal committees of the legislature by June 1, 2010, on its progress toward achieving a twenty percentage point increase in the generic prescription drug utilization rate.

(16) State funds shall not be used by hospitals for advertising purposes.

(17) \$24,356,000 of the general fund--private/local appropriation and \$35,707,000 of the general fund--federal appropriation are provided solely for the implementation of professional services supplemental payment programs. The department shall seek a medicaid state plan amendment to create a professional services supplemental payment program for University of Washington medicine professional providers no later than July 1, 2009. The department shall apply federal rules for identifying the shortfall between current fee-for-service medicaid payments to participating providers and the applicable federal upper payment limit. Participating providers shall be solely responsible for providing the local funds required to obtain federal matching funds. Any incremental costs incurred by the department in the development, implementation, and maintenance of this program will be the responsibility of the participating providers. Participating providers will retain the full amount of supplemental payments provided under this program, net of any potential costs for any related audits or litigation brought against the state. The department shall report to the governor and the legislative fiscal committees on the prospects for expansion of the program to other qualifying providers as soon as feasibility is determined but no later than December 31, 2009. The report will outline estimated impacts on the participating providers, the procedures necessary to comply with federal guidelines, and the administrative resource requirements necessary to implement the program. The department will create a process for expansion of the program to other qualifying providers as soon as it is determined feasible by both the department and providers but no later than June 30, 2010.

(18) ~~(\$9,350,000)~~ \$9,075,000 of the general fund--state appropriation for fiscal year 2010, ~~(\$8,313,000)~~ \$8,588,000 of the general fund--state appropriation for fiscal year 2011, and ~~(\$20,371,000)~~ \$39,747,000 of the general fund--federal appropriation are provided solely for development and implementation of a replacement system for the existing medicaid management information system. The amounts provided in this subsection are conditioned on the department satisfying the requirements of section 902 of this act.

(19) \$506,000 of the general fund--state appropriation for fiscal year 2011 and \$657,000 of the general fund--federal appropriation are provided solely for the implementation of Second Substitute House Bill No. 1373 (children's mental health). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(20) Pursuant to 42 U.S.C. Sec. 1396(a)(25), the department shall pursue insurance claims on behalf of medicaid children served through its in-home medically intensive child program under WAC 388-551-3000. The department shall report to the Legislature by December 31, 2009, on the results of its efforts to recover such claims.

(21) The department may, on a case-by-case basis and in the best interests of the child, set payment rates for medically intensive home care services to promote access to home care as an alternative to hospitalization. Expenditures related to these increased payments shall not exceed the amount the department would otherwise pay for hospitalization for the child receiving medically intensive home care services.

(22) \$425,000 of the general fund--state appropriation for fiscal year 2010, ~~(\$425,000 of the general fund--state appropriation for fiscal year 2011,)~~ and ~~(\$1,580,000)~~ \$790,000 of the general fund--federal appropriation are provided solely to continue children's health coverage outreach and education efforts under RCW 74.09.470. These efforts shall rely on existing relationships and systems developed with local public health agencies, health care providers, public schools, the women, infants, and children program, the early childhood education and assistance program, child care providers, newborn visiting nurses, and other community-based organizations. The department shall seek public-private partnerships and federal funds that are or may become available to provide on-going support for outreach and education efforts under the federal children's health insurance program reauthorization act of 2009.

(23) The department, in conjunction with the office of financial management, shall ~~((reduce outpatient and inpatient hospital rates and))~~ implement a prorated inpatient payment policy. ~~((In determining the level of reductions needed, the department shall include in its calculations services paid under fee for service, managed care, and certified public expenditure payment methods; but reductions shall not apply to payments for psychiatric inpatient services or payments to critical access hospitals.))~~

(24) The department will pursue a competitive procurement process for antihemophilic products, emphasizing evidence-based medicine and protection of patient access without significant disruption in treatment.

(25) The department will pursue several strategies towards reducing pharmacy expenditures including but not limited to increasing generic prescription drug utilization by 20 percentage points and promoting increased utilization of the existing mail-order pharmacy program.

(26) The department shall reduce reimbursement for over-the-counter medications while maintaining reimbursement for those over-the-counter medications that can replace more costly prescription medications.

(27) The department shall seek public-private partnerships and federal funds that are or may become available to implement health information technology projects under the federal American recovery and reinvestment act of 2009.

(28) The department shall target funding for maternity support services towards pregnant women with factors that lead to higher rates of poor birth outcomes, including hypertension, a preterm or low birth weight birth in the most recent previous birth, a cognitive deficit or developmental disability, substance abuse, severe mental illness, unhealthy weight or failure to gain weight, tobacco use, or African American or Native American race.

(29) \$260,036,000 of the hospital safety net assessment fund--state appropriation and \$255,448,000 of the general fund--federal appropriation are provided solely for the implementation of Engrossed Second Substitute House Bill No. 2956 (hospital safety net assessment). If the bill is not enacted by June 30, 2010, the amounts provided in this subsection shall lapse.

(30) \$79,000 of the general fund--state appropriation for fiscal year 2010 and \$53,000 of the general fund--federal appropriation are provided solely to implement Substitute House Bill No. 1845 (medical support obligations).

~~(((30)))~~ (31) \$63,000 of the general fund--state appropriation for fiscal year 2010, \$583,000 of the general fund--state appropriation for fiscal year 2011, and \$864,000 of the general fund--federal appropriation are provided solely to implement Engrossed House Bill No. 2194 (extraordinary medical placement for offenders). The department shall work in partnership with the department of corrections to identify services and find placements for offenders who are released through the extraordinary medical placement

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program. The department shall collaborate with the department of corrections to identify and track cost savings to the department of corrections, including medical cost savings, and to identify and track expenditures incurred by the aging and disability services program for community services and by the medical assistance program for medical expenses. A joint report regarding the identified savings and expenditures shall be provided to the office of financial management and the appropriate fiscal committees of the legislature by November 30, 2010. If this bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

~~((34))~~ (32) \$73,000 of the general fund--state appropriation for fiscal year 2011 and \$50,000 of the general fund--federal appropriation is provided solely for supplemental services that will be provided to offenders in lieu of a prison sentence pursuant to chapter 224, Laws of 2010 (Substitute Senate Bill No. 6639).

(33) Sufficient amounts are provided in this section to provide full benefit dual eligible beneficiaries with medicare part D prescription drug copayment coverage in accordance with RCW 74.09.520.

(34) In addition to other reductions, the appropriations in this section reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect providers, direct client services, or direct service delivery or programs.

(35) The department shall contract with an organization that provides medication therapy management services to increase the use of lower cost alternative medications, improve patient compliance with prescribed regimens, reduce harmful side effects from medication, and ensure that medications achieve their desired therapeutic results. The department shall not contract for these services unless the contractor guarantees that the services will generate savings, as measured by the department's actual experience after implementation, that are greater than the cost of the contracted services.

(36) \$331,000 of the general fund--state appropriation for fiscal year 2010, \$331,000 of the general fund--state appropriation for fiscal year 2011, and \$1,228,000 of the general fund--federal appropriation are provided solely for the department to support the activities of the Washington poison center. The department shall seek federal authority to receive matching funds from the federal government through the children's health insurance program.

(37) \$528,000 of the general fund--state appropriation and \$2,955,000 of the general fund--federal appropriation are provided solely for the implementation of the lifeline program under chapter 8, Laws of 2010 1st sp. sess. (security lifeline act).

(38) If the cost of a brand name drug, after receiving discounted prices and rebates, is less than the cost of the generic version of the drug for the medical assistance program, the brand name drug shall be purchased.

(39) The department shall propose a new medicaid prescription drug pricing benchmark to replace the average wholesale price (AWP), and report on the transition plan, the potential impact on stakeholders, and impact on state expenditures for the 2011-13 biennium to the governor and the fiscal committees of the legislature by November 1, 2010. This effort will include collaboration with stakeholders and be consistent with the recommendations of the American medicaid pharmacy administrators association and the national association of medicaid directors working group on post-AWP pricing and reimbursement.

(40) Sufficient amounts are provided in this section to provide medicaid school-based medical services.

(41) The department shall pursue all opportunities to maximize discounted drug pricing through the 340B drug pricing program in section 340B of the public health service act. The department shall

report its findings to the governor and the fiscal committees of the legislature by December 1, 2010.

(42) The department shall develop a transition plan from a fee-for-service delivery system to a managed care delivery system for aged, blind, and disabled clients eligible for medical assistance coverage by June 1, 2011.

(43) Reductions in dental services are to be achieved by focusing on the fastest growing areas of dental care. Reductions in preventative care, particularly for children, will be avoided to the extent possible.

(44) The department shall develop the capability to implement apple health for kids express lane eligibility enrollments for children receiving basic food assistance by June 30, 2011.

(45)(a) The department, in coordination with the health care authority, shall actively continue to negotiate a medicaid section 1115 waiver with the federal centers for medicare and medicaid services that would provide federal matching funds for services provided to persons enrolled in the basic health plan under chapter 70.47 RCW and the medical care services program under RCW 74.09.035.

(b) If the waiver in (a) of this subsection is granted, the department and the health care authority may implement the waiver if it allows the program to remain within appropriated levels, after providing notice of its terms and conditions to the relevant policy and fiscal committees of the legislature in writing thirty days prior to the planned implementation date of the waiver.

(46) \$704,000 of the general fund--state appropriation for fiscal year 2010, \$812,000 of the general fund--state appropriation for fiscal year 2011, and \$1,516,000 of the general fund--federal appropriation are provided solely for maintaining employer-sponsored insurance program staff, coordination of benefits unit staff, the payment integrity audit team, and family planning nursing.

(47) For healthy options managed care rates established on or after July 1, 2010, the department shall pay health plans operating in the same county the same base capitation rates for that county, with plan-specific adjustments related to risk characteristics of the plan's members including age, gender, and diagnostic-based risk adjustments, such as chronic disability payment system risk scores. The department shall provide preliminary rates for the upcoming fiscal year to all the healthy options plans and the fiscal committees of the legislature by September 30, 2010.

(48) Every effort shall be made to maintain current employment levels and achieve administrative savings through vacancies and employee attrition. Efficiencies shall be implemented as soon as possible in order to minimize actual reduction in force. The department shall implement a management strategy that minimizes disruption of service and negative impacts on employees.

**Sec. 210.** 2010 c 3 s 209 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--VOCATIONAL REHABILITATION PROGRAM**

General Fund--State Appropriation (FY 2010).....	(\$10,451,000)
	\$10,327,000
General Fund--State Appropriation (FY 2011).....	(\$10,125,000)
	\$10,077,000
General Fund--Federal Appropriation.....	(\$83,534,000)
	\$107,961,000
Telecommunications Devices for the Hearing and Speech Impaired--State Appropriation.....	(\$1,979,000)
	\$5,976,000
<b>TOTAL APPROPRIATION.....</b>	<b>(\$106,089,000)</b>
	<b>\$134,341,000</b>

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The appropriations in this section are subject to the following conditions and limitations: The vocational rehabilitation program shall coordinate closely with the economic services program to serve ((general assistance unemployable)) lifeline clients under chapter 8, Laws of 2010 1st sp. sess., who are referred for eligibility determination and vocational rehabilitation services, and shall make every effort, within the requirements of the federal rehabilitation act of 1973, to serve these clients.

**Sec. 211.** 2010 c 3 s 210 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--SPECIAL COMMITMENT PROGRAM**

General Fund--State Appropriation (FY 2010).....	(\$49,818,000)
	\$48,827,000
General Fund--State Appropriation (FY 2011).....	(\$47,259,000)
	\$46,922,000
TOTAL APPROPRIATION.....	(\$97,077,000)
	\$95,749,000

**Sec. 212.** 2010 c 3 s 211 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--ADMINISTRATION AND SUPPORTING SERVICES PROGRAM**

General Fund--State Appropriation (FY 2010).....	(\$34,425,000)
	\$33,604,000
General Fund--State Appropriation (FY 2011).....	(\$34,627,000)
	\$29,407,000
General Fund--Federal Appropriation.....	(\$55,169,000)
	\$51,119,000
General Fund--Private/Local Appropriation.....	(\$1,526,000)
	\$1,121,000
<u>Institutional Impact Account--State Appropriation.....</u>	<u>\$22,000</u>
TOTAL APPROPRIATION.....	(\$125,747,000)
	\$115,273,000

The appropriations in this section are subject to the following conditions and limitations: In addition to other reductions, the appropriations in this section reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(1) ((~~\$150,000~~)) \$333,000 of the general fund--state appropriation for fiscal year 2010 and ((~~\$150,000~~)) \$300,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Washington state mentors program to continue its public-private partnerships to provide technical assistance and training to mentoring programs that serve at-risk youth.

(2) \$445,000 of the general fund--state appropriation for fiscal year 2010 and \$445,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for funding of the teamchild project through the governor's juvenile justice advisory committee.

(3) \$178,000 of the general fund--state appropriation for fiscal year 2010 and \$178,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the juvenile detention alternatives initiative.

(4) Amounts appropriated in this section reflect a reduction to the family policy council. The family policy council shall reevaluate staffing levels and administrative costs to ensure to the extent possible a maximum ratio of grant moneys provided and administrative costs.

(5) Amounts appropriated in this section reflect a reduction to the council on children and families. The council on children and families shall reevaluate staffing levels and administrative costs to ensure to the extent possible a maximum ratio of grant moneys provided and administrative costs.

(6) The department shall not reduce funding to the governor's juvenile justice advisory committee from the amounts appropriated for this purpose in chapter 564, Laws of 2009.

(7) \$25,000 of the general fund--state appropriation for fiscal year 2010 is provided for the department, in collaboration with the department of health and the health care authority, to report to the fiscal committees of the legislature by November 1, 2010, on estimates of the full costs and savings to all state-purchased health care from the inclusion of coverage for the diagnosis and treatment of autism spectrum disorders for individuals less than twenty-one years of age. Autism spectrum disorders are defined to mean any of the pervasive developmental disorders defined by the most recent edition of the diagnostic and statistical manual of mental disorders. Coverage must include all medically necessary care which is defined to include any care, treatment, intervention, service, or item that is prescribed, provided, or ordered by a licensed physician or licensed psychologist. Treatment of autism spectrum disorders includes the following care prescribed, ordered, or provided for an individual diagnosed with one of the autism spectrum disorders by a licensed physician or licensed psychologist who determines the care to be medically necessary: (a) Habilitative or rehabilitative care; (b) pharmacy care, except when plans do not offer any pharmacy benefits; (c) psychiatric care; and (d) psychological care. The estimates should fully consider all potential offsets to currently funded care and services and should consider including the coverage of the diagnosis and treatment of autism spectrum disorders within the currently mandated provision of mental health benefits.

**Sec. 213.** 2009 c 564 s 213 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--PAYMENTS TO OTHER AGENCIES PROGRAM**

General Fund--State Appropriation (FY 2010).....	(\$53,431,000)
	\$61,985,000
General Fund--State Appropriation (FY 2011).....	(\$53,472,000)
	\$61,461,000
General Fund--Federal Appropriation.....	(\$49,494,000)
	\$56,572,000
TOTAL APPROPRIATION.....	(\$156,397,000)
	\$180,018,000

**Sec. 214.** 2009 c 564 s 214 (uncodified) is amended to read as follows:

**FOR THE STATE HEALTH CARE AUTHORITY**

General Fund--State Appropriation (FY 2010).....	(\$206,295,000)
	\$208,258,000
General Fund--State Appropriation (FY 2011).....	(\$182,138,000)
	\$159,306,000
General Fund--Federal Appropriation.....	(\$6,302,000)
	\$34,727,000
State Health Care Authority Administration Account--	
State Appropriation.....	(\$35,261,000)
	\$34,880,000
Medical Aid Account--State Appropriation.....	(\$529,000)
	\$527,000
TOTAL APPROPRIATION.....	(\$430,525,000)
	\$437,698,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Within amounts appropriated in this section and sections 205 and 206 of this act, the health care authority shall continue to provide an enhanced basic health plan subsidy for foster parents licensed under chapter 74.15 RCW and workers in state-funded home care programs. Under this enhanced subsidy option, foster parents eligible to participate in the basic health plan as subsidized enrollees and home care workers with family incomes below 200

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percent of the federal poverty level shall be allowed to enroll in the basic health plan at the minimum premium amount charged to enrollees with incomes below sixty-five percent of the federal poverty level.

(2) The health care authority shall require organizations and individuals that are paid to deliver basic health plan services and that choose to sponsor enrollment in the subsidized basic health plan to pay 133 percent of the premium amount which would otherwise be due from the sponsored enrollees.

(3) The administrator shall take at least the following actions to assure that persons participating in the basic health plan are eligible for the level of assistance they receive: (a) Require submission of (i) income tax returns, and recent pay history, from all applicants, or (ii) other verifiable evidence of earned and unearned income from those persons not required to file income tax returns; (b) check employment security payroll records at least once every twelve months on all enrollees; (c) require enrollees whose income as indicated by payroll records exceeds that upon which their subsidy is based to document their current income as a condition of continued eligibility; (d) require enrollees for whom employment security payroll records cannot be obtained to document their current income at least once every six months; (e) not reduce gross family income for self-employed persons by noncash-flow expenses such as, but not limited to, depreciation, amortization, and home office deductions, as defined by the United States internal revenue service; and (f) pursue repayment and civil penalties from persons who have received excessive subsidies, as provided in RCW 70.47.060(9).

(4)(a) In order to maximize the funding appropriated for the basic health plan, the health care authority is directed to make modifications that will reduce the total number of subsidized enrollees to approximately 65,000 by January 1, 2010. In addition to the reduced enrollment, other modifications may include changes in enrollee premium obligations, changes in benefits, enrollee cost-sharing, and termination of the enrollment of individuals concurrently enrolled in a medical assistance program as provided in Substitute House Bill No. 2341.

(b) The health care authority shall coordinate with the department of social and health services to negotiate a medicaid section 1115 waiver with the federal centers for medicare and medicaid services that would provide matching funds for services provided to persons enrolled in the basic health plan under chapter 70.47 RCW.

(c) If the waiver in (b) of this subsection is granted, the health care authority may implement the waiver if it allows the program to remain within appropriated levels, after providing notice of its terms and conditions to the relevant policy and fiscal committees of the legislature in writing thirty days prior to the planned implementation date of the waiver.

(5) \$250,000 of the general fund--state appropriation for fiscal year 2010 and \$250,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the implementation of Substitute Senate Bill No. 5360 (community collaboratives). If the bill is not enacted by June 30, 2009, the amounts provided in this section shall lapse.

(6) The ~~((department))~~ authority shall seek public-private partnerships and federal funds that are or may become available to implement health information technology projects under the federal American recovery and reinvestment act of 2009.

(7)(a) \$2,495,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the authority for grants to two pilot projects, one each based in Spokane and Whatcom counties, to provide a full continuum of health care services to low-income adults. The pilot project in Spokane county shall aim for an enrollment of five hundred individuals and the pilot project in Whatcom county shall aim for an enrollment of one thousand

individuals. All individuals enrolled in the pilot projects shall meet the criteria in (b) of this subsection. Grantees must demonstrate experience in working with an established network of health care providers in the county capable of providing continuity of health care services that may include a primary care medical home and catastrophic insurance coverage, to low-income adults. Expectations of grantees will include: Coordinating public, private, and volunteer efforts within the county to maximize participation within the grant funds available; and providing continuity of care to participants that promotes improved health outcomes as determined by the health care authority. Grantees will submit reports as directed by the health care authority.

(b) In order to participate in a pilot, eligible low-income adults must have an income at or below two hundred percent of the federal poverty level; reside in the county where the project is based; be on the basic health waiting list at the time of application to participate; have no other health insurance coverage; and not be eligible for full-scope medical assistance programs, federal medicare programs, or health insurance through their employer. Grantees may require participants to meet other criteria, such as qualifying for health insurance coverage and paying premiums or other costs in order to participate in the pilot.

(c) The authority, in collaboration with the grantees of the pilots in (a) of this subsection, shall seek any federal funds that may be available with the enactment of federal health care reform.

(8) In the event that the authority markets a nonsubsidized version of the basic health plan, the authority must also provide information on other health care coverage options to potential clients.

(9) \$20,000 of the general fund--state appropriation for fiscal year 2010 and \$63,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the implementation of chapter 220, Laws of 2010 (accountable care organizations).

**Sec. 215.** 2010 c 3 s 212 (uncodified) is amended to read as follows:

**FOR THE HUMAN RIGHTS COMMISSION**

General Fund--State Appropriation (FY 2010).....	\$2,638,000
General Fund--State Appropriation (FY 2011).....	(\$2,533,000)
	\$2,511,000
General Fund--Federal Appropriation.....	(\$1,299,000)
	\$1,584,000
TOTAL APPROPRIATION.....	(\$6,470,000)
	\$6,733,000

**Sec. 216.** 2009 c 564 s 216 (uncodified) is amended to read as follows:

**FOR THE BOARD OF INDUSTRIAL INSURANCE APPEALS**

Worker and Community Right-to-Know Account--	
State Appropriation.....	\$20,000
Accident Account--State Appropriation.....	(\$18,453,000)
	\$18,139,000
Medical Aid Account--State Appropriation.....	(\$18,453,000)
	\$18,139,000
TOTAL APPROPRIATION.....	(\$36,926,000)
	\$36,298,000

**Sec. 217.** 2009 c 564 s 217 (uncodified) is amended to read as follows:

**FOR THE CRIMINAL JUSTICE TRAINING COMMISSION**

General Fund--State Appropriation (FY 2010).....	(\$19,146,000)
	\$17,273,000
General Fund--State Appropriation (FY 2011).....	(\$19,176,000)
	\$17,843,000
General Fund--Federal Appropriation.....	\$143,000
General Fund--Private/Local Appropriation.....	(\$200,000)
	\$1,303,000

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Death Investigations Account--State Appropriation.....	\$148,000
Municipal Criminal Justice Assistance Account--	
State Appropriation.....	\$460,000
Washington Auto Theft Prevention Authority Account--	
State Appropriation.....	\$5,844,000
TOTAL APPROPRIATION.....	<del>(\$44,974,000)</del>
	\$43,014,000

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~(\$1,874,000 of the general fund--state appropriation for fiscal year 2010 and \$1,922,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for 10 additional basic law enforcement academies in fiscal year 2010 and 10 additional basic law enforcement academies in fiscal year 2011.~~

~~(2))~~ (2) \$1,191,000 of the general fund--state appropriation for fiscal year 2010 and \$1,191,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Washington association of sheriffs and police chiefs to continue to develop, maintain, and operate the jail booking and reporting system (JBRS) and the statewide automated victim information and notification system (SAVIN).

~~((3))~~ (2) \$5,000,000 of the general fund--state appropriation for fiscal year 2010 and \$5,000,000 of the general fund--state appropriation for fiscal year 2011, are provided to the Washington association of sheriffs and police chiefs solely to verify the address and residency of registered sex offenders and kidnapping offenders under RCW 9A.44.130. The Washington association of sheriffs and police chiefs shall:

(a) Enter into performance-based agreements with units of local government to ensure that registered offender address and residency are verified:

- (i) For level I offenders, every twelve months;
- (ii) For level II offenders, every six months; and
- (iii) For level III offenders, every three months.

For the purposes of this subsection, unclassified offenders and kidnapping offenders shall be considered at risk level I unless in the opinion of the local jurisdiction a higher classification is in the interest of public safety.

(b) Collect performance data from all participating jurisdictions sufficient to evaluate the efficiency and effectiveness of the address and residency verification program; and

(c) Submit a report on the effectiveness of the address and residency verification program to the governor and the appropriate committees of the house of representatives and senate by December 31, each year.

The Washington association of sheriffs and police chiefs may retain up to three percent of the amount provided in this subsection for the cost of administration. Any funds not disbursed for address and residency verification or retained for administration may be allocated to local prosecutors for the prosecution costs associated with failing-to-register offenses.

~~((4))~~ (3) \$30,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the implementation of Second Substitute House Bill No. 2078 (persons with developmental disabilities in correctional facilities or jails). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(4) \$171,000 of the general fund--local appropriation is provided solely to purchase ammunition for the basic law enforcement academy. Jurisdictions with one hundred or more full-time commissioned officers shall reimburse to the criminal justice training commission the costs of ammunition, based on the average cost of ammunition per cadet, for cadets that they enroll in the basic law enforcement academy.

(5) The criminal justice training commission may not run a

basic law enforcement academy class of fewer than 30 students.  
(6) \$1,500,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for continuing the enforcement of illegal drug laws in the rural pilot project enforcement areas as set forth in chapter 339, Laws of 2006.

**Sec. 218.** 2009 c 564 s 218 (uncodified) is amended to read as follows:

<b>FOR THE DEPARTMENT OF LABOR AND INDUSTRIES</b>	
General Fund--State Appropriation (FY 2010).....	<del>(\$24,224,000)</del>
	\$24,975,000
General Fund--State Appropriation (FY 2011).....	<del>(\$25,237,000)</del>
	\$19,336,000
<del>((General Fund--Federal Appropriation.....</del>	<del>\$100,000)</del>
General Fund--Federal Appropriation.....	<del>(\$10,000,000)</del>
	\$10,100,000
Asbestos Account--State Appropriation.....	<del>(\$924,000)</del>
	\$923,000
Electrical License Account--State Appropriation....	<del>(\$43,162,000)</del>
	\$36,977,000
Farm Labor Revolving Account--Private/Local	
Appropriation.....	\$28,000
Worker and Community Right-to-Know Account--	
State Appropriation.....	<del>(\$1,979,000)</del>
	\$1,987,000
Public Works Administration Account--State	
Appropriation.....	<del>(\$5,764,000)</del>
	\$6,021,000
Manufactured Home Installation Training Account--	
State Appropriation.....	<del>(\$138,000)</del>
	\$143,000
Accident Account--State Appropriation.....	<del>(\$248,281,000)</del>
	\$250,509,000
Accident Account--Federal Appropriation.....	<del>(\$13,622,000)</del>
	\$13,621,000
Medical Aid Account--State Appropriation.....	<del>(\$249,537,000)</del>
	\$249,232,000
Medical Aid Account--Federal Appropriation.....	\$3,186,000
Plumbing Certificate Account--State Appropriation..	<del>(\$1,693,000)</del>
	\$1,704,000
Pressure Systems Safety Account--State	
Appropriation.....	<del>(\$3,775,000)</del>
	\$4,144,000
TOTAL APPROPRIATION.....	<del>(\$631,650,000)</del>
	\$622,886,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Pursuant to RCW 43.135.055, the department is authorized to increase fees related to factory assembled structures, contractor registration, electricians, plumbers, asbestos removal, boilers, elevators, and manufactured home installers. These increases are necessary to support expenditures authorized in this section, consistent with chapters 43.22, 18.27, 19.28, and 18.106 RCW, RCW 49.26.130, and chapters 70.79, 70.87, and 43.22A RCW.

(2) \$424,000 of the accident account--state appropriation and \$76,000 of the medical aid account--state appropriation are provided solely for implementation of a community agricultural worker safety grant at the department of agriculture. The department shall enter into an interagency agreement with the department of agriculture to implement the grant.

(3) \$4,850,000 of the medical aid account--state appropriation is provided solely to continue the program of safety and health as authorized by RCW 49.17.210 to be administered under rules adopted pursuant to chapter 34.05 RCW, provided that projects funded involve workplaces insured by the medical aid fund, and that priority is given to projects fostering accident prevention through

cooperation between employers and employees or their representatives.

(4) \$150,000 of the medical aid account--state appropriation is provided solely for the department to contract with one or more independent experts to evaluate and recommend improvements to the rating plan under chapter 51.18 RCW, including analyzing how risks are pooled, the effect of including worker premium contributions in adjustment calculations, incentives for accident and illness prevention, return-to-work practices, and other sound risk-management strategies that are consistent with recognized insurance principles.

(5) The department shall continue to conduct utilization reviews of physical and occupational therapy cases at the 24th visit. The department shall continue to report performance measures and targets for these reviews on the agency web site. The reports are due September 30th for the prior fiscal year and must include the amount spent and the estimated savings per fiscal year.

(6) The appropriations in this section reflect reductions in the appropriations for the department of labor and industries' administrative expenses. It is the intent of the legislature that these reductions shall be achieved, to the greatest extent possible, by reducing administrative costs only.

(7) \$500,000 of the accident account--state appropriation is provided solely for the department to contract with one or more independent experts to oversee and assist the department's implementation of improvements to the rating plan under chapter 51.18 RCW, in collaboration with the department and with the department's work group of retrospective rating and workers' compensation stakeholders. The independent experts will validate the impact of recommended changes on retrospective rating participants and nonparticipants, confirm implementation technology changes, and provide other implementation assistance as determined by the department.

(8) \$194,000 of the accident account--state appropriation and \$192,000 of the medical aid account--state appropriation are provided solely for implementation of Senate Bill No. 5346 (health care administrative procedures). ~~((If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.))~~

(9) \$131,000 of the accident account--state appropriation and \$128,000 of the medical aid account--state appropriation are provided solely for implementation of Senate Bill No. 5613 (stop work orders). ~~((If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.))~~

(10) \$68,000 of the accident account--state appropriation and \$68,000 of the medical aid account--state appropriation are provided solely for implementation of Senate Bill No. 5688 (registered domestic partners). ~~((If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.))~~

(11) \$320,000 of the accident account--state appropriation and \$147,000 of the medical aid account--state appropriation are provided solely for implementation of Senate Bill No. 5873 (apprenticeship utilization). ~~((If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.))~~

~~(15))~~ (12) \$73,000 of the general fund--state appropriation for fiscal year 2010, \$66,000 of the general fund--state appropriation for fiscal year 2011, \$606,000 of the accident account--state appropriation, and \$600,000 of the medical aid account--state appropriation are provided solely for the implementation of House Bill No. 1555 (underground economy). ~~((If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.))~~

~~(16))~~ (13) \$574,000 of the accident account--state appropriation and \$579,000 of the medical account--state appropriation are provided solely for the implementation of House Bill No. 1402 (industrial insurance appeals). ~~((If the bill is not~~

~~enacted by June 30, 2009, the amounts provided in this subsection shall lapse.))~~

(14) Within statutory guidelines, the boiler program shall explore opportunities to increase program efficiency. Strategies may include the consolidation of routine multiple inspections to the same site and trip planning to ensure the least number of miles traveled.

(15) \$16,000 of the general fund--state appropriation for fiscal year 2010 and \$50,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the crime victims compensation program to pay claims for mental health services for crime victim compensation program clients who have an established relationship with a mental health provider and subsequently obtain coverage under the medicaid program or the medical care services program under chapter 74.09 RCW. Prior to making such payment, the program must have determined that payment for the specific treatment or provider is not available under the medicaid or medical care services program. In addition, the program shall make efforts to contact any healthy options or medical care services health plan in which the client may be enrolled to help the client obtain authorization to pay the claim on an out-of-network basis.

(16) \$48,000 of the accident account--state appropriation and \$48,000 of the medical aid account--state appropriation are provided solely for the implementation of Substitute House Bill No. 2789 (issuance of subpoenas for purposes of agency investigations of underground economic activity). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(17) \$71,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for implementation of Senate Bill No. 6349 (farm internship program). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(18) \$127,000 of the general fund--state appropriation for fiscal year 2010 and \$133,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the department to provide benefits in excess of the cap established by sections 1 and 2, chapter 122, Laws of 2010. These benefits shall be paid for claimants who were determined eligible for and who were receiving crime victims' compensation benefits because they were determined to be permanently and totally disabled, as defined by RCW 51.08.160, prior to April 1, 2010. The director shall establish, by May 1, 2010, a process to aid crime victims' compensation recipients in identifying and applying for appropriate alternative benefit programs.

(19) \$155,000 of the public works administration account--state appropriation is provided solely for the implementation of Engrossed House Bill No. 2805 (offsite prefabricated items). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

Sec. 219. 2010 c 3 s 213 (uncodified) is amended to read as follows:

**FOR THE INDETERMINATE SENTENCE REVIEW BOARD**

General Fund--State Appropriation (FY 2010).....	\$1,882,000
General Fund--State Appropriation (FY 2011).....	<del>(((\$1,886,000))</del>
	\$1,864,000
TOTAL APPROPRIATION.....	<del>(((\$3,768,000))</del>
	\$3,746,000

Sec. 220. 2009 c 564 s 220 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF VETERANS AFFAIRS**

<b>(1) HEADQUARTERS</b>	
General Fund--State Appropriation (FY 2010).....	\$1,913,000
General Fund--State Appropriation (FY 2011).....	<del>(((\$1,899,000))</del>
	\$1,865,000
Charitable, Educational, Penal, and Reformatory	
Institutions Account--State Appropriation.....	\$10,000

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TOTAL APPROPRIATION.....((~~\$3,822,000~~))  
\$3,788,000

The appropriations in this subsection are subject to the following conditions and limitations: In addition to other reductions, the appropriations in this section reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(2) FIELD SERVICES

General Fund--State Appropriation (FY 2010).....\$4,885,000  
General Fund--State Appropriation (FY 2011).....((~~\$4,943,000~~))  
\$4,964,000  
General Fund--Federal Appropriation.....((~~\$1,842,000~~))  
\$2,382,000  
General Fund--Private/Local Appropriation.....((~~\$3,491,000~~))  
\$4,512,000  
Veterans Innovations Program Account--State  
Appropriation.....((~~\$648,000~~))  
\$897,000  
Veteran Estate Management Account--Private/Local  
Appropriation.....((~~\$1,069,000~~))  
\$1,072,000  
TOTAL APPROPRIATION.....((~~\$16,878,000~~))  
\$18,712,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The department shall collaborate with the department of social and health services to identify and assist eligible general assistance unemployable clients to access the federal department of veterans affairs benefits.

(b) \$648,000 of the veterans innovations program account--state appropriation is provided solely for the department to continue support for returning combat veterans through the veterans innovation program, including emergency financial assistance through the defenders' fund and long-term financial assistance through the competitive grant program.

(c) In addition to other reductions, the appropriations in this section reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(3) INSTITUTIONAL SERVICES

General Fund--State Appropriation (FY 2010).....((~~\$3,638,000~~))  
\$3,318,000  
General Fund--State Appropriation (FY 2011).....((~~\$2,845,000~~))  
\$2,371,000  
General Fund--Federal Appropriation.....((~~\$50,791,000~~))  
\$50,353,000  
General Fund--Private/Local Appropriation.....((~~\$31,734,000~~))  
\$34,189,000  
TOTAL APPROPRIATION.....((~~\$89,008,000~~))  
\$90,231,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) In addition to other reductions, the appropriations in this section reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(b) The reductions in this subsection shall be achieved through savings from contract revisions and shall not impact the availability of goods and services for residents of the three state veterans homes.

**Sec. 221.** 2010 c 3 s 214 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF HEALTH**

General Fund--State Appropriation (FY 2010).....((~~\$107,413,000~~))  
\$98,414,000  
General Fund--State Appropriation (FY 2011).....((~~\$82,806,000~~))  
\$81,735,000  
General Fund--Federal Appropriation.....((~~\$480,871,000~~))  
\$564,379,000  
General Fund--Private/Local Appropriation.....((~~\$138,846,000~~))  
\$162,237,000  
Hospital Data Collection Account--State Appropriation((~~\$326,000~~))  
\$218,000  
Health Professions Account--State Appropriation...((~~\$76,218,000~~))  
\$82,850,000  
Aquatic Lands Enhancement Account--State  
Appropriation.....\$603,000  
Emergency Medical Services and Trauma Care Systems  
Trust Account--State Appropriation.....((~~\$13,531,000~~))  
\$13,206,000  
Safe Drinking Water Account--State Appropriation..((~~\$2,723,000~~))  
\$2,731,000  
Drinking Water Assistance Account--Federal  
Appropriation.....((~~\$22,817,000~~))  
\$22,862,000  
Waterworks Operator Certification--State  
Appropriation.....((~~\$1,519,000~~))  
\$1,522,000  
Drinking Water Assistance Administrative Account--  
State Appropriation.....\$326,000  
State Toxics Control Account--State Appropriation..((~~\$3,600,000~~))  
\$4,106,000  
Medical Test Site Licensure Account--State  
Appropriation.....((~~\$2,117,000~~))  
\$2,261,000  
Youth Tobacco Prevention Account--State  
Appropriation.....\$1,512,000  
Public Health Supplemental Account--Private/Local  
Appropriation.....((~~\$3,525,000~~))  
\$3,804,000  
Community and Economic Development Fee Account--State  
Appropriation.....\$298,000  
Accident Account--State Appropriation.....((~~\$295,000~~))  
\$292,000  
Medical Aid Account--State Appropriation.....\$48,000  
Tobacco Prevention and Control Account--  
State Appropriation.....((~~\$46,852,000~~))  
\$44,196,000  
Biotoxin Account--State Appropriation.....((~~\$1,165,000~~))  
\$1,163,000  
TOTAL APPROPRIATION.....((~~\$987,113,000~~))  
\$1,088,763,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The department of health shall not initiate any services that will require expenditure of state general fund moneys unless expressly authorized in this act or other law. The department of health and the state board of health shall not implement any new or amended rules pertaining to primary and secondary school facilities until the rules and a final cost estimate have been presented to the legislature, and the legislature has formally funded implementation of the rules through the omnibus appropriations act or by statute. The department may seek, receive, and spend, under RCW 43.79.260 through 43.79.282, federal moneys not anticipated in this act as long as the federal funding does not require expenditure of

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state moneys for the program in excess of amounts anticipated in this act. If the department receives unanticipated unrestricted federal moneys, those moneys shall be spent for services authorized in this act or in any other legislation that provides appropriation authority, and an equal amount of appropriated state moneys shall lapse. Upon the lapsing of any moneys under this subsection, the office of financial management shall notify the legislative fiscal committees. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on specifically defined projects or matched on a formula basis by state funds.

(2) In accordance with RCW 43.70.250 and 43.135.055, the department is authorized to establish and raise fees in fiscal year 2011 as necessary to meet the actual costs of conducting business and the appropriation levels in this section. This authorization applies to fees for the review of sewage tank designs, fees related to regulation and inspection of farmworker housing, and fees associated with the following professions: Acupuncture, dental, dentist, mental health counselor, nursing, nursing assistant, optometry, radiologic technologist, recreational therapy, respiratory therapy, social worker, cardiovascular invasive specialist, and practitioners authorized under chapter 18.240 RCW.

(3) Pursuant to RCW 43.135.055 and RCW 43.70.250, the department is authorized to establish fees by the amount necessary to fully support the cost of activities related to the administration of long-term care worker certification. The department is further authorized to increase fees by the amount necessary to implement the regulatory requirements of the following bills: House Bill No. 1414 (health care assistants), House Bill No. 1740 (dental residency licenses), and House Bill No. 1899 (retired active physician licenses).

(4) \$764,000 of the health professions account--state appropriation is provided solely for the medical quality assurance commission to maintain disciplinary staff and associated costs sufficient to reduce the backlog of disciplinary cases and to continue to manage the disciplinary caseload of the commission.

(5) \$57,000 of the general fund--state appropriation for fiscal year 2010 and \$58,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the midwifery licensure and regulatory program to offset a reduction in revenue from fees. ~~(There shall be no change to the current annual fees for new or renewed licenses for the midwifery program.)~~ The department shall convene the midwifery advisory committee on a quarterly basis to address issues related to licensed midwifery. The appropriations in this section assume that the current application and renewal fee for midwives shall be increased by fifty dollars and all other fees for midwives be adjusted accordingly.

(6) Funding for the human papillomavirus vaccine shall not be included in the department's universal vaccine purchase program in fiscal year 2010. Remaining funds for the universal vaccine purchase program shall be used to continue the purchase of all other vaccines included in the program until May 1, 2010, ~~(or until state funds are exhausted.)~~ at which point state funding for the universal vaccine purchase program shall be discontinued. ~~(Funds from section 317 of the federal public health services act direct assistance shall not be used in lieu of state funds.~~

(7) Beginning July 1, 2010, the department, in collaboration with the department of social and health services, shall maximize the use of existing federal funds, including section 317 of the federal public health services act direct assistance as well as federal funds that may become available under the American recovery and reinvestment act, in order to continue to provide immunizations for low-income, nonmedicaid eligible children up to three hundred percent of the federal poverty level in state-sponsored health programs.

~~(7))~~ (8) The department shall eliminate outreach activities for the health care directives registry and use the remaining amounts to maintain the contract for the registry and minimal staffing necessary to administer the basic entry functions for the registry.

~~(8))~~ (9) Funding in this section reflects a temporary reduction of resources for the 2009-11 fiscal biennium for the state board of health to conduct health impact reviews.

~~(9))~~ (10) Pursuant to RCW 43.135.055 and 43.70.125, the department is authorized to adopt rules to establish a fee schedule to apply to applicants for initial certification surveys of health care facilities for purposes of receiving federal health care program reimbursement. The fees shall only apply when the department has determined that federal funding is not sufficient to compensate the department for the cost of conducting initial certification surveys. The fees for initial certification surveys may be established as follows: Up to \$1,815 for ambulatory surgery centers, up to \$2,015 for critical access hospitals, up to \$980 for end stage renal disease facilities, up to \$2,285 for home health agencies, up to \$2,285 for hospice agencies, up to \$2,285 for hospitals, up to \$520 for rehabilitation facilities, up to \$690 for rural health clinics, and up to \$7,000 for transplant hospitals.

~~(10))~~ (11) Funding for family planning grants for fiscal year 2011 is reduced in the expectation that federal funding shall become available to expand coverage of services for individuals through programs at the department of social and health services. In the event that such funding is not provided, the legislature intends to continue funding through a supplemental appropriation at fiscal year 2010 levels. \$4,500,000 of the general fund--state appropriation is provided solely for the department of health-funded family planning clinic grants due to federal funding not becoming available.

~~(11))~~ (12) \$16,000,000 of the tobacco prevention and control account--state appropriation is provided solely for local health jurisdictions to conduct core public health functions as defined in RCW 43.70.514.

~~(12))~~ (13) \$100,000 of the health professions account appropriation is provided solely for implementation of Substitute House Bill No. 1414 (health care assistants). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

~~(13))~~ (14) \$42,000 of the health professions account--state appropriation is provided solely to implement Substitute House Bill No. 1740 (dentistry license issuance). If the bill is not enacted by June 30, 2009, the amount provided in this section shall lapse.

~~(14))~~ (15) \$23,000 of the health professions account--state appropriation is provided solely to implement Second Substitute House Bill No. 1899 (retired active physician licenses). If the bill is not enacted by June 30, 2009, the amount provided in this section shall lapse.

~~(15))~~ (16) \$12,000 of the general fund--state appropriation for fiscal year 2010 and \$67,000 of the general fund--private/local appropriation are provided solely to implement House Bill No. 1510 (birth certificates). If the bill is not enacted by June 30, 2009, the amount provided in this section shall lapse.

~~(16))~~ (17) \$31,000 of the health professions account is provided for the implementation of Second Substitute Senate Bill No. 5850 (human trafficking). If the bill is not enacted by June 2009, the amount provided in this subsection shall lapse.

~~(17))~~ (18) \$282,000 of the health professions account is provided for the implementation of Substitute Senate Bill No. 5752 (dentists cost recovery). If the bill is not enacted by June 2009, the amount provided in this subsection shall lapse.

~~(18))~~ (19) \$106,000 of the health professions account is provided for the implementation of Substitute Senate Bill No. 5601 (speech language assistants). If the bill is not enacted by June 2009, the amount provided in this subsection shall lapse.

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(20) Subject to existing resources, the department of health is encouraged to examine, in the ordinary course of business, current and prospective programs, treatments, education, and awareness of cardiovascular disease that are needed for a thriving and healthy Washington.

(21) \$400,500 from the health professions account is appropriated to fund nursing commission programs related to discipline, impaired practitioner programs, and expedited credentialing. Funding comes from a reduction in the \$20 fees that nurses pay for access to University of Washington library resources.

(22) \$390,000 of the health professions account--state appropriation is provided solely to implement chapter 169, Laws of 2010 (nursing assistants). The amount provided in this subsection is from fee revenue authorized by Engrossed Substitute Senate Bill No. 6582.

(23) \$10,000 of the health professions account--state appropriation for fiscal year 2010 and \$40,000 of the health professions account--state appropriation for fiscal year 2011 are provided solely for the department to study cost effective options for collecting demographic data related to the health care professions workforce to be submitted to the legislature by December 1, 2010.

(24) \$66,000 of the health professions account--state appropriation is provided solely to implement chapter 209, Laws of 2010 (pain management).

(25) \$10,000 of the health professions account--state appropriation is provided solely to implement chapter 92, Laws of 2010 (cardiovascular invasive specialists).

(26) \$23,000 of the general fund--state appropriation is provided solely to implement chapter 182, Laws of 2010 (tracking ephedrine, etc.).

(27) The department is authorized to coordinate a tobacco cessation media campaign using all appropriate media with the purpose of maximizing the use of quit-line services and youth smoking prevention.

(28) For all contracts for smoking cessation and awareness services agreed to after the effective date of this section, at least ten percent of the value of that contract shall be dedicated to supporting smoking cessation and prevention programs for underserved and hard to reach populations, including populations with smoking rates higher than the state average.

(29) It is the intent of the legislature that the reductions in appropriations to the AIDS/HIV programs shall be achieved, to the greatest extent possible, by reducing those state government administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing these programs.

(30) \$400,000 of the state toxics control account--state appropriation is provided solely for granting to a willing local public entity to provide emergency water supplies or water treatment for households with individuals at high public health risk from nitrate-contaminated wells in the lower Yakima basin.

(31) \$100,000 of the state toxics control account--state appropriation is provided solely for an interagency contract to the department of ecology to grant to agencies involved in improving groundwater quality in the lower Yakima Valley. These agencies will develop a local plan for improving water quality and reducing nitrate contamination. The department of ecology will report to the appropriate committees of the legislature and to the office of financial management no later than December 1, 2010, summarizing progress towards developing and implementing this plan.

NEW SECTION. Sec. 222. A new section is added to 2009 c 564 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS.** The appropriations to the department of corrections in this act shall be expended for the programs and in the amounts specified herein. However, after May 1, 2010, after approval by the director of financial management and unless specifically prohibited by this act, the department may transfer general fund--state appropriations for fiscal year 2010 between programs. The department shall not transfer funds, and the director of financial management shall not approve the transfer, unless the transfer is consistent with the objective of conserving, to the maximum extent possible, the expenditure of state funds and not federal funds. The director of financial management shall notify the appropriate fiscal committees of the senate and house of representatives in writing seven days prior to approving any deviations from appropriation levels. The written notification shall include a narrative explanation and justification of the changes, along with expenditures and allotments by budget unit and appropriation, both before and after any allotment modifications or transfers.

**Sec. 223.** 2010 c 3 s 215 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

**(1) ADMINISTRATION AND SUPPORT SERVICES**

General Fund--State Appropriation (FY 2010).....	(\$55,622,000))
	\$55,772,000
General Fund--State Appropriation (FY 2011).....	(\$56,318,000))
	\$55,417,000
<b>TOTAL APPROPRIATION.....</b>	<b>(\$111,940,000))</b>
	\$111,189,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) Within funds appropriated in this section, the department shall seek contracts for chemical dependency vendors to provide chemical dependency treatment of offenders in corrections facilities, including corrections centers and community supervision facilities, which have demonstrated effectiveness in treatment of offenders and are able to provide data to show a successful treatment rate.

(b) \$35,000 of the general fund--state appropriation for fiscal year 2010 and \$35,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the support of a statewide council on mentally ill offenders that includes as its members representatives of community-based mental health treatment programs, current or former judicial officers, and directors and commanders of city and county jails and state prison facilities. The council will investigate and promote cost-effective approaches to meeting the long-term needs of adults and juveniles with mental disorders who have a history of offending or who are at-risk of offending, including their mental health, physiological, housing, employment, and job training needs.

**(2) CORRECTIONAL OPERATIONS**

General Fund--State Appropriation (FY 2010).....	(\$456,657,000))
	\$458,503,000
General Fund--State Appropriation (FY 2011).....	(\$626,303,000))
	\$600,657,000
General Fund--Federal Appropriation.....	(\$185,131,000))
	\$186,719,000
<del>(General Fund--Private/Local Appropriation.....</del>	<del>\$3,536,000))</del>
Washington Auto Theft Prevention Authority Account--	
State Appropriation.....	(\$5,960,000))
	\$5,936,000
<b>State Efficiency and Restructuring Account--State</b>	
<b>Appropriation.....</b>	<b>\$34,522,000</b>
<b>TOTAL APPROPRIATION.....</b>	<b>(\$1,277,587,000))</b>
	\$1,286,337,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The department may expend funds generated by contractual agreements entered into for mitigation of severe overcrowding in local jails. Any funds generated in excess of actual costs shall be deposited in the state general fund. Expenditures shall not exceed revenue generated by such agreements and shall be treated as a recovery of costs.

(b) The department shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and correctional industries. For the purposes of this subsection, correctional custody staff means employees responsible for the direct supervision of offenders.

(c) During the 2009-11 biennium, when contracts are established or renewed for offender pay phone and other telephone services provided to inmates, the department shall select the contractor or contractors primarily based on the following factors:

(i) The lowest rate charged to both the inmate and the person paying for the telephone call; and (ii) the lowest commission rates paid to the department, while providing reasonable compensation to cover the costs of the department to provide the telephone services to inmates and provide sufficient revenues for the activities funded from the institutional welfare betterment account.

(d) The Harborview medical center and the University of Washington medical center shall provide inpatient and outpatient hospital services to offenders confined in department of corrections facilities at a rate no greater than the average rate that the department has negotiated with other community hospitals in Washington state.

(e) A political subdivision which is applying for funding to mitigate one-time impacts associated with construction or expansion of a correctional institution, consistent with WAC 137-12A-030, may apply for the mitigation funds in the fiscal biennium in which the impacts occur or in the immediately succeeding fiscal biennium.

(f) Within amounts provided in this subsection, the department, jointly with the department of social and health services, shall identify the number of offenders released through the extraordinary medical placement program, the cost savings to the department of corrections, including estimated medical cost savings, and the costs for medical services in the community incurred by the department of social and health services. The department and the department of social and health services shall jointly report to the office of financial management and the appropriate fiscal committees of the legislature by November 30, 2010.

(g) \$11,863,000 of the general fund--state appropriation for fiscal year 2010, \$11,864,000 of the general fund--state appropriation for fiscal year 2011, and \$2,336,000 of the general fund-private/local appropriation are provided solely for in-prison evidence-based programs and for the reception diagnostic center program as part of the offender re-entry initiative.

(h) The department shall appropriately transition offenders from custody as close as possible to the offender's earned release date without adversely affecting public safety. The number of offenders held beyond their earned release date should not exceed the number of offenders held beyond their earned release date in fiscal year 2008. By June 1, 2010, the department shall provide a report on its offender population to the office of financial management and the legislative fiscal committees. The report shall include (i) an explanation for the increase in the adult inmate population between the November 2009 forecast and the February 2010 forecast; (ii) an explanation for the increase in the number of offenders held beyond their earned release date between fiscal year 2008 and calendar year 2009; and (iii) a description of the department's actions to reduce and maintain the number of offenders held beyond their earned release date to the population level from fiscal year 2008, and a timetable for achieving that goal.

(i) The appropriations in this subsection are based on savings

assumed from decreasing the offender population at the McNeil Island corrections center to 256 minimum security offenders, decreasing the offender population at the Larch corrections center to 240 offenders, the closure of the Ahtanum View corrections center, and the closure of the Pine Lodge corrections center for women.

(3) COMMUNITY SUPERVISION

General Fund--State Appropriation (FY 2010).....	(\$151,249,000))
	\$150,729,000
General Fund--State Appropriation (FY 2011).....	(\$141,785,000))
	\$139,945,000
TOTAL APPROPRIATION.....	(\$293,034,000))
	\$290,674,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The department shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and correctional industries. For the purposes of this subsection, correctional custody staff means employees responsible for the direct supervision of offenders.

(b) \$2,083,000 of the general fund--state appropriation for fiscal year 2010 and \$2,083,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement Senate Bill No. 5525 (state institutions/release). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(c) The appropriations in this subsection are based upon savings assumed from the implementation of Engrossed Substitute Senate Bill No. 5288 (supervision of offenders).

(d) \$2,791,000 of the general fund--state appropriation for fiscal year 2010 and \$3,166,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for evidence-based community programs and for community justice centers as part of the offender re-entry initiative.

(e) \$418,300 of the general fund--state appropriation for fiscal year 2010 is provided solely for the purposes of settling all claims in Hilda Solis, Secretary of Labor, United States Department of Labor v. State of Washington, Department of Corrections, United States District Court, Western District of Washington, Cause No. C08-cv-05362-RJB. The expenditure of this amount is contingent on the release of all claims in the case, and total settlement costs shall not exceed the amount provided in this subsection. If settlement is not fully executed by June 30, 2010, the amount provided in this subsection shall lapse.

(f) \$984,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for supplemental services that will be provided to offenders in lieu of a prison sentence, pursuant to chapter 224, Laws of 2010 (confinement alternatives).

(4) CORRECTIONAL INDUSTRIES

General Fund--State Appropriation (FY 2010).....	\$2,574,000
General Fund--State Appropriation (FY 2011).....	(\$2,565,000))
	\$2,547,000
TOTAL APPROPRIATION.....	(\$5,139,000))
	\$5,121,000

The appropriations in this subsection are subject to the following conditions and limitations: \$132,000 of the general fund--state appropriation for fiscal year 2010 and \$132,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for transfer to the jail industries board. The board shall use the amounts provided only for administrative expenses, equipment purchases, and technical assistance associated with advising cities and counties in developing, promoting, and implementing consistent, safe, and efficient offender work programs.

(5) INTERAGENCY PAYMENTS

General Fund--State Appropriation (FY 2010).....	(\$40,455,000))
	\$40,728,000
General Fund--State Appropriation (FY 2011).....	(\$40,450,000))

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	<u>\$40,084,000</u>
TOTAL APPROPRIATION.....	<del>(\$80,905,000)</del>
	<u>\$80,812,000</u>

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The state prison institutions may use funds appropriated in this subsection to rent uniforms from correctional industries in accordance with existing legislative mandates.

(b) The state prison medical facilities may use funds appropriated in this subsection to purchase goods and supplies through hospital or other group purchasing organizations when it is cost effective to do so.

Sec. 224. 2009 c 564 s 224 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SERVICES FOR THE BLIND**

General Fund--State Appropriation (FY 2010).....	<del>(\$2,544,000)</del>
	<u>\$2,504,000</u>
General Fund--State Appropriation (FY 2011).....	<del>(\$2,550,000)</del>
	<u>\$2,390,000</u>
General Fund--Federal Appropriation.....	<del>(\$18,125,000)</del>
	<u>\$18,116,000</u>
General Fund--Private/Local Appropriation.....	<del>(\$20,000)</del>
	<u>\$30,000</u>
TOTAL APPROPRIATION.....	<del>(\$23,239,000)</del>
	<u>\$23,040,000</u>

The amounts appropriated in this section are subject to the following conditions and limitations: Sufficient amounts are appropriated in this section to support contracts for services that provide employment support and help with life activities for deaf and blind individuals in King county.

Sec. 225. 2010 c 3 s 216 (uncodified) is amended to read as follows:

**FOR THE SENTENCING GUIDELINES COMMISSION**

General Fund--State Appropriation (FY 2010).....	\$962,000
General Fund--State Appropriation (FY 2011).....	<del>(\$960,000)</del>
	<u>\$948,000</u>
TOTAL APPROPRIATION.....	<del>(\$1,922,000)</del>
	<u>\$1,910,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Within the amounts appropriated in this section, the sentencing guidelines commission, in partnership with the courts, shall develop a plan to implement an evidence-based system of community custody for adult felons that will include the consistent use of evidence-based risk and needs assessment tools, programs, supervision modalities, and monitoring of program integrity. The plan for the evidence-based system of community custody shall include provisions for identifying cost-effective rehabilitative programs; identifying offenders for whom such programs would be cost-effective; monitoring the system for cost-effectiveness; and reporting annually to the legislature. In developing the plan, the sentencing guidelines shall consult with: The Washington state institute for public policy; the legislature; the department of corrections; local governments; prosecutors; defense attorneys; victim advocate groups; law enforcement; the Washington federation of state employees; and other interested entities. The sentencing guidelines commission shall report its recommendations to the governor and the legislature by December 1, 2009.

(2)(a) Except as provided in subsection (b), during the 2009-11 biennium, the reports required by RCW 9.94A.480(2) and 9.94A.850(2) (d) and (h) shall be prepared within the available funds and may be delayed or suspended at the discretion of the commission.

(b) The commission shall submit the analysis described in section 15 of Engrossed Substitute Senate Bill No. 5288 no later than December 1, 2011.

(3) Within the amounts appropriated in this section, the sentencing guidelines commission shall survey the practices of other states relating to offenders who violate any conditions of their community custody. In conducting the survey, the sentencing guidelines commission shall perform a review of the research studies to determine if a mandatory minimum confinement policy is an evidence-based practice, investigate the implementation of such a policy in other states, and estimate the fiscal impacts of implementing such a policy in Washington state. The sentencing guidelines commission shall report its findings to the governor and the legislature by December 1, 2010.

Sec. 226. 2009 c 564 s 226 (uncodified) is amended to read as follows:

**FOR THE EMPLOYMENT SECURITY DEPARTMENT**

General Fund--State Appropriation (FY 2010).....	<del>(\$7,054,000)</del>
	<u>\$2,054,000</u>
General Fund--State Appropriation (FY 2011).....	<del>(\$53,000)</del>
	<u>\$5,053,000</u>
General Fund--Federal Appropriation.....	<del>(\$320,561,000)</del>
	<u>\$324,135,000</u>
General Fund--Private/Local Appropriation.....	<del>(\$33,825,000)</del>
	<u>\$33,640,000</u>
Unemployment Compensation Administration	
Account--Federal Appropriation.....	<del>(\$332,904,000)</del>
	<u>\$362,740,000</u>
Administrative Contingency Account--State	
Appropriation.....	<del>(\$293,000)</del>
	<u>\$345,000</u>
Employment Service Administrative Account--	
State Appropriation.....	<del>(\$37,195,000)</del>
	<u>\$37,775,000</u>
TOTAL APPROPRIATION.....	<del>(\$731,885,000)</del>
	<u>\$765,742,000</u>

The appropriations in this subsection are subject to the following conditions and limitations:

(1) ~~(\$55,029,000)~~ \$59,829,000 of the unemployment compensation administration account--federal appropriation is provided from amounts made available to the state by section 903(d) and (f) of the social security act (Reed act). This amount is authorized to continue current unemployment insurance functions and department services to employers and job seekers.

(2) \$32,067,000 of the unemployment compensation administration account--federal appropriation is provided from amounts made available to the state by section 903(d) and (f) of the social security act (Reed act). This amount is authorized to fund the replacement of the unemployment insurance tax information system (TAXIS) for the employment security department. This section is subject to section 902 of this act.

(3) \$110,000 of the unemployment compensation administration account--federal appropriation is provided solely for implementation of Senate Bill No. 5804 (leaving part time work voluntarily). ~~((If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.))~~

(4) \$1,263,000 of the unemployment compensation administration account--federal appropriation is provided solely for implementation of Senate Bill No. 5963 (unemployment insurance). ~~((If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.))~~

(5) \$159,000 of the unemployment compensation account--federal appropriation is provided solely for the implementation of House Bill No. 1555 (underground economy)

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from funds made available to the state by section 903(d) of the social security act (Reed act).

(6) ~~(\$293,000)~~ \$295,000 of the administrative contingency--state appropriation for fiscal year 2010 is provided solely for the implementation of House Bill No. 2227 (evergreen jobs act). ~~((If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.))~~

(7) \$7,000,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the implementation of Senate Bill No. 5809 (WorkForce employment and training). ~~((If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.))~~

(8) \$444,000 of the unemployment compensation administration account--federal appropriation is provided solely for the implementation of Substitute Senate Bill No. 6524 (unemployment insurance penalties and contribution rates) from funds made available to the state by section 903 (d) or (f) of the social security act (Reed 12 act). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(9) \$232,000 of the unemployment compensation administration account--federal appropriation from funds made available to the state by section 903(c) or (f) of the social security act (Reed act) is provided solely for the implementation of Substitute House Bill No. 2789 (underground economic activity). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

Sec. 227. 2009 c 564 s 221 (uncodified) is amended to read as follows:

**FOR THE HOME CARE QUALITY AUTHORITY**

General Fund--State Appropriation (FY 2010),.....	\$1,229,000
<del>((General Fund--State Appropriation (FY 2011),.....</del>	<del>\$1,221,000</del>
<u>TOTAL APPROPRIATION.....</u>	<u>\$2,450,000)</u>

(End of Part)

**PART III  
NATURAL RESOURCES**

Sec. 301. 2009 c 564 s 301 (uncodified) is amended to read as follows:

**FOR THE COLUMBIA RIVER GORGE COMMISSION**

General Fund--State Appropriation (FY 2010).....	\$441,000
General Fund--State Appropriation (FY 2011).....	<del>(\$445,000)</del>
	<u>\$440,000</u>
General Fund--Federal Appropriation.....	\$30,000
General Fund--Private/Local Appropriation.....	<del>(\$864,000)</del>
	<u>\$845,000</u>
TOTAL APPROPRIATION.....	<del>(\$1,780,000)</del>
	<u>\$1,756,000</u>

Sec. 302. 2010 c 3 s 301 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

General Fund--State Appropriation (FY 2010).....	<del>(\$59,991,000)</del>
	<u>\$58,552,000</u>
General Fund--State Appropriation (FY 2011).....	<del>(\$58,047,000)</del>
	<u>\$52,725,000</u>
General Fund--Federal Appropriation.....	<del>(\$82,452,000)</del>
	<u>\$82,079,000</u>
General Fund--Private/Local Appropriation.....	<del>(\$16,668,000)</del>
	<u>\$16,688,000</u>
Special Grass Seed Burning Research Account--State Appropriation.....	\$14,000
Reclamation Account--State Appropriation.....	<del>(\$3,679,000)</del>
	<u>\$3,649,000</u>

Flood Control Assistance Account--State

Appropriation.....	<del>(\$1,965,000)</del>
	<u>\$1,943,000</u>
<u>State Emergency Water Projects Revolving Account--State Appropriation.....</u>	<u>\$240,000</u>
Waste Reduction/Recycling/Litter Control--State Appropriation.....	<del>(\$14,554,000)</del>
	<u>\$12,467,000</u>
<u>State Drought Preparedness Account--State Appropriation.....</u>	<u>\$4,000,000</u>
State and Local Improvements Revolving Account (Water Supply Facilities)--State Appropriation.....	<del>(\$426,000)</del>
	<u>\$424,000</u>
Freshwater Aquatic Algae Control Account--State Appropriation.....	<del>(\$509,000)</del>
	<u>\$508,000</u>
Water Rights Tracking System Account--State Appropriation.....	\$116,000
Site Closure Account--State Appropriation.....	<del>(\$706,000)</del>
	<u>\$922,000</u>
Wood Stove Education and Enforcement Account-- State Appropriation.....	\$612,000
Worker and Community Right-to-Know Account-- State Appropriation.....	<del>(\$1,670,000)</del>
	<u>\$1,663,000</u>
State Toxics Control Account--State Appropriation.....	<del>(\$101,705,000)</del>
	<u>\$106,642,000</u>
State Toxics Control Account--Private/Local Appropriation.....	<del>(\$383,000)</del>
	<u>\$379,000</u>
Local Toxics Control Account--State Appropriation.....	<del>(\$24,730,000)</del>
	<u>\$24,690,000</u>
Water Quality Permit Account--State Appropriation.....	<del>(\$37,433,000)</del>
	<u>\$37,018,000</u>
Underground Storage Tank Account--State Appropriation.....	<del>(\$3,298,000)</del>
	<u>\$3,270,000</u>
Biosolids Permit Account--State Appropriation.....	<del>(\$1,413,000)</del>
	<u>\$1,866,000</u>
Hazardous Waste Assistance Account--State Appropriation.....	<del>(\$5,930,000)</del>
	<u>\$5,880,000</u>
Air Pollution Control Account--State Appropriation.....	<del>(\$2,030,000)</del>
	<u>\$2,111,000</u>
Oil Spill Prevention Account--State Appropriation.....	<del>(\$10,688,000)</del>
	<u>\$10,599,000</u>
Air Operating Permit Account--State Appropriation.....	<del>(\$2,783,000)</del>
	<u>\$2,758,000</u>
Freshwater Aquatic Weeds Account--State Appropriation.....	<del>(\$1,699,000)</del>
	<u>\$1,693,000</u>
Oil Spill Response Account--State Appropriation.....	<del>(\$7,078,000)</del>
	<u>\$7,077,000</u>
Metals Mining Account--State Appropriation.....	\$14,000
Water Pollution Control Revolving Account--State Appropriation.....	<del>(\$465,000)</del>
	<u>\$535,000</u>
Water Pollution Control Revolving Account--Federal Appropriation.....	<del>(\$1,940,000)</del>
	<u>\$2,210,000</u>
<u>Water Rights Processing Account--State Appropriation.....</u>	<u>\$68,000</u>
TOTAL APPROPRIATION.....	<del>(\$442,998,000)</del>
	<u>\$443,412,000</u>

The appropriations in this section are subject to the following conditions and limitations:

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(1) \$170,000 of the oil spill prevention account--state appropriation is provided solely for a contract with the University of Washington's sea grant program to continue an educational program targeted to small spills from commercial fishing vessels, ferries, cruise ships, ports, and marinas.

(2) \$240,000 of the woodstove education and enforcement account--state appropriation is provided solely for citizen outreach efforts to improve understanding of burn curtailments, the proper use of wood heating devices, and public awareness of the adverse health effects of woodsmoke pollution.

(3) \$3,000,000 of the general fund--private/local appropriation is provided solely for contracted toxic-site cleanup actions at sites where multiple potentially liable parties agree to provide funding.

(4) \$3,600,000 of the local toxics account--state appropriation is provided solely for the standby emergency rescue tug stationed at Neah Bay.

(5) \$811,000 of the state toxics account--state appropriation is provided solely for oversight of toxic cleanup at facilities that treat, store, and dispose of hazardous wastes.

(6) \$1,456,000 of the state toxics account--state appropriation is provided solely for toxic cleanup at sites where willing parties negotiate prepayment agreements with the department and provide necessary funding.

(7) \$558,000 of the state toxics account--state appropriation and \$3,000,000 of the local toxics account--state appropriation are provided solely for grants and technical assistance to Puget Sound-area local governments engaged in updating shoreline master programs.

(8) \$950,000 of the state toxics control account--state appropriation is provided solely for measuring water and habitat quality to determine watershed health and assist salmon recovery, beginning in fiscal year 2011.

(9) RCW 70.105.280 authorizes the department to assess reasonable service charges against those facilities that store, treat, incinerate, or dispose of dangerous or extremely hazardous waste that involves both a nonradioactive hazardous component and a radioactive component. Service charges may not exceed the costs to the department in carrying out the duties in RCW 70.105.280. The current service charges do not meet the costs of the department to carry out its duties. Pursuant to RCW 43.135.055 and 70.105.280, the department is authorized to increase the service charges no greater than 18 percent for fiscal year 2010 and no greater than 15 percent for fiscal year 2011. Such service charges shall include all costs of public participation grants awarded to qualified entities by the department pursuant to RCW 70.105D.070(5) for facilities at which such grants are recognized as a component of a community relations or public participation plan authorized or required as an element of a consent order, federal facility agreement or agreed order entered into or issued by the department pursuant to any federal or state law governing investigation and remediation of releases of hazardous substances. Public participation grants funded by such service charges shall be in addition to, and not in place of, any other grants made pursuant to RCW 70.105D.070(5). Costs for the public participation grants shall be billed individually to the mixed waste facility associated with the grant.

(10) The department is authorized to increase the following fees in the 2009-2011 biennium as necessary to meet the actual costs of conducting business and the appropriation levels in this section: Environmental lab accreditation, dam safety and inspection, biosolids permitting, air emissions new source review, and manufacturer registration and renewal.

(11) \$63,000 of the state toxics control account--state appropriation is provided solely for implementation of Substitute Senate Bill No. 5797 (solid waste handling permits). If the bill is

not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(12) \$225,000 of the general fund--state appropriation for fiscal year 2010 and \$193,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for implementation of Engrossed Second Substitute Bill No. 5560 (agency climate leadership). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(13) \$150,000 of the general fund--state appropriation for fiscal year 2010 and \$150,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for watershed planning implementation grants to continue ongoing efforts to develop and implement water agreements in the Nooksack Basin and the Bertrand watershed. These amounts are intended to support project administration; monitoring; negotiations in the Nooksack watershed between tribes, the department, and affected water users; continued implementation of a flow augmentation project; plan implementation in the Fishtrap watershed; and the development of a water bank.

(14) \$215,000 of the general fund--state appropriation for fiscal year 2010 and \$235,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to provide watershed planning implementation grants for WRIA 32 to implement Substitute House Bill No. 1580 (pilot local water management program). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(15) \$200,000 of the general fund--state appropriation for fiscal year 2010 and \$200,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the purpose of supporting the trust water rights program and processing trust water right transfer applications that improve instream flow.

(16)(a) The department shall convene a stock water working group that includes: Legislators, four members representing agricultural interests, three members representing environmental interests, the attorney general or designee, the director of the department of ecology or designee, the director of the department of agriculture or designee, and affected federally recognized tribes shall be invited to send participants.

(b) The group shall review issues surrounding the use of permit-exempt wells for stock-watering purposes and may develop recommendations for legislative action.

(c) The working group shall meet periodically and report its activities and recommendations to the governor and the appropriate legislative committees by December 1, 2009.

(17) \$73,000 of the water quality permit account--state appropriation is provided solely to implement Substitute House Bill No. 1413 (water discharge fees). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(18) The department shall continue to work with the Columbia Snake River irrigators' association to determine how seasonal water operation and maintenance conservation can be utilized. In implementing this proviso, the department shall also consult with the Columbia River policy advisory group as appropriate.

(19) The department shall track any changes in costs, wages, and benefits that would have resulted if House Bill No. 1716 (public contract living wages), as introduced in the 2009 regular session of the legislature, were enacted and made applicable to contracts and related subcontracts entered into, renewed, or extended during the 2009-11 biennium. The department shall submit a report to the house of representatives commerce and labor committee and the senate labor, commerce, and consumer protection committee by December 1, 2011. The report shall include data on any aggregate changes in wages and benefits that would have resulted during the 2009-11 biennium.

(20) Within amounts appropriated in this section the department shall develop recommendations by December 1, 2009, for a convenient and effective mercury-containing light recycling program for residents, small businesses, and small school districts throughout the state. The department shall consider options including but not limited to, a producer-funded program, a recycler-supported or recycle fee program, a consumer fee at the time of purchase, general fund appropriations, or a currently existing dedicated account. The department shall involve and consult with stakeholders including persons who represent retailers, waste haulers, recyclers, mercury-containing light manufacturers or wholesalers, cities, counties, environmental organizations and other interested parties. The department shall report its findings and recommendations for a recycling program for mercury-containing lights to the appropriate committees of the legislature by December 1, 2009.

~~(21) ((During the 2009-11 biennium, the department shall implement its cost reimbursement authority for processing water right applications using a competitive bidding process. For each cost reimbursement application, the department shall obtain cost proposals and other necessary information from at least three prequalified costs reimbursement consultants and shall select the lowest responsive bidder.~~

~~—((22))~~ \$140,000 of the freshwater aquatic algae control account--state appropriation is provided solely for grants to cities, counties, tribes, special purpose districts, and state agencies for capital and operational expenses used to manage and study excessive saltwater algae with an emphasis on the periodic accumulation of sea lettuce on Puget Sound beaches.

~~(((23)))~~ (22) By December 1, 2009, the department in consultation with local governments shall conduct a remedial action grant financing alternatives report. The report shall address options for financing the remedial action grants identified in the department's report, entitled "House Bill 1761, Model Toxics Control Accounts Ten-Year Financing Plan" and shall include but not be limited to the following: (a) Capitalizing cleanup costs using debt insurance; (b) capitalizing cleanup costs using prefunded cost-cap insurance; (c) other contractual instruments with local governments; and (d) an assessment of overall economic benefits of the remedial action grants funded using the instruments identified in this section.

(23) \$220,000 of the site closure account--state appropriation is provided solely for litigation expenses associated with the lawsuit filed by energy solutions, inc., against the Northwest interstate compact on low-level radioactive waste management and its executive director.

(24) \$68,000 of the water rights processing account--state appropriation is provided solely for implementation of Engrossed Second Substitute Senate Bill No. 6267 (water rights processing). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(25) \$10,000 of the state toxics control account--state appropriation is provided solely for implementation of Engrossed Substitute Senate Bill No. 5543 (mercury-containing lights). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(26) \$300,000 of the state toxics control account--state appropriation is provided solely for piloting and evaluating two coordinated, multijurisdictional permitting teams for nontransportation projects.

(27)(a) \$4,000,000 of the state drought preparedness account--state appropriation is provided solely for response to a drought declaration pursuant to chapter 43.83B RCW. If such a drought declaration occurs, the department of ecology may provide funding to public bodies as defined in RCW 43.83B.050 in

connection with projects and measures designed to alleviate drought conditions that may affect public health and safety, drinking water supplies, agricultural activities, or fish and wildlife survival.

(b) Projects or measures for which funding will be provided must be connected with a water system, water source, or water body that is receiving, or has been projected to receive, less than seventy-five percent of normal water supply, as the result of natural drought conditions. This reduction in water supply must be such that it is causing, or will cause, undue hardship for the entities or fish or wildlife depending on the water supply. The department shall issue guidelines outlining grant program and matching fund requirements within ten days of a drought declaration.

**Sec. 303.** 2010 c 3 s 302 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

General Fund--State Appropriation (FY 2010).....	(\$23,326,000)
	\$23,176,000
General Fund--State Appropriation (FY 2011).....	(\$22,729,000)
	\$20,311,000
General Fund--Federal Appropriation.....	(\$5,902,000)
	\$6,892,000
General Fund--Private/Local Appropriation.....	\$73,000
Winter Recreation Program Account--State	
Appropriation.....	(\$1,558,000)
	\$1,556,000
Off Road Vehicle Account--State Appropriation.....	\$239,000
Snowmobile Account--State Appropriation.....	\$4,842,000
Aquatic Lands Enhancement Account--State Appropriation	
.....	(\$363,000)
	\$368,000
Recreation Resources Account--State Appropriation....	\$9,802,000
NOVA Program Account--State Appropriation.....	\$9,560,000
Parks Renewal and Stewardship Account--State	
Appropriation.....	(\$71,778,000)
	\$72,975,000
Parks Renewal and Stewardship Account--	
Private/Local Appropriation.....	\$300,000
TOTAL APPROPRIATION.....	(\$150,472,000)
	\$150,094,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$79,000 of the general fund--state appropriation for fiscal year 2010 and \$79,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a grant for the operation of the Northwest avalanche center.

(2) Proceeds received from voluntary donations given by motor vehicle registration applicants shall be used solely for the operation and maintenance of state parks.

(3) With the passage of Substitute House Bill No. 2339 (state parks system donation), the legislature finds that it has provided sufficient funds to ensure that all state parks remain open during the 2009-11 biennium. The commission shall not close state parks ~~((unless the bill is not enacted by June 30, 2009, or revenue collections are insufficient to fund the ongoing operation of state parks. By January 10, 2010, the commission shall provide a report to the legislature on their budget and resources related to operating parks for the remainder of the biennium)).~~

(4) The commission shall not close or transfer Tolmie state park.

(5) The commission shall work with the department of general administration to evaluate the commission's existing leases with the intention of increasing net revenue to state parks. The commission shall provide to the office of financial management and the legislative fiscal committees no later than September 30, 2009, a list

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of leases the commission proposes be managed by the department of general administration.

**Sec. 304.** 2009 c 564 s 304 (uncodified) is amended to read as follows:

**FOR THE RECREATION AND CONSERVATION FUNDING BOARD**

General Fund--State Appropriation (FY 2010).....	(\$1,511,000))
	\$1,486,000
General Fund--State Appropriation (FY 2011).....	(\$1,558,000))
	\$1,480,000
General Fund--Federal Appropriation.....	(\$10,431,000))
	\$10,322,000
General Fund--Private/Local Appropriation.....	\$250,000
Aquatic Lands Enhancement Account--State	
Appropriation.....	\$278,000
Firearms Range Account--State Appropriation.....	\$39,000
Recreation Resources Account--State Appropriation.....	(\$2,805,000))
	\$2,710,000
NOVA Program Account--State Appropriation.....	(\$1,062,000))
	\$1,049,000
TOTAL APPROPRIATION.....	(\$17,934,000))
	\$17,614,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$204,000 of the general fund--state appropriation for fiscal year 2010 and \$244,000 of the general fund-- state appropriation for fiscal year 2011 are provided solely for the implementation of Substitute House Bill No. 2157 (salmon recovery). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(2) The recreation and conservation office, under the direction of the salmon recovery funding board, shall assess watershed and regional-scale capacity issues relating to the support and implementation of salmon recovery. The assessment shall examine priority setting and incentives to further promote coordination to ensure that effective and efficient mechanisms for delivery of salmon recovery funding board funds are being utilized. The salmon recovery funding board shall distribute its operational funding to the appropriate entities based on this assessment.

(3) The recreation and conservation office shall negotiate an agreement with the Puget Sound partnership to consolidate or share certain administrative functions currently performed by each agency independently. The agencies shall proportionately share the costs of such shared functions. Examples of shared functions may include, but are not limited to, support for personnel, information technology, grant and contract management, invasive species work, legislative coordination, and policy and administrative support of various boards and councils.

(4) The biodiversity council shall be extended through fiscal year 2011.

**Sec. 305.** 2009 c 564 s 305 (uncodified) is amended to read as follows:

**FOR THE ENVIRONMENTAL HEARINGS OFFICE**

General Fund--State Appropriation (FY 2010).....	(\$1,079,000))
	\$1,108,000
General Fund--State Appropriation (FY 2011).....	(\$1,074,000))
	\$1,104,000
TOTAL APPROPRIATION.....	(\$2,153,000))
	\$2,212,000

The appropriations in this section are subject to the following conditions and limitations: \$46,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for tenant improvement costs associated with moving the office to a new location.

**Sec. 306.** 2010 c 3 s 303 (uncodified) is amended to read as follows:

**FOR THE CONSERVATION COMMISSION**

General Fund--State Appropriation (FY 2010).....	(\$7,575,000))
	\$7,556,000
General Fund--State Appropriation (FY 2011).....	(\$7,590,000))
	\$7,285,000
General Fund--Federal Appropriation.....	(\$1,179,000))
	\$1,178,000

TOTAL	
APPROPRIATION.....	(\$16,344,000))
	\$16,019,000

The appropriations in this section are subject to the following conditions and limitations:

(1) In order to maintain a high degree of customer service and accountability for conservation districts, \$125,000 is to support the conservation commission's administrative activities related to the processing of conservation district invoices and budgeting.

(2) \$38,000 of the general fund--state appropriation for fiscal year 2011 is provided solely to the Kittitas conservation district for infrastructure improvements to facilitate and enhance wildlife habitat related to the wild horse coordinated resource management plan.

**Sec. 307.** 2010 c 3 s 304 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**

General Fund--State Appropriation (FY 2010).....	(\$40,686,000))
	\$41,263,000
General Fund--State Appropriation (FY 2011).....	(\$38,891,000))
	\$34,337,000
General Fund--Federal Appropriation.....	(\$86,330,000))
	\$85,799,000
General Fund--Private/Local Appropriation.....	(\$47,490,000))
	\$47,211,000
Off Road Vehicle Account--State Appropriation.....	(\$415,000))
	\$413,000
Aquatic Lands Enhancement Account--State	
Appropriation.....	(\$6,757,000))
	\$6,739,000
Recreational Fisheries Enhancement--State	
Appropriation.....	(\$3,640,000))
	\$3,472,000
Warm Water Game Fish Account--State	
Appropriation.....	(\$2,877,000))
	\$2,861,000
Eastern Washington Pheasant Enhancement Account--	
State Appropriation.....	(\$848,000))
	\$851,000
Aquatic Invasive Species Enforcement Account--	
State Appropriation.....	\$207,000
Aquatic Invasive Species Prevention Account--	
State Appropriation.....	(\$844,000))
	\$833,000
Wildlife Account--State Appropriation.....	(\$76,178,000))
	\$86,878,000
<u>Wildlife Account--Federal Appropriation.....</u>	<u>\$101,000</u>
<u>Wildlife Account--Private/Local Appropriation.....</u>	<u>\$39,000</u>
Game Special Wildlife Account--State Appropriation.....	(\$2,381,000))
	\$2,367,000
Game Special Wildlife Account--Federal	
Appropriation.....	(\$8,928,000))
	\$3,426,000
Game Special Wildlife Account--Private/Local	
Appropriation.....	\$487,000
Wildlife Rehabilitation Account--State Appropriation.....	(\$270,000))

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	<u>\$269,000</u>
Regional Fisheries Salmonid Recovery Account--	
Federal Appropriation.....	\$5,001,000
Oil Spill Prevention Account--State Appropriation.....	<del>(\$884,000)</del>
	<u>\$876,000</u>
Oyster Reserve Land Account--State Appropriation....	<del>(\$918,000)</del>
	<u>\$916,000</u>
TOTAL APPROPRIATION.....	<del>(\$324,032,000)</del>
	<u>\$324,346,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$294,000 of the aquatic lands enhancement account--state appropriation is provided solely for the implementation of hatchery reform recommendations defined by the hatchery scientific review group.

(2) \$355,000 of the general fund--state appropriation for fiscal year 2010 and \$422,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the department to implement a pilot project with the Confederated Tribes of the Colville Reservation to develop expanded recreational fishing opportunities on Lake Rufus Woods and its northern shoreline and to conduct joint enforcement of lake fisheries on Lake Rufus Woods and adjoining waters, pursuant to state and tribal intergovernmental agreements developed under the Columbia River water supply program. For the purposes of the pilot project:

(a) A fishing permit issued to a nontribal member by the Colville Tribes shall satisfy the license requirement of RCW 77.32.010 on the waters of Lake Rufus Woods and on the north shore of Lake Rufus Woods;

(b) The Colville Tribes have agreed to provide to holders of its nontribal member fishing permits a means to demonstrate that fish in their possession were lawfully taken in Lake Rufus Woods;

(c) A Colville tribal member identification card shall satisfy the license requirement of RCW 77.32.010 on all waters of Lake Rufus Woods;

(d) The department and the Colville Tribes shall jointly designate fishing areas on the north shore of Lake Rufus Woods for the purposes of enhancing access to the recreational fisheries on the lake; and

(e) The Colville Tribes have agreed to recognize a fishing license issued under RCW 77.32.470 or RCW 77.32.490 as satisfying the nontribal member fishing permit requirements of Colville tribal law on the reservation portion of the waters of Lake Rufus Woods and at designated fishing areas on the north shore of Lake Rufus Woods;

(3) Prior to submitting its 2011-2013 biennial operating and capital budget request related to state fish hatcheries to the office of financial management, the department shall contract with the hatchery scientific review group (HSRG) to review this request. This review shall: (a) Determine if the proposed requests are consistent with HSRG recommendations; (b) prioritize the components of the requests based on their contributions to protecting wild salmonid stocks and meeting the recommendations of the HSRG; and (c) evaluate whether the proposed requests are being made in the most cost effective manner. The department shall provide a copy of the HSRG review to the office of financial management with their agency budget proposal.

(4) Within existing funds, the department shall continue implementing its capital program action plan dated September 1, 2007, including the purchase of the necessary maintenance and support costs for the capital programs and engineering tools. The department shall report to the office of financial management and the appropriate committees of the legislature, its progress in implementing the plan, including improvements instituted in its capital program, by September 30, ~~(2011)~~ 2010.

(5) \$1,232,000 of the state wildlife account--state appropriation is provided solely to implement Substitute House Bill No. 1778 (fish and wildlife). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(6) \$400,000 of the general fund--state appropriation for fiscal year 2010 and \$400,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a state match to support the Puget Sound nearshore partnership between the department and the U.S. army corps of engineers.

(7) ~~(\$100,000)~~ \$50,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$100,000)~~ \$50,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for removal of derelict gear in Washington waters.

(8) The department of fish and wildlife shall dispose of all ~~(fixed wing)~~ Cessna aircraft it currently owns. The proceeds from the aircraft shall be deposited into the state wildlife account. Disposal of the aircraft must occur no later than June 30, 2010. The department shall coordinate with the department of natural resources on the installation of fire surveillance equipment into its Partenavia aircraft. The department shall make its Partenavia aircraft available to the department of natural resources on a cost-reimbursement basis for its use in coordinating fire suppression efforts. The two agencies shall develop an interagency agreement that defines how they will share access to the plane.

(9) \$50,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for an electron project fish passage study consistent with the recommendations and protocols contained in the 2008 electron project downstream fish passage final report.

(10) \$60,000 of the general fund--state appropriation for fiscal year 2010 and \$60,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for implementation of Engrossed Second Substitute Bill No. 5560 (agency climate leadership). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(11) If sufficient new revenues are not identified to continue hatchery operations, within the constraints of legally binding tribal agreements, the department shall dispose of, by removal, sale, lease, reversion, or transfer of ownership, the following hatcheries: McKernan, Colville, Omak, Bellingham, Arlington, and Mossyrock. Disposal of the hatcheries must occur by June 30, 2011, and any proceeds received from disposal shall be deposited in the state wildlife account. Within available funds, the department shall provide quarterly reports on the progress of disposal to the office of financial management and the appropriate fiscal committees of the legislature. The first report shall be submitted no later than September 30, 2009.

(12) \$100,000 of the eastern Washington pheasant enhancement account--state appropriation is provided solely for the department to support efforts to enhance permanent and temporary pheasant habitat on public and private lands in Grant, Franklin, and Adams counties. The department may support efforts by entities including conservation districts, nonprofit organizations, and landowners, and must require such entities to provide significant nonstate matching resources, which may be in the form of funds, material, or labor.

(13) Within the amounts appropriated in this section, the department of fish and wildlife shall develop a method for allocating its administrative and overhead costs proportionate to program fund use. As part of its 2011-2013 biennial operating budget, the department shall submit a decision package that rebalances expenditure authority for all agency funds based upon proportionate contributions.

(14) Within the amounts appropriated in this section, the department shall identify additional opportunities for partnerships in order to keep fish hatcheries operational. Such partnerships shall aim to maintain fish production and salmon recovery with less

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reliance on state operating funds.

(15) Within the amounts appropriated in this section, the department shall work with stakeholders to develop a long-term funding model that sustains the department's work of conserving species and habitat, providing sustainable recreational and commercial opportunities and using sound business practices. The funding model analysis shall assess the appropriate uses of each fund source and whether the department's current and projected revenue levels are adequate to sustain its current programs. The department shall report its recommended funding model including supporting analysis and stakeholder participation summary to the office of financial management and the appropriate committees of the legislature by October 1, 2010.

(16) By October 1, 2010, the department shall enter into an interagency agreement with the department of natural resources for land management services for the department's wildlife conservation and recreation lands. Land management services may include but are not limited to records management, real estate services such as surveying, and land acquisition and disposal services. The interagency agreement shall describe business processes, service delivery expectations, cost, and timing. In the agreement, the department shall define its roles and responsibilities. A draft agreement shall be submitted to the office of financial management and the appropriate fiscal committees of the legislature by July 1, 2010.

(17) Prior to opening game management unit 490 to public hunting, the department shall complete an environmental impact statement that includes an assessment of how public hunting activities will impact the ongoing protection of the public water supply.

(18) The department must work with appropriate stakeholders to facilitate the disposition of salmon to best utilize the resource, increase revenues to regional fisheries enhancement groups, and enhance the provision of nutrients to food banks. By November 1, 2010, the department must provide a report to the appropriate committees of the legislature summarizing these discussions, outcomes, and recommendations. After November 1, 2010, the department shall not solicit or award a surplus salmon disposal contract without first giving due consideration to implementing the recommendations developed during the stakeholder process.

(19) \$50,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for increased fish production at Voight Creek hatchery.

**Sec. 308.** 2009 c 564 s 308 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

General Fund--State Appropriation (FY 2010).....	(\$40,275,000)
	<u>\$48,822,000</u>
General Fund--State Appropriation (FY 2011).....	(\$40,857,000)
	<u>\$37,513,000</u>
General Fund--Federal Appropriation.....	(\$26,731,000)
	<u>\$28,784,000</u>
General Fund--Private/Local Appropriation.....	(\$1,371,000)
	<u>\$2,369,000</u>
Forest Development Account--State Appropriation	
.....	(\$41,765,000)
	<u>\$41,640,000</u>
Off Road Vehicle Account--State Appropriation.....	(\$4,236,000)
	<u>\$4,406,000</u>
Surveys and Maps Account--State Appropriation.....	(\$2,543,000)
	<u>\$2,332,000</u>
Aquatic Lands Enhancement Account--State	
Appropriation.....	(\$7,217,000)
	<u>\$8,315,000</u>
Resources Management Cost Account--State	

Appropriation.....	(\$78,951,000)
	<u>\$78,704,000</u>
Surface Mining Reclamation Account--State	
Appropriation.....	(\$3,490,000)
	<u>\$3,494,000</u>
Disaster Response Account--State Appropriation.....	\$5,000,000
Forest and Fish Support Account--State Appropriation..	\$8,000,000
Aquatic Land Dredged Material Disposal Site	
Account--State Appropriation.....	(\$1,336,000)
	<u>\$1,333,000</u>
Natural Resources Conservation Areas Stewardship	
Account--State Appropriation.....	(\$34,000)
	<u>\$184,000</u>
State Toxics Control Account--State Appropriation.....	(\$80,000)
	<u>\$720,000</u>
Air Pollution Control Account--State Appropriation....	(\$569,000)
	<u>\$568,000</u>
NOVA Program Account--State Appropriation.....	(\$982,000)
	<u>\$974,000</u>
Derelict Vessel Removal Account--State	
Appropriation.....	(\$1,754,000)
	<u>\$1,749,000</u>
Agricultural College Trust Management Account--	
State Appropriation.....	(\$2,643,000)
	<u>\$1,941,000</u>
TOTAL APPROPRIATION.....	(\$267,834,000)
	<u>\$276,848,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,355,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$1,299,000)~~ \$349,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for deposit into the agricultural college trust management account and are provided solely to manage approximately 70,700 acres of Washington State University's agricultural college trust lands.

(2) ~~(\$11,128,000)~~ \$22,670,000 of the general fund--state appropriation for fiscal year 2010, \$11,128,000 of the general fund--state appropriation for fiscal year 2011, and \$5,000,000 of the disaster response account--state appropriation are provided solely for emergency fire suppression. None of the general fund and disaster response account amounts provided in this subsection may be used to fund agency indirect and administrative expenses. Agency indirect and administrative costs shall be allocated among the agency's remaining accounts and appropriations. The department of natural resources shall submit a quarterly report to the office of financial management and the legislative fiscal committees detailing information on current and planned expenditures from the disaster response account. This work shall be done in coordination with the military department.

(3) \$5,000,000 of the forest and fish support account--state appropriation is provided solely for adaptive management, monitoring, and participation grants to tribes. If federal funding for this purpose is reinstated, the amount provided in this subsection shall lapse.

(4) \$600,000 of the derelict vessel removal account--state appropriation is provided solely for removal of derelict and abandoned vessels that have the potential to contaminate Puget Sound.

(5) \$666,000 of the general fund--federal appropriation is provided solely to implement House Bill No. 2165 (forest biomass energy project). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(6) \$5,000 of the general fund--state appropriation for fiscal year 2010 and \$5,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement Substitute House

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Bill No. 1038 (specialized forest products). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(7) \$440,000 of the state general fund--state appropriation for fiscal year 2010 and \$440,000 of the state general fund--state appropriation for fiscal year 2011 are provided solely for forest work crews that support correctional camps and are contingent upon continuing operations of Naselle youth camp at the level provided in fiscal year 2008. The department shall consider using up to \$2,000,000 of the general fund--federal appropriation to support and utilize correctional camp crews to implement natural resource projects approved by the federal government for federal stimulus funding.

(8) The department of natural resources shall dispose of the King Air aircraft it currently owns. Before disposal and within existing funds, the department shall transfer specialized equipment for fire surveillance to the department of fish and wildlife's Partenavia aircraft. Disposal of the aircraft must occur no later than June 30, 2010, and the proceeds from the sale of the aircraft shall be deposited into the ~~((natural resources equipment revolving fund))~~ forest and fish support account. ~~((At the expiration of current leases))~~ No later than June 30, 2011, the department shall lease facilities in eastern Washington sufficient to house the necessary aircraft, mechanic, and pilots used for forest fire prevention and suppression.

(9) \$30,000 of the general fund--state appropriation for fiscal year 2010 and \$30,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for implementation of Engrossed Second Substitute Bill No. 5560 (agency climate leadership). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(10) \$1,030,000 of the aquatic lands enhancement account--state appropriation for fiscal year 2011 is provided solely for continuing scientific studies already underway as part of the adaptive management process. Funds may not be used to initiate new studies unless the department secures new federal funding for the adaptive management process.

(11) Within available funds, the department of natural resources shall review the statutory method for determining aquatic lands lease rates for private marinas, public marinas not owned and operated by port districts, yacht clubs, and other entities leasing state land for boat moorage. The review shall consider alternative methods for determining rents for these entities for a fair distribution of rent, consistent with the department management mandates for state aquatic lands.

(12) \$40,000 of the general fund--state appropriation for fiscal year 2011 and \$100,000 of the aquatic lands enhancement account--state appropriation are provided solely to install up to twenty mooring buoys in Eagle Harbor and to remove abandoned boats, floats, and other trespassing structures.

(13) By October 1, 2010, the department shall enter into an interagency agreement with the department of fish and wildlife for providing land management services on the department of fish and wildlife's wildlife conservation and recreation lands. Land management services may include but are not limited to records management, real estate services such as surveying, and land acquisition and disposal services. The interagency agreement shall describe business processes, service delivery expectations, cost, and timing. A draft agreement shall be submitted to the office of financial management and the appropriate fiscal committees of the legislature by July 1, 2010.

(14) \$41,000 of the forest development account--state appropriation, \$44,000 of the resources management cost account--state appropriation, and \$2,000 of the agricultural college trust management account--state appropriation are provided solely

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for the implementation of Second Substitute House Bill No. 2481 (DNR forest biomass agreements). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(15) The department may not include shellfish growers in its aquatic habitat conservation plan if those growers have been issued a federal nationwide or individual permit by the United States army corps of engineers, in consultation with the United States fish and wildlife service and the national marine fisheries service, which concludes that shellfish cultivation activities on department-managed aquatic lands will not pose jeopardy to threatened or endangered species under the federal endangered species act.

Sec. 309. 2010 c 3 s 305 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF AGRICULTURE**

General Fund--State Appropriation (FY 2010).....	(\$12,329,000)
	\$12,320,000
General Fund--State Appropriation (FY 2011).....	(\$11,271,000)
	\$16,219,000
General Fund--Federal Appropriation.....	(\$11,565,000)
	\$20,947,000
General Fund--Private/Local Appropriation.....	(\$194,000)
	\$193,000
Aquatic Lands Enhancement Account--State	
Appropriation.....	(\$2,559,000)
	\$2,551,000
State Toxics Control Account--State Appropriation...	(\$4,298,000)
	\$4,724,000
Water Quality Permit Account--State Appropriation.....	\$61,000
TOTAL APPROPRIATION.....	(\$42,277,000)
	\$57,015,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$350,000 of the aquatic lands enhancement account appropriation is provided solely for funding to the Pacific county noxious weed control board to eradicate remaining spartina in Willapa Bay.

(2) \$19,000 of the general fund--state appropriation for fiscal year 2010 and \$6,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement Substitute Senate Bill No. 5797 (solid waste handling permits). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(3) The department is authorized to establish or increase the following fees in the 2009-11 biennium as necessary to meet the actual costs of conducting business: Christmas tree grower licensing, nursery dealer licensing, plant pest inspection and testing, and commission merchant licensing.

(4) \$5,420,000 of the general fund--state appropriation for fiscal year 2011 and \$2,782,000 of the general fund--federal appropriation are provided solely for implementation of Substitute Senate Bill No. 6341 (food assistance/department of agriculture). Within amounts appropriated in this subsection, \$65,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for a contract with a food distribution program for communities in the southwestern portion of the state and for workers impacted by timber and salmon fishing closures and reductions. The department may not charge administrative overhead or expenses to this contract. If the bill is not enacted by June 30, 2010, the amounts provided in this subsection shall lapse.

(5) The department shall, if public or private funds are available, partner with eligible public and private entities with experience in food collection and distribution to review funding sources for eight full-time volunteers in the AmeriCorps VISTA program to conduct outreach to local growers, agricultural donors, and community

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volunteers. Public and private partners shall also be utilized to coordinate gleaning unharvested tree fruits and fresh produce for distribution to individuals throughout Washington state.

(6) When reducing laboratory activities and functions, the department shall not impact any research or analysis pertaining to bees.

Sec. 310. 2009 c 564 s 310 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON POLLUTION LIABILITY REINSURANCE PROGRAM**

Pollution Liability Insurance Program Trust

Account--State Appropriation.....((~~\$638,000~~))  
\$636,000

Sec. 311. 2010 c 3 s 306 (uncodified) is amended to read as follows:

**FOR THE PUGET SOUND PARTNERSHIP**

General Fund--State Appropriation (FY 2010).....((~~\$3,172,000~~))

\$3,143,000

General Fund--State Appropriation (FY 2011).....((~~\$3,143,000~~))

\$2,864,000

General Fund--Federal Appropriation.....((~~\$3,623,000~~))

\$7,214,000

Aquatic Lands Enhancement Account--State Appropriation.....((~~\$500,000~~))

\$493,000

State Toxics Control Account--State Appropriation.....((~~\$896,000~~))

\$794,000

TOTAL APPROPRIATION.....((~~\$11,334,000~~))

\$14,508,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$305,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for measuring water and habitat quality to determine watershed health and assist salmon recovery.

(2) ((~~\$896,000~~)) \$794,000 of the state toxics control account--state appropriation is provided solely for activities that contribute to Puget Sound protection and recovery, including provision of independent advice and assessment of the state's oil spill prevention, preparedness, and response programs, including review of existing activities and recommendations for any necessary improvements. The partnership may carry out this function through an existing committee, such as the ecosystem coordination board or the leadership council, or may appoint a special advisory council. Because this is a unique statewide program, the partnership may invite participation from outside the Puget Sound region.

(3) Within the amounts appropriated in this section, the Puget Sound partnership shall facilitate an ongoing monitoring consortium to integrate monitoring efforts for storm water, water quality, watershed health, and other indicators to enhance monitoring efforts in Puget Sound.

(4) The Puget Sound partnership shall work with Washington State University and the environmental protection agency to secure funding for the beach watchers program.

(5) ((~~\$877,000~~)) \$839,000 of the general fund--state appropriation for fiscal year 2010 and ((~~\$877,000~~)) \$764,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to support public education and volunteer programs. The partnership is directed to distribute the majority of funding as grants to local organizations, local governments, and education, communication, and outreach network partners. The partnership shall track progress for this activity through the accountability system of the Puget Sound partnership.

(6) The Puget Sound partnership shall negotiate an agreement with the recreation and conservation office to consolidate or share certain

administrative functions currently performed by each agency independently. The agencies shall proportionately share the costs of such shared functions. Examples of shared functions may include, but are not limited to, support for personnel, information technology, grant and contract management, invasive species work, legislative coordination, and policy and administrative support of various boards and councils.

(End of part)

**PART IV  
TRANSPORTATION**

Sec. 401. 2010 c 3 s 401 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LICENSING**

General Fund--State Appropriation (FY 2010).....\$1,436,000

General Fund--State Appropriation (FY 2011).....((~~\$1,535,000~~))

\$1,524,000

Architects' License Account--State Appropriation.....((~~\$767,000~~))

\$923,000

Professional Engineers' Account--State Appropriation.....((~~\$3,586,000~~))

\$3,568,000

Real Estate Commission Account--State Appropriation.....((~~\$10,047,000~~))

\$9,987,000

Master License Account--State Appropriation.....\$15,718,000

Uniform Commercial Code Account--State Appropriation.....((~~\$3,100,000~~))

\$3,090,000

Real Estate Education Account--State Appropriation.....\$276,000

Real Estate Appraiser Commission Account--State Appropriation.....((~~\$1,692,000~~))

\$1,683,000

Business and Professions Account--State Appropriation.....((~~\$15,270,000~~))

\$15,188,000

Real Estate Research Account--State Appropriation.....((~~\$320,000~~))

\$471,000

Geologists' Account--State Appropriation.....\$53,000

Derelict Vessel Removal Account--State Appropriation.....\$31,000

TOTAL APPROPRIATION.....((~~\$53,831,000~~))

\$53,948,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Pursuant to RCW 43.135.055, the department is authorized to increase fees for cosmetologists, funeral directors, cemeteries, court reporters and appraisers. These increases are necessary to support the expenditures authorized in this section, consistent with RCW 43.24.086.

(2) \$1,352,000 of the business and professions account--state appropriation is provided solely to implement Substitute Senate Bill No. 5391 (tattoo and body piercing). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(3) \$358,000 of the business and professions account--state appropriation is provided solely to implement Senate Bill No. 6126 (professional athletics). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(4) \$151,000 of the real estate research account appropriation is provided solely to implement chapter 156, Laws of 2010 (real estate broker licensure fees).

(5) \$158,000 of the architects' license account--state appropriation is provided solely to implement chapter 129, Laws of 2010 (architect licensing).

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(6) \$60,000 of the master license account--state appropriation is provided solely to implement chapter 174, Laws of 2010 (vaccine association). The amount provided in this subsection shall be from fee revenue authorized in chapter 174, Laws of 2010.

**Sec. 402.** 2010 c 3 s 402 (uncodified) is amended to read as follows:

**FOR THE STATE PATROL**

General Fund--State Appropriation (FY 2010).....	<del>(\$40,668,000)</del>
	<u>\$38,977,000</u>
General Fund--State Appropriation (FY 2011).....	<del>(\$39,566,000)</del>
	<u>\$36,059,000</u>
General Fund--Federal Appropriation.....	<del>(\$11,401,000)</del>
	<u>\$15,793,000</u>
General Fund--Private/Local Appropriation.....	<del>(\$3,568,000)</del>
	<u>\$4,986,000</u>
Death Investigations Account--State Appropriation....	<del>(\$6,022,000)</del>
	<u>\$5,580,000</u>
Enhanced 911 Account--State Appropriation.....	<del>(\$589,000)</del>
	<u>\$603,000</u>
County Criminal Justice Assistance Account--State Appropriation.....	<del>(\$3,122,000)</del>
	<u>\$3,146,000</u>
Municipal Criminal Justice Assistance Account--State Appropriation.....	<del>(\$1,245,000)</del>
	<u>\$1,255,000</u>
Fire Service Trust Account--State Appropriation.....	\$131,000
Disaster Response Account--State Appropriation.....	\$8,002,000
Fire Service Training Account--State Appropriation....	<del>(\$8,717,000)</del>
	<u>\$8,821,000</u>
Aquatic Invasive Species Enforcement Account--State Appropriation.....	\$54,000
State Toxics Control Account--State Appropriation....	<del>(\$504,000)</del>
	<u>\$509,000</u>
Fingerprint Identification Account--State Appropriation.....	<del>(\$7,371,000)</del>
	<u>\$10,454,000</u>
TOTAL APPROPRIATION.....	<del>(\$130,960,000)</del>
	<u>\$134,370,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$200,000 of the fire service training account--state appropriation is provided solely for two FTEs in the office of the state director of fire protection to exclusively review K-12 construction documents for fire and life safety in accordance with the state building code. It is the intent of this appropriation to provide these services only to those districts that are located in counties without qualified review capabilities.

(2) \$8,000,000 of the disaster response account--state appropriation is provided solely for Washington state fire service resource mobilization costs incurred in response to an emergency or disaster authorized under RCW 43.43.960 and 43.43.964. The state patrol shall submit a report quarterly to the office of financial management and the legislative fiscal committees detailing information on current and planned expenditures from this account. This work shall be done in coordination with the military department.

(3) The 2010 legislature will review the use of king air planes by the executive branch and the adequacy of funding in this budget regarding maintaining and operating the planes to successfully accomplish their mission.

(4) The appropriations in this section reflect reductions in the appropriations for the agency's administrative expenses. It is the intent of the legislature that these reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that

do not affect direct client services or direct service delivery or programs.

(5) \$400,000 of the fire service training account--state appropriation is provided solely for the firefighter apprenticeship training program.

(6) \$48,000 of the fingerprint identification account--state appropriation is provided solely to implement Substitute House Bill No. 1621 (consumer loan companies). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(7) In accordance with RCW 43.43.942, 46.52.085, and 43.135.055, the state patrol is authorized to increase the following fees in fiscal year 2011 as necessary to meet the actual costs of conducting business and the appropriation levels in this section: Collision records requests; fire training academy courses; and fire training academy dorm accommodations.

(8) \$24,000 of the fingerprint identification account--state appropriation is provided solely for implementation of chapter 47, Laws of 2010 (criminal background checks).

(End of part)

**PART V  
EDUCATION**

**Sec. 501.** 2009 c 564 s 501 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**

General Fund--State Appropriation (FY 2010).....	<del>(\$34,798,000)</del>
	<u>\$35,415,000</u>
General Fund--State Appropriation (FY 2011).....	<del>(\$32,969,000)</del>
	<u>\$33,610,000</u>
General Fund--Federal Appropriation.....	<del>(\$86,571,000)</del>
	<u>\$87,081,000</u>
TOTAL APPROPRIATION.....	<del>(\$154,338,000)</del>
	<u>\$156,106,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) A maximum of ~~(\$22,532,000)~~ \$23,096,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$21,023,000)~~ \$21,926,000 of the general fund--state appropriation for fiscal year 2011 is for state agency operations.

(a) ~~(\$11,792,000)~~ \$11,226,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$11,325,000)~~ \$10,367,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the operation and expenses of the office of the superintendent of public instruction.

(i) Within the amounts provided in this subsection, the superintendent shall recognize the extraordinary accomplishments of four students who have demonstrated a strong understanding of the civics essential learning requirements to receive the Daniel J. Evans civic education award.

(ii) Within amounts appropriated in this subsection (1)(a), the office of the superintendent of public instruction, consistent with WAC 392-121-182 (alternative learning experience requirements) which requires documentation of alternative learning experience student headcount and full-time equivalent (FTE) enrollment claimed for basic education funding, shall provide, ~~(via the)~~ monthly ((report of school district enrollment)), accurate monthly headcount and FTE enrollments for students in ~~((internet))~~ alternative learning experience (ALE) programs as well as information about resident and serving districts.

(iii) Within amounts provided in this subsection (1)(a), the state superintendent of public instruction shall share best practices with school districts regarding strategies for increasing efficiencies and

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economies of scale in school district noninstructional operations through shared service arrangements and school district cooperatives, as well as other practices.

(b) \$250,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for a statewide school district reorganization commission.

(i) The commission shall develop and recommend a comprehensive plan for the reorganization of Washington school districts for review and potential adoption by the legislature.

(ii) The commission shall be composed of the following members: A representative of the state board of education selected by the members of the board; two representatives of school administrators selected by the Washington association of school administrators, with one representative each from eastern and western Washington; two representatives of school board directors selected by the Washington state school directors' association, with one representative each from eastern and western Washington; one representative of certificated instructional school employees selected by the Washington education association; an individual with experience as a demographer or as a participant on the redistricting commission under chapter 44.05 RCW selected by the governor.

(iii) The commission shall develop objective criteria, ranked in priority order, for the reorganization of Washington school districts to include consideration of but not be limited to criteria in RCW 28A.315.015 and 28A.315.205. Based on the adopted objective criteria, the commission shall develop a comprehensive plan for the reorganization and reduction of Washington school districts. The plan may also result in a reorganization of the number and boundaries of educational service districts.

(iv) The commission shall submit a final comprehensive school district reorganization plan to the superintendent of public instruction, the governor, and the legislature by December 1, 2012, to include the following: A list of the recommended school districts and educational service districts and their respective boundaries; recommended procedures and timelines for phased-in implementation of the reorganization plan; procedures and timelines for determination, adjustment, and transfer of assets and liabilities among school districts, including bonded indebtedness; procedures and timelines for determination and election of school district and educational service district boards of directors; and any other relevant elements the commission deems essential for legislative and gubernatorial consideration.

(c) \$25,000 of the general fund--state appropriation for fiscal year 2011 is provided to the office of the superintendent of public instruction solely to convene a science, technology, engineering, and mathematics (STEM) working group to develop a comprehensive plan with a shared vision, goals, and measurable objectives to improve policies and practices to ensure that a pathway is established for elementary schools, middle schools, high schools, postsecondary degree programs, and careers in the areas of STEM, including improving practices for recruiting, preparing, hiring, retraining, and supporting teachers and instructors while creating pathways to boost student success, close the achievement gap, and prepare every student to be college and career ready. The working group shall be composed of the director of STEM at the office of the superintendent of public instruction who shall be the chair of the working group, and at least one representative from the state board of education, professional educator standards board, state board of community and technical colleges, higher education coordinating board, workforce training and education coordinating board, the achievement gap oversight and accountability committee, and others with appropriate expertise. The working group shall develop a comprehensive plan and a report with recommendations, including a timeline for specific actions to be taken, which is due to

the governor and the appropriate committees of the legislature by December 1, 2010.

(d) ~~(\$927,000)~~ \$920,000 of the general fund--state appropriation for fiscal year 2010 and \$941,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for research and development activities associated with the development of options for new school finance systems, including technical staff, reprogramming, and analysis of alternative student funding formulae. Within this amount is \$150,000 for the state board of education for further development of accountability systems, and \$150,000 for the professional educator standards board for continued development of teacher certification and evaluation systems.

~~((b))~~ (e) \$965,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$965,000)~~ \$946,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the operation and expenses of the state board of education, including basic education assistance activities.

~~((e))~~ (f) \$5,366,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$5,264,000)~~ \$3,312,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to the professional educator standards board for the following:

(i) \$1,070,000 in fiscal year 2010 and ~~(\$1,070,000)~~ \$1,058,000 in fiscal year 2011 are for the operation and expenses of the Washington professional educator standards board ~~(including administering the alternative routes to certification program, pipeline for paraeducators conditional scholarship loan program, and the retooling to teach math conditional loan program);~~

(ii) ~~(\$3,431,000)~~ \$4,106,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$3,431,000)~~ \$2,066,000 of the general fund--state appropriation for fiscal year 2011 are for conditional scholarship loans and mentor stipends provided through the alternative routes to certification program administered by the professional educator standards board, including the pipeline for paraeducators program and the retooling to teach conditional loan programs. Funding within this subsection (1)(f)(ii) is also provided for the recruiting Washington teachers program. ~~(Of these amounts:~~

~~—(A) \$500,000 each year is for conditional scholarships to candidates seeking an endorsement in special education, math, science, or bilingual education;~~

~~—(B) \$2,372,000 for fiscal year 2010 and \$2,372,000 for fiscal year 2011 are for the expansion of conditional scholarship loans and mentor stipends for individuals enrolled in alternative route state partnership programs and seeking endorsements in math, science, special education or bilingual education;~~

~~—(C) Any remaining amounts in this subsection (e) shall be used to continue existing alternative routes to certification programs; and~~

~~—(D) Candidates seeking math and science endorsements under (A) and (B) of this subsection shall receive priority for funding;~~

~~(iii) \$231,000 of the general fund--state appropriation for fiscal year 2010 and \$231,000 of the general fund--state appropriation for fiscal year 2011 are for the recruiting Washington teachers program;~~

~~(iv) \$200,000 of the general fund--state appropriation for fiscal year 2010 and \$200,000 of the general fund--state appropriation for fiscal year 2011 provided in this subsection are for \$4,000 conditional loan stipends for paraeducators participating in the pipeline for paraeducators program;~~

~~(v) \$244,000 of the general fund--state appropriation for fiscal year 2010 and \$244,000 of the general fund--state appropriation for fiscal year 2011 are for conditional stipends for certificated teachers pursuing a mathematics or science endorsement under the retooling to teach mathematics or science program. The conditional stipends shall be for endorsement exam fees as well as stipends for teachers who must also complete coursework; and~~

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~~(vi)) (iii) \$102,000 of the general fund--state appropriation for fiscal year 2010 is provided for the implementation of Second Substitute Senate Bill No. 5973 (student achievement gap). (The professional educator standards board (PESB) will convene a workgroup to identify a list of model standards for cultural competency and make recommendations to the education committees of the legislature on the strengths and weaknesses of those standards. Funding is also included here in the amount of \$10,000 for the PESB to develop an interagency agreement with the center for the improvement of student learning to participate.~~

~~(d) \$1,099,000)) \$100,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the ongoing work of the achievement gap oversight and accountability committee and implementation of the committee's recommendations.~~

~~(iv) During the 2009-2011 fiscal biennium, the professional educator standards board is exempt from the provisions of chapter 7, Law of 2010 1st sp. sess. (eliminating boards and commissions).~~

~~(g) \$1,349,000 of the general fund--state appropriation for fiscal year 2010 and \$144,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for replacement of the apportionment system, which includes the processes that collect school district budget and expenditure information, staffing characteristics, and the student enrollments that drive the funding process.~~

~~((e) \$1,227,000)) (h) \$1,140,000 of the general fund--state appropriation for fiscal year 2010 and \$1,227,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the creation of a statewide data base of longitudinal student information. This amount is conditioned on the department satisfying the requirements in section 902 of this act.~~

~~((f)) (i) \$75,000 of the general fund--state appropriation for fiscal year 2010 ((and \$75,000 of the general fund--state appropriation for fiscal year 2011 are)) is provided solely to promote the financial literacy of students. The effort will be coordinated through the financial education public-private partnership. It is expected that nonappropriated funds available to the public-private partnership will be sufficient to continue financial literacy activities.~~

~~((g)) (j) To the maximum extent possible, in adopting new agency rules or making any changes to existing rules or policies related to the fiscal provisions in the administration of part V of this act, the office of the superintendent of public instruction shall attempt to request approval through the normal legislative budget process.~~

~~((h)) (k) \$44,000 of the general fund--state appropriation for fiscal year 2010 and \$45,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the implementation of Substitute Senate Bill No. 5248 (enacting the interstate compact on educational opportunity for military children).~~

~~((i)) (l) \$700,000 of the general fund--state appropriation for fiscal year 2010 and \$700,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the implementation of Substitute Senate Bill No. 5410 (online learning).~~

~~((j)) (m) \$25,000 of the general fund--state appropriation for fiscal year 2010 and \$25,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for project citizen, a program sponsored by the national conference of state legislatures and the center for civic education to promote participation in government by middle school students.~~

~~(n) \$2,518,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the implementation of Substitute House Bill No. 2776 (K-12 education funding). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.~~

~~(o) \$133,000 of the general fund--state appropriation for fiscal~~

year 2011 is provided solely for the implementation of Engrossed Second Substitute House Bill No. 3026 (state and federal civil rights laws). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(p) Beginning in the 2010-11 school year, the superintendent of public instruction shall require all districts receiving general apportionment funding for alternative learning experience (ALE) programs as defined in WAC 392-121-182 to provide separate financial accounting of expenditures for the ALE programs offered in district or with a provider, including but not limited to private companies and multidistrict cooperatives.

(q) \$55,000 of the general fund--state appropriation for fiscal year 2011 is provided to the office of the superintendent of public instruction solely to convene a technical working group to establish standards, guidelines, and definitions for what constitutes a basic education program for highly capable students and the appropriate funding structure for such a program, and to submit recommendations to the legislature for consideration. The working group may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders. The working group must consult with and seek input from nationally recognized experts; researchers and academics on the unique educational, emotional, and social needs of highly capable students and how to identify such students; representatives of national organizations and associations for educators of or advocates for highly capable students; school district representatives who are educators, counselors, and classified school employees involved with highly capable programs; parents of students who have been identified as highly capable; representatives from the federally recognized tribes; and representatives of cultural, linguistic, and racial minority groups and the community of persons with disabilities. The working group shall make recommendations to the quality education council and to appropriate committees of the legislature by December 1, 2010. The recommendations shall take into consideration that access to the program for highly capable students is not an individual entitlement for any particular student. The recommendations shall seek to minimize underrepresentation of any particular demographic or socioeconomic group by better identification, not lower standards or quotas, and shall include the following:

(i) Standardized state-level identification procedures, standards, criteria, and benchmarks, including a definition or definitions of a highly capable student. Students who are both highly capable and are students of color, are poor, or have a disability must be addressed;

(ii) Appropriate programs and services that have been shown by research and practice to be effective with highly capable students but maintain options and flexibility for school districts, where possible;

(iii) Program administration, management, and reporting requirements for school districts;

(iv) Appropriate educator qualifications, certification requirements, and professional development and support for educators and other staff who are involved in programs for highly capable students;

(v) Self-evaluation models to be used by school districts to determine the effectiveness of the program and services provided by the school district for highly capable programs;

(vi) An appropriate state-level funding structure; and

(vii) Other topics deemed to be relevant by the working group.

(r) \$1,000,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for contracting with a college scholarship organization with expertise in conducting outreach to students concerning eligibility for the Washington college bound scholarship consistent with chapter 405, Laws of 2007.

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(s) \$24,000 of the general fund--state appropriation for fiscal year 2010 and \$140,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for implementation of Substitute Senate Bill No. 6759 (requiring a plan for a voluntary program of early learning as a part of basic education). If the bill is not enacted by June 30, 2010, the amounts provided in this subsection (1)(r) shall lapse.

(t) \$950,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for office of the attorney general costs related to *McCleary v. State of Washington*.

(2) (~~(\$12,836,000)~~) \$12,320,000 of the general fund--state appropriation for fiscal year 2010, (~~(\$12,407,000)~~) \$11,685,000 of the general fund--state appropriation for fiscal year 2011, and \$55,890,000 of the general fund--federal appropriation are for statewide programs.

(a) HEALTH AND SAFETY

(i) \$2,541,000 of the general fund--state appropriation for fiscal year 2010 and \$2,541,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a corps of nurses located at educational service districts, as determined by the superintendent of public instruction, to be dispatched to the most needy schools to provide direct care to students, health education, and training for school staff.

(ii) \$100,000 of the general fund--state appropriation for fiscal year 2010 and \$100,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a school safety training program provided by the criminal justice training commission. The commission, in collaboration with the school safety center advisory committee, shall provide the school safety training for all school administrators and school safety personnel, including school safety personnel hired after the effective date of this section.

(iii) \$9,670,000 of the general fund--federal appropriation is provided for safe and drug free schools and communities grants for drug and violence prevention activities and strategies.

(iv) \$96,000 of the general fund--state appropriation for fiscal year 2010 and \$96,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the school safety center in the office of the superintendent of public instruction subject to the following conditions and limitations:

(A) The safety center shall: Disseminate successful models of school safety plans and cooperative efforts; provide assistance to schools to establish a comprehensive safe school plan; select models of cooperative efforts that have been proven successful; act as an information dissemination and resource center when an incident occurs in a school district either in Washington or in another state; coordinate activities relating to school safety; review and approve manuals and curricula used for school safety models and training; and develop and maintain a school safety information web site.

(B) The school safety center advisory committee shall develop a training program, using the best practices in school safety, for all school safety personnel.

(v) \$70,000 of the general fund--state appropriation for fiscal year 2010 (~~(and \$70,000 of the general fund--state appropriation for fiscal year 2011 are)~~) is provided solely for the youth suicide prevention program.

(vi) \$50,000 of the general fund--state appropriation for fiscal year 2010 and \$50,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a nonviolence and leadership training program provided by the institute for community leadership.

(b) TECHNOLOGY

(i) (~~(\$1,939,000)~~) \$1,842,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$1,939,000)~~) \$1,745,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for K-20 telecommunications network technical

support in the K-12 sector to prevent system failures and avoid interruptions in school utilization of the data processing and video-conferencing capabilities of the network. These funds may be used to purchase engineering and advanced technical support for the network.

(ii) \$1,475,000 of the general fund--state appropriation for fiscal year 2010, \$1,045,000 of the general fund--state appropriation for fiscal year 2011, and \$435,000 of the general fund--federal appropriation are provided solely for implementing a comprehensive data system to include financial, student, and educator data. The office of the superintendent of public instruction will convene a data governance group to create a comprehensive needs-requirement document, conduct a gap analysis, and define operating rules and a governance structure for K-12 data collections. (~~(A preliminary report shall be submitted to the fiscal committees and the education policy committees of the house of representatives and senate by November 2009.~~

~~—(iii) \$1,656,000 of the general fund--federal appropriation for fiscal year 2010 and \$2,483,000 of the general fund--federal appropriation for fiscal year 2011 of the American recovery and reinvestment act (ARRA) 2009 funds for education technology are provided solely for distribution to school districts, by formula, as provided in the ARRA and related federal guidelines. \$4,139,000 of the general fund--federal appropriation of the American recovery and reinvestment act (ARRA) 2009 funds for education technology shall be awarded to local education agencies through a competitive grant process.))~~

(c) GRANTS AND ALLOCATIONS

(i) \$1,329,000 of the general fund--state appropriation for fiscal year 2010 and \$1,329,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the special services pilot project to include up to seven participating districts. The office of the superintendent of public instruction shall allocate these funds to the district or districts participating in the pilot program according to the provisions of RCW 28A.630.016.

(ii) \$750,000 of the general fund--state appropriation for fiscal year 2010 and \$750,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Washington state achievers scholarship program. The funds shall be used to support community involvement officers that recruit, train, and match community volunteer mentors with students selected as achievers scholars.

(iii) \$25,000 of the general fund--state appropriation for fiscal year 2010 (~~(and \$25,000 of the general fund--state appropriation for fiscal year 2011 are)~~) is provided solely for developing and disseminating curriculum and other materials documenting women's role in World War II.

(iv) \$175,000 of the general fund--state appropriation for fiscal year 2010 and \$175,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for incentive grants for districts and pilot projects to develop preapprenticeship programs. Incentive grant awards up to \$10,000 each shall be used to support the program's design, school/business/labor agreement negotiations, and recruiting high school students for preapprenticeship programs in the building trades and crafts.

(v) (~~(\$3,219,000)~~) \$2,898,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$3,220,000)~~) \$3,120,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the dissemination of the navigation 101 curriculum to all districts. The funding shall support electronic student planning tools and software for analyzing the impact of navigation 101 on student performance, as well as grants to a maximum of one hundred school districts each year, based on progress and need for the implementation of the navigation 101 program. The implementation grants shall be awarded to a

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cross-section of school districts reflecting a balance of geographic and demographic characteristics. Within the amounts provided, the office of the superintendent of public instruction will create a navigation 101 accountability model to analyze the impact of the program.

(vi) ~~(\$675,000)~~ \$627,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$675,000)~~ \$337,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for implementation of a statewide program for comprehensive dropout prevention, intervention, and retrieval.

(vii) ~~(\$50,000)~~ \$40,000 of the general fund--state appropriation for fiscal year 2010 ~~(and \$50,000 of the general fund--state appropriation for fiscal year 2011 are)~~ is provided solely for program initiatives to address the educational needs of Latino students and families. Using the full amounts of the appropriations under this subsection (2)(c)(vii), the office of the superintendent of public instruction shall contract with the Seattle community coalition of compaña quetzal to provide for three initiatives: (A) Early childhood education; (B) parent leadership training; and (C) high school success and college preparation programs.

(viii) ~~(\$75,000)~~ \$60,000 of the general fund--state appropriation for fiscal year 2010 and \$75,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a pilot project to encourage bilingual high school students to pursue public school teaching as a profession. Using the full amounts of the appropriation under this subsection, the office of the superintendent of public instruction shall contract with the Latino/a educational achievement project (LEAP) to work with school districts to identify and mentor not fewer than fifty bilingual students in their junior year of high school, encouraging them to become bilingual instructors in schools with high English language learner populations. Students shall be mentored by bilingual teachers and complete a curriculum developed and approved by the participating districts.

(ix) \$145,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$145,000)~~ \$75,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to the office of the superintendent of public instruction to enhance the reading skills of students with dyslexia by implementing the findings of the dyslexia pilot program. Funds shall be used to provide information and training to classroom teachers and reading specialists, for development of a dyslexia handbook, and to take other statewide actions to improve the reading skills of students with dyslexia. The training program shall be delivered regionally through the educational service districts.

(x) \$97,000 of the general fund--state appropriation for fiscal year 2010 and \$97,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to support vocational student leadership organizations.

(xi) ~~(\$25,000 of the general--state appropriation for fiscal year 2010 and \$25,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the communities in school program in Pierce county.)~~ \$150,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for drop-out prevention programs at the office of the superintendent of public instruction including the jobs for America's graduates (JAG) program.

Sec. 502. 2009 c 564 s 502 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR GENERAL APPORTIONMENT**  
General Fund--State Appropriation (FY 2010)...~~(\$5,083,217,000)~~  
\$5,126,153,000  
General Fund--State Appropriation (FY 2011)...~~(\$5,103,543,000)~~  
\$5,159,625,000

TOTAL APPROPRIATION.....~~(\$10,186,760,000)~~  
\$10,285,778,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) Allocations for certificated staff salaries for the 2009-10 and 2010-11 school years shall be determined using formula-generated staff units calculated pursuant to this subsection. Staff allocations for small school enrollments in (e) through (g) of this subsection shall be reduced for vocational full-time equivalent enrollments. Staff allocations for small school enrollments in grades K-6 shall be the greater of that generated under (a) of this subsection, or under (d) and (e) of this subsection. Certificated staffing allocations shall be as follows:

(a) On the basis of each 1,000 average annual full-time equivalent enrollments, excluding full-time equivalent enrollment otherwise recognized for certificated staff unit allocations under (d) through (g) of this subsection:

(i) Four certificated administrative staff units per thousand full-time equivalent students in grades K-12;

~~(ii)(A)(I) (Fifty three and two tenths certificated instructional staff units per thousand full-time equivalent students in grades K 4 for districts that enroll fewer than 25 percent of their total full-time equivalent student enrollment in grades K 4 in digital or online learning programs defined in WAC 392 121 182.~~

~~---(B) All other districts shall be allocated a minimum of forty nine certificated instructional staff units per 1,000 full-time equivalent (FTE) students in grades K through four, and shall be allocated additional certificated instructional staff units to equal the documented staffing level in grades K through four, up to a maximum of fifty three and two tenths certificated instructional staff units per 1,000 FTE students.~~

~~---(C) Certificated instructional staff allocations in this subsection (2)(a)(ii) exceeding the statutory minimums established in RCW 28A.150.260 shall not be considered part of basic education:)) For districts that enroll fewer than 25 percent of their total full-time equivalent student enrollment in grades K through three in digital or online learning programs as defined in WAC 392-121-182, fifty-three and two-tenths certificated instructional staff units per thousand full-time equivalent students in grades K through three.~~

(II) For all other districts, a minimum of forty-nine certificated instructional staff units per 1,000 full-time equivalent (FTE) students in grades K through three, with additional certificated instructional staff units to equal the documented staffing level in grades K through three, up to a maximum of fifty-three and two-tenths certificated instructional staff units per 1,000 FTE students.

(B)(I) For districts that enroll fewer than 25 percent of their total full-time equivalent student enrollment in grade four in digital or online learning programs defined in WAC 392-121-182: For the 2009-10 school year, fifty-three and two-tenths certificated instructional staff units per thousand full-time equivalent students in grade four, and for the 2010-11 school year, forty-seven and forty-three one-hundredths certificated instructional staff units per thousand full-time equivalent students in grade four.

(II) For all other districts:

For the 2009-10 school year, a minimum of forty-six certificated instructional staff units per 1,000 full-time equivalent (FTE) students in grade four, and additional certificated instructional staff units to equal the documented staffing level in grade four, up to a maximum of fifty-three and two-tenths certificated instructional staff units per 1,000 FTE students.

For the 2010-11 school year, a minimum of forty-six

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certificated instructional staff units per 1,000 full-time equivalent (FTE) students in grade four, and additional certificated instructional staff units to equal the documented staffing level in grade four, up to a maximum of forty-seven and forty-three one-hundredths certificated instructional staff units per 1,000 FTE students;

(iii) Forty-six certificated instructional staff units per thousand full-time equivalent students in grades 5-12;

(iv) Certificated staff allocations in this subsection (2)(a) exceeding the statutory minimums established in RCW 28A.150.260 shall not be considered part of basic education;

(b) For school districts with a minimum enrollment of 250 full-time equivalent students whose full-time equivalent student enrollment count in a given month exceeds the first of the month full-time equivalent enrollment count by 5 percent, an additional state allocation of 110 percent of the share that such increased enrollment would have generated had such additional full-time equivalent students been included in the normal enrollment count for that particular month;

(c)(i) On the basis of full-time equivalent enrollment in:

(A) Vocational education programs approved by the superintendent of public instruction, a maximum of 0.92 certificated instructional staff units and 0.08 certificated administrative staff units for each 19.5 full-time equivalent vocational students; ~~((and))~~

(B) Middle school vocational STEM programs approved by the superintendent of public instruction, a maximum of 0.92 certificated instructional staff units and 0.8 certificated administrative staff units for each 19.5 full-time equivalent vocational students; and

(C) Skills center programs meeting the standards for skills center funding established in January 1999 by the superintendent of public instruction with a waiver allowed for skills centers in current operation that are not meeting this standard until the 2010-11 school year, 0.92 certificated instructional staff units and 0.08 certificated administrative units for each 16.67 full-time equivalent vocational students;

(ii) Vocational full-time equivalent enrollment shall be reported on the same monthly basis as the enrollment for students eligible for basic support, and payments shall be adjusted for reported vocational enrollments on the same monthly basis as those adjustments for enrollment for students eligible for basic support; and

(iii) Indirect cost charges by a school district to vocational-secondary programs and vocational middle-school shall not exceed 15 percent of the combined basic education and vocational enhancement allocations of state funds;

(d) For districts enrolling not more than twenty-five average annual full-time equivalent students in grades K-8, and for small school plants within any school district which have been judged to be remote and necessary by the state board of education and enroll not more than twenty-five average annual full-time equivalent students in grades K-8:

(i) For those enrolling no students in grades 7 and 8, 1.76 certificated instructional staff units and 0.24 certificated administrative staff units for enrollment of not more than five students, plus one-twentieth of a certificated instructional staff unit for each additional student enrolled; and

(ii) For those enrolling students in grades 7 or 8, 1.68 certificated instructional staff units and 0.32 certificated administrative staff units for enrollment of not more than five students, plus one-tenth of a certificated instructional staff unit for each additional student enrolled;

(e) For specified enrollments in districts enrolling more than twenty-five but not more than one hundred average annual full-time equivalent students in grades K-8, and for small school plants within any school district which enroll more than twenty-five average

annual full-time equivalent students in grades K-8 and have been judged to be remote and necessary by the state board of education:

(i) For enrollment of up to sixty average annual full-time equivalent students in grades K-6, 2.76 certificated instructional staff units and 0.24 certificated administrative staff units; and

(ii) For enrollment of up to twenty average annual full-time equivalent students in grades 7 and 8, 0.92 certificated instructional staff units and 0.08 certificated administrative staff units;

(f) For districts operating no more than two high schools with enrollments of less than three hundred average annual full-time equivalent students, for enrollment in grades 9-12 in each such school, other than alternative schools:

(i) For remote and necessary schools enrolling students in any grades 9-12 but no more than twenty-five average annual full-time equivalent students in grades K-12, four and one-half certificated instructional staff units and one-quarter of a certificated administrative staff unit;

(ii) For all other small high schools under this subsection, nine certificated instructional staff units and one-half of a certificated administrative staff unit for the first sixty average annual full time equivalent students, and additional staff units based on a ratio of 0.8732 certificated instructional staff units and 0.1268 certificated administrative staff units per each additional forty-three and one-half average annual full time equivalent students.

Units calculated under (f)(ii) of this subsection shall be reduced by certificated staff units at the rate of forty-six certificated instructional staff units and four certificated administrative staff units per thousand vocational full-time equivalent students;

(g) For each nonhigh school district having an enrollment of more than seventy average annual full-time equivalent students and less than one hundred eighty students, operating a grades K-8 program or a grades 1-8 program, an additional one-half of a certificated instructional staff unit; and

(h) For each nonhigh school district having an enrollment of more than fifty average annual full-time equivalent students and less than one hundred eighty students, operating a grades K-6 program or a grades 1-6 program, an additional one-half of a certificated instructional staff unit.

(3) Allocations for classified salaries for the 2009-10 and 2010-11 school years shall be calculated using formula-generated classified staff units determined as follows:

(a) For enrollments generating certificated staff unit allocations under subsection (2)(e) through (h) of this section, one classified staff unit for each 2.94 certificated staff units allocated under such subsections;

(b) For all other enrollment in grades K-12, including vocational full-time equivalent enrollments, one classified staff unit for each 58.75 average annual full-time equivalent students; and

(c) For each nonhigh school district with an enrollment of more than fifty average annual full-time equivalent students and less than one hundred eighty students, an additional one-half of a classified staff unit.

(4) Fringe benefit allocations shall be calculated at a rate of 14.43 percent in the 2009-10 school year and 14.43 percent in the 2010-11 school year for certificated salary allocations provided under subsection (2) of this section, and a rate of ~~((46.58))~~ 16.59 percent in the 2009-10 school year and ~~((46.58))~~ 16.59 percent in the 2010-11 school year for classified salary allocations provided under subsection (3) of this section.

(5) Insurance benefit allocations shall be calculated at the maintenance rate specified in section 504(2) of this act, based on the number of benefit units determined as follows:

(a) The number of certificated staff units determined in subsection (2) of this section; and

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(b) The number of classified staff units determined in subsection (3) of this section multiplied by 1.152. This factor is intended to adjust allocations so that, for the purposes of distributing insurance benefits, full-time equivalent classified employees may be calculated on the basis of 1440 hours of work per year, with no individual employee counted as more than one full-time equivalent.

(6)(a) For nonemployee-related costs associated with each certificated staff unit allocated under subsection (2)(a), (b), and (d) through (g) of this section, there shall be provided a maximum of \$10,179 per certificated staff unit in the 2009-10 school year and a maximum of (~~(\$10,445)~~) \$10,424 per certificated staff unit in the 2010-11 school year.

(b) For nonemployee-related costs associated with each vocational certificated staff unit allocated under subsection (2)(c)(i)(A) of this section, there shall be provided a maximum of \$24,999 per certificated staff unit in the 2009-10 school year and a maximum of (~~(\$25,449)~~) \$25,399 per certificated staff unit in the 2010-11 school year.

(c) For nonemployee-related costs associated with each vocational certificated staff unit allocated under subsection (2)(c)(i)(B) of this section, there shall be provided a maximum of \$19,395 per certificated staff unit in the 2009-10 school year and a maximum of (~~(\$19,744)~~) \$19,705 per certificated staff unit in the 2010-11 school year.

(7) Allocations for substitute costs for classroom teachers shall be distributed at a maintenance rate of \$607.44 for the 2009-10 and 2010-11 school years per allocated classroom teachers exclusive of salary increase amounts provided in section 504 of this act. Solely for the purposes of this subsection, allocated classroom teachers shall be equal to the number of certificated instructional staff units allocated under subsection (2) of this section, multiplied by the ratio between the number of actual basic education certificated teachers and the number of actual basic education certificated instructional staff reported statewide for the prior school year.

(8) Any school district board of directors may petition the superintendent of public instruction by submission of a resolution adopted in a public meeting to reduce or delay any portion of its basic education allocation for any school year. The superintendent of public instruction shall approve such reduction or delay if it does not impair the district's financial condition. Any delay shall not be for more than two school years. Any reduction or delay shall have no impact on levy authority pursuant to RCW 84.52.0531 and local effort assistance pursuant to chapter 28A.500 RCW.

(9) Funding in this section is sufficient to provide additional service year credits to educational staff associates pursuant to chapter 403, Laws of 2007.

(10)(a) The superintendent may distribute a maximum of (~~(\$7,288,000)~~) \$7,286,000 outside the basic education formula during fiscal years 2010 and 2011 as follows:

(i) For fire protection for school districts located in a fire protection district as now or hereafter established pursuant to chapter 52.04 RCW, a maximum of \$567,000 may be expended in fiscal year 2010 and a maximum of (~~(\$577,000)~~) \$576,000 may be expended in fiscal year 2011;

(ii) For summer vocational programs at skills centers, a maximum of \$2,385,000 may be expended for the 2010 fiscal year and a maximum of \$2,385,000 for the 2011 fiscal year. 20 percent of each fiscal year amount may carry over from one year to the next;

(iii) A maximum of (~~(\$404,000)~~) \$403,000 may be expended for school district emergencies; and

(iv) A maximum of \$485,000 each fiscal year may be expended for programs providing skills training for secondary students who are enrolled in extended day school-to-work programs, as approved by the superintendent of public instruction. The funds shall be

allocated at a rate not to exceed \$500 per full-time equivalent student enrolled in those programs.

(b) Funding in this section is sufficient to fund a maximum of 1.6 FTE enrollment for skills center students pursuant to chapter 463, Laws of 2007.

(11) For purposes of RCW 84.52.0531, the increase per full-time equivalent student is 4.0 percent from the 2008-09 school year to the 2009-10 school year and 4.0 percent from the 2009-10 school year to the 2010-11 school year.

(12) If two or more school districts consolidate and each district was receiving additional basic education formula staff units pursuant to subsection (2)(b) through (g) of this section, the following shall apply:

(a) For three school years following consolidation, the number of basic education formula staff units shall not be less than the number of basic education formula staff units received by the districts in the school year prior to the consolidation; and

(b) For the fourth through eighth school years following consolidation, the difference between the basic education formula staff units received by the districts for the school year prior to consolidation and the basic education formula staff units after consolidation pursuant to subsection (2)(a) through (h) of this section shall be reduced in increments of twenty percent per year.

(13) General apportionment payments to the Steilacoom historical school district shall reflect changes to operation of the Harriet Taylor elementary school consistent with the timing of reductions in correctional facility capacity and staffing.

**Sec. 503.** 2009 c 564 s 503 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--BASIC EDUCATION EMPLOYEE COMPENSATION.**

(1) The following calculations determine the salaries used in the general fund allocations for certificated instructional, certificated administrative, and classified staff units under section 502 of this act:

(a) Salary allocations for certificated instructional staff units shall be determined for each district by multiplying the district's certificated instructional total base salary shown on LEAP Document 2 by the district's average staff mix factor for certificated instructional staff in that school year, computed using LEAP Document 1; and

(b) Salary allocations for certificated administrative staff units and classified staff units for each district shall be based on the district's certificated administrative and classified salary allocation amounts shown on LEAP Document 2.

(2) For the purposes of this section:

(a) "LEAP Document 1" means the staff mix factors for certificated instructional staff according to education and years of experience, as developed by the legislative evaluation and accountability program committee on April 22, 2009, at 08:22 hours; and

(b) "LEAP Document 2" means the school year salary allocations for certificated administrative staff and classified staff and derived and total base salaries for certificated instructional staff as developed by the legislative evaluation and accountability program committee on April 22, 2009, at 08:22 hours.

(3) Incremental fringe benefit factors shall be applied to salary adjustments at a rate of 14.43 percent for school year 2009-10 and 14.43 percent for school year 2010-11 for certificated staff and for classified staff (~~(46.58)~~) 16.59 percent for school year 2009-10 and (~~(46.58)~~) 16.59 percent for the 2010-11 school year.

(4)(a) Pursuant to RCW 28A.150.410, the following state-wide salary allocation schedules for certificated instructional staff are established for basic education salary allocations:



<u>57</u>	<u>60.5</u>	<u>57</u>	<u>61.4</u>	<u>64.1</u>
<u>693</u>	<u>35</u>	<u>731</u>	<u>47</u>	<u>74</u>

(\$6,221,000)

(b) As used in this subsection, the column headings "BA+(N)" refer to the number of credits earned since receiving the baccalaureate degree.

(c) For credits earned after the baccalaureate degree but before the masters degree, any credits in excess of forty-five credits may be counted after the masters degree. Thus, as used in this subsection, the column headings "MA+(N)" refer to the total of:

- (i) Credits earned since receiving the masters degree; and
- (ii) Any credits in excess of forty-five credits that were earned after the baccalaureate degree but before the masters degree.

(5) For the purposes of this section:

- (a) "BA" means a baccalaureate degree.
- (b) "MA" means a masters degree.
- (c) "PHD" means a doctorate degree.
- (d) "Years of service" shall be calculated under the same rules adopted by the superintendent of public instruction.

(e) "Credits" means college quarter hour credits and equivalent in-service credits computed in accordance with RCW 28A.415.020 and 28A.415.023.

(6) No more than ninety college quarter-hour credits received by any employee after the baccalaureate degree may be used to determine compensation allocations under the state salary allocation schedule and LEAP documents referenced in this act, or any replacement schedules and documents, unless:

- (a) The employee has a masters degree; or
- (b) The credits were used in generating state salary allocations before January 1, 1992.

(7) The certificated instructional staff base salary specified for each district in LEAP Document 2 and the salary schedules in subsection (4)(a) of this section include one learning improvement day for the 2009-10 school year and zero learning improvement days for the 2010-11 school year. A school district is eligible for the learning improvement day funds only if the learning improvement day has been added to the 180-day contract year. If fewer days are added, the additional learning improvement allocation shall be adjusted accordingly. The additional day shall be limited to specific activities identified in the state required school improvement plan related to improving student learning that are consistent with education reform implementation, and shall not be considered part of basic education. The principal in each school shall assure that the days are used to provide the necessary school-wide, all staff professional development that is tied directly to the school improvement plan. The school principal and the district superintendent shall maintain documentation as to their approval of these activities. The length of a learning improvement day shall not be less than the length of a full day under the base contract. The superintendent of public instruction shall ensure that school districts adhere to the intent and purposes of this subsection.

(8) The salary allocation schedules established in this section are for allocation purposes only except as provided in RCW 28A.400.200(2).

Sec. 504. 2009 c 564 s 504 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR SCHOOL EMPLOYEE COMPENSATION ADJUSTMENTS**

General Fund--State Appropriation (FY 2010).....	<del>(\$4,215,000)</del>
	<u>(\$4,414,000)</u>
General Fund--State Appropriation (FY 2011).....	<del>(\$14,172,000)</del>
	<u>(\$1,806,000)</u>
General Fund--Federal Appropriation.....	<del>(\$6,000)</del>
	<u>(\$1,000)</u>
TOTAL APPROPRIATION.....	<del>(\$9,963,000)</del>

The appropriations in this section are subject to the following conditions and limitations:

(1)(a) Additional salary adjustments as necessary to fund the base salaries for certificated instructional staff as listed for each district in LEAP Document 2, defined in section 503(2)(b) of this act. Allocations for these salary adjustments shall be provided to all districts that are not grandfathered to receive salary allocations above the statewide salary allocation schedule, and to certain grandfathered districts to the extent necessary to ensure that salary allocations for districts that are currently grandfathered do not fall below the statewide salary allocation schedule.

(b) Additional salary adjustments to certain districts as necessary to fund the per full-time-equivalent salary allocations for certificated administrative staff as listed for each district in LEAP Document 2, defined in section 503(2)(b) of this act. These adjustments shall ensure a minimum salary allocation for certificated administrative staff of \$57,986 in the 2009-10 school year and \$57,986 in the 2010-11 school year.

(c) Additional salary adjustments to certain districts as necessary to fund the per full-time-equivalent salary allocations for classified staff as listed for each district in LEAP Document 2, defined in section 503(2)(b) of this act. These salary adjustments ensure a minimum salary allocation for classified staff of \$31,865 in the 2009-10 school year and \$31,865 in the 2010-11 school year.

(d) The appropriations in this subsection (1) include associated incremental fringe benefit allocations at rates 13.79 percent for the 2009-10 school year and 13.79 percent for the 2010-11 school year for certificated staff and ~~((13.09))~~ 13.09 percent for the 2009-10 school year and ~~((13.09))~~ 13.09 percent for the 2010-11 school year for classified staff.

(e) The appropriations in this section include the increased or decreased portion of salaries and incremental fringe benefits for all relevant state-funded school programs in part V of this act. Changes for general apportionment (basic education) are based on the salary allocation schedules and methodology in sections 502 and 503 of this act. Changes for special education result from changes in each district's basic education allocation per student. Changes for educational service districts and institutional education programs are determined by the superintendent of public instruction using the methodology for general apportionment salaries and benefits in sections 502 and 503 of this act. The appropriations in this section provide incremental fringe benefit alterations based on formula adjustments as follows:

	School Year	
	2009-10	2010-11
Pupil Transportation (per weighted pupil mile)	\$0	\$0
Highly Capable (per formula student)	(\$1.49)	<del>(\$1.49)</del> <u>(\$2.98)</u>
Transitional Bilingual Education (per eligible bilingual student)	(\$3.93)	<del>(\$3.93)</del> <u>(\$7.86)</u>
Learning Assistance (per formula student)	(\$1.18)	<del>(\$1.18)</del> <u>(\$2.36)</u>

(f) The appropriations in this section include no salary adjustments for substitute teachers.

(2) ~~(\$44,188,000)~~ \$44,213,000 is provided for adjustments to insurance benefit allocations. The maintenance rate for insurance benefit allocations is \$732.00 per month for the 2009-10 and 2010-11 school years. The appropriations in this section provide for a rate increase to \$745.00 per month for the 2009-10 school year and \$768.00 per month for the 2010-11 school year. The adjustments to health insurance benefits are at the following rates:

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	School Year	
	2009-10	2010-11
Pupil Transportation (per weighted pupil mile)	\$0.12	\$0.33
Highly Capable (per formula student)	<del>(\$0.82)</del> \$0.79	\$2.22
Transitional Bilingual Education (per eligible bilingual student)	<del>(\$2.40)</del> \$2.11	\$5.83
Learning Assistance (per formula student)	\$0.54	\$1.49

(3) The rates specified in this section are subject to revision each year by the legislature.

**Sec. 505.** 2009 c 564 s 505 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR PUPIL TRANSPORTATION**

General Fund--State Appropriation (FY 2010).....	<del>(\$307,357,000)</del> \$317,116,000
General Fund--State Appropriation (FY 2011).....	<del>(\$307,070,000)</del> \$296,747,000
<b>TOTAL APPROPRIATION.....</b>	<del>(\$614,427,000)</del> <b>\$613,863,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) A maximum of \$878,000 of this fiscal year 2010 appropriation and a maximum of ~~(\$894,000)~~ \$892,000 of the fiscal year 2011 appropriation may be expended for regional transportation coordinators and related activities. The transportation coordinators shall ensure that data submitted by school districts for state transportation funding shall, to the greatest extent practical, reflect the actual transportation activity of each district.

(3) Allocations for transportation of students shall be based on reimbursement rates of \$48.15 per weighted mile in the 2009-10 school year and ~~(\$48.40)~~ \$48.37 per weighted mile in the 2010-11 school year exclusive of salary and benefit adjustments provided in section 504 of this act. Allocations for transportation of students transported more than one radius mile shall be based on weighted miles as determined by superintendent of public instruction multiplied by the per mile reimbursement rates for the school year pursuant to the formulas adopted by the superintendent of public instruction. Allocations for transportation of students living within one radius mile shall be based on the number of enrolled students in grades kindergarten through five living within one radius mile of their assigned school multiplied by the per mile reimbursement rate for the school year multiplied by 1.29.

(4) The office of the superintendent of public instruction shall provide reimbursement funding to a school district only after the superintendent of public instruction determines that the school bus was purchased from the list established pursuant to RCW 28A.160.195(2) or a comparable competitive bid process based on the lowest price quote based on similar bus categories to those used to establish the list pursuant to RCW 28A.160.195.

(5) The superintendent of public instruction shall base depreciation payments for school district buses on the pre-sales tax five-year average of lowest bids in the appropriate category of bus. In the final year on the depreciation schedule, the depreciation payment shall be based on the lowest bid in the appropriate bus category for that school year.

(6) Funding levels in this section reflect reductions from the implementation of Substitute House Bill No. 1292 (authorizing waivers from the one hundred eighty-day school year requirement in order to allow four-day school weeks).

**Sec. 506.** 2009 c 564 s 506 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR SCHOOL FOOD SERVICE PROGRAMS**

General Fund--State Appropriation (FY 2010).....	\$3,159,000
General Fund--State Appropriation (FY 2011).....	\$3,159,000
General Fund--Federal Appropriation.....	<del>(\$281,988,000)</del> \$391,988,000
<b>TOTAL APPROPRIATION.....</b>	<del>(\$288,306,000)</del> <b>\$398,306,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$3,000,000 of the general fund--state appropriation for fiscal year 2010 and \$3,000,000 of the general fund--state appropriation for fiscal year 2011 are provided for state matching money for federal child nutrition programs.

(2) \$100,000 of the general fund--state appropriation for fiscal year 2010 and \$100,000 of the 2011 fiscal year appropriation are provided for summer food programs for children in low-income areas.

(3) \$59,000 of the general fund--state appropriation for fiscal year 2010 and \$59,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to reimburse school districts for school breakfasts served to students enrolled in the free or reduced price meal program pursuant to chapter 287, Laws of 2005 (requiring school breakfast programs in certain schools).

~~((4) \$1,588,000 of the general fund federal appropriation of American recovery and reinvestment act of 2009 (ARRA) funds is provided solely for equipment assistance to school food authorities (SFAs) participating in the national school lunch program (NSLP). Local SFAs may apply to the office of the superintendent of public instruction to receive grants in accordance with provisions of the ARRA. As stipulated in the ARRA, priority will be given to SFAs for equipment for schools in which at least 50 percent of the students are eligible for free or reduced priced meals.)~~

**Sec. 507.** 2009 c 564 s 507 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR SPECIAL EDUCATION PROGRAMS**

General Fund--State Appropriation (FY 2010).....	<del>(\$640,959,000)</del> \$632,136,000
General Fund--State Appropriation (FY 2011).....	<del>(\$652,388,000)</del> \$650,856,000
General Fund--Federal Appropriation.....	<del>(\$656,052,000)</del> \$664,601,000
Education Legacy Trust Account--State Appropriation.....	\$756,000
<b>TOTAL APPROPRIATION.....</b>	<del>(\$1,950,155,000)</del> <b>\$1,948,349,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) Funding for special education programs is provided on an excess cost basis, pursuant to RCW 28A.150.390. School districts shall ensure that special education students as a class receive their full share of the general apportionment allocation accruing through sections 502 and 504 of this act. To the extent a school district cannot provide an appropriate education for special education students under chapter 28A.155 RCW through the general

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apportionment allocation, it shall provide services through the special education excess cost allocation funded in this section.

(2)(a) The superintendent of public instruction shall ensure that:

(i) Special education students are basic education students first;

(ii) As a class, special education students are entitled to the full basic education allocation; and

(iii) Special education students are basic education students for the entire school day.

(b) The superintendent of public instruction shall continue to implement the full cost method of excess cost accounting, as designed by the committee and recommended by the superintendent, pursuant to section 501(1)(k), chapter 372, Laws of 2006.

(3) Each fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(4) The superintendent of public instruction shall distribute state funds to school districts based on two categories: (a) The first category includes (i) children birth through age two who are eligible for the optional program for special education eligible developmentally delayed infants and toddlers, and (ii) students eligible for the mandatory special education program and who are age three or four, or five and not yet enrolled in kindergarten; and (b) the second category includes students who are eligible for the mandatory special education program and who are age five and enrolled in kindergarten and students age six through 21.

(5)(a) For the 2009-10 and 2010-11 school years, the superintendent shall make allocations to each district based on the sum of:

(i) A district's annual average headcount enrollment of students ages birth through four and those five year olds not yet enrolled in kindergarten, as defined in subsection (4) of this section, multiplied by the district's average basic education allocation per full-time equivalent student, multiplied by 1.15; and

(ii) A district's annual average full-time equivalent basic education enrollment multiplied by the funded enrollment percent determined pursuant to subsection (6)(b) of this section, multiplied by the district's average basic education allocation per full-time equivalent student multiplied by 0.9309.

(b) For purposes of this subsection, "average basic education allocation per full-time equivalent student" for a district shall be based on the staffing ratios required by RCW 28A.150.260 and shall not include enhancements, secondary vocational education, or small schools in the 2009-10 school year. In the 2010-11 school year, the per student allocation under this subsection (5)(b) shall include the same factors as in the 2009-10 school year, but shall also include the classified staff enhancements included in section 502(3)(b).

(6) The definitions in this subsection apply throughout this section.

(a) "Annual average full-time equivalent basic education enrollment" means the resident enrollment including students enrolled through choice (RCW 28A.225.225) and students from nonhigh districts (RCW 28A.225.210) and excluding students residing in another district enrolled as part of an interdistrict cooperative program (RCW 28A.225.250).

(b) "Enrollment percent" means the district's resident special education annual average enrollment, excluding the birth through age four enrollment and those five year olds not yet enrolled in kindergarten, as a percent of the district's annual average full-time equivalent basic education enrollment.

Each district's general fund--state funded special education enrollment shall be the lesser of the district's actual enrollment percent or 12.7 percent.

(7) At the request of any interdistrict cooperative of at least 15 districts in which all excess cost services for special education

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students of the districts are provided by the cooperative, the maximum enrollment percent shall be calculated in accordance with subsection (6)(b) of this section, and shall be calculated in the aggregate rather than individual district units. For purposes of this subsection, the average basic education allocation per full-time equivalent student shall be calculated in the aggregate rather than individual district units.

(8) To the extent necessary, (~~(\$73,668,000)~~) \$44,269,000 of the general fund--state appropriation and \$29,574,000 of the general fund--federal appropriation are provided for safety net awards for districts with demonstrated needs for special education funding beyond the amounts provided in subsection (5) of this section. If the federal safety net awards based on the federal eligibility threshold exceed the federal appropriation in this subsection (8) in any fiscal year, the superintendent shall expend all available federal discretionary funds necessary to meet this need. Safety net funds shall be awarded by the state safety net oversight committee subject to the following conditions and limitations:

(a) The committee shall consider unmet needs for districts that can convincingly demonstrate that all legitimate expenditures for special education exceed all available revenues from state funding formulas. In the determination of need, the committee shall also consider additional available revenues from federal sources. Differences in program costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards. In the determination of need, the committee shall require that districts demonstrate that they are maximizing their eligibility for all state and federal revenues related to services for special education-eligible students. Awards associated with (b) and (c) of this subsection shall not exceed the total of a district's specific determination of need.

(b) The committee shall then consider the extraordinary high cost needs of one or more individual special education students. Differences in costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards.

(c) Using criteria developed by the committee, the committee shall then consider extraordinary costs associated with communities that draw a larger number of families with children in need of special education services. The safety net awards to school districts shall be adjusted to reflect amounts awarded under (b) of this subsection.

(d) The maximum allowable indirect cost for calculating safety net eligibility may not exceed the federal restricted indirect cost rate for the district plus one percent.

(e) Safety net awards must be adjusted for any audit findings or exceptions related to special education funding.

(f) Safety net awards shall be adjusted based on the percent of potential medicaid eligible students billed as calculated by the superintendent in accordance with chapter 318, Laws of 1999. The state safety net oversight committee shall ensure that safety net documentation and awards are based on current medicaid revenue amounts.

(g) The office of the superintendent of public instruction, at the conclusion of each school year, shall recover safety net funds that were distributed prospectively but for which districts were not subsequently eligible.

(9) The superintendent of public instruction may adopt such rules and procedures as are necessary to administer the special education funding and safety net award process. Prior to revising any standards, procedures, or rules, the superintendent shall consult with the office of financial management and the fiscal committees of the legislature.

(10) The safety net oversight committee appointed by the superintendent of public instruction shall consist of:

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(a) One staff from the office of superintendent of public instruction;

(b) Staff of the office of the state auditor who shall be nonvoting members of the committee; and

(c) One or more representatives from school districts or educational service districts knowledgeable of special education programs and funding.

(11) The office of the superintendent of public instruction shall review and streamline the application process to access safety net funds, provide technical assistance to school districts, and annually survey school districts regarding improvement to the process.

(12) A maximum of \$678,000 may be expended from the general fund--state appropriations to fund 5.43 full-time equivalent teachers and 2.1 full-time equivalent aides at children's orthopedic hospital and medical center. This amount is in lieu of money provided through the home and hospital allocation and the special education program.

(13) The superintendent shall maintain the percentage of federal flow-through to school districts at 85 percent. In addition to other purposes, school districts may use increased federal funds for high-cost students, for purchasing regional special education services from educational service districts, and for staff development activities particularly relating to inclusion issues.

(14) A school district may carry over from one year to the next year up to 10 percent of the general fund--state funds allocated under this program; however, carryover funds shall be expended in the special education program.

(15) \$262,000 of the general fund--state appropriation for fiscal year 2010 and \$251,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for two additional full-time equivalent staff to support the work of the safety net committee and to provide training and support to districts applying for safety net awards.

~~(16) ((\$221,357,000 of the general fund--federal appropriation of American recovery and reinvestment act of 2009 funds is provided solely for the individuals with disabilities education act (IDEA), Part B, for distribution to school districts. The funds' use is to be consistent with the current IDEA, Part B statutory and regulatory requirements.~~

~~(17))~~ \$50,000 of the general fund--state appropriation for fiscal year 2010, \$50,000 of the general fund--state appropriation for fiscal 2011, and \$100,000 of the general fund--federal appropriation shall be expended to support a special education ombudsman program within the office of superintendent of public instruction.

**Sec. 508.** 2009 c 564 s 508 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR EDUCATIONAL SERVICE DISTRICTS**

General Fund--State Appropriation (FY 2010).....	\$8,394,000
General Fund--State Appropriation (FY 2011).....	<del>(\$8,395,000)</del>
	<u>\$8,319,000</u>
TOTAL APPROPRIATION.....	<del>(\$16,789,000)</del>
	<u>\$16,713,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The educational service districts shall continue to furnish financial services required by the superintendent of public instruction and RCW 28A.310.190 (3) and (4).

(2) \$3,355,000 of the general fund--state appropriation for fiscal year 2010 and \$3,355,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for regional professional development related to mathematics and science curriculum and instructional strategies. Funding shall be distributed among the educational service districts in the same proportion as distributions

in the 2007-2009 biennium. Each educational service district shall use this funding solely for salary and benefits for a certificated instructional staff with expertise in the appropriate subject matter and in professional development delivery, and for travel, materials, and other expenditures related to providing regional professional development support. The office of superintendent of public instruction shall also allocate to each educational service district additional amounts provided in section 504 of this act for compensation increases associated with the salary amounts and staffing provided in this subsection (2).

(3) The educational service districts, at the request of the state board of education pursuant to RCW 28A.310.010 and 28A.310.340, may receive and screen applications for school accreditation, conduct school accreditation site visits pursuant to state board of education rules, and submit to the state board of education post-site visit recommendations for school accreditation. The educational service districts may assess a cooperative service fee to recover actual plus reasonable indirect costs for the purposes of this subsection.

**Sec. 509.** 2009 c 564 s 509 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR LOCAL EFFORT ASSISTANCE**

General Fund--State Appropriation (FY 2010).....	<del>(\$42,921,000)</del>
	<u>\$93,141,000</u>
General Fund--State Appropriation (FY 2011).....	<del>(\$209,997,000)</del>
	<u>\$286,911,000</u>
General Fund--Federal Appropriation.....	<del>(\$176,284,000)</del>
	<u>\$157,043,000</u>
TOTAL APPROPRIATION.....	<del>(\$429,202,000)</del>
	<u>\$537,095,000</u>

The appropriations in this section are subject to the following conditions and limitations:

~~(\$176,284,000)~~ (1) \$157,043,000 of the general fund--federal appropriation for fiscal year 2010 is provided solely for American recovery and reinvestment act of 2009 (ARRA) fiscal stabilization funds to restore state reductions for local effort assistance payments.

(2) \$21,808,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for implementation of Substitute House Bill No. 2893 (school levies). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

**Sec. 510.** 2009 c 564 s 510 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR INSTITUTIONAL EDUCATION PROGRAMS**

General Fund--State Appropriation (FY 2010).....	<del>(\$18,943,000)</del>
	<u>\$18,059,000</u>
General Fund--State Appropriation (FY 2011).....	<del>(\$17,992,000)</del>
	<u>\$19,006,000</u>
TOTAL APPROPRIATION.....	<del>(\$36,935,000)</del>
	<u>\$37,065,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Each general fund--state fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) State funding provided under this section is based on salaries and other expenditures for a 220-day school year. The superintendent of public instruction shall monitor school district expenditure plans for institutional education programs to ensure that districts plan for a full-time summer program.

(3) State funding for each institutional education program shall be based on the institution's annual average full-time equivalent

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student enrollment. Staffing ratios for each category of institution shall remain the same as those funded in the 1995-97 biennium.

(4) The funded staffing ratios for education programs for juveniles age 18 or less in department of corrections facilities shall be the same as those provided in the 1997-99 biennium.

(5) ~~(\$329,000)~~ \$228,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$329,000)~~ \$228,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to maintain at least one certificated instructional staff and related support services at an institution whenever the K-12 enrollment is not sufficient to support one full-time equivalent certificated instructional staff to furnish the educational program. The following types of institutions are included: Residential programs under the department of social and health services for developmentally disabled juveniles, programs for juveniles under the department of corrections, and programs for juveniles under the juvenile rehabilitation administration.

(6) Ten percent of the funds allocated for each institution may be carried over from one year to the next.

**Sec. 511.** 2009 c 564 s 511 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR PROGRAMS FOR HIGHLY CAPABLE STUDENTS**

General Fund--State Appropriation (FY 2010).....	<del>(\$9,430,000)</del>
	<u>\$9,189,000</u>
General Fund--State Appropriation (FY 2011).....	<del>(\$9,437,000)</del>
	<u>\$9,188,000</u>
TOTAL APPROPRIATION.....	<del>(\$18,867,000)</del>
	<u>\$18,377,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) Allocations for school district programs for highly capable students shall be distributed at a maximum rate of \$401.08 per funded student for the 2009-10 school year and \$401.08 per funded student for the 2010-11 school year, exclusive of salary and benefit adjustments pursuant to section 504 of this act. The number of funded students shall be a maximum of 2.314 percent of each district's full-time equivalent basic education enrollment.

(3) \$90,000 of the fiscal year 2010 appropriation and \$90,000 of the fiscal year 2011 appropriation are provided for the Washington destination imagination network and future problem-solving programs.

(4) \$170,000 of the fiscal year 2010 appropriation and \$170,000 of the fiscal year 2011 appropriation are provided for the centrum program at Fort Worden state park.

**Sec. 512.** 2009 c 564 s 512 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR MISCELLANEOUS PURPOSES UNDER THE ELEMENTARY AND SECONDARY SCHOOL IMPROVEMENT ACT AND THE NO CHILD LEFT BEHIND ACT**

General Fund--Federal Appropriation.....	<del>(\$43,450,000)</del>
	<u>\$43,886,000</u>

**Sec. 513.** 2010 c 3 s 501 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--EDUCATION REFORM PROGRAMS**

General Fund--State Appropriation (FY 2010).....	<del>(\$93,681,000)</del>
	<u>\$93,642,000</u>
General Fund--State Appropriation (FY 2011).....	<del>(\$102,512,000)</del>

<u>\$99,313,000</u>	
General Fund--Federal Appropriation.....	\$152,626,000
Education Legacy Trust Account--State	
Appropriation.....	<del>(\$95,112,000)</del>
	<u>\$102,881,000</u>
TOTAL APPROPRIATION.....	<del>(\$443,931,000)</del>
	<u>\$448,462,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~(\$36,806,000)~~ \$35,804,000 of the general fund--state appropriation for fiscal year 2010, \$34,516,000 of the general fund--state appropriation for fiscal year 2011, \$1,350,000 of the education legacy trust account--state appropriation, and \$15,868,000 of the general fund--federal appropriation are provided solely for development and implementation of the Washington ~~((assessments of student learning (WASL)))~~ state assessment system, including: (i) Development and implementation of retake assessments for high school students who are not successful in one or more content areas ~~((of the WASL))~~; and (ii) development and implementation of alternative assessments or appeals procedures to implement the certificate of academic achievement. The superintendent of public instruction shall report quarterly on the progress on development and implementation of alternative assessments or appeals procedures. Within these amounts, the superintendent of public instruction shall contract for the early return of 10th grade student ~~((WASL))~~ assessment results, on or around June 10th of each year.

(2) \$3,249,000 of the general fund--state appropriation for fiscal year 2010 and \$3,249,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the design of the state assessment system and the implementation of end of course assessments for high school math.

(3) Within amounts provided in subsections (1) and (2) of this section, the superintendent of public instruction, in consultation with the state board of education, shall develop a statewide high school end-of-course assessment measuring student achievement of the state science standards in biology to be implemented statewide in the 2011-12 school year. By December 1, 2010, the superintendent of public instruction shall recommend whether additional end-of-course assessments in science should be developed and in which content areas. Any recommendation for additional assessments must include an implementation timeline and the projected cost to develop and administer the assessments.

(4) \$1,014,000 of the education legacy trust account appropriation is provided solely for allocations to districts for salaries and benefits for the equivalent of two additional professional development days for fourth and fifth grade teachers during the 2008-2009 school year. The allocations shall be made based on the calculations of certificated instructional staff units for fourth and fifth grade provided in section 502 of this act and on the calculations of compensation provided in sections 503 and 504 of this act. Districts may use the funding to support additional days for professional development as well as job-embedded forms of professional development.

~~((4))~~ (5) \$3,241,000 of the education legacy trust fund appropriation is provided solely for allocations to districts for salaries and benefits for the equivalent of three additional professional development days for middle and high school math and science teachers during the 2008-2009 school year, as well as specialized training for one math and science teacher in each middle school and high school during the 2008-2009 school year. Districts may use the funding to support additional days for professional development as well as job-embedded forms of professional development.

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~~((5) \$3,850,000)~~ (6) \$3,773,000 of the education legacy trust account--state appropriation is provided solely for a math and science instructional coaches program pursuant to chapter 396, Laws of 2007. Funding shall be used to provide grants to schools and districts to provide salaries, benefits, and professional development activities for up to twenty-five instructional coaches in middle and high school math and twenty-five instructional coaches in middle and high school science in each year of the biennium; and up to \$300,000 may be used by the office of the superintendent of public instruction to administer and coordinate the program.

~~((6) \$1,781,000)~~ (7) \$1,740,000 of the general fund--state appropriation for fiscal year 2010 and ~~((1,943,000))~~ \$1,775,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to allow approved middle and junior high school career and technical education programs to receive enhanced vocational funding. The office of the superintendent of public instruction shall provide allocations to districts for middle and junior high school students in accordance with the funding formulas provided in section 502 of this act. If Second Substitute Senate Bill No. 5676 is enacted the allocations are formula-driven, otherwise the office of the superintendent shall consider the funding provided in this subsection as a fixed amount, and shall adjust funding to stay within the amounts provided in this subsection.

~~((7))~~ (8) \$139,000 of the general fund--state appropriation for fiscal year 2010 and \$139,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for (a) staff at the office of the superintendent of public instruction to coordinate and promote efforts to develop integrated math, science, technology, and engineering programs in schools and districts across the state; and (b) grants of \$2,500 to provide twenty middle and high school teachers each year professional development training for implementing integrated math, science, technology, and engineering program in their schools.

~~((8) \$1,579,000)~~ (9) \$1,473,000 of the general fund--state appropriation for fiscal year 2010 and ~~((1,579,000))~~ \$395,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Washington state leadership and assistance for science education reform (LASER) regional partnership activities coordinated at the Pacific science center, including instructional material purchases, teacher and principal professional development, and school and community engagement events. Funding shall be distributed to the various LASER activities in a manner proportional to LASER program spending during the 2007-2009 biennium.

~~((9) \$81,010,000)~~ (10) \$88,981,000 of the education legacy trust account--state appropriation is provided solely for grants for voluntary full-day kindergarten at the highest poverty schools, as provided in chapter 400, Laws of 2007. The office of the superintendent of public instruction shall provide allocations to districts for recipient schools in accordance with the funding formulas provided in section 502 of this act. Each kindergarten student who enrolls for the voluntary full-day program in a recipient school shall count as one-half of one full-time equivalent student for the purpose of making allocations under this subsection. Although the allocations are formula-driven, the office of the superintendent shall consider the funding provided in this subsection as a fixed amount, and shall limit the number of recipient schools so as to stay within the amounts appropriated each fiscal year in this subsection. The funding provided in this subsection is estimated to provide full-day kindergarten programs for 20 percent of kindergarten enrollment. Funding priority shall be given to schools with the highest poverty levels, as measured by prior year free and reduced priced lunch eligibility rates in each school. Additionally, as a condition of funding, school districts must agree to provide the full-day program to the children of parents who request it in each

eligible school. For the purposes of calculating a school district levy base, funding provided in this subsection shall be considered a state block grant program under RCW 84.52.0531.

(a) Of the amounts provided in this subsection, a maximum of \$272,000 may be used for administrative support of the full-day kindergarten program within the office of the superintendent of public instruction.

(b) Student enrollment pursuant to this program shall not be included in the determination of a school district's overall K-12 FTE for the allocation of student achievement programs and other funding formulas unless specifically stated.

~~((4))~~ (11) \$700,000 of the general fund--state appropriation for fiscal year 2010 and \$900,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the development of a leadership academy for school principals and administrators. The superintendent of public instruction shall contract with an independent organization to design, field test, and implement a state-of-the-art education leadership academy that will be accessible throughout the state. Initial development of the content of the academy activities shall be supported by private funds. Semiannually the independent organization shall report on amounts committed by foundations and others to support the development and implementation of this program. Leadership academy partners, with varying roles, shall include the state level organizations for school administrators and principals, the superintendent of public instruction, the professional educator standards board, and others as the independent organization shall identify.

~~((4))~~ (12) \$105,754,000 of the general fund--federal appropriation is provided for preparing, training, and recruiting high quality teachers and principals under Title II of the no child left behind act.

~~((12) \$1,546,000)~~ (13) \$1,960,000 of the general fund--state appropriation for fiscal year 2010 and ~~((3,046,000))~~ \$1,523,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to the office of the superintendent of public instruction for focused assistance. The office of the superintendent of public instruction shall conduct educational audits of low-performing schools and enter into performance agreements between school districts and the office to implement the recommendations of the audit and the community. Funding in this subsection ~~((may))~~ shall be used for focused assistance programs for individual schools ~~((as well as))~~ or school districts. The office of the superintendent of public instruction shall report to the fiscal committees of the legislature by September 1, 2011, providing an accounting of the uses of focused assistance funds during the 2009-11 fiscal biennium, including a list of schools served and the types of services provided.

~~((13) \$30,702,000 of the general fund--federal appropriation is provided for the reading first program under Title I of the no child left behind act.)~~

(14) \$1,667,000 of the general fund--state appropriation for fiscal year 2010 and \$1,667,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to eliminate the lunch co-pay for students in grades kindergarten through third grade that are eligible for reduced price lunch.

(15) \$5,285,000 of the general fund--state appropriation for fiscal year 2010 and \$5,285,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for: (a) The meals for kids program under RCW 28A.235.145 through 28A.235.155; (b) to eliminate the breakfast co-pay for students eligible for reduced price lunch; and (c) for additional assistance for school districts initiating a summer food service program.

(16) ~~((1,056,000))~~ \$1,003,000 of the general fund--state appropriation for fiscal year 2010 and \$1,056,000 of the general

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fund--state appropriation for fiscal year 2011 are provided solely for the Washington reading corps. The superintendent shall allocate reading corps members to low-performing schools and school districts that are implementing comprehensive, proven, research-based reading programs. Two or more schools may combine their Washington reading corps programs. Grants provided under this section may be used by school districts for expenditures from September 2009 through August 31, 2011.

(17) ~~(\$3,594,000)~~ \$3,269,000 of the general fund--state appropriation for fiscal year 2010 and \$3,594,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for grants to school districts to provide a continuum of care for children and families to help children become ready to learn. Grant proposals from school districts shall contain local plans designed collaboratively with community service providers. If a continuum of care program exists in the area in which the school district is located, the local plan shall provide for coordination with existing programs to the greatest extent possible. Grant funds shall be allocated pursuant to RCW 70.190.040.

(18) ~~(\$1,959,000)~~ \$1,861,000 of the general fund--state appropriation for fiscal year 2010 and \$1,959,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for improving technology infrastructure, monitoring and reporting on school district technology development, promoting standards for school district technology, promoting statewide coordination and planning for technology development, and providing regional educational technology support centers, including state support activities, under chapter 28A.650 RCW.

(19) \$225,000 of the general fund--state appropriation for fiscal year 2010 and \$225,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the operation of the center for the improvement of student learning pursuant to RCW 28A.300.130.

(20) ~~(\$250,000)~~ \$246,000 of the education legacy trust account--state appropriation is provided solely for costs associated with the office of the superintendent of public instruction's statewide director of technology position.

(21)(a) ~~(\$28,270,000)~~ \$28,715,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$36,513,000)~~ \$36,168,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the following bonuses for teachers who hold valid, unexpired certification from the national board for professional teaching standards and who are teaching in a Washington public school, subject to the following conditions and limitations:

(i) For national board certified teachers, a bonus of \$5,000 per teacher beginning in the 2007-08 school year and adjusted for inflation in each school year thereafter in which Initiative 732 cost of living adjustments are provided (~~---National board certified teachers who become public school principals shall continue to receive this bonus for as long as they are principals and maintain the national board certification~~);

(ii) An additional \$5,000 annual bonus shall be paid to national board certified teachers who teach in either: (A) High schools where at least 50 percent of student headcount enrollment is eligible for federal free or reduced price lunch, (B) middle schools where at least 60 percent of student headcount enrollment is eligible for federal free or reduced price lunch, or (C) elementary schools where at least 70 percent of student headcount enrollment is eligible for federal free or reduced price lunch;

(iii) The superintendent of public instruction shall adopt rules to ensure that national board certified teachers meet the qualifications for bonuses under (a)(ii) of this subsection for less than one full school year receive bonuses in a pro-rated manner; and

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(iv) During the 2009-10 and 2010-11 school years, and within the available state and federal appropriations, certificated instructional staff who have met the eligibility requirements and have applied for certification from the national board for professional teaching standards may receive a conditional two thousand dollars or the amount set by the office of the superintendent of public instruction to contribute toward the current assessment fee, not including the initial up-front candidacy payment. The fee shall be an advance on the first annual bonus under RCW 28A.405.415. The assessment fee for national certification is provided in addition to compensation received under a district's salary schedule adopted in accordance with RCW 28A.405.200 and shall not be included in calculations of a district's average salary and associated salary limitation under RCW 28A.400.200. Recipients who fail to receive certification after three years are required to repay the assessment fee, not including the initial up-front candidacy payment, as set by the national board for professional teaching standards and administered by the office of the superintendent of public instruction. The office of the superintendent of public instruction shall adopt rules to define the terms for initial grant of the assessment fee and repayment, including applicable fees.

(b) Included in the amounts provided in this subsection are amounts for mandatory fringe benefits.

(22) ~~(\$2,750,000)~~ \$2,475,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$2,750,000)~~ \$912,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for secondary career and technical education grants pursuant to chapter 170, Laws of 2008. This funding may additionally be used to support FIRST Robotics programs. In fiscal year 2011, if equally matched by private donations, \$300,000 of the appropriation shall be used to support FIRST Robotics programs, including FIRST Robotics professional development.

(23) \$150,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the implementation of House Bill No. 2621 (K-12 school resource programs). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(24) \$300,000 of the general fund--state appropriation for fiscal year 2010 ~~(and \$300,000 of the general fund--state appropriation for fiscal year 2011 are)~~ is provided solely for the local farms-healthy kids program as described in chapter 215, Laws of 2008. The program is suspended in the 2011 fiscal year, and not eliminated.

~~((24))~~ (25) \$2,348,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$2,348,000)~~ \$2,000,000 of the general fund--state appropriation for fiscal year 2011 are ~~(appropriated)~~ provided solely for a beginning educator support program. School districts and/or regional consortia may apply for grant funding beginning in the 2009-10 school year. The superintendent shall implement this program in 5 to 15 school districts and/or regional consortia. The program provided by a district and/or regional consortia shall include: A paid orientation; assignment of a qualified mentor; development of a professional growth plan for each beginning teacher aligned with professional certification; release time for mentors and new teachers to work together, and teacher observation time with accomplished peers. \$250,000 may be used to provide state-wide professional development opportunities for mentors and beginning educators. The superintendent of public instruction shall adopt rules to establish and operate a research-based beginning educator support program no later than August 31, 2009. OSPI must evaluate the program's progress and may contract for this work. A report to the legislature about the beginning educator support program is due November 1, 2010.

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~~((25) \$4,400,000)~~ (26) \$4,290,000 of the education legacy trust account--state appropriation is provided solely for the development and implementation of diagnostic assessments, consistent with the recommendations of the Washington assessment of student learning work group.

~~((26) \$70,000 of the general fund--state appropriation for fiscal year 2010 is provided solely)~~ (27) Funding within this section is provided for implementation of Engrossed Substitute Senate Bill No. 5414 (statewide assessments and curricula).

~~((27))~~ (28) \$530,000 of the general fund--state appropriation for fiscal year 2010 and \$530,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the leadership internship program for superintendents, principals, and program administrators.

(29) Funding for the community learning center program, established in RCW 28A.215.060, and providing grant funding for the 21st century after-school program, is suspended and not eliminated.

(30) \$2,357,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for implementation of Engrossed Second Substitute Senate Bill No. 6696 (education reform). Of the amount provided, \$142,000 is provided to the professional educators' standards board and \$120,000 is provided to the system of the educational service districts, to fulfill their respective duties under the bill.

Sec. 514. 2009 c 564 s 514 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR TRANSITIONAL BILINGUAL PROGRAMS**

General Fund--State Appropriation (FY 2010).....	<del>(\$77,994,000)</del>
	\$76,419,000
General Fund--State Appropriation (FY 2011).....	<del>(\$80,937,000)</del>
	\$77,672,000
General Fund--Federal Appropriation.....	<del>(\$45,263,000)</del>
	\$65,263,000
TOTAL APPROPRIATION.....	<del>(\$204,194,000)</del>
	\$219,354,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) The superintendent shall distribute a maximum of \$901.46 per eligible bilingual student in the 2009-10 school year and \$901.46 in the 2010-11 school year, exclusive of salary and benefit adjustments provided in section 504 of this act.

(3) The superintendent may withhold up to 1.5 percent of the school year allocations to school districts in subsection (2) of this section, and adjust the per eligible pupil rates in subsection (2) of this section accordingly, solely for the central provision of assessments as provided in RCW 28A.180.090 (1) and (2).

(4) \$70,000 of the amounts appropriated in this section are provided solely to track current and former transitional bilingual program students.

(5) The general fund--federal appropriation in this section is provided for migrant education under Title I Part C and English language acquisition, and language enhancement grants under Title III of the elementary and secondary education act.

Sec. 515. 2009 c 564 s 515 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR THE LEARNING ASSISTANCE PROGRAM**

General Fund--State Appropriation (FY 2010).....	<del>(\$101,067,000)</del>
--	----------------------------

	\$103,865,000
General Fund--State Appropriation (FY 2011).....	<del>(\$102,237,000)</del>
	\$110,312,000
General Fund--Federal Appropriation.....	<del>(\$543,925,000)</del>
	\$553,925,000
Education Legacy Trust Account--State	
Appropriation.....	\$47,980,000
TOTAL APPROPRIATION.....	<del>(\$795,209,000)</del>
	\$816,082,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The general fund--state appropriations in this section are subject to the following conditions and limitations:

(a) The appropriations include such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(b) Funding for school district learning assistance programs shall be allocated at maximum rates of \$281.71 per funded student for the 2009-10 school year and ~~(\$282.63)~~ \$283.00 per funded student for the 2010-11 school year exclusive of salary and benefit adjustments provided under section 504 of this act.

(c) A school district's funded students for the learning assistance program shall be the sum of the following as appropriate:

(i) The district's full-time equivalent enrollment in grades K-12 for the prior school year multiplied by the district's percentage of October headcount enrollment in grades K-12 eligible for free or reduced price lunch in the prior school year; and

(ii) If, in the prior school year, the district's percentage of October headcount enrollment in grades K-12 eligible for free or reduced price lunch exceeded forty percent, subtract forty percent from the district's percentage and multiply the result by the district's K-12 annual average full-time equivalent enrollment for the prior school year.

(d) In addition to the amounts allocated in (b) and (c) of this subsection, an additional amount shall be allocated to school districts with high concentrations of poverty and English language learner students, subject to the following rules and conditions:

(i) To qualify for additional funding under this subsection, a district's October headcount enrollment in grades kindergarten through grade twelve must have at least twenty percent enrolled in the transitional bilingual instruction program based on an average of the program headcount taken in October and May of the prior school year; and must also have at least forty percent eligible for free or reduced price lunch based on October headcount enrollment in grades kindergarten through twelve in the prior school year.

(ii) Districts meeting the specifications in (d)(i) of this subsection shall receive additional funded students for the learning assistance program at the rates specified in subsection (1)(b) of this section. The number of additional funded student units shall be calculated by subtracting twenty percent from the district's percent transitional bilingual instruction program enrollment as defined in (d)(i) of this subsection, and the resulting percent shall be multiplied by the district's kindergarten through twelve annual average full-time equivalent enrollment for the prior school year.

(2) Allocations made pursuant to subsection (1) of this section shall be adjusted to reflect ineligible applications identified through the annual income verification process required by the national school lunch program, as recommended in the report of the state auditor on the learning assistance program dated February, 2010.

~~(3)~~ The general fund--federal appropriation in this section is provided for Title I Part A allocations of the no child left behind act of 2001.

~~((3))~~ (4) A school district may carry over from one year to the next up to 10 percent of the general fund--state or education legacy

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trust funds allocated under this program; however, carryover funds shall be expended for the learning assistance program.

((4)) (5) School districts are encouraged to coordinate the use of these funds with other federal, state, and local sources to serve students who are below grade level and to make efficient use of resources in meeting the needs of students with the greatest academic deficits.

((5)) (6) Within amounts appropriated in this section, funding is provided for the implementation of extended learning programs required in chapter 328, Laws of 2008.

~~((6) \$51,970,000 of the general fund--federal appropriation for fiscal year 2010 and \$77,955,000 of the general fund--federal appropriation for fiscal year 2011 of American recovery and reinvestment act of 2009 (ARRA) Title I, Part A funds are in addition to regular Title I, Part A allocations solely for allocation to eligible school districts in accordance with the guidelines of ARRA.~~

~~((7) \$48,981,000 of the general fund--federal appropriation from the American recovery and reinvestment act of 2009 (ARRA) is for school improvement. This consists of 4 percent, or \$5,413,000 of the Title I, Part A recovery funds which must be set aside for school improvement as well as \$43,568,000 in additional school improvement funds.)~~

Sec. 516. 2009 c 564 s 516 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR STUDENT ACHIEVEMENT PROGRAMS**

General Fund--State Appropriation (FY 2010).....	\$19,000
General Fund--State Appropriation (FY 2011).....	<del>(\$104,101,000)</del>
	\$25,730,000
General Fund--Federal Appropriation.....	\$200,295,000
TOTAL APPROPRIATION.....	<del>(\$304,396,000)</del>
	\$226,044,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Funding for school district student achievement programs shall be allocated at a maximum rate of \$131.16 per FTE student for the 2009-10 school year and ~~((99.32))~~ \$0 per FTE student for the 2010-11 school year. For the purposes of this section, FTE student refers to the annual average full-time equivalent enrollment of the school district in grades kindergarten through twelve for the prior school year, as reported to the office of the superintendent of public instruction by August 31st of the previous school year.

(2) The appropriation is allocated for the following uses as specified in RCW 28A.505.210:

(a) To reduce class size by hiring certificated elementary classroom teachers in grades K-4 and paying nonemployee-related costs associated with those new teachers;

(b) To make selected reductions in class size in grades 5-12, such as small high school writing classes;

(c) To provide extended learning opportunities to improve student academic achievement in grades K-12, including, but not limited to, extended school year, extended school day, before-and-after-school programs, special tutoring programs, weekend school programs, summer school, and all-day kindergarten;

(d) To provide additional professional development for educators including additional paid time for curriculum and lesson redesign and alignment, training to ensure that instruction is aligned with state standards and student needs, reimbursement for higher education costs related to enhancing teaching skills and knowledge, and mentoring programs to match teachers with skilled, master teachers. The funding shall not be used for salary increases or additional compensation for existing teaching duties, but may be used for extended year and extended day teaching contracts;

(e) To provide early assistance for children who need prekindergarten support in order to be successful in school; or

(f) To provide improvements or additions to school building facilities which are directly related to the class size reductions and extended learning opportunities under (a) through (c) of this subsection (2).

(3) The superintendent of public instruction shall distribute the school year allocation according to the monthly apportionment schedule defined in RCW 28A.510.250.

(4) \$200,295,000 of the general fund--federal appropriation for fiscal year 2010 is provided solely for American recovery and reinvestment act of 2009 (ARRA) fiscal stabilization funds to restore state reductions for the student achievement program.

Sec. 517. 2009 c 564 s 518 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION.** (1) Appropriations made in this act to the office of the superintendent of public instruction shall initially be allotted as required by this act. Subsequent allotment modifications shall not include transfers of moneys between sections of this act, except as expressly provided in subsection (2) of this section.

(2) The appropriations to the office of the superintendent of public instruction in this act shall be expended for the programs and amounts specified in this act. However, after May 1, 2010, unless specifically prohibited by this act and after approval by the director of financial management, the superintendent of public instruction may transfer state general fund appropriations for fiscal year 2010 among the following programs to meet the apportionment schedule for a specified formula in another of these programs: General apportionment; employee compensation adjustments; pupil transportation; special education programs; institutional education programs; transitional bilingual programs; and student achievement and learning assistance programs.

(3) The director of financial management shall notify the appropriate legislative fiscal committees in writing prior to approving any allotment modifications or transfers under this section.

(End of part)

**PART VI  
HIGHER EDUCATION**

Sec. 601. 2009 c 564 s 601 (uncodified) is amended to read as follows:

The appropriations in sections 605 through 611 of this act are subject to the following conditions and limitations:

(1) "Institutions" means the institutions of higher education receiving appropriations under sections 605 through 611 of this act.

(2) The legislature, the office of financial management, and other state agencies need consistent and accurate personnel data from institutions of higher education for policy planning purposes. Institutions of higher education shall report personnel data to the department of personnel for inclusion in the department's data warehouse. Uniform reporting procedures shall be established by the department of personnel for use by the reporting institutions, including provisions for common job classifications and common definitions of full-time equivalent staff. Annual contract amounts, number of contract months, and funding sources shall be consistently reported for employees under contract.

(3) In addition to waivers granted under the authority of RCW 28B.15.910, the governing boards and the state board may waive all or a portion of operating fees for any student. State general fund appropriations shall not be provided to replace tuition and fee

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revenue foregone as a result of waivers granted under this subsection.

(4) The colleges of education for institutions with appropriations in sections 606 through 611 shall develop a plan, by October 30, 2009, to increase the number of math and science teacher endorsements and certificates granted by the institution. The plan shall address the college's math and science teacher endorsement and certification completion goal for each of the next six years, beginning with the 2010-2011 academic year, and shall be reported to the governor, the relevant policy committees of the legislature, the higher education coordinating board (HECB) and the professional educator standards board (PESB). Plan components may address: Student advising practices, increased outreach and recruitment efforts to under-represented populations, linkages with university mathematics and science departments, and implementation of redesigned, innovative endorsement and certification programs. To accomplish this work, enrollments may need to be shifted from low-need endorsement and certificate areas to math and science. A report shall be made each October 30th to the HECB and PESB regarding the degree to which plan goals have been met and activities undertaken to support those outcomes.

(5) In accordance with RCW 28B.10.920 through 28B.10.922, the state performance agreement committee and each public four-year institution of higher education shall develop performance agreements for the period September 1, 2009, through June 30, 2015. The agreements shall reflect the level of state, tuition, and other resources appropriated or authorized for each institution in this act and in the omnibus 2009-11 omnibus capital budget act, as well as reasonably anticipated changes in such resources for the two subsequent biennia as required to accomplish the higher education master plan as adopted by the legislature. The agreements shall build upon each institution's actual performance relative to the 2011 targets previously negotiated between the institution, the higher education coordinating board, and the office of financial management, and shall include measurable performance targets, benchmarks, and goals in areas including but not limited to:

- (a) Student enrollment levels, by campus;
- (b) Baccalaureate and advanced degree production;
- (c) Baccalaureate and advanced degree production in high employer-demand fields;
- (d) Undergraduate retention and graduation rates;
- (e) Time-to-degree for students entering as freshmen, and as upper-division transfers;
- (f) Efficiency to degree; and
- (g) Capital investment as required to (i) maintain existing capacity, and (ii) meet enrollment targets in accordance with the master plan as adopted by the legislature.

Each institution shall report progress toward its performance targets during the preceding academic year to the state performance agreement committee prior to November 1, 2010. The higher education coordinating board shall consolidate and summarize the institutional reports, and provide them to the relevant policy and fiscal committees of the legislature by December 1, 2010.

(6) To facilitate transparency and compliance with the American recovery and reinvestment act, the institutions of higher education receiving state and federal appropriations under sections 605 through 611 of this act shall allot anticipated state, federal, and tuition expenditures by budget program and fiscal year. The office of financial management shall notify the legislative ways and means committees of the proposed allotments at least ten days prior to their approval.

(7) To the extent permitted by the applicable personnel system rules, and to the extent collectively bargained with represented employees, institutions of higher education are encouraged to achieve the reductions in full-time-equivalent employment and

payroll levels necessary to operate within this budget through strategies that will minimize impacts on employees, their families, their communities, and short- and longer-term accomplishment of institutional mission. Institutions are encouraged to utilize strategies such as reduced work-hours per day or week, voluntary leave without pay, and temporary furloughs that enable employees to maintain permanent employment status. Institutions are further encouraged to implement such strategies in ways that will enable employees to maintain full insurance benefits, full retirement service credit, and a living wage.

(8)(a) For institutions receiving appropriations in section 605 of this act the only allowable salary increases provided are those with normally occurring promotions and increases related to faculty and staff retention, to the extent permitted by Engrossed Substitute Senate Bill No. 5460, ~~((and))~~ House Bill No. 2328, and Substitute Senate Bill No. 6382. In fiscal year 2010 and fiscal year 2011, the state board for community and technical colleges may use salary and benefit savings from faculty turnover to provide salary increments and associated benefits for faculty who qualify through professional development and training.

(b) For employees under the jurisdiction of chapter 41.56 RCW, salary increases will be in accordance with the applicable collective bargaining agreement. However, an increase shall not be provided to any classified employee whose salary is above the approved salary range maximum for the class to which the employee's position is allocated.

(c) For each institution of higher education receiving appropriations under sections 606 through 611 of this act:

(i) The only allowable salary increases are those associated with normally occurring promotions and increases related to faculty and staff retention, to the extent permitted by Engrossed Substitute Senate Bill No. 5460 ~~((and))~~, House Bill No. 2328, and Substitute Senate Bill No. 6382; and

(ii) Institutions may provide salary increases from other sources to instructional and research faculty, exempt professional staff, teaching and research assistants, as classified by the office of financial management, and all other nonclassified staff, but not including employees under RCW 28B.16.015, to the extent permitted by Engrossed Substitute Senate Bill No. 5460 ~~((and))~~, House Bill No. 2328, and Substitute Senate Bill No. 6382. Any salary increase granted under the authority of this subsection (8)(c)(ii) shall not be included in an institution's salary base for future state funding. It is the intent of the legislature that state general fund support for an institution shall not increase during the current or any future biennium as a result of any salary increases authorized under this subsection (8)(c)(ii).

**Sec. 602.** 2009 c 564 s 602 (uncodified) is amended to read as follows:

(1) Within the funds appropriated in this act, each institution of higher education is expected to enroll and educate at least the following numbers of full-time equivalent state-supported students per academic year:

	2009-10 Annual Average	2010-11 Annual Average
University of Washington	36,546	37,162
Washington State University	22,250	22,250
Central Washington University	<del>((8,477))</del> <u>8,469</u>	<del>((8,734))</del> <u>8,808</u>
Eastern Washington University	<del>((8,469))</del> <u>8,477</u>	<del>((8,808))</del> <u>8,734</u>
The Evergreen State College	4,213	4,213

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Western Washington University	11,373	11,762
State Board for Community & Technical Colleges		
Adult Students	139,237	<del>(139,237)</del>
Running Start Students	11,558	<u>143,046</u>
		11,558

sector and region of the state, and the results of the partnerships supported by these funds.

(3) Of the amounts appropriated in this section, \$3,500,000 is provided solely for the student achievement initiative.

(4) When implementing the appropriations in this section, the state board and the trustees of the individual community and technical colleges shall minimize impact on academic programs, maximize reductions in administration, and shall at least maintain, and endeavor to increase, enrollment opportunities and degree and certificate production in high employer-demand fields of study at their academic year 2008-09 levels.

(5) Within the board's 2009-11 biennial budget allocation to Bellevue College, and pursuant to RCW 28B.50.810, the college may implement, on a tuition and fee basis, an additional applied baccalaureate degree in interior design. This program is intended to provide students with additional opportunities to earn baccalaureate degrees and to respond to emerging job and economic growth opportunities. The program reviews and approval decisions required by RCW 28B.50.810 (3) and (4) shall be completed by July 31, 2009, so that the degree may be offered during the 2009-10 academic year.

(6) In accordance with the recommendations of the higher education coordinating board's 2008 *Kitsap region higher education center study*, the state board shall facilitate development of university centers by allocating thirty 2-year and 4-year partnership full-time enrollment equivalencies to Olympic College and ten 2-year and 4-year partnership full-time enrollment equivalencies to Peninsula College. The colleges shall use the allocations to establish a partnership with a baccalaureate university or universities for delivery of upper division degree programs in the Kitsap region. The Olympic and Peninsula Community College districts shall additionally work together to ensure coordinated development of these and other future baccalaureate opportunities through coordinated needs assessment, planning, and scheduling.

(7) By September 1, 2009, the state board for community and technical colleges, the higher education coordinating board, and the office of financial management shall review and to the extent necessary revise current 2009-11 performance measures and targets based on the level of state, tuition, and other resources appropriated or authorized in this act and in the omnibus 2009-11 omnibus capital budget act. The boards and the office of financial management shall additionally develop new performance targets for the 2011-13 and the 2013-15 biennia that will guide and measure the community and technical college system's contributions to achievement of the state's higher education master plan goals.

(8) \$2,250,000 of the general fund--state appropriation for fiscal year 2010 and \$2,250,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the hospital employee education and training program under which labor, management, and college partnerships develop or expand and evaluate training programs for incumbent hospital workers that lead to careers in nursing and other high-demand health care occupations. The board shall report student progress, outcomes, and costs to the relevant fiscal and policy committees of the legislature by November 2009 and November 2010.

(9) Community and technical colleges are not required to send mass mailings of course catalogs to residents of their districts. Community and technical colleges shall consider lower cost alternatives, such as mailing postcards or brochures that direct individuals to online information and other ways of acquiring print catalogs.

(10) \$1,112,000 of the general fund--state appropriation for fiscal year 2010 and \$1,113,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the state board to enhance online distance learning and open courseware

(2) In achieving or exceeding these enrollment targets, each institution shall seek to:

(a) Maintain and to the extent possible increase enrollment opportunities at branch campuses;

(b) Maintain and to the extent possible increase enrollment opportunities at university centers and other partnership programs that enable students to earn baccalaureate degrees on community college campuses; and

(c) Eliminate and consolidate programs of study for which there is limited student or employer demand, or that are not areas of core academic strength for the institution, particularly when such programs duplicate offerings by other in-state institutions.

(3) By September 1, 2009, each institution shall report to the higher education committees and the relevant fiscal committees of the legislature on its plans for achieving the objectives in this section.

(4) For purposes of monitoring and reporting statewide enrollment, the University of Washington and Washington State University shall notify the office of financial management of the number of full-time student equivalent enrollments budgeted for each of their campuses.

**Sec. 603.** 2009 c 564 s 605 (uncodified) is amended to read as follows:

**FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES**

General Fund--State Appropriation (FY 2010).....	<del>(\$620,071,000)</del>
	\$631,804,000
General Fund--State Appropriation (FY 2011).....	<del>(\$642,509,000)</del>
	\$629,745,000
General Fund--Federal Appropriation.....	\$17,171,000
Education Legacy Trust Account--State	
Appropriation.....	<del>(\$95,125,000)</del>
	\$95,035,000
<u>Opportunity Express Account--State Appropriation.....</u>	<u>\$18,556,000</u>
TOTAL APPROPRIATION.....	<del>(\$1,374,876,000)</del>
	\$1,392,311,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$28,761,000 of the general fund--state appropriation for fiscal year 2010 (~~and~~), \$28,761,000 of the general fund--state appropriation for fiscal year 2011, and \$17,556,000 of the opportunity express account--state appropriation are provided solely as special funds for training and related support services, including financial aid, as specified in RCW 28C.04.390. Funding is provided to support at least 6,200 full-time equivalent students in fiscal year 2010 and at least ~~(6,200))~~ 9,984 full-time equivalent students in fiscal year 2011.

(2) \$2,725,000 of the general fund--state appropriation for fiscal year 2010 and \$2,725,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for administration and customized training contracts through the job skills program. The state board shall make an annual report by January 1st of each year to the governor and to the appropriate policy and fiscal committees of the legislature regarding implementation of this section, listing the scope of grant awards, the distribution of funds by educational

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technology. Funds shall be used to support open courseware, open textbooks, open licenses to increase access, affordability and quality of courses in higher education. The state board for community and technical colleges shall select the most appropriate courses to support open courseware based solely upon criteria of maximizing the value of instruction and reducing costs of textbooks and other instructional materials for the greatest number of students in higher education, regardless of the type of institution those students attend. (11) \$158,000 of the general fund--state appropriation for fiscal year 2011 is provided solely to implement House Bill No. 2694 (B.S. in nursing/university center). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(12)(a) The labor education and research center is transferred from The Evergreen State College to south Seattle community college and shall begin operations on July 1, 2010.

(b) At least \$164,000 of the general fund--state appropriation for fiscal year 2011 shall be expended on the labor education and research center to provide outreach programs and direct educational and research services to labor unions and worker-centered organizations.

(13) \$1,000,000 of the opportunity express account--state appropriation is provided solely for the opportunity grant program as specified in RCW 28B.50.271.

(14) \$1,750,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the state board for community and technical colleges to contract with the aerospace training and research center on Paine field in Everett, Washington to support industry-identified training in the aerospace sector.

(15) Sufficient amounts are provided in this section to implement the food stamp employment and training program under Second Substitute House Bill No. 2782 (security lifeline act).

Sec. 604. 2009 c 564 s 606 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

General Fund--State Appropriation (FY 2010).....	(\$269,552,000)
	\$269,571,000
General Fund--State Appropriation (FY 2011).....	(\$297,130,000)
	\$271,092,000
General Fund--Federal Appropriation.....	(\$24,730,000)
	\$43,971,000
Education Legacy Trust Account--State	
Appropriation.....	(\$54,408,000)
	\$54,534,000
Accident Account--State Appropriation.....	(\$6,712,000)
	\$6,750,000
Medical Aid Account--State Appropriation.....	(\$6,524,000)
	\$6,540,000
Biotoxin Account--State Appropriation.....	(\$450,000)
	\$449,000
TOTAL APPROPRIATION.....	(\$659,506,000)
	\$652,907,000

The appropriations in this section are subject to the following conditions and limitations:

(1) In implementing the appropriations in this section, the president and regents shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other non-instructional activities.

(2) Because higher education is an essential driver of economic recovery and development, the university shall maintain, and endeavor to increase, enrollment and degree production levels at or beyond their academic year 2008-09 levels in the following high-demand fields: Biological and biomedical sciences; computer and information sciences; education with specializations in special education, math, or science; engineering and engineering

technology; health professions and related clinical sciences; and mathematics and statistics.

(3) \$75,000 of the general fund--state appropriation for fiscal year 2010 and \$75,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for forestry research by the Olympic natural resources center.

(4) \$150,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the William D. Ruckelshaus center for facilitation, support, and analysis to support the nurse staffing steering committee in its work to apply best practices related to patient safety and nurse staffing.

(5) \$54,000 of the general fund--state appropriation for fiscal year 2010 and \$54,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the University of Washington geriatric education center to provide a voluntary adult family home certification program. In addition to the minimum qualifications required under RCW 70.128.120, individuals participating in the voluntary adult family home certification program shall complete fifty-two hours of class requirements as established by the University of Washington geriatric education center. Individuals completing the requirements of RCW 70.128.120 and the voluntary adult family home certification program shall be issued a certified adult family home license by the department of social and health services. The department of social and health services shall adopt rules implementing the provisions of this subsection.

(6) \$50,000 of the general fund--state appropriation for fiscal year 2010 and \$52,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the center for international trade in forest products in the college of forest resources.

(7)(a) \$183,000 of the general fund--state appropriation for fiscal year 2011 is for the technology law and public policy clinic at the University of Washington school of law to prepare a comprehensive report identifying and analyzing trends in the telecommunications industry and pathways for telecommunications regulatory reform. The report must include, but not be limited to, a review of the following issues: (i) The taxation treatment of all telecommunications services that provide the same or functionally equivalent services; (ii) the character and degree of competition in the telecommunications market; (iii) the regulatory, legal, and economic barriers to adequate competition, actual or perceived, that exist; (iv) what changes could be made in policy, law, or administrative rule to address any actual or perceived barriers to competition; and (v) the role of the utilities and transportation commission in the oversight and regulation of telecommunications services.

(b) The technology law and public policy clinic shall consult with local governments, public utility districts, telecommunications service providers, the utilities and transportation commission, the department of revenue, and other stakeholders in preparing its analysis and report.

(c) By December 1, 2011, the technology law and public policy clinic shall issue a report to the legislature with recommendations on legislative action that may be necessary in order to effectuate telecommunications regulatory reform in Washington.

(8) \$250,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for joint planning to increase the number of residency positions and programs in eastern Washington and Spokane within the existing Washington, Wyoming, Alaska, Montana, Idaho (WWAMI) regional medical education program partnership between the University of Washington school of medicine, Washington State University, and area physicians and hospitals. The joint planning efforts are to include preparation of applications for new residency programs in family medicine, internal medicine, obstetrics, psychiatry and general surgery;

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business plans for those new programs; and for increasing the number of positions in existing programs among regional academic and hospital partners and networks. The results of the joint planning efforts, including the status of the application preparation and business plan, must be reported to the house of representatives committee on higher education and the senate committee on higher education and workforce development by December 1, 2010.

(9) \$25,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for implementation of chapter 164, Laws of 2010 (local government infrastructure). The University of Washington shall use a qualified researcher to report the percentage probability that the application's assumptions and estimates of jobs created and increased tax receipts will be achieved by the projects. In making this report, the qualified researcher shall work with the department of revenue and the applicants to develop a series of factors that are based on available economic metrics and sound principles.

**Sec. 605.** 2009 c 564 s 607 (uncodified) is amended to read as follows:

**FOR WASHINGTON STATE UNIVERSITY**

General Fund--State Appropriation (FY 2010).....	(\$178,578,000)
	\$169,462,000
General Fund--State Appropriation (FY 2011).....	(\$196,163,000)
	\$178,283,000
General Fund--Federal Appropriation.....	\$15,772,000
Education Legacy Trust Account--State	
Appropriation.....	(\$34,696,000)
	\$34,435,000
TOTAL APPROPRIATION.....	(\$425,209,000)
	\$397,952,000

The appropriations in this section are subject to the following conditions and limitations:

(1) In implementing the appropriations in this section, the president and regents shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other non-instructional activities.

(2) Because higher education is an essential driver of economic recovery and development, the university shall maintain, and endeavor to increase, enrollment and degree production levels at or beyond their academic year 2008-09 levels in the following high-demand fields: Biological and biomedical sciences; computer and information sciences; education with specializations in special education, math, or science; engineering and engineering technology; health professions and related clinical sciences; and mathematics and statistics.

(3) When implementing reductions for fiscal year 2010 and fiscal year 2011, Washington State University shall minimize reductions to extension services and agriculture extension services. Agriculture extension includes:

(a) Faculty with extension appointments working within the following departments in the college of agricultural, human, and natural resource sciences with extension appointments: Animal sciences, crop and soil sciences, entomology, horticulture, and plant pathology;

(b) The portion of county extension educators' appointments assigned to the "agricultural programs" area;

(c) Staff with extension appointments and extension operating allocations located at the irrigated agriculture research and extension center (Prosser), northwest Washington research and extension center (Mt. Vernon), and tree fruit research and extension center (Wenatchee); and

(d) Extension contributions to the center for precision agricultural systems, center for sustaining agriculture and natural resources, and the agriculture weather network.

(4) \$75,000 of the general fund--state appropriation for fiscal year 2010 and \$75,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for research related to honeybee colony collapse disease.

(5) \$100,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the small business development center. The center must, consistent with the scope, goals, deliverables, and timeline of work specified in the annual cooperative agreement with the United States small business administration:

(a) Develop and maintain a state comprehensive plan for the coordination and integration of small business and entrepreneurial development programs and the operations of a statewide small business and entrepreneurial development system. The plan must include but not be limited to setting measurable goals, objectives, and priorities;

(b) Advocate for the state's small business and entrepreneurial development system and for meeting the needs of small start-ups and existing entrepreneurs;

(c) Work with private and public entrepreneurial development and small business assistance providers to develop entrepreneurial training and small business assistance instructional materials and curricula that meet the particular entrepreneurial development and small business assistance needs of rural and low-income communities and small manufacturers interested in exporting; and

(d) Identify policies to reduce administrative and other barriers to efficient delivery and coordination of small business and entrepreneurial assistance.

**Sec. 606.** 2009 c 564 s 608 (uncodified) is amended to read as follows:

**FOR EASTERN WASHINGTON UNIVERSITY**

General Fund--State Appropriation (FY 2010).....	(\$34,685,000)
	\$34,689,000
General Fund--State Appropriation (FY 2011).....	(\$40,796,000)
	\$36,666,000
General Fund--Federal Appropriation.....	\$5,522,000
Education Legacy Trust Account--State	
Appropriation.....	(\$16,087,000)
	\$16,041,000
TOTAL APPROPRIATION.....	(\$97,090,000)
	\$92,918,000

The appropriations in this section are subject to the following conditions and limitations:

(1) In implementing the appropriations in this section, the president and governing board shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other non-instructional activities.

(2) Because higher education is an essential driver of economic recovery and development, the university shall maintain, and endeavor to increase, enrollment and degree production levels at or beyond their academic year 2008-09 levels in the following high-demand fields: Biological and biomedical sciences; computer and information sciences; education with specializations in special education, math, or science; engineering and engineering technology; health professions and related clinical sciences; and mathematics and statistics.

(3) At least \$200,000 of the general fund--state appropriation for fiscal year 2010 and at least \$200,000 of the general fund--state appropriation for fiscal year 2011 shall be expended on the northwest autism center.

**Sec. 607.** 2009 c 564 s 609 (uncodified) is amended to read as follows:

**FOR CENTRAL WASHINGTON UNIVERSITY**

General Fund--State Appropriation (FY 2010).....	(\$30,284,000)
	\$30,289,000
General Fund--State Appropriation (FY 2011).....	(\$37,580,000)

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	<u>\$33,803,000</u>
General Fund--Federal Appropriation.....	\$6,975,000
Education Legacy Trust Account--State	
Appropriation.....	( <u>\$19,076,000</u> )
	<u>\$19,012,000</u>
TOTAL APPROPRIATION.....	( <u>\$93,915,000</u> )
	<u>\$90,079,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) In implementing the appropriations in this section, the president and governing board shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other non-instructional activities.

(2) Because higher education is an essential driver of economic recovery and development, the university shall maintain, and endeavor to increase, enrollment and degree production levels at or beyond their academic year 2008-09 levels in the following high-demand fields: Biological and biomedical sciences; computer and information sciences; education with specializations in special education, math, or science; engineering and engineering technology; health professions and related clinical sciences; and mathematics and statistics.

**Sec. 608.** 2009 c 564 s 610 (uncodified) is amended to read as follows:

**FOR THE EVERGREEN STATE COLLEGE**

General Fund--State Appropriation (FY 2010).....	( <u>\$20,512,000</u> )
	<u>\$20,514,000</u>
General Fund--State Appropriation (FY 2011).....	( <u>\$22,865,000</u> )
	<u>\$18,505,000</u>
General Fund--Federal Appropriation.....	\$2,366,000
Education Legacy Trust Account--State	
Appropriation.....	( <u>\$5,450,000</u> )
	<u>\$5,417,000</u>
TOTAL APPROPRIATION.....	( <u>\$51,193,000</u> )
	<u>\$46,802,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) In implementing the appropriations in this section, the president and governing board shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other non-instructional activities.

(2) Because higher education is an essential driver of economic recovery and development, the college shall maintain, and endeavor to increase, enrollment and degree production levels at or beyond their academic year 2008-09 levels in the following high-demand fields: Biological and biomedical sciences; computer and information sciences; education with specializations in special education, math, or science; engineering and engineering technology; health professions and related clinical sciences; and mathematics and statistics.

(3)(a) At least \$100,000 of the general fund--state appropriation for fiscal year 2010 (~~and at least \$100,000 of the general fund--state appropriation for fiscal year 2011~~) shall be expended on the labor education and research center.

(b) In fiscal year 2011 the labor education and research center shall be transferred from The Evergreen State College to south Seattle community college.

(4) \$100,000 of the general fund--state appropriation for fiscal year 2010 and \$100,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Washington state institute for public policy to report to the legislature regarding efficient and effective programs and policies. The report shall calculate the return on investment to taxpayers from evidence-based prevention and intervention programs and policies that influence crime, K-12 education outcomes, child maltreatment, substance

abuse, mental health, public health, public assistance, employment, and housing. The institute for public policy shall provide the legislature with a comprehensive list of programs and policies that improve these outcomes for children and adults in Washington and result in more cost-efficient use of public resources. The institute shall submit interim reports by December 15, 2009, and October 1, 2010, and a final report by June 30, 2011. The institute may receive additional funds from a private organization for the purpose of conducting this study.

(5) To the extent federal or private funding is available for this purpose, the Washington state institute for public policy and the center for reinventing public education at the University of Washington shall examine the relationship between participation in pension systems and teacher quality and mobility patterns in the state. The department of retirement systems shall facilitate researchers' access to necessary individual-level data necessary to effectively conduct the study. The researchers shall ensure that no individually identifiable information will be disclosed at any time. An interim report on project findings shall be completed by November 15, 2010, and a final report shall be submitted to the governor and to the relevant committees of the legislature by October 15, 2011.

(6) At least \$200,000 of the general fund--state appropriation for fiscal year 2010 and at least \$200,000 of the general fund--state appropriation for fiscal year 2011 shall be expended on the Washington center for undergraduate education.

(7) \$15,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the Washington state institute for public policy to examine the need for and methods to increase the availability of nonfood items, such as personal hygiene supplies, soaps, paper products, and other items, to needy persons in the state. The study shall examine existing private and public programs that provide such products, and develop recommendations for the most cost-effective incentives for private and public agencies to increase local distribution outlets and local and regional networks of supplies. A final report shall be delivered to the legislature and the governor by December 1, 2009.

(8) \$17,000 of the general fund--state appropriation for fiscal year 2010 and \$42,000 of the general fund--state appropriation for fiscal year 2011 are provided to the Washington state institute for public policy to implement Second Substitute House Bill No. 2106 (child welfare outcomes). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(9) \$54,000 of the general fund--state appropriation for fiscal year 2010 and \$23,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement Substitute Senate Bill No. 5882 (racial disproportionality). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(10) \$75,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the Washington state institute of public policy to evaluate the adequacy of and access to financial aid and independent living programs for youth in foster care. The examination shall include opportunities to improve efficiencies within these programs. The institute shall report its findings by December 1, 2009.

(11) \$75,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the Washington state institute for public policy to conduct an assessment of the general assistance unemployable program and other similar programs. The assessment shall include a review of programs in other states that provide similar services and will include recommendations on promising approaches that both improve client outcomes and reduce state costs. A report is due by December 1, 2009.

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(12) To the extent funds are available, the Washington state institute for public policy is encouraged to continue the longitudinal analysis of long-term mental health outcomes directed in chapter 334, Laws of 2001 (mental health performance audit), to build upon the evaluation of the impacts of chapter 214, Laws of 1999 (mentally ill offenders); and to assess program outcomes and cost effectiveness of the children's mental health pilot projects as required by chapter 372, Laws of 2006.

(13) \$50,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the institute for public policy to provide research support to the council on quality education.

(14) At least \$119,207 of the general fund--state appropriation for fiscal year 2011 shall be expended on the longhouse center.

(15) At least \$103,146 of the general fund--state appropriation for fiscal year 2011 shall be expended on the Northwest Indian applied research institute.

**Sec. 609.** 2009 c 564 s 611 (uncodified) is amended to read as follows:

**FOR WESTERN WASHINGTON UNIVERSITY**

General Fund--State Appropriation (FY 2010).....	<del>(\$43,141,000)</del>
	<u>\$43,146,000</u>
General Fund--State Appropriation (FY 2011).....	<del>(\$52,752,000)</del>
	<u>\$48,391,000</u>
General Fund--Federal Appropriation.....	\$8,885,000
Education Legacy Trust Account--State	
Appropriation.....	<del>(\$13,036,000)</del>
	<u>\$12,917,000</u>
TOTAL APPROPRIATION.....	<del>(\$117,814,000)</del>
	<u>\$113,339,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) In implementing the appropriations in this section, the president and governing board shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other non-instructional activities.

(2) Because higher education is an essential driver of economic recovery and development, the university shall maintain, and endeavor to increase, enrollment and degree production levels at or beyond their academic year 2008-09 levels in the following high-demand fields: Biological and biomedical sciences; computer and information sciences; education with specializations in special education, math, or science; engineering and engineering technology; health professions and related clinical sciences; and mathematics and statistics.

**Sec. 610.** 2009 c 564 s 612 (uncodified) is amended to read as follows:

**FOR THE HIGHER EDUCATION COORDINATING BOARD--POLICY COORDINATION AND ADMINISTRATION**

General Fund--State Appropriation (FY 2010).....	<del>(\$6,611,000)</del>
	<u>\$6,402,000</u>
General Fund--State Appropriation (FY 2011).....	<del>(\$6,203,000)</del>
	<u>\$5,561,000</u>
General Fund--Federal Appropriation.....	<del>(\$4,352,000)</del>
	<u>\$4,332,000</u>
TOTAL APPROPRIATION.....	<del>(\$17,166,000)</del>
	<u>\$16,295,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Within the funds appropriated in this section, the higher education coordinating board shall complete a system design planning project that defines how the current higher education delivery system can be shaped and expanded over the next ten years to best meet the needs of Washington citizens and businesses for high quality and accessible post-secondary education. The board

shall propose policies and specific, fiscally feasible implementation recommendations to accomplish the goals established in the 2008 *strategic master plan for higher education*. The project shall specifically address the roles, missions, and instructional delivery systems both of the existing and of proposed new components of the higher education system; the extent to which specific academic programs should be expanded, consolidated, or discontinued and how that would be accomplished; the utilization of innovative instructional delivery systems and pedagogies to reach both traditional and nontraditional students; and opportunities to consolidate institutional administrative functions. The study recommendations shall also address the proposed location, role, mission, academic program, and governance of any recommended new campus, institution, or university center. During the planning process, the board shall inform and actively involve the chairs from the senate and house of representatives committees on higher education, or their designees. The board shall report the findings and recommendations of this system design planning project to the governor and the appropriate committees of the legislature by December 1, 2009.

(2) \$146,000 of the general fund--state appropriation for fiscal year 2010 and \$65,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the higher education coordinating board to administer Engrossed Second Substitute House Bill No. 2021 (revitalizing student financial aid). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(3) ~~(\$227,000)~~ \$167,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$11,000)~~ \$71,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement Engrossed Second Substitute House Bill No. 1946 (regarding higher education online technology). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(4) ~~(\$400,000)~~ \$350,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$400,000)~~ \$200,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the higher education coordinating board to contract with the Pacific Northwest university of health sciences to conduct training and education of health care professionals to promote osteopathic physician services in rural and underserved areas of the state.

**Sec. 611.** 2009 c 564 s 613 (uncodified) is amended to read as follows:

**FOR THE HIGHER EDUCATION COORDINATING BOARD--FINANCIAL AID AND GRANT PROGRAMS**

General Fund--State Appropriation (FY 2010).....	<del>(\$204,332,000)</del>
	<u>\$188,332,000</u>
General Fund--State Appropriation (FY 2011).....	<del>(\$229,711,000)</del>
	<u>\$122,218,000</u>
General Fund--Federal Appropriation.....	<del>(\$13,124,000)</del>
	<u>\$13,129,000</u>
Education Legacy Trust Account--State	
Appropriation.....	<del>(\$88,062,000)</del>
	<u>\$116,060,000</u>
<u>Opportunity Pathways Account--State Appropriation...</u>	<u>\$73,500,000</u>
TOTAL APPROPRIATION.....	<del>(\$535,229,000)</del>
	<u>\$513,239,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~(\$191,704,000)~~ \$178,726,000 of the general fund--state appropriation for fiscal year 2010, ~~(\$232,929,000)~~ \$120,572,000 of the general fund--state appropriation for fiscal year 2011, ~~(\$80,190,000)~~ \$109,188,000 of the education legacy trust account appropriation, \$73,500,000 of the opportunity pathways

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appropriation, and ~~(((\$2,446,000))~~ \$2,545,000 of the general fund--federal appropriation are provided solely for student financial aid payments under the state need grant; the state work study program including up to a four percent administrative allowance; the Washington scholars program; and the Washington award for vocational excellence. State need grant~~((:))~~ and the Washington award for vocational excellence~~((, and state work study awards))~~ shall be adjusted to offset the cost of the resident undergraduate tuition increases, limited to those tuition increases authorized under this act. The Washington scholars program shall provide awards sufficient to offset ninety percent of the total tuition and fee award.

(2)(a) Within the funds appropriated in this section, eligibility for the state need grant shall include students with family incomes at or below 70 percent of the state median family income (MFI), adjusted for family size. Awards for all students shall be adjusted by the estimated amount by which Pell grant increases exceed projected increases in the noninstructional costs of attendance. Awards for students with incomes between 51 and 70 percent of the state median shall be prorated at the following percentages of the award amount granted to those with incomes below 51 percent of the MFI: 70 percent for students with family incomes between 51 and 55 percent MFI; 65 percent for students with family incomes between 56 and 60 percent MFI; 60 percent for students with family incomes between 61 and 65 percent MFI; and 50 percent for students with family incomes between 66 and 70 percent MFI.

(b) Grant awards for students at private four-year colleges shall be set at the same level as the student would receive if attending one of the public research universities.

~~(3) (((\$1,000,000 of the education legacy trust account--state appropriation is provided solely to encourage more students to teach secondary mathematics and science. \$500,000 of this amount is for the future teacher scholarship and conditional loan program. \$500,000 of this amount is provided to support state work study positions for students to intern in secondary schools and classrooms.)) To the maximum extent practicable, the board shall provide state work study subsidies only to resident students during the 2010-11 academic year. Additionally, in order to provide work opportunities to as many resident students as possible, the board is encouraged to increase the proportion of student wages that is to be paid by both proprietary and nonprofit, public, and private employers.~~

(4) \$3,872,000 of the education legacy trust account--state appropriation is provided solely for the passport to college scholarship program pursuant to chapter 28B.117 RCW. The higher education coordinating board shall contract with a college scholarship organization with expertise in managing scholarships for low-income, high-potential students and foster care children and young adults to administer the program. Of the amount in this subsection, \$39,000 is provided solely for the higher education coordinating board for administration of the contract and the remaining shall be contracted out to the organization for the following purposes:

(a) \$384,000 is provided solely for program administration, and

(b) \$3,449,000 is provided solely for student financial aid for up to 151 students and to fund student support services. Funds are provided for student scholarships, provider training, and for incentive payments to the colleges they attend for individualized student support services which may include, but are not limited to, college and career advising, counseling, tutoring, costs incurred for students while school is not in session, personal expenses, health insurance, and emergency services.

(5) \$1,250,000 of the general fund--state appropriation for fiscal year 2010 ~~((and \$1,250,000 of the general fund--state appropriation for fiscal year 2011 are))~~ is provided solely for the health professional scholarship and loan program. The funds provided in

this subsection shall be: (a) Prioritized for health care deliver sites demonstrating a commitment to serving the uninsured; and (b) allocated between loan repayments and scholarships proportional to current program allocations.

(6) For fiscal year 2010 and fiscal year 2011, the board shall defer loan or conditional scholarship repayments to the future teachers conditional scholarship and loan repayment program for up to one year for each participant if the participant has shown evidence of efforts to find a teaching job but has been unable to secure a teaching job per the requirements of the program.

(7) \$246,000 of the general fund--state appropriation for fiscal year 2010 and \$246,000 of the general fund--state appropriation for fiscal year 2011 are for community scholarship matching grants and its administration. To be eligible for the matching grant, nonprofit groups organized under section 501(c)(3) of the federal internal revenue code must demonstrate they have raised at least \$2,000 in new moneys for college scholarships after the effective date of this section. Groups may receive no more than one \$2,000 matching grant per year and preference shall be given to groups affiliated with scholarship America. Up to a total of \$46,000 per year of the amount appropriated in this section may be awarded to a nonprofit community organization to administer scholarship matching grants, with preference given to an organization affiliated with scholarship America.

(8) \$500,000 of the general fund--state appropriation for fiscal year 2010 and \$500,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for state need grants provided to students enrolled in three to five credit-bearing quarter credits, or the equivalent semester credits. Total state expenditures on this program shall not exceed the amounts provided in this subsection.

(9) ~~(((\$3,000,000))~~ \$2,500,000 of the education legacy trust account--state appropriation is provided solely for the gaining early awareness and readiness for undergraduate programs project.

(10) \$75,000 of the general fund--state appropriation for fiscal year 2010 ~~((and \$75,000 of the general fund--state appropriation for fiscal year 2011 are))~~ is provided solely for higher education student child care matching grants under chapter 28B.135 RCW.

(11) \$200,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for continuation of the leadership 1000 scholarship sponsorship and matching program.

(12) In 2010 and 2011, the board shall continue to designate Washington scholars and scholar-alternates and to recognize them at award ceremonies as provided in RCW 28A.600.150, but state funding is provided for award of only one scholarship per legislative district during the 2010-11 academic year. After the 2010-11 academic year, and as provided in RCW 28B.76.660, the board may distribute grants to these eligible students to the extent that funds are appropriated for this purpose.

**Sec. 612.** 2009 c 564 s 614 (uncodified) is amended to read as follows:

**FOR THE WORK FORCE TRAINING AND EDUCATION COORDINATING BOARD**

General Fund--State Appropriation (FY 2010).....	<del>(((\$1,587,000))</del>
	<u>\$1,465,000</u>
General Fund--State Appropriation (FY 2011).....	<del>(((\$1,556,000))</del>
	<u>\$1,444,000</u>
General Fund--Federal Appropriation.....	<del>(((\$54,262,000))</del>
	<u>\$54,020,000</u>
TOTAL APPROPRIATION.....	<del>(((\$57,405,000))</del>
	<u>\$56,929,000</u>

The appropriations in this section are subject to the following conditions and limitations: ~~((2))~~

(1) \$60,000 of the general fund--state appropriation for fiscal year 2010 and \$60,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for implementation of Engrossed

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Second Substitute House Bill No. 2227 (evergreen jobs act). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(2) In 2010 and 2011, the board shall continue to designate recipients of the Washington award for vocational excellence and to recognize them at award ceremonies as provided in RCW 28C.04.535, but state funding is provided for award of only one scholarship per legislative district during the 2010-11 academic year. After the 2010-11 academic year, and as provided in RCW 28B.76.670, the board may distribute grants to these eligible students to the extent that funds are appropriated for this purpose.

**Sec. 613.** 2009 c 564 s 615 (uncodified) is amended to read as follows:

**FOR THE SPOKANE INTERCOLLEGIATE RESEARCH AND TECHNOLOGY INSTITUTE**

General Fund--State Appropriation (FY 2010).....	\$1,598,000
General Fund--State Appropriation (FY 2011).....	<del>(\$1,611,000)</del>
	<u>\$1,490,000</u>
TOTAL APPROPRIATION.....	<del>(\$3,209,000)</del>
	<u>\$3,088,000</u>

The appropriations in this section are subject to the following conditions and limitations: Within existing resources, the Spokane intercollegiate research and technology institute shall coordinate with the Washington technology center to identify gaps and overlaps in programs and evaluate strategies to reduce administrative overhead expenses per section 122(27) of this act.

**Sec. 614.** 2009 c 564 s 616 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF EARLY LEARNING**

General Fund--State Appropriation (FY 2010).....	<del>(\$60,478,000)</del>
	<u>\$60,400,000</u>
General Fund--State Appropriation (FY 2011).....	<del>(\$61,045,000)</del>
	<u>\$21,241,000</u>
General Fund--Federal Appropriation.....	<del>(\$244,859,000)</del>
	<u>\$265,305,000</u>
Opportunity Pathways Account--State Appropriation.....	<u>\$40,000,000</u>
TOTAL APPROPRIATION.....	<del>(\$366,382,000)</del>
	<u>\$386,946,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~(\$55,696,000)~~ \$54,878,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$55,696,000)~~ \$14,685,000 of the general fund--state appropriation for fiscal year 2011, and \$40,000,000 of the opportunity pathways account appropriation are provided solely for early childhood education and assistance program services. This appropriation temporarily reduces the number of slots for the 2009-11 fiscal biennium for the early childhood education and assistance program. The department shall reduce slots where providers serve both federal headstart and early childhood education and assistance program children, to the greatest extent possible, in order to achieve no reduction of slots across the state. The amounts in this subsection also reflect reductions to the administrative expenditures for the early childhood education and assistance program. The department shall reduce administrative expenditures, to the greatest extent possible, prior to reducing early childhood education and assistance program slots. Of these amounts, \$10,284,000 is a portion of the biennial amount of state matching dollars required to receive federal child care and development fund grant dollars.

(2) \$1,000,000 of the general fund--federal appropriation is provided to the department to contract with Thrive by Five, Washington for a pilot project for a quality rating and improvement system to provide parents with information they need to choose quality child care and education programs and to improve the quality of early care and education programs. The department in

collaboration with Thrive by Five shall operate the pilot projects in King, Yakima, Clark, Spokane, and Kitsap counties. The department shall use child care development fund quality money for this purpose.

(3) \$425,000 of the general fund--state appropriation for fiscal year 2010, ~~(\$425,000)~~ \$213,000 of the general fund--state appropriation for fiscal year 2011, and \$850,000 of the general fund--federal appropriation are provided solely for child care resource and referral network services. The general fund--federal funding represents moneys from the American recovery and reinvestment act of 2009 (child care development block grant).

(4) \$750,000 of the general fund--state appropriation for fiscal year 2010, \$750,000 of the general fund--state appropriation for fiscal year 2011, and \$1,500,000 of the general fund--federal appropriation are provided solely for the career and wage ladder program created by chapter 507, Laws of 2005. The general fund--federal funding represents moneys from the American recovery and reinvestment act of 2009 (child care development block grant).

(5) \$50,000 of the general fund--state appropriation for fiscal year 2010 and \$50,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the department to work with stakeholders and the office of the superintendent of public instruction to identify and test a kindergarten assessment process and tools in geographically diverse school districts. School districts may participate in testing the kindergarten assessment process on a voluntary basis. The department shall report to the legislature on the kindergarten assessment process not later than January 15, 2011. Expenditure of amounts provided in this subsection is contingent on receipt of an equal match from private sources. As matching funds are made available, the department may expend the amounts provided in this subsection.

(6) \$1,600,000 of the general fund--federal appropriation is provided solely for the department to fund programs to improve the quality of infant and toddler child care through training, technical assistance, and child care consultation.

(7) \$200,000 of the general fund--state appropriation for fiscal year 2010 and \$200,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to develop and provide culturally relevant supports for parents, family, and other caregivers. (8) The legislature notes that the department of early learning is developing a plan for improving child care licensing and is consulting, as practicable, with parents, licensed child care providers, and stakeholders from the child care community. The plan shall outline the processes and specify the resources necessary for improvements such as continuing licenses, child care licensing technology, and weighted child care regulations, including development of risk-based decision making models and inclusive, evidence-based rule making. The department shall submit to the appropriate committees of the legislature a plan by January 15, 2011.

(9) The department is the lead agency for and recipient of the federal child care and development fund grant. Amounts within this grant shall be used to fund child care licensing, quality initiatives, agency administration, and other costs associated with child care subsidies. The department shall transfer a portion of this grant to the department of social and health services to partially fund the child care subsidies paid by the department of social and health services on behalf of the department of early learning.

(10) The department shall use child care development fund money to satisfy the federal audit requirement of the improper payments act (IPIA) of 2002. In accordance with the IPIA's rules, the money spent on the audits will not count against the five percent state limit on administrative expenditures.

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(11) Within available amounts, the department in consultation with the office of financial management and the department of social and health services shall report quarterly enrollments and active caseload for the working connections child care program to the legislative fiscal committees. The report shall also identify the number of cases participating in both temporary assistance for needy families and working connections child care.

(12) The appropriations in this section reflect reductions in the appropriations for the department's administrative expenses. It is the intent of the legislature that these reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or program.

(13) \$500,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the department to contract with the private-public partnership established in chapter 43.215 RCW for home visitation programs. Of this amount, \$200,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for expenditure into the home visiting services account created in Part IX of this act to be used for contracts for home visitation with the private-public partnership.

(14) In accordance to RCW 43.215.255(2) and 43.135.055, the department is authorized to increase child care center licensure fees by fifty-two dollars for the first twelve children and an additional four dollars per additional child in fiscal year 2011 for costs to the department for the licensure activity, including costs of necessary inspection.

**Sec. 615.** 2009 c 564 s 617 (uncodified) is amended to read as follows:

**FOR THE STATE SCHOOL FOR THE BLIND**

General Fund--State Appropriation (FY 2010)	.....	\$5,902,000
General Fund--State Appropriation (FY 2011)	.....	<del>(\$5,908,000)</del>
		<u>\$5,985,000</u>
General Fund--Private/Local Appropriation	.....	<del>(\$1,928,000)</del>
		<u>\$1,942,000</u>
TOTAL APPROPRIATION	.....	<del>(\$13,738,000)</del>
		<u>\$13,829,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$271,000 of the general fund--private/local appropriation is provided solely for the school for the blind to offer short course programs, allowing students the opportunity to leave their home schools for short periods and receive intensive training. The school for the blind shall provide this service to the extent that it is funded by contracts with school districts and educational services districts.

**Sec. 616.** 2009 c 564 s 618 (uncodified) is amended to read as follows:

**FOR THE ((STATE SCHOOL FOR THE DEAF)) WASHINGTON STATE CENTER FOR CHILDHOOD DEAFNESS AND HEARING LOSS**

General Fund--State Appropriation (FY 2010)	.....	<del>(\$8,592,000)</del>
		<u>\$8,593,000</u>
General Fund--State Appropriation (FY 2011)	.....	<del>(\$8,656,000)</del>
		<u>\$8,782,000</u>
General Fund--Private/Local Appropriation	.....	\$526,000
TOTAL APPROPRIATION	.....	<del>(\$17,774,000)</del>
		<u>\$17,901,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$210,000 of the general fund--private/local appropriation is provided solely for the operation of the shared reading video outreach program. The school for the deaf shall provide this service to the extent it is funded by contracts with school districts and educational service districts.

(2) \$25,000 of the general fund--state appropriation for fiscal year 2010 and \$25,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for implementation of Engrossed Second Substitute House Bill No. 1879 (deaf and hard of hearing). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

**Sec. 617.** 2009 c 564 s 619 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE ARTS COMMISSION**

General Fund--State Appropriation (FY 2010)	.....	<del>(\$1,876,000)</del>
		<u>\$1,844,000</u>
General Fund--State Appropriation (FY 2011)	.....	<del>(\$1,883,000)</del>
		<u>\$1,347,000</u>
General Fund--Federal Appropriation	.....	<del>(\$1,923,000)</del>
		<u>\$1,944,000</u>
General Fund--Private/Local Appropriation	.....	<del>(\$1,054,000)</del>
		<u>\$1,052,000</u>
TOTAL APPROPRIATION	.....	<del>(\$6,736,000)</del>
		<u>\$6,187,000</u>

The appropriations in this section are subject to the following conditions and limitations: It is the intent of the legislature that the reductions in appropriations in this section shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing its mission.

**Sec. 618.** 2009 c 564 s 620 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE HISTORICAL SOCIETY**

General Fund--State Appropriation (FY 2010)	.....	\$2,592,000
General Fund--State Appropriation (FY 2011)	.....	<del>(\$2,636,000)</del>
		<u>\$2,607,000</u>
TOTAL APPROPRIATION	.....	<del>(\$5,228,000)</del>
		<u>\$5,199,000</u>

The appropriations in this section are subject to the following conditions and limitations: It is the intent of the legislature that the reductions in appropriations in this section shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing its mission.

**Sec. 619.** 2009 c 564 s 621 (uncodified) is amended to read as follows:

**FOR THE EASTERN WASHINGTON STATE HISTORICAL SOCIETY**

General Fund--State Appropriation (FY 2010)	.....	\$1,612,000
General Fund--State Appropriation (FY 2011)	.....	<del>(\$1,655,000)</del>
		<u>\$1,632,000</u>
TOTAL APPROPRIATION	.....	<del>(\$3,267,000)</del>
		<u>\$3,244,000</u>

The appropriations in this section are subject to the following conditions and limitations: It is the intent of the legislature that the reductions in appropriations in this section shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing its mission.

(End of part)

**Sec. 701.** 2009 c 564 s 701 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR DEBT SUBJECT TO THE DEBT LIMIT**

General Fund--State Appropriation (FY 2010).....	<del>(\$854,991,000)</del>
	<u>\$842,590,000</u>
General Fund--State Appropriation (FY 2011) .....	<del>(\$901,265,000)</del>
	<u>\$894,284,000</u>
State Building Construction Account--State	
Appropriation .....	\$11,707,000
Columbia River Basin Water Supply Development Account--	
State Appropriation .....	<del>(\$92,000)</del>
	<u>\$117,000</u>
Hood Canal Aquatic Rehabilitation Bond Account--State	
Appropriation .....	\$11,000
State Taxable Building Construction Account--State	
Appropriation .....	\$1,136,000
Gardner-Evans Higher Education Construction Account--	
State Appropriation .....	\$260,000
Debt-Limit Reimbursable Bond Retirement Account--State	
Appropriation .....	<del>(\$2,619,000)</del>
	<u>\$2,612,000</u>
TOTAL APPROPRIATION .....	<del>(\$1,772,081,000)</del>
	<u>\$1,752,717,000</u>

The appropriations in this section are subject to the following conditions and limitations: The general fund appropriations are for expenditure into the debt-limit general fund bond retirement account. The entire general fund--state appropriation for fiscal year 2010 shall be expended into the debt-limit general fund bond retirement account by June 30, 2010.

**Sec. 702.** 2009 c 564 s 703 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR GENERAL OBLIGATION DEBT TO BE REIMBURSED AS PRESCRIBED BY STATUTE**

General Fund--State Appropriation (FY 2010).....	<del>(\$26,463,000)</del>
	<u>\$26,436,000</u>
General Fund--State Appropriation (FY 2011).....	<del>(\$27,811,000)</del>
	<u>\$27,773,000</u>
School Construction and Skill Centers Building	
Account--State Appropriation.....	\$477,000
Nondebt-Limit Reimbursable Bond Retirement Account--	
State Appropriation.....	<del>(\$141,507,000)</del>
	<u>\$140,872,000</u>
TOTAL APPROPRIATION .....	<del>(\$196,258,000)</del>
	<u>\$195,558,000</u>

The appropriations in this section are subject to the following conditions and limitations: The general fund appropriation is for expenditure into the nondebt-limit general fund bond retirement account. The entire general fund--state appropriation for fiscal year 2010 shall be expended into the nondebt-limit general fund bond retirement account by June 30, 2010.

**Sec. 703.** 2009 c 564 s 704 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES**

General Fund--State Appropriation (FY 2010) .....	\$1,357,000
General Fund--State Appropriation (FY 2011) .....	\$1,357,000

State Building Construction Account--State	
Appropriation .....	\$1,273,000
Columbia River Basin Water Supply Development	
Account--State Appropriation.....	<del>(\$6,000)</del>
	<u>\$9,000</u>
Hood Canal Aquatic Rehabilitation Bond Account--	
State Appropriation .....	\$1,000
State Taxable Building Construction Account--State	
Appropriation.....	\$72,000
Gardner-Evans Higher Education Construction	
Account--State Appropriation.....	\$18,000
School Construction and Skill Centers Building	
Account--State Appropriation.....	\$
TOTAL APPROPRIATION.....	<del>(\$4,114,000)</del>
	<u>\$4,117,000</u>

**Sec. 704.** 2009 c 564 s 708 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT)) COMMERCE--COUNTY PUBLIC HEALTH ASSISTANCE**

General Fund--State Appropriation (FY 2010) .....	\$24,000,000
<del>General Fund--State Appropriation (FY 2011).....</del>	<del>\$24,000,000</del>
TOTAL APPROPRIATION .....	<del>\$48,000,000)</del>

The appropriations in this section are subject to the following conditions and limitations: The director of the department of ((community, trade, and economic development)) commerce shall distribute the appropriations to the following counties and health districts in the amounts designated to support public health services, including public health nursing:

Health District	FY 2010	<del>(FY 2011</del>	<del>FY 2010-11</del>
			Biennium
Adams County Health District	\$30,951	<del>\$30,951</del>	<del>\$61,902</del>
Asotin County Health District	\$67,714	<del>\$67,714</del>	<del>\$135,428</del>
Benton-Franklin Health District	\$1,165,612	<del>\$1,165,612</del>	<del>\$2,331,224</del>
Chelan-Douglas Health District	\$184,761	<del>\$184,761</del>	<del>\$369,522</del>
Clallam County Health and Human Services Department Southwest	\$141,752	<del>\$141,752</del>	<del>\$283,504</del>
Washington Health District Columbia County	\$1,084,473	<del>\$1,084,473</del>	<del>\$2,168,946</del>
Health District Cowlitz County	\$40,529	<del>\$40,529</del>	<del>\$81,058</del>
Health Department Garfield County	\$278,560	<del>\$278,560</del>	<del>\$557,120</del>
Health District Grant County	\$15,028	<del>\$15,028</del>	<del>\$30,056</del>
Health District Grays Harbor	\$118,595	<del>\$118,596</del>	<del>\$237,191</del>
Health Department Island County	\$183,870	<del>183,870</del>	<del>\$367,740</del>
Health Department Jefferson County	\$91,892	<del>\$91,892</del>	<del>\$183,784</del>
Health and Human Services Seattle-King County	\$85,782	<del>\$85,782</del>	<del>\$171,564</del>
Department of	\$9,531,747	<del>\$9,531,747</del>	<del>\$19,063,494</del>

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Public Health				Adams County Health District	\$30,951
Bremerton-Kitsap County Health District	\$554,669	<del>\$554,669</del>	<del>\$1,109,338</del>	Asotin County Health District	\$67,714
Kittitas County Health Department	\$92,499	<del>\$92,499</del>	<del>\$184,998</del>	Benton-Franklin Health District	\$1,165,612
Klickitat County Health Department	\$62,402	<del>\$62,402</del>	<del>\$124,804</del>	Chelan-Douglas Health District	\$184,761
Lewis County Health Department	\$105,801	<del>\$105,801</del>	<del>\$211,602</del>	Clallam County Health and Human Services Department	\$141,752
Lincoln County Health Department	\$29,705	<del>\$29,705</del>	<del>\$59,410</del>	Southwest Washington Health District	\$1,084,473
Mason County Department of Health Services	\$95,988	<del>\$95,988</del>	<del>\$191,976</del>	Columbia County Health District	\$40,529
Okanogan County Health District	\$63,458	<del>\$63,458</del>	<del>\$126,916</del>	Cowlitz County Health Department	\$278,560
Pacific County Health Department	\$77,427	<del>\$77,427</del>	<del>\$154,854</del>	Garfield County Health District	\$15,028
Tacoma-Pierce County Health Department	\$2,820,590	<del>\$2,820,590</del>	<del>\$5,641,180</del>	Grant County Health District	\$118,596
San Juan County Health and Community Services	\$37,531	<del>\$37,531</del>	<del>\$75,062</del>	Grays Harbor Health Department	183,870
Skagit County Health Department	\$223,927	<del>\$223,927</del>	<del>\$447,854</del>	Island County Health Department	\$91,892
Snohomish Health District	\$2,258,207	<del>\$2,258,207</del>	<del>\$4,516,414</del>	Jefferson County Health and Human Services	\$85,782
Spokane County Health District	\$2,101,429	<del>\$2,101,429</del>	<del>\$4,202,858</del>	Seattle-King County Department of Public Health	\$9,531,747
Northeast Tri-County Health District	\$110,454	<del>\$110,454</del>	<del>\$220,908</del>	Bremerton-Kitsap County Health District	\$554,669
Thurston County Health Department	\$600,419	<del>\$600,419</del>	<del>\$1,200,838</del>	Kittitas County Health Department	\$92,499
Wahkiakum County Health Department	\$13,773	<del>\$13,772</del>	<del>\$27,545</del>	Klickitat County Health Department	\$62,402
Walla Walla County-City Health Department	\$172,062	<del>\$172,062</del>	<del>\$344,124</del>	Lewis County Health Department	\$105,801
Whatcom County Health Department	\$855,863	<del>\$855,863</del>	<del>\$1,711,726</del>	Lincoln County Health Department	\$29,705
Whitman County Health Department	\$78,733	<del>\$78,733</del>	<del>\$157,466</del>	Mason County Department of Health Services	\$95,988
Yakima Health District	\$623,797	<del>\$623,797</del>	<del>\$1,247,594</del>	Okanogan County Health District	\$63,458
<b>TOTAL</b>	\$24,000,000	<del>\$24,000,000</del>	<del>\$48,000,000</del>	Pacific County Health Department	\$77,427
<b>APPROPRIATIONS</b>		0	)	Tacoma-Pierce County Health Department	\$2,820,590
				San Juan County Health and Community Services	\$37,531
				Skagit County Health Department	\$223,927
				Snohomish Health District	\$2,258,207
				Spokane County Health District	\$2,101,429
				Northeast Tri-County Health District	\$110,454
				Thurston County Health Department	\$600,419
				Wahkiakum County Health Department	\$13,772
				Walla Walla County-City Health Department	\$172,062
				Whatcom County Health Department	\$855,863
				Whitman County Health Department	\$78,733

**NEW SECTION. Sec. 705.** A new section is added to 2009 c 564 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF HEALTH--COUNTY PUBLIC HEALTH ASSISTANCE**

General Fund--State Appropriation (FY 2011) .....\$24,000,000

The appropriations in this section are subject to the following conditions and limitations: The director of the department of health shall distribute the appropriations to the following counties and health districts in the amounts designated to support public health services, including public health nursing:

**Health District** **FY 2011**

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Yakima Health District \$623,797

TOTAL APPROPRIATIONS \$24,000,000

Sec. 706. 2009 c 564 s 710 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF RETIREMENT SYSTEMS--CONTRIBUTIONS TO RETIREMENT SYSTEMS. The appropriations in this section are subject to the following conditions and limitations: The appropriations for the law enforcement officers' and firefighters' retirement system shall be made on a monthly basis beginning July 1, 2009, consistent with chapter 41.45 RCW, and the appropriations for the judges and judicial retirement systems shall be made on a quarterly basis consistent with chapters 2.10 and 2.12 RCW.

(1) There is appropriated for state contributions to the law enforcement officers' and firefighters' retirement system: General Fund--State Appropriation (FY 2010) .....\$51,500,000 General Fund--State Appropriation (FY 2011) .....(((\$54,300,000)) \$55,400,000 TOTAL APPROPRIATION.....(((\$105,800,000)) \$106,900,000

(2) There is appropriated for contributions to the judicial retirement system: General Fund--State Appropriation (FY 2010) .....\$11,570,000 General Fund--State Appropriation (FY 2011) .....(((\$12,860,000)) \$10,860,000 TOTAL APPROPRIATION.....(((\$24,430,000)) \$22,430,000

Sec. 707. 2009 c 564 s 717 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT--CAPITOL BUILDING CONSTRUCTION ACCOUNT General Fund--State Appropriation (FY 2010) .....(((\$2,312,000)) \$1,912,000 General Fund--State Appropriation (FY 2011) .....\$3,615,000 TOTAL APPROPRIATION.....(((\$5,927,000)) \$5,527,000

The appropriations in this section are subject to the following conditions and limitations: The appropriations are provided solely for expenditure into the capitol building construction account.

NEW SECTION. Sec. 708. A new section is added to 2009 c 564 (uncodified) to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT--WASHINGTON MANAGEMENT SERVICES AND EXEMPT MANAGEMENT SERVICES REDUCTIONS General Fund--State Appropriation (FY 2011) ..... (\$10,000,000) Special Account Salary/Insurance Increase Account--State Revolving Account Appropriation..... (\$14,100,000) TOTAL APPROPRIATION..... (\$24,100,000)

The appropriations for state agencies are subject to the following conditions and limitations:

(1) Appropriations are adjusted to reflect changes to agency appropriations to reflect savings resulting from Washington management services and exempt management services reductions provided in section 2 of Engrossed Substitute Senate Bill No. 6503 (closing state agencies on specified dates): The office of financial management shall update agency appropriations schedules to reflect the changes to funding levels in this section as identified by agency and fund in LEAP documents TL1 - 2010 dated April 10, 2010. If the bill is not enacted by June 30, 2010, the appropriation reductions provided in this section shall lapse. To facilitate the transfer of

moneys from dedicated funds and accounts, the state treasurer is directed to transfer sufficient moneys from each dedicated fund or account to the special account retirement contribution increase revolving account in accordance with schedules provided by the office of financial management.

(2) Appropriations in this act reflect reduced appropriations resulting from the enactment of section 3 of Engrossed Substitute Senate Bill No. 6503.

NEW SECTION. Sec. 709. A new section is added to 2009 c 564 (uncodified) to read as follows:

FOR SUNDRY CLAIMS. The following sums, or so much thereof as may be necessary, are appropriated from the general fund, unless otherwise indicated, for relief of various individuals, firms, and corporations for sundry claims. These appropriations are to be disbursed on vouchers approved by the director of financial management, except as otherwise provided, as follows:

- (1) Reimbursement of criminal defendants acquitted on the basis of self-defense, pursuant to RCW 9A.16.110: (a) Gerald S. Morrow, claim number 99970006 .....\$20,567 (b) Darrell R. Baumgart, claim number 99970007 .....\$4,528 (c) William Davis, claim number 99970008.....\$8,093 (d) Gene T. Strader, claim number 99970009.....\$33,875 (e) Cecilio Cortez, claim number 99970012 .....\$17,055 (f) Alexander D. Coble, claim number 99970013 .....\$302,110 (g) James W. Jolly, claim number 99970017 .....\$28,884 (h) James Jay Olsen, claim number 99970018 .....\$97,220 (i) Todd E. Miller, claim number 99970019 .....\$6,957 (j) Sean S. DeHart, claim number 99970021 .....\$52,062 (k) Thomas L. Raglin, Jr., claim number 99970022 .....\$4,360 (l) Matthew Smitham, claim number 99970016 .....\$8,100 (m) John R. Frederick, claim number 99970020 .....\$7,719 (n) Justin C. Federmeyer, claim number 99970023 .....\$29,728 (o) David R. Palmer, claim number 99970024 .....\$4,250 (p) Ian K. Berghoffer, claim number 99970026 .....\$33,455 (q) Darryl L. Koenen, claim number 99970027 .....\$23,077 (r) Lee J. Stites, claim number 99970028 .....\$7,502 (s) Bobby G. Ewing, claim number 99970029 .....\$51,093 (2) Payment of death benefit, pursuant to RCW 41.04.017: Estate of Erik Anderson, claim number 99970014.....\$150,000

NEW SECTION. Sec. 710. A new section is added to 2009 c 564 (uncodified) to read as follows:

STRATEGIC PRINTING STRATEGY. (1) The office of financial management shall work with the appropriate state agencies to generate savings of \$1,500,000 from the state general fund that can arise from a strategic printing strategy. From appropriations in this act, the office of financial management shall reduce general fund--state allotments by \$1,500,000 for fiscal year 2011 to reflect the savings from the strategic printing strategy. The allotment reductions shall be placed in unallotted status and remain unexpended.

(2) The office of financial management, with the assistance of the department of information services and the department of printing, shall conduct an analysis of the state's printing processes to identify the most reasonable strategies of attaining a statewide savings target of \$1,500,000 without affecting direct program activities. The strategies shall include, but not be limited to, standardizing envelopes, utilizing print management, and streamlining processes. Pursuant to RCW 41.06.142(3), the strategies shall also include, on the approval of the office of financial management, pilot projects to authorize state agencies and institutions to directly acquire printing services. The analysis shall identify savings by agency and fund that will result from the implementation of a strategic printing strategy. The results of this analysis shall then be provided to the director of financial management and appropriate legislative committees by July 1,

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2010. The director shall use the analysis as the basis to achieve the savings identified in subsection (1) of this section.

**NEW SECTION. Sec. 711.** A new section is added to 2009 c 564 (uncodified) to read as follows:

**INFORMATION TECHNOLOGY.** Pursuant to section 11, chapter 282, Laws of 2010 (state government technology use), the office of financial management shall work with the appropriate state agencies to generate savings of \$30,000,000 from technology efficiencies from the state general fund. From appropriations in this act, the office of financial management shall reduce general fund--state allotments by \$30,000,000 for fiscal year 2011. The office of financial management shall, utilizing existing fund balance, reduce the data processing revolving account rates in an amount to reflect up to half of the reductions identified in this section. The allotment reductions shall be placed in unallotted status and remain unexpended. Nothing in this section is intended to impact revenue collection efforts by the department of revenue.

**NEW SECTION. Sec. 712.** A new section is added to 2009 c 564 (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT--EXTRAORDINARY CRIMINAL JUSTICE COSTS**

General Fund--State Appropriation (FY 2010) .....\$620,000

The appropriation in this section is subject to the following conditions and limitations: The director of financial management shall distribute funds to Jefferson county (\$197,000), Skagit county (\$390,000), and Franklin county (\$33,000) for extraordinary criminal justice costs.

**Sec. 713.** 2009 c 564 s 720 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT--CONTRIBUTIONS TO RETIREMENT SYSTEMS**

~~((General Fund--State Appropriation (FY 2010).....\$400,000  
General Fund--State Appropriation (FY 2011) .....\$400,000  
Special Account Retirement System Contribution  
— Increase Revolving Account Appropriation.....\$1,000,000  
— TOTAL APPROPRIATION.....\$1,800,000~~

~~— The appropriations in this section are subject to the following conditions and limitations:~~

~~— (1) The) Appropriations in this ((section are provided solely to increase)) act include agency and institution appropriations and public school funding allocations to reflect increased employer contribution rates in the public employees' retirement system and the school employees' retirement system as a result of the provisions of Substitute Senate Bill No. 6157 (calculating compensation for public retirement purposes). ((If the bill is not enacted by June 30, 2009, the amounts provided in this section shall lapse.~~

~~— (2) To facilitate the transfer of moneys to dedicated funds and accounts, the state treasurer shall transfer sufficient moneys to each dedicated fund or account from the special account retirement contribution increase revolving account in accordance with schedules provided by the office of financial management.)~~

**NEW SECTION. Sec. 714.** A new section is added to 2009 c 564 (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT--OPPORTUNITY EXPRESS ACCOUNT**

General Fund--State Appropriation (FY 2011) .....\$18,556,000

The appropriation in this section is provided solely for expenditure into the opportunity express account--state.

**Sec. 715.** 2010 c 247 s 502 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT--REVISED EMPLOYER HEALTH BENEFIT RATES**

Aeronautics Account--State.....	(\$3,000)
	\$10,000
State Patrol Highway Account--State .....	(\$618,000)
	\$1,877,000
Motorcycle Safety Education Account--State.....	(\$2,000)
	\$5,000
High Occupancy Toll Lanes Operations Account--State ..	(\$2,000)
	\$5,000
Rural Arterial Trust Account--State.....	(\$2,000)
	\$5,000
Wildlife Account--State.....	(\$2,000)
	\$5,000
Highway Safety Account--State .....	(\$261,000)
	\$791,000
Highway Safety Account--Federal .....	(\$6,000)
	\$19,000
Motor Vehicle Account--State.....	(\$1,076,000)
	\$3,262,000
Puget Sound Ferry Operations Account--State.....	(\$527,000)
	\$1,601,000
Urban Arterial Trust Account--State .....	(\$2,000)
	\$5,000
Transportation Improvement Account--State .....	(\$2,000)
	\$5,000
County Arterial Preservation Account--State .....	(\$2,000)
	\$5,000
Department of Licensing Services Account--State.....	(\$3,000)
	\$10,000
Multimodal Transportation Account--State.....	(\$13,000)
	\$39,000
Tacoma Narrows Toll Bridge Account--State.....	(\$3,000)
	\$10,000

Appropriations are adjusted to reflect changes to appropriations to reflect changes in the employer cost of providing health benefit coverage. The office of financial management shall update agency appropriations schedules to reflect the changes in funding levels in this section as identified by agency and fund in LEAP transportation document GLB-2010A. From the applicable accounts, the office of financial management shall adjust allotments to the respective agencies by an amount that conforms with funding adjustments enacted in the 2010 supplemental omnibus operating appropriations act. Any allotment reductions under this section must be placed in reserve status and remain unexpended.

**NEW SECTION. Sec. 716.** A new section is added to 2009 c 564 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM PERMIT COMPLIANCE**

Motor Vehicle Account--State Appropriation .....\$2,425,000

The appropriation in this section is subject to the following conditions and limitations: The motor vehicle account appropriation is provided solely for the department of transportation program delivery management and support program's compliance with its national pollution discharge elimination system permit. The department's work may include the competition of system development, reporting, and planning to meet deadlines in the current biennium.

**NEW SECTION. Sec. 717.** A new section is added to 2009 c 564 (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT--AGENCY REALLOCATION AND REALIGNMENT COMMISSION**

General Fund--State Appropriation (FY 2011) .....\$250,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The agency reallocation and realignment of Washington (ARROW) commission on restructuring state government is established, with members as provided in this section.

(a) The governor, the president of the senate, and the speaker of the house of representatives shall each appoint two members to the commission, each of whom shall have broad statewide policy and fiscal experience. Each appointing authority shall appoint a member to replace any member who resigns.

(b) The commission shall choose its chair from among its membership or may select a representative of the administering higher education institution as chair. The president of the senate and the speaker of the house, or their mutually selected designee, shall convene the initial meeting of the commission and shall preside until a chair is chosen.

(2) The commission shall:

(a) Review budget, revenue, and caseload forecasts and estimates over the ensuing six-year period;

(b) Examine current operations and organization of state government, assuming no expansion of current funding sources; and

(c) Evaluate operational and organizational restructuring possibilities to find cost savings and efficiencies in order to maintain or enhance governmental functions with fewer resources.

(3) The commission may make proposals to:

(a) Adopt methods and procedures for reducing expenditures to the lowest amount consistent with the efficient performance of essential services, activities, and functions;

(b) Eliminate duplication and overlapping of services, activities, and functions, and time-consuming or wasteful practices;

(c) Consolidate services, activities, and functions of a similar nature;

(d) Abolish services, activities, and functions to improve the efficient operation of government;

(e) Eliminate state departments and agencies, create new state departments and agencies, reorganize existing state departments and agencies, and transfer functions and responsibilities among state departments and agencies;

(f) Define or redefine the duties and responsibilities of state officers; and

(g) Revise present provisions for continuing appropriations of state funds of whatever kind for whatever purpose, eliminate any such existing provisions, or adopt new provisions.

(4) Staffing and administrative support to the commission shall be provided by a university or college that volunteers to do so.

(5) Commissioners are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 from funds appropriated to the commission.

(6) The expenses of the commission shall be paid out of funds appropriated to the commission, funds made available by the university or college administering the commission, and gifts, grants, and donations.

(7) The commission shall report its findings and recommendations, including proposed legislation, to the appropriate committees of the legislature. Recommendations may be in bill form as proposed legislation, as appropriations or revenue proposals, revisions to administrative rules, or other appropriate formats.

(8) The office of the code reviser shall assist the commission with bill drafting as needed.

(9) This section expires June 30, 2011.

(End of part)

**PART VIII**

**OTHER TRANSFERS AND APPROPRIATIONS**

**Sec. 801.** 2009 c 564 s 801 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER--STATE REVENUES FOR DISTRIBUTION**

General Fund Appropriation for fire insurance premium distributions .....	(\$8,268,000)
	<u>\$7,572,000</u>
General Fund Appropriation for public utility district excise tax distributions .....	(\$48,771,000)
	<u>\$47,342,000</u>
General Fund Appropriation for prosecuting attorney distributions.....	\$6,281,000
General Fund Appropriation for boating safety and education distributions .....	\$4,854,000
General Fund Appropriation for other tax distributions.....	\$50,000
General Fund Appropriation for habitat conservation program distributions .....	\$3,000,000
Death Investigations Account Appropriation for distribution to counties for publicly funded autopsies.....	\$2,544,000
Aquatic Lands Enhancement Account Appropriation for harbor improvement revenue distribution .....	\$170,000
Timber Tax Distribution Account Appropriation for distribution to "timber" counties .....	(\$69,288,000)
	<u>\$36,651,000</u>
County Criminal Justice Assistance Appropriation..	(\$66,374,000)
	<u>\$68,528,000</u>
Municipal Criminal Justice Assistance Appropriation.....	(\$25,622,000)
	<u>\$27,175,000</u>
City-County Assistance Account Appropriation for local government financial assistance distribution .....	(\$28,564,000)
	<u>\$27,366,000</u>
Liquor Excise Tax Account Appropriation for liquor excise tax distribution.....	(\$50,950,000)
	<u>\$58,268,000</u>
Streamline Sales and Use Tax Account Appropriation for distribution to local taxing jurisdictions to mitigate the unintended revenue redistribution effect of the sourcing law changes .....	(\$65,038,000)
	<u>\$50,056,000</u>
Columbia River Water Delivery Account Appropriation for the Confederated Tribes of the Colville Reservation.(\$7,308,000)	
	<u>\$7,315,000</u>
Columbia River Water Delivery Account Appropriation for the Spokane Tribe of Indians .....	(\$4,676,000)
	<u>\$4,644,000</u>
Liquor Revolving Account Appropriation for liquor profits distribution .....	(\$80,435,000)
	<u>\$68,741,000</u>
Liquor Revolving Account Appropriation for additional liquor profits distribution to local governments .....	\$18,677,000
..... TOTAL APPROPRIATION.....	(\$490,870,000)
	<u>\$439,234,000</u>

The total expenditures from the state treasury under the appropriations in this section shall not exceed the funds available under statutory distributions for the stated purposes.

**NEW SECTION. Sec. 802.** A new section is added to 2009 c 564 (uncodified) to read as follows:

**FOR THE STATE TREASURER--TRANSFERS.** If the forecast adopted by the state economic and revenue forecast council in March 2011 anticipates that less than one hundred thirteen million

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five hundred thousand dollars of state lottery revenue will be deposited into the opportunity pathways account in fiscal year 2011, the state treasurer shall transfer sufficient funds from the state general fund to the opportunity pathways account to assure that deposits into the opportunity pathways account total one hundred thirteen million five hundred thousand dollars in fiscal year 2011.

**Sec. 803.** 2009 c 564 s 805 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER--TRANSFERS**

State Treasurer's Service Account: For transfer to the state general fund, ~~(\$10,400,000)~~ \$16,400,000 for fiscal year 2010 and ~~(\$10,400,000)~~ \$16,400,000 for fiscal year 2011 .....~~(\$20,800,000)~~ \$32,800,000

Waste Reduction, Recycling and Litter Control Account: For transfer to the state general fund, ~~(\$2,000,000)~~ \$3,000,000 for fiscal year 2010 and ~~(\$2,000,000)~~ \$3,000,000 for fiscal year 2011 .....~~(\$4,000,000)~~ \$6,000,000

State Toxics Control Account: For transfer to the state general fund, \$15,340,000 for fiscal year 2010 and ~~(\$14,400,000)~~ \$17,780,000 for fiscal year 2011 .....~~(\$29,740,000)~~ \$33,120,000

Local Toxics Control Account: For transfer to the state general fund, \$37,060,000 for fiscal year 2010 and ~~(\$36,000,000)~~ \$48,759,000 for fiscal year 2011 .....~~(\$73,060,000)~~ \$85,819,000

Education Construction Account: For transfer to the state general fund, ~~(\$93,362,000)~~ \$105,228,000 for fiscal year 2010 and ~~(\$100,401,000)~~ \$106,451,000 for fiscal year 2011 .....~~(\$193,763,000)~~ \$211,679,000

Aquatics Lands Enhancement Account: For transfer to the state general fund, ~~(\$5,050,000)~~ \$8,520,000 for fiscal year 2010 and \$5,050,000 for fiscal year 2011 .....~~(\$10,100,000)~~ \$13,570,000

Drinking Water Assistance Account: For transfer to the drinking water assistance repayment account .....\$28,600,000

Economic Development Strategic Reserve Account: For transfer to the state general fund, \$2,500,000 for fiscal year 2010 and \$2,500,000 for fiscal year 2011 .....\$5,000,000

Tobacco Settlement Account: For transfer to the state general fund, in an amount not to exceed by more than ~~(\$26,000,000)~~ \$42,200,000 the actual amount of the annual payment to the tobacco settlement account .....~~(\$204,098,000)~~ \$220,298,000

Tobacco Settlement Account: For transfer to the life sciences discovery fund, in an amount not to exceed ~~(\$26,000,000)~~ \$42,200,000 less than the actual amount of the strategic contribution supplemental payment to the tobacco settlement account .....~~(\$39,170,000)~~ \$22,970,000

General Fund: For transfer to the streamline sales and use tax account, ~~(\$31,447,000)~~ \$24,274,000 for fiscal year 2010 and ~~(\$33,591,000)~~ 24,182,000 for fiscal year 2011 .....~~(\$65,038,000)~~ \$48,456,000

State Convention and Trade Center Account: For transfer to the state convention and trade center operations account, \$1,000,000 for fiscal year 2010 and \$3,100,000

for fiscal year 2011.....\$4,100,000  
Tobacco Prevention and Control Account: For transfer to the state general fund for fiscal year 2010 .....\$1,961,000  
Nisqually Earthquake Account: For transfer to the disaster response account for fiscal year 2010 .....\$500,000  
Judicial Information Systems Account: For transfer to the state general fund, ~~(\$2,500,000)~~ \$3,250,000 for fiscal year 2010 and ~~(\$2,500,000)~~ \$3,250,000 for fiscal year 2011 .....~~(\$5,000,000)~~ \$6,500,000

Department of Retirement Systems Expense Account: For transfer to the state general fund, \$1,000,000 for fiscal year 2010 and \$1,500,000 for fiscal year 2011 .....~~(\$1,500,000)~~ \$2,500,000

State Emergency Water Projects Account: For transfer to the state general fund, \$390,000 for fiscal year 2011 .....\$390,000

The Charitable, Educational, Penal, and Reformatory Institutions Account: For transfer to the state general fund, \$5,550,000 for fiscal year 2010 and \$5,550,000 for fiscal year 2011 .....\$11,100,000

Energy Freedom Account: For transfer to the state general fund, ~~(\$2,978,000)~~ \$4,038,000 for fiscal year 2010 and \$2,978,000 for fiscal year 2011 ...~~(\$5,956,000)~~ \$7,016,000

Thurston County Capital Facilities Account: For transfer to the state general fund, ~~(\$4,194,000)~~ \$8,604,000 for fiscal year 2010 and ~~(\$4,194,000)~~ \$5,538,000 for fiscal year 2011 .....~~(\$8,388,000)~~ \$14,142,000

Public Works Assistance Account: For transfer to the state general fund, ~~(\$184,000,000)~~ \$279,640,000 for fiscal year 2010 and ~~(\$184,000,000)~~ \$229,560,000 for fiscal year 2011 .....~~(\$368,000,000)~~ \$509,200,000

Budget Stabilization Account: For transfer to the state general fund for fiscal year 2010 .....\$45,130,000

Budget Stabilization Account: For transfer to the state general fund for fiscal year 2010 if House Bill No. 3197 is not enacted by June 30, 2010.....\$95,986,000

Liquor Revolving Account: For transfer to the state general fund, \$31,000,000 for fiscal year 2010 and ~~(\$31,000,000)~~ \$25,500,000 for fiscal year 2011 .....~~(\$62,000,000)~~ \$56,500,000

Public Works Assistance Account: For transfer to the city-county assistance account, \$5,000,000 on July 1, 2009, and \$5,000,000 on July 1, 2010 .....\$10,000,000

Public Works Assistance Account: For transfer to the drinking water assistance account, ~~(\$4,000,000)~~ \$6,930,000 for fiscal year 2010 and \$4,000,000 for fiscal year 2011 .....~~(\$8,000,000)~~ \$10,930,000

Shared Game Lottery Account: For transfer to the education legacy trust account, \$3,600,000 for fiscal year 2010 and \$2,400,000 for fiscal year 2011.....\$6,000,000

State Lottery Account: For transfer to the education legacy trust account, \$9,500,000 for fiscal year 2010 and \$9,500,000 for fiscal year 2011.....\$19,000,000

College Faculty Awards Trust Fund: For transfer to the state general fund for fiscal year 2010, an amount not to exceed the actual cash balance of the fund .....\$4,000,000

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Washington Distinguished Professorship Trust Fund:  
For transfer to the state general fund for fiscal  
year 2010, an amount not to exceed the actual cash  
balance of the fund.....\$6,000,000

Washington Graduate Fellowship Trust Account:  
For transfer to the state general fund for fiscal  
year 2010, an amount not to exceed the actual cash  
balance of the fund.....\$2,000,000

GET Ready for Math and Science Scholarship Account:  
For transfer to the state general fund for  
fiscal year 2010, an amount not to exceed  
the actual cash balance not comprised of or  
needed to match private contributions .....\$1,800,000

Financial Services Regulation Account: For  
transfer to the state general fund,  
\$2,000,000 for fiscal year 2010 and  
\$2,000,000 for fiscal year 2011.....\$4,000,000

Data Processing Revolving Fund: For  
transfer to the state general fund,  
\$5,632,000 for fiscal year 2010.....\$5,632,000

Public Service Revolving Account: For  
transfer to the state general fund,  
\$8,000,000 for fiscal year 2010 and  
\$7,000,000 for fiscal year 2011.....\$15,000,000

Water Quality Capital Account: For  
transfer to the state general fund,  
\$278,000 for fiscal year 2011.....\$278,000

Performance Audits of Government Account:  
For transfer to the state general fund,  
\$10,000,000 for fiscal year 2010 and  
\$5,000,000 for fiscal year 2011.....\$15,000,000

Job Development Account: For transfer to the  
state general fund, \$20,930,000 for fiscal  
year 2010.....\$20,930,000

Savings Incentive Account: For transfer to the  
state general fund, \$10,117,000 for fiscal  
year 2010.....\$10,117,000

Education Savings Account: For transfer to the  
state general fund, \$100,767,000 for fiscal  
year 2010.....\$100,767,000

Cleanup Settlement Account: For transfer to the  
state efficiency and restructuring account for  
fiscal year 2011 .....\$39,480,000

Disaster Response Account: For transfer to the  
state drought preparedness account, \$4,000,000  
for fiscal year 2010.....\$4,000,000

Washington State Convention and Trade Center Account:  
For transfer to the state general fund, \$10,000,000  
for fiscal year 2011. The transfer in this section  
shall occur on June 30, 2011, only if by that date  
the Washington state convention and trade center is  
not transferred to a public facilities district  
pursuant to Substitute Senate Bill No. 6889  
(convention and trade center).....\$10,000,000

Institutional Welfare/Betterment Account: For transfer  
to the state general fund, \$2,000,000 for fiscal  
year 2010 and \$2,000,000 for fiscal year 2011 .....\$4,000,000

Insurance Commissioners Regulatory Account: For  
transfer to the state general fund, \$5,000,000  
on June 30, 2010, and \$5,000,000 on June 30,  
2011.....\$10,000,000

Future Teacher Conditional Scholarship Account: For  
transfer to the state general fund, \$2,150,000  
for fiscal year 2010 and \$2,150,000 for fiscal  
year 2011.....\$4,300,000

Fingerprint Identification Account: For transfer  
to the state general fund, \$800,000 for fiscal  
year 2011.....\$800,000

Prevent or Reduce Owner-Occupied Foreclosure  
Program Account: For transfer to the financial  
education public-private partnership account for  
fiscal year 2010, an amount not to exceed the actual  
cash balance of the fund as of June 30, 2010.....\$300,000

**Sec. 804.** 2010 c 247 s 407 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER--ADMINISTRATIVE TRANSFERS**

(1) Tacoma Narrows Toll Bridge Account--State Appropriation: For transfer to the Motor Vehicle Account--State .....\$5,288,000

(2) Motor Vehicle Account--State Appropriation: For transfer to the Puget Sound Ferry Operations Account--State .....(~~(\$54,000,000)~~)  
\$54,100,000

(3) Recreational Vehicle Account--State Appropriation: For transfer to the Motor Vehicle Account--State .....\$2,000,000

(4) License Plate Technology Account--State Appropriation: For transfer to the Highway Safety Account--State .....\$2,750,000

(5) Multimodal Transportation Account--State Appropriation: For transfer to the Puget Sound Ferry Operations Account--State .....\$9,000,000

(6) Highway Safety Account--State Appropriation: For transfer to the Multimodal Transportation Account--State .....\$18,750,000

(7) Department of Licensing Services Account--State Appropriation: For transfer to the Motor Vehicle Account--State .....\$1,300,000

(8) Advanced Right-of-Way Account: For transfer to the Motor Vehicle Account--State .....\$14,000,000

(9)(~~(10)~~) State Route Number 520 Civil Penalties Account--State Appropriation: For transfer to the State Route Number 520 Corridor Account--State.....\$190,000

(~~(10)~~) (10) Advanced Environmental Mitigation Revolving Account--State Appropriation: For transfer to the Motor Vehicle Account--State.....\$5,000,000

(~~(11)~~) (11) Regional Mobility Grant Program Account--State Appropriation: For transfer to the Multimodal Transportation Account--State.....\$4,000,000

(~~(12)~~) (12) Motor Vehicle Account--State Appropriation: For transfer to the State Patrol Highway Account--State .....(~~(\$4,000,000)~~)  
\$5,600,000

(~~(13)~~) (13) The transfers identified in this section are subject to the following conditions and limitations:

(a) The amount transferred in subsection (1) of this section represents repayment of operating loans and reserve payments provided to the Tacoma Narrows toll bridge account from the motor vehicle account in the 2005-07 fiscal biennium. However, if Engrossed Substitute Senate Bill No. 6499 is enacted by June 30, 2010, the transfer in subsection (1) of this section shall not occur.

(b) Any cash balance in the waste tire removal account in excess of one million dollars must be transferred to the motor vehicle account for the purpose of road wear-related maintenance on state and local public highways.

(c) The transfer in subsection (~~(10)~~) (9) of this section represents toll revenue collected from toll violations.

(End of part)

**PART IX  
MISCELLANEOUS**

**Sec. 901.** 2010 c 3 s 601 (uncodified) is amended to read as follows:

**NEW HIRES.** (1) From the effective date of this section until July 1, 2011, state agencies of the legislative, executive, and judicial branches shall not establish new staff positions or fill vacant existing staff positions except as specifically authorized by this section.

(2) The following activities of state agencies are exempt from subsection (1) of this section:

(a) Direct custody, supervision, and patient care in corrections, juvenile rehabilitation, institutional care of veterans, the mentally ill, developmentally disabled, state hospitals, the special commitment center, and the schools for the blind and the deaf;

(b) Direct protective services to children and other vulnerable populations in the department of social and health services;

(c) Washington state patrol investigative services and field enforcement;

(d) Hazardous materials response and emergency cleanup;

(e) Emergency public health and patient safety response and the public health laboratory;

(f) Military operations and emergency management within the military department;

(g) Firefighting;

(h) Enforcement officers in the department of fish and wildlife, the liquor control board, the gambling commission, and the department of natural resources;

(i) Park rangers at the parks and recreation commission;

(j) Seasonal employment by natural resources agencies to the extent that employment levels do not exceed the prior fiscal year;

(k) Seasonal employment in the department of transportation maintenance programs to the extent that employment levels do not exceed the prior fiscal year;

(l) Employees hired on a seasonal basis by the department of agriculture for inspection and certification of agricultural products and for insect detection;

(m) Activities directly related to tax and fee collection, revenue generation, auditing, and recovery;

(n) In institutions of higher education, any positions directly related to academic programs, as well as positions not funded from state funds or tuition, positions that are filled by enrolled students at their own institution as student workers, positions in campus police and security, positions related to emergency management and response, and positions related to student health care and counseling;

(o) Operations of the state lottery and liquor control board business enterprises;

(p) The unemployment insurance program of the employment security department; and

(q) Activities that are necessary to receive or maintain federal funds by the state.

(3) The exemptions specified in subsection (2) of this section do not require the establishment of new staff positions or the filling of vacant staff positions in the activities specified.

(4) Exceptions to this section may be granted under section 605 of this act.

(5) Also exempted from this section are positions related to facility realignments in the department of corrections, positions related to the transfer of programs between state agencies assumed in this act, and disability determination staff funded solely by federal funds.

**NEW SECTION. Sec. 902.** A new section is added to 2009 c 564 (uncodified) to read as follows:

**AGENCY STAFFING.** (1) By July 1, 2010, all state agencies must prepare and submit to the office of financial management staffing plans for fiscal year 2011. The first plan must list, by month and by job class, the number of budgeted FTEs, salaries, and benefits for the state general fund. The second plan must list, by month and by job class, the number of budgeted FTEs, salaries, and benefits for the total of all other allotted funds. The plans must be submitted at the same organizational level of detail as funds are appropriated to the agency. Agency allotments and staffing plans submitted to the office of financial management must be consistent.

(2) Agencies may only allot FTEs to the extent that the funding allotment contains sufficient funding to fully support those positions. To the extent that allotted FTEs would exceed available funding to support those positions, agencies shall request that the office of financial management revise their full-time equivalent staff allotment to the funded level; legislative and judicial agencies shall report the revised level to the office of financial management. The office of financial management shall summarize, by agency, the changes made under this subsection and provide that information to the appropriate fiscal committees of the legislature by October 1, 2010.

(3) Each agency shall report to the office of financial management the number of FTEs filled, by job class, as of July 1, 2010. The information must be provided at the same level of detail as is contained in the staffing plan. For any positions that are vacant on that date, the agency shall list the date that position was last filled. The office of financial management shall summarize information provided under this subsection and report to the appropriate fiscal committees of the legislature by October 1, 2010.

**NEW SECTION. Sec. 903.** A new section is added to 2009 c 564 (uncodified) to read as follows:

**STATE HOUSING FINANCE COMMISSION--FORECLOSURE REVIEW.** In an effort to reduce the number of residential foreclosures while protecting the interests of both borrowers and beneficiaries, the state housing finance commission shall conduct a review of the effectiveness of RCW 61.24.031, which requires a beneficiary or authorized agent to contact the borrower before issuing a notice of default for the purposes of assessing the borrower's financial ability to repay the debt and discussing alternatives to foreclosure. The commission's review of the process shall, at a minimum, examine whether the contact requirement has resulted in an increase in the number of loan modifications and whether additional statutory provisions, such as mandatory mediation, are needed to produce effective communication between beneficiaries and borrowers. The state housing finance commission shall report its findings and any recommendations for legislation to the appropriate committees of the legislature by November 30, 2010.

**NEW SECTION. Sec. 904.** A new section is added to 2009 c 564 (uncodified) to read as follows:

**COLLECTIVE BARGAINING AGREEMENT--WSRCC ADULT FAMILY HOME PROVIDERS.** Appropriations in this act reflect the collective bargaining agreement reached between the governor and the Washington state residential care council of adult family homes under the provisions of chapter 41.56 RCW.

**NEW SECTION. Sec. 905.** A new section is added to 2009 c 564 (uncodified) to read as follows:

For purposes of RCW 43.88.110(7), any cash deficit in existence at the close of fiscal year 2010 shall be liquidated over the remainder of the 2009-2011 fiscal biennium.

**Sec. 906.** 2009 c 564 s 914 (uncodified) is amended to read as follows:

**COMPENSATION--INSURANCE BENEFITS.** Appropriations for state agencies in this act are sufficient for nonrepresented and represented state employee health benefits for

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state agencies, including institutions of higher education and are subject to the following conditions and limitations:

(1)(a) The monthly employer funding rate for insurance benefit premiums, public employees' benefits board administration, and the uniform medical plan, shall not exceed \$745 per eligible employee for fiscal year 2010. For fiscal year 2011 the monthly employer funding rate shall not exceed (~~(\$768)~~) \$850 per eligible employee.

(b) In order to achieve the level of funding provided for health benefits, the public employees' benefits board shall require any or all of the following: Employee premium copayments, increases in point-of-service cost sharing, the implementation of managed competition, or make other changes to benefits consistent with RCW 41.05.065. During the 2009-11 fiscal biennium, the board may only authorize benefit plans and premium contributions for an employee and the employee's dependents that are the same, regardless of an employee's status as represented or nonrepresented under the personnel system reform act of 2002.

(c) The health care authority shall deposit any moneys received on behalf of the uniform medical plan as a result of rebates on prescription drugs, audits of hospitals, subrogation payments, or any other moneys recovered as a result of prior uniform medical plan claims payments, into the public employees' and retirees' insurance account to be used for insurance benefits. Such receipts shall not be used for administrative expenditures.

(d) The conditions in this section apply to benefits for nonrepresented employees, employees represented by the super coalition, and represented employees outside of the super coalition, including employees represented under chapter 47.64 RCW.

(2) The health care authority, subject to the approval of the public employees' benefits board, shall provide subsidies for health benefit premiums to eligible retired or disabled public employees and school district employees who are eligible for medicare, pursuant to RCW 41.05.085. From January 1, 2010, through the remainder of the 2009-11 fiscal biennium, the subsidy shall be \$182.89.

(3) Technical colleges, school districts, and educational service districts shall remit to the health care authority for deposit into the public employees' and retirees' insurance account established in RCW 41.05.120 the following amounts:

(a) For each full-time employee, \$59.59 per month beginning September 1, 2009, and (~~(\$64.90)~~) \$62.48 beginning September 1, 2010;

(b) For each part-time employee, who at the time of the remittance is employed in an eligible position as defined in RCW 41.32.010 or 41.40.010 and is eligible for employer fringe benefit contributions for basic benefits, \$59.59 each month beginning September 1, 2009, and (~~(\$64.90)~~) \$62.48 beginning September 1, 2010, prorated by the proportion of employer fringe benefit contributions for a full-time employee that the part-time employee receives. The remittance requirements specified in this subsection shall not apply to employees of a technical college, school district, or educational service district who purchase insurance benefits through contracts with the health care authority.

**Sec. 907.** 2010 c 247 s 503 (uncodified) is amended to read as follows:

**COMPENSATION--INSURANCE BENEFITS.** Appropriations for state agencies in this act are sufficient for nonrepresented and represented state employee health benefits for state agencies, and are subject to the following conditions and limitations:

(1)(a) Unless otherwise provided in the 2010 supplemental omnibus operating appropriations act, the monthly employer funding rate for insurance benefit premiums, public employees' benefits board administration, and the uniform medical plan, shall not exceed \$745 per eligible employee for fiscal year 2010. For

fiscal year 2011, the monthly employer funding rate shall not exceed (~~(\$795)~~) \$850 per eligible employee.

(b) In order to achieve the level of funding provided for health benefits, the public employees' benefits board shall require any or all of the following: Employee premium copayments; increases in point-of-service cost sharing; the implementation of managed competition; or make other changes to benefits consistent with RCW 41.05.065. During the 2009-11 fiscal biennium, the board may only authorize benefit plans and premium contributions for an employee and the employee's dependents that are the same, regardless of an employee's status as represented or nonrepresented under the personnel system reform act of 2002.

(c) The health care authority shall deposit any moneys received on behalf of the uniform medical plan as a result of rebates on prescription drugs, audits of hospitals, subrogation payments, or any other moneys recovered as a result of prior uniform medical plan claims payments into the public employees' and retirees' insurance account to be used for insurance benefits. Such receipts shall not be used for administrative expenditures.

(d) The conditions in this section apply to benefits for nonrepresented employees, employees represented by the super coalition, and represented employees outside of the super coalition, including employees represented under chapter 47.64 RCW.

(2) Unless otherwise provided in the 2010 supplemental omnibus operating appropriations act, the health care authority, subject to the approval of the public employees' benefits board, shall provide subsidies for health benefit premiums to eligible retired or disabled public employees and school district employees who are eligible for medicare, pursuant to RCW 41.05.085. From January 1, 2010, through December 31, 2010, the subsidy shall be \$182.89. Beginning January 1, 2011, the subsidy shall be \$182.89 per month.

**NEW SECTION. Sec. 908.** A new section is added to 2009 c 564 (uncodified) to read as follows:

(1) During the 2009-2011 fiscal biennium, every state agency shall implement processes to make all renewal notices available to customers via electronic means by July 1, 2012. The appropriations in this act provide funding for this purpose.

(2) Every state agency shall encourage customers to opt-in for an electronic renewal notice in lieu of physical renewal notice.

(3) For purposes of this section:

(a) "Renewal notices" includes, but is not limited to, notices for the renewal of licenses, registrations, and permits; and

(b) "State agency" includes every state office, department, division, bureau, board, and commission of the state.

**NEW SECTION. Sec. 909.** A new section is added to 2009 c 564 (uncodified) to read as follows:

**CORE FUNCTIONS OF GOVERNMENT REVIEW.** (1) The legislature intends to evaluate whether the state agencies and activities are performing in the most efficient manner.

(2) By August 1, 2010, the joint legislative audit and review committee must select one of the priorities of government results and determine the relative priority of each activity based on the activity's contribution to the overall objectives of the priorities of government results area.

(3) The state auditor must select at least one but not more than four of the highest priority activities identified under subsection (2) of this section to be the subject of performance audits. The activities must be selected for performance audits under this subsection based on the evidence that the program or activity would likely benefit from the evaluation or review. The performance audit shall be conducted using generally accepted government auditing standards and may include an evaluation of: (a) Ways to improve performance, streamline operations, and provide cost-effective service to citizens; (b) programs and services that can be eliminated, reduced, consolidated, or enhanced; and (c) gaps and

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overlaps in the programs and services and recommendations for improving, eliminating, blending, or separating functions to correct gaps or overlaps.

(4) The state auditor must select at least one of the lowest priority activities identified in subsection (2) of this section to be the subject of an activity assessment. The assessment must address the following questions:

(a) Does the activity continue to serve the purpose for which it was created?

(b) In comparison to other programs and priorities, does this purpose continue to merit the use of the state's limited resources?

(c) Does this activity continue to contribute to the priorities of government identified?

(d) Are there better alternatives for the use of these resources or to accomplish the objective of the activity?

(5) The performance audits conducted under subsection (3) of this section and the assessments under subsection (4) of this section must be completed by June 30, 2011.

**Sec. 910.** RCW 13.06.050 and 1993 c 415 s 7 are each amended to read as follows:

No county shall be entitled to receive any state funds provided by this chapter until its application and plan are approved, and unless and until the minimum standards prescribed by the department of social and health services are complied with and then only on such terms as are set forth in this section. In addition, any county making application for state funds under this chapter that also operates a juvenile detention facility must have standards of operations in place that include: Intake and admissions, medical and health care, communication, correspondence, visiting and telephone use, security and control, sanitation and hygiene, juvenile rights, rules and discipline, property, juvenile records, safety and emergency procedures, programming, release and transfer, training and staff development, and food service.

(1) ~~For the 2009-2011 fiscal biennium, the~~ distribution of funds to a county or a group of counties ~~((shall))~~ may be based on criteria including but not limited to the county's per capita income, regional or county at-risk populations, juvenile crime or arrest rates, rates of poverty, size of racial minority populations, existing programs, and the effectiveness and efficiency of consolidating local programs towards reducing commitments to state correctional facilities for offenders whose standard range disposition does not include commitment of the offender to the department and reducing reliance on other traditional departmental services.

(2) The secretary will reimburse a county upon presentation and approval of a valid claim pursuant to the provisions of this chapter based on actual performance in meeting the terms and conditions of the approved plan and contract. Funds received by participating counties under this chapter shall not be used to replace local funds for existing programs.

(3) The secretary, in conjunction with the human rights commission, shall evaluate the effectiveness of programs funded under this chapter in reducing racial disproportionality. The secretary shall investigate whether implementation of such programs has reduced disproportionality in counties with initially high levels of disproportionality. The analysis shall indicate which programs are cost-effective in reducing disproportionality in such areas as alternatives to detention, intake and risk assessment standards pursuant to RCW 13.40.038, alternatives to incarceration, and in the prosecution and adjudication of juveniles. The secretary shall report his or her findings to the legislature by December 1, 1994, and December 1 of each year thereafter.

**NEW SECTION. Sec. 911.** A new section is added to 2009 c 564 (unmodified) to read as follows:

(1) Except for the activities and organizations provided in subsection (2) of this section, all small agencies with fewer than 176

FTEs shall utilize the office of financial management small agency client services for budget, accounting, and payroll services. The director of financial management shall define the transition process and specific agency requirements.

(2) The following activities and organizations are not subject to the requirements of subsection (1) of this section:

(a) The processing of invoices and budgeting provided for conservation districts by agencies established under chapters 89.08 and 89.10 RCW;

(b) The accounting requirements of the state housing finance commission and its affiliates established under chapters 43.180, 28B.07, and 43.340 RCW; and

(c) The accounting requirements of the health care facilities authority established under chapter 70.37 RCW, and the economic development finance authority established under chapter 43.163 RCW.

**Sec. 912.** RCW 15.76.115 and 2001 2nd sp.s. c 16 s 1 are each amended to read as follows:

The fair fund is created in the custody of the state treasury. All moneys received by the department of agriculture for the purposes of this fund and from RCW 67.16.105(4) shall be deposited into the fund. At the beginning of fiscal year 2002 and each fiscal year thereafter, the state treasurer shall transfer into the fair fund from the general fund the sum of two million dollars, except for fiscal year 2011 the state treasurer shall transfer into the fair fund from the general fund the sum of one million one hundred three thousand dollars. Expenditures from the fund may be used only for assisting fairs in the manner provided in this chapter. Only the director of agriculture or the director's designee may authorize expenditures from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

**Sec. 913.** RCW 28A.300.380 and 2000 c 84 s 2 are each amended to read as follows:

(1) The superintendent of public instruction shall maintain support for statewide coordination for career and technical student organizations by providing program staff support that is available to assist in meeting the needs of career and technical student organizations and their members and students. ~~((The superintendent shall provide at least one full-time equivalent program staff for purposes of implementing this section.))~~ The superintendent may provide additional support to the organizations through contracting with independent coordinators.

(2) Career and technical student organizations eligible for technical assistance and other support services under this section are organizations recognized as career and technical student organizations by:

(a) The United States department of education; or

(b) The superintendent of public instruction, if such recognition is recommended by the Washington association for career and technical education.

(3) Career and technical student organizations eligible for technical assistance and other support services under this section include, but are not limited to: The national FFA organization; family, career, and community leaders of America; skillsUSA; distributive education clubs of America; future business leaders of America; and the technology student association.

**Sec. 914.** RCW 28B.50.837 and 2009 c 564 s 1803 are each amended to read as follows:

(1) The Washington community and technical college exceptional faculty awards program is established. The program shall be administered by the college board. The college faculty awards trust fund hereby created shall be administered by the state treasurer.

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(2) Funds appropriated by the legislature for the community and technical college exceptional faculty awards program shall be deposited in the college faculty awards trust fund. At the request of the college board, the treasurer shall release the state matching funds to the local endowment fund of the college or its foundation. No appropriation is necessary for the expenditure of moneys from the fund. Expenditures from the fund may be used solely for the exceptional faculty awards program. During the ~~((2007-2009))~~ 2009-2011 fiscal biennium, the legislature may transfer from the college faculty awards trust fund to the state general fund such amounts as reflect the excess fund balance in the account ~~((fund))~~.

**Sec. 915.** RCW 28B.76.565 and 2009 c 564 s 1805 are each amended to read as follows:

Funds appropriated by the legislature for the distinguished professorship program shall be deposited in the distinguished professorship trust fund. At the request of the higher education coordinating board under RCW 28B.76.575, the treasurer shall release the state matching funds to the designated institution's local endowment fund. No appropriation is required for expenditures from the fund. During the ~~((2007-2009))~~ 2009-2011 fiscal biennium, the legislature may transfer from the distinguished professorship trust fund to the state general fund such amounts as reflect the excess fund balance in the account ~~((fund))~~.

**Sec. 916.** RCW 28B.76.610 and 2009 c 564 s 1806 are each amended to read as follows:

Funds appropriated by the legislature for the graduate fellowship program shall be deposited in the graduate fellowship trust fund. At the request of the higher education coordinating board under RCW 28B.76.620, the treasurer shall release the state matching funds to the designated institution's local endowment fund. No appropriation is required for expenditures from the fund. During the ~~((2007-2009))~~ 2009-2011 fiscal biennium, the legislature may transfer from the graduate fellowship trust fund to the state general fund such amounts as reflect the excess fund balance in the account ~~((fund))~~.

**Sec. 917.** RCW 28B.102.080 and 2007 c 396 s 9 are each amended to read as follows:

(1) The future teachers conditional scholarship account is created in the custody of the state treasurer. An appropriation is not required for expenditures of funds from the account. The account is not subject to allotment procedures under chapter 43.88 RCW except for moneys used for program administration.

(2) The board shall deposit in the account all moneys received for the future teachers conditional scholarship and loan repayment program and for conditional loan programs under chapter 28A.660 RCW. The account shall be self-sustaining and consist of funds appropriated by the legislature for the future teachers conditional scholarship and loan repayment program, private contributions to the program, receipts from participant repayments from the future teachers conditional scholarship and loan repayment program, and conditional loan programs established under chapter 28A.660 RCW. Beginning July 1, 2004, the board shall also deposit into the account: (a) All funds from the institution of higher education loan account that are traceable to any conditional scholarship program for teachers or prospective teachers established by the legislature before June 10, 2004; and (b) all amounts repaid by individuals under any such program.

(3) Expenditures from the account may be used solely for conditional loans and loan repayments to participants in the future teachers conditional scholarship and loan repayment program established by this chapter, conditional scholarships for participants in programs established in chapter 28A.660 RCW, and costs associated with program administration by the board.

(4) Disbursements from the account may be made only on the authorization of the board.

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(5) During the 2009-2011 fiscal biennium, the legislature may transfer from the future teachers conditional scholarship account to the state general fund such amounts as reflect the excess fund balance of the account.

**Sec. 918.** RCW 28B.105.110 and 2009 c 564 s 1807 and 2009 c 564 s 920 are each reenacted and amended to read as follows:

(1) The GET ready for math and science scholarship account is created in the custody of the state treasurer.

(2) The board shall deposit into the account all money received for the GET ready for math and science scholarship program from appropriations and private sources. The account shall be self-sustaining.

(3) Expenditures from the account shall be used for scholarships to eligible students and for purchases of GET units. Purchased GET units shall be owned and held in trust by the board. Expenditures from the account shall be an equal match of state appropriations and private funds raised by the program administrator. During the 2009-2011 fiscal biennium, expenditures from the account not to exceed five percent may be used by the program administrator to carry out the provisions of RCW 28B.105.090.

(4) With the exception of the operating costs associated with the management of the account by the treasurer's office as authorized in chapter 43.79A RCW, the account shall be credited with all investment income earned by the account.

(5) Disbursements from the account are exempt from appropriations and the allotment provisions of chapter 43.88 RCW.

(6) Disbursements from the account shall be made only on the authorization of the board.

(7) During the 2007-2009 fiscal biennium, the legislature may transfer state appropriations to the GET ready for math and science scholarship account that have not been matched by private contributions to the state general fund.

(8) During the 2009-2011 fiscal biennium, the legislature may transfer from the GET ready for math and science scholarship account to the state general fund such amounts as have not been donated from or matched by private contributions.

**Sec. 919.** RCW 38.52.105 and 2005 c 422 s 2 are each amended to read as follows:

The disaster response account is created in the state treasury. Moneys may be placed in the account from legislative appropriations and transfers, federal appropriations, or any other lawful source. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for support of state agency and local government disaster response and recovery efforts and to reimburse the workers' compensation funds and self-insured employers under RCW 51.16.220. ~~((During the 2001-03 biennium, funds from the account may also be used for costs associated with national security preparedness activities.))~~ During the 2009-2011 fiscal biennium, the legislature may transfer from the disaster response account to the state drought preparedness account such amounts as reflect the excess fund balance of the account to support expenditures related to a state drought declaration.

**Sec. 920.** RCW 43.17.390 and 2009 c 564 s 931 are each amended to read as follows:

Starting ~~((in 2012))~~ June 30, 2010, and at least once every three years thereafter, each agency with more than three hundred full-time equivalent employees shall apply to the Washington state quality award, or similar organization, for an independent assessment of its quality management, accountability, and performance system. The assessment shall evaluate the effectiveness of all elements of its management, accountability, and performance system, including: Leadership, strategic planning, customer focus, analysis and information, employee performance management, and process

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improvement. The purpose of the assessment is to recognize best practice and identify improvement opportunities.

**Sec. 921.** RCW 43.20A.725 and 2004 c 254 s 1 are each amended to read as follows:

(1) The department, through the sole authority of the office or its successor organization, shall maintain a program whereby an individual of school age or older who possesses a hearing or speech impairment is provided with telecommunications equipment, software, and/or peripheral devices, digital or otherwise, that is determined by the office to be necessary for such a person to access and use telecommunications transmission services effectively.

(2) The department, through the sole authority of the office or its successor organization, shall maintain a program where telecommunications relay services of a human or electronic nature will be provided to connect hearing impaired, deaf-blind, or speech impaired persons with persons who do not have a hearing or speech impairment. Such telecommunications relay services shall provide the ability for an individual who has a hearing or speech impairment to engage in voice, tactile, or visual communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech impairment to communicate using voice or visual communication services by wire or radio subject to subsection (4)(b) of this section.

(3) The telecommunications relay service and equipment distribution program may operate in such a manner as to provide communications transmission opportunities that are capable of incorporating new technologies that have demonstrated benefits consistent with the intent of this chapter and are in the best interests of the citizens of this state.

(4) The office shall administer and control the award of money to all parties incurring costs in implementing and maintaining telecommunications services, programs, equipment, and technical support services according to this section. The relay service contract shall be awarded to an individual company registered as a telecommunications company by the utilities and transportation commission, to a group of registered telecommunications companies, or to any other company or organization determined by the office as qualified to provide relay services, contingent upon that company or organization being approved as a registered telecommunications company prior to final contract approval. The relay system providers and telecommunications equipment vendors shall be selected on the basis of cost-effectiveness and utility to the greatest extent possible under the program and technical specifications established by the office.

(a) To the extent funds are available under the then-current rate and not otherwise held in reserve or required for other purposes authorized by this chapter, the office may award contracts for communications and related services and equipment for hearing impaired or speech impaired individuals accessing or receiving services provided by, or contracted for, the department to meet access obligations under Title 2 of the federal Americans with disabilities act or related federal regulations.

(b) The office shall perform its duties under this section with the goal of achieving functional equivalency of access to and use of telecommunications services similar to the enjoyment of access to and use of such services experienced by an individual who does not have a hearing or speech impairment only to the extent that funds are available under the then-current rate and not otherwise held in reserve or required for other purposes authorized by this chapter.

(5) The program shall be funded by a telecommunications relay service (TRS) excise tax applied to each switched access line provided by the local exchange companies. The office shall determine, in consultation with the office's program advisory committee, the budget needed to fund the program on an annual basis, including both operational costs and a reasonable amount for

capital improvements such as equipment upgrade and replacement. The budget proposed by the office, together with documentation and supporting materials, shall be submitted to the office of financial management for review and approval. The approved budget shall be given by the department in an annual budget to the department of revenue no later than March 1st prior to the beginning of the fiscal year. The department of revenue shall then determine the amount of telecommunications relay service excise tax to be placed on each switched access line and shall inform local exchange companies and the utilities and transportation commission of this amount no later than May 1st. The department of revenue shall determine the amount of telecommunications relay service excise tax to be collected in the following fiscal year by dividing the total of the program budget, as submitted by the office, by the total number of switched access lines in the prior calendar year, as reported to the department of revenue under chapter 82.14B RCW, and shall not exercise any further oversight of the program under this subsection other than administering the collection of the telecommunications relay service excise tax as provided in RCW 82.72.010 through 82.72.090. The telecommunications relay service excise tax shall not exceed nineteen cents per month per access line. The telecommunications relay service excise tax shall be separately identified on each ratepayer's bill with the following statement: "Funds federal ADA requirement." All proceeds from the telecommunications relay service excise tax shall be put into a fund to be administered by the office through the department. During the 2009-2011 fiscal biennium, the funds may also be used to provide individualized employment services and employment-related counseling to people with disabilities, and technical assistance to employers about the employment of people with disabilities. "Switched access line" has the meaning provided in RCW 82.14B.020.

(6) The telecommunications relay service program and equipment vendors shall provide services and equipment consistent with the requirements of federal law for the operation of both interstate and intrastate telecommunications services for the hearing impaired or speech impaired. The department and the utilities and transportation commission shall be responsible for ensuring compliance with federal requirements and shall provide timely notice to the legislature of any legislation that may be required to accomplish compliance.

(7) The department shall adopt rules establishing eligibility criteria, ownership obligations, financial contributions, and a program for distribution to individuals requesting and receiving such telecommunications devices distributed by the office, and other rules necessary to administer programs and services consistent with this chapter.

**Sec. 922.** RCW 43.43.839 and 1995 c 169 s 2 are each amended to read as follows:

The fingerprint identification account is created in the custody of the state treasurer. All receipts from incremental charges of fingerprint checks requested for noncriminal justice purposes and electronic background requests shall be deposited in the account. Receipts for fingerprint checks by the federal bureau of investigation may also be deposited in the account. Expenditures from the account may be used only for the cost of record checks. Only the chief of the state patrol or the chief's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW. No appropriation is required for expenditures prior to July 1, 1997. After June 30, 1997, the account shall be subject to appropriation. During the 2009-2011 fiscal biennium, the legislature may transfer from the fingerprint identification account to the state general fund such amounts as reflect the excess fund balance of the account.

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**Sec. 923.** RCW 43.43.944 and 2007 c 520 s 6034 are each amended to read as follows:

(1) The fire service training account is hereby established in the state treasury. The fund shall consist of:

(a) All fees received by the Washington state patrol for fire service training;

(b) All grants and bequests accepted by the Washington state patrol under RCW 43.43.940;

(c) Twenty percent of all moneys received by the state on fire insurance premiums; and

(d) General fund--state moneys appropriated into the account by the legislature.

(2) Moneys in the account may be appropriated only for fire service training. The state patrol may use amounts appropriated from the fire service training account under this section to contract with the Washington state firefighters apprenticeship trust for the operation of the firefighter joint apprenticeship training program. The contract may call for payments on a monthly basis. During the ~~((2007-2009))~~ 2009-2011 fiscal biennium, the legislature may appropriate funds from this account for school fire prevention activities within the Washington state patrol ~~((and additional sanitary wastewater treatment capacity at the state fire service training center))~~.

(3) Any general fund--state moneys appropriated into the account shall be allocated solely to the firefighter joint apprenticeship training program. The Washington state patrol may contract with outside entities for the administration and delivery of the firefighter joint apprenticeship training program.

**Sec. 924.** RCW 43.60A.185 and 2006 c 343 s 8 are each amended to read as follows:

The veterans innovations program account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for purposes of the veterans innovations program. During the 2009-2011 fiscal biennium, the funds may be used for contracting for veterans' claims assistance services.

**Sec. 925.** RCW 43.131.406 and 2006 c 343 s 11 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2017:

(1) 2006 c 343 s 1 (uncodified);

(2) RCW 43.60A.160 and 2006 c 343 s 3;

(3) RCW 43.60A.165 and 2006 c 343 s 4;

(4) RCW 43.60A.170 and 2006 c 343 s 5;

(5) RCW 43.60A.175 and 2006 c 343 s 6;

(6) RCW 43.60A.180 and 2006 c 343 s 7; and

(7) RCW 43.60A.185 and section 924 of this act and 2006 c 343 s 8.

**Sec. 926.** RCW 43.70.110 and 2009 c 403 s 5 are each amended to read as follows:

(1) The secretary shall charge fees to the licensee for obtaining a license. Physicians regulated pursuant to chapter 18.71 RCW who reside and practice in Washington and obtain or renew a retired active license are exempt from such fees. After June 30, 1995, municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that such other emergency services shall only be charged for their pro rata share of the cost of licensure and inspection, if appropriate. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Except as provided in subsection (3) of this section, fees charged shall be based on, but shall not exceed, the cost to the

department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) License fees shall include amounts in addition to the cost of licensure activities in the following circumstances:

(a) For registered nurses and licensed practical nurses licensed under chapter 18.79 RCW, support of a central nursing resource center as provided in RCW 18.79.202, until June 30, 2013;

(b) For all health care providers licensed under RCW 18.130.040, the cost of regulatory activities for retired volunteer medical worker licensees as provided in RCW 18.130.360; and

(c) For physicians licensed under chapter 18.71 RCW, physician assistants licensed under chapter 18.71A RCW, osteopathic physicians licensed under chapter 18.57 RCW, osteopathic physicians' assistants licensed under chapter 18.57A RCW, naturopaths licensed under chapter 18.36A RCW, podiatrists licensed under chapter 18.22 RCW, chiropractors licensed under chapter 18.25 RCW, psychologists licensed under chapter 18.83 RCW, registered nurses licensed under chapter 18.79 RCW, optometrists licensed under chapter 18.53 RCW, mental health counselors licensed under chapter 18.225 RCW, massage therapists licensed under chapter 18.108 RCW, clinical social workers licensed under chapter 18.225 RCW, and acupuncturists licensed under chapter 18.06 RCW, the license fees shall include up to an additional twenty-five dollars to be transferred by the department to the University of Washington for the purposes of RCW 43.70.112. During the 2009-2011 fiscal biennium, five dollars of the current twenty-dollar fee received from registered nurses under this subsection may be expended by the department of health exclusively for the purposes of funding approved treatment programs for impaired registered nurses, registered nursing license processing functions, and disciplinary activities related to registered nurses.

(4) Department of health advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees.

**Sec. 927.** RCW 43.78.030 and 1994 c 82 s 1 are each amended to read as follows:

The public printer shall print and bind the session laws, the journals of the two houses of the legislature, all bills, resolutions, documents, and other printing and binding of either the senate or house, as the same may be ordered by the legislature; and such forms, blanks, record books, and printing and binding of every description as may be ordered by all state officers, boards, commissions, and institutions, and the supreme court, and the court of appeals and officers thereof, as the same may be ordered on requisition, from time to time, by the proper authorities. This section shall not apply to the printing of the supreme court and the court of appeals reports, to the printing of bond certificates or bond offering disclosure documents, to the printing of educational publications of the state historical societies, or to any printing done or contracted for by institutions of higher education: PROVIDED, That institutions of higher education, in consultation with the public printer, develop vendor selection procedures comparable to those used by the public printer for contracted printing jobs. Where any institution or institution of higher learning of the state is or may become equipped with facilities for doing such work, it may do any printing: (1) For itself, or (2) for any other state institution when such printing is done as part of a course of study relative to the profession of printer. Any printing and binding of whatever description as may be needed by any institution or agency of the state department of social and health services not at Olympia, or the supreme court or the court of appeals or any officer thereof, the estimated cost of which shall not exceed one thousand dollars, may be done by any private printing company in the general vicinity within the state of Washington so ordering, if in the judgment of the

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officer of the agency so ordering, the saving in time and processing justifies the award to such local private printing concern.

Beginning on July 1, 1989, and on July 1 of each succeeding odd-numbered year, the dollar limit specified in this section shall be adjusted as follows: The office of financial management shall calculate such limit by adjusting the previous biennium's limit by an appropriate federal inflationary index reflecting the rate of inflation for the previous biennium. Such amounts shall be rounded to the nearest fifty dollars.

During the 2009-2011 fiscal biennium, this section does not apply to pilot printing projects authorized by the office of financial management to allow state agencies and institutions to directly acquire printing services.

**Sec. 928.** RCW 43.79.460 and 2009 c 518 s 21 are each amended to read as follows:

(1) The savings incentive account is created in the custody of the state treasurer. The account shall consist of all moneys appropriated to the account by the legislature. The account is subject to the allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures from the account.

(2) Within the savings incentive account, the state treasurer may create subaccounts to be credited with incentive savings attributable to individual state agencies, as determined by the office of financial management in consultation with the legislative fiscal committees. Moneys deposited in the subaccounts may be expended only on the authorization of the agency's executive head or designee and only for the purpose of one-time expenditures to improve the quality, efficiency, and effectiveness of services to customers of the state, such as one-time expenditures for employee training, employee incentives, technology improvements, new work processes, or performance measurement. Funds may not be expended from the account to establish new programs or services, expand existing programs or services, or incur ongoing costs that would require future expenditures.

(3) For purposes of this section, "incentive savings" means state general fund appropriations that are unspent as of June 30th of a fiscal year, excluding any amounts included in across-the-board reductions under RCW 43.88.110 and excluding unspent appropriations for:

(a) Caseload and enrollment in entitlement programs, except to the extent that an agency has clearly demonstrated that efficiencies have been achieved in the administration of the entitlement program. "Entitlement program," as used in this section, includes programs for which specific sums of money are appropriated for pass-through to third parties or other entities;

(b) Enrollments in state institutions of higher education;

(c) A specific amount contained in a condition or limitation to an appropriation in the biennial appropriations act, if the agency did not achieve the specific purpose or objective of the condition or limitation;

(d) Debt service on state obligations; and

(e) State retirement system obligations.

(4) The office of financial management, after consulting with the legislative fiscal committees, shall report the amount of savings incentives achieved.

(5) For fiscal year 2009, the legislature may transfer from the savings incentive account to the state general fund such amounts as reflect the fund balance of the account attributable to unspent state general fund appropriations for fiscal year 2008. For fiscal year 2010, the legislature may transfer from the savings incentive account to the state general fund such amounts as reflect the fund balance of the account attributable to unspent state general fund appropriations for fiscal year 2009.

**Sec. 929.** RCW 43.79.465 and 2009 c 4 s 903 are each amended to read as follows:

The education savings account is created in the state treasury. The account shall consist of all moneys appropriated to the account by the legislature.

(1) Ten percent of legislative appropriations to the education savings account shall be distributed as follows: (a) Fifty percent to the distinguished professorship trust fund under RCW 28B.76.565; (b) seventeen percent to the graduate fellowship trust fund under RCW 28B.76.610; and (c) thirty-three percent to the college faculty awards trust fund under RCW 28B.50.837.

(2) The remaining moneys in the education savings account may be appropriated solely for (a) common school construction projects that are eligible for funding from the common school construction account, (b) technology improvements in the common schools, (c) during the 2001-03 fiscal biennium, technology improvements in public higher education institutions, ~~((and))~~ (d) during the 2007-2009 fiscal biennium, the legislature may transfer from the education savings account to the state general fund such amounts as reflect the excess fund balance of the account attributable to unspent state general fund appropriations for fiscal year 2008, and (e) for fiscal year 2010, the legislature may transfer from the education savings account to the state general fund such amounts as reflect the fund balance of the account attributable to unspent general fund appropriations for fiscal year 2009.

**Sec. 930.** RCW 43.89.010 and 2000 2nd sp.s. c 4 s 7 are each amended to read as follows:

The chief of the Washington state patrol is hereby authorized to establish a communications network which will inter-connect the law enforcement agencies of the state and its political subdivisions into a unified written communications system. The chief of the Washington state patrol is authorized to lease or purchase such facilities and equipment as may be necessary to establish and maintain the communications network.

(1) The communications network shall be used exclusively for the official business of the state, and the official business of any city, county, city and county, or other public agency.

(2) This section does not prohibit the occasional use of the state's communications network by any other state or public agency thereof when the messages transmitted relate to the enforcement of the criminal laws of the state.

(3) The chief of the Washington state patrol shall fix the monthly operational charge to be paid by any department or agency of state government, or any city, county, city and county, or other public agency participating in the communications network: PROVIDED, That in computing charges to be made against a city, county, or city and county the state shall bear at least fifty percent of the costs of such service as its share in providing a modern unified communications network to the law enforcement agencies of the state. Of the fees collected pursuant to this section, one-half shall be deposited in the motor vehicle fund and one-half shall be deposited in the state patrol highway account. However, for the 2009-2011 fiscal biennium the fees collected pursuant to this section shall be deposited in the state general fund.

(4) The chief of the Washington state patrol is authorized to arrange for the connection of the communications network with the law enforcement communications system of any adjacent state, or the Province of British Columbia, Canada.

**Sec. 931.** RCW 43.105.080 and 1999 c 80 s 8 are each amended to read as follows:

There is created a revolving fund to be known as the data processing revolving fund in the custody of the state treasurer. The revolving fund shall be used for the acquisition of equipment, software, supplies, and services and the payment of salaries, wages, and other costs incidental to the acquisition, development, operation, and administration of information services, telecommunications, systems, software, supplies and equipment,

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including the payment of principal and interest on bonds issued for capital projects, by the department, Washington State University's computer services center, the department of personnel's personnel information systems division, the office of financial management's financial systems management group, and other users as jointly determined by the department and the office of financial management. The revolving fund is subject to the allotment procedure provided under chapter 43.88 RCW. Disbursements from the revolving fund for the services component of the department are not subject to appropriation. Disbursements for the strategic planning and policy component of the department are subject to appropriation. All disbursements from the fund are subject to the allotment procedures provided under chapter 43.88 RCW. The department shall establish and implement a billing structure to assure all agencies pay an equitable share of the costs.

During the 2009-2011 fiscal biennium, the legislature may transfer from the data processing revolving account to the state general fund such amounts as reflect the excess fund balance associated with the information technology pool.

As used in this section, the word "supplies" shall not be interpreted to delegate or abrogate the division of purchasing's responsibilities and authority to purchase supplies as described in RCW 43.19.190 and 43.19.200.

**Sec. 932.** RCW 43.155.050 and 2009 c 564 s 940 are each amended to read as follows:

(1) The public works assistance account is hereby established in the state treasury. Money may be placed in the public works assistance account from the proceeds of bonds when authorized by the legislature or from any other lawful source. Money in the public works assistance account shall be used to make loans and to give financial guarantees to local governments for public works projects. Moneys in the account may also be appropriated to provide for state match requirements under federal law for projects and activities conducted and financed by the board under the drinking water assistance account. Not more than fifteen percent of the biennial capital budget appropriation to the public works board from this account may be expended or obligated for preconstruction loans, emergency loans, or loans for capital facility planning under this chapter; of this amount, not more than ten percent of the biennial capital budget appropriation may be expended for emergency loans and not more than one percent of the biennial capital budget appropriation may be expended for capital facility planning loans. During the 2009-2011 fiscal biennium, the legislature may transfer from the public works assistance account to the general fund and the city-county assistance account such amounts as reflect the excess fund balance of the account.

(2) The job development fund is hereby established in the state treasury. Moneys in the job development fund may be spent only after appropriation. During the 2009-2011 fiscal biennium, the legislature may transfer from the job development fund to the general fund such amounts as reflect the excess fund balance of the fund.

**NEW SECTION. Sec. 933.** A new section is added to chapter 43.215 RCW to read as follows:

(1)(a) The home visiting services account is created in the custody of the state treasurer. Revenues to the account shall consist of appropriations by the legislature and all other sources deposited in the account.

(b) Expenditures from the account shall be used for state matching funds for the purposes of the program established in this section including administrative expenses. Only the director or the director's designee may authorize expenditures from the account. Authorizations for expenditures may be given only after private funds are committed and available.

(c) Expenditures from the account are exempt from the appropriations and allotment provisions of chapter 43.88 RCW. However, amounts used for program administration by the department are subject to the allotment and budgetary controls of chapter 43.88 RCW, and an appropriation is required for these expenditures.

(2) The department must expend moneys from the account to provide state matching funds for partnership activities to implement home visiting services and administer the infrastructure necessary to develop, support, and evaluate evidence-based, research-based, and promising home visiting programs.

(3) Activities eligible for funding through the account include, but are not limited to:

(a) Home visiting services that achieve one or more of the following: (i) Enhancing child development and well-being by alleviating the effects on child development of poverty and other known risk factors; (ii) reducing the incidence of child abuse and neglect; or (iii) promoting school readiness for young children and their families; and

(b) Development and maintenance of the infrastructure for home visiting programs, including training, quality improvement, and evaluation.

(4) Beginning July 1, 2010, the department shall contract with the nongovernmental private-public partnership designated in RCW 43.215.070 to administer programs funded through the home visiting services account. The department shall monitor performance and provide periodic reports on the use outcomes of the home visiting services account.

(5) The nongovernmental private-public partnership shall, in the administration of the programs:

(a) Fund programs through a competitive bid process; and

(b) Convene an advisory committee of early learning and home visiting experts, including one representative from the department, to advise the partnership regarding research and the distribution of funds from the account to eligible programs.

(6) To promote continuity for families receiving home visiting services through programs funded on the effective date of this section, those programs funded under chapter 43.121 RCW shall be funded through June 30, 2012, based on availability of funds and the achievement of stated performance goals. This section does not require any program to receive continuous funding beyond June 30, 2012. Organizations that may receive program funding include local health departments; nonprofit, neighborhood-based, community, regional, or statewide organizations; and federally recognized Indian tribes located in the state.

**Sec. 934.** RCW 43.320.110 and 2005 c 518 s 932 are each amended to read as follows:

There is created a local fund known as the "financial services regulation fund" which shall consist of all moneys received by the divisions of the department of financial institutions, except for the division of securities which shall deposit thirteen percent of all moneys received, except as provided in RCW 43.320.115, and which shall be used for the purchase of supplies and necessary equipment; the payment of salaries, wages, and utilities; the establishment of reserves; and other incidental costs required for the proper regulation of individuals and entities subject to regulation by the department. The state treasurer shall be the custodian of the fund. Disbursements from the fund shall be on authorization of the director of financial institutions or the director's designee. In order to maintain an effective expenditure and revenue control, the fund shall be subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditures and payment of obligations from the fund.

During the ~~((2005-2007))~~ 2009-2011 fiscal biennium, the legislature may transfer from the financial services regulation fund

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to the state general fund such amounts as reflect the excess fund balance of the fund.

**Sec. 935.** RCW 43.320.165 and 2009 c 386 s 2 are each amended to read as follows:

The prevent or reduce owner-occupied foreclosure program account is created in the custody of the state treasurer. All receipts from the appropriation in section 4, chapter 322, Laws of 2008 as well as receipts from private contributions and all other sources that are specifically designated for the prevent or reduce owner-occupied foreclosure program must be deposited into the account. Expenditures from the account may be used solely for the purpose of preventing or reducing owner-occupied foreclosures through the prevent or reduce owner-occupied foreclosure program as described in RCW 43.320.160. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. During the 2009-2011 fiscal biennium, the legislature may transfer from the prevent or reduce owner-occupied foreclosure program account to the financial education public-private partnership account such amounts as reflect the excess fund balance of the account.

**Sec. 936.** RCW 46.09.170 and 2009 c 564 s 944 and 2009 c 187 s 2 are each reenacted and amended to read as follows:

(1) From time to time, but at least once each year, the state treasurer shall refund from the motor vehicle fund one percent of the motor vehicle fuel tax revenues collected under chapter 82.36 RCW, based on a tax rate of: (a) Nineteen cents per gallon of motor vehicle fuel from July 1, 2003, through June 30, 2005; (b) twenty cents per gallon of motor vehicle fuel from July 1, 2005, through June 30, 2007; (c) twenty-one cents per gallon of motor vehicle fuel from July 1, 2007, through June 30, 2009; (d) twenty-two cents per gallon of motor vehicle fuel from July 1, 2009, through June 30, 2011; and (e) twenty-three cents per gallon of motor vehicle fuel beginning July 1, 2011, and thereafter, less proper deductions for refunds and costs of collection as provided in RCW 46.68.090.

(2) The treasurer shall place these funds in the general fund as follows:

(a) Thirty-six percent shall be credited to the ORV and nonhighway vehicle account and administered by the department of natural resources solely for acquisition, planning, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities, and information programs and maintenance of nonhighway roads;

(b) Three and one-half percent shall be credited to the ORV and nonhighway vehicle account and administered by the department of fish and wildlife solely for the acquisition, planning, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities and the maintenance of nonhighway roads;

(c) Two percent shall be credited to the ORV and nonhighway vehicle account and administered by the parks and recreation commission solely for the acquisition, planning, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities; and

(d) Fifty-eight and one-half percent shall be credited to the nonhighway and off-road vehicle activities program account to be administered by the board for planning, acquisition, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities and for education, information, and law enforcement programs. The funds under this subsection shall be expended in accordance with the following limitations:

(i) Not more than thirty percent may be expended for education, information, and law enforcement programs under this chapter;

(ii) Not less than seventy percent may be expended for ORV, nonmotorized, and nonhighway road recreation facilities. Except as provided in (d)(iii) of this subsection, of this amount:

(A) Not less than thirty percent, together with the funds the board receives under RCW 46.09.110, may be expended for ORV recreation facilities;

(B) Not less than thirty percent may be expended for nonmotorized recreation facilities. Funds expended under this subsection (2)(d)(ii)(B) shall be known as Ira Spring outdoor recreation facilities funds; and

(C) Not less than thirty percent may be expended for nonhighway road recreation facilities;

(iii) The board may waive the minimum percentage cited in (d)(ii) of this subsection due to insufficient requests for funds or projects that score low in the board's project evaluation. Funds remaining after such a waiver must be allocated in accordance with board policy.

(3) On a yearly basis an agency may not, except as provided in RCW 46.09.110, expend more than ten percent of the funds it receives under this chapter for general administration expenses incurred in carrying out this chapter.

(4) During the 2009-2011 fiscal biennium, the legislature may appropriate such amounts as reflect the excess fund balance in the NOVA account to the department of natural resources to install consistent off-road vehicle signage at department-managed recreation sites, and to implement the recreation opportunities on department-managed lands in the Reiter block and Ahtanum state forest, and to the state parks and recreation commission. The legislature finds that the appropriation of funds from the NOVA account during the 2009-2011 fiscal biennium for maintenance and operation of state parks ~~(and)~~ or to improve accessibility for boaters and off-road vehicle users at state parks will benefit boaters and off-road vehicle users and others who use nonhighway and nonmotorized recreational facilities. ~~((This appropriation is))~~ The appropriations under this subsection are not required to follow the specific distribution specified in subsection (2) of this section.

**Sec. 937.** RCW 48.02.190 and 2009 c 161 s 1 are each amended to read as follows:

(1) As used in this section:

(a) "Organization" means every insurer, as defined in RCW 48.01.050, having a certificate of authority to do business in this state, every health care service contractor, as defined in RCW 48.44.010, every health maintenance organization, as defined in RCW 48.46.020, or self-funded multiple employer welfare arrangement, as defined in RCW 48.125.010, registered to do business in this state. "Class one" organizations shall consist of all insurers as defined in RCW 48.01.050. "Class two" organizations shall consist of all organizations registered under provisions of chapters 48.44 and 48.46 RCW. "Class three" organizations shall consist of self-funded multiple employer welfare arrangements as defined in RCW 48.125.010.

(b)(i) "Receipts" means (A) net direct premiums consisting of direct gross premiums, as defined in RCW 48.18.170, paid for insurance written or renewed upon risks or property resident, situated, or to be performed in this state, less return premiums and premiums on policies not taken, dividends paid or credited to policyholders on direct business, and premiums received from policies or contracts issued in connection with qualified plans as defined in RCW 48.14.021, and (B) prepayments to health care service contractors, as defined in RCW 48.44.010, health maintenance organizations, as defined in RCW 48.46.020, or participant contributions to self-funded multiple employer welfare arrangements, as defined in RCW 48.125.010, less experience rating credits, dividends, prepayments returned to subscribers, and payments for contracts not taken.

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(ii) Participant contributions, under chapter 48.125 RCW, used to determine the receipts in this state under this section shall be determined in the same manner as premiums taxable in this state are determined under RCW 48.14.090.

(c) "Regulatory surcharge" means the fees imposed by this section.

(2) The annual cost of operating the office of insurance commissioner shall be determined by legislative appropriation. A pro rata share of the cost shall be charged to all organizations as a regulatory surcharge. Each class of organization shall contribute a sufficient amount to the insurance commissioner's regulatory account to pay the reasonable costs, including overhead, of regulating that class of organization.

(3) The regulatory surcharge shall be calculated separately for each class of organization. The regulatory surcharge collected from each organization shall be that portion of the cost of operating the insurance commissioner's office, for that class of organization, for the ensuing fiscal year that is represented by the organization's portion of the receipts collected or received by all organizations within that class on business in this state during the previous calendar year. However, the regulatory surcharge must not exceed one-eighth of one percent of receipts and the minimum regulatory surcharge shall be one thousand dollars.

(4) The commissioner shall annually, on or before June 1st, calculate and bill each organization for the amount of the regulatory surcharge. The regulatory surcharge shall be due and payable no later than June 15th of each year. However, if the necessary financial records are not available or if the amount of the legislative appropriation is not determined in time to carry out such calculations and bill such regulatory surcharge within the time specified, the commissioner may use the regulatory surcharge factors for the prior year as the basis for the regulatory surcharge and, if necessary, the commissioner may impose supplemental fees to fully and properly charge the organizations. Any organization failing to pay the regulatory surcharges by June 30th shall pay the same penalties as the penalties for failure to pay taxes when due under RCW 48.14.060. The regulatory surcharge required by this section is in addition to all other taxes and fees now imposed or that may be subsequently imposed.

(5) All moneys collected shall be deposited in the insurance commissioner's regulatory account in the state treasury which is hereby created.

(6) Unexpended funds in the insurance commissioner's regulatory account at the close of a fiscal year shall be carried forward in the insurance commissioner's regulatory account to the succeeding fiscal year and shall be used to reduce future regulatory surcharges.

(7)(a) Each insurer may annually collect regulatory surcharges remitted in preceding years by means of a policyholder surcharge on premiums charged for all kinds of insurance. The recoupment shall be at a uniform rate reasonably calculated to collect the regulatory surcharge remitted by the insurer.

(b) If an insurer fails to collect the entire amount of the recoupment in the first year under this section, it may repeat the recoupment procedure provided for in this subsection (7) in succeeding years until the regulatory surcharge is fully collected or a de minimis amount remains uncollected. Any such de minimis amount may be collected as provided in (d) of this subsection.

(c) The amount and nature of any recoupment shall be separately stated on either a billing or policy declaration sent to an insured. The amount of the recoupment must not be considered a premium for any purpose, including the premium tax or agents' commissions.

(d) An insurer may elect not to collect the regulatory surcharge from its insured. In such a case, the insurer may recoup the

regulatory surcharge through its rates, if the following requirements are met:

(i) The insurer remits the amount of surcharge not collected by election under this subsection; and

(ii) The surcharge is not considered a premium for any purpose, including the premium tax or agents' commission.

(8) During the 2009-2011 fiscal biennium, the legislature may transfer from the insurance commissioner's regulatory account to the state general fund such amounts as reflect the excess fund balance in the account.

**Sec. 938.** RCW 67.40.040 and 2008 c 329 s 917 and 2008 c 328 s 6011 are each reenacted and amended to read as follows:

(1) The proceeds from the sale of the bonds authorized in RCW 67.40.030, proceeds of the taxes imposed under RCW 67.40.090 and 67.40.130, and all other moneys received by the state convention and trade center from any public or private source which are intended to fund the acquisition, design, construction, expansion, exterior cleanup and repair of the Eagles building, conversion of various retail and other space to meeting rooms, purchase of the land and building known as the McKay Parcel, development of low-income housing, or renovation of the center, and those expenditures authorized under RCW 67.40.170 shall be deposited in the state convention and trade center account hereby created in the state treasury and in such subaccounts as are deemed appropriate by the directors of the corporation.

(2) Moneys in the account, including unanticipated revenues under RCW 43.79.270, shall be used exclusively for the following purposes in the following priority:

(a) For reimbursement of the state general fund under RCW 67.40.060;

(b) After appropriation by statute:

(i) For payment of expenses incurred in the issuance and sale of the bonds issued under RCW 67.40.030;

(ii) For expenditures authorized in RCW 67.40.170, and during the ~~((2007-2009))~~ 2009-2011 fiscal biennium, ~~((the legislature may transfer from the state convention and trade center account to the Washington housing trust account such amounts as reflect the excess fund balance in the account; and during the 2007-2009 biennium,))~~ the legislature may transfer from the state convention and trade center account to the general fund such amounts as reflect the excess fund balance in the account;

(iii) For acquisition, design, and construction of the state convention and trade center;

(iv) For debt service for the acquisition, design, and construction and retrofit of the museum of history and industry museum property or other future expansions of the convention center as approved by the legislature; and

(v) For reimbursement of any expenditures from the state general fund in support of the state convention and trade center; and

(c) For transfer to the state convention and trade center operations account.

(3) The corporation shall identify with specificity those facilities of the state convention and trade center that are to be financed with proceeds of general obligation bonds, the interest on which is intended to be excluded from gross income for federal income tax purposes. The corporation shall not permit the extent or manner of private business use of those bond-financed facilities to be inconsistent with treatment of such bonds as governmental bonds under applicable provisions of the Internal Revenue Code of 1986, as amended.

(4) In order to ensure consistent treatment of bonds authorized under RCW 67.40.030 with applicable provisions of the Internal Revenue Code of 1986, as amended, and notwithstanding RCW 43.84.092, investment earnings on bond proceeds deposited in the state convention and trade center account in the state treasury shall

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be retained in the account, and shall be expended by the corporation for the purposes authorized under chapter 386, Laws of 1995 and in a manner consistent with applicable provisions of the Internal Revenue Code of 1986, as amended.

(5) Subject to the conditions in subsection (6) of this section, starting in fiscal year 2008, and except for the 2009-2011 fiscal biennium in which no transfers shall be made, the state treasurer shall transfer:

(a) The sum of four million dollars, or as much as may be available pursuant to conditions set forth in this section, from the state convention and trade center account to the tourism enterprise account, with the maximum transfer being four million dollars per fiscal year; and

(b) The sum of five hundred thousand dollars, or as much as may be available pursuant to conditions set forth in this section, from the state convention and trade center account to the tourism development and promotion account, with the maximum transfer being five hundred thousand dollars per fiscal year.

(6)(a) Funds required for debt service payments and reserves for bonds issued under RCW 67.40.030; for debt service authorized under RCW 67.40.170; and for the issuance and sale of financial instruments associated with the acquisition, design, construction, and retrofit of the museum of history and industry museum property or for other future expansions of the center, as approved by the legislature, shall be maintained within the state convention and trade center account.

(b) Except for during the 2009-2011 fiscal biennium, during which no reserve shall be retained, no less than six million one hundred fifty thousand dollars per year shall be retained in the state convention and trade center account for funding capital maintenance as required by the center's long-term capital plan, facility enhancements, unanticipated replacements, and operating reserves for the convention center operation. This amount shall be escalated annually as follows:

(i) Four percent for annual inflation for capital maintenance, repairs, and replacement;

(ii) An additional two percent for enhancement to the facility; and

(iii) An additional three percent for growth in expenditure due to aging of the facility and the need to maintain an operating reserve.

(c) Sufficient funds shall be reserved within the state convention and trade center account to fund operating appropriations for the annual operation of the convention center.

**Sec. 939.** RCW 66.08.170 and 2009 c 564 s 947 are each amended to read as follows:

There shall be a fund, known as the "liquor revolving fund", which shall consist of all license fees, permit fees, penalties, forfeitures, and all other moneys, income, or revenue received by the board. The state treasurer shall be custodian of the fund. All moneys received by the board or any employee thereof, except for change funds and an amount of petty cash as fixed by the board within the authority of law shall be deposited each day in a depository approved by the state treasurer and transferred to the state treasurer to be credited to the liquor revolving fund. During the 2009-2011 fiscal biennium, the legislature may transfer funds from the liquor revolving (~~account~~) fund to the state general fund and may direct an additional amount of liquor profits to be distributed to local governments. Neither the transfer of funds nor the additional distribution of liquor profits to local governments during the 2009-2011 fiscal biennium may reduce the excess fund distributions that otherwise would occur under RCW 66.08.190. Licensee sales are exempt from any increases to the price of liquor made by the board during the 2009-2011 fiscal biennium for the purpose of implementing any transfers to the state general fund or additional distribution of liquor profits. This exemption includes

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price increases implemented for such purposes during the 2009-2011 fiscal biennium prior to the effective date of this section but applies only to sales made on or after July 1, 2010. Disbursements from the revolving fund shall be on authorization of the board or a duly authorized representative thereof. In order to maintain an effective expenditure and revenue control the liquor revolving fund shall be subject in all respects to chapter 43.88 RCW but no appropriation shall be required to permit expenditures and payment of obligations from such fund.

**Sec. 940.** RCW 67.70.044 and 2009 c 576 s 1 are each amended to read as follows:

(1) Pursuant to RCW 67.70.040(1)(a), the commission may enter into the multistate agreement establishing a shared game lottery known as "The Big Game," that was entered into by party state lotteries in August 1996 and subsequently amended and a shared game lottery known as "Powerball."

(2) The shared game lottery account is created as a separate account outside the state treasury. The account is managed, maintained, and controlled by the commission and consists of all revenues received from the sale of shared game lottery tickets or shares, and all other moneys credited or transferred to it from any other fund or source under law. The account is allotted according to chapter 43.88 RCW. During the 2009-2011 fiscal biennium, the legislature may transfer from the shared game lottery account to the education legacy trust account such amounts as reflect the excess fund balance of the account.

**Sec. 941.** RCW 67.70.230 and 1985 c 375 s 4 are each amended to read as follows:

There is hereby created and established a separate account, to be known as the state lottery account. Such account shall be managed, maintained, and controlled by the commission and shall consist of all revenues received from the sale of lottery tickets or shares, and all other moneys credited or transferred thereto from any other fund or source pursuant to law. The account shall be a separate account outside the state treasury. No appropriation is required to permit expenditures and payment of obligations from the account. During the 2009-2011 fiscal biennium, the legislature may transfer from the state lottery account to the education legacy trust account such amounts as reflect the excess fund balance of the account.

**Sec. 942.** RCW 70.105D.070 and 2009 c 564 s 951 are each amended to read as follows:

(1) The state toxics control account and the local toxics control account are hereby created in the state treasury.

(2) The following moneys shall be deposited into the state toxics control account: (a) Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-three one-hundredths of one percent; (b) the costs of remedial actions recovered under this chapter or chapter 70.105A RCW; (c) penalties collected or recovered under this chapter; and (d) any other money appropriated or transferred to the account by the legislature. Moneys in the account may be used only to carry out the purposes of this chapter, including but not limited to the following activities:

(i) The state's responsibility for hazardous waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.105 RCW;

(ii) The state's responsibility for solid waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.95 RCW;

(iii) The hazardous waste cleanup program required under this chapter;

(iv) State matching funds required under the federal cleanup law;

(v) Financial assistance for local programs in accordance with chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

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(vi) State government programs for the safe reduction, recycling, or disposal of hazardous wastes from households, small businesses, and agriculture;

(vii) Hazardous materials emergency response training;

(viii) Water and environmental health protection and monitoring programs;

(ix) Programs authorized under chapter 70.146 RCW;

(x) A public participation program, including regional citizen advisory committees;

(xi) Public funding to assist potentially liable persons to pay for the costs of remedial action in compliance with cleanup standards under RCW 70.105D.030(2)(e) but only when the amount and terms of such funding are established under a settlement agreement under RCW 70.105D.040(4) and when the director has found that the funding will achieve both (A) a substantially more expeditious or enhanced cleanup than would otherwise occur, and (B) the prevention or mitigation of unfair economic hardship;

(xii) Development and demonstration of alternative management technologies designed to carry out the hazardous waste management priorities of RCW 70.105.150; ~~((and))~~

(xiii) During the 2009-2011 fiscal biennium, shoreline update technical assistance; and

(xiv) During the 2009-2011 fiscal biennium, multijurisdictional permitting teams.

(3) The following moneys shall be deposited into the local toxics control account: Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-seven one-hundredths of one percent.

(a) Moneys deposited in the local toxics control account shall be used by the department for grants or loans to local governments for the following purposes in descending order of priority:

(i) Remedial actions;

(ii) Hazardous waste plans and programs under chapter 70.105 RCW;

(iii) Solid waste plans and programs under chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

(iv) Funds for a program to assist in the assessment and cleanup of sites of methamphetamine production, but not to be used for the initial containment of such sites, consistent with the responsibilities and intent of RCW 69.50.511; and

(v) Cleanup and disposal of hazardous substances from abandoned or derelict vessels, defined for the purposes of this section as vessels that have little or no value and either have no identified owner or have an identified owner lacking financial resources to clean up and dispose of the vessel, that pose a threat to human health or the environment.

(b) Funds for plans and programs shall be allocated consistent with the priorities and matching requirements established in chapters 70.105, 70.95C, 70.95I, and 70.95 RCW, except that any applicant that is a Puget Sound partner, as defined in RCW 90.71.010, along with any project that is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310, shall, except as conditioned by RCW 70.105D.120, receive priority for any available funding for any grant or funding programs or sources that use a competitive bidding process. During the 2007-2009 fiscal biennium, moneys in the account may also be used for grants to local governments to retrofit public sector diesel equipment and for storm water planning and implementation activities.

(c) To expedite cleanups throughout the state, the department shall partner with local communities and liable parties for cleanups. The department is authorized to use the following additional strategies in order to ensure a healthful environment for future generations:

(i) The director may alter grant-matching requirements to create incentives for local governments to expedite cleanups when one of the following conditions exists:

(A) Funding would prevent or mitigate unfair economic hardship imposed by the clean-up liability;

(B) Funding would create new substantial economic development, public recreational, or habitat restoration opportunities that would not otherwise occur; or

(C) Funding would create an opportunity for acquisition and redevelopment of vacant, orphaned, or abandoned property under RCW 70.105D.040(5) that would not otherwise occur;

(ii) The use of outside contracts to conduct necessary studies;

(iii) The purchase of remedial action cost-cap insurance, when necessary to expedite multiparty clean-up efforts.

(d) To facilitate and expedite cleanups using funds from the local toxics control account, during the 2009-2011 fiscal biennium the director may establish grant-funded accounts to hold and disperse local toxics control account funds and funds from local governments to be used for remedial actions.

(4) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in the state and local toxics control accounts may be spent only after appropriation by statute.

(5) Except during the 2009-2011 fiscal biennium, one percent of the moneys deposited into the state and local toxics control accounts shall be allocated only for public participation grants to persons who may be adversely affected by a release or threatened release of a hazardous substance and to not-for-profit public interest organizations. The primary purpose of these grants is to facilitate the participation by persons and organizations in the investigation and remedying of releases or threatened releases of hazardous substances and to implement the state's solid and hazardous waste management priorities. No grant may exceed sixty thousand dollars. Grants may be renewed annually. Moneys appropriated for public participation from either account which are not expended at the close of any biennium shall revert to the state toxics control account.

(6) No moneys deposited into either the state or local toxics control account may be used for solid waste incinerator feasibility studies, construction, maintenance, or operation, or, after January 1, 2010, for projects designed to address the restoration of Puget Sound, funded in a competitive grant process, that are in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

(7) The department shall adopt rules for grant or loan issuance and performance.

(8) During the 2007-2009 and 2009-2011 fiscal biennia, the legislature may transfer from the local toxics control account to either the state general fund or the oil spill prevention account, or both such amounts as reflect excess fund balance in the account.

(9) During the 2009-2011 fiscal biennium, the local toxics control account may also be used for a standby rescue tug at Neah Bay, local government shoreline update grants, private and public sector diesel equipment retrofit, and oil spill prevention, preparedness, and response activities.

(10) During the 2009-2011 fiscal biennium, the legislature may transfer from the state toxics control account to the state general fund such amounts as reflect the excess fund balance in the account.

**Sec. 943.** RCW 74.31.030 and 2007 c 356 s 4 are each amended to read as follows:

(1) By July 30, 2007, the department shall designate a staff person who shall be responsible for the following:

(a) Coordinating policies, programs, and services for individuals with traumatic brain injuries; and

(b) Providing staff support to the council created in RCW 74.31.020.

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(2) The department shall provide data and information to the council established under RCW 74.31.020 that is requested by the council and is in the possession or control of the department.

(3) By December 1, 2007, the department shall provide a preliminary report to the legislature and the governor, and shall provide a final report by December 1, 2008, containing recommendations for a comprehensive statewide plan to address the needs of individuals with traumatic brain injuries, including the use of public-private partnerships and a public awareness campaign. The comprehensive plan should be created in collaboration with the council and should consider the following:

(a) Building provider capacity and provider training;

(b) Improving the coordination of services;

(c) The feasibility of establishing agreements with private sector agencies to develop services for individuals with traumatic brain injuries; and

(d) Other areas the council deems appropriate.

(4) By December 1, 2007, the department shall:

(a) Provide information and referral services to individuals with traumatic brain injuries until the statewide referral and information network is developed. The referral services may be funded from the traumatic brain injury account established under RCW 74.31.060; ~~(and)~~

(b) Encourage and facilitate the following:

(i) Collaboration among state agencies that provide services to individuals with traumatic brain injuries;

(ii) Collaboration among organizations and entities that provide services to individuals with traumatic brain injuries; and

(iii) Community participation in program implementation; and

(c) During the 2009-2011 fiscal biennium:

(i) Secure funding to develop housing specifically for traumatic brain injured individuals by leveraging federal and private fund sources;

(ii) Expand support group services with an emphasis on persons returning from active military duty with traumatic brain injury and their families;

(iii) Establish training and outreach to first responders and emergency medical staff for care related to traumatic brain injury; and

(iv) Improve awareness of health insurance coverage options and promote best practices in private health insurance coverage.

(5) By December 1, 2007, and by December 1st each year thereafter, the department shall issue a report to the governor and the legislature containing the following:

(a) A summary of action taken by the department to meet the needs of individuals with traumatic brain injuries; and

(b) Recommendations for improvements in services to address the needs of individuals with traumatic brain injuries.

**Sec. 944.** RCW 74.31.060 and 2007 c 356 s 7 are each amended to read as follows:

The traumatic brain injury account is created in the state treasury. Two dollars of the fee imposed under RCW 46.63.110(7)(c) must be deposited into the account. Moneys in the account may be spent only after appropriation, and may be used only to provide a public awareness campaign and services relating to traumatic brain injury under RCW 74.31.040 and 74.31.050, for information and referral services, and for costs of required department staff who are providing support for the council and information and referral services under RCW 74.31.020 and 74.31.030. During the 2009-2011 fiscal biennium, money in the account may also be spent on long-term care services and the services authorized in RCW 74.31.030(4)(c). The secretary of the department of social and health services has the authority to administer the funds.

**Sec. 945.** RCW 70.93.180 and 2009 c 564 s 950 are each amended to read as follows:

(1) There is hereby created an account within the state treasury to be known as the "waste reduction, recycling, and litter control account". Moneys in the account may be spent only after appropriation. Expenditures from the waste reduction, recycling, and litter control account shall be used as follows:

(a) Fifty percent to the department of ecology, for use by the departments of ecology, natural resources, revenue, transportation, and corrections, and the parks and recreation commission, for use in litter collection programs, to be distributed under RCW 70.93.220. The amount to the department of ecology shall also be used for a central coordination function for litter control efforts statewide, for the biennial litter survey under RCW 70.93.200(8), and for statewide public awareness programs under RCW 70.93.200(7). The amount to the department shall also be used to defray the costs of administering the funding, coordination, and oversight of local government programs for waste reduction, litter control, and recycling, so that local governments can apply one hundred percent of their funding to achieving program goals. The amount to the department of revenue shall be used to enforce compliance with the litter tax imposed in chapter 82.19 RCW;

(b) Twenty percent to the department for local government funding programs for waste reduction, litter control, and recycling activities by cities and counties under RCW 70.93.250, to be administered by the department of ecology; and

(c) Thirty percent to the department of ecology for waste reduction and recycling efforts.

(2) All taxes imposed in RCW 82.19.010 and fines and bail forfeitures collected or received pursuant to this chapter shall be deposited in the waste reduction, recycling, and litter control account and used for the programs under subsection (1) of this section.

(3) Not less than five percent and no more than ten percent of the amount appropriated into the waste reduction, recycling, and litter control account every biennium shall be reserved for capital needs, including the purchase of vehicles for transporting crews and for collecting litter and solid waste. Capital funds shall be distributed among state agencies and local governments according to the same criteria provided in RCW 70.93.220 for the remainder of the funds, so that the most effective waste reduction, litter control, and recycling programs receive the most funding. The intent of this subsection is to provide funds for the purchase of equipment that will enable the department to account for the greatest return on investment in terms of reaching a zero litter goal.

(4) During the 2009-2011 fiscal biennium, the legislature may transfer from the waste reduction, recycling, and litter control account to the state general fund such amounts as reflect the excess fund balance of the account. ~~((For purposes of subsection (1) of this section, this transfer shall be treated as an expenditure for litter collection.))~~ Additionally, during the 2009-2011 fiscal biennium, subsection (1)(a), (b), and (c) of this section is suspended.

**NEW SECTION. Sec. 946.** A new section is added to chapter 43.79 RCW to read as follows:

The legislature recognizes that efforts to restructure state operations to achieve greater efficiency are often impeded by the lack of a financing tool to support the transition and phase-down of state operations. The state efficiency and restructuring account is established in the state treasury to finance efforts to restructure state operations and achieve budget savings. Moneys from the account may be expended only after appropriation. As directed by the legislature, the state treasurer must transfer funds from specified accounts into the state efficiency and restructuring account to support appropriations from that account. The state treasurer must maintain a record of such transfers and must calculate repayment

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obligations to any accounts providing surplus funds for a term of eight years at an interest rate that is five tenths of a percent higher than the interest rate that the account would have earned without the transfer. The state treasurer must submit a report of all such repayment obligations to the office of financial management by September 1st of each year. The governor's budget request under RCW 43.88.060 must include sufficient funds to meet the biennial repayment obligation.

**Sec. 947.** RCW 70.105D.130 and 2008 c 106 s 1 are each amended to read as follows:

(1) The cleanup settlement account is created in the state treasury. The account is not intended to replace the state toxics control account established under RCW 70.105D.070. All receipts from the sources identified in subsection (2) of this section must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only as identified in subsection (4) of this section.

(2) The following receipts must be deposited into the cleanup settlement account:

(a) Receipts from settlements or court orders that direct payment to the account and resolve a person's liability or potential liability under this chapter for either or both of the following:

(i) Conducting future remedial action at a specific facility, if it is not feasible to require the person to conduct the remedial action based on the person's financial insolvency, limited ability to pay, or insignificant contribution under RCW 70.105D.040(4)(a);

(ii) Assessing or addressing the injury to natural resources caused by the release of a hazardous substance from a specific facility; and

(b) Receipts from investment of the moneys in the account.

(3) If a settlement or court order does not direct payment of receipts described in subsection (2)(a) of this section into the cleanup settlement account, then the receipts from any payment to the state must be deposited into the state toxics control account.

(4) Expenditures from the cleanup settlement account may only be used to conduct remedial actions at the specific facility or to assess or address the injury to natural resources caused by the release of hazardous substances from that facility for which the moneys were deposited in the account. Conducting remedial actions or assessing or addressing injury to natural resources includes direct expenditures and indirect expenditures such as department oversight costs. During the 2009-2011 fiscal biennium, the legislature may transfer excess fund balances in the account into the state efficiency and restructuring account. Transfers of excess fund balances made under this section shall be made only to the extent amounts transferred with required repayments do not impair the ten-year spending plan administered by the department of ecology for environmental remedial actions dedicated for any designated clean-up site associated with the Everett smelter and Tacoma smelter, including plumes, or former Asarco mine sites. The cleanup settlement account must be repaid with interest under provisions of the state efficiency and restructuring account.

(5) The department shall track moneys received, interest earned, and moneys expended separately for each facility.

(6) After the department determines that all remedial actions at a specific facility, and all actions assessing or addressing injury to natural resources caused by the release of hazardous substances from that facility, are completed, including payment of all related costs, any moneys remaining for the specific facility must be transferred to the state toxics control account established under RCW 70.105D.070.

(7) The department shall provide the office of financial management and the fiscal committees of the legislature with a report by October 31st of each year regarding the activity within the cleanup settlement account during the previous fiscal year.

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**Sec. 948.** RCW 70.146.100 and 2007 c 233 s 1 are each amended to read as follows:

(1) The water quality capital account is created in the state treasury. Moneys in the water quality capital account may be spent only after appropriation.

(2) Expenditures from the water quality capital account may only be used: (a) To make grants or loans to public bodies, including grants to public bodies as cost-sharing moneys in any case where federal, local, or other moneys are made available on a cost-sharing basis, for the capital component of water pollution control facilities and activities; (b) for purposes of assisting a public body to obtain an ownership interest in water pollution control facilities; or (c) to defray any part of the capital component of the payments made by a public body to a service provider under a service agreement entered into under RCW 70.150.060. During the 2009-2011 fiscal biennium, the legislature may transfer from the water quality capital account to the state general fund such amounts as reflect the excess fund balance of the account.

**Sec. 949.** RCW 79.105.150 and 2009 c 564 s 959 are each amended to read as follows:

(1) After deduction for management costs as provided in RCW 79.64.040 and payments to towns under RCW 79.115.150(2), all moneys received by the state from the sale or lease of state-owned aquatic lands and from the sale of valuable material from state-owned aquatic lands shall be deposited in the aquatic lands enhancement account which is hereby created in the state treasury. After appropriation, these funds shall be used solely for aquatic lands enhancement projects; for the purchase, improvement, or protection of aquatic lands for public purposes; for providing and improving access to the lands; and for volunteer cooperative fish and game projects. During the 2009-2011 fiscal biennium, the aquatic lands enhancement account may also be used for scientific research as part of the adaptive management process. During the 2009-11 fiscal biennium, the legislature may transfer from the aquatic lands enhancement account to the state general fund such amounts as reflect excess fund balance of the account.

(2) In providing grants for aquatic lands enhancement projects, the recreation and conservation funding board shall:

(a) Require grant recipients to incorporate the environmental benefits of the project into their grant applications;

(b) Utilize the statement of environmental benefits, consideration, except as provided in RCW 79.105.610, of whether the applicant is a Puget Sound partner, as defined in RCW 90.71.010, whether a project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310, and except as otherwise provided in RCW 79.105.630, and effective one calendar year following the development and statewide availability of model evergreen community management plans and ordinances under RCW 35.105.050, whether the applicant is an entity that has been recognized, and what gradation of recognition was received, in the evergreen community recognition program created in RCW 35.105.030 in its prioritization and selection process; and

(c) Develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the grants.

(3) To the extent possible, the department should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270.

(4) The department shall consult with affected interest groups in implementing this section.

(5) After January 1, 2010, any project designed to address the restoration of Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

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**Sec. 950.** RCW 80.01.080 and 2006 c 3 s 2 are each amended to read as follows:

There is created in the state treasury a public service revolving fund. Regulatory fees payable by all types of public service companies shall be deposited to the credit of the public service revolving fund. Except for expenses payable out of the pipeline safety account, all expense of operation of the Washington utilities and transportation commission shall be payable out of the public service revolving fund.

During the ~~((2003-2005))~~ 2009-2011 fiscal biennium, the legislature may transfer from the public service revolving fund to the state general fund such amounts as reflect the excess fund balance of the fund.

~~((Due to the extraordinarily high winter energy costs, during the 2005-2007 fiscal biennium, no more than seven million six hundred thousand dollars, as appropriated in section 1, chapter 3, Laws of 2006, shall be payable out of the public service revolving fund to provide energy assistance to customers in accordance with the low income energy assistance program.))~~

**Sec. 951.** RCW 80.36.430 and 2009 c 564 s 960 are each amended to read as follows:

(1) The Washington telephone assistance program shall be funded by a telephone assistance excise tax on all switched access lines and by funds from any federal government or other programs for this purpose. Switched access lines are defined in RCW 82.14B.020. The telephone assistance excise tax shall be applied equally to all residential and business access lines not to exceed fourteen cents per month. The department shall submit an approved annual budget for the Washington telephone assistance program to the department of revenue no later than March 1st prior to the beginning of each fiscal year. The department of revenue shall then determine the amount of telephone assistance excise tax to be placed on each switched access line and shall inform local exchange companies and the utilities and transportation commission of this amount no later than May 1st. The department of revenue shall determine the amount of telephone assistance excise tax by dividing the total of the program budget funded by the telephone assistance excise tax, as submitted by the department, by the total number of switched access lines in the prior calendar year. The telephone assistance excise tax shall be separately identified on each ratepayer's bill as the "Washington telephone assistance program." All money collected from the telephone assistance excise tax shall be transferred to a telephone assistance fund administered by the department.

(2) Local exchange companies shall bill the fund for their expenses incurred in offering the telephone assistance program, including administrative and program expenses. The department shall disburse the money to the local exchange companies. The department is exempted from having to conclude a contract with local exchange companies in order to effect this reimbursement. The department shall recover its administrative costs from the fund. The department may specify by rule the range and extent of administrative and program expenses that will be reimbursed to local exchange companies.

(3) The department shall enter into an agreement with the department of ~~((community, trade, and economic development))~~ commerce for an amount not to exceed eight percent of the prior fiscal year's total revenue for the administrative and program expenses of providing community service voice mail services. The community service voice mail service may include toll-free lines in community action agencies through which recipients can access their community service voice mailboxes at no charge.

(4) During the 2009-2011 biennium, the department shall enter into an agreement with the ~~((military department))~~ WIN 211

organization for ~~((one million dollars to))~~ operational support ~~((the WIN 211 program)).~~

**Sec. 952.** RCW 82.14.495 and 2009 c 4 s 907 are each amended to read as follows:

(1) The streamlined sales and use tax mitigation account is created in the state treasury. The state treasurer shall transfer into the account from the general fund amounts as directed in RCW 82.14.500. Expenditures from the account may be used only for the purpose of mitigating the negative fiscal impacts to local taxing jurisdictions as a result of RCW 82.14.490 and the chapter 6, Laws of 2007 amendments to RCW 82.14.020. During the ~~((2007-2009))~~ 2009-2011 fiscal biennium, the legislature may transfer from the streamlined sales and use tax mitigation account to the state general fund such amounts as reflect the excess fund balance of the account.

(2) Beginning July 1, 2008, the state treasurer, as directed by the department, shall distribute the funds in the streamlined sales and use tax mitigation account to local taxing jurisdictions in accordance with RCW 82.14.500.

(3) The definitions in this subsection apply throughout this section and RCW 82.14.390 and 82.14.500.

(a) "Agreement" means the same as in RCW 82.32.020.

(b) "Local taxing jurisdiction" means counties, cities, transportation authorities under RCW 82.14.045, public facilities districts under chapters 36.100 and 35.57 RCW, public transportation benefit areas under RCW 82.14.440, and regional transit authorities under chapter 81.112 RCW, that impose a sales and use tax.

(c) "Loss" or "losses" means the local sales and use tax revenue reduction to a local taxing jurisdiction resulting from the sourcing provisions in RCW 82.14.490 and the chapter 6, Laws of 2007 amendments to RCW 82.14.020.

(d) "Net loss" or "net losses" means a loss offset by any voluntary compliance revenue.

(e) "Voluntary compliance revenue" means the local sales tax revenue gain to each local taxing jurisdiction reported to the department from persons registering through the central registration system authorized under the agreement.

(f) "Working day" has the same meaning as in RCW 82.45.180.

**Sec. 953.** RCW 83.100.230 and 2008 c 329 s 924 are each amended to read as follows:

The education legacy trust account is created in the state treasury. Money in the account may be spent only after appropriation. Expenditures from the account may be used only for deposit into the student achievement fund and for expanding access to higher education through funding for new enrollments and financial aid, and other educational improvement efforts. During the ~~((2007-2009))~~ 2009-2011 fiscal biennium, moneys in the account may also be transferred into the state general fund.

**NEW SECTION. Sec. 954.** A new section is added to 2009 c 564 (uncodified) to read as follows:

**JOINT LEGISLATIVE SELECT COMMITTEE ON HEALTH REFORM IMPLEMENTATION.**

The joint legislative select committee on health reform implementation is established. The joint legislative select committee on health reform implementation shall be co-chaired by the chairs of the health committees of the senate and the house of representatives, and leadership of the two largest caucuses in the senate and the house of representatives shall each appoint two additional legislators to serve on the committee. The co-chairs may direct the formation of advisory committees, if desired, to focus on specific topic areas, such as insurance regulation, access and expansion of public and private programs, and workforce issues, and may invite interested stakeholders and additional experts to

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advise the committee. All participation in the joint select committee and any advisory committees is without compensation.

This section expires June 30, 2011.

**NEW SECTION. Sec. 955.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 956.** Section 910 of this act expires June 30, 2011.

**NEW SECTION. Sec. 957.** Section 935 of this act expires June 30, 2011.

**NEW SECTION. Sec. 958.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

(End of bill)

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MOTION

Senator Prentice moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6444.

Senator Prentice spoke in favor of the motion.

POINT OF INQUIRY

Senator Regala: "Would Senator Kauffman yield to a question? Thank you very much Senator Kauffman. I noticed that in this proposed to supplemental budget for the Department of Social & Health Services in the agency detailed publication there are two items that relate to the council on children and families. I've noticed that each of those items represent a three hundred thousand dollar reduction to the council and that neither item is expressly described in the bill on which we are about to vote. So, is it the intent to your understanding of this legislation to make a six hundred thousand dollar reduction to the council on children and families and to require the Department of Social & Health Services to take this entire budget reduction from the funding from the council?"

Senator Kauffman: "Thank you Senator for the great question. No, it was not the intent of budget act to require the department to take both reductions from the council from the Children & Families for the services home visiting. Just once not twice."

The President declared the question before the Senate to be the motion by Senator Prentice that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6444.

The motion by Senator Prentice carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6444 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6444, as amended by the House.

On page 1, line 1 of the title, after "matters;" strike the remainder of the title and insert "amending RCW 13.06.050,

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Senators Zarelli, Schoesler, Carrell, Tom and Pflug spoke against passage of the bill.

Senators Hargrove and Brown spoke in favor of passage of the bill.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6444, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 25; Nays, 21; Absent, 0; Excused, 3.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Jacobsen, Kastama, Kauffman, Keiser, Kline, Kohl-Welles, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller and Shin

Voting nay: Senators Becker, Benton, Brandland, Carrell, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Kilmer, King, Marr, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Swecker, Tom and Zarelli

Excused: Senators Delvin, McCaslin and Stevens

ENGROSSED SUBSTITUTE SENATE BILL NO. 6444, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Prentice: "I would like to thank the staff of Ways & Means for doing an absolute incredible job. I don't think we really realize how they work, day and night and I believe we have some of them. Would you please come forth? Don't look so bashful, Senator Fraser would you scoot them in here? I really think we owe them a round of applause. You can see how bashful they are. I can tell you that I've never worked with such a very dedicated group of people but also just so darned sharp. They know so much and they work so hard and after we moaned and groaned coming in Sunday afternoon and we have a hearing and then they work on the rest of our bills, I know on many occasions they've worked all night and I guess I just can't say thank you enough."

#### PERSONAL PRIVILEGE

Senator Brown: "Well, they're running away almost as fast as I can talk but Mr. Wills. Mr. Wills, could you step forward please? The head of our Ways & Means shop is going on to finer things. He's going to retire after this session and I wanted to say to him that 'oh bearded one.' He's done a fantastic job. We almost lost him and he stepped back in to fill the void and it's been to the value of all the people in the Senate and in the state of Washington. Very unflappable guy with, has the enormous respect of the people who work with him and has devoted many years of service, I won't say how many, to the people of Washington State. He's much younger than he looks, just kidding. He's done a fantastic job for us and his work will be well remembered. Thank you very much Mike."

#### PERSONAL PRIVILEGE

Senator Tom: "I really do want to second the motion as far as the great staff that we do have in Ways & Means. I've had the privilege in my private life to work with some incredible attorneys, accountants, lot of very high-priced, I guess you would say, individuals and our staff, they are incredible and they can hold a candle to anybody out there I can guarantee you. I think

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I've said it before, it always amazes to me why they're actually here because they could probably make a heck of a lot more money out there in the private sector. They are that talented but we are so fortunate to have them working immense hours. If we worked half as hard as they did, I think things around here would run a whole lot different but it really is amazing the talent that we have there. I know that we are a part-time legislature and this might not be the perfect idea but if we really were smart what we would do is we would just go home tell them to figure out the budget and then come back and say, 'yes'. I can tell you we would have a budget that I think that would get a lot more votes than twenty-five if that was the occurrence. Again, just want to say thanks for the incredible staff that we do have. Thank you Mr. President."

#### MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2836, by House Committee on Capital Budget (originally sponsored by Representatives Dunshee and White)

Concerning the capital budget.

The measure was read the second time.

#### MOTION

Senator Fraser moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A supplemental capital budget is hereby adopted and, subject to the provisions set forth in this act, the several dollar amounts hereinafter specified, or so much thereof as shall be sufficient to accomplish the purposes designated, are hereby appropriated and authorized to be incurred for capital projects during the period beginning with the effective date of this act and ending June 30, 2011, out of the several funds specified in this act.

#### PART 1

#### GENERAL GOVERNMENT

**Sec. 1001.** 2009 c 497 s 1005 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT)) COMMERCE**

Local and Community Projects (20064008)

The reappropriation in this section is subject to the following conditions and limitations: (1) \$64,319 of the remaining reappropriation for El Centro de la raza may be used for building infrastructure. (2) \$10,000 of the remaining reappropriation for miracle league handicapped baseball may be used for pre-grading and resurfacing construction. (3) \$1,394,107 of the remaining reappropriation for MOBIUS/inland northwest science and technology center may be used for building design ((and)), construction, and renovation. (4) \$500,000 of the remaining reappropriation for the Soundway property preservation project may be used by the city of Seattle, in cooperation with the nature consortium for habitat, recreation improvements, or stewardship of the property, if the city of Seattle enacts pending city legislation to

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preserve the property and place it under the jurisdiction of city of Seattle parks and recreation. (5) The reappropriation is adjusted for the transfer of the Vancouver national historical reserve west barracks project to the Washington state historical society and the termination of the following projects that are no longer viable: (a) Snohomish senior center and (b) central area motivation program (CAMP).

Reappropriation:

State Building Construction Account--State.....	(\$10,658,000)
	\$9,258,000
Prior Biennia (Expenditures).....	\$37,141,000
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	(\$47,799,000)
	\$46,399,000

Sec. 1002. 2009 c 497 s 1013 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT)) COMMERCE**

Job and Economic Development Grants (20064950)

The ((re))appropriation in this section is subject to the following conditions and limitations:

- (1) The ((re))appropriation is subject to the provisions of section 107, chapter 371, Laws of 2006.
- (2) The ((re))appropriation is subject to the project list in section 107, chapter 371, Laws of 2006.
- (3) Up to \$1,000,000 of the ((re))appropriation for the Pacific Northwest national labs campus infrastructure project is provided solely for giga-pop infrastructure.
- (4) Up to \$2,200,000 of the ((re))appropriation is provided solely for military communities infrastructure projects. Military communities infrastructure projects shall include:

(a) Grants to counties and cities for the purchase of development easements and the purchase of real property in fee simple to restrict the use of accident potential zones and clear zones. The office of financial management shall establish a competitive process for selecting projects to receive the grants. Final allocation of these grants shall be at the discretion and with the approval of the director of the office of financial management.

The grants are subject to the following conditions:

- (i) The county or city must be subject to and in compliance with RCW 36.70A.530;
- (ii) The grants may not be used to remove encroachments into these zones allowed by county or city zoning or permitting actions;
- (iii) The county or city must have an encroachment prevention plan preventing future encroachment into these zones; and
- (iv) The grant provided by the state must not exceed one-third of the project cost with funds from local and federal sources providing the balance of the funds.

(b) Up to \$481,000 of the ((re))appropriation is provided solely for improvements to a military department site on Fairchild air force base.

Reappropriation:

Public Works Assistance Account--State.....	(\$14,172,000)
	\$1,733,000

Appropriation:

State Building Construction Account--State.....	\$12,439,000
Prior Biennia (Expenditures).....	\$35,828,000
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$50,000,000

Sec. 1003. 2009 c 497 s 1029 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT)) COMMERCE**

Local and Community Projects (20084001)

The reappropriation in this section is subject to the following conditions and limitations:

- (1) The projects must comply with RCW 43.63A.125 and other requirements for community projects administered by the department.
- (2) The reappropriation is subject to the provisions of section 1008, chapter 328, Laws of 2008.
- (3) \$1,000,000 of the remaining reappropriation for the Evergreen school district health and biosciences academy may be used for land acquisition. If the facility is not constructed by June 30, 2015, the school district shall reimburse the state an amount equal to \$1,000,000 increased by the average percentage appreciation in property values for undeveloped land in the surrounding area between the date the school district acquired the property and June 30, 2015 or the date the school district disposes of the property.
- (4) \$600,000 of the remaining reappropriation for the institute for community leadership may be used for land acquisition.
- (5) \$250,000 of the remaining reappropriation for the Pacific Northwest ilocandia association may be used for acquisition and renovation.
- (6) \$200,000 of the remaining reappropriation for the library connection at Greenbridge may be used for construction and equipment.
- (7) \$1,000,000 of the remaining reappropriation for the Evergreen school district health and biosciences academy may be used for land acquisition.

(8) The remaining reappropriation for the Mobius/inland northwest science and technology center may be used for building design, construction, and renovation.

(9) The reappropriation is adjusted for the transfer of the Vancouver national historical reserve project to the Washington state historical society; the reduction of \$1,400,000 from the Tacoma narrows bridge lights project; and the termination of the following projects that are no longer viable: (a) Camp kilworth land acquisition - Federal Way, (b) Kitsap SEED, and (c) Seatac world war I memorial plaza.

Reappropriation:

State Building Construction Account--State.....	(\$61,200,000)
	\$56,650,000
Prior Biennia (Expenditures).....	\$71,694,000
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	(\$132,894,000)
	\$128,344,000

Sec. 1004. 2009 c 497 s 1019 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT)) COMMERCE**

Public Works Trust Fund (20074005)

Reappropriation:

Public Works Assistance Account--State.....	(\$232,000,000)
	\$132,000,000

State Taxable Building Construction Account--	
State	\$95,000,000

Subtotal Reappropriation.....	(\$327,000,000)
	\$227,000,000

Appropriation:

State Taxable Building Construction Account.....	
State.....	\$100,000,000

Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL.....	\$327,000,000

Sec. 1005. 2009 c 497 s 1023 (uncodified) is amended to read as follows:

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**FOR THE DEPARTMENT OF ((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT)) COMMERCE**

Job Development Fund Grants (20074010)

The ((re))appropriation in this section is subject to the following conditions and limitations:

(1) The ((re))appropriation is subject to the provisions of section 1032, chapter 520, Laws of 2007.

~~((The appropriation in this section is subject to the following conditions and limitations: The))~~ (2) \$3,000,000 of the appropriation is provided solely for a grant to the port of Grays Harbor for the bulk liquid facility project.

Reappropriation:

Job Development Account--State .....((~~\$22,228,000~~))  
\$4,298,000

Appropriation:

~~((Job Development Account--State ..... \$3,000,000))~~  
State Building Construction Account--State.....\$20,930,000  
Prior Biennia (Expenditures).....\$24,702,000  
Future Biennia (Projected Costs) .....\$0  
TOTAL.....\$49,930,000

Sec. 1006. 2009 c 497 s 1030 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT)) COMMERCE**

Community Development Fund (20084850)

The reappropriation in this section is subject to the following conditions and limitations:

(1) The reappropriation is subject to the provisions of section 1014, chapter 328, Laws of 2008.

(2) \$105,521 of the remaining reappropriation for El Centro de la raza center may be used for building infrastructure.

(3) \$1,000,000 of the remaining reappropriation for the Salishan housing community project may be used for infrastructure and housing.

(4) The reappropriation is adjusted for the termination of the homesight center project which is no longer viable.

Reappropriation:

State Building Construction Account--State.....((~~\$9,715,000~~))  
\$9,465,000  
Prior Biennia (Expenditures).....\$11,451,000  
Future Biennia (Projected Costs) .....\$0  
TOTAL.....((~~\$21,166,000~~))  
\$20,916,000

Sec. 1007. 2009 c 497 s 1031 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT)) COMMERCE**

Belfair Sewer Improvements (20084852)

Reappropriation:

State Building Construction Account--State.....\$5,500,000  
~~((Public Works Assistance Account--State ..... \$4,800,000~~  
Subtotal Reappropriation ..... \$10,300,000)

Appropriation:

State Building Construction Account--State .....\$4,800,000  
Prior Biennia (Expenditures).....\$0  
Future Biennia (Projected Costs) .....\$0  
TOTAL.....\$10,300,000

Sec. 1008. 2009 c 497 s 1034 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT)) COMMERCE**

Quillayute Valley Wood-Fire Boiler (20084858)

Reappropriation:

Energy Freedom Account--State.....((~~\$1,000,000~~))  
\$20,000

Appropriation:

State Building Construction Account--State .....\$980,000  
Prior Biennia (Expenditures).....\$0  
Future Biennia (Projected Costs) .....\$0  
TOTAL .....\$1,000,000

Sec. 1009. 2009 c 497 s 1035 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT)) COMMERCE**

Snohomish County Biodiesel (20084859)

Reappropriation:

Energy Freedom Account--State.....((~~\$500,000~~))  
\$419,000

Appropriation:

State Building Construction Account--State .....\$81,000  
Prior Biennia (Expenditures).....\$0  
Future Biennia (Projected Costs) .....\$0  
TOTAL .....\$500,000

Sec. 1010. 2009 c 497 s 1039 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT)) COMMERCE**

Drinking Water State Revolving Fund Loan Program (30000005)

Appropriation:

Drinking Water Assistance Account--State .....((~~\$8,000,000~~))  
\$10,930,000

Drinking Water Assistance Repayment

Account--State .....\$31,201,000  
Subtotal Appropriation.....((~~\$39,201,000~~))  
\$42,131,000

Prior Biennia (Expenditures).....\$0  
Future Biennia (Projected Costs) .....\$215,974,000  
TOTAL.....((~~\$255,175,000~~))  
\$258,105,000

Sec. 1011. 2009 c 497 s 1040 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT)) COMMERCE**

Building for the Arts Grants (30000006)

The appropriation in this section is subject to the following conditions and limitations:

(1) Projects must be selected based on their readiness to proceed.

(2) The appropriation is provided solely for the following list of projects:

Admiral Theatre-No Theatre Left Behind	\$140,000
<del>((Artspace Everett Lofts</del>	<del>\$1,000,000</del> )
Building a Foundation for Discovery	\$250,000
Campus Consolidation (Cornish)	\$375,000
Convert Key Bank to Everett's Plaza Theatre	\$500,000
Cottage Renovation (Hedgebrook)	\$20,000
Downstairs at the 5th	\$800,000
Federal Way Performing Arts Center	\$325,000
Gateway Center (Lummi)	\$150,000
James Center for the Performing Arts (Sequim)	\$150,000

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Langston Hughes Performing Arts Center	\$475,000
Legacy Project (Imagine)	\$200,000
Modular Classrooms for Dance (Gladish)	\$30,000
Mt. Baker Theatre	\$1,000,000
Museum Expansion (Maryhill)	\$1,500,000
New Hands On Children's Museum	\$1,000,000
Reconstruction of First Stage (Issaquah)	\$400,000
Seattle Opera Center	\$650,000
Stage Two (Whidbey)	\$450,000
Vashon Arts Center	\$1,115,000
Visual Arts Education Center (Snohomish County)	\$1,000,000
Viva Vera Capital Campaign	\$70,000

Total	(\$11,600,000)
	<u>\$10,600,000</u>
Appropriation:	
State Building Construction Account--State.....	(\$11,600,000)
	<u>\$10,600,000</u>
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$48,000,000
TOTAL .....	(\$59,600,000)
	<u>\$58,600,000</u>

Sec. 1012. 2009 c 497 s 1045 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT)) COMMERCE**

Housing Assistance, Weatherization, and Affordable Housing (30000013)

The appropriations in this section are subject to the following conditions and limitations:

(1) \$7,000,000 of the appropriations is provided solely for facilities housing low-income migrant, seasonal, or temporary farmworkers. The operation of the facilities built under this section shall be in compliance with 8 U.S.C. Sec. 1342. The department shall work with the farmworker housing advisory committee to prioritize funding of projects to the areas of highest need. Funding may also be provided, to the extent qualified projects are submitted, for health and safety projects. Any of this appropriation that is not obligated by June 30, 2011, shall be added to the amount appropriated for the general pool of projects.

(2) \$3,000,000 of the appropriations is provided solely to promote development of safe and affordable housing units for persons eligible for services from the division of developmental disabilities within the department of social and health services.

(3) \$10,000 of the appropriations is provided solely to the ~~((Ballard food bank/Ballard homes for all coalition))~~ St. Luke's Lutheran Church/Interfaith Task Force on Homelessness for the construction of a mobile camp facility.

(4) \$2,500,000 of the appropriations is provided solely for the development of farm infrastructure improvements. Any of this appropriation that is not obligated by June 30, 2011, must be added to the amount appropriated for the general pool of projects.

(5) \$1,000,000 from the taxable bonds account is provided solely for the development or preservation of farmworker housing for migrant and seasonal farmworkers located on private farms.

(6) \$5,000,000 of the appropriation from the state building construction account is provided solely to build low-income housing units in underserved communities and to concurrently develop capacity in these same communities. Underserved communities of concern are those that have high levels of poverty, specifically, thirty percent of the local median income; experience chronic homelessness; and lack affordable housing. Underserved communities include veterans, immigrants, refugees, and those communities of color disproportionately impacted by chronic homelessness and lack of affordable housing. The department shall collaborate with representatives of underserved communities and organizations committed to assistance in these efforts to prioritize and plan distribution of funding.

(7) The department may not make loans from capital bond proceeds appropriated in this section if the appropriations are also obligated for other grants or loans or if the anticipated repayments of the loans are from future state legislative appropriations.

(8) The legislature recognizes and supports the housing priorities reflected in the American recovery and reinvestment act of 2009 with the estimated amount of \$144,000,000 provided solely for the following programs:

(a) The community development fund's neighborhood stabilization fund to purchase and rehabilitate foreclosed vacant properties and to help create affordable housing and stabilize neighborhoods.

(b) The public housing capital fund to assist housing authorities build and rehabilitate low-income housing stock. Housing authorities are required to give priority consideration to the rehabilitation of vacant rental units and capital projects that are already underway or included in the five-year capital fund plans.

(c) HOME funding to the Washington state housing finance commission for a competitive program pursuant to the qualified allocation plan to owners of projects who have received or receive simultaneously an award of low-income housing tax credits under section 42(h) of the internal revenue code of 1986.

(d) Weatherization appropriated in section 1052 of this act for grants and loans to local energy programs for weatherization of multifamily and single family homes.

(9) \$5,000,000 is provided solely for two geographically diverse projects that serve security lifeline clients who are homeless and have a mental or behavioral health disorder. This housing must be provided in coordination with community agencies who can offer supportive services.

(10) Up to \$25,000,000 of the appropriation is for the department of commerce to contract with the Washington state housing finance commission to provide equity funding and administration necessary to implement the Washington works housing program and to facilitate nonprofit entities' use of tax-exempt multifamily bonds issued by the Washington state housing finance commission. The projects receiving these funds shall meet the affordability requirement for the period after initial bond indebtedness, as established in section 2(2) of chapter 6, Laws of 2010.

Appropriation:	
State Building Construction Account--State.....	(\$30,000,000)
	<u>\$34,500,000</u>
State Taxable Building Construction Account--State .....	(\$60,000,000)
	<u>\$85,500,000</u>
Washington Housing Trust Account--State .....	\$10,000,000
Subtotal Appropriation.....	(\$100,000,000)
	<u>\$130,000,000</u>

Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$400,000,000
TOTAL .....	<u>(\$500,000,000)</u>
	<u>\$530,000,000</u>

Future Biennia (Projected Costs) .....	\$0
TOTAL .....	<u>(\$5,000,000)</u>
	<u>\$6,500,000</u>

**Sec. 1013.** 2009 c 497 s 1046 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT)) COMMERCE**

Community Schools (91000002)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for the following:

(1) The acquisition, rehabilitation, expansion, or improvement of surplus school buildings to be converted into community facilities for the delivery of nonresidential coordinated services for children and families.

(a) Eligible applicants include local governments, nonprofit organizations, nonprofit early learning providers, and tribal governments. Only the following surplus schools may be eligible for grant funding under this section: Fauntleroy school, University Heights school, and Martin Luther King elementary school.

(b) As part of the grant process, applicants must submit a comprehensive plan for the use of the surplus school that includes information on the following:

(i) A list of partner entities that will assist the lead eligible applicant to provide or coordinate services for children and families;

(ii) A memorandum of understanding between the lead eligible applicant and each partner; and

(iii) An examination of capital and operating funding sources that applicants intend to apply to the project and coordinated services at each school to be served, whether such funding is derived from grants under this section or from other federal, state, local, or private sources.

(c) Project applicants must demonstrate that the proposed project is ready to proceed, will make timely use of the funds, and requires state funding to accomplish a discrete, usable phase of the project that may include acquisition.

(d) If grant funds under this subsection are used for the acquisition of surplus school facilities, the sale proceeds must be used by the local school board disposing of such property for renovation, replacement, or new construction of school facilities in the district, but shall not be used as local match for projects receiving state school construction assistance grants.

(e) In contracts for grants authorized under this subsection, the department shall include provisions that require that capital improvements must be held by the grantee for a specified period of time appropriate to the amount of the grant and that facilities must be used for the express purpose of the grant. If the grantee is found to be out of compliance with provisions of the contract, the grantee shall repay to the state general fund the principal amount of the grant plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the date of authorization of the grant.

(2) The construction of a non-mobile facility, accessible to students in central and eastern Washington for the purpose of financial literacy education, for the eastern and western Washington junior achievement world initiative.

(3) \$1,500,000 of the appropriation in this section is provided solely for acquisition of the Martin Luther King elementary school. This is in addition to the amount provided for the Martin Luther King elementary school in section 1033, chapter 497, Laws of 2009.

Appropriation:

State Building Construction Account--State.....	<u>(\$5,000,000)</u>
	<u>\$6,500,000</u>
Prior Biennia (Expenditures).....	\$0

as follows:

**FOR THE DEPARTMENT OF ((COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT)) COMMERCE**

Local and Community Projects (30000019)

The appropriation in this section is subject to the following conditions and limitations:

(1) Prior to receiving funds, project recipients must demonstrate that the project site is under control for a minimum of ten years, either through ownership or a long-term lease. This requirement does not apply to appropriations for preconstruction activities or appropriations whose sole purpose is to purchase real property that does not include a construction or renovation component.

(3) Projects funded in this section may be required to comply with Washington's high performance building standards as required by chapter 39.35D RCW.

(4) Project funds are available on a reimbursement basis only, and shall not be advanced under any circumstances.

(5) Projects funded in this section must be held by the recipient for a minimum of ten years and used for the same purpose or purposes intended by the legislature as required in RCW 43.63A.125(2)(c).

(6) Projects funded in this section, including those that are owned and operated by nonprofit organizations, are generally required to pay state prevailing wages.

(7) Except as directed otherwise prior to the effective date of this section, the department shall not expend the appropriations in this section unless and until the nonstate share of project costs have been either expended, or firmly committed, or both, in an amount sufficient to complete the project or a distinct phase of the project that is useable to the public for the purpose intended by the legislature.

(8) The appropriation is provided solely for the following list of projects:

**Local Community Projects**

7th St. Theater	\$330,000
Arc of Tri-Cities	\$900,000
Bellevue Clinic--Seattle Children's Hospital	\$2,000,000
Blessed Sacrament Food and Emergency Facilities Renovation	\$200,000
Children's Village Expansion Project	\$500,000
Clark County Food Distribution Facility	\$1,500,000
Coal Creek YMCA (Newcastle)	\$800,000
Dawson Place Child Advocacy Center	\$1,000,000
Federal Way National Little League Field Lighting Project and Monument Entry Sign	\$177,000
Harlequin Theater	\$235,000
Home Dialysis Center and Professional Workforce Training	\$250,000
Kirkland Park Place Redevelopment	\$2,000,000

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Livingston Baker Fire and Life Safety	\$750,000
Marshland Diking District	\$500,000
Marysville Boys & Girls Club	\$500,000
McClure Middle School Energy Saving Performance Contract Demonstration Project	\$1,000,000
Mountains to Sound Greenway	\$100,000
Mukilteo Boys & Girls Club	\$150,000
Neighborcare Health Clinic and Rainier Beach Medical Clinic	\$1,000,000
Parkland at Japanese Gulch	\$1,000,000
Petrovitsky Park Upgrade	\$750,000
Phoenix House	\$200,000
Poulsbo Marine Center	\$500,000
Public Broadcasting Frequency Expansion	\$223,000
<del>((Ready by Five Early Learning Center</del>	<del>(\$1,000,000))</del>
Renovations to Mill Creek City Annex Building	\$30,000
Snohomish County Emergency Center	\$1,000,000
South Tacoma Community Center	\$1,000,000
Whatcom Hospice House	\$700,000
Zina Linnik	\$950,000

Appropriation:

State Building Construction Account--State.....	<del>(\$21,245,000)</del>
	<u>\$20,245,000</u>
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	<del>(\$21,245,000)</del>
	<u>\$20,245,000</u>

NEW SECTION. Sec. 1015. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF COMMERCE**

2010 Local and Community Projects (30000082)

The appropriation in this section is subject to the following conditions and limitations:

(1) Prior to receiving funds, project recipients must demonstrate that the project site is under control for a minimum of ten years, either through ownership or a long-term lease. This requirement does not apply to appropriations for preconstruction activities or appropriations whose sole purpose is to purchase real property that does not include a construction or renovation component.

(2) Projects funded in this section may be required to comply with Washington's high performance building standards as required by chapter 39.35D RCW.

(3) Project funds are available on a reimbursement basis only, and shall not be advanced under any circumstances.

(4) Projects funded in this section must be held by the recipient for a minimum of ten years and used for the same purpose or purposes intended by the legislature as required in RCW 43.63A.125(6).

(5) Projects funded in this section, including those that are owned and operated by nonprofit organizations, are generally required to pay state prevailing wages.

(6) Except as directed otherwise prior to the effective date of this section, the department shall not expend the appropriations in this section unless and until the nonstate share of project costs have been either expended, or firmly committed, or both, in an amount sufficient to complete the project or a distinct phase of the project that is useable to the public for the purpose intended by the legislature.

(7) The appropriation is provided solely for the following list of projects:

**Local Community Projects**

Aviation High School	\$2,000,000
Children's Village Expansion	\$250,000
East King County Performing Arts Center (PACE)	\$2,000,000
Hanford Reach Interpretive Center	\$500,000
Junior Achievement (Statewide JA World Initiative)	\$1,500,000
Lake Boren Park - Replace Unsafe Playground	\$325,000
Museum of Flight Space Gallery	\$3,000,000
Pike Market Workforce Childcare Facility	\$1,000,000
Rainier Beach Medical & Dental Clinic (Neighborcare Health)	\$500,000
Relocation of NAVES Mental Health Center in Brien	\$1,000,000
Restoration of Historic Piciform Theater	\$250,000
San Juan Island Farmers Market - Purchase Historic Building	\$375,000
South King County Multi service Center	\$300,000
Spokane Aerospace Technology Center Design	\$400,000
Urban League Village at Colman School/NW	\$100,000
African American Museum	
West Hill/Skyway Area Infrastructure	\$250,000

Appropriation:

State Building Construction Account--State.....	\$13,750,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$13,750,000

NEW SECTION. Sec. 1016. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF COMMERCE**

Jobs Act for K-12 Public Schools and Higher Education Institutions (91000085)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation is provided solely for grants to public school districts and public higher education institutions for operational cost savings improvements to public school district and higher education facilities and related projects that result in energy and operational cost savings. Related projects are those projects that must be completed in order for the energy efficiency

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improvements to be effective. Grants may also be used for loan interest payments over the term of a loan.

(2) The department of commerce, in consultation with the department of general administration, the office of the superintendent of public instruction, and the Washington State University energy program shall establish a competitive process to solicit and evaluate applications from public school districts and public higher education institutions. Final grant awards shall be determined by the department of commerce.

(3) The definitions in this section apply throughout this section.

(a) "Cost-effectiveness" means that the present value to public school districts and public higher education institutions of the energy reasonably expected to be saved or produced by a facility, activity, measure, or piece of equipment over its useful life, including any compensation received from a utility or the Bonneville power administration, is greater than the net present value of the costs of implementing, maintaining, and operating such facility, activity, measure, or piece of equipment over its useful life, when discounted at the cost of public borrowing.

(b) "Energy equipment" means energy management systems and any equipment, materials, or supplies that are expected, upon installation, to reduce the energy use or energy cost of an existing building or facility, and the services associated with the equipment, materials, or supplies, including but not limited to design, engineering, financing, installation, project management, guarantees, operations, and maintenance. Reduction in energy use or energy cost may also include reductions in the use or cost of water, wastewater, or solid waste.

(c) "Energy cost savings" means savings realized in expenses for energy use and expenses associated with water, wastewater, or solid waste systems.

(d) "Energy savings performance contracting" means the process authorized by chapter 39.35C RCW by which a company contracts with a public agency to conduct energy audits and guarantee energy savings from energy efficiency.

(e) "Operational cost savings" means savings realized from parts, service fees, capital renewal costs, and other measurable annual expenses to maintain and repair systems. This definition does not mean labor savings related to existing facility staff.

(f) "Public facilities" means buildings, building components, and major equipment or systems owned by public school districts and public higher education institutions.

(g) "Innovative measures" means advanced or emerging technologies, systems or approaches that may not yet be in common practice but improve energy efficiency, accelerate deployment, or reduce energy usage, and become widely commercially available in the future if proven successful in demonstration programs without compromising the guaranteed performance or measurable energy and operational cost savings anticipated. Examples of innovative measures include, but are not limited to, advanced energy and systems operations monitoring, diagnostics and controls systems for buildings; novel heating, cooling, ventilation and water heating systems; advanced windows and insulation technologies, highly efficient lighting technologies, designs, and controls; and integration of renewable energy sources into buildings, and energy savings verification technologies and solutions.

(4) Grants must be awarded in competitive rounds, based on demand and capacity, with at least five percent of each grant round awarded to small public school districts with fewer than 1,000 full-time equivalent students, based on demand and capacity.

(5) Within each competitive round, projects must be weighted and prioritized based on the following criteria and in the following order:

(a) Leverage ratio: In each round, the higher the leverage ratio of nonstate funding sources to state jobs act grant, the higher the project ranking.

(b) Energy savings: In each round, the higher the energy savings, the higher the project ranking. Applicants must submit documentation that demonstrates energy and operational cost savings resulting from the installation of the energy equipment and improvements. The energy savings analysis shall be performed by a licensed engineer, and the documentation must include but is not limited to the following:

(i) A description of the energy equipment and improvements;

(ii) A description of the energy and operational cost savings; and

(iii) A description of the extent to which the project employs collaborative and innovative measures and encourages demonstration of new and emerging technologies with high energy-savings or energy cost- reductions.

(c) Expediency of expenditure: Project readiness to spend funds must be prioritized so that the legislative intent to expend funds quickly is met.

(6) Projects that do not use energy savings performance contracting must: (a) Verify energy and operational cost savings for ten years or until the energy and operational costs savings pay for the project, whichever is shorter; (b) follow the department of general administration's energy savings performance contracting project guidelines; and (c) employ a licensed engineer for the energy audit and construction. The department of commerce may require third-party verification of savings if a project is not implemented by an energy savings performance contractor selected by the department of general administration through the request of qualifications process. Third- party verification must be conducted either by an energy savings performance contractor selected by the department of general administration through a request for qualifications, a licensed engineer that is a certified energy manager, a project resource conservation manager, or educational service district resource conservation manager.

(7) To intensify competition, the department of commerce may only award funds to the top eighty-five percent of projects applying in a round until the department of commerce determines a final round is appropriate. Projects that do not receive a grant award in one round may reapply in subsequent rounds.

(8) To match federal grants and programs that require state matching funds and produce significantly higher efficiencies in operations and utilities, the level of innovation criteria may be increased for the purposes of weighted scoring to capture those federal dollars for selected projects that require a higher level of innovation and regional collaboration.

(9) Grant amounts awarded to each project must allow for the maximum number of projects funded with the greatest energy and cost benefit.

(10)(a) The department of commerce must use bond proceeds to pay one-half of the preliminary audit, up to five cents per square foot, if the project does not meet the school district's and higher education institution's predetermined cost-effectiveness criteria. Public school districts and public higher education institutions must pay the other one-half of the cost of the preliminary audit if the project does not meet their predetermined cost-effectiveness criteria.

(b) The energy savings performance contractor shall not charge for an investment grade audit if the project does not meet the school district's and higher education institution's predetermined cost-effectiveness criteria. Public school districts and public higher education institutions must pay the full price of an investment grade audit if they do not proceed with a project that meets the school district's and higher education institution's predetermined cost-effectiveness criteria.

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(11) The department of commerce may charge projects administrative fees and may pay the department of general administration, the Washington State University energy program, and the office of the superintendent of public instruction administration fees in an amount determined through a memorandum of understanding.

(12) The department of commerce and the department of general administration must submit a joint report to the appropriate committees of the legislature and the office of financial management on the timing and use of the grant funds, program administrative function, compliance with apprenticeship utilization requirements in RCW 39.04.320, compliance with prevailing wage requirements, and administration fees by the end of each fiscal year, until the funds are fully expended and all savings verification requirements are fulfilled.

Appropriation:

State Building Construction Account--State.....	\$50,000,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$50,000,000

**NEW SECTION. Sec. 1017.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF COMMERCE**

Energy Regional Innovation Cluster Match (91000080)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely to support facilities to be located in Washington state to increase the competitiveness of state or regional proposals for federal energy innovation and research funding. State funding must not exceed twenty percent of the total program or project funds. If a Washington state research organization is not awarded federal funding for energy innovation and research by June 30, 2011, the remaining appropriation in this section may be allotted for export assistance as provided in section 1018 of this act.

Appropriation:

Public Facility Construction Loan Revolving Account--State.....	\$5,500,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$5,500,000

**NEW SECTION. Sec. 1018.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF COMMERCE**

CERB - Export Assistance Grants and Loans (92000069)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for loans and grants to local governments and public institutions of higher education for technical assistance and infrastructure to support growth of export of Washington state products and services.

Appropriation:

Public Facility Construction Loan Revolving Account--State .....	\$3,000,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$3,000,000

**Sec. 1019.** 2009 c 497 s 1054 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT**

Cowlitz River Dredging (20082856)

Reappropriation:

State Building Construction Account--State.....	\$313,000
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Appropriation:

State Building Construction Account--State.....	\$500,000
Prior Biennia (Expenditures).....	\$687,000
Future Biennia (Projected Costs) .....	\$0

TOTAL .....	(\$1,000,000)
	\$1,500,000

**Sec. 1020.** 2009 c 497 s 1055 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT**

Catastrophic Flood Relief (20084850)

The reappropriation in this section is subject to the following conditions and limitations:

(1) \$1,640,000 of the reappropriation is provided solely for nonfederal matching funds and state agency costs associated with the army corps of engineers flood hazard mitigation projects for the Chehalis river basin.

(2) \$1,200,000 of the total reappropriation is provided solely for the Chehalis basin flood control authority to develop governance agreements for development, operation, and maintenance of flood hazard mitigation measures throughout the basin. The development of the governance agreements shall include preliminary estimates of local property tax options necessary to support the maintenance and operation of the twin city levy project and tax options necessary to support other possible flood control measures throughout the basin. The agreements must be executed by July 1, 2011.

(3)(a) \$2,000,000 of the reappropriation is provided solely for the following studies of flood mitigation measures: (i) Studies contracted prior to the effective date of this act; (ii) a study to evaluate the feasibility of a combination of the United States' army corps of engineers twin city project, with other retention structures, and nonstructural flood mitigation measures to be completed by June 30, 2011; (iii) a study to determine how ecosystem services, including nonstructural alternatives, would likely mitigate downstream flooding to be completed by December 2010; (iv) continuation of the general investigation of basin wide flood control measures by the United States' army corps of engineers; (v) an independent peer review of completed geotechnical and hydrological studies of possible upper basin retention structures to be completed by October 2010; (vi) a study of the effect of possible retention structures and other flood control measures on fish in the basin to be completed by June 2011, provided that the fish study shall not examine options for retention structures that the peer review in this section determines is not feasible.

(b) From the effective date of this act and prior to any expenditure on new studies, the Chehalis basin flood authority must submit any new study proposal to the basinwide general investigation project manager of the United States army corps of engineers for review. Based upon the United States army corps of engineers review of the proposal, the Chehalis basin flood authority must develop a proposed scope of work for the study that ensures, to the fullest extent possible, that the study will be eligible for federal work-in-kind credit.

(c) The Chehalis basin flood authority must: (i) In consultation with the department of ecology, select qualified experts to conduct the peer review of geotechnical and hydrological studies; and (ii) consult with the Washington state department of fish and wildlife, the confederated tribes of the Chehalis reservation, and the Lewis county public utility district to develop and agree upon a scope of work for, and select a qualified expert to, conduct the fish study. The peer review must be submitted to the office of financial management before funds are allotted for the fish study.

(4) \$300,000 of the reappropriation is provided solely for an early flood warning system.

(5) It is the intent of the legislature to fulfill the commitment of section 101, chapter 179, Laws of 2008 and chapter 180, Laws of 2008, by appropriating funds when the federal match requirement is needed.

Reappropriation:

State Building Construction Account--State.....	(\$47,351,000)
	\$5,140,000
Prior Biennia (Expenditures).....	(\$2,649,000)
	\$3,450,000
Future Biennia (Projected Costs) .....	(\$0)
	\$41,410,000
<b>TOTAL</b> .....	\$50,000,000

**NEW SECTION. Sec. 1021.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT**

Risk Pool (91000001)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for a risk pool to complete projects within the scope described in budget documents submitted as part of the governor's capital budget request and consistent with legislative history. This section only applies to projects included in this 2010 supplemental capital budget with reduced appropriations. The office of financial management may allot portions of this appropriation ten days after notifying the senate ways and means committee and the house of representatives capital budget committee. The notification must include an explanation of the need and the amount for the allotment to complete the scope of an approved project.

Appropriation:

State Building Construction Account--State.....	\$4,000,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
<b>TOTAL</b> .....	\$4,000,000

**NEW SECTION. Sec. 1022.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT**

Port Angeles Economic Development Agreement (30000024)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely to carry out paragraph 2.C. of the economic development agreement associated with the case of *Lower Elwha Klallam Tribe et al v. State et al*, Thurston county superior court, cause No. 05-2-01595-8. The state has already provided \$250,000 to carry out that paragraph. After disbursement of the appropriation in this section, the state will provide no further funding under the economic development agreement.

Appropriation:

State Building Construction Account--State.....	\$250,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
<b>TOTAL</b> .....	\$250,000

**NEW SECTION. Sec. 1023.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT. (1)**

Due to the downturn of the economy and the direct effects on the state bond debt limit, the legislature intends to reduce bond debt while focusing resources on maintaining and creating jobs. Therefore, the legislature directs the office of financial management to work with state agencies to achieve savings in the amount of \$50,000,000 by reducing previously approved allotments or by withholding approval of planned allotments for those projects that have not shown substantial progress under the criteria established in subsection (2) of this section or from projects with savings identified pursuant to section 6012 of this act.

(2) A project is subject to allotment reduction or non-approval of a planned allotment under this section if:

- (a)(i) It is a state project administered by a state agency; or
- (ii) It is a grant or a loan project for which a state agency allocates funding to a non-state entity;

(b) Appropriations for the project were made in the 2009-11 or previous omnibus capital appropriations acts from the state building construction account, state taxable building construction account, or any other debt limit bond account, not including projects receiving 2010 supplemental capital budget appropriations, minor works projects, or the school construction assistance grant program; and

(c) The project has failed to secure all required and appropriate transaction elements necessary to execute contracts with the administering state agency by November 30, 2010. Required and appropriate transaction elements may include, but are not limited to, matching funds, permits, environmental reviews, and required contracts and partnership agreements.

(3) Amounts attributable to allotment reductions or non-approval of planned allotments made under this section must be placed in or remain in unallotted status and remain unexpended.

(4) By December 31, 2010, the office of financial management must report to the house of representatives capital budget committee and the senate ways and means committee on the projects for which allotments were reduced or for which approval was withheld, including a list of the specific projects and related funds remaining in unallotted status.

(5) Agencies and prospective grant or loan recipients are encouraged to reapply or request funds in the 2011-13 biennial capital appropriations act for projects for which allotments were reduced or not approved under this section.

**Sec. 1024.** 2009 c 497 s 1065 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

O'Brien Building Improvements (20081007)

The appropriation in this section is subject to the following conditions and limitations: Upon completion of the project, temporary modular buildings shall be removed, and the parking lot shall be restored and landscaped within budget.

Reappropriation:

State Building Construction Account--State.....	\$1,500,000
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Appropriation:

State Building Construction Account--State.....	(\$9,671,000)
	\$8,220,000
Prior Biennia (Expenditures).....	\$1,481,000
Future Biennia (Projected Costs) .....	(\$5,329,000)
	\$0
<b>TOTAL</b> .....	(\$17,981,000)
	\$11,201,000

**Sec. 1025.** 2009 c 497 s 1071 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Capital Lake Plan Completion (20082953)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is provided for lake management efforts to control invasive species. The Capital Lake adaptive management planning process must be suspended.

Reappropriation:

State Building Construction Account--State.....	(\$200,000)
	\$100,000
Prior Biennia (Expenditures).....	\$300,000
Future Biennia (Projected Costs) .....	\$0
<b>TOTAL</b> .....	(\$500,000)
	\$400,000

**Sec. 1026.** 2009 c 497 s 1075 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Powerhouse: Improvements and Preservation (30000056)

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Appropriation:

State Building Construction Account--State.....	(\$1,459,000)
	<u>\$1,240,000</u>
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	(\$1,459,000)
	<u>\$1,240,000</u>

Sec. 1027. 2009 c 497 s 1060 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Transportation Building Preservation (20021008)

Reappropriation:

Thurston County Capital Facilities Account--State.....	(\$2,500,000)
	<u>\$395,000</u>

Appropriation:

State Building Construction Account--State .....	\$2,105,000
Prior Biennia (Expenditures).....	\$7,116,000
Future Biennia (Projected Costs) .....	\$22,706,000
TOTAL .....	\$32,322,000

Sec. 1028. 2009 c 497 s 1061 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Highway-License Building Repair and Renewal (20061013)

Reappropriation:

Thurston County Capital Facilities Account--State.....	(\$100,000)
	<u>\$76,000</u>

Appropriation:

State Building Construction Account--State .....	\$24,000
Prior Biennia (Expenditures).....	\$3,423,000
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$3,523,000

Sec. 1029. 2009 c 497 s 1063 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Natural Resources Building Repairs and Renewal (20061014)

Reappropriation:

State Vehicle Parking Account--State.....	\$30,000
Thurston County Capital Facilities Account--State.....	(\$100,000)
	<u>\$22,000</u>

Subtotal Reappropriation .....	(\$130,000)
	<u>\$52,000</u>

Appropriation:

State Building Construction Account--State .....	\$78,000
Prior Biennia (Expenditures).....	\$2,853,000
Future Biennia (Projected Costs) .....	\$4,520,000
TOTAL .....	\$7,503,000

Sec. 1030. 2009 c 497 s 1064 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Minor Works - Infrastructure Preservation (20081004)

Reappropriation:

(Thurston County Capital Facilities Account--State.....)	\$136,000
State Building Construction Account--State .....	\$584,000
(Subtotal Reappropriation.....)	(\$720,000)

Appropriation:

State Building Construction Account--State .....	\$136,000
Prior Biennia (Expenditures).....	\$4,401,000
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$5,121,000

Sec. 1031. 2009 c 497 s 1068 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Minor Works - Facility Preservation (20081015)

Reappropriation:

State Building Construction Account--State.....	\$380,000
(Thurston County Capital Facilities Account--State.....)	\$723,000
Subtotal Reappropriation .....	(\$1,103,000)

Appropriation:

State Building Construction Account--State .....	\$723,000
Prior Biennia (Expenditures).....	\$5,583,000
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$6,686,000

Sec. 1032. 2009 c 497 s 1073 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Minor Works Preservation (30000012)

Appropriation:

State Building Construction Account--State.....	(\$2,800,000)
	<u>\$3,400,000</u>

Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$34,109,000
TOTAL .....	(\$36,909,000)
	<u>\$37,509,000</u>

NEW SECTION. Sec. 1033. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Capitol Campus Heating System Improvements (30000486)

Appropriation:

State Building Construction Account--State.....	\$200,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$1,800,000
TOTAL .....	\$2,000,000

Sec. 1034. 2009 c 497 s 1081 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Pro Arts Building (91000002)

~~((The appropriation in this section is subject to the following conditions and limitations: Predesign and design funds are provided solely to develop a new office building. Up to \$225,000 may be used to develop the predesign for the Pro Arts site to include a new office building that may house tenants from the general administration building including the office of financial management, the Puget Sound partnership, the office of the state treasurer, and other small commissions and agencies. The predesign shall be developed with representatives from the capitol campus design advisory committee, the department of general administration, and the office of financial management. The predesign shall be used to develop the optimum use of space for the Pro Arts site, identify any required mitigation, parking requirements, schedule of construction, and cost of construction. The predesign shall be provided to the appropriate fiscal committees of the legislature and the office of financial management by February 1, 2010. The allotment for design funds will be made after the predesign is approved by the office of financial management and the appropriate fiscal committees of the legislature.))~~

Appropriation:

State Building Construction Account--State.....	(\$2,000,000)
	<u>\$225,000</u>

Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	(\$2,000,000)

\$225,000  
**NEW SECTION. Sec. 1035.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE MILITARY DEPARTMENT**

Camp Murray New Primary Gate Entrance (30000482)

Appropriation:

General Fund--Federal .....	\$3,270,000
Military Department Capital Account--State .....	\$1,657,000
Subtotal Appropriation.....	\$4,927,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$4,927,000

**Sec. 1036.** 2009 c 497 s 1086 (uncodified) is amended to read as follows:

**FOR THE MILITARY DEPARTMENT**

Minor Works Preservation (30000002)

Appropriation:

General Fund--Federal .....	(\$3,069,000)
	<u>\$8,672,000</u>
State Building Construction Account--State .....	\$1,709,000
Subtotal Appropriation.....	(\$4,778,000)
	<u>\$10,381,000</u>
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$18,700,000
TOTAL .....	(\$23,478,000)
	<u>\$29,081,000</u>

**Sec. 1037.** 2009 c 497 s 1087 (uncodified) is amended to read as follows:

**FOR THE MILITARY DEPARTMENT**

Minor Works Program (30000003)

Appropriation:

General Fund--Federal .....	(\$679,000)
	<u>\$3,139,000</u>
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$10,229,000
TOTAL .....	(\$10,908,000)
	<u>\$13,368,000</u>

**NEW SECTION. Sec. 1038.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE MILITARY DEPARTMENT**

Combined Support Maintenance Shop (20082006)

Appropriation:

General Fund--Federal .....	\$4,736,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$22,164,000
TOTAL .....	\$26,900,000

(End of part)

**PART 2  
HUMAN SERVICES**

**Sec. 2001.** 2009 c 497 s 2001 (uncodified) is amended to read as follows:

**FOR THE CRIMINAL JUSTICE TRAINING COMMISSION**

Replace Hawthorne Hall Dormitory (20082001)

~~((The appropriation in this section is subject to the following conditions and limitations: The office of financial management shall allot funds for the dormitory construction at the criminal justice training commission only after the recommendation of the steering committee participating in the analysis in section 1057 of this act has been provided to the legislative fiscal committees and submitted to the office of financial management for review.~~

Appropriation:

State Building Construction Account--State .....	\$16,745,000))
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Reappropriation:

State Building Construction Account--State .....	\$632,000
Prior Biennia (Expenditures).....	\$1,293,000
Future Biennia (Projected Costs) .....	(\$0))
	<u>\$16,934,000</u>
TOTAL .....	(\$18,670,000))
	<u>\$18,859,000</u>

**Sec. 2002.** 2009 c 497 s 2002 (uncodified) is amended to read as follows:

**FOR THE CRIMINAL JUSTICE TRAINING COMMISSION**

School Mapping (30000011)

The appropriation in this section is subject to the following conditions and limitations: The legislature intends to complete half of the remaining community and technical college mapping with this appropriation ~~((and to appropriate funding for the remaining half of unmapped square feet in community and technical colleges in the 2011-13 biennium)).~~

Appropriation:

State Building Construction Account--State .....	(\$500,000)
	<u>\$1,100,000</u>
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	(\$546,000)
	<u>\$0</u>
TOTAL .....	(\$1,046,000)
	<u>\$1,100,000</u>

**NEW SECTION. Sec. 2003.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF LABOR AND INDUSTRIES**

Central Office Roof Replacement and Fall Restraint Upgrade (30000012)

Appropriation:

Accident Account--State .....	\$1,250,000
Medical Aid Account--State .....	\$1,250,000
Subtotal Appropriation.....	\$2,500,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$2,500,000

**Sec. 2004.** 2009 c 497 s 2027 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Eastern State Hospital: Roof Replacements (30000846)

Appropriation:

State Building Construction Account--State .....	(\$1,085,000)
	<u>\$922,000</u>
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$1,088,000
TOTAL .....	(\$2,173,000))
	<u>\$2,010,000</u>

**Sec. 2005.** 2009 c 497 s 2014 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Special Commitment Center: Utility Replacements (20081504)

The reappropriation and appropriation in this section are subject to the following conditions and limitations: It is the intent of the appropriation and reappropriation to replace essential utilities, such as sanitary sewer, high voltage electrical, and fiber optic communications, serving the special commitment center and McNeil corrections center on McNeil Island by replacing the Island's electrical feed from the shoreline landing to the McNeil corrections center generator building, and continuing on to the special commitment center. The department shall coordinate the

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work with the department of corrections for the most cost-effective approach to the work.

Washington Corrections Center for Women: Roof Replacement (30000178)

Reappropriation:

Appropriation:

State Building Construction Account--State.....	\$2,900,000
Appropriation:	
State Building Construction Account--State.....	<del>(\$3,490,000)</del>
	<u>\$2,966,000</u>
Prior Biennia (Expenditures).....	\$140,000
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	<del>(\$6,530,000)</del>
	<u>\$6,006,000</u>

State Building Construction Account--State.....	<del>(\$1,832,000)</del>
	<u>\$1,557,000</u>
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	<del>(\$1,832,000)</del>
	<u>\$1,557,000</u>

**NEW SECTION. Sec. 2006.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**NEW SECTION. Sec. 2011.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

**FOR THE DEPARTMENT OF CORRECTIONS**

Capacity to Replace Maple Lane School (92000005)

Washington State Penitentiary: Housing Units, Kitchen, and Site Work (30000482)

Appropriation:

Appropriation:

State Building Construction Account--State.....	\$760,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$1,025,000
TOTAL .....	\$1,785,000

State Building Construction Account--State.....	\$5,990,000
Public Safety Reimbursable Bond Account.....	\$829,000
Subtotal Appropriation.....	\$6,819,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$44,000,000
TOTAL .....	\$50,819,000

**Sec. 2007.** 2009 c 497 s 2034 (uncodified) is amended to read as follows:

**Sec. 2012.** 2009 c 497 s 2072 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF HEALTH**

**FOR THE DEPARTMENT OF CORRECTIONS**

Drinking Water Assistance Program (30000013)

Clallam Bay Corrections Center: Replace 5 Towers and Housing Roofs (30000108)

The appropriation in this section is subject to the following conditions and limitations: \$38,462,000 is provided from the American recovery and reinvestment act of 2009.

The appropriation in this section is subject to the following conditions and limitations: The funding is provided solely for the replacement of roofs on offender housing units.

Appropriation:

Appropriation:

Drinking Water Assistance Account--Federal ...	<del>(\$24,348,000)</del>
	<u>\$38,348,000</u>
Drinking Water Assistance Account--Federal	
American Recovery and Reinvestment Act.....	\$38,462,000
Subtotal Appropriation.....	<del>(\$62,810,000)</del>
	<u>\$76,810,000</u>
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	<del>(\$62,810,000)</del>
	<u>\$76,810,000</u>

State Building Construction Account--State.....	<del>(\$3,000,000)</del>
	<u>\$2,550,000</u>
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	<del>(\$3,000,000)</del>
	<u>\$2,550,000</u>

**Sec. 2008.** 2009 c 497 s 2037 (uncodified) is amended to read as follows:

**Sec. 2013.** 2009 c 497 s 2075 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF VETERANS AFFAIRS**

**FOR THE DEPARTMENT OF CORRECTIONS**

State Veterans Cemetery (20082004)

Monroe Corrections Center: Water Line Replacements (30000137)

Reappropriation:

Appropriation:

General Fund--Federal .....	\$6,815,000
<u>Appropriation:</u>	
General Fund--Federal .....	\$1,909,000
Prior Biennia (Expenditures).....	\$1,010,000
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	<del>(\$7,825,000)</del>
	<u>\$9,734,000</u>

State Building Construction Account--State.....	<del>(\$1,809,000)</del>
	<u>\$1,538,000</u>
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	<del>(\$1,809,000)</del>
	<u>\$1,538,000</u>

**Sec. 2009.** 2009 c 497 s 2038 (uncodified) is amended to read as follows:

**Sec. 2014.** 2009 c 497 s 2078 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF VETERANS AFFAIRS**

**FOR THE DEPARTMENT OF CORRECTIONS**

Minor Works - Facilities Preservation (30000003)

Washington State Penitentiary: Kitchen Improvements (20061007)

Appropriation:

Reappropriation:

State Building Construction Account--State.....	<del>(\$500,000)</del>
	<u>\$775,000</u>
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$6,585,000
TOTAL .....	<del>(\$7,085,000)</del>
	<u>\$7,360,000</u>

State Building Construction Account--State.....	<del>(\$402,000)</del>
	<u>\$0</u>
Prior Biennia (Expenditures).....	\$228,000
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	<del>(\$630,000)</del>
	<u>\$228,000</u>

**Sec. 2010.** 2009 c 497 s 2067 (uncodified) is amended to read as follows:

**Sec. 2015.** 2009 c 497 s 2068 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

**FOR THE DEPARTMENT OF CORRECTIONS**

300 Minimum Security Bed Expansion - Three Locations (20082850)

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Reappropriation:

State Building Construction Account--State.....	(\$321,000)
	\$15,000
Prior Biennia (Expenditures).....	\$156,000
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	(\$477,000)
	\$171,000

Sec. 2016. 2009 c 497 s 2054 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

Washington State Penitentiary: Replace Roofs (20081007)

Reappropriation:

State Building Construction Account--State.....	(\$1,200,000)
	\$180,000
Prior Biennia (Expenditures).....	\$589,000
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	(\$1,789,000)
	\$769,000

Sec. 2017. 2009 c 497 s 2064 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

Mission Creek Corrections Center for Women: 100-Bed Expansion (20082020)

Reappropriation:

State Building Construction Account--State.....	(\$5,331,000)
	\$4,419,000
Prior Biennia (Expenditures).....	\$1,296,000
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	(\$6,627,000)
	\$5,715,000

NEW SECTION. Sec. 2018. A new section is added to 2009 c 497 (uncodified) to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

Westside Corrections Complex: Siting and Predesign (92000032)

Appropriation:

State Building Construction Account--State.....	\$2,600,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$2,600,000

(End of part)

PART 3  
NATURAL RESOURCES

Sec. 3001. 2009 c 497 s 3059 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

Kittitas Groundwater Study (30000029)

The appropriation in this section is subject to the following conditions and limitations:

By September 30, 2010, if, after consultation with major Yakima basin governments and stakeholders, the department of ecology and Kittitas county reach an agreement on a preferred approach, including the appropriate geographic scope and administering entity, the appropriation may be fully or partially redirected for the following purposes:

(1) Funds may be provided to develop and implement water banking and transfer methods and agreements that are fully protective of senior water rights and that protect domestic groundwater users and improve the profitability of farming operations. The legislature finds such activities to be in the public interest because they can help sustain the viability of the agricultural economy and enhance the certainty of water supplies for domestic

groundwater users.

(2) Funds may be provided to lease or purchase water rights to create a reserve water supply for domestic groundwater users that have a groundwater right with a priority date later than May 10, 1905, as well as for all out-of-priority groundwater users. In securing water for such domestic groundwater users, strong preference shall be given to the use of water banking and transfer methods that provide alternatives to permanent purchase and dry-up of agricultural water rights in the basin, including dry-year options, water banking, long-term water supply lease agreements, long-term agricultural land following agreements, and reduced consumptive use through efficiency or alternative cropping arrangements while maintaining historic return flows.

(3) A portion of the appropriation may be used for administrative costs, not to exceed four percent, and other costs associated with leasing or acquiring and transferring the water rights. All costs shall be fully recovered from participating domestic water users for their prorated portion of the cost, including but not limited to the costs of securing a water right or rights for this purpose, costs associated with the development and implementation of alternative agricultural water transfer methods, associated annual operational costs, and federal water service contract costs owed to the United States bureau of reclamation. Funds recovered in this manner shall be deposited in the state and local improvement revolving fund and may be used for any purpose provided in this section.

Appropriation:

State and Local Improvements Revolving Account (Water Supply Facilities)--State.....	\$700,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$700,000

Sec. 3002. 2009 c 497 s 3039 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

Flood Protection Study (20082855)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation in this section is provided solely for the department to conduct a study to determine the number of decertified levees in the state and to identify strategies for maintaining accreditation, re-accrediting, or recertifying ((the)) levees so that they ((provide)) are recognized by federal agencies as providing optimum protection for the communities protected by the levees. The department must prioritize areas to include in the study based on population and the economic impact of potential flood damage.

The study must include the following components:

- (1) A working group of levee managers, local agencies, and stakeholders to advise and inform the study;
  - (2) ((A)) In-state examples of the costs and processes of technical review of the structural integrity of levee systems;
  - (3) An inventory, map, and ((rate the effectiveness)) description of the level of protection of existing levee systems; ((and))
  - (4) The development of strategies and actions needed to improve the existing levee system and to ensure certification by the United States army corps of engineers for one-hundred year flood protection;
  - (5) The identification of current funding sources and the amounts available for levee improvements; and
  - (6) Recommendation for additional new funding sources and options.
- (7) The study must be completed and a report provided to the appropriate legislative committees by ((July)) December 1, 2010.

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(8) The study under this section is exempt from the provisions of section 602, chapter 3, Laws of 2010 and section 7, chapter 5, Laws of 2009.

Reappropriation:

State Building Construction Account--State.....	\$280,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$280,000

Sec. 3003. 2009 c 497 s 3007 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Sunnyside Valley Irrigation District Water Conservation (20052851)

Reappropriation:

State Building Construction Account--State.....	\$2,800,000
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Appropriation:

State Building Construction Account--State.....	(\$2,850,000)
	\$7,250,000
Prior Biennia (Expenditures).....	\$4,147,000
Future Biennia (Projected Costs) .....	\$4,000,000
TOTAL .....	(\$13,797,000)
	\$18,197,000

Sec. 3004. 2009 c 497 s 3049 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Upper Columbia River Black Sand Beach Cleanup (30000016)

Appropriation:

State Building Construction Account--State.....	(\$3,000,000)
	\$500,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	(\$3,000,000)
	\$500,000

Sec. 3005. 2009 c 497 s 3054 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Storm Water Retrofit and Low-Impact Development Grant Program (30000097)

The appropriations in this section are subject to the following terms and conditions:

(1) \$1,343,000 of the state toxics control account--state appropriation is provided solely for storm water retrofit and low-impact development in the city of Bremerton.

(2) \$6,929,000 of the local toxics control account--state appropriation and \$1,071,000 of the state toxics control account--state appropriation is provided solely for local governments to build staffing capacity to address storm water in their communities and to improve storm water research, data management, and monitoring.

(3) The remaining moneys must be allocated through a grant process to local governments covered by national pollutant discharge elimination system municipal phase I or phase II permits to fund local government projects or activities that mitigate or prevent contamination of storm water or the recontamination of receiving waters previously remediated under federal or state-approved activities.

Appropriation:

State Building Construction Account--State.....	(\$3,000,000)
	\$30,334,000
State Toxics Control Account--State.....	\$15,737,000
State and Local Improvements Revolving Account - Waste Disposal Facilities.....	\$1,284,000
State and Local Improvements Revolving Account - Waste Disposal Facilities, 1980.....	\$325,000
Local Toxics Control Account--State.....	\$6,929,000

Subtotal Appropriation.....	(\$4,609,000)
	\$54,609,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	(\$4,609,000)
	\$54,609,000

Sec. 3006. 2009 c 497 s 3060 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Remedial Action Grant Program (30000039)

The appropriation in this section is subject to the following conditions and limitations: \$3,000,000 is provided solely for the city of Bothell to remediate soil contamination.

Appropriation:

State Building Construction Account--State.....	\$37,700,000
Local Toxics Control Account--State.....	\$38,211,000
Subtotal Appropriation.....	\$75,911,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$180,000,000
TOTAL .....	(\$217,700,000)
	\$255,911,000

Sec. 3007. 2009 c 497 s 3020 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Breazeale Interpretive Center (20082856)

Reappropriation:

General Fund--Federal .....	(\$270,000)
	\$419,000
Prior Biennia (Expenditures).....	(\$225,000)
	\$76,000
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$495,000

NEW SECTION. Sec. 3008. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Settlement Funding to Clean Up Toxic Sites (30000145)

Appropriation:

Cleanup Settlement Account--State .....	\$8,500,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$8,500,000

NEW SECTION. Sec. 3009. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Cleanup Asarco Contamination on Vashon/Maury Islands and Mines (91000009)

The appropriation in this section is subject to the following conditions and limitations: \$4,100,000 of the cleanup settlement account appropriation and \$10,900,000 of the state toxics control account appropriation are provided solely for the department of ecology to assist King County in the acquisition and remediation of property on Vashon and Maury Islands. The properties are in the Tacoma smelter plume area and are contaminated with arsenic and other heavy metals from the Asarco smelter.

Appropriation:

Cleanup Settlement Account--State .....	\$4,100,000
State Toxics Control Account--State.....	\$10,900,000
Subtotal Appropriation.....	\$15,000,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$15,000,000

NEW SECTION. Sec. 3010. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Clean Up Toxic Sites - Puget Sound (30000144)

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The appropriation in this section is subject to the following conditions and limitations: \$17,500,000 of the cleanup settlement account--state appropriation is provided solely for cleanup activities associated with the Asarco contamination in Everett.

Appropriation:

State Building Construction Account--State.....	\$511,000
Cleanup Settlement Account--State.....	\$18,300,000
State Toxics Control Account--State.....	\$22,387,000
Subtotal Appropriation.....	\$41,198,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$41,198,000

**NEW SECTION. Sec. 3011.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Reducing Diesel Particle Emissions in Tacoma (30000139)

The appropriation in this section is provided contingent upon the department working with the Port of Tacoma to establish a diesel idling reduction program. The department shall report to the legislature by December 1, 2010, on the progress of the diesel idling reduction program and other efforts to reduce diesel particle emissions in Tacoma.

Appropriation:

Air Pollution Control Account--State.....	\$1,000,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$1,000,000

**NEW SECTION. Sec. 3012.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Reducing Wood Smoke Particle Emissions in Tacoma (30000140)

Appropriation:

Air Pollution Control Account--State.....	\$600,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$600,000

**NEW SECTION. Sec. 3013.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Water Pollution Control Revolving Fund Program Match (91000008)

Appropriation:

Public Works Assistance Account--State.....	\$1,400,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$1,400,000

**NEW SECTION. Sec. 3014.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Water Pollution Control Revolving Fund Program (30000142)

Appropriation:

Water Pollution Control Revolving Account--State.....	\$25,000,000
Water Pollution Control Revolving Account--Federal.....	\$12,000,000
Subtotal Appropriation.....	\$37,000,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$37,000,000

**Sec. 3015.** 2009 c 497 s 3052 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Safe Soils Remediation Program (30000019)

Appropriation:

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State Building Construction Account--State.....	(\$4,000,000))
Cleanup Settlement Account--State.....	\$2,380,000
Subtotal Appropriation.....	\$1,620,000
Prior Biennia (Expenditures).....	\$4,000,000
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$4,000,000

**NEW SECTION. Sec. 3016.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Wastewater Treatment and Water Reclamation (92000041)

The appropriation in this section is provided solely for wastewater treatment and reclamation projects as follows:

Project	Funding
Potlatch wastewater treatment and reclamation.....	\$1,645,000
Willapa Harbor sewer project.....	\$1,000,000
Omak sanitary sewer project.....	\$450,000
Sultan wastewater treatment facility.....	\$335,000

Appropriation:

State Building Construction Account--State.....	\$3,430,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$3,430,000

**Sec. 3017.** 2009 c 497 s 3093 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

Flaming Geysers State Park Park-wide Infrastructure Redevelopment (30000173)

Appropriation:

State Building Construction Account--State.....	(\$3,533,000))
Prior Biennia (Expenditures).....	\$3,003,000
Future Biennia (Projected Costs).....	\$0
TOTAL.....	(\$3,533,000))
	<u>\$3,003,000</u>

**Sec. 3018.** 2009 c 497 s 3094 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

Dash Point State Park Sanitary Sewer Collection System (30000269)

Appropriation:

State Building Construction Account--State.....	(\$3,820,000))
Prior Biennia (Expenditures).....	\$3,247,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL.....	(\$3,820,000))
	<u>\$3,247,000</u>

**Sec. 3019.** 2009 c 497 s 3090 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

Illahee State Park Wastewater Treatment Upgrade (30000447)

Appropriation:

State Building Construction Account--State.....	(\$1,850,000))
Prior Biennia (Expenditures).....	\$1,572,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs).....	\$0
TOTAL.....	(\$1,850,000))

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\$1,572,000

**Sec. 3020.** 2009 c 497 s 3091 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

Cama Beach State Park (30000101)

Appropriation:

State Building Construction Account--State.....	(\$3,265,000))
	\$2,775,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	<u>(\$3,265,000))</u>
	<u>\$2,775,000</u>

**Sec. 3021.** 2009 c 497 s 3085 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

Federal Grant Authority (30000006)

The appropriation in this section is provided contingent upon the commission providing advance notice to the appropriate fiscal committees of the legislature and the office of financial management before applying for federal grants for acquisition of park lands and facilities. The commission shall submit this information in the form of a report that explains the funding source, the match and use requirements, a description of the project that will be funded, and a description of future impacts to the operating budget.

Appropriation:

General Fund--Federal .....	(\$990,000))
	\$1,990,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$4,000,000
TOTAL .....	<u>(\$4,990,000))</u>
	<u>\$5,990,000</u>

**NEW SECTION. Sec. 3022.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

Deception Pass State Park - Wastewater System (30000483)

Appropriation:

State Building Construction Account--State.....	\$300,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$2,600,000
TOTAL .....	\$2,900,000

**Sec. 3023.** 2009 c 497 s 3109 (uncodified) is amended to read as follows:

**FOR THE RECREATION AND CONSERVATION FUNDING BOARD**

Washington Wildlife and Recreation Program (20044002)

The reappropriations in this section are subject to the following conditions and limitations: Any amount of the reappropriations that is not obligated to a specific project may be used to fund alternate projects approved by the legislature from the same account in biennia succeeding that in which the moneys were originally appropriated.

Reappropriation:

Outdoor Recreation Account--State .....	\$1,499,000
Habitat Conservation Account--State .....	(\$4,789,000))
	\$4,319,000
Subtotal Reappropriation .....	<u>(\$6,288,000))</u>
	\$5,818,000
Prior Biennia (Expenditures).....	\$38,712,000
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	<u>(\$45,000,000))</u>
	<u>\$44,530,000</u>

**Sec. 3024.** 2009 c 497 s 3133 (uncodified) is amended to read as follows:

**FOR THE RECREATION AND CONSERVATION FUNDING BOARD**

Washington Wildlife Recreation Grants (20084011)

The reappropriations in this section are subject to the following conditions and limitations:

(1) The reappropriations are provided solely for the approved list of projects in LEAP capital document No. 2007-3 as developed on March 17, 2007, and LEAP capital document No. 2008-1 as developed on February 13, 2008.

(2) If additional funds are available after funding the farmlands preservation account projects approved in subsection (1) of this section, the committee may: Provide one-time grants of up to \$25,000 each to counties requesting assistance in developing farmlands preservation strategies for the purpose of seeking grants from the farmlands preservation account in future grant cycles.

(3) Funds reappropriated for distribution according to the provisions of RCW 79A.15.040(1)(c) must be allocated forty percent to local government projects and sixty percent to state agency projects. If the cumulative total of local government projects is less than forty percent of the total distribution to this category, the difference may be allocated to state agency projects.

(4) Up to \$627,299 of the reappropriation from the riparian protection account is provided solely for the Chehalis river surge plain natural area preserve. This amount may not be expended for the project until the department of natural resources has completed a management plan for the preserve that maintains recreational access and that management plan is presented to the house of representatives capital budget and senate ways and means committees.

Reappropriation:

Farmlands Preservation Account--State.....	(\$5,300,000))
	\$4,319,000
Riparian Protection Account--State .....	\$12,500,000
Habitat Conservation Account--State .....	\$23,956,000
Outdoor Recreation Account--State .....	\$22,994,000
Subtotal Reappropriation .....	<u>(\$64,750,000))</u>
	\$63,769,000
Prior Biennia (Expenditures).....	\$35,250,000
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	<u>(\$100,000,000))</u>
	<u>\$99,019,000</u>

**Sec. 3025.** 2009 c 497 s 3138 (uncodified) is amended to read as follows:

**FOR THE RECREATION AND CONSERVATION FUNDING BOARD**

Aquatic Lands Enhancement Account (30000007)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for the list of projects in LEAP capital document No. 2009-3, developed March 9, 2009.

Appropriation:

State Building Construction Account--State.....	(\$5,025,000))
	\$4,025,000
Aquatic Lands Enhancement Account--State .....	\$1,000,000
Subtotal Appropriation.....	<u>\$5,025,000</u>
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$20,100,000
TOTAL .....	\$25,125,000

**Sec. 3026.** 2009 c 497 s 3157 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**

Voights Creek Hatchery (20081003)

The appropriation in this section is subject to the following conditions and limitations:

(1) \$200,000 of the amount appropriated is provided solely for the repair necessary to restore the facility for limited operations;

(2) \$550,000 of the amount appropriated is provided ((solely)) for property acquisition and permitting. No later than June 1, 2010, the department shall submit to the office of financial management and the fiscal committees of the legislature construction costs that total no more than fourteen million dollars.

If the department does not acquire property, the amount provided in this subsection shall lapse; and

(3) \$50,000 of the amount appropriated is provided solely for the department to participate in a work group with the Puyallup Tribe of Indians that will make recommendations no later than December 1, 2009, regarding the options for improving production from hatcheries along the Puyallup river system while reducing cost. Options to be considered include shifting production among the hatcheries, consolidation of hatcheries, and shifting responsibilities for construction, maintenance and operations of hatcheries.

Reappropriation:

State Building Construction Account--State.....\$150,000

Appropriation:

State Building Construction Account--State.....\$800,000
Prior Biennia (Expenditures).....\$355,000
Future Biennia (Projected Costs) .....\$1,800,000
TOTAL .....\$3,105,000

Sec. 3027. 2009 c 497 s 3168 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE

Mitigation Projects and Dedicated Funding (20082048)

((The reappropriation in this section is subject to the following conditions and limitations:)) (1) The reappropriation and the appropriation in this section are provided contingent upon the department providing advance notice to the appropriate fiscal committees of the legislature and the office of financial management before applying for federal grants for acquisition of fish and wildlife habitat lands. The department shall submit this information in the form of a report that explains the funding source, the match and use requirements, a description of the project that will be funded, and a description of future impacts to the operating budget.

(2) Up to \$2,300,000 of the reappropriation is provided solely for capital projects and engineering to pay the total cost of labor and materials provided by the department of fish and wildlife.

Reappropriation:

General Fund--Federal .....\$9,000,000

Appropriation:

General Fund--Private/Local.....\$2,500,000
Game Special Wildlife Account--Federal.....\$600,000
Game Special Wildlife Account--Private/Local .....\$900,000
General Fund--Federal .....(((\$25,000,000))
\$31,000,000

Subtotal Appropriation.....(((\$29,000,000))

\$35,000,000
Prior Biennia (Expenditures).....\$19,125,000
Future Biennia (Projected Costs) .....\$114,800,000
TOTAL .....(((\$171,925,000))
\$177,925,000

Sec. 3028. 2009 c 497 s 3169 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE

Minor Works - Facility Preservation (30000149)

Appropriation:

State Building Construction Account--State.....(((\$677,000))
\$420,000

Prior Biennia (Expenditures).....\$0
Future Biennia (Projected Costs) .....\$10,000,000
TOTAL .....(((\$10,677,000))
\$10,420,000

NEW SECTION. Sec. 3029. A new section is added to 2009 c 497 (uncodified) to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE

Leque Island Highway 532 Road Protection (92000019)

Appropriation:

State Building Construction Account--State.....\$680,000
Prior Biennia (Expenditures).....\$0
Future Biennia (Projected Costs) .....\$0
TOTAL .....\$680,000

Sec. 3030. 2009 c 497 s 3172 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE

Minor Works - Road Maintenance and Abandonment Plan (30000022)

Appropriation:

State Building Construction Account--State.....(((\$1,000,000))
\$950,000
Prior Biennia (Expenditures).....\$0
Future Biennia (Projected Costs) .....\$4,050,000
TOTAL .....(((\$5,050,000))
\$5,000,000

Sec. 3031. 2009 c 497 s 3178 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE

Minor Works - Dam and Dike (30000145)

Appropriation:

State Building Construction Account--State.....(((\$943,000))
\$897,000
Prior Biennia (Expenditures).....\$0
Future Biennia (Projected Costs) .....\$3,780,000
TOTAL .....(((\$4,723,000))
\$4,677,000

Sec. 3032. 2009 c 497 s 3182 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE

Minor Works - Programmatic (30000179)

Appropriation:

State Building Construction Account--State.....(((\$400,000))
\$250,000
Prior Biennia (Expenditures).....\$0
Future Biennia (Projected Costs) .....\$5,500,000
TOTAL .....(((\$5,900,000))
\$5,750,000

NEW SECTION. Sec. 3033. A new section is added to 2009 c 497 (uncodified) to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE

Carpenter Creek Estuary Restoration (92000023)

The appropriation in this section is provided solely for estuary restoration in Carpenter Creek.

Appropriation:

State Building Construction Account--State.....\$2,784,000
Prior Biennia (Expenditures).....\$0
Future Biennia (Projected Costs) .....\$0
TOTAL .....\$2,784,000

NEW SECTION. Sec. 3034. A new section is added to 2009 c 497 (uncodified) to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE

Puget Sound General Investigation for Nearshore Restoration (92000025)

Appropriation:

State Toxics Control Account--State.....\$1,030,000

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Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$1,030,000

**NEW SECTION. Sec. 3035.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**

Puget Sound Flood Plain Restoration Projects (91000004)

The appropriation in this section is subject to the following conditions and limitations:

- (1) \$185,000 of the appropriation is provided solely for the South Fork Nooksack River and tributaries restoration project.
- (2) \$381,000 of the appropriation is provided solely for the Nooksack Forks large woody debris placement project.

Appropriation:

State Building Construction Account--State.....	\$566,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$566,000

**Sec. 3036.** 2009 c 497 s 3197 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

Natural Resources Real Property Replacement (30000051)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for acquisition of working forest lands at risk of conversion to nonforest uses and working natural resource lands that will protect and enhance the value of trust land holdings. The legislature finds that the chronic loss of working forest lands threatens the long-term prospects of the timber products and other natural resource industries, which in turn threatens the long-term economic return for the beneficiaries of state trust lands. Acquisition of these lands is intended to help stabilize the primary source of revenue to trust land beneficiaries. The department shall submit a report to the appropriate committees of the legislature by October 1, 2010, and every two years thereafter, indicating the lands purchased under this section, showing the locations, acres, purchase price, and within that purchase price, the value of the property attributed to the future value of timber harvests given an expected rate of return for timber lands, and the value of the property attributed to future development of the property. It is the intent of the legislature to lease the development rights of these conversion lands and retain them as long-term working natural resource lands under the sustainable harvest plan. Working forest lands acquired under this section shall be managed at a level equal to or greater than seventy-five percent of the expected harvest under the sustainable harvest plan.

The department shall not proceed with the Ice Harbor land exchange prior to June 30, 2011.

Appropriation:

Natural Resources Real Property Replacement Account--State .....	\$50,000,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$200,000,000
TOTAL .....	\$250,000,000

**Sec. 3037.** 2009 c 497 s 3203 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

Trust Land Transfer (30000066)

The appropriation in this section is subject to the following conditions and limitations:

- (1) The total appropriation is provided to the department solely to transfer from trust status, or enter into fifty year leases for, certain trust lands of statewide significance deemed appropriate for state park, fish and wildlife habitat, natural area preserve, natural resources conservation area, open space, housing and essential government services, or recreation purposes. The approved list of

properties for lease or transfer is identified in the LEAP capital document No. 2009-2a, developed April 23, 2009.

(2) Property transferred under this section must be appraised and transferred at fair market value. The value of the timber transferred must be deposited by the department to the common school construction account in the same manner as timber revenues from other common school trust lands. No deduction may be made for the resource management cost account under RCW 79.64.040. The value of the land transferred must be deposited in the natural resources real property replacement account.

(3) Property subject to lease agreements under this section must be appraised at fair market value. Lease terms must be fifty years with options to renew for an additional fifty years. Lease payments must be lump sum payments for the entire term of the lease at the beginning of the lease. The department shall calculate such lump sum payments using professional appraisal standards. These lease payments may not exceed the fee simple purchase price based on current fair market value and must be deposited by the department to the common school construction account in the same manner as lease revenues from other common school trust lands. No deduction may be made for the resource management cost account under RCW 79.64.040.

(4) All reasonable costs incurred by the department to implement this section are authorized to be paid out of the appropriations. Authorized costs include the actual cost of appraisals, staff time, environmental reviews, surveys, and other similar costs and shall not exceed (~~one and nine tenths~~) two and six-tenths percent of the appropriation.

(5) Intergrant exchanges between common school and other trust lands of equal value may occur if the exchange is in the interest of each trust, as determined by the board of natural resources.

(6) Prior to or concurrent with conveyance of these properties, the department, with full cooperation of the receiving agencies, shall execute and record a real property instrument that dedicates the transferred properties to the purposes identified in subsection (1) of this section. Transfer and lease agreements for properties identified in subsection (1) of this section must include terms that restrict the use of the property to the intended purpose. Transfer and lease agreements may include provisions for receiving agencies to request alternative uses of the property, provided the alternative uses are compatible with the original intended public purpose and the department and legislature approves such uses.

(7) The department and receiving agencies shall work in good faith to carry out the intent of this section. However, the department or receiving agencies may remove a property from the transfer list based on new, substantive information, if it is determined that transfer of the property is not in the statewide interest of either the common school trust or the receiving agency.

(8) The department shall execute trust land transfers that, after the deduction of reasonable costs as provided in subsection (4) of this section, eighty percent of the total value of transferred property is timber value and is deposited in the common school construction account. To achieve the eighty percent requirement, the department may choose to lease properties originally intended as transfers.

(9) \$4,189,000 of the amount appropriated is provided solely for fifty-year leases of development rights from timber lands at risk of conversion to non-timber land uses purchased from appropriations in the 2007-2009 fiscal period.

(10) (~~On June 30, 2011,~~) The state treasurer shall transfer all remaining uncommitted funds from this appropriation to the common school construction account and the appropriations in this section shall be reduced by an equivalent amount.

Appropriation:

State Building Construction Account--State.....	\$100,133,000
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Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$400,000,000
TOTAL .....	\$500,133,000

Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$1,030,000

**NEW SECTION. Sec. 3038.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**NEW SECTION. Sec. 3041.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

Forest Hazard Reduction and Biomass Equipment (91000003)

Forest Riparian Easement Program (30000070)

The appropriation in this section is subject to the following conditions and limitations:

The appropriation in this section is subject to the following conditions and limitations:

(1) The natural resources equipment account appropriation in this section is provided solely for the purchase of forest biomass feedstock processing equipment appropriate for forest biomass-to-energy projects in eastern Washington in areas with a scarcity of primary wood processing facilities, or for making grants on a competitive basis to local governments or nonprofit entities in such local areas for purchase of such equipment. Equipment purchased, either by the department or a grantee, must be made available for lease, or other lawful means of conveyance, or be operated directly, for use in forest biomass-to-energy projects in an area of eastern Washington with a scarcity of primary wood processing facilities. In providing for the use of such equipment, consideration shall be given by the department or grantee in the opportunity for the forest biomass-to-energy project to promote forest treatments to improve forest health and/or remove hazardous buildup of forest fuels. Consideration may also be given to generating jobs in counties with high rates of unemployment.

(1) \$600,000 of the forest and fish support account appropriation is provided contingent upon the sale of the king air by the department. The office of financial management shall allot only an amount that is equivalent to the proceeds received from the sale of the king air and no more than \$600,000.

(2) The state building construction account--state appropriation is provided solely for forest improvement treatments on forest lands of eastern Washington with the five highest priority fire and disease hazards in Stevens, Ferry, Lincoln, Pend Oreille, Okanogan, Yakima, Kittitas, and Spokane counties. Forest treatments on private lands funded by this appropriation require an agreement with the property owner that includes a commitment to maintain the improvements to forest health.

(2) If the appropriation in this section is less than the level demanded in submitted applications, the department of natural resources shall prioritize the use of the funds as follows:

Appropriation:

(3) Highest priority shall be given to applications that include one or more of the following conditions, in the following priority order: (a) The greatest proportion of riparian buffer impacted in the related forest practices application; (b) lands in deferred tax status of classified timber land or classified open space as defined in RCW 84.34.020; (c) lands at greatest risk of conversion to other land uses as determined by county zoning and land classifications and proximity to urban growth areas or other areas of concentrated land development; (d) lands that are certified by a forest certification recognized by the department; (e) the applicant has not received a forestry riparian easement since July 1, 2007; (f) the applicant is not a nonprofit organization; (g) the applicant has been waiting three years or more for a forestry easement purchase; and (h) the application does not include any of the conditions specified in subsection (2) of this section.

Natural Resources Equipment Account .....	\$750,000
State Building Construction Account--State.....	\$2,000,000
Subtotal Appropriation.....	\$2,750,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$2,750,000

(4) The lowest priority shall be given to applications that include any of the following conditions: (a) The forest management activities for the aggregated ownership of the landowner referenced in the application, his or her spouse, and his or her children exceed the small forest landowner definition in RCW 76.13.120(2)(c); (b) the applicant has had legal ownership for less than five years, except when the applicant is a lineal descendant of a landowner meeting this condition; (c) the applicant has an outstanding violation of the forest practices act under chapter 76.09 RCW; (d) the applicant is in default on a financial obligation to an agency of the state including noncompliance with a child support order under RCW 74.20A.320; (e) the application is for land on which other conservation easements have been executed and recorded on the title; or (f) the land is owned by a nonprofit organization that does not have deferred tax designations of either classified timber land or classified open space as defined in RCW 84.34.020 and does not have a county-recognized forest management plan.

**NEW SECTION. Sec. 3039.** A new section is added to 2009 c 497 (uncodified) to read as follows:

(5) The department of natural resources shall use legally binding affidavits to obtain from the applicants any supplemental information necessary to assist in prioritizing the use of the funds appropriated in this section. The department must verify the prioritized use of the funds appropriated in this section by: (a) Investigating a random subset of affidavits for easements purchased for an amount less than one hundred thousand dollars; and (b) investigating all easements purchased for an amount in excess of one hundred thousand dollars.

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

Removal/Cleanup of Asarco Docks in Ruston/Commencement Bay (91000004)

Appropriation:

Resource Management Cost Account--State .....	\$2,050,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$2,050,000

**NEW SECTION. Sec. 3040.** A new section is added to 2009 c 497 (uncodified) to read as follows:

(6) The department shall work with interested stakeholders to develop recommendations for changes to the ongoing eligibility, prioritization, and policy provisions of the forestry riparian easement program specified in RCW 76.13.120. In developing these recommendations, the department and the interested stakeholders shall consider the inclusion of the conditions utilized in

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

Puget Sound Cleanup and Recovery (92000003)

The appropriation in this section is subject to the following conditions and limitations: \$1,030,000 of the cleanup settlement account--state appropriation is provided solely for removal of contaminated pilings and habitat restoration in Commencement Bay. These funds are provided contingent upon receiving concurrence from the department of ecology that the project is aligned with the ten year plan for cleaning up Asarco- related contamination.

Appropriation:

Cleanup Settlement Account--State .....	\$1,030,000
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this section to establish eligibility and prioritization of funding. The department and the interested stakeholders shall submit final recommendations in the form of legislation to the office of financial management and the legislature by October 1, 2010.

Appropriation:

State Building Construction Account--State.....	\$500,000
Forest and Fish Support Account--State .....	\$600,000
Subtotal Appropriation.....	\$1,100,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$1,100,000

NEW SECTION. Sec. 3042. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

Elk River Estuarine Lands Acquisition (91000007)

Appropriation:

General Fund--Federal .....	\$1,000,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$1,000,000

(End of part)

**PART 4  
TRANSPORTATION**

**Sec. 4001.** 2009 c 497 s 4008 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION**

Commute Trip Reduction for Thurston County State Agencies (92000001)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for implementation of chapter 427, Laws of 2009 (Substitute Senate Bill No. 6088 (commute trip reduction)).

Appropriation:

State Vehicle Parking Account--State.....	(\$734,000)
Prior Biennia (Expenditures).....	\$650,000
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	(\$734,000)
	<u>\$650,000</u>

NEW SECTION. Sec. 4002. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION**

Freight Mobility Study - SR 12 & Schouweiler Road (91000001)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for the department of transportation to conduct a study on improving freight mobility on state route no. 12 in the vicinity of Elma. The study shall include a review of possible improvements to freight mobility at Schouweiler Road.

Appropriation:

State Building Construction Account--State.....	\$500,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$500,000

NEW SECTION. Sec. 4003. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE WASHINGTON STATE PATROL**

High Speed Driving Simulators (92000001)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for the purchase of two mobile high speed driving simulators. The Washington state patrol must assist in the purchase of the simulators and vehicles for transporting the simulators, and transfer ownership of the simulators and vehicles to the appropriate agency after consultation with stakeholders. The Washington state patrol must train the trainers on the use of the simulators. The simulators are intended to move among local police and sheriff departments in order to reduce the risks to officers and the public from high speed pursuits.

Appropriation:

State Building Construction Account--State.....	\$600,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$600,000

(End of part)

**PART 5  
EDUCATION**

**Sec. 5001.** 2009 c 497 s 5007 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**

Vocational Skills Centers (20084300)

Reappropriation:

State Building Construction Account--State.....	(\$58,546,000)
Prior Biennia (Expenditures).....	\$55,546,000
Future Biennia (Projected Costs) .....	\$15,161,000
TOTAL .....	\$0
	(\$73,707,000)
	<u>\$70,707,000</u>

**Sec. 5002.** 2009 c 497 s 5008 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**

Northeast King County Skills Center (20084855)

Appropriation:

School Construction/Skills Center Building Account--State .....	(\$9,049,000)
Prior Biennia (Expenditures).....	\$8,052,000
Future Biennia (Projected Costs) .....	\$550,000
TOTAL .....	\$0
	(\$9,599,000)
	<u>\$8,602,000</u>

**Sec. 5003.** 2009 c 497 s 5009 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**

North Central Technical Skills Center (20084861)

Appropriation:

School Construction/Skills Center Building Account--State .....	(\$4,007,000)
Prior Biennia (Expenditures).....	\$3,960,000
Future Biennia (Projected Costs) .....	\$50,000
TOTAL .....	\$18,500,000
	(\$22,557,000)
	<u>\$22,510,000</u>

**Sec. 5004.** 2009 c 497 s 5002 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**

School Construction Assistance Grants (20084200)

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The appropriation and the reappropriation in this section are subject to the following conditions and limitations:

For school construction projects funded through the school construction assistance grant program, the superintendent of public instruction shall require mapping the design of new facilities and remapping the design of facilities to be remodeled.

Reappropriation:

Common School Construction Account--State.....\$176,922,000

Appropriation:

State Building Construction Account--State.....\$137,267,000

Prior Biennia (Expenditures).....\$477,570,000

Future Biennia (Projected Costs) .....\$0

TOTAL .....\$791,759,000

**Sec. 5005.** 2009 c 497 s 5013 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**

Vocational Skills Center Minor Capital Projects (30000002)

Appropriation:

School Construction and Skill Centers Building

Account--State .....(((\$3,694,000))

\$3,594,000

Prior Biennia (Expenditures).....\$0

Future Biennia (Projected Costs) .....\$0

TOTAL .....(((\$3,694,000))

\$3,594,000

**Sec. 5006.** 2009 c 497 s 5014 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**

2009-11 School Construction Assistance Grant Program (30000031)

The appropriation in this section is subject to the following conditions and limitations:

~~(1) (The office of the superintendent of public instruction shall develop a tracking system to increase accuracy in predicting the timing of school district claims for reimbursement for school construction assistance grants. The office of the superintendent of public instruction shall also improve its communication with school districts regarding the status of grant projects and create requirements regarding the timing of reimbursement claims. The office of the superintendent of public instruction shall submit a report on the progress of the new tracking and communication system to the appropriate committees of the legislature by November 15, 2009. The report must include a list of school district capital projects receiving state funding and each project's anticipated final reimbursement date.~~

~~—(2)) In calculating square foot eligibility for state assistance grants, kindergarten student headcount shall not be reduced by fifty percent.~~

(2) For school construction projects funded through the school construction assistance grant program, the superintendent of public instruction shall require mapping the design of new facilities and remapping the design of facilities to be remodeled.

(3) Up to \$17,000,000 of the state building construction account-- state appropriation in this section is for the Grand Coulee Dam school district school project, contingent on the availability of sufficient contributions from federal, local, or private sources to make up the remainder of the total cost of the project. The Grand Coulee Dam school district is faced with a unique set of local funding barriers and federal funds may substitute as the usual requirement for school district participation. In the event sufficient matching contributions are not secured, these funds shall lapse.

(4) \$250,000 of the common school construction account--state appropriation is provided solely for the office of the superintendent

of public instruction to develop a K-12 facility inventory and condition system based on option number 3, described in the joint legislative audit and review committee's January 2010 report, "K-12 Pilot Facility Inventory, Condition and Use System" as providing semi- customized information capabilities with complete state data. The office of the superintendent of public instruction must require school districts to submit any energy audits completed for K-12 public school buildings to be incorporated in the inventory system. It is the legislature's intent to improve the availability of information regarding the local use of state funds provided for school maintenance. Although school facilities are constructed by, and the property of, local jurisdictions, the legislature encourages school districts to invest in activities that extend the useful life of school district facilities. The state's general taxpayers have an interest in information regarding these local decisions since state policy has been to contribute funds in the biennial omnibus operating budget for facilities' maintenance and to contribute capital budget funds to eligible districts for renovation and replacement of buildings. In light of 2010 legislation enacting changes to RCW 28A.150.260 that increase state funding for school maintenance from \$73.27 per annual average full-time equivalent K-12 student to \$153.18 per student by the 2015-16 school year, with annual adjustments for inflation thereafter, it is the legislature's intent to facilitate development of an information system that will provide better data regarding school districts' use of any state funds provided to assist with maintenance and to monitor facilities' conditions.

Appropriation:

State Building Construction Account--State....(((\$369,920,000))

\$259,000,000

Common School Construction

Account--State .....(((\$259,029,000))

\$200,826,000

Common School Construction

Account--Federal .....(((\$2,500,000))

\$1,700,000

School Construction and Skill Centers Building

Account--Bond—State .....(((\$58,284,000))

\$59,428,000

Subtotal Appropriation.....(((\$689,733,000))

\$520,954,000

Prior Biennia (Expenditures).....\$0

Future Biennia (Projected Costs) .....\$3,921,000,000

TOTAL .....(((\$4,610,733,000))

\$4,441,954,000

**Sec. 5007.** 2009 c 497 s 5011 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**

~~((Health, Safety,))~~ Energy Efficiency and Small Repair Grants (91000007)

The appropriation in this section is subject to the following conditions and limitations:

(1) Up to \$3,000,000 of the appropriation is provided solely for nonrecurring costs associated with school facility repairs and renovations necessary for health and safety. The office of the superintendent of public instruction, after consulting with maintenance and operations administrators of school districts, shall develop criteria for providing funding for specific projects to stay within the appropriation level provided in this section. The criteria must include, but are not limited to, the following: (a) Limiting recipient district applications to one hundred thousand dollars per three-year period; (b) limiting districts eligible to receive the grant only once in any three-year period; and (c) requiring any district receiving funding provided in this section to demonstrate a consistent commitment to addressing school facilities needs.

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(2) ~~(The)~~ \$50,000,000 of the new appropriation is provided solely for energy operational cost savings ~~((and safety and health infrastructure))~~ improvements to school facilities ~~((initiated after July 1, 2009))~~. The appropriation must be distributed using the performance-based contracting method of delivering energy operational cost savings ~~((and safety and health infrastructure))~~ improvements to public facilities ~~((unless the minimal cost or the immediacy of the project makes performance-based contracting impracticable. If the minimal cost or immediacy of the project makes performance-based contracting impracticable, the school district must receive a waiver from the office of the superintendent of public instruction in order to use the appropriation to address safety and health needs))~~.

(3) The superintendent of public instruction must report to the appropriate committees of the legislature and the office of financial management on the timing and use of the funds by the end of each fiscal year, until the funds are fully expended.

(4) \$100,000 of the appropriation is provided solely to the Monroe public schools for retrofitting the Frank Wagner Elementary chimney.

Appropriation:

State Building Construction Account--State.....	(\$20,000,000)
	\$70,000,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	(\$20,000,000)
	\$70,000,000

NEW SECTION. Sec. 5008. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE WASHINGTON STATE CENTER FOR CHILDHOOD DEAFNESS AND HEARING LOSS**

Lloyd Auditorium Emergency Repairs (30000012)

Appropriation:

State Building Construction Account--State.....	\$2,500,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$2,500,000

**Sec. 5009.** 2009 c 497 s 5027 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

Balmer Hall Reconstruction (20081004)

The reappropriation in this section is subject to the following conditions and limitations: For construction of the facility identified in this section, the university is authorized to issue a bond or bonds financed from building fee and trust land revenue deposited into the university bond retirement account in accordance with RCW 28B.20.700 through 28B.20.740, provided that: (1) The total amount of debt to be serviced from the building account shall not exceed \$42,800,000; (2) if bonds for the project are issued as build America bonds, federal refunds on the bond interest cost shall be deposited into the University of Washington building account proportional to this project's share of the total bond issuance; and (3) for the portion of the project that is serviced by building fee and trust land revenues, the university shall select the financing method that results in the lowest cost to the University of Washington building account.

Reappropriation:

State Building Construction Account--State.....	\$3,000,000
Prior Biennia (Expenditures).....	\$1,000,000
Future Biennia (Projected Costs) .....	(\$38,600,000)
	\$0
TOTAL .....	(\$42,600,000)
	\$4,000,000

**Sec. 5010.** 2009 c 497 s 5029 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

Interdisciplinary Academic Building (20082003)

The reappropriation in this section is subject to the following conditions and limitations: In conjunction with the reappropriation in this section, the University of Washington is authorized to issue a bond or bonds in an amount not to exceed \$53,554,000 in value for construction of the molecular engineering building identified in this section. The bond shall be financed from building fee and trust land revenues deposited into the university's bond retirement account, in accordance with RCW 28B.20.700 through 28B.20.740, provided that: (1) If bonds for the project are issued as build America bonds, federal refunds on the bond interest cost shall be deposited into the University of Washington building account proportional to this project's share of the total bond issuance; and (2) for the portion of the project that is serviced by building fee and trust land revenues, the university shall select the financing method that results in the lowest cost to the University of Washington building account.

Reappropriation:

State Building Construction Account--State.....	\$1,000,000
Prior Biennia (Expenditures).....	\$4,000,000
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$5,000,000

**Sec. 5011.** 2009 c 497 s 5024 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

Clark Hall Renovation (20061007)

Reappropriation:

Education Construction Account--State.....	(\$2,000,000)
	\$967,000

Appropriation:

State Building Construction Account--State.....	\$183,000
Prior Biennia (Expenditures).....	\$16,054,000
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	(\$18,054,000)
	\$17,204,000

**Sec. 5012.** 2009 c 497 s 5023 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

Savery Hall Renovation (20061005)

Reappropriation:

Gardner-Evans Higher Education Construction Account--State .....	(\$11,000,000)
	\$10,822,000
Prior Biennia (Expenditures).....	\$50,510,000
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	(\$61,510,000)
	\$61,332,000

**Sec. 5013.** 2009 c 497 s 5026 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

Denny Hall Renovation (20081002)

Reappropriation:

State Building Construction Account--State.....	(\$1,700,000)
	\$0
Prior Biennia (Expenditures).....	\$3,200,000
Future Biennia (Projected Costs) .....	(\$47,992,000)
	\$49,692,000
TOTAL .....	(\$53,692,000)
	\$52,892,000

**Sec. 5014.** 2009 c 497 s 5028 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

Intermediate Student Service and Classroom Improvements (20081005)

Reappropriation:

Education Construction Account--State.....(((\$7,245,000))  
\$311,000

Appropriation:

State Building Construction Account--State.....\$6,934,000  
Prior Biennia (Expenditures).....\$6,036,000  
Future Biennia (Projected Costs) .....\$0  
TOTAL .....\$13,281,000

**Sec. 5015.** 2009 c 497 s 5037 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

Lewis Hall Renovation (20081003)

Reappropriation:

State Building Construction Account--State.....(((\$1,000,000))  
\$478,000  
Prior Biennia (Expenditures).....\$1,000,000  
Future Biennia (Projected Costs) .....\$23,585,000  
TOTAL .....(((\$25,585,000))  
\$25,063,000

**Sec. 5016.** 2009 c 497 s 5030 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

UW Tacoma (20082005)

The appropriations in this section are subject to the following conditions and limitations: For construction of the facility identified in this section, the university is authorized to issue a bond or bonds financed from building fee and trust land revenue deposited into the university bond retirement account in accordance with RCW 28B.20.700 through 28B.20.740, provided that: (1) The total amount of debt to be serviced for this project from the building account shall not exceed \$7,450,000; (2) if bonds for all or a portion of the project are issued as build America bonds, federal refunds on the bond interest cost shall be deposited into the University of Washington building account proportional to this project's share of the total bond issuance; and (3) for the portion of the project that is serviced by building fee and trust land revenues, the university shall select the financing method that results in the lowest cost to the University of Washington building account.

Reappropriation:

State Building Construction Account--State.....\$4,000,000

Appropriation:

State Building Construction Account--State.....(((\$34,000,000))  
\$16,768,000  
University of Washington Building Account--State.....\$14,007,000  
Subtotal Appropriation.....\$30,775,000  
Prior Biennia (Expenditures).....\$2,150,000  
Future Biennia (Projected Costs) .....(((\$17,044,000))  
\$0  
TOTAL .....(((\$57,194,000))  
\$36,925,000

**Sec. 5017.** 2009 c 497 s 5041 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

Preventative Facility Maintenance and Building System Repairs (30000287)

Appropriation:

University of Washington Building  
Account--State .....(((\$25,825,000))  
\$20,741,000  
Prior Biennia (Expenditures).....\$0  
Future Biennia (Projected Costs) .....\$103,300,000  
TOTAL .....(((\$129,125,000))  
\$124,041,000

**Sec. 5018.** 2009 c 497 s 5035 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

UW Tacoma - Land Acquisition (20092003)

~~((Reappropriation:~~

~~Education Construction Account--State.....\$469,000))~~

Appropriation:

University of Washington Building Account--State \$2,469,000  
Prior Biennia (Expenditures).....\$1,531,000  
Future Biennia (Projected Costs) .....\$0  
TOTAL .....(((\$2,000,000))  
\$4,000,000

**Sec. 5019.** 2009 c 497 s 5039 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

Minor Works - Facility Preservation (30000027)

Appropriation:

State Building Construction Account--State.....(((\$26,000,000))  
\$19,135,000  
University of Washington Building  
Account--State .....(((\$8,175,000))  
\$15,040,000  
Subtotal Appropriation.....\$34,175,000  
Prior Biennia (Expenditures).....\$0  
Future Biennia (Projected Costs) .....\$146,000,000  
TOTAL .....\$180,175,000

**Sec. 5020.** 2009 c 497 s 5055 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE UNIVERSITY**

Minor Works - Preservation (30000065)

Appropriation:

State Building Construction Account--  
State.....(((\$16,128,000))  
\$23,903,000  
Washington State University Building Account--  
State.....(((\$10,000,000))  
\$2,225,000  
Subtotal Appropriation.....\$26,128,000  
Prior Biennia (Expenditures).....\$0  
Future Biennia (Projected Costs) .....\$0  
TOTAL .....\$26,128,000

**Sec. 5021.** 2009 c 497 s 5047 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE UNIVERSITY**

WSU Vancouver - Applied Technology and Classroom Building (20062950)

In conjunction with the appropriation in this section, Washington State University is authorized to issue a bond or bonds in an amount not to exceed \$10,000,000 in value for construction of the facility identified in this section. The bond must be financed from building fee and trust land revenues deposited into the university's bond retirement account in accordance with RCW 28B.30.700 through 28B.30.780.

Reappropriation:

State Building Construction Account--State.....\$1,500,000

Appropriation:

State Building Construction Account--State.....(((\$26,742,000))  
\$23,593,000  
Prior Biennia (Expenditures).....\$3,420,000  
Future Biennia (Projected Costs) .....\$0  
TOTAL .....(((\$31,662,000))  
\$28,513,000

**Sec. 5022.** 2009 c 497 s 5054 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE UNIVERSITY**

WSU Spokane - Riverpoint Biomedical & Health Sciences (20162953)

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Appropriation:

State Building Construction Account--State.....	(\$4,340,000))
	\$7,840,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	(\$39,775,000))
	<u>\$70,775,000</u>
TOTAL .....	(\$44,115,000))
	<u>\$78,615,000</u>

Sec. 5023. 2009 c 497 s 5056 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE UNIVERSITY

Minor Works - Program (30000066)

Appropriation:

State Building Construction Account--State.....	(\$7,042,000))
	\$17,527,000
(Washington State University Building Account--	
State.....	\$10,485,000
Subtotal Appropriation.....	\$17,527,000))
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$3,073,000
TOTAL .....	\$20,600,000

Sec. 5024. 2009 c 497 s 5057 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE UNIVERSITY

Preventative Facility Maintenance and Building System Repairs (30000287)

Appropriation:

Washington State University Building Account--	
State.....	(\$10,115,000))
	<u>\$28,375,000</u>
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$40,460,000
TOTAL .....	(\$50,575,000))
	<u>\$68,835,000</u>

Sec. 5025. 2009 c 497 s 5064 (uncodified) is amended to read as follows:

FOR THE EASTERN WASHINGTON UNIVERSITY

Patterson Hall Remodel (20062002)

Reappropriation:

State Building Construction Account--State.....	\$400,000
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Appropriation:

State Building Construction Account--State.....	(\$26,600,000))
	\$24,170,000
Prior Biennia (Expenditures).....	\$1,734,000
Future Biennia (Projected Costs) .....	\$34,416,000
TOTAL .....	(\$63,150,000))
	<u>\$60,720,000</u>

Sec. 5026. 2009 c 497 s 5061 (uncodified) is amended to read as follows:

FOR THE EASTERN WASHINGTON UNIVERSITY

Minor Works - Health, Safety, and Code Requirements (20081002)

Reappropriation:

Education Construction Account--State.....	(\$1,500,000))
	\$157,000

Appropriation:

State Building Construction Account--State.....	\$1,343,000
Prior Biennia (Expenditures).....	\$2,500,000
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$4,000,000

Sec. 5027. 2009 c 497 s 5065 (uncodified) is amended to read as follows:

FOR THE EASTERN WASHINGTON UNIVERSITY

Preventive Maintenance and Building System Repairs (30000044)

Appropriation:

Eastern Washington University Capital Projects	
Account--State.....	(\$2,217,000))
	\$4,409,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$8,868,000
TOTAL .....	(\$11,085,000))
	<u>\$13,277,000</u>

Sec. 5028. 2009 c 497 s 5068 (uncodified) is amended to read as follows:

FOR THE EASTERN WASHINGTON UNIVERSITY

Minor Works - Facility Preservation (30000054)

Appropriation:

State Building Construction Account--	
State.....	(\$3,000,000))
	\$1,375,000
Eastern Washington University Capital Projects	
Account--State.....	\$1,625,000
Subtotal Appropriation.....	\$3,000,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$12,000,000
TOTAL .....	\$15,000,000

Sec. 5029. 2009 c 497 s 5079 (uncodified) is amended to read as follows:

FOR THE CENTRAL WASHINGTON UNIVERSITY

Minor Works - Infrastructure Preservation (30000009)

Appropriation:

State Building Construction	
Account--State.....	(\$690,000))
	\$601,000
Central Washington University Capital Projects	
Account--State.....	(\$2,050,000))
	\$2,139,000
Subtotal Appropriation.....	\$2,740,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$12,000,000
TOTAL .....	\$14,740,000

Sec. 5030. 2009 c 497 s 5080 (uncodified) is amended to read as follows:

FOR THE CENTRAL WASHINGTON UNIVERSITY

Minor Works - Facility Preservation (30000016)

Appropriation:

<del>(State Building Construction Account--State)</del>	
Central Washington University Capital Projects	
Account--State.....	\$2,610,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$12,000,000
TOTAL .....	\$14,610,000

Sec. 5031. 2009 c 497 s 5083 (uncodified) is amended to read as follows:

FOR THE CENTRAL WASHINGTON UNIVERSITY

Preventative Facility Maintenance and Building System Repairs (30000287)

Appropriation:

Central Washington University Capital	
Project Account--State .....	(\$2,422,000))
	\$4,407,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$9,688,000
TOTAL .....	(\$12,110,000))
	<u>\$14,095,000</u>

Sec. 5032. 2009 c 497 s 5092 (uncodified) is amended to read as follows:

FOR THE EVERGREEN STATE COLLEGE

Minor Works - Preservation (30000003)

Appropriation:

State Building Construction Account—  
 State.....(((\$760,000))  
 \$4,007,000

The Evergreen State College Capital Projects  
 Account--State.....(((\$3,765,000))  
 \$518,000

Subtotal Appropriation.....\$4,525,000  
 Prior Biennia (Expenditures).....\$0  
 Future Biennia (Projected Costs) .....\$0  
 TOTAL .....\$4,525,000

**Sec. 5033.** 2009 c 497 s 5094 (uncodified) is amended to read as follows:

**FOR THE EVERGREEN STATE COLLEGE**

Laboratory and Art Annex Building Renovation (30000026)

Appropriation:

((State Building Construction Account--State) The  
Evergreen State College Capital Projects  
 Account--State.....\$4,849,000  
 Prior Biennia (Expenditures).....\$0  
 Future Biennia (Projected Costs) .....\$0  
 TOTAL .....\$4,849,000

**Sec. 5034.** 2009 c 497 s 5093 (uncodified) is amended to read as follows:

**FOR THE EVERGREEN STATE COLLEGE**

Minor Works - Health, Safety, Code Compliance (30000016)

Appropriation:

State Building Construction Account—  
 State.....(((\$2,515,000))  
 \$1,953,000

The Evergreen State College Capital Projects  
 Account--State.....\$562,000  
 Subtotal Appropriation.....\$2,515,000  
 Prior Biennia (Expenditures).....\$0  
 Future Biennia (Projected Costs) .....\$0  
 TOTAL .....\$2,515,000

**Sec. 5035.** 2009 c 497 s 5097 (uncodified) is amended to read as follows:

**FOR THE EVERGREEN STATE COLLEGE**

Preventative Facility Maintenance and Building System Repairs (30000287)

Appropriation:

The Evergreen State College Capital Projects  
 Account--State.....(((\$760,000))  
 \$4,007,000  
 Prior Biennia (Expenditures).....\$0  
 Future Biennia (Projected Costs) .....\$0  
 TOTAL .....(((\$760,000))  
 \$4,007,000

NEW SECTION. Sec. 5036. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE EVERGREEN STATE COLLEGE**

Feasibility Study of Biomass Gasification Project (92000007)

Appropriation:

State Building Construction Account--State.....\$125,000  
 Prior Biennia (Expenditures).....\$0  
 Future Biennia (Projected Costs) .....\$0  
 TOTAL .....\$125,000

**Sec. 5037.** 2009 c 497 s 5104 (uncodified) is amended to read as follows:

**FOR THE WESTERN WASHINGTON UNIVERSITY**

Minor Works - Program (20082093)

Reappropriation:

State Building Construction Account—  
 State.....\$1,500,000

Western Washington University Capital Projects

Account--State.....(((\$2,500,000))  
 \$587,000  
 Subtotal Reappropriation.....(((\$4,000,000))  
 \$2,087,000

Appropriation:

State Building Construction Account--State.....\$1,913,000  
 Prior Biennia (Expenditures).....\$6,000,000  
 Future Biennia (Projected Costs) .....\$0  
 TOTAL .....\$10,000,000

**Sec. 5038.** 2009 c 497 s 5100 (uncodified) is amended to read as follows:

**FOR THE WESTERN WASHINGTON UNIVERSITY**

Miller Hall Renovation (20041953)

Reappropriation:

State Building Construction Account--State.....\$2,000,000

Appropriation:

State Building Construction Account--State.....(((\$54,625,000))  
 \$45,744,000  
 Prior Biennia (Expenditures).....\$3,773,000  
 Future Biennia (Projected Costs) .....\$0  
 TOTAL .....(((\$60,398,000))  
 \$51,517,000

**Sec. 5039.** 2009 c 497 s 5111 (uncodified) is amended to read as follows:

**FOR THE WESTERN WASHINGTON UNIVERSITY**

Preventative Facility Maintenance and Building System Repairs (30000287)

Appropriation:

Western Washington University Capital Projects  
 Account--State.....(((\$3,614,000))  
 \$5,814,000  
 Prior Biennia (Expenditures).....\$0  
 Future Biennia (Projected Costs) .....\$14,456,000  
 TOTAL .....(((\$18,070,000))  
 \$20,270,000

NEW SECTION. Sec. 5040. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE WASHINGTON STATE HISTORICAL SOCIETY**

Vancouver National Historic Reserve West Barracks (91000002)

The appropriation in this section is subject to the following conditions and limitations:

(1) Project funds are available on a reimbursement basis only, and shall not be advanced under any circumstances.

(2)(a) The Washington state historical society shall include provisions in the contract under this section that require that: (i) Capital improvements be held by the grantee for a specified period of time that is appropriate to the amount of the grant; and (ii) the facility be used to provide a public benefit.

(b) If the grantee is found to be out of compliance with provisions of the contract, the grantee shall repay to the state general fund the principal amount of the grant plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the date of authorization of the grant.

Appropriation:

State Building Construction Account--State.....\$1,000,000  
 Prior Biennia (Expenditures).....\$0  
 Future Biennia (Projected Costs) .....\$0  
 TOTAL .....\$1,000,000

NEW SECTION. Sec. 5041. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE WASHINGTON STATE HISTORICAL SOCIETY**

Vancouver National Historic Reserve Visitors Center (91000001)

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Appropriation:

State Building Construction Account.....	\$750,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
<b>TOTAL</b> .....	<b>\$750,000</b>

**Sec. 5042.** 2009 c 497 s 5115 (uncodified) is amended to read

as follows:

**FOR THE WASHINGTON STATE HISTORICAL SOCIETY**

Washington Heritage Projects (20044004)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is adjusted for the termination of the Bigelow House preservation association project which is no longer viable.

Reappropriation:

State Building Construction Account--State.....	(\$690,000))
	\$657,000
Prior Biennia (Expenditures).....	\$3,310,000
Future Biennia (Projected Costs) .....	\$0
<b>TOTAL</b> .....	<b>(\$4,000,000))</b>
	<b>\$3,967,000</b>

**Sec. 5043.** 2009 c 497 s 5116 (uncodified) is amended to read

as follows:

**FOR THE WASHINGTON STATE HISTORICAL SOCIETY**

Statewide - Washington Heritage Project Grants (20064004)

The reappropriation in this section is subject to the following conditions and limitations:

(1) The reappropriation is subject to the provisions of section ((733)) 212, chapter ((488)) 371, Laws of ((2005)) 2006.

(2) The reappropriation is adjusted for the termination of the Village Theatre project which is no longer viable.

Reappropriation:

State Building Construction Account--State.....	(\$1,318,000))
	\$1,253,000
Prior Biennia (Expenditures).....	\$3,346,000
Future Biennia (Projected Costs) .....	\$0
<b>TOTAL</b> .....	<b>(\$4,664,000))</b>
	<b>\$4,599,000</b>

**Sec. 5044.** 2009 c 497 s 5118 (uncodified) is amended to read

as follows:

**FOR THE WASHINGTON STATE HISTORICAL SOCIETY**

Washington Heritage Grants (20074004)

The reappropriation in this section is subject to the following conditions and limitations:

(1) The reappropriation is subject to the project list in section 5137, chapter 520, Laws of 2007.

(2) The reappropriation is adjusted for the termination of the Martin Luther King Ballet project which is no longer viable.

(3) The reappropriation for the historic Seattle PDA project is transferred to the Center for Wooden Boats.

Reappropriation:

State Building Construction Account--State.....	(\$7,630,000))
	\$7,580,000
Prior Biennia (Expenditures).....	\$2,370,000
Future Biennia (Projected Costs) .....	\$0
<b>TOTAL</b> .....	<b>(\$10,000,000))</b>
	<b>\$9,950,000</b>

**Sec. 5045.** 2009 c 497 s 5120 (uncodified) is amended to read

as follows:

**FOR THE WASHINGTON STATE HISTORICAL SOCIETY**

Washington Heritage Project Capital Grants (30000011)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation is subject to the provisions of RCW 27.34.330.

(2) The appropriation is provided solely for the following list of projects.

(3) The 2011-13 projects must be selected based on their readiness to proceed.

<b>Project</b>	<b>Recommended</b>
Wenatchee Valley Museum	\$150,000
West Point Light Station	\$300,000
Des Moines Field House	\$420,000
Washington Hall	\$381,000
Percival Landing	\$567,000
Roslyn City Hall & Library	\$194,000
<del>((Spokane County courthouse</del>	<del>(\$500,000))</del>
Snoqualmie Chapel car #5	\$125,000
Edmonds Carnegie Library museum	\$48,000
Ilwaco museum collections	\$41,000
Minkler Mansion	\$200,000
Cheney house for a museum	\$87,000
Longview Columbia theatre	\$1,000,000
Chinook School	\$350,000
Territorial Courthouse of 1858	\$167,000
Hanford Interpretive Center	\$147,000
Carnegie Library Museum	\$883,000
Dynamite Train Canopy	\$50,000
King Street Station	\$750,000
Lakewood Carriage House	\$110,000
Lincoln School	\$175,000
Quincy Pioneer Church	\$195,000
Ezra Meeker Mansion	\$100,000
Port Townsend Storage Facility	\$450,000
Puyallup Church Spire	\$17,000
Morris House and Washington Harbor School	\$27,000
Kalama Interpretive Center	\$212,000
Foss Waterway Seaport Building	\$750,000
Pioneer State Bank Building	\$201,000
Kirkman House	\$32,000

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Malo Sawmill	\$70,000
Stimson-Green Mansion	\$23,000
Lightship #83	\$335,000
Masonic Temple Building	\$350,000
Wilkeson Centennial Monument	\$10,000
Eddon Boatyard ways and dock	\$243,000
Commencement Restoration	\$86,000
Vessel Shenandoah	\$179,000
<del>(Walt's Mill</del>	<del>\$75,000)</del>
TOTAL	<del>(\$10,000,000)</del> <u>\$9,425,000</u>

Appropriation:

State Building Construction Account--State.....	<del>(\$10,000,000)</del>
	\$9,425,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$40,000,000
TOTAL .....	<del>(\$50,000,000)</del> <u>\$49,425,000</u>

**Sec. 5046.** 2009 c 497 s 5174 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Seattle Central Community College: Wood Construction Center (20081216)

Reappropriation:

State Building Construction Account--State.....	\$2,000,000
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Appropriation:

State Building Construction Account--State.....	<del>(\$24,645,000)</del>
	\$19,760,000
Prior Biennia (Expenditures).....	\$549,000
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	<del>(\$27,194,000)</del> <u>\$22,309,000</u>

**Sec. 5047.** 2009 c 497 s 5176 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Peninsula College: Business and Humanities Center (20081218)

Reappropriation:

State Building Construction Account--State.....	\$1,200,000
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Appropriation:

State Building Construction Account--State.....	<del>(\$33,627,000)</del>
	\$29,644,000
Prior Biennia (Expenditures).....	\$1,100,000
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	<del>(\$35,927,000)</del> <u>\$31,944,000</u>

**Sec. 5048.** 2009 c 497 s 5127 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Tacoma Community College - Science Building (20012687)

Reappropriation:

State Building Construction Account--State.....	<del>(\$1,773,000)</del>
	\$855,000
Prior Biennia (Expenditures).....	\$30,123,000

Future Biennia (Projected Costs) .....	\$0
TOTAL .....	<del>(\$31,896,000)</del> <u>\$30,978,000</u>

**Sec. 5049.** 2009 c 497 s 5180 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Green River Community College - Trades and Industry Building (20081222)

Reappropriation:

State Building Construction Account--State.....	\$11,000
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Appropriation:

State Building Construction Account--State.....	<del>(\$2,625,000)</del>
	\$1,707,000
Prior Biennia (Expenditures).....	\$127,000
Future Biennia (Projected Costs) .....	<del>(\$28,737,000)</del>
	<u>\$29,655,000</u>
TOTAL .....	\$31,500,000

**Sec. 5050.** 2009 c 497 s 5171 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Minor Works - Facility Preservation - Roof Repairs (20081010)

Reappropriation:

Education Construction Account--State.....	<del>(\$2,500,000)</del>
	\$392,000

State Building Construction Account--State.....	\$1,000,000
Subtotal Reappropriation.....	<del>(\$3,500,000)</del>
	\$1,392,000

Appropriation:

State Building Construction Account--State.....	\$2,108,000
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Prior Biennia (Expenditures).....	\$4,176,000
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$7,676,000

**Sec. 5051.** 2009 c 497 s 5182 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Skagit Valley College - Academic and Student Services Building (20081224)

Reappropriation:

State Building Construction Account--State.....	\$35,000
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Appropriation:

State Building Construction Account--State.....	<del>(\$2,116,000)</del>
	\$1,730,000

Prior Biennia (Expenditures).....	\$101,000
Future Biennia (Projected Costs) .....	<del>(\$28,949,000)</del>
	<u>\$29,335,000</u>
TOTAL .....	\$31,201,000

**Sec. 5052.** 2009 c 497 s 5210 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Roof Repairs "A" (30000010)

Appropriation:

State Building Construction Account--State.....	<del>(\$8,493,000)</del>
	\$2,627,000

Community/Technical College Capital Projects Account--State.....	\$6,854,000
Subtotal Appropriation.....	\$9,481,000

Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	<del>(\$24,000,000)</del>
	<u>\$42,000,000</u>
TOTAL .....	<del>(\$32,493,000)</del> <u>\$51,481,000</u>

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Sec. 5053. 2009 c 497 s 5183 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Lower Columbia College - Health and Science Building (20081225)

Appropriation:

State Building Construction Account--State.....	(\$2,969,000))
	\$2,187,000
Prior Biennia (Expenditures).....	\$2,500,000
Future Biennia (Projected Costs) .....	(\$36,405,000))
	\$37,187,000
<b>TOTAL</b> .....	\$41,874,000

Sec. 5054. 2009 c 497 s 5184 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Grays Harbor College - Science and Math Building (20081226)

Reappropriation:

State Building Construction Account--State.....	\$45,000
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Appropriation:

State Building Construction Account--State.....	(\$3,583,000))
	\$2,292,000
Prior Biennia (Expenditures).....	\$231,000
Future Biennia (Projected Costs) .....	(\$40,478,000))
	\$41,769,000
<b>TOTAL</b> .....	\$44,337,000

Sec. 5055. 2009 c 497 s 5217 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Seattle Central Community College - Seattle Maritime Academy (30000120)

Appropriation:

State Building Construction Account--State.....	(\$2,839,000))
	\$1,337,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	(\$15,483,000))
	\$16,985,000
<b>TOTAL</b> .....	\$18,322,000

Sec. 5056. 2009 c 497 s 5218 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Yakima Valley Community College - Palmer Martin Building (30000121)

Appropriation:

State Building Construction Account--State.....	(\$1,464,000))
	\$997,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	(\$13,509,000))
	\$13,976,000
<b>TOTAL</b> .....	\$14,973,000

Sec. 5057. 2009 c 497 s 5219 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

North Seattle Community College - Technology Building Renewal (30000129)

Appropriation:

State Building Construction Account--State.....	(\$2,976,000))
	\$2,084,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	(\$22,337,000))
	\$23,229,000

TOTAL .....\$25,313,000

Sec. 5058. 2009 c 497 s 5220 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Green River Community College - Science Math and Technology Building (30000130)

Appropriation:

State Building Construction Account--State.....	(\$1,700,000))
	\$1,315,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	(\$15,545,000))
	\$15,930,000
<b>TOTAL</b> .....	\$17,245,000

Sec. 5059. 2009 c 497 s 5204 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Tacoma Community College - Health Careers Center (20082701)

Reappropriation:

State Building Construction Account--State.....	\$15,000
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Appropriation:

State Building Construction Account--State.....	(\$2,946,000))
	\$1,811,000
Prior Biennia (Expenditures).....	\$240,000
Future Biennia (Projected Costs) .....	(\$35,565,000))
	\$36,700,000
<b>TOTAL</b> .....	\$38,766,000

Sec. 5060. 2009 c 497 s 5205 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Bellevue Community College - Health Science Building (20082702)

Appropriation:

State Building Construction Account--State.....	(\$4,350,000))
	\$2,910,000
Prior Biennia (Expenditures).....	\$144,000
Future Biennia (Projected Costs) .....	(\$36,506,000))
	\$37,946,000
<b>TOTAL</b> .....	\$41,000,000

Sec. 5061. 2009 c 497 s 5206 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Bates Technical College - Mohler Communications Technology Center (20082703)

Reappropriation:

State Building Construction Account--State.....	\$20,000
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Appropriation:

State Building Construction Account--State.....	(\$1,755,000))
	\$1,192,000
Prior Biennia (Expenditures).....	\$153,000
Future Biennia (Projected Costs) .....	(\$23,398,000))
	\$23,961,000
<b>TOTAL</b> .....	\$25,326,000

Sec. 5062. 2009 c 497 s 5208 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Clark College - Health and Advanced Technologies Building (20082705)

Reappropriation:

State Building Construction Account--State.....	\$14,000
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Appropriation:

State Building Construction Account--State.....	(\$2,506,000)
	\$2,324,000
Prior Biennia (Expenditures).....	\$236,000
Future Biennia (Projected Costs) .....	(\$33,598,000)
	\$33,780,000
<b>TOTAL</b> .....	\$36,354,000

Sec. 5063. 2009 c 497 s 5165 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Lake Washington Technical College - Allied Health Building (20062697)

Reappropriation:

State Building Construction Account--State.....	\$900,000
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Appropriation:

State Building Construction Account--State.....	(\$25,986,000)
	\$23,876,000
Prior Biennia (Expenditures).....	\$1,029,000
Future Biennia (Projected Costs) .....	\$0
<b>TOTAL</b> .....	(\$27,915,000)
	\$25,805,000

Sec. 5064. 2009 c 497 s 5177 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Spokane Falls Community College - Chemistry and Life Science Building (20081219)

Reappropriation:

State Building Construction Account--State.....	\$1,200,000
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Appropriation:

State Building Construction Account--State.....	(\$27,800,000)
	\$21,007,000
Prior Biennia (Expenditures).....	\$1,320,000
Future Biennia (Projected Costs) .....	\$0
<b>TOTAL</b> .....	(\$30,320,000)
	\$23,527,000

Sec. 5065. 2009 c 497 s 5178 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Spokane Community College - Technical Education Building (20081220)

Reappropriation:

State Building Construction Account--State.....	\$1,600,000
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Appropriation:

State Building Construction Account--State.....	(\$30,718,000)
	\$24,037,000
Prior Biennia (Expenditures).....	\$793,000
Future Biennia (Projected Costs) .....	\$0
<b>TOTAL</b> .....	(\$33,111,000)
	\$26,430,000

Sec. 5066. 2009 c 497 s 5191 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Spokane Falls Community College - Music Building 15 Renovation (20081320)

Reappropriation:

State Building Construction Account--State.....	\$475,000
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Appropriation:

State Building Construction Account--State.....	(\$13,806,000)
	\$10,459,000
Prior Biennia (Expenditures).....	\$667,000
Future Biennia (Projected Costs) .....	\$0

<b>TOTAL</b> .....	(\$14,948,000)
	\$11,601,000

Sec. 5067. 2009 c 497 s 5151 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Green River Community College - Humanities and Classroom Building Debt Service (20061205)

The appropriations in this section are subject to the following conditions and limitations: The community/technical college capital projects account appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for debt service on the capital project account certificate of participation issued for construction of this facility. The state board shall work with the office of the state treasurer to identify ways to expedite repayment of the debt incurred on this project that is in excess of actual project costs in order to minimize unnecessary demands upon building account revenue.

Reappropriation:

State Building Construction Account--State.....	\$1,054,000
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Appropriation:

Community/Technical College Capital Projects Account--State.....	\$4,044,000
Prior Biennia (Expenditures).....	\$1,827,000
Future Biennia (Projected Costs) .....	(\$0)
	\$36,432,000
<b>TOTAL</b> .....	(\$2,881,000)
	\$43,357,000

Sec. 5068. 2009 c 497 s 5181 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Bellingham Technical College - Instructional Resource Center Debt Service (20081223)

The appropriations in this section are subject to the following conditions and limitations: The community/technical college capital projects account appropriation is provided solely for debt service on the capital project account certificate of participation issued for construction of this facility. The state board shall authorize only as much debt as is needed to complete the project, not to exceed a total of \$27,000,000.

Reappropriation:

State Building Construction Account--State.....	\$1,000,000
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Appropriation:

Community/Technical College Capital Projects Account--State.....	\$2,288,000
Prior Biennia (Expenditures).....	(\$0)
	\$824,000
Future Biennia (Projected Costs) .....	(\$0)
	\$37,994,000
<b>TOTAL</b> .....	(\$1,000,000)
	\$42,106,000

Sec. 5069. 2009 c 497 s 5190 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Spokane Community College - Building 7 Renovation (20081319)

Reappropriation:

State Building Construction Account--State.....	\$986,000
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Appropriation:

State Building Construction Account--State.....	(\$9,748,000)
	\$8,343,000
Prior Biennia (Expenditures).....	\$23,000
Future Biennia (Projected Costs) .....	\$0

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TOTAL .....((~~\$10,757,000~~))  
\$9,352,000

**Sec. 5070.** 2009 c 497 s 5192 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Pierce College Fort Steilacoom - Cascade Core (20081321)

Reappropriation:  
State Building Construction Account--State.....\$1,200,000

Appropriation:  
State Building Construction Account--State.....((~~\$15,000,000~~))  
\$13,099,000

Community/Technical College Capital Projects  
Account--State.....\$8,500,000  
Subtotal Appropriation.....\$21,599,000  
Prior Biennia (Expenditures).....\$1,042,000  
Future Biennia (Projected Costs).....\$0  
TOTAL .....((~~\$17,242,000~~))  
\$23,841,000

**Sec. 5071.** 2009 c 497 s 5168 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

North Seattle Community College - Employment Resource Center (20062851)

Reappropriation:  
State Building Construction Account--State.....\$700,000

Appropriation:  
State Building Construction Account--State.....((~~\$5,000,000~~))  
\$7,676,000  
Prior Biennia (Expenditures).....\$1,790,000  
Future Biennia (Projected Costs).....\$0  
TOTAL .....((~~\$7,490,000~~))  
\$10,166,000

**Sec. 5072.** 2009 c 497 s 5135 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Clark College - East County Satellite (20041689)

Reappropriation:  
Gardner-Evans Higher Education Construction  
Account--State.....((~~\$5,000,000~~))  
\$4,780,000

Prior Biennia (Expenditures).....\$24,876,000  
Future Biennia (Projected Costs).....\$0  
TOTAL .....((~~\$29,876,000~~))  
\$29,656,000

**Sec. 5073.** 2009 c 497 s 5195 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Bellevue Community College - L Building Emergency Repairs (20081850)

Reappropriation:  
State Building Construction Account--State.....((~~\$1,460,000~~))  
\$387,000

Prior Biennia (Expenditures).....\$203,000  
Future Biennia (Projected Costs).....\$0  
TOTAL .....((~~\$1,663,000~~))  
\$590,000

**Sec. 5074.** 2009 c 497 s 5223 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Minor Works - Preservation (30000210)

Appropriation:  
((~~State Building Construction Account--State~~ .....\$15,116,000))

Community/Technical College Capital Projects  
Account--State.....\$16,000,000  
Prior Biennia (Expenditures).....\$0  
Future Biennia (Projected Costs).....\$0  
TOTAL .....((~~\$15,116,000~~))  
\$16,000,000

**Sec. 5075.** 2009 c 497 s 5179 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Everett Community College - Index Hall Replacement (20081221)

Reappropriation:  
State Building Construction Account--State.....\$1,150,000

Appropriation:  
State Building Construction Account--State.....((~~\$2,301,000~~))  
\$2,157,000  
Prior Biennia (Expenditures).....\$1,650,000  
Future Biennia (Projected Costs).....((~~\$40,205,000~~))  
\$40,349,000  
TOTAL .....\$45,306,000

**Sec. 5076.** 2009 c 497 s 5213 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Minor Works - Program (30000078)

Appropriation:  
State Building Construction Account--State.....\$3,858,000  
Community/Technical College Capital Projects  
Account--State.....((~~\$9,714,000~~))  
\$12,227,000  
Subtotal Appropriation.....((~~\$13,572,000~~))  
\$16,085,000  
Prior Biennia (Expenditures).....\$0  
Future Biennia (Projected Costs).....\$80,000,000  
TOTAL .....((~~\$93,572,000~~))  
\$96,085,000

**Sec. 5077.** 2009 c 497 s 5164 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Spokane Falls Community College - Campus Classrooms (20062696)

Reappropriation:  
State Building Construction Account--State.....((~~\$1,450,000~~))  
\$883,000  
Prior Biennia (Expenditures).....\$434,000  
Future Biennia (Projected Costs).....\$0  
TOTAL .....((~~\$1,884,000~~))  
\$1,317,000

NEW SECTION. **Sec. 5078.** A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Construction Contingency Pool (92000007)

The appropriation in this section is provided solely for allocation by the state board for community and technical colleges for major construction and renovation projects that confront emergent and unavoidable costs in excess of the construction contingency and management reserves included in the project appropriation. The board shall report at least quarterly to the office of financial management and the legislative capital budget committees on requests for and allocations from the pool.

Appropriation:

State Building Construction Account--State.....	\$3,076,000
Gardner-Evans Higher Education Construction Account--State.....	\$263,000
Subtotal Appropriation.....	\$3,339,000
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	\$3,339,000

Sec. 5079. 2009 c 497 s 5224 (uncodified) is amended to read

as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Preventative Facility Maintenance and Building System Repairs (30000287)

Appropriation:

Community and Technical Colleges Capital Projects Account--State.....	(\$22,800,000)
Prior Biennia (Expenditures).....	\$0
Future Biennia (Projected Costs) .....	\$91,208,000
TOTAL .....	(\$114,008,000)
	<u>\$91,208,000</u>

Sec. 5080. 2009 c 497 s 5143 (uncodified) is amended to read

as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Centralia Community College - Science Building (20042850)

Reappropriation:

State Building Construction Account--State.....	\$194,000
Gardner-Evans Higher Education Construction Account--State.....	(\$3,000,000)
Subtotal Reappropriation.....	\$2,737,000
Prior Biennia (Expenditures).....	\$2,931,000
Future Biennia (Projected Costs) .....	\$28,919,000
TOTAL .....	(\$32,113,000)
	<u>\$31,850,000</u>

Sec. 5081. 2009 c 497 s 5167 (uncodified) is amended to read

as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Clover Park Technical College - Allied Health Care Facility (20062699)

Reappropriation:

State Building Construction Account--State.....	(\$1,020,000)
Prior Biennia (Expenditures).....	\$323,000
Future Biennia (Projected Costs) .....	\$1,425,000
TOTAL .....	(\$2,445,000)
	<u>\$1,748,000</u>

(End of part)

**PART 6  
MISCELLANEOUS AND SUPPLEMENTAL  
PROVISIONS**

Sec. 6001. 2009 c 497 s 6009 (uncodified) is amended to read

as follows:

**ACQUISITION OF PROPERTIES AND FACILITIES THROUGH FINANCIAL CONTRACTS.** The following agencies may enter into financial contracts, paid from any funds of an agency, appropriated or nonappropriated, for the purposes indicated and in not more than the principal amounts indicated, plus

financing expenses and required reserves pursuant to chapter 39.94 RCW. When securing properties under this section, agencies shall use the most economical financial contract option available, including long-term leases, lease-purchase agreements, lease-development with option to purchase agreements or financial contracts using certificates of participation. Expenditures made by an agency for one of the indicated purposes before the issue date of the authorized financial contract and any certificates of participation therein are intended to be reimbursed from proceeds of the financial contract and any certificates of participation therein to the extent provided in the agency's financing plan approved by the state finance committee.

State agencies may enter into agreements with the department of general administration and the state treasurer's office to develop requests to the legislature for acquisition of properties and facilities through financial contracts. The agreements may include charges for services rendered.

Those noninstructional facilities of higher education institutions authorized in this section to enter into financial contracts are not eligible for state funded maintenance and operations. Instructional space that is available for regularly scheduled classes for academic transfer, basic skills, and workforce training programs may be eligible for state funded maintenance and operations.

(1) Department of corrections: ~~((Enter into a financing contract for up to \$17,958,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase or build work release beds, violator beds, or other community based re entry facilities.))~~ Enter into a financing contract for up to \$12,400,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to move correctional industries facilities and operations from McNeil island corrections center to Stafford creek corrections center.

(2) Community and technical colleges:

(a) Enter into a financing contract on behalf of Walla Walla Community College for up to \$1,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase up to 40 acres of land.

(b) Enter into a financing contract on behalf of Bellingham Technical College for up to \$1,390,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to develop an instructional resource center.

(c) Enter into a financing contract on behalf of Bellingham Technical College for up to ~~(\$28,968,000)~~ \$27,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to develop an instructional resource center. The cost of this financing contract shall be paid from the community and technical colleges capital projects account. This facility shall be eligible for maintenance and operations funding on the same terms as if constructed with state general obligation bonds.

(d) Enter into a financing contract on behalf of Edmonds Community College for up to \$5,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to provide space for allied health and construction industry.

(e) Contingent upon the sale and purchase specified in section 5071 of this act, enter into a financing contract on behalf of Spokane Community College for up to \$3,400,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase the Riverpoint One building.

(f) Enter into a financing contract on behalf of North Seattle Community College for up to \$8,900,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to develop an employment resource center.

(g) Enter into a financing contract on behalf of Everett Community College for up to \$25,000,000 plus financing expenses

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and required reserves pursuant to chapter 39.94 RCW to develop a student fitness and health center.

(h) Enter into a financing contract on behalf of Wenatchee Valley Community College for up to \$2,700,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase a music and art center.

(i) Enter into a financing contract on behalf of Green River Community College for up to \$20,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to develop a 40,000 square foot addition to Green River Kent station.

(j) Enter into a financing contract on behalf of Walla Walla Community College for up to \$1,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW for the water and environment center.

(k) Enter into a financing contract pursuant to chapter 39.94 RCW on behalf of Green River Community College for up to \$26,532,000 plus financing expenses and required reserves to construct a new classrooms facility as specified in project 20061205. The cost of this financing contract shall be paid from the community and technical colleges capital projects account. This facility shall be eligible for maintenance and operations funding on the same terms as if constructed with state general obligation bonds.

(3) Parks and recreation commission: Enter into a financing contract for up to \$2,500,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW for the Mount Spokane lodge. The parks and recreation commission shall use energy savings performance contracting if practicable. The lodge shall be operated by a private concessionaire under a contract with the parks and recreation commission that is a qualified management contract under the applicable internal revenue service guidelines.

(4) Department of general administration: Enter into a financing contract for up to \$27,144,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW for the rehabilitation of the John L. O'Brien building, subject to approval of the project scope by the speaker of the house of representatives and the chief clerk of the house of representatives.

(5) Department of ecology: Enter into a financing contract for up to \$11,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to rebuild the east wall of the department of ecology's headquarters building in Lacey, Washington.

(6) Washington State University: Enter into a financing contract for up to \$15,000,000 plus financing expenses and required reserve pursuant to chapter 39.94 RCW for a student information system.

(7) Department of social and health services: Enter into a financing contract for up to \$15,850,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct or renovate specialized housing and treatment facilities for youth committed to the juvenile rehabilitation administration. The debt service is to be paid with the savings associated with closure of the Maple Lane school.

NEW SECTION. Sec. 6002. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION--ENERGY SAVINGS PERFORMANCE CONTRACTING.**

(1) The department of general administration, in fulfilling its requirement to maintain a registry of energy service contractors pursuant to RCW 39.35A.050, shall update the preapproved list of energy services companies that are qualified to provide services to public facilities in the state by June 30, 2010.

(2) The department of general administration must develop guidelines that are consistent with national and international energy

savings performance standards for the implementation of energy savings performance contracting projects June 30, 2010.

NEW SECTION. Sec. 6003. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT.** The office of financial management budget instructions, required by chapter 43.88 RCW, must instruct all agencies submitting budget requests for building renovations and improvements and operating budget requests for facility leases to conduct preliminary energy audits if proposed renovations or improvements involve building envelope, heating, ventilating, air conditioning, controls, and lighting. The budget instructions must also direct agencies to contact the department of general administration for assistance, if necessary.

NEW SECTION. Sec. 6004. A new section is added to 2009 c 497 (uncodified) to read as follows:

**DEBT AFFORDABILITY STUDY.** The office of the state treasurer shall prepare a debt affordability study by December 1, 2010, that provides an assessment of the state's current debt portfolio and an analysis of the impact of future debt issuance. The study must include but is not limited to: An overview of the state's outstanding and projected debt; the structure of the debt portfolio; the cost of existing debt; sources of funds for interest, principal, or lease payments; and the purposes for which debt instruments and financing contracts are issued. To assist with this work, the office of the state treasurer shall convene and staff a work group to include staff from the fiscal committees of the state house of representatives and state senate and the office of financial management.

NEW SECTION. Sec. 6005. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR SPOKANE COMMUNITY COLLEGE.** The Washington state military department shall transfer building 100 and 5.47 acres of associated land at Geiger field to Spokane community college for the development of a Spokane aerospace technology center.

**Sec. 6006.** 2008 c 5 s 1 (uncodified) is amended to read as follows:

Pursuant to chapter 43.155 RCW, the following project loans recommended by the public works board are authorized to be made with funds appropriated from the public works assistance account, and no loan authorized in this act shall bear an interest rate greater than one-half of one percent:

- (1) Arlington--sanitary sewer project--expand and upgrade the wastewater treatment plant and biosolids composting facility to meet new discharge limitations, produce a higher quality effluent, and accommodate future growth.....\$10,000,000
- (2) Auburn--street project--reconstruct approximately 0.3 miles of roadway with four travel lanes to bring up to current arterial and truck route standards and modify intersection to optimize efficiency and level of service .....\$1,800,000
- (3) Blaine--sanitary sewer project--construct a new wastewater treatment plant and section of outfall pipe to increase treatment capacity, produce reuse quality water, and improve Puget Sound water quality for shellfish .....\$10,000,000
- (4) Bonney Lake--domestic water project--replace approximately 71,000 linear feet of leaky water mains to reduce current water loss by ten percent.....\$5,352,000
- (5) Bonney Lake--sanitary sewer project--replace approximately 12,000 linear feet of failing interceptor sewer pipes .....\$4,648,000
- (6) Buckley--sanitary sewer project--rebuild the wastewater treatment plant to provide nutrient removal and meet state and federal discharge regulations and the construction of an interceptor .....\$5,000,000

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(7) Camas--sanitary sewer project--construct improvements to the wastewater treatment facilities to provide class A biosolids at the main sewage pump station.....\$10,000,000

(8) Clark county--road project--construct new road segments, widen roadways, improve and redesign intersections, and install and modify traffic signals necessary to improve a major interchange with two freeways.....\$10,000,000

(9) Clark regional wastewater district--sanitary sewer project--modify existing and construct new wastewater facilities to process approximately 4.65 million gallons more of wastewater per day and ensure treatment processes continue to be in compliance with current regulations.....\$8,000,000

(10) Coal creek utility district--sanitary sewer project--construct sewer lift station, approximately 1,250 lineal feet of gravity sewer main, and 500 feet of force main to provide public sewer to approximately 25 properties on a lake that have private septic systems that have failed or are in prefailure status.....\$898,875

(11) College Place--domestic water project--construct two steel tanks, a booster station, approximately 6,000 feet of transmission line, 3,400 feet of water mains, three pressure reducing valves, and associated telemetry to rectify a deficiency in fire flow and standby water storage protection.....\$4,710,051

(12) Cowlitz county public utility district No. 1--domestic water project--construction of approximately six new groundwater supply wells, 2,100 feet of raw water piping a new water treatment plant producing approximately 20 million gallons per day of potable water, and approximately 4,350 feet of transmission main to connect to the system to replace current water supply that is being impacted by increasing water sediment.....\$3,213,000

(13) Ephrata--domestic water project--replace approximately 68,000 feet of failing water mains, 50,000 feet of failing water service pipes, and the resurfacing of 20 miles of overlaying roadway, including approximately 100 fire hydrants, 400 catch basins, 15 storm sewer drywells, 22,000 feet of curb and gutter, and 16,000 feet of storm sewer pipe.....\$6,605,727

(14) Freeland water district--domestic water project--connect a new well and new reservoir to the existing system, rehabilitate the existing well, and install new equipment to increase system reliability, redundancy, and capacity. Install new chlorination equipment to improve water quality.....\$347,516

(15) Gig Harbor--sanitary sewer project--improvements to the wastewater treatment plant including new equipment and electrical work, add a third clarifier, install ultraviolet disinfection, and extend and upsze the outfall.....\$10,000,000

(16) Highline water district--domestic water project--construction of 11,350 feet of transmission main and looping of pipes to eliminate low pressures and fire flows and improve water quality, and create a new pressure zone to correct high pressures.....\$5,390,418

(17) Karcher creek sewer district--sanitary sewer project--install a new sewer system, including a lift station and approximately 3,600 lineal feet of sewer main, in conjunction with a road project to service approximately 17 homes that will lose their septic systems due to the road project.....\$1,358,130

(18) Kennewick--sanitary sewer project--construct improvements to critical wastewater treatment plant processes to enhance reliability, improve energy efficiency and redundancy, as well as increase the capacity of the sludge pumping station.....\$5,500,000

(19) Kent--street project--construct two bridges, one for the roadway over a set of railroad tracks, and one for railroad tracks over a lowered roadway. This will grade separate the tracks from

the roadway to provide safe and reliable operations twenty-four hours a day \$10,000,000

(20) King county--sanitary sewer project--construct 13,100 lineal feet of pipe to convey approximately 9 million gallons per day of reclaimed water to reduce withdrawals of 250-acre feet per year from the Sammamish river.....\$7,000,000

(21) La Center--sanitary sewer project--upgrade wastewater treatment plant to reduce the levels of nitrogen discharged in the effluent and approximately doubling the operation of the plant and producing class A reuse water.....\$10,000,000

(22) Lake Forest Park water district--domestic water project--replace approximately 6,915 lineal feet of undersized and corroded water pipes to improve safety and reliability of the system by reducing pipe failures and increasing fire flow.....\$917,935

(23) Lake Stevens--sanitary sewer project--construct a new wastewater treatment plant, 9,500 feet of interceptor line, a pump station, and an outfall pipe in partnership with Lake Stevens sewer district \$10,000,000

(24) Lake Stevens sewer district--sanitary sewer project--construct a new wastewater treatment plant, 9,500 feet of interceptor line, a pump station, and an outfall pipe in partnership with the city of Lake Stevens.....\$10,000,000

(25) Lakewood--sanitary sewer project--construct 3 pump stations, approximately 17,200 lineal feet of force mains, 13,500 lineal feet of gravity collector pipe line, and 320 side sewer stubs to service two neighborhoods currently served exclusively by septic systems.....\$1,840,000

(26) LOTT alliance--sanitary sewer project--construct approximately 7,400 feet of force main and replace existing pump station with new 1,000 gallon per minute pump station..\$4,003,807

(27) Mansfield--sanitary sewer project--expand and rehabilitate wastewater treatment lagoons and effluent spray irrigation system as well as remove the discharge of groundwater from basement sump pumps to the collection system.....\$235,600

(28) Midway sewer district--sanitary sewer project--replace approximately 16,500 lineal feet of sewer mains and 50 manholes to reduce infiltration and inflow.....\$3,782,500

(29) Mount Vernon--sanitary sewer project--upgrade existing wastewater treatment plant, including a new pretreatment facility, 4 additional clarifiers, upgrade aeration basins, installation of an ultraviolet disinfection system, and odor control system.....\$10,000,000

(30) Newcastle--road project--reconstruct, widen, and signalize approximately 5,200 linear feet of road to 2 lanes in each direction, add left turn lanes, sidewalks, bicycle lanes, install lighting systems, replace two-lane bridge with a four-lane bridge, and install new traffic signals.....\$5,000,000

(31) Olympia--sanitary sewer project--install approximately 6,500 linear feet of sewer mains and construct a lift station to serve 63 homes with failing on-site sewage systems.....\$1,808,375

(32) Olympus Terrace sewer district--sanitary sewer project--rehabilitate approximately 9,350 linear feet of sewer trunkline, construct approximately 9,800 linear feet of high-flow storm water bypass piping for excess flow, construct approximately 4,150 linear feet of road access, and restore creek habitat.....\$8,000,000

(33) Omak--sanitary sewer project(~~--add 2 compost containers, convert storage tank to sludge holding tank, and install a second headworks screen to increase the wastewater treatment plant capacity by 35 percent~~).....\$450,000

(34) Port Angeles--sanitary sewer project--construct approximately 11,500 feet of sewer main, modify a storage tank, and modify the wastewater treatment plant.....\$10,000,000

(35) Regional board of mayors--solid waste project--close landfill site by capping and sealing with a soil cap.....\$859,500

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- (36) Regional board of mayors--solid waste project--construct a new solid waste transfer station, including structures and equipment.....\$1,541,000
- (37) Ronald wastewater district--sanitary sewer project--rehabilitate 2 lift stations by replacing pumps, valves, fittings, piping, odor control systems, and electrical equipment.....\$955,400
- (38) Seattle--domestic water project--replace floating pumps with land-based pump station with a maximum capacity of approximately 250 million gallons per day, including 8 pumps, concrete structure, a tunnel, approximately 4,000 feet of pipeline, and a standby generator.....\$10,000,000
- (39) Sedro-Woolley--sanitary sewer project--rehabilitate or replace 4 interceptor segments totaling approximately 29,700 linear feet, install 2 pump stations, and upgrade the secondary clarifier in order to lift a building moratorium .....\$6,023,491
- (40) Shelton--sanitary sewer project--construct a satellite reclamation plant with a capacity of approximately 0.4 million gallons per day to produce class A reclaimed water, approximately 22,000 linear feet of sewer pipelines, and approximately 25,000 linear feet of reclaimed water force main .....\$2,079,360
- (41) Shelton--sanitary sewer project--replace approximately 38,480 linear feet of mainline sewers to reduce inflow and infiltration.....\$5,737,500
- (42) Skagit county sewer district No. 2--sanitary sewer project--upgrade wastewater treatment plant to a water reclamation facility to provide class A reclaimed water with a capacity of approximately 0.35 million gallons per day.....\$10,000,000
- (43) Snohomish--sanitary sewer project--construct approximately 1,900 feet of sewer pipe, a new pump station with a capacity of approximately 8,000 gallons per minute, and approximately 4,300 feet of force main to reduce overflows .....\$2,000,000
- (44) Snohomish--sanitary sewer project(~~--upgrade existing wastewater treatment plant including a new influent flow structure, screens, aerators, effluent filtration, ultraviolet disinfection, effluent pump station, improvements to the existing lagoons, and electrical improvements~~).....\$4,500,000
- (45) Snohomish county--road project--construct a new, approximately two-mile, two-lane truck route around the city of Granite Falls, including 3 roundabouts to improve safety and air quality in the downtown area.....\$10,000,000
- (46) Southwest Suburban sewer district--sanitary sewer project-- replace and/or slipline approximately 5,470 feet of trunk/interceptor sewer main and construct a new lift station to reduce overflows .....\$3,268,250
- (47) Tacoma--domestic water project--replace 3 open-topped concrete reservoirs with 2 enclosed concrete reservoirs of approximately 33 million gallons each and related piping to comply with the safe drinking water act and a bilateral compliance agreement.....\$10,000,000
- (48) Tekoa--sanitary sewer system--reconstruct approximately 1,000 feet of failing sewer line and manholes to reduce significant groundwater infiltration .....\$135,115
- (49) Three rivers regional wastewater authority--sanitary sewer project--construct 2 clarifiers and associated piping to replace 2 failed clarifiers at the wastewater plant.....\$6,630,750
- (50) Washougal--sanitary sewer project--construct a new wastewater treatment plant headworks, including a fine screen, grit removal, and replace approximately 150 linear feet of gravity sewer, and make improvements to the lagoons, including 450 linear feet of piping, modify overflow structures, and a new pump .....\$3,100,000

(51) Yakima--domestic water project--develop a new, approximately 3,000 gallon per minute, domestic water well, including drilling, placement of casing, a new pump house, and connection to the existing water distribution system in order to augment the water supply during drought conditions .....\$2,257,200

(52) Yakima--street project--construct 2 underpasses and reconstruct 3 lanes on each roadway under a railroad mainline to accommodate additional rail and reduce traffic and emergency response delays and air pollution .....\$3,000,000

**Sec. 6007.** RCW 43.155.050 and 2009 c 564 s 940 are each amended to read as follows:

(1) The public works assistance account is hereby established in the state treasury. Money may be placed in the public works assistance account from the proceeds of bonds when authorized by the legislature or from any other lawful source. Money in the public works assistance account shall be used to make loans and to give financial guarantees to local governments for public works projects. Moneys in the account may also be appropriated to provide for state match requirements under federal law for projects and activities conducted and financed by the board under the drinking water assistance account. Not more than fifteen percent of the biennial capital budget appropriation to the public works board from this account may be expended or obligated for preconstruction loans, emergency loans, or loans for capital facility planning under this chapter; of this amount, not more than ten percent of the biennial capital budget appropriation may be expended for emergency loans and not more than one percent of the biennial capital budget appropriation may be expended for capital facility planning loans. During the 2009-2011 fiscal biennium, the legislature may transfer from the public works assistance account to the general fund and the city-county assistance account such amounts as reflect the excess fund balance of the account. During the 2009-2011 fiscal biennium, sums in the public works assistance account may be used for the water pollution control revolving fund program match in section 3013 of this act.

(2) The job development fund is hereby established in the state treasury. Moneys in the job development fund may be spent only after appropriation.

**Sec. 6008.** RCW 28B.20.725 and 1969 ex.s. c 223 s 28B.20.725 are each amended to read as follows:

The board is hereby empowered:

(1) To reserve the right to issue bonds later on a parity with any bonds being issued;

(2) To authorize the investing of moneys in the bond retirement fund and any reserve account therein;

(3) To authorize the transfer of money from the University of Washington building account to the bond retirement fund when necessary to prevent a default in the payments required to be made out of such fund;

(4) To create a reserve account or accounts in the bond retirement fund to secure the payment of the principal of and interest on any bonds;

(5) To authorize the transfer to the University of Washington building account of any money on deposit in the bond retirement fund in excess of debt service for a period of three years from the date of such transfer on all outstanding bonds payable out of such fund. However, during the 2009-2011 fiscal biennium, the legislature may transfer to the University of Washington building account moneys that are in excess of the debt service due within one year of the date of transfer on all outstanding bonds payable out of the bond retirement fund.

**Sec. 6009.** RCW 28B.30.750 and 1969 ex.s. c 223 s 28B.30.750 are each amended to read as follows:

The board is hereby empowered:

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(1) To reserve the right to issue bonds later on a parity with any bonds being issued;

(2) To authorize the investing of moneys in the bond retirement fund and any reserve account therein;

(3) To authorize the transfer of money from the Washington State University building account to the bond retirement fund when necessary to prevent a default in the payments required to be made out of such fund;

(4) To create a reserve account or accounts in the bond retirement fund to secure the payment of the principal of and interest on any bonds;

(5) To authorize the transfer to the Washington State University building account of any money on deposit in the bond retirement fund in excess of debt service for a period of three years from the date of such transfer on all outstanding bonds payable out of such fund. However, during the 2009-2011 fiscal biennium, the legislature may transfer to the Washington State University building account moneys that are in excess of the debt service due within one year of the date of transfer on all outstanding bonds payable out of the bond retirement fund.

NEW SECTION. Sec. 6010. A new section is added to 2009 c 497 (uncodified) to read as follows:

**FOR THE STATE TREASURER--TRANSFERS**

University of Washington bond retirement fund:

For transfer to the University of Washington building account for fiscal year 2010.....\$14,000,000

**Sec. 6011.** RCW 43.160.080 and 2008 c 327 s 11 are each amended to read as follows:

There shall be a fund in the state treasury known as the public facilities construction loan revolving account, which shall consist of all moneys collected under this chapter and any moneys appropriated to it by law. Disbursements from the revolving account shall be on authorization of the board. In order to maintain an effective expenditure and revenue control, the public facilities construction loan revolving account shall be subject in all respects to chapter 43.88 RCW. During the 2009-2011 biennium, sums in the public facilities construction loan revolving account may be used for community economic revitalization board export assistance grants and loans in section 1018 of this act and for matching funds for the federal energy regional innovation cluster in section 1017 of this act.

**Sec. 6012.** 2009 c 497 s 6004 (uncodified) is amended to read as follows:

(1) The office of financial management may ~~((authorize a))~~ transfer ~~((of))~~ appropriation authority provided for a capital project that is in excess of the amount required for the completion of ~~((such))~~ the project ~~((to another capital project for which the appropriation is insufficient. No such transfer may be used to expand the capacity of any facility beyond that intended in making the appropriation. Such transfers may be effected only between capital appropriations to a specific department, commission, agency, or institution of higher education and only between capital projects that are funded from the same fund or account. No transfers may occur between projects to local government agencies except where the grants are provided within a single omnibus appropriation and where such transfers are specifically authorized by the implementing statutes that govern the grants.~~

~~—(2) The office of financial management may find that an amount is in excess of the amount required for the completion of a project only if: (a) The project as defined in the notes to the budget document is substantially complete and there are funds remaining; or (b) bids have been let on a project and it appears to a substantial certainty that the project as defined in the notes to the budget document can be completed within the biennium for less than the amount appropriated in this act.~~

~~—(3)), based on the authorized scope, to the risk pool in section~~

1021.

~~(2) For the purposes of this section, the intent is that each project be defined as proposed to the legislature in the governor's budget document, unless it clearly appears from the legislative history that the legislature intended to define the scope of a project in a different way.~~

~~((4) Transfers of funds to an agency's infrastructure savings appropriation are subject to review and approval by the office of financial management. Expenditures from an infrastructure savings appropriation are limited to projects that have a primary purpose to correct infrastructure deficiencies or conditions that: (a) Adversely affect the ability to utilize the infrastructure for its current programmatic use; (b) reduce the life expectancy of the infrastructure; or (c) increase the operating costs of the infrastructure for its current programmatic use. Eligible infrastructure projects may include structures and surface improvements, site amenities, utility systems outside building footprints and natural environmental changes or requirements as part of an environmental regulation, a declaration of emergency for an infrastructure issue in conformance with RCW 43.88.250, or infrastructure planning as part of a facility master plan.~~

~~—(5) A report of any transfer effected under this section, except emergency projects or any transfer under \$250,000, shall be filed with the legislative fiscal committees of the senate and house of representatives by the office of financial management at least thirty days before the date the transfer is effected. The office of financial management shall report all emergency or smaller transfers within thirty days from the date of transfer.))~~

(3) The office of financial management shall not allot any portion of a capital budget appropriation for: (a) Contingencies above the amount required for completion of a project as described in budget documents submitted as part of the governor's capital budget request or consistent with legislative history; (b) proposed alternates submitted in bid documents if agencies cannot document a programmatic need and an operational budget savings resulting from the completion of the alternate project component that would pay for the cost of the alternate within eight years; or (c) for any equipment costs or project scope beyond what was described in the budget documents submitted as part of the governor's capital budget request.

(4) The office of financial management shall submit a monthly report of approved allotments, subject to this section, by project. The report shall include the accepted base bid and any approved alternates with the analysis demonstrating sufficient operational budget savings.

**Sec. 6013.** RCW 90.71.370 and 2009 c 479 s 74 are each amended to read as follows:

(1) By December 1, 2008, and by September 1st of each even-numbered year beginning in 2010, the council shall provide to the governor and the appropriate fiscal committees of the senate and house of representatives its recommendations for the funding necessary to implement the action agenda in the succeeding biennium. The recommendations shall:

- (a) Identify the funding needed by action agenda element;
- (b) Address funding responsibilities among local, state, and federal governments, as well as nongovernmental funding; and
- (c) Address funding needed to support the work of the partnership, the panel, the ecosystem work group, and entities assisting in coordinating local efforts to implement the plan.

(2) In the 2008 report required under subsection (1) of this section, the council shall include recommendations for projected funding needed through 2020 to implement the action agenda; funding needs for science panel staff; identify methods to secure stable and sufficient funding to meet these needs; and include proposals for new sources of funding to be dedicated to Puget Sound

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protection and recovery. In preparing the science panel staffing proposal, the council shall consult with the panel.

(3) By November 1st of each odd-numbered year beginning in 2009, the council shall produce a state of the Sound report that includes, at a minimum:

(a) An assessment of progress by state and nonstate entities in implementing the action agenda, including accomplishments in the use of state funds for action agenda implementation;

(b) A description of actions by implementing entities that are inconsistent with the action agenda and steps taken to remedy the inconsistency;

(c) The comments by the panel on progress in implementing the plan, as well as findings arising from the assessment and monitoring program;

(d) A review of citizen concerns provided to the partnership and the disposition of those concerns;

(e) A review of the expenditures of funds to state agencies for the implementation of programs affecting the protection and recovery of Puget Sound, and an assessment of whether the use of the funds is consistent with the action agenda; and

(f) An identification of all funds provided to the partnership, and recommendations as to how future state expenditures for all entities, including the partnership, could better match the priorities of the action agenda.

(4)(a) The council shall review state programs that fund facilities and activities that may contribute to action agenda implementation. By November 1, 2009, the council shall provide initial recommendations regarding program changes to the governor and appropriate fiscal and policy committees of the senate and house of representatives. By November 1, 2010, the council shall provide final recommendations regarding program changes, including proposed legislation to implement the recommendation, to the governor and appropriate fiscal and policy committees of the senate and house of representatives.

(b) The review in this subsection shall be conducted with the active assistance and collaboration of the agencies administering these programs, and in consultation with local governments and other entities receiving funding from these programs:

(i) Water pollution control facilities financing, chapter 70.146 RCW;

(ii) The water pollution control revolving fund, chapter 90.50A RCW;

(iii) The public works assistance account, chapter 43.155 RCW;

(iv) The aquatic lands enhancement account, RCW 79.105.150;

(v) The state toxics control account and local toxics control account and clean-up program, chapter 70.105D RCW;

(vi) The acquisition of habitat conservation and outdoor recreation land, chapter 79A.15 RCW;

(vii) The salmon recovery funding board, RCW 77.85.110 through 77.85.150;

(viii) The community economic revitalization board, chapter 43.160 RCW;

(ix) Other state financial assistance to water quality-related projects and activities; and

(x) Water quality financial assistance from federal programs administered through state programs or provided directly to local governments in the Puget Sound basin.

(c) The council's review shall include but not be limited to:

(i) Determining the level of funding and types of projects and activities funded through the programs that contribute to implementation of the action agenda;

(ii) Evaluating the procedures and criteria in each program for determining which projects and activities to fund, and their relationship to the goals and priorities of the action agenda;

(iii) Assessing methods for ensuring that the goals and priorities of the action agenda are given priority when program funding decisions are made regarding water quality-related projects and activities in the Puget Sound basin and habitat-related projects and activities in the Puget Sound basin;

(iv) Modifying funding criteria so that projects, programs, and activities that are inconsistent with the action agenda are ineligible for funding;

(v) Assessing ways to incorporate a strategic funding approach for the action agenda within the outcome-focused performance measures required by RCW 43.41.270 in administering natural resource-related and environmentally based grant and loan programs.

(5) During the 2009-11 fiscal biennium, the council's review must result in a ranking of projects affecting the protection and recovery of the Puget Sound basin that are proposed in the governor's capital budget submitted under RCW 43.88.060. The ranking shall include recommendations for reallocation of total requested funds for Puget Sound basin projects to achieve the greatest positive outcomes for protection and recovery of Puget Sound and shall be submitted to the appropriate fiscal committees of the legislature no later than February 1, 2011.

**Sec. 6014.** RCW 39.10.210 and 2007 c 494 s 101 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Alternative public works contracting procedure" means the design-build, general contractor/construction manager, and job order contracting procedures authorized in RCW 39.10.300, 39.10.340, and 39.10.420, respectively.

(2) "Board" means the capital projects advisory review board.

(3) "Committee" means the project review committee.

(4) "Design-build procedure" means a contract between a public body and another party in which the party agrees to both design and build the facility, portion of the facility, or other item specified in the contract.

(5) "Total contract cost" means the fixed amount for the detailed specified general conditions work, the negotiated maximum allowable construction cost, and the percent fee on the negotiated maximum allowable construction cost.

(6) "General contractor/construction manager" means a firm with which a public body has selected and negotiated a maximum allowable construction cost to provide services during the design phase and to act as construction manager and general contractor during the construction phase.

(7) "Job order contract" means a contract in which the contractor agrees to a fixed period, indefinite quantity delivery order contract which provides for the use of negotiated, definitive work orders for public works as defined in RCW 39.04.010.

(8) "Job order contractor" means a registered or licensed contractor awarded a job order contract.

(9) "Maximum allowable construction cost" means the maximum cost of the work to construct the project including a percentage for risk contingency, negotiated support services, and approved change orders.

(10) "Negotiated support services" means items a general contractor would normally manage or perform on a construction project including, but not limited to surveying, hoisting, safety enforcement, provision of toilet facilities, temporary heat, cleanup, and trash removal.

(11) "Percent fee" means the percentage amount to be earned by the general contractor/construction manager as overhead and profit.

(12) "Public body" means any general or special purpose government, including but not limited to state agencies, institutions of higher education, counties, cities, towns, ports, school districts,

and special purpose districts, provided that for the 2009-2011 fiscal biennium, the definition of public body for this chapter does not include public bodies funded in section 1012 of this act if alternative requirements or procedures of federal law or regulations are authorized.

(13) "Certified public body" means a public body certified to use design-build or general contractor/construction manager contracting procedures, or both, under RCW 39.10.270.

(14) "Public works project" means any work for a public body within the definition of "public work" in RCW 39.04.010.

(15) "Total project cost" means the cost of the project less financing and land acquisition costs.

(16) "Unit price book" means a book containing specific prices, based on generally accepted industry standards and information, where available, for various items of work to be performed by the job order contractor. The prices may include: All the costs of materials; labor; equipment; overhead, including bonding costs; and profit for performing the items of work. The unit prices for labor must be at the rates in effect at the time the individual work order is issued.

(17) "Work order" means an order issued for a definite scope of work to be performed pursuant to a job order contract.

**Sec. 6015.** RCW 39.94.040 and 2003 c 6 s 2 are each amended to read as follows:

(1) Except as provided in RCW 28B.10.022, the state may not enter into any financing contract for itself if the aggregate principal amount payable thereunder is greater than an amount to be established from time to time by the state finance committee or participate in a program providing for the issuance of certificates of participation, including any contract for credit enhancement, without the prior approval of the state finance committee. Except as provided in RCW 28B.10.022, the state finance committee shall approve the form of all financing contracts or a standard format for all financing contracts. The state finance committee also may:

(a) Consolidate existing or potential financing contracts into master financing contracts with respect to property acquired by one or more agencies, departments, instrumentalities of the state, the state board for community and technical colleges, or a state institution of higher learning; or to be acquired by an other agency;

(b) Approve programs providing for the issuance of certificates of participation in master financing contracts for the state or for other agencies;

(c) Enter into agreements with trustees relating to master financing contracts; and

(d) Make appropriate rules for the performance of its duties under this chapter.

(2) In the performance of its duties under this chapter, the state finance committee may consult with representatives from the department of general administration, the office of financial management, and the department of information services.

(3) With the approval of the state finance committee, the state also may enter into agreements with trustees relating to financing contracts and the issuance of certificates of participation.

(4) Except for financing contracts for real property used for the purposes described under chapter 28B.140 RCW, the state may not enter into any financing contract for real property of the state without prior approval of the legislature. For the purposes of this requirement, a financing contract must be treated as used for real property if it is being entered into by the state for the acquisition of land; the acquisition of an existing building; the construction of a new building; or a major remodeling, renovation, rehabilitation, or rebuilding of an existing building. Prior approval of the legislature is not required under this chapter for a financing contract entered into by the state under this chapter for energy conservation improvements to existing buildings where such improvements

include: (a) Fixtures and equipment that are not part of a major remodeling, renovation, rehabilitation, or rebuilding of the building, or (b) other improvements to the building that are being performed for the primary purpose of energy conservation. Such energy conservation improvements must be determined eligible for financing under this chapter by the office of financial management in accordance with financing guidelines established by the state treasurer, and are to be treated as personal property for the purposes of this chapter.

(5) The state may not enter into any financing contract on behalf of an other agency without the approval of such a financing contract by the governing body of the other agency.

**NEW SECTION. Sec. 6016.** The following acts or parts of acts are each repealed:

- (1) 2009 c 497 s 1089 (uncodified);
- (2) 2009 c 497 s 2030 (uncodified);
- (3) 2009 c 497 s 2079 (uncodified);
- (4) 2009 c 497 s 3098 (uncodified);
- (5) 2009 c 497 s 4009 (uncodified);
- (6) 2009 c 497 s 5043 (uncodified);
- (7) 2009 c 497 s 5059 (uncodified);
- (8) 2009 c 497 s 5072 (uncodified);
- (9) 2009 c 497 s 5084 (uncodified);
- (10) 2009 c 497 s 5098 (uncodified);
- (11) 2009 c 497 s 5112 (uncodified); and
- (12) RCW 39.86.200 (Ratification) and 1987 c 297 s 11.

**NEW SECTION. Sec. 6017.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 6018.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

(End of bill)

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Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin and Tom

Voting nay: Senators Becker, Benton, Carrell, Hewitt, Holmquist, Honeyford, King, Parlette, Pflug, Roach, Schoesler, Swecker and Zarelli

Excused: Senators Delvin, McCaslin and Stevens

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2836 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

Senator Fraser spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 2836.

The motion by Senator Fraser carried and the committee striking amendment was adopted by voice vote.

MOTION

On motion of Senator Eide, Engrossed Substitute House Bill No. 2836 was immediately transmitted to the House of Representatives.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "improvements;" strike the remainder of the title and insert "amending RCW 43.155.050, 28B.20.725, 28B.30.750, 43.160.080, 90.71.370, 39.10.210, and 39.94.040; amending 2009 c 497 ss 1005, 1013, 1029, 1019, 1023, 1030, 1031, 1034, 1035, 1039, 1040, 1045, 1046, 1048, 1054, 1055, 1065, 1071, 1075, 1060, 1061, 1063, 1064, 1068, 1073, 1081, 1086, 1087, 2001, 2002, 2027, 2014, 2034, 2037, 2038, 2067, 2072, 2075, 2078, 2068, 2054, 2064, 3059, 3039, 3007, 3049, 3054, 3060, 3020, 3052, 3093, 3094, 3090, 3091, 3085, 3109, 3133, 3138, 3157, 3168, 3169, 3172, 3178, 3182, 3197, 3203, 4008, 5007, 5008, 5009, 5002, 5013, 5014, 5011, 5027, 5029, 5024, 5023, 5026, 5028, 5037, 5030, 5041, 5035, 5039, 5055, 5047, 5054, 5056, 5057, 5064, 5061, 5065, 5068, 5079, 5080, 5083, 5092, 5094, 5093, 5097, 5104, 5100, 5111, 5115, 5116, 5118, 5120, 5174, 5176, 5127, 5180, 5171, 5182, 5210, 5183, 5184, 5217, 5218, 5219, 5220, 5204, 5205, 5206, 5208, 5165, 5177, 5178, 5191, 5151, 5181, 5190, 5192, 5168, 5135, 5195, 5223, 5179, 5213, 5164, 5224, 5143, 5167, 6009, and 6004 (uncodified); amending 2008 c 5 s 1 (uncodified); adding new sections to 2009 c 497 (uncodified); creating a new section; repealing RCW 39.86.200; repealing 2009 c 497 ss 1089, 2030, 2079, 3098, 4009, 5043, 5059, 5072, 5084, 5098, and 5112 (uncodified); and declaring an emergency."

MOTION

On motion of Senator Fraser, the rules were suspended, Engrossed Substitute House Bill No. 2836 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2836 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2836 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 33; Nays, 13; Absent, 0; Excused, 3.

Voting yea: Senators Berkey, Brandland, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline,

PERSONAL PRIVILEGE

Senator Fraser: "Thank you Mr. President. I would like to express appreciation to people who played a key role in the capitol budget. First I'd like to thank Senator Brandland and Senator Regala for participating in many meetings in the development of the capitol budget. As Senator Prentice and others have said I would like to thank the brain trust of the Ways & Means staff. The key people who worked on the Capitol Budget of course were; Brian Sims, the coordinator, I see a few of them are here, come on out and please smile for the camera here. Brian Sims who is the coordinator of the Capitol Budget, Maria Hovde, Tim Yowell, Richard Ramsey worked on major pieces of it. Steve Jones provided legal advice and I'd also like to thank Colleen Kerr who played a wonderful coordinating role. So, thank you to the Ways & Means staff, They are a brain trust. They do incredibly competent analysis. They're creative, highly ethical, incredible work ethic as has been stated and a wonderful commitment to public service. The people of the state are very well served by our Ways & Means staff. Thank you very much."

PERSONAL PRIVILEGE

Senator McDermott: "Thank you Mr. President. It was twenty years ago this session that I worked session for the Senator from the Forty-Third District, Senator Janice Niemi. Ten years ago I was elected to join the House of Representatives. Three years ago I was honored to join the Washington State Senate. At that point in time my then three-year old, five-year old nephew Aiden told me 'Uncle Joe, you're a Senator, that's cool, that's just like in Star Wars'. I think Senator's the second-coolest title I have, Uncle being the first. Mr. President, you will remember I began my senate career honoring one our mutual friends and clowning around a bit, by honoring J. P. Patches. That really fits well with my motto in life, find what you like to do and find a way to get paid to do it. So far in life I've very successful in that. Actually chose a career in public service as a result of a high school trip to Washington D. C. my senior year in high school. I chose to go to Gonzaga planning in majoring in Civil Engineering. I was good in math, good in problem solving and I thought I was going to design bridges. I went to Washington D. C. and had a fantastic time, learned a lot about government, number of prominent speakers then Secretary of Education William Bennett, Senator Slade Gordon spoke to the group I was with. An engaging week and I came home a history and poli-sci major. I told my mother and she told me, 'Don't do that, there's no money in that'. My mother has worked in Catholic education her entire

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career. I told her ‘Mom, look at what you do’, And she said ‘No Joe, this is clearly one of those do as I say not as I do moments’. You can see I took her advice. I would like to leave with a challenge, however, Mr. President. As we all continue our work in public service I would encourage and in fact challenge us to examine how we make policy. We all do so, I’m convinced without doubt with the intention of achieving justice that we all have different ways of identifying and defining what justice means. In his ‘A theory of Justice’ John Rawls lays out a frame work for how to do that. I suggest we consider using it. Informing this concept of justice Rawls said we should imagine ourselves in what he calls the original position. He envisions this being from being done from a veil of ignorance. That veil of ignorance? What is that. It’s not knowing what position you might hold in society but you go in fact about who you are and where you’ll be. Your place in society, your place, your position or social class, your fortune in the distribution of natural assets. Our intelligence, strength and the like, truly not know where you will be in society when you decide what a just society will be like. I suggest that we should tailor and do the best work we can to make all of our decisions from behind that veil, recognizing we’re not just serving the people who are like us but everybody across this state. Some examples, well the easy historical example is at the time there would actually been people who argued in support of slavery. But from behind the veil of ignorance could you really make that argument if you didn’t know if you’d be the owner or the slave? It certainly applies in modern application as well. I suggest one place that we might be well served to not remember where we are but to think about where anyone might end up is when we make policy rounds to civil rights of people regarding their sexual orientation. I want to thank the community that I’ve called home my entire life, West Seattle and the entire Thirty-Fourth Legislative District for haven given me the privilege of representing them and serving them for the last ten years in the legislature and I want to thank everyone of you for being one of my colleagues and everyone that I have had the privilege of serving with in the legislature over the last ten years and I sincerely thank you for the honor.”

PERSONAL PRIVILEGE

Senator Murray: “Thank you, I’d like to take a moment to honor the good Senator from the Thirty-Fourth District. You know Senator McDermott and I have a lot in common. We both grew up in West Seattle. We’re both named after other politicians. We both grew up in the same parish, different decades. We’re both proud of our Irish heritage. Joe has been an incredible member to work with both in the House and now in the Senate. Some of the issues he just mentioned on civil rights, he’s been an often unsung hero in that battle here but he’s always been willing to work with people, work with people well, keep a good sense of humor and look for a way to move us all forward. So, I want to wish you luck in your public service as you move on and I hope you’re able to get paid for public service. Good luck.”

PERSONAL PRIVILEGE

Senator Franklin: “Thank you Mr. President. I would like to say to the good Senator Joe. Happy trails to you. Not only that, you were brave enough, kind enough, thoughtful enough to co-sign that infamous bill which is known as income tax, tax structure. You were willing to take the heat but not only that like me, like many of us we are concerned about the future of this state. Senator, not only that, when we worked on bills together you sponsored the bill in the House that called for public

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financing of campaign. You came over we worked together. I’m sure that you will be will do well in your continued public service. What I would say to you and I know you will, be, is to continue to be brave, to speak out, to step out of the box and as you have said, you do not think just about yourself. You think about others. You think about what you want society to be. You think about what you want the world and the state and your community to be like. I will be following you. I’m years older than you are but I bet I can run faster than you. I will be following your career like many others and I wish you well. I know you will do well and continue step out and think out of the box and do all the good things which you’ve done here. I appreciate you. we’ll miss you.”

PERSONAL PRIVILEGE

Senator Fairley: “Thank you Mr. President. Here I was going to say nice things about Senator McDermott but he talks so long. When he did an introduction in our Government Operations Committee this year he had a power point, for petes sake, I asked for a paragraph not a power point. It went on for twenty minutes, I swear. He’s been such a hard worker and so good with me because he can deal with some of the folks on the other side that I find difficult. He can run over and talk to them and bring back and it works in our committee very well. But, I know he wants me to tell you a story, a little anecdote that happened. He went down to see my antique shop, met my husband, my husband came home and said ‘I met somebody who works with you today,’ I said, ‘Really, who.’ He said, ‘Well, I think he’s a staffer, his names McDermott.’ And I said ‘No, honey, McDermott’s a Senator’ and he said ‘Well, he can’t be, he’s too young’. You know I didn’t talk to my husband for days after that but I will miss him because he’s a darned good worker and a hard worker and he has a sense of humor. So, we’ll see you around.”

PERSONAL PRIVILEGE

Senator Prentice: “I don’t intend to say goodbye to Senator McDermott because he’s going to be my county councilman and I’ve already let him know that I have about half a dozen places right near where I live yard signs that we’re going to putting up for him. So, we’re going to be busy working for you Joe.”

MOTION

At 10:36 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:38 p.m. by President Owen.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

April 12, 2010

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

ENGROSSED HOUSE BILL 2561.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

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MESSAGE FROM THE HOUSE

April 12, 2010

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

ENGROSSED HOUSE BILL 1690,  
ENGROSSED SUBSTITUTE HOUSE BILL 2493.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

SECOND ENGROSSED SUBSTITUTE SENATE BILL 6143,  
ENGROSSED SUBSTITUTE SENATE BILL 6444.

MESSAGE FROM THE HOUSE

April 12, 2010

MR. PRESIDENT:

The Speaker has signed:

SECOND ENGROSSED SUBSTITUTE SENATE BILL 6143,  
ENGROSSED SUBSTITUTE SENATE BILL 6444.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Brandland, Senators Morton and Zarelli were excused.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

HOUSE BILL NO. 3197, by Representatives Sullivan, Linville, Seaquist, Ericks and Haigh

Transferring funds from the budget stabilization account to the general fund.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, House Bill No. 3197 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 3197.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3197 and the bill passed the Senate by the following vote: Yeas, 30; Nays, 14; Absent, 0; Excused, 5.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Hewitt, Holmquist, Honeyford, King, Parlette, Pflug, Roach, Schoesler, Sheldon and Swecker

Excused: Senators Delvin, McCaslin, Morton, Stevens and Zarelli

HOUSE BILL NO. 3197, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

April 12, 2010

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED SUBSTITUTE SENATE BILL 6503,  
ENGROSSED SENATE BILL 6870,  
SENATE JOINT RESOLUTION 8225.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 12, 2010

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED HOUSE BILL 1690,  
ENGROSSED SUBSTITUTE HOUSE BILL 2493,  
SECOND SUBSTITUTE HOUSE BILL 2576,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2630,  
HOUSE BILL 2694,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2956,  
HOUSE BILL 3219.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED HOUSE BILL 1690,  
ENGROSSED SUBSTITUTE HOUSE BILL 2493,  
SECOND SUBSTITUTE HOUSE BILL 2576,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2630,  
HOUSE BILL 2694,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2956,  
HOUSE BILL 3219.

## MESSAGE FROM THE HOUSE

April 12, 2010

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6727 with the following amendment(s): 6727-S AMH ENGR H5807.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 35.104.060 and 2009 c 564 s 921 are each amended to read as follows:

(1) The authority has all the general powers necessary to carry out its purposes and duties and to exercise its specific powers, including the authority may:

(a) Sue and be sued in its own name;

(b) Make and execute agreements, contracts, and other instruments, with any public or private entity or person, in accordance with this chapter;

(c) Employ, contract with, or engage independent counsel, financial advisors, auditors, other technical or professional assistants, and such other personnel as are necessary or desirable to implement this chapter;

(d) Establish such special funds, and control deposits to and disbursements from them, as it finds convenient for the implementation of this chapter;

(e) Enter into contracts with public and private entities for research to be conducted in this state;

(f) Delegate any of its powers and duties if consistent with the purposes of this chapter;

(g) Exercise any other power reasonably required to implement the purposes of this chapter; and

(h) Hire staff and pay administrative costs; however, such expenses shall be paid from moneys provided by the sponsoring local government and moneys received from gifts, grants, and bequests and the interest earned on the authority's accounts and investments. ~~((During the 2009 2011 fiscal biennium, up to))~~ No more than ten percent of the amounts received under RCW 82.14.480 may be used by a health sciences and services ~~(and sciences))~~ authority for the purposes of subsections (1)(c) and (h) of this section.

(2) In addition to other powers and duties prescribed in this chapter, the authority is empowered to:

(a) Use the authority's public moneys, leveraging those moneys with amounts received from other public and private sources in accordance with contribution agreements, to promote bioscience-based economic development, and to advance new therapies and procedures to combat disease and promote public health;

(b) Solicit and receive gifts, grants, and bequests, and enter into contribution agreements with private entities and public entities to receive moneys in consideration of the authority's promise to leverage those moneys with the revenue generated by the tax authorized under RCW 82.14.480 and contributions from other public entities and private entities, in order to use those moneys to promote bioscience-based economic development and advance new therapies and procedures to combat disease and promote public health;

(c) Hold funds received by the authority in trust for their use pursuant to this chapter to promote bioscience-based economic development and advance new therapies and procedures to combat disease and promote public health;

(d) Manage its funds, obligations, and investments as necessary and consistent with its purpose, including the segregation of revenues into separate funds and accounts;

(e) Borrow money and incur indebtedness pursuant to section 4 of this act;

~~\_\_\_~~ (f) Make grants to entities pursuant to contract to promote bioscience-based economic development and advance new therapies and procedures to combat disease and promote public health. Grant agreements shall specify the deliverables to be provided by the recipient pursuant to the grant. Grants to private entities may only be provided under a contractual agreement that ensures the state will receive appropriate consideration, such as an assurance of job creation or retention, or the delivery of services that provide for the public health, safety, and welfare. The authority shall solicit requests for funding and evaluate the requests by reference to factors such as: (i) The quality of the proposed research; (ii) its potential to improve health outcomes, with particular attention to the likelihood that it will also lower health care costs, substitute for a more costly diagnostic or treatment modality, or offer a breakthrough treatment for a particular disease or condition; (iii) its potential to leverage additional funding; (iv) its potential to provide health care benefits; (v) its potential to stimulate employment; and (vi) evidence of public and private collaboration;

~~((f))~~ (g) Create one or more advisory boards composed of scientists, industrialists, and others familiar with health sciences and services; and

~~((g))~~ (h) Adopt policies and procedures to facilitate the orderly process of grant application, review, and reward.

(3) The records of the authority shall be subject to audit by the office of the state auditor.

**Sec. 2.** RCW 35.104.040 and 2007 c 251 s 4 are each amended to read as follows:

(1) The higher education coordinating board may approve applications submitted by local governments for an area's designation as a health sciences and services authority under this chapter. The director ~~((shall))~~ must determine the division to review applications submitted by local governments under this chapter. The application for designation ~~((shall))~~ must be in the form and manner and contain such information as the higher education coordinating board may prescribe, provided the application ~~((shall))~~:

(a) ~~Contains~~ sufficient information to enable the director to determine the viability of the proposal;

(b) ~~Demonstrates~~ that an ordinance or resolution has been passed by the legislative authority of a local government that delineates the boundaries of an area that may be designated an authority;

(c) ~~((Be))~~ Is submitted on behalf of the local government, or, if that office does not exist, by the legislative body of the local government;

(d) ~~Demonstrates~~ that the public funds directed to programs or facilities in the authority will leverage private sector resources and contributions to activities to be performed;

(e) ~~Provides~~ a plan or plans for the development of the authority as an entity to advance as a cluster for health sciences education, health sciences research, biotechnology development, biotechnology product commercialization, and/or health care services; and

(f) ~~Demonstrates~~ that the state has previously provided funds to health sciences and services programs or facilities in the applicant city, town, or county.

(2) The director ~~((shall))~~ must determine the division to develop criteria to evaluate the application. The criteria ~~((shall))~~ must include:

(a) The presence of infrastructure capable of spurring development of the area as a center of health sciences and services;

(b) The presence of higher education facilities where undergraduate or graduate coursework or research is conducted; and

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(c) The presence of facilities in which health services are provided.

(3) There ~~((shall))~~ may be no more than ~~((one authority))~~ two authorities statewide.

(4) An authority may only be created in a county with a population of less than one million persons and located east of the crest of the Cascade mountains.

(5) The director may reject or approve an application. When denying an application, the director must specify the application's deficiencies. The decision regarding such designation as it relates to a specific local government is final; however, a rejected application may be resubmitted.

(6) Applications are due by December 31, ~~((2007))~~ 2010, and must be processed within sixty days of submission.

(7) The director may, at his or her discretion, amend the boundaries of an authority upon the request of the local government.

(8) The higher education coordinating board may adopt any rules necessary to implement this chapter ~~((251, Laws of 2007 within one hundred twenty days of July 22, 2007)).~~

(9) The higher education coordinating board must develop evaluation and performance measures in order to evaluate the effectiveness of the programs in the authorities that are funded with public resources. A report to the legislature ~~((shall be))~~ is due on a biennial basis beginning December 1, 2009. In addition, the higher education coordinating board ~~((shall))~~ must develop evaluation criteria that enables the local governments to measure the effectiveness of the program.

**Sec. 3.** RCW 82.14.480 and 2007 c 251 s 11 are each amended to read as follows:

(1) The legislative authority of a local jurisdiction that has created a health sciences and services authority under RCW 35.104.030, prior to January 1, 2010, may impose a sales and use tax in accordance with the terms of this chapter. The tax is in addition to other taxes authorized by law and ~~((shall))~~ must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the local jurisdiction. The rate of the tax ~~((shall))~~ may not exceed 0.020 percent of the selling price in the case of a sales tax or the value of the article used in the case of a use tax.

(2) The tax imposed under subsection (1) of this section ~~((shall))~~ must be deducted from the amount of tax otherwise required to be collected or paid over to the department under chapter 82.08 or 82.12 RCW. The department of revenue ~~((shall))~~ must perform the collection of the tax on behalf of the authority at no cost to the authority.

(3) The amounts received under this section may only be used in accordance with RCW 35.104.060 or to finance and retire the indebtedness incurred pursuant to RCW 35.104.070, in whole or in part.

(4) This section expires January 1, 2023.

**NEW SECTION. Sec. 4.** A new section is added to chapter 35.104 RCW to read as follows:

(1) A local government that has established a health sciences and services authority under RCW 35.104.030 may, by ordinance or resolution, authorize the authority to borrow money under the conditions set forth in this section.

(2) Moneys borrowed by an authority must be secured by funds derived from gifts or grants from any source, public or private, federal, state, or local government grants or payments, or intergovernmental transfers.

(3) The authority shall incur no expense or liability that is an obligation, either general or special, of the state or local government, or a general obligation of the authority, and shall pay no expense or liability from funds other than funds of the authority.

**Sec. 5.** RCW 42.30.110 and 2005 c 424 s 13 are each amended to read as follows:

(1) Nothing contained in this chapter may be construed to prevent a governing body from holding an executive session during a regular or special meeting:

(a) To consider matters affecting national security;

(b) To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;

(c) To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public;

(d) To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs;

(e) To consider, in the case of an export trading company, financial and commercial information supplied by private persons to the export trading company;

(f) To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;

(g) To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee. However, subject to RCW 42.30.140(4), discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when a governing body elects to take final action hiring, setting the salary of an individual employee or class of employees, or discharging or disciplining an employee, that action shall be taken in a meeting open to the public;

(h) To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public;

(i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

This subsection (1)(i) does not permit a governing body to hold an executive session solely because an attorney representing the agency is present. For purposes of this subsection (1)(i), "potential litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a) concerning:

~~((A))~~ (i) Litigation that has been specifically threatened to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party;

~~((B))~~ (ii) Litigation that the agency reasonably believes may be commenced by or against the agency, the governing body, or a member acting in an official capacity; or

~~((C))~~ (iii) Litigation or legal risks of a proposed action or current practice that the agency has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the agency;

(j) To consider, in the case of the state library commission or its advisory bodies, western library network prices, products, equipment, and services, when such discussion would be likely to adversely affect the network's ability to conduct business in a competitive economic climate. However, final action on these matters shall be taken in a meeting open to the public;

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(k) To consider, in the case of the state investment board, financial and commercial information when the information relates to the investment of public trust or retirement funds and when public knowledge regarding the discussion would result in loss to such funds or in private loss to the providers of this information;

(l) To consider proprietary or confidential nonpublished information related to the development, acquisition, or implementation of state purchased health care services as provided in RCW 41.05.026;

(m) To consider in the case of the life sciences discovery fund authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information;

(n) To consider in the case of a health sciences and services authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information.

(2) Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be concluded. The executive session may be extended to a stated later time by announcement of the presiding officer."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Marr moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6727.

The President declared the question before the Senate to be the motion by Senator Marr that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6727.

The motion by Senator Marr carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6727 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6727, as amended by the House.

Senators Marr and King spoke in favor of passage of the bill.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6727, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 1; Absent, 0; Excused, 5.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker and Tom

Voting nay: Senator Pflug

Excused: Senators Delvin, McCaslin, Morton, Stevens and Zarelli

SUBSTITUTE SENATE BILL NO. 6727, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

April 12, 2010

MR. PRESIDENT:

The House has passed:

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6409.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

SECOND SUPPLEMENTAL AND FIRST READING

SCR 8414 by Senators Brown and Hewitt

Returning bills to their house of origin.

MOTION

On motion of Senator Eide, the rules were suspended and Senate Concurrent Resolution No. 8414 was placed on the second reading calendar.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

SENATE CONCURRENT RESOLUTION NO. 8414, by Senators Brown and Hewitt

Returning bills to their house of origin.

The measure was read the second time.

MOTION

On motion of Senator Eide, the rules were suspended, Senate Concurrent Resolution No. 8414 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Senate Concurrent Resolution No. 8414.

SENATE CONCURRENT RESOLUTION NO. 8414, was adopted by voice vote.

PARLIAMENTARY INQUIRY

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Senator Pflug: "In the concurrent resolution was this bill also returned to rules?"

REPLY BY THE PRESIDENT

President Owen: "Whether it is or not it's not, into effect until the House passes it, so this bill is still before us."

SECOND READING

SENATE BILL NO. 6872, by Senate Committee on Ways & Means (originally sponsored by Senator Keiser)

Concerning medicaid nursing facility payments.

MOTION

On motion of Senator Keiser, Substitute Senate Bill No. 6872 was substituted for Substitute Senate Bill No. 6872 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Keiser moved that the following striking amendment by Senators Keiser and Marr be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 74.46.010 and 1998 c 322 s 1 are each amended to read as follows:

(1) This chapter may be known and cited as the "nursing facility medicaid payment system."

(2) The purposes of this chapter are to set forth principles to guide the nursing facility medicaid payment system and specify the manner by which legislative appropriations for medicaid nursing facility services are to be allocated as payment rates among nursing facilities ~~(and to set forth auditing, billing, and other administrative standards associated with payments to nursing home facilities).~~

(3) The legislature finds that the medicaid nursing facility rates calculated under this chapter provide sufficient reimbursement to efficient and economically operating facilities and bear a reasonable relationship to costs.

**Sec. 2.** RCW 74.46.020 and 2010 c 94 s 29 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) ~~("Accrual method of accounting" means a method of accounting in which revenues are reported in the period when they are earned, regardless of when they are collected, and expenses are reported in the period in which they are incurred, regardless of when they are paid.~~

~~(2))~~ "Appraisal" means the process of estimating the fair market value or reconstructing the historical cost of an asset acquired in a past period as performed by a professionally designated real estate appraiser with no pecuniary interest in the property to be appraised. It includes a systematic, analytic determination and the recording and analyzing of property facts, rights, investments, and values based on a personal inspection and inventory of the property.

~~(3))~~ (2) "Arm's-length transaction" means a transaction resulting from good-faith bargaining between a buyer and seller who are not related organizations and have adverse positions in the market place. Sales or exchanges of nursing home facilities among two or more parties in which all parties subsequently continue to

own one or more of the facilities involved in the transactions shall not be considered as arm's-length transactions for purposes of this chapter. Sale of a nursing home facility which is subsequently leased back to the seller within five years of the date of sale shall not be considered as an arm's-length transaction for purposes of this chapter.

~~((4))~~ (3) "Assets" means economic resources of the contractor, recognized and measured in conformity with generally accepted accounting principles.

~~((5))~~ (4) "Audit" or "department audit" means an examination of the records of a nursing facility participating in the medicaid payment system, including but not limited to: The contractor's financial and statistical records, cost reports and all supporting documentation and schedules, receivables, and resident trust funds, to be performed as deemed necessary by the department and according to department rule.

~~((6))~~ "Bad debts" means amounts considered to be uncollectible from accounts and notes receivable.

~~(7)~~ "Beneficial owner" means:

~~(a) Any person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:~~

~~(i) Voting power which includes the power to vote, or to direct the voting of such ownership interest; and/or~~

~~(ii) Investment power which includes the power to dispose, or to direct the disposition of such ownership interest;~~

~~(b) Any person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose or effect of divesting himself or herself of beneficial ownership of an ownership interest or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of this chapter;~~

~~(c) Any person who, subject to (b) of this subsection, has the right to acquire beneficial ownership of such ownership interest within sixty days, including but not limited to any right to acquire:~~

~~(i) Through the exercise of any option, warrant, or right;~~

~~(ii) Through the conversion of an ownership interest;~~

~~(iii) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or~~

~~(iv) Pursuant to the automatic termination of a trust, discretionary account, or similar arrangement;~~

~~except that, any person who acquires an ownership interest or power specified in (c)(i), (ii), or (iii) of this subsection with the purpose or effect of changing or influencing the control of the contractor, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the ownership interest which may be acquired through the exercise or conversion of such ownership interest or power;~~

~~(d) Any person who in the ordinary course of business is a pledgee of ownership interest under a written pledge agreement shall not be deemed to be the beneficial owner of such pledged ownership interest until the pledgee has taken all formal steps necessary which are required to declare a default and determines that the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged ownership interest will be exercised; except that:~~

~~(i) The pledgee agreement is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the contractor, nor in connection with any transaction having such purpose or effect, including persons meeting the conditions set forth in (b) of this subsection; and~~

~~(ii) The pledgee agreement, prior to default, does not grant to the pledgee:~~

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~~—(A) The power to vote or to direct the vote of the pledged ownership interest; or~~

~~—(B) The power to dispose or direct the disposition of the pledged ownership interest, other than the grant of such power(s) pursuant to a pledge agreement under which credit is extended and in which the pledgee is a broker or dealer.~~

~~—(8)) (5) "Capitalization" means the recording of an expenditure as an asset.~~

~~((9)) (6) "Case mix" means a measure of the intensity of care and services needed by the residents of a nursing facility or a group of residents in the facility.~~

~~((10)) (7) "Case mix index" means a number representing the average case mix of a nursing facility.~~

~~((11)) (8) "Case mix weight" means a numeric score that identifies the relative resources used by a particular group of a nursing facility's residents.~~

~~((12)) (9) "Certificate of capital authorization" means a certification from the department for an allocation from the biennial capital financing authorization for all new or replacement building construction, or for major renovation projects, receiving a certificate of need or a certificate of need exemption under chapter 70.38 RCW after July 1, 2001.~~

~~((13)) (10) "Contractor" means a person or entity licensed under chapter 18.51 RCW to operate a medicare and medicaid certified nursing facility, responsible for operational decisions, and contracting with the department to provide services to medicaid recipients residing in the facility.~~

~~((14)) (11) "Default case" means no initial assessment has been completed for a resident and transmitted to the department by the cut-off date, or an assessment is otherwise past due for the resident, under state and federal requirements.~~

~~((15)) (12) "Department" means the department of social and health services (DSHS) and its employees.~~

~~((16)) (13) "Depreciation" means the systematic distribution of the cost or other basis of tangible assets, less salvage, over the estimated useful life of the assets.~~

~~((17)) (14) "Direct care" means nursing care and related care provided to nursing facility residents. Therapy care shall not be considered part of direct care.~~

~~((18)) (15) "Direct care supplies" means medical, pharmaceutical, and other supplies required for the direct care of a nursing facility's residents.~~

~~((19)) (16) "Entity" means an individual, partnership, corporation, limited liability company, or any other association of individuals capable of entering enforceable contracts.~~

~~((20)) (17) "Equity" means the net book value of all tangible and intangible assets less the recorded value of all liabilities, as recognized and measured in conformity with generally accepted accounting principles.~~

~~((21)) (18) "Essential community provider" means a facility which is the only nursing facility within a commuting distance radius of at least forty minutes duration, traveling by automobile.~~

~~((22)) (19) "Facility" or "nursing facility" means a nursing home licensed in accordance with chapter 18.51 RCW, excepting nursing homes certified as institutions for mental diseases, or that portion of a multiservice facility licensed as a nursing home, or that portion of a hospital licensed in accordance with chapter 70.41 RCW which operates as a nursing home.~~

~~((23)) (20) "Fair market value" means the replacement cost of an asset less observed physical depreciation on the date for which the market value is being determined.~~

~~((24)) (21) "Financial statements" means statements prepared and presented in conformity with generally accepted accounting principles including, but not limited to, balance sheet, statement of~~

operations, statement of changes in financial position, and related notes.

~~((25)) (22) "Generally accepted accounting principles" means accounting principles approved by the financial accounting standards board (FASB) or its successor.~~

~~((26) "Goodwill" means the excess of the price paid for a nursing facility business over the fair market value of all net identifiable tangible and intangible assets acquired, as measured in accordance with generally accepted accounting principles.~~

~~—(27)) (23) "Grouper" means a computer software product that groups individual nursing facility residents into case mix classification groups based on specific resident assessment data and computer logic.~~

~~((28)) (24) "High labor-cost county" means an urban county in which the median allowable facility cost per case mix unit is more than ten percent higher than the median allowable facility cost per case mix unit among all other urban counties, excluding that county.~~

~~((29)) (25) "Historical cost" means the actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architect's fees, and engineering studies.~~

~~((30)) (26) "Home and central office costs" means costs that are incurred in the support and operation of a home and central office. Home and central office costs include centralized services that are performed in support of a nursing facility. The department may exclude from this definition costs that are nonduplicative, documented, ordinary, necessary, and related to the provision of care services to authorized patients.~~

~~((31) "Imprest fund" means a fund which is regularly replenished in exactly the amount expended from it.~~

~~—(32) "Joint facility costs" means any costs which represent resources which benefit more than one facility, or one facility and any other entity.~~

~~—(33)) (27) "Large nonessential community providers" means nonessential community providers with more than sixty licensed beds, regardless of how many beds are set up or in use.~~

~~—(28) "Lease agreement" means a contract between two parties for the possession and use of real or personal property or assets for a specified period of time in exchange for specified periodic payments. Elimination (due to any cause other than death or divorce) or addition of any party to the contract, expiration, or modification of any lease term in effect on January 1, 1980, or termination of the lease by either party by any means shall constitute a termination of the lease agreement. An extension or renewal of a lease agreement, whether or not pursuant to a renewal provision in the lease agreement, shall be considered a new lease agreement. A strictly formal change in the lease agreement which modifies the method, frequency, or manner in which the lease payments are made, but does not increase the total lease payment obligation of the lessee, shall not be considered modification of a lease term.~~

~~((34)) (29) "Medical care program" or "medicaid program" means medical assistance, including nursing care, provided under RCW 74.09.500 or authorized state medical care services.~~

~~((35)) (30) "Medical care recipient," "medicaid recipient," or "recipient" means an individual determined eligible by the department for the services provided under chapter 74.09 RCW.~~

~~((36)) (31) "Minimum data set" means the overall data component of the resident assessment instrument, indicating the strengths, needs, and preferences of an individual nursing facility resident.~~

~~((37)) (32) "Net book value" means the historical cost of an asset less accumulated depreciation.~~

~~((38)) (33) "Net invested funds" means the net book value of tangible fixed assets employed by a contractor to provide services under the medical care program, including land, buildings, and~~

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equipment as recognized and measured in conformity with generally accepted accounting principles.

~~((39))~~ (34) "Nonurban county" means a county which is not located in a metropolitan statistical area as determined and defined by the United States office of management and budget or other appropriate agency or office of the federal government.

~~((40))~~ "Operating lease" means a lease under which rental or lease expenses are included in current expenses in accordance with generally accepted accounting principles.

~~(41))~~ (35) "Owner" means a sole proprietor, general or limited partners, members of a limited liability company, and beneficial interest holders of five percent or more of a corporation's outstanding stock.

~~((42))~~ "Ownership interest" means all interests beneficially owned by a person, calculated in the aggregate, regardless of the form which such beneficial ownership takes.

~~(43))~~ (36) "Patient day" or "resident day" means a calendar day of care provided to a nursing facility resident, regardless of payment source, which will include the day of admission and exclude the day of discharge; except that, when admission and discharge occur on the same day, one day of care shall be deemed to exist. A "medicaid day" or "recipient day" means a calendar day of care provided to a medicaid recipient determined eligible by the department for services provided under chapter 74.09 RCW, subject to the same conditions regarding admission and discharge applicable to a patient day or resident day of care.

~~((44))~~ "Professionally designated real estate appraiser" means an individual who is regularly engaged in the business of providing real estate valuation services for a fee, and who is deemed qualified by a nationally recognized real estate appraisal educational organization on the basis of extensive practical appraisal experience, including the writing of real estate valuation reports as well as the passing of written examinations on valuation practice and theory, and who by virtue of membership in such organization is required to subscribe and adhere to certain standards of professional practice as such organization prescribes.

~~(45))~~ (37) "Qualified therapist" means:

(a) A mental health professional as defined by chapter 71.05 RCW;

(b) An intellectual disabilities professional who is a therapist approved by the department who has had specialized training or one year's experience in treating or working with persons with intellectual or developmental disabilities;

(c) A speech pathologist who is eligible for a certificate of clinical competence in speech pathology or who has the equivalent education and clinical experience;

(d) A physical therapist as defined by chapter 18.74 RCW;

(e) An occupational therapist who is a graduate of a program in occupational therapy, or who has the equivalent of such education or training; and

(f) A respiratory care practitioner certified under chapter 18.89 RCW.

~~((46))~~ (38) "Rate" or "rate allocation" means the medicaid per-patient-day payment amount for medicaid patients calculated in accordance with the allocation methodology set forth in part E of this chapter.

~~((47))~~ "Real property," whether leased or owned by the contractor, means the building, allowable land, land improvements, and building improvements associated with a nursing facility.

~~(48))~~ (39) "Rebased rate" or "cost-rebased rate" means a facility-specific component rate assigned to a nursing facility for a particular rate period established on desk-reviewed, adjusted costs reported for that facility covering at least six months of a prior calendar year designated as a year to be used for cost-rebasing payment rate allocations under the provisions of this chapter.

~~((49))~~ (40) "Records" means those data supporting all financial statements and cost reports including, but not limited to, all general and subsidiary ledgers, books of original entry, and transaction documentation, however such data are maintained.

~~((50))~~ "Related organization" means an entity which is under common ownership and/or control with, or has control of, or is controlled by, the contractor.

~~(a)~~ "Common ownership" exists when an entity is the beneficial owner of five percent or more ownership interest in the contractor and any other entity.

~~(b)~~ "Control" exists where an entity has the power, directly or indirectly, significantly to influence or direct the actions or policies of an organization or institution, whether or not it is legally enforceable and however it is exercisable or exercised.

~~(51)~~ "Related care" means only those services that are directly related to providing direct care to nursing facility residents. These services include, but are not limited to, nursing direction and supervision, medical direction, medical records, pharmacy services, activities, and social services.

~~(52))~~ (41) "Resident assessment instrument," including federally approved modifications for use in this state, means a federally mandated, comprehensive nursing facility resident care planning and assessment tool, consisting of the minimum data set and resident assessment protocols.

~~((53))~~ (42) "Resident assessment protocols" means those components of the resident assessment instrument that use the minimum data set to trigger or flag a resident's potential problems and risk areas.

~~((54))~~ (43) "Resource utilization groups" means a case mix classification system that identifies relative resources needed to care for an individual nursing facility resident.

~~((55))~~ "Restricted fund" means those funds the principal and/or income of which is limited by agreement with or direction of the donor to a specific purpose.

~~(56))~~ (44) "Secretary" means the secretary of the department of social and health services.

~~((57))~~ (45) "Small nonessential community providers" means nonessential community providers with sixty or fewer licensed beds, regardless of how many beds are set up or in use.

~~(46)~~ "Support services" means food, food preparation, dietary, housekeeping, and laundry services provided to nursing facility residents.

~~((58))~~ (47) "Therapy care" means those services required by a nursing facility resident's comprehensive assessment and plan of care, that are provided by qualified therapists, or support personnel under their supervision, including related costs as designated by the department.

~~((59))~~ (48) "Title XIX" or "medicaid" means the 1965 amendments to the social security act, P.L. 89-07, as amended and the medicaid program administered by the department.

~~((60))~~ (49) "Urban county" means a county which is located in a metropolitan statistical area as determined and defined by the United States office of management and budget or other appropriate agency or office of the federal government.

~~((61))~~ "Vital local provider" means a facility that meets the following qualifications:

~~(a)~~ It reports a home office with an address located in Washington state; and

~~(b)~~ The sum of medicaid days for all Washington facilities reporting that home office as their home office was greater than two hundred fifteen thousand in 2003; and

~~(c)~~ The facility was recognized as a "vital local provider" by the department as of April 1, 2007.

~~The definition of "vital local provider" shall expire, and have no force or effect, after June 30, 2007. After that date, no facility's~~

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payments under this chapter shall in any way be affected by its prior determination or recognition as a vital local provider.)

**Sec. 3.** RCW 74.46.431 and 2009 c 570 s 1 are each amended to read as follows:

(1) ~~(Effective July 1, 1999,)~~ Nursing facility medicaid payment rate allocations shall be facility-specific and shall have seven components: Direct care, therapy care, support services, operations, property, financing allowance, and variable return. The department shall establish and adjust each of these components, as provided in this section and elsewhere in this chapter, for each medicaid nursing facility in this state.

(2) Component rate allocations in therapy care ~~(;)~~ and support services ~~(, variable return, operations, property, and financing allowance for essential community providers as defined in this chapter)~~ for all facilities shall be based upon a minimum facility occupancy of eighty-five percent of licensed beds, regardless of how many beds are set up or in use. ~~(For all facilities other than essential community providers, effective July 1, 2001, component rate allocations in direct care, therapy care, support services, and variable return shall be based upon a minimum facility occupancy of eighty five percent of licensed beds. For all facilities other than essential community providers, effective July 1, 2002, the component rate allocations in operations, property, and financing allowance shall be based upon a minimum facility occupancy of ninety percent of licensed beds, regardless of how many beds are set up or in use.)~~ Component rate allocations in operations, property, and financing allowance for essential community providers shall be based upon a minimum facility occupancy of eighty-five percent of licensed beds, regardless of how many beds are set up or in use. Component rate allocations in operations, property, and financing allowance for small nonessential community providers shall be based upon a minimum facility occupancy of ninety percent of licensed beds, regardless of how many beds are set up or in use. Component rate allocations in operations, property, and financing allowance for large nonessential community providers shall be based upon a minimum facility occupancy of ninety- two percent of licensed beds, regardless of how many beds are set up or in use. For all facilities, ((effective July 1, 2006,)) the component rate allocation in direct care shall be based upon actual facility occupancy. The median cost limits used to set component rate allocations shall be based on the applicable minimum occupancy percentage. In determining each facility's therapy care component rate allocation under RCW 74.46.511, the department shall apply the applicable minimum facility occupancy adjustment before creating the array of facilities' adjusted therapy costs per adjusted resident day. In determining each facility's support services component rate allocation under RCW 74.46.515(3), the department shall apply the applicable minimum facility occupancy adjustment before creating the array of facilities' adjusted support services costs per adjusted resident day. In determining each facility's operations component rate allocation under RCW 74.46.521(3), the department shall apply the minimum facility occupancy adjustment before creating the array of facilities' adjusted general operations costs per adjusted resident day.

(3) Information and data sources used in determining medicaid payment rate allocations, including formulas, procedures, cost report periods, resident assessment instrument formats, resident assessment methodologies, and resident classification and case mix weighting methodologies, may be substituted or altered from time to time as determined by the department.

(4)(a) Direct care component rate allocations shall be established using adjusted cost report data covering at least six months. ~~((Adjusted cost report data from 1996 will be used for October 1, 1998, through June 30, 2001, direct care component rate allocations; adjusted cost report data from 1999 will be used for July~~

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~~1, 2001, through June 30, 2006, direct care component rate allocations. Adjusted cost report data from 2003 will be used for July 1, 2006, through June 30, 2007, direct care component rate allocations. Adjusted cost report data from 2005 will be used for July 1, 2007, through June 30, 2009, direct care component rate allocations.))~~ Effective July 1, 2009, the direct care component rate allocation shall be rebased ~~((biennially, and thereafter for each odd numbered year beginning July 1st)),~~ using the adjusted cost report data for the calendar year two years immediately preceding the rate rebase period, so that adjusted cost report data for calendar year 2007 is used for July 1, 2009, through June 30, ~~((2014))~~ 2012. Beginning July 1, 2012, the direct care component rate allocation shall be rebased biennially during every even-numbered year thereafter using adjusted cost report data from two years prior to the rebase period, so adjusted cost report data for calendar year 2010 is used for July 1, 2012, through June 30, 2014, and so forth.

~~(b) ((Direct care component rate allocations based on 1996 cost report data shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. A different economic trends and conditions adjustment factor or factors may be defined in the biennial appropriations act for facilities whose direct care component rate is set equal to their adjusted June 30, 1998, rate, as provided in RCW 74.46.506(5)(i).~~

~~(c) Direct care component rate allocations based on 1999 cost report data shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. A different economic trends and conditions adjustment factor or factors may be defined in the biennial appropriations act for facilities whose direct care component rate is set equal to their adjusted June 30, 1998, rate, as provided in RCW 74.46.506(5)(i).~~

~~(d) Direct care component rate allocations based on 2003 cost report data shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. A different economic trends and conditions adjustment factor or factors may be defined in the biennial appropriations act for facilities whose direct care component rate is set equal to their adjusted June 30, 2006, rate, as provided in RCW 74.46.506(5)(i).~~

~~(e))~~ Direct care component rate allocations established in accordance with this chapter shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. The economic trends and conditions factor or factors defined in the biennial appropriations act shall not be compounded with the economic trends and conditions factor or factors defined in any other biennial appropriations acts before applying it to the direct care component rate allocation established in accordance with this chapter. When no economic trends and conditions factor or factors for either fiscal year are defined in a biennial appropriations act, no economic trends and conditions factor or factors defined in any earlier biennial appropriations act shall be applied solely or compounded to the direct care component rate allocation established in accordance with this chapter.

(5)(a) Therapy care component rate allocations shall be established using adjusted cost report data covering at least six months. ~~((Adjusted cost report data from 1996 will be used for October 1, 1998, through June 30, 2001, therapy care component rate allocations; adjusted cost report data from 1999 will be used for July 1, 2001, through June 30, 2005, therapy care component rate allocations. Adjusted cost report data from 1999 will continue to be used for July 1, 2005, through June 30, 2007, therapy care component rate allocations. Adjusted cost report data from 2005 will be used for July 1, 2007, through June 30, 2009, therapy care component rate allocations.))~~ Effective July 1, 2009, ~~((and~~

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thereafter for each odd-numbered year beginning July 1st,) the therapy care component rate allocation shall be cost rebased ~~((biennially, using the adjusted cost report data for the calendar year two years immediately preceding the rate rebase period)),~~ so that adjusted cost report data for calendar year 2007 is used for July 1, 2009, through June 30, ~~((2011))~~ 2012. Beginning July 1, 2012, the therapy care component rate allocation shall be rebased biennially during every even-numbered year thereafter using adjusted cost report data from two years prior to the rebase period, so adjusted cost report data for calendar year 2010 is used for July 1, 2012, through June 30, 2014, and so forth.

(b) Therapy care component rate allocations established in accordance with this chapter shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. The economic trends and conditions factor or factors defined in the biennial appropriations act shall not be compounded with the economic trends and conditions factor or factors defined in any other biennial appropriations acts before applying it to the therapy care component rate allocation established in accordance with this chapter. When no economic trends and conditions factor or factors for either fiscal year are defined in a biennial appropriations act, no economic trends and conditions factor or factors defined in any earlier biennial appropriations act shall be applied solely or compounded to the therapy care component rate allocation established in accordance with this chapter.

(6)(a) Support services component rate allocations shall be established using adjusted cost report data covering at least six months. ~~((Adjusted cost report data from 1996 shall be used for October 1, 1998, through June 30, 2001, support services component rate allocations; adjusted cost report data from 1999 shall be used for July 1, 2001, through June 30, 2005, support services component rate allocations. Adjusted cost report data from 1999 will continue to be used for July 1, 2005, through June 30, 2007, support services component rate allocations. Adjusted cost report data from 2005 will be used for July 1, 2007, through June 30, 2009, support services component rate allocations.))~~ Effective July 1, 2009, ~~((and thereafter for each odd-numbered year beginning July 1st,))~~ the support services component rate allocation shall be cost rebased ~~((biennially, using the adjusted cost report data for the calendar year two years immediately preceding the rate rebase period)),~~ so that adjusted cost report data for calendar year 2007 is used for July 1, 2009, through June 30, ~~((2011))~~ 2012. Beginning July 1, 2012, the support services component rate allocation shall be rebased biennially during every even-numbered year thereafter using adjusted cost report data from two years prior to the rebase period, so adjusted cost report data for calendar year 2010 is used for July 1, 2012, through June 30, 2014, and so forth.

(b) Support services component rate allocations established in accordance with this chapter shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. The economic trends and conditions factor or factors defined in the biennial appropriations act shall not be compounded with the economic trends and conditions factor or factors defined in any other biennial appropriations acts before applying it to the support services component rate allocation established in accordance with this chapter. When no economic trends and conditions factor or factors for either fiscal year are defined in a biennial appropriations act, no economic trends and conditions factor or factors defined in any earlier biennial appropriations act shall be applied solely or compounded to the support services component rate allocation established in accordance with this chapter.

(7)(a) Operations component rate allocations shall be established using adjusted cost report data covering at least six

months. ~~((Adjusted cost report data from 1996 shall be used for October 1, 1998, through June 30, 2001, operations component rate allocations; adjusted cost report data from 1999 shall be used for July 1, 2001, through June 30, 2006, operations component rate allocations. Adjusted cost report data from 2003 will be used for July 1, 2006, through June 30, 2007, operations component rate allocations. Adjusted cost report data from 2005 will be used for July 1, 2007, through June 30, 2009, operations component rate allocations.))~~ Effective July 1, 2009, ~~((and thereafter for each odd-numbered year beginning July 1st,))~~ the operations component rate allocation shall be cost rebased ~~((biennially, using the adjusted cost report data for the calendar year two years immediately preceding the rate rebase period)),~~ so that adjusted cost report data for calendar year 2007 is used for July 1, 2009, through June 30, ~~((2011))~~ 2012. Beginning July 1, 2012, the operations care component rate allocation shall be rebased biennially during every even-numbered year thereafter using adjusted cost report data from two years prior to the rebase period, so adjusted cost report data for calendar year 2010 is used for July 1, 2012, through June 30, 2014, and so forth.

(b) Operations component rate allocations established in accordance with this chapter shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. The economic trends and conditions factor or factors defined in the biennial appropriations act shall not be compounded with the economic trends and conditions factor or factors defined in any other biennial appropriations acts before applying it to the operations component rate allocation established in accordance with this chapter. When no economic trends and conditions factor or factors for either fiscal year are defined in a biennial appropriations act, no economic trends and conditions factor or factors defined in any earlier biennial appropriations act shall be applied solely or compounded to the operations component rate allocation established in accordance with this chapter. ~~((A different economic trends and conditions adjustment factor or factors may be defined in the biennial appropriations act for facilities whose operations component rate is set equal to their adjusted June 30, 2006, rate, as provided in RCW 74.46.521(4).))~~

~~—(8) For July 1, 1998, through September 30, 1998, a facility's property and return on investment component rates shall be the facility's June 30, 1998, property and return on investment component rates, without increase. For October 1, 1998, through June 30, 1999, a facility's property and return on investment component rates shall be rebased utilizing 1997 adjusted cost report data covering at least six months of data.~~

~~—(9))~~ (8) Total payment rates under the nursing facility medicaid payment system shall not exceed facility rates charged to the general public for comparable services.

~~—((10) Medicaid contractors shall pay to all facility staff a minimum wage of the greater of the state minimum wage or the federal minimum wage.~~

~~—(11))~~ (9) The department shall establish in rule procedures, principles, and conditions for determining component rate allocations for facilities in circumstances not directly addressed by this chapter, including but not limited to: ~~((The need to prorate))~~ Inflation adjustments for partial-period cost report data, newly constructed facilities, existing facilities entering the medicaid program for the first time or after a period of absence from the program, existing facilities with expanded new bed capacity, existing medicaid facilities following a change of ownership of the nursing facility business, ~~((facilities banking beds or converting beds back into service,))~~ facilities temporarily reducing the number of set-up beds during a remodel, facilities having less than six months of either resident assessment, cost report data, or both, under the current contractor prior to rate setting, and other circumstances.

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~~((12))~~ (10) The department shall establish in rule procedures, principles, and conditions, including necessary threshold costs, for adjusting rates to reflect capital improvements or new requirements imposed by the department or the federal government. Any such rate adjustments are subject to the provisions of RCW 74.46.421.

~~((13) Effective July 1, 2001, medicaid rates shall continue to be revised downward in all components, in accordance with department rules, for facilities converting banked beds to active service under chapter 70.38 RCW, by using the facility's increased licensed bed capacity to recalculate minimum occupancy for rate setting. However, for facilities other than essential community providers which bank beds under chapter 70.38 RCW, after May 25, 2001, medicaid rates shall be revised upward, in accordance with department rules, in direct care, therapy care, support services, and variable return components only, by using the facility's decreased licensed bed capacity to recalculate minimum occupancy for rate setting, but no upward revision shall be made to operations, property, or financing allowance component rates. The direct care component rate allocation shall be adjusted, without using the minimum occupancy assumption, for facilities that convert banked beds to active service, under chapter 70.38 RCW, beginning on July 1, 2006. Effective July 1, 2007, component rate allocations for direct care shall be based on actual patient days regardless of whether a facility has converted banked beds to active service.~~

~~((14))~~ (11) Effective July 1, 2010, there shall be no rate adjustment for facilities with banked beds. For purposes of calculating minimum occupancy, licensed beds include any beds banked under chapter 70.38 RCW.

(12) Facilities obtaining a certificate of need or a certificate of need exemption under chapter 70.38 RCW after June 30, 2001, must have a certificate of capital authorization in order for (a) the depreciation resulting from the capitalized addition to be included in calculation of the facility's property component rate allocation; and (b) the net invested funds associated with the capitalized addition to be included in calculation of the facility's financing allowance rate allocation.

**Sec. 4.** RCW 74.46.433 and 2006 c 258 s 3 are each amended to read as follows:

(1) The department shall establish for each medicaid nursing facility a variable return component rate allocation. In determining the variable return allowance:

(a) Except as provided in ~~((e))~~ (d) of this subsection, the variable return array and percentage shall be assigned whenever rebasing of noncapital rate allocations is scheduled under RCW 74.46.431 (4), (5), (6), and (7).

(b) To calculate the array of facilities ~~((for the July 1, 2001, rate setting)),~~ the department, without using peer groups, shall first rank all facilities in numerical order from highest to lowest according to each facility's examined and documented, but unlidged, combined direct care, therapy care, support services, and operations per resident day cost from the ~~((1999 cost report period))~~ applicable cost report period specified in RCW 74.46.431(4)(a). However, before being combined with other per resident day costs and ranked, a facility's direct care cost per resident day shall be adjusted to reflect its facility average case mix index, to be averaged from the four calendar quarters of ~~((1999))~~ the cost report period identified in RCW 74.46.431(4)(a), weighted by the facility's resident days from each quarter, under RCW 74.46.501~~((7))~~ (6)(b)~~((iii))~~. The array shall then be divided into four quartiles, each containing, as nearly as possible, an equal number of facilities, and four percent shall be assigned to facilities in the lowest quartile, three percent to facilities in the next lowest quartile, two percent to facilities in the next highest quartile, and one percent to facilities in the highest quartile.

(c) The department shall ~~((subject to (d) of this subsection,))~~ compute the variable return allowance by multiplying a facility's

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assigned percentage by the sum of the facility's direct care, therapy care, support services, and operations component rates determined in accordance with this chapter and rules adopted by the department.

~~(d) ((Effective July 1, 2001, if a facility's examined and documented direct care cost per resident day for the preceding report year is lower than its average direct care component rate weighted by medicaid resident days for the same year, the facility's direct care cost shall be substituted for its July 1, 2001, direct care component rate, and its variable return component rate shall be determined or adjusted each July 1st by multiplying the facility's assigned percentage by the sum of the facility's July 1, 2001, therapy care, support services, and operations component rates, and its direct care cost per resident day for the preceding year.~~

~~—(e) Effective July 1, 2006,))~~ The variable return component rate allocation for each facility shall be thirty percent of the facility's June 30, 2006, variable return component rate allocation.

(2) The variable return rate allocation calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.

**Sec. 5.** RCW 74.46.435 and 2001 1st sp.s. c 8 s 7 are each amended to read as follows:

(1) ~~((Effective July 1, 2001,))~~ The property component rate allocation for each facility shall be determined by dividing the sum of the reported allowable prior period actual depreciation, subject to ~~((RCW 74.46.310 through 74.46.380))~~ department rule, adjusted for any capitalized additions or replacements approved by the department, and the retained savings from such cost center, by the greater of a facility's total resident days ~~((for the facility))~~ in the prior period or resident days as calculated on eighty-five percent facility occupancy for essential community providers, ninety percent occupancy for small nonessential community providers, or ninety-two percent facility occupancy for large nonessential community providers. ~~((Effective July 1, 2002, the property component rate allocation for all facilities, except essential community providers, shall be set by using the greater of a facility's total resident days from the most recent cost report period or resident days calculated at ninety percent facility occupancy.))~~ If a capitalized addition or retirement of an asset will result in a different licensed bed capacity during the ensuing period, the prior period total resident days used in computing the property component rate shall be adjusted to anticipated resident day level.

(2) A nursing facility's property component rate allocation shall be rebased annually, effective July 1st, in accordance with this section and this chapter.

(3) When a certificate of need for a new facility is requested, the department, in reaching its decision, shall take into consideration per-bed land and building construction costs for the facility which shall not exceed a maximum to be established by the secretary.

(4) ~~((Effective July 1, 2001, for the purpose of calculating a nursing facility's property component rate, if a contractor has elected to bank licensed beds prior to April 1, 2001, or elects to convert banked beds to active service at any time, under chapter 70.38 RCW, the department shall use the facility's new licensed bed capacity to recalculate minimum occupancy for rate setting and revise the property component rate, as needed, effective as of the date the beds are banked or converted to active service. However, in no case shall the department use less than eighty-five percent occupancy of the facility's licensed bed capacity after banking or conversion. Effective July 1, 2002, in no case, other than essential community providers, shall the department use less than ninety percent occupancy of the facility's licensed bed capacity after conversion.~~

~~—(5))~~ The property component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.

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**Sec. 6.** RCW 74.46.437 and 2001 1st sp.s. c 8 s 8 are each amended to read as follows:

(1) ~~((Beginning July 1, 1999,))~~ The department shall establish for each medicaid nursing facility a financing allowance component rate allocation. The financing allowance component rate shall be rebased annually, effective July 1st, in accordance with the provisions of this section and this chapter.

(2) ~~((Effective July 1, 2001,))~~ The financing allowance shall be determined by multiplying the net invested funds of each facility by ~~((10))~~ 0.04, and dividing by the greater of a nursing facility's total resident days from the most recent cost report period or resident days calculated on eighty-five percent facility occupancy for essential community providers, ninety percent facility occupancy for small nonessential community providers, or ninety-two percent occupancy for large nonessential community providers. ~~((Effective July 1, 2002, the financing allowance component rate allocation for all facilities, other than essential community providers, shall be set by using the greater of a facility's total resident days from the most recent cost report period or resident days calculated at ninety percent facility occupancy.))~~ However, assets acquired on or after May 17, 1999, shall be grouped in a separate financing allowance calculation that shall be multiplied by ~~((0.85))~~ 0.04. The financing allowance factor of ~~((0.85))~~ 0.04 shall ~~((not))~~ be applied to the net invested funds pertaining to new construction or major renovations receiving certificate of need approval or an exemption from certificate of need requirements under chapter 70.38 RCW, or to working drawings that have been submitted to the department of health for construction review approval, prior to May 17, 1999. If a capitalized addition, renovation, replacement, or retirement of an asset will result in a different licensed bed capacity during the ensuing period, the prior period total resident days used in computing the financing allowance shall be adjusted to the greater of the anticipated resident day level or eighty-five percent of the new licensed bed capacity for essential community providers, ninety percent of the new licensed bed capacity for small nonessential community providers, or ninety-two percent of the new licensed bed capacity for large nonessential community providers. ~~((Effective July 1, 2002, for all facilities, other than essential community providers, the total resident days used to compute the financing allowance after a capitalized addition, renovation, replacement, or retirement of an asset shall be set by using the greater of a facility's total resident days from the most recent cost report period or resident days calculated at ninety percent facility occupancy.))~~

(3) In computing the portion of net invested funds representing the net book value of tangible fixed assets, the same assets, depreciation bases, lives, and methods referred to in ~~((RCW 74.46.330, 74.46.350, 74.46.360, 74.46.370, and 74.46.380))~~ rule, including owned and leased assets, shall be utilized, except that the capitalized cost of land upon which the facility is located and such other contiguous land which is reasonable and necessary for use in the regular course of providing resident care shall also be included. Subject to provisions and limitations contained in this chapter, for land purchased by owners or lessors before July 18, 1984, capitalized cost of land shall be the buyer's capitalized cost. For all partial or whole rate periods after July 17, 1984, if the land is purchased after July 17, 1984, capitalized cost shall be that of the owner of record on July 17, 1984, or buyer's capitalized cost, whichever is lower. In the case of leased facilities where the net invested funds are unknown or the contractor is unable to provide necessary information to determine net invested funds, the secretary shall have the authority to determine an amount for net invested funds based on an appraisal conducted according to ~~((RCW 74.46.360(1)))~~ department rule.

~~(4) ((Effective July 1, 2001, for the purpose of calculating a nursing facility's financing allowance component rate, if a contractor has elected to bank licensed beds prior to May 25, 2001, or elects to convert banked beds to active service at any time, under chapter 70.38 RCW, the department shall use the facility's new licensed bed capacity to recalculate minimum occupancy for rate setting and revise the financing allowance component rate, as needed, effective as of the date the beds are banked or converted to active service. However, in no case shall the department use less than eighty-five percent occupancy of the facility's licensed bed capacity after banking or conversion. Effective July 1, 2002, in no case, other than for essential community providers, shall the department use less than ninety percent occupancy of the facility's licensed bed capacity after conversion.~~

~~—(5))~~ The financing allowance rate allocation calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.

**Sec. 7.** RCW 74.46.439 and 1999 c 353 s 12 are each amended to read as follows:

(1) In the case of a facility that was leased by the contractor as of January 1, 1980, in an arm's-length agreement, which continues to be leased under the same lease agreement, ~~((and for which the annualized lease payment, plus any interest and depreciation expenses associated with contractor owned assets, for the period covered by the prospective rates, divided by the contractor's total resident days, minus the property component rate allocation, is more than the sum of the financing allowance and the variable return rate determined according to this chapter, the following shall apply:~~

~~—(a) The financing allowance shall be recomputed substituting the fair market value of the assets as of January 1, 1982, as determined by the department of general administration through an appraisal procedure, less accumulated depreciation on the lessor's assets since January 1, 1982, for the net book value of the assets in determining net invested funds for the facility. A determination by the department of general administration of fair market value shall be final unless the procedure used to make such a determination is shown to be arbitrary and capricious.~~

~~—(b) The sum of the financing allowance computed under (a) of this subsection and the variable return rate shall be compared to the annualized lease payment, plus any interest and depreciation associated with contractor owned assets, for the period covered by the prospective rates, divided by the contractor's total resident days, minus the property component rate. The lesser of the two amounts shall be called the alternate return on investment rate.~~

~~—(c) The sum of the financing allowance and variable return rate determined according to this chapter or the alternate return on investment rate, whichever is greater, shall be added to the prospective rates of the contractor.~~

~~(2) In the case of a facility that was leased by the contractor as of January 1, 1980, in an arm's-length agreement, if the lease is renewed or extended under a provision of the lease, the treatment provided in subsection (1) of this section shall be applied, except that in the case of renewals or extensions made subsequent to April 1, 1985, reimbursement for the annualized lease payment shall be no greater than the reimbursement for the annualized lease payment for the last year prior to the renewal or extension of the lease.~~

~~—(3))~~ the financing allowance rate will be the greater of the rate existing on June 30, 2010, or the rate calculated under RCW 74.46.437.

~~(2)~~ The alternate return on investment component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.

**Sec. 8.** RCW 74.46.475 and 1998 c 322 s 21 are each amended to read as follows:

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~~((4))~~ The department shall analyze the submitted cost report or a portion thereof of each contractor for each report period to determine if the information is correct, complete, reported in conformance with department instructions and generally accepted accounting principles, the requirements of this chapter, and such rules as the department may adopt. If the analysis finds that the cost report is incorrect or incomplete, the department may make adjustments to the reported information for purposes of establishing payment rate allocations. A schedule of such adjustments shall be provided to contractors and shall include an explanation for the adjustment and the dollar amount of the adjustment. Adjustments shall be subject to review and appeal as provided in this chapter.

~~((2) The department shall accumulate data from properly completed cost reports, in addition to assessment data on each facility's resident population characteristics, for use in:~~

~~(a) Exception profiling; and~~

~~(b) Establishing rates.~~

~~(3) The department may further utilize such accumulated data for analytical, statistical, or informational purposes as necessary.)~~

**Sec. 9.** RCW 74.46.485 and 2009 c 570 s 2 are each amended to read as follows:

(1) The department shall:

(a) Employ the resource utilization group III case mix classification methodology. The department shall use the forty-four group index maximizing model for the resource utilization group III grouper version 5.10, but the department may revise or update the classification methodology to reflect advances or refinements in resident assessment or classification, subject to federal requirements; and

(b) Implement minimum data set 3.0 under the authority of this section and RCW 74.46.431(3). The department must notify nursing home contractors twenty-eight days in advance the date of implementation of the minimum data set 3.0. In the notification, the department must identify for all ~~((quarterly))~~ semiannual rate settings following the date of minimum data set 3.0 implementation a previously established ~~((quarterly))~~ semiannual case mix adjustment established for the ~~((quarterly))~~ semiannual rate settings that will be used for ~~((quarterly))~~ semiannual case mix calculations in direct care until minimum data set 3.0 is fully implemented. After the department has fully implemented minimum data set 3.0, it must adjust any ~~((quarter))~~ semiannual rate setting in which it used the previously established ~~((quarterly))~~ case mix adjustment using the new minimum data set 3.0 data.

(2) A default case mix group shall be established for cases in which the resident dies or is discharged for any purpose prior to completion of the resident's initial assessment. The default case mix group and case mix weight for these cases shall be designated by the department.

(3) A default case mix group may also be established for cases in which there is an untimely assessment for the resident. The default case mix group and case mix weight for these cases shall be designated by the department.

**Sec. 10.** RCW 74.46.496 and 2006 c 258 s 4 are each amended to read as follows:

(1) Each case mix classification group shall be assigned a case mix weight. The case mix weight for each resident of a nursing facility for each calendar quarter or six-month period during a calendar year shall be based on data from resident assessment instruments completed for the resident and weighted by the number of days the resident was in each case mix classification group. Days shall be counted as provided in this section.

(2) The case mix weights shall be based on the average minutes per registered nurse, licensed practical nurse, and certified nurse aide, for each case mix group, and using the ~~((health care financing administration of the))~~ United States department of health and

human services 1995 nursing facility staff time measurement study stemming from its multistate nursing home case mix and quality demonstration project. Those minutes shall be weighted by statewide ratios of registered nurse to certified nurse aide, and licensed practical nurse to certified nurse aide, wages, including salaries and benefits, which shall be based on 1995 cost report data for this state.

(3) The case mix weights shall be determined as follows:

(a) Set the certified nurse aide wage weight at 1.000 and calculate wage weights for registered nurse and licensed practical nurse average wages by dividing the certified nurse aide average wage into the registered nurse average wage and licensed practical nurse average wage;

(b) Calculate the total weighted minutes for each case mix group in the resource utilization group III classification system by multiplying the wage weight for each worker classification by the average number of minutes that classification of worker spends caring for a resident in that resource utilization group III classification group, and summing the products;

(c) Assign a case mix weight of 1.000 to the resource utilization group III classification group with the lowest total weighted minutes and calculate case mix weights by dividing the lowest group's total weighted minutes into each group's total weighted minutes and rounding weight calculations to the third decimal place.

(4) The case mix weights in this state may be revised if the ~~((health care financing administration))~~ United States department of health and human services updates its nursing facility staff time measurement studies. The case mix weights shall be revised, but only when direct care component rates are cost-rebased as provided in subsection (5) of this section, to be effective on the July 1st effective date of each cost-rebased direct care component rate. However, the department may revise case mix weights more frequently if, and only if, significant variances in wage ratios occur among direct care staff in the different caregiver classifications identified in this section.

(5) Case mix weights shall be revised when direct care component rates are cost-rebased as provided in RCW 74.46.431(4).

**Sec. 11.** RCW 74.46.501 and 2006 c 258 s 5 are each amended to read as follows:

(1) From individual case mix weights for the applicable quarter, the department shall determine two average case mix indexes for each medicaid nursing facility, one for all residents in the facility, known as the facility average case mix index, and one for medicaid residents, known as the medicaid average case mix index.

(2)(a) In calculating a facility's two average case mix indexes for each quarter, the department shall include all residents or medicaid residents, as applicable, who were physically in the facility during the quarter in question based on the resident assessment instrument completed by the facility and the requirements and limitations for the instrument's completion and transmission (January 1st through March 31st, April 1st through June 30th, July 1st through September 30th, or October 1st through December 31st).

(b) The facility average case mix index shall exclude all default cases as defined in this chapter. However, the medicaid average case mix index shall include all default cases.

(3) Both the facility average and the medicaid average case mix indexes shall be determined by multiplying the case mix weight of each resident, or each medicaid resident, as applicable, by the number of days, as defined in this section and as applicable, the resident was at each particular case mix classification or group, and then averaging.

(4)~~((4))~~ In determining the number of days a resident is classified into a particular case mix group, the department shall determine a start date for calculating case mix grouping periods as

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((follows:

—(i) If a resident's initial assessment for a first stay or a return stay in the nursing facility is timely completed and transmitted to the department by the cutoff date under state and federal requirements and as described in subsection (5) of this section, the start date shall be the later of either the first day of the quarter or the resident's facility admission or readmission date;

—(ii) If a resident's significant change, quarterly, or annual assessment is timely completed and transmitted to the department by the cutoff date under state and federal requirements and as described in subsection (5) of this section, the start date shall be the date the assessment is completed;

—(iii) If a resident's significant change, quarterly, or annual assessment is not timely completed and transmitted to the department by the cutoff date under state and federal requirements and as described in subsection (5) of this section, the start date shall be the due date for the assessment.

—(b) If state or federal rules require more frequent assessment, the same principles for determining the start date of a resident's classification in a particular case mix group set forth in subsection (4)(a) of this section shall apply.

—(c) In calculating the number of days a resident is classified into a particular case mix group, the department shall determine an end date for calculating case mix grouping periods as follows:

—(i) If a resident is discharged before the end of the applicable quarter, the end date shall be the day before discharge;

—(ii) If a resident is not discharged before the end of the applicable quarter, the end date shall be the last day of the quarter;

—(iii) If a new assessment is due for a resident or a new assessment is completed and transmitted to the department, the end date of the previous assessment shall be the earlier of either the day before the assessment is due or the day before the assessment is completed by the nursing facility)) specified by rule.

(5) The cutoff date for the department to use resident assessment data, for the purposes of calculating both the facility average and the medicaid average case mix indexes, and for establishing and updating a facility's direct care component rate, shall be one month and one day after the end of the quarter for which the resident assessment data applies.

(6) ((A threshold of ninety percent, as described and calculated in this subsection, shall be used to determine the case mix index each quarter. The threshold shall also be used to determine which facilities' costs per case mix unit are included in determining the ceiling, floor, and price. For direct care component rate allocations established on and after July 1, 2006, the threshold of ninety percent shall be used to determine the case mix index each quarter and to determine which facilities' costs per case mix unit are included in determining the ceiling and price. If the facility does not meet the ninety percent threshold, the department may use an alternate case mix index to determine the facility average and medicaid average case mix indexes for the quarter. The threshold is a count of unique minimum data set assessments, and it shall include resident assessment instrument tracking forms for residents discharged prior to completing an initial assessment. The threshold is calculated by dividing a facility's count of residents being assessed by the average census for the facility. A daily census shall be reported by each nursing facility as it transmits assessment data to the department. The department shall compute a quarterly average census based on the daily census. If no census has been reported by a facility during a specified quarter, then the department shall use the facility's licensed beds as the denominator in computing the threshold.

—(7))(a) Although the facility average and the medicaid average case mix indexes shall both be calculated quarterly, the cost-rebasing period facility average case mix index will be used throughout the applicable cost-rebasing period in combination with

cost report data as specified by RCW 74.46.431 and 74.46.506, to establish a facility's allowable cost per case mix unit. A facility's medicaid average case mix index shall be used to update a nursing facility's direct care component rate ((quarterly)) semiannually.

(b) The facility average case mix index used to establish each nursing facility's direct care component rate shall be based on an average of calendar quarters of the facility's average case mix indexes(:

—(i) For October 1, 1998, direct care component rates, the department shall use an average of facility average case mix indexes from the four calendar quarters of 1997.

—(ii) For July 1, 2001, direct care component rates, the department shall use an average of facility average case mix indexes from the four calendar quarters of 1999.

—(iii) Beginning on July 1, 2006, when establishing the direct care component rates, the department shall use an average of facility case mix indexes)) from the four calendar quarters occurring during the cost report period used to rebase the direct care component rate allocations as specified in RCW 74.46.431.

(c) The medicaid average case mix index used to update or recalibrate a nursing facility's direct care component rate ((quarterly)) semiannually shall be from the calendar ((quarter)) six-month period commencing ((six)) nine months prior to the effective date of the ((quarterly)) semiannual rate. For example, ((October 1, 1998)) July 1, 2010, through December 31, ((1998)) 2010, direct care component rates shall utilize case mix averages from the ((April 1, 1998)) October 1, 2009, through ((June 30, 1998)) March 31, 2010, calendar quarters, and so forth.

**Sec. 12.** RCW 74.46.506 and 2007 c 508 s 3 are each amended to read as follows:

(1) The direct care component rate allocation corresponds to the provision of nursing care for one resident of a nursing facility for one day, including direct care supplies. Therapy services and supplies, which correspond to the therapy care component rate, shall be excluded. The direct care component rate includes elements of case mix determined consistent with the principles of this section and other applicable provisions of this chapter.

(2) ((Beginning October 1, 1998,)) The department shall determine and update ((quarterly)) semiannually for each nursing facility serving medicaid residents a facility-specific per-resident day direct care component rate allocation, to be effective on the first day of each ((calendar quarter)) six-month period. In determining direct care component rates the department shall utilize, as specified in this section, minimum data set resident assessment data for each resident of the facility, as transmitted to, and if necessary corrected by, the department in the resident assessment instrument format approved by federal authorities for use in this state.

(3) The department may question the accuracy of assessment data for any resident and utilize corrected or substitute information, however derived, in determining direct care component rates. The department is authorized to impose civil fines and to take adverse rate actions against a contractor, as specified by the department in rule, in order to obtain compliance with resident assessment and data transmission requirements and to ensure accuracy.

(4) Cost report data used in setting direct care component rate allocations shall be for rate periods as specified in RCW 74.46.431(4)(a).

(5) ((Beginning October 1, 1998,)) The department shall rebase each nursing facility's direct care component rate allocation as described in RCW 74.46.431, adjust its direct care component rate allocation for economic trends and conditions as described in RCW 74.46.431, and update its medicaid average case mix index as described in RCW 74.46.496 and 74.46.501, consistent with the following:

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(a) ~~((Reduce))~~ Adjust total direct care costs reported by each nursing facility for the applicable cost report period specified in RCW 74.46.431(4)(a) to reflect any department adjustments, and to eliminate reported resident therapy costs and adjustments, in order to derive the facility's total allowable direct care cost;

(b) Divide each facility's total allowable direct care cost by its adjusted resident days for the same report period, ~~((increased if necessary to a minimum occupancy of eighty five percent; that is, the greater of actual or imputed occupancy at eighty five percent of licensed beds,))~~ to derive the facility's allowable direct care cost per resident day ~~((However, effective July 1, 2006, each facility's allowable direct care costs shall be divided by its adjusted resident days without application of a minimum occupancy assumption))~~;

(c) ~~((Adjust the facility's per resident day direct care cost by the applicable factor specified in RCW 74.46.431(4) to derive its adjusted allowable direct care cost per resident day;~~

~~((d))~~ Divide each facility's adjusted allowable direct care cost per resident day by the facility average case mix index for the applicable quarters specified by RCW 74.46.501(~~((7)(b))~~) (6)(b) to derive the facility's allowable direct care cost per case mix unit;

~~((e) Effective for July 1, 2001, rate setting;))~~ (d) Divide nursing facilities into at least two and, if applicable, three peer groups: Those located in nonurban counties; those located in high labor-cost counties, if any; and those located in other urban counties;

~~((f))~~ (e) Array separately the allowable direct care cost per case mix unit for all facilities in nonurban counties; for all facilities in high labor-cost counties, if applicable; and for all facilities in other urban counties, and determine the median allowable direct care cost per case mix unit for each peer group;

~~((g) Except as provided in (i) of this subsection, from October 1, 1998, through June 30, 2000, determine each facility's quarterly direct care component rate as follows:~~

~~((i) Any facility whose allowable cost per case mix unit is less than eighty five percent of the facility's peer group median established under (f) of this subsection shall be assigned a cost per case mix unit equal to eighty five percent of the facility's peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in RCW 74.46.501(7)(c);~~

~~((ii) Any facility whose allowable cost per case mix unit is greater than one hundred fifteen percent of the peer group median established under (f) of this subsection shall be assigned a cost per case mix unit equal to one hundred fifteen percent of the peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in RCW 74.46.501(7)(c);~~

~~((iii) Any facility whose allowable cost per case mix unit is between eighty five and one hundred fifteen percent of the peer group median established under (f) of this subsection shall have a direct care component rate allocation equal to the facility's allowable cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in RCW 74.46.501(7)(c);~~

~~((h) Except as provided in (i) of this subsection, from July 1, 2000, through June 30, 2006, determine each facility's quarterly direct care component rate as follows:~~

~~((i) Any facility whose allowable cost per case mix unit is less than ninety percent of the facility's peer group median established under (f) of this subsection shall be assigned a cost per case mix unit equal to ninety percent of the facility's peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in~~

~~RCW 74.46.501(7)(c);~~

~~((ii) Any facility whose allowable cost per case mix unit is greater than one hundred ten percent of the peer group median established under (f) of this subsection shall be assigned a cost per case mix unit equal to one hundred ten percent of the peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in RCW 74.46.501(7)(c);~~

~~((iii) Any facility whose allowable cost per case mix unit is between ninety and one hundred ten percent of the peer group median established under (f) of this subsection shall have a direct care component rate allocation equal to the facility's allowable cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in RCW 74.46.501(7)(c);~~

~~((i) Between October 1, 1998, and June 30, 2000, the department shall compare each facility's direct care component rate allocation calculated under (g) of this subsection with the facility's nursing services component rate in effect on September 30, 1998, less therapy costs, plus any exceptional care offsets as reported on the cost report, adjusted for economic trends and conditions as provided in RCW 74.46.431. A facility shall receive the higher of the two rates.~~

~~((ii) Between July 1, 2000, and June 30, 2002, the department shall compare each facility's direct care component rate allocation calculated under (h) of this subsection with the facility's direct care component rate in effect on June 30, 2000. A facility shall receive the higher of the two rates. Between July 1, 2001, and June 30, 2002, if during any quarter a facility whose rate paid under (h) of this subsection is greater than either the direct care rate in effect on June 30, 2000, or than that facility's allowable direct care cost per case mix unit calculated in (d) of this subsection multiplied by that facility's medicaid average case mix index from the applicable quarter specified in RCW 74.46.501(7)(c), the facility shall be paid in that and each subsequent quarter pursuant to (h) of this subsection and shall not be entitled to the greater of the two rates.~~

~~((iii) Between July 1, 2002, and June 30, 2006, all direct care component rate allocations shall be as determined under (h) of this subsection.~~

~~((iv) Effective July 1, 2006, for all providers, except vital local providers as defined in this chapter, all direct care component rate allocations shall be as determined under (j) of this subsection.~~

~~((v) Effective July 1, 2006, through June 30, 2007, for vital local providers, as defined in this chapter, direct care component rate allocations shall be determined as follows:~~

~~((A) The department shall calculate:~~

~~((I) The sum of each facility's July 1, 2006, direct care component rate allocation calculated under (j) of this subsection and July 1, 2006, operations component rate calculated under RCW 74.46.521; and~~

~~((II) The sum of each facility's June 30, 2006, direct care and operations component rates.~~

~~((B) If the sum calculated under (i)(v)(A)(I) of this subsection is less than the sum calculated under (i)(v)(A)(II) of this subsection, the facility shall have a direct care component rate allocation equal to the facility's June 30, 2006, direct care component rate allocation.~~

~~((C) If the sum calculated under (i)(v)(A)(I) of this subsection is greater than or equal to the sum calculated under (i)(v)(A)(II) of this subsection, the facility's direct care component rate shall be calculated under (j) of this subsection;~~

~~((j) Except as provided in (i) of this subsection, from July 1, 2006, forward, and for all future rate setting;))~~ (f) Determine each facility's ~~((quarterly))~~ semiannual direct care component rate as follows:

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(i) Any facility whose allowable cost per case mix unit is greater than one hundred twelve percent of the peer group median established under ~~((#))~~ (e) of this subsection shall be assigned a cost per case mix unit equal to one hundred twelve percent of the peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable ~~((quarter))~~ six-month period specified in RCW 74.46.501~~((7))~~ (6)(c);

(ii) Any facility whose allowable cost per case mix unit is less than or equal to one hundred twelve percent of the peer group median established under ~~((#))~~ (e) of this subsection shall have a direct care component rate allocation equal to the facility's allowable cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable ~~((quarter))~~ six-month period specified in RCW 74.46.501~~((7))~~ (6)(c).

(6) The direct care component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.

(7) Costs related to payments resulting from increases in direct care component rates, granted under authority of RCW 74.46.508~~((4))~~ for a facility's exceptional care residents, shall be offset against the facility's examined, allowable direct care costs, for each report year or partial period such increases are paid. Such reductions in allowable direct care costs shall be for rate setting, settlement, and other purposes deemed appropriate by the department.

**Sec. 13.** RCW 74.46.508 and 2003 1st sp.s. c 6 s 1 are each amended to read as follows:

~~((#))~~ The department is authorized to increase the direct care component rate allocation calculated under RCW 74.46.506(5) for residents who have unmet exceptional care needs as determined by the department in rule. The department may, by rule, establish criteria, patient categories, and methods of exceptional care payment.

~~((2) The department may by July 1, 2003, adopt rules and implement a system of exceptional care payments for therapy care.~~

~~(a) Payments may be made on behalf of facility residents who are under age sixty five, not eligible for medicare, and can achieve significant progress in their functional status if provided with intensive therapy care services.~~

~~(b) Payments may be made only after approval of a rehabilitation plan of care for each resident on whose behalf a payment is made under this subsection, and each resident's progress must be periodically monitored.)~~

**Sec. 14.** RCW 74.46.511 and 2008 c 263 s 3 are each amended to read as follows:

(1) The therapy care component rate allocation corresponds to the provision of medicaid one-on-one therapy provided by a qualified therapist as defined in this chapter, including therapy supplies and therapy consultation, for one day for one medicaid resident of a nursing facility. ~~((The therapy care component rate allocation for October 1, 1998, through June 30, 2001, shall be based on adjusted therapy costs and days from calendar year 1996. The therapy component rate allocation for July 1, 2001, through June 30, 2007, shall be based on adjusted therapy costs and days from calendar year 1999. Effective July 1, 2007,))~~ The therapy care component rate allocation shall be based on adjusted therapy costs and days as described in RCW 74.46.431(5). The therapy care component rate shall be adjusted for economic trends and conditions as specified in RCW 74.46.431(5), and shall be determined in accordance with this section. In determining each facility's therapy care component rate allocation, the department shall apply the applicable minimum facility occupancy adjustment

before creating the array of facilities' adjusted therapy care costs per adjusted resident day.

(2) In rebasing, as provided in RCW 74.46.431(5)(a), the department shall take from the cost reports of facilities the following reported information:

(a) Direct one-on-one therapy charges for all residents by payer including charges for supplies;

(b) The total units or modules of therapy care for all residents by type of therapy provided, for example, speech or physical. A unit or module of therapy care is considered to be fifteen minutes of one-on-one therapy provided by a qualified therapist or support personnel; and

(c) Therapy consulting expenses for all residents.

(3) The department shall determine for all residents the total cost per unit of therapy for each type of therapy by dividing the total adjusted one-on-one therapy expense for each type by the total units provided for that therapy type.

(4) The department shall divide medicaid nursing facilities in this state into two peer groups:

(a) Those facilities located within urban counties; and

(b) Those located within nonurban counties.

The department shall array the facilities in each peer group from highest to lowest based on their total cost per unit of therapy for each therapy type. The department shall determine the median total cost per unit of therapy for each therapy type and add ten percent of median total cost per unit of therapy. The cost per unit of therapy for each therapy type at a nursing facility shall be the lesser of its cost per unit of therapy for each therapy type or the median total cost per unit plus ten percent for each therapy type for its peer group.

(5) The department shall calculate each nursing facility's therapy care component rate allocation as follows:

(a) To determine the allowable total therapy cost for each therapy type, the allowable cost per unit of therapy for each type of therapy shall be multiplied by the total therapy units for each type of therapy;

(b) The medicaid allowable one-on-one therapy expense shall be calculated taking the allowable total therapy cost for each therapy type times the medicaid percent of total therapy charges for each therapy type;

(c) The medicaid allowable one-on-one therapy expense for each therapy type shall be divided by total adjusted medicaid days to arrive at the medicaid one-on-one therapy cost per patient day for each therapy type;

(d) The medicaid one-on-one therapy cost per patient day for each therapy type shall be multiplied by total adjusted patient days for all residents to calculate the total allowable one-on-one therapy expense. The lesser of the total allowable therapy consultant expense for the therapy type or a reasonable percentage of allowable therapy consultant expense for each therapy type, as established in rule by the department, shall be added to the total allowable one-on-one therapy expense to determine the allowable therapy cost for each therapy type;

(e) The allowable therapy cost for each therapy type shall be added together, the sum of which shall be the total allowable therapy expense for the nursing facility;

(f) The total allowable therapy expense will be divided by the greater of adjusted total patient days from the cost report on which the therapy expenses were reported, or patient days at eighty-five percent occupancy of licensed beds. The outcome shall be the nursing facility's therapy care component rate allocation.

(6) The therapy care component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.

(7) The therapy care component rate shall be suspended for medicaid residents in qualified nursing facilities designated by the

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department who are receiving therapy paid by the department outside the facility daily rate (under RCW 74.46.508(2)).

**Sec. 15.** RCW 74.46.515 and 2008 c 263 s 4 are each amended to read as follows:

(1) The support services component rate allocation corresponds to the provision of food, food preparation, dietary, housekeeping, and laundry services for one resident for one day.

(2) ~~((Beginning October 1, 1998,))~~ The department shall determine each medicaid nursing facility's support services component rate allocation using cost report data specified by RCW 74.46.431(6).

(3) To determine each facility's support services component rate allocation, the department shall:

(a) Array facilities' adjusted support services costs per adjusted resident day, as determined by dividing each facility's total allowable support services costs by its adjusted resident days for the same report period, increased if necessary to a minimum occupancy provided by RCW 74.46.431(2), for each facility from facilities' cost reports from the applicable report year, for facilities located within urban counties, and for those located within nonurban counties and determine the median adjusted cost for each peer group;

(b) Set each facility's support services component rate at the lower of the facility's per resident day adjusted support services costs from the applicable cost report period or the adjusted median per resident day support services cost for that facility's peer group, either urban counties or nonurban counties, plus ten percent; and

(c) Adjust each facility's support services component rate for economic trends and conditions as provided in RCW 74.46.431(6).

(4) The support services component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.

**Sec. 16.** RCW 74.46.521 and 2007 c 508 s 5 are each amended to read as follows:

(1) The operations component rate allocation corresponds to the general operation of a nursing facility for one resident for one day, including but not limited to management, administration, utilities, office supplies, accounting and bookkeeping, minor building maintenance, minor equipment repairs and replacements, and other supplies and services, exclusive of direct care, therapy care, support services, property, financing allowance, and variable return.

(2) ~~((Except as provided in subsection (4) of this section, beginning October 1, 1998,))~~ The department shall determine each medicaid nursing facility's operations component rate allocation using cost report data specified by RCW 74.46.431(7)(a). ~~((Effective July 1, 2002,))~~ Operations component rates for ~~((all facilities except))~~ essential community providers shall be based upon a minimum occupancy of ~~((ninety))~~ eighty-five percent of licensed beds, ~~(, and no operations component rate shall be revised in response to beds banked on or after May 25, 2001, under chapter 70.38 RCW))~~. Operations component rates for small nonessential community providers shall be based upon a minimum occupancy of ninety percent of licensed beds. Operations component rates for large nonessential community providers shall be based upon a minimum occupancy of ninety-two percent of licensed beds.

(3) ~~((Except as provided in subsection (4) of this section,))~~ For all calculations and adjustments in this subsection, the department shall use the greater of the facility's actual occupancy or an imputed occupancy equal to eighty-five percent for essential community providers, ninety percent for small nonessential community providers, or ninety-two percent for large nonessential community providers. To determine each facility's operations component rate the department shall:

(a) Array facilities' adjusted general operations costs per adjusted resident day, as determined by dividing each facility's total allowable operations cost by its adjusted resident days for the same

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report period ~~((, increased if necessary to a minimum occupancy of ninety percent; that is, the greater of actual or imputed occupancy at ninety percent of licensed beds, for each facility from facilities' cost reports from the applicable report year,))~~ for facilities located within urban counties and for those located within nonurban counties and determine the median adjusted cost for each peer group;

(b) Set each facility's operations component rate at the lower of:

(i) The facility's per resident day adjusted operations costs from the applicable cost report period adjusted if necessary ~~((to a))~~ for minimum occupancy ~~((of eighty-five percent of licensed beds before July 1, 2002, and ninety percent effective July 1, 2002));~~ or

(ii) The adjusted median per resident day general operations cost for that facility's peer group, urban counties or nonurban counties; and

(c) Adjust each facility's operations component rate for economic trends and conditions as provided in RCW 74.46.431(7)(b).

~~(4)((a) Effective July 1, 2006, through June 30, 2007, for any facility whose direct care component rate allocation is set equal to its June 30, 2006, direct care component rate allocation, as provided in RCW 74.46.506(5), the facility's operations component rate allocation shall also be set equal to the facility's June 30, 2006, operations component rate allocation.~~

~~—(b) The operations component rate allocation for facilities whose operations component rate is set equal to their June 30, 2006, operations component rate, shall be adjusted for economic trends and conditions as provided in RCW 74.46.431(7)(b).~~

~~—(5))~~ The operations component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.

**Sec. 17.** RCW 74.46.835 and 1998 c 322 s 46 are each amended to read as follows:

(1) Payment for direct care at the pilot nursing facility in King county designed to meet the service needs of residents living with AIDS, as defined in RCW 70.24.017, and as specifically authorized for this purpose under chapter 9, Laws of 1989 1st ex. sess., shall be exempt from case mix methods of rate determination set forth in this chapter and shall be exempt from the direct care metropolitan statistical area peer group cost limitation set forth in this chapter.

(2) Direct care component rates at the AIDS pilot facility shall be based on direct care reported costs at the pilot facility, utilizing the same ~~((three-year,))~~ rate-setting cycle prescribed for other nursing facilities, and as supported by a staffing benchmark based upon a department-approved acuity measurement system.

(3) The provisions of RCW 74.46.421 and all other rate-setting principles, cost lids, and limits, including settlement as provided in ~~((RCW 74.46.165))~~ rule shall apply to the AIDS pilot facility.

(4) This section applies only to the AIDS pilot nursing facility.

**Sec. 18.** RCW 74.46.800 and 1998 c 322 s 42 are each amended to read as follows:

(1) The department shall have authority to adopt, amend, and rescind such administrative rules and definitions as it deems necessary to carry out the policies and purposes of this chapter and to resolve issues and develop procedures ~~((that it deems necessary))~~ to implement, update, and improve ~~((the case mix elements of))~~ the nursing facility medicaid payment system.

(2) Nothing in this chapter shall be construed to require the department to adopt or employ any calculations, steps, tests, methodologies, alternate methodologies, indexes, formulas, mathematical or statistical models, concepts, or procedures for medicaid rate setting or payment that are not expressly called for in this chapter.

NEW SECTION. **Sec. 19.** A new section is added to chapter 74.46 RCW to read as follows:

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The department shall establish, by rule, the procedures, principles, and conditions for the nursing facility medicaid payment system addressed by the following principles:

(1) The department must receive complete, annual reporting of all costs and the financial condition of each contractor, prepared and presented in a standardized manner. The department shall establish, by rule, due dates, requirements for cost report completion, actions required for improperly completed or late cost reports, fines for any statutory or regulatory noncompliance, retention requirements, and public disclosure requirements.

(2) The department shall examine all cost reports to determine whether the information is correct, complete, and reported in compliance with this chapter, department rules and instructions, and generally accepted accounting principles.

(3) Each contractor must establish and maintain, as a service to the resident, a bookkeeping system incorporated into the business records for all resident funds entrusted to the contractor and received by the contractor for the resident. The department shall adopt rules to ensure that resident personal funds handled by the contractor are maintained by each contractor in a manner that is, at a minimum, consistent with federal requirements.

(4) The department shall have the authority to audit resident trust funds and receivables, at its discretion.

(5) Contractors shall provide the department access to the nursing facility, all financial and statistical records, and all working papers that are in support of the cost report, receivables, and resident trust funds.

(6) The department shall establish a settlement process in order to reconcile medicaid resident days to billed days and medicaid payments for the preceding calendar year. The settlement process shall ensure that any savings in the direct care or therapy care component rates be shifted only between direct care and therapy care component rates, and shall not be shifted into any other rate components.

(7) The department shall define and identify allowable and unallowable costs.

(8) A contractor shall bill the department for care provided to medicaid recipients, and the department shall pay a contractor for service rendered under the facility contract and appropriately billed. Billing and payment procedures shall be specified by rule.

(9) The department shall establish the conditions for participation in the nursing facility medicaid payment system.

(10) The department shall establish procedures and a rate setting methodology for a change of ownership.

(11) The department shall establish, consistent with federal requirements for nursing facilities participating in the medicaid program, an appeals or exception procedure that allows individual nursing home providers an opportunity to receive prompt administrative review of payment rates with respect to such issues as the department deems appropriate.

(12) The department shall have authority to adopt, amend, and rescind such administrative rules and definitions as it deems necessary to carry out the policies and purposes of this chapter.

**NEW SECTION. Sec. 20.** A new section is added to chapter 74.46 RCW to read as follows:

The department shall establish, by rule, the procedures, principles, and conditions for a pay-for-performance supplemental payment structure that provides payment add-ons for high performing facilities. To the extent that funds are appropriated for this purpose, the pay-for-performance structure will include a one percent reduction in payments to facilities with exceptionally high direct care staff turnover, and a method by which the funding that is not paid to these facilities is then used to provide a supplemental payment to facilities with lower direct care staff turnover.

**NEW SECTION. Sec. 21.** The following acts or parts of acts are each repealed:

(1) RCW 74.46.030 (Principles of reporting requirements) and 1980 c 177 s 3;

(2) RCW 74.46.040 (Due dates for cost reports) and 1998 c 322 s 3, 1985 c 361 s 4, 1983 1st ex.s. c 67 s 1, & 1980 c 177 s 4;

(3) RCW 74.46.050 (Improperly completed or late cost report--Fines--Adverse rate actions--Rules) and 1998 c 322 s 4, 1985 c 361 s 5, & 1980 c 177 s 5;

(4) RCW 74.46.060 (Completing cost reports and maintaining records) and 1998 c 322 s 5, 1985 c 361 s 6, 1983 1st ex.s. c 67 s 2, & 1980 c 177 s 6;

(5) RCW 74.46.080 (Requirements for retention of records by the contractor) and 1998 c 322 s 6, 1985 c 361 s 7, 1983 1st ex.s. c 67 s 3, & 1980 c 177 s 8;

(6) RCW 74.46.090 (Retention of cost reports and resident assessment information by the department) and 1998 c 322 s 7, 1985 c 361 s 8, & 1980 c 177 s 9;

(7) RCW 74.46.100 (Purposes of department audits--Examination-- Incomplete or incorrect reports--Contractor's duties--Access to facility--Fines--Adverse rate actions) and 1998 c 322 s 8, 1985 c 361 s 9, 1983 1st ex.s. c 67 s 4, & 1980 c 177 s 10;

(8) RCW 74.46.155 (Reconciliation of medicaid resident days to billed days and medicaid payments--Payments due--Accrued interest-- Withholding funds) and 1998 c 322 s 9;

(9) RCW 74.46.165 (Proposed settlement report--Payment refunds-- Overpayments--Determination of unused rate funds--Total and component payment rates) and 2001 1st sp.s. c 8 s 2 & 1998 c 322 s 10;

(10) RCW 74.46.190 (Principles of allowable costs) and 1998 c 322 s 11, 1995 1st sp.s. c 18 s 96, 1983 1st ex.s. c 67 s 12, & 1980 c 177 s 19;

(11) RCW 74.46.200 (Offset of miscellaneous revenues) and 1980 c 177 s 20;

(12) RCW 74.46.220 (Payments to related organizations--Limits-- Documentation) and 1998 c 322 s 12 & 1980 c 177 s 22;

(13) RCW 74.46.230 (Initial cost of operation) and 1998 c 322 s 13, 1993 sp.s. c 13 s 3, & 1980 c 177 s 23;

(14) RCW 74.46.240 (Education and training) and 1980 c 177 s 24;

(15) RCW 74.46.250 (Owner or relative--Compensation) and 1980 c 177 s 25;

(16) RCW 74.46.270 (Disclosure and approval or rejection of cost allocation) and 1998 c 322 s 14, 1983 1st ex.s. c 67 s 13, & 1980 c 177 s 27;

(17) RCW 74.46.280 (Management fees, agreements--Limitation on scope of services) and 1998 c 322 s 15, 1993 sp.s. c 13 s 4, & 1980 c 177 s 28;

(18) RCW 74.46.290 (Expense for construction interest) and 1980 c 177 s 29;

(19) RCW 74.46.300 (Operating leases of office equipment--Rules) and 1998 c 322 s 16 & 1980 c 177 s 30;

(20) RCW 74.46.310 (Capitalization) and 1983 1st ex.s. c 67 s 16 & 1980 c 177 s 31;

(21) RCW 74.46.320 (Depreciation expense) and 1980 c 177 s 32;

(22) RCW 74.46.330 (Depreciable assets) and 1980 c 177 s 33;

(23) RCW 74.46.340 (Land, improvements--Depreciation) and 1980 c 177 s 34;

(24) RCW 74.46.350 (Methods of depreciation) and 1999 c 353 s 13 & 1980 c 177 s 35;

(25) RCW 74.46.360 (Cost basis of land and depreciation base of depreciable assets) and 1999 c 353 s 2, 1997 c 277 s 1, 1991 sp.s. c 8 s 18, & 1989 c 372 s 14;

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(26) RCW 74.46.370 (Lives of assets) and 1999 c 353 s 14, 1997 c 277 s 2, & 1980 c 177 s 37;

(27) RCW 74.46.380 (Depreciable assets) and 1993 sp.s. c 13 s 5, 1991 sp.s. c 8 s 12, & 1980 c 177 s 38;

(28) RCW 74.46.390 (Gains and losses upon replacement of depreciable assets) and 1980 c 177 s 39;

(29) RCW 74.46.410 (Unallowable costs) and 2007 c 508 s 1, 2001 1st sp.s. c 8 s 3, 1998 c 322 s 17, 1995 1st sp.s. c 18 s 97, 1993 sp.s. c 13 s 6, 1991 sp.s. c 8 s 15, 1989 c 372 s 2, 1986 c 175 s 3, 1983 1st ex.s. c 67 s 17, & 1980 c 177 s 41;

(30) RCW 74.46.445 (Contractors--Rate adjustments) and 1999 c 353 s 15;

(31) RCW 74.46.533 (Combined and estimated rebased rates--Determination--Hold harmless provision) and 2007 c 508 s 6;

(32) RCW 74.46.600 (Billing period) and 1980 c 177 s 60;

(33) RCW 74.46.610 (Billing procedure--Rules) and 1998 c 322 s 32, 1983 1st ex.s. c 67 s 33, & 1980 c 177 s 61;

(34) RCW 74.46.620 (Payment) and 1998 c 322 s 33 & 1980 c 177 s 62;

(35) RCW 74.46.625 (Supplemental payments) and 1999 c 392 s 1;

(36) RCW 74.46.630 (Charges to patients) and 1998 c 322 s 34 & 1980 c 177 s 63;

(37) RCW 74.46.640 (Suspension of payments) and 1998 c 322 s 35, 1995 1st sp.s. c 18 s 112, 1983 1st ex.s. c 67 s 34, & 1980 c 177 s 64;

(38) RCW 74.46.650 (Termination of payments) and 1998 c 322 s 36 & 1980 c 177 s 65;

(39) RCW 74.46.660 (Conditions of participation) and 1998 c 322 s 37, 1992 c 215 s 1, 1991 sp.s. c 8 s 13, & 1980 c 177 s 66;

(40) RCW 74.46.680 (Change of ownership--Assignment of department's contract) and 1998 c 322 s 38, 1985 c 361 s 2, & 1980 c 177 s 68;

(41) RCW 74.46.690 (Change of ownership--Final reports--Settlement) and 1998 c 322 s 39, 1995 1st sp.s. c 18 s 113, 1985 c 361 s 3, 1983 1st ex.s. c 67 s 36, & 1980 c 177 s 69;

(42) RCW 74.46.700 (Resident personal funds--Records--Rules) and 1991 sp.s. c 8 s 19 & 1980 c 177 s 70;

(43) RCW 74.46.711 (Resident personal funds--Conveyance upon death of resident) and 2001 1st sp.s. c 8 s 14 & 1995 1st sp.s. c 18 s 69;

(44) RCW 74.46.770 (Contractor appeals--Challenges of laws, rules, or contract provisions--Challenge based on federal law) and 1998 c 322 s 40, 1995 1st sp.s. c 18 s 114, 1983 1st ex.s. c 67 s 39, & 1980 c 177 s 77;

(45) RCW 74.46.780 (Appeals or exception procedure) and 1998 c 322 s 41, 1995 1st sp.s. c 18 s 115, 1989 c 175 s 159, 1983 1st ex.s. c 67 s 40, & 1980 c 177 s 78;

(46) RCW 74.46.790 (Denial, suspension, or revocation of license or provisional license--Penalties) and 1980 c 177 s 79;

(47) RCW 74.46.820 (Public disclosure) and 2005 c 274 s 356, 1998 c 322 s 43, 1985 c 361 s 14, 1983 1st ex.s. c 67 s 41, & 1980 c 177 s 82;

(48) RCW 74.46.900 (Severability--1980 c 177) and 1980 c 177 s 93;

(49) RCW 74.46.901 (Effective dates--1983 1st ex.s. c 67; 1980 c 177) and 1983 1st ex.s. c 67 s 49, 1981 1st ex.s. c 2 s 10, & 1980 c 177 s 94;

(50) RCW 74.46.902 (Section captions--1980 c 177) and 1980 c 177 s 89;

(51) RCW 74.46.905 (Severability--1983 1st ex.s. c 67) and 1983 1st ex.s. c 67 s 43; and

(52) RCW 74.46.906 (Effective date--1998 c 322 §§ 1-37, 40-49, and 52-54) and 1998 c 322 s 55.

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**NEW SECTION. Sec. 22.** The following acts or parts of acts are each repealed, effective July 1, 2011: RCW 74.46.433 (Variable return component rate allocation) and 2010 1st sp.s. c ... (SSB 6872) s 4, 2006 c 258 s 3, 2001 1st sp.s. c 8 s 6, & 1999 c 353 s 9.

**NEW SECTION. Sec. 23.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2010."

Senators Keiser and Marr spoke in favor of adoption of the striking amendment.

Senator Pflug spoke against adoption of the striking amendment.

#### POINT OF INQUIRY

Senator Brandland: "Would Senator Eide yield to a question? Senator Eide, is this the last bill?"

Senator Eide: "Yes."

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Keiser and Marr to Substitute Senate Bill No. 6872.

The motion by Senator Keiser carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "payments;" strike the remainder of the title and insert "amending RCW 74.46.010, 74.46.020, 74.46.431, 74.46.433, 74.46.435, 74.46.437, 74.46.439, 74.46.475, 74.46.485, 74.46.496, 74.46.501, 74.46.506, 74.46.508, 74.46.511, 74.46.515, 74.46.521, 74.46.835, and 74.46.800; adding new sections to chapter 74.46 RCW; repealing RCW 74.46.030, 74.46.040, 74.46.050, 74.46.060, 74.46.080, 74.46.090, 74.46.100, 74.46.155, 74.46.165, 74.46.190, 74.46.200, 74.46.220, 74.46.230, 74.46.240, 74.46.250, 74.46.270, 74.46.280, 74.46.290, 74.46.300, 74.46.310, 74.46.320, 74.46.330, 74.46.340, 74.46.350, 74.46.360, 74.46.370, 74.46.380, 74.46.390, 74.46.410, 74.46.445, 74.46.533, 74.46.600, 74.46.610, 74.46.620, 74.46.625, 74.46.630, 74.46.640, 74.46.650, 74.46.660, 74.46.680, 74.46.690, 74.46.700, 74.46.711, 74.46.770, 74.46.780, 74.46.790, 74.46.820, 74.46.900, 74.46.901, 74.46.902, 74.46.905, 74.46.906, and 74.46.433; providing effective dates; and declaring an emergency."

#### MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute Senate Bill No. 6872 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

#### POINT OF INQUIRY

Senator Roach: "Would Senator Keiser yield to a question? We did have just a, by one of the previous speaker's, a list of some of the groups that had been around the table with you to come to the conclusion to this amendment and now the bill. So, but I didn't specifically hear what nursing home operators and owners had to put in here for input. Do they like it? What's their

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thinking? Will they better achieve a reimbursement for Medicaid. What's going on here with that?"

Senator Keiser: "Thank you Senator. We have reached agreement that this approach is fair and equitable approach for all of the different nursing home facilities. No one likes to agree to a cut in funding. This is a cut in funding but it's a lower cut than previous proposals and it's a lower cut than other services are facing. So, all parties including nursing homes represented by the two main associations have agreed to be accepting of this proposed legislation."

Senator Roach: "We have gone back in time several times, the senate has and brought up the Rossi budget where there was a tax on nursing home beds because we were all told that the industry wanted it. This isn't a tax but it seems to be a cut so I want to know that we're not being sold something that they really don't want. That they're put around the table, that they're coerced to agree to and that's what I'd like you to tell us what's going on with this."

Senator Keiser: "I can't speak for them Senator but I do think in good faith they have shaken hands with them and they've agreed to this proposal."

Senators Pflug and Honeyford spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6872.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6872 and the bill passed the Senate by the following vote: Yeas, 30; Nays, 14; Absent, 0; Excused, 5.

Voting yea: Senators Berkey, Brandland, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

Voting nay: Senators Becker, Benton, Carrell, Haugen, Hewitt, Holmquist, Honeyford, King, Parlette, Pflug, Roach, Schoesler, Sheldon and Swecker

Excused: Senators Delvin, McCaslin, Morton, Stevens and Zarelli

ENGROSSED SUBSTITUTE SENATE BILL NO. 6872, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

April 12, 2010

MR. PRESIDENT:

The House has adopted:

HOUSE CONCURRENT RESOLUTION 4410.  
and the same is herewith transmitted.

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

THIRD SUPPLEMENTAL INTRODUCTION AND FIRST READING OF HOUSE BILLS

HCR 4410 by Representatives Kessler and Kretz

Adjourning sine die.

MOTION

On motion of Senator Eide, the rules were suspended and House Concurrent Resolution No. 4410 was placed on the second reading calendar.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

HOUSE CONCURRENT RESOLUTION NO. 4410, by Representatives Kessler and Kretz

Adjourning sine die.

The measure was read the second time.

MOTION

On motion of Senator Eide, the rules were suspended and House Concurrent Resolution No. 4410 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of House Concurrent Resolution No. 4410.

HOUSE CONCURRENT RESOLUTION NO. 4410 was adopted by voice vote.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

April 12, 2010

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED HOUSE BILL 2561,  
HOUSE BILL 3197.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

TWENTY NINTH DAY, APRIL 12, 2010  
ENGROSSED HOUSE BILL 2561.  
HOUSE BILL 3197.

2010 1ST SPECIAL SESSION  
ENGROSSED SECOND SUBSTITUTE SENATE BILL  
6409.,SUBSTITUTE SENATE BILL 6727,  
ENGROSSED SUBSTITUTE SENATE BILL 6872.

MESSAGE FROM THE HOUSE

April 12, 2010

MR. PRESIDENT:  
The House has passed:  
ENGROSSED SECOND SUBSTITUTE SENATE BILL  
NO. 6409.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 12, 2010

MR. PRESIDENT:  
The House has passed:  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6872.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 12, 2010

MR. PRESIDENT:  
The House concurred in the Senate amendment to ENGROSSED  
SUBSTITUTE HOUSE BILL NO. 2836 and passed the bill as  
amended by the Senate.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 12, 2010

MR. PRESIDENT:  
The Speaker has signed:  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2836.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 12, 2010

MR. PRESIDENT:  
The House has passed:  
SENATE CONCURRENT RESOLUTION NO. 8414.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:  
SENATE CONCURRENT RESOLUTION 8414.

SIGNED BY THE PRESIDENT

The President signed:

MESSAGE FROM THE HOUSE

April 12, 2010

MR. PRESIDENT:  
The Speaker has signed:  
ENGROSSED SECOND SUBSTITUTE SENATE BILL  
6409,  
SUBSTITUTE SENATE BILL 6727,  
ENGROSSED SUBSTITUTE SENATE BILL 6872,  
SENATE CONCURRENT RESOLUTION 8414.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 12, 2010

MR. PRESIDENT:  
The Speaker has signed:  
HOUSE CONCURRENT RESOLUTION NO. 4410.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President is signed:  
ENGROSSED SUBSTITUTE HOUSE BILL 2836,  
HOUSE CONCURRENT RESOLUTION 4410.

MESSAGE FROM THE HOUSE

April 12, 2010

MR. PRESIDENT:  
Under the provisions of SENATE CONCURRENT  
RESOLUTION NO. 8414, the following Senate bills are returned  
to the Senate:

ENGROSSED SUBSTITUTE SENATE BILL 5899,  
SECOND SUBSTITUTE SENATE BILL 6678,  
SUBSTITUTE SENATE BILL 6698,  
SUBSTITUTE SENATE BILL 6721,  
SUBSTITUTE SENATE CONCURRENT RESOLUTION  
8409.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator McDermott and without objections, all  
measures remaining on the second and third reading calendars  
were returned to the Committee on Rules.

MOTION

Under the provisions of SENATE CONCURRENT  
RESOLUTION NO. 8414, the following House Bills were  
returned to the House of Representatives:

HOUSE BILL 1697,  
SUBSTITUTE HOUSE BILL 2416,  
SUBSTITUTE HOUSE BILL 2580,

TWENTY NINTH DAY, APRIL 12, 2010

2010 1ST SPECIAL SESSION

SECOND SUBSTITUTE HOUSE BILL 2854,  
ENGROSSED SUBSTITUTE HOUSE BILL 2875,  
ENGROSSED SUBSTITUTE HOUSE BILL 2954,  
ENGROSSED HOUSE BILL 2969,  
HOUSE BILL 2984,  
ENGROSSED SUBSTITUTE HOUSE BILL 3048,  
ENGROSSED SUBSTITUTE HOUSE BILL 3182,  
ENGROSSED SUBSTITUTE HOUSE BILL 3186,

MOTION

On motion of Senator Eide, the reading of the Journal for the 29<sup>th</sup> day of the 2010 First Special Session of the 61<sup>st</sup> Legislature was dispensed with and it was approved.

MOTION

At 1:12 a.m. Tuesday, April 13, 2010, on motion of Senator Eide, the 2010 First Special Session of the Sixty-First Legislature adjourned SINE DIE.

BRAD OWEN, President of the Senate

TOM HOEMAN, Secretary of the Senate

**SENATE ROSTER**

**AND**

**COMMITTEE ASSIGNMENTS**



Name of Member	District	Party	County	Mailing Address	Birth Year Place	Occupation	Previous Years Served	
							House	Senate
Becker, Randi	2	R	Pierce (P), Thurston (P)	PO Box 40402 Olympia, WA 98504-0402	1948 - WA	Health Care Administrator		2009-
Benton, Don	17	R	Clark (P)	PO Box 40417Olympia, WA 98504- 0417	1957 - CA	CIO - National Advtsg Conslnt	1995-1996	1997-
Berkey, Jean	38	D	Snohomish (P)	PO Box 40438Olympia, WA 98504- 0438	1938 - CA	State Senator	Appt. 1/22/01-2002	Appt. 1/5/2004
Brandland, Dale	2	R	Whatcom (P)	PO Box 40442Olympia, WA 98504- 0442	1948 - MN	Retired County Sheriff		2003-
Brown, Lisa	3	D	Spokane (P)	PO Box 40403Olympia, WA 98504- 0403	1956 - IL	Assoc. Prof. Economics	1993-1996	1997-
Carrell, Mike	28	R	Pierce (P)	10210 Lk Louise Dr SWTacoma, WA 98498	1944 - WA	Teacher {retired}	1995-2004	Appt. 7/6/04
Delvin, Jerome	8	R	Benton (P)	PO Box 40408Olympia, WA 98504- 0408	1956 - WA	Retired	Appt. 11/28/94-2004	Appt. 5/12/04
Eide, Tracey	30	D	King (P)	PO Box 40430Olympia, WA 98504- 0430	1954 - WA	Senator	1993-1994	1999-
Fairley, Darlene	32	D	King (P), Snohomish (P)	PO Box 40432Olympia, WA 98504- 0432	1943 - WA	State Senator		1995-
Franklin, Rosa	29	D	Pierce (P)	PO Box 40429Olympia, WA 98504- 0429	1927 - SC	Registered Nurse - Retired	1991-1992	Appt. 1/25/93-

Name of Member	District	Party	County	Mailing Address	Birth Year Place	Occupation	Previous Years Served	
							House	Senate
Fraser, Karen	22	D	Thurston (P)	PO Box 40422 Olympia, WA 98504-0422	1944 - WA	Senator	1989-1992	1993-
Gordon, Randy	41	D	King	P. O. Box 40441 Olympia, WA 98504-0441	1953-NY	Attorney		Appt. 1/11/10
Hargrove, James	24	D	Clallam, Grays Harbor (P), Jefferson	PO Box 40424Olympia, WA 98504- 0424	1953 - OR	Forester	1985-1992	1993-
Hatfield, Brian	19	D	Cowlitz (P), Grays Harbor (P), Pacific, Wahkiakum	PO Box 40419Olympia, WA 98504- 0419	1966 - WA	Ec Development Specialist	Appt. 9/26/94-2004	Appt. 11/17/06
Haugen, Mary Margaret	10	D	Island, Skagit (P), Snohomish (P)	PO Box 40410Olympia, WA 98504- 0410	1941 - WA	Legislator	1983-1992	1993-
Hewitt, Mike	16	R	Benton (P), Columbia, Franklin (P), Walla Walla	PO Box 40416Olympia, WA 98504- 0416	1946 - WA	Legislator		2001-
Hobbs, Steve	44	D	Snohomish (P)	PO Box 40444Olympia, WA 98504- 0444	1970 - WA	UW Facilities Manager		2007-
Holmquist, Janéa	13	R	Grant (P), Kittitas, Yakima (P)	PO Box 40413Olympia, WA 98504- 0413	1974 - AK	Self Employed	Appt. 12/7/2001- 2006	12/6/06-

Name of Member	District	Party	County	Mailing Address	Birth Year	Place	Occupation	Previous Years Served	
								House	Senate
Honeyford, Jim	15	R	Clark (P), Klickitat, Skamania, Yakima (P)	PO Box 40415 Olympia, WA 98504-0415	1939	OR	Farmer/Retired Educator	1995-1998	1999-
Jacobsen, Ken	46	D	King (P)	PO Box 40446 Olympia, WA 98504-0446	1945	NE	Self-employed	1983-1996	Appt. 1/6/97-
Kastama, Jim	25	D	Pierce (P)	PO Box 40425 Olympia, WA 98504-0425	1959	WA	Legislator	1997-2000	2001-
Kauffman, Claudia	47	D	King (P)	PO Box 40447 Olympia, WA 98504-0447	1959	ID	Charity Fund and Federal Liaison		2007-
Keiser, Karen	33	D	King (P)	PO Box 40433 Olympia, WA 98504-0433	1947	IA	Ret'd Comm. Dir.	1996-2000	2001-
Kilmer, Derek	26	D	Kitsap (P), Pierce (P)	PO Box 40426 Olympia, WA 98504-0426	1974	WA	Economic Dev. Manager	2005-2006	2007-
King, Curtis	14	R	Yakima	PO Box 40414 Olympia, WA 98504-0414	1946	WA	Business Manager		elected 11/6/07-
Kline, Adam	37	D	King (P)	PO Box 40437 Olympia, WA 98504-0437	1944	NJ	Lawyer		Appt. 1/20/97-
Kohl-Welles, Jeanne	36	D	King (P)	PO Box 40436 Olympia, WA 98504-0436	1942	WI	Sociologist Lecturer, UW	1992-1994	Appt. 10/14/94-

Name of Member	District	Party	County	Mailing Address	Birth Year	Place	Occupation	Previous Years Served	
								House	Senate
Marr, Chris	6	D	Spokane (P)	PO Box 40406Olympia, WA 98504-0406	1954	- NJ	Retired		2007-
McAuliffe, Rosemary	1	D	King (P), Snohomish (P)	PO Box 40401Olympia, WA 98504-0401	1940	- WA	Ownr/Mgr HollywoodSchoolhouse		1993-
McCaslin, Bob	4	R	Spokane (P)	PO Box 40404Olympia, WA 98504-0404	1926	- OH	Retired Real Estate Broker		1981-
McDermott, Joe	34	D	King(P)	PO Box 40434Olympia, WA 98504-0434	1967	- WA	Legislator	1997-1998 2003-2007	Appt. 10/15/07
Morton, Bob	7	R	Ferry, Lincoln, Okanogan (P), Pend Oreille, Spokane (P), Stevens	PO Box 40407Olympia, WA 98504-0407	1934	- NY	Legislator	1991-93	Appt. 1/5/94-
Murray, Ed	43	D	King (P)	3302 Fuhrman Ave E #103Seattle, WA 98102	1955	- WA	Legislator	Appt. 11/4/1995,1996-2006	2007-
Oemig, Eric	45	D	King (P)	PO Box 40445Olympia, WA 98504-0445	1967	- WI	Software engineer		2007-
Parlette, Linda Evans	12	R	Chelan, Douglas, Grant (P), Okanogan (P)	PO Box 40412Olympia, WA 98504-0412	1945	- WA	Pharmacist & Orchardist	1997-2000	2001-

Name of Member	District	Party	County	Mailing Address	Birth Year	Place	Occupation	Previous Years Served	
								House	Senate
Pflug, Cheryl	5	R	King (P)	PO Box 40405Olympia, WA 98504-0405	1957	- WA	Registered Nurse	1999-2004	Appt. 1/5/04
Prentice, Margarita	11	D	King (P)	PO Box 40411Olympia, WA 98504-0411	1931	- CA	Registered Nurse, Retired	Appt. 5/31/88-1992	1993-
Pridemore, Craig	49	D	Clark (P)	PO Box 40449Olympia, WA 98504-0449	1961	- CA	Legislator		2005-
Ranker, Kevin	40	D	San Juan, Skagit (P), Whatcom (P)	PO Box 40440Olympia, WA 98504-0440	1970	- England	Coastal/Ocean Policy Consultant		2009-
Regala, Debbie	27	D	Pierce (P)	PO Box 40427Olympia, WA 98504-0427	1945	- WA	Community Volunteer	1995-2000	2001-
Roach, Pam	31	R	King (P), Pierce (P)	PO Box 40431Olympia, WA 98504-0431	1948	- CA	Self-Employed		1991-
Rockefeller, Phil	23	D	Kitsap (P)	PO Box 40423Olympia, WA 98504-0423	1938	- NY	Attorney (retired)	1999-2004	2005-
Schoesler, Mark	9	R	Adams, Asotin, Franklin (P), Garfield, Spokane (P), Whitman	PO Box 40409Olympia, WA 98504-0409	1957	- WA	Self-Employed Farmer	1993-2004	2005-

Name of Member	District	Party	County	Mailing Address	Birth Year	Place	Occupation	Previous Years Served	
								House	Senate
Sheldon, Tim	35	D	Grays Harbor (P), Kitsap (P), Mason, Thurston (P)	PO Box 40435Olympia, WA 98504-0435	1947	- WA	Tree Farmer	1991-1997	Elected 11/4/97-
Shin, Paull	21	D	Snohomish (P)	PO Box 40421Olympia, WA 98504-0421	1935	- Korea	Professor-Retired	1993-1994	1999-
Stevens, Val	39	R	King (P), Skagit (P), Snohomish (P), Whatcom (P)	PO Box 40439Olympia, WA 98504-0439	1939	- WA	Legislator	1993-1996	1997-
Swecker, Dan	20	R	Lewis, Thurston (P)	PO Box 40420Olympia, WA 98504-0420	1947	- MT	Sec/Treas Wa. Fish Growers		Appt. 1/5/95-
Tom, Rodney	48	D	King (P)	PO Box 594Medina, WA 98039	1963	- WA	Real Estate Agent	2003-2006	2007-
Zarelli, Joseph	18	R	Clark (P), Cowlitz (P)	PO Box 40418Olympia, WA 98504-0418	1961	- WA	Business Devlpmnt & Risk Mngt		Elected 11/7/95-
Hoemann, Thomas				PO Box 40482Olympia, WA 98504-0482	1952	- NE	Secretary of the Senate		2005-
Hendrickson, Brad				PO Box 40482Olympia, WA 98504-0482	1960	- WA	Deputy Secretary of the Senate		(1993-19961999-2002)2005-
Ruble, Jim				PO Box 40482Olympia, WA 98504-0482	1943	- WA	Sergeant At Arms		2005-

**Membership of  
Senate Standing Committees  
2010**

**Agriculture & Rural Economic Development (8) -- Hatfield, Chair; Ranker, Vice Chair; \*Schoesler; Becker; Haugen; Jacobsen; Morton; Shin**

**Early Learning & K-12 Education (11) -- McAuliffe, Chair; Kauffman, Vice Chair Early Learning; Oemig, Vice Chair K-12; \*King; Brandland; Gordon; Hobbs; Holmquist; McDermott; Roach; Tom**

**Economic Development, Trade & Innovation (7) -- Kastama, Chair; Shin, Vice Chair; \*Zarelli; Delvin; Eide; Kilmer; McCaslin**

**Environment, Water & Energy (11) -- Rockefeller, Chair; Pridemore, Vice Chair; \*Honeyford; Delvin; Fraser; Holmquist; Marr; Morton; Oemig; Ranker; Sheldon**

**Financial Institutions, Housing & Insurance (7) -- Berkey, Chair; Hobbs, Vice Chair; \*Benton; Franklin; McDermott; Parlette; Schoesler**

**Government Operations & Elections (7) -- Fairley, Chair; Oemig, Vice Chair; \*Roach; Benton; McDermott; Pridemore; Swecker**

**Health & Long-Term Care (8) -- Keiser, Chair; Franklin, Vice Chair; \*Pflug; Becker; Fairley; Marr; Murray; Parlette**

**Higher Education & Workforce Development (10) -- Kilmer, Chair; Kastama, Vice Chair; \*Becker; Hewitt; Jacobsen; McAuliffe; Pflug; Shin; Stevens; Tom**

**Human Services & Corrections (7) -- Hargrove, Chair; Regala, Vice Chair; \*Stevens; Brandland; Carrell; Kauffman; McAuliffe**

**Judiciary (8) -- Kline, Chair; Regala, Vice Chair; \*McCaslin; Carrell; Gordon; Hargrove; Kohl-Welles; Roach**

**Labor, Commerce & Consumer Protection (7) -- Kohl-Welles, Chair; Keiser, Vice Chair; \*Holmquist; Franklin; Honeyford; King; Kline**

**Natural Resources, Ocean & Recreation (8) -- Jacobsen, Chair; Ranker, Vice Chair; \*Morton; Fraser; Hargrove; Hatfield; Stevens; Swecker**

**Rules (19) -- Lieutenant Governor, Chair; Franklin, Vice Chair; \*Hewitt; Brown; Eide; Fraser; Haugen; Kauffman; Keiser; King; Kohl-Welles; Marr; Murray; Parlette; Pridemore; Regala; Schoesler; Stevens; Zarelli**

**Transportation (16) -- Haugen, Chair; Marr, Vice Chair; \*Swecker; Becker; Benton; Berkey; Delvin; Eide; Hatfield; Jacobsen; Kastama; Kauffman; Kilmer; King; Ranker; Sheldon**

**Ways & Means (22) -- Prentice, Chair; Fraser, Vice Chair Capital Budget; Tom, Vice Chair Operating Budget; \*Zarelli; Brandland; Carrell; Fairley; Hewitt; Hobbs; Honeyford; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Parlette; Pflug; Pridemore; Regala; Rockefeller; Schoesler**

\*Ranking Minority Member

**Membership Assignments to  
Senate Standing Committees  
2010**

<b>Becker, Randi</b>	*Higher Education & Workforce Development; Agriculture & Rural Economic Development; Health & Long-Term Care; Transportation
<b>Benton, Don</b>	*Financial Institutions, Housing & Insurance; Government Operations & Elections; Transportation
<b>Berkey, Jean</b>	Financial Institutions, Housing & Insurance, Chair; Transportation
<b>Brandland, Dale</b>	Early Learning & K-12 Education; Human Services & Corrections; Ways & Means
<b>Brown, Lisa</b>	Rules
<b>Carrell, Mike</b>	Human Services & Corrections; Judiciary; Ways & Means
<b>Delvin, Jerome</b>	Economic Development, Trade & Innovation; Environment, Water & Energy; Transportation
<b>Eide, Tracey</b>	Economic Development, Trade & Innovation; Rules; Transportation
<b>Fairley, Darlene</b>	Government Operations & Elections, Chair; Health & Long-Term Care; Ways & Means
<b>Franklin, Rosa</b>	Health & Long-Term Care, Vice Chair; Rules, Vice Chair; Financial Institutions, Housing & Insurance; Labor, Commerce & Consumer Protection
<b>Fraser, Karen</b>	Ways & Means, Vice Chair Capital Budget; Environment, Water & Energy; Natural Resources, Ocean & Recreation; Rules
<b>Gordon, Randy</b>	Early Learning & K-12 Education; Judiciary
<b>Hargrove, James</b>	Human Services & Corrections, Chair; Judiciary; Natural Resources, Ocean & Recreation
<b>Hatfield, Brian</b>	Agriculture & Rural Economic Development, Chair; Natural Resources, Ocean & Recreation; Transportation
<b>Haugen, Mary Margaret</b>	Transportation, Chair; Agriculture & Rural Economic Development; Rules
<b>Hewitt, Mike</b>	*Rules; Higher Education & Workforce Development; Ways & Means
<b>Hobbs, Steve</b>	Financial Institutions, Housing & Insurance, Vice Chair; Early Learning & K-12 Education; Ways & Means
<b>Holmquist, Janéa</b>	*Labor, Commerce & Consumer Protection; Early Learning & K-12 Education; Environment, Water & Energy
<b>Honeyford, Jim</b>	*Environment, Water & Energy; Labor, Commerce & Consumer Protection; Ways & Means
<b>Jacobsen, Ken</b>	Natural Resources, Ocean & Recreation, Chair; Agriculture & Rural Economic Development; Higher Education & Workforce Development; Transportation
<b>Kastama, Jim</b>	Economic Development, Trade & Innovation, Chair; Higher Education & Workforce Development, Vice Chair; Transportation
<b>Kauffman, Claudia</b>	Early Learning & K-12 Education, Vice Chair Early Learning; Human Services & Corrections; Rules; Transportation
<b>Keiser, Karen</b>	Health & Long-Term Care, Chair; Labor, Commerce & Consumer Protection, Vice Chair; Rules; Ways & Means

<b>Kilmer, Derek</b>	Higher Education & Workforce Development, Chair; Economic Development, Trade & Innovation; Transportation
<b>King, Curtis</b>	*Early Learning & K-12 Education; Labor, Commerce & Consumer Protection; Rules; Transportation
<b>Kline, Adam</b>	Judiciary, Chair; Labor, Commerce & Consumer Protection; Ways & Means
<b>Kohl-Welles, Jeanne</b>	Labor, Commerce & Consumer Protection, Chair; Judiciary; Rules; Ways & Means
<b>Marr, Chris</b>	Transportation, Vice Chair; Environment, Water & Energy; Health & Long-Term Care; Rules
<b>McAuliffe, Rosemary</b>	Early Learning & K-12 Education, Chair; Higher Education & Workforce Development; Human Services & Corrections
<b>McCaslin, Bob</b>	*Judiciary; Economic Development, Trade & Innovation
<b>McDermott, Joe</b>	Early Learning & K-12 Education; Financial Institutions, Housing & Insurance; Government Operations & Elections; Ways & Means
<b>Morton, Bob</b>	*Natural Resources, Ocean & Recreation; Agriculture & Rural Economic Development; Environment, Water & Energy
<b>Murray, Ed</b>	Health & Long-Term Care; Rules; Ways & Means
<b>Oemig, Eric</b>	Government Operations & Elections, Vice Chair; Early Learning & K-12 Education, Vice Chair K-12; Environment, Water & Energy; Ways & Means
<b>Parlette, Linda Evans</b>	Financial Institutions, Housing & Insurance; Health & Long-Term Care; Rules; Ways & Means
<b>Pflug, Cheryl</b>	*Health & Long-Term Care; Higher Education & Workforce Development; Ways & Means
<b>Prentice, Margarita</b>	Ways & Means, Chair
<b>Pridemore, Craig</b>	Environment, Water & Energy, Vice Chair; Government Operations & Elections; Rules; Ways & Means
<b>Ranker, Kevin</b>	Agriculture & Rural Economic Development, Vice Chair; Natural Resources, Ocean & Recreation, Vice Chair; Environment, Water & Energy; Transportation
<b>Regala, Debbie</b>	Human Services & Corrections, Vice Chair; Judiciary, Vice Chair; Rules; Ways & Means
<b>Roach, Pam</b>	*Government Operations & Elections; Early Learning & K-12 Education; Judiciary
<b>Rockefeller, Phil</b>	Environment, Water & Energy, Chair; Ways & Means
<b>Schoesler, Mark</b>	*Agriculture & Rural Economic Development; Financial Institutions, Housing & Insurance; Rules; Ways & Means
<b>Sheldon, Tim</b>	Environment, Water & Energy; Transportation
<b>Shin, Paull</b>	Economic Development, Trade & Innovation, Vice Chair; Agriculture & Rural Economic Development; Higher Education & Workforce Development
<b>Stevens, Val</b>	*Human Services & Corrections; Higher Education & Workforce Development; Natural Resources, Ocean & Recreation; Rules
<b>Swecker, Dan</b>	*Transportation; Government Operations & Elections; Natural Resources, Ocean & Recreation

**Tom, Rodney**                   Ways & Means, Vice Chair Operating Budget; Early Learning & K-12 Education;  
Higher Education & Workforce Development

**Zarelli, Joseph**               \*Economic Development, Trade & Innovation; \*Ways & Means; Rules

\* Ranking Minority Member

## MESSAGE FROM THE GOVERNOR

February 15, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on February 15, 2010, Governor Gregoire approved the following Senate Bills entitled:

**Substitute Senate Bill No. 6382**

Relating to reducing the cost of state government operations by restricting compensation.

Sincerely,  
Marty Brown, Legislative Director

## MESSAGE FROM THE GOVERNOR

February 24, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on February 24, 2010, Governor Gregoire approved the following Senate Bill entitled:

**Engrossed Substitute Senate Bill No. 6130**

Relating to amending provisions related to Initiative No. 960.

Sincerely,  
Marty Brown, Legislative Director

## MESSAGE FROM THE GOVERNOR

March 10, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on March 10, 2010, Governor Gregoire approved the following Senate Bills entitled:

**Engrossed Senate Bill No. 5041**

Relating to state contracts with veteran-owned businesses.

**Substitute Senate Bill No. 5046**

Relating to placing symphony musicians under the jurisdiction of the public employment relations commission for purposes of collective bargaining.

**Engrossed Senate Bill No. 5516**

Relating to drug overdose prevention.

**Senate Bill No. 5582**

Relating to the Washington state patrol chief for a day program.

**Second Engrossed Senate Bill No. 5617**

Relating to the early learning advisory council.

**Substitute Senate Bill No. 6197**

Relating to group life insurance.

**Substitute Senate Bill No. 6211**

Relating to creating an agricultural scenic corridor within the scenic and recreational highway system.

**Substitute Senate Bill No. 6213**

Relating to vehicles at railroad grade crossings.

**Senate Bill No. 6227**

Relating to permitting regularly enrolled students in a prescribed course of opticianry to practice under supervision without registering as an apprentice with the department of health.

**Senate Bill No. 6229**

Relating to the dairy inspection program.

**Substitute Senate Bill No. 6239**

Relating to making technical corrections to gender-based terms.

**Engrossed Substitute Senate Bill No. 6241**

Relating to creating community facilities districts.

**Substitute Senate Bill No. 6251**

Relating to nonresident surplus line brokers and insurance producers.

**Substitute Senate Bill No. 6271**

Relating to annexations by cities and code cities located within the boundaries of a regional transit authority.

**Substitute Senate Bill No. 6831**

Relating to estates and trusts.

Sincerely,  
Marty Brown, Legislative Director

MESSAGE FROM THE GOVERNOR

March 12, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on March 12, 2010, Governor Gregoire approved the following Senate Bills entitled:

**Senate Bill No. 6209**

Relating to allowing moneys paid to county road funds to be used for park and ride lots.

**Substitute Senate Bill No. 6273**

Relating to insurance coverage of the sales tax for prescribed durable medical equipment and mobility enhancing equipment.

**Senate Bill No. 6275**

Relating to harbor lines.

**Engrossed Substitute Senate Bill No. 6286**

Relating to the liability and powers of cities, diking districts, and flood control zone districts.

**Senate Bill No. 6288**

Relating to the authority of counties, cities, and towns to request criminal background checks from the Washington state patrol.

**Substitute Senate Bill No. 6298**

Relating to the deposit of public funds with credit unions.

**Senate Bill No. 6330**

Relating to permitting the placement of human trafficking informational posters in rest areas.

**Senate Bill No. 6450**

Relating to requiring the department of licensing to establish continuing education requirements for court reporters.

**Senate Bill No. 6453**

Relating to shared leave for members of the law enforcement officers' and firefighters' retirement system, plan 2.

**Senate Bill No. 6467**

Relating to honorary degrees for students who were ordered into internment camps.

Sincerely,  
Marty Brown, Legislative Director

MESSAGE FROM THE GOVERNOR

March 15, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on March 15, 2010, Governor Gregoire approved the following Senate Bills entitled:

**Senate Bill No. 6279**

Relating to the clarification of regional transit authority facilities as essential public facilities.

**Engrossed Senate Bill No. 6287**

Relating to the disposition of existing voter-approved indebtedness at the time of annexation of a city, partial city, or town to a fire protection district.

**Senate Bill No. 6297**

Relating to certification for speech-language pathology assistants.

**Substitute Senate Bill No. 6299**

Relating to animal inspection.

**Engrossed Substitute Senate Bill No. 6306**

Relating to crop adjusters.

**Substitute Senate Bill No. 6341**

Relating to transferring food assistance programs to the department of agriculture.

**Substitute Senate Bill No. 6357**

Relating to policies for the academic recognition of prior learning.

**Substitute Senate Bill No. 6367**

Relating to responses to public records requests.

**Substitute Senate Bill No. 6371**

Relating to money transmitters.

**Substitute Senate Bill No. 6524**

Relating to unemployment insurance penalties and contribution rates for employers who are not "qualified employers".

**Substitute Senate Bill No. 6556**

Relating to changing fees for certain types of agricultural burning.

**Substitute Senate Bill No. 6577**

Relating to modifying the transportation system policy goals.

**Substitute Senate Bill No. 6749**

Relating to the transfer of commercial real estate.

Sincerely,  
Marty Brown, Legislative Director

MESSAGE FROM THE GOVERNOR

March 17, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on March 17, 2010, Governor Gregoire approved the following Senate Bills entitled:

**Substitute Senate Bill No. 6342**

Relating to the Washington soldiers' home.

**Senate Bill No. 6365**

Relating to motor vehicle emission standards.

**Substitute Senate Bill No. 6510**

Relating to the extension of state route number 166.

**Senate Bill No. 6543**

Relating to the Washington tree fruit research commission.

**Substitute Senate Bill No. 6544**

Relating to time limitation for approval of plats.

**Senate Bill No. 6546**

Relating to membership in the public employees' retirement system.

**Senate Bill No. 6555**

Relating to removing state route number 908 from the state highway system.

**Substitute Senate Bill No. 6558**

Relating to petitions for administrative review of railroad crossing closures.

**Substitute Senate Bill No. 6591**

Relating to complaints filed with the human rights commission.

**Senate Bill No. 6627**

Relating to authorizing Washington pharmacies to fill prescriptions written by advanced registered nurse practitioners in other states or in certain provinces of Canada.

**Substitute Senate Bill No. 6634**

Relating to establishing civil penalties for failure to comply with dairy nutrient management recordkeeping requirements.

Sincerely,  
Marty Brown, Legislative Director

## MESSAGE FROM THE GOVERNOR

March 18, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on March 18, 2010, Governor Gregoire approved the following Senate Bills entitled:

**Senate Bill No. 6218**

Relating to modifying the local option capital asset lending program to authorize state use of certain voter approved excess tax levies to pay financing contracts and to clarify program participants.

**Substitute Senate Bill No. 6337**

Relating to inmate savings accounts.

**Substitute Senate Bill No. 6356**

Relating to limiting access to law enforcement and emergency equipment and vehicles.

**Substitute Senate Bill No. 6395**

Relating to lawsuits aimed at chilling the valid exercise of the constitutional rights of speech and petition.

**Substitute Senate Bill No. 6398**

Relating to the definition of threat.

**Senate Bill No. 6487**

Relating to repealing the expiration of the fair payment for chiropractic services requirement.

**Engrossed Second Substitute Senate Bill No. 6504**

Relating to the crime victims' compensation program.

**Senate Bill No. 6540**

Relating to the combined fund drive.

**Substitute Senate Bill No. 6674**

Relating to agreements to indemnify against liability for negligence involving motor carriers.

**Senate Bill No. 6745**

Relating to veterinary technician licenses.

**Substitute Senate Bill No. 6816**

Relating to special permitting for certain farm implements.

Sincerely,  
Marty Brown, Legislative Director

## MESSAGE FROM THE GOVERNOR

March 19, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on March 19, 2010, Governor Gregoire approved the following Senate Bills entitled:

**Substitute Senate Bill No. 5295**

Relating to the unanimous recommendations of the public records exemptions accountability committee.

**Engrossed Substitute Senate Bill No. 5529**

Relating to architects.

**Engrossed Substitute Senate Bill No. 5543**

Relating to mercury reduction.

**Substitute Senate Bill No. 5704**

Relating to creation of a flood district by three or more counties.

**Second Engrossed Substitute Senate Bill No. 5742**

Relating to crime-free rental housing.

**Substitute Senate Bill No. 6192**

Relating to the modification of restitution in juvenile cases.

**Substitute Senate Bill No. 6202**

Relating to vulnerable adults.

**Senate Bill No. 6206**

Relating to authorizing extensions of the due dates for filing tax incentive accountability reports and surveys with the department of revenue.

**Substitute Senate Bill No. 6208**

Relating to temporary agricultural directional signs.

**Senate Bill No. 6219**

Relating to funding sources for time certificate of deposit investments.

**Substitute Senate Bill No. 6248**

Relating to the use of bisphenol A.

**Engrossed Senate Bill No. 6261**

Relating to utility services collections against rental property.

**Substitute Senate Bill No. 6329**

Relating to creating a beer and wine tasting endorsement to the grocery store liquor license.

**Substitute Senate Bill No. 6332**

Relating to human trafficking.

**Substitute Senate Bill No. 6340**

Relating to membership of the Washington state forensic investigations council.

**Substitute Senate Bill No. 6346**

Relating to expanding the use of certain electric vehicles.

**Substitute Senate Bill No. 6350**

Relating to marine waters planning and management, including marine spatial planning.

**Substitute Senate Bill No. 6373**

Relating to reporting of emissions of greenhouse gases.

**Senate Bill No. 6418**

Relating to cities and towns annexed to fire protection districts.

**Substitute Senate Bill No. 6459**

Relating to the inspection of rental properties.

**Substitute Senate Bill No. 6557**

Relating to limiting the use of certain substances in brake friction material.

**Engrossed Senate Bill No. 6764**

Relating to accrual of interest on judgments founded on tortious conduct.

Sincerely,  
Marty Brown, Legislative Director

## MESSAGE FROM THE GOVERNOR

March 22, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on March 22, 2010, Governor Gregoire approved the following Senate Bills entitled:

**Substitute Senate Bill No. 6349 (Partial Veto)**

Relating to a farm internship program.

**Senate Bill No. 6379**

Relating to streamlining and making technical corrections to vehicle and vessel registration and title provisions.

**Senate Bill No. 6401**

Relating to an alternative process for selecting an electrical contractor or a mechanical contractor, or both, for general contractor/construction manager projects.

**Engrossed Second Substitute Senate Bill No. 6561**

Relating to restricting access to juvenile offender records.

**Second Substitute Senate Bill No. 6578**

Relating to the creation of optional multiagency permitting teams.

**Engrossed Second Substitute Senate Bill No. 6609**

Relating to infrastructure financing for local governments.

**Second Substitute Senate Bill No. 6667**

Relating to business assistance programs.

**Second Substitute Senate Bill No. 6679**

Relating to the small business export finance assistance center.

**Substitute Senate Bill No. 6692**

Relating to allowing certain counties to participate and enter into ownership agreements for electric generating facilities powered by biomass.

Sincerely,  
Marty Brown, Legislative Director

## MESSAGE FROM THE GOVERNOR

March 23, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on March 23, 2010, Governor Gregoire approved the following Senate Bills entitled:

**Engrossed Substitute Senate Bill No. 6582**

Relating to credentialing as a nursing assistant.

**Substitute Senate Bill No. 6647**

Relating to protecting jobs of members of the civil air patrol while acting in an emergency service operation.

**Engrossed Substitute Senate Bill No. 6724**

Relating to the leave sharing program.

**Senate Bill No. 6804**

Relating to allowing the department of social and health services to adopt rules establishing standards for the review and certification of treatment facilities under the problem and pathological gambling treatment program.

Sincerely,  
Marty Brown, Legislative Director

MESSAGE FROM THE GOVERNOR

March 25, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on March 25, 2010, Governor Gregoire approved the following Senate Bills entitled:

**Engrossed Substitute Senate Bill No. 5902**

Relating to promoting accessible communities for persons with disabilities.

**Substitute Senate Bill No. 6207 (Partial Veto)**

Relating to allowing local governments to create golf cart zones.

**Substitute Senate Bill No. 6214**

Relating to restructuring three growth management hearings boards into one board.

**Senate Bill No. 6243**

Relating to eliminating provisions for filings at locations other than the public disclosure commission.

**Senate Bill No. 6308**

Relating to controlling computer access by residents of the special commitment center.

**Substitute Senate Bill No. 6344**

Relating to campaign contribution limits.

**Senate Bill No. 6481**

Relating to clarifying which local governments have jurisdiction over conversion-related forest practices.

**Substitute Senate Bill No. 6520**

Relating to providing a one-year extension for completion of recommendations under RCW 36.70A.5601 conducted by the William D. Ruckelshaus Center.

**Engrossed Substitute Senate Bill No. 6522**

Relating to establishing the accountable care organization pilot projects.

**Substitute Senate Bill No. 6611**

Relating to extending the deadlines for the review and evaluation of comprehensive land use plan and development regulations for three years and addressing the timing for adopting certain subarea plans.

**Engrossed Substitute Senate Bill No. 6658**

Relating to modifying community solar project provisions for investment cost recovery incentives.

**Substitute Senate Bill No. 6688**

Relating to filling vacancies in nonpartisan local elective office.

**Engrossed Substitute Senate Bill No. 6789**

Relating to sales and use tax exemptions for certain equipment and infrastructure contained in data centers.

**Senate Bill No. 6826 (Partial Veto)**

Relating to subagent service fees.

**Senate Bill No. 6833**

Relating to management of funds and accounts by the state treasurer.

Sincerely,  
Marty Brown, Legislative Director

MESSAGE FROM THE GOVERNOR

March 26, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on March 26, 2010, Governor Gregoire approved the following Senate Bills entitled:

**Substitute Senate Bill No. 6339**

Relating to a sales and use tax exemption for wax and ceramic materials used to create molds for ferrous and nonferrous investment castings.

**Substitute Senate Bill No. 6345**

Relating to the use of wireless communications devices while driving.

**Substitute Senate Bill No. 6639**

Relating to creating alternatives to total confinement for nonviolent offenders with minor children.

**Second Substitute Senate Bill No. 6702**

Relating to providing education programs for juveniles in adult jails.

Sincerely,  
Marty Brown, Legislative Director

MESSAGE FROM THE GOVERNOR

March 29, 2010

To the Honorable President and Members,

The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on March 29, 2010, Governor Gregoire approved the following Senate Bills entitled:

**Substitute Senate Bill No. 6355**

Relating to expanding the higher education system upon proven demand.

**Substitute Senate Bill No. 6359**

Relating to promoting efficiencies including institutional coordination and partnerships in the community and technical college system.

**Substitute Senate Bill No. 6363**

Relating to the enforcement of certain school or playground crosswalk violations.

**Engrossed Substitute Senate Bill No. 6403 (Partial Veto)**

Relating to accountability and support for vulnerable students and dropouts, including prevention, intervention, and reengagement.

**Substitute Senate Bill No. 6572 (Partial Veto)**

Relating to eliminating accounts.

**Senate Bill No. 6593**

Relating to the transfer of the administration of the infant and toddler early intervention program from the department of social and health services to the department of early learning.

**Engrossed Substitute Senate Bill No. 6604**

Relating to flexibility in the education system.

**Engrossed Second Substitute Senate Bill No. 6696**

Relating to education reform.

**Substitute Senate Bill No. 6759**

Relating to a plan for a voluntary program of early learning.

*Sincerely,*

Marty Brown, Legislative Director

MESSAGE FROM THE GOVERNOR

March 30, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on March 30, 2010, Governor Gregoire approved the following Senate Bills entitled:

**Engrossed Substitute Senate Bill No. 6381 (Partial Veto)**

Relating to transportation funding and appropriations.

**Engrossed Substitute Senate Bill No. 6392 (Partial Veto)**

Relating to the use of revenue generated from tolling the state route number 520 corridor.

**Engrossed Substitute Senate Bill No. 6499**

Relating to the administration, collection, use, and enforcement of tolls.

**Engrossed Substitute Senate Bill No. 6774**

Relating to transportation benefit districts.

Sincerely,  
Marty Brown, Legislative Director

MESSAGE FROM THE GOVERNOR

March 31, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on March 31, 2010, Governor Gregoire approved the following Senate Bills entitled:

**Second Engrossed Senate Bill No. 6221**

Relating to the clarifying and expanding participation in the Washington state local government investment pool.

**Substitute Senate Bill No. 6293**

Relating to rendering criminal assistance in the first degree.

**Substitute Senate Bill No. 6361**

Relating to a person's identifying information submitted in the course of using the electronic statewide unified sex offender notification and registration program for the purpose of receiving notification regarding registered sex offenders.

**Substitute Senate Bill No. 6414**

Relating to improving the administration and efficiency of sex and kidnapping offender registration.

**Substitute Senate Bill No. 6548**

Relating to offenders on parole or probation.

**Engrossed Senate Bill No. 6610**

Relating to improving procedures relating to the commitment of persons found not guilty by reason of insanity.

**Substitute Senate Bill No. 6673**

Relating to bail practices and procedures.

**Substitute Senate Bill No. 6712**

Relating to extending expiring tax incentives for certain clean alternative fuel vehicles, producers of certain biofuels, and federal aviation regulation part 145 certificated repair stations.

**Engrossed Substitute Senate Bill No. 6737**

Relating to providing an exemption from property tax for aircraft used to provide air ambulance services.

Sincerely,  
Marty Brown, Legislative Director

MESSAGE FROM THE GOVERNOR

April 1, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on April 1, 2010, Governor Gregoire approved the following Senate Bills entitled:

**Substitute Senate Bill No. 5798**

Relating to medical marijuana.

**Engrossed Second Substitute Senate Bill No. 6267 (Partial Veto)**

Relating to water right processing improvements.

**Substitute Senate Bill No. 6280**

Relating to East Asian medicine practitioners.

**Engrossed Substitute Senate Bill No. 6468**

Relating to coordinating the weatherization and structural rehabilitation of residential structures.

**Substitute Senate Bill No. 6470**

Relating to the burdens of proof required in dependency matters affecting Indian children.

**Engrossed Substitute Senate Bill No. 6476 (Partial Veto)**

Relating to sex crimes involving minors.

**Substitute Senate Bill No. 6485**

Relating to craft distilleries.

**Engrossed Substitute Senate Bill No. 6538**

Relating to the definition of small groups for insurance purposes.

**Substitute Senate Bill No. 6584**

Relating to monitoring customer complaints and appeals and reporting them to the legislature.

**Substitute Senate Bill No. 6590**

Relating to law enforcement officer conduct.

**Substitute Senate Bill No. 6614**

Relating to clarifying the applicability of business and occupation tax to conservation programs with the Bonneville power administration.

**Engrossed Substitute Senate Bill No. 6726 (Partial Veto)**

Relating to making the governor the public employer of language access providers.

**Substitute Senate Bill No. 6832**

Relating to the implementation of delivery of child welfare services through performance-based contracts by adding a foster youth representative to the child welfare transformation design committee.

**Senate Bill No. 6855**

Relating to exempting community centers from property taxation and imposing leasehold excise taxes on such property.

Sincerely,  
Marty Brown, Legislative Director

MESSAGE FROM THE GOVERNOR

April 5, 2010

To the Honorable President and Members,

The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on April 5, 2010, Governor Gregoire approved the following Senate Bills entitled:

**Second Substitute Senate Bill No. 6675**

Relating to creating the Washington global health technologies and product development competitiveness program and allowing certain tax credits for program contributions.

**Substitute Senate Bill No. 6706**

Relating to commercialization of research at state universities.

Sincerely,  
Marty Brown, Legislative Director

MESSAGE FROM THE GOVERNOR

April 9, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on April 9, 2010, Governor Gregoire approved the following Senate Bill entitled:

**Substitute Senate Bill No. 6889**

Relating to the governance and financing of the Washington state convention and trade center.

Sincerely,  
Marty Brown, Legislative Director

MESSAGE FROM THE GOVERNOR

April 13, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on April 13, 2010, Governor Gregoire approved the following Senate Bills entitled:

**Senate Bill No. 6220**

Relating to determination of the terms and conditions of bonds, notes, and other evidences of indebtedness of the state of Washington.

**Substitute Senate Bill No. 6846**

Relating to enhanced 911 emergency communications services.

**Substitute Senate Bill No. 6884**

Relating to the practice of counseling.

Sincerely,  
Marty Brown, Legislative Director

MESSAGE FROM THE GOVERNOR

April 23, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on April 23, 2010, Governor Gregoire approved the following Senate Bills entitled:

**Second Engrossed Substitute Senate Bill No. 6143**

Relating to modifying excise tax laws to preserve funding for public schools, colleges, and universities, as well as other public systems essential for the safety, health, and security of all Washingtonians.

**Engrossed Second Substitute Senate Bill No. 6409 (Partial Veto)**

Relating to creating the Washington opportunity pathways account.

**Engrossed Senate Bill No. 6870**

Relating to containing costs for services to sexually violent predators.

Sincerely,  
Marty Brown, Legislative Director

MESSAGE FROM THE GOVERNOR

April 27, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on April 27, 2010, Governor Gregoire approved the following Senate Bills entitled:

**Engrossed Substitute Senate Bill No. 6503 (Partial Veto)**

Relating to the operations of state agencies.

**Substitute Senate Bill No. 6727**

Relating to health sciences and services authorities.

Sincerely,  
Marty Brown, Legislative Director

MESSAGE FROM THE GOVERNOR

May 4, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on May 4, 2010, Governor Gregoire approved the following Senate Bills entitled:

**Engrossed Substitute Senate Bill No. 6444 (Partial Veto)**

Relating to fiscal matters.

**Engrossed Substitute Senate Bill No. 6872 (Partial Veto)**

Relating to medicaid nursing facility payments.

Sincerely,  
Marty Brown, Legislative Director

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO ON SUBSTITUTE SENATE BILL 6349

March 22, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 5, Substitute Senate Bill 6349 entitled:

“AN ACT Relating to a farm internship program.”

This bill provides a structure for agricultural education with oversight from the Department of Labor and Industries. Section 5 provides that appropriations made for purposes of this act must be from the state general fund. The Legislature can determine through the appropriation process how to fund this program, and does not require a separate statutory provision to determine how to fund the program. This bill creates the program in the Department of Labor and Industries and therefore appropriations made for purposes of this act should be from the departments funds dedicated to that purpose.

For this reason, I have vetoed Section 5 of Substitute Senate Bill 6349.

With the exception of Section 5, Substitute Senate Bill 6349 is approved.

Respectfully submitted,  
CHRISTINE GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO ON SUBSTITUTE SENATE BILL 6207

March 25, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 7, Substitute Senate Bill 6207 entitled:

“AN ACT Relating to allowing local governments to create golf cart zones.”

The bill authorizes local jurisdictions to allow the use of golf carts on public roads that have speed limits of 25 miles per hour or less, under certain restrictions. The bill contains some important safety precautions, including requiring local jurisdictions to post signs identifying golf cart zones, and requiring that golf carts have seatbelts and proper lighting. Section 7 would exempt passengers under age 16 from the state’s seatbelt and child restraint requirements. I believe it is important these passenger safety provisions apply to the use of vehicles transporting a child on a public road.

For this reason, I have vetoed Section 7 of Substitute Senate Bill 6207.

With the exception of Section 7 of Substitute Senate Bill 6207 is approved.

Respectfully submitted,  
CHRISTINE GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO ON SENATE BILL 6826

March 25, 2010

The Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 2 of Senate Bill 6826.

“AN ACT Relating to subagent service fees.”

This bill authorizes a fee increase to help independent vehicle licensing subagents keep up with the cost of doing business and requires the Department of Licensing to implement a rotation of public and private vehicle service office listings on the Department’s website. For some time now the Department has been working with the Washington Association of Vehicle Subagents to redesign the website listings, so that the lookup function will allow a person to enter his or her zip code and receive a listing of licensing offices in order of proximity to that zip code. The Department has indicated to the Association that they will have this change completed by December 31, 2010. This proximity website feature will better serve the needs of the public and the subagents. Section 2 would not allow implementation of the proximity website feature requested by the subagents and planned by the Department.

For this reason I have vetoed Section 2 of Senate Bill 6826.

With the exception of Section 2, Senate Bill 6826 is approved.

Respectfully submitted,  
CHRISTINE GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO ON ENGROSSED SUBSTITTUE SENATE BILL 6403

March 29, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 1, Engrossed Substitute Senate Bill 6403 entitled:

“AN ACT Relating to accountability and support for vulnerable students and dropouts, including prevention, intervention, and reengagement.”

Section 1 is an intent section including legislative findings and goals regarding the development of a dropout prevention program to serve vulnerable youth. The intent section could be read to conflict with the substantive description of the type of program to be developed as stated in Section 3. A veto if the intent section eliminates this potential conflict.

For this reason, I have vetoed Section 1 of Engrossed Substitute Senate Bill 6403.

With the exception of Section 1, Engrossed Substitute Senate Bill 6403 is approved.

Respectfully submitted,  
CHRISTINE GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO ON SUBSTITUTE SENATE BILL 6572

March 29, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 2, Substitute Senate Bill 6572 entitled:

“AN ACT Relating to eliminating accounts.”

This bill eliminates inactive state funds and accounts to simplify the state accounting process.

Section 2 which amends a reference to the special purpose district research services account is also amended in Engrossed Second Substitute House Bill 2658 eliminating the Municipal Research Council and transferring its duties to the Department of Commerce. A veto of Section 2 eliminates this conflicting double amendment.

For this reason, I have vetoed Section 2 of Substitute Senate Bill 6572.

With the exception of Section 2, Substitute Senate Bill 6572 is approved.

Respectfully submitted,  
CHRISTINE O. GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO ON ENGROSSED SUBSTITUTE SENATE BILL 6381

March 30, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Sections 215(3); 215(5); 221(13); 303(43); 304(15); 401, page 89, lines 18-20, 23-25, and 26-27; and 602 of Engrossed Substitute Senate Bill 6381 entitled:

“AN ACT Relating to transportation funding and appropriations.”

**Section 215(3), page 31, Department of Transportation**

This proviso ties the appropriation contained within this subsection to either the Joint Legislative Audit and Review Committee (JLARC) or the Joint Transportation Committee (JTC) conducting an analysis indentified in Sections 108(4) and 204 of this bill. This action effectively delegates appropriation authority to either the JLARC or the JTC. I believe that this delegation of authority will be remedied in the operating budget. For this reason, I have vetoed Section 215(3).

**Section 215(5), page 32, Department of Transportation**

This proviso requires the Department of Transportation to finalize all pending equal value exchange activities for the construction or improvement of facilities. Thereafter, the Department may not pursue any other equal value exchanges except to replace the Mount Baker headquarters office. Equal value exchanges are important tools that the Department uses to fund high priority facility projects. For this reason, I have vetoed Section 215(5).

**Section 221(13), page 47, Department of Transportation**

This proviso requires the Department of Transportation to implement a pilot program for the remainder of the 2009-11 Biennium to expand the use of high occupancy vehicle lanes, transit-only lanes, and certain park and ride facilities to private transportation providers. The proviso requires transit agencies and other local jurisdictions to have a process to receive applications for the reasonable use of these facilities. If a private transportation provider demonstrates that the transit agency or local jurisdiction failed to consider an application in good faith, the Department may not award any grant funding.

This proviso conflicts with federal regulations due to its broad allowance of the private use of public facilities. The Federal Transit Authority (FTA) requires specific authorization before allowing private transportation uses in federally funded public facilities. In addition, the issuance of grants to local jurisdictions for vanpools, special needs transportation, and other facilities to improve regional mobility should not be based upon the outcome of negotiations between local jurisdictions and private transportation providers.

For these reasons, I have vetoed Section 221(13).

**Section 303(43), page 66, Department of Transportation**

**Section 304(15), page 72, Department of Transportation**

These provisos require that redistributed federal funds received by the Department of Transportation first be applied to offset planned expenditures of state funds, and second to offset planned expenditures of federal funds, on projects identified in the project list in the 2010 supplemental budget. If these options are not feasible, the Department must consult with the Joint Transportation Committee (JTC) prior to obligating redistributed federal funds. If such consultation is not feasible and Washington does not act quickly, we may lose the opportunity to receive redistributed federal funds. However, because input from the Legislature is important, I am directing the Department to consult with JTC members.

For this reason, I have vetoed Section 303(43) and Section 304(15).

**Section 401, page 89, lines 18-20, 23-25, and 26-27, State Treasurer**

This section provides for bond sale discounts and debt to be paid by the motor vehicle account and transportation fund revenue. Technical modeling problems resulted in some erroneous amounts.

For this reason, I have vetoed line 18-20, 23-25, and 26-27 of Section 401.

**Section 602, page 96, Department of Transportation**

This proviso requires that redistributed federal funds received by the Department of Transportation first be applied to offset planned expenditures of state funds, and second to offset planned expenditures of federal funds, on projects identified in the project list in the 2010 supplemental budget. If these options are not feasible, the Department must consult with the Joint Transportation Committee (JTC) prior to obligating redistributed federal funds. For the same reason that I vetoed Section 303(43) and Section 304(15) above, I have vetoed Section 602.

For these reasons, I have vetoed Sections 215(3); 215(5); 221(13); 303(43); 304(15); 401, page 89, lines 18-20, 23-25, 26-27 and 602, Engrossed Substitute Senate Bill 6381.

With the exception of Sections 215(3); 215(5); 221(13); 303(43); 304(15); 401, page 89, lines 18-20, 23-25, 26-27 and 602, Engrossed Substitute Senate Bill 6381 is approved.

Respectfully submitted,  
CHRISTINE GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO ON ENGROSSED SUBSTITUTE SENATE BILL 6392

March 30, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Sections 1 and 3, Engrossed Substitute Senate Bill 6392 entitled:

“AN ACT Relating to the use of revenue generated from tolling the state route number 520 corridor.”

Section 1 outlines legislative intent for the bill. I believe the legislation itself states clearly that improvements throughout the SR 520 corridor need to move forward, with the proper input from appropriate parties. However, Section 1 is vague and susceptible to conflicting interpretations, which I believe could hinder our ability to make progress on a project that is important to public safety and economic vitality.

Section 3 requires that the SR 520 bridge be no higher than 20 feet. I recognize it is important to local communities that the bridge have as low a profile as possible. Decisions regarding the dimensions of a transportation facility must also be based on engineering standards, safety considerations permitting requirements, and state and federal law. Section 3 potentially prevents the Department of Transportation from complying with Coast Guard requirements and eliminates any possibility of adjusting the size of the facility based upon design or permitting needs. As a result, I am vetoing this section and directing the Department to continue to work with neighborhoods and local governments to refine the preferred alternative design.

For these reasons, I have vetoed Sections 1 and 3 of Engrossed Substitute Senate Bill 6392.

With the exception of Sections 1 and 3, Engrossed Substitute Senate Bill 6392 is approved.

Respectfully submitted,  
CHRISTINE GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO ON ENGROSSED SECOND SUBSTITUTE SENATE BILL 6267

April 1, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Sections 9, 10, 14 and 15, Engrossed Substitute Senate Bill 6267 entitled:

“AN ACT Relating to water right processing improvements.”

This bill provides applicants and the Department of Ecology with tools that can be used, when appropriate, to expedite the processing of water right applications.

Sections 9 and 10 define the original location of a well associated with a water right claim as the area located within a one-quarter mile radius of the current well or wells. The original location of a well is used to determine when a replacement well requires a formal change to the water right.

The specific definitions in Sections 9 and 10 would reduce the Department of Ecology’s flexibility and impair its current discretion to decide when a replacement well warrants formal review and approval. Such flexibility and discretion is needed when the impacts of a replacement well will depend on the circumstances. Sections 14 and 15 provide expiration and effective dates for Sections 9 and 10, respectively.

For these reasons, I have vetoed Section 9, 10, 14 and 15 of Engrossed Second Substitute Senate Bill 6267.

With the exception of Sections 9, 10, 14 and 15 Engrossed Second Substitute Senate Bill 6267 is approved.

Respectfully submitted,  
CHRISTINE GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO ON ENGROSSED SUBSTITUTE SENATE BILL 6476

April 1, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 4 Engrossed Substitute Senate Bill 6476 entitled:

“AN ACT Relating to sex crimes involving minors.”

Section 4 requires the Department of Social and Health Services to provide a report to the relevant policy and fiscal committees of the Legislature by November 1, 2010, regarding the training needed to allow staff of the Children’s Administration and crisis residential centers to work effectively with sexually exploited youth. The report must identify the evidence-based training programs to be used and the cost of such training. This section would be codified in chapter 13.32A RCW.

The Department will make the information available. A statutorily required report is unnecessary.

For these reasons, I have vetoed Section 4 of Engrossed Substitute Senate Bill 6476.

With the exception of Section 4, Engrossed Substitute Senate Bill 6476 is approved.

Respectfully submitted,  
CHRISTINE GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR  
VETO ON SECOND SUBSTITUTE SENATE BILL 6575

April 1, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Second Substitute Senate Bill 6575 entitled:

“AN ACT Relating to recommendations of the joint legislative task force on the underground economy.”

Second Substitute Senate Bill 6575 is designed to limit the underground construction economy by requiring contractors who fail to register with the Department of Labor and Industries to enroll in a training class in addition to registering with the department. First-time offenders who do so would be eligible for reduced fines. Narrowing the underground economy is a laudable goal, and one that should be pursued with stronger legislation.

Despite its benefits, this bill has one significant negative outcome that cannot be ignored. By creating a dedicated account for revenues from contractor registrations, renewals course fees, and penalties, this bill would reduce net revenues to the state’s general fund by more than \$2 million annually beginning in Fiscal Year 2012. In these difficult economic times, that reduction would have negative impacts greater than the benefits this legislation would provide. I would welcome similar legislation without the creation of a dedicated account. In addition, I am directing the Departments of Revenue, Labor and Industries, and Employment Security to continue interagency coordination of efforts with stakeholders to identify and sanction unregistered contractors.

For these reasons I have vetoed Second Substitute Senate Bill 6575 in its entirety.

Respectfully submitted,  
CHRISTINE GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO ON ENGROSSED SUBSTITUTE SENATE BILL 6726

April 1, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 1, Engrossed Substitute Senate Bill 6726 entitled:

“AN ACT Relating to making the governor the public employer of language access providers.”

This bill provides for collective bargaining between the Governor and language access providers. Section 1 creates a new workgroup, directed by the Office of Financial Management, charged with developing a plan to improve the efficiency and effectiveness for interpreter service delivery for the Department of Social and Health Services. The Office of Financial Management is to report the findings of the workgroup to the Legislature no later than September 30, 2010.

Collective bargaining for language access providers working with the Department of Social and Health Services does not require a legislatively mandated workgroup to make recommendations on improvements to the delivery of services. I am directing the Office of Financial Management and the Department of Social and Health Services to conduct an internal review resulting in recommendations to improve administrative efficiency and effectiveness of language access services and, as part of the review, to seek input from the appropriate stakeholders.

For these reasons I have vetoed Section 1 of Engrossed Substitute Senate Bill 6726.

With the exception of Section 1 Engrossed Substitute Senate Bill 6726 is approved.

Respectfully submitted,  
CHRISTINE GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR  
VETO ON SUBSTITUTE SENATE BILL 6343

April 2, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Senate Bill 6343 entitled:

“AN ACT Relating to the establishment of the Washington Food policy forum.”

Improved coordination of efforts relating to our state food policy is needed. However, this bill identifies goals that overlap with existing state agency activities. This redundancy will lead to spending time and financial resources on issues already addressed by existing agency programs. In addition, this bill establishes a forum consisting of 25 representatives and charges the forum with addressing a broad range of food system goals over the next five years. Experience teaches that the large size of the forum combined with a broad range of issues diminishes the prospects for success.

While I have vetoed this bill, I am committed to a more focused examination of state food policy, food-related programs, and food-related issues. I intend to issue an executive order directing the Departments of Health, Agriculture, and Social and Health Services, along with a request to the Conservation Commission and the Office of Superintendent of Public Instruction, to work collaboratively with other agencies and non-governmental organizations, to:

- a. Pursue federal and other grant source funds to identify gaps and opportunities to address food security, nutrition, and health of Washington citizens;
- b. Explore ways to promote nutrition, especially for those who are most in need;
- c. Help educate the public and policy makers on the status of hunger in Washington State, and the role they play in addressing issues of food security, nutrition and health; and
- d. Collaborate and coordinate with private, public and governmental organizations to support realistic solutions to improving food security, nutrition and health for all Washingtonians; and,
- e. Help educate the public and policy makers on the importance of farmland preservation and the importance of promoting Washington-grown products to farmers; markets, food banks, and institutions.

For these reasons I have vetoed Substitute Senate Bill 6343 in its entirety.

Respectfully submitted,  
CHRISTINE GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO ON ENGROSSED SECOND SUBSTITUTION SENATE BILL NO. 6409

April 23, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 7, Engrossed Second Substitute Senate Bill No. 6409 entitled:

“AN ACT Relating to creating the Washington opportunity pathways account.”

This bill creates the Washington Opportunity Pathways Account and directs that beginning in Fiscal Year 2011 net revenues from in-state lottery games that are not otherwise dedicated will be placed in this new account.

Section 7 of this bill requires costly consultation and studies of areas of lottery operations that already receive significant oversight. The section directs the Joint Legislative Audit and Review Committee (JLARC) to study the marketing and vendor expenditures and incentive payment programs of the Commission by November 1, 2010. The estimated costs of the studies are not funded in the budget. In addition, the Executive Committee of JLARC has requested this section be vetoed and that the study take place next biennium. I agree with the need for the study and request the committee to include it in their future planning.

For these reasons I have vetoed Section 7 of Engrossed Second Substitute Senate Bill No. 6409.

With the exception of Section 7 of Engrossed Second Substitute Senate Bill No. 6409 is approved.

Respectfully submitted,  
CHRISTINE GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO ON ENGROSSED SUBSTITUTE SENATE BILL 6503

April 27, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 2, Engrossed Substitute Senate Bill No. 6503 entitled:

“AN ACT Relating to the operations of state agencies.”

This bill directs state agencies to achieve reductions in employee compensation costs. Section 2 of this bill would require additional compensation reductions of \$10 million General Fund State from Washington Management Service and exempt manager, who comprise less than five percent of state employees. A cut of this size, over such a small base, is too large to be practical. For example, it would take nearly two weeks of temporary layoff – over and above the ten days of layoff due to agency closures included in this bill – to reach this level of compensation reduction.

Managers will be subject to the temporary layoffs in proportion to all staff. Imposing this added reduction would interfere with recruiting and retaining qualified and experienced workers. It would likely cause salary inversion, making it particularly hard to promote senior state employees with technical skills into management jobs.

For these reasons I have vetoed Section 2 of Engrossed Substitute Senate Bill No. 6503.

With the exception of Section 2 of Engrossed Substitute Senate Bill No. 6503 is approved.

Respectfully submitted,  
CHRISTINE GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO ON ENGROSSED SUBSTITUTE SENATE BILL NO. 6444

May 4, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Sections 109; 117, page 17, lines 10-11; 127(27); 127(28); 127(31); 127(36); 127(38); 127(39); 129, page 35, lines 19-20; 129(3); 129(6); 131(2); 201(7); 204(3)(f); 205(1)(m); 205(1)(n); 205(1)(o); 205(1)(p); 205(1) (r); 205(1)(s); 206(20); 206(21); 207(2); 207(11); 209(14); 209(35); 209(38); 209(39); 209(40); 209(41); 209(42); 209(47); 212(6); 212(7); 214(7); 214(8); 221(21); 221(28); 223(2)(h); 303(3); 303(4);

304(4); 306(2); 308(15); 501(1)(b); 501(1)(f)(iv); 604(7); 605(5); 708; 717; 803, page 281, line 38, and page 282, lines 1-11; 803, page 283, lines 20-22; 803, page 283, lines 23-27; 803, page 285, lines 28-31; 902; 908; 920; 926; 937; and 939, Engrossed Substitute Senate Bill No.6444 entitled:

“AN ACT Relating to fiscal matters.”

I am vetoing the following appropriation items because of concerns with policy or technical issues relating to the legislative provisions:

**Section 109, page 10, Supreme Court, Change to Fiscal Year 2011 General Fund-State Appropriation**

The reduced appropriation to the Supreme Court in this section will impede the Court’s capacity to hear cases in a timely manner. The Court will work with the Legislature to implement budget reductions in the 2011 Supplemental Budget; therefore, I have vetoed Section 109.

**Section 117, page 17, lines 10-11, Lieutenant Governor, Reduction to Private/Local Appropriation**

The \$2,000 reduction in the existing private/local fund appropriation would require the agency to turn away grant funds from a local school district. For this reason, I have vetoed Section 117, lines 10-11.

**Section 127(27), page 30, Department of Commerce, Microenterprise Development Organizations**

This proviso prohibits the Department of Commerce from reducing the funding for microenterprise development organizations by more than ten percent this biennium. This restriction limits the agency’s ability to manage necessary budget reductions. For this reason, I have vetoed Section 127(27).

**Section 127(28), pages 30-31, Department of Commerce, Workgroup to Study Gaps in State Commercialization Programs**

This proviso requires the Department of Commerce to convene a work group to study the gaps and overlaps in programs that commercialize research and technology initiatives. This group must prepare a report to the Legislature no later than December 1, 2010, that identifies any gaps and overlaps, evaluates strategies to reduce administrative expenses, and recommends changes that would amplify and accelerate innovation-driver job creation in the state. No funding was provided for the review and study. For this reason, I have vetoed Section 127(28). However, I am directing the Department of Commerce to conduct as much of a review as is possible within its existing resources because I believe the information required by the proviso will be useful.

**Section 127(31), pages 31-32, Department of Commerce, Separate Budget Request for the Economic Development Commission**

This proviso requires the Economic Development Commission, currently funded through the Department of Commerce, to develop a separate budget request and work plan. It also creates an account for the receipt of gifts, donations, sponsorships, or contributions from which only the Commission or its designee may authorize expenditures. Because the Economic Development Commission is part of the Department of Commerce, its budget and work plan is and should remain part of the Department’s budget requests. In addition, it is inappropriate to establish an account in an appropriations bill. For these reasons, I have vetoed Section 127(31).

**Section 127(36), page 34, Department of Commerce, New Account for Washington Technology Center**

This proviso creates the Investing in Innovation Account to be used only by the Washington Technology Center in carrying out the Investing in Innovation Grants Program and other innovation and commercialization activities. Since the Center is a non-profit organization, not a public agency, it cannot administer a state account. In addition, it is inappropriate to establish an account in an appropriations bill. For these reasons, I have vetoed Section 127(36).

**Section 127(38), page 34, Department of Commerce, Washington State Quality Award Training for Small Manufacturers and Other Businesses**

This subsection provides \$50,000 in General Fund-State funding for Washington State Quality Award Council training for small manufacturers and other businesses/organizations engaged in continuous quality improvement, performance measurements, strategic planning, and other approaches that enhance productivity. The state’s current and projected fiscal environment necessitates spending on only the most essential state programs and activities, and spending \$50,000 on this activity will provide minimal benefit to Washington’s small businesses. For this reason, I have vetoed Section 127(38).

**Section 127(39), page 34, Department of Commerce, Appropriation to Manufacturing Innovation and Modernization Account**

This subsection provides \$50,000 in General Fund-State funding for deposit into the Manufacturing Innovation and Modernization Account, which provides vouchers to small manufacturers to purchase consulting services from a qualified manufacturing extension partner affiliate. To date, no small manufacturers have taken advantage of this

program, and approximately \$150,000 remains in the account. Given the state's current and projected fiscal environment and the lack of demand for these services, an additional deposit of funds into this account does not seem warranted. For this reason, I have vetoed Section 127(39).

**Section 129, page 35, lines 19-20, Office of Financial Management, Change to Fiscal Year 2011 General Fund-State Appropriation**

The reduction to the Fiscal Year 2011 appropriation is vetoed in order to retain sufficient funds to conduct two critical budget-related studies; and independent assessment of placements in residential habilitation centers in Section 129(6) and an analysis and strategic business plan for the Consolidated State Data Center and Office in section 129(7). Insufficient funds were provided to prepare a valuable study, and no new funds were provided for the Date Center study. The agency will still implement all administrative reductions assumed in the budget as passed, and the additional spending authority will be used to accomplish the new work assigned to the agency. For these reasons, I have vetoed Section 129, line 19-20.

**Section 129(3), pages 36-37, Office of Financial Management, Washington State Quality Award Training**

This subsection provides \$25,000 in General Fund-State funding for the Office of Financial Management to contract with the Washington State Quality Award Program to provide training for state managers and employees. The state's current and projected fiscal environment necessitates spending on only the most essential requirements. For this reason, I have vetoed Section 129(3).

**Section 129(6), page 38, Office of Financial Management**

The \$200,000 appropriation for this study is divided between two fiscal years so the Office of Financial Management will not be able to use half of the money, making it impossible to satisfactorily complete the review as envisioned. Therefore, I am vetoing section 129(6). In order to assess the status of people who currently live in residential habilitation centers, I am directing the Department of Social and Health Services to conduct assessments in a similar manner as is done for people in community residential programs. The assessments shall include interviews with all residential habilitation center residents or guardians of residents to determine the optimum setting for these individuals and shall include the option and choice to remain in a residential habilitation center. The Office of Financial Management shall contract with an independent consultant to review the assessments and determine whether there are funded options available in the community for residential habilitation center residents who indicate an interest in moving to a community placement and whether appropriate services and resources in the community exist or can be developed to provide adequate care for people with developmental disabilities. The consultant shall provide a report to me and the Legislature by December 1, 2010. For these reasons, I have vetoed Section 129(6).

**Section 131(2), page 40, Department of Personnel, Employee Satisfaction Synopsis and Workforce Management Assessment**

This proviso requires the Department of Personnel to provide a synopsis of survey data regarding state employee satisfaction and an assessment of career and executive work force management concerns. There is a technical problem with an incorrect reference to Section 119(4) instead of Section 123(4). For this reason, I am vetoing Section 131(2), but directing the Department to comply with the intent of the proviso to the degree possible within existing resources.

**Section 201(7), page 58-59, Department of Social and Health Services, Audit and Oversight Improvement**

This proviso requires multiple changes to the Department's audit and oversight programs. This requirement would create a significant administrative burden, and no funding was provided for this purpose. For this reason, I have vetoed Section 201(7).

**Section 204(3)(f), pages 81-82, Department of Social and Health Services, Report on Mental Health Services for Children**

The Department of Social and Health Services is directed to provide a report on improving services for children who are at greatest risk of requiring long-term inpatient and residential care due to the severity of their emotional impairments. The proviso requires the Family Policy Council to prepare an inventory of current publicly funded efforts in Washington to identify children at risk of emotional impairments and to provide intervention before a mental disorder manifests itself. In light of national health care reform and the state's efforts to reorganize in response, requiring that a report be prepared by October 1, 2010, will not give the Department sufficient time to respond to health care reform, formulate a redesigned plan to address children's mental health, and work with the federal government. As the Department is currently involved in litigation regarding children's mental health, and because I believe that all aspects of the public children's mental health system need to be evaluated in light of national health care reform and because a deadline of October 1 does not provide sufficient time to respond, I have vetoed Section 204(3)(f).

**Section 205(1)(m), page 88, Department of Social and Health Services, County Employment Funding**

This proviso prohibits the Department of Social and Health Services from reducing expenditures for contracts with counties for employment assistance for people with developmental disabilities. This restriction limits the Department's ability to manage necessary budget reductions. Therefore, I have vetoed Section 205(1)(m).

**Section 205(1)(n), page 88, Department of Social and Health Services Developmental Disabilities Program, Agency Provider Savings and Hourly Rates**

The Department of Social and Health Services is directed to report on the fiscal impact of Chapter 571, Laws of 2009 (Substitute House Bill 2361) and the relative hourly costs of agency providers and individual providers. However, no funding is provided for this purpose. Therefore, I have vetoed Section 205(1)(n).

**Section 205(1)(o), pages 88-89, Department of Social and Health Services Developmental Disabilities Program, Workgroup on Administrative Burdens for the Homecare Industry**

The Department of Social and Health Services is directed to convene a new work group to address administrative burdens on the homecare industry and to report on its findings. However, no funding is provided. Therefore, I have vetoed Section 205(1)(o).

**Section 205(1)(p), page 89, Department of Social and Health Services, Report on Placements for Residential Clients**

This proviso requires a quarterly report on all placements for residential clients in the community protection and expanded community programs in the Division of Developmental Disabilities. Because of the cost involved, I have vetoed Section 205(1)(p) and am directing the Department of Social and Health Services to continue providing the quarterly reports which cover only new residential clients added to the programs in the current biennium.

**Section 205(1)(r), page 89, Department of Social and Health Services, Self-Advocate Support**

This proviso directs the Department of Social and Health Services to spend an additional \$100,000 to provide instruction in self-advocacy to families of individuals with developmental disabilities. In these difficult economic times, it is not prudent to expand services. For this reason, I have vetoed Section 205(1)(r).

**Section 205(1)(s), pages 89-90, Department of Social and Health Services, Community Support**

The Department of Social and Health Services is directed to spend an additional \$100,000 for parent-to-parent networks and community support groups for people with developmental disabilities. In a time when we are reducing other valuable core services of state government, we cannot afford to expand these services. For this reason, I have vetoed Section 205(1)(s).

**Section 206(20), page 97, Department of Social and Health Services Aging and Adult Services Program, Agency Provider Savings and Hourly Rates**

The Department of Social and Health Services is directed to report on the fiscal impact of Chapter 571, Laws of 2009 (Substitute House Bill No. 2361) and the relative hourly costs of agency providers and individual providers. However, no funding is provided. Therefore, I have vetoed Section (206)(20).

**Section 206(21), pages 97-98, Department of Social and Health Services Aging and Adult Services Program, Workgroup on Administrative Burdens for the Homecare Industry**

The Department of Social and Health Services is directed to convene a new work group to address administrative burdens for the homecare industry and to report on its findings. However, no funding is provided. Therefore, I have vetoed Section 206(21).

**Section 207(2), pages 101-102 Department of Social and Health Services, Subcabinet Report on WorkFirst**

This proviso directs the WorkFirst Subcabinet and Department of Social and Health Services to report on services provided and accessed by both general population clients and limited English proficiency clients. No funding is provided for this report. Therefore, I have vetoed Section 207(2).

**Section 207(11), page 106, Department of Social and Health Services, Limited English Proficiency Services**

This proviso reinstates a portion of the reduction taken in the 2009-11 enacted budget for limited English proficiency services. Given the budget context, it is not appropriate to restore this reduction. Therefore, I have vetoed Section 207(11).

**Section 209(14), page 112-113, Department of Social and Health Services, Disability Lifeline Report on Transition from Fee-for-Service to Managed Care**

This revised proviso requires the Department of Social and Health Services to report to the Legislature by November 1, 2010, on the impact of moving Lifeline medical clients from fee-for-service to managed care, and expands the outcomes to be included in the evaluation currently required. Since there is a lengthy lag period between when services

are received by a client and when they are paid for by the state, there will not be sufficient data to report. For this reason, I have vetoed Section 209(14).

**Section 209(35), page 117, Department of Social and Health Services, Medication Therapy Management**

This proviso requires the Department of Social and Health Services to enter into a contract for medication therapy management services only if the contractor guarantees the program will generate savings. While there may be merit in this concept, no additional administrative resources were provided for implementation. For this reason, I have vetoed Section 209(35).

**Section 209(38), page 117, Department of Social and Health Services, Lowest Cost Prescription Drug Option**

This proviso requires the Department of Social and Health Services to purchase a brand-name drug if the drug, after rebates and discounts, is the lowest-cost drug option. The Department has made good progress in reducing the growth in drug costs for state-purchased health care. This has been done through establishing a preferred drug list and emphasizing generic substitutes when appropriate. The Department will continue to purchase the lowest-cost drugs possible. However, there are challenges with implementing this requirement as written. In addition, no funding has been provided for this report. For these reasons, I have vetoed Section 209(38).

**Section 209(39), page 117, Department of Social and Health Services, Report on new Prescription Drug Benchmark**

The Department of Social and Health Services is required to report to the Legislature concerning the establishment of a new benchmark for prescription drugs to replace the Average Wholesale Price. No funding has been provided for this report. For this reason, I have vetoed Section 209(39).

**Section 209(40), page 117, Department of Social and Health Services, School-based Medicaid Services**

The proviso declares that sufficient funding is provided in the Appropriations Act to fund medical services provided to Medicaid clients in a school setting. This proviso restricts the agency's ability to limit services in this area should be budget situation demand it. For this reason, I have vetoed Section 209(40).

**Section 209(41), page 118, Department of Social and Health Services, Pursuing and Reporting Drug Pricing Opportunities**

The Department of Social and Health Services is required to report on the opportunities available to the state through the federal 340B drug pricing program. This program provides certain federally supported program discounts on prescription drugs used for outpatient services. No, funding was provided for this report. For this reason, I have vetoed Section 209(41).

**Section 209(42), page 118, Department of Social and Health Services, Transition Plan to Move Fee-for-Service to Managed Care**

The Department of Social and Health Services is required to develop a transition plan for the state's aged, blind, and disabled clients to move from a fee-for-service medical delivery system to a managed care delivery system. Since no funding was provided for this transition plan, I have vetoed Section 209(42). However, I am directing the Secretary of the Department of Social and Health Services and Administrator of the Health Care Authority to continue to assess the feasibility and cost effectiveness of moving from fee-for-service to managed care plans.

**Section 209(47), pages 118-119, Department of Social and Health Services, Establishing Rates to Apple Health Managed Care**

This proviso establishes the method by which premiums for the Apple Health Program will be established for rates set after July 1, 2010. As we move to implement national health care reform, it will be imperative that we retain as much flexibility as possible to control the cost of purchasing health care. As written, the proviso limits the Department of Social and Health Service's ability to adjust premiums to reflect the actual cost of providing health care within individual plans. For this reason, I have vetoed Section 209(47).

**Section 212(6), page 121, Department of Social and Health Services, Governor's Juvenile Justice Advisory Committee**

This proviso limits any budget cuts to the Governor's Juvenile Justice Advisory Committee. In this budget environment, state government should not be restricted from any possible avenues to reduce spending. Therefore, I have vetoed Section 212(6).

**Section 212(7), pages 121-122, Department of Social and Health Services, Autism Health Coverage Study**

The Department of Social and Health Services is directed to report, in collaboration with the Health Care Authority, on the fiscal impact of state-purchased health care to cover autism spectrum disorder diagnosis and treatment for individuals younger than 21 years. This is not the time to engage in new studies to assess the expansion of state-paid services, no matter how worthy. Therefore, I have vetoed Section 212(7).

**Section 214(7), pages 124-125, Health Care Authority, Continuum of Care Pilot Project**

This proviso directs the Health Care Authority to establish two pilot projects for low-income adults who are waiting for health care coverage from the Basic Health Plan. We are in the earliest stages of implementing national health care reform. At the same time, we struggle to maintain the state safety net in very difficult budget times. I need the Health Care Authority to focus on these two tasks. For this reason, I have vetoed Section 214(7).

**Section 214(8), page 125, Health Care Authority, Nonsubsidized Basic Health Plan**

The proviso directs the Health Care Authority, should it offer Basic Health Plan coverage to non-subsidized clients, to provide information concerning other health care coverage options. This requirement creates an unfunded administrative burden. It also duplicates the provision of such information currently available from the Office of the Insurance Commissioner. For this reason, I have vetoed Section 214(8).

**Section 221(21), page 140, Department of Health, Funding for Nursing Commission Programs Related to Discipline, Impaired Practitioners and Expedited Credentials**

This proviso, in combination with Section 926, reduces the library access surcharge applied to certification fees for nursing professionals. The surcharge, which all health professions pay, is used to provide access to health care literature through the University of Washington. This critical resource allows providers the opportunity to learn of best practices used in their professions and furthers the ongoing education of all health care professionals. While I support the purposes for which this funding would have been diverted, this funding source should continue to be dedicated to advancing the use of evidence-based health care practices in Washington. For this reason, I have vetoed Section 221(21).

**Section 221(28), page 141, Department of Health, Tobacco Cessation Program Reductions**

This proviso requires ten percent of every tobacco cessation program contract be directed for addressing minority populations. This proviso is unnecessary because the Tobacco Cessation Program in the aggregate spends eighteen percent of its resources to serve these target populations. Therefore, I have vetoed Section 221(28).

**Section 223(2)(h), pages 144-145, Department of Corrections, Report on Earned Release Date**

This proviso directs the Department of Corrections to submit a report by June 1, 2010, addressing issues related to the release of offenders on the earned release date. This task cannot be completed in the short timeframe specified in the proviso. Therefore, I have vetoed Section 223(2)(h) and am directing the Department to submit its report to the Office of Financial Management and legislative fiscal committees by August 1, 2010. The Department will use this report to identify strategies to reduce the recent increase in the number of offenders held beyond their earned release dates, while maintaining public safety as a priority.

**Section 303(3), pages 160-161, State Parks and Recreation Commission, Park Closure Language**

Current budget language is revised to eliminate the provision that state parks may be closed if donation revenue is insufficient for ongoing operations. While this change does not appear to create an absolute prohibition on the closure of state parks, the revised language may create that impression. This would severely limit the agency's ability to manage state parks in the event that revenues drop below appropriated levels. For this reason, I have vetoed Section 303(3).

**Section 303(4), page 161, State Parks and Recreation Commission, Restriction Closure of Tolmie State Park**

This proviso prohibits the State Parks and Recreation Commission from closing Tolmie State Park. I have encouraged the Commission to continue pursuing the transfer of certain state parks in the event that revenues decrease to manage the statewide parks system within budget. The Commission needs to retain this flexibility. For these reasons, I have vetoed Section 303(4).

**Section 304(4), page 162, Recreation and Conservation Funding Board, Extension of the Biodiversity Council**

This proviso extends the Biodiversity Council for one year, through the end of Fiscal Year 2011. While I strongly support the work of the Biodiversity Council, I am asking the Natural Resources Cabinet to absorb the Council's oversight role. As we undergo the process of natural resources reform, the Natural Resources Cabinet will assume many leadership roles previously performed by other entities. For these reasons, I have vetoed Section 304(4).

**Section 306(2), page 163, State Conservation Commission, Infrastructure Improvements Related to Wildlife Habitat**

This proviso dedicates \$38,000 of the General Fund-State for improving infrastructure on state-owned lands in Kittitas County. While habitat improvements are an important step in managing the balance between wildlife conservation and grazing rights, funding for this endeavor can be pursued via other means, including State Conservation Commission grants, local conservation district funding, and private sources. The state's current and projected fiscal environment necessitates spending on essential services and programs. For these reason, I have vetoed Section 306(2).

**Section 308(15), page 173, Department of Natural Resources, Excluding Shellfish Growers from the Department's Aquatic Habitat Conservation Plan**

This proviso requires the Department of Natural Resources to exclude shellfish growers from its aquatic Habitat Conservation Plan if those growers have been issued a federal nationwide or individual permit. The Department and the shellfish industry have signed a Memorandum of Understanding which requires the Department and shellfish growers to finalize an agreement on shellfish aquaculture activities before the aquatic Habitat Conservation Plan is finalized. Because this is a collaborative effort, it would be inappropriate for the proviso to place restrictions on the unfinished product. For this reason, I have vetoed Section 308(15).

**Section 501(1)(b), pages 182-183, Office of the Superintendent of Public Instruction, School District Reorganization Commission**

This proviso creates a statewide commission on school district reorganization. I want school districts to focus their maximum attention on the immediate priorities of improving student learning and successfully implementing the next phase of education reforms. The charge to the Commission created in this proviso is very broad, and funding provided to the Office of the Superintendent of Public Instruction is insufficient to achieve the mandates of the proviso. For these reasons, I have vetoed Section 501(1)(b). The Joint Legislative Audit and Review Committee is conducting a study of the relationship between the cost of school districts and their enrollment size. Upon completion of its report, I encourage the Legislature and the Office of the Superintendent to explore opportunities for a focused review of school district organization.

**Section 501(1)(f)(iv), page 185, Office of the Superintendent of Public Instruction, Exempting the Professional Educator Standards Board from Expenditure Restrictions**

This section exempts the Professional Educator Standards Board from the restrictions on travel allowances and meeting costs that apply to other boards and commissions under Chapter 7, Laws of 2010, First Extraordinary Session (Engrossed Second Substitute House Bill No. 2617). This law allows agencies to seek exceptions to the travel and meeting restrictions for critically necessary work. To maintain consistency in the application of these restrictions among state boards and commissions, I have vetoed Section 501(1)(f)(iv).

**Section 604(7), pages 243-244, University of Washington, Telecommunications Report**

This subsection provides \$183,000 to the Technology Law and Public Policy Center at the University of Washington School of Law to prepare a report analyzing trends in the telecommunications industry and pathways for telecommunications reform. This work overlaps with the functions of the state Utilities and Transportation Commission. This expenditure does not meet the highest priorities of state government at this time. therefore I have vetoed Section 604(7).

**Section 605(5), page 246, Washington State University, Business and Entrepreneurial Development Program Plan**

This subsection provides \$100,000 to the Small Business Development Center at Washington State University to develop a state plan for coordination of small business and entrepreneurial development programs. Expenditure of funds on this effort does not meet the highest priorities of state government at this time. Therefore I have vetoed Section 605(5).

**Section 708, pages 270-271, Washington Management Service and Exempt Management Services Reductions**

This section ties to Section 2 of Engrossed Senate Bill No. 6503, which I have vetoed. The budget proviso assumes additional compensation reductions of \$10 million in General Fund-State funding from Washington Management Service and exempt managers, who comprise less than five percent of state employees. This cut would require that specified staff take nearly two weeks of temporary layoff time beyond the ten days included in ESB 6503. This inequity is likely to create problems in recruiting and retaining qualified and experienced workers, as well as be disruptive to normal state operations. Managers will be subject to temporary layoffs in the same proportion as all affected state employees. For these reasons, I have vetoed Section 708.

**Section 717, pages 276-278, Agency Reallocation and Realignment of Washington Commission**

Section 717 creates the Agency Reallocation and Realignment of Washington Commission. Its responsibilities would include examining current state operations and organization, and making proposals to reduce expenditures and to eliminate duplication and overlapping services. The sum of \$250,000 in General Fund-State dollars is provided for this purpose. While I strongly support these goals, there are programs that address the same concerns, most notably the Joint Legislative Audit and Review Committee, the Office of the State Auditor's performance audit program, the Governor's Government Management, Accountability, and Performance program, and the Office of Financial Management's Priorities of Government budget development process. I hope to have further discussions with legislative leadership to identify ways to address these issues within existing structures and resources. For these reasons, I have vetoed Section 717.

**Section 803, page 281, line 38, and page 282, lines 1-11, Transfers from the Tobacco Settlement Account to the General Fund and the Life Sciences Discovery Fund**

This transfer decreases funding for critical life sciences research by \$16.2 million, representing a 76 percent biennial reduction when coupled with the \$26 million reduction to the fund in the enacted 2009-11 biennial budget. In order to implement this level of reduction, the Life Sciences Discovery Authority would have to discontinue any future state grants for critical life sciences research. Funding at the current level is vital to accomplishing the state's Life Sciences Research and Development goal of tripling the State's life sciences research base and creating more than 20,000 new jobs. For this reason, I have vetoed Section 803, page 281, line 38, and page 282, lines 1 through 11.

**Section 803, page 283, lines 20-22, Transfer from the Budget Stabilization Account to the General Fund**

The transfers required by this budget appropriation were intended to take place if the Budget Stabilization Account transfers in House Bill 3197 did not occur. Since that measure passed and has been signed into law, the transfer is void. For this reason, I have vetoed Section 803, page 283, lines 20-22.

**Section 803, page 283, lines 23-27, Transfer from the Liquor Revolving Account to the General Fund**

This transfer is associated with a provision in Section 939 that allows restaurants and bars an exemption from paying a price increase on spirits. Since I have vetoed Section 939, I am also vetoing Section 803, page 283, lines 23-27.

**Section 803, page 285, lines 28-31, Transfer from the Insurance Regulatory Account to the General Fund**

This appropriation implements the transfer of \$10 million from the Insurance Commissioner's Regulatory Account to the General Fund-State authorized in Section 937. This transfer would place the Insurance Commissioner's Regulatory Account into a cash deficit position beginning in Fiscal Year 2011. For this reason, I have vetoed Section 803, page 285, lines 28-31.

**Section 902, pages 289-290, Agency Staffing Report**

The agency staffing report required by Section 902 adds another layer of complexity to the data already required to be reported through allotment and accounting systems. The addition of monthly job class information adds immensely to agency workloads with seemingly minimal benefit. I am directing the Office of Financial Management to work with legislative fiscal staff to identify alternative reporting formats that can be useful without creating an unacceptable workload burden. For these reasons, I have vetoed Section 902.

**Section 908, page 294, Electronic Renewal Notices**

This proviso mandates that every state agency make all of its renewals electronic by July 1, 2012. While I support the customer convenience and potential cost savings from doing business by electronic means, we must first assess the question of whether agencies have the staffing and fiscal resources to accomplish this task. I will encourage all agencies to pursue electronic renewal options within their current budgets and to identify obstacles for possible consideration in the new biennial budget. For these reasons, I have vetoed Section 908.

**Section 920, pages 301-302, Washington State Quality Awards**

Section 920 accelerates the date by which agencies must apply to the Washington State quality Awards program. It also limits that requirement for agencies that have more than 300 full-time equivalent employees. A great deal of time and effort is required for a well-executed Washington State Quality Award application. The new date of June 30, 2010, is too short a timeframe, especially for large agencies that may have to submit multiple applications. For these reasons, I am vetoing Section 920, pages 301-302.

**Section 926, pages 306-307, Use of Surcharge for Nursing Professional Credentials**

Because I have vetoed the program enhancement (Section 221(21) supported by this funding, I am also vetoing Section 926, which authorizes the specific use of a portion of the existing surcharge on credential fees.

**Section 937, pages 318-320, Authority for Transfer from the Insurance Regulatory Account to the General Fund**

Section 937 amends RCW 48.02.190 and Section 1, Chapter 161, Laws of 2009, defining eligible uses of funds in the Insurance Commissioner's Regulatory Account, by permitting a current biennium transfer of excess fund balance to the General Fund-State. Since I have vetoed the transfer in Section 803, I am also vetoing the authorization in Section 937.

**Section 939, pages 323-324, Exemption for Restaurants and Bars from Temporary Mark-up on Spirits**

Section 939 exempts restaurants and bars from paying any price increase made by the Washington State Liquor Control Board during the 2009-11 Biennium if that increase relates to General Fund-State transfers or additional liquor profit distributions. Exempting restaurants and bars would reduce budgeted revenue assumptions by \$11 million. Of this amount, \$5.5 million directly affects the General Fun-State and its programs. The remaining shortfall could necessitate an increase in the price consumers pay at liquor stores. Restaurant and bars already receive discounts in price and tax

exemptions and it is inappropriate to provide additional discounts at the expense of state programs. For this reason, I have vetoed Section 939.

For these reasons, I have vetoed Sections 109; 117, page 17, lines 10-11; 127(27); 127(28); 127(31); 127(36); 127(38); 127(39); 129, page 35, lines 19-20; 129(3); 129(6); 131(2); 201(7); 204(3)(f); 205(1)(m); 205(1)(n); 205(1)(o); 205(1)(p); 205(1) ®; 205(1)(s); 206(20); 206(21); 207(2); 207(11); 209(14); 209(35); 209(38); 209(39); 209(40); 209(41); 209(42); 209(47); 212(6); 212(7); 214(7); 214(8); 221(21); 221(28); 223(2)(h); 303(3); 303(4); 304(4); 306(2); 308(15); 501(1)(b); 501(1)(f)(iv); 604(7); 605(5); 708; 717; 803, page 281, line 38, and page 282, lines 1-11; 803, page 283, lines 20-22; 803, page 283, lines 23-27; 803, page 285, lines 28-31; 902; 908; 920; 926; 937; and 939 of Engrossed Substitute Senate Bill No.6444.

With the exception of Sections 109; 117, page 17, lines 10-11; 127(27); 127(28); 127(31); 127(36); 127(38); 127(39); 129, page 35, lines 19-20; 129(3); 129(6); 131(2); 201(7); 204(3)(f); 205(1)(m); 205(1)(n); 205(1)(o); 205(1)(p); 205(1) ®; 205(1)(s); 206(20); 206(21); 207(2); 207(11); 209(14); 209(35); 209(38); 209(39); 209(40); 209(41); 209(42); 209(47); 212(6); 212(7); 214(7); 214(8); 221(21); 221(28); 223(2)(h); 303(3); 303(4); 304(4); 306(2); 308(15); 501(1)(b); 501(1)(f)(iv); 604(7); 605(5); 708; 717; 803, page 281, line 38, and page 282, lines 1-11; 803, page 283, lines 20-22; 803, page 283, lines 23-27; 803, page 285, lines 28-31; 902; 908; 920; 926; 937; and 939, Engrossed Substitute Senate Bill No.6444 is approved.

Respectfully submitted,  
CHRISTINE O. GREGOIRE, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO ON ENGROSSED SUBSTITUTE SENATE BILL NO. 6872

May 4, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 6, Engrossed Substitute Senate Bill No. 6872 entitled:

“AN ACT Relating to Medicaid nursing facility payments.”

This bill makes several changes to the nursing facility rate statute.

Section 6 of this bill would reduce the financing allowance from 10 percent to 4 percent for assets purchased prior to May 17, 1999 and from 8.5 percent to 4 percent for assets purchased on or after May 17, 1999. These retroactive reductions in return on investments would apply to owners the state previously had urged to upgrade their facilities. Such changes could make additional needed investments unlikely.

For these reasons I have vetoed Section 6 of Engrossed Substitute Senate Bill No. 6872.

With the exception of Section 6, Engrossed Substitute Senate Bill No. 6872 is approved.

Respectfully submitted,  
CHRISTINE O. GREGOIRE, Governor

**HISTORY OF GOVERNOR'S PARDONS AND COMMUTATIONS****MESSAGE FROM THE GOVERNOR**

June 23, 2010

To the Honorable, the Senate  
Of the State of Washington

Ladies and Gentlemen:

In compliance with the provisions of Article III, Section 11, of the Constitution of the State of Washington, the Governor hereby submits her report of each case of reprieve, commutation or pardon that she has granted since her last report submitted on June 9, 2009, copies of which are attached.

Sincerely,  
Narda Pierce  
General Counsel

cc: Jay Manning, Chief of Staff

**FULL AND UNCONDITIONAL PARDON  
OF  
LINDA M. HOFER**

**To All to Whom These Presents Shall Come, Greetings:**

WHEREAS, in 1998 Joshua McAdams and Mitko Tanev were sailors stationed on the USS Kitty Hawk. Mr. McAdams and Mr. Tanev were visiting a nightclub in Seattle when they were approached by Linda Fromm (who later became known as Linda Hofer), age 19, and a juvenile co-defendant. Both women danced with Mr. McAdams and Mr. Tanev. At least one person saw Ms. Hofer stick her hand into the sailors' pockets. After a few minutes of dancing, Ms. Hofer and her companion suddenly stopped dancing and walked away. They danced with other men in a similar fashion. Witnesses saw the two women go into the restroom of the nightclub and hide money in their clothing.

WHEREAS, after witnesses alerted the nightclub's security to Ms. Hofer's suspicious behavior, security personnel detained Ms. Hofer and her companion. Mr. Tanev later identified Ms. Hofer as one of the women with whom he had been dancing before he noticed his wallet was missing. Seattle police arrested Ms. Hofer and her co-defendant.

WHEREAS, on September 2, 1998, Ms. Hofer was convicted of First Degree Theft and sentenced to 35 days home detention, 12 months community supervision and ordered to pay restitution. Ms. Hofer has complied with the terms of her sentence, paid all ordered restitution and a Certificate and Order of Discharge was issued on September 20, 2000.

WHEREAS, Ms. Hofer states that she is deeply ashamed and sorry for what she did. She realizes that she broke the trust that her victims had for people and states that she could never do such a despicable thing again.

WHEREAS, Ms. Hofer petitioned for pardon of her conviction and appeared before the Clemency and Pardon Board (Board). Ms. Hofer admitted to the Board that she made a terrible mistake. She assured the Board, however, that she is not the same person that committed the crime twelve years ago.

WHEREAS, Ms. Hofer was accepted into the nursing program at Peninsula College in the fall of 2008. She acknowledged her conviction to the Nursing Advisor and explained that the conviction was clouding her ability to pursue her lifelong dream of working as a nurse. Ms. Hofer stated that she always enjoyed helping people and wanted nursing to be her career. She indicated a belief that she could make a better life for herself, her daughter, and her community by becoming a nurse. Faculty and staff rallied behind Ms. Hofer to support her in her goal. Ms. Hofer completed the nursing program in June of 2010.

WHEREAS, prior to committing the crime, Ms. Hofer was a Certified Nursing Assistant. Even though the conviction prevented her from working as a nursing assistant, she continued to renew her license every year in hopes that she could one day return to the nursing profession.

WHEREAS, Ms. Hofer's Petition for Clemency was supported by numerous letters of support, including letters from Marca Davis, Nursing Program Director at Peninsula College; Jeffrey E. Mauer, Ph.D., Anthropology and Sociology Instructor at Peninsula College; Kathleen Murphy-Carey, Peninsula College Counselor, and a large support group consisting of faculty and staff members of Peninsula College who appeared before the Board in support of Ms. Hofer's

Petition. Each expressed their belief that Ms. Hofer was reliable, diligent and capable, and very much focused on pursuing her educational goals. When questioned, each faculty member acknowledged a willingness to put his or her personal and professional reputation on the line to support Ms. Hofer.

WHEREAS, Ms. Hofer's sole conviction twelve years ago provided the wake-up call that she needed as a young woman to get her life on track. She served her sentence, satisfied her financial obligations, expressed contrition for her actions and focused her energies on self-improvement. As a young mother, she enrolled in a nursing program and attracted the support of faculty and students at her school for her dedication and skill.

WHEREAS, the King County Prosecutor's Office took no position regarding Ms. Hofer's petition.

WHEREAS, I have reviewed all pertinent facts and circumstances surrounding this matter, the circumstances of the crime, and the favorable recommendation of the Washington State Clemency and Pardons Board. In light of the foregoing, I have determined that the best interests of justice will be served by this action.

**NOW, THEREFORE, I**, Christine O. Gregoire, by virtue of the power vested in me as Governor of the state of Washington, hereby grant to Linda M. Hofer, this full and unconditional pardon of her conviction of Theft in the First Degree so that she may pursue permanent and gainful employment.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the State of Washington to be affixed at Olympia on this 22<sup>nd</sup> day of June, A.D., two thousand and ten.

Christine Gregoire  
Governor of Washington

SEAL

BY THE GOVERNOR

Sam Reed  
Secretary of State

**FULL AND UNCONDITIONAL PARDON  
OF  
JOSE LOPEZ DOMINGUEZ**

**To All to Whom These Presents Shall Come, Greetings:**

WHEREAS, on July 5, 1988, at age 24, Jose Lopez Dominguez was convicted of Possession of a Controlled Substance: Cocaine and sentenced to 49 days confinement, with credit for 49 days served, and 12 months community supervision.

WHEREAS, in 1988, Mr. Dominguez applied for residency through the National Amnesty Program which was designed to give illegal alien farm workers a chance at American citizenship. At the time, Mr. Dominguez was working in the farmlands of Yakima Valley and residing with another farm worker in a small cabin in Yakima while sending money home to his family in Mexico.

WHEREAS, on the morning of May 18, 1988, within weeks of applying for his residency, Mr. Dominguez was shaving with the front door of his cabin open. He had \$778 in earnings saved and he was preparing to go play Bingo, his favorite pastime. Two men in plain street clothes appeared at his door and showed him their badges. They were accompanied by a uniformed Sheriff's Deputy. Mr. Dominguez did not understand much English at the time, and because he did not have anything to hide, he allowed the men to enter his cabin.

WHEREAS, the officers began searching everything in the cabin, dumping sugar and coffee canisters, and going through and emptying all of the cabinets and shelves. The two plain clothed officers found nothing and left the cabin, leaving the Sheriff's Deputy inside. A few moments later, the Sheriff's Deputy announced that one of the shelves that had already been emptied needed to be searched again because he thought he had seen something. The two plain clothes officers searched the shelf again and this time came up with a small pouch of white substance. Mr. Dominguez was immediately arrested and his \$778 was also confiscated. Mr. Dominguez states that he was confused and did not understand what he had done wrong.

WHEREAS, the events surrounding Mr. Dominguez's arrest raise a question regarding his conviction for possession of a controlled substance. Nothing in Mr. Dominguez's file indicates that law enforcement looked into the possibility that the drugs—found on a shelf that had been searched twice already—might have belonged to his roommate.

WHEREAS, after spending 49 days in jail awaiting trial on the charge of Possession of a Controlled Substance, Mr. Dominguez entered into an *Alford* plea at the urging of his court appointed attorney. Mr. Dominguez indicated a desire to tell the Court that he was innocent of the charges, but his attorney advised him that if he did so, he would go back to jail; whereas, if he entered into the *Alford* plea, he would be released immediately. Mr. Dominguez was not released, but instead detained and later deported.

WHEREAS, since marrying his wife, who is a United States citizen, Mr. Dominguez has attempted to apply for citizenship. Mrs. Dominguez's petition for him to immigrate to the United States was approved. However, Mr. Dominguez's petition to adjust his status to that of a permanent resident was later denied based upon his 1988 conviction.

WHEREAS, Mr. Dominguez maintains that he has never used illegal drugs, or possessed, sold or offered for sale any illegal drugs. Mr. Dominguez had no offenses (drug related or otherwise) prior to his 1988 arrest nor in the subsequent twenty years. He has taught himself to read and speak English. He has been a very productive member of society, and he now faces being separated from his family by deportation because of a change in the immigration laws that came into effect after his 1988 conviction.

WHEREAS, August Hahn, a retired attorney from Yakima County addressed the Board in favor of Mr. Dominguez's Petition. Mr. Hahn relayed that during the time of Mr. Dominguez's conviction, Yakima County did not maintain a Public Defender's Office, but retained private counsel who received a monthly retainer to handle a certain number of cases no matter what the workload involved in any given case. Mr. Hahn was one such attorney at that time. Mr. Hahn stated that after reviewing all of the facts, he believes that Mr. Dominguez was railroaded into the conviction.

WHEREAS, Mr. Dominguez's stepson, Edwin Commet, also appeared on behalf of Mr. Dominguez. Mr. Commet has had 18 years of law enforcement experience in Yakima County since approximately 1987. During this time, Mr. Commet worked as a narcotics officer, among other assignments. Mr. Commet expressed to the Board that in all the years he has known Mr. Dominguez, he has never seen him angry, abuse alcohol, or use drugs of any sort. Mr. Dominguez's wife also spoke to the Board and described Mr. Dominguez as the gentlest man she has ever known. He is a grandfather and great-grandfather to her children.

WHEREAS, I have reviewed all pertinent facts and circumstances surrounding this matter, the circumstances of the crime, and favorable recommendation of the Washington State Clemency and Pardons Board. In light of the foregoing, I have determined that the best interests of justice will be served by this action.

**NOW, THEREFORE, I, Christine O. Gregoire, by virtue of the power vested in me as Governor of the state of Washington, hereby grant to Jose Lopez Dominguez, this full and unconditional pardon of his conviction of Possession of a Controlled Substance: Cocaine so that he may live with his family in the United States and pursue permanent and gainful employment.**

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the State of Washington to be affixed at Olympia on this 9<sup>th</sup> day of June, A.D., two thousand and ten.

Christine Gregoire  
Governor of Washington

SEAL

BY THE GOVERNOR

Sam Reed  
Secretary of State

**FULL AND UNCONDITIONAL PARDON  
OF  
CHAN LY**

**To All to Whom These Presents Shall Come, Greetings:**

WHEREAS, in 1995, at age 23, Chan Ly was employed as an assistant manager at a clothing store in Tacoma, Washington. In May 1995, a customer accidentally left her credit card behind after a purchase. During an internal investigation, it was discovered that Ms. Ly was ringing up sales using the credit card and two other sales clerks were

signing the card owner's name on the charge slips. During the period of May 15, 1995, through May 24, 1995, the three employees made eight fraudulent credit card charges for a total of \$3,442.12 in store merchandise.

WHEREAS, One June 22, 1995, Ms. Ly was convicted of First Degree Theft and sentenced to 32 days total confinement, with 24 months community supervision, and 240 hours of community service. Ms. Ly has complied with the terms of her sentence, paid all ordered restitution and a Certificate and Order of Discharge was issued on May 21, 2007.

WHEREAS, Ms. Ly expressed that she is deeply remorseful for her crimes. Ms. Ly stated that the conviction has shaped her life and explained that with her family in mind, knowing how much they need her, she has gone on to better herself. Ms. Ly is the first person in her family to attend college, and she has chosen to pursue the profession of a registered nurse. Ms. Ly has excelled in her program, achieving a high honors GPA of 3.83. She has attended night school while maintaining a full-time work schedule.

WHEREAS, Ms. Ly is a single mother of three daughters and resides in the same house as her elderly parents who both suffer chronic medical conditions. In addition to caring for her three daughters and her elderly parents, Ms. Ly also cares for her niece and two nephews. Mr. Ly is the main financial provider and support system for her extended family.

WHEREAS, Ms. Ly is currently a lawful permanent resident of the United States. Her conviction falls under the mandatory removal offense of the Immigration and Customs Enforcement. Although removal proceedings have not been initiated, Ms. Ly must renew her Permanent Resident Card every 10 years.

WHEREAS, Ms. Ly's oldest daughter expressed how her mom has taught her to turn all choices into positive choices and how she cannot imagine not having her in her life. Nancy Novak, the Associate Dean of Nursing at Tacoma Community College (TCC) spoke to the Clemency & Pardons Board (Board) regarding the reasons she is supporting clemency for Ms. Ly. Ms. Novak said she was impressed by the fact that Ms. Ly owned up to her offense, did not attempt to justify it, and expressed extreme remorse for it. Ms. Novak told the Board that Ms. Ly had explained how it was critical to her that she be a positive role model for her family and children.

WHEREAS, Ms. Novak stated that although Ms. Ly has only completed one quarter of the nursing program, she has made a huge impression on the faculty, her colleagues, and staff at TCC. Ms. Novak explained that the nursing program is extremely competitive and she wants to see Ms. Ly in her program because she has demonstrated that she is caring, competent, and compassionate; displaying the skills that she wants to see in a nurse graduating from TCC. Out of 126 applicants in 2007, Ms. Ly was one of only 24 individuals to be offered a spot in the program.

WHEREAS, Ms. Ly's Petition for Clemency was bolstered by numerous letters of support, including but not limited to letters from Julie Benson, Ms. Ly's Theory Instructor; Quahlee Lassila, Ms. Ly's clinical instructor; and Peggy Sargeant of Counseling, Advising and Transition Services; plus letters from many family members and friends.

WHEREAS, the Pierce County Prosecutor's Office took no position regarding Ms. Ly's petition.

WHEREAS, I have reviewed all pertinent facts and circumstances surrounding this matter, the circumstances of the crime, and the favorable recommendation of the Washington State Clemency and Pardons Board. In light of the foregoing, I have determined that the best interests of justice will be served by this action.

**NOW, THEREFORE, I**, Christine O. Gregoire, by virtue of the power vested in me as Governor of the State of Washington, hereby grant to Chan Ly, this full and unconditional pardon of her conviction of Theft in the First Degree so that she may pursue permanent and gainful employment.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the State of Washington to be affixed at Olympia on this 12<sup>th</sup> day of October, A.D., two thousand and nine.

Christine Gregoire  
Governor of Washington

SEAL

BY THE GOVERNOR

Sam Reed  
Secretary of State

## HISTORY OF SENATE GUBERNATORIAL APPOINTMENTS

Appointee	Introduction	Committee Report	Confirmed	Appointment Number
William Chapman		124	708	SGA 9017
Yang-Su Cho			195	SGA 9020
Karen Daubert		124	697	SGA 9025
Elsie Hulsizer			223	SGA 9052
Laura Jennings	102			SGA 9055
Roshni A. Jokhi			515	SGA 9060
Craig Lee			254	SGA 9069
Darryl-Jean Mark			516	SGA 9077
Tom May		124		SGA 9080
Jeff Parsons		124	283	SGA 9091
William Snyder			282	SGA 9114
Brian Comstock			1194	SGA 9139
Jeffrey L. Thompson			283	SGA 9141
Pamela Bradburn			264	SGA 9142
Edwin Snook			131	SGA 9144
Patrick M. Hannigan			238	SGA 9151
Christopher P. Barry		485		SGA 9154
Brian Blake		124	1335	SGA 9155
Ronald K. Sperling		485		SGA 9158
Steven Drew			289	SGA 9159
Deborah S. Lee		1383	1438	SGA 9162
Gary Harris		485		SGA 9163
Roger E. Schmitt		124	346	SGA 9164
Larry Dittman		262		SGA 9166
Tom A. Johnson		125	611	SGA 9167
Cindy Whaley		125	266	SGA 9168
David Troutt		125	698	SGA 9171
Sherry L. Armijo	25	125		SGA 9174
Bruce Becker	25			SGA 9175
Michael Blakely	26	125	516	SGA 9176
Judy Blinn	26	125	515	SGA 9177
Ben Cabildo	26	125	223	SGA 9178
Jorge Carrasco	26	125	376	SGA 9179
Sang Chae	26	125	514	SGA 9180
Paul Chiles	26	125	668	SGA 9181
Harold Cochran	26	126	698	SGA 9182
Susan Cole	26	126		SGA 9183
Denise Colley	26	167		SGA 9184
James Cook	27	262		SGA9185
Ellen Fair	27	1383	1428	SGA 9186
Colleen Fairchild	27			SGA 9187
Sharon Foster	27	186	516	SGA 9188
Betti Fujikado	27	126		SGA 9189
Diana Gale	27	102	224	SGA 9190
Lawrence M. Glenn	27	126		SGA 9191
Benjamin Golden	27	126	320	SGA 9192
Irene Gonzales	27	126	237	SGA 9193
James Groves	27	126		SGA 9194
Michael Grunwald	28	126	1399	SGA 9195
Mariellen Gunn	28	126	1397	SGA 9196
Molly E. Hamaker-Teals	28			SGA 9197
Joanne Harrell	28	126	321	SGA 9198
Kristin Hayden	28	126	1397	SGA 9199
Andrew M. Helm	28	127		SGA9200
Tony Hey	28	262		SGA9201

Appointee	Introduction	Committee Report	Confirmed	Appointment Number
Mike Hudson	28	127		SGA9202
Bette Hyde	28	89	301	SGA 9203
Shaunta Hyde	29	127	1456	SGA 9204
Sarah Ishmael	29	127	668	SGA 9205
David Jennings	29			SGA 9206
Stephen L. Johnson	29	107		SGA9207
Michael R. Kawamura	29	1383	1435	SGA 9208
Dennis Klodia	29	476		SGA9209
Bruce L. Lachney	29	127	1399	SGA 9210
Lorraine Lee	29	77	1194	SGA 9211
Janet Lewis	29	127		SGA9212
Valoria Loveland	29	186	515	SGA 9213
Mark Matke	30	127		SGA9214
Paul McDonald	30	127	1412	SGA 9215
Thomas W. McLane	30	262		SGA9216
Dixon McReynolds	30	127	224	SGA 9217
Gilbert A. Mendoza	30			SGA 9218
John M. Meyer	30			SGA 9219
Julie P. Miller	30	127	289	SGA 9220
Dan O'Neal	30	112	224	SGA 9221
Daniel O'Neal	30	119	1399	SGA 9222
Tyler Page	31	128	1263	SGA 9223
Sherry W. Parker	31	128	238	SGA 9224
Paul A. Pastor	31	1383	1436	SGA 9225
Dolorita Reandeu	31	167	1436	SGA 9226
Margaret Rojas	31	128		SGA9227
Randy J. Rust	31	128	223	SGA 9228
Steve Sakuma	31	113	225	SGA 9229
Roland Schirman	31	128		SGA9230
Rolland A. Schmitten	31	128		SGA9231
Cheryl Scott	31	262	1438	SGA 9232
Faouzi Sefrioui	32			SGA 9233
Donald B. Sehlin	32	77	516	SGA 9234
Kathy L. Small	32	128		SGA 9235
Bradley F. Smith	32	128		SGA9236
Nancy Smith	32			SGA 9237
Harriet Spanel	32	128	708	SGA 9238
Charlene D. Strong	32	468	1335	SGA 9239
Larry E. Swift	32	167	1258	SGA 9240
Alice Tawresey	32	128	1334	SGA 9241
Barbara A. Taylor	33			SGA 9242
Cheryl Terry	33			SGA 9243
Pamela J. Tietz	33	476		SGA 9244
Jim Tiffany	33	129		SGA9245
Tony Tortorice	33	77	514	SGA 9246
John Turner	33			SGA 9247
Brian Unti	33	129	1263	SGA 9248
Kasey Webster	33	129	1398	SGA 9249
Brent Weisel	33	129		SGA 9250
Chad R. Wright	33	129	1399	SGA 9251
Dan Dixon	51	129		SGA9252
Vanessa R. Gaston	52	468	1412	SGA 9253
Lynette D. Jones	52	129	1397	SGA 9254
Jeff Vincent	52	167	321	SGA 9255
Ryland P. Davis	62	262	1456	SGA 9256
Shelia L. Fox	62	168	346	SGA 9257
Michael L. Reichert	94	262	515	SGA 9258

<b>Appointee</b>	<b>Introduction</b>	<b>Committee Report</b>	<b>Confirmed</b>	<b>Appointment Number</b>
Laura Jennings	102	468	1195	SGA 9259
Ted Sturdevant	102	456	1082	SGA 9260
Lynne Delano	108			SGA 9261
Gayatri J. Eassey	108	468	610	SGA 9262
Orin Smith	113	468	1390	SGA 9263
Susan Dreyfus	119	456	612	SGA 9264
Tom Karier	137	456	1270	SGA 9265
Thomas C. Moser	137	468		SGA9266
Mary Jean Ryan	137	168	301	SGA 9267
Jennifer Joly	141			SGA 9268
Edmund I. Kiley	141			SGA 9269
Jaqueline B. Rosenblatt	158	468	1270	SGA 9270
Kate Reardon	187	468	697	SGA 9271
Patricia Lantz	193	476	1083	SGA 9272
Ira Sengupta	193	468	1194	SGA 9273
Patrick McElligot	263			SGA 9274
Bill Grinstein	463	1383	1390	SGA 9275
Stanley M. Sorscher	469			SGA 9276
Richard F. McCurdy	485			SGA 9277
Robert C. Anderson	494			SGA 9278
Mike D. Marave	494			SGA 9279
Harry Barber	610			SGA 9280
Stephen Tharinger	1193			SGA 9281
David Threedy	1388			SGA 9282
Jeff G. Johnson	1388			SGA 9283
Cathy A. McAbee	1453			SGA 9284
Elizabeth Chen	1455			SGA 9285
Kim A. Ekker	1455			SGA 9286
Quentin Powers	1504			SGA 9287
Sharon Fairchild	1515			SGA 9288
Sid Morrison	1515			SGA 9289
Stephen L. Warner	1517			SGA 9290
Dennis Thaut	1519			SGA 9291

SENATE BILLS PASSED REGULAR/SPECIAL SESSION BY BOTH SENATE AND HOUSE SHOWING THE  
ACTION BY THE GOVERNOR THEREON

CHPT #	BILL NO.	SUBJECT	GOVERNOR SIGNED	VETO/ PARTIAL VETOS	EFFECTIVE DATES
5	ESB 5041	Veteran-owned businesses	3/10/2010		6/10/2010
6	SSB 5046	Symphony musicians	3/10/2010		6/10/2010
128	SSB 5295	Publ records exemptions comm	3/19/2010		6/10/2010
9	ESB 5516	Drug overdose prevention	3/10/2010		6/10/2010
129	ESSB 5529	Architects	3/19/2010		6/10/2010*
130	ESSB 5543	Mercury reduction	3/19/2010		6/10/2010
10	SB 5582	Chief for a day program	3/10/2010		6/10/2010
12	2ESB 5617	Early learning council	3/10/2010		6/10/2010
131	ESSB 5704	Flood district creation	3/19/2010		6/10/2010
132	2ESSB 5742	Crime-free rental housing	3/19/2010		6/10/2010
284	SSB 5798	Medical marijuana	4/1/2010		6/10/2010
215	ESSB 5902	Persons with disabilities	3/25/2010		6/10/2010
4	ESSB 6130	Initiative measure no. 960	2/24/2010		2/24/2010
23	2ESSB 6143	Excise tax law modifications	4/23/2010		
134	SSB 6192	Juvenile cases/restitution	3/19/2010		6/10/2010
13	SSB 6197	Group life insurance	3/10/2010		6/10/2010
133	SSB 6202	Vulnerable adults	3/19/2010		6/10/2010
137	SB 6206	Tax incentive accountability	3/19/2010		6/10/2010
217	SSB 6207	Golf cart zones/local govts	3/25/2010	PV	6/10/2010
138	SSB 6208	Temp ag directional signs	3/19/2010		6/10/2010
43	SB 6209	Park & ride lots/road funds	3/12/2010		6/10/2010
14	SSB 6211	Agricultural scenic corridor	3/10/2010		6/10/2010
15	SSB 6213	Railroad grade crossings	3/10/2010		6/10/2010
211	SSB 6214	Growth mgmt hearings boards	3/25/2010		7/1/2010
115	SB 6218	Financing contracts payment	3/18/2010		6/10/2010
139	SB 6219	Certif of deposit investment	3/19/2010		6/10/2010
18	SB 6220	State indebtedness/evidences	4/13/2010		7/13/2010
10	2ESB 6221	Local govt investment pool	3/31/2010		7/13/2010
16	SB 6227	Opticianry students	3/10/2010		6/10/2010
17	SB 6229	Dairy inspection program	3/10/2010		6/10/2010
8	SSB 6239	Gender-based terms	3/10/2010		6/10/2010*
7	ESSB 6241	Community facilities distr's	3/10/2010		6/10/2010
205	SB 6243	Pub disclosure comm filings	3/25/2010		6/10/2010
140	SSB 6248	Bisphenol A	3/19/2010		6/10/2010
18	SSB 6251	Surplus line brokers	3/10/2010		7/26/2010
135	ESB 6261	Utility services collections	3/19/2010		6/10/2010
285	E2SSB 6267	Water right processing	4/1/2010	PV	6/10/2010
19	SSB 6271	Annexations by cities	3/10/2010		6/10/2010
44	SSB 6273	Durable medical equipment	3/12/2010		6/10/2010
45	SB 6275	Harbor lines	3/12/2010		6/10/2010
62	SB 6279	Regional transit facilities	3/15/2010		6/10/2010
286	SSB 6280	East Asian medicine	4/1/2010		6/10/2010*
46	ESSB 6286	Flood control zone districts	3/12/2010		6/10/2010

CHPT #	BILL NO.	SUBJECT	GOVERNOR SIGNED	VETO/ PARTIAL VETOS	EFFECTIVE DATES
63	ESB 6287	Annexation to fire district	3/15/2010		3/15/2010
47	SB 6288	Criminal background checks	3/12/2010		6/10/2010
255	SSB 6293	Criminal assistance/1st deg	3/31/2010		6/10/2010
65	SB 6297	Speech-language pathology	3/15/2010		6/10/2010*
36	SSB 6298	Public funds/credit unions	3/12/2010		7/1/2011
66	SSB 6299	Animal inspection	3/15/2010		6/10/2010
67	ESSB 6306	Crop adjusters	3/15/2010		6/27/2011
218	SB 6308	Sp commitment ctr computers	3/25/2010		6/10/2010
141	SSB 6329	Beer and wine tasting	3/19/2010		6/10/2010
48	SB 6330	Human trafficking posters	3/12/2010		6/10/2010
142	SSB 6332	Human trafficking	3/19/2010		6/10/2010
116	SSB 6337	Inmate savings accounts	3/18/2010		7/1/2010
225	SSB 6339	Wax and ceramic materials	3/26/2010		7/1/2010
143	SSB 6340	Forensic investigation councc	3/19/2010		6/10/2010
68	SSB 6341	Food assistance/dept of ag	3/15/2010		7/1/2010
75	SSB 6342	Washington soldiers' home	3/17/2010		6/10/2010
	SSB 6343	WA food policy forum	4/2/2010	V	
206	SSB 6344	Campaign contribution limits	3/25/2010		6/10/2010
223	SSB 6345	Wireless communications	3/26/2010		6/10/2010
144	SSB 6346	Electric vehicles	3/19/2010		6/10/2010
160	SSB 6349	Farm internship program	3/22/2010	PV	6/10/2010
145	SSB 6350	Marine waters management	3/19/2010		6/10/2010
245	SSB 6355	Higher education system	3/29/2010		6/10/2010
117	SSB 6356	Access to emergency vehicles	3/18/2010		6/10/2010
71	SSB 6357	Academic credit/experiences	3/15/2010		6/10/2010
246	ESSB 6359	Cmty & tech college system	3/29/2010		6/10/2010
266	SSB 6361	Sex offender notification	3/31/2010		6/10/2010
242	SSB 6363	School crosswalk violations	3/29/2010		7/1/2010
76	SB 6365	Motor vehicle emissions exem	3/17/2010		6/10/2010
69	SSB 6367	Agency web sites/pub records	3/15/2010		6/10/2010
73	SSB 6371	Money transmitters	3/15/2010		6/10/2010
146	SSB 6373	Greenhouse gas emissions	3/19/2010		6/10/2010
161	SB 6379	Vehicles & vessels	3/22/2010		7/1/2011*
247	ESSB 6381	Trans supp budget 2009-11	3/30/2010	PV	3/30/2010
1	SSB 6382	State govt compensation	2/15/2010		2/15/2010
248	ESSB 6392	SR 520 tolling revenue use	3/30/2010	PV	6/10/2010
118	SSB 6395	Rights of speech & petition	3/18/2010		6/10/2010
119	SSB 6398	Threat/malicious harassment	3/18/2010		6/10/2010
163	SB 6401	General contractor projects	3/22/2010		6/10/2010
243	ESSB 6403	Vulnerable students	3/29/2010	PV	6/10/2010
27	E2SSB 6409	Opportunity pathways account	4/23/2010	PV	7/13/2010
267	SSB 6414	Offender registration	3/31/2010		6/10/2010
136	SB 6418	Annexation to fire prot dist	3/19/2010		6/10/2010
37	ESSB 6444	Operating supp budget 2010	5/4/2010	PV	5/4/2010
49	SB 6450	Court reporters	3/12/2010		6/10/2010

CHPT #	BILL NO.	SUBJECT	GOVERNOR SIGNED	VETO/ PARTIAL VETOS	EFFECTIVE DATES
50	SB 6453	LEOFF plan 2 shared leave	3/12/2010		6/10/2010
148	SSB 6459	Rental property inspection	3/19/2010		6/10/2010
51	SB 6467	Honorary degrees	3/12/2010		6/10/2010
287	ESSB 6468	Weatherization/residential	4/1/2010		6/10/2010
288	SSB 6470	Indian children/dependency	4/1/2010		6/10/2010
289	ESSB 6476	Sex crimes involving minors	4/1/2010	PV	6/10/2010*
219	SB 6481	Forest practice jurisdiction	3/25/2010		6/10/2010
290	SSB 6485	Craft distilleries	4/1/2010		6/10/2010
121	SB 6487	Chiropractic service/payment	3/18/2010		6/10/2010
249	ESSB 6499	Tolls: collection, use, etc.	3/30/2010		6/10/2010**
32	ESSB 6503	Closing state agencies	4/27/2010	PV	4/27/2010
122	E2SSB 6504	Crime victims' compensation	3/18/2010		6/10/2010*
77	SSB 6510	State route 166 extension	3/17/2010		6/10/2010
203	SSB 6520	William D. Ruckelshaus Ctr	3/25/2010		6/10/2010
220	ESSB 6522	Accountable care projects	3/25/2010		6/10/2010
72	SSB 6524	Unemployment insurance rates	3/15/2010		6/10/2010*
292	ESSB 6538	Small groups/insurance	4/1/2010		6/10/2010**
101	SB 6540	Combined fund drive	3/18/2010		6/10/2010
78	SB 6543	Tree fruit research comm	3/17/2010		6/10/2010
79	SSB 6544	Plat approval time limits	3/17/2010		6/10/2010
80	SB 6546	PERS/dir. of fire protection	3/17/2010		3/17/2010
258	SSB 6548	Suspending parole, probation	3/31/2010		6/10/2010*
81	SB 6555	State route number 908	3/17/2010		6/10/2010
70	SSB 6556	Agricultural burning fees	3/15/2010		6/10/2010
147	SSB 6557	Brake friction material	3/19/2010		6/10/2010
82	SSB 6558	Railroad crossing petitions	3/17/2010		6/10/2010
150	E2SSB 6561	Juvenile offender records	3/22/2010		6/10/2010
9	SSB 6572	Eliminating accounts	3/29/2010	PV	7/1/2010
	2SSB 6575	Underground economy	4/1/2010	V	
74	SSB 6577	Transportation policy goals	3/15/2010		6/10/2010
162	2SSB 6578	Multiagency permitting teams	3/22/2010		3/22/2010
169	ESSB 6582	Nursing assistant credential	3/23/2010		6/10/2010
293	SSB 6584	State health care authority	4/1/2010		6/10/2010
294	SSB 6590	Law enf officer conduct	4/1/2010		6/10/2010
85	SSB 6591	Human rights commission	3/17/2010		6/10/2010
233	SB 6593	Infant & toddler program	3/29/2010		7/1/2010
244	ESSB 6604	Student learning plans	3/29/2010		6/10/2010
164	E2SSB 6609	Local govt infrastructure	3/22/2010		6/10/2010
263	ESB 6610	Persons w/ mental illnesses	3/31/2010		6/10/2010
216	SSB 6611	Comprehensive land use plan	3/25/2010		6/10/2010
295	SSB 6614	Bonneville power admin	4/1/2010		6/10/2010
83	SB 6627	Prescriptions by ARNPs	3/17/2010		6/10/2010
84	SSB 6634	Dairy nutrient mgmt records	3/17/2010		6/10/2010*
224	SSB 6639	Confinement alternatives	3/26/2010		6/10/2010
170	SSB 6647	Civil air patrol/emergencies	3/23/2010		6/10/2010

CHPT #	BILL NO.	SUBJECT	GOVERNOR SIGNED	VETO/ PARTIAL VETOS	EFFECTIVE DATES
202	ESSB 6658	Community solar projects	3/25/2010		6/10/2010
165	2SSB 6667	Business assistance programs	3/22/2010		6/10/2010
256	SSB 6673	Bail practices task force	3/31/2010		6/10/2010
120	SSB 6674	Motor carrier liability	3/18/2010		6/10/2010
13	2SSB 6675	Global health program	4/5/2010		7/13/2010
166	2SSB 6679	Export finance assist center	3/22/2010		6/10/2010
207	SSB 6688	Nonpartisan elective office	3/25/2010		6/10/2010
167	SSB 6692	Electric generation/biomass	3/22/2010		6/10/2010
235	E2SSB 6696	Education reform	3/29/2010		6/10/2010
226	2SSB 6702	Juveniles in adult jails	3/26/2010		6/10/2010
14	SSB 6706	Research at st. universities	4/5/2010		7/13/2010
11	SSB 6712	Extending tax incentives	3/31/2010		7/13/2010
168	ESSB 6724	Shared leave program	3/23/2010		3/23/2010
296	ESSB 6726	Language access providers	4/1/2010	PV	6/10/2010
33	SSB 6727	Health sciences and services	4/27/2010		7/13/2010
12	ESSB 6737	Air ambulance tax exemption	3/31/2010		7/13/2010
123	SB 6745	Veterinary technicians	3/18/2010		6/10/2010*
64	SSB 6749	Commercial real estate	3/15/2010		6/10/2010
234	SSB 6759	Voluntary early learning	3/29/2010		6/10/2010
149	ESB 6764	Judgments/tortious conduct	3/19/2010		6/10/2010
250	ESSB 6774	Transp benefit districts	3/30/2010		6/10/2010
1	ESSB 6789	Equipment in data centers	3/25/2010		4/1/2010
171	SB 6804	Gambling treatmnt/DSHS rules	3/23/2010		6/10/2010
124	SSB 6816	Farm implement permits	3/18/2010		6/10/2010
221	SB 6826	Subagent service fees	3/25/2010	PV	6/10/2010
11	SSB 6831	Estates and trusts	3/10/2010		3/10/2010
291	SSB 6832	Child welfare services	4/1/2010		6/10/2010
222	SB 6833	State treasurer/funds, accts	3/25/2010		6/10/2010
19	SSB 6846	Enhanced 911 services	4/13/2010		10/1/2010*
281	SB 6855	Community center taxation	4/1/2010		6/10/2010
28	ESB 6870	Sexually violent predators	4/23/2010		7/13/2010
34	ESSB 6872	Nursing facilities/medicaid	5/4/2010	PV	7/1/2010*
20	SSB 6884	Practice of counseling	4/13/2010		4/13/2010
15	SSB 6889	Convention and trade center	4/9/2010		7/13/2010

HOUSE BILLS PASSED REGULAR/SPECIAL SESSION BY BOTH SENATE AND HOUSE SHOWING THE  
ACTION BY THE GOVERNOR THEREON

CHPT #	BILL NO.	SUBJECT	GOVERNOR SIGNED	VETO	EFFECTIVE DATES
86	HB 1080	Fire protection facilities	3/17/2010		6/10/2010
	E2SHB 1096	Small business/st purchasing	4/1/2010	V	
151	E2SHB 1149	Security breach protection	3/22/2010		7/1/2010
257	E2SHB 1317	Criminal justice employees	3/31/2010		6/10/2010
20	E2SHB 1418	Dropout reengagement system	3/12/2010		6/10/2010
103	HB 1541	Half-time edu employment	3/18/2010		6/10/2010
21	SHB 1545	Higher education annuities	3/12/2010		6/10/2010
104	E2SHB 1560	Higher ed collec bargaining	3/18/2010		6/10/2010
23	HB 1576	Tax on marine fuel	3/12/2010		6/10/2010
105	2SHB 1591	Trans benefit district funds	3/18/2010		6/10/2010
106	E2SHB 1597	Tax programs administration	3/18/2010		7/1/2010*
107	EHB 1653	Shoreline & growth mgmt acts	3/18/2010		3/18/2010
259	SHB 1679	Public safety personnel	3/31/2010		6/10/2010
21	EHB 1690	Public works projects	4/23/2010		7/13/2010
172	ESHB 1714	Association health plans	3/23/2010		6/10/2010
185	2SHB 1761	Ethical use/legisl web sites	3/24/2010		6/10/2010
90	2EHB 1876	Disabled veterans/donations	3/17/2010		6/10/2010
125	HB 1880	Ballot envelopes	3/19/2010	PV	6/10/2010
108	SHB 1913	Process servers	3/18/2010		6/10/2010
175	ESHB 1956	Homeless person encampments	3/23/2010		6/10/2010
184	HB 1966	Drivers & wheelchair users	3/24/2010		8/1/2010
204	2SHB 2016	Campaign laws	3/25/2010	PV	3/25/2010*
251	SHB 2179	Transportation improvements	3/30/2010		6/10/2010
260	SHB 2196	Military service credit	3/31/2010		6/10/2010
264	SHB 2226	Retired law enforcement	3/31/2010		6/10/2010
3	EHB 2360	AIDS grants/dept of health	3/26/2010		1/1/2011
52	2SHB 2396	Emer cardiac & stroke care	3/15/2010		6/10/2010
24	ESHB 2399	Solid waste collection	3/12/2010		7/1/2010
186	SHB 2402	Farmers market/property tax	3/24/2010		6/10/2010
91	SHB 2403	Military leave/pub employees	3/17/2010		6/10/2010
26	HB 2406	Joint leg audit & review com	3/12/2010		6/10/2010
93	HB 2419	Foreign and alien insurers	3/17/2010		6/10/2010
187	SHB 2420	Industries/working land base	3/24/2010		6/10/2010
28	SHB 2422	Escape notice requirements	3/12/2010		6/10/2010
227	ESHB 2424	Sexual exploitation/children	3/26/2010		6/10/2010
29	HB 2428	Locating surplus funds/fees	3/12/2010		6/10/2010
31	SHB 2429	Resale of motor vehicles	3/12/2010		6/10/2010
92	SHB 2430	Cardio invasive specialists	3/17/2010		6/10/2010
270	2SHB 2436	Vehicle license fraud	4/1/2010		7/1/2010
177	SHB 2443	Controlled substances act	3/23/2010		6/10/2010
109	HB 2460	Organic products	3/18/2010		6/10/2010
252	ESHB 2464	Vehicles in emergency zones	3/30/2010		1/1/2011
53	HB 2465	Breath test instruments	3/15/2010		6/10/2010
268	SHB 2466	Ignition interlock devices	3/31/2010		6/10/2010

CHPT #	BILL NO.	SUBJECT	GOVERNOR SIGNED	VETO	EFFECTIVE DATES
126	2SHB 2481	DNR forest biomass agreemnts	3/19/2010		6/10/2010*
54	SHB 2487	Deferred prosecution costs	3/15/2010		6/10/2010
94	HB 2490	Intellectual disabilities	3/17/2010		6/10/2010
22	ESHB 2493	Cigarette & tobacco taxation	4/23/2010		5/1/2010
32	ESHB 2496	Ballot design	3/12/2010		6/10/2010
189	SHB 2503	Natural resources board	3/24/2010		6/10/2010
95	HB 2510	Public hospital districts	3/17/2010		6/10/2010
96	SHB 2515	Biodiesel fuel labeling	3/17/2010		6/10/2010
190	ESHB 2518	Interpreter oath requiremnts	3/24/2010		6/10/2010
261	EHB 2519	Pub safety employee benefits	3/31/2010		6/10/2010
110	HB 2521	Health plan conversion right	3/18/2010		6/10/2010
192	SHB 2525	Public facilities districts	3/24/2010		6/10/2010
152	SHB 2527	Energy facil site eval councl	3/22/2010		6/10/2010
208	SHB 2533	Persons not guilty/insanity	3/25/2010		6/10/2010
265	SHB 2534	Verifying offender addresses	3/31/2010		6/10/2010
153	ESHB 2538	High-density urban developmnt	3/22/2010		6/10/2010
154	E2SHB 2539	Source separated materials	3/22/2010		6/10/2010
173	HB 2540	Licensure of dentists	3/23/2010		6/10/2010
188	ESHB 2541	Forest products industry	3/24/2010		6/10/2010
33	SHB 2546	Electrical trainee training	3/12/2010		7/1/2011
178	ESHB 2547	Motor vehicle franchises	3/23/2010		6/10/2010
174	2SHB 2551	WA vaccine association	3/23/2010		3/23/2010
55	SHB 2555	L & I subpoenas/electricians	3/15/2010		6/10/2010
230	ESHB 2560	Joint underwriting assn's	3/29/2010		3/29/2010
35	EHB 2561	Energy cost savings & jobs	5/4/2010		7/13/2010**
34	ESHB 2564	Escrow agents	3/12/2010		6/10/2010
	HB 2575	Capital projects review brd	4/1/2010	V	
29	2SHB 2576	Fees/corporations, charities	4/27/2010		7/13/2010
27	SHB 2585	Insurance, generally	3/12/2010		6/10/2010
56	HB 2592	Impounds/incentive towing	3/15/2010		6/10/2010
193	SHB 2593	F & W dept. shellfish mgmt	3/24/2010		6/10/2010
176	SHB 2596	Child advocacy centers	3/23/2010		6/10/2010
57	HB 2598	Dredged riverbed materials	3/15/2010		6/10/2010
194	2SHB 2603	Small businesses/compliance	3/24/2010		6/10/2010
35	HB 2608	Residential mortgage loaning	3/12/2010		7/1/2010
7	E2SHB 2617	Boards and commissions	3/29/2010		7/13/2010*
111	SHB 2620	Excise taxation	3/18/2010		7/1/2010
238	HB 2621	K-12 schools resource progs	3/29/2010		3/29/2010*
254	HB 2625	Bail for felony offenses	3/31/2010		1/1/2011*
24	E2SHB 2630	Opportunity express program	4/23/2010	PV	7/13/2010
25	SHB 2649	Unemployment insurance/RCW	3/12/2010		6/10/2010*
195	SHB 2651	Port districts/job training	3/24/2010		6/10/2010
196	SHB 2657	Limited liability companies	3/24/2010		6/10/2010
271	E2SHB 2658	Refocusing dept. of commerce	4/1/2010	PV	7/1/2010
197	HB 2659	Timber purchase reporting	3/24/2010		6/10/2010
37	SHB 2661	WSU extension energy program	3/12/2010		6/10/2010

CHPT #	BILL NO.	SUBJECT	GOVERNOR SIGNED	VETO	EFFECTIVE DATES
38	EHB 2667	Forest fire response	3/12/2010		6/10/2010
2	EHB 2672	Aluminum smelters/tax relief	3/25/2010		7/13/2010
4	HB 2676	Energy conservation loans	3/26/2010		7/13/2010
5	HB 2677	Water conservation loans	3/26/2010		7/13/2010
39	SHB 2678	Nonprofit race meets	3/12/2010		6/10/2010
272	SHB 2680	Guardianship program	4/1/2010		6/10/2010
191	HB 2681	Compensation for p-t judges	3/24/2010		6/10/2010
40	SHB 2684	Opportunity centers	3/12/2010		6/10/2010
228	SHB 2686	Dental services not covered	3/26/2010		6/10/2010
25	HB 2694	BS in nursing/University Ctr	4/23/2010		7/1/2010**
156	HB 2697	Real estate broker licensure	3/22/2010		7/1/2010
30	SHB 2704	WA main street program	3/12/2010		7/1/2010
58	HB 2707	PUD commissioner	3/15/2010		6/10/2010
262	SHB 2717	Leave from state facilities	3/31/2010		6/10/2010
231	2SHB 2731	At-risk children program	3/29/2010	PV	6/10/2010
157	HB 2734	Community health centers	3/22/2010		6/10/2010
180	HB 2735	Children/dependency matters	3/23/2010		6/10/2010
59	HB 2740	Land use decision	3/15/2010		6/10/2010
269	2SHB 2742	DUI accountability	3/31/2010		1/1/2011
158	SHB 2745	Lead-based paint program	3/22/2010		6/10/2010
181	ESHB 2747	Use of restraints	3/23/2010		6/10/2010
198	HB 2748	Public port association dues	3/24/2010		6/10/2010
229	ESHB 2752	Safety of runaway youth	3/26/2010		6/10/2010
6	ESHB 2753	WA works housing program	3/26/2010		7/13/2010
112	SHB 2758	Wholesale sales/excise tax	3/18/2010		6/10/2010*
275	SHB 2775	State building code council	4/1/2010		6/10/2010
236	SHB 2776	K-12 education funding	3/29/2010	PV	6/10/2010*
274	ESHB 2777	Domestic violence provisions	4/1/2010	PV	6/10/2010
8	E2SHB 2782	Security lifeline act	3/29/2010	PV	3/29/2010*
22	SHB 2789	Underground economy activity	3/12/2010		6/10/2010
239	SHB 2801	Antiharassment strategies	3/29/2010		6/10/2010
276	EHB 2805	Public works/off-site prefab	4/1/2010		6/10/2010
60	HB 2823	Retirees resuming service	3/15/2010		6/10/2010
113	SHB 2828	Hospital infection reports	3/18/2010		3/18/2010
87	EHB 2830	Credit union regulation	3/17/2010		3/17/2010
88	EHB 2831	Banks and trust companies	3/17/2010		3/17/2010
36	ESHB 2836	Capital supp budget 2010	5/4/2010	PV	5/4/2010
277	SHB 2841	Std health questionnaire	4/1/2010		6/10/2010
97	ESHB 2842	Insurer receiverships	3/17/2010		6/10/2010
61	HB 2858	Higher education purchasing	3/15/2010		6/10/2010
98	HB 2861	Certified court reporters	3/17/2010		6/10/2010
232	2SHB 2867	Early learning	3/29/2010		6/10/2010
209	ESHB 2876	Pain management	3/25/2010	PV	6/10/2010
41	HB 2877	Educational employees/stock	3/12/2010		6/10/2010
237	SHB 2893	School levies	3/29/2010	PV	6/10/2010*
99	ESHB 2913	High school programs	3/17/2010		6/10/2010*

CHPT #	BILL NO.	SUBJECT	GOVERNOR SIGNED	VETO	EFFECTIVE DATES
3	ESHB 2921	Operating supp 2010	2/15/2010		2/15/2010*
199	ESHB 2925	Hydroelectric facilities	3/24/2010	PV	6/10/2010
210	SHB 2935	Hearing brds/envir, land use	3/25/2010		7/1/2010
253	SHB 2939	Driver abstract/not at fault	3/30/2010	PV	10/31/2010
30	E2SHB 2956	Hospital safety net	4/27/2010		4/27/2010
182	E2SHB 2961	Tracking ephedrine, etc.	3/23/2010		6/10/2010
200	SHB 2962	County treasurers/prop taxes	3/24/2010		6/10/2010
183	HB 2973	Resident students/military	3/23/2010		6/10/2010
278	ESHB 2986	Pub trans governing bodies	4/1/2010		6/10/2010
102	SHB 2990	Water-sewer districts	3/18/2010		6/10/2010
100	HB 2996	OSPI record check info rules	3/17/2010		6/10/2010
2	SHB 2998	Suspending monetary awards	2/15/2010		2/15/2010
155	HB 3007	Airport property rental	3/22/2010		6/10/2010
16	ESHB 3014	Rural co. investmnt projects	4/13/2010		7/1/2010*
279	SHB 3016	Child support orders	4/1/2010		6/10/2010
240	E2SHB 3026	State & fed civil rights law	3/29/2010		6/10/2010**
201	HB 3030	Irrigation district admin	3/24/2010		6/10/2010
89	ESHB 3032	Normal wear & tear/vehicles	3/17/2010		6/10/2010
241	SHB 3036	School district debt	3/29/2010		6/10/2010
179	ESHB 3040	Appraisal mgmt companies	3/23/2010		7/1/2011
212	SHB 3046	Nonprofit corporations	3/25/2010		3/25/2010
213	HB 3061	Industrial insurance	3/25/2010		6/10/2010
114	SHB 3066	Tax reporting surveys	3/18/2010		6/10/2010
280	2SHB 3076	Involuntary treatment act	4/1/2010		6/10/2010**
159	SHB 3105	Alternative fuel vehicles	3/22/2010		6/10/2010
214	SHB 3124	DUI with child in car/report	3/25/2010		6/10/2010
273	E2SHB 3141	Delivery of TANF	4/1/2010	PV	6/10/2010
42	SHB 3145	Wage complaints	3/12/2010		6/10/2010
282	ESHB 3178	State govt technology use	4/1/2010	PV	6/10/2010**
127	ESHB 3179	Local excise tax provisions	3/19/2010		6/10/2010
31	HB 3197	Budget stabilization account	4/27/2010		7/13/2010
17	SHB 3201	Infant disorders screening	4/13/2010		7/13/2010
283	ESHB 3209	Managing ferry system costs	4/1/2010	PV	4/1/2010
26	HB 3219	RCW technical corrections	4/23/2010	PV	7/13/2010*

**SENATE MEMORIALS AND RESOLUTIONS PASSED  
BY BOTH SENATE AND HOUSE**Sixty-First Legislature  
2010 Regular Session

Senate Bill No.	Status Title
<b>SENATE JOINT MEMORIALS</b>	
SJM 8026	Adult offender superv. comm
SJM 8025	Space shuttle orbiter
<b>SENATE JOINT RESOLUTIONS</b>	
SJR 8225	Interest"/st. Const.
<b>SENATE CONCURRENT RESOLUTIONS</b>	
SCR 8410	Legislature organized
SCR 8411	2010 session cutoff dates
SCR 8412	Adjourning sine die
SCR 8414	Bills to house of origin

**HOUSE MEMORIALS AND RESOLUTIONS PASSED  
BY BOTH SENATE AND HOUSE**

Sixty-First Legislature  
2010 Regular Session

<b>House Bill No.</b>	<b>Status Title</b>
<b>HOUSE JOINT MEMORIALS</b>	
SHJM 4004	State route 110 name
<b>HOUSE JOINT RESOLUTIONS</b>	
ESHJR 4220	Bailable crimes/st. Const.
<b>HOUSE CONCURRENT RESOLUTIONS</b>	
HCR 4406	Reintroduction of 2009 bills
HCR 4407	Joint session
HCR 4408	Bills, house of origin
HCR 4409	Special session/bill status
HCR 4410	Adjourning sine die

## HISTORY OF SENATE BILLS

Bill No.	Introduction & 1 <sup>st</sup> Reading	Committee Report	2 <sup>nd</sup> Reading Amendments	3 <sup>rd</sup> Reading Final Passage	Other Action	Action by Governor
5002						109
5005-S						109
5007-S						74
5014						109
5018					25, 109	
5026-S						486
5027						109
5031						25
5032-S						25
5041		116	248, 249	250	249, 250, 513, 535(P), 767(S)	C5
5046		111	377			C6
5046-S			377	378	513, 535(P), 767(S)	C6
5048-S						109
5058					25, 109	
5061-S						486
5067						485
5069					25, 485	
5074						25
5076						25
5086					51, 485	
5096					25, 485	
5111					25, 485	
5115-S						109
5127						25
5138-S2						109
5141-S						486
5152-S						485
5176					25, 486	
5178					25, 109	
5179-S					25, 109	
5193						25
5200						51
5205						109
5208		134				485
5211						109
5212-S						25
5218						51
5219-S						51
5223						109
5225-S						109
5227					25, 486	
5232-S						486
5237		144	410			
5237-S			410	410	1357	
5255						485
5269-S						25
5279		122, 214				485
5282						109
5292						485
5295-S			149	149	25, 979, 983, 983, 1140(P), 1207(S)	C128
5297			225, 226	228	51, 227	
5301-S						25
5302		214				485

Bill No.	Introduction & 1 <sup>st</sup> Reading	Committee Report	2 <sup>nd</sup> Reading Amendments	3 <sup>rd</sup> Reading Final Passage	Other Action	Action by Governor
5316						74
5317-S						74
5320						74
5323					25, 109	
5332-S						109
5370						25
5376			285			25
5376-S			285	285		1357
5378						25
5383-S				191	191, 1357	
5398					25, 485	
5400-S						109
5403-S						109
5406-S						25
5407						109
5409						1357
5411			291	291	51, 1357	
5412						109
5419						109
5422					25, 485	
5424-S			176	178	176, 178, 1357,	
5440-S						109
5449-S						109
5451-S						109
5453						486
5484-S2						74
5485-S						109
5495						25
5498						25
5500						74
5502-S						109
5507						486
5516			170	173	51, 173, 513, 535(P), 767(S)	C9
5519						486
5523			228	230	25, 230, 1357	
5523-S						228
5528-S						486
5529-S				237	236, 983, 987, 1140(P), 1207(S),	C129
5533					25, 109	
5543		179, 214	347			C130
5543-S			347	352	351, 828, 833, 997(P), 1207(S),	C130
5548		145	304			25
5548-S			304	304		1357
5549					25, 485	
5550					25, 485	
5553-S						109
5555-S				290	109, 290, 1357	
5557-S						109
5563					25, 485	
5564					25, 485	
5567						25
5582			132	133	25, 513, 535(P), 767(S)	C10
5588						485
5589						109

Bill No.	Introduction & 1 <sup>st</sup> Reading	Committee Report	2 <sup>nd</sup> Reading Amendments	3 <sup>rd</sup> Reading Final Passage	Other Action	Action by Governor
5600					25	
5615					25, 486	
5617			190	191	25, 191, 513, 535(P), 767(S)	C12
5621			175	175	51, 1357	
5622					25, 486	
5624					25, 485	
5630					25, 109	
5633					25, 485	
5638-S					109	
5659-S					109	
5661					25	
5668			190		109	
5668-S			190	190	822, 1357	
5672					51, 486	
5678-S					74	
5682-S					109	
5691-S2					25	
5696					25, 486	
5698-S					109, 485	
5704-S			195	196	195, 196, 987, 988, 1140(P), 1207(S),	C131
5708-S					109	
5714					109	
5716-S					109	
5717					109	
5721					25, 109	
5727-S					486	
5728					25, 485	
5735-S2					109	
5742-S			188	189	188, 189, 1077, 1078, 1140(P), 1207(S),	C132
5751					25	
5757					25, 485	
5760-S					486	
5763-S					74	
5770					25, 485	
5779-S					109	
5780-S				306	306, 1357	
5786		53, 179				
5788					25, 485	
5798			174		109	C284
5798-S			174	174	1001, 1299, 1300, 1338(P), 1356,	C284
5800-S					486	
5802-S					74	
5807-S					25, 109	
5826-S					74	
5828-S					109	
5833-S					74	
5838		179			485	
5840-S					25, 486	
5869					109	
5879-S					109	
5880-S					109	
5886					486	
5890-S					109	

Bill No.	Introduction & 1 <sup>st</sup> Reading	Committee Report	2 <sup>nd</sup> Reading Amendments	3 <sup>rd</sup> Reading Final Passage	Other Action	Action by Governor
5893-S					109	
5895-S2					109	
5899-S			1259	1260, 1363	25, 1259, 1357, 1362, 1754	
5902			232			C215
5902-S			232	237	235, 236, 997, 1281, 1284, 1338(P), 1356,	C215
5907					25, 109	
5908			427	427	25, 1357	
5912		179, 214	417			
5912-S2			417		422	
5916-S2					74	
5930					25	
5933					109	
5940					109	
5941-S2					109	
5943-S2					74	
5948					25	
5948-S					485	
5951					485	
5957-S					109	
5986					109, 485	
5994					109	
6010		69				
6023-S					485	
6032-S					109	
6035-S					109	
6037-S					25, 486	
6038					109	
6048					109	
6051			370		25	
6051-S			371	373	372, 1357	
6052-S					109	
6053					109	
6065					25, 486	
6067					51, 486	
6082					109	
6083					109	
6103				175	174, 1357	
6109-S		214			25, 486	
6130		215	258			C4
6130-S			258, 259, 260	261	261, 458, 459, 460(P), 469(S),	C4
6138-S					74	
6143		820	944			C 23 L 10 E1
6143-S			944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 1417, 1423, 1424, 1425	961, 1426	947, 953, 955, 960, 961, 1417, 1417, 1462, 1520, 1559, 1592, 1735(P), 1735(S),	C 23 L 10 E1
6156		53				
6160-S					109	
6163					109	
6172-S					486	
6182		696				
6183					109	
6185		151				

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6190	14					
6191	14	116			485	
6192	14	134	434			C134
6192-S			434	435	1073, 1140(P), 1207(S),	C134
6193	14					
6194	14	61, 134			485	
6195	14	93			485	
6196	14	76	149	150	1357	
6197	14	82	236			C13
6197-S			236	236	513, 535(P), 767(S)	C13
6198	15	93			485	
6199	15	116				
6200	15					
6201	15					
6202	15	161	370			C133
6202-S			370	370	1074, 1076, 1140(P), 1207(S),	C133
6203	15					
6204	15	179			486	
6205	15	88	302			
6205-S			302	302	1357	
6206	15	215	330	331	1076, 1077, 1140(P), 1207(S),	C137
6207	15	82	231			C217PV
6207-S			231	231	970, 972, 973, 1140(P), 1207(S)	C217PV
6208	15	82	302			C138
6208-S			303	303	942, 943, 944, 997(P), 1207(S)	C138
6209	16	82	284	284	684, 714(P), 778(S)	C43
6210	16	122			485	
6211	16	69	178			C14
6211-S			178	178	513, 535(P), 767(S)	C14
6212	16					
6213	16	82	170			C15
6213-S			170	170	513, 535(P), 767(S)	C15
6214	16	134	243			C211
6214-S			243	243	988, 996, 997, 1140(P), 1207(S)	C211
6215	16					
6216	16	76			485	
6217	16	82	288			
6217-S			288	289	1357	
6218	16	88	131	131	768, 800(P), 1207(S)	C115
6219	16	61	132	132	768, 800(P), 1207(S)	C139
6220	16	88	132	132, 1513	1357, 1512, 1515, 1517(P), 1518(S)	C 18 L 10 E1
6221	16	88	174, 1398	174, 1398	978, 1307, 1398, 1453, 1455(P), 1502(S),	C 10 L 10 E1
6222	16					
6223	17					
6224	17	88	286			
6224-S			286	287	1357	
6225	17	179			485	
6226	17				24	
6227	17	88	236	236	513, 535(P), 767(S)	C16
6228	17	161			485	
6229	17	69	173	174	513, 535(P), 768(S)	C17

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6230	17					
6231	17	88	189			
6231-S			189	190	1357	
6232	17					
6233	17					
6234	17	61			485	
6235	17	88, 151			485	
6236	17					
6237	18	76				
6238	18	134			485	
6239	18	76	283			C8
6239-S			283	284	513, 535(P), 768(S)	C8
6240	19	116	197	200	197, 200, 1357	
6241	19	180	356			C7
6241-S			356	361	360, 610, 617(P), 768(S)	C7
6242	19	180			485	
6243	19	76	175	176	978, 1099, 1219(P), 1321(S)	C205
6244	19	134	352		137	
6244-S			352, 353	354	354, 1357	
6245	19	180			485	
6246	19					
6247	19					
6248	19	76	132			C140
6248-S			132	132	997, 1140(P), 1207(S),	C140
6249	20					
6250	20					
6251	20	93	409			C18
6251-S			410	410	513, 535(P), 768(S)	C18
6252	20	151			485	
6253	20	93			485	
6254	20				24	
6255	20					
6256	20					
6257	20					
6258	20	116			485	
6259	20					
6260	21					
6261	21	161	433	434	433, 434, 958, 959, 997(P), 1207(S),	C135
6262	21					
6263	21	111, 151	239, 240, 242	243	240, 243, 1357	
6264	21	89			485	
6265	21	93	284	284	1357	
6266	21	161			485	
6267	21	180, 215	428			C285PV
6267-S2			428	433	432, 1180, 1308, 1312, 1313, 1338(P), 1356	C285PV
6268	21					
6269	21	111	309	310	1357	
6270	21					
6271	21	82	308			C19
6271-S			308	308	513, 535(P), 768(S)	C19
6272	21					
6273	21	111	175			C44
6273-S			175	175	513, 535(P), 768(S)	C44
6274	21	76			485	

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6275	22	61	427	427	513, 535(P), 768(S)	C45
6276	22					
6277	22	161	427	427	427, 1357	
6278	22					
6279	22	69	290	290	684, 714(P), 778(S)	C62
6280	22	116	367			C286
6280-S			367	367	1002, 1300, 1300, 1301, 1338(P), 1356	C286
6281	22					
6282	22					
6283	22	116				
6284	22					
6285	22					
6286	22	61, 116	200			C46
6286-S			200	201	513, 535(P), 768(S)	C46
6287	22	134	368	368	368, 513, 535(P), 768(S)	C63
6288	22	117	231	232	513, 535(P), 768(S)	C47
6289	23	134	310			
6289-S			312	313	312, 313, 1357,	
6290	23					
6291	23					
6292	23	162			485	
6293	23	111	293			C255
6293-S			293	293	979, 1301, 1301, 1301, 1338(P), 1356	C255
6294	23					
6295	23					
6296	23					
6297	23	89	365	365	513, 535(P), 768(S)	C65
6298	23	117	366			C36
6298-S			366	367	513, 535(P), 768(S)	C36
6299	23	145	437			C66
6299-S			437	437	513, 535(P), 768(S)	C66
6300	35	162			485	
6301	35	180			486	
6302	35					
6303	35					
6304	36					
6305	36					
6306	36	117	244			C67
6306-S			244	247	247, 513, 535(P), 768(S)	C67
6307	36					
6308	36	151	434	434	1123, 1124, 1219(P), 1321(S),	C218
6309	36	151	406			
6309-S			406	406	1357	
6310	36				39	
6311	36					
6312	36					
6313	36					
6314	36					
6315	36					
6316	36	180, 215	291			
6316-S2			291	292	1357	
6317	36					
6318	37					
6319	37					

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6320	37					39
6321	37					
6322	37	101				485
6323	37	162				485
6324	37					
6325	37	107				
6326	37	151				
6327	37	162				485
6328	37	122				485
6329	37	76	336			C141
6329-S			336	336	768, 800(P), 1207(S)	C141
6330	38	101	225	225	684, 714(P), 778(S)	C48
6331	38					
6332	38	101	361			C142
6332-S			361	361	1031, 1140(P), 1207(S),	C142
6333	38	77				485
6334	38	151				
6335	38					
6336	38					
6337	38	152	409			C116
6337-S			409	409	513, 535(P), 768(S)	C116
6338	38	162	365			
6338-S			365	366		1357
6339	38	767	1057			C225
6339-S			1057	1057	1321, 1338(P), 1356	C225
6340	38	111	239			C143
6340-S			239	239	1031, 1032, 1140(P), 1207(S),	C143
6341	38	122	244			C68
6341-S			244	244	684, 714(P), 778(S)	C68
6342	38	135	255			C75
6342-S			255	255	1032, 1140(P), 1207(S),	C75
6343	38	145	366			Vetoed
6343-S			366	366	1032, 1034, 1140(P), 1207(S),	Vetoed
6344	39	117	255			C206
6344-S			255	256	1120, 1122, 1219(P), 1321(S),	C206
6345	39	111	178			C223
6345-S			178	179	823, 1338, 1357(P), 1357	C223
6346	39	112	254			C144
6346-S			254	254	959, 960, 997(P), 1207(S),	C144
6347	39	117				486
6348	39	112				486
6349	39	152	406			C160PV
6349-S			406	407	1084, 1086, 1219(P), 1321(S),	C160PV
6350	39	152	310			C145
6350-S			310	310	823, 828, 1099, 1219(P), 1321(S)	C145
6351	45					
6352	45	141				485
6353	45	69				486
6354	45					
6355	45	122	309			C245
6355-S			309	309	1070, 1301, 1307, 1338(P), 1356,	C245
6356	45	117	254			C117

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6356-S			255	255	962, 997(P), 1207(S),	C117
6357	45	122	287			C71
6357-S			287	288	610, 617(P), 768(S)	C71
6358	45					
6359	45	122	373			C246
6359-S			373	375	375, 962, 964, 965, 997(P), 1207(S)	C246
6360	45	117	286			
6360-S			286	286	1357	
6361	45	117	290			C266
6361-S			290	290	820, 997(P), 1207(S)	C266
6362	46	180, 215			485	
6363	46	61, 145	305			C242
6363-S			305	305	768, 800(P), 1207(S)	C242
6364	46	1079	1231			
6364-S			1231, 1232	1232	1357	
6365	46	117	288	288	513, 535(P), 768(S)	C76
6366	46	145			485	
6367	46	135	354			C69
6367-S			355	355	513, 535(P), 768(S)	C69
6368	46					
6369	46	117				
6370	46	118			485	
6371	46	118	435			C73
6371-S			435	435	513, 535(P), 768(S)	C73
6372	47	77				
6373	47	135, 187	311			C146
6373-S			311	311	973, 975, 1140(P), 1207(S),	C146
6374	47	145, 215	243			
6374-S			243	244	1357	
6375	47					
6376	47					
6377	47	112			485	
6378	47					
6379	47	145	305	305	833, 942, 997(P), 1207(S),	C161
6380	48	118	286			
6380-S			286	286	1357	
6381	48	471	508			C247PV
6381-S			509, 511	510	1147, 1177, 1178, 1219(P), 1321(S)	C247PV
6382	48	93	97			C1
6382-S			97	98	206, 209, 210, 224(P), 291(S)	C1
6383	48					
6384	48	162			485	
6385	49					
6386	49	123			485	
6387	49					
6388	49	145				
6389	49	101				
6390	49					
6391	49					
6392	49	112	423			C248PV
6392-S			423	425	425, 1026, 1029, 1140(P), 1207(S),	C248PV
6393	49	101	284			
6393-S			284	285	1357	

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6394	49					
6395	49	101	411			C118
6395-S			411	411	513, 535(P), 768(S)	C118
6396	49					
6397	49	180			485	
6398	49	141	407			C119
6398-S			407	407	513, 535(P), 768(S)	C119
6399	50					
6400	50					
6401	50	135	239	239	51, 1145, 1145, 1219(P), 1321(S),	C163
6402	50	145	415			
6402-S			415, 416	416	416, 1357	
6403	50	107	266			C243PV
6403-S			266	267	1086, 1088, 1089, 1219(P), 1321(S)	C243PV
6404	50					
6405	50	118			119, 486	
6406	50	162			485	
6407	50					
6408	50	135			485	
6409	50	145, 466	796			C 27 L 10 E1
6409-S2			796	796, 1366	1357, 1366, 1738, 1754, 1754(S), 1754(P)	C 27 L 10 E1
6410	50					
6411	51					
6412	53	162			485	
6413	53	123			485	
6414	53	152	331			C267
6414-S			331	331	610, 617(P), 768(S)	C267
6415	53					
6416	53	152	422			
6416-S			422	423	1072, 1307, 1357	
6417	53					
6418	53	118	248	248	768, 800(P), 1207(S)	C136
6419	54					
6420	54					
6421	54	135				
6422	54	152				
6423	54				59	
6424	54	101, 215	389			
6424-S			389	389	1357	
6425	54					
6426	54	215	250			
6426-S			250, 251	252	1357	
6427	55					
6428	55	152			485	
6429	55					
6430	55	101	355	356	1357	
6431	55	146			485	
6432	55					
6433	55	180	373			
6433-S			373	373	1357	
6434	55					
6435	55	135			485	
6436	56					
6437	56					

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6438	56					
6439	56					
6440	56	135				485
6441	56					
6442	56	162				485
6443	56	83				
6444	56	494	510			C 37 L 10 E1
6444-S			510, 511	511, 1364	1363, 1594, 1695, 1696, 1735(P), 1735(S)	C 37 L 10 E1
6445	56					
6446	56					
6447	56					
6448	57	152, 216				
6449	57	152	390			
6449-S			390, 391, 392	393	1357	
6450	57	118	330	330	513, 535(P), 768(S)	C49
6451	57	135				485
6452	57					
6453	57	216	407	408	684, 714(P), 778(S)	C50
6454	57	153				485
6455	57					59
6456	57	153				485
6457	57					
6458	57					
6459	57	163	366			C148
6459-S			366	366	966, 969, 1140(P), 1207(S),	C148
6460	57	163				485
6461	58	136				485
6462	58	136	376	377	377, 1357	
6463	58					
6464	58					
6465	58					
6466	58	118				485
6467	58	136	355	355	513, 535(P), 768(S)	C51
6468	58	153	311			C287
6468-S			311	312	1089, 1219(P), 1321(S),	C287
6469	58	153				485
6470	58	153	408			C288
6470-S			408	408	1089, 1219(P), 1321(S),	C288
6471	58	146				485
6472	58					
6473	58					
6474	59					
6475	59					
6476	59	180	326			C289PV
6476-S			326	327	1089, 1098, 1099, 1219(P), 1321(S)	C289PV
6477	59					
6478	62					
6479	62					
6480	62					67
6481	62	123	365	365	1099, 1100, 1219(P), 1321(S),	C219
6482	62					
6483	62					
6484	62					
6485	62	153	329			C290

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6485-S			329	329	1084, 1219(P), 1321(S),	C290
6486	62					
6487	63	123	225	225	684, 714(P), 778(S)	C121
6488	63	107				
6489	63	181			486	
6490	63	163, 216			168, 485	
6491	63					
6492	63	153			486	
6493	63					
6494	63	181			486	
6495	63					
6496	63					
6497	63	118				
6498	63	146			485	
6499	63	216	425			C249
6499-S			425	426	610, 617(P), 768(S)	C249
6500	64	181			485	
6501	64	216			486	
6502	64	107, 153				
6503	64	93	98			C 32 L 10 E1
6503-S			98, 1367, 1378, 1379	100, 1380	100, 1357, 1367, 1379, 1531, 1542, 1550(P), 1735(S),	C 32 L 10 E1
6504	64	181, 216	331		186	C122
6504-S2			331	335	335, 1219, 1322, 1326, 1356(P),	C122
6505	64					
6506	64					
6507	64					
6508	64	154, 216	337			
6508-S			337, 338, 339, 369	370	337, 340, 369, 1116, 1264, 1266,	
6509	64					
6510	64	217	422			C77
6510-S			422	422	684, 714(P), 778(S)	C77
6511	64	163				
6512	65	163			485	
6513	65					
6514	65					
6515	65	181, 217	256			
6515-S2			256	256	1357	
6516	65					
6517	65					
6518	65	107, 1079				
6519	65					
6520	65	123	327			C203
6520-S			327	327	1250, 1251, 1281(P), 1321(S),	C203
6521	65	112	377			
6521-S			377	377	1357	
6522	65	146	437			C220
6522-S			438	438	610, 617(P), 768(S)	C220
6523	66					
6524	66	118	436			C72
6524-S			436	436	513, 535(P), 768(S)	C72
6525	66	118				
6526	66	154				

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6527	66					
6528	66	136			485	
6529	66					
6530	66					
6531	66					
6532	66	146				
6533	66	181	436			
6533-S			436	436	1357	
6534	66					
6535	67					
6536	67					
6537	67					
6538	69	163	407			C292
6538-S			407	407	1003, 1196, 1204, 1263(P), 1321(S),	C292
6539	69	154			485	
6540	69	118	435	436	820, 997(P), 1207(S)	C101
6541	70					
6542	70					
6543	70	123	287	287	513, 535(P), 768(S)	C78
6544	70	163	409			C79
6544-S			409	409	513, 535(P), 768(S)	C79
6545	70	154			486	
6546	70	217	385	385	513, 535(P), 768(S)	C80
6547	70					
6548	70	163	292			C258
6548-S			292	292	1083, 1205, 1206, 1263(P), 1321(S),	C258
6549	70					
6550	70	181, 217	292			
6550-S			292	292	1357	
6551	70	154			485	
6552	70	154			485	
6553	70	163				
6554	71	146				
6555	71	119	308	308	684, 714(P), 778(S)	C81
6556	71	112	369			C70
6556-S			369	369	610, 617(P), 768(S)	C70
6557	71	154, 217	313		158	C147
6557-S			313	314	975, 978, 1140(P), 1207(S),	C147
6558	71	146	306			C82
6558-S			307	307	684, 714(P), 778(S)	C82
6559	71	112			485	
6560	71					
6561	71	181, 217	327		186	C150
6561-S2			327	328	1100, 1103, 1104, 1219(P), 1321(S)	C150
6562	71	164, 217	397			
6562-S2			397	397	1357	
6563	71					
6564	71					
6565	71					
6566	71					
6567	71					
6568	71					
6569	72					
6570	72	181	308			

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6570-S			308	309	1357	
6571	72					
6572	72	154	1258			C 9 L 10 E1
6572-S			1258	1258, 1366	1357, 1365, 1412, 1413(P), 1453(S)	C 9 L 10 E1
6573	72					
6574	72					
6575	72	154, 218	381			Vetoed
6575-S2			381	381	1204, 1205, 1263(P), 1321(S),	Vetoed
6576	72					
6577	72	119	303			C74
6577-S			303	304	684, 714(P), 778(S)	C74
6578	72	182, 956	1057			C162
6578-S2			1057	1057	1261, 1281(P), 1321(S)	C162
6579	72	146, 188	381			
6579-S2			381, 382	384	381, 1357	
6580	72	136	307			
6580-S			307	307	1357	
6581	72					
6582	73	164	412			C169
6582-S			412	414	414, 1142, 1144, 1219(P), 1321(S),	C169
6583	73					
6584	73	147	435			C293
6584-S			435	435	513, 535(P), 768(S)	C293
6585	73					
6586	73	136			485	
6587	73					
6588	73					
6589	73	164				
6590	73	182	408			C294
6590-S			409	409	1034, 1035, 1140(P), 1207(S),	C294
6591	73	155	239			C85
6591-S			239	239	513, 535(P), 768(S)	C85
6592	73					
6593	73	164	324	325	1122, 1123, 1219(P), 1321(S),	C233
6594	74					
6595	74	147			148	
6596	74					
6597	74					
6598	74					
6599	74					
6600	77					
6601	77	107			108	
6602	77					
6603	77	182	306			
6603-S			306, 316	309, 317	1357	
6604	77	164	256			C244
6604-S			256, 257	257	1104, 1313, 1314, 1315, 1338(P), 1356	C244
6605	78					
6606	78					
6607	78	164			486	
6608	78					
6609	78	119, 767	1058			C164

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6609-S2			1058	1069	1069, 1145, 1219(P), 1321(S)	C164
6610	78	164, 218	321	324	168, 321, 324, 1111, 1278, 1280, 1281, 1338(P), 1356	C263
6610-S			321			C263
6611	78	182	313			C216
6611-S			313	313	1124, 1262, 1263, 1281(P), 1321(S),	C216
6612	78	136			486	
6613	78	182				
6614	78	767	1057			C295
6614-S			1057	1058	1145, 1219(P), 1321(S)	C295
6615	79					
6616	79	101				
6617	79	102				
6618	79					
6619	79	164			485	
6620	79	164				
6620-S						485
6621	79	155	174, 378			
6621-S			378	378		1357
6622	79	147				148
6623	80					
6624	80	164				486
6625	80					
6626	80					
6627	80	123	285	285	610, 617(P), 768(S)	C83
6628	80					
6629	80	155, 218	256			
6629-S			256	256		1357
6630	80	123				485
6631	80					
6632	80	147				
6633	80					
6634	80	123	408			C84
6634-S			408	408	535(P), 768(S)	C84
6635	80					
6636	81					
6637	81	119				
6638	81					
6639	83	182	375			C224
6639-S			375	376	1125, 1134, 1219(P), 1321(S),	C224
6640	83					
6641	83	147				485
6642	83					
6643	83	165	257	258		1357
6644	83	147	406			
6644-S			406	406		1358
6645	83					
6646	84	182				
6647	84	155	310			C170
6647-S			310	310	1145, 1219(P), 1321(S),	C170
6648	84	182				
6649	84	136	307			
6649-S			307	308		
6650	84					

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6651	84					
6652	84					
6653	84	141				
6654	84	147			485	
6655	84					
6656	84	155	361			
6656-S			361	364	364, 1358	
6657	84					
6658	84	155	410			C202
6658-S			410	411	1335, 1338, 1356(P),	C202
6659	84					
6660	85					
6661	85					
6662	85	165	437			
6662-S			437	437	1358	
6663	85	182			485	
6664	85					
6665	85	136			486	
6666	85	182			485	
6667	85	147, 218	330			C165
6667-S2			330	330	1178, 1179, 1180, 1219(P), 1321(S)	C165
6668	85	165			485	
6669	85	183, 218			485	
6670	85	165			485	
6671	85	165			486	
6672	89	183			486	
6673	89	165	293			C256
6673-S			293	293	1030, 1031, 1140(P), 1207(S),	C256
6674	89	147	328			C120
6674-S			328	328	513, 535(P), 768(S)	C120
6675	89	155, 1079	1232			C 13 L 10 E1
6675-S2			1232	1232, 1363	1358, 1363, 1499, 1501, 1504(P), 1505(S),	C 13 L 10 E1
6676	89	147			486	
6677	89					
6678	89	148, 218	329			
6678-S2			329	329, 1390	1358, 1390, 1754	
6679	90	148, 218	329		148	C166
6679-S2			329	329	1134, 1135, 1219(P), 1321(S),	C166
6680	90	183				
6681	90					
6682	90					
6683	90	165, 219			485	
6684	90	148			148	
6685	90	136			485	
6686	90	183	384			
6686-S			384	384	1358	
6687	90					
6688	90	155	247			C207
6688-S			247	248	1135, 1136, 1219(P), 1321(S),	C207
6689	90	155			485	
6690	90					
6691	90					

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6692	90	137	315			C167
6692-S			316	316	1136, 1137, 1219(P), 1321(S),	C167
6693	91	183				
6694	91					
6695	91	156			485	
6696	91	165, 219	267			C235
6696-S2			267, 280, 281	282	281, 1003, 1340, 1355, 1356(P),	C235
6697	91	183			486	
6698	91	166	385			
6698-S			385	385, 1391	1358, 1391, 1754	
6699	91					
6700	91	183			485	
6701	94	137			485	
6702	94	166, 219	327			C226
6702-S2			327	327	1137, 1138, 1139, 1219(P), 1321(S)	C226
6703	94	166			485	
6704	94					
6705	94					
6706	94	148	330			C 14 L 10 E1
6706-S			330	330, 1363	1358, 1363, 1501, 1502, 1504(P), 1505(S),	C 14 L 10 E1
6707	94					
6708	94					
6709	94	183			485	
6710	95					
6711	95					
6712	95	1079	1232			C 11 L 10 E1
6712-S			1233	1233, 1366	1358, 1366, 1453, 1455(P), 1502(S)	C 11 L 10 E1
6713	95					
6714	95					
6715	95	119			485	
6716	95					
6717	95					
6718	95				96	
6719	95	156			485	
6720	95	156	315	315	1358	
6721	95	219	336			
6721-S			336	336, 1366	1358, 1366, 1754	
6722	96					
6723	96					
6724	96	156	378		96	C168
6724-S			378	380	380, 1035, 1036, 1140(P), 1207(S),	C168
6725	96					
6726	96	183, 219	385		393	C296PV
6726-S			393		396, 1139, 1140, 1219(P), 1321(S),	C296PV
6726-S2			385	397		C296PV
6727	96	112, 219	384			C 33 L 10 E1
6727-S			384	384, 1367	1358, 1366, 1736, 1738, 1754(P), 1754(S),	C 33 L 10 E1
6728	96					
6729	96	184			486	
6730	96	184	287			

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6730-S			287	287	1114	
6731	96					
6732	103	156			486	
6733	103	184	353			
6733-S			353	353	353, 1358	
6734	103	137				
6735	103					
6736	103					
6737	103	219	389			C 12 L 10 E1
6737-S			389	390, 1367	1358, 1367, 1438, 1439, 1455(P), 1502(S),	C 12 L 10 E1
6738	103	156			485	
6739	103					
6740	103	184				
6741	103					
6742	103	220			486	
6743	103	184			485	
6744	103					
6745	103	141	426	426	610, 617(P), 768(S)	C123
6746	103					
6747	104	148, 220	315			
6747-S			315	315	1358	
6748	104	466				
6749	104	156	411			C64
6749-S			411	411	513, 535(P), 768(S)	C64
6750	104					
6751	104	123				
6752	104					
6753	104					
6754	104	156	380	381	380, 1358	
6755	104					
6756	104					
6757	104	148				
6758	104				106	
6759	104	156, 220	352			C234
6759-S			352	352	1107, 1315, 1316, 1317, 1338(P), 1356	C234
6760	105	156, 220	283			
6760-S2			283	283	1358	
6761	105	157				
6762	105	157	314	315	314, 1358	
6763	105					
6764	105	184	416, 417	417	1036, 1037, 1140(P), 1207(S),	C149
6765	105					
6766	108	157, 1387				
6767	108					
6768	108	184			485	
6769	108					
6770	108					
6771	108					
6772	108	166			485	
6773	109					
6774	109	157	252			C250
6774-S			252, 253	253	1001, 1262, 1321, 1338(P), 1356	C250
6775	109	184			486	

Bill No.	Introduction & 1 <sup>st</sup> Reading	Committee Report	2 <sup>nd</sup> Reading Amendments	3 <sup>rd</sup> Reading Final Passage	Other Action	Action by Governor
6776	109	157	405	406		
6777	109	124				
6778	113	184	367			
6778-S			367	368	1358	
6779	113					
6780	113	166				
6781	113					
6782	113					
6783	113					
6784	113					
6785	113					
6786	114					
6787	114					
6788	114	185	367			
6788-S			367	367	1358	
6789	114	1079	1380			C 1 L 10 E1
6789-S			1380	1382	1382, 1388, 1389(P)	C 1 L 10 E1
6790	114	157, 220	426			
6790-S2			426	426	1358	
6791	120	185			485	
6792	120	166			485	
6793	120	185			486	
6794	120	166			485	
6795	120					
6796	120	166				
6797	120	185, 220			485	
6798	120	166, 220			486	
6799	120					
6800	120	185			486	
6801	130					
6802	130	157			485	
6803	130	185, 221			486	
6804	130	157	325	326	1115, 1248, 1263(P), 1321(S)	C171
6805	130	157	248			
6805-S			248	248		
6806	130					
6807	130					
6808	130	185			186	
6809	130					
6810	130					
6811	138	167			486	
6812	138					
6813	138					
6814	138					
6815	138	185	307	307	1358	
6816	138	167	369			C124
6816-S			369	369	684, 714(P), 778(S)	C124
6817	138	167				
6818	138					
6819	138					
6820	138					
6821	138					
6822	139					
6823	139	221			486	
6824	139					
6825	141	221				

Bill No.	Introduction & 1 <sup>st</sup> Reading	Committee Report	2 <sup>nd</sup> Reading Amendments	3 <sup>rd</sup> Reading Final Passage	Other Action	Action by Governor
6826	142	221	305	305	1141, 1142, 1219(P), 1321(S),	C221PV
6827	142	221			485	
6828	142	185				
6829	142					
6830	142					
6831	142	186, 221	426			C11
6831-S			426	427	610, 617(P), 768(S)	C11
6832	148	186	336			C291
6832-S			336	336	1187, 1190, 1219(P), 1321(S),	C291
6833	149	221	1058	1058	1317, 1319, 1338(P), 1356,	C222
6834	149					
6835	149					
6836	149					
6837	158					
6838	158					
6839	158					
6840	159					
6841	159					
6842	159					
6843	159	193	210, 211, 212	213	212, 213, 213, 1358	
6844	159	466	1058			
6844-S			1058	1058	1358	
6845	159	221			486	
6846	159	767	1513		159	C 19 L 10 E1
6846-S			1513	1513	1515, 1517(P), 1518(S)	C 19 L 10 E1
6847	168					
6848	168				169	
6849	168	696				
6850	168					
6851	193	1193				
6852	193					
6853	193	222				
6854	194					
6855	295	1079	1237	1237	1339, 1356(P)	C281
6856	318					
6857	341					
6858	439	460				
6859	446					
6860	446					
6861	446					
6862	446					
6863	446					
6864	446					
6865	446					
6866	446					
6867	446					
6868	451	487				
6869	456	696				
6870	456	487	1069, 1391	1069, 1391	1358, 1391, 1552, 1552, 1592(P), 1735(S),	C 28 L 10 E1
6871	456	696	1069			
6871-S			1069	1070		
6872	456	1080	1739			C 34 L 10 E1
6872-S			1739	1753	1752, 1754(S), 1754(P), 1754	C 34 L 10 E1

Bill No.	Introduction & 1 <sup>st</sup> Reading	Committee Report	2 <sup>nd</sup> Reading Amendments	3 <sup>rd</sup> Reading Final Passage	Other Action	Action by Governor
6873	469					
6874	469	820	965			
6874-S			965	965	1358	
6875	469					
6876	469					
6877	469	696				
6878	470	696				
6879	513					
6880	513	697				
6881	529	1080				
6882	529					
6883	1261					
6884	1384	1427	1430			C 20 L 10 E1
6884-S			1430	1430	1515, 1517(P), 1518(S)	C 20 L 10 E1
6885	1384					
6886	1384					
6887	1384					
6888	1388					
6889	1388	1427	1434			C 15 L 10 E1
6889-S			1434	1434	1507, 1512, 1514(P), 1515(S),	C 15 L 10 E1
6890	1455					
6891	1517					

## HISTORY OF SENATE JOINT MEMORIALS

<b>Bill No.</b>	<b>Introduction &amp; 1<sup>st</sup> Reading</b>	<b>Committee Report</b>	<b>2<sup>nd</sup> Reading Amendments</b>	<b>3<sup>rd</sup> Reading Final Passage</b>	<b>Other Action</b>
8009					25, 486
8017	23	107			486
8018	59				
8019	74	124			485
8020	74				
8021	81				
8022	81				
8023	91	167			486
8024	105				
8025	105	158	288	288	768, 800(P), 1207(S)
8026	120	167	292	292	513, 535(P), 768(S)
8027	159				

## HISTORY OF SENATE JOINT RESOLUTIONS

Bill No.	Introduction & 1 <sup>st</sup> Reading	Committee Report	2 <sup>nd</sup> Reading Amendments	3 <sup>rd</sup> Reading Final Passage	Other Action
8208					51, 485
8209					25, 485
8212					25, 485
8218	23	119	293		
8218-S			293	294	1358
8219	23				
8220	59				
8221	59				
8222	74				
8223	81				
8224	81				
8225	96	137	437	437, 1363	1358, 1363, 1543, 1550(P), 1735(S)

## HISTORY OF SENATE CONCURRENT RESOLUTIONS

Bill No.	Introduction & 1 <sup>st</sup> Reading	Committee Report	2 <sup>nd</sup> Reading Amendments	3 <sup>rd</sup> Reading Final Passage	Other Action
8409	23	124	285		
8409-S			285	286, 1457	1457, 1754,
8410	24		24		24, 34(P), 34, 35(S),
8411	24		24		24, 34(P), 34, 35(S),
8412	1338		1339		1338, 1339, 1356(P), 1356, 1357
8413	1360				1360
8414	1738		1738		1738, 1754(S), 1754(P), 1754,

**HISTORY OF SENATE FLOOR RESOLUTIONS**

<b>NUMBER</b>	<b>SUBJECT</b>	<b>ACTION</b>
8667	Seattle Sounders FC	67
8668	Honoring Filipino Americans	612
8669	Far West Agribusiness Assn	131
8670	Korean Vietnam War veterans	302
8671	Danish Immigrant Museum	60
8672	Connell H.S. football team	160
8673	Fairfield's Flag Day	1262
8674	Celebrating Kids Day	75
8675	Washington national guard	97
8676	Honoring the Boeing Company	169
8677	Honoring Governor Rosellini	92
8678	Osteoporosis Month	476
8679	Eatonville's 100th birthday	966
8680	Celebrating Dairy Day	86
8681	Recognizing civic education	106
8682	Recognizing Catholic schools	110
8683	Honoring Jessica Munoz	346
8684	Honoring "We The People"	231
8685	CWU softball players	114
8686	Honoring 4-H	412
8687	Fallen law enforcement	144
8688	Sci, tech, math education	160
8689	Honoring Wolf Bauer	477
8690	Nile Valley landslide	263
8691	Classified school employees	465
8692	Honoring Bickleton	477
8693	Bastyr University	470
8694	2010 Daffodil Festival	452
8695	U of Washington's GO MAP	464
8696	AquaSeed Corporation	458
8697	Ebbets Field Flannels	478
8698	Honoring Michele Brees	444
8699	Honoring Intercity Transit	448
8700	Culture & heritage of Norway	448
8701	Commercial fishing fleet	448
8702	Spay day 2010 participants	449
8703	Honoring Mary Selecky	770
8704	Arts education month	465
8705	Grant co. fire distr 10, 11	464
8706	Federal Way	478
8707	Brain injury awareness month	479
8708	Honoring Ann Daley	479
8709	Honoring Gebbers Farms	480
8710	Mountaineer Ed Viesturs	486
8711	Apple Blossom Festival	532
8712	Wa. state's Olympic athletes	684
8713	Honoring Pacific Power	957
8714	Washington and Sweden	821
8715	WA women & girls in sports	1082
8716	Honoring Tom Murphy	1194
8717	Honoring Dennis R. Lewis	1362
8718	Interim business of Senate	1339
8719	Amending Senate rules	1362
8720	Honoring Barbara Mertens	1365
8721	Living Computer Museum	1386
8722	Honoring Ernest Aguilar	1396

<b>NUMBER</b>	<b>SUBJECT</b>	<b>ACTION</b>
8723	Retiring security staff	1437
8724	Honoring Edward Claplanhoo	1429
8725	Will Johnson	1545

## HISTORY OF HOUSE BILLS

Bill No.	Introduction & 1 <sup>st</sup> Reading	Committee Report	2 <sup>nd</sup> Reading Amendments	3 <sup>rd</sup> Reading Final Passage	Other Action	Action by Governor
1080	318	460	506, 507, 508	508	295, 778(S), 783(P)	C86
1096-S2	399	454, 481, 524	1319	1320	364, 1320, 1321, 1356(P), 1356	Vetoed
1139	194				187, 1358	
1149-S2	399	487	533	534	364, 534, 956, 1195(S), 1206(P)	C151
1162-S2	399	466			341, 1358	
1180-S2	109	460			102, 1358	
1203-S	168				158, 1358	
1317-S2	400	466	700, 701	701	364, 956, 1195(S), 1206(P)	C257
1329-S	121	487			120, 1358	
1357-S2	295	487			253, 1358	
1418-S2	439	460, 524	701	702	399, 778(S), 782(P)	C20
1541	194	512	648	649	187, 778(S), 783(P)	C103
1545-S	439	512	701	701	399, 444, 778(S), 782(P)	C21
1547	342				325, 1358	
1560-S2	295	487	605	618	253, 778(S), 783(P)	C104
1572-S2	439	493			399, 1358	
1576	139	222	702	702	138, 778(S), 782(P)	C23
1591-S2	400	524	619	619	341, 778(S), 783(P)	C105
1597-S2	451	524	1147	1147	439, 1321(S), 1326(P)	C106
1653	440	471	539	540	399, 779(S), 783(P)	C107
1679-S	168	524	707	707	158, 707, 956, 1195(S), 1206(P)	C259
1690	194, 1545	481	1550	1551	187, 1358, 1544, 1545, 1551, 1735(S), 1735(P), 1735	C 21 L 10 E1
1697	400, 1428	471			341, 1358, 1412, 1754	
1714-S	296	481, 525	685, 686	686	263, 686, 956, 1195(S), 1206(P)	C172
1731-S2			1248		1250	
1757	400	460			341, 1358	
1761-S2	139	454	712, 771	771	129, 770, 771, 1081, 1195(S), 1206(P)	C185
1775-S	457	525			451, 1358	
1785	194	450			187, 1358	
1830	296	481			253, 1358	
1831-S	296				253, 1358	
1838-S	168				158, 1358	
1876	296	460	518	518	253, 778(S), 783(P)	C90
1880	168	460	806	806	158, 806, 1081, 1195(S), 1206(P)	C125PV
1885-S	139	481			138, 1358	
1900-S	169				158, 1358	
1913-S	296	466	608	608	254, 779(S), 783(P)	C108
1949-S	400				341, 1358	
1956-S	296	488	555	557	253, 556, 956, 1195(S), 1206(P)	C175
1966	296	460	572	572	253, 572, 956, 1195(S), 1206(P)	C184
1985-S2					1358	
2016-S2	440	488	574	619	399, 618, 956, 1195(S), 1224(P)	C204PV
2138-S	400	471, 525			341, 1358	
2179-S	139	461	804	806	138, 805, 1081, 1195(S), 1224(P)	C251

Bill No.	Introduction & 1 <sup>st</sup> Reading	Committee Report	2 <sup>nd</sup> Reading Amendments	3 <sup>rd</sup> Reading Final Passage	Other Action	Action by Governor
2196-S	105	512	1146	1146	102, 1321(S), 1326(P)	C260
2224-S	296	461	1258		253, 1358	
2226-S	139	471	535	535	129, 779(S), 783(P)	C264
2271	296	525	635, 640, 645	645	253, 640, 645	
2360	194, 1384	1427	1430	1430	187, 1358, 1383, 1453(S), 1453(P)	C 3 L 10 E1
2396-S2	400	471	572	572	341, 779(S), 783(P)	C52
2397-S	400				341, 1358	
2398	194	467			187, 1358	
2399-S	440	454	500	500	412, 778(S), 783(P)	C24
2402-S	342	481, 525	647	648	325, 648, 956, 1195(S), 1224(P)	C186
2403-S	105	454	757	757	102, 778(S), 782(P)	C91
2404-S	296				253, 1358	
2406	139	454	756	756	129, 778(S), 782(P)	C26
2408-S	440				399, 1358	
2409-S	318	461			295, 1358	
2414-S	342	454, 481			325, 1358	
2416-S	440, 1389	488	702	703	399, 702, 1358, 1388, 1754	
2419	139	471	654	654	129, 778(S), 783(P)	C93
2420-S	400	450	502	505	341, 505, 956, 1196(S), 1206(P)	C187
2422-S	169	488	712	712	158, 778(S), 782(P)	C28
2424-S	446	488	688, 693, 694, 1207	696, 1219	439, 695, 1207, 1207, 1218, 1261, 1321(S), 1326(P)	C227
2427-S	342				325, 1358	
2428	296	467, 481	687	687	253, 778(S), 782(P)	C29
2429-S	296	450, 488	687	687	254, 778(S), 782(P)	C31
2430-S	139	450	501	501	129, 778(S), 783(P)	C92
2435	139	450			129, 1358	
2436-S2	342	488	1271	1272	325, 1272, 1321, 1356(P), 1356	C270
2437	297				253, 1358	
2439-S	343				325, 1358	
2443-S	139	445	769	769	129, 1195(S), 1224(P)	C177
2444	400	488			364, 1358	
2456	194	482			187, 1358	
2457-S	297	488			253, 1358	
2460	318	482	654	658	295, 657, 956, 1196(S), 1206(P)	C109
2461	297	461			253, 1358	
2462	140				129, 1358	
2464-S	194	461	495	499	187, 498, 956, 1195(S), 1224(P)	C252
2465	140	454	517	517	129, 778(S), 783(P)	C53
2466-S	140	454	517	518	129, 518, 956, 1195(S), 1224(P)	C268
2470	297	461			253, 1358	
2471-S	441				399, 1358	
2480-S2	441				412, 1358	
2481-S2	400	482, 525	612	617	341, 617, 956, 1196(S), 1206(P)	C126
2483	105	461			102, 1358	
2486-S	318	488			295, 1358	
2487-S	401	471	605	605	341, 779(S), 783(P)	C54
2488-S	820				770, 1358	
2490	194	454	500	500	187, 778(S), 783(P)	C94
2492	401	445			341, 1358	

Bill No.	Introduction & 1 <sup>st</sup> Reading	Committee Report	2 <sup>nd</sup> Reading Amendments	3 <sup>rd</sup> Reading Final Passage	Other Action	Action by Governor
2493-S	1429		1549	1549	1428, 1430, 1735(S), 1735(P), 1735	C 22 L 10 E1
2495	441				399, 1358	
2496-S	441	467	707	707	399, 782(P)	C32
2497-S	297				253, 1358	
2499-S	318	482			295, 1358	
2503-S	401	482	708	709	341, 709, 956, 1196(S), 1206(P)	C189
2504-S	401	471			364, 476, 1358	
2510	194	472	502	502	187, 778(S), 783(P)	C95
2511	441				399, 1358	
2512-S	140	472			129, 1358	
2514-S	297				253, 1358	
2515-S	297	455	506	506	253, 778(S), 783(P)	C96
2516-S	297				253, 1358	
2517-S	318	472			295, 1358	
2518-S	297	472	803	804	263, 1196(S), 1206(P)	C190
2519	169	222	518, 519	523	158, 523, 1146, 1196(S), 1206(P)	C261
2521	140	445	502	502	129, 778(S), 783(P)	C110
2524-S	297	489			253, 1358	
2525-S	343	455, 472, 525	801	803	325, 803, 1146, 1196(S), 1206(P)	C192
2527-S	441	489	650, 651, 653	653	399, 653, 956, 1196(S), 1206(P)	C152
2528	318	489			295, 1358	
2533-S	297	489	557	558	253, 558, 956, 1195(S), 1224(P)	C208
2534-S	318	489	658	663	295, 662, 1081, 1195(S), 1224(P)	C265
2538-S	401	455, 489	558, 560	561	364, 561, 956, 1195(S), 1224(P)	C153
2539-S2	441	489	787	787	399, 1196(S), 1206(P)	C154
2540	140	445	787	788	129, 1196(S), 1206(P)	C173
2541-S	441	482	669	672	399, 672, 956, 1196(S), 1206(P)	C188
2546-S	318	489	721	721	295, 778(S), 782(P)	C33
2547-S	401	489	566	571	364, 571, 1261, 1321(S), 1326(P)	C178
2551-S2	343	461, 512	536, 538	539	325, 539, 956, 1196(S), 1206(P)	C174
2555-S	297	482	608	608	254, 779(S), 783(P)	C55
2556-S	297	482			254, 1358	
2560-S	343	472	539	539	325, 779(S), 783(P)	C230
2561	91, 1384	1544		1593	89, 1358, 1383, 1593, 1734, 1753(S), 1754(P)	C 35 L 10 E1
2564-S	319	472	714	714	295, 778(S), 782(P)	C34
2565-S	401	472, 526			364, 1358	
2566-S	401	482			341, 1358	
2567	441	1080			399, 1358	
2571-S	441				399, 1358	
2575	298	461	698	698	253, 778(S), 782(P)	Vetoed
2576-S2	1389	1544	1545	1545	1388, 1735(S), 1735(P)	C 29 L 10 E1
2580-S	401, 1428	467			341, 1358, 1412, 1754	
2585-S	401	472	534	535	341, 779(S), 783(P)	C27
2589-S	319	489			295, 1358	
2592	298	461	687	687	253, 778(S), 782(P)	C56
2593-S	319	482	540	545	295, 544, 956, 1195(S),	C193

Bill No.	Introduction & 1 <sup>st</sup> Reading	Committee Report	2 <sup>nd</sup> Reading Amendments	3 <sup>rd</sup> Reading Final Passage	Other Action	Action by Governor
					1224(P)	
2595	343				325, 1358	
2596-S	319	490	800	801	295, 1219, 1321(S), 1326(P)	C176
2598	298	473	501	501	254, 778(S), 783(P)	C57
2603-S2	441	467, 483	757, 758	759	399, 758, 956, 1195(S), 1224(P)	C194
2605	343	450			325, 1358	
2608	343	473	555	555	325, 779(S), 783(P)	C35
2611	140				129, 1358	
2617-S2		1387	1392, 1394	1394	1267, 1270, 1358, 1383, 1412, 1453(S), 1453(P)	C 7 L 10 E1
2620-S	319	445	698	699	295, 778(S), 782(P)	C111
2621	401	473, 526	710	711	341, 710, 956, 1196(S), 1206(P)	C238
2623-S2	343	473			325, 1358	
2624-S	343				325, 1358	
2625	169	490, 526	807, 808	809	158, 808, 809, 1081, 1195(S), 1224(P)	C254
2627-S	140	490			129, 1358	
2629	319	490			295, 1358	
2630-S2	529, 1385	1544	1546, 1547	1548	524, 1358, 1383, 1548, 1550, 1735(S), 1735(P)	C 24 L 10 E1
2636-S	298				253, 1358	
2638	319	467			295, 1358	
2642	441	490			399, 1358	
2649-S	140	490	646	646	129, 778(S), 783(P)	C25
2651-S	298	473	545	545	253, 779(S), 783(P)	C195
2657-S	298	455	561	565	254, 565, 956, 1196(S), 1206(P)	C196
2658-S2	402	483, 526	722, 743, 1285	756, 1298	364, 743, 755, 1285, 1285, 1298, 1321, 1356(P), 1356	C271PV
2659	402	483	795	796	341, 1196(S), 1206(P)	C197
2661-S	298	455	505	506	253, 778(S), 783(P)	C37
2667	298	473	501	501	263, 778(S), 783(P)	C38
2670-S2	402	450, 526			341, 1358	
2672	1389		1391	1392	1388, 1389, 1397(P)	C 2 L 10 E1
2676	402, 1389	455, 1427	1435	1435	341, 1359, 1388, 1453(S), 1453(P)	C 4 L 10 E1
2677	402, 1389	455, 1427	1435	1435	341, 1359, 1388, 1453(S), 1453(P)	C 5 L 10 E1
2678-S	402	490	699	699	341, 778(S), 782(P)	C39
2680-S	402	490	790	795	341, 795, 1081, 1195(S), 1224(P)	C272
2681	319	473	499	500	295, 499, 1081, 1195(S), 1224(P)	C191
2683-S	343				325, 1359	
2684-S	298	473	711	711	253, 778(S), 782(P)	C40
2686-S	298	462	606	607	253, 607, 956, 1196(S), 1206(P)	C228
2687-S3	442	473, 526			399, 444, 1359	
2688-S	402	483			341, 1359	
2694	343, 1385	467, 1544	1548	1549	325, 469, 1359, 1383, 1548, 1550, 1735(S), 1735(P)	C 25 L 10 E1
2697	457	483	817	818	451, 1196(S), 1206(P)	C156
2701	446				439, 1359	
2704-S	442	483	540	540	399, 779(S), 783(P)	C30
2706-S	319	462			295, 1359	
2707	298	455	720	721	253, 778(S), 782(P)	C58

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2716-S	344	526			325, 1359	
2717-S	298	490	703	704	253, 704, 1081, 1195(S), 1224(P)	C262
2720	319	483			295, 1359	
2721-S	344	526			325, 1359	
2722-S	140	490			129, 1359	
2731-S2	402	473, 526	774, 775, 777, 1248	778, 1250	341, 775, 777, 1248, 1248, 1356, 1357(P), 1357	C231PV
2734	442	527	649, 650	650	399, 650, 956, 1196(S), 1206(P)	C157
2735	402	491	801	801	341, 1196(S), 1206(P)	C180
2739-S	402	527			341, 1359	
2740	140	483	648	648	129, 778(S), 783(P)	C59
2742-S2	344	491	809, 810, 817	817	325, 817, 1146, 1196(S), 1206(P)	C269
2745-S	344	455	1224	1225	325, 1321(S), 1326(P)	C158
2747-S	403	491	549	555	364, 555, 956, 1196(S), 1206(P)	C181
2748	319	455	769	769	295, 1195(S), 1224(P)	C198
2750	403	483			341, 1359	
2751	403				341, 1359	
2752-S	446	491	712	714	439, 713, 956, 1195(S), 1224(P)	C229
2753-S	299, 1385	527, 1427	1430, 1431	1434	253, 1359, 1383, 1434, 1452, 1453(S), 1453(P)	C 6 L 10 E1
2756-S	442				399, 1359	
2758-S	344	445	1146	1146	325, 1321(S), 1326(P)	C112
2759-S2	442	450, 527	1234, 1236	1237	399, 1237	
2768-S	319	467			295, 1359	
2775-S	299	483	699	700	253, 699, 700, 956, 1195(S), 1224(P)	C275
2776-S	403	474, 527	714, 715, 720, 1251, 1327, 1334	720, 1258, 1334	720, 721, 722, 1251, 1257, 1326, 1334, 1357(P)	C236PV
2777-S	344	491	619, 634	635	325, 634, 957, 1195(S), 1224(P)	C274PV
2782-S2	344, 1429	491, 1080	1439	1452	325, 1359, 1428, 1430, 1452, 1453(S), 1453(P), 1453	C 8 L 10 E1
2789-S	442	491	565	566	399, 779(S), 783(P)	C22
2790-S	403	491			364, 1359	
2793-S2	442	456			399, 1359	
2801-S	320	474, 527	704	706	295, 706, 956, 1195(S), 1224(P)	C239
2804-S	320				295, 1359	
2805	442	491	680, 681, 682	683	412, 682, 956, 1195(S), 1224(P)	C276
2817	299	491			254, 1359	
2818-S	442				399, 1359	
2823	446	512	714	714	439, 778(S), 782(P)	C60
2828-S	344	462	523	524	325, 778(S), 783(P)	C113
2830	442	474	649	649	399, 778(S), 783(P)	C87
2831	443	474	658	658	399, 778(S), 783(P)	C88
2836-S	1430	1549	1696	1733	1428, 1550, 1733, 1754(S), 1754(P), 1754	C 36 L 10 E1
2841-S	299	451	573	574	254, 574, 957, 1195(S), 1224(P)	C277
2842-S	344	474	607	607	325, 779(S), 783(P)	C97

Bill No.	Introduction & 1 <sup>st</sup> Reading	Committee Report	2 <sup>nd</sup> Reading Amendments	3 <sup>rd</sup> Reading Final Passage	Other Action	Action by Governor
2848	299	484			253, 1359	
2852-S	345	474, 527			325, 1359	
2854-S2	403, 1385	474			341, 1359, 1383, 1755	
2858	320	445	500	500	295, 778(S), 783(P)	C61
2861	299	492	606	606	254, 779(S), 783(P)	C98
2863-S	345	462			325, 1359	
2865-S	345				325, 1359	
2867-S2	443	474	772	773	399, 773, 1081, 1195(S), 1224(P)	C232
2875-S	320, 1385	484, 1387			295, 1359, 1383, 1755	
2876-S	299	462	762, 763, 1267	766, 1270	263, 763, 765, 1267, 1267, 1269, 1321, 1356(P), 1356	C209PV
2877	403	445	756	756	341, 778(S), 782(P)	C41
2882-S2	447	492			439, 1359	
2884-S	443	484			399, 1359	
2886-S	403				364, 1359	
2888	299	474			254, 1359	
2893-S	403	451, 1193	1273, 1274	1276	341, 1321(S), 1326(P)	C237PV
2898	404	446			341, 1359	
2904	299	475			254, 1359	
2912-S	447	528			439, 1359	
2913-S	404	475, 528	649	649	341, 778(S), 783(P)	C99
2918	320	492			295, 1359	
2921-S	105	137	205	206	102, 205, 291(S), 291(P)	C3
2925-S	447	484	788	789	439, 789, 1146, 1321(S), 1326(P)	C199PV
2930-S	345	475			325, 345, 1359	
2933-S	404	451			341, 1359	
2935-S	513	528	1037	1057	494, 1056, 1146, 1321(S), 1326(P)	C210
2937	345				325, 1359	
2939-S	345	528	779	782	325, 782, 1081, 1195(S), 1224(P)	C253PV
2941-S	513	528			494, 1359	
2942	299	492			254, 1359	
2947	299	484			254, 1359	
2954-S	514, 1385	1261, 1387			494, 1359, 1383, 1755	
2956-S2		1387		1412, 1530	1196, 1262, 1359, 1383, 1411, 1520, 1520, 1530, 1543, 1735(S), 1735(P).	C 30 L 10 E1
2961-S2	404	484	797	798	364, 1081, 1195(S), 1224(P)	C182
2962-S	443	462	672	672	399, 779(S), 783(P)	C200
2969	514, 1385	1080, 1428			494, 1359, 1383, 1755	
2973	320	467	773	773	295, 1195(S), 1224(P)	C183
2984	404, 1389				341, 1359, 1388, 1755	
2986-S	404	484	673, 674, 675, 676	677	364, 673, 675, 676, 957, 1195(S), 1224(P).	C278
2987	404	512			341, 1359	
2989	447	462			439, 1359	
2990-S	443	462, 528	787	787	399, 463, 1196(S), 1206(P)	C102
2996	299	462	499	499	254, 778(S), 783(P)	C100
2997-S	299	463			254, 1359	
2998-S	121	188	201	205	120, 205, 291(S), 291(P)	C2
3001-S	300	463	759		253, 1359	
3003-S	300	492			253, 1359	
3007	404	528	769	769	341, 1195(S), 1224(P)	C155
3014-S	1389		1413, 1458	1417, 1461	1388, 1389, 1416, 1457, 1458, 1461, 1515, 1516(S).	C 16 L 10 E1

Bill No.	Introduction & 1 <sup>st</sup> Reading	Committee Report	2 <sup>nd</sup> Reading Amendments	3 <sup>rd</sup> Reading Final Passage	Other Action	Action by Governor
3016-S	300	492	798	800	1517(P) 254, 800, 1081, 1195(S), 1224(P)	C279
3023	457				451, 1359	
3024-S2	443	492			412, 1359	
3026-S2	404	475, 528	818, 819	819	341, 819, 1081, 1195(S), 1224(P)	C240
3030	404	484	796	797	341, 797, 1146, 1321(S), 1326(P)	C201
3032-S	405	475	608	608	364, 779(S), 783(P)	C89
3036-S	300	463	782	783	254, 1196(S), 1206(P)	C241
3039-S	300				253, 1359	
3040-S	447	492	663, 667	668	439, 667, 956, 1195(S), 1224(P)	C179
3046-S	300	475	545, 548	549	253, 548, 1146, 1321(S), 1326(P)	C212
3048-S	443, 1385				399, 1359, 1383, 1755	
3056	195				187, 1359	
3060-S	405	475			341, 1359	
3061	300	484	1320	1320	254, 1356(P), 1356	C213
3066-S	300	467	506	506	253, 778(S), 783(P)	C114
3067-S	443	463, 484			412, 1359	
3068	345	475			325, 1359	
3072-S	320	475			295, 1359	
3076-S2	443	492, 529	646, 647, 1191	647, 1192	399, 493, 647, 1190, 1191, 1192, 1261, 1321(S), 1326(P)	C280
3095	300	463			254, 1359	
3105-S	300	492	789	790	254, 790, 1081, 1195(S), 1224(P)	C159
3124-S	405	493	709, 1141	710, 1141	341, 709, 1140, 1141, 1141, 1264, 1321, 1356(P), 1356	C214
3132-S	820				768, 1359	
3141-S2	405	493, 529	677, 678, 679	680	364, 679, 957, 1195(S), 1224(P)	C273PV
3145-S	300	493	711	711	254, 778(S), 782(P)	C42
3168	447				439, 1359	
3175-S	457, 1428				451, 457, 1359, 1412, 1428	
3178-S	768	1080	1225, 1230	1231	684, 1230, 1321, 1356(P), 1356,	C282PV
3179-S	447	456, 529	783, 786	787	439, 786, 1146, 1321(S), 1326(P)	C127
3182-S	821, 1385				768, 1359, 1383, 1755	
3186-S					1267, 1270, 1359, 1383, 1755	
3197	1455		1735	1735	1453, 1455, 1753(S), 1754(P)	C 31 L 10 E1
3201-S			1395	1395	1270, 1359, 1388, 1389, 1439, 1515, 1516(S), 1517(P)	C 17 L 10 E1
3209-S	957		1237, 1246, 1247	1247	820, 957, 1247, 1321, 1356(P), 1356	C283PV
3219	1550		1552	1552	1550, 1735(S), 1735(P),	C 26 L 10 E1

**HISTORY OF HOUSE JOINT MEMORIALS**

<b>Bill No.</b>	<b>Introduction &amp; 1<sup>st</sup> Reading</b>	<b>Committee Report</b>	<b>2<sup>nd</sup> Reading Amendments</b>	<b>3<sup>rd</sup> Reading Final Passage</b>	<b>Other Action</b>	<b>Action by Governor</b>
4004-S	106	186	558	558	102, 779(S), 783(P)	H Filed Sec/St
4024	405	475			341, 405, 1359	
4025	345	468			325, 1359	
4027	345	476			325, 1359	

**HISTORY OF HOUSE JOINT RESOLUTIONS**

<b>Bill No.</b>	<b>Introduction &amp; 1<sup>st</sup> Reading</b>	<b>Committee Report</b>	<b>2<sup>nd</sup> Reading Amendments</b>	<b>3<sup>rd</sup> Reading Final Passage</b>	<b>Other Action</b>	<b>Action by Governor</b>
4220-S	195	493	706	707	187, 706, 1081, 1196(S), 1224(P)	H Filed Sec/St

**HISTORY OF HOUSE CONCURRENT RESOLUTIONS**

<b>Bill No.</b>	<b>Introduction &amp; 1<sup>st</sup> Reading</b>	<b>Committee Report</b>	<b>2<sup>nd</sup> Reading Amendments</b>	<b>3<sup>rd</sup> Reading Final Passage</b>	<b>Other Action</b>	<b>Action by Governor</b>
4406	24		25		24, 25, 35(S), 44(P),	H Filed Sec/St
4407	24		25		24, 25, 35(S), 44(P),	H Filed Sec/St
4408			1356		1355, 1356, 1356, 1357(P)	H Filed Sec/St
4409	1360		1360		1360, 1397(P),	H Filed Sec/St
4410	1753		1753		1753, 1754(P), 1754	H Filed Sec/St

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Honorary degrees, authorizing for students who were ordered into internment camps in 1942: **\*SB 6467, CH 51 (2010)**

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State patrol officers, waiving fees for children of certain officers: **\*EHB 2519, CH 261 (2010)**, SB 6407

Student fees and assessments, approval by student body and use: SB 5776

Student financial assistance board, establishment via elimination of higher education coordinating board and transfer of its functions to various entities: SB 6857

Students, policies for academic recognition of prior learning experiences: SB 6357

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Training projects for improvement of medical services for adults with developmental disabilities, grant program: SB 5376

Tuition fees, establishment and waiver for certain resident undergraduate students: SB 6625

Tuition waivers, reporting of enrollment of state employees receiving tuition waivers: SB 5576

Tuition waivers, stepchildren to be included as eligible children of veterans and national guard members: **\*SB 5720, CH 316 (2009)**

Tuition, resident undergraduate tuition fees to be set in omnibus appropriations act: **\*ESHB 2344, CH 540 (2009)**

Tuition, students other than resident undergraduates: SB 5734

Tuition, surcharges for students not completing degrees in timely manner: SB 6358

Tuition-setting authority, full-time tuition fees for resident undergraduates to be provided in omnibus appropriations act: SB 6562

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 Deferred prosecution, increasing costs for administering: **\*SHB 2487, CH 54 (2010)**, SB 6514  
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Nonconviction data, deletion from criminal justice agency files: SB 6223

Nonviolent criminals, alternatives to incarceration: SB 6175

Nonviolent offenders with minor children, alternatives to total confinement for: SB 6639

Notification of victims and witnesses, domestic violence court order violations added to list of eligible offenses: **\*HB 1790, CH 400 (2009)**, SB 5703

Offenses not bailable by sufficient sureties, adding offenses that may result in a mandatory life sentence: SJR 8218

Parents, alternatives to total confinement for nonviolent offenders with minor children: SB 6639

Parole, arresting or charging of offenders on parole with a new felony offense: SB 6548

Persistent offenders, resentencing hearing required if offender classified as persistent based on conviction for robbery in the second degree: SB 5292

Police communication, facilitation of a crime through interception of: HB 2595

Predatory, definition of: ESHB 2571

Pretrial release or detention, assuring safety of another person or community in the case of: HB 3056, SB 6779, SB 6787, SB 6882

Pro se defendants in criminal cases, questioning of victims of sex offenses by: SHB 2457

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Prostitution-related offenses, impoundment of conveyances used in: SB 5934

Prostitution-related offenses, impoundment of vehicles used in: **\*ESHB 1362, CH 387 (2009)**

Psychiatric security review board, supervision of persons acquitted by reason of insanity by: SB 6549

Registered sex and kidnapping offenders, program to verify address and residency of: **\*SHB 2534, CH 265 (2010)**, SB 6360

Registered sex and kidnapping offenders, sex offender policy board to make recommendations concerning submission of information regarding offender e-mail addresses: **\*ESHB 2035, CH 532 (2009)**

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Release dates for offenders, department approval of jail certification from a correctional agency calculating earned release time: **\*HB 1789, CH 399 (2009)**

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Right to vote, conditions for restoration for convicted felons: **\*HB 1517, CH 325 (2009)**, SB 5534

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Community custody, arresting or charging of offenders under community custody with a new felony offense: SB 6548

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Criminally insane persons, commitment and orders of conditional release for persons found not guilty by reason of insanity: **\*ESB 6610, CH 263 (2010)**

Criminally insane, notification requirements when escape or disappearance from state facility occurs: **\*SHB 2422, CH 28 (2010)**, SB 6722

Death penalty, abolition: SB 5476

Deferred prosecution, increasing costs for administering: **\*SHB 2487, CH 54 (2010)**, SB 6514

Deferred prosecution, treatment plan filing: **\*HB 1257, CH 135 (2009)**, SB 5985

Driving under the influence of liquor or drugs, accountability for drivers: **\*2SHB 2742, CH 269 (2010)**

Drug overdose prevention, limited immunity from prosecution for people who seek medical assistance in an overdose situation: **\*ESB 5516, CH 9 (2010)**

Escape or disappearance of criminally insane from state facility, notification requirements: **\*SHB 2422, CH 28 (2010)**, SB 6722

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Insanity, establishment of psychiatric security review board to supervise persons acquitted by reason of: SB 6549

Juveniles, transfer to adult court: SB 5479

Legal financial obligations, waiver of imposition when offender suffers from mental health condition: SB 6709

Materially false statement, defined: SB 5227

Mentally ill defendants, found or pleading guilty and mentally ill: SB 5253, SB 6310

Nonconviction data, deletion from criminal justice agency files: SB 6223

Nonviolent criminals, alternatives to incarceration: SB 6175

Nuisances involving criminal street gang activity, abatement of: ESHB 2414, SB 6782, SB 6785

Offenses not bailable by sufficient sureties, adding offenses that may result in a mandatory life sentence: SJR 8218

Parole, arresting or charging of offenders on parole with a new felony offense: SB 6548

Pretrial release or detention, assuring safety of another person or community in the case of: HB 3056, SB 6779, SB 6787, SB 6882

Pro se defendants in criminal cases, questioning of victims of sex offenses by: SHB 2457

Probation, arresting or charging of offenders on probation with a new felony offense: SB 6548

Psychiatric security review board, supervision of persons acquitted by reason of insanity by: SB 6549

Seizure and forfeiture of real and personal property used to facilitate criminal street gang-related offenses: SB 6784

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Statute of limitations for criminal offenses, modification: SB 6187

Surrender of persons found not guilty by reason of insanity, governor's authority in connection with: **\*SHB 2533, CH 208 (2010)**

Victims and witnesses, right to present a statement at sentence review or clemency and pardons hearing: **\*HB 1281, CH 138 (2009)**, SB 5207

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Center for childhood deafness and hearing loss, transfer to the office of the superintendent of public instruction: SB 6491

Early support for infants and toddlers program, renaming infant and toddler early intervention program as: **\*SB 6593, CH 233 (2010)**

Infant and toddler early intervention program, transferring administration to department of early learning: **\*SB 6593, CH 233 (2010)**

State school, transfers of accumulated leave of employees: **\*HB 1878, CH 47 (2009)**, SB 5650

Washington state center for childhood deafness and hearing loss, direction of state school for the deaf by: **\*E2SHB 1879, CH 381 (2009)**

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Licensing of dentists, dental quality assurance commission to retroactively relicense when suspension or revocation done for certain reasons: SB 6660

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Pain management, dental quality assurance commission to adopt rules for management of chronic noncancer pain: **\*ESHB 2876, CH 209 (2010) PV**

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Community living for residential habilitation center residents, increasing options for: SB 6780

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Criminal offenders with developmental disabilities, mental health court provisions for: SHB 2865

Developmental disabilities council, work group for developing screening tool and providing recommendations for accommodating offenders with developmental disabilities: **\*E2SHB 2078, CH 447 (2009)**

Developmental screenings for children, public medical assistance to include: SB 5484

Discharging vulnerable persons from state facilities into homelessness, providing options for housing in order to avoid: SB 6478

Early learning program for educationally at-risk children, creation: **\*2SHB 2731, CH 231 (2010) PV**

Employment programs, business and occupation tax credit for contributions to replace credit for contributions to motion picture competitiveness program: SB 6153

Home and community based services businesses, taxation of businesses to fund services for persons with developmental disabilities: ESHB 3186

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Insurance, autism spectrum disorders: SB 5203

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Intermediate care facilities, requirements for allowing residents to exercise control over life decisions: SB 5640

Less restrictive treatment, renewal of orders for persons with developmental disabilities released from involuntary mental health treatment: **\*ESHB 1349, CH 323 (2009)**

Medical services, training projects for improvement of services for adults with developmental disabilities, grant program: SB 5376

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Residential habilitation centers, department of social and health services authority to provide services in certain cases of developmental disability: SB 6182, SB 6423

Residential habilitation centers, local school district eligibility for residential habilitation center impact assistance for providing educational services to center residents: 2SHB 2113

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Residential habilitation centers, uninterrupted meal and rest breaks for employees of: E2SHB 3024

Respectful language in federal laws, replacement of "mental retardation" with "intellectual disability": HJM 4024

Respectful language in state laws, code reviser directed to replace "mental retardation" with "intellectual disability": **\*HB 1835, CH 377 (2009)**

Respectful language in state laws, revisions to include replacing "mental retardation" with "intellectual disability": **\*HB 2490, CH 94 (2010)**

Respite care for primary care providers, eligibility: 2SHB 1429, **\*SB 5547, CH 312 (2009)**

State advisory committee on developmental disabilities, all boards, committees, and councils related to developmental disabilities to be consolidated into: SB 5589

Supported living providers, vendor rates: SB 5101, SB 6495

Unsupervised access to persons with developmental disabilities, consumer credit reports on employees or volunteers who will or may have: SB 5936

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Early support for infants and toddlers program, renaming infant and toddler early intervention program as: **\*SB 6593, CH 233 (2010)**

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Group medical insurance for nontraditional groups, provisions including group disability insurance: SB 6670

Health care insurance, LEOFF plan 2 member access to catastrophic disability medical insurance: EHB 1679, SB 5541

Home and community based services businesses, taxation of businesses to fund services for seniors and persons with disabilities: ESHB 3186

Income assistance, the assistance for the aged, blind, and disabled program to provide: SB 6704

Individuals with disabilities education act, petitioning Congress to fully fund forty percent of the costs of: SJM 8023

Infant and toddler early intervention program: SB 5373

Infant and toddler early intervention program, transferring administration to department of early learning: **\*SB 6593, CH 233 (2010)**

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LEOFF plan 2, member totally disabled in line of duty to receive reimbursement for certain medical insurance premiums: **\*SHB 1679, CH 259 (2010)**

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Property tax, valuation freeze for persons retired due to physical disability: SB 5109

Ready for school act of 2010: **\*2SHB 2731, CH 231 (2010) PV**

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Service animal training, attendance by state agency employees with sensory disabilities: EHB 1965, **\*HB 2328, CH 294 (2009)**

Service animals and dog guides in training: SB 5103

Service-connected disabled veterans, property tax exemptions for residences: SB 5663

Special license plates, issued for up to two vehicles: SB 5081

State patrol officers, officers totally disabled during line duty to receive reimbursement for certain medical insurance premiums: **\*SHB 1679, CH 259 (2010)**

Supplemental security income (SSI) early transition project, implementation in connection with disability lifeline program: **\*E2SHB 2782, CH 8 (2010) PV**

Veterans affairs department, eligibility for benefits or programs in connection with disability lifeline program: **\*E2SHB 2782, CH 8 (2010) PV**

Vision impairments/orientation and mobility coordinator, position to be established at Washington State University-Vancouver: SB 5176

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Child welfare services, remediating racial disproportionality in: HB 2164

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School districts, elimination of discrimination through districts' compliance with state and federal civil rights laws: **\*E2SHB 3026, CH 240 (2010)**

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Benton county, increase in number of judges: HB 1204, **\*SB 5102, CH 86 (2009)**

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King county, increase in number of judges: **\*ESB 5135, CH 26 (2009)**

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Small claims department, surcharges on various filing fees to be remitted by clerk for deposit in judicial stabilization trust account: **\*SHB 2362, CH 572 (2009)**

Statutory costs, provisions: **\*SHB 1022, CH 240 (2009)**, SB 5025

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 Requirement for owner or keeper of a dog found killing any domestic animal to kill the dog eliminated: SB 5870  
 Requirement for sheriff to kill any dog at large without a metal identification tag eliminated: ESB 5200, SB 6291  
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 State patrol retirement system benefits: **\*ESHB 1445, CH 522 (2009)**, SB 5439  
 State registered domestic partners and other couples related to parentage, rights and obligations: E2SHB 2793  
 State registered domestic partners, rights and responsibilities: SB 5688  
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 Child protective services, law enforcement to contact when a child is present in a vehicle when the driver is arrested under the influence of alcohol or drugs: **\*SHB 3124, CH 214 (2010)**  
 Child protective services, requirement that certain workers be licensed as social workers and bonded: SB 6852  
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 Child support, review of support payments by secretary of department of social and health services: **\*HB 2347, CH 527 (2009)**  
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 Community custody, limiting alternatives to confinement for domestic violence offenders who violate the terms of: SB 6315  
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Protection orders, protection for vulnerable adults in connection with domestic violence ex parte protection orders: SB 6323

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 Pacific sardines commercial fishery, requiring purse seine fishery license or temporary annual fishery permit: **\*ESHB  
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 Sea cucumber and sea urchin fisheries licenses, provisions: **\*SHB 2593, CH 193 (2010)**  
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- Rule-making hearings public access, opportunity for all interested attendees to comment individually and orally: \***SHB 1552, CH 336 (2009)**
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Digital products, sales and use tax provisions, including exemptions: \***ESHB 2075, CH 535 (2009), \*SHB 2620, CH 111 (2010)**, SB 6552

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Information technology in state government, development of enterprise-based strategy to include computer, data storage, and telecommunications procurement and management: \***ESHB 3178, CH 282 (2010) PV**

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 Automated traffic safety cameras, amount of fine issued for infraction: SB 6410  
 Automated traffic safety cameras, traffic safety commission to report on revenues generated by use of: SB 6411  
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 Breath test instruments, use in providing test findings admissible in trial or administrative proceeding: \***HB 2465, CH 53 (2010)**, SB 6233  
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Building account, use of funds for certificates of participation authorized: \***ESHB 2254, CH 499 (2009)**, SB 5842

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Facilities, siting of small alternative energy resource facilities: SHB 2516

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- Businesses owned by veterans, state contracts: \***ESB 5041, CH 5 (2010)**
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- Building account, use of funds for certificates of participation authorized: **\*ESHB 2254, CH 499 (2009)**, SB 5842
- Commercializing research at state universities, promoting university-industry relationships: SB 6594
- Energy efficiency assistance program, creation within university's energy program: SB 5649
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Water pollution account, fee imposed on first possession of petroleum products contributing to storm water pollution:  
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Phosphorus-containing turf fertilizer, restrictions on use to protect lake water quality: SB 5503, SB 6289

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Water pollution control facilities, department of ecology may award grants or loans to publicly owned industrial wastewater treatment facilities: SB 5940

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Water banks, interlocal agreements for operation by watershed management partnerships: SB 5583

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 Real property of district, sale of: SHB 2409  
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 Water or sewer facility construction, municipal participation in funding and reimbursement amounts: \***EHB 1513, CH 230 (2009)**  
 Water reclamation systems, water-sewer districts authorized to construct, condemn and purchase, add to, maintain, and operate: \***SHB 1532, CH 253 (2009)**, SB 5485  
 Watershed management partnerships, eminent domain authority granted: \***SHB 1332, CH 504 (2009)**, SB 5254  
 Watershed management partnerships, exercise of eminent domain authority in the case of the Lake Tapps water supply: \***SHB 1332, CH 504 (2009)**

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 Peer mentoring pilot program in collaboration with a community or technical college: \***EHB 1986, CH 446 (2009)**  
 Termination of football team, review by legislative task force of decision: SB 5784  
 Tuition fees, establishment and waiver for certain resident undergraduate students: SB 6625  
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Ornithologist, state: SB 5066  
 Predatory wildlife damage, reimbursing commercial livestock owners for livestock injured or killed: SB 5274  
 Raptors, adoption of permit fees for purpose of falconry, taking of wild raptor, and related actions: SB 6644  
 State wildlife account, funding from state lottery account: SB 6107  
 Trapping, licensing and regulations: SB 5389  
 Watchable wildlife program and raffle pilot project: SB 5062  
 Wetlands and fish and wildlife habitat conservation areas, to be protected through local government's shoreline master program: SB 5726  
 Wildlife and recreation program, qualified applicants and procedures for funding from accounts: **\*SHB 1957, CH 341 (2009)**, SB 5843  
 Wildlife viewing opportunities, requirements for viewing on department of fish and wildlife land and department authority to provide web-based information regarding: SHB 1972, SB 6690  
 Wolf-hybrid classified as a potentially dangerous wild animal: SB 5383  
 Yukon to Yellowstone Rocky mountain ecosystem management: SB 5064

#### **WOMEN (See also DISCRIMINATION)**

Breastfeeding, protecting women's right to do so in certain public places: **\*HB 1596, CH 164 (2009)**  
 Discrimination against women, adoption of an anti-discrimination treaty: **\*SJM 8012 (2009)**  
 Linked deposit program for women's business enterprises, setting interest rates of time certificate of deposits for: **\*EHB 1167, CH 385 (2009) PV**  
 Linked deposit program, barriers to participation by women's small business enterprises: SB 5883  
 Office of minority and women's business enterprises, requirement and schedule for submission of data by state agencies and educational institutions to: **\*EHB 1087, CH 348 (2009) PV**  
 Office of minority and women's business enterprises, transferring office to department of commerce: ESHB 3175  
 Pregnancy, limiting use of restraints on pregnant women and youths in certain state facilities: **\*ESHB 2747, CH 181 (2010)**, SB 6500  
 School districts, elimination of discrimination through districts' compliance with state and federal civil rights laws: **\*E2SHB 3026, CH 240 (2010)**

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Benefit award orders, process and appeals: SB 6008  
 Benefits calculation, simplifying and adding certainty: SB 5462  
 Benefits, defining individuals eligible for benefits for workers. compensation and unemployment insurance purposes: SB 6585  
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 Farm internship program, establishment and impact on benefits: SB 6349  
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 Industrial insurance appeals, restrictions on contact with medical providers after filing: **\*SHB 1402, CH 391 (2009)**, SB 5627  
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 Industrial insurance funds, proper and improper use of accident fund, medical fund, and supplemental pension fund: SB 5464  
 Industrial insurance premiums, establishing rate setting and notice dates under rating system for: SB 6699  
 Industrial insurance, claims of insolvent self-insurers: **\*HB 3061, CH 213 (2010)**, SB 6732  
 Industrial insurance, creation of industrial insurance administrative fund: SB 6799  
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 Joint legislative task force on private competition for industrial insurance, establishment of: SB 6799  
 Language service providers, exemption from definitions of employment and worker for industrial insurance purposes: SB 5771  
 Ombudsman for workers of industrial insurance self-insured employers, abolished and superseded by office of the citizen advocate: SB 5456  
 Reform of workers' compensation system, provisions for: SB 6638  
 Retrospective rating plans, evaluation and increased transparency of retrospective rating system: SB 6035  
 Seamen, claims brought for injury, illness, or death occurring from employment with the state: SB 6003  
 Statewide centers of occupational health and education program, department of labor and industries to create: SB 5949  
 Surviving spouses of members of certain retirement systems, industrial insurance death benefits: HB 1212

Task force on workers' compensation system, department of labor and industries to convene: SB 6775  
 Taxicab and limousine operators, mandatory industrial insurance coverage funded by public utility tax: SB 5785  
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 Violations, department of labor and industries authority to issue stop work orders: SHB 1554, SB 5613

#### **WORKFORCE TRAINING AND EDUCATION COORDINATING BOARD**

Building bridges advisory committee, establishing and meeting high school graduation and reengagement goals: SB 5449  
 Coal-powered facilities, strategies to replace jobs lost by closure of: SB 5766  
 Comprehensive plan for workforce training and education, timeline for submission and updates by board revised: \***HB 1394, CH 92 (2009)**, SB 5316  
 Energy audits and retrofits, workforce training for performing: SB 5649  
 Entrepreneurial education and training, board to help foster in conjunction with economic development commission: SB 5879  
 Evergreen jobs act, provisions relating to vocational education, including green industry skill panels: \***E2SHB 2227, CH 536 (2009) PV**  
 Green jobs, provisions of evergreen jobs act, including evergreen jobs initiative and training account: \***E2SHB 2227, CH 536 (2009) PV**  
 Higher education system, expanding the system upon proven demand and encouraging mission changes: SB 6355  
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 Opportunity internship program, board to study outcome: \***2SHB 1355, CH 238 (2009)**, SB 5773  
 Opportunity internship program, incentive payment for participating opportunity internship consortium offering paid internships within certain guidelines: \***2SHB 1355, CH 238 (2009)**  
 Workforce and economic development, clarifying terms for: \***HB 1395, CH 353 (2009)**, SB 5317  
 Workforce and economic development, comprehensive plan for coordination of: \***SHB 1323, CH 151 (2009)**, SB 5048  
 Workforce and economic development, multi-agency report to legislature on progress: \***SHB 1323, CH 151 (2009)**  
 Workforce training, state comprehensive plan for 2008-2018: SCR 8404  
 Youth innovation education programs, board to advise superintendent of public instruction in distribution of grant moneys to: SB 5900

#### **ZOOS AND AQUARIUMS**

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 Cultural access authorities, creation, organization, and funding: SB 5786